CAPTION SHEET CASE MANAGEMENT SYSTEM

1. REPORT DATE: 00/00/00
2. BUREAU: ALJ
3. SECTION(S):
4. PUBLIC MEETING DATE: 00/00/00
5. APPROVED BY:
DIRECTOR:
SUPERVISOR:
6. PERSON IN CHARGE:
7. DATE FILED: 08/29/03
8. DOCKET NO: C-20031128
9. EFFECTIVE DATE: 00/00/00

PARTY/COMPLAINANT: EQUITABLE GAS COMPANY

RESPONDENT/APPLICANT: PEOPLES NATURAL GAS CO., THE

COMP/APP COUNTY: UTILITY CODE: 122250

ALLEGATION OR SUBJECT

COMPLAINANT STATES COMPANY IS DUPLICATING FACILITIES,ENGAGING IN PREDATORY PRICING, USING UNFAIR COMPETITION AND RATE DISCRIMINATION. THEY WANT PUC TO DECLARE PACT AN UNREASONABLE PREFERENCE, AGREEMENT CONTRARY TO PUBLIC INTEREST AND VOID, PROHIBIT DOMINION PEOPLES FROM PROVIDING TRANSPORTATION SERVICE TO PACT, PROHIBIT DOMINION FROM PARTICIPATING IN CONSTRUCTION OF PIPE LINE, AND ANY OTHER RELIEF THAT IS APPROPRIATE.

DOCUMENT FOLDER

DOCKETED
SEP 03 2003

ENTRY TYPE		DATE	BUREAU	PERSONNEL
21	N	02/11/04	SEC	JACOBDIANE
FURTHER HEARING OF 5/19/04 WITH ALJ NEMEC CANCELLED				
20	N	02/11/04	SEC	JACOBDIANE
INITIAL HEARING OF 5/18/04 WITH ALJ NEMEC CANCELLED				
19	N	12/11/03	SEC	JACOBDIANE
COMPLAINANT FLD REPLY TO NEW MATTER OF PITTSBURGH ALLEGHENY COUNTY THERMAL				
18	N	12/04/03	SEC	FRISCIA
ALJ NEMEC PROTECTIVE ORDER SERVED TO PARTIES				
17	N	11/25/03	SEC	MOTTER
NRG ENERGY CENTER-PITTSBURGH LLC FILED PETITION TO INTERVENE W/CERT OF SERVICE				
16	N	12/01/03	SEC	FRISCIA
TRANSCRIPT OF INITIAL PREHEARING CONFERENCE HELD 11/20/03 FILED				
15	N	12/01/03	SEC	FRISCIA
RESPONDENT FILED PREHEARING CONFERENCE MEMORANDUM WITH CERTIFICATE OF SERVICE				
14	N	12/01/03	SEC	FRISCIA
COMPLAINANT FILED PREHEARING CONFERENCE MEMORANDUM				
13	N	11/21/03	SEC	JACOBDIANE
PITTSBURGH ALLEGHENY COUNTY THERMAL LTD FLD ANS & NEW MATTER TO COMPLT W/CERT				
12	N	11/21/03	SEC	FRISCIA
ALJ NEMEC PREHEARING ORDER SERVED TO PARTIES				
11	N	11/20/03	ALJ	NEMEC
INITIAL PREHRG CONF, 11TH FL HRG RM STATE OFFICE BLDG, PITTSBURGH 10:00 A.M.				
10	N	10/27/03	SEC	FRISCIA
COMPLAINANT FILED ANSWER TO PITT ALLEGHENY CNTY THERMAL PET TO INTERVENE W/CER				
9	N	10/07/03	SEC	MOTTER
RESP FLD LTR PET FOR LV TO W/DRAW MOT TO DISMISS FOR FAILURE TO JN INDISP PRTY				
8	N	10/06/03	SEC	MOTTER
COMPLNT FLD ANSWR TO RESP MOT TO DISMISS COMPLT FOR FAILURE TO JN INDISP PARTY				
7	N	10/07/03	SEC	MOTTER
SEC MEMO TO ALJ ASSIGNING PETITION TO INTERVENE				
6	N	10/02/03	SEC	MOTTER
PITTSBURGH ALLEGHENY COUNTY THERMAL FLD PETITION TO INTERVENE W/EXHIBITS & CER				
5	N	09/23/03	SEC	MOTTER
JOHNNIE E SIMMS FILED NOTICE OF APPEARANCE ON BEHALF OF OTS WITH CERT OF SVC				
4	N	09/23/03	SEC	MOTTER
RESP FLD MOTION TO DISMISS COMPLT FOR FAILURE TO JN INDISPENSABLE PARTY W/CERT				
3	N	09/23/03	SEC	FRISCIA
RESPONDENT FILED ANSWER TO COMPLAINT WITH CERTIFICATE OF SERVICE				
2	N	09/03/03	SEC	BESTKAY
NOTICE OF COMPLAINT SERVED TO RESPONDENT FOR ANSWER IN 20 DAYS				
1	N	08/29/03	SEC	BESTKAY
FORMAL COMPLAINT OF EQUITABLE GAS COMPANY VS DOMINION PEOPLES				

ENTRY	TYPE	DATE	BUREAU	PERSONNEL
49	N	01/16/04	SEC	FRISCIA
RESPONDENT FILED MOTION TO COMPEL RESPONSES TO SET I INTRGS, NOS 1 & 22 W/CERT				
48	N	01/30/04	SEC	MOTTER
RESP FLD LTR OF STIPULATION;REQ 60 DAY EXT OF DEADLINES IN PREHRG CONF ORD ETC				
47	N	01/21/04	SEC	FRISCIA
ALJ NEMEC INTERIM ORDER GRANTING NRG PETITION TO INTERVENE SERVED TO PARTIES				
46	N	01/22/04	SEC	FRISCIA
ALJ NEMEC INTERIM ORDER DENYING PEOPLES MOTION TO COMPEL SERVED TO PARTIES				
45	N	01/26/04	SEC	FRISCIA
ALJ NEMEC NOTICE TO PARTIES W/UPDATED SERVICE LIST INCLUDING ATTORNEY KENNARD				
44	N	01/15/04	SEC	TROUT
NRG ENERGY CTR PGH FLD ANSWER TO THE OBJECTIONS OF PGH ALLEGH CTY THERM W/CERT				
43	N	01/14/04	SEC	TROUT
EQUITABLE FLD ANS TO DOMINION'S MOT TO COMPEL RESPS TO ITS SET 1 INTERGS W/CER				
42	N	12/18/03	SEC	MOTTER
RESP LTR TO COMPLT RE PROPRIETARY DISCOVERY ANSWERS TO SET I INTERROGS				
41	N	12/18/03	SEC	MOTTER
COMPLAINANT FILED OBJECTIONS TO RESPONDENT'S 1ST SET OF INTERROGATORIES W/CERT				
40	N	12/08/03	SEC	MOTTER
RESPONDENT FLD NOTICE OF SERVICE OF SET I INTERROGS & REQ FOR PRODUCTN OF DOCS				
39	N	12/15/03	SEC	MOTTER
COMPLNT FLD MOT TO DISMISS NRG ENERGY'S PET TO INTERVENE FOR LACK OF STANDING				
38	N	12/15/03	SEC	MOTTER
COMPLAINANT FILED NOTICE OF SERVICE OF 2ND SET OF INTERROGS TO RESPONDENT				
37	N	12/19/03	SEC	MOTTER
PGH ALLEGHENY CNTY THERMAL FILED OBJECTIONS TO NRG ENERGY'S PET TO INTERVENE				
36	N	12/17/03	SEC	MOTTER
RESP LTR-AGREE THAT INTERROGS #2,3,4 ETC ARE PROPRIETARY OR HIGHLY CONFID ETC.				
35	N	12/17/03	SEC	MOTTER
COMPLNT FLD NOTICE OF SVC OF 1ST SET OF INTERROGS UPON PGH ALLEGHENY THERMAL				
34	N	12/24/03	SEC	MOTTER
COMPLNT FLD NOTICE OF SERVICE OF RESPONSES TO RESP SET I INTERROGS #2,3,4 ETC.				
33	N	12/26/03	SEC	MOTTER
RESPONDENT FLD NOTICE OF SERVICE OF RESPONSES TO COMPLAINANT'S SET I INTTEROGS				
32	N	01/12/04	SEC	MOTTER
COMPLAINANT FLD NOTICE OF SERVICE OF RESPONSES TO RESP SET I INTERROGS #1 ETC.				
31	N	01/20/04	SEC	MOTTER
COMPLAINANT FILED NOTICE OF SERVICE OF 3RD SET OF INTERROGS TO RESPONDENT				
30	N	12/12/03	SEC	MOTTER
COMPLAINANT LTR-BELIEVES SEVERAL OF RESP INTERROGS ARE OBJECTIONABLE ETC.				
29	N	01/22/04	SEC	MOTTER
COMPLNT FLD NOTICE OF SVC OF CONFDNTL RESPONSE TO RESPONDENT'S SET I INTER #23				
28	N	01/21/04	SEC	MOTTER
COMPLNT FLD ANS TO RESPONDENT MOT TO COMPEL RESPONSES TO SET I INTERROGS,#1,22				
27	N	12/24/03	SEC	JACOBDIANE
RESP FLD ANSWER TO COMPLNT'S MOTION TO DISMISS PETITION TO INTERVENE W/CERT				
26	N	12/15/03	SEC	JACOBDIANE
COMPLNT FLD ANS IN OPPOSITN TO PET TO INTERVENE OF NRG ENERGY CENTER-PITTS LLC				
25	N	01/23/04	SEC	BESTKAY
SEC LTR TO RESP ADVISING AMENDED COMPLAINT FILED-FILE ANS IF DESIRED IN 20 DYS				
24	N	01/22/04	SEC	BESTKAY
EQUITABLE GAS COMPANY FILED AMENDED COMPLAINT				
23	N	11/12/03	SEC	FRISCIA
RESPONDENT FILED MOTION FOR PROTECTIVE ORDER WITH CERTIFICATE OF SERVICE				
22	N	02/11/04	SEC	JACOBDIANE
FURTHER HEARING OF 5/20/04 WITH ALJ NEMEC CANCELLED				

DOCKET NO.: C-20031128
RESPONDENT OR APPLICANT: PEOPLES NATURAL GAS CO., THE
PARTY OR COMPLAINANT: EQUITABLE GAS COMPANY

ENTRY	TYPE	DATE	BUREAU	PERSONNEL	
76	N	08/03/04	SEC	FRISCIA	
COMPLNNT FILED STATUS RPT ADV STLMT DISCUSSIONS BETWEEN PARTIES ONGOING W/CERT					
75	N	09/01/04	SEC	MOTTER	
COMPLNT FLD STATUS REPORT; ADV SETTLEMENT DISCUSSIONS REMAIN ONGOING W/RESP					
74	N	08/17/04	SEC	FRISCIA	
ALJ NEMEC LTR TO PITT ALLGHNY CNTY THERMAL ATT PICADIO ADV CONTINUANCE REMAINS					
73	N	06/30/04	SEC	MOTTER	
COMPLNT FLD STATUS REPORT; ADV SETTLEMENT DISCUSSIONS REMAIN ONGOING W/RESP					
72	N	06/01/04	SEC	MOTTER	
COMPLNT LTR ADV SETTLEMT DISCUSSIONS ARE ONGOING;W/PROVIDE FURTHER RPT ON 7/1					
71	N	05/03/04	SEC	FRISCIA	
RESP FLD STATUS RPT PER 4/14/04 COMMSN ORDER;STLMT DISCUSSIONS INITIATED W/CER					
70	N	04/14/04	SEC	FRISCIA	
ALJ NEMEC INTERIM ORDER GRANTING GENERAL STAY SERVED TO PARTIES					
69	N	03/30/04	SEC	MOTTER	
COMPLNT FILED JOINT MOTION OF COMPLNT & RESPONDENT FOR A GENERAL CONTINUANCE					
68	N	03/19/04	SEC	WILLIAMSDONNA	
RESP FILE MOTION TO BIFURCATE COUNT V OF COMPLAINT WITH CERTIFICATE OF SERVICE					
67	N	01/26/04	SEC	MOTTER	
RESPONDENT FLD OBJECTION TO COMPLAINANT'S SET III INTERROGATORY #9 W/CERT					
66	N	03/12/04	SEC	MOTTER	
RESPONDENT FILED SECOND PREHEARING CONFERENCE MEMORANDUM WITH CERT OF SERVICE					
65	N	03/12/04	SEC	MOTTER	
ATTY PICADIO LTR-WILL HAVE PACT'S CO-COUNSL & PRES IN OFFICE FOR 3/15 TEL CONF					
64	N	02/11/04	SEC	FRISCIA	
PITT ALLEGHENY COUNTY THERMAL FILED RESPONSES TO EQUITABLE SET I INTRGS W/CERT					
63	N	02/06/04	SEC	FRISCIA	
ALJ NEMEC LTR TO RESP ATT KENNARD RE 1/30 LTR& REQUESTNG FEEDBACK RE HRG SCHED					
62	N	01/23/04	SEC	MOTTER	
COMPLAINANT FILED MOTION TO EXTEND DISCOVERY & LITIGATION SCHEDULE W/CERT					
61	N	03/22/04	SEC	FARNERJOYCE	
TRANSCRIPT OF FURTHER TELEPHONIC HRG CONFERENCE 3/15/04 FILED					
60	N	03/05/04	SEC	MOTTER	
RESPONDENT FLD MOTION TO COMPEL RESPNSES BY COMPLNT TO SET II INTERROGS W/CERT					
59	N	03/10/04	SEC	WILLIAMSDONNA	
COMPLNT FLD ANS TO RESP MOT TO COMPEL RESPONSES TO INTERROGATORIES SET II					
58	N	03/05/04	SEC	WILLIAMSDONNA	
RESP FILED ANSWER TO AMENDMENT TO COMPLAINT W/CERT SVC					
57	N	02/17/04	SEC	MOTTER	
ALJ NEMEC INTERIM ORDER REGARDING MOTION TO COMPEL SERVED TO PARTIES					
56	N	02/11/04	SEC	JACOBDIANE	
INIT & FUR HRGS OF 5/18, 5/19, 5/20/04 CHANGED TO FUR TEL PREHRG CONF 3/15/04					
55	H	03/15/04	ALJ	NEMEC	
FURTHER TELEPHONIC PREHEARING CONFERENCE 10:00 AM					
54	N	02/09/04	SEC	MOTTER	
ALJ NEMEC MODIFIED PREHEARING ORDER ISSUED					
53	N	03/02/04	SEC	MOTTER	
ALJ LTR TO RESP GRANTNG REQ FOR A 2 WK EXT TO SCHEDULE SET IN 2/17 INTERIM ORD					
52	N	02/12/04	SEC	FARNERJOYCE	
RESPONDENT FLD ANSWER TO MOTION TO COMPEL TO INTERROGARTORY SET III-9 W/CERT					
51	N	02/03/04	SEC	MOTTER	
OTS FILED LETTER IN SUPPORT OF COMPLNT'S MOT TO EXTEND SCHEDULE 60 DAYS					
50	N	01/09/04	SEC	FRISCIA	
RESPONDENT FILED MOTION TO COMPEL RESPONSES TO SET I INTERROGATORIES W/CERT					

ORIGINAL

Thomas, Thomas, Armstrong & Niesen

Attorneys and Counsellors at Law

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E-Mail. cthomasjr@ttanlaw.com

CHARLES E. THOMAS
(1913 - 1998)

August 29, 2003

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P. O. Box 3265
Harrisburg, PA 17105-3265

RECEIVED

AUG 2 9 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

In re: Docket No. C- 20033128
Equitable Gas Company, a Division of Equitable Resources, Inc., Complainant
v. The Peoples Natural Gas Company, d/b/a Dominion Peoples, Respondent

Dear Secretary McNulty:

Enclosed for filing on behalf of the Equitable Gas Company Division ("Equitable") of Equitable Resources, Inc. are an original and three (3) copies of its Complaint against The Peoples Natural Gas Company, d/b/a Dominion Peoples.

Copies of Equitable's Complaint are being served upon counsel for the Respondent in Pittsburgh, as evidenced by the Certificate of Service attached to the Complaint.

Very truly yours,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By

Charles E. Thomas, Jr.

Encl.

ICC

cc: Certificate of Service
Office of Trial Staff
Office of Consumer Advocate
Office of Small Business Advocate
Honorable Terrance J. Fitzpatrick (w/encl.)
Honorable Robert K. Bloom (w/encl.)
Honorable Aaron Wilson, Jr. (w/encl.)
Honorable Glen R. Thomas (w/encl.)
Honorable Kim Pizzingrilli (w/encl.)
Susan G. George, Esquire (w/encl.)
Randall L. Crawford (w/encl.)
Daniel L. Frutchey (w/encl.)

030829McNulty.wpd

RECEIVED

AUG 29 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

ORIGINAL C-2003128 12250

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Equitable Gas Company, a Division of Equitable Resources, Inc., Complainant	:	Docket No. C- 2003/128
v.	:	
The Peoples Natural Gas Company, d/b/a Dominion Peoples, Respondent	:	

RECEIVED

AUG 29 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

COMPLAINT

AND NOW, comes Equitable Gas Company, a division of Equitable Resources, Inc., and complains against The Peoples Natural Gas Company, d/b/a Dominion Peoples, as follows:

Background

1. Complainant Equitable Gas Company ("Equitable") is the regulated utility division of Equitable Resources, Inc. Equitable is engaged in the purchase, distribution, sale and transportation of natural gas and serves over 258,000 residential, commercial and industrial customers in the City of Pittsburgh and adjacent territories in Allegheny, Armstrong, Butler, Clarion, Fayette, Greene, Indiana, Jefferson, Washington and Westmoreland Counties in Southwestern Pennsylvania. Among Equitable's customers are some of the most economically disadvantaged residential customers in the City of Pittsburgh. Equitable's principal offices are located at 200 Allegheny Center, Pittsburgh, PA 15212.

2. Respondent The Peoples Natural Gas Company, d/b/a Dominion Peoples, ("Dominion Peoples") is a regulated utility engaged in the purchase,

distribution, sale and transportation of natural gas and serves over 350,000 residential, commercial and industrial customers in Southwestern Pennsylvania. Dominion Peoples is a wholly owned subsidiary of Dominion Resources, Inc., headquartered in Richmond, Virginia. Dominion Peoples' principal Pennsylvania offices are located at 625 Liberty Avenue, Pittsburgh, PA 15222.

3. Pittsburgh Allegheny County Thermal, Ltd. ("PACT") is a Pennsylvania non-stock, non-profit corporation that uses boilers fueled by natural gas to provide steam heat to several business entities in the central business district of the City of Pittsburgh. PACT's principal offices are located at 429 4th Avenue, Suite 806, Pittsburgh, PA 15219.

4. PACT is now and has been an Equitable customer since its formation in 1982. Indeed, PACT is one of Equitable's largest transportation customers, transporting 900,000 Mcf annually. Equitable's natural gas transportation service to PACT is presently provided under an Agreement for Natural Gas Transportation Service, dated August 11, 2000 ("Equitable/PACT Agreement"). At all times, Equitable's service to PACT has been safe, adequate, and fully compliant with the terms of the Equitable/PACT Agreement, the Pennsylvania Public Utility Code and the regulations of this Commission. A copy of the Equitable/PACT Agreement is attached to this Complaint as Attachment A.

5. Pursuant to Section 2.01 of the Equitable/PACT Agreement, Equitable charged a discounted transportation rate in consideration of PACT's agreement that it would deliver its full natural gas requirements through Equitable's distribution facilities. Section 2.01 of the Equitable/PACT Agreement also provided that prior to the expiration of the Agreement, Equitable would have the opportunity to match any competitive offers

from other gas distribution companies to provide transportation services to PACT. PACT's agreement to utilize only Equitable's transportation system, plus Equitable's right to match any competitive offers, preserved Equitable's ability to be a primary gas transporter to commercial customers in the City of Pittsburgh and the surrounding area. The Agreement's intent of preserving Equitable's market position for gas transportation services in the Pittsburgh area was reinforced by Section 5.06 of the Equitable/PACT Agreement, which provided that PACT could not grant to any party permission, easements or rights-of-way along its steam distribution corridors to construct any natural gas pipeline bypass of Equitable's natural gas service. The term of the Equitable/PACT Agreement originally was to expire on September 30, 2002, but the term was extended through September 30, 2003, when Equitable exercised its option to extend the term pursuant to Section 3.01 of the Agreement.

6. Subsequently, in March 2003, PACT notified Equitable that it had received an offer from Dominion Peoples to provide gas transportation services to PACT after expiration of the Equitable/PACT Agreement.[1] Following exchanges of information regarding the Dominion Peoples' offer, Equitable indicated, by letter dated July 11, 2003, that it was willing and able to match the Dominion Peoples offer.[2] Although Equitable's offer to match the Dominion Peoples' proposal was made well

---

[1]As will be explained in more detail later, Dominion Peoples' offer to PACT was an all-inclusive delivery charge of $0.17 per Mcf with all balancing, banking & advancing, retainage and transition charges effectively waived through their inclusion in the $0.17 per Mcf rate.

[2]Equitable offered to match solely for the purpose of retaining PACT as a customer after concluding that the retention of PACT was in the long term best interests of all of its customers. It was a decision that the Company labored over for severa. days. Equitable also contacted the Office of Trial Staff and Office of Consumer Advocate to advise them that, however reluctantly, it had decided to match an offer that it believed to be both unrealistic and non-competitive. The actual offer to match included an amount for the amortization of PACT's avoided costs associated with PACT not having to actually construct a customer service line.

before the September 30, 2003 expiration of the Equitable/PACT Agreement, and although meetings were held between Equitable and PACT representatives on July 17 and 18, 2003, PACT refused to enter into a new agreement with Equitable. Instead, PACT entered into an agreement with Dominion Peoples, dated as of July 2, 2003, whereby Dominion Peoples will transport all of PACT's natural gas requirements and PACT will tender up to a maximum daily volume of 11,000 Mcf per day to Dominion Peoples for a 15 year period beginning October 1, 2003 and continuing until September 30, 2018 ("Dominion Peoples/PACT Agreement"). Dominion Peoples, presently, has no service or other connection with PACT through which it can deliver gas to PACT. A copy of the Dominion Peoples/PACT Agreement is attached hereto as Attachment B.

Count I - Duplication of Facilities

7. Equitable incorporates by reference the averments set forth in the foregoing Paragraphs 1 through 6 of this Complaint, as if fully set forth herein by reference.

8. In its Order entered August 13, 1999, in *Application of Equitable Gas Company, a Division of Equitable Resources, for Approval of the Right to Begin to Offer, Render, Furnish and Supply Natural Gas Service to the Public in Beaver, Cambria and Blair Counties, Pennsylvania*, Docket No. A-121100F0003, this Commission explained as follows:

> " ... the building of a competitive distribution system would necessarily result in wasteful duplication of facilities contrary to the public interest. The creation of another distribution pipeline system and related facilities for the physical delivery of gas supplies to a competitors gas customers' premises is contrary to the public interest. ... [G]as-on-gas *distribution* competition in overlapping service territories is wasteful and a duplication of fixed distribution facilities. We shall adopt the ALJ's finding as our own

that there is nothing in the record that shows how that result might be in the public interest." *emphasis in original.*

The Order entered August 13, 1999 is all the more significant because it was entered after the effectuation of the Natural Gas Choice and Competition Act.

9. Dominion Peoples was a party to the proceeding at A-121100F0003. It supported the denial of Equitable's Application and did not appeal the Order entered August 13, 1999. In the proceeding at A-121100F0003, the Executive Assistant to the President of Dominion Peoples testified as follows:

> Q. What will be the effect of Equitable providing service in the three counties upon Peoples?
>
> A. Peoples has numerous large customers located near or adjacent to either the Three Rivers Pipeline or the interstate pipeline identified by Equitable in its testimony. These customers represent a substantial portion of the volumes of natural gas which Peoples sells or transports and are relied upon by Peoples to maintain the justness and reasonableness of its current rate levels.
>
> Natural gas distribution service is an essential public need, critical to health and welfare. Natural gas distribution facilities require substantial investment in fixed facilities which cannot be relocated or used for other purposes. Peoples has fully and completely met all requests for service within it service territory of these three counties, expending substantial resources in order to do. In other words, Peoples has maintained and expanded its services, providing essentially what is a local distribution company of last resort function.
>
> Under these circumstances, it would be unfair and unwise in the extreme to authorize another distribution utility, whose only interest is in cream skimming customers who present "favorable economic considerations" as judged exclusively by the utility company.
>
> Presently, Peoples generates approximately $40 million in nongas revenues from Beaver, Blair and Cambria Counties. If Equitable were permitted to construct duplicative facilities and commence service in these counties, its likely tactic would be to pursue the largest of Peoples' existing customers by offering steeply

> discounted rates. To the extent that Peoples loses existing customers to Equitable, Peoples' nongas costs of serving the three counties will not decrease in any significant way. As a consequence, Peoples' loss of revenues to Equitable will have to be reapportioned among Peoples' remaining customers. It is difficult to imagine that the Commission would view such a result to be in the public interest. Dominion Peoples St. No. 1 at 9-10.

10. Applying the words of the Executive Assistant to Dominion Peoples' President, PACT represents a substantial portion of the volumes of gas which Equitable sells or transports. These volumes are relied upon by Equitable to maintain the level of its current rates. The loss of the PACT revenues and the fixed costs recovered thereby would mean that those costs would have to be recovered from Equitable's remaining customers, including some of the most economically disadvantaged residential customers in the City of Pittsburgh. This would not be in the public interest. Likewise, it is not in the best interests of Dominion Peoples' customers that it chooses to waive retainage at all, much less for a 15 year period. Two groups of customers, thus, stand to be harmed by the Dominion Peoples/PACT Agreement.

11. Dominion Peoples, presently, has no service or other connection with PACT through which it can provide transportation service and deliver gas to PACT's premises. The existing main lines of Dominion Peoples are approximately 3,300 feet from PACT's facilities.

12. Nevertheless, on or about Sunday, August 3, 2003, construction commenced on a connecting pipeline from PACT to the existing facilities of Dominion Peoples. PACT has advised Equitable that the pipeline is a PACT facility. Equitable, however, believes and, therefore, avers that Dominion Peoples is advising and assisting PACT in respect to the construction of this pipeline in an attempt to do indirectly what it would be prohibited from doing directly.

13. The interconnecting pipeline which is being constructed is a 12-inch plastic line with capacity to transport over 12,000 Mcf per day. This pipeline capacity far exceeds the historic average daily consumption of PACT of approximately 2,134 Mcf and PACT's historic peak day usage of 5,363 Mcf. It also exceeds the capacity needed to transport the maximum daily volume of 11,000 Mcf provided for in PACT's Agreement with Dominion Peoples.

14. The only conclusion to be drawn from the construction of a 12-inch plastic pipeline and PACT's agreement to tender up to 11,000 Mcf, a volume of gas far in excess of PACT's actual service needs, is that the pipeline and the tendered gas volumes will be used, either by Dominion Peoples or PACT or both, to serve not just PACT but other users of natural gas, including existing and potential customers of Equitable. Consistent with this conclusion, PACT has described the pipeline to an Equitable employee as not just a customer service line but as a money generator for PACT.

15. It would appear that what is being constructed as a service line for PACT is not really a service line at all, but rather in collusion with Dominion Peoples is a duplication of Equitable's distribution line which PACT and Dominion Peoples intend to use to displace Equitable's service. In addition, the PACT/Dominion Peoples' line will transport a significant volume of natural gas in close proximity to PACT's existing steam lines. A problem with PACT's purported service line could precipitate a much larger event, invariably drawing Equitable into the situation.

16. The creation of a contractual arrangement and construction of a bypass system and related facilities for the physical delivery of gas supplies to PACT from the Dominion Peoples system with the potential for delivery of gas volumes to other users,

including existing and potential customers of Equitable, would be a wasteful duplication of facilities contrary to the public interest whether the facilities are owned by PACT or Dominion Peoples. This is not the type of competition envisioned by the Natural Gas and Choice and Competition Act. Indeed, as noted by the Commission in its Order entered August 13, 1999 at A-121100F003, page 13, Dominion Peoples argued in its Reply Exceptions that "'customer choice' in the energy markets means supplier choice and not distribution choice."

17. In Equitable's 2001 Section 1307(f) proceeding at Docket No. R-00016132, Dominion Peoples' affiliate, Dominion Retail, opposed Equitable's proposed Rate FSS on several grounds, one of which was that Rate FSS was not proposed "to address any competitive distribution issues." Dominion Retail's Director of Marketing testified that "[o]nly if competitive offers are made through marketing affiliates will customers be protected from cross-subsidization. . ." (Dominion Retail St. No. 1, page 11, at R-00016132). In the current case, there were no competitive distribution issues and PACT, consistent with the Natural Gas Choice and Competition Act, still had the ability to use Dominion Retail or another natural gas supplier and have its gas transported over Equitable's lines without the need for any wasteful and unnecessary duplication of facilities and subsidization by other Dominion Peoples customers.

WHEREFORE, Equitable Gas Company, a division of Equitable Resources, Inc., prays that the Pennsylvania Public Utility Commission sustain this Complaint and:

a. Declare the Agreement between Dominion Peoples and PACT to be contrary to the public interest and void;

b. Prohibit Dominion Peoples from providing any transportation or other service to PACT, including volumes in excess of PACT's own usage amount;

c. Prohibit Dominion Peoples from participating, in any way, in the construction of an interconnecting pipeline from the PACT premises to the facilities of Dominion Peoples;

d. Permanently prohibit Dominion Peoples from acquiring any interest, either directly or indirectly in PACT's purported service line or using such line to provide service to any customers, including PACT; and

e. Provide for such other relief as may be appropriate and reasonable under the circumstances.

Count II - Predatory Pricing

18. Equitable incorporates by reference the averments set forth in the foregoing Paragraphs 1 through 17 of this Complaint, as if fully set forth herein by reference.

19. Under Articles I and II of the Agreement between Dominion Peoples and PACT, Dominion Peoples will waive retainage of gas unaccounted for and/or used in its operations and charge PACT an all-inclusive delivery charge of $0.17 per Mcf for all gas transported by Dominion Peoples under the terms and conditions of its Rate T - Transportation Service - Industrial. All Balancing, Banking & Advancing charges are included in the $0.17 rate and PACT will not contribute to the collection of Dominion Peoples' transition costs.

20. Section 1501 of the Public Utility Code, 66 Pa. C.S. §1301, states that "[e]very rate made, demanded, or received by any public utility . . . shall be just and

reasonable . . . ." The rate proposed by Dominion Peoples is neither just nor reasonable and is indefensible under any reasonable test of commercial propriety.

21. A rate of $0.17 per Mcf would not even be sufficient to make a reasonable contribution to the cost of the fuel to bring PACT's gas through the Dominion Peoples' system to the PACT premises.[3] Dominion Peoples, however, has agreed to waive fuel in its entirety, the result being that Dominion Peoples' remaining customers will be forced to pay the entire fuel cost of delivering gas to the PACT premises under the Commission's Section 1307(f) regulations. This result is neither just nor reasonable and is indefensible under any reasonable test of commercial propriety.

WHEREFORE, Equitable Gas Company, a division of Equitable Resources, Inc., prays that the Pennsylvania Public Utility Commission sustain this Complaint and:

a. Declare that the discounting and/or waiver of charges below cost is not permitted;

b. Declare the Agreement between Dominion Peoples and PACT to be contrary to the public interest and void;

c. Prohibit Dominion Peoples from providing transportation or other service to PACT;

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[3]Applying Dominion Peoples presently effective retainage rate of 5.3% to the current cost of gas supply for transportation purposes of $5.30 per Mcf would produce a cost of $.28 per Mcf which exceeds the $ 17 per Mcf rate offered for 15 years by Dominion Peoples by 65%. The numbers are just as telling on an annual dollar basis. For example, based on PACT's annual consumption level of 900,000 Mcf, PACT should schedule volumes to be delivered to Dominion Peoples in the amount of 947,700 Mcf (900,000 x 1.053). Using an estimated city gate delivered price of $5 30 per Mcf, the current market value of the retained gas volumes equals $252,810 (947,700 x $5.30), whereas the annual value of the Dominion Peoples agreement is $175,200 (900,000 Mcf x $.17 per Mcf + the $1,850 customer charge x 12). Any deal that is below cost cannot be in the best interests of Dominion Peoples' customers or fair to the customers of Equitable who will be impacted by the loss of PACT's transportation revenues

d. Prohibit Dominion Peoples from participating, in any way, in the construction of an interconnecting pipeline from the PACT premises to the facilities of Dominion Peoples;

e. Declare that the offer by Dominion Peoples is not a true competitive offer in that it is subsidized by Dominion Peoples' other customers; and

f. Provide for such other relief as may be appropriate and reasonable under the circumstances.

Count III - Unfair Competition

22. Equitable incorporates by reference the averments set forth in the foregoing Paragraphs 1 through 21 of this Complaint, as if fully set forth herein by reference.

23. The Dominion Peoples/PACT Agreement and Dominion Peoples' participation in the construction of an interconnecting pipeline are indicative of a pattern of unfair competition engaged in by Dominion Peoples. Examples of this pattern are:

a. Dominion Peoples on a consistent and continuing basis has offered to waive retainage in its entirety for certain transportation customers, including customers currently served by Equitable whose contracts are about to expire. As a consequence, in a limited number of situations, the only way that Equitable could retain the load was to likewise waive retainage.

b. Dominion Peoples is also:

(i) Discounting transportation charges to such a degree that it appears that economic considerations were ignored;

(ii) Entering into long term contracts for as long as 15 years with no provision for reopening transportation rates; and

(iii) Structuring contracts so all the revenue goes to Dominion Peoples and the risk of under recovery is borne by its other customers.

24. This unfair competition, which negatively impacts both Equitable and its customers, is being funded by Dominion Peoples ratepayers. The Dominion Peoples/PACT Agreement provides for a fixed rate of $0.17 per Mcf for a 15 year period. Until Dominion Peoples files its next base rate proceeding, the entire $0.17 per Mcf will accrue to Dominion Peoples' bottom line. In addition, by waiving retainage, balancing and other charges, Dominion Peoples has effectively shifted all the risk to other customers who pay for retainage.

25. Equitable is not afraid of competition with Dominion Peoples. It competes with them and other utility companies every day. However, Equitable believes the Commission in the proceeding at A-12110F0003 established a framework which it intended the competing utilities to adhere to, and from which any deviation would be closely scrutinized. Equitable believes Dominion Peoples has ignored this precedent. If, however, Dominion Peoples' actions are ultimately upheld by the Commission, Equitable needs to know what the new rules are so that it can protect itself and its customers. Equitable also believes that the ability to selectively discount, whether it involves transportation rates or other charges such as balancing or retainage, was primarily implemented to protect utilities from undue competition. Equitable does not believe that the Commission intended to allow utility companies to use their ability to waive charges, as is the case here, as a vehicle to selectively "cream skim" the largest

customers of other utilities, especially after the passage of the Natural Gas Choice and Competition Act.

More importantly, there was no rational reason for such a deep transportation discount or waiver of retainage. Equitable had been charging PACT a rate of $.35 per Mcf for the first 750,000 Mcf and $.25 per Mcf for all additional volumes, plus retainage of 3.5%. Equitable had offered to renew the agreement at a higher, but still discounted, transportation rate of $.59 per Mcf plus 3.5% retainage.[4] At $5.30 per Mcf for the cost of gas, the total cost per Mcf to PACT under Equitable's initial offer was roughly $.76 per Mcf. Therefore, Dominion Peoples' offer to PACT was less than one-fourth of the rate offered by their only other competition. Clearly, Dominion Peoples could have offered a much higher rate. More telling, however, is the undeniable truth that there was no valid reason to waive retainage with so much room left between Equitable's proposed rate and Dominion Peoples' offer.

Equitable believes one of three reasons drove Dominion Peoples' decision: (1) they lacked accurate market information and simply gave their regulated distribution service away; (2) they recognized that since Equitable had the right to match a low offer, even if ultimately matched, they could hurt Equitable; or (3) other economic considerations that have yet to come to light drove the decision, and that the revenue that appears to be lost will somehow still find its way to Richmond, Virginia.

Additionally, Equitable is perplexed by the 15-year term of the deal. Equitable had offered a three-year agreement to PACT. Generally, long-term agreements are offered when a utility must expend considerable initial costs to connect a customer.

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[4]Equitable's maximum Rate GDS-General Delivery Service for large commercial and industrial customers is $2.867 per Mcf, including balancing and transition cost surcharges.

Although admittedly PACT was incurring such costs, that was their choice. Dominion Peoples, on the other hand, to the best of Equitable's knowledge, was incurring little or no costs to add PACT as a customer. Under such a scenario, the utility has the upper hand in the negotiating process because once PACT lays the service line, they become committed to service from Dominion Peoples.

Therefore, it is in a utility's best interest to keep the initial term as short as possible so that rate increases can be negotiated in future years. Dominion Peoples has an obligation to its customers to attempt to maximize transportation revenue recovery, especially where the rate is discounted. It would appear that Dominion Peoples gave away all of its bargaining leverage without any concern for its customers' long-term needs.

WHEREFORE, Equitable Gas Company, a division of Equitable Resources, Inc., prays that the Pennsylvania Public Utility Commission sustain this Complaint and:

a. Declare the Agreement between Dominion Peoples and PACT to be contrary to the public interest and void;

b. Prohibit Dominion Peoples from providing transportation or other service to PACT;

c. Prohibit Dominion Peoples from participating, in any way, in the construction of an interconnecting pipeline from the PACT premises to the facilities of Dominion Peoples;

d. Order Dominion Peoples to cease and desist from unfair competition and trade practices; and

e. Provide for such other relief as may be appropriate and reasonable under the circumstances.

Count IV - Rate Discrimination

26. Equitable incorporates by reference the averments set forth in the foregoing Paragraphs 1 through 25 of this Complaint, as if fully set forth herein by reference.

27. The 15 year, $0.17 per Mcf rate for PACT constitutes an unreasonable "preference or advantage" in violation of Section 1304 of the Public Utility Code, 66 Pa. C.S. §1304, which provides in pertinent part:

> **§ 1304. Discrimination in rates**
>
> No public utility shall, as to rates, make or grant any unreasonable preference or advantage to any person, corporation, or municipal corporation, or subject any person, corporation, or municipal corporation to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, either as between localities or as between classes of service. . . .

WHEREFORE, Equitable Gas Company, a division of Equitable Resources, Inc., prays that the Pennsylvania Public Utility Commission sustain this Complaint and:

a. Declare the 15 year, $0.17 per Mcf rate for PACT to constitute an unreasonable preference or advantage;

b. Declare the Agreement between Dominion Peoples and PACT to be contrary to the public interest and void;

c. Prohibit Dominion Peoples from providing transportation or other service to PACT;

d. Prohibit Dominion Peoples from participating, in any way, in the construction of an interconnecting pipeline from the PACT premises to the facilities of Dominion Peoples, and

e. Provide for such other relief as may be appropriate and reasonable under the circumstances.

Respectfully submitted,

By _____

Charles E. Thomas, Jr.
Thomas T. Niesen
THOMAS, THOMAS, ARMSTRONG & NIESEN
212 Locust Street, Suite 500
P.O. Box 9500
Harrisburg, PA 17108-9500

Daniel L. Frutchey
Senior Vice President and General Counsel
EQUITABLE GAS COMPANY,
a division of Equitable Resources, Inc.
200 Allegheny Center Mall
Pittsburgh, PA 15212

Attorneys for
Equitable Gas Company,
a division of Equitable Resources, Inc.

DATED: August 29, 2003

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SECRETARY'S BUREAU

ATTACHMENT A

Equitable / PACT Agreement

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Application No. 2026
Agreement No. 1033

AGREEMENT FOR NATURAL GAS TRANSPORTATION SERVICE UNDER RATE SCHEDULE GDS

THIS AGREEMENT made this 11th day of August, 2000 by and between EQUITABLE GAS COMPANY, a division of Equitable Resources, a Pennsylvania corporation, hereinafter called "Company," and PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD (PACT), a PENNSYLVANIA NOT-FOR-PROFIT CORPORATION, hereinafter called "Customer":

WITNESSETH: That in consideration of the mutual covenants herein contained, the parties agree as follows:

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SECRETARY'S BUREAU

I. TYPE OF SERVICE

1.01 Company will transport for Customer and Customer will furnish to Company natural gas for such transportation subject to the terms and conditions of this Agreement, and to the applicable Rules and Regulations, the terms of Rate Schedule GDS and other applicable terms contained in Company's tariff on file with the Pennsylvania Public Utility Commission (PUC) or any revisions thereto or superseding tariff sheets that may become effective hereafter, all of which by reference are made a part of this Agreement. In the event of any conflict between this Agreement and Company's applicable tariff provisions, the tariff provisions shall govern as to the conflict.

1.02 Company will assign to Customer a Maximum Daily Quantity (MDQ) as stated in Exhibit A. Daily nominations on Customer's behalf shall not exceed Customer's MDQ.

1.03 All nominations must be <u>in writing using the designated form of Company</u> and the said form must be returned to Company's Gas Management Department, Transportation and Exchange Division at 200 Allegheny Center Mall, Pittsburgh, Pennsylvania 15212-5352 no later than three (3) working days immediately preceding the respective transport

month. To expedite your monthly nomination, Customer can access Company's FAX Machine at 412/395-3338.

Customer may make revised nominations one working day prior to the effective date of the revision, provided that it is received by Equitable Gas before 1:00 p.m. Eastern Standard Time. Nominations can be revised through the last day of the month. Revisions will not be accepted on a weekend or holiday. Revised nominations are to be entered on Section D of the said nomination form and mailed to the Gas Management Department, Transportation and Exchange Division.

Written nominations each month are required even though the nomination could be "0". Any nomination over Customer's contractual maximum daily quantity (MDQ) will not be accepted. Customer must always list account number(s) on the nomination form.

1.04 The Point(s) of Receipt for all gas to be received from Customer for transportation by Company hereunder shall be at either Tepe Measuring Station, Jefferson Borough, Allegheny County, or at Peterman's Corner Regulating Station, Penn Hills Township, Allegheny County, or at various district regulators along Equitrans, LP H-152 line or Equitable Line Nos. D-293 of L.R. 02218, Plum Borough, Allegheny County, Pennsylvania or D-393 at McGinley Road, Monroeville Borough, Allegheny County, Pennsylvania or D-393 at Northern Pike, Monroeville Borough, Allegheny County, Pennsylvania or D-438, Kevich Farm, Somerset Township, Washington County, Pennsylvania. Transportation volumes into Company's Distribution system may be limited during summer and off-peak flow conditions to local system usage and normal operating conditions. All gas shall be delivered to customer at 120 Cecil Way, Pittsburgh, PA 15222 through Meter Number (s) 722438 and 722439.

Customer shall tender gas for transportation hereunder at the following times and pressures: daily at standard operating times and pressures, which shall be delivered

against the varying line pressures maintained in Company's facilities at the various points of delivery. Company shall deliver gas transported hereunder at the following times and pressures: daily at standard operating times and pressures.

1.06 Curtailment of Service. The Company will use its best efforts to provide Customer with at least 24 hours advance notice of any required curtailment of use of gas by Customer, or any interruption of gas service to Customer's facilities, in which event Customer may burn #2 fuel oil in lieu of gas in its boilers. At any time that Customer uses #2 fuel oil in lieu of gas, Company will hold Customer harmless, and reimburse Customer for the additional cost that Customer incurs in burning #2 fuel oil instead of burning gas that would be normally delivered by Company under this agreement. In any event, Customer shall, at its absolute discretion, be entitled to switch from natural gas to #2 fuel oil at any time that the ambient temperature as measured by the National Weather Service falls below zero degrees Fahrenheit, and under those circumstances Company will, without reservation, reimburse Customer for the difference between the cost of burning #2 fuel oil as against the cost that Customer would have incurred had it burned gas. Customer must return to burning natural gas when the National Weather Service forecasts the ambient temperature of the next three day period to not fall below +6°F during any time within the three day period. The Company recognizes that Customer must have a minimum of 24 hours advance notice in order to arrange for #2 fuel oil supplies and to switch to #2 fuel oil. The Company may interrupt Customer's service under this agreement if unforeseen conditions such as compressor or pipe failure require shorter notice.

II. RATE

For each Mcf of gas transported under this Agreement, Customer shall pay Company a

rate as stated in Exhibit A. In consideration for the discounted transportation rate stated in Exhibit A, Customer shall deliver its full natural gas requirements through Company's distribution facilities during the term of this agreement. In consideration of Customer's agreement to deliver its full natural gas requirements through Company's distribution facilities during the term of this Agreement and Customer's agreement to utilize natural gas as its primary energy source, in lieu of alternate fuels (i.e., fuel oil) and/or other installed energy alternatives, Company agrees that Customer's delivery charges shall be discounted as reflected in this agreement. If Customer replaces all or part of its natural gas requirements with an alternative fuel or energy source, other than during periods of curtailment of service (Section 1, Article 1.06). Customer will no longer be eligible for the discounted rate.

Prior to the expiration of this Agreement, Customer agrees to extend the Company the opportunity to match competitive offers from other natural gas distribution companies.

2.02 After the initial two year term or any subsequent extended term, Company shall have the right to propose to and file with the PUC or other body having jurisdiction, changes and revisions to any effective rate schedule, and/or to propose and file superseding rate schedules, and/or to propose and file any other terms or conditions to its tariff for the purpose and having the effect of changing the rate, charges, and other provisions applicable to Customer. Customer shall have the right to protest any such proposed changes before the PUC or other body and to exercise any other rights Customer may have with respect thereto. In the event of a change in the applicable rate, Company shall provide Customer written notice of the effective rate not less than fifteen (15) days prior to the effective date. The Company will bill all gas volumes transported by Customer on and after the effective date of a rate change at the new effective rate.

III. TERM OF AGREEMENT

3.01 The term of this Agreement shall be 24 months, beginning on October 1, 2000 and continuing through September 30, 2002. Company may at its option extend the contract for an additional one-year term at the same terms and conditions in effect during the initial two-year term. After the initial two-year term, or subsequent one-year extended term, if applicable, the agreement shall continue on a month to month basis unless canceled by either party on thirty (30) days written notice.

IV. WARRANTY OF TITLE & GAS QUALITY REQUIREMENTS

4.01 Customer warrants that it will have good title to all natural gas delivered to Company for transportation, that such gas will be free and clear of all liens, encumbrances and claims whatsoever, and that it will indemnify Company and save it harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising from or out of adverse claims of any and all persons to said gas.

4.02 Natural gas delivered for the Customer shall conform to the quality standards of Equitable's Engineering Specification 86-1-036 or any subsequent revisions thereof. Equitable shall have the right to refuse to accept any non-conforming gas, including any gas of a total heating value of less than 1,000 Btu per cubic foot. Should any non-conforming gas enter Equitable's facilities and cause damage to metering, regulating or other equipment, or interruption of service, Customer shall reimburse Equitable for the costs to repair such damage and for any related costs which Equitable may incur to restore service or to repair facilities to its customers, including payments made by Equitable to customers in settlement of claims arising out of such occurrence.

V. MISCELLANEOUS

5.01 No modification of the terms and provisions of this Agreement shall be or become effective except by the execution of written amendment.

5.02 Any entity which shall succeed by purchase, merger or consolidation to the properties, substantially as an entirety, of Company or of Customer, as the case may be, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this Agreement. Either party may, without relieving itself of its obligations under this Agreement, assign any of its rights hereunder to a company with which it is affiliated, but otherwise no assignment of this Agreement or any of the rights or obligations hereunder shall be made unless there first shall have been obtained the consent thereto in writing of the other party.

5.03 This Agreement and the respective obligations of the parties hereunder are subject to valid laws, orders, rules and regulations of duly constituted authorities having jurisdiction.

5.04 The interpretation and performance of this Agreement shall be in accordance with the laws of the Commonwealth of Pennsylvania.

5.05 Company shall have the right to adjust the Customer's billing, including after the expiration or termination of this Agreement, if previous billings for service hereunder are found to have been incorrect.

5.06 During the initial two year term of this agreement or any extended term, Customer hereby agrees to refrain from granting to any party permission, easements or rights-of-way, along its steam distribution corridors, to construct any natural gas pipeline bypass of Company's natural gas service.

5.07 Any notice to Company under this Agreement shall be in writing and addressed to:

Gas Acquisition & Management Department
Transportation and Exchange Division
EQUITABLE GAS COMPANY, A Division of Equitable Resources
200 Allegheny Center
Pittsburgh, PA 15212-5352

or such other address as may be later designated by formal written notice.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

WITNESS:

James K Stiffler

EQUITABLE GAS COMPANY, a division of Equitable Resources

By Arthur G. Cantrell
Arthur G. Cantrell
V. P. – Commercial Operations

WITNESS:

PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.

By Robert S. Wilson
Name: ROBERT S. WILSON
Title: PRESIDENT

(Revised 10/97)

Rate GDS - EXHIBIT A
LARGE VOLUME CUSTOMER

To The Transportation Service Agreement
Dated 8-11-00
Between EQUITABLE GAS COMPANY,
A Division of Equitable Resources
and
PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.
LAW AND FINANCE BUILDING
429 FOURTH AVENUE, SUITE 806
PITTSBURGH, PA 15222

A. MAXIMUM DAILY QUANTITY

Customer's Maximum Daily Quantity is 8000 Dth. The parties agree the Company may adjust Customer's MDQ as necessary to meet customer's full requirements.

B. RATE

Customer shall pay Company a transportation delivery rate of $0.35/mcf for volumes up to 750,000 mcf during each twelve month term of the agreement. Company shall charge a transportation delivery rate of $0.25/mcf for the metered volumes consumed in excess of 750,000 mcf during each twelve month term of the contract. During each 12 month period, the 750,000 mcf threshold shall be subject to monthly heating and cooling degree day adjustments. MCF usage will be normalized based on actual degree days, number of days in usage period and reduction of process usage not affected by the temperature.

C. STANDBY SALES SERVICE (Large Volume Customer: > 20,000 Mcf/year)

I. ✓ Customer does not request Firm Standby Service.

II. ___ Customer requires Firm Standby Service.

Firm Standby Reservation (FSR) Charges

___ Customer elects Winter Season Firm Standby Service (period November 1 through March 31) not to exceed Customer's winter MDFR nomination of ____Mcf and will be charged every month of the year FSR charges

of _____ Mcf and will be charged every month of the year FSR charges equal to the Winter MDFR times the Large Volume Customer Winter FSR rate as listed in Company's applicable rate schedule.

____ Customer also elects Year Round Firm Standby Service (period April 1 through October 31) not to exceed Customer's summer MDFR nomination of _____ Mcf. In addition to the Winter Season FSR charges, Customer will be charged every month of the year a Year Round FSR charge equal to the Year Round MDFR times the Large Volume Customer Year Round FSR rate listed in Company's applicable rate schedule.

PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.

By Robert S. Wilson
Name: ROBERT S. WILSON
Title: PRESIDENT

EQUITABLE GAS COMPANY, a division of Equitable Resources

By Arthur G. Cantrell
Arthur G. Cantrell
V. P. – Commercial Operations

1.0 SCOPE

1.1 This specification establishes the quality of gas required for purchase by those operating companies of Equitable Resources who require and accept purchased gas.

2.0 GENERAL

2.1 Equitable's standard base measure is 14.73 Psia at 60 °F as is specified in the Purchase Agreement. The barometric pressure for pressure calculation is 14.4 Psia.

2.2 Any deviation from this specification will be specifically noted in the Purchase Agreement.

3.0 GAS QUALITY

3.1. The purchased gas shall be in its natural state as produced with the exception that the gas shall:

3.1.1 Be commercially free from dusts, gums, gum-forming constituents, or other liquid or solid matter which might become separated from the gas in the course of transportation through pipelines.

3.1.2 Not contain more than three-tenths (0.3) of a grain of hydrogen sulfide (H_2S) per one hundred (100) cubic feet.

3.1.3 Not contain more than thirty (30) grains of total sulfur per one hundred (100) cubic feet.

3.1.4 Not contain more than one-tenth percent (0.1%) by volume of carbon monoxide (CO).

3.1.5 Not contain more than four percent (4%) by volume of a combined total of inerts such as carbon dioxide, nitrogen, argon, and helium; provide, however, that the total carbon dioxide content shall not exceed three percent (3%) by volume.

3.1.6 Not contain more than one percent (1%) of oxygen by volume.

3.1.7 Have at least one thousand (1,000) British Thermal Units per cubic foot calculated as the gross saturated value at 14.73 Psia and 60 °F.

3.1.8 Be dehydrated by seller and shall not have water content in excess of seven (7) pounds of water per million cubic feet of gas measured at our purchase base (14.73 Psia at 60 °F) unless otherwise approved by an authorized representative of the Company.

3.1.9 Not contain more than two-tenths (0.2) of a gallon of gasoline per one thousand (1,000) cubic feet unless otherwise approved by an authorized representative of the Company.

3.2 The temperature of the gas delivered to Equitable's system shall be limited to 100 °F. If it is determined that no plastic distribution or gathering lines are in the vicinity of the point of delivery, a temperature limit of to 120 °F may be acceptable upon approval of Equitable's Engineering Department.

3.3 The gas quality shall be in conformance with any existing regulatory standards.

ATTACHMENT B

Dominion Peoples / PACT Agreement

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

AGREEMENT

AGREEMENT made this 2nd day of July, 2003, by and between THE PEOPLES NATURAL GAS COMPANY d/b/a DOMINION PEOPLES, a Pennsylvania corporation, with its main office at 625 Liberty Avenue, Pittsburgh, PA 15222 (hereinafter called "Transporter"),

AND

PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD (PACT), a Pennsylvania corporation, with its main office at 429 4th Avenue, Suite 806, Pittsburgh, PA 15219 (hereinafter called "Ratepayer")

WITNESSETH: That in consideration of mutual covenants herein contained, the parties agree that the Transporter will transport for Ratepayer all of Ratepayer's natural gas requirements and that Ratepayer will furnish to Transporter such natural gas for such transportation during the term hereof, at the prices and on the terms and conditions hereinafter provided and under and subject to the applicable terms and conditions contained in Transporter's Rate T filed with the Pennsylvania Public Utility Commission (hereinafter called "PUC") and any revisions thereof that may become effective hereafter.

ARTICLE I
Quantities

Beginning on the date on which deliveries of gas are commenced hereunder and thereafter for the remaining term of this agreement, Transporter agrees, on a firm basis, to receive from Ratepayer 100% of Ratepayer's natural gas requirements and Ratepayer agrees to tender for transportation such natural gas requirements based on an average monthly volume of gas measured in mcfs at 14.73 psia, the number of mcfs to be determined by dividing the number of Btus of gas received by Transporter for Ratepayer's benefit by 1.030 or such other factor determined by Transporter and included in Transporter's Tariff to calculate accurately the volume of gas delivered to Transporter in mcfs. Ratepayer agrees to tender up to a maximum daily volume of 11,000 mcf. Transporter waives retainage of gas unaccounted for or used in Transporter's operations.

In the event Transporter is not able to deliver the gas supplies requirements that Ratepayer has brought to Transporter's system for any reason, Transporter shall, to the best of its ability, provide Ratepayer with at least 24 hours prior notice of the expected curtailment of gas supplies to Ratepayer, and shall promptly deliver to Ratepayer a written Notice of Curtailment stating the anticipated length of the curtailment and scope of the curtailment. During any such curtailment during which Ratepayer is required to burn #2 fuel oil in lieu of gas, Transporter shall reimburse Ratepayer the cost of the #2 fuel oil to the extent that it exceeds the costs of gas that Ratepayer would have had to pay but for the curtailment.

ARTICLE II
Rate

For all gas transported for Ratepayer by Transporter hereunder, Ratepayer shall pay Transporter $.17 per mcf as authorized by the PUC in Transporter's then effective tariff under Rate T.

Any applicable Balancing, Banking & Advancing (BB&A) charges are included in the rate set forth in this article. Ratepayer will not be required to contribute to the collection of transition costs..

In addition, Ratepayer will be assessed the monthly service charge from the applicable retail rate schedule (currently $1,850.00 per month).

ARTICLE III
Terms of Agreement

This agreement shall become effective on October 1, 2003 and shall continue in force and effect until September 30, 2018.

ARTICLE IV
Points of Receipt and Delivery

The Point(s) of Receipt for all gas to be received from Ratepayer for transportation by Transporter hereunder shall be at various delivery points in Transporter's Service Agreement with Dominion Transmission, Inc., as mutually agreed on, and shall be delivered to Ratepayer's facility located in Pittsburgh, Pennsylvania.

Transportation gas delivered into the Transporter's system will be available for delivery to Ratepayer in the month of delivery into the Transporter's system. BB&A services shall be provided pursuant to the terms and conditions set forth in Transporter's tariff.

ARTICLE V
Delivery Pressures

All quantities of natural gas delivered to Transporter for Ratepayer at the Point(s) of receipt shall be made against the line pressures existing in Transporter's pipeline facilities from time to time. Transporter shall not be obligated to lower such line pressure by compression or otherwise.

ARTICLE VI
Measurement

All quantities of natural gas delivered by Transporter to Ratepayer at point of delivery shall be measured as described under Rule 9 - Measurement of Gas of Transporter's currently effective tariff.

ARTICLE VII
Billing and Payment

Transporter shall render to Ratepayer a statement of the total quantities of gas transported by Transporter for the account of Ratepayer during the preceding month and the transportation charges due thereon. The bill for transportation charges is due within fifteen (15) days of Transporter's mailing the bill, as signified by the postmark of said bill. Bills not paid in their entirety within this time period shall be subject to a late-payment charge of two percent (2%) per month.

A bill shall be deemed delinquent when it remains unpaid after the due date set forth on the bill. Transportation service may be terminated by Transporter when any bill becomes delinquent.

ARTICLE VIII
Miscellaneous

1. No modifications of the terms and provisions of this agreement shall be or become effective except by the execution of written contracts or by modification of Transporter's Tariff.

2. No waiver by any party of any one or more defaults by any other party in the performance of any provisions of this agreement shall operate or be construed as a waiver of any other default or defaults, whether of a like or of a different character.

3. Any company which shall succeed by purchase, merger, or consolidation to the properties, substantially in its entirety, of Transporter or of Ratepayer, as the case may be, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this agreement. Without relieving itself of its obligations under this agreement, any party may assign any of its rights hereunder to a company with which it is affiliated, but otherwise no assignment of this agreement or any of the rights or obligations hereunder shall be made unless there first shall have been obtained the consent thereto in writing of the other parties. No such assignment, if made, shall affect the point of delivery to Ratepayer's facility by Transporter, absent Transporter's consent. Transporter agrees it will not unreasonably withhold consent to the assignment of this agreement to any successor to Ratepayer operating out of Ratepayer's facility which is the subject of this agreement.

4. Except as herein otherwise provided, any notice, request, demand, statement, or bill provided for in this agreement, or any notice which any party may desire to give to the other, shall be in writing and shall be considered as duly delivered when mailed by registered or certified mail to the Post Office address of the parties hereto, as the case may be, as follows:

Transporter

DOMINION PEOPLES
625 Liberty Avenue
Pittsburgh, PA 15222

Ratepayer

PACT
429 4th Avenue, Suite 806
Pittsburgh, PA 15219

or at such other address as either party shall designate by formal written notice. Routine communications, including monthly statements and payments, shall be considered as duly delivered when mailed by either registered, certified, or ordinary mail.

5. This agreement and the respective obligations of the parties hereunder are subject to all valid laws, orders, rules, and regulations of duly constituted authorities having jurisdiction. The Ratepayer shall be responsible for the payment of all federal, state, and local taxes, including income, franchise, excise, sales, use, occupational, leasing, leasing use, gross receipts, value-added,

ad valorem, property, and stamp taxes, which may become or are now applicable to the natural gas services purchased by Ratepayer under this agreement.

6. The subject headings of the articles of this agreement are inserted for the purpose of convenient reference and are not intended to be a part of the agreement nor considered in any interpretation of the same.

7. The interpretation and performance of this contract shall be in accordance with the laws of the Commonwealth of Pennsylvania.

8. Ratepayer represents and warrants to Transporter that its entering into this Agreement will not result in the breach of any other contract to which Ratepayer currently is a party.

9. In the event of a conflict between the provisions of this agreement and Transporter's Tariff, the latter shall control.

10. The liability provisions of Transporter's Tariff – Rate T are hereby specifically incorporated by reference.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed and witnessed or their respective corporate seals to be hereto affixed and attested, the day and year first above written.

ATTEST:

Susan G George
Assistant Secretary

THE PEOPLES NATURAL GAS COMPANY
d/b/a DOMINION PEOPLES

By Richard Lee

Title:

ATTEST:

Denise Slutzky

Title: Sec.
(Corporate Seal)

PACT

By Robert L Jagio

Title: President

VERIFICATION

I, FREDRICK K. DALENA, hereby state that the facts above set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

FREDRICK K. DALENA
SENIOR VICE PRESIDENT -
COMMERCIAL OPERATIONS

RECEIVED
AUG 29 2003
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Equitable Gas Company, a Division of Equitable Resources, Inc., Complainant	:	Docket No. C-
v.	:	
The Peoples Natural Gas Company, d/b/a Dominion Peoples, Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this 29th day of August, 2003, served a true and correct copy of the foregoing Complaint, upon the persons and in the manner set forth below:

FIRST CLASS MAIL, POSTAGE PREPAID

The Peoples Natural Gas Company
d/b/a Dominion Peoples
19th Floor
625 Liberty Avenue
Pittsburgh, PA 15222
Attn: Susan G. George, Esquire

Charles E. Thomas, Jr.

RECEIVED
AUG 29 2003
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P O BOX 3265, HARRISBURG PA 17105-3265

DATE SERVED: SEPTEMBER 3, 2003

C-20031128

PEOPLES NATURAL GAS COMPANY
SUSAN G GEORGE ESQUIRE
625 LIBERTY AVE
PITTSBURGH PA 15222-3197

DOCUMENT
FOLDER

Dear Sir/Madam:

A complaint has been filed against you before the Pennsylvania Public Utility Commission by EQUITABLE GAS COMPANY. To defend yourself against the claims stated in the following pages, you must act within twenty (20) days by filing in writing with the Commission, either personally or through your attorney, your defenses or objections to the claims stated against you. Or, you may satisfy the complaint by settling the matter with the Complainant and submitting proof of settlement to the Commission within twenty (20) days.

IF YOU FAIL TO RESPOND WITHIN TWENTY (20) DAYS, THE CASE MAY GO FORWARD IN YOUR ABSENCE AND A JUDGEMENT MAY BE ENTERED AGAINST YOU BY THE COMMISSION WITHOUT FURTHER NOTICE.

CUSTOMER OF A UTILITY

A payment schedule may be prescribed or a termination of utility services may be authorized. You may lose money or property or other rights important to you.

COMPANY/UTILITY

An Administrative Law Judge may revoke or suspend any certificate or permit held by you, or impose a fine, or any other appropriate penalty or remedy authorized by the Public Utility Code. You may lose money or property or other rights important to you.

SEPTEMBER 3, 2003

Detailed instructions on how to proceed are contained in the attached pages. You are advised to read them carefully.

Unless you are a corporation or other organization, you may proceed without a lawyer. However, if you want a lawyer and do not have one or cannot afford one, the office listed below can tell you where you can get legal help:

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

Very truly yours,

James J. McNulty
Secretary

KSB

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: SEPTEMBER 3, 2003

DOCUMENT FOLDER

EQUITABLE GAS COMPANY
Complainant

VS.

PEOPLES NATURAL GAS COMPANY
Respondent

Complaint Docket No: C-20031128

DOCKETED SEP 03 2003

FORMAL COMPLAINT NOTICE TO RESPONDENT TO ANSWER OR SATISFY

TO: PEOPLES NATURAL GAS COMPANY

TAKE NOTICE:

That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. Section 702 of the Public Utility Code, 66 Pa. C.S. Section 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE,

1. You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the **Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265,** an answer (original and three copies), in writing, under oath, which, as required by Section 5.61 of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 5.61, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant. The date of service is the mailing date as indicated by the date at the top of this Notice. Section 1.56(a) of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 1.56(a).

2. If you fail to either satisfy this complaint or to file answer or other responsive pleading within twenty (20) days, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61. In that event, the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which

prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

3. If you elect to satisfy this complaint you must file, within twenty (20) days from the date on which this complaint is served, affidavits executed by each complainant that this complaint has been satisfied. Such affidavits must describe the basis on which this complaint was satisfied; any settlement agreement between the parties must be reduced to writing and attached to the affidavit. Such affidavits are to be filed with the Secretary of the Commission at the address set forth in paragraph 1. Upon receipt of affidavits of satisfaction from all complainants, this complaint may be dismissed by the Commission in accordance with Section 703(a) of the Public Utility Code, 66 Pa. C.S. Section 703(a), unless the Commission determines that such dismissal would be contrary to the public interest, in which event the Commission may direct that hearings be held upon the complaint.

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, the Commission may, without hearing, enter an order which either revokes or suspends any certificate held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, you are found to have committed any of the violations alleged in the complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. In the imposition of a penalty after a hearing the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4 of the attached complaint.

James J. McNulty
Secretary

(SEAL)

Certified Mail
Return Receipt Requested

Hawke McKeon Sniscak & Kennard LLP
ATTORNEYS AT LAW

William T. Hawke
Kevin J. McKeon
Thomas J. Sniscak
Norman James Kennard
Lillian Smith Harris
Scott T. Wyland
Todd S. Stewart
Craig R. Burgraff
Janet L. Miller
Steven K. Haas
William E. Lehman
Rikardo J. Hull

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmsk-law.com

September 23, 2003

ORIGINAL

BY HAND DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street – Filing Room (2 North)
P.O. Box 3265
Harrisburg, PA 17105-3265

DOCUMENT

RECEIVED
2003 SEP 23 PM 1:53
PA PUC
SECRETARY'S BUREAU

Re: Equitable Gas Company, a Division of Equitable Resources, Inc. v. The Peoples Natural Gas Company d/b/a Dominion Peoples: Docket No. C C-20031128; ANSWER AND MOTION TO DISMISS COMPLAINT FOR FAILURE TO JOIN INDISPENSABLE PARTY

Dear Secretary McNulty

Enclosed for filing with the Commission are an original and three (3) copies of The Peoples Natural Gas Company d/b/a Dominion Peoples' Answer to the Complaint filed by Equitable Gas Company.

Also enclosed for filing with the Commission are an original and three (3) copies of The Peoples Natural Gas Company d/b/a Dominion Peoples' Motion to Dismiss Complaint for Failure to Join Indispensable Party. These filings have been served in accordance with the attached Certificates of Service.

RJP

If you have any procedural questions concerning this filing, please do not hesitate to contact me.

Very truly yours,

William T. Hawke

William T. Hawke

WTH/das
Enclosure

cc: Per Certificate of Service
Office of Trial Staff
Office of Consumer Advocate
Office of Small Business Advocate
Honorable Terrance J. Fitzpatrick
Honorable Robert K. Bloom
Honorable Glen R. Thomas
Honorable Kim Pizzingrilli
Susan G. George, Esquire

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2003 SEP 23 PM 1:53
PA PUC
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Equitable Gas Company, a Division of Equitable Resources, Inc.,

Complainant

v.

The Peoples Natural Gas Company d/b/a Dominion Peoples,

Respondent

Docket No. C-20031128

DOCKETED
SEP 25 2003

PA PUC
SECRETARY'S BUREAU

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2003 SEP 23 PM 2:01

MOTION TO DISMISS COMPLAINT FOR FAILURE TO JOIN AN INDISPENSABLE PARTY

AND NOW, this 23rd day of September, 2003, comes The Peoples Natural Gas Company d/b/a Dominion Peoples ("Dominion Peoples"), pursuant to the provisions of 52 Pa. Code §5.101(a)(3)[1], and moves to dismiss the above-captioned Complaint of Equitable Gas Company, a Division of Equitable Resources, Inc. ("Equitable") which has failed to join an indispensable party, namely, Pittsburgh Allegheny County Thermal, LTD. ("PACT"). In support of its Motion, Dominion Peoples states and avers as follows:

1. On September 3, 2003, Dominion Peoples was served with the above-captioned Complaint filed by Equitable.

[1] 52 Pa. Code §5.101(a)(3) provides for, as a preliminary motion, "[a] motion to dismiss a pleading...that fails to join an indispensable party."

DOCUMENT

2. The Complaint alleges that PACT has been an Equitable Gas customer since 1982. Complaint, ¶4.

3. The Complaint alleges that PACT notified Equitable that it had received an offer from Dominion Peoples, that PACT refused to enter into an agreement with Equitable, and that PACT instead entered into an agreement with Dominion Peoples to transport all of PACT's natural gas requirements. Complaint, ¶6.

4. The Complaint alleges that PACT's agreement to tender up to 11,000 Mcf, will be used to serve not just PACT but other users of natural gas. Complaint, ¶14.

5. The Complaint alleges that PACT's service line is not a service line, but rather, through collusion with Dominion Peoples represents a duplication of Equitable's service line; Equitable then refers to the subject line as a "PACT/Dominion Peoples' line." Complaint, ¶ 15.

6. The Complaint contains four "Counts", each of which set forth the reasons for Equitable's primary relief, which is to have the Public Utility Commission ("Commission") "[d]eclare the Agreement between Dominion Peoples and PACT to be contrary to the public interest and void." Complaint, "WHEREFORE" clauses found at pages 8, 10, 14, and 15.

7. Simultaneously with filing this Motion to Dismiss, Dominion Peoples is filing its Answer to Equitable's Complaint, wherein Dominion Peoples denies all material allegations, factual and legal, which Equitable claims entitles it to an order declaring the PACT/Dominion Peoples ***Agreement*** void.

8. PACT's legal right to have its choice of a natural gas distribution company, pursuant to an existing agreement with Dominion Peoples, is so clearly connected with the claims and denials of the above-captioned litigants, that no decree or order can be made without impairing PACT's rights. Further, granting Equitable's relief would amount to a "taking" of PACT's line. And, where

a party, such as PACT, has rights that are so connected with the claim of litigants, that party is indispensable. *Tigue v. Basalyga*, 304 A.2d 119 (1973).

9. Further, where the presence of a party will ensure a comprehensive consideration of all issues in the proceeding, it is a necessary party. *Re: Red Lion Gas Company*, 52 Pa. PUC 129 (1978). Clearly, the presence of PACT[2] is necessary to ensure a comprehensive consideration by the Commission of many of the issues raised by Equitable.

10. Equitable did not join PACT as an indispensable party; therefore, pursuant to the provisions of 52 Pa. Code §5.101(a)(3), Equitable's Complaint should be dismissed.

WHEREFORE, for all of the foregoing reasons, Dominion Peoples requests that the Complaint of Equitable captioned above be dismissed.

William E. Hawke
Norman James Kennard
Hawke McKeon Sniscak & Kennard LLP
100 North Tenth Street
P. O. Box 1778
Harrisburg, PA 17105-1778
(717) 236-1300

Susan G. George, Esquire
The Peoples Natural Gas Company
625 Liberty Avenue
Pittsburgh, PA 15222

Counsel for The Peoples Natural Gas Company d/b/a Dominion Peoples

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2003 SEP 23 PM 2:01
PA PUC
SECRETARY'S BUREAU

Dated: September 23, 2003

[2] As noted in Dominion Peoples Answer filed simultaneously with this Motion, Dominion Peoples believes and therefore avers that PACT is a cooperative owned by its customers. PACT serves state, federal and local government buildings including the US Post Office, the Federal Court House, the Federal Office Building, the Federal Reserve Bank, and US General Services. PACT also serves the State Office Building, the Allegheny County Jail, the City County Building, and the Pittsburgh Convention Center. PACT also serves numerous businesses, including office buildings, hotels, department stores, restaurants and dry cleaners. The price of steam charged by PACT affects the budgets of those entities, all of which are located in the City of Pittsburgh.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Motion to Dismiss Complaint for Failure to Join Indispensable Party upon the person and in the manner indicated below.

BY FIRST CLASS MAIL

Charles E. Thomas, Jr.
Thomas T. Niesen
Thomas, Thomas, Armstrong & Niesen
212 Locust Street, Suite 500
P. O. Box 9500
Harrisburg, PA 17108-9500

Daniel L. Frutchey
Senior Vice President and General Counsel
Equitable Gas Company,
a division of Equitable Resources, Inc.
200 Allegheny Center Mall
Pittsburgh, PA 15212

William E. Hawke

Dated: September 23, 2003

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2003 SEP 23 PM 2:01
PA PUC
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

Equitable Gas Company	:	
	:	
v.	:	Docket No.
	:	C-20031128
The Peoples Natural Gas Company, d/b/a Dominion Peoples	:	
	:	

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2003 SEP 23 PM 1:35
PA PUC
SECRETARY'S BUREAU

NOTICE OF APPEARANCE

TO THE SECRETARY:

Please enter the appearance of the Office of Trial Staff of the Pennsylvania Public Utility Commission in the above-captioned proceeding.

Prosecutor(s) for the Office of Trial Staff, in addition to the undersigned will be:

JOHNNIE E. SIMMS

RJP

All service on and communications to the Office of Trial Staff in this proceeding should be addressed:

DOCKETED
SEP 25 2003

DOCUMENT

Johnnie E. Simms, Esquire
Pa. Public Utility Commission
Office of Trial Staff
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-1976

Charles F. Hoffman
Chief Prosecutor

Dated: September 23, 2003

41

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED
SEP 23 2003
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Equitable Gas Company	:	
	:	
v.	:	Docket No.
	:	C-20031128
The Peoples Natural Gas Company,	:	
d/b/a Dominion Peoples	:	

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Notice of Appearance** of the Office of Trial Staff, dated September 23, 2003, either personally, by first class mail, electronic mail, express mail, or by fax upon the persons listed below:

Susan G. George, Esquire
The Peoples Natural Gas Company,
d/b/a Dominion Peoples
625 Liberty Avenue, 19th Floor
Pittsburgh, PA 15222

Charles E. Thomas, Jr., Esquire
Thomas T. Niesen, Esquire
Thomas, Thomas, Armstrong & Niesen
212 Locust Street, Suite 500
P.O. Box 9500
Harrisburg, PA 17108-9500

Daniel L. Frutchey, Senior Vice President
and General Counsel
Equitable Gas Company
200 Allegheny Center Mall
Pittsburgh, PA 15212

Irwin A. Popowsky, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place - 5th Floor
Harrisburg, PA 17101-1923

Carol F. Pennington, Esquire
Office of Small Business Advocate
Suite 1102, Commerce Bldg.
300 North Second Street
Harrisburg, PA 17101

Honorable Robert A. Christianson
Chief Administrative Law Judge
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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2003 SEP 23 PM 1:36
SECRETARY'S BUREAU

Charles F. Hoffman
Chief Prosecutor
Office of Trial Staff

Dated: September 23, 2003
Docket No. C-20031128

Hawke McKeon Sniscak & Kennard LLP
ATTORNEYS AT LAW

William T. Hawke
Kevin J. McKeon
Thomas J. Sniscak
Norman James Kennard
Lillian Smith Harris
Scott T. Wyland
Todd S. Stewart
Craig R. Burgraff
Janet L. Miller
Steven K. Haas
William E. Lehman
Rikardo J. Hull

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmsk-law.com

September 23, 2003

ORIGINAL

BY HAND DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street – Filing Room (2 North)
P.O. Box 3265
Harrisburg, PA 17105-3265

DOCUMENT FOLDER

RECEIVED
2003 SEP 23 PM 1:53
SECRETARY'S BUREAU

Re: Equitable Gas Company, a Division of Equitable Resources, Inc. v. The Peoples Natural Gas Company d/b/a Dominion Peoples: Docket No. C C-20031128; ANSWER AND MOTION TO DISMISS COMPLAINT FOR FAILURE TO JOIN INDISPENSABLE PARTY

Dear Secretary McNulty:

Enclosed for filing with the Commission are an original and three (3) copies of The Peoples Natural Gas Company d/b/a Dominion Peoples' Answer to the Complaint filed by Equitable Gas Company.

Also enclosed for filing with the Commission are an original and three (3) copies of The Peoples Natural Gas Company d/b/a Dominion Peoples' Motion to Dismiss Complaint for Failure to Join Indispensable Party. These filings have been served in accordance with the attached Certificates of Service.

RJP

79

If you have any procedural questions concerning this filing, please do not hesitate to contact me.

Very truly yours,

William T. Hawke

William T. Hawke

WTH/das
Enclosure

cc: Per Certificate of Service
Office of Trial Staff
Office of Consumer Advocate
Office of Small Business Advocate
Honorable Terrance J. Fitzpatrick
Honorable Robert K. Bloom
Honorable Glen R. Thomas
Honorable Kim Pizzingrilli
Susan G. George, Esquire

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2003 SEP 23 PM 1:53
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

Equitable Gas Company, a Division of Equitable Resources, Inc.,	:	
Complainant	:	
v.	:	Docket No. C-20031128
The Peoples Natural Gas Company d/b/a Dominion Peoples,	:	
Respondent	:	

RECEIVED
2003 SEP 23 PM 1:55
PA PUC
SECRETARY'S BUREAU

DOCUMENT FOLDER

ANSWER

The Peoples Natural Gas Company d/b/a Dominion Peoples ("Dominion Peoples"), by its attorneys in this proceeding, Hawke McKeon Sniscak & Kennard LLP, hereby submits its Answer to the Complaint filed by Equitable Gas Company ("Equitable"). In support thereof, Dominion Peoples avers and represents as follows:

I. SUMMARY OF ANSWER

Equitable's Complaint is composed of half statements, misstatements and omissions regarding service by Dominion Peoples to Pittsburgh Allegheny County Thermal Ltd. ("PACT"). By this Answer, Dominion Peoples seeks to provide a fuller, more balanced statement of the true facts.

PACT approached Dominion Peoples, unsolicited by Dominion Peoples, and requested gas transportation service in the spring of 2003. As PACT described in its June 18, 2003 letter to

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Equitable,[1] PACT had various and numerous complaints about the service limitations and costs imposed by Equitable:

> TW Phillips is not willing to transport gas to PACT into the Equitable system, but is willing to do so into the Dominion-Peoples system.
>
> * * *
>
> Please be aware that the proposed agreement with Dominion will allow PACT to benefit by avoiding draconian imbalance conditions and higher basis charges resulting from differing conditions of transportation available through Equitable. Also, the Dominion Agreement makes available to PACT a "basis charge" for purchasing/transporting gas from various suppliers at a rate of $0.72/mcf for full requirements transportation, compared to the rate of $1.155/mcf quoted by suppliers on Equitable.

Appendix "A," Exhibit 2 (Letter of June 18, 2003).

This complete dissatisfaction with Equitable's distribution service was the basis for PACT's unsolicited approach to Dominion Peoples, as PACT explained to Equitable:

> Please be aware that based upon the attitude that PACT encountered in attempting to deal with Equitable in the past year, PACT went to Peoples to request the offer now on the table, with the stated intent by PACT to build its own line so that only PACT would have control of the line. Peoples did not seek out PACT's business. That came to Peoples only as a result of Equitable's attitude towards and practices with on[e] of its biggest customer[s].

Appendix "A," Exhibit 4 (Letter of June 25, 2003).

The assertions in Equitable's Complaint that it provided a matching offer is not true -- Dominion Peoples offers firm service; Equitable provides interruptible service. On Dominion Peoples' system, PACT has a wider availability of gas supplies, access to lower priced upstream

[1] Equitable filed a Complaint In Equity against PACT in Allegheny Common Pleas Court on August 25, 2003. The Complaint, which is attached to this Answer as **Appendix "A,"** includes, as exhibits, numerous correspondences between Equitable and PACT which were not provided to the Commission in the Complaint filed by Equitable here, but which are incorporated by Dominion Peoples into this Answer.

transportation, and, as importantly to PACT, a willing and cooperative distribution service provider.

A second fallacy of Equitable's Complaint is the allegation that Dominion Peoples is somehow involved in PACT's construction of a pipeline and that there is "collusion" between the two on this physical interconnection. PACT previously has stated otherwise to Equitable. "PACT is not providing any money or payments to Dominion Peoples for anything that is not set forth in the document delivered to you to see." On point, PACT further stated:

> PACT will build the line....Though PACT has the knowledge and capability to build the pipeline with its own employees, PACT will hire an outside contractor to build the line..... PACT has the ability to maintain the line with its own employees in the normal course of its business, but PACT has the right to contract that work out to someone else if it chooses to do so. PACT has not contacted anyone else at this time to do maintenance work on the line. If it does, it will not be Peoples. PACT alone will own and operate the line, as we indicated to Mr. Lucas [Equitable employee] last year.

Appendix "A," Exhibit 4 (Letter of June 25, 2003). Equitable's averments have no basis in fact.

Third, Equitable also intimates, albeit obliquely, that safety is an issue, alleging that the line is in "close proximity to PACT's existing steam line" and "could precipitate a much larger event[.]" Of course, by this statement, Equitable intends to intimate a safety catastrophe of some sort attributable to poor design and placement. PACT has stated that the design and placement of the gas line is safe and presents no hazard. Dominion Peoples has reviewed the calculations of the engineering firm retained by PACT which show a safe separation of the two lines.

Significantly, there is no factual dispute regarding Dominion Peoples' legal authority to provide service to PACT. PACT is a district steam heat company located within the City of Pittsburgh, and Dominion Peoples possesses original charter rights under the Natural Gas

Companies Act of 1885 to provide service within the City of Pittsburgh, and it has exercised that authority for over 100 years. Dominion Peoples serves all manner of customers within the confines of the City of Pittsburgh, including low-income customers.

Under the Pennsylvania Public Utility Code, Dominion Peoples has an obligation to provide service to members of the public. 66 Pa. C.S. § 1501. In recognition of this statutory obligation, the Commission has interpreted it to be the customer's right to elect among natural gas distribution companies with overlapping service territory; that is, Pennsylvania law on customer choice of natural gas distribution companies in overlapping service territories is well settled. *Peoples Natural Gas Company v. Pennsylvania Public Utility Commission*, 554 A. 2d 585, 591-592 (1989); *Equitable Gas Company v. T.W. Phillips Gas and Oil Company*, 82 Pa. PUC 615 (1994).

The Natural Gas Customer Choice and Competition Act ("Act") did not change the law concerning a customer's right to choose its distribution company. Rather, it reaffirmed that existing policies would continue.[2] The Act addressed supplier choice only. In Equitable's 1999 application proceeding (wherein it was seeking to apply for new service rights across a three county area), it attempted to argue that the Act *per se* found distribution choice (as opposed to supplier choice) to be in the public interest. This assertion was found by Administrative Law Judge Schnierle and the Commission to be a *nonsequitur* and, therefore, the Commission concluded that public need was undemonstrated in the record of that case.

The remaining claim of Equitable's complaint, that the rates contained in the Dominion Peoples/PACT agreement are illegal, is equally specious. The rates and terms contained in that agreement are fully and completely in compliance with the Commission-approved and currently effective tariff. Equitable does not aver otherwise. Equitable does, however, seek to contrive a

[2] 66 Pa. C.S. § 2203(14)

new standard for utility pricing it vaguely labels as "commercial propriety" (but does not define or explain it) in order to establish a floor for transportation pricing. There is no such requirement under Commission orders, regulations or under the statute. This pricing construct is completely Equitable's fabrication. Nor is Equitable's claim that Dominion Peoples' rate is $.17/Mcf complete or accurate. Equitable's recitation of the charges in the Dominion Peoples/PACT agreement ignores the monthly customer charge, pooling fees, and storage fees associated with this account, such that the total charges that will be collected because of the Dominion Peoples/PACT agreement is approximately $0.34/Mcf.

In summary, all the rhetoric and hyperbole of Equitable's complaint aside, the Complainant can point to no "act or thing done or admitted to be done by a public utility in violation, or claim violation of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission." 66 Pa. C. S. § 701. The filing of this Complaint is simply more evidence of Equitable's inability to meet the price of a higher quality, lower cost service provider when approached by a customer dissatisfied with Equitable's rates and service.

II. ANSWER

1. ADMITTED. It is ADMITTED that Equitable is a regulated utility serving residential, commercial and industrial customers. It is further ADMITTED that Equitable serves "economically disadvantaged residential customers in the City of Pittsburgh." By way of further answer, Dominion Peoples avers that it also serves economically disadvantaged residential customers in Pittsburgh and throughout its service territory.

2. ADMITTED in part and DENIED in part. It is ADMITTED that Dominion Peoples is also a regulated utility serving residential, commercial and industrial customers. By way of further answer, Dominion Peoples avers that it possesses charter rights to provide service

within the city of Pittsburgh and has provided such service for over 100 years. It is DENIED that Dominion Peoples is a wholly owned subsidiary of Dominion Resources, Inc. By way of further answer, Dominion Peoples avers that it is a wholly owned subsidiary of Consolidated Natural Gas Company, which, in turn, is a wholly owned subsidiary of Dominion Resources, Inc.

3. ADMITTED in part and DENIED in part. It is ADMITTED that PACT is a Pennsylvania corporation that provides steam heat. By way of further answer, Dominion Peoples believes and therefore avers that PACT is a cooperative, owned by its customers, and not a public utility regulated by the Commission. It is DENIED that PACT only serves "several business entities" and, therefore, strict proof thereof is demanded. By way of further answer, Dominion Peoples avers that PACT serves state, federal, and local government buildings, including the US Post Office, the Federal Court House, the Federal Office Building and the Federal Reserve Bank. PACT also serves the State Office Building, where the Commission's offices in Pittsburgh are located. At the County and City level, it serves the Allegheny County Jail, the County Morgue, the City County Building, which includes the Mayor's Office, and the Pittsburgh Convention Center. PACT also serves numerous businesses, including office buildings, hotels, department stores, restaurants and dry cleaners. Based on information and belief, Dominion Peoples avers that PACT serves approximately 100 customers in downtown Pittsburgh and that the price of steam charged by PACT affects the budgets of federal, state and local government, as well as the lease terms of office buildings and prices charged by various businesses in Pittsburgh.

4. DENIED. Dominion Peoples is without sufficient information or knowledge and, therefore, DENIES that PACT has been an Equitable customer since 1982 and that PACT is "one of Equitable's largest transportation customers." Dominion Peoples is without sufficient

information or knowledge and, therefore, DENIES the contractual terms of the provision of service by Equitable to PACT. It is DENIED that Equitable's service to PACT was safe, adequate and fully compliant with the terms of the Equitable/PACT agreement, the Pennsylvania Public Utility Code and the regulations of the Commission. By way of further answer, Dominion Peoples believes, and, therefore, avers that the transportation service provided by Equitable to PACT is interruptible, not firm, service.

5. DENIED. Dominion Peoples is without sufficient information or knowledge and, therefore, DENIES various averred details of the Equitable/PACT Agreement, including its terms, its intent and its duration. It is further DENIED that the Agreement "preserved Equitable's ability to be a primary gas transporter to commercial customers in the City of Pittsburgh and the surrounding area." Dominion Peoples further avers that PACT is an interruptible customer and that service by Dominion Peoples to PACT frees up additional capacity for Equitable to provide firm service in the City of Pittsburgh and the surrounding area.

6. DENIED. Dominion Peoples is without sufficient information or knowledge and, therefore, DENIES that PACT notified Equitable in March 2003 that "it had received an offer from Dominion Peoples." By way of further Answer, Dominion Peoples avers that, unsolicited, PACT approached Dominion Peoples and requested service. As set forth in a July 25, 2003 letter from PACT to Equitable:

> PACT went to Peoples to request the offer now on the table, with the stated intent by PACT to build its own line so that only PACT would have control of the line. Peoples did not seek out PACT's business.

Appendix "A," Exhibit 4.

It is DENIED that Equitable was willing and able to match Dominion Peoples' offer. As PACT stated in its June 25th letter to Equitable:

> Please recognize that "delivery services" includes more than price. At the minimum, it includes the terms of service, including those terms set forth in PUC tariff filings. Limiting the issue to "delivery services" restricts the language to the contract Equitable drafted.

Appendix "A," Exhibit 4. That letter also describes PACT's repeated unsuccessful attempts to negotiate with Equitable. Dominion Peoples is without sufficient information or knowledge and, therefore, DENIES the allegation that various meetings were held between PACT and Equitable on July 17 and 18, 2003. It is ADMITTED that PACT and Dominion Peoples entered into a contract for the provision of transportation services dated July 2, 2003. It is ADMITTED that, at the time, there was no service connection between Dominion Peoples and PACT. By way of further answer, Dominion Peoples avers that PACT has designed and is constructing, at its cost and under its control, a customer-owned service line to connect to Dominion Peoples.

COUNT I – DUPLICATION OF FACILITIES

7. No response to this paragraph is required.

8. The averments of this pleading constitute legal argument, to which no reply is required. However, by way of further answer, Dominion Peoples avers that the 1999 Commission Order is inapposite for several reasons. In the instant matter, Dominion Peoples possesses pre-existing charter authority to provide service in the territory within which PACT is located. Under the Pennsylvania Public Utility Code, Dominion Peoples has an obligation to provide such service. Further, PACT is extending, at its cost, a customer owned service pipeline to facilities of Dominion Peoples. By contrast, the cited 1999 proceeding involved an

application by Equitable for a new Certificate of Public Convenience because it did not possess pre-existing authority. Moreover, the 1999 holding cited in Equitable's Complaint here is a ruling of law that Equitable had not met its burden of proof.

Finally, there is no significance to the fact that the 1999 Order was entered after the Act became law. In the 1999 proceeding, Equitable argued that customer choice over distribution facilities was *per se* in the public interest. As Dominion Peoples pointed out in that case, the Act involved supply choice and not distribution choice. The Act, however, did not abrogate the law of Pennsylvania on distribution choice, which consistently and clearly holds that the customer has a right to choose between competing natural gas distribution companies where pre-existing authority is held by two or more natural gas distribution companies to provide service.

9. ADMITTED in part, DENIED in part. It is ADMITTED that Dominion Peoples was a party to the 1999 proceeding and that it opposed Equitable's application. By way of further answer, Dominion Peoples avers that Equitable proposed in that proceeding that it be permitted to pick and choose which industrial and large commercial customers to serve off of a very long pipeline extending over a three county area. Equitable's citation to a selected portion of the testimony of Dominion Peoples is a misrepresentation of Dominion Peoples position in that proceeding. On the issue of competition within overlapping service territories, Dominion Peoples stated:

> Since the Act of 1913, long standing precedent of this Commission establishes a policy of rejecting unnecessary duplication of facilities within the same territory by non-carrier public utilities. In each of a long line of Commission proceedings, competition by fixed utility suppliers for existing customers has been found not to be in the public interest.
> Peoples concedes that competition among gas distribution utilities in the five counties of western Pennsylvania where overlap occurs due to legal historical happenstance frequently results in duplicative facilities. NT at 240-241. However, in each of these

> instances, Peoples' extension of facilities has been at the request of the customer and not initiated by Peoples. NT at 234 and 249. Peoples has fundamental public utility obligations under the Public Utility Code to serve customers, where requested to do so, within its service territory

Application Of Equitable Gas Company, A Division Of Equitable Resources, Inc. For Approval Of The Right To Begin To Offer, Render, Furnish And Supply Natural Gas Service To The Public In Beaver, Cambria And Blair Counties, Pennsylvania, Docket No. A-121100F0003, Main Brief Of The Peoples Natural Gas Company at 14-15 (Citations omitted).

10. DENIED. It is DENIED that PACT represents "a substantial portion of the volumes of gas which Equitable sells or transports." It is further DENIED that these volumes are relied upon by Equitable to maintain its current rate levels. It is DENIED that the loss of PACT revenues means higher costs to other Equitable customers. By way of further answer, Dominion Peoples avers that many operating and financial factors affect whether Equitable might seek and receive a rate increase. Certainly the loss of PACT revenues does not automatically create the need for, or automatically entitle, Equitable to a rate increase. It is DENIED that service by Dominion Peoples to PACT is not "in the public interest," inasmuch as Dominion Peoples is the distribution service provider chosen by PACT. The provision of firm service by Dominion Peoples to PACT benefits the customers of this essential steam heat service provider. It is DENIED that the provision of transportation service by Dominion Peoples to PACT is not in its other customers' best interests. The transportation revenues received by Dominion Peoples for its service to PACT are above-the-line, base rate revenues that accrue to the benefit of Dominion Peoples other customers. Inasmuch as PACT is constructing its own service line to Dominion Peoples, Dominion Peoples has minimal investment in the project. By way of further answer, Dominion Peoples has an obligation to serve PACT, which customer sought out its service, and

the rates offered to PACT are in full compliance with Dominion Peoples' Commission-approved tariff.

11. ADMITTED. It is ADMITTED that there presently is no service connection between Dominion Peoples and PACT. By way of further answer, Dominion Peoples incorporates its answer to paragraph 6.

12. ADMITTED in part, DENIED in part. It is ADMITTED that PACT has commenced construction of a customer owned service line to connect its facilities to those of Dominion Peoples. It is ADMITTED that the pipeline is a PACT facility. It is DENIED that Dominion Peoples is "advising and assisting in respect to the construction of the pipeline." By way of further answer, Dominion Peoples avers that it provided information necessary for the two parties to interconnect, as it does with any customer. By way of further answer, in the June 25th letter (**Appendix "A," Exhibit 4**), PACT clearly advises Equitable that "Peoples is not building the line" and that "PACT will... build the line," as well as maintain it. By way of further answer, PACT designed, engineered and constructed the line, which is very near to completion. It is further DENIED that Dominion Peoples would be "prohibited" from constructing its own pipeline to bring service to PACT, were that the agreement with PACT (which it is not).

13. ADMITTED in part, DENIED in part. ADMITTED, based upon knowledge and belief according to PACT's request for interconnects, that the line is 12 inches in diameter. Dominion Peoples is without sufficient information or knowledge and, therefore, DENIES that the pipeline has the capacity to transport over 12,000 mcf per day or that the pipeline capacity "far exceeds historical average daily consumption of PACT." It is further DENIED that historic average daily consumption is relevant to the size of the pipeline, which must be constructed to

meet the customer's peak usage. It is also DENIED that the pipeline exceeds the capacity needed to transport the maximum daily volume provided for in the PACT/Dominion Peoples Agreement.

14. DENIED. It is DENIED that "the only conclusion to be drawn" from the construction of a pipeline is that Dominion Peoples and/or PACT will serve "other users of natural gas, including existing and potential customers of Equitable." By way of further answer, Dominion Peoples avers that there are other logical reasons why PACT is installing the pipeline of these specifications and Equitable's averment is completely speculative. By way of further answer, Dominion Peoples reiterates that the pipeline is a customer-owned service line. Dominion Peoples is without sufficient information or knowledge and, therefore, DENIES that PACT has described the pipeline as a "money generator."

15. DENIED. It is DENIED that the pipeline is being constructed "in collusion with Dominion Peoples" and the answer to paragraph 6 is incorporated herein. It is DENIED that the PACT line "is a duplication of Equitable's distribution line." It is further DENIED that a customer-owned service line, designed to bring gas to one ultimate customer, "duplicates" a utility's distribution line, designed to provide natural gas service to the public in general. The answers contained in paragraphs 2 and 14 are incorporated herein. The allegations regarding the unsafe proximity of PACT's steam lines and the precipitation of "a much larger event" are DENIED. By way of further answer, Dominion Peoples avers that PACT has stated that the design and placement of the gas line is safe and presents no hazard. Dominion Peoples has reviewed the calculations of the engineering firm retained by PACT which show a safe separation of the two lines. It is further DENIED that the pipeline is appropriately characterized as "the PACT/Dominion Peoples line."

16. DENIED. The factual averments of this paragraph are DENIED, inasmuch as the allegations are repetitive, argumentative, hypothetical and incorrect. The legal observations made by Equitable are inaccurate and irrelevant, inasmuch as nothing in either the statute or the proceeding cited addressed the issue of the customer's right to elect among local distribution companies with overlapping service territories. Dominion Peoples' answers to all prior paragraphs are incorporated herein by reference.

17. DENIED. The averments of this paragraph are DENIED. Dominion Peoples was not a party to Equitable's 1307(f) case and, as with Equitable's other citations contained in its Complaint, are not relevant to the substance of its Complaint. Dominion Peoples also DENIES the remainder of this paragraph and, by way of further answer, states that the allegation that "in the current case, there were no competitive distribution issues" is indecipherable, devoid of meaning and it is, therefore, DENIED. By way of further answer, Dominion Peoples avers that there are substantial distribution issues raised by PACT, which caused it to seek firm service from Dominion Peoples and avoid other operational issues on the Equitable system, which PACT has complained of in prior correspondence with Equitable. Dominion Peoples incorporates its answer to paragraphs 12 and 15.

COUNT II – PREDATORY PRICING

18. No response to this paragraph is required.

19. ADMITTED. It is ADMITTED that, in accordance with its Commission approved tariff, Dominion Peoples' Agreement with PACT includes a charge of $0.17 per mcf and that retainage is waived. It is further ADMITTED that, in accordance with its Commission approved transportation tariff, the rate charged is inclusive of banking, balancing and advancing charges. By way of further answer, Equitable's recitation of the charges in the Dominion

Peoples/PACT agreement is incomplete and ignores the service charge, pooling fee, and storage fees associated with this account, such that the total charges that will be collected because of the Dominion Peoples/PACT agreement is approximately $0.34/Mcf.

20. DENIED. No reply is required to the allegations of law contained in this paragraph. Dominion Peoples DENIES that the rate charged to PACT is unjust or unreasonable. By way of further answer, Dominion Peoples avers that the rates to be charged to PACT are in full compliance with its Commission approved tariff. Dominion Peoples is without sufficient information or knowledge to respond to the allegation regarding a "reasonable test of commercial propriety," since this concept appears to be an invention of Equitable and is not a legal requirement of which Dominion Peoples is aware.

21. DENIED. The allegations of this paragraph are DENIED, including the calculations and underlying assumptions included at Footnote 3. The rate contained in the Dominion Peoples/PACT agreement is fully consistent with Dominion Peoples' tariff. The averments contained in the answers to paragraphs 19 and 20 are incorporated herein by reference. By way of further answer, Dominion Peoples AVERS that Equitable's tariff also permits waiver of fuel retainage and that Equitable has done so in a number of agreements with competitive customers.

COUNT III – UNFAIR COMPETITION

22. No response to this paragraph is required.

23. ADMITTED in part, DENIED in part. The averments of this paragraph alleging "a pattern of unfair competition" are DENIED and strict proof thereof is demanded at hearing. It is DENIED that Dominion Peoples has waived retainage for "certain" customers on a "consistent and continuing basis." By way of further answer, Dominion Peoples has waived retainage for

specific competitive customers. It is further ADMITTED that Equitable has waived retainage for certain customers. Dominion Peoples is without sufficient information or knowledge, and, therefore, DENIES that this is "the only way that Equitable could retain the load." It is further DENIED that the transportation charges have been priced in disregard of "economic considerations." It is DENIED that entering into long-term contracts represents a "pattern of unfair competition." By way of further answer, Dominion Peoples avers that PACT's construction, ownership and maintenance of the pipeline justifies a fifteen (15) year contract, and further, that PACT appears to have desired a long term contract in order to avoid dealing with Equitable at any time in the near future. It is further DENIED that contracts are structured so that the revenue "goes to Dominion Peoples" and the risk "is borne by its other customers."

24. ADMITTED in part, DENIED in part. It is DENIED that unfair competition is occurring and that it is being funded by Dominion Peoples' ratepayers. It is ADMITTED that base rate revenues associated with the addition of a customer between rate cases have an impact on income after taxes and expenses; by way of further answer, the addition of new customers forestalls and/or avoids the filing of a rate case and/or may offset revenues that were forecast in the base rate proceeding, but not realized. By way of further answer, Dominion Peoples states that the same is true where Equitable serves customers previously served by Dominion Peoples. It is DENIED that Dominion Peoples has shifted all the risk to other customers.

25. ADMITTED in part, DENIED in part. It is ADMITTED that local distribution companies in Pennsylvania with overlapping service territories compete against each other. The remaining averments of this paragraph are DENIED and strict proof thereof is demanded at hearing; further, the averments of this paragraph are impertinent and argumentative.

Dominion Peoples is without sufficient information or knowledge, and, therefore, DENIES what Equitable "believes." Dominion Peoples further states that what Equitable "believes" is irrelevant and simply constitutes inappropriate argument in the context of a Complaint.

It is DENIED that "Equitable needs to know what the new rules are," inasmuch as Dominion Peoples is not aware of any "new rules." Pennsylvania law on customer choice of distribution in overlapping service territories is well settled. By way of further Answer, Dominion Peoples states that the Commission's decision at A-12110F003 had nothing to do with and did not purport to address competition in overlapping service territories. The averments contained in the answer of Dominion Peoples at paragraphs 8 and 9 are incorporated herein by reference.

Equitable's beliefs regarding the reasons that "drove Dominion Peoples' decision" to provide service to PACT in accordance with its statutory obligation are DENIED. By way of further answer, what Equitable "believes" is irrelevant to this proceeding.

Dominion Peoples ADMITS that Equitable "is perplexed," but DENIES that the fifteen-year term of the agreement with PACT is unreasonable and or contrary to any law, rule, regulation or order. By way of further answer, Dominion Peoples believes that the term is in the public interest and incorporates its answer to paragraph 23 herein by reference.

Finally, Equitable's statement of what it believes to be in "a utility's best interest" is DENIED. Dominion Peoples has negotiated a long-term transportation arrangement at fair rates for the benefit of all its customers and for PACT. By way of further answer, Dominion Peoples avers that Equitable's strategy in dealing with PACT has been singularly unsuccessful.

COUNT IV – RATE DISCRIMINATION

26. No response to this paragraph is required.

27. The averments of this paragraph constitute averments of law to which no response is required. By way of further answer, Dominion Peoples DENIES that the Dominion Peoples/PACT Agreement violates the Public Utility Code. By way of further answer, Dominion Peoples avers that the rates, terms and conditions of the Dominion Peoples/PACT Agreement are fully consistent with its Commission approved tariff.

III. CONCLUSION

WHEREFORE, The Peoples Natural Gas Company d/b/a Dominion Peoples respectfully requests that the Commission dismiss the Complaint of Equitable Gas Company.

Respectfully submitted,

William T. Hawke
Norman James Kennard
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Susan G. George
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Dominion Resources
625 Liberty Avenue, 19th Floor
Pittsburgh, PA 15222-3197

Dated: September 23, 2003

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SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Equitable Gas Company, a Division of Equitable Resources, Inc.,	:	
Complainant	:	
v.	:	Docket No. C-20031128
The Peoples Natural Gas Company d/b/a Dominion Peoples,	:	
Respondent	:	

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VERIFICATION

I, William E. McKeown, Director, Pricing and Regulatory Affairs, of The Peoples Natural Gas Company d/b/a Dominion Peoples, hereby state that facts set forth in the foregoing Answer are true and correct to the best of my knowledge, information, and belief, and that I expect Dominion Peoples to prove the same at any hearing which may be required in this matter. I understand that the statements made herein are made subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification authorities).

William E. McKeown, Director, Pricing and Regulatory Affairs

On behalf of The Peoples Natural Gas Company, d/b/a Dominion Peoples

DATED: 9/22/03

GD-03-016436
Compl
1

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUITABLE GAS COMPANY, a division of Equitable Resources, Inc.,

Plaintiff,

v.

PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.,

Defendant.

CIVIL DIVISION

No. 03-16436

VERIFIED COMPLAINT IN EQUITY FOR DECLARATORY AND INJUNCTIVE RELIEF

Filed on behalf of Plaintiff, Equitable Gas Company

Counsel of Record for this Party:

David E. White, Esq.
Pa. I.D. No. 59659

THORP REED & ARMSTRONG, LLP
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Pittsburgh, PA 15219-1425
(412) 394-2343

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUITABLE GAS COMPANY, a division of Equitable Resources, Inc.,	)	CIVIL DIVISION
	)	No
Plaintiff,	)	
v.	)	
PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.,	)	
Defendant.	)	

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR IF YOU CANNOT AFFORD A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

Lawyer Referral Service of The Allegheny County Bar Association
Koppers Building, Suite 400
436 Seventh Avenue
Pittsburgh, PA 15219
Telephone Number: (412) 261-0518

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUITABLE GAS COMPANY, a division of Equitable Resources, Inc.,	)	CIVIL DIVISION
	)	No.
Plaintiff,	)	
v.	)	
PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.,	)	
Defendant.	)	

VERIFIED COMPLAINT IN EQUITY FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff Equitable Gas Company ("Equitable"), a division of Equitable Resources, Inc., files the following Complaint in Equity for Declaratory and Injunctive Relief against Defendant Pittsburgh Allegheny County Thermal, Ltd. ("PACT"):

NATURE OF ACTION

1. This is an action seeking declaratory, special, preliminary and permanent injunctive and other relief against PACT to prevent PACT's improper conduct which is causing permanent and irreparable harm to Equitable. Specifically, Equitable seeks to enjoin PACT from reneging on a promise, pursuant to PACT's written agreement with Equitable, to provide Equitable the right of first refusal to match any competitive offers to transport natural gas to PACT.

THE PARTIES

2. Equitable is an unincorporated business division of Equitable Resources, Inc., a Pennsylvania corporation. Equitable has its principal offices located at 200 Allegheny Center Mall, Pittsburgh, Pennsylvania 15212-5352. Equitable owns natural gas transportation and

distribution lines ("gas lines") throughout the western Pennsylvania area which it utilizes to deliver natural gas to its customers. Equitable also allows other entities for a fee to utilize its gas lines to transport gas to non-Equitable customers.

3. Defendant Pittsburgh Allegheny County Thermal, Ltd. ("PACT") is a non-profit Pennsylvania corporation with its principal offices located at Law and Finance Building, 429 Fourth Avenue, Suite 806, Pittsburgh, Pennsylvania 15222. PACT uses steam generators fueled by natural gas to provide steam generated power to several business entities located in the City of Pittsburgh.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter pursuant to Article 5, Section 20 of the Pennsylvania Constitution.

5. Venue over this action properly lies in this Court pursuant to Rules 1006(a) and 1503 of the Pennsylvania Rules of Civil Procedure because the transactions and occurrences giving rise to the causes of action stated herein took place in this County, and Equitable and PACT both reside and regularly conduct business in this County.

THE PARTIES' AGREEMENT

6. On August 11, 2000, Equitable and PACT entered into an Agreement for Natural Gas Transportation Service Under Rate Schedule GDS (the "Agreement"). A copy of the Agreement is attached hereto as Exhibit 1 ("the Agreement").

7. Pursuant to Section 1.01 of the Agreement, Equitable agreed to transport for PACT natural gas purchased by PACT.

8. Pursuant to Section 2.01 of the Agreement, Equitable charged a discounted transportation rate to PACT in consideration of PACT's agreement that it would deliver its full natural gas requirements through Equitable's distribution facilities.

9. Section 2.01 also provided that prior to the expiration of the Agreement, Equitable would have the opportunity to match any competitive offers from other gas distribution companies to provide transportation services to PACT.

10. Section 2.01 was an extremely important aspect of the Agreement, as PACT's agreement to utilize only Equitable's transportation system, plus Equitable's right to match any competitive offers, preserved Equitable's ability to be a primary gas transporter to commercial customers in the City of Pittsburgh and the surrounding area.

11. The Agreement's intent of preserving Equitable's market position for gas transportation services in the Pittsburgh area was reinforced by Section 5.06 of the Agreement, which provided that PACT could not grant to any party permission, easements or rights-of-way along its steam distribution corridors to construct any natural gas pipeline bypass of Equitable's natural gas service.

12. The term of the Agreement originally was to expire on September 30, 2002, but the term was extended through September 30, 2003, when Equitable exercised its option to extend the term pursuant to Section 3.01 of the Agreement.

PACT'S BREACH OF THE AGREEMENT

13. In or around March 2003, PACT notified Equitable that it had received an offer from the Peoples Natural Gas Company d/b/a Dominion Peoples ("Peoples") to provide gas transportation services to PACT after expiration of the Agreement.

14. By letter dated June 18, 2003, PACT forwarded to Equitable a proposed Gas Service Agreement with Peoples that PACT represented constituted a firm offer from Peoples, and demanded that Equitable make a matching offer by June 27, 2003. A copy of the June 18, 2003, correspondence from PACT is attached hereto as Exhibit 2.

15 Peoples does not have any gas lines that connect to delivery points used by PACT. Therefore, for Peoples to service PACT, a pipeline must be constructed from PACT's delivery points to Peoples' gas lines.

16. By letter dated June 24, 2003, Equitable requested PACT to provide information on the cost to PACT of building a new line, as well as whether there were additional terms or other value incentives to PACT with respect to the Peoples proposal, that were not reflected in the contract forwarded by PACT. The requested information was essential to allow Equitable to make a matching offer to Peoples' proposal. A copy of the June 24, 2003, correspondence from Equitable is attached hereto as Exhibit 3.

17. By letter dated June 25, 2003, PACT confirmed that it was hiring a third party to construct a natural gas line to connect to Peoples' gas lines ("the by-pass line"), and that PACT was financing the construction of the by-pass line. A copy of the June 25, 2003, correspondence from PACT is attached hereto as Exhibit 4.

18. After receiving such information from PACT regarding the Peoples' offer and the cost to PACT of constructing the by-pass line, Equitable indicated, by letter dated July 11, 2003, that it was willing and able to match the offer made by Peoples. A copy of the July 11, 2003, correspondence from Equitable is attached hereto as Exhibit 5.

19. Equitable's offer to match the Peoples' proposal was made before the September 30, 2003, expiration of the Agreement.

20. In a July 15, 2003, telephone conversation between PACT Chairman Robert Fazio, PACT member Frank Molinaro and Equitable Senior Vice President Fredrick Dalena, PACT called for a meeting with Equitable and requested that Equitable be prepared at such meeting to submit a new offer and "put its best offer on the table."

21. By letter dated July 16, 2003, Equitable accepted PACT's invitation to meet but conveyed to PACT its position that Equitable's letter dated July 11, 2003, matched the Peoples' offer as to all substantive terms, and that by meeting with PACT, Equitable was not waiving its position that Equitable had already made such a matching offer to PACT. A copy of the July 16, 2003, correspondence from Equitable is attached hereto as Exhibit 6.

22. Equitable agreed, however, to attend the meeting to consider alternative proposals with PACT

23. On July 17, 2003, Equitable met with PACT at PACT's offices to discuss various alternative proposals to the matching offer as tendered by Equitable in its letter to PACT dated July 11, 2003.

24. In a telephone conversation the afternoon of July 17, 2003, PACT informed Equitable that PACT's economic considerations for the matching offer by Equitable had changed given that PACT intended to offer gas transportation services through the by-pass line to customers in the Pittsburgh area (including customers of Equitable), thereby becoming a direct competitor of Equitable or, in the alternative, sell the by-pass line to an undisclosed third party.

25. Based on this new information, the parties agreed to meet on July 18, 2003.

26. At the July 18, 2003 meeting, Equitable attempted in good faith to refine the terms of the alternative proposals, but no agreement was reached.

27. Subsequent to the July 18, 2003, meeting, PACT began construction on the by-pass line.

COUNT I

REQUEST FOR DECLARATORY RELIEF

28. Paragraphs 1 through 27 are incorporated herein by reference as though fully set forth herein at length.

29. Because the value of the proposal by Equitable matched the value of the proposal by Peoples, and because it was made before the expiration of the Agreement, PACT is required under Section 2.01 of the Agreement to enter into a new gas transportation agreement with Equitable.

30. However, PACT refuses to enter into a new gas transportation agreement with Equitable, and has begun construction of the by-pass line to tie into Peoples' gas lines, in violation of Section 5.06 of the Agreement

31. If PACT does not fulfill its contractual obligations and enter into a new gas transportation agreement with Equitable, and if PAC continues to construct the by-pass line and enter into a gas transportation agreement with Peoples, Equitable will be irreparably harmed.

32. Specifically, Equitable will no longer be the sole and exclusive gas transportation company for PACT. Moreover, PACT will become a direct competitor of Equitable, irreparably harming Equitable's market position and destroying the benefit of Equitable's bargain with PACT.

33. Accordingly, Equitable seeks declaratory and injunctive relief that will direct PACT to enter into a new gas transportation agreement with Equitable and that will direct PACT to cease construction of its by-pass line.

WHEREFORE, Equitable requests the following declaratory relief:

(a) a declaration that Equitable has made an acceptable matching offer for a new gas transportation agreement and that PACT is required to enter into a new gas transportation agreement with Equitable pursuant to the terms of Equitable's matching offer;

(b) a declaration that PACT is prohibited from constructing the by-pass line during the term of the present Agreement and during the term of any subsequent gas transportation agreements with Equitable.

COUNT II

REQUEST FOR INJUNCTIVE RELIEF

34. Paragraphs 1 through 33 are incorporated herein by reference as though fully set forth herein at length.

35. In order to maintain the status quo between the parties while Equitable's request for declaratory relief is resolved, PACT must be directed to continue to receive gas transportation service from Equitable and PACT must be directed to cease construction of the by-pass line.

36. Equitable has a strong likelihood of success on the merits of its declaratory judgment claim because PACT, in direct violation of Section 2.01 of the Agreement, has refused to accept a matching offer from Equitable.

37. Moreover, in direct violation of Section 5.06 of the Agreement, PACT has begun construction of a by-pass line to tie in to Peoples' gas lines.

38. If PACT is permitted to stop utilizing Equitable's gas transportation services, Equitable will be irreparably harmed in that it will lose its bargained-for right to continue to be

the exclusive gas transportation provider to PACT. This will destroy the benefit of Equitable's bargain with PACT and cannot be compensated for in monetary damages.

39. In addition, Equitable will be irreparably harmed if PACT is not prohibited from completing construction of the by-pass gas line because, once the gas line is completed, PACT will be able to directly compete with Equitable to provide gas to customers in the Pittsburgh area. In other words, Equitable's market position will be irreparably harmed and this injury cannot be compensated for by monetary damages.

40. Granting Equitable the injunctive relief it seeks will restore the status quo by returning the parties to the position they were in before PACT's breach of the Agreement.

41. Greater injury will result if Equitable's request for injunctive relief is denied than if it is granted. If the relief is granted, Equitable will be permitted to litigate its claims without losing the entire benefit of its bargain with PACT and without irreparable damage to its market position. PACT, on the other hand, will not be harmed if the injunction is granted because PACT will continue to receive gas transportation services from Equitable under the current Agreement which does not expire until September 30, 2003.

WHEREFORE, as described above, Equitable, being without adequate remedy at law and suffering immediate and irreparable harm, requires equitable relief and prays that this Honorable Court enter a special injunction against PACT, its agents, and all persons acting on its behalf or its interest, requiring PACT to:

(a) continue utilizing gas transportation services from Equitable until Equitable's request for declaratory relief is finally resolved;

(b) cease construction of a natural gas by-pass pipeline until Equitable's request for declaratory relief is finally resolved.

(c) continue the special injunction in full force and effect through and including a hearing before this Court on Equitable's request for the entry of a Preliminary Injunction and set such a hearing at a date convenient for the Court;

(d) grant the parties leave to conduct expedited discovery in preparation of the preliminary injunction hearing, with all written and oral discovery to be completed three (3) days prior to the hearing on Plaintiff's Motion for Preliminary Injunction;

(e) following the hearing on the request for a preliminary injunction, convert the Special Injunction into a Preliminary Injunction and continuing and injunction until Equitable's request for declaratory relief is finally resolved; and

(f) granting such other and further relief as the Court may deem necessary, just and proper.

Dated: August 25, 2003

Respectfully submitted,

David E. White
Pa. I.D. No. 59659

THORP REED & ARMSTRONG, LLP
Firm I.D. No. 282
One Oxford Centre
301 Grant Street, 14th Floor
Pittsburgh, PA 15219-1425
(412) 394-2343

Counsel for Plaintiff Equitable Gas Company

PACT

Pittsburgh Allegheny County Thermal, Ltd.

Law & Finance Building
429 Fourth Avenue, Suite 806
Pittsburgh, Pennsylvania 15219
412-642-7445

June 18, 2003

Fredrick Dalena
Senior Vice President
Equitable Gas
100 Allegheny Center Mall
Pittsburgh, PA 15212-5352

Dear Mr. Dalena:

Enclosed is the transportation agreement that PACT shall enter into with Dominion-Peoples unless Equitable is ready, willing and able to completely match all the provisions of the arrangement. Equitable has until June 27, 2003, to advise and show to PACT, in writing, that it is ready, willing and able to meet, and does commit itself to, the same terms and conditions as contained in the enclosed agreement so that PACT could have the same benefit of the bargain as it will have with Dominion under the enclosure. Failure of Equitable to so respond within that time period will be deemed by PACT as a refusal by or admission of inability of Equitable to fully match all the terms and conditions of the agreement.

While all of the terms of the enclosed agreement are material to PACT, including but not limited to the terms of Dominion-Peoples' regulations and tariffs applicable thereto that are presently in effect, please give particular attention to the following matters relating to the agreement:

To match the agreement, among other things, Equitable must be able to provide service to PACT that would allow PACT to take the same delivery of gas from the same gas supplier at the same price and conditions. For instance, you will recall that TW Phillips is not willing to transport gas to PACT into the Equitable system, but is willing to do so into the Dominion-Peoples system. If PACT is to be left in a position of not having available to it the gas suppliers that are available to it on the Dominion system, Equitable will not have matched the enclosed offer.

To achieve the foregoing, all suppliers who can and do deliver gas to the Dominion-Peoples system at the present time are deemed by PACT to be potential gas suppliers with whom PACT wishes to have the ability to negotiate for a long-term gas supply. To match the agreement, Equitable must be able to assure PACT that PACT will have an equivalent access to the same gas suppliers on the same price terms and conditions for the 15 year term of the contract and that those potential suppliers are willing to transport gas to PACT as proposed by Equitable.

EXHIBIT
2

Please be aware that the proposed agreement with Dominion will allow PACT to benefit by avoiding draconian imbalance conditions and higher basis charges resulting from differing conditions of transportation available through Equitable. Also, the Dominion agreement makes available to PACT a "basis charge" for purchasing/transporting gas from various suppliers at a rate of $0.72/mcf for full requirements transportation, compared to the rate of $1.155/mcf quoted by suppliers on Equitable.

By calling your attention to these matters, PACT is not belittling the other provisions of the offer that was drafted by Dominion that is enclosed. Equitable would have to match ALL benefits resulting to PACT under the enclosure, in order for there to be a true "matching" of the offer.

Equitable's prompt decision relating to its willingness and ability to match the benefits of the bargain revealed in the agreement with Dominion-Peoples, which has been initialed by counsel for both parties, would be appreciated.

Sincerely,

Frank A. Molinero

Frank A. Molinero
PACT, Chairman of the Board

cc: William R. Lucas

AGREEMENT

AGREEMENT made this _____ day of _____, 2003, by and between THE PEOPLES NATURAL GAS COMPANY d/b/a DOMINION PEOPLES, a Pennsylvania corporation, with its main office at 625 Liberty Avenue, Pittsburgh, PA 15222 (hereinafter called "Transporter"),

AND

PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD (PACT), a Pennsylvania corporation, with its main office at 429 4th Avenue, Suite 806, Pittsburgh, PA 15219 (hereinafter called "Ratepayer").

WITNESSETH: That in consideration of mutual covenants herein contained, the parties agree that the Transporter will transport for Ratepayer all of Ratepayer's natural gas requirements and that Ratepayer will furnish to Transporter such natural gas for such transportation during the term hereof, at the prices and on the terms and conditions hereinafter provided and under and subject to the applicable terms and conditions contained in Transporter's Rate T filed with the Pennsylvania Public Utility Commission (hereinafter called "PUC") and any revisions thereof that may become effective hereafter:

ARTICLE I
Quantities

Beginning on the date on which deliveries of gas are commenced hereunder and thereafter for the remaining term of this agreement, Transporter agrees, on a firm basis, to receive from Ratepayer 100% of Ratepayer's natural gas requirements and Ratepayer agrees to tender for transportation such natural gas requirements based on an average monthly volume of gas measured in mcfs at 14.73 psia, the number of mcfs to be determined by dividing the number of Btus of gas received by Transporter for Ratepayer's benefit by 1.030 or such other factor determined by Transporter and included in Transporter's Tariff to calculate accurately the volume of gas delivered to Transporter in mcfs. Ratepayer agrees to tender up to a maximum daily volume of 11,000 mcf. Transporter waives retainage of gas unaccounted for or used in Transporter's operations.

In the event Transporter is not able to deliver the gas supplies requirements that Ratepayer has brought to Transporter's system for any reason, Transporter shall, to the best of its ability, provide Ratepayer with at least 24 hours prior notice of the expected curtailment of gas supplies to Ratepayer, and shall promptly deliver to Ratepayer a written Notice of Curtailment stating the anticipated length of the curtailment and scope of the curtailment. During any such curtailment during which Ratepayer is required to burn #2 fuel oil in lieu of gas, Transporter shall reimburse Ratepayer the cost of the #2 fuel oil to the extent that it exceeds the costs of gas that Ratepayer would have had to pay but for the curtailment.

ARTICLE II
Rate

For all gas transported for Ratepayer by Transporter hereunder, Ratepayer shall pay Transporter $.17 per mcf as authorized by the PUC in Transporter's then effective tariff under Rate T.

Any applicable Balancing, Banking & Advancing (BB&A) charges are included in the rate set forth in this article. Ratepayer will not be required to contribute to the collection of transition costs.

In addition, Ratepayer will be assessed the monthly service charge from the applicable retail rate schedule (currently $1,850.00 per month).

ARTICLE III
Terms of Agreement

This agreement shall become effective on October 1, 2003 and shall continue in force and effect until September 30, 2018.

ARTICLE IV
Points of Receipt and Delivery

The Point(s) of Receipt for all gas to be received from Ratepayer for transportation by Transporter hereunder shall be at various delivery points in Transporter's Service Agreement with Dominion Transmission, Inc., as mutually agreed on, and shall be delivered to Ratepayer's facility located in Pittsburgh, Pennsylvania.

Transportation gas deli ed into the Transporter's system will be available fo livery to Ratepayer in the month of delivery into the Transporter's system. BB&A services shall be provided pursuant to the terms and conditions set forth in Transporter's tariff.

ARTICLE V
Delivery Pressures

All quantities of natural gas delivered to Transporter for Ratepayer at the Point(s) of receipt shall be made against the line pressures existing in Transporter's pipeline facilities from time to time. Transporter shall not be obligated to lower such line pressure by compression or otherwise.

ARTICLE VI
Measurement

All quantities of natural gas delivered by Transporter to Ratepayer at point of delivery shall be measured as described under Rule 9 - Measurement of Gas of Transporter's currently effective tariff.

ARTICLE VII
Billing and Payment

Transporter shall render to Ratepayer a statement of the total quantities of gas transported by Transporter for the account of Ratepayer during the preceding month and the transportation charges due thereon. The bill for transportation charges is due within fifteen (15) days of Transporter's mailing the bill, as signified by the postmark of said bill. Bills not paid in their entirety within this time period shall be subject to a late-payment charge of two percent (2%) per month.

A bill shall be deemed delinquent when it remains unpaid after the due date set forth on the bill. Transportation service may be terminated by Transporter when any bill becomes delinquent.

ARTICLE VIII
Miscellaneous

1. No modifications of the terms and provisions of this agreement shall be or become effective except by the execution of written contracts or by modification of Transporter's Tariff.

2. No waiver by any party of any one or more defaults by any other party in the performance of any provisions of this agreement shall operate or be construed as a waiver of any other default or defaults, whether of a like or of a different character.

3. Any company which shall succeed by purchase, merger, or consolidation to the properties, substantially in its entirety, of Transporter or of Ratepayer, as the case may be, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this agreement. Without relieving itself of its obligations under this agreement, any party may assign any of its rights hereunder to a company with which it is affiliated, but otherwise no assignment of this agreement or any of the rights or obligations hereunder shall be made unless there first shall have been obtained the consent thereto in writing of the other parties. No such assignment, if made, shall affect the point of delivery to Ratepayer's facility by Transporter, absent Transporter's consent. Transporter agrees it will not unreasonably withhold consent to the assignment of this agreement to any successor to Ratepayer operating out of Ratepayer's facility which is the subject of this agreement.

4. Except as herein otherwise provided, any notice, request, demand, statement, or bill provided for in this agreement, or any notice which any party may desire to give to the other, shall be in writing and shall be considered as duly delivered when mailed by registered or certified mail to the Post Office address of the parties hereto, as the case may be, as follows:

Transporter: DOMINION PEOPLES
625 Liberty Avenue
Pittsburgh, PA 15222

Ratepayer: PACT
429 4th Avenue, Suite 806
Pittsburgh, PA 15219

or at such other address as either party shall designate by formal written notice. Routine communications, including monthly statements and payments, shall be considered as duly delivered when mailed by either registered, certified, or ordinary mail.

5. This agreement and the respective obligations of the parties hereunder are subject to all valid laws, orders, rules, and regulations of duly constituted authorities having jurisdiction. The Ratepayer shall be responsible for the payment of all federal, state, and local taxes, including income, franchise, excise, sales, use, occupational, leasing, leasing use, gross receipts, value-added, ad valorem, property, and stamp taxes, which may become or are now applicable to the natural gas services purchased by Ratepayer under this agreement.

6. The subject headings of the articles of this agreement are inserted for the purpose of convenient reference and are not intended to be a part of the agreement nor considered in any interpretation of the same.

7. The interpretation and performance of this contract shall be in accordance with the laws of the Commonwealth of Pennsylvania.

8. Ratepayer represents and warrants to Transporter that its entering into this Agreement will not result in the breach of any other contract to which Ratepayer currently is a party.

9. In the event of a conflict between the provisions of this agreement and Transporter's Tariff, the latter shall control.

10. The liability provisions of Transporter's Tariff – Rate T are hereby specifically incorporated by reference.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed and witnessed or their respective corporate seals to be hereto affixed and attested, the day and year first above written.

ATTEST:

THE PEOPLES NATURAL GAS COMPANY
d/b/a DOMINION PEOPLES

By_____
Assistant Secretary

_____

Title:

ATTEST:

PACT

By_____

Title:_____

_____

Title:

(Corporate Seal)

PACT

Pittsburgh Allegheny County Thermal, Ltd.

Law & Finance Building
429 Fourth Avenue, Suite 806
Pittsburgh, Pennsylvania 15219
412-642-7445

June 25, 2003

BY HAND DELIVERY TO:

Fredrick K. Dalena, Sr. V.P.
Commercial Operations
Equitable Gas
200 Allegheny Center Mall
Pittsburgh, PA 15212-5352

Dear Mr. Dalena:

I am responding, in behalf of PACT, to your letter delivered to us late yesterday afternoon, addressed to PACT's Chairman of the Board.

In responding to you, it is helpful to refer to the existing "Agreement for Natural Gas Transportation Service Under Rate Schedule GDS" between PACT and Equitable. It is important to remember that the agreement was drafted by Equitable, and not by PACT. The presently relevant language, chosen by Equitable Gas, is as follows, with emphasis added by me:

> "Prior to the expiration of this Agreement, Customer agrees to extend the Company the opportunity to **match** competitive offers from other natural gas distribution companies."

In choosing that language for the agreement, Equitable could have provided the words "signed agreements" in lieu of "offers", but it did not do so. It did not even require that any such offers be in writing. (Significantly, there are many parts of the same present agreement between Equitable and PACT that do require certain things to be in writing.)

Nevertheless, we chose to await until the offer was in a writing, prepared by Peoples, which PACT views as an offer, before presenting it to Equitable. PACT intends to accept that offer by Monday at the latest, given Equitable's anticipatory refusal to attempt to match the offer, but instead to intimate litigation. If Equitable chooses not to interpret the document we sent you as an "offer", it will do so at its own risk.

Equitable will realize that the document presented to you is in fact a "*bona fide* competitive offer" when we forward you a copy of the same document signed by both parties. I am not a lawyer, but to me, that will then be a contract between PACT and Peoples, and not just an offer.

EXHIBIT
4

The present Agreement with Equitable does not set forth any minimum amount of time that Equitable has to match the offer. PACT has granted Equitable a commercially reasonable amount of time to match the offer. Additionally, Equitable is fully aware of the time constraints for PACT to act with dispatch to build a gas line, if it is going to do so.

In your letter you state "(W)e believe the issue is whether the delivery services offered by Equitable is competitive with offers from other natural gas distribution companies." (Your emphasis.)

Please recognize that "delivery services" includes more than price. At the minimum, it includes the terms of service, including those terms set forth in PUC tariff filings. Limiting the issue to "delivery services" restricts the language to the contract Equitable drafted. It is not whether Equitable matches "delivery services", but whether Equitable matches the complete offer. To match the complete offer PACT should be in the same place, whether it uses Equitable or Peoples.

Furthermore, your claim that the issue is whether Equitable's services are "competitive" is a further attempt by Equitable to distance itself from the language of the contract it drafted. It is not whether Equitable's offer is "competitive". It is whether Equitable's offer is MATHCING.

PACT repeatedly endeavored to negotiate with Equitable for the past year, without success, to avoid having to even explore entering into this alternate arrangement. Equitable's approach in the negotiations left PACT with no alternative but to search out an alternative arrangement to transport its gas. The result is truly of Equitable's own making. PACT advised Equitable, last year, when Equitable was scoffing at the idea that PACT might get Peoples to lay a line to service PACT, that PACT itself had the wherewithal to lay its own gas line. Equitable chose to ignore our warning.

Throughout the past year Equitable took every opportunity to delay PACT from taking necessary actions to carry out its responsibilities to its membership. Equitable in indicating it will not respond by Friday is just more of the same.

As previously indicated to you, PRICE is not the only thing that matters in the terms of our next transportation agreement. You provided nothing whatsoever in your letter to indicate that Equitable could leave PACT in the same position if it stays with Equitable rather than accepting the offer that we presented to you. Equitable continues ignoring the issue.

PACT will not negotiate with Equitable for a different transportation agreement from the offer under any intimation of litigation from Equitable. If Equitable admits that it cannot match the Peoples offer, it should do so immediately. Then if Equitable wishes to offer something else to PACT, PACT will consider it, provided it is in writing and received before the end of the business day on Friday.

The present agreement between PACT and Equitable only allows Equitable to match a transportation agreement with another gas distribution company. PACT will not have another "gas distribution company" (Equitable's choice of words) build the line. Whether or how PACT builds its line is not something that Equitable has any legal right to review. However, to

encourage Equitable to act responsibly, we will provide you with the following answers to you questions:

1. Under its tariff, Peoples is required to provide a meter and valve. PACT is not providing any money or payments to Peoples for any thing that is not set forth in the document delivered to you to see.

2. PACT will build the line. The cost of the line is expected to reach payout for PACT in substantially less than 2 years. If Equitable is able to show PACT that it can match the Peoples offer in every aspect except price, PACT will provide the cost of construction to Equitable, provided Equitable has acted appropriately by Friday. Equitable is in the business of building pipelines, and therefore should have informed knowledge of the cost anyway. If this is the only dispute by Equitable, PACT will clear it up immediately. First we want to know if Equitable can match the rest of the offer. As indicated in Mr. Molinero's letter, those parts of the offer have value to PACT far above cost of the line. Again, Equitable has no legal right to the information requested, but we will provide it under the circumstances stated. Any price matching by Equitable, even if we were to include the cost of the line in the long term transportation rate, would have to be the equivalent of approximately a 1½ year payout on the investment that PACT would have to make in the line, considering the best offer that Equitable made to PACT to transport gas after September 30, 2003.

3. Though PACT has the knowledge and capability to build the pipeline with its own employees, PACT will hire an outside contractor to build the line. Peoples is not building the line. PACT has the ability to maintain the line with its own employees in the normal course of its business, but PACT has the right to contract that work out to someone else if it chooses to do so. PACT has not contacted anyone else at this time to do maintenance work on the line. If it does, it will not be Peoples. PACT alone will own and operate the line, as we indicated to Mr. Lucas last year.

Equitable is entitled to its beliefs of Peoples' financial wherewithal, but this in not of concern to PACT. Please be aware that based upon the attitude that PACT encountered in attempting to deal with Equitable in the past year, PACT went to Peoples to request the offer now on the table, with the stated intent by PACT to build its own line so that only PACT would have control of the line. Peoples did not seek out PACT's business. That came to Peoples only as a result of Equitable's attitude towards and practices with on of its biggest customer.

Sincerely,

Robert L. Fazio
President

Cc: Frank A Molinero,
Chairman of the Board, PACT
Dennis S. Shilobod, Esq.
Secretary and General Counsel, PACT
William P. Barry

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Answer upon the person and in the manner indicated below.

BY FIRST CLASS MAIL

Charles E. Thomas, Jr.
Thomas T. Niesen
Thomas, Thomas, Armstrong & Niesen
212 Locust Street, Suite 500
P. O. Box 9500
Harrisburg, PA 17108-9500

Daniel L. Frutchey
Senior Vice President and General Counsel
Equitable Gas Company,
a division of Equitable Resources, Inc.
200 Allegheny Center Mall
Pittsburgh, PA 15212

William E. Hawke

Dated: September 23, 2003

PICADIO SNEATH MILLER & NORTON, P.C.
ATTORNEYS AT LAW
4710 US STEEL TOWER
600 GRANT STREET
PITTSBURGH, PENNSYLVANIA 15219-2702
(412) 288-4000
FAX: (412) 288-2405

ORIGINAL

Writer's Direct Dial
412-288-4010
picadio@psmn.com

DOCUMENT

October 2, 2003

RECEIVED
OCT 02 2003
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P. O. Box 3265
Harrisburg, PA 17105-3265

In Re: Docket No. C20031128
Equitable Gas Company, a Division of Equitable Resources, Inc., Complainant
v.
The Peoples Natural Gas Company, d/b/a Dominion Peoples, Respondent

Dear Secretary McNulty:

Enclosed for filing on behalf of Pittsburgh Allegheny County Thermal, Ltd., are the original and three (3) copies of our Petition to Intervene. I have also enclosed an extra cover sheet for the Petition, which I would appreciate your date stamping and returning to me in the enclosed self-addressed, stamped envelope.

We are also enclosing copies for the Commissioners that were shown as receiving copies of Equitable's Complaint.

Very truly yours,

Anthony P. Picadio

APP/lrk

Enclosures

cc(w/enc.). Office of Trial Staff
Office of Consumer Advocate
Office of Small Business Advocate
Honorable Terrance J. Fitzpatrick
Honorable Robert K. Bloom
Honorable Aaron Wilson, Jr.
Honorable Glen R. Thomas
Honorable Kim Pizzingrilli
Charles E. Thomas, Jr., Esquire
Daniel L. Frutchey, Esquire
William T. Hawke, Esquire
Susan G. George, Esquire
Randall L. Crawford

ORIGINAL

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCKETED
OCT 09 2003

RECEIVED
OCT 02 2003
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

EQUITABLE GAS COMPANY Complainant	:	
	:	Docket No. C-
v.	:	
THE PEOPLES NATURAL GAS COMPANY d/b/a DOMINION PEOPLES Respondent	:	

PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.'s

PETITION TO INTERVENE

DOCUMENT

AND NOW comes Petitioner, Pittsburgh Allegheny County Thermal, Ltd., by its General Counsel Dennis S. Shilobod, Esquire and its attorneys, Anthony P. Picadio, Esquire and Picadio Sneath Miller & Norton, P.C., and Petitions to Intervene in the above proceedings as follows:

IDENTITY OF PETITIONER:

1. Pittsburgh Allegheny County Thermal, Ltd. ("PACT") is a non-stock Pennsylvania non-profit corporation, incorporated on March 23, 1983.

2. Every entity that purchases steam from PACT is a "Member" of PACT.

3. PACT is owned by its Members, in changing proportions determined by the Members' cumulative quantitative steam purchases from PACT.

4. Approximately 50% of PACT is owned by governmental entities who are Members of PACT, including the United States General Services Administration (for buildings such as the Federal Building and the Federal Courthouse); the Federal Reserve

Board, the United States Post Office; the Commonwealth of Pennsylvania Department of General Services (for the State Office Building in Pittsburgh, where the P.U.C.'s offices are located); Pennsylvania Liquor Control Board, the County of Allegheny (for such facilities as the old County Jail, the new County Jail, the County Morgue, the City-County Building, which houses most of the Court of Common Pleas of Allegheny County and other County and City offices, including but not limited to the Office of the Mayor of the City of Pittsburgh); the County Office Building, and other County- or City-owned buildings); the City of Pittsburgh; and the Sports and Exhibition Center which owns the Pittsburgh Convention Center.

5. The remaining owners of PACT include The Pittsburgh Cultural Trust, public utility companies, banks, non-profit entities, owners of hotels, the YWCA, theaters, department stores, large and small office buildings, restaurants, shops and stores. PACT presently has approximately 61 active Members controlling approximately 87 sites in the Golden Triangle Section of the City of Pittsburgh.

6. The Members of PACT appoint all the members of the Board of Directors of PACT

7. PACT is a tax-exempt organization for income tax purposes operating in the nature of a non-regulated co-operative.

8. PACT is the successor-owner of the district steam heating company formerly known as Allegheny County Steam Heating Company, a public utility and a wholly-owned subsidiary of Duquesne Light Company. Allegheny Steam Heating Company transferred substantially all of its assets to PACT pursuant to this Pennsylvania Public Utility Commission's order granting a certificate of public convenience to

Allegheny Steam Heating Company to Abandon Public Service and approval of the sale, entered on August 30, 1982, to become effective May 31, 1983, at Docket No. A-00103586F200.

9. PACT has continuously provided good and competent service to its Members, all of whom are located in the Golden Triangle section of the City of Pittsburgh since it acquired ownership of the facilities formerly owned by Allegheny Steam Heating Company by Agreements dated May 31, 1983 and July 6, 1983.

ISSUES BEFORE THIS COMMISSION FOR WHICH PACT CLAIMS A RIGHT TO INTERVENE AS A PARTY TO THESE PROCEEDINGS:

10. Without giving notice to PACT or an opportunity to be heard, Equitable Gas Company ("Equitable Gas") has petitioned this Public Utility Commission to declare a gas transportation agreement between PACT and The Peoples Natural Gas Company (hereinafter referred to as "Peoples") to be void, or alternatively to substantially rewrite that agreement to PACT's detriment, and for an order by this Commission declaring PACT's non-public utility owned property to be essentially non-saleable, thereby creating a public taking of PACT's property without due process of law, and destroying the value of the security interest that PNC Bank, NA holds in PACT's property to secure the financing of the construction of PACT's gas service line that PACT has built. Since Equitable Gas is asking the Commission to impair PACT's contractual and property rights, PACT is entitled under concepts of due process of law, to be first heard before this Commission acts upon Equitable Gas' Petition.

BACKGROUND FOR PACT'S PROPOSED INTERVENTION IN THESE PROCEEDINGS:

11. Immediately upon acquisition of the facilities of the former Allegheny Steam Heating Company, PACT installed four (4) new large steam boilers, capable of being powered by natural gas or No. 2 fuel oil, to provide service to its Members. PACT has purchased natural gas supplies (as well as fuel oil supplies as needed) for its facilities since its inception. Up until the present time, the local gas distribution company providing service to PACT has been Equitable Gas, though PACT's facilities are located in the authorized service territories of both Equitable Gas and Peoples.

12. Since its inception, PACT has purchased annual gas supplies in the neighborhood of 800,000-900,000 Mcf/year. PACT does not purchase tariff gas, but rather attempts to purchase its full natural gas requirements through marketers and suppliers, in as much as Equitable Gas refused to bid on providing PACT's natural gas supply requirements despite PACT's request that it do so.

13. September 30, 2003 was the termination date of a gas transportation contract between PACT and Equitable Gas, which, by its terms, contains a mutually negotiated transportation rate. Equitable Gas advised PACT, in December, 2002, that the existing transportation agreement would NOT be renewed, but rather, the transportation rate would be increased by approximately 60% or more, with greater increases to come in the future, and Equitable refused to negotiate a lower continuing transportation rate for PACT upon the stated grounds that "PACT has had it easy long enough."

14. Several years ago, Equitable Gas obtained PUC approval to change the terms and conditions upon which it would provide natural gas transportation services.

15. Since the changes in the terms and conditions imposed upon transporters of natural gas through the Equitable Gas Company system, the number of marketers/suppliers who are willing to provide PACT's natural gas requirements over Equitable Gas' distribution system has shrunk to only one entity at the present time, leaving PACT with no competitive group of potential gas suppliers with which it could reasonably expect to negotiate for its full natural gas requirements on a reasonably priced basis.

16. The high prices at which PACT must purchase gas through the Equitable Gas system affects the budgets of City, County, State and Federal governments as well as the budgets of all other Members of PACT, and endangers PACT's ability to continue to exist in a market in which its competitors, including Equitable Gas Company and other public utilities, are offering to supply PACT's customers directly.

17. PACT's Gas Transportation Agreement with Equitable Gas expired September 30, 2003. Beginning in July, 2002, PACT made repeated requests to Equitable Gas to begin negotiating with PACT for the terms and conditions of the Gas Transportation Agreement with PACT that would go into effect upon the termination of the gas transportation agreement.

18. As evidenced in email from PACT to Stephen Graham, of Equitable Gas, a copy of which is hereto attached as **Exhibit 1**, Equitable repeatedly took the position that it did "not have to negotiate with PACT until 60 days before the expiration of the present Gas Transportation Agreement," even though there is no such language in the Gas Transportation Agreement, which Equitable Gas drafted and PACT signed. Equitable Gas continued to evidence the same position in the fall of 2002, when PACT

started to urge Equitable Gas to meet and negotiate a transportation agreement to become effective after September 30, 2003.

19. At all times relevant hereto, Equitable Gas knew that PACT might turn to the alternative of attempting to obtain gas transportation service from Peoples, if PACT could not achieve a gas transportation agreement with Equitable. But for PACT to do so before the end of the existing gas transportation agreement, PACT could not wait until 60 days before the expiration of the term of the existing gas transportation agreement to BEGIN to find out Equitable Gas' intentions for the future supply of gas transportation service to PACT. Furthermore, PACT's ability to negotiate an adequate gas supply agreement could not be exercised until PACT would know that it first had a gas transportation agreement in place, which was well known to Equitable Gas when it would unilaterally declare a right not to negotiate with PACT on a timely basis.

20. At all times relevant hereto, Equitable Gas' negotiation practices were intended, or would have had the effect, if acquiesced to by PACT, to damage or destroy PACT's ability to properly serve its Members, which would have been to the benefit of Equitable Gas, who could then attempt to serve PACT's Members, though those Members have long-term contracts with PACT.

21. Equitable Gas repeatedly ignored PACT's requests for discussions of future contractual arrangements between the parties, from July, 2002 through the beginning of 2003, with Equitable refusing to negotiate in good faith with PACT, going so far as to even schedule meetings with PACT and then intentionally not showing up at the appointed times, as more fully described in a letter PACT sent to Equitable Gas on January 15, 2003, which is hereto attached as **Exhibit 2**, and which is herein

incorporated, setting forth Equitable Gas' commercially unreasonable refusals to fairly negotiate a replacement gas transportation agreement with PACT.

22. Admitting that it was doing so only as a result of PACT's letter of January 15, 2003, Equitable Gas made its only firm offer to PACT by letter of January 17, 2003, which is hereto attached as **Exhibit 3**, which contained a proposal for a three-year transportation agreement containing a 69% increase in gas transportation costs for PACT, accompanied by oral statements that, after the end of the three-year period, PACT would receive even greater increases in its transportation rates.

23. In December, 2002, PACT had advised Equitable that if it would not act in a commercially reasonable fashion with PACT, PACT would be left with no alternative but to request that Peoples extend its distribution lines to PACT's plant, noting that if Peoples would do so, that it would potentially create other competitive problems for Equitable Gas Company.

24. Equitable Gas scoffed at PACT's assertions, claiming that Peoples did not have the financial wherewithal to build any such gas line extension to PACT's plant.

25. PACT then and there, in December, 2002, advised Equitable that if Peoples could/would not build the line, that PACT could build its own service line to Peoples' system. Despite PACT's warning, Equitable Gas dismissed PACT's assertion.

26. Because of Equitable Gas' commercially unreasonable treatment of PACT, PACT was left with no reasonable alternative but to approach Peoples to determine the terms and conditions of a transportation agreement with Peoples, with the specifically stated condition that PACT would build and control its own gas service line

to the Peoples system, so that PACT could thereby prevent Peoples from using the gas line to become another competitor of PACT in its area of operations.

27. The last sentence of Paragraph 2.01 of the Gas Transportation Agreement between PACT and Equitable Gas, which was drafted by Equitable, provides: "Prior to the expiration of this Agreement, Customer agrees to extend the Company the opportunity to match competitive offers from other natural gas distribution companies".[1]

28. The Agreement, which was drafted by Equitable and is in effect through September 30, 2003, does not require that the offer be in writing for Equitable's review, and does not provide for any time periods within which the offer had to be presented to Equitable to decide whether or not it would "match," and did not limit the date when PACT had to present the offer to Equitable to enable Equitable to decide whether or not to "match" the offer, and significantly, does not require PACT to accept any matching offers from Equitable. All PACT was obligated to do was to give Equitable the "opportunity" to provide a matching offer.

29. For months before July 2, 2003, Equitable Gas was advised that PACT was negotiating with Peoples for gas transportation services. Equitable Gas, in the meantime, was repeatedly asked to submit to PACT a more reasonable offer for transportation services commencing after September 30, 2003, which requests Equitable repeatedly and continuously ignored.

30. By hand-delivered letter of June 18, 2003, a copy of which is hereto attached as **Exhibit 4**, PACT provided Equitable with a written offer from Peoples to

[1] Note that the parties, in their negotiations, agreeably contemplated the possibility that PACT might seek the services of the only other available local gas distribution company, being Peoples

provide gas transportation services to PACT beginning on October 1, 2003, and PACT then and there invited Equitable Gas to "match" the offer, stating specifically that if Equitable Gas did not do so, PACT would accept and sign the offer from Peoples on June 30, 2003, if Equitable failed to MATCH the offer OR PROVIDE ANOTHER COMMERCIALLY REASONABLE OFFER TO PACT.

31. Rather than acting in a diligent, commercially reasonable manner to determine if it could MATCH the offer, or make a more reasonable offer than it had done so to date to PACT, by letter of June 24, 2003, [six (6) days after receipt of the offer and invitation to "match"] a copy of which is hereto attached as **Exhibit 5**, Equitable Gas instead insisted that somehow it was entitled to have the offer signed by the parties before it would determine if it would match the offer, and demanded other information, which information it knew or should have known without asking PACT, being that it is in the natural gas distribution business. In Exhibit 5, PACT again warned Equitable of its intention to accept the Peoples offer by June 30, 2003, if Equitable did not make a commercially reasonable offer to PACT.

32. PACT, by hand-delivered letter of June 25, 2003, provided requested information to Equitable Gas, as set forth on **Exhibit 6**, reminding Equitable that it should at least try to make a "commercially reasonable offer" to PACT, whether it could or could not "match" the Peoples' offer.

33. On the morning of June 30, 2003, Equitable asked for, and was given a meeting with PACT on June 30, 2003, at which time Fred Delana, of Equitable Gas, stated that he had "all the information I need" to fully evaluate the offer from Peoples,

and indicated he would return to his office to determine what offer Equitable could make to PACT

34. Rather than attempting to make a commercially reasonable offer of any kind to PACT, on June 30, 2003, after the aforementioned meeting with PACT, Equitable Gas instead sent a letter to PACT, a copy of which is attached as **Exhibit 7**, falsely asserting that Equitable Gas was denied "a meaningful opportunity to match any competitive offer."

35. Despite the passing of the stated deadline of June 30, 2003, to allow Equitable additional time to make a commercially reasonable offer to PACT, PACT waited until the afternoon of July 2, 2003, before accepting the Peoples' offer that Equitable unreasonably refused to recognize as a bona fide offer.

36. PACT gave Equitable Gas a full and commercially fair opportunity to match the Peoples' offer, but rather than doing so, or making any other offer whatsoever, Equitable Gas sat on its hands, resulting in PACT and Peoples signing the Gas Transportation Agreement, a copy of which had previously been delivered to Equitable Gas to enable it to match the same, or offer some other more commercially reasonable offer, if it wanted to.

37. By cover letter of July 3, 2003, a copy of which is hereto attached as **Exhibit 8**, PACT provided Equitable Gas with a courtesy copy of the agreement PACT signed with Peoples the day before, pointing out Equitable's refusal to try to compete with the offer.

38. Because of the constraints of time, caused by Equitable Gas' continued practices of delaying and refusing to deal with PACT on a timely basis, so that PACT

could have a commercially reasonable opportunity to look out for its own financial viability, to extend its service line if necessary to Peoples' system, PACT had no alternative but to accept Peoples' offer which it did, by the afternoon of July 2, 2003, to enable PACT to then acquire financing for, and build its own gas line before September 30, 2003, when its contract with Equitable Gas would terminate.

39. The gas service line built by PACT was financed through PNC Bank, NA, with the loan secured by the line itself, so that if PACT should become insolvent or go out of business, the lending institution could offer the line for sale to ANY ENTITY who might then have an interest therein. Barring Peoples from being able to ever purchase the line would be a public taking of PACT's non-public utility property and a destruction of PNC Bank, NA's security interest in the property of PACT without due process of law, especially since PNC Bank, NA is not even a party to these proceedings.

40. In spite of knowing that Peoples had already entered into a final agreement with PACT on July 2, 2003, Equitable Gas Company submitted a letter, dated July 11, 2003 , a copy of which is attached as **Exhibit 9**, claiming that it was now "matching" the Peoples' earlier offer, which Equitable knew had already been converted to a signed contract, and even though in reality Equitable was never capable, and still is not capable, of matching the Peoples offer that PACT had negotiated.

41. At all times relevant hereto Equitable Gas was aware that PACT had engaged in construction work, through its general contractor, to build the gas line, and Equitable Gas went so far as to have an inspector on site at PACT's construction site, to oversee everything that was being done, and to annoy and/or harass the persons engaged in the construction activity for PACT, and allowed the construction to continue until it

was approximately 60% completed, before Equitable Gas filed an action against PACT in the Court of Common Pleas of Allegheny County, Pennsylvania, at Docket No. GD 03-16436, seeking an immediate injunction, and a temporary injunction, and a permanent injunction, to stop PACT from completing the construction of its almost-completed gas service line and to prevent PACT from discontinuing to take gas transportation service from Equitable Gas after September 30, 2003, even though, by the express terms of the existing Gas Transportation Agreement, that was drafted by Equitable, Equitable's contract with PACT was to terminate on September 30, 2003. A copy of Equitable Gas's filings in the Court of Common Pleas is hereto attached as **Exhibit 10.**

42. The Court of Common Pleas refused to grant immediate relief to Equitable Gas, and later advised the parties to the litigation that Equitable Gas could not justify a temporary injunction as requested, and recommended that the parties enter into a consent order to postpone further hearings on the matter, resulting in a consent order, a copy of which is hereto attached as **Exhibit 11.**

43. Subsequently, Equitable Gas filed a First Amended Complaint in the Common Pleas action, naming Peoples as a defendant. After PACT filed Preliminary Objections to the First Amended Complaint, Equitable once again agreed to postpone a hearing on its request for a Preliminary Injunction. See **Exhibit 12.**

44. Following its failure in the Court of Common Pleas to stop PACT and Peoples from proceeding under their agreement, Equitable Gas filed the present action with this Public Utility Commission, seeking to terminate PACT's contract with Peoples, without giving PACT notice or an opportunity to be heard in the proceedings to take

place before this Commission that could result in severe financial harm to PACT and all of its Members as well as to PACT's lending institution.

45. PACT has been required to search for a supplier of gas to be delivered through the Peoples' distribution system, and discovered multiple potential gas suppliers/marketers who could supply PACT's natural gas requirements, who were not able or willing to supply gas to PACT when it was on the Equitable Gas system.

46. Because Peoples' tariffs and practices are less draconian than those of Equitable Gas, more suppliers are available to transport gas on the Peoples' system than through the Equitable system, which has designed its conditions of service to prevent or at least discourage gas marketing by independent suppliers of gas, all in contravention to federal energy policies as well as the policies of this Commonwealth.

47. The viability of PACT is critical to the economic viability and the physical existence of the downtown buildings served by PACT, including but not limited to the impact of prices for PACT's services on the budgets of the City of Pittsburgh, the County of Allegheny, the Commonwealth of Pennsylvania, various federal governmental agencies, as well as the office and commercial establishments in the downtown area, all of which would have been adversely affected if PACT had acquiesced in Equitable's abusive business practices towards PACT.

48. Peoples did not seek out PACT's business. To the contrary, PACT sought out Peoples' services, without revealing to Peoples the problems PACT was having with Equitable Gas.

49. Evidencing the greater encouragement of competition in the gas market by Peoples, as compared to Equitable Gas, PACT was able to get multiple offers of long-

term gas supply requirements from suppliers at rates far below anything available if it had remained on the Equitable Gas system, and in fact was able to obtain lower rates on the Peoples' system from its current supplier, than that same supplier would charge PACT if it remained on the Equitable system, resulting in part from the existence of competition among suppliers which no longer exists on the Equitable Gas system.

50. Equitable Gas, in keeping with its commercially unreasonable treatment of PACT, waited until PACT had expended substantial sums of money to engineer and build the gas line before it attempted to stop the construction in the Court of Common Pleas of Allegheny County, and waited even more time before asking this Commission to set aside the contract between PACT and Peoples, thus putting PACT in the position of having a long-term gas transportation agreement in place, and a gas supplier agreement in place that is to transport gas through the Peoples' system, while only now does Equitable Gas bring the matter before this Commission.

51. This Commission should not reward and implicitly approve the dilatory conduct, mistreatment and abuse of customers by Equitable Gas, and should not discourage competition in the gas supply business by granting any of the relief Equitable Gas requests.

WHEREFORE Pittsburgh Allegheny County Thermal, Ltd., respectfully requests leave to intervene in the above proceedings as a party defendant, and to file an Answer to Equitable Gas's position as set forth as **Exhibit 13**, and to fully participate as a party to all proceedings in this action.

Respectfully submitted,

Dennis S. Shilobod, General Counsel
Pa. I.D. No. 10039
PACT
806 Law & Finance Building
Pittsburgh, PA 15219
724-830-9703

Anthony P. Picadio, Esquire
Pa. I.D. No. 01342
Picadio Sneath Miller & Norton, P.C.
Suite 4710 U.S. Steel Tower
600 Grant Street
Pittsburgh, PA 15219
412-288-4010

Bill Barry

From: robert fazio <pactltd@ureach.com>
To: <sgraham@eqt.com>
Cc: <acantrell@eqt.com>; <rcrawford@eqt.com>
Sent: Monday, February 11, 2002 1:52 PM
Subject: Transportation Agreement-Option Year

Steve:
This will confirm our telephone conversation of February 7, 2002,
wherein I called you to inquire if Equitable Gas was going to exercise its option to extend the term of the Agreement for one year. You indicated that you would not give an answer until 60 days or less before the existing Agreement expires.

As I indicated to you, based upon our past dealings, Equitable Gas knows well that PACT has always started to negotiate the next transportation and /or gas supply Agreement well in advance,as much as a year or more, before the present Agreement expires. If PACT would acquiesce to your timetable, we would have insufficient time to make alternative arrangements, in the event that Equitable Gas should choose not to exercise its option right.

Accordingly, I am asking Equitable Gas to meet with PACT no later than February 15, 2002 to resolve this matter

Bob Fazio
PACT

Get your own "800" number
Voicemail, fax, email, and a lot more
http://www.ureach.com/reg/tag

PACT

Pittsburgh Allegheny County Thermal, Ltd.

Law & Finance Building
429 Fourth Avenue, Suite 806
Pittsburgh, Pennsylvania 15219
412-642-7445

January 15, 2003

William R. Lucas
Director Sales & Marketing
Equitable Gas
100 Allegheny Center Mall
Pittsburgh, PA 15212-5352

Dear Mr. Lucas:

This is a follow-up to our telephone conversation of January 14, 2003, wherein you surprised me by questioning whether or not PACT will fully live up to the terms of its obligations under its Agreement for Natural Gas Transportation Service Under Rate Schedule GDS, which is presently in effect.

I was surprised by your inquiry, in as much as since its inception, PACT has never breached the terms of any agreement it had with anyone, and in fact was never accused by anyone of breaching or attempting to breach any contract it had with anyone. That policy and practice of PACT has not changed.

PACT hereby assures you and Equitable Gas that PACT will fully and completely comply with all the terms it has under the Agreement.

That being said, I also want to express at this time our disappointment with the way you are handling our attempts to explore whether or not PACT can continue to have a commercial relationship with Equitable Gas after the end of the present agreement, which extends until September 30, 2003. As we indicated to you on many occasions, PACT cannot wait until September 30 to find out what Equitable's intentions are.

We had expected Equitable to present a proposal to PACT on November 15, 2002. However, when you came to that meeting you had nothing whatsoever to propose to PACT. It was our understanding at the end of the meeting of November 15, that you would present Equitable's firm offer to continue to transport gas to meet PACT's continuing natural gas requirements at a meeting that we understood would occur on December 19, 2002. We did not hear further from you. Then, at PACT's Christmas party on December 17, you disagreed that the new meeting had been scheduled for December 19, and asserted instead that it was to be held at PACT's offices today, January 15, 2003.

Not having heard anything more from you, our consultant, Bill Barry, called you last Friday, and again on Monday to repeatedly confirm today's meeting. You led him to believe that you would attend the meeting. I also called you yesterday to confirm the meeting you scheduled for today. It was our understanding that you would be at our office at 10 a.m. this morning.

Needless to say, we are taken aback at your failure to appear for that meeting, without so much as a call to us to provide some explanation. We were further dismayed when I called your office a short time ago, when I was advised that you were not available and had no intention of meeting with us

It is regrettable that Equitable has decided to fundamentally change its relationship with PACT in this manner

Sincerely,

Robert L. Fazio
President

RLF/alh

CC: Fred Dalena, Senior V.P. Equitable Gas
Dan Frutchy, Senior V.P. Equitable Gas
Randy Crawford, President Equitable Gas

EQUITABLE GAS

200 Allegheny Center Mall
Pittsburgh, PA 15212-5352
www.equitablegas.com

January 17, 2003

Pittsburgh Allegheny County Thermal, Ltd.
Law & Finance Building
429 Fourth Avenue, Suite 806
Pittsburgh, PA 15219

Attention: Mr. Robert Fazio – President

RE: Projected Pricing Options

Dear Mr. Fazio,

Per our telephone conversation on January 15, 2003, Equitable Gas in an effort to display our desire to maintain a positive working relationship with PACT is submitting the following natural gas delivery pricing options for your review:

Traditional Pricing Option:

1) Three-Year Delivery Price = 0.59/Mcf

Non-Traditional Pricing Option:

1) Three-Year Range = $495,870 to $653,260

*Target consumption will be based on 2002 actuals.
**80% of targeted consumption will reduce PACT's unit cost.
***120% of targeted consumption will increase PACT's unit cost.

In closing, Equitable Gas sincerely appreciates the loyalty that PACT has displayed throughout the years. I look forward to cultivating a relationship with PACT that goes well beyond the term of this contract.

Sincerely,

William R. Lucas
Director-Sales & Marketing

PACT, LTD
Non-Traditional

	3 Year At Target			3 Year At 80% Of Target			3 Year At 120% Of Target		
	Fixed Charge ($)	Volumetric Credit ($)	Total ($)	Fixed Charge ($)	Volumetric Credit ($)	Total ($)	Fixed Charge ($)	Volumetric Debit ($)	Total ($)
Jan	$72,314	$0	$72,314	$72,314	-$16,437	$55,877	$72,314	$20,114	$92,428
Feb	$72,314	$0	$72,314	$72,314	-$14,977	$57,337	$72,314	$18,327	$90,641
Mar	$72,314	$0	$72,314	$72,314	$14,155	$58,159	$72,314	$17,321	$89,636
Apr	$10,331	$0	$10,331	$10,331	-$10,470	-$139	$10,331	$12,812	$23,143
May	$10,331	$0	$10,331	$10,331	-$8,188	$2,143	$10,331	$10,020	$20,350
Jun	$10,331	$0	$10,331	$10,331	-$5,711	$4,620	$10,331	$6,988	$17,319
Jul	$10,331	$0	$10,331	$10,331	-$6,569	$3,762	$10,331	$8,038	$18,369
Aug	$10,331	$0	$10,331	$10,331	-$5,795	$4,536	$10,331	$7,091	$17,421
Sep	$10,331	$0	$10,331	$10,331	-$5,534	$4,797	$10,331	$6,772	$17,102
Oct	$72,314	$0	$72,314	$72,314	-$8,497	$63,817	$72,314	$10,398	$82,712
Nov	$72,314	$0	$72,314	$72,314	-$13,097	$59,218	$72,314	$16,026	$88,340
Dec	$72,314	$0	$72,314	$72,314	-$19,191	$53,124	$72,314	$23,483	$95,798
Total	$495,870	$0	$495,870	$495,870	-$128,620	$367,250	$495,870	$157,390	$653,260
Target Mcf			**846,183**			**846,183**			**846,183**
Actual Mcf			**846,183**			**676,946**			**1,015,420**
Effective Rate ($/Mcf)			**$0.59**			**$0.54**			**$0.64**
Volumetric Credit/Debit ($/Mcf)						$0.76			$0.93

Paragraph 2.01 says "Prior to the expiration of this Agreement, Customer agrees to extend the Company the opportunity to match competitive offers from other natural gas distribution companies.

Paragraph 3.01"The term of this Agreement shall be 24 months, beginning on October 1, 2000 and continuing through September 30, 2002. Company may at its option extend the contract for an additional one-year term at the same terms and conditions in effect during the initial two-year term. After the initial two-year term, or subsequent one-year extended term, if applicable, the agreement shall continue on a month to month basis..."

Paragraph 5.06 "During the initial two year term of this agreement or any extended term, Customer hereby agrees to refrain from granting to any party permission, easements or right-of-way, along its steam distribution corridors, to construct any natural gas pipeline bypass of Company's natural gas service."

PACT

Pittsburgh Allegheny County Thermal, Ltd.

Law & Finance Building
429 Fourth Avenue, Suite 806
Pittsburgh, Pennsylvania 15219
412-642-7445

June 18, 2003

Fredrick Dalena
Senior Vice President
Equitable Gas
100 Allegheny Center Mall
Pittsburgh, PA 15212-5352

Dear Mr. Dalena:

Enclosed is the transportation agreement that PACT shall enter into with Dominion-Peoples unless Equitable is ready, willing and able to completely match all the provisions of the arrangement. Equitable has until June 27, 2003, to advise and show to PACT, in writing, that it is ready, willing and able to meet, and does commit itself to, the same terms and conditions as contained in the enclosed agreement so that PACT could have the same benefit of the bargain as it will have with Dominion under the enclosure. Failure of Equitable to so respond within that time period will be deemed by PACT as a refusal by or admission of inability of Equitable to fully match all the terms and conditions of the agreement.

While all of the terms of the enclosed agreement are material to PACT, including but not limited to the terms of Dominion-Peoples' regulations and tariffs applicable thereto that are presently in effect, please give particular attention to the following matters relating to the agreement:

To match the agreement, among other things, Equitable must be able to provide service to PACT that would allow PACT to take the same delivery of gas from the same gas supplier at the same price and conditions. For instance, you will recall that TW Phillips is not willing to transport gas to PACT into the Equitable system, but is willing to do so into the Dominion-Peoples system. If PACT is to be left in a position of not having available to it the gas suppliers that are available to it on the Dominion system, Equitable will not have matched the enclosed offer.

To achieve the foregoing, all suppliers who can and do deliver gas to the Dominion-Peoples system at the present time are deemed by PACT to be potential gas suppliers with whom PACT wishes to have the ability to negotiate for a long-term gas supply. To match the agreement, Equitable must be able to assure PACT that PACT will have an equivalent access to the same gas suppliers on the same price terms and conditions for the 15 year term of the contract and that those potential suppliers are willing to transport gas to PACT as proposed by Equitable.

Please be aware that the proposed agreement with Dominion will allow PACT to benefit by avoiding draconian imbalance conditions and higher basis charges resulting from differing conditions of transportation available through Equitable. Also, the Dominion agreement makes available to PACT a "basis charge" for purchasing/transporting gas from various suppliers at a rate of $0.72/mcf for full requirements transportation, compared to the rate of $1.155/mcf quoted by suppliers on Equitable.

By calling your attention to these matters, PACT is not belittling the other provisions of the offer that was drafted by Dominion that is enclosed. Equitable would have to match ALL benefits resulting to PACT under the enclosure, in order for there to be a true "matching" of the offer.

Equitable's prompt decision relating to its willingness and ability to match the benefits of the bargain revealed in the agreement with Dominion-Peoples, which has been initialed by counsel for both parties, would be appreciated.

Sincerely,

Robert L. Fazio
President

cc: (w/attachments)
William R. Lucas, Equitable
Frank A. Molinero, PACT Chairman of the Board

DRAFT

AGREEMENT

AGREEMENT made this _____ day of _____, 2003, by and between THE PEOPLES NATURAL GAS COMPANY d/b/a DOMINION PEOPLES, a Pennsylvania corporation, with its main office at 625 Liberty Avenue, Pittsburgh, PA 15222 (hereinafter called "Transporter"),

AND

PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD (PACT), a Pennsylvania corporation, with its main office at 429 4th Avenue, Suite 806, Pittsburgh, PA 15219 (hereinafter called "Ratepayer").

WITNESSETH: That in consideration of mutual covenants herein contained, the parties agree that the Transporter will transport for Ratepayer all of Ratepayer's natural gas requirements and that Ratepayer will furnish to Transporter such natural gas for such transportation during the term hereof, at the prices and on the terms and conditions hereinafter provided and under and subject to the applicable terms and conditions contained in Transporter's Rate T filed with the Pennsylvania Public Utility Commission (hereinafter called "PUC") and any revisions thereof that may become effective hereafter:

ARTICLE I
Quantities

Beginning on the date on which deliveries of gas are commenced hereunder and thereafter for the remaining term of this agreement, Transporter agrees, on a firm basis, to receive from Ratepayer 100% of Ratepayer's natural gas requirements and Ratepayer agrees to tender for transportation such natural gas requirements based on an average monthly volume of gas measured in mcfs at 14.73 psia, the number of mcfs to be determined by dividing the number of Btus of gas received by Transporter for Ratepayer's benefit by 1.030 or such other factor determined by Transporter and included in Transporter's Tariff to calculate accurately the volume of gas delivered to Transporter in mcfs. Ratepayer agrees to tender up to a maximum daily volume of **11,000** mcf. Transporter waives retainage of gas unaccounted for or used in Transporter's operations.

In the event Transporter is not able to deliver the gas supplies requirements that Ratepayer has brought to Transporter's system for any reason, Transporter shall, to the best of its ability, provide Ratepayer with at least 24 hours prior notice of the expected curtailment of gas supplies to Ratepayer, and shall promptly deliver to Ratepayer a written Notice of Curtailment stating the anticipated length of the curtailment and scope of the curtailment. During any such curtailment during which Ratepayer is required to burn #2 fuel oil in lieu of gas, Transporter shall reimburse Ratepayer the cost of the #2 fuel oil to the extent that it exceeds the costs of gas that Ratepayer would have had to pay but for the curtailment.

ARTICLE II
Rate

For all gas transported for Ratepayer by Transporter hereunder, Ratepayer shall pay Transporter **$.17** per mcf as authorized by the PUC in Transporter's then effective tariff under Rate **T**.

Any applicable Balancing, Banking & Advancing (BB&A) charges are included in the rate set forth in this article. Ratepayer will not be required to contribute to the collection of transition costs.

In addition, Ratepayer will be assessed the monthly service charge from the applicable retail rate schedule (currently $1,850.00 per month).

ARTICLE III
Terms of Agreement

This agreement shall become effective on **October 1, 2003** and shall continue in force and effect until **September 30, 2018**.

ARTICLE IV
Points of Receipt and Delivery

The Point(s) of Receipt for all gas to be received from Ratepayer for transportation by Transporter hereunder shall be at various delivery points in Transporter's Service Agreement with Dominion Transmission, Inc., as mutually agreed on, and shall be delivered to Ratepayer's facility located in **Pittsburgh**, Pennsylvania.

Transportation gas delivered into the Transporter's system will be available for delivery to Ratepayer in the month of delivery into the Transporter's system. BB&A services shall be provided pursuant to the terms and conditions set forth in Transporter's tariff.

ARTICLE V
Delivery Pressures

All quantities of natural gas delivered to Transporter for Ratepayer at the Point(s) of receipt shall be made against the line pressures existing in Transporter's pipeline facilities from time to time. Transporter shall not be obligated to lower such line pressure by compression or otherwise.

ARTICLE VI
Measurement

All quantities of natural gas delivered by Transporter to Ratepayer at point of delivery shall be measured as described under Rule 9 - Measurement of Gas of Transporter's currently effective tariff.

ARTICLE VII
Billing and Payment

Transporter shall render to Ratepayer a statement of the total quantities of gas transported by Transporter for the account of Ratepayer during the preceding month and the transportation charges due thereon. The bill for transportation charges is due within fifteen (15) days of Transporter's mailing the bill, as signified by the postmark of said bill. Bills not paid in their entirety within this time period shall be subject to a late-payment charge of two percent (2%) per month.

A bill shall be deemed delinquent when it remains unpaid after the due date set forth on the bill. Transportation service may be terminated by Transporter when any bill becomes delinquent.

ARTICLE VIII
Miscellaneous

1. No modifications of the terms and provisions of this agreement shall be or become effective except by the execution of written contracts or by modification of Transporter's Tariff.

2. No waiver by any party of any one or more defaults by any other party in the performance of any provisions of this agreement shall operate or be construed as a waiver of any other default or defaults, whether of a like or of a different character.

3. Any company which shall succeed by purchase, merger, or consolidation to the properties, substantially in its entirety, of Transporter or of Ratepayer, as the case may be, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this agreement. Without relieving itself of its obligations under this agreement, any party may assign any of its rights hereunder to a company with which it is affiliated, but otherwise no assignment of this agreement or any of the rights or obligations hereunder shall be made unless there first shall have been obtained the consent thereto in writing of the other parties. No such assignment, if made, shall affect the point of delivery to Ratepayer's facility by Transporter, absent Transporter's consent. Transporter agrees it will not unreasonably withhold consent to the assignment of this agreement to any successor to Ratepayer operating out of Ratepayer's facility which is the subject of this agreement.

4. Except as herein otherwise provided, any notice, request, demand, statement, or bill provided for in this agreement, or any notice which any party may desire to give to the other, shall be in writing and shall be considered as duly delivered when mailed by registered or certified mail to the Post Office address of the parties hereto, as the case may be, as follows:

Transporter:	DOMINION PEOPLES 625 Liberty Avenue Pittsburgh, PA 15222
Ratepayer:	PACT 429 4th Avenue, Suite 806 Pittsburgh, PA 15219

or at such other address as either party shall designate by formal written notice. Routine communications, including monthly statements and payments, shall be considered as duly delivered when mailed by either registered, certified, or ordinary mail.

5. This agreement and the respective obligations of the parties hereunder are subject to all valid laws, orders, rules, and regulations of duly constituted authorities having jurisdiction. The Ratepayer shall be responsible for the payment of all federal, state, and local taxes, including income, franchise, excise, sales, use, occupational, leasing, leasing use, gross receipts, value-added,

ad valorem, property, and stamp taxes, which may become or are now applicable to the natural gas services purchased by Ratepayer under this agreement.

6. The subject headings of the articles of this agreement are inserted for the purpose of convenient reference and are not intended to be a part of the agreement nor considered in any interpretation of the same.

7. The interpretation and performance of this contract shall be in accordance with the laws of the Commonwealth of Pennsylvania.

8. Ratepayer represents and warrants to Transporter that its entering into this Agreement will not result in the breach of any other contract to which Ratepayer currently is a party.

9. In the event of a conflict between the provisions of this agreement and Transporter's Tariff, the latter shall control.

10. The liability provisions of Transporter's Tariff – Rate T are hereby specifically incorporated by reference.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed and witnessed or their respective corporate seals to be hereto affixed and attested, the day and year first above written.

ATTEST:

THE PEOPLES NATURAL GAS COMPANY
d/b/a DOMINION PEOPLES

_____
Assistant Secretary

By_____

Title:_____

ATTEST:

PACT

_____

By_____

Title:_____

Title:_____

(Corporate Seal)

EQUITABLE GAS
Delivering Everyday Excellence ™

200 Allegheny Center Mall
Pittsburgh, PA 15212-5352
www.eqt.com

June 24, 2003

Frank A. Molinero
Chairman of the Board
Pittsburgh Allegheny County Thermal, Ltd. (PACT)
429 Fourth Avenue, Suite 806
Pittsburgh, PA 15219

Dear Mr. Molinero:

I am in receipt of your letter dated June 18, 2003 which accompanied an unsigned, purported offer by Peoples Natural Gas Company, d/b/a Dominion Peoples, to provide PACT gas distribution delivery service. Due to the fact that the copy of said agreement was not executed by Dominion Peoples, we have no way of knowing if this is, in fact, a *bona fide* competitive offer. Although your letter states that the agreement has been "initialed by counsel for both parties," the copy sent to us does not indicate any such meeting of the minds. We expect, and believe we have the right to require, that we be sent a copy of the agreement signed by Dominion Peoples before we are asked to match such agreement.

Secondly, we reject your attempt to impose a June 27, 2003 deadline on our decision. Nothing in the existing service agreement requires that our response be made until we are sure that PACT has provided us all the relevant terms of the competitive offer. With that in mind, at this time, we will not address your position with regard to gas supply options, as we believe the issue is whether the delivery service offered by Equitable is competitive with offers from other natural gas distribution companies.

Despite our obvious differences, Equitable is desirous of maintaining its relationship with PACT and entering into a long-term transportation agreement. We believe that it is only fair that before we consider "matching" a competitive offer that there is complete disclosure of what the purported offer entails. With that in mind, Equitable respectfully requests that you provide answers to the following questions so that we may fully and fairly evaluate any offer:

1. Is PACT making an up-front payment of any kind to Dominion Peoples such as a contribution in aid of construction, right-of-way grant, or some other cost-reduction mechanism as an inducement for the extension of Dominion Peoples pipeline to PACT's facilities located at 120 Cecil Way. If so, what was the value of that contribution?

2. Is PACT making an investment in pipeline infrastructure to lay a line from its present facilities located at 120 Cecil Way so as to interconnect with Dominion Peoples at their existing pipeline location? If so, what is the magnitude of PACT's investment?

3. Is there a third-party that will construct, own or operate the pipeline interconnect between your facilities located at 120 Cecil Way and Dominion-Peoples resulting in an additional cost to PACT for delivering gas to its facilities located at 120 Cecil Way. If so, please disclose the terms of such arrangement.

We ask these questions because we do not believe Dominion Peoples, absent some contribution in aid of construction or third-party intervention, can economically justify extending its facilities to serve PACT. Indeed, if what you have sent us is, in fact, the complete agreement, we believe Dominion Peoples is dangerously close to participating in the kind of ruinous economic competition that the Pennsylvania Public Utility Commission has frowned upon. Additionally, if some other arrangement exists, it should be included in our analysis of the total cost of PACT's alternative delivery option.

Upon receipt of your answer(s) to the questions contained herein, and the receipt of a delivery agreement executed by Dominion Peoples, we will promptly provide you with our response concerning our ability and willingness to match the Dominion Peoples offer for delivery service.

Sincerely,

Fredrick K. Dalena
Senior Vice President
Commercial Operations

PACT

Pittsburgh Allegheny County Thermal, Ltd.

Law & Finance Building
429 Fourth Avenue, Suite 806
Pittsburgh, Pennsylvania 15219
412-642-7445

June 25, 2003

BY HAND DELIVERY TO:

Fredrick K. Dalena, Sr. V.P.
Commercial Operations
Equitable Gas
200 Allegheny Center Mall
Pittsburgh, PA 15212-5352

Dear Mr. Dalena:

I am responding, in behalf of PACT, to your letter delivered to us late yesterday afternoon, addressed to PACT's Chairman of the Board.

In responding to you, it is helpful to refer to the existing "Agreement for Natural Gas Transportation Service Under Rate Schedule GDS" between PACT and Equitable. It is important to remember that the agreement was drafted by Equitable, and not by PACT. The presently relevant language, chosen by Equitable Gas, is as follows, with emphasis added by me:

> "Prior to the expiration of this Agreement, Customer agrees to extend the Company the opportunity to **match** competitive **offers** from other natural gas distribution companies."

In choosing that language for the agreement, Equitable could have provided the words "signed agreements" in lieu of "offers", but it did not do so. It did not even require that any such offers be in writing. (Significantly, there are many parts of the same present agreement between Equitable and PACT that do require certain things to be in writing.)

Nevertheless, we chose to await until the offer was in a writing, prepared by Peoples, which PACT views as an offer, before presenting it to Equitable. PACT intends to accept that offer by Monday at the latest, given Equitable's anticipatory refusal to attempt to match the offer, but instead to intimate litigation. If Equitable chooses not to interpret the document we sent you as an "offer", it will do so at its own risk.

Equitable will realize that the document presented to you is in fact a "*bona fide* competitive offer" when we forward you a copy of the same document signed by both parties. I am not a lawyer, but to me, that will then be a contract between PACT and Peoples, and not just an offer.

The present Agreement with Equitable does not set forth any minimum amount of time that Equitable has to match the offer. PACT has granted Equitable a commercially reasonable amount of time to match the offer. Additionally, Equitable is fully aware of the time constraints for PACT to act with dispatch to build a gas line, if it is going to do so.

In your letter you state "(W)e believe the issue is whether the delivery services offered by Equitable is competitive with offers from other natural gas distribution companies." (Your emphasis.)

Please recognize that "delivery services" includes more than price. At the minimum, it includes the terms of service, including those terms set forth in PUC tariff filings. Limiting the issue to "delivery services" restricts the language to the contract Equitable drafted. It is not whether Equitable matches "delivery services", but whether Equitable matches the complete offer. To match the complete offer PACT should be in the same place, whether it uses Equitable or Peoples.

Furthermore, your claim that the issue is whether Equitable's services are "competitive" is a further attempt by Equitable to distance itself from the language of the contract it drafted. It is not whether Equitable's offer is "competitive". It is whether Equitable's offer is MATHCING.

PACT repeatedly endeavored to negotiate with Equitable for the past year, without success, to avoid having to even explore entering into this alternate arrangement. Equitable's approach in the negotiations left PACT with no alternative but to search out an alternative arrangement to transport its gas. The result is truly of Equitable's own making. PACT advised Equitable, last year, when Equitable was scoffing at the idea that PACT might get Peoples to lay a line to service PACT, that PACT itself had the wherewithal to lay its own gas line. Equitable chose to ignore our warning.

Throughout the past year Equitable took every opportunity to delay PACT from taking necessary actions to carry out its responsibilities to its membership. Equitable in indicating it will not respond by Friday is just more of the same.

As previously indicated to you, PRICE is not the only thing that matters in the terms of our next transportation agreement. You provided nothing whatsoever in your letter to indicate that Equitable could leave PACT in the same position if it stays with Equitable rather than accepting the offer that we presented to you. Equitable continues ignoring the issue.

PACT will not negotiate with Equitable for a different transportation agreement from the offer under any intimation of litigation from Equitable. If Equitable admits that it cannot match the Peoples offer, it should do so immediately. Then if Equitable wishes to offer something else to PACT, PACT will consider it, provided it is in writing and received before the end of the business day on Friday.

The present agreement between PACT and Equitable only allows Equitable to match a transportation agreement with another gas distribution company. PACT will not have another "gas distribution company" (Equitable's choice of words) build the line. Whether or how PACT builds its line is not something that Equitable has any legal right to review. However, to

encourage Equitable to act responsibly, we will provide you with the following answers to you guestions:

1. Under its tariff, Peoples is required to provide a meter and valve. PACT is not providing any money or payments to Peoples for any thing that is not set forth in the document delivered to you to see.

2. PACT will build the line. The cost of the line is expected to reach payout for PACT in substantially less than 2 years. If Equitable is able to show PACT that it can match the Peoples offer in every aspect except price, PACT will provide the cost of construction to Equitable, provided Equitable has acted appropriately by Friday. Equitable is in the business of building pipelines, and therefore should have informed knowledge of the cost anyway. If this is the only dispute by Equitable, PACT will clear it up immediately. First we want to know if Equitable can match the rest of the offer. As indicated in Mr. Molinero's letter, those parts of the offer have value to PACT far above cost of the line. Again, Equitable has no legal right to the information requested, but we will provide it under the circumstances stated. Any price matching by Equitable, even if we were to include the cost of the line in the long term transportation rate, would have to be the equivalent of approximately a 1½ year payout on the investment that PACT would have to make in the line, considering the best offer that Equitable made to PACT to transport gas after September 30, 2003.

3. Though PACT has the knowledge and capability to build the pipeline with its own employees, PACT will hire an outside contractor to build the line. Peoples is not building the line. PACT has the ability to maintain the line with its own employees in the normal course of its business, but PACT has the right to contract that work out to someone else if it chooses to do so. PACT has not contacted anyone else at this time to do maintenance work on the line. If it does, it will not be Peoples. PACT alone will own and operate the line, as we indicated to Mr Lucas last year.

Equitable is entitled to its beliefs of Peoples' financial wherewithal, but this in not of concern to PACT Please be aware that based upon the attitude that PACT encountered in attempting to deal with Equitable in the past year, PACT went to Peoples to request the offer now on the table, with the stated intent by PACT to build its own line so that only PACT would have control of the line. Peoples did not seek out PACT's business. That came to Peoples only as a result of Equitable's attitude towards and practices with on of its biggest customer.

Sincerely,

Robert L Fazio

Robert L. Fazio
President

Cc: Frank A Molinero,
Chairman of the Board, PACT
Dennis S. Shilobod, Esq.
Secretary and General Counsel, PACT

EQUITABLE GAS
Delivering Everyday Excellence™

200 Allegheny Center Mall
Pittsburgh, PA 15212-5352
www.eqt.com

June 30, 2003

Robert L. Fazio, President
Pittsburgh Allegheny County Thermal, Ltd. (PACT)
Law and Finance Building
429 Fourth Avenue, Suite 806
Pittsburgh, PA 15219

Dear Mr. Fazio:

Please accept this letter as Equitable Gas Company's response to PACT pursuant to the meeting this morning. As I stated to you, Equitable believes it has a right to see a delivery service offer signed by Dominion Peoples. To date, you have refused to provide such a document. We also believe we have a right to see the costs, in writing, related to the construction of your service line to connect with Dominion Peoples. To date, you have refused to provide that information. Although Equitable has expressed its desire to consider matching any bona-fide offer, we have not yet been able to properly do so because we have been unable to ascertain either the validity or the financial composition of the purported deal you have presented to us.

We hope you will reconsider your position with regard to these issues. If not, Equitable will have been denied a meaningful opportunity to match any competitive delivery option.

Sincerely,

Fredrick K. Dalena
Senior Vice President
Commercial Operations

PACT

Pittsburgh Allegheny County Thermal, Ltd.

Law & Finance Building
429 Fourth Avenue, Suite 806
Pittsburgh, Pennsylvania 15219
412-642-7445

July 3, 2003

Fredrick K. Dalena, Senior Vice President Commercial Operations
Equitable Gas
200 Allegheny Center Mall
Pittsburgh, PA 15212-5352

Dear Mr. Dalena:

We are disappointed that Equitable failed to either match the Dominion Peoples offer or provide PACT with a better offer than Equitable offered in the past to transport gas after September 30, 2003.

By the end of the June 30th meeting you indicated to all in attendance that you now had all the information you required and that PACT had complied with all your requests for information of the Peoples offer, including the gas line cost of construction, which was clearly stated as $0.115/MCF times PACT's annual gas consumption (900,000 MCF) times the length of the contract, 15 years, at a 4% interest rate.

The lack of a reasonable offer from Equitable is unfortunate. In as much as Equitable chose not to even attempt to make a commercially reasonable offer to PACT, we have had no choice but to accept Dominion-Peoples offer.

As a courtesy, I have enclosed a fully executed copy of the same document we gave to you weeks ago, as Dominion-Peoples offer, which we have now accepted in making our contract with Dominion.

Sincerely,

Robert L. Fazio

Robert L. Fazio
President

RLF/alh
Enclosure

AGREEMENT

AGREEMENT made this 2nd day of July, 2003, by and between THE PEOPLES NATURAL GAS COMPANY d/b/a DOMINION PEOPLES, a Pennsylvania corporation, with its main office at 625 Liberty Avenue, Pittsburgh, PA 15222 (hereinafter called "Transporter"),

AND

PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD (PACT), a Pennsylvania corporation, with its main office at 429 4th Avenue, Suite 806, Pittsburgh, PA 15219 (hereinafter called "Ratepayer").

WITNESSETH: That in consideration of mutual covenants herein contained, the parties agree that the Transporter will transport for Ratepayer all of Ratepayer's natural gas requirements and that Ratepayer will furnish to Transporter such natural gas for such transportation during the term hereof, at the prices and on the terms and conditions hereinafter provided and under and subject to the applicable terms and conditions contained in Transporter's Rate T filed with the Pennsylvania Public Utility Commission (hereinafter called "PUC") and any revisions thereof that may become effective hereafter:

ARTICLE I
Quantities

Beginning on the date on which deliveries of gas are commenced hereunder and thereafter for the remaining term of this agreement, Transporter agrees, on a firm basis, to receive from Ratepayer 100% of Ratepayer's natural gas requirements and Ratepayer agrees to tender for transportation such natural gas requirements based on an average monthly volume of gas measured in mcfs at 14.73 psia, the number of mcfs to be determined by dividing the number of Btus of gas received by Transporter for Ratepayer's benefit by 1.030 or such other factor determined by Transporter and included in Transporter's Tariff to calculate accurately the volume of gas delivered to Transporter in mcfs. Ratepayer agrees to tender up to a maximum daily volume of 11,000 mcf. Transporter waives retainage of gas unaccounted for or used in Transporter's operations.

In the event Transporter is not able to deliver the gas supplies requirements that Ratepayer has brought to Transporter's system for any reason, Transporter shall, to the best of its ability, provide Ratepayer with at least 24 hours prior notice of the expected curtailment of gas supplies to Ratepayer, and shall promptly deliver to Ratepayer a written Notice of Curtailment stating the anticipated length of the curtailment and scope of the curtailment. During any such curtailment during which Ratepayer is required to burn #2 fuel oil in lieu of gas, Transporter shall reimburse Ratepayer the cost of the #2 fuel oil to the extent that it exceeds the costs of gas that Ratepayer would have had to pay but for the curtailment.

ARTICLE II
Rate

For all gas transported for Ratepayer by Transporter hereunder, Ratepayer shall pay Transporter $.17 per mcf as authorized by the PUC in Transporter's then effective tariff under Rate T.

Any applicable Balancing, Banking & Advancing (BB&A) charges are included in the rate set forth in this article. Ratepayer will not be required to contribute to the collection of transition costs.

In addition, Ratepayer will be assessed the monthly service charge from the applicable retail rate schedule (currently $1,850.00 per month)

ARTICLE III
Terms of Agreement

This agreement shall become effective on October 1, 2003 and shall continue in force and effect until September 30, 2018.

ARTICLE IV
Points of Receipt and Delivery

The Point(s) of Receipt for all gas to be received from Ratepayer for transportation by Transporter hereunder shall be at various delivery points in Transporter's Service Agreement with Dominion Transmission, Inc., as mutually agreed on, and shall be delivered to Ratepayer's facility located in Pittsburgh, Pennsylvania.

Transportation gas delivered into the Transporter's system will be available for delivery to Ratepayer in the month of delivery into the Transporter's system. BB&A services shall be provided pursuant to the terms and conditions set forth in Transporter's tariff.

ARTICLE V
Delivery Pressures

All quantities of natural gas delivered to Transporter for Ratepayer at the Point(s) of receipt shall be made against the line pressures existing in Transporter's pipeline facilities from time to time. Transporter shall not be obligated to lower such line pressure by compression or otherwise.

ARTICLE VI
Measurement

All quantities of natural gas delivered by Transporter to Ratepayer at point of delivery shall be measured as described under Rule 9 - Measurement of Gas of Transporter's currently effective tariff.

ARTICLE VII
Billing and Payment

Transporter shall render to Ratepayer a statement of the total quantities of gas transported by Transporter for the account of Ratepayer during the preceding month and the transportation charges due thereon. The bill for transportation charges is due within fifteen (15) days of Transporter's mailing the bill, as signified by the postmark of said bill. Bills not paid in their entirety within this time period shall be subject to a late-payment charge of two percent (2%) per month.

A bill shall be deemed delinquent when it remains unpaid after the due date set forth on the bill. Transportation service may be terminated by Transporter when any bill becomes delinquent.

ARTICLE VIII
Miscellaneous

1. No modifications of the terms and provisions of this agreement shall be or become effective except by the execution of written contracts or by modification of Transporter's Tariff.

2. No waiver by any party of any one or more defaults by any other party in the performance of any provisions of this agreement shall operate or be construed as a waiver of any other default or defaults, whether of a like or of a different character.

3. Any company which shall succeed by purchase, merger, or consolidation to the properties, substantially in its entirety, of Transporter or of Ratepayer, as the case may be, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this agreement. Without relieving itself of its obligations under this agreement, any party may assign any of its rights hereunder to a company with which it is affiliated, but otherwise no assignment of this agreement or any of the rights or obligations hereunder shall be made unless there first shall have been obtained the consent thereto in writing of the other parties. No such assignment, if made, shall affect the point of delivery to Ratepayer's facility by Transporter, absent Transporter's consent. Transporter agrees it will not unreasonably withhold consent to the assignment of this agreement to any successor to Ratepayer operating out of Ratepayer's facility which is the subject of this agreement.

4. Except as herein otherwise provided, any notice, request, demand, statement, or bill provided for in this agreement, or any notice which any party may desire to give to the other, shall be in writing and shall be considered as duly delivered when mailed by registered or certified mail to the Post Office address of the parties hereto, as the case may be, as follows:

Transporter: DOMINION PEOPLES
625 Liberty Avenue
Pittsburgh, PA 15222

Ratepayer: PACT
429 4th Avenue, Suite 806
Pittsburgh, PA 15219

or at such other address as either party shall designate by formal written notice. Routine communications, including monthly statements and payments, shall be considered as duly delivered when mailed by either registered, certified, or ordinary mail.

5. This agreement and the respective obligations of the parties hereunder are subject to all valid laws, orders, rules, and regulations of duly constituted authorities having jurisdiction. The Ratepayer shall be responsible for the payment of all federal, state, and local taxes, including income, franchise, excise, sales, use, occupational, leasing, leasing use, gross receipts, value-added,

ad valorem, property, and stamp taxes, which may become or are now applicable to the natural gas services purchased by Ratepayer under this agreement.

6. The subject headings of the articles of this agreement are inserted for the purpose of convenient reference and are not intended to be a part of the agreement nor considered in any interpretation of the same.

7. The interpretation and performance of this contract shall be in accordance with the laws of the Commonwealth of Pennsylvania

8. Ratepayer represents and warrants to Transporter that its entering into this Agreement will not result in the breach of any other contract to which Ratepayer currently is a party.

9. In the event of a conflict between the provisions of this agreement and Transporter's Tariff, the latter shall control.

10 The liability provisions of Transporter's Tariff – Rate T are hereby specifically incorporated by reference.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed and witnessed or their respective corporate seals to be hereto affixed and attested, the day and year first above written.

ATTEST:

Susan S George HLP
Assistant Secretary

THE PEOPLES NATURAL GAS COMPANY
d/b/a DOMINION PEOPLES

By Richard Lee HLP

Title:

ATTEST:

Dennis Slutzbro
Sec.

Title:

(Corporate Seal)

PACT

By Robert L Jagio

Title: President

EQUITABLE GAS
Delivering Everyday Excellence℠

200 Allegheny Center Mall
Pittsburgh, PA 15212-5352
www.eqt.com

July 11, 2003

Robert L. Fazio, President
Pittsburgh Allegheny County Thermal, Ltd. (PACT)
Law & Finance Building
429 Fourth Avenue, Suite 806
Pittsburgh, PA 15219

Dear Mr. Fazio:

Please accept this letter as Equitable Gas Company's ("Equitable") response to PACT's July 3, 2003 letter. Judging from the contents of the letter, it is clear that we have different recollections of what transpired at the June 30th meeting.

First of all, we had no prior evidence of an executed, formal competitive offer from Dominion until we received an executed copy of the competitive service agreement attached to your July 3, 2003 letter. We have always maintained that we would be amenable to matching the terms of a valid and formal competitive offer.

Secondly, from our perspective, no agreement was ever reached by all the relevant parties relative to the estimated cost of the pipeline. We still believe your estimate to be understated, but we will agree to revise our cost estimate as set forth below.

Finally, I do not agree with your assertion that Equitable did not "even attempt to make a commercially reasonable offer to PACT". In fact, we made such an offer to PACT. However, as we have noted before, Equitable did not feel comfortable agreeing to match any offer that waives shrinkage and certain other charges until we had the opportunity to explain our position to the staff of the Pennsylvania Public Utility Commission. Now that those conversations have taken place, we are prepared to move forward.

Therefore, please be advised that Equitable is willing and able to match all of the substantive terms and conditions of PACT's transportation alternative that includes service from Dominion Peoples. Our offer also includes our best estimate of the amortized cost of PACT constructing its own facilities to interconnect with Dominion Peoples. We have revised our estimate of the construction cost to be $1.3 million dollars. Accordingly, our offer would match Dominion's delivery service rate offer of $.17 per mcf plus $.14 per mcf for the $1.3 million dollar

RECEIVED
JUL 11 2003

pipeline facilities cost amortized over 15 years at 5% cost of money. This results in a total volumetric rate of $.31 per mcf.

We look forward to working with PACT for many years in the future

Sincerely,

Fredrick K. Dalena
Senior Vice President
Commercial Operations

F

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUITABLE GAS COMPANY, a division of Equitable Resources, Inc.,

Plaintiff,

v.

PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.,

Defendant.

CIVIL DIVISION

No.

VERIFIED COMPLAINT IN EQUITY FOR DECLARATORY AND INJUNCTIVE RELIEF

Filed on behalf of Plaintiff, Equitable Gas Company

Counsel of Record for this Party:

David E. White, Esq.
Pa. I.D. No. 59659

THORP REED & ARMSTRONG, LLP
Firm I.D. No. 282
One Oxford Centre
301 Grant Street, 14th Floor
Pittsburgh, PA 15219-1425
(412) 394-2343

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUITABLE GAS COMPANY, a division of Equitable Resources, Inc.,	)	CIVIL DIVISION
	)	
	)	No.
Plaintiff,	)	
	)	
v.	)	
	)	
PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.,	)	
	)	
	)	
Defendant.	)	

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR IF YOU CANNOT AFFORD A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

Lawyer Referral Service of The Allegheny County Bar Association
Koppers Building, Suite 400
436 Seventh Avenue
Pittsburgh, PA 15219
Telephone Number: (412) 261-0518

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUITABLE GAS COMPANY, a division of Equitable Resources, Inc.,	)	CIVIL DIVISION
	)	
	)	No.
Plaintiff,	)	
	)	
v.	)	
	)	
PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.,	)	
	)	
	)	
Defendant.	)	

VERIFIED COMPLAINT IN EQUITY FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff Equitable Gas Company ("Equitable"), a division of Equitable Resources, Inc., files the following Complaint in Equity for Declaratory and Injunctive Relief against Defendant Pittsburgh Allegheny County Thermal, Ltd. ("PACT"):

NATURE OF ACTION

1. This is an action seeking declaratory, special, preliminary and permanent injunctive and other relief against PACT to prevent PACT's improper conduct which is causing permanent and irreparable harm to Equitable. Specifically, Equitable seeks to enjoin PACT from reneging on a promise, pursuant to PACT's written agreement with Equitable, to provide Equitable the right of first refusal to match any competitive offers to transport natural gas to PACT.

THE PARTIES

2. Equitable is an unincorporated business division of Equitable Resources, Inc., a Pennsylvania corporation. Equitable has its principal offices located at 200 Allegheny Center Mall, Pittsburgh, Pennsylvania 15212-5352. Equitable owns natural gas transportation and

distribution lines ("gas lines") throughout the western Pennsylvania area which it utilizes to deliver natural gas to its customers. Equitable also allows other entities for a fee to utilize its gas lines to transport gas to non-Equitable customers.

3. Defendant Pittsburgh Allegheny County Thermal, Ltd. ("PACT") is a non-profit Pennsylvania corporation with its principal offices located at Law and Finance Building, 429 Fourth Avenue, Suite 806, Pittsburgh, Pennsylvania 15222. PACT uses steam generators fueled by natural gas to provide steam generated power to several business entities located in the City of Pittsburgh.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter pursuant to Article 5, Section 20 of the Pennsylvania Constitution.

5. Venue over this action properly lies in this Court pursuant to Rules 1006(a) and 1503 of the Pennsylvania Rules of Civil Procedure because the transactions and occurrences giving rise to the causes of action stated herein took place in this County, and Equitable and PACT both reside and regularly conduct business in this County.

THE PARTIES' AGREEMENT

6. On August 11, 2000, Equitable and PACT entered into an Agreement for Natural Gas Transportation Service Under Rate Schedule GDS (the "Agreement"). A copy of the Agreement is attached hereto as Exhibit 1 ("the Agreement").

7. Pursuant to Section 1.01 of the Agreement, Equitable agreed to transport for PACT natural gas purchased by PACT.

8. Pursuant to Section 2.01 of the Agreement, Equitable charged a discounted transportation rate to PACT in consideration of PACT's agreement that it would deliver its full natural gas requirements through Equitable's distribution facilities.

9. Section 2.01 also provided that prior to the expiration of the Agreement, Equitable would have the opportunity to match any competitive offers from other gas distribution companies to provide transportation services to PACT.

10. Section 2.01 was an extremely important aspect of the Agreement, as PACT's agreement to utilize only Equitable's transportation system, plus Equitable's right to match any competitive offers, preserved Equitable's ability to be a primary gas transporter to commercial customers in the City of Pittsburgh and the surrounding area.

11. The Agreement's intent of preserving Equitable's market position for gas transportation services in the Pittsburgh area was reinforced by Section 5.06 of the Agreement, which provided that PACT could not grant to any party permission, easements or rights-of-way along its steam distribution corridors to construct any natural gas pipeline bypass of Equitable's natural gas service.

12. The term of the Agreement originally was to expire on September 30, 2002, but the term was extended through September 30, 2003, when Equitable exercised its option to extend the term pursuant to Section 3.01 of the Agreement.

PACT'S BREACH OF THE AGREEMENT

13. In or around March 2003, PACT notified Equitable that it had received an offer from the Peoples Natural Gas Company d/b/a Dominion Peoples ("Peoples") to provide gas transportation services to PACT after expiration of the Agreement.

14. By letter dated June 18, 2003, PACT forwarded to Equitable a proposed Gas Service Agreement with Peoples that PACT represented constituted a firm offer from Peoples, and demanded that Equitable make a matching offer by June 27, 2003. A copy of the June 18, 2003, correspondence from PACT is attached hereto as Exhibit 2.

15. Peoples does not have any gas lines that connect to delivery points used by PACT. Therefore, for Peoples to service PACT, a pipeline must be constructed from PACT's delivery points to Peoples' gas lines.

16. By letter dated June 24, 2003, Equitable requested PACT to provide information on the cost to PACT of building a new line, as well as whether there were additional terms or other value incentives to PACT with respect to the Peoples proposal, that were not reflected in the contract forwarded by PACT. The requested information was essential to allow Equitable to make a matching offer to Peoples' proposal. A copy of the June 24, 2003, correspondence from Equitable is attached hereto as Exhibit 3.

17. By letter dated June 25, 2003, PACT confirmed that it was hiring a third party to construct a natural gas line to connect to Peoples' gas lines ("the by-pass line"), and that PACT was financing the construction of the by-pass line. A copy of the June 25, 2003, correspondence from PACT is attached hereto as Exhibit 4.

18. After receiving such information from PACT regarding the Peoples' offer and the cost to PACT of constructing the by-pass line, Equitable indicated, by letter dated July 11, 2003, that it was willing and able to match the offer made by Peoples. A copy of the July 11, 2003, correspondence from Equitable is attached hereto as Exhibit 5.

19. Equitable's offer to match the Peoples' proposal was made before the September 30, 2003, expiration of the Agreement.

20. In a July 15, 2003, telephone conversation between PACT Chairman Robert Fazio, PACT member Frank Molinaro and Equitable Senior Vice President Fredrick Dalena, PACT called for a meeting with Equitable and requested that Equitable be prepared at such meeting to submit a new offer and "put its best offer on the table."

21. By letter dated July 16, 2003, Equitable accepted PACT's invitation to meet but conveyed to PACT its position that Equitable's letter dated July 11, 2003, matched the Peoples' offer as to all substantive terms, and that by meeting with PACT, Equitable was not waiving its position that Equitable had already made such a matching offer to PACT. A copy of the July 16, 2003, correspondence from Equitable is attached hereto as Exhibit 6.

22. Equitable agreed, however, to attend the meeting to consider alternative proposals with PACT.

23. On July 17, 2003, Equitable met with PACT at PACT's offices to discuss various alternative proposals to the matching offer as tendered by Equitable in its letter to PACT dated July 11, 2003.

24. In a telephone conversation the afternoon of July 17, 2003, PACT informed Equitable that PACT's economic considerations for the matching offer by Equitable had changed given that PACT intended to offer gas transportation services through the by-pass line to customers in the Pittsburgh area (including customers of Equitable), thereby becoming a direct competitor of Equitable or, in the alternative, sell the by-pass line to an undisclosed third party.

25. Based on this new information, the parties agreed to meet on July 18, 2003.

26. At the July 18, 2003 meeting, Equitable attempted in good faith to refine the terms of the alternative proposals, but no agreement was reached.

27. Subsequent to the July 18, 2003, meeting, PACT began construction on the by-pass line.

COUNT I

REQUEST FOR DECLARATORY RELIEF

28. Paragraphs 1 through 27 are incorporated herein by reference as though fully set forth herein at length.

29. Because the value of the proposal by Equitable matched the value of the proposal by Peoples, and because it was made before the expiration of the Agreement, PACT is required under Section 2.01 of the Agreement to enter into a new gas transportation agreement with Equitable.

30. However, PACT refuses to enter into a new gas transportation agreement with Equitable, and has begun construction of the by-pass line to tie into Peoples' gas lines, in violation of Section 5.06 of the Agreement.

31. If PACT does not fulfill its contractual obligations and enter into a new gas transportation agreement with Equitable, and if PAC continues to construct the by-pass line and enter into a gas transportation agreement with Peoples, Equitable will be irreparably harmed.

32. Specifically, Equitable will no longer be the sole and exclusive gas transportation company for PACT. Moreover, PACT will become a direct competitor of Equitable, irreparably harming Equitable's market position and destroying the benefit of Equitable's bargain with PACT.

33. Accordingly, Equitable seeks declaratory and injunctive relief that will direct PACT to enter into a new gas transportation agreement with Equitable and that will direct PACT to cease construction of its by-pass line.

WHEREFORE, Equitable requests the following declaratory relief:

(a) a declaration that Equitable has made an acceptable matching offer for a new gas transportation agreement and that PACT is required to enter into a new gas transportation agreement with Equitable pursuant to the terms of Equitable's matching offer;

(b) a declaration that PACT is prohibited from constructing the by-pass line during the term of the present Agreement and during the term of any subsequent gas transportation agreements with Equitable.

COUNT II

REQUEST FOR INJUNCTIVE RELIEF

34. Paragraphs 1 through 33 are incorporated herein by reference as though fully set forth herein at length.

35. In order to maintain the status quo between the parties while Equitable's request for declaratory relief is resolved, PACT must be directed to continue to receive gas transportation service from Equitable and PACT must be directed to cease construction of the by-pass line

36. Equitable has a strong likelihood of success on the merits of its declaratory judgment claim because PACT, in direct violation of Section 2.01 of the Agreement, has refused to accept a matching offer from Equitable.

37. Moreover, in direct violation of Section 5.06 of the Agreement, PACT has begun construction of a by-pass line to tie in to Peoples' gas lines.

38. If PACT is permitted to stop utilizing Equitable's gas transportation services, Equitable will be irreparably harmed in that it will lose its bargained-for right to continue to be

the exclusive gas transportation provider to PACT. This will destroy the benefit of Equitable's bargain with PACT and cannot be compensated for in monetary damages.

39. In addition, Equitable will be irreparably harmed if PACT is not prohibited from completing construction of the by-pass gas line because, once the gas line is completed, PACT will be able to directly compete with Equitable to provide gas to customers in the Pittsburgh area. In other words, Equitable's market position will be irreparably harmed and this injury cannot be compensated for by monetary damages.

40. Granting Equitable the injunctive relief it seeks will restore the status quo by returning the parties to the position they were in before PACT's breach of the Agreement.

41. Greater injury will result if Equitable's request for injunctive relief is denied than if it is granted. If the relief is granted, Equitable will be permitted to litigate its claims without losing the entire benefit of its bargain with PACT and without irreparable damage to its market position. PACT, on the other hand, will not be harmed if the injunction is granted because PACT will continue to receive gas transportation services from Equitable under the current Agreement which does not expire until September 30, 2003.

WHEREFORE, as described above, Equitable, being without adequate remedy at law and suffering immediate and irreparable harm, requires equitable relief and prays that this Honorable Court enter a special injunction against PACT, its agents, and all persons acting on its behalf or its interest, requiring PACT to:

(a) continue utilizing gas transportation services from Equitable until Equitable's request for declaratory relief is finally resolved;

(b) cease construction of a natural gas by-pass pipeline until Equitable's request for declaratory relief is finally resolved

(c) continue the special injunction in full force and effect through and including a hearing before this Court on Equitable's request for the entry of a Preliminary Injunction and set such a hearing at a date convenient for the Court;

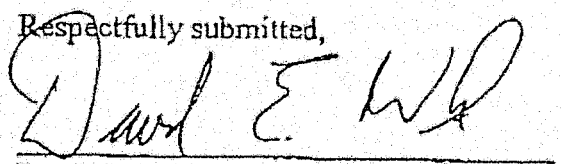
(d) grant the parties leave to conduct expedited discovery in preparation of the preliminary injunction hearing, with all written and oral discovery to be completed three (3) days prior to the hearing on Plaintiff's Motion for Preliminary Injunction;

(e) following the hearing on the request for a preliminary injunction, convert the Special Injunction into a Preliminary Injunction and continuing and injunction until Equitable's request for declaratory relief is finally resolved; and

(f) granting such other and further relief as the Court may deem necessary, just and proper.

Dated: August 25, 2003

Respectfully submitted,



David E. White
Pa. I.D. No. 59659

THORP REED & ARMSTRONG, LLP
Firm I.D. No. 282
One Oxford Centre
301 Grant Street, 14th Floor
Pittsburgh, PA 15219-1425
(412) 394-2343

Counsel for Plaintiff Equitable Gas Company

cation No. 2026
ment No. 1033

AGREEMENT FOR NATURAL GAS TRANSPORTATION SERVICE UNDER RATE SCHEDULE GDS

THIS AGREEMENT made this 11th day of August, 2000 by and between EQUITABLE GAS COMPANY, a division of Equitable Resources, a Pennsylvania corporation, hereinafter called "Company," and PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD (PACT), a PENNSYLVANIA NOT-FOR-PROFIT CORPORATION, hereinafter called "Customer":

WITNESSETH: That in consideration of the mutual covenants herein contained, the parties agree as follows:

I. TYPE OF SERVICE

1.01 Company will transport for Customer and Customer will furnish to Company natural gas for such transportation subject to the terms and conditions of this Agreement, and to the applicable Rules and Regulations, the terms of Rate Schedule GDS and other applicable terms contained in Company's tariff on file with the Pennsylvania Public Utility Commission (PUC) or any revisions thereto or superseding tariff sheets that may become effective hereafter, all of which by reference are made a part of this Agreement. In the event of any conflict between this Agreement and Company's applicable tariff provisions, the tariff provisions shall govern as to the conflict.

1.02 Company will assign to Customer a Maximum Daily Quantity (MDQ) as stated in Exhibit A. Daily nominations on Customer's behalf shall not exceed Customer's MDQ.

1.03 All nominations must be <u>in writing using the designated form of Company</u> and the said form must be returned to Company's Gas Management Department, Transportation and Exchange Division at 200 Allegheny Center Mall, Pittsburgh, Pennsylvania 15212-5352 no later than three (3) working days immediately preceding the respective transport

EXHIBIT

month. To expedite your monthly nomination, Customer can access Company's FAX Machine at 412/395-3338.

Customer may make revised nominations one working day prior to the effective date of the revision, provided that it is received by Equitable Gas before 1:00 p.m. Eastern Standard Time. Nominations can be revised through the last day of the month. Revisions will not be accepted on a weekend or holiday. Revised nominations are to be entered on Section D of the said nomination form and mailed to the Gas Management Department, Transportation and Exchange Division.

Written nominations each month are required even though the nomination could be "0". Any nomination over Customer's contractual maximum daily quantity (MDQ) will not be accepted. Customer must always list account number(s) on the nomination form.

1.04 The Point(s) of Receipt for all gas to be received from Customer for transportation by Company hereunder shall be at either Tepe Measuring Station, Jefferson Borough, Allegheny County, or at Peterman's Corner Regulating Station, Penn Hills Township, Allegheny County, or at various district regulators along Equitrans, LP H-152 line or Equitable Line Nos. D-293 of L.R. 02218, Plum Borough, Allegheny County, Pennsylvania or D-393 at McGinley Road, Monroeville Borough, Allegheny County, Pennsylvania or D-393 at Northern Pike, Monroeville Borough, Allegheny County, Pennsylvania or D-438, Kevich Farm, Somerset Township, Washington County, Pennsylvania. Transportation volumes into Company's Distribution system may be limited during summer and off-peak flow conditions to local system usage and normal operating conditions. All gas shall be delivered to customer at 120 Cecil Way, Pittsburgh, PA 15222 through Meter Number (s) 722438 and 722439.

Customer shall tender gas for transportation hereunder at the following times and pressures: daily at standard operating times and pressures, which shall be delivered

against the varying line pressures maintained in Company's facilities at the various points of delivery. Company shall deliver gas transported hereunder at the following times and pressures: daily at standard operating times and pressures.

1.06 Curtailment of Service. The Company will use its best efforts to provide Customer with at least 24 hours advance notice of any required curtailment of use of gas by Customer, or any interruption of gas service to Customer's facilities, in which event Customer may burn #2 fuel oil in lieu of gas in its boilers. At any time that Customer uses #2 fuel oil in lieu of gas, Company will hold Customer harmless, and reimburse Customer for the additional cost that Customer incurs in burning #2 fuel oil instead of burning gas that would be normally delivered by Company under this agreement. In any event, Customer shall, at its absolute discretion, be entitled to switch from natural gas to #2 fuel oil at any time that the ambient temperature as measured by the National Weather Service falls below zero degrees Fahrenheit, and under those circumstances Company will, without reservation, reimburse Customer for the difference between the cost of burning #2 fuel oil as against the cost that Customer would have incurred had it burned gas. Customer must return to burning natural gas when the National Weather Service forecasts the ambient temperature of the next three day period to not fall below +6oF during any time within the three day period. The Company recognizes that Customer must have a minimum of 24 hours advance notice in order to arrange for #2 fuel oil supplies and to switch to #2 fuel oil. The Company may interrupt Customer's service under this agreement if unforeseen conditions such as compressor or pipe failure require shorter notice.

II. RATE

For each Mcf of gas transported under this Agreement, Customer shall pay Company a

rate as stated in Exhibit A. In consideration for the discounted transportation rate stated in Exhibit A, Customer shall deliver its full natural gas requirements through Company's distribution facilities during the term of this agreement. In consideration of Customer's agreement to deliver its full natural gas requirements through Company's distribution facilities during the term of this Agreement and Customer's agreement to utilize natural gas as its primary energy source, in lieu of alternate fuels (i.e., fuel oil) and/or other installed energy alternatives, Company agrees that Customer's delivery charges shall be discounted as reflected in this agreement. If Customer replaces all or part of its natural gas requirements with an alternative fuel or energy source, other than during periods of curtailment of service (Section 1, Article 1.06). Customer will no longer be eligible for the discounted rate.

Prior to the expiration of this Agreement, Customer agrees to extend the Company the opportunity to match competitive offers from other natural gas distribution companies.

2.02 After the initial two year term or any subsequent extended term, Company shall have the right to propose to and file with the PUC or other body having jurisdiction, changes and revisions to any effective rate schedule, and/or to propose and file superseding rate schedules, and/or to propose and file any other terms or conditions to its tariff for the purpose and having the effect of changing the rate, charges, and other provisions applicable to Customer. Customer shall have the right to protest any such proposed changes before the PUC or other body and to exercise any other rights Customer may have with respect thereto. In the event of a change in the applicable rate, Company shall provide Customer written notice of the effective rate not less than fifteen (15) days prior to the effective date. The Company will bill all gas volumes transported by Customer on and after the effective date of a rate change at the new effective rate.

III. TERM OF AGREEMENT

3.01 The term of this Agreement shall be 24 months, beginning on October 1, 2000 and continuing through September 30, 2002. Company may at its option extend the contract for an additional one-year term at the same terms and conditions in effect during the initial two-year term. After the initial two-year term, or subsequent one-year extended term, if applicable, the agreement shall continue on a month to month basis unless canceled by either party on thirty (30) days written notice.

IV. WARRANTY OF TITLE & GAS QUALITY REQUIREMENTS

4.01 Customer warrants that it will have good title to all natural gas delivered to Company for transportation, that such gas will be free and clear of all liens, encumbrances and claims whatsoever, and that it will indemnify Company and save it harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising from or out of adverse claims of any and all persons to said gas.

4.02 Natural gas delivered for the Customer shall conform to the quality standards of Equitable's Engineering Specification 86-1-036 or any subsequent revisions thereof. Equitable shall have the right to refuse to accept any non-conforming gas, including any gas of a total heating value of less than 1,000 Btu per cubic foot. Should any non-conforming gas enter Equitable's facilities and cause damage to metering, regulating or other equipment, or interruption of service, Customer shall reimburse Equitable for the costs to repair such damage and for any related costs which Equitable may incur to restore service or to repair facilities to its customers, including payments made by Equitable to customers in settlement of claims arising out of such occurrence.

V. MISCELLANEOUS

5.01 No modification of the terms and provisions of this Agreement shall be or become effective except by the execution of written amendment.

5.02 Any entity which shall succeed by purchase, merger or consolidation to the properties, substantially as an entirety, of Company or of Customer, as the case may be, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this Agreement. Either party may, without relieving itself of its obligations under this Agreement, assign any of its rights hereunder to a company with which it is affiliated, but otherwise no assignment of this Agreement or any of the rights or obligations hereunder shall be made unless there first shall have been obtained the consent thereto in writing of the other party.

5.03 This Agreement and the respective obligations of the parties hereunder are subject to valid laws, orders, rules and regulations of duly constituted authorities having jurisdiction.

5.04 The interpretation and performance of this Agreement shall be in accordance with the laws of the Commonwealth of Pennsylvania.

5.05 Company shall have the right to adjust the Customer's billing, including after the expiration or termination of this Agreement, if previous billings for service hereunder are found to have been incorrect.

5.06 During the initial two year term of this agreement or any extended term, Customer hereby agrees to refrain from granting to any party permission, easements or rights-of-way, along its steam distribution corridors, to construct any natural gas pipeline bypass of Company's natural gas service.

5.07 Any notice to Company under this Agreement shall be in writing and addressed to:

Gas Acquisition & Management Department
Transportation and Exchange Division
EQUITABLE GAS COMPANY, A Division of Equitable Resources
200 Allegheny Center
Pittsburgh, PA 15212-5352

or such other address as may be later designated by formal written notice.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

WITNESS:

EQUITABLE GAS COMPANY, a division of Equitable Resources

By _____
Arthur G. Cantrell
V. P. – Commercial Operations

WITNESS:

PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.

By _____
Name: ROBERT S. WILSON
Title: PRESIDENT

(Revised 10/97)

Rate GDS - **EXHIBIT A**
LARGE VOLUME CUSTOMER

To The Transportation Service Agreement
Dated 8-11-00
Between EQUITABLE GAS COMPANY,
A Division of Equitable Resources
and
PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.
LAW AND FINANCE BUILDING
429 FOURTH AVENUE, SUITE 806
PITTSBURGH, PA 15222

A. **MAXIMUM DAILY QUANTITY**

Customer's Maximum Daily Quantity is 8000 Dth. The parties agree the Company may adjust Customer's MDQ as necessary to meet customer's full requirements.

B. **RATE**

Customer shall pay Company a transportation delivery rate of $0.35/mcf for volumes up to 750,000 mcf during each twelve month term of the agreement. Company shall charge a transportation delivery rate of $0.25/mcf for the metered volumes consumed in excess of 750,000 mcf during each twelve month term of the contract. During each 12 month period, the 750,000 mcf threshold shall be subject to monthly heating and cooling degree day adjustments. MCF usage will be normalized based on actual degree days, number of days in usage period and reduction of process usage not affected by the temperature.

C. STANDBY SALES SERVICE (Large Volume Customer: > 20,000 Mcf/year)

I. ✓ Customer does not request Firm Standby Service.

II. ___ Customer requires Firm Standby Service.

Firm Standby Reservation (FSR) Charges

___ Customer elects Winter Season Firm Standby Service (period November 1 through March 31) not to exceed Customer's winter MDFR nomination of ____Mcf and will be charged every month of the year FSR charges

of _____Mcf and will be charged every month of the year FSR charges equal to the Winter MDFR times the Large Volume Customer Winter FSR rate as listed in Company's applicable rate schedule.

____ Customer also elects Year Round Firm Standby Service (period April 1 through October 31) not to exceed Customer's summer MDFR nomination of _____ Mcf. In addition to the Winter Season FSR charges, Customer will be charged every month of the year a Year Round FSR charge equal to the Year Round MDFR times the Large Volume Customer Year Round FSR rate listed in Company's applicable rate schedule.

PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.

By Robert S. Wilson
Name: ROBERT S. WILSON
Title: PRESIDENT

EQUITABLE GAS COMPANY, a division of Equitable Resources

By Arthur G. Cantrell
Arthur G. Cantrell
V. P. – Commercial Operations

EQUITABLE RESOURCES

OPERATING STANDARDS

Quality of Purchased Gas

STANDARD NO. 86-1-036

PAGE 1 OF 2

REVISION & DATE (2) 03/06/92

1.0 SCOPE

1.1 This specification establishes the quality of gas required for purchase by those operating companies of Equitable Resources who require and accept purchased gas.

2.0 GENERAL

2.1 Equitable's standard base measure is 14.73 Psia at 60 °F as is specified in the Purchase Agreement. The barometric pressure for pressure calculation is 14.4 Psia.

2.2 Any deviation from this specification will be specifically noted in the Purchase Agreement.

3.0 GAS QUALITY

3.1. The purchased gas shall be in its natural state as produced with the exception that the gas shall:

3.1.1 Be commercially free from dusts, gums, gum-forming constituents, or other liquid or solid matter which might become separated from the gas in the course of transportation through pipelines.

3.1.2 Not contain more than three-tenths (0.3) of a grain of hydrogen sulfide (H_2S) per one hundred (100) cubic feet.

3.1.3 Not contain more than thirty (30) grains of total sulfur per one hundred (100) cubic feet.

3.1.4 Not contain more than one-tenth percent (0.1%) by volume of carbon monoxide (CO).

3.1.5 Not contain more than four percent (4%) by volume of a combined total of inerts such as carbon dioxide, nitrogen, argon, and helium; provide, however, that the total carbon dioxide content shall not exceed three percent (3%) by volume.

3.1.6 Not contain more than one percent (1%) of oxygen by volume.

3.1.7 Have at least one thousand (1,000) British Thermal Units per cubic foot calculated as the gross saturated value at 14.73 Psia and 60 °F.

3.1.8 Be dehydrated by seller and shall not have water content in excess of seven (7) pounds of water per million cubic feet of gas measured at our purchase base (14.73 Psia at 60 °F) unless otherwise approved by an authorized representative of the Company.

EQUITABLE RESOURCES OPERATING STANDARDS	Quality of Purchased Gas	STANDARD NO. 86-1-036 PAGE 2 OF 2 REVISION & DATE (2) 03/06/92

3.1.9 Not contain more than two-tenths (0.2) of a gallon of gasoline per one thousand (1,000) cubic feet unless otherwise approved by an authorized representative of the Company.

3.2 The temperature of the gas delivered to Equitable's system shall be limited to 100 °F. If it is determined that no plastic distribution or gathering lines are in the vicinity of the point of delivery, a temperature limit of to 120 °F may be acceptable upon approval of Equitable's Engineering Department.

3.3 The gas quality shall be in conformance with any existing regulatory standards.

PACT

Pittsburgh Allegheny County Thermal, Ltd.

Law & Finance Building
429 Fourth Avenue, Suite 806
Pittsburgh, Pennsylvania 15219
412-642-7445

June 18, 2003

Fredrick Dalena
Senior Vice President
Equitable Gas
100 Allegheny Center Mall
Pittsburgh, PA 15212-5352

Dear Mr. Dalena:

Enclosed is the transportation agreement that PACT shall enter into with Dominion-Peoples unless Equitable is ready, willing and able to completely match all the provisions of the arrangement. Equitable has until June 27, 2003, to advise and show to PACT, in writing, that it is ready, willing and able to meet, and does commit itself to, the same terms and conditions as contained in the enclosed agreement so that PACT could have the same benefit of the bargain as it will have with Dominion under the enclosure. Failure of Equitable to so respond within that time period will be deemed by PACT as a refusal by or admission of inability of Equitable to fully match all the terms and conditions of the agreement.

While all of the terms of the enclosed agreement are material to PACT, including but not limited to the terms of Dominion-Peoples' regulations and tariffs applicable thereto that are presently in effect, please give particular attention to the following matters relating to the agreement:

To match the agreement, among other things, Equitable must be able to provide service to PACT that would allow PACT to take the same delivery of gas from the same gas supplier at the same price and conditions. For instance, you will recall that TW Phillips is not willing to transport gas to PACT into the Equitable system, but is willing to do so into the Dominion-Peoples system. If PACT is to be left in a position of not having available to it the gas suppliers that are available to it on the Dominion system, Equitable will not have matched the enclosed offer.

To achieve the foregoing, all suppliers who can and do deliver gas to the Dominion-Peoples system at the present time are deemed by PACT to be potential gas suppliers with whom PACT wishes to have the ability to negotiate for a long-term gas supply. To match the agreement, Equitable must be able to assure PACT that PACT will have an equivalent access to the same gas suppliers on the same price terms and conditions for the 15 year term of the contract and that those potential suppliers are willing to transport gas to PACT as proposed by Equitable.

EXHIBIT
DANKA
2

Please be aware that the proposed agreement with Dominion will allow PACT to benefit by avoiding draconian imbalance conditions and higher basis charges resulting from differing conditions of transportation available through Equitable. Also, the Dominion agreement makes available to PACT a "basis charge" for purchasing/transporting gas from various suppliers at a rate of $0.72/mcf for full requirements transportation, compared to the rate of $1.155/mcf quoted by suppliers on Equitable.

By calling your attention to these matters, PACT is not belittling the other provisions of the offer that was drafted by Dominion that is enclosed. Equitable would have to match ALL benefits resulting to PACT under the enclosure, in order for there to be a true "matching" of the offer.

Equitable's prompt decision relating to its willingness and ability to match the benefits of the bargain revealed in the agreement with Dominion-Peoples, which has been initialed by counsel for both parties, would be appreciated.

Sincerely,

Frank A. Molinero

Frank A. Molinero
PACT, Chairman of the Board

cc: William R. Lucas

AGREEMENT

AGREEMENT made this _____ day of _____, 2003, by and between THE PEOPLES NATURAL GAS COMPANY d/b/a DOMINION PEOPLES, a Pennsylvania corporation, with its main office at 625 Liberty Avenue, Pittsburgh, PA 15222 (hereinafter called "Transporter"),

AND

PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD (PACT), a Pennsylvania corporation, with its main office at 429 4th Avenue, Suite 806, Pittsburgh, PA 15219 (hereinafter called "Ratepayer").

WITNESSETH: That in consideration of mutual covenants herein contained, the parties agree that the Transporter will transport for Ratepayer all of Ratepayer's natural gas requirements and that Ratepayer will furnish to Transporter such natural gas for such transportation during the term hereof, at the prices and on the terms and conditions hereinafter provided and under and subject to the applicable terms and conditions contained in Transporter's Rate T filed with the Pennsylvania Public Utility Commission (hereinafter called "PUC") and any revisions thereof that may become effective hereafter.

ARTICLE I
Quantities

Beginning on the date on which deliveries of gas are commenced hereunder and thereafter for the remaining term of this agreement, Transporter agrees, on a firm basis, to receive from Ratepayer 100% of Ratepayer's natural gas requirements and Ratepayer agrees to tender for transportation such natural gas requirements based on an average monthly volume of gas measured in mcfs at 14.73 psia, the number of mcfs to be determined by dividing the number of Btus of gas received by Transporter for Ratepayer's benefit by 1.030 or such other factor determined by Transporter and included in Transporter's Tariff to calculate accurately the volume of gas delivered to Transporter in mcfs. Ratepayer agrees to tender up to a maximum daily volume of 11,000 mcf. Transporter waives retainage of gas unaccounted for or used in Transporter's operations.

In the event Transporter is not able to deliver the gas supplies requirements that Ratepayer has brought to Transporter's system for any reason, Transporter shall, to the best of its ability, provide Ratepayer with at least 24 hours prior notice of the expected curtailment of gas supplies to Ratepayer, and shall promptly deliver to Ratepayer a written Notice of Curtailment stating the anticipated length of the curtailment and scope of the curtailment. During any such curtailment during which Ratepayer is required to burn #2 fuel oil in lieu of gas, Transporter shall reimburse Ratepayer the cost of the #2 fuel oil to the extent that it exceeds the costs of gas that Ratepayer would have had to pay but for the curtailment.

ARTICLE II
Rate

For all gas transported for Ratepayer by Transporter hereunder, Ratepayer shall pay Transporter $.17 per mcf as authorized by the PUC in Transporter's then effective tariff under Rate T.

Any applicable Balancing, Banking & Advancing (BB&A) charges are included in the rate set forth in this article. Ratepayer will not be required to contribute to the collection of transition costs.

In addition, Ratepayer will be assessed the monthly service charge from the applicable retail rate schedule (currently $1,850.00 per month).

ARTICLE III
Terms of Agreement

This agreement shall become effective on October 1, 2003 and shall continue in force and effect until September 30, 2018.

ARTICLE IV
Points of Receipt and Delivery

The Point(s) of Receipt for all gas to be received from Ratepayer for transportation by Transporter hereunder shall be at various delivery points in Transporter's Service Agreement with Dominion Transmission, Inc., as mutually agreed on, and shall be delivered to Ratepayer's facility located in Pittsburgh, Pennsylvania.

Transportation gas delivered into the Transporter's system will be available for delivery to Ratepayer in the month of delivery into the Transporter's system. BB&A services shall be provided pursuant to the terms and conditions set forth in Transporter's tariff.

ARTICLE V
Delivery Pressures

All quantities of natural gas delivered to Transporter for Ratepayer at the Point(s) of receipt shall be made against the line pressures existing in Transporter's pipeline facilities from time to time. Transporter shall not be obligated to lower such line pressure by compression or otherwise.

ARTICLE VI
Measurement

All quantities of natural gas delivered by Transporter to Ratepayer at point of delivery shall be measured as described under Rule 9 - Measurement of Gas of Transporter's currently effective tariff.

ARTICLE VII
Billing and Payment

Transporter shall render to Ratepayer a statement of the total quantities of gas transported by Transporter for the account of Ratepayer during the preceding month and the transportation charges due thereon. The bill for transportation charges is due within fifteen (15) days of Transporter's mailing the bill, as signified by the postmark of said bill. Bills not paid in their entirety within this time period shall be subject to a late-payment charge of two percent (2%) per month.

A bill shall be deemed delinquent when it remains unpaid after the due date set forth on the bill. Transportation service may be terminated by Transporter when any bill becomes delinquent.

ARTICLE VIII
Miscellaneous

1. No modifications of the terms and provisions of this agreement shall be or become effective except by the execution of written contracts or by modification of Transporter's Tariff.

2. No waiver by any party of any one or more defaults by any other party in the performance of any provisions of this agreement shall operate or be construed as a waiver of any other default or defaults, whether of a like or of a different character.

3. Any company which shall succeed by purchase, merger, or consolidation to the properties, substantially in its entirety, of Transporter or of Ratepayer, as the case may be, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this agreement. Without relieving itself of its obligations under this agreement, any party may assign any of its rights hereunder to a company with which it is affiliated, but otherwise no assignment of this agreement or any of the rights or obligations hereunder shall be made unless there first shall have been obtained the consent thereto in writing of the other parties. No such assignment, if made, shall affect the point of delivery to Ratepayer's facility by Transporter, absent Transporter's consent. Transporter agrees it will not unreasonably withhold consent to the assignment of this agreement to any successor to Ratepayer operating out of Ratepayer's facility which is the subject of this agreement.

4. Except as herein otherwise provided, any notice, request, demand, statement, or bill provided for in this agreement, or any notice which any party may desire to give to the other, shall be in writing and shall be considered as duly delivered when mailed by registered or certified mail to the Post Office address of the parties hereto, as the case may be, as follows:

Transporter:	DOMINION PEOPLES 625 Liberty Avenue Pittsburgh, PA 15222
Ratepayer:	PACT 429 4th Avenue, Suite 806 Pittsburgh, PA 15219

or at such other address as either party shall designate by formal written notice. Routine communications, including monthly statements and payments, shall be considered as duly delivered when mailed by either registered, certified, or ordinary mail.

5. This agreement and the respective obligations of the parties hereunder are subject to all valid laws, orders, rules, and regulations of duly constituted authorities having jurisdiction. The Ratepayer shall be responsible for the payment of all federal, state, and local taxes, including income, franchise, excise, sales, use, occupational, leasing, leasing use, gross receipts, value-added, ad valorem, property, and stamp taxes, which may become or are now applicable to the natural gas services purchased by Ratepayer under this agreement.

6. The subject headings of the articles of this agreement are inserted for the purpose of convenient reference and are not intended to be a part of the agreement nor considered in any interpretation of the same.

7. The interpretation and performance of this contract shall be in accordance with the laws of the Commonwealth of Pennsylvania.

8. Ratepayer represents and warrants to Transporter that its entering into this Agreement will not result in the breach of any other contract to which Ratepayer currently is a party.

9. In the event of a conflict between the provisions of this agreement and Transporter's Tariff, the latter shall control.

10. The liability provisions of Transporter's Tariff – Rate T are hereby specifically incorporated by reference.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed and witnessed or their respective corporate seals to be hereto affixed and attested, the day and year first above written.

ATTEST:

THE PEOPLES NATURAL GAS COMPANY
d/b/a DOMINION PEOPLES

By _____
Assistant Secretary

_____ Title:

ATTEST:

PACT

By _____

Title: _____ Title:

_____

(Corporate Seal)

EQUITABLE GAS
Delivering Everyday Excellence℠

200 Allegheny Center Mall
Pittsburgh, PA 15212-5352
www.eqt.com

June 24, 2003

Frank A. Molinero
Chairman of the Board
Pittsburgh Allegheny County Thermal, Ltd. (PACT)
429 Fourth Avenue, Suite 806
Pittsburgh, PA 15219

Dear Mr. Molinero:

I am in receipt of your letter dated June 18, 2003 which accompanied an unsigned, purported offer by Peoples Natural Gas Company, d/b/a Dominion Peoples, to provide PACT gas distribution delivery service. Due to the fact that the copy of said agreement was not executed by Dominion Peoples, we have no way of knowing if this is, in fact, a *bona fide* competitive offer. Although your letter states that the agreement has been "initialed by counsel for both parties," the copy sent to us does not indicate any such meeting of the minds. We expect, and believe we have the right to require, that we be sent a copy of the agreement signed by Dominion Peoples before we are asked to match such agreement.

Secondly, we reject your attempt to impose a June 27, 2003 deadline on our decision. Nothing in the existing service agreement requires that our response be made until we are sure that PACT has provided us all the relevant terms of the competitive offer. With that in mind, at this time, we will not address your position with regard to gas supply options, as we believe the issue is whether the delivery service offered by Equitable is competitive with offers from other natural gas distribution companies.

Despite our obvious differences, Equitable is desirous of maintaining its relationship with PACT and entering into a long-term transportation agreement. We believe that it is only fair that before we consider "matching" a competitive offer that there is complete disclosure of what the purported offer entails. With that in mind, Equitable respectfully requests that you provide answers to the following questions so that we may fully and fairly evaluate any offer:

1. Is PACT making an up-front payment of any kind to Dominion Peoples such as a contribution in aid of construction, right-of-way grant, or some other cost-reduction mechanism as an inducement for the extension of Dominion Peoples pipeline to PACT's facilities located at 120 Cecil Way. If so, what was the value of that contribution?

EXHIBIT
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2. Is PACT making an investment in pipeline infrastructure to lay a line from its present facilities located at 120 Cecil Way so as to interconnect with Dominion Peoples at their existing pipeline location? If so, what is the magnitude of PACT's investment?

3. Is there a third-party that will construct, own or operate the pipeline interconnect between your facilities located at 120 Cecil Way and Dominion-Peoples resulting in an additional cost to PACT for delivering gas to its facilities located at 120 Cecil Way. If so, please disclose the terms of such arrangement.

We ask these questions because we do not believe Dominion Peoples, absent some contribution in aid of construction or third-party intervention, can economically justify extending its facilities to serve PACT. Indeed, if what you have sent us is, in fact, the complete agreement, we believe Dominion Peoples is dangerously close to participating in the kind of ruinous economic competition that the Pennsylvania Public Utility Commission has frowned upon. Additionally, if some other arrangement exists, it should be included in our analysis of the total cost of PACT's alternative delivery option.

Upon receipt of your answer(s) to the questions contained herein, and the receipt of a delivery agreement executed by Dominion Peoples, we will promptly provide you with our response concerning our ability and willingness to match the Dominion Peoples offer for delivery service.

Sincerely,

Fredrick K. Dalena
Senior Vice President
Commercial Operations

PACT

Pittsburgh Allegheny County Thermal, Ltd.

Law & Finance Building
429 Fourth Avenue, Suite 806
Pittsburgh, Pennsylvania 15219
412-642-7445

June 25, 2003

BY HAND DELIVERY TO:

Fredrick K. Dalena, Sr. V.P.
Commercial Operations
Equitable Gas
200 Allegheny Center Mall
Pittsburgh, PA 15212-5352

Dear Mr. Dalena:

I am responding, in behalf of PACT, to your letter delivered to us late yesterday afternoon, addressed to PACT's Chairman of the Board.

In responding to you, it is helpful to refer to the existing "Agreement for Natural Gas Transportation Service Under Rate Schedule GDS" between PACT and Equitable. It is important to remember that the agreement was drafted by Equitable, and not by PACT. The presently relevant language, chosen by Equitable Gas, is as follows, with emphasis added by me:

> "Prior to the expiration of this Agreement, Customer agrees to extend the Company the opportunity to **match** competitive offers from other natural gas distribution companies."

In choosing that language for the agreement, Equitable could have provided the words "signed agreements" in lieu of "offers", but it did not do so. It did not even require that any such offers be in writing. (Significantly, there are many parts of the same present agreement between Equitable and PACT that do require certain things to be in writing.)

Nevertheless, we chose to await until the offer was in a writing, prepared by Peoples, which PACT views as an offer, before presenting it to Equitable. PACT intends to accept that offer by Monday at the latest, given Equitable's anticipatory refusal to attempt to match the offer, but instead to intimate litigation. If Equitable chooses not to interpret the document we sent you as an "offer", it will do so at its own risk.

Equitable will realize that the document presented to you is in fact a "*bona fide* competitive offer" when we forward you a copy of the same document signed by both parties. I am not a lawyer, but to me, that will then be a contract between PACT and Peoples, and not just an offer.

EXHIBIT
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The present Agreement with Equitable does not set forth any minimum amount of time that Equitable has to match the offer. PACT has granted Equitable a commercially reasonable amount of time to match the offer. Additionally, Equitable is fully aware of the time constraints for PACT to act with dispatch to build a gas line, if it is going to do so.

In your letter you state "(W)e believe the issue is whether the delivery services offered by Equitable is competitive with offers from other natural gas distribution companies." (Your emphasis.)

Please recognize that "delivery services" includes more than price. At the minimum, it includes the terms of service, including those terms set forth in PUC tariff filings. Limiting the issue to "delivery services" restricts the language to the contract Equitable drafted. It is not whether Equitable matches "delivery services", but whether Equitable matches the complete offer. To match the complete offer PACT should be in the same place, whether it uses Equitable or Peoples.

Furthermore, your claim that the issue is whether Equitable's services are "competitive" is a further attempt by Equitable to distance itself from the language of the contract it drafted. It is not whether Equitable's offer is "competitive". It is whether Equitable's offer is MATHCING.

PACT repeatedly endeavored to negotiate with Equitable for the past year, without success, to avoid having to even explore entering into this alternate arrangement. Equitable's approach in the negotiations left PACT with no alternative but to search out an alternative arrangement to transport its gas. The result is truly of Equitable's own making. PACT advised Equitable, last year, when Equitable was scoffing at the idea that PACT might get Peoples to lay a line to service PACT, that PACT itself had the wherewithal to lay its own gas line. Equitable chose to ignore our warning.

Throughout the past year Equitable took every opportunity to delay PACT from taking necessary actions to carry out its responsibilities to its membership. Equitable in indicating it will not respond by Friday is just more of the same.

As previously indicated to you, PRICE is not the only thing that matters in the terms of our next transportation agreement. You provided nothing whatsoever in your letter to indicate that Equitable could leave PACT in the same position if it stays with Equitable rather than accepting the offer that we presented to you. Equitable continues ignoring the issue.

PACT will not negotiate with Equitable for a different transportation agreement from the offer under any intimation of litigation from Equitable. If Equitable admits that it cannot match the Peoples offer, it should do so immediately. Then if Equitable wishes to offer something else to PACT, PACT will consider it, provided it is in writing and received before the end of the business day on Friday.

The present agreement between PACT and Equitable only allows Equitable to match a transportation agreement with another gas distribution company. PACT will not have another "gas distribution company" (Equitable's choice of words) build the line. Whether or how PACT builds its line is not something that Equitable has any legal right to review. However, to

encourage Equitable to act responsibly, we will provide you with the following answers to you guestions:

1. Under its tariff, Peoples is required to provide a meter and valve. PACT is not providing any money or payments to Peoples for any thing that is not set forth in the document delivered to you to see.

2. PACT will build the line. The cost of the line is expected to reach payout for PACT in substantially less than 2 years. If Equitable is able to show PACT that it can match the Peoples offer in every aspect except price, PACT will provide the cost of construction to Equitable, provided Equitable has acted appropriately by Friday. Equitable is in the business of building pipelines, and therefore should have informed knowledge of the cost anyway. If this is the only dispute by Equitable, PACT will clear it up immediately. First we want to know if Equitable can match the rest of the offer. As indicated in Mr. Molinero's letter, those parts of the offer have value to PACT far above cost of the line. Again, Equitable has no legal right to the information requested, but we will provide it under the circumstances stated. Any price matching by Equitable, even if we were to include the cost of the line in the long term transportation rate, would have to be the equivalent of approximately a 1½ year payout on the investment that PACT would have to make in the line, considering the best offer that Equitable made to PACT to transport gas after September 30, 2003.

3. Though PACT has the knowledge and capability to build the pipeline with its own employees, PACT will hire an outside contractor to build the line. Peoples is not building the line PACT has the ability to maintain the line with its own employees in the normal course of its business, but PACT has the right to contract that work out to someone else if it chooses to do so. PACT has not contacted anyone else at this time to do maintenance work on the line. If it does, it will not be Peoples. PACT alone will own and operate the line, as we indicated to Mr. Lucas last year.

Equitable is entitled to its beliefs of Peoples' financial wherewithal, but this in not of concern to PACT. Please be aware that based upon the attitude that PACT encountered in attempting to deal with Equitable in the past year, PACT went to Peoples to request the offer now on the table, with the stated intent by PACT to build its own line so that only PACT would have control of the line. Peoples did not seek out PACT's business. That came to Peoples only as a result of Equitable's attitude towards and practices with on of its biggest customer.

Sincerely,

Robert L. Fazio
President

Cc: Frank A Molinero,
Chairman of the Board, PACT
Dennis S. Shilobod, Esq.
Secretary and General Counsel, PACT
William P. Barry

EQUITABLE GAS

Delivering Everyday Excellence ™

200 Allegheny Center Mall
Pittsburgh, PA 15212-5352
www.eqt.com

July 11, 2003

Robert L. Fazio, President
Pittsburgh Allegheny County Thermal, Ltd. (PACT)
Law & Finance Building
429 Fourth Avenue, Suite 806
Pittsburgh, PA 15219

Dear Mr. Fazio:

Please accept this letter as Equitable Gas Company's ("Equitable") response to PACT's July 3, 2003 letter. Judging from the contents of the letter, it is clear that we have different recollections of what transpired at the June 30th meeting.

First of all, we had no prior evidence of an executed, formal competitive offer from Dominion until we received an executed copy of the competitive service agreement attached to your July 3, 2003 letter. We have always maintained that we would be amenable to matching the terms of a valid and formal competitive offer.

Secondly, from our perspective, no agreement was ever reached by all the relevant parties relative to the estimated cost of the pipeline. We still believe your estimate to be understated, but we will agree to revise our cost estimate as set forth below.

Finally, I do not agree with your assertion that Equitable did not "even attempt to make a commercially reasonable offer to PACT". In fact, we made such an offer to PACT. However, as we have noted before, Equitable did not feel comfortable agreeing to match any offer that waives shrinkage and certain other charges until we had the opportunity to explain our position to the staff of the Pennsylvania Public Utility Commission. Now that those conversations have taken place, we are prepared to move forward.

Therefore, please be advised that Equitable is willing and able to match all of the substantive terms and conditions of PACT's transportation alternative that includes service from Dominion Peoples. Our offer also includes our best estimate of the amortized cost of PACT constructing its own facilities to interconnect with Dominion Peoples. We have revised our estimate of the construction cost to be $1.3 million dollars. Accordingly, our offer would match Dominion's delivery service rate offer of $.17 per mcf plus $.14 per mcf for the $1.3 million dollar

EXHIBIT
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pipeline facilities cost amortized over 15 years at 5% cost of money. This results in a total volumetric rate of $.31 per mcf.

We look forward to working with PACT for many years in the future.

Sincerely,

Fredrick K. Dalena
Senior Vice President
Commercial Operations

EQUITABLE GAS

Delivering Everyday Excellence ™

200 Allegheny Center Mall
Pittsburgh, PA 15212-5352
www.eqt.com

July 16, 2003

Robert L. Fazio, President
Pittsburgh Allegheny County Thermal, Ltd. (PACT)
Law & Finance Building
429 Fourth Avenue, Suite 806
Pittsburgh, PA 15219

Dear Mr Fazio:

This letter is in response to our telephone conversation yesterday, wherein you asked that Equitable submit a new offer, which among other things, incorporates a five-year transportation term. Equitable will attend the 10:00 a.m. meeting on July 17, 2003, at which time we will present our best offer. While we are happy to attend the meeting, I think certain matters should be addressed before we present the proposal.

As you have recognized, Equitable's letter of July 11, 2003 matched the transportation offer provided by Dominion Peoples as to all substantive terms, but PACT has now decided that it wishes to consider an alternative proposal. By meeting with you tomorrow Equitable is not, on its own volition, making a new offer. This offer will be made at PACT's request, and it should not be construed that by making a new offer that Equitable believes that the offer referenced above did not fully and fairly match the competitive offer from Dominion Peoples for transportation delivery service.

It goes without saying that since PACT is requesting a new offer from Equitable, we are moving forward under the assumption that the July 2, 2003 executed transportation agreement with Dominion Peoples is either void or voidable at PACT's option. Equitable is in no way attempting to undermine or interfere in any way with a binding contractual obligation to which PACT may have become a party.

I look forward to seeing you tomorrow.

Sincerely,

Fredrick K. Dalena
Senior Vice President
Commercial Operations

EXHIBIT
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VERIFICATION

I, Fredrick K. Dalena, Senior Vice President, Commercial Operations, of Equitable Gas Company, verify that the facts set forth in the foregoing are true and correct to the best of my knowledge or information and belief. I understand that any false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to falsification to authorities.

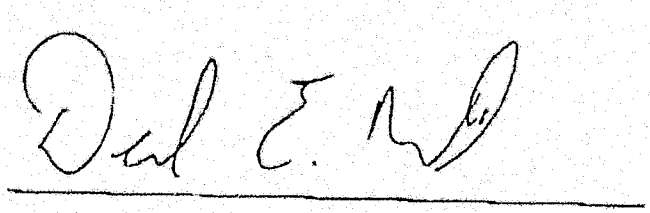
Dated: 8-25-03

Fredrick K. Dalena

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following parties of record via facsimile, on this 25 day of August, 2003:

Pittsburgh Allegheny County Thermal, Ltd.
Law and Finance Building
429 Fourth Avenue, Suite 806
Pittsburgh, PA 15219



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IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUITABLE GAS COMPANY, a division of Equitable Resources, Inc.,

Plaintiff,

v.

PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.,

Defendant.

CIVIL DIVISION

No. GD 03 16436

MOTION FOR SPECIAL AND/OR PRELIMINARY INJUNCTION

Filed on behalf of Plaintiff, Equitable Gas Company

Counsel of Record for this Party:

David E. White, Esq.
Pa. I.D. No. 59659

THORP REED & ARMSTRONG, LLP
Firm I.D. No. 282
One Oxford Centre
301 Grant Street, 14th Floor
Pittsburgh, PA 15219-1425
(412) 394-2343

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUITABLE GAS COMPANY, a division of Equitable Resources, Inc.,	)	CIVIL DIVISION
	)	
	)	No.
Plaintiff,	)	
	)	
v.	)	
	)	
PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.,	)	
	)	
	)	
Defendant.	)	

MOTION FOR SPECIAL AND/OR PRELIMINARY INJUNCTION

Pursuant to Rule 1531 of the Pennsylvania Rules of Civil Procedure, Plaintiff Equitable Gas Company ("Equitable"), a division of Equitable Resources, Inc., respectfully moves this Court for a special and/or preliminary injunction against Defendant Pittsburgh Allegheny County Thermal, Ltd. ("PACT") and, in support thereof, states:

1 On this same date, August 22, 2003, Equitable has filed a Verified Complaint in Equity for Declaratory and Injunctive Relief seeking declaratory and injunctive relief from Defendant's improper conduct. That Complaint is incorporated by reference into this Motion.

2. As more fully described in the Complaint, Defendant PACT has engaged in the following improper conduct:

- Failing to accept a matching offer by Equitable for the continuation of gas transportation services as provided by Equitable after the expiration of the extended term inviolation of the letter and the spirit of the Agreement for Natural Gas Transportation Service Under Rate Schedule GDS (the "Agreement") in place between Equitable and PACT, specifically the terms of Section 2.01 of the Agreement; and

- Construction of a natural gas by-pass line in violation of the letter and spirit of the Agreement, including Section 5.06 of the Agreement.

3. Unless and until PACT is enjoined from its wrongful and unlawful conduct, Equitable is suffering and will continue to suffer irreparable harm, including but not limited to destruction of the benefit of its bargain under the Agreement and irreparable loss of market position.

4. Equitable has no adequate remedy at law, as the harm alleged cannot be fully compensated by money damages.

5. To prevent further irreparable harm to Equitable during the pendency of the resolution of Equitable's claim for declaratory relief, Equitable requires a special injunction ordering PACT to continue receiving gas transportation services from Equitable and directing PACT to cease construction of the by-pass gas line.

6. Equitable has a strong likelihood of success on the merits of this case, as PACT's violation of the Agreement is clear and without justification.

7. Greater injury will be done by denying the special and/or preliminary injunction than by granting it because Equitable's market position and the benefit of its bargain with PACT will be preserved until Equitable's Complaint for Declaratory Relief can be resolved, and PACT can continue receiving gas transportation services from Equitable in the interim.

8. The injunction will preserve the status quo by preventing PACT from improperly terminating the gas transportation services provided by Equitable and preventing PACT from improperly constructing a by-pass gas line.

9. Equitable is prepared to file an appropriate bond with the Court.

WHEREFORE, Equitable respectfully requests that this Court enter a special and preliminary injunction pursuant to Rule 1531 of the Pennsylvania Rules of Civil Procedure ordering PACT to:

(a) Continue utilizing gas transportation services provided by Equitable pursuant to the terms of the Agreement; and

(b) Cease construction of the by-pass line.

A proposed Order is attached hereto.

Dated: August 25, 2003

Respectfully submitted,

David E. White
Pa. I.D. No. 59659

THORP REED & ARMSTRONG, LLP
Firm I.D. No. 282
One Oxford Centre
301 Grant Street, 14th Floor
Pittsburgh, PA 15219-1425
(412) 394-2343

Counsel for Plaintiff Equitable Gas Company

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUITABLE GAS COMPANY, a division of Equitable Resources, Inc.,	)	CIVIL DIVISION
	)	
	)	No.
Plaintiff,	)	
	)	
v.	)	
	)	
PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.,	)	
	)	
	)	
Defendant.	)	

ORDER OF COURT

This _____ day of August, 2003, upon consideration of Plaintiff's Motion for Special and/or Preliminary Injunction, it is hereby ORDERED, ADJUDGED and DECREED that Plaintiff's Motion is GRANTED. It is further ordered that:

1. Defendant Pittsburgh Allegheny County Thermal, Ltd. ("PACT"), and anyone acting at PACT's direction or on its behalf, shall continue utilizing Equitable for gas transportation services pursuant to the terms of the Agreement for Natural Gas Transportation Service Under Rate Schedule GDS currently in effect between the parties until Equitable's claim for declaratory relief is resolved;

2. PACT shall immediately cease construction of the by-pass gas line until such time as Equitable's claim for declaratory relief is finally resolved, including resolution of all appeals; and

3. Plaintiff is hereby directed to file a bond with the Court in the amount of _____ within _____ days of this Order.

BY THE COURT:

_____, J.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following parties of record via facsimile, on this 25 day of August, 2003:

Pittsburgh Allegheny County Thermal, Ltd.
Law and Finance Building
429 Fourth Avenue, Suite 806
Pittsburgh, PA 15219

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUITABLE Gas Company,

Plaintiff

vs.

Pittsburgh Allegheny County Thermal LTD.

Defendant

CIVIL DIVISION

No. GD 03-16436

ORDER OF COURT

AND NOW, to-wit, this 2nd day of Sept. 2003,

The hearing on Plaintiff's request for a preliminary injunction is hereby Continued pending disposition of Defendants preliminary Objections and Re-amended with PAct's Consent, PAct will not provide gas transmission services to any of Plaintiff's customers (other than PAct) and shall Construct the gas line only from Peoples line to PAct's Plant at Cabot Way, and not beyond to any facility, City or Consumer of gas transportation services (other than any facility owned by PAct).

Consented to:

Equitable Gas Company PAct

By [illegible] By [illegible]

BY THE COURT:

O'Brien J.

2/D03-16436
Delay
9

IN THE COURT OF COMMON PLEAS
OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUITABLE GAS COMPANY

Plaintiff,

vs.

PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD AND PEOPLES NATURAL GAS CO. D/B/A DOMINION PEOPLES

Defendants.

vs.

Additional Defendant.

CIVIL DIVISION

No. CD 03-16436

Issue No.

ORDER OF COURT

Code

Filed on behalf of

Counsel of Record for this Party:

PA I.D. #

Firm #

Address

Phone

FILED
PROTHONOTARY
ALLEGHENY COUNT
2003 SEP 26 AM 8:5C

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUITABLE GAS CO.

CIVIL DIVISION

No. GD 03-16436

vs.

PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.

ORDER OF COURT

AND NOW, to-wit, this 25th day of Sept., 2003, THE HEARING ON PLAINTIFF'S REQUEST FOR A PRELIMINARY INJUNCTION IS CONTINUED PENDING THE DISPOSITION OF DEFENDANT PACT'S PRELIMINARY OBJECTIONS TO THE FIRST AMENDED COMPLAINT. IN THE MEANTIME WITH PACT'S CONSENT PACT AGREES THAT THE BURIED HOUSE LINE EXTENDING FROM THE TAP WITH DOMINION PEOPLES TO PACT'S FACILITY WILL NOT BE USED TO TRANSPORT NATURAL GAS TO ANY PARTY OTHER THAN PACT. PACT FURTHER AGREES THAT PENDING RESOLUTION OF THE PRELIMINARY OBJECTIONS, PACT WILL NOT SELL THE LINE.

CONSENTED TO:

[signature] - COUNSEL FOR EQUITABLE

[signature] for PACT

BY THE COURT:

[signature] J.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

EQUITABLE GAS COMPANY Complainant	:	
	:	Complaint Docket No. C-20031128
v.	:	
THE PEOPLES NATURAL GAS COMPANY d/b/a DOMINION PEOPLES Respondent	:	

ANSWER of PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.

to COMPLAINT of EQUITABLE GAS COMPANY

Pittsburgh Allegheny County Thermal, Ltd. (PACT), whose rights are being litigated in the above-captioned proceedings without PACT having prior notice or opportunity to participate in the defense of the allegations made against PACT and its interests, offers the following as its answers to the Complaint filed by Equitable Gas Company against the Defendant named above, by and through its General Counsel, Dennis S. Shilobod and its attorneys, Anthony P. Picadio, Esquire and Picadio Sneath Miller & Norton, P.C.

1. Admitted in part. In addition to Equitable having customers who are some of the most economically disadvantaged residential customers in Pittsburgh, as does The Peoples Gas Company, PACT provides steam service to governmental agencies who provide benefits for all the most economically disadvantaged residential customers and agencies who provide service to them, throughout all of the service areas of both Equitable Gas and The Peoples Gas Company,

and whose budgets will be adversely affected, and hence their ability to continue to provide governmental services to all the disadvantaged will be adversely affected, if Equitable is allowed the "relief" it seeks.

2. Admitted.

3. Denied. PACT does not "provide steam heat service to several business entities," as alleged by Equitable Gas, but rather provides steam service to the owners/operators of approximately 85 buildings in the Golden Triangle section of Pittsburgh.[1] By way of further answer, by alleging that PACT only serves "several businesses," Equitable Gas is either woefully unfamiliar with PACT, its customer of many years, or alternatively is attempting to mislead this Commission as to who PACT is, while not joining PACT as a party defendant to these proceedings.

4. Admitted in part and denied in part. The "Equitable/PACT Agreement," by its terms, terminates at the end of September 30, 2003, and in December, 2002, Equitable Gas advised PACT that it would not renew the same agreement with PACT for another term unless PACT agreed to a 67% increase in rates. It is denied that at all times Equitable's service to PACT has been adequate, in that under the agreement in effect between PACT and Equitable Gas preceding the "Equitable/PACT Agreement" identified by PACT, Equitable Gas interrupted service to PACT on a commercially unreasonable short notice, requiring PACT to temporarily curtail service while it switched to oil from gas, resulting in the paragraph numbered 1.06 in the "Equitable/PACT Agreement" being added to the "Equitable/PACT Agreement," at PACT's

[1]Including but not limited to the City County Building, the new Allegheny County Jail, Allegheny County Morgue, the new Convention Center, U.S. Post Office, Federal Reserve Building, Federal Court House, State Office Building, hotels, restaurants, large and small office buildings, etc.

insistence, to enable PACT to prevent the total physical destruction of its system if Equitable Gas should ever do the same thing again without adequate prior notice to PACT. On less than 24 hours' notice, Equitable curtailed service to PACT for the periods of January 19 through January 21, 1994, March 8 through March 11, 1996, February 4 and February 5, 1999, and March 1 through March 4, 2003. The order to curtail beginning on March 1, 2003 was for immediate curtailment. None of the curtailments appeared to PACT to have occurred as a result of any shortage of supply or system failure, and PACT believes that the 1996 curtailment was for the purpose of allowing Equitable to sell gas that was otherwise deliverable to PACT, to third parties at record high spot prices, and for no other reason. If PACT does not have an adequate and continuous supply of fuel to the extent that its system starts to cool down, the steam lines owned by PACT would begin to contract, at times tearing steam line anchors out of the walls in the tunnels owned by PACT, and potentially causing catastrophic damage to PACT's system, potentially shutting down downtown Pittsburgh.

Furthermore, in addition to providing steam heat, as pointed out by Equitable, PACT provides steam for absorption air conditioning to facilities including the new Allegheny County Jail and the Benedum Center. Equitable Gas only provided PACT with interruptible transportation service, and not the firm gas transportation service as Peoples will provide PACT after September 30, 2003.

5. It is denied that Equitable charged PACT a "discounted" transportation rate. To the contrary the rate finally charged PACT was a negotiated rate that is lower than the rates Equitable tried to charge PACT during the negotiation of the "Equitable/PACT Agreement". Equitable obtained consideration for giving PACT the negotiated rate that it did, as more fully set

forth in the Equitable/PACT Agreement, including but not limited to having had PACT as one of its customers for the term(s) set forth therein. It is admitted that in the "Equitable/PACT Agreement," PACT and Equitable both contemplated and agreed that PACT might seek gas transportation services from Peoples, the only other existing gas distribution company whose service territory includes the location of PACT's system for service, to begin upon termination of the "Equitable/PACT Agreement." Being in the gas transportation business, Equitable knew that if PACT would seek such service from Peoples, PACT would have to make decisions and commitments relating thereto long before the expiration date of the Equitable/PACT Agreement, and therefore the parties made no restrictions on the date upon which PACT could obtain an offer from Peoples to supply transportation services, which Equitable could attempt to match. It is denied that PACT negotiated the Equitable/PACT Agreement with the intent to "preserve Equitable's market position for gas transportation in the Pittsburgh area," as evidenced in the express wording of the Agreement: that both parties to the Equitable/PACT Agreement specifically contemplated a real possibility and right in PACT, to seek gas transportation services from Peoples at the end of the term of the Agreement.

While PACT's promise not to give any third party an easement or right of way to run a gas line along PACT's steam distribution corridors was part of the consideration to Equitable in negotiating the final price in the Equitable/PACT Agreement, it is denied that the provision in any way amounted to a future guarantee that it would never happen. If Equitable had wanted to prevent PACT itself from building its own gas line, it could have so provided in the agreement which it drafted, but it did not so provide because PACT would never have agreed to it. By way of further answer, PACT has not granted ANY third party ANY easements or right of ways to run

any gas line along PACT's steam distribution corridors. PACT never had power or control over anyone who might wish to run a gas line through the streets of Pittsburgh. PACT could only restrict access to its own tunnels, and not access in the streets of the City. It was only in its own tunnels that PACT had power to decide whether ANYONE could run a gas line along its steam distribution system. Furthermore, by way of further answer, the gas service line built by PACT to connect with the Peoples system runs through the streets of Pittsburgh, and not through PACT's tunnels, being a path not covered by the "Equitable/PACT Agreement."

6. Denied in part. Equitable knew in December, 2002, that PACT contemplated obtaining service from Peoples when Equitable refused to even make an offer to PACT for gas transportation service commencing upon the termination of the "Equitable/PACT Agreement," and Equitable was repeatedly and frequently advised that PACT was seeking such alternative service from Peoples from then on through July 2, 2003, when PACT and Peoples entered into their transportation agreement. Equitable refused to extend the term of the Equitable/PACT Agreement in December, 2002. It is admitted that Equitable submitted a letter to PACT dated July 11, 2003, which was 9 days after PACT had signed the transportation agreement with Peoples, though the letter does not reveal that even then that Equitable did, or could, match Peoples' offer. In fact, Mr. Delana of Equitable Gas told PACT that Equitable could not, in any way, match the Peoples offer, particularly with respect to the issue of the "basis" that would be charged for gas delivered through the gas distribution systems and the suppliers available to PACT on the two distribution systems. Equitable was never able to, and still cannot, in any way, match the Peoples' offer so that PACT would be in the same position with either local gas distribution company.

By way of answer to the footnotes to paragraph 6, PACT does not believe, and therefore denies, that the offer from Peoples, which PACT accepted, was in any way "unrealistic and non-competitive". To the contrary, Peoples will gain PACT's transportation business for at least the next 15 years, with a relatively insignificant investment on its part, and considering its marginal costs of simply accepting PACT's desire to transport through the Peoples' system, Peoples will have better served itself and its other customers, unlike what Equitable achieved through its commercially unreasonable treatment of PACT and its actions/inactions. It is further denied that PACT had any obligation to wait until September 30, 2003, to plan for its future gas transportation needs, as asserted by Equitable during PACT's attempts to obtain a commercially reasonable offer from Equitable, there being no such time requirement in the "Equitable/PACT Agreement," which was drafted by Equitable. On July 3, 2003, Equitable Gas received the agreement that had been signed by Peoples and PACT on July 2, 2003, contrary to the suggestions of the allegations of paragraph 6.

COUNT I - DUPLICATION OF FACILITIES

7 PACT incorporates by reference the averments set forth in the foregoing answers to paragraphs 1 through 6 of Equitable's Complaint, as if fully set forth herein.

8. Denied in part. The gas line built by PACT is not public utility property. Peoples does not own the gas line and did not finance PACT's gas line. The reference to "wasteful duplication of facilities" in the Commission's decision has no application in this case, in as much as PACT, and not Peoples, engineered, financed and built the gas service line in question. Contrary to the intimations of Equitable's Complaint, if this Commission restricts or disallows the use of the gas service line that was built by PACT, through PACT's financing the construction

through a loan from PNC Bank, NA, with the line itself being the collateral for the loan, this Commission will have taken non-public utility property, and will have created economic waste, where Equitable waited until the line was almost completely built before commencing any actions against Peoples or PACT, and would amount to an unconstitutional taking of PACT's property without just compensation, as well as the taking of PNC Bank, NA's security interest in the line which must have a market value if it is to have any value as security for the loan already made to PACT and expended on the gas line. If anything, the public interest would be damaged by granting Equitable's request to destroy the market value of the line, and deny its usability, and/or to destroy the economic benefits to the Pittsburgh area community by granting any of the relief sought by Equitable. If anything, Equitable Gas has intentionally created such barriers to gas transportation by its customers on its system that Equitable has effectively destroyed the ability to achieve the ends of the Natural Gas Choice and Competition Act, by institutionalizing its tariff restrictions and practices for gas transporters such as PACT.

9. The relevancy of paragraph 9 of the Complaint is denied in that this case does not involve any public utilities "expending substantial resources" to expand service territory. Here, PACT, and not Peoples, risked invested funds in building the line, to essentially no risk to Peoples. And Peoples is not expanding its service territory, as referred to in the testimony quoted in Equitable's paragraph 9. To the extent that Equitable loses only PACT as its customers, it is entirely of Equitable's own making, and this Commission should not reward or protect Equitable from the results of its commercially and civilly unreasonable treatment of one of its largest customers. The results to Equitable are entirely a result of its own cavalier arrogance in dealings

with PACT, with no concern whatsoever to the impact of Equitable's demands upon the governmental and other bodies that would bear the brunt of Equitable's demands and practices.

10. As an answer to paragraph 10 of the Complaint, if and to the extent that Equitable's customers' well being has been damaged by PACT entering into an agreement with Peoples, all of that result is solely a result of Equitable's management's practices, and the Equitable shareholders, and not Equitable's customers, should pay the full price of the abusive and improper actions by Equitable that are described herein and in PACT's Petition to Intervene. Considering the marginal costs to Peoples of providing service to PACT under the agreement between them, Peoples' customers will be better off than without having PACT transport through Peoples' existing distribution system. Equitable Gas should have given thought to the public interest before it started to abuse one of its biggest customers, PACT, rather than after the fact of the natural results directly flowing from Equitable's commercially unreasonable behavior.

11. Denied. Before Equitable even attempted to take any legal action against PACT and/or Peoples, PACT had almost completed the construction of its gas service line to the Peoples' system, and by now the line has been completely constructed and will be available for full service by the end of September 30, 2003, without Peoples having had to build the line.

12. It is admitted that actual field construction started August 3, 2003, a month after the signing of the agreement between PACT and Peoples, and that it could not have started any later, as Equitable knew at all times during its relationship with PACT. By way of further answer, during the entire construction, Equitable had its representatives on site, watching all the construction, knowing the degree of almost complete construction before it undertook any litigation against PACT or Peoples in reference thereto. Equitable's beliefs are not proof.

Disbelief on the part of Equitable with respect to everything told to it by PACT helped lead it to the posture that it is now in, the results of which should fall on the shoulders of Equitable's stockholders, and not its customers.

13. The pipeline constructed by PACT is indeed a 12" line, that PACT's engineers decided was necessary to supply the POTENTIAL volume of gas that PACT MIGHT need sometime over the next 15 years, and that it had to be sized as such to assure sufficient pressure at PACT's plant, and for no other reason.

14. It is denied that the only conclusion that can be reached is the one that Equitable Gas desires the Commission to reach. To the contrary, in keeping with good business practices, given the relative cost of doing so, PACT made reasonable decisions in the design of its gas pipeline to cover the needs it might have if its sales should grow over the next 15 years, so that it will not find itself in a position of having to renegotiate any new gas transportation agreement during that time period. It is denied that PACT has any intent to supply gas to any customer of Equitable. If PACT should ever think of providing gas transportation services to the public, it would necessarily have to petition the PUC for a certificate of public convenience to do so, as well as amend its Articles of Incorporation, a copy of which is hereto attached as **Exhibit 1**. This Commission should deny Equitable's request that the Commission shall presume that PACT will not comply with the law in the future. Peoples has no right to utilize PACT's gas line for anything except using it as PACT's service line for supplying gas to PACT. PACT believes, and therefore avers, that the statement that "PACT has described the pipeline to an Equitable employee as not just a customer service line but as a money generator for PACT" is untrue and a falsehood. To the contrary, Equitable was specifically orally told by PACT that PACT would

NOT supply any gas to Equitable's customers, and had no plans to do so, well before Equitable started any litigation against Equitable or Peoples.

15. Denied in its entirety. While PACT designed and built the gas service line as if it were a gas distribution line, and not a gas service line, as shown in PACT's agreement with its contractor who installed the line, a copy of which is hereto attached as **Exhibit 2**, PACT demanded such standards to assure public safety as well as to construct a system that would comply with all governmental regulations and the demands of the City of Pittsburgh, as well as to assure that the line would have a marketable value to entities such as Peoples AND Equitable, in the event that PACT should fail in its business and not be able to pay off its loan. If PACT should default on its loan for the construction, it is not unlikely that Equitable itself would be interested in purchasing the line in order to protect its market share from, say, Peoples. The gas line was engineered after due considerations of the physical attributes of the gas line installed, as described by its manufacturer, as well as calculations of heat flow in the event of any breakage of any steam line in PACT's tunnels in which the lines are contained, in such a fashion as to somehow breach the walls of the tunnels, an unlikely scenario, especially given PACT's constant monitoring of all aspects and operations of its complete system. The line, as installed, poses no danger to the public or anyone else. Equitable's "worry" that it will "invariably (be drawn into)" such a situation is unreasonable speculation, which, even if true, is typical of the "possibilities" that everyone in the world faces every day, the "possibility" of being drawn into something that should not have involved them. The gas service line installed by PACT is properly spaced and protected against the dangers Equitable intimates in its paragraph 15.

16. All of the allegations of paragraph 16 of the Complaint are restatements of unfounded assertions made by Equitable in other parts of the Complaint, all of which have been denied by PACT. Peoples did not build and does not own the line that PACT built. There is no "collusion" between PACT and Peoples, which Equitable alleges without any allegation of specific facts to support the false conclusion. The public interest will be more damaged by this Commission granting any of the relief requested by Equitable Gas, than if the Commission left Equitable Gas with the rational results any businessman should foresee if he dealt with PACT the way that Equitable Gas did as described herein and in PACT's Petition to Intervene. Contrary to impeding the competition envisioned by the Natural Gas and Choice and Competition Act, the actions of PACT have, instead furthered the ends of that Act, as more specifically described in the New Matter below.

17. It is denied that PACT could have used the same gas suppliers while remaining on the Equitable Gas system, for reasons more fully set forth in the following New Matter.

WHEREFORE, PACT respectfully requests that this Commission allow PACT to continue to operate on and after October 1, 2003, under its existing agreement with The Peoples Natural Gas Company, and that this Commission find that it is in the public interest to do so, and that this Commission not bar Peoples from providing gas service to PACT pursuant to the terms of the agreement between Peoples and PACT, and that the Commission not act in mere presumption of the existence of some nefarious dealings between Peoples and PACT, as Equitable Gas asks it to do, and that this Commission take no action whatsoever about who MIGHT have an opportunity to purchase PACT's gas service line **if** it should ever be available for sale, especially

given PNC Bank, NA's security interest therein, and deny any and all other relief sought by Equitable to offset the results of its own bad business dealings and practices.

COUNT II – PREDATORY PRICING

18. PACT incorporates by reference the averments set forth in the foregoing answers to paragraphs 1 through 17 of the Complaint, as if more fully set forth herein at length.

19. The agreement between Peoples and PACT speaks for itself, and any interpretation thereof added by Equitable Gas is specifically denied.

20. Given that Peoples did not have to make any major investment to gain PACT as a customer, and being that PACT sought Peoples' service out on its own volition because of the inappropriate actions of Equitable Gas, and because if PACT's load does grow in the coming years, Peoples will greatly benefit from such growth, and because of marginal pricing, Peoples has minimal costs to provide the contracted-for services to PACT, it is denied that the agreement between PACT and Peoples is in any way unreasonable or indefensible. To the contrary, forcing PACT to accept the inappropriate actions of Equitable, as described herein and in PACT's Petition to Intervene, would be "indefensible under any reasonable test of commercial propriety."

21. The allegations contained in paragraph 21 of the Complaint entails a requirement of knowledge not in PACT's possession, and therefore the allegations are denied and strict proof thereof is demanded at a hearing. In any case, given the unique happenings in the interactions between PACT and Equitable, and under the circumstances of this case, the result that flowed directly from Equitable's commercially unreasonable and abusive behavior towards PACT, alone, makes the results entirely defensible and reasonable under any test of commercial propriety and/or civil propriety.

WHEREFORE, PACT respectfully requests that this Commission dismiss Equitable's Complaint in its entirety and deny all relief requested by Equitable Gas.

COUNT III – UNFAIR COMPETITION

22. PACT incorporates by reference the averments set forth in the foregoing Answers to paragraphs 1 through 21 of Equitable Gas's Complaint as if more fully set forth herein at length.

23. It is denied that Peoples participated in any way in constructing PACT's gas service line, other than by providing the interconnect with its own system and the metering, all as required by Peoples' tariff filings approved by the PUC. It is denied that Peoples acquired any business from PACT through competition with Equitable. To the contrary, all that Peoples did was grant PACT its requested service, without knowledge or awareness of the problems that PACT was having with Equitable Gas as described herein and in PACT's Petition to Intervene. Peoples acquired PACT's business completely as a result of Equitable's commercially unreasonable behavior with PACT and for reasons set forth in the following New Matter. It is further denied that Peoples incurred any risks that will be borne by its customers, given that Peoples has invested very little to acquire the business from PACT, with its potential to grow in the future.

24. PACT has no knowledge of the financial matters of Peoples or Equitable Gas, and hence denies all the allegations contained in paragraph 24 and demands proof at trial.

25. It is denied that Equitable is "not afraid of competition", its action now before this Commission speaking for itself. Additionally, in fear of competition, Equitable has done everything in its power to deny its customers a full and fair access to gas suppliers on

commercially reasonable terms and conditions, resulting in there now being only one supplier on the Equitable system who can provide PACT's full gas requirements, while that same supplier, delivering through the Peoples' system, can supply PACT's full gas requirements at cheaper rates because of Peoples' more reasonable terms for transportation of gas and greater co-operation with independent gas suppliers than Equitable offers. As a result of there being a number of other suppliers who can also supply PACT's full gas requirements only through the Peoples' system, PACT was able to lower its gas supply even lower from the same supplier. PACT's entry into the gas market available only on the Peoples' system adds to competition in the gas supply market, which has been destroyed by Equitable on its own system.

The "New Rules" that should be conveyed to Equitable, as it requests, is to treat its customers with at least common courtesy or suffer the natural consequences, and to stop trying to prevent competition in the natural gas supply market, in contravention of the Natural Gas Choice and Competition Act.

Equitable's argument that Peoples "could have negotiated price" is unreasonable, in as much as during its negotiations with PACT, Peoples had no knowledge whatsoever of the difficulties that PACT was having with Equitable Gas, or the price that Equitable Gas had offered PACT in December, 2002. Equitable's complaint that Peoples might have negotiated for a higher price also ignores PACT's own economic limitations, being that it intended to fully fund the construction of its own gas service line, all of which Equitable is ignoring.

In further contradiction to Equitable's allegation that Peoples "knew" that Equitable had a right to "match" any offer made by Peoples, PACT specifically denies that it so advised Peoples of Equitable's right before completing all negotiations on its new agreement with Peoples. Again,

Equitable's Complaint contains nothing more than shrill speculations and "what-if's", in an attempt to damage PACT even more than it already tried to do. As a further answer to Equitable's allegations of the unreasonableness of PACT demanding a 15 year contract with Peoples, as early as December, 2002, Equitable Gas advised PACT that it believed that Peoples did not have the financial wherewithal to construct a gas pipeline to PACT, and that in fact, Equitable was taking customers away from Peoples, and stated that perhaps Equitable might be able to buy The Peoples Gas Company because of its falling market share. This comment by Equitable also impelled PACT, at the outset of its negotiations with Peoples, to demand a long-term service agreement from Peoples to not only spread its investment over the long term but also to avoid the danger of the total elimination of the competition between Equitable and Peoples in the near term. But for obtaining a 15-year term agreement with Peoples, PACT would most likely not have entered into any gas transportation with Peoples. Peoples had no choice but to give PACT a long-term transportation agreement, if it wanted PACT's business at a very minimal cost to itself.

Equitable argues, in contradiction to its earlier accusations that Peoples somehow financed the construction of PACT's gas line, that "Generally long-term agreements are offered when a utility must expend considerable initial costs to connect a customer." It therefore recognizes that long-term agreements are desired by those who are investing a lot of money at the outset. PACT invested a lot of money at the outset of the performance of its contract with Peoples, when it borrowed to build its new gas service line. There is no less reason for PACT to demand a long-term agreement than if the investment shoe was on Peoples' foot. Furthermore, public utilities usually view such long-term contracts as beneficial to them. Here Peoples was able to obtain a long-term lock up of PACT as a customer, which Equitable had refused to do, without having to

make any significant financial investment. It is therefore denied that there is anything unreasonable about the agreement between PACT and Peoples. Equitable attributes to Peoples its own belief that the local gas distribution company is the sole dictator of terms of negotiated contracts with its customers. That has now been shown by PACT to be quite untrue. It is denied that Peoples "gave away" any bargaining leverage that it knew it had, and Peoples and PACT should not thereafter have to surrender the results obtained through arms length bargaining to satisfy Equitable's need for revenge.

WHEREFORE, PACT respectfully requests that Equitable Gas' requests for relief be denied and its Complaint dismissed.

COUNT IV – RATE DISCRIMINATION

26. PACT herein incorporates by reference the foregoing answers to paragraphs 1 through 25 of Equitable Gas' Complaint, the same as if more fully set forth herein at length.

27. If Equitable Gas has standing in the first place, to raise the issue of whether another public utility has discriminated in rates charged to its customers, PACT denies that it obtained any "preference or advantage" in violation of Section 1304 of the Public Utility Code, in as much as the rates charged and to be charged by Peoples to PACT are permitted under Peoples' Commission approved tariff, and such action by Peoples will help open up the natural gas supply market for consumers of natural gas that Equitable Gas tried to, and does, discourage. The natural result that occurred as a result of Equitable Gas' commercially unreasonable treatment of one of its major customer is beneficial to the unfortunate customers who remain on the Equitable system, in that Equitable will have learned to treat its remaining and new customers with greater respect and commercially proper behavior.

WHEREFORE, PACT respectfully requests that Equitable Gas' requests for relief be denied and its Complaint dismissed.

NEW MATTER

AND NOW comes PACT, by way of further answer and defense to Equitable Gas' Complaint, and asserts the following New Matter:

28. PACT herein incorporates the allegations contained in its Petition to Intervene, the same as if fully set forth at length.

29. In as much as Peoples has not duplicated ANY of the facilities of Equitable Gas, and being that Peoples Gas is not expanding its service territory to anywhere where it was not already authorized to serve, in providing service to PACT, Count I of Equitable's Complaint, "Duplication of Facilities," should be dismissed, in as much as any material facilities built to enable Peoples to serve PACT were provided by PACT, a non-regulated, non-profit entity operating in the nature of a co-operative.

30. Equitable Gas Company has no standing to raise the issue contained in Count IV of its Complaint, "Rate Discrimination." The issue of Peoples discriminating in rates charged to its customers is a matter to be settled between Peoples, its customers and the PUC, and Equitable Gas has no legitimate stake in the issue and lacks standing to complain thereof, and Count IV should therefore be immediately dismissed.

31. Granting any of the relief requested will damage all of the taxing bodies that are Members of PACT, whose costs of operations will be significantly increased by any such action by the Commission, all to the detriment of all persons and entities served by such taxing bodies, which far exceeds those poorer residents who are served by Equitable Gas. The "cure" requested

by Equitable will do more damage than any of the harm that Equitable claims to be done already, which was the result of the commercially unreasonable actions of Equitable Gas itself.

32. Equitable Gas is guilty of laches in awaiting until PACT constructed its gas service line before it filed this action with this Commission to deprive PACT of the benefit of the bargain that enabled PACT to justify its investment in the gas service line. Equitable Gas knew of PACT's intentions months before the beginning of the construction of the line, but waited until PACT spent its investment in the line before trying to destroy the benefit of PACT's bargain, all with the intent and purpose and effect of harming PACT, with whom Equitable, through its related company, NORESCO, unfairly competed with PACT in the past for customers, through the offer of predatory pricing to PACT members, as more fully set forth below.

33. Equitable Gas Company is seeking equitable relief from this Commission, when it, itself and through its affiliated company, NORESCO, has engaged in damaging predatory pricing and unfair competition harmful to PACT and others, as more fully set forth below. Equitable Gas has unclean hands, and therefore should be denied the relief it seeks.

34. Equitable Gas Company itself, and additionally through its sister-affiliated company, NORESCO, has engaged in unfair competition practices with PACT and others in the Pittsburgh area, by offering equipment, services and gas supplies to members of PACT and others at prices far below the market price for gas and/or services available to others, with the intent and effect of damaging PACT and others, as more fully set forth below.

35. The Convention Center in Pittsburgh was a Member of PACT since 1983, when PACT began to do business. When the Pittsburgh Convention Authority decided to build a new facility on the site of its old facility, NORESCO offered the Convention Center a fixed price, 10-

year gas supply requirements contract at prices far below the prices that PACT could acquire for gas from anyone, including but not limited to Equitable Gas, which at the same time was refusing to provide even a quote to supply PACT's natural gas requirements, all of which resulted in PACT having to severely lower its price to the new Convention Center to retain it as a Member of PACT, at a price far below that charged to any other Member of PACT, thereby resulting in an increased cost for steam to all other PACT Members that would not have occurred but for Equitable/NORESCO's unfair trade practices and predatory pricing policies and practices.

36. PACT believes, and therefore avers, that Equitable Gas, by itself and/or with or through its affiliated company, NORESCO, engaged in similar illegal practices of offering services to customers of others, such as the new Mellon Center and others, at below-cost-pricing, all with the intention of damaging any entity that might, in any way, be a competitor of Equitable Gas Company.

37. The entity that engages in predatory and below cost pricing and discriminatory rates to customers is Equitable Gas, and not Peoples.

38 This Commission should not destroy the economic investment that PACT legally made in constructing its new, non-public utility property gas service line by granting any of the requests for relief requested by Equitable Gas. To do otherwise would be a taking of non-public utility property not only from PACT, but also from its financing entity, PNC Bank, NA, who should be made an indispensable party to these proceedings which may affect the security value of their property right (also non-public utility property) in the gas service line built by PACT.

39. Equitable Gas Company along with its affiliated company, Equitrans, have structured terms and conditions and practices that discourage gas marketers and/or producers from

providing full gas requirements to Equitable's customers to the extent that there is now no competition whatsoever for such sales to end users on Equitable's system.

40. Equitable Gas elected to engage in practices to discourage the competitive sales of natural gas requirements by marketers and suppliers who would use Equitable's system as the local distribution company, and Equitable Gas should live by the results of its successful attempts to frustrate the ends sought as expressed in the acts of the federal and state government to encourage competition in the sale of the natural gas product, and Equitable should therefore be required to live with the natural results of its inappropriate actions designed to prevent a free competitive market in the sale of natural gas.

WHEREFORE, PACT respectfully requests that all the relief requested by Equitable Gas be denied and Equitable's Complaint be dismissed, or that PNC Bank, NA be joined immediately as an indispensable party to these proceedings before any hearings are held on the Complaint.

Respectfully submitted.

Dennis S. Shilobod by CAR

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VERIFICATION

I, Robert L. Fazio, President of Pittsburgh Allegheny County Thermal, Ltd. ("PACT"), the undersigned, hereby state and verify that I am duly authorized to act for and in behalf of PACT, and that the facts contained in the foregoing Petition to Intervene in the above captioned Public Utility Commission action are true and correct to the best of my knowledge, information and belief. I understand that making any false statements in the Petition to Intervene would be and are subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

9/30/03
Date

Robert L. Fazio, President of PACT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PETITION TO INTERVENE was served upon the following persons via overnight mail, this 2nd day of October 2003, addressed as follows:

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SECRETARY'S BUREAU

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and via First Class United States Mail, postage prepaid, addressed as follows:

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October 6, 2003

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Harrisburg, PA 17105-3265

In re: Docket No. C-20031128
Equitable Gas Company, a Division of Equitable Resources, Inc., Complainant
v. The Peoples Natural Gas Company, d/b/a Dominion Peoples, Respondent

Dear Secretary McNulty:

Enclosed for filing on behalf of the Equitable Gas Company Division ("Equitable") of Equitable Resources, Inc. are an original and three (3) copies of its Answer to the Motion to Dismiss Complaint for Failure to Join an Indispensable Party filed by The Peoples Natural Gas Company, d/b/a Dominion Peoples.

Copies of Equitable's Answer are being served upon the persons and in the manner set forth on the Certificate of Service attached to it.

Very truly yours,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By
Charles E. Thomas, Jr.

RECEIVED
2003 OCT -6 PM 4:09
PA PUC
SECRETARY'S BUREAU

Encl.
cc: Certificate of Service
Daniel L. Frutchey (w/encl.)
031006McNulty.wpd

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ORIGINAL

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Equitable Gas Company, a Division of Equitable Resources, Inc., Complainant	:	Docket No. C-20031128
v.	:	
The Peoples Natural Gas Company d/b/a Dominion Peoples, Respondent	:	

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EQUITABLE GAS COMPANY'S ANSWER TO THE PEOPLES NATURAL GAS COMPANY'S MOTION TO DISMISS COMPLAINT FOR FAILURE TO JOIN AN INDISPENSABLE PARTY

DOCUMENT

AND NOW, comes Complainant Equitable Gas Company, a division of Equitable Resources, Inc. ("Equitable") and, pursuant to 52 Pa. Code § 5.101(d), files this Answer to the Motion to Dismiss Complaint for Failure to Join an Indispensable Party (the "Motion") filed by Respondent The Peoples Natural Gas Company, d/b/a Dominion Peoples ("Dominion Peoples") on or about September 23, 2003. In support thereof, Equitable respectfully submits the following:

1. Denied. After reasonable investigation, Equitable is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 1 of the Motion, and therefore they are denied. By way of further answer, Equitable filed the Complaint with the Pennsylvania Public Utility Commission ("Commission") on September 29, 2003, and sent a copy of the Complaint on that date to Dominion Peoples. Equitable does not know when the Commission formally served the Complaint on Dominion Peoples.

2. Admitted in part and denied in part. The averments of paragraph 2 of the Motion refer to the averments of paragraph 4 of the Complaint, which being a writing,

speaks for itself. Therefore, the averments of this paragraph of the Motion are denied. By way of further answer, Equitable admits that paragraph 4 of the Complaint avers, in part, that Pittsburgh Allegheny County Thermal, Ltd. ("PACT") has been an Equitable customer since its formation in 1982. However, it is specifically denied that this averment constitutes the entirety of the averments contained in paragraph 4 of the Complaint. To the extent the averments of paragraph 2 of the Motion are inconsistent with the foregoing, they are denied.

3. Admitted in part and denied in part. The averments of paragraph 3 of the Motion refer to the averments of paragraph 6 of the Complaint, which being a writing speaks for itself. Therefore, the averments of this paragraph of the Motion are denied. By way of further answer, Equitable admits that paragraph 6 of the Complaint avers, in part, that PACT notified Equitable that it had received an offer from Dominion Peoples; that PACT refused to enter into an agreement with Equitable; and that PACT, instead, entered into an agreement with Dominion Peoples to transport all of PACT's natural gas requirements. However, it is specifically denied that these averments constitute the entirety of the averments contained in paragraph 6 of the Complaint. To the extent the averments of paragraph 3 of the Motion are inconsistent with the foregoing, they are denied.

4. Admitted in part and denied in part. The averments of paragraph 4 of the Motion refer to the allegations of paragraph 14 of the Complaint, which being a writing speaks for itself. Therefore, the averments of this paragraph of the Motion are denied. By way of further answer, Equitable admits that paragraph 14 of the Complaint avers, in part, that PACT's agreement to tender up to 11,000 Mcf, will be used to serve not just PACT, but other users of natural gas. However, it is specifically denied that this averment constitutes the entirety of the averments contained in paragraph 14 of the

Complaint. To the extent the averments of paragraph 4 of the Motion are inconsistent with the foregoing, they are denied.

5. Admitted in part and denied in part. The averments of paragraph 5 of the Motion refer to the allegations of paragraph 15 of the Complaint, which being a writing speaks for itself. Therefore, the averments of this paragraph of the Motion are denied. By way of further answer, Equitable admits that Paragraph 15 of the Complaint alleges, in part, that what is being constructed as a service line for PACT is not a service line at all, but rather, in collusion with Dominion Peoples is a duplication of Equitable's service line; and that Equitable then refers to the subject line as "PACT/Dominion Peoples' line". However, it is specifically denied that these allegations constitute the entirety of the allegations and averments contained in paragraph 15 of the Complaint. To the extent the averments of paragraph 5 of the Motion are inconsistent with the foregoing, they are denied.

6. Admitted in part and denied in part. The averments of paragraph 6 of the Motion refer to the Complaint, which being a writing speaks for itself. Therefore, the averments of this paragraph of the Motion are denied. By way of further answer, Equitable admits the Complaint contains four Counts and that in the WHEREFORE clause for each Count of the Complaint, Equitable requests the Commission, *inter alia*, to declare the Agreement between Dominion Peoples and PACT to be contrary to the public interest and void. However, it is specifically denied that these averments constitute the entirety of Equitable's prayer for relief in each Count. To the extent the averments of paragraph 6 of the Motion are inconsistent with the foregoing, they are denied.

7. Admitted in part and denied in part. It is admitted that Dominion Peoples has filed an Answer to Equitable's Complaint. However, the Answer, being a writing,

speaks for itself and therefore the averments of paragraph 7 of the Motion which characterize the averments of the Answer are denied.

8. Denied. The allegations of paragraph 8 of the Motion state a conclusion of law to which no response is required, and therefore they are denied. By way of further answer, it is specifically denied that PACT is an indispensable party to this action.[1] Further, since PACT is not a regulated utility, the Commission, unlike the Court in *Tigue v. Basalyga*, 451 Pa. 436, 304 A.2d 119 (1973), cited by Dominion Peoples in the Motion, has no authority to order the joinder of PACT, and Equitable cannot join PACT, as a party to this action. Therefore, the Complaint should not be dismissed for failure to join PACT as a party.

9. Denied. The assertions of paragraph 9 of the Motion state a conclusion of law to which no response is required and therefore they are denied. By way of further answer, it is specifically denied that PACT is a necessary or indispensable party to this action and that its "presence" is necessary to ensure a comprehensive consideration by the Commission of the issues raised by Equitable's Complaint. After reasonable investigation, Equitable is without knowledge or information sufficient to form a belief as to the truth of the assertions of this paragraph (including the averments set forth in footnote 2) regarding PACT, and therefore they are denied. Further, since PACT is not a regulated utility, the Commission, unlike a civil court, has no authority to order the joinder of PACT, and Equitable cannot join PACT, as a party to this action. Therefore, the Complaint should not be dismissed for failure to join PACT as a party.

---

[1]Significantly, the single Commission case cited in the Motion, viz *Re Red Lion Gas Company*, 52 Pa. PUC 129 (1978), involved the joining of a regulated utility as an indispensable party. By Dominion Peoples' own averment and belief in paragraph 3 of its Answer, and in footnote 2 on page 3 of its Motion, "PACT is a cooperative owned by its customers." By the express language of the Public Utility Code, 66 Pa. C.S. §102, cooperatives are not public utilities subject to the jurisdiction of this Commission and certainly are beyond Equitable's ability to join. If Dominion Peoples believes that PACT's participation is indispensable, it has other vehicles for attempting to accomplish such a result. In this latter regard, it is to be noted that PACT has filed its own Petition to Intervene.

10. Admitted in part and denied in part. It is admitted that Equitable did not join PACT as a party. However, it is denied that PACT is an indispensable party to this action and that Equitable's Complaint should be dismissed for failure to join PACT. Since PACT is not a regulated utility, the Commission, unlike a civil court, has no authority to order the joinder of PACT, and Equitable cannot join PACT, as a party to this action. Therefore, the Complaint should not be dismissed for failure to join PACT as a party.

WHEREFORE, Equitable Gas Company, a division of Equitable Resources, Inc., prays that the Pennsylvania Public Utility Commission deny the Motion of The Peoples Natural Gas Company, d/b/a Dominion Peoples, to dismiss Equitable's Complaint for failure to join Pittsburgh Allegheny County Thermal as an indispensable party.

Respectfully submitted,

EQUITABLE GAS COMPANY,
a division of Equitable Resources, Inc.

By _____
Charles E. Thomas, Jr.
Thomas T. Niesen
THOMAS, THOMAS, ARMSTRONG & NIESEN
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Pittsburgh, PA 15212-5352

Attorneys for Complainant
Equitable Gas Company,
a division of Equitable Resources, Inc.

DATE: October 6, 2003
Answer and Motion to Dismiss.wpd

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Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Equitable Gas Company, a Division of Equitable Resources, Inc., Complainant	:	Docket No. C-20031128
v.	:	
The Peoples Natural Gas Company, d/b/a Dominion Peoples, Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this 6th day of October, 2003, served a true and correct copy of the foregoing Answer to Motion to Dismiss Complaint for Failure to Join an Indispensable Party, upon the persons and in the manner set forth below:

FIRST CLASS MAIL, POSTAGE PREPAID

William T. Hawke, Esquire
Norman James Kennard, Esquire
Hawke McKeon Sniscak & Kennard LLP
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Harrisburg, PA 17101

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Anthony P. Picadio, Esquire
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Charles E. Thomas, Jr.

COMMONWEALTH OF PENNSYLVANIA

DATE: October 7, 2003

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SUBJECT: C-20031128

TO: Office of Administrative Law Judge

FROM: James J. McNulty, Secretary

DOCUMENT

Equitable Gas Company
v.
The Peoples Natural Gas Company d/b/a Dominion Peoples

Attached is a copy of a Petition to Intervene filed by Pittsburgh Allegheny County Thermal, Ltd., in connection with the above docketed proceeding.

This matter is assigned to your Office for appropriate action.

Attachment

cc: OTS

ksb

ORIGINAL

Hawke McKeon Sniscak & Kennard LLP
ATTORNEYS AT LAW

William T. Hawke
Kevin J. McKeon
Thomas J. Sniscak
Norman James Kennard
Lillian Smith Harris
Scott T. Wyland
Todd S. Stewart
Craig R. Burgraff
Janet L. Miller
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100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmsklaw.com

October 7, 2003

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2003 OCT -7 PM 2:21
SECRETARY'S BUREAU

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Filing Room (2 North)
PO Box 3265
Harrisburg, PA 17105-3265

Re: Equitable Gas Company, A Division of Equitable Resources, Inc. v. The Peoples Natural Gas Company d/b/a Dominion Peoples; Docket No. C-20031128; **LETTER PETITION FOR LEAVE TO WITHDRAW MOTION TO DISMISS COMPLAINT FOR FAILURE TO JOIN INDISPENSABLE PARTY**

Dear Secretary McNulty:

Enclosed for filing with the Commission is this original Letter Petition (captioned above), and three (3) copies.

The above-captioned Complaint was filed with the Commission on or about August 29, 2003. The Complainant sought, among other things, (i) a declaration from the Commission that an agreement entered into between The Peoples Natural Gas Company d/b/a Dominion Peoples ("Dominion Peoples") and Pittsburgh Allegheny County Thermal, Ltd. ("PACT") to be contrary to the public interest and void, and (ii) an Order form the Commission prohibiting Dominion Peoples from providing transportation or any other service to PACT. The Commission set September 23, 2003, as the due date for an answer to the Complaint.

On September 23, 2003, Dominion Peoples filed its Answer to Equitable Gas Company's Complaint and, in accordance with the provisions of 52 Pa. Code § 5.101(a) and (b), Dominion Peoples also filed a "Motion to Dismiss Complaint for Failure to Join an Indispensable Party," namely, PACT.

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On or about October 2, 2003 PACT filed a Petition to Intervene which contained, among other items, PACT's Answer to Equitable Gas Company's Complaint. Dominion Peoples supports a grant of PACT's Petition to Intervene because PACT clearly is a party that is directly affected by the outcome of this proceeding.

In view of PACT's desire to participate voluntarily as an active party in this proceeding, Dominion Peoples, by this Letter Petition and pursuant to the provisions of 52 Pa. Code § 5.94(a), is seeking leave to withdraw its Motion to Dismiss Complaint for Failure to Join an Indispensable Party.

Very truly yours,

William T. Hawke

William T. Hawke

WTH/tap
cc: Office of Consumer Advocate
Office of Small Business Advocate
Honorable Terrance J. Fitzpatrick
Honorable Robert K. Bloom
Honorable Glen R. Thomas
Honorable Kim Pizzingrilli
Susan G. George, Esquire

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Letter Petition for Leave to Withdraw Motion to Dismiss Complaint for Failure to Join Indispensable Party upon the participants, listed below, in accordance with the requirements of 52 Pa. Code §1.54.

BY FIRST CLASS MAIL

Charles E. Thomas, Jr.
Thomas T. Niesen
Thomas, Thomas, Armstrong & Niesen
212 Locust Street, Suite 500
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Johnnie E. Simms, Esq.
Office of Trial Staff
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

William E. Hawke

Dated: October 7, 2003

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CHARLES E. THOMAS
(1913 - 1998)

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October 27, 2003

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

DOCUMENT FOLDER

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P. O. Box 3265
Harrisburg, PA 17105-3265

In re: Docket No. C-20031128
Equitable Gas Company, a Division of Equitable Resources, Inc., Complainant
v. The Peoples Natural Gas Company, d/b/a Dominion Peoples, Respondent

Dear Secretary McNulty:

Enclosed for filing on behalf of the Equitable Gas Company Division ("Equitable") of Equitable Resources, Inc. are an original and three (3) copies of its Answer to the Petition of Pittsburgh Allegheny County Thermal, Ltd. to Intervene in the above referenced proceeding.

Copies of Equitable's Answer are being served upon the persons and in the manner set forth on the Certificate of Service attached to it.

Very truly yours,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By Charles E. Thomas, Jr.

Encl.
cc: Certificate of Service
Daniel L. Frutchey (w/encl.)
031027McNulty.wpd

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ORIGINAL

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Equitable Gas Company, a Division of Equitable Resources, Inc., Complainant	:	Docket No. C-20031128
v.	:	
The Peoples Natural Gas Company, d/b/a Dominion Peoples, Respondent	:	

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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EQUITABLE GAS COMPANY'S ANSWER TO PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD's PETITION TO INTERVENE

AND NOW, comes Complainant Equitable Gas Company ("Equitable"), a division of Equitable Resources, Inc., and, pursuant to 52 Pa. Code § 5.66, files this Answer to the Petition to Intervene (the "Petition") filed by Pittsburgh Allegheny County Thermal, Ltd. ("PACT"), as follows:

A. GENERAL ANSWER

On August 29, 2003, Equitable filed its Complaint at Docket No. C-20031128 against The Peoples Natural Gas Company, d/b/a Dominion Peoples ("Dominion Peoples"). The Complaint raises four specific counts, namely, Duplication of Facilities (Count I), Predatory Pricing (Count II), Unfair Competition (Count III) and Rate Discrimination (Count IV). These matters concern actions of Dominion Peoples which are in conflict with the Public Utility Code and prior orders of the Pennsylvania Public Utility Commission ("Commission"). Although Equitable does not believe that PACT is an indispensable party to this proceeding, Equitable does not oppose PACT's intervention in this proceeding, provided it is not used as a means for expanding the scope of this proceeding beyond that raised by Equitable's Complaint. In this regard,

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Equitable does oppose the leave requested by PACT for the filing of the proposed Answer included by PACT as Exhibit 13 of its Petition to Intervene and submits that the proposed Answer should be struck from the Petition. The Commission's Rules and Regulations do not contemplate the submission of an Answer by an Intervenor.

Much of what PACT alleges in its Petition to Intervene is not only erroneous, but also defamatory and vituperative in the extreme. Even more importantly, PACT's allegations are totally irrelevant to this proceeding and relate to contractual issues between PACT and Equitable. These issues are presently pending in a proceeding before the Allegheny Court of Common Pleas at Docket No. GD 03-16436 (See *seriatim* reponse to Paragraph 41 of the Petition) and should not be used to expand and muddy the matters raised by Equitable in the instant Complaint before the Commission.

Nevertheless, to avoid any thought that PACT's allegations have some degree of validity, Equitable will briefly respond thereto in *seriatim* fashion below. In so doing, Equitable is not expanding the scope of its Complaint which relates to Dominion Peoples' predatory, unfair and discriminatory displacement of Equitable's service to PACT by means of a wasteful and unnecessary duplication of facilities. Dominion Peoples displacement of Equitable's service is not the customer choice envisioned by the Natural Gas Choice and Competition Act.

B. *SERIATIM* RESPONSE

1 through 7. Admitted in part and denied in part. Equitable admits that PACT is a Pennsylvania non-stock, non-profit corporation. However, Equitable is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of Paragraphs 1 through 7 of the Petition, and, therefore, they are denied. If relevant, strict proof thereof is demanded.

8. Admitted in part and denied in part. The averments of Paragraph 8 of the Petition refer to an Order of the Commission entered August 30, 1982, which being a writing speaks for itself. Therefore, the averments of this Paragraph of the Petition are denied. By way of further answer, Equitable admits that PACT is a successor to Allegheny County Steam Heating Company, which at the time of PACT's acquisition of the system was a public utility and a wholly-owned subsidiary of Duquesne Light Company.

9. Denied. Equitable is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 9 of the Petition, and, therefore, they are denied. If relevant, strict proof thereof is demanded.

10. Denied. The averments in Paragraph 10 of the Petition characterize Equitable's Complaint, which being a writing, speaks for itself. Therefore, the averments of Paragraph 10 of the Petition are denied. By way of further answer, it is PACT which has impaired Equitable's contract and property rights. However, these are matters for the Allegheny Court of Common Pleas at Docket No.DG-03-16436 (See *seriatim* response to Paragraph 41 of the Petition). They are irrelevant to this proceeding.

11. Admitted in part and denied in part. Equitable admits that PACT is a successor to Allegheny County Steam Heating Company and that PACT has been an Equitable customer since 1982. Equitable is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of Paragraph 11 of the Petition, and, therefore, they are denied. If relevant, strict proof thereof is demanded. If PACT's facilities are, in fact, located in the service territories of both Equitable and Dominion Peoples, the construction of a sham customer service line would not have been necessary.

12. Admitted in part and denied in part. Equitable admits that PACT transports between 800,000 and 900,000 Mcf annually. PACT's usage is highly heat sensitive and subject to wide daily and monthly swings. Because of these swings, Equitable was not interested in providing a full requirements natural gas supply to PACT. To the best of Equitable's knowledge and belief, PACT did not engage in a formal bid solicitation process. Equitable is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of Paragraph 12 of the Petition, and, therefore, they are denied. If relevant, strict proof thereof is demanded. Equitable would, however, point out the obvious contradiction in PACT's argument. By not offering to provide a gas supply to PACT, Equitable created an opportunity for a third-party transporter to acquire a significant load on the Equitable system. Despite this obvious encouragement of competition, Equitable is being criticized for not bidding on PACT's gas supply requirement. At the same time, at Paragraph 46 of its Petition, PACT argues that Equitable attempts to "prevent or at least discourage gas marketing by independent suppliers of gas, all in contravention to federal energy policies, as well as the policies of this Commonwealth." The schizophrenic nature of PACT's pleading simply underscores the problems that Equitable has had in trying to negotiate with PACT. In PACT's view of the world, either you do what they want, when they want it or you are acting in a "commercially unreasonable" manner. By way of further response, PACT's assertions in Paragraph 12 of the Petition are irrelevant to Equitable's Complaint against Dominion Peoples.

13. Admitted in part and denied in part. It is admitted that September 30, 2003 was the end of the one-year extension of the original two-year contract. The contract did not provide for any extensions beyond the one year (i.e. September 30, 2003), except on a month-to-month basis. Therefore, there was no renewal right. Equitable

did propose an increase in PACT's transportation rate for any new transportation contract beyond September 30, 2003. However, Equitable denies that it refused to negotiate a lower rate or that an Equitable representative was the source of the unattributed quotation contained in Paragraph 13 of the Petition. Equitable is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 13 of the Petition, and, therefore, they are denied. If relevant, strict proof thereof is demanded.

14. Admitted in part and denied in part. The averments of Paragraph 14 of the Petition refer to Commission orders and Equitable tariff filings, which being writings speak for themselves. Therefore, the averments of this Paragraph of the Petition are denied. By way of further answer, Equitable admits that it does from time to time propose and the Commission does approve changes to the terms and conditions of its transportation services. In fact the transportation service provisions which are the subject of PACT's acrimony were all Commission-approved.

15. Denied. Equitable denies that changes in the terms and conditions of its transportation services have affected the number of marketers/suppliers willing to sell gas to PACT. Equitable currently has six non-affiliated suppliers presently marketing natural gas on its system. If PACT has experienced any disinterest on the part of suppliers to meet its full natural gas supply requirements, it is because PACT's usage is highly heat sensitive and subject to wide daily and monthly swings.

16. Denied. PACT has been an Equitable customer since its formation. Equitable denies that its Commission-approved rates are affecting governmental budgets. Equitable's Agreement with PACT for Natural Gas Transportation Service and the discounts reflected therein assure PACT that Equitable's prices are competitive. If

PACT's existence is endangered it is because its steam heat services and facilities are antiquated and uncompetitive with today's more modern heating systems.

17 and 18. Denied. Equitable made numerous attempts to negotiate a new agreement with PACT. Although a discussion was held on February 7, 2002, Equitable has no way of knowing if the email submitted as PACT's Exhibit 1 is an accurate description of the discussions, as Stephen Graham no longer works for Equitable. However, a letter from Equitable's then Executive Vice President, Arthur G. Cantrell, to PACT's President, Robert Fazio, dated April 4, 2002 and attached hereto as Exhibit 1, evidences that discussions were being held and progress was being made toward a longer term contract. After that, in June, August and October of 2002, Mr. Fazio was invited to attend various sporting events as a guest of Equitable in an attempt to further discussions. Each time, Mr. Fazio refused the invitation. In September, 2002, PACT representatives were offered the opportunity to play golf and have lunch at a local country club in an effort to build a positive working relationship. This invitation was also refused. Equitable denies that the unattributed quotation in Paragraph 18 of the Petition was uttered by any Equitable employee. Furthermore, Equitable had no obligation to meet with PACT on PACT's timetable. Nevertheless, Equitable did meet with PACT at their offices on November 15, 2002. At that time, PACT demanded that Equitable provide them with a bundled sales service offer, despite the fact that the stated purpose of the meeting was to explore a new transportation contract. The meeting was interrupted by a purported telephone call from a Dominion Peoples sales representative, after which PACT representatives spent a considerable amount of time explaining to the Equitable representatives how aggressively Dominion Peoples was pursuing the PACT account. At the conclusion of the meeting, a further meeting was tentatively scheduled for either January 15 or January 20, 2003. On December 17, 2002, Equitable

representatives attended PACT's Christmas Party, at PACT's request. At the party, Equitable's representatives were pulled aside and accused of missing a meeting purportedly scheduled for that same day with PACT. Additionally, PACT's consultant attempted to argue that Equitable's contract with PACT did not contain a valid "opportunity to match" provision. At that point, Equitable's representatives left the party, but telephoned Mr. Fazio the next day to inform him that they had no knowledge of any meeting scheduled for December and that the January meeting date was only tentative. Equitable denies that the letter identified as PACT's Exhibit 2 bears any relationship to the truth of the matter. The PACT Exhibit 2 letter is self-serving and inaccurate. On January 14, 2003, an Equitable representative contacted Mr. Fazio and informed him that if PACT believed the "opportunity to match" provision of the contract was invalid, then there was nothing further to discuss. Mr. Fazio's letter of January 15, 2003 purportedly addresses this issue raised by the Equitable representative and then proceeds to mischaracterize the previous events. By way of further response, PACT's assertions regarding contract negotiations are irrelevant to Equitable's Complaint against Dominion Peoples.

19. Denied. Equitable denies any averment express or implied that it waited until 60 days before the end of the Agreement to negotiate a new Agreement with PACT. The Equitable/PACT Agreement had an initial term beginning October 1, 2000 and continuing through September 30, 2002. Equitable had an option, which it exercised, to extend the Agreement for an additional one-year term through September 30, 2003. On January 17, 2003, approximately eight months before the expiration of the Equitable/PACT Agreement, Equitable submitted proposed pricing options to PACT's President Robert Fazio. By way of further response, PACT's assertions

regarding contract negotiations are irrelevant to Equtiable's Complaint against Dominion Peoples.

20. Denied. Equitable has made no attempt to damage or injure PACT or to affect PACT's ability to serve its Members. Equitable provides natural gas sales and transportation services. PACT's Members use steam for heating purposes. To be able to use Equitable's gas services, PACT's Members would have to incur considerable expense to install new heating, ventilation and air conditioning equipment. Equitable has not encouraged any PACT Member to undertake the conversion of its facilities from steam heat to natural gas, but has recognized its duty as a public utility to serve such customers if they convert their facilities and request service.

21. Denied. Equitable reiterates its response to Paragraphs 17 and 18 of the Petition and denies any averment express or implied that it refused to negotiate with PACT. Equitable exercised its option to extend the term of the Equitable/PACT Agreement for an additional one-year term through September 30, 2003. On January 17, 2003, approximately eight months before the expiration of the Equitable/PACT Agreement, Equitable submitted proposed pricing options to PACT's President Robert Fazio. By way of further response, PACT's assertions regarding contract negotiations are irrelevant to Equtiable's Complaint against Dominion Peoples.

22. Admitted in part and denied in part. The averments of Paragraph 22 of the Petition refer to Equitable's offer of January 17, 2003, which being a writing speaks for itself. Therefore, the averments of this Paragraph of the Petition are denied. Equitable's offer proposed a price of $0.59 per Mcf, an increase of $0.24 per Mcf above the rate then in effect. The offer presented a significant discount to full transportation rates on the Equitable system. Equitable is without knowledge or information sufficient

to form a belief as to the truth of the remaining allegations of Paragraph 22 of the Petition, and, therefore, they are denied. If relevant, strict proof thereof is demanded.

23, 24 and 25. Denied. Equitable is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraphs 23, 24 and 25 of the Petition, including the claim that Equitable "scoffed at PACT's assertions" and, therefore, they are denied. If relevant, strict proof thereof is demanded. Significantly, on the basis of Paragraphs 23, 24 and 25 of the Petition, it would appear that PACT and Dominion Peoples were in contact in respect to an extension of Dominion Peoples' line as early as November/December 2002 and that PACT and Dominion Peoples were aware that the line, if constructed, would create problems for Equitable.

26. Denied. Equitable denies that it treated PACT in a commercially unreasonable manner and that PACT was left with no reasonable alternative but to approach Dominion Peoples. Equitable is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of Paragraph 26 of the Petition and, therefore, they are denied. If relevant, strict proof thereof is demanded. PACT's averment that it approached Dominion Peoples conditioned on PACT building and owning the line is inconsistent with its averment in Paragraph 23 that it would request Dominion Peoples to extend its distribution lines to PACT's plant.

27 and 28. Denied. The averments of Paragraphs 27 and 28 of the Petition refer to the Equitable/PACT Agreement, which being a writing speaks for itself. The averments of Paragraph 27 and 28 of the Petition which characterize the Agreement, therefore, are denied. By way of further response, there is no provision of the Agreement stating that Equitable drafted the Agreement. The Agreement is the outcome of negotiations between Equitable and PACT. In addition to all the things PACT contends the contract does not address, there is no provision that requires

negotiations for any new agreement to conform to any time frame PACT might propose. Of equal importance, PACT's interpretation of the opportunity to match provisions of the Agreement are totally at odds with customary commercial practice, with respect to their meaning especially where consideration has been extended. However, these are matters for the Allegheny Court of Common Pleas at DG-03-16436 (See *seriatim* response to Paragraph 41 of the Petition, *infra*).

29. Denied in part. Equitable was aware, as early as the November 15, 2002 meeting with PACT, that discussions were being held with Dominion Peoples. Equitable made an offer to PACT on January 17, 2003. Equitable's offer was commercially reasonable and a significant discount to full transportation rates on its system, substantially below the maximum transportation rates which this Commission had approved. PACT never made a counter-offer, but instead insisted that Equitable bid against itself. By way of further response, PACT's assertions regarding contract negotations are irrelevant to Equitable's Complaint against Dominion Peoples.

30, 31 and 32. Denied. The averments of Paragraphs 30, 31 and 32 of the Petition refer to a June 18, 2003, letter of PACT, the attached "Draft Agreement" between Dominion Peoples and PACT, a June 24, 2003, letter of Equitable and a June 25, 2003 letter of PACT, which being writings speak for themselves. The averments of Paragraphs 30, 31, and 32 of the Petition which characterize the letters and "Draft Agreement," therefore, are denied. Not having been signed by Dominion Peoples, the "Draft Agreement" is incapable of acceptance and is, therefore, not an offer to provide service. The information requested by Equitable from PACT in its June 24, 2003, letter concerns the potential relationship between PACT and Dominion Peoples and, thus, was not and could not have been known to Equitable. Additionally, Equitable did not request, as PACT clearly knows, that the offer be signed by the "parties." Equitable

simply requested that it be signed by Dominion Peoples, as Equitable had no idea who had prepared the document or if it was indeed a Dominion Peoples' offer to contract. More importantly, PACT tried to expand the concept of what a proper "matching" offer would be by requiring that Equitable, in its attempt to match a competing transportation offer from another distribution company, address issues relating to the gas supply to be transported by such company. Equitable quite properly resisted such an attempt and requested that it be provided various other information related solely to transportation of the gas. Based upon Equitable's inquiry, PACT disclosed in the letter, dated June 25, 2003, and submitted as PACT's Exhibit 6, that it had not disclosed all relevant data concerning the transportation service to be provided by Dominion Peoples in that it had failed to mention that PACT would incur considerable expense in building its own customer service line. By letter dated June 27, 2003 and attached as Exhibit 2 hereto, Equitable expressed its desire to return to a more civil, business-like method of dealing with the issues at hand, rather than perpetuate the combative, in-your-face negotiating style that PACT maintained and exhibited during the entire negotiations. Sadly, PACT has continued its confrontational style in connection with its requested intervention in the Complaint proceeding. By way of further response, PACT's assertions regarding contract negotiations are irrelevant to Equitable's Complaint against Dominion Peoples.

33. Denied in part. Equitable admits that a meeting was held on June 30, 2003. At such time, Equitable's Senior Vice President - Commercial Operations, Fredrick K. Dalena, was berated by the PACT representatives and asked to just admit he could not match the Dominion Peoples offer. Mr. Dalena replied that Equitable did not believe that the offer was truly negotiated at arms-length or that it was the result of actual competitive negotiations, but that in an effort to retain PACT's business Equitable would treat it as such if PACT could provide some shred of evidence that PACT had received

the offer from Dominion Peoples. A PACT representative said then, as PACT does now, that Equitable had no right to such information and that all the negotiations, and indeed the offer itself, had come by way of email. Mr. Dalena asked if there was at least a cover page on the Dominion Peoples offer that would show that the proposed offer had originated with Dominion Peoples. Finally Mr. Dalena asked for documentation for the cost of the proposed customer service line. He was denied such information and left PACT's offices promptly thereafter. At no time did he make the statement attributed to him in Paragraph 33 of the Petition. It, like most of PACT's pleadings, is a fabrication. By way of further response, PACT's assertions regarding contract negotiations are irrelevant to Equitable's Complaint against Dominion Peoples.

34, 35 and 36. Denied. Certain of the averments of Paragraphs 34, 35 and 36 of the Petition refer to a June 30, 2003, letter of Equitable, which being a writing speaks for itself. The averments of Paragraph 34, 35 and 36 of the Petition which characterize Equitable's letter, therefore, are denied. Contrary to PACT's assertions, Equitable submitted a commercially reasonable offer to PACT on January 17, 2003. However, Equitable never received a counter-offer from PACT and was never presented with a competitive offer executed by the party to be held accountable for providing service to PACT. The unsigned "Draft Agreement" was not a bona fide offer, and at the time it was sent to Equitable, PACT had failed to disclose to Equitable the full cost of the alternative transportation that it was supposed to match. Equitable was thus denied a meaningful opportunity to match a competitive offer as provided in the Equitable/PACT Agreement. By way of further response, PACT's assertions regarding contract negotiations are irrelevant to Equitable's Complaint against Dominion Peoples.

37. Denied. The averments of Paragraph 37 of the Petition refer to a July 3, 2003, letter of PACT and to the July 2, 2003, Agreement between Dominion Peoples

and PACT, which being writings speak for themselves. The averments of Paragraph 37 of the Petition which characterize the letter and Agreement, therefore, are denied.

38. Denied. An offer was made by Equitable to PACT on January 17, 2003 for a continuation of transportation service. For the next six months, Equitable encouraged PACT to make a counter-offer. PACT did nothing to effectuate discussions on a contract extension. Instead, it waited until June 18, 2003 when it sent Equitable a copy of a purported and unsigned offer from Dominion Peoples. PACT's assertion that it had no alternative but to contract with Dominion Peoples is not supported by the facts. If, in fact, PACT were concerned about its financial inability and had really any intention of ever contracting with Equitable, it should have engaged in discussions or made a counter-offer to Equitable's January 17, 2003 offer. Having failed to do so, PACT created the very situation about which it now complains.

39. Denied. Equitable is without sufficient knowledge to form a belief as to the truth of the averments concerning PACT's financing of the line and therefore they are denied. Under no circumstance has there been any public taking of PACT's property or destruction of any PNCBank, NA security interest. In addition, although Equitable has no knowledge of how PACT financed its alleged "service line," Equitable finds it interesting that any bank would have lent money for a customer service line unless a showing was made of how the line could have commercial value to others. As such, the line was undoubtedly portrayed as a potential transportation line and not as a customer service line.

40. Denied. The averments of Paragraph 40 of the Petition refer to a July 11, 2003, letter of Equitable, which being a writing speaks for itself. The averments of Paragraph 40 of the Petition which characterize the letter, therefore, are denied. Equitable denies further that it is incapable of matching the Dominion Peoples

transportation offer and submits that it did in fact submit a commercially reasonable matching offer, which is a matter presently pending before the Allegheny County Court of Common Pleas (See *seriatim* response to Paragraph 41 *infra*) and not a matter for this Commission's determination.

41. Denied as stated. It is admitted only that at some point after construction had commenced, Equitable learned that PACT was constructing a by-pass line; that upon learning of the construction Equitable sent an employee to observe the construction to assure that it did not pose any safety hazards to the existing Equitable line; and that on August 25, 2003, Equitable filed an action in the Court of Common Pleas of Allegheny County, Pennsylvania, at Docket No. GD 03-16436, seeking (a) a declaration that (i) Equitable has made an acceptable matching offer for a new gas transportation agreement and that PACT is required to enter into a new gas transportation agreement with Equitable pursuant to the terms of Equitable's matching offer; and (ii) that PACT is prohibited from constructing the by-pass line during the term of the present Agreement and during the term of any subsequent gas transportation agreements with Equitable, and (b) injunctive relief requiring, among other things, PACT to (i) continue utilizing gas transportation services from Equitable until Equitable's request for declaratory relief is finally resolved and (ii) cease construction of the by-pass line until Equitable's request for declaratory relief is finally resolved. The remaining averments of Paragraph 41 of the Petition are denied. By way of further answer, it is specifically denied that Equitable "oversaw" and/or "inspected" the PACT construction; that Equitable's employee annoyed and/or harassed the persons performing the construction; or that the line was "almost completed" at the time Equitable filed its Common Pleas action. Finally, the Gas Transportation Agreement is a written document which speaks for itself, and no further characterization is required.

42. Denied as stated. It is admitted only that the Court denied Equitable's request for a special injunction and that the parties entered into a Consent Order dated September 2, 2003, which being a written document speaks for itself.

43. Denied as stated. It is admitted only that Equitable filed a First Amended Complaint in the Common Pleas action, naming Dominion Peoples as a defendant; that PACT filed Preliminary Objections to the First Amended Complaint; and that the parties entered into a Consent Order dated September 25, 2003, which being a written document speaks for itself.

44. Admitted in part and denied in part. Equitable admits that it filed this Complaint against Dominion Peoples. The Complaint is a writing which speaks for itself. The averments of Paragraph 44 of the Petition which characterize the Complaint, therefore, are denied. By way of further answer, Equitable does not oppose PACT's intervention in this proceeding, provided it is not used as a means for expanding the scope of this proceeding beyond that raised by Equitable's Complaint.

45. Denied. Equitable is without knowledge or information sufficient to form a belief as to the truth of the assertions presented in Paragraph 45 of the Petition and, therefore, they are denied. By way of further reponse, PACT's assertions regarding natural gas suppliers are irrelevant to Equitable's Complaint against Dominion Peoples.

46. Denied. Each and every provision of Equitable's tariff has been reviewed and approved by this Commission. PACT's characterization of Equitable's intent in designing its tariff is as absurd as it is defamatory and malicious. By way of further response, PACT's allegations in Paragraph 46 of the Petition are irrelevant to Equitable's Complaint against Dominion Peoples.

47, 48 and 49. Denied. Equitable is without knowledge or information sufficient to form a belief as to the truth of the assertions presented in Paragraphs 47, 48 and 49

of the Petition and, therefore, they are denied. By way of further response, PACT's allegations regarding natural gas suppliers are irrelevant to Equitable's Complaint against Dominion Peoples.

50. Denied. Equitable denies that it waited until PACT had expended substantial sums of money before it attempted to stop construction. It was PACT that rushed to complete construction despite Equitable's matching offer and protests. PACT well knows that it was the dilatory party, waiting months without taking any action on Equitable's January 17, 2003 offer, and then demanding that within nine days Equitable match an "offer", the validity of which was never verified by PACT and which Equitable believed was not a true competitive offer. In addition, at the time it imposed the deadline, PACT had not fully disclosed all the costs associated with the "offer," nor, despite Equitable's requests, did it attempt to verify the *bona fides* of such "offer." Equitable filed this Complaint against Dominion Peoples with all due dispatch. If PACT is ultimately impacted by the Commission decision, it will have no one but itself to blame. Moreover, it was PACT which refused to accept Equitable's offer to match the gas transportation service offer made by Dominion Peoples. In doing so, it acted at its own peril.

51. Denied. For the reasons stated in response to the preceding Paragraphs of this Petition there is no basis for PACT's assertions as to what this Commission "should not" do.

WHEREFORE, Equitable Gas Company, a division of Equitable Resources, Inc., prays that, if PACT is permitted to participate in this proceeding as an intervenor, it not be permitted to expand the scope of the proceeding beyond the specific matters raised by Equitable in its Complaint and further prays that PACT's request for leave to file an Answer be denied.

Respectfully submitted,

EQUITABLE GAS COMPANY,
a division of Equitable Resources, Inc.

By _____

Charles E. Thomas, Jr.
Thomas T. Niesen
THOMAS, THOMAS, ARMSTRONG & NIESEN
212 Locust Street, Suite 500
P. O. Box 9500
Harrisburg, PA 17108-9500

Daniel L. Frutchey
Senior Vice President and General Counsel
EQUITABLE GAS COMPANY,
a division of Equitable Resources, Inc.
200 Allegheny Center Mall
Pittsburgh, PA 15212-5352

Attorneys for Complainant
Equitable Gas Company,
a division of Equitable Resources, Inc.

DATE: October 27, 2003
Answer to Petition to Intervene wpd

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OCT 27 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

EXHIBIT 1

EQUITABLE GAS

200 Allegheny Center Mall
Pittsburgh, PA 15212-5352
www.eqt.com

Arthur G. Cantrell
Executive Vice President

April 4, 2002

Pittsburgh Allegheny County Thermal, LTD
Attn: Mr. Robert Fazio, President
Law and Finance Building
429 Fourth Avenue, Suite 806
Pittsburgh, PA 15222

RE: Continuation of Economic Natural Gas Service

Dear Bob:

Thank you for your loyalty and be assured Equitable (EGC) is looking forward to earning your business for years to come. I am pleased with the tenor of our current discussions and believe PACT and EGC are on the threshold of improving upon their long-standing relationship.

My confidence in the future goes beyond the current agreement, which if not replaced will be extended through the option year, with the high probability our discussions of the past weeks will lead to an extended relationship.

The options currently under consideration will give PACT greater control in reducing fuel cost, improving its cash flow, and providing our organizations an incentive to seek efficiencies and new business opportunities.

If you have any questions concerning our intent and desire to continue to earn your loyalty, please call me directly.

Sincerely,

Arthur G. Cantrell

Arthur G. Cantrell
Executive Vice President

cc: Robert Wilson, PACT
Sam McMahon, EGC

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OCT 27 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

EXHIBIT 2

EQUITABLE GAS

Delivering Everyday Excellence ℠

200 Allegheny Center Mall
Pittsburgh, PA 15212-5352
www.eqt.com

June 27, 2003

Robert L. Fazio, President
Pittsburgh Allegheny County Thermal, Ltd. (PACT)
Law & Finance Building
429 Fourth Avenue, Suite 806
Pittsburgh, PA 15219

Dear Mr. Fazio:

This letter will respond to your letter of June 25, 2003, which responded to our June 24, 2003 letter. At the outset, let me state that it is not Equitable's intent nor desire to engage in a written battle concerning the provision of delivery service to PACT's facilities. Obviously, our letter must have struck a nerve. We intended nothing more than to fully understand the complete offer and to ascertain if there was more to the provision of delivery service from Dominion Peoples than was readily evident from your letter. I think it is safe to say that there is more, and we believe that with some concerted effort by both parties, Equitable and PACT can reach an amicable agreement for extending the delivery service agreement. To do so, however, will require more than exchanging heated letters. I am ready, willing and able to meet with you at your convenience any day next week to see if a compromise can be reached. I think both parties have taken this matter a bit too personally. I certainly view this as a business matter, and I believe we can reach a reasonable business solution to our differences.

Sincerely,

Fredrick K. Dalena
Senior Vice President
Commercial Operations

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Equitable Gas Company, a Division of Equitable Resources, Inc., Complainant	:	Docket No. C-20031128
v.	:	
The Peoples Natural Gas Company, d/b/a Dominion Peoples, Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this 27th day of October, 2003, served a true and correct copy of the foregoing Answer to Petition to Intervene, upon the persons and in the manner set forth below:

FIRST CLASS MAIL, POSTAGE PREPAID

William T. Hawke, Esquire
Norman James Kennard, Esquire
Hawke McKeon Sniscak & Kennard LLP
100 North Tenth Street
Harrisburg, PA 17101

Dennis S. Shilobod, General Counsel
PACT
806 Law & Finance Building
Pittsburgh, PA 15219

Anthony P. Picadio, Esquire
Picadio Sneath Miller & Norton, P.C.
Suite 4710 U.S. Steel Tower
600 Grant Street
Pittsburgh, PA 15219

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OCT 27 2003
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Charles E. Thomas, Jr.

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
Office Of Administrative Law Judge
P.O. Box 3265, Harrisburg, PA 17105-3265

IN REPLY PLEASE REFER TO OUR FILE

November 5, 2003

In Re: C-20031128

(See attached list)

Equitable Gas Company, a Division of Equitable Resources, Inc.
v.
The Peoples Natural Gas Company d/b/a Dominion Peoples

Disputing Duplication of Facilities, Predatory Pricing, Unfair Competition and Rate Discrimination and Prohibit Dominion from Participating in Construction of Pipe Line.

N O T I C E

This is to inform you that a Initial prehearing conference on the above-captioned case will be held as follows:

DOCUMENT FOLDER

Date: Thursday, November 20, 2003

Time: 10:00 a.m.

Location: 11th floor hearing room
Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, Pennsylvania

Presiding: Administrative Law Judge Michael A. Nemec
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222
Telephone: (412) 565-3550
Fax: (412) 565-5692

Any Harrisburg Parties wishing to participate by telephone, please call the Administrative Law Judge with the telephone number where you may be reached the day of the prehearing conference.

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NOV 13 2003

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission:

- Scheduling Office: (717) 787-1399.
- AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

pc: Judge Nemec
Judy W. Springer
Beth Plantz
Docket Section
Calendar File

C-20031128 Equitable Gas Company v. The Peoples Natural Gas Company

SUSAN G GEORGE ESQUIRE
THE PEOPLES NATURAL GAS
COMPANY D/B/A
DOMINION PEOPLES
625 LIBERTY AVENUE
PITTSBURGH PA 15222

CHARLES E THOMAS JR ESQUIRE
THOMAS THOMAS ARMSTRONG & NIESEN
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PA PUBLIC UTILITY COMMISSION
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FOR PGH ALLEGHENY COUNTY
THERMAL LTD
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PITTSBURGH PA 15219

ORIGINAL

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ATTORNEYS AT LAW

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100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmsk-law.com

November 12, 2003

BY HAND DELIVERY

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NOV 12 2003
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street – Filing Room (2 North)
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Equitable Gas Company, a Division of Equitable Resources, Inc. v. The Peoples Natural Gas Company d/b/a Dominion Peoples: Docket No. C-20031128; **MOTION FOR PROTECTIVE ORDER**

Dear Secretary McNulty:

Enclosed for filing with the Commission are an original and three (3) copies of The Peoples Natural Gas Company d/b/a Dominion Peoples' Motion for Protective Order. This filing has been served in accordance with the attached Certificates of Service.

If you have any procedural questions concerning this filing, please do not hesitate to contact me.

Very truly yours,

William T. Hawke

William T. Hawke

WTH/das
Enclosure
cc: Per Certificate of Service
Susan G. George, Esquire

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Equitable Gas Company, a Division of Equitable Resources, Inc.,	:	
Complainant	:	
v.	:	Docket No. C-20031128
The Peoples Natural Gas Company d/b/a Dominion Peoples,	:	
Respondent.	:	

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

MOTION FOR PROTECTIVE ORDER

The Peoples Natural Gas Company d/b/a Dominion Peoples ("Dominion Peoples"), by its counsel, hereby moves the Commission to enter a Protective Order in this proceeding pursuant to the provisions of 52 Pa. Code §5.423(a), and in support thereof represents as follows:

1. On or about August 29, 2003, Equitable Gas Company, a Division of Equitable Resources, Inc. ("Equitable") filed the above-captioned Complaint, seeking, among other things, an order prohibiting Dominion Peoples from providing gas service to Pittsburgh Allegheny County Thermal, Ltd. ("PACT"), a non-profit corporation providing steam service to its Member/Owners; the Complaint was served on Dominion Peoples by the Commission on September 3, 2003.

2. PACT, which uses gas in the production of steam, is a current customer of Dominion Peoples, and formerly was a customer of Equitable.

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3. On September 23, 2003, Dominion Peoples filed its Answer to Equitable's Complaint essentially denying all pertinent factual and legal allegations that Equitable asserts entitle it to the relief which it seeks in this proceeding.

4. Also on September 23, 2003, the Commission's Office of Trial Staff ("OTS") filed its Notice of Appearance in this proceeding.

5. On or about October 2, 2003, PACT filed a Petition to Intervene.

6. On October 28, 2003, the OTS served Interrogatories on the parties; in particular, OTS filed Interrogatories designated OTS-P-1 through OTS-P-11 on Dominion Peoples. Dominion Peoples submits that the information sought by OTS-P-6 is proprietary and confidential and must be treated as such.

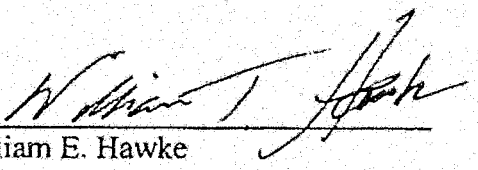
7. Due to the fact that this case involves two competitors (Equitable and Dominion Peoples) seeking the right to serve the same customer, and due to the fact that Dominion Peoples' terms and conditions of service to other of its customers may be disclosed as a result of interrogatories and testimony, it can be expected that additional information sought in discovery or contained within testimony will be proprietary and confidential as well.

8. Proprietary treatment, in the form of the attached suggested Protective Order, is justified because such information would be of substantial value not only to Equitable and Dominion Peoples, but their other competitors as well. The release of this information would allow competitors to gain knowledge of certain terms and conditions of service (including charges), thereby placing the producing party at a severe competitive disadvantage. Furthermore, limitation on the disclosure of information regarding competitive customers will not prejudice the rights of the participants, nor will such limitation frustrate the prompt and fair resolution of this proceeding.

9. The attached suggested Protective Order sought by Dominion Peoples will protect the proprietary nature of competitively valuable information while allowing the parties to use such information for purposes of the instant litigation.

WHEREFORE, for all the reasons set forth above, Dominion Peoples respectfully requests the Commission to issue the attached Protective Order.

Respectfully submitted,



William E. Hawke
Norman James Kennard
Hawke McKeon Sniscak & Kennard LLP
100 North Tenth Street
P. O. Box 1778
Harrisburg, PA 17105-1778
(717) 236-1300

Counsel for The Peoples Natural Gas Company
d/b/a Dominion Peoples

DATED: November 12, 2003

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Equitable Gas Company, a Division of Equitable Resources, Inc.,	:	
Complainant	:	
v.	:	Docket No. C-20031128
The Peoples Natural Gas Company d/b/a Dominion Peoples,	:	
Respondent.	:	

PROTECTIVE ORDER

Upon consideration of the Motion for Protective Order filed by The Peoples Natural Gas Company d/b/a Dominion Peoples;

IT IS ORDERED THAT:

1. The Motion is hereby granted with respect to all materials and information identified in Paragraph 2 below, which are filed with the Commission, produced in discovery, or otherwise presented during these proceedings. All persons now and hereafter granted access to the materials and information identified in Paragraph 2 of this Protective Order shall use and disclose such information only in accordance with this Order.

2. The materials subject to this Order are all correspondence, documents, data, information, studies, methodologies and other materials which a party or an affiliate of a party furnishes in this proceeding pursuant to Commission rules and regulations, discovery procedures,

testimony or oral examination, or provided as a courtesy to a party to this proceeding, which are claimed to be of a proprietary or confidential nature and which are designated "PROPRIETARY INFORMATION" or "CONFIDENTIAL AND PROPRIETARY"(hereinafter collectively referred to as "Proprietary Information").

In addition, the parties may designate extremely sensitive Proprietary Information as "HIGHLY CONFIDENTIAL INFORMATION" or "HIGHLY CONFIDENTIAL MATTER" (hereinafter referred to as "Highly Confidential Information") and thus secure the additional protections set forth in this Order pertaining to such material. Such Highly Confidential Information shall be only such Proprietary Information that constitutes or describes the producing party's (i) customers' or customer prospects' names, addresses, annual volumes of gas usage, or other customer-identifying information, (ii) marketing plans, (iii) competitive strategies, (iv) market share projections, and (v) marketing materials that have not yet been used.

3. Proprietary Information and Highly Confidential Information shall be made available to the Commission and its Staff (including the Office of Trial Staff) for use in this proceeding. For purposes of filing, to the extent that Proprietary Information is placed in the Commission's report folders, such information shall be handled in accordance with routine Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information or Highly Confidential Information is placed in the Commission's testimony or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Order. Public inspection of Proprietary Information and Highly Confidential Information shall be permitted only in accordance with this Protective Order.

4. Proprietary Information and Highly Confidential Information shall be made available to counsel of record in this proceeding pursuant to the following procedures:

a. Proprietary Information. To the extent required for participation in this proceeding, a party's counsel may afford access to Proprietary Information made available by another party ("the producing party") to the party's expert(s), subject to the following restrictions.

i. Such experts may not hold any of the following positions with any competitor of the producing party: (a) an officer, board member, stockholder, partner, owner, or an employee, who is primarily involved in the pricing, development, and/or marketing of products or services that are offered in competition with those of the producing party; or (b) an officer, board member, stockholder, partner, owner of any affiliate of a competitor of the producing party; provided, however, that any expert shall not be disqualified on account of being a stockholder, partner, or owner unless his/her interest in the business constitutes a significant potential for violation of the limitations of permissible use of the Proprietary Information.

ii. If a party's independent expert, another member of the independent expert's firm or the independent expert's firm generally also serves as an expert for, or as a consultant or advisor to a competitor or any affiliate of a competitor of the producing party, said independent expert must: (1) advise the producing party of the competitor's or affiliate's name(s); (2) make reasonable attempts to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a competitor or any affiliate of a competitor of the producing party; and (3) if segregation of such personnel is impractical, the independent expert shall give to the producing party written assurances that the lack of segregation will in no way jeopardize the interests of the producing party. The producing party retains the right to challenge the adequacy of the written assurances that its interests will not be jeopardized.

iii. Any information provided under this provision may be used only for and to the extent that it is necessary for participation in this proceeding; any person obtaining

information disclosed through this provision may not use that information to gain any commercial advantage and any person obtaining information may not forward it to any person to gain commercial advantage.

b. Highly Confidential Information. Highly Confidential Information shall be produced for inspection by party's counsel of record only. If the inspecting lawyer desires copies of such material, or desires to disclose its contents to persons other than counsel of record, she or he shall submit a written request to the producing party's counsel. If requesting and producing parties are unable to reach agreement with respect to such a request, they may submit the issue to the presiding Administrative Law Judge.

c. No other persons may have access to the Proprietary or Highly Confidential Information except as authorized by order of the Commission or of the presiding Administrative Law Judge. No person who may be entitled to receive, or who is afforded access to any Proprietary or Highly Confidential Information shall use or disclose such information for the purposes of business or competition, or any purpose other than the preparation for and conduct of this proceeding or any administrative or judicial review thereof.

5. Prior to making Proprietary or Highly Confidential Information available to any person as provided in paragraph 4 of this Protective Order, counsel shall deliver a copy of this Order to such person and shall receive a written acknowledgment from that person in the form attached to this Order and designated as Appendix A. Counsel shall promptly deliver to the producing party a copy of the executed acknowledgment form.

6. A producing party shall designate data or documents as constituting or containing Proprietary or Highly Confidential Information by affixing an appropriate proprietary stamp or typewritten designation on such data or documents. Where only part of data compilations or multi-

page documents constitutes or contains Proprietary or Highly Confidential Information, the producing party shall designate only the specific data or pages of documents which constitute or contain Proprietary or Highly Confidential Information.

7. Any public reference to Proprietary or Highly Confidential Information by counsel or persons afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary or Highly Confidential Information to fully understand the reference and not more. The Proprietary or Highly Confidential Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

8. Part of any record of this proceeding containing Proprietary or Highly Confidential Information, including but not limited to all exhibits, writings, testimony, cross examination, argument and responses to discovery, and including reference thereto as mentioned in Ordering paragraph 7 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary or Highly Confidential Information is released from the restrictions of this Order, either through the agreement of the parties or pursuant to order of the Administrative Law Judge, the Commission or appellate court. Unresolved challenges arising under paragraph 9 shall be decided on motion or petition by the presiding officer or the Commission as provided by 52 Pa. Code §5.423(a). All such challenges will be resolved in conformity with existing rules, regulations, orders, statutes, precedent, etc., to the extent that such guidance is available.

9. The parties affected by the terms of this Order shall retain the right to question or challenge the confidential or proprietary nature of Proprietary or Highly Confidential information; to question or challenge the admissibility of Proprietary or Highly Confidential Information; to refuse or object to the production of Proprietary or Highly Confidential Information on any proper ground, including but not limited to irrelevance, immateriality or undue burden; to seek an order permitting

disclosure of Proprietary or Highly Confidential Information beyond that allowed in this Order; and to seek additional measures of protection of Proprietary or Highly Confidential Information beyond those provided in this Order. If a challenge is made to the designation of a document or information as Proprietary Confidential, the party claiming that the information is Proprietary or Highly Confidential retains the burden of demonstrating that the designation is necessary and appropriate.

10. Upon completion of this proceeding, including any administrative or judicial review, all copies of all documents and other materials, including notes, which contain any Proprietary or Highly Confidential information shall be immediately returned upon request to the party furnishing such Proprietary or Highly Confidential Information. In the alternative, parties may provide an affidavit of counsel affirming that the materials containing or reflecting Proprietary or Highly Confidential Information have been destroyed.

Dated:_____ _____

APPENDIX A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Equitable Gas Company, a Division of Equitable Resources, Inc.,	:	
Complainant	:	
vi.	:	Docket No. C-20031128
The Peoples Natural Gas Company d/b/a Dominion Peoples,	:	
Respondent.	:	

TO WHOM IT MAY CONCERN:

The undersigned is the _____ of _____ (the retaining party) and is not, or has no knowledge or basis for believing that he/she is: (1) an officer, board member, stockholder, partner or owner of any competitor of _____ (the "Producing Party"), or an employee of any competitor of the Producing Party who is primarily involved in the pricing, development, and/or marketing of products or services that are offered in competition with those of the Producing Party; or (2) an officer, board member, stockholder, partner, or owner of any affiliate of a Competitor of the Producing Party.

The undersigned has read and understands the Protective Order deals with the treatment of Proprietary and Highly Confidential Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order. In the case of an independent expert, the undersigned represents that he/she has complied with the provisions of paragraph 3(a)(ii) of the Order prior to submitting this Affidavit.

_____
SIGNATURE

_____
PRINT NAME

_____
ADDRESS

_____
EMPLOYER

DATE: _____

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Motion for Protective Order upon the person and in the manner indicated below.

BY HAND DELIVERY

Johnnie E. Simms, Senior Prosecutor
Office of Trial Staff
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Charles E. Thomas, Jr.
Thomas T. Niesen
Thomas, Thomas, Armstrong & Niesen
212 Locust Street, Suite 500
P. O. Box 9500
Harrisburg, PA 17108-9500

BY FIRST CLASS MAIL

Anthony P. Picadio, Esquire
Picadio, Sneath, Miller & Norton, P.C.
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Pittsburgh, PA 15219-2702

Daniel L. Frutchey
Senior Vice President and General Counsel
Equitable Gas Company,
a division of Equitable Resources, Inc.
200 Allegheny Center Mall
Pittsburgh, PA 15212

Dennis S. Shilobod, General Counsel
PACT
806 Law & Finance Building
Pittsburgh, PA 15219

William E. Hawke

Dated: November 12, 2003

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

OALJ Hearing Report

Please check Those Blocks Which Apply

Docket No.:	C-20031128
Case Name:	Equitable Gas Company, a Division of Equitable Resources, Inc. v. The Peoples Natural Gas Company d/b/a Dominion Peoples
Location:	Pittsburgh
Date:	November 20, 2003
ALJ:	Michael A. Nemec
Reporting Firm:	Commonwealth Reporting

DOCUMENT FOLDER

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SECRETARY'S BUREAU

	YES	NO
Prehearing Held:	☑	☐
Hearing Held:	☐	☑
Testimony Taken:	☐	☑
Transcript Due:	☑	☐
Hearing Concluded:	☐	☑
Further Hearing Needed:	☑	☐
Estimated Add'l Days:	3	
RECORD CLOSED:	☐	☑
DATE:		
Briefs to be Filed:	☐	☑
DATE:		
Bench Decision:	☐	☐

REMARKS: Hearings To be Scheduled For 5/18-19-20/03.

PLEASE PRINT CLEARLY - Incomplete Information may result in delay of processing.

Name and Telephone Number	Address	Who are you representing?
Dennis Shilobod 724-830-9703	206 N. Main St Greensburg PA 15601 City State Zip	PACT
Telephone:	E-mail Address:	Fax Number:
Anthony P Ricciardi 412-288-4000	4TH Flr, 600 GRANT ST Pgh PA 15219 City State Zip	PACT
Telephone:	E-mail Address:	Fax Number: 412-288-2760
Susan George	625 Liberty Ave Pgh 15222 City State Zip	Peoples
Telephone: 412-497-6891	E-mail Address: susan_george@dom.com	Fax Number: 412 497 6838

☑ Check this box if additional parties or attendees appear on back of form.

Barbara Sorr
Reporter's Signature

Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.

Name and Telephone Number	Address			Who are you representing?
Norman Kennard Hawke, McKeown, Sniscak & Kennard	100 N. 10th St			Dominion Peoples
	City: Harrisburg	State: PA	Zip: 17101	
Telephone: 717/236-1300	E-mail Address: njkennard@hmsk-law.com			Fax Number: 717/236-4841
Charles E Thomas, Jr. Thomas T. Niesen Thomas, Thomas, Armstrong & Niesen	P.O Box 9500			Equitable Gas Company
	City: Hbg	State: PA	Zip: 17108	
Telephone: 717 255-7600	E-mail Address: cthomas@ttanlaw.com tniesen@ttanlaw.com			Fax Number: 717 236 8278
Daniel C. Frutchey	200 Allegheny Center Mall			Equitable Gas Company
	City: Pitts	State: PA	Zip: 15212	
Telephone: 412 395 3202	E-mail Address: dfrutchey@eqt.com			Fax Number: 412 395-3155
	City:	State:	Zip:	
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	City:	State:	Zip:	
Telephone:	E-mail Address:			Fax Number:
	City:	State:	Zip:	
Telephone:	E-mail Address:			Fax Number:
	City:	State:	Zip:	
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	City:	State:	Zip:	
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November 20, 2003

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PA PUC
SECRETARY'S BUREAU

BY HAND DELIVERY

Honorable Michael Nemec
Pennsylvania Public Utility Commission
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

DOCUMENT
FOLDER

Re: Equitable Gas Company, a Division of Equitable Resources, Inc. v. The Peoples Natural Gas Company d/b/a Dominion Peoples: Docket No. C-20031128;
PREHEARING CONFERENCE MEMORANDUM

Dear Administrative Law Judge Nemec:

Enclosed are an original and three (3) copies of The Peoples Natural Gas Company d/b/a Dominion Peoples' Prehearing Conference Memorandum. This filing has been served in accordance with the attached Certificates of Service.

Very truly yours,

Norman James Kennard

NJK/WTH/das
Enclosure
cc: James J. McNulty, Secretary
Parties in Attendance at November 20, 2003 Prehearing Conference
Susan G. George, Esquire

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Equitable Gas Company, a Division of Equitable Resources, Inc.,	:	
Complainant	:	
v.	:	Docket No. C-20031128
The Peoples Natural Gas Company d/b/a Dominion Peoples,	:	
Respondent.	:	

DOCUMENT FOLDER

DOCKETED DEC 10 2003

THE PEOPLES NATURALGAS COMPANY t/d/b/a DOMINION PEOPLES' PREHEARING CONFERENCE MEMORANDUM

AND NOW, this 20th day of November, 2003, comes The Peoples Natural Gas Company d/b/a Dominion Peoples ("Dominion Peoples"), by its counsel, and submits its Prehearing Conference Memorandum in this matter.

I. Introduction

At paragraphs numbers 1-10 of its Prehearing Conference Memorandum, Equitable Gas Company, a Division of Equitable Resources, Inc. ("Equitable") sets forth its Introduction, Background, and History of the proceeding. While Dominion Peoples generally agrees that Equitable sets forth the procedural background correctly, Dominion Peoples disagrees with most, if not all, of the "factual background" wherein Equitable restates many of the allegations made in its Complaint, which allegations have been denied by Dominion Peoples. For example, Dominion Peoples disagrees with Equitable's allegation in Paragraph No. 3 that "at all times, Equitable's

service to PACT was safe, adequate...." On the contrary, Dominion Peoples directs to Your Honor's attention Pittsburgh Allegheny County Thermal's Ltd's ("PACT") Petition to Intervene, Exhibit B, Paragraph No. 4.

Rather than specifically restate Dominion Peoples' disagreement with each and every contested issue of fact recited by Equitable in its Prehearing Conference Memorandum, suffice it to say that Dominion Peoples does disagree with all allegations made by Equitable.

Turning to the subject of expediting the orderly conduct and disposition of this proceeding, as expressly contemplated by the Pennsylvania Public Utility Commission's ("Commission") regulations at 52 Pa. Code §5.222, Dominion Peoples sets forth the following:

II. Possibilities for Settlement

While Dominion Peoples remains open to discussions, it views the actual possibility for settlement as being highly unlikely.

III. Hearing Time

Until Dominion Peoples has had the opportunity to review Equitable's Direct Case, it is not possible to predict the amount of hearing time which will be required. Dominion Peoples does not anticipate, however, that more than two days of hearings will be required; however, to be on the cautious side, three days probably should be reserved.

With regard to the subject of the establishment of a schedule and hearing dates in this proceeding, Dominion Peoples desires to resolve this matter as expeditiously as possible, as many of Equitable's allegations in its Complaint put Dominion Peoples' reputation in a bad light, and Dominion Peoples wants its side of the story (as well as PACT's side of the story) made known as soon as possible. For example, in Paragraph No. 15, Equitable alleges:

> In addition, the PACT/Dominion Peoples' line will transport a significant volume of natural gas in close proximity to PACT's existing steamlines. A problem with

PACT's purported service line could precipitate a much larger event, invariably drawing Equitable into the situation.

This false speculation about a potential "problem" that could "precipitate a much larger event," is a matter that must be resolved expeditiously. Accordingly, Dominion Peoples proposes the following schedule:

Equitable's Direct Testimony:	December 19, 2003
Dominion Peoples' and the Intervenors' Testimony:	January 28, 2004
Equitable's Rebuttal and Dominion Peoples Rebuttal to any adverse OTS Testimony:	February 11, 2004
Dominion Peoples and Intervenors' Surrebuttal:	February 25, 2004
Hearings:	Week of March 22, 2004

Respectfully submitted,

Norman James Kennard
William T. Hawke
Hawke McKeon Sniscak & Kennard LLP
100 North Tenth Street
P. O. Box 1778
Harrisburg, PA 17105-1778
(717) 236-1300

Susan G. George, Esquire
The Peoples Natural Gas Company
625 Liberty Avenue
Pittsburgh, PA 15222

Counsel for Respondent, The Peoples Natural Gas Company d/b/a Dominion Peoples

DATED: November 20, 2003

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing The Peoples Natural Gas Company d/b/a Dominion Peoples' Prehearing Conference Memorandum upon the person and in the manner indicated below.

BY HAND DELIVERY

Johnnie E. Simms, Senior Prosecutor
Office of Trial Staff
Pennsylvania Public Utility Commission
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Thomas T. Niesen
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Daniel L. Frutchey
Senior Vice President and General Counsel
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a division of Equitable Resources, Inc.
200 Allegheny Center Mall
Pittsburgh, PA 15212

Norman James Kennard

Dated: November 20, 2003