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July 18, 2013

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**VIA ELECTRONIC FILING**

**RE: Joint Petition for Generic Investigation or Rulemaking Regarding "Gas-on-Gas" Competition Between Jurisdictional Natural Gas Distribution Companies; Docket No. P-2011-2277868**

**Generic Investigation Regarding Gas-On-Gas Competition Between Jurisdictional Natural Gas Distribution Companies; Docket No. I-2012-2320323**

Dear Secretary Chiavetta:

Please find enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") the Motion to Compel of the Industrial Energy Consumers of Pennsylvania ("IECPA") in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being duly served with a copy of this document.

Sincerely,

McNEES WALLACE & NURICK LLC ·

By   
Charis Mincavage

Counsel to the Industrial Energy Consumers of Pennsylvania

CM/sar  
Enclosures

c: Administrative Law Judge Elizabeth H. Barnes (via E-mail and First Class Mail)  
Certificate of Service

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## CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

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Certificate of Service

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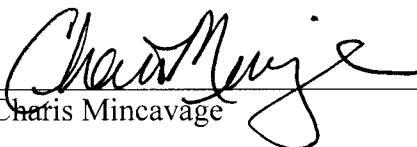
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Charis Mincavage

Counsel to the Industrial Energy Consumers of  
Pennsylvania

Dated this 18<sup>th</sup> day of July, 2013, at Harrisburg, Pennsylvania

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Joint Petition for Generic Investigation or Rulemaking Regarding "Gas-on- Gas" Competition Between Jurisdictional Natural Gas Distribution Companies</b>	:	<b>Docket No. P-2011-2277868</b>
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<b>Generic Investigation Regarding Gas- On-Gas Competition Between Jurisdictional Natural Gas Distribution Companies</b>	:	<b>Docket No. I-2012-2320323</b>
	:	
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**MOTION TO COMPEL OF  
THE INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA**

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**TO THE HONORABLE ELIZABETH H. BARNES:**

Pursuant to Section 5.342(g) of the Pennsylvania Public Utility Commission's ("PUC" or "Commission") regulations, 52 Pa. Code § 5.342(g), the Industrial Energy Consumers of Pennsylvania ("IECPA") hereby file this Motion to Compel in the above-captioned proceeding. In support of this Motion to Compel, IECPA avers as follows:

**I. BACKGROUND**

1. On July 8 2013, Peoples Natural Gas Company and Peoples TWP, LLC (collectively, "Peoples") submitted Objections related to IECPA's Set IV Interrogatories. Specifically, Peoples identifies Objections to the following IECPA Interrogatory Nos. 5, 6, 10, 13, and 17 to Peoples Natural Gas Company and No. 5 to Peoples TWP, LLC:

IECPA to Peoples Set IV, Question No. 5:

Would Peoples' position on gas-on-gas discounting elimination and the need for cost-based rates be the same if the merger of Peoples and Equitable does not occur?

IECPA to Peoples Set IV, Question No. 6

Please breakdown the 200 miles which was the Company's response to IECPA Set III, No. 005, by street name, and to the extent available, by city, borough, or township and county.

IECPA to Peoples Set IV, Question No. 10

If the Peoples-Equitable merger is approved, will Columbia Gas of Pennsylvania, Inc., be Peoples' only gas-on-gas competitor NGDC? If no, list the others.

IECPA to Peoples Set IV, Question No. 13

If it is Peoples' plan to have cost based rates for service for its customers, will those cost based rates include negative surcharges that will be filed to reduce its rates between rate cases as economies of scale take effect due to the merger of Peoples and Equitable and costs of service decrease? (similar to positive charges such as DSICs which are used as costs of providing service increase)

IECPA to Peoples Set IV, Question No. 17

Referring to the response to IECPA Set III, No. 014, Peoples states that it would "propose to honor the rates and provisions for the term of existing contracts for discounted NGDC-on-NGDC customers and to permit recovery of such discounts until those contracts expires." If Peoples' plant is transferred to Equitrans in the Peoples-Equitable merger, and Equitrans gets FERC approval for a modernization and compliance tracker, will Peoples be offsetting any compliance and modernization tracker increases with reductions to its distribution negotiated rates so that the rates paid by the customers will remain the same throughout the term of the contract? Similarly, is this Peoples' intent when saying it will "honor the rates and provision" of the existing contracts as stated in the response to IECPA Set III, No. 014?

IECPA to PTWP Set IV, Question No. 5

Please breakdown the 200 miles [*sic* – correct reference is 100 miles] miles which was the Company's response to IECPA Set III, No. 005, by street name, and to the extent available, by city, borough, or township and county.

2. Although Peoples' Objections claim that Interrogatory Nos. 5, 10, 13, and 17 to Peoples Natural Gas Company are irrelevant for purposes of this proceeding, as discussed more fully

herein, Peoples has not met its burden with respect to proving that the information requested therein is irrelevant for purposes of this proceeding. Similarly, Peoples' Objections claim that Interrogatory No. 6 to Peoples Natural Gas Company and No. 5 to Peoples TWP, LLC would cause unreasonable annoyance, oppression, burden, and expense; however, as discussed more fully herein, Peoples has not fully explained why providing information related to pipelines on Peoples' own system would be unreasonably burdensome.

3. Under Section 5.342(g) of the Commission's regulations, "[w]ithin 10 days of service of an objection to interrogatories, the party submitting the interrogatories may file a motion requesting the presiding officer to dismiss an objection and compel that the interrogatory be answered." *See* 52 Pa. Code § 5.342(g). Accordingly, IECPA hereby files this Motion to Compel.

## II. MOTION TO COMPEL

### A. Peoples Should Be Compelled to Answer IECPA Interrogatory Nos. 5, 10, 13, and 17 to Peoples Natural Gas Company.

4. "A party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action...." 52 Pa. Code § 5.321(c). Relevancy should be interpreted broadly and liberally, and any doubts regarding the relevancy of subject matter should be resolved in favor of relevancy. *Koken v. One Beacon Ins. Co.*, 911 A.2d 1021, 1025 (Pa. Commw. Ct. 2006). The party contending discovery is not relevant has the burden of proving irrelevancy. *Id.*
5. In its July 8 Objections, Peoples contends that IECPA Interrogatory Nos. 5, 10, 13, and 17 to Peoples Natural Gas Company are requesting irrelevant information for purposes of the instant proceeding. Each of these interrogatories focuses on how the merger between Peoples Natural Gas Company and Equitable Gas Company ("Equitable") might impact gas-

on-gas competition in the Peoples service territory. As the merger between Peoples and Equitable is currently under consideration by the Commission, and its approval or denial has become an imminent reality, the impact of this merger on Peoples' position on the main subject of this proceeding, *i.e.*, gas-on-gas competition, is highly and immediately relevant. *See Joint Application of Peoples Natural Gas Company LLC, Peoples TWP, LLC, and Equitable Gas Company, LLC*; A-2013-2353647, A-2013-2353649, and A-2013-2353651. Accordingly, Peoples' Objections to IECPA Interrogatory Nos. 5, 10, 13, and 17 to Peoples Natural Gas Company must be dismissed, and Peoples should be compelled to answer each interrogatory.

6. Peoples asserts that IECPA is estopped from arguing that information related to the Peoples-Equitable merger, and its impact on Peoples' perspective on gas-on-gas competition, is relevant to the instant proceeding, because IECPA has previously submitted that the instant proceeding and the merger proceeding are independent and irrelevant to each other. Peoples' July 8 Objections, p. 2. Peoples fails to acknowledge, however, the context of IECPA's prior statements related to the potential timing of the merger in comparison to the procedural schedule for the gas-on-gas investigation. First, IECPA included these comments in its Answer in Opposition to Peoples' Motion to Hold the Proceeding in Abeyance ("Motion for Abeyance") filed on January 23, 2013, in which Peoples argued that the instant proceeding should be indefinitely postponed until the conclusion of the merger proceeding. In response, IECPA argued that consideration of gas-on-gas issues should not be postponed, given that the general practice of gas-on-gas competition, which exists throughout the state, could be evaluated separately from the merger of Peoples and Equitable. *See IECPA's Answer in Opposition to Peoples' Motion for Abeyance*, p. 5.

7. Contrary to Peoples' assertions, IECPA never contended that Peoples' position on gas-on-gas competition, or the status of gas-on-gas competition in Peoples' service territory, which could be drastically altered by the consummation of a merger with Equitable, would be irrelevant within the instant proceeding. In fact, in the subsequent paragraph of IECPA's Answer to that cited in Peoples' July 8 Objections, IECPA states that the record of the merger proceeding, "while only applying to two NGDCs, could substantively impact a subsequent gas-on-gas competition proceeding." *Id.* IECPA continues to believe that, particularly with respect to the two NGDCs involved in the merger proceeding, *i.e.*, Peoples and Equitable, the impact of the merger on their positions on gas-on-gas competition is highly relevant to the instant proceeding.
8. Accordingly, IECPA Interrogatory Nos. 5, 10, 13, and 17 to Peoples Natural Gas Company should be answered by Peoples because they are clearly "relevant to the subject matter involved in the pending action...." 52 Pa. Code § 5.321(c). Each interrogatory focuses on how the merger would impact gas-on-gas competition, the subject matter of this proceeding, as it relates to Peoples. Interrogatory No. 5 directly asks for Peoples' position on gas-on-gas competition if the merger does not occur. Interrogatory No. 10 merely asks for Peoples to identify its competitor NGDCs upon potential merger approval. Interrogatory Nos. 13 and 17 ask how the merger would impact Peoples' rates, and Interrogatory No. 17 specifically addresses negotiated contracts based on gas-on-gas competition. Each of these questions relates directly to the future of gas-on-gas competition based on the implications of the merger proceeding. Because merger approval or denial is likely to occur in advance of the conclusion of the instant proceeding, IECPA requires these answers from Peoples to further develop its positions on the future of gas-on-gas competition in the Commonwealth.

**B. Peoples Should Be Compelled to Answer IECPA Interrogatory No. 6 to Peoples Natural Gas Company and No. 5 to Peoples TWP, LLC.**

9. In its July 8 Objections, Peoples contends that answering IECPA Interrogatory No. 6 to Peoples Natural Gas Company and No. 5 to Peoples TWP, LLC, would cause unreasonable annoyance, oppression, burden, and expense to Peoples because "Peoples does not maintain this information with the degree of specificity requested and does not have access to the information necessary to develop the specific information requested."
10. Each of these interrogatories requests additional location information related to Peoples' pipelines that are adjacent to Equitable's pipelines, and thus, potentially subject to gas-on-gas competition. Specifically, IECPA seeks street name, city, borough, township, and county identification. Considering that Peoples indicated that it has 200 miles of pipeline on its system that runs adjacent to Equitable's pipeline, providing information regarding the location of this pipeline should not be unreasonably burdensome. To that end, IECPA is uncertain regarding what components of the requested information would cause an unreasonable burden to Peoples. As a result, IECPA requests that Peoples provide as much information and supporting documentation as possible related to the location of these pipelines without causing an unreasonable burden to Peoples. IECPA would also reserve its right to ask subsequent interrogatories if the information provided is insufficient for preparation of IECPA's testimony.


### III. CONCLUSION

WHEREFORE, the Industrial Energy Consumers of Pennsylvania respectfully request that the Pennsylvania Public Utility Commission provide relief as follows:

- (1) Dismiss Peoples' Objections to IECPA Interrogatory Nos. 5, 6, 10, 13, and 17 to Peoples Natural Gas Company and No. 5 to Peoples TWP, LLC;
- (2) Compel Peoples to Answer the IECPA Interrogatory Nos. 5, 6, 10, 13, and 17 to Peoples Natural Gas Company and No. 5 to Peoples TWP, LLC.

Respectfully submitted,

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