

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

v.

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

C-20031128

DOCKETED
MAR 10 2004

SECRETARY'S BUREAU
01 FEB 13 AM 10:17

MODIFIED PREHEARING ORDER

DOCUMENT
FOLDER

The prehearing conference in the present case was held in Pittsburgh on November 20, 2003. A prehearing order was entered on November 21, 2003, that set forth the agreements of the parties at that time. Since the entry of the prehearing order, a protective order was entered on December 4, 2003. By interim order dated January 21, 2004, an additional party, NRG Center-Pittsburgh LLC, was added to the proceeding. Under date of January 30, 2004, counsel for Equitable and Peoples joined in requesting a general extension of the schedule established in the prehearing order, an extension of 30 days of a due date for certain discovery responses, a further prehearing conference in mid-March 2004 and a cancellation of the currently scheduled May hearing dates. Counsel have confirmed that all parties concur in the request.

ORDER

Therefore, it is ordered that the prehearing order of November 21, 2003, is modified as follows:

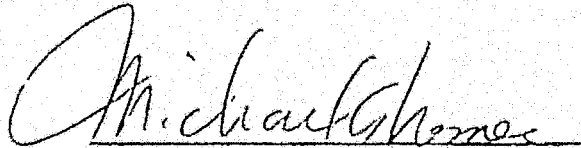
1. The events scheduled in the prehearing order, with the exception of the evidentiary hearings, which will be cancelled, are extended by sixty (60) days.

RJP

2. A second prehearing conference will be scheduled on or about March 15, 2004, to be held in Pittsburgh. The parties may attend in person or participate by telephone, as they wish. Any party participating by telephone will need to provide me with the telephone number to be called at least five days in advance.

3. Dominion Peoples is granted a thirty (30) day extension from the currently effective due date for its answers to discovery and pleadings generally, provided that an answer to Count V is filed no later than March 5, 2003. The thirty (30) day extension does not apply to discovery disputes, specifically objections to discovery and motions to compel answers to discovery

Dated: February 9, 2004



Michael A. Nemec
Administrative Law Judge

PICADIO SNEATH MILLER & NORTON, P.C.

ATTORNEYS AT LAW

4710 US STEEL TOWER
800 GRANT STREET
PITTSBURGH, PENNSYLVANIA 15219-2702
(412) 288-4000

FAX: (412) 288-2405

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

February 9, 2004

FEDERAL EXPRESS

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

DOCUMENT

RECEIVED
2004 FEB 11 AM 10:13
SECRETARY'S BUREAU

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 Mr. Thomas:

Here are Pittsburgh Allegheny County Thermal's Responses to Equitable Gas Company's First Set of Interrogatories and Requests for Production of Documents, along with the requested documents. A number of requested documents were privileged and therefore withheld. We will provide you with a privilege log shortly.

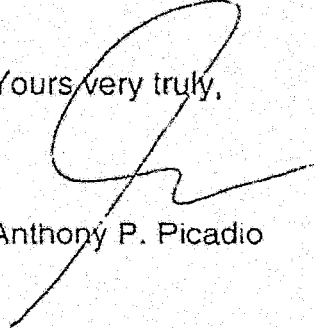
The enclosed documents include documents from the files of William P. Barry, PACT's consultant who participated on PACT's behalf in the discussions with Equitable and Peoples. Since Mr. Barry was an integral part of PACT's activities with respect to the Equitable/Peoples' matter, we consider him and his files to be within PACT's control.

We are also providing documents from the files of Loftus Engineering, not because we consider Loftus Engineering's files to be within PACT's control, but because we had them.

Charles E. Thomas, Jr., Esquire
Page 2
February 9, 2004

After you have had an opportunity to review our responses and objections,
please call me if you have any questions concerning the objections.

Yours very truly,



Anthony P. Picadio

APP/lrk

Enclosure

cc(w/enclosure): ✓ James J. McNulty, Secretary (w/o exhibits)
Johnnie E. Simms, Esquire
Norman James Kennard Esquire (w/o exhibits)
Daniel L. Frutchey, Esquire (w/o exhibits)
Honorable Michael A. Nemecek (w/o exhibits)
Mark S. Stewart, Esquire (w/o exhibits)

RECEIVED

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

2004 FEB 11 AM 10:43

EQUITABLE GAS COMPANY :
Complainant :

SECRETARY'S BUREAU

v. :

Docket No. C-20031128

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

DOCKETED
APR 08 2004

DOCUMENT

PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.'S
RESPONSES TO EQUITABLE GAS COMPANY'S
FIRST SET OF INTERROGATORIES

AND NOW comes Petitioner, Pittsburgh Allegheny County Thermal, Ltd. ("PACT"), by its General Counsel Dennis S. Shilobod, Esquire and its attorneys, Anthony P. Picadio, Esquire and Picadio Sneath Miller & Norton, P.C., and responds to Equitable Gas Company's First Set of Interrogatories as follows:

1. Produce all documents relating in any way to the Peoples Agreement, including but not limited to drafts, notes, amendments, modifications, extensions, correspondence, and memoranda to file.

RESPONSE: The request is objected to as being insufficiently specific and overly broad and not capable of being fully answered, in that PACT does not know what Equitable Gas includes in its interpretation of documents "relating in any way."

However, in an effort to be as reasonably responsive as possible, PACT does produce, as Exhibit 1, all "documents" obtained by PACT or in the possession or control of PACT that appear to possibly have a bearing on the negotiation and signing of the Peoples Agreement that may or may not be relevant to these proceedings. PACT did not preserve, and does not have, copies of all emails relevant to the request, but PACT believes that Exhibit EGC Set I-1 attached to "Responses of the Peoples Natural Gas Company, D/B/A Dominion Peoples, to Interrogatories of Equitable Gas Company, a division of Equitable Resources, Inc., Set I" contains, as part of the Exhibit, complete and accurate copies thereof.

A large set of documents entitled "Service Line Installation Specifications for Pittsburgh Allegheny County Thermal, Ltd.", for LE Project # P-03-008, dated June 17, 2003, prepared by Loftus Engineers has not been provided because of its size but is available for review at PACT's corporate office during normal business hours.

However, PACT has not produced with such documents (i) those documents that are part of PACT's communications with its legal counsel and/or (ii) documents prepared as part of PACT's activity, preparation or investigation or research relating to all litigation activity between Equitable Gas Co. and PACT, and/or (iii) documents relating to PACT's performance of gas transportation activities authorized by the Peoples Agreement, all of which are privileged documents not subject to discovery because of attorney client privileges, work product materials, and confidential business records that are not relevant to the negotiation and/or signing of the agreement and which would be damaging to PACT if revealed to Equitable Gas Co. and/or its counsel, Equitable Gas being a competitor of PACT and the discovery of which are not designed to reasonably lead to the discovery of information relevant to this litigation.

2. Produce all documents relating in any way to the Peoples Supplemental Agreement, including but not limited to drafts, notes, amendments, modifications, extensions, correspondence, memoranda to file and copies of checks or other evidences of a contribution pursuant to the Supplemental Agreement.

RESPONSE: The request is objected to as being insufficiently specific and overly broad and not capable of being fully answered, in that PACT does not know what Equitable Gas includes in its interpretation of documents "relating in any way." However, in an effort to be as reasonably responsive as possible, PACT does produce, as part of Exhibit 1, "documents" that appear to possibly have a bearing on the negotiation and signing of the Peoples Supplemental Agreement that may or may not be relevant to these proceedings. PACT did not preserve, and does not have, copies of all emails relevant to the request, but PACT believes that Exhibit EGC Set I-1 attached to "Responses of the Peoples Natural Gas Company, D/B/A Dominion Peoples, to Interrogatories of Equitable Gas Company, a division of Equitable Resources, Inc., Set I" contains, as part of the Exhibit, complete and accurate copies thereof.

However, PACT has not produced with such documents (i) those documents that are part of PACT's communications with its legal counsel and/or (ii) documents prepared as part of

PACT's preparation or investigation or research relating to all litigation activity between Equitable Gas Co. and PACT, all of which are privileged documents not subject to discovery because of attorney client privileges or privileges relating to attorney work product materials.

3. Identify all individual involved in the negotiation, execution, review, and approval of the Peoples Agreement.

RESPONSE: Robert L. Fazio, President of PACT

Dennis S. Shilobod, Secretary and General Counsel of PACT

William P. Barry [PACT's Independent Energy Consultant]
2320 Weston Drive
Pittsburgh, PA 15241

All Members of PACT's Board of Directors who reviewed and/or voted upon the approval and authorization of the Peoples Agreement and Peoples Supplemental Agreement.

Horace P. Payne, Jr., Senior Counsel; Dominion Peoples

David R. Grasso, Dominion Peoples

W. Rozelle Hamlett, Account Exec. and Sales Engineer at Peoples

Susan G. George, Assist. Secretary; Dominion Peoples

The person representing Peoples, who signed his/her name, along with Peoples' Asst. Sec. Susan G. George, to the Peoples Agreement and Peoples Supplemental Agreement, the signature being indecipherable by and unknown to PACT.

Francine O'Brian, Executive Secretary; PACT

Amber Lilja, PACT secretary.

Other PACT employees may also have been "involved" in some way or another in behalf of PACT in providing PACT's clerical or other employee services to Robert L. Fazio, similar to the services provided by Ms. O'Brian and/or Ms. Lilja, for use in the negotiation, execution, review or approval of the Peoples Agreement and Peoples Supplemental Agreement, but any of their specific activities relating thereto are not presently specifically identifiable by PACT, being that the definition of the scope or limit of the "involvement" is not discernable from the wording of Equitable Gas' Interrogatory.

PACT does not know who all was "involved" in the matters specified in behalf of Peoples, other than those Peoples' representatives that directly dealt with PACT or its agents, or were present in meetings with PACT, in negotiating the terms of, or attending the final signing of, the Peoples Agreement.

Others may have "reviewed" the Peoples Agreement whose identities or existences are unknown to PACT, including but not limited to every person "involved" in any way with this litigation, the time of such review not being specifically stated in the Interrogatory. Similarly, it is likely that unknown persons affiliated in some way or another with PNC Bank, N.A. probably "reviewed", at some time or another unknown to PACT, the Peoples Agreement and Peoples Supplemental Agreement as part of PNC Bank's due diligence activity relating to PACT's request for a loan to construct PACT's new gas service line.

4. Identify all individuals involved in the negotiation, execution, review and approval of the Peoples Supplemental Agreement.

RESPONSE: PACT'S response is the identification of the same persons as named or referred to in the foregoing Response to Interrogatory No. 3.

5. Produce all documents, including but not limited to correspondence, market studies, engineering studies, cost analyses, value incentives, and consulting reports, relating to Peoples' offer to provide gas transportation services to PACT.

RESPONSE: In referring to "Peoples' offer", PACT assumes that Equitable is referring to the negotiated offer that is memorialized as the "Peoples Agreement" and "Peoples Supplemental Agreement."

See PACT's Responses to Equitable Gas Co.'s Requests No. 1 and No. 2.

6. Produce all documents relating to the By pass Line. This request covers, but is not meant to be limited to, documents relating to the construction, financing, security interests in, payment, permitting, restoration requirements and attendant costs, and design (including blue prints and any other drawings) of the By-pass Line.

RESPONSE: PACT has no knowledge of any "By-pass Line". In an effort to be as helpful as possible in responding to this Request for Production of Documents No. 6, PACT

responds as follows, upon the presumption that the Request for Production of Documents No. 6 refers to PACT's new gas service line rather than a "By-pass Line."

See documents included as part of Exhibit No. 1.

7. Identify all individuals involved in the construction, engineering, financing and design of the By-pass Line.

RESPONSE: PACT has no knowledge of a "By-pass Line" In an effort to be as helpful as possible in responding to this Interrogatory No. 7, PACT will respond as follows, upon the presumption that this Interrogatory No. 7 refers to PACT's new gas service line rather than a "By-pass Line."

PACT is uncertain of all the names of all the individuals participating with or for the independent contractors hired by PACT and/or such independent contractors' subcontractors, to perform construction, engineer or financing of the gas service line, who were in some way or another "involved" in such activity, not only because such individuals worked for independent contractors, but also because PACT is unaware of the scope of the meaning of "involvement" referred to in the Interrogatory. But PACT has the following information on at least some of such individuals as follows:

See names of all persons on the work site during construction of the gas service line as set forth in each of the "Daily Report of Contractor Operations" included in Exhibit 1. PACT does not have the addresses of all such individuals.

Robert L. Fazio, President; PACT

Dennis S. Shilobod, Secretary and General Counsel; PACT

Robert Druga, Plant Manager; PACT

All names appearing anywhere in the construction agreement between PACT and M. O'Herron Company that is included in Exhibit No. 1.

Todd Thorn
S.U.I. Inc. [Subcontractor of M. O'Herron Company, General Contractor]
P.O. Box 1879
Greensburg, PA 15601

Sue Thorn, S.U.I. Inc.

Mike Rauso

Frank J. Zottola Construction, Inc.
P.O. Box 180
Steiner Bridge Road
Valencia, PA 16059

Mike Ober
Loftus Associates, LLC [Engineering Company]
555 North Bell Avenue
Carnegie, PA 15106

John A. Malone, V.P.
PNC Bank, N.A.
144 South Main Street
Greensburg, PA 15601

8. Produce all economic and/or pricing comparisons and/or analyses relating to the cost of the By-pass Line, the Peoples Agreement, the Peoples Supplemental Agreement and the Agreement.

RESPONSE: PACT has no knowledge of a "By-pass Line". In an effort to be as helpful as possible in responding to this Request No. 8, PACT will respond as follows, upon the presumption that this Request No. 8 refers to PACT's new gas service line rather than a "By-pass Line."

See Responses to Requests No. 1 and No. 2. PACT does not have anything it would call or recognize as "economic and/or pricing comparisons and/or analyses" relating the "Agreement" which expired by its own terms on September 30, 2003.

9. Describe in detail all discussions that PACT has had with both Peoples and/or entities other than Peoples regarding the possible use of the By-pass line to transport/deliver natural gas to or for entities other than PACT. This includes but is not limited to discussions, if any, that PACT has had with NRG Energy Center-Pittsburgh, LLC relating to use of the By-pass Line. With regard to each of these discussions:

- a. Identify the party with which the discussion was had;
- b. State the date of the discussion;
- c. Identify all individuals involved in the discussion; and
- d. Produce all documents related to each discussion.

RESPONSE: PACT did not discuss with Peoples or anyone else the transportation or delivery of natural gas, to any entity other than PACT. The meeting with NRG that Equitable refers to in this Interrogatory was a meeting telephonically requested by NRG, and held on July 7, 2003, at 10:00 a.m. in PACT's corporate office. Present were James L. Crist, President, Lumen Group and Tim Merrill of NRG; Robert L. Fazio, President; PACT and Dennis S. Shilobod, Secretary and General Counsel of PACT; and William P. Barry.

Mr. Merrill opened the discussion by advising PACT that he was now the new head of NRG's operations on the North Side of the City of Pittsburgh, and that he wanted to make contact with PACT in as much as both NRG and PACT were in the district steam heating business.

The discussion was relatively short, and not of anything that PACT considered great substance. PACT did advise NRG at that meeting that it was building its new gas service line to take local gas distribution services from Peoples, and that it had designed its gas service line solely upon the basis of the engineering requirements to service PACT alone, and PACT had to authorize the commencement of construction within the next several days because all construction had to be completed before the end of September 30, 2003 and PACT did not know what problems might be encountered during construction. PACT stated that it did not know if NRG requested this meeting for somehow getting a benefit from PACT's new service line, but if NRG had any such idea, PACT would be unable to delay commencement of construction to allow negotiations or new engineering and design of any larger line to be able to benefit NRG's plant.

Mr. Merrill advised PACT that he did not request this meeting to discuss getting any benefit from PACT's new line, and in fact his current contemplation was to convert the NRG steam plant from natural gas to fuel oil, in as much as he, Mr. Merrill, believed that was the wisest plan for the future for steam heating plants in this region of the United States.

PACT asked Mr. Merrill not to utilize this meeting with PACT as a device to negotiate a better transportation agreement with Equitable, in as much as PACT had no desire to cause addition concern at Equitable Gas or to encourage any litigation with Equitable Gas. Mr. Merrill agreed he would not utilize the existence of PACT's new service line in NRG's negotiations with Equitable.

The meeting then adjourned. PACT did not keep any minutes of the meeting. There are no documents that PACT knows of relating to the meeting.

Immediately after the meeting was adjourned, William P. Barry was directed to telephone Fred Dalena of Equitable Gas and advise him of the meeting and to advise Mr. Dalena that PACT did not offer any services to NRG, and not to let NRG utilize the existence of PACT's new gas service line as a factor in any negotiations with Equitable, and Mr. Barry did so advise Mr. Dalena by telephone that same day. PACT believes that Equitable was aware of this meeting, in drafting the interrogatory, as a result of Mr. Barry's telephone call.

10. Produce all documents related to the actual or proposed sale or rental of the By-pass Line.

RESPONSE: No such documents exist or ever existed.

11. State whether or not PACT is paying its own consulting, engineering and/or attorney fees incurred in this action or whether a third party is paying for such fees.

RESPONSE: PACT, and no one else, is paying its own consulting, engineering and/or attorney fees incurred in this action.

12. Produce all documents, including but not limited to construction standards, provided by Peoples to PACT, relating to the construction of the By-pass Line.

RESPONSE: No such documents were provided to PACT by Peoples.

13. Produce all documents relating to the negotiation of a commodity supply of natural gas through the By-pass Line including but not limited to agreements, drafts, notes, amendments, modifications, extensions, correspondence, and memoranda to file.

RESPONSE: See documents falling within the scope of this request which are included in Exhibit 1.

14. On what date did "Robert L. Fazio" sign the Peoples Supplement (sic) Agreement?

RESPONSE: July 2, 2003.

15. Produce all documents relating to the allegations contained in paragraph 13 of PACT's Petition to Intervene that Equitable "advised PACT, in December 2002, that the Agreement would not be renewed, but rather the transportation rate would be increased by approximately 60% or more, with even 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.'"

RESPONSE: Equitable presented its pricing to become effective on October 1, 2003, in December, 2002, orally and not in any document.

16. Produce all documents relating to the allegations in paragraph 17 of PACT's Petition to Intervene that PACT began making requests in July 2002 to Equitable to negotiate the terms of the Agreement that would go into effect upon expiration of the current term of the Agreement.

RESPONSE: Any documents that would evidence such communications to PACT would be included as part of Exhibit 1. The documents reveal that PACT and Equitable had in fact started to negotiate the potential terms of a gas supply agreement to be effective beyond September 30, 2003 before February, 2002.

17. Identify all potential gas suppliers/marketers which PACT contends were not able or willing to supply gas to PACT when it was on the Equitable Gas system.

RESPONSE: FirstEnergy

Sprague

T.W. Phillips Gas & Oil Company

Other gas suppliers/marketers who were willing to transport gas on the Equitable OR Peoples systems to PACT (e.g. UGI and Amerada Hess) stated that they could not provide any gas supply to PACT through the Equitable system at prices as low as they could supply the same amount of gas to PACT through the Peoples' system.

Only Amerada Hess was willing to supply PACT's full gas requirements through the Equitable system. In contrast, Amerada Hess and FirstEnergy were willing to bid to provide PACT's full gas requirements via the Peoples System, and competed for PACT's business.

18. Produce all documents which PACT contends it received evidencing offers from gas suppliers to supply gas on the Peoples' system which would not have been received had PACT remained on the Equitable system.

RESPONSE: Any such documents memorializing such offers would be included as part of Exhibit 1.

19. Produce PACT's most recent financial statements.

RESPONSE: The Request for Production is objected to as not being reasonably likely to lead to admissible evidence in these proceedings and the information is proprietary information that neither Equitable nor its attorneys or its agents, servants or its employees or any other participant in these proceedings are entitled to have. Moreover, since the Petition to Intervene has been granted with Equitable's consent the allegations of the Petition are no longer an issue.

20. Identify all guarantors on the PNC note and provide a copy of the agreement between PACT and PNC Bank, including the security interest, executed for the purpose of financing the construction of PACT's service line as detailed in PACT's Petition to Intervene, page 3, paragraph 10.

RESPONSE: There are no guarantors of PACT's indebtedness to PNC Bank. See the documents requested, which are part of Exhibit 1.

21. Provide a copy of the proposed, or executed natural gas supply agreement which details the term of the agreement, applicable pipeline transportation rates, applicable storage rates, the per Dth cost of natural gas supply, and applicable retainage between PACT and its Natural Gas Supplier that will be relied upon during the term of the agreement signed with Peoples.

RESPONSE: Any such documents are included in Exhibit 1.

22. Refer to pages 4 and 5, paragraph 14 and 15 of the Petition to Intervene.
- a. Provide the Docket Number of the filing, and identify the specific changes in the terms and conditions of providing transportation service through Equitable's distribution system to which PACT refers that has caused a reduction in the number of Natural Gas Suppliers operating on Equitable's distribution system.
 - b. Provide a list of Pennsylvania licensed Natural Gas Suppliers (NGS) which are willing to provide PACT's natural gas requirements through Equitable's distribution system. Provide all written verification received from a NGS which verifies PACT's contention that NGSs are unwilling to provide gas supply through Equitable's distribution system.
 - c. Based upon your answer to 22b, identify all NGSs which are willing to provide natural gas through Equitable's distribution system, but are willing to provide PACT's natural gas requirements through Dominion's distribution system.

RESPONSE:

- a. The PUC proceedings referred to were the proceedings in which Equitable obtained, over PACT's objections, changes to the terms and conditions contained in part 11 of Equitable's tariffs and rules and regulations, as issued January 6, 1998 to be effective January 7, 1998, which resulted in the reduction of the time allowed transporters of gas and/or their supplier to balance their gas supplied and conditions of nomination (daily scheduled deliveries) to the Equitable system to be within a 24 hour period, under heavy penalties for imbalances and the prices to be paid by Equitable for gas purchased by a transporter for its own use. PACT has not yet located the docket number of the litigation before this Public Utility Commission, nor the brief that PACT filed therein and PACT may not presently have such documents.
- b. See Response to Interrogatory 7 above.
- c. See Response to Interrogatory 7 above.

23. Refer to page 5, paragraph 16 of the Petition to Intervene. Provide the average MCF equivalent rate PACT charges its customers.

RESPONSE: The Interrogatory is objected to as not being reasonably useful to lead to information relevant to these proceedings and the information is proprietary information that

neither Equitable nor its attorneys or its agents, servants or its employees or any other participant in these proceedings are entitled to have. Moreover, the Petition to Intervene has been granted with Equitable's consent and the allegations contained therein are no longer an issue.

24. Refer to page 7, paragraph 23 of the Petition to Intervene. Please explain in detail the "other competitive problems" to which PACT refers.

RESPONSE: If Peoples would have extended its distribution line to PACT, Peoples would have had the capability of further competing with Equitable by providing service to others in the downtown Pittsburgh area as well as present customers of Equitable located in the North Side of Pittsburgh, if it should choose to do so.

25. Refer to page 7, paragraph 26 of the Petition to Intervene. Please explain, in PACT's opinion, the specific treatment believed to be commercially unreasonable.

RESPONSE: Equitable attempted to place PACT in a position of being without bargaining power as though Peoples' service territory did not overlap Equitable's service territory, where PACT's plant is located, which was commercially unreasonable given the true state of the local gas distribution services market available to PACT, which action by Equitable was commercially unreasonable.

Moreover, Equitable was aware that PACT always considered the potential of being able to obtain alternate local gas distribution service from Peoples, in whose territory PACT's facilities are located. Equitable always knew that in order to determine the feasibility of obtaining such alternative local gas distribution service from Peoples, PACT would have to act to make such decisions in sufficient time to be able to build a gas service line to obtain such service from Peoples, the possibility of which was specifically and agreeably contemplated in the Agreement through wording inserted therein by Equitable, and that as to any such gas service line, PACT would have to be able to complete its construction before September 30, 2003.

In spite of knowing such time limitations upon PACT, and having been advised by PACT that it would not let Equitable refuse to deal with PACT on a gas transportation agreement until 60 days before the end of the Agreement, as asserted by Equitable, it was commercially unreasonable for Equitable to refuse to negotiate with PACT in a commercially reasonable manner, and still expect PACT not to fully investigate and seek service from Peoples instead.

It was commercially unreasonable for Equitable to refuse to deal with PACT to negotiate the gas transportation contract that PACT could have with Equitable from the summer of 2003, when PACT requested such negotiations before February, 2002.

It was commercially unreasonable for Equitable to refuse to meet with PACT on the dates that the parties scheduled meetings to discuss the gas transportation contract that would go into effect on October 1, 2003

It was commercially unreasonable for Equitable to confirm a meeting with PACT the day before the scheduled meeting and then not show up at the meeting, and for Equitable's lead negotiator, Bill Lucas, to refuse to talk to the President of PACT when he called Mr. Lucas as to his whereabouts and why he did not attend the meeting.

It was commercially unreasonable for Equitable to advise PACT that Equitable would not extend the existing gas transportation agreement with PACT, and then offer PACT gas transportation services at a transportation rate 73% higher than the average transportation rate that PACT was paying under the Agreement, and not expect PACT to seek to obtain gas transportation services elsewhere.

It was commercially unreasonable for Equitable to advise PACT that PACT could not obtain gas transportation services from Peoples because Peoples could not afford to build a service line to PACT's plant, that Peoples infrastructure was such that Peoples could not support either the gas volumes or pressure that PACT would need, and that anyway, Equitable was considering taking over ownership of Peoples, thereby depriving PACT of the opportunity to obtain Peoples' service, and not expect that PACT would act responsibly to defend itself against such anti-competitive actions by Equitable.

It was commercially unreasonable for Equitable to hear from PACT that PACT could not afford to pay the 73% rate increase over the average transportation rate being paid under the agreement, as Equitable demanded in December, 2002, and that PACT needed a transportation rate lower than the rate being paid by PACT under the Agreement, and promise to come back to PACT with a new transportation rate that was lower than the rate increase demanded, and instead come back to PACT not with a lower rate, but rather with a rate that was 79% higher than the average transportation rate that PACT was paying under the Agreement. When Equitable clearly indicated to PACT that PACT's transportation rates were moving upward on the Equitable system, and not downward, and did not care about attending scheduled meetings with PACT to

negotiate the new transportation agreement, it was commercially unreasonable for Equitable not to expect PACT to seek relief by seeking better gas transportation services elsewhere, as is normal in the business world when a party is subjected to such abusive business practices as presented by Equitable to PACT.

It was commercially unreasonable for Equitable to refuse to accept the written document presented to it by PACT with PACT's representation that it was a negotiated offer obtained from Peoples, and that if Equitable wanted to match the offer, Equitable should advise PACT how it would do so, upon the grounds that the document had to be first signed by Peoples, when no such requirement of a Peoples-signed writing was required by Equitable when Equitable drafted the Agreement's provisions' giving Equitable the opportunity to match any offer from another local gas distribution company without any such requirement of the offer to be in any kind of writing.

It was commercially unreasonable for Equitable to profess to disbelieve PACT'S representations of its intent to accept the Peoples offer, and when it learned that PACT's statement of intent was true, to expect to be protected from Equitable's own risk-taking.

It was commercially unreasonable for Equitable to attempt to tortiously interfere with the Peoples Agreement by trying to get PACT to repudiate the Peoples Agreement to benefit Equitable only, to the detriment of PACT.

It was commercially unreasonable for Equitable to have an observer on site throughout the construction of PACT's gas service line, and then delay attempting to stop PACT's use of the line if it believed that such use was against the law until after PACT substantially completed the line, in order to cause huge financial harm to PACT.

It was commercially unreasonable for Equitable alone and/or in conjunction with its affiliated company, NORESKO, to offer long-term gas service and gas supply to a Member of PACT, at prices far below market price, in order to damage PACT, a customer of Equitable.

It was commercially unreasonable for Equitable to assert it "matched" Peoples' offer after July 2, 2003, without ever explaining to PACT, as PACT requested, how Equitable would do the matching, and Equitable never gave a complete offer to PACT setting forth the contract details that Equitable claimed amounted to a "matching" of the Peoples' offer.

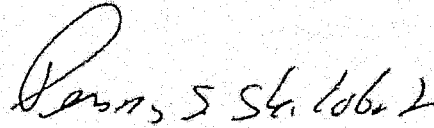
- 26 Refer to page 13, paragraph 46 of the Petition to Intervene.
- a. List all tariff provisions or "practices", to which PACT refers, offered by Peoples that are less "draconian" than Equitable.
 - b. List all conditions of service offered by Equitable which, in PACT's opinion, were designed to prevent or discourage gas marketing by independent suppliers of gas
 - c. List all federal energy policies referred to in paragraph 46.
 - d. List all Pennsylvania policies referred to in paragraph 46.

RESPONSE: Equitable's decision to declare one of their pipelines an interstate transmission line, controlled by an affiliated company, Equitrans, that adds another substantial layer of costs for transporting on the Equitable system as opposed to the Peoples system, which Equitable claimed it could not affect and would be in addition to any charges imposed by Equitable for transportation services. The balancing/daily nomination allowances, tolerances and penalties associated therewith; Equitable's conversion factor was raised from 1.045 to 1.060 Btu/Dth. Equitable's shrinkage factor is greater, and now is 5%; the failure of Equitable to allow as much Pennsylvania gas and gas supplied by marketers to flow directly into Equitable (rather than through Equitrans); the substantially higher basis changes encountered on the Equitable system as compared to the Peoples system; the refusal of Equitable to allow end users to obtain gas storage at reasonable prices, conforms to Equitable's tariff provisions.

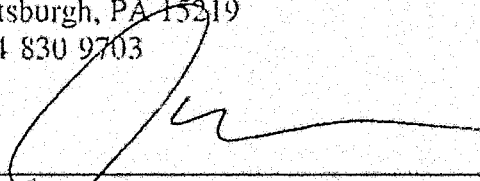
27. Refer to page 14, paragraph 49 of the Petition to Intervene. Provide copies of all offers of long-term gas supply requirements from suppliers being referred to in the paragraph.

RESPONSE: Any such documents would be included as part of Exhibit 1.

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 St.
Pittsburgh, PA 15219
412-288-4010

VERIFICATION

I, Robert L. Fazio, President of Pittsburgh Allegheny County Thermal, declare that the answers set forth in the foregoing pleading are true and correct to the best of my knowledge, information and belief. This Verification is made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: _____

2/4/04

Robert L. Fazio
Robert L. Fazio

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.'S RESPONSES TO EQUITABLE GAS COMPANY'S FIRST SET OF INTERROGATORIES, was served upon the following, this 9th day of February 2004, via First-Class, United States Mail, postage prepaid, addressed as follows:

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

Johnnie E. Simms, Senior Prosecutor
Office of Trial Staff
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Norman James Kennard, Esquire
Hawke McKeon Sniscak & Kennard LLP
100 North Tenth Street
Harrisburg, PA 17101

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

Honorable Michael A. Nemecek
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

Mark S. Stewart, Esquire
Wolf, Block, Schorr and Solis-Pfeiffer
212 Locust Street
Suite 300
Harrisburg, PA 17101

RECEIVED
2004 FEB 11 AM 10:43
SECRETARY'S BUREAU

PICADIO SNEATH MILLER & NORTON, P.C.

By _____




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

February 11, 2004

In Re: C-20031128

(See letter dated 12/9/03)

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.

Hearing Cancellation/Reschedule Notice

This is to inform you that the initial and further hearings on
the above-captioned case previously scheduled for Tuesday, May 18,
Wednesday, May 19, Thursday, May 20, 2004 at 10:00 a.m. has been
canceled.

The hearing has been rescheduled as follows:

Type Further telephone prehearing conference
Date: Monday, March 15, 2004
Time: 10:00 a.m.
Presiding: Administrative Law Judge Michael A. Nemeo
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, Pennsylvania 15222
Telephone (412) 565-3550
Fax: (412) 565-5692

DOCUMENT
FOLDER

If you are participating in the telephone prehearing
conference, you must provide a phone number where you can be
reached the day of the hearing to (412) 565-3550.

DOCKETED

MAR 10 2004

RJP

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

PICADIO SNEATH MILLER & NORTON, P.C.

ATTORNEYS AT LAW

4710 US STEEL TOWER
600 GRANT STREET
PITTSBURGH, PENNSYLVANIA 15210-2702
(412) 288-4000

Fax (412) 288-2405

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

February 12, 2004

FEDERAL EXPRESS

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

DOCUMENT
FOLDER

SECRETARY'S BUREAU

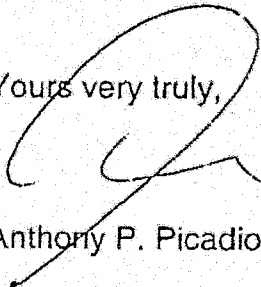
01 FEB 17 11:10:19

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 Mr. Thomas:

Enclosed please find Pittsburgh Allegheny County Thermal's First Set of Interrogatories and Request for Production of Documents Directed to Equitable Gas Company.

Yours very truly,


Anthony P. Picadio

APP/lrk
Enclosure
cc(w/enclosure):

✓ James J. McNulty, Secretary
Johnnie E. Simms, Esquire
Norman James Kennard, Esquire
Daniel L. Frutchey, Esquire
Honorable Michael A. Nemeec
Mark S. Stewart, Esquire

BTI

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

EQUITABLE GAS COMPANY
Complainant

v.

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

Docket No. C-20031128

SECRETARY'S BUREAU

CH. FEB 17 11:10:13

**PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.'S
FIRST SET OF INTERROGATORIES AND REQUEST FOR
PRODUCTION OF DOCUMENTS
DIRECTED TO EQUITABLE GAS COMPANY**

Pursuant to Section 333(d) of the Pennsylvania Public Utility Code, 66 Pa. C.S. §333(d), Intervenor, Pittsburgh Allegheny County Thermal, Ltd. ("PACT"), by its General Counsel Dennis S. Shilobod, Esquire and its attorneys, Anthony P. Picadio, Esquire and Picadio Sneath Miller & Norton, P.C., hereby request that Complainant answer under oath the following Interrogatories separately and fully in writing and produce the enumerated documents. Answers to the Interrogatories and Request for Production of Documents are to be served upon counsel listed within thirty (30) days after service hereof. The answers should include all information known up to the date of verification hereof.

INSTRUCTIONS AND DEFINITIONS

1. Identification of a natural person. Whenever in these Interrogatories there is a request to identify a natural person, state the full name and present address of such person and his or her title and position of employment, if any, within any business or government unit.

2. Identification of an entity other than a natural person. Whenever in these Interrogatories there is a request to identify a "person" which is a business organization or other entity not a natural person, state the full name of such organization or entity, and its present or last-known address.

3. Identification of documents. Whenever in these Interrogatories there is a request to identify a document, state:

- (a) its date;
- (b) its author and signatory;
- (c) the type of document (letter, memorandum, contract, report, accounting record, etc.); and
- (d) its present location and custodian.

If the document was, but no longer is, in your possession or subject to your control, state what disposition was made of the document and the identity and location of copies of the document known to exist by the person answering the Interrogatory.

4. Use of documents in place of an answer. Whenever a full and complete answer to any Interrogatory or part of an Interrogatory is contained in a document or documents, the documents, if appropriately identified as answering a specific numbered Interrogatory or part of an Interrogatory, may be supplied in place of a written answer at the time of answering, and only the author, date and type need be provided.

5. Numerical information. Interrogatories calling for numerical or chronological information shall be deemed, to the extent that precise figures or dates are not known, to call for estimates. In each instance that an estimate is given, it should be identified as such together with the source of information underlying the estimate.

6. Sources of information. In answering these Interrogatories, every source of information to which you have access should be consulted, regardless of whether the source is within Plaintiffs' immediate possession or control. All documents or other information in the possession of experts or consultants should be consulted.

7. Partial answers. If any Interrogatory cannot be answered fully, as full an answer as possible should be provided. State the reason for your inability to answer fully, and give any information, knowledge or belief you have regarding the portion unanswered.

8. Deletions from documents. Where anything has been deleted from a document produced in response to the Requests for Production:

- (a) specify the nature of the material deleted;

- (b) specify the reason for the deletion; and
- (c) identify the person responsible for the deletion.

9. Claim of privilege or exclusion. If objection is made to answering any Interrogatory or disclosing the substance of any document on the basis of any claim of privilege or exclusion, specify in writing the nature of such information or documents, along with the nature of the privilege claimed, so that the Court may rule on the propriety of the objection. In the case of documents, state:

- (a) the title of the document;
- (b) the nature of the document (interoffice memorandum, correspondence, report, etc.);
- (c) the author or sender;
- (d) the addressee;
- (e) the date of the document;
- (f) the name of each person to whom the original or a copy was shown or circulated;
- (g) the names appearing on any circulation list relating to the document;
- (h) the basis upon which privilege is claimed; and
- (i) a summary statement of the subject matter of the document in sufficient detail to permit the court to rule on the propriety of the objections.

10. "Person" unless otherwise specified means a natural person, firm, partnership, association, corporation, proprietorship, governmental body, government agency or commission or any other organization or entity.

11. "Document" means any written, magnetic, photographic, or any other record of information in tangible form, regardless of the manner in which it was prepared or reproduced, including, but not limited to, memoranda, reports, evaluations, correspondence, e-mail communications, telegrams, computer programs, computer or business machine printouts, tape recordings, word processing discs, videotape, contracts, agreements, notes, analyses, plans, maps, drawings, diaries, calendars, books, minutes of meetings, known to you or any of your employees, agents, consultants, contractors, or any persons acting or purporting to act on its behalf. Where a document is to be identified or produced, all originals, or if not available, copies,

together with all prior drafts, or all copies which are in any manner different from the original, are to be identified or produced.

12. "Relating to" means constituting, defining, containing, embodying, reflecting, identifying, stating, referring to, dealing with, or in any way pertaining to.

13. "You," "your" or "Complainant" means Equitable Gas Company, the Complainant in the above-captioned action.

INTERROGATORIES AND REQUESTS FOR PRODUCTION

1. State separately for each of the calendar years 1998 through 2003 the lowest transportation rates charged by Equitable to any one or more of its non-affiliated customers, indicating the identity of the customer and the time period during which such rates were charged.

ANSWER:

2. State separately for each of the calendar years 1998 through 2003 the lowest transportation rate you charged to each of your affiliates to which you provided gas transportation services, indicating the identify of each such affiliate, the time period involved, and the identify of the affiliate customer.

ANSWER:

3. Identify each new commercial, institutional or industrial customer for gas transportation services which Equitable began serving during the period January 1, 1999 to date, indicating for each:

- (a) the transportation rate and all other terms of the transportation agreement;
- (b) the identity of the company which previously provided gas transportation services; and
- (c) the extent to which the revenues from the new customer affected, or are expected to affect, rates charged by Equitable to residential customers.

ANSWER:

4. Please produce all documents relating to your offer to provide gas transportation services to your affiliate NORESCO for proposals it made to the Pittsburgh Convention Center.

ANSWER:

5. Did you offer to provide gas transportation service to NORESCO at below your cost for the Pittsburgh Convention Center?

ANSWER:

6. State your marginal cost in providing gas transportation service to PACT for each year 1998 through 2003 or for any other period for which such information is available.

ANSWER:

7. State Equitable's cost of serving PACT as last reported to the PUC in a general rate case or otherwise and state the date of the report.

ANSWER:

8. Produce all documents which state, reflect, discuss or mention your cost of providing gas transportation services to PACT.

ANSWER:

9. Is Equitable aware of any notice given to PACT or to the public that Peoples' authorized service territory no longer included that portion of the downtown area of the City of Pittsburgh, in which PACT's plant is located at Cecil Way and Fort Duquesne Boulevard.

ANSWER:

10. If your answer to the immediately preceding Interrogatory is anything other than an unqualified negative, state:

- (a) word for word the contents of each such notice;
- (b) the date(s) on which it was issued;
- (c) the identity of each person to whom it was issued;
- (d) the identity of each person by whom it was issued;
- (e) the manner in which it was delivered and disseminated

ANSWER:

11. Produce each and every document which contains, reflects, mentions, or discusses any such notice.

ANSWER:

12. Do you contend that the Peoples'/PACT Agreement contains any provision which is unlawful or contrary to Pennsylvania law?

ANSWER:

13. If so, state word for word each such provision and for each indicate in detail the basis of your contention.

ANSWER:

14. Describe in detail all evidence in your possession which supports your allegations set forth in paragraph 15 that the gas line constructed to connect PACT's plant to Peoples' gas distribution system was intended to serve customers other than PACT, indicate the identity of witnesses which you intend to call to support the allegation, provide a summary of their anticipated testimony, and produce all documents which you contend support the allegation.

ANSWER:

15. State any and all prices that Equitable advised PACT that it would have to pay for gas transportation service after September 30, 2003 if PACT decided to continue with Equitable, and state each and every date that Equitable so advised PACT of any such price and the price quoted by Equitable to PACT on that date.

ANSWER:

16. Identify and produce each and every document which sets forth, mentions, or refers to any price identified in your answer to the immediately preceding Interrogatory.

ANSWER:

17. Describe in detail each business opportunity Equitable has lost to date, other than not having PACT as one of its customers, as a result of PACT's determination to no longer utilize Equitable as its local gas distribution company after September 30, 2003?

ANSWER:

18. Excluding filings and conferences in this proceeding, list by date and person contacted each contact between a representative of Equitable and a commissioner or employee of the PUC which involved any discussion or communication concerning PACT, the PACT/Peoples' Agreement or the gas service line constructed by PACT, and for each identify the Equitable representative(s) and summarize the substance of the discussion or communication.

ANSWER:

19. Provide all documents relating in any way to Equitable's contact with the Public Utility Commission in relation to PACT's determination to stop using Equitable as its local gas distribution company after September 30, 2003 and/or relating to the Peoples' Agreement and/or the Peoples' Supplemental Agreement.

ANSWER:

20. State exactly how Equitable determined Equitable's cost of serving PACT while PACT was a customer of Equitable, including all data utilized to determine such cost and an explanation how such data was utilized by Equitable to come up with the final cost of serving PACT.

ANSWER:

21. State exactly how Equitable knew whether or not Equitable was making any profit as a result of providing service to PACT under the Agreement, including, but not limited to, the data utilized to determine such profit and an explanation of how such data was utilized to determine the profit earned by Equitable.

ANSWER:

22. Identify the current customers of Equitable who were not customers of Equitable, but were customers of Peoples or Columbia Gas five years ago.

ANSWER:

23. Provide all documents that reveal how the former customers of Equitable identified in the foregoing Interrogatory became customers of Equitable.

ANSWER:

24. Identify all present customers of Equitable for whom Equitable provided contributions in aid in construction and state the amount of contributions in aid of construction that Equitable provided to such customers.

ANSWER:

25. Identify the current customers of Equitable who were not customers of Equitable, but were customers of Peoples or Columbia Gas five years ago, for whom Equitable and/or the customer built a service line to Equitable's system in order to begin to take service from Equitable.

ANSWER:

26. Regarding the last sentence in paragraph 2.01 of the PACT/Equitable Agreement dated August 11, 2000, which reads:

"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",

state the following:

- (a) whether such provision has been included in any tariff filed by Equitable with the Pennsylvania PUC;
- (b) whether Equitable has sought the approval or permission from the PUC to include the provision in its contract with PACT or other customers; and
- (c) whether the PUC has approved such provision for inclusion in agreements between Equitable and its customers.

ANSWER:

27. Regarding the last sentence in paragraph 2.01 of the PACT/Equitable Agreement dated August 11, 2000, which reads:

"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",

state the following:

- (a) The date you first used this provision in any of your contracts with customers;
- (b) The date of, and the identity of all parties to, every other Equitable agreement containing this provision;
- (c) The details of any communication or dispute between Equitable and any customer concerning the meaning, interpretation or enforceability of this provision; and
- (d) The identity of each and every document which relates to or supports your answer to subparagraphs (a), (b) and (c).

ANSWER:

28. Identify each and every e-mail, memorandum, report, letter or other document which discusses the meaning, interpretation or enforceability of the provision set forth in the last sentence of paragraph 2.01 of the PACT/Equitable Agreement dated August 11, 2000.

ANSWER:

29. Have you ever taken the position with any customer other than PACT that the provision set forth in the last sentence of paragraph 2.01 was a legally enforceable right of first refusal?

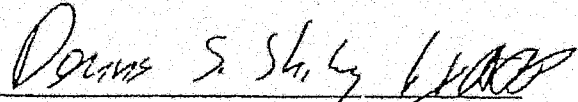
ANSWER:

30. If your answer to the immediately preceding Interrogatory is other than an unqualified negative, identify each such customer and the approximate time period involved.

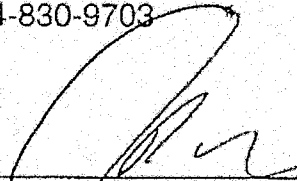
ANSWER:

31. Identify the Equitable officer or employee who first drafted and/or used the provision set forth in the last sentence of paragraph 2.01 in an Equitable contract.

ANSWER:



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 St.
Pittsburgh, PA 15219
412-288-4010

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PITTSBURGH ALLEGHENY COUNTY THERMAL, LTD.'S FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO EQUITABLE GAS COMPANY, was served upon the following, this 12th day of February 2004, via First-Class, United States Mail, postage prepaid, addressed as follows:

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

Johnnie E. Simms, Senior Prosecutor
Office of Trial Staff
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Norman James Kennard, Esquire
Hawke McKeon Sniscak & Kennard LLP
100 North Tenth Street
Harrisburg, PA 17101

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

Honorable Michael A. Nemeo
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

Mark S. Stewart, Esquire
Wolf, Block, Schorr and Solis-Cohen LLP
212 Locust Street
Suite 300
Harrisburg, PA 17101

PICADIO SNEATH MILLER & NORTON, P.C.

By _____


Hawke

McKeon

Sniscak &

Kennard LLP

ATTORNEYS AT LAW

ORIGINAL

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

February 12, 2004

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

RECEIVED
FEB 12 PM 4:20
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-20031128;
DOMINION PEOPLES' ANSWER TO EQUITABLE MOTION TO COMPEL A RESPONSE (Equitable Set III-9)

Dear Secretary McNulty:

Enclosed for filing with the Commission, are an original and three (3) copies of the Answer of The Peoples Natural Gas Company d/b/a Dominion Peoples' to the Motion to Compel a Response filed by Equitable Gas Company (Equitable Set III-9). A copy of this document has been served in accordance with the attached certificate of service.

Thank you for your attention to this matter. If you have any questions, please feel free to call.

DOCUMENT FOLDER

Very truly yours,

William T. Hawke
Counsel for The Peoples Natural Gas Company d/b/a Dominion Peoples

WTH/tap
Enclosure

cc: Honorable Michael Nemeec (via facsimile and first class mail)
Susan G. George, Esq.

RJP

54

MAILING ADDRESS: P.O. BOX 1778 HARRISBURG, PA 17105

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

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

SECRETARY'S BUREAU

2004 FEB 12 PM 4:21

RECEIVED

ANSWER OF
THE PEOPLES NATURAL GAS COMPANY
d/b/a DOMINION PEOPLES
TO THE MOTION TO COMPEL
OF EQUITABLE GAS COMPANY (Equitable Set III-9)

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 Motion to Compel a Response to Interrogatory No. 9 of Equitable Gas Company's ("Equitable") Third Set of Interrogatories. In support thereof, Dominion Peoples avers and represents as follows:

1. Equitable is seeking to compel Dominion Peoples to identify¹ every single customer it serves for whom retainage has been waived, broken down into two categories chosen by Equitable (complete and partial waiver of retainage).
2. Dominion Peoples objected on January 26, 2004 to this Interrogatory.

¹ The term "identify," means to state the full name, corporate nature, nature of its business and business address(es), according to the Definitions and Instructions attached to Equitable's Interrogatories.

DOCKETED
MAR 08 2004

DOCUMENT
FOLDER

3. Equitable filed a Motion to Compel on February 5, 2004. Dominion Peoples files this Answer in response. At the threshold, it is noted that there is an apparent typographical error in Equitable's Motion to Compel. Namely, in paragraph 2, Equitable incorrectly states its Interrogatory No. 9.b, specifically, the second sentence of 9.b., requests agreements between PACT and Equitable; however this second sentence did not appear in Equitable Interrogatory No. 9.

**THE GROUNDS OF DOMINION PEOPLES'
OBJECTION SHOULD BE SUSTAINED**

4. Equitable's Complaint is an objection to Dominion Peoples' service to Pittsburgh Allegheny County Thermal ("PACT"). Nevertheless, Equitable argues that, because it has alleged a "pattern of unfair competition" in a complaint that contains many rhetorical detours, this entitles it to undertake discovery of all of Dominion Peoples' customer contracts, including those which are not relevant to service to PACT.

5. Nor is the scope of the Interrogatory even limited to former Equitable customers currently served by Dominion Peoples, which would fall within Equitable's claimed broad, investigatory scope of this proceeding. An Interrogatory with a scope encompassing customers that are competitive with other natural gas distribution companies with service territories that overlap Dominion Peoples' service territory is simply a vast over-reach.

6. Previously, in this proceeding Equitable has stated that the scope of this proceeding is limited to Dominion Peoples' service to PACT. When NRG Energy Center-Pittsburgh LLC ("NRG Pittsburgh") sought to intervene in this proceeding, Equitable argued that NRG had no interest:

The scope of this complaint proceeding is a narrow one involving Dominion Peoples' displacement of Equitable's service by means of a line financed by Dominion Peoples which directly connects PACT and Dominion Peoples.²

In this instance, because it serves Equitable's current interest to obtain sensitive commercial information from Peoples, Equitable argues that the scope of this proceeding is broad, based merely on its allegations in its complaint, which allegations Peoples denies. In response to Dominion Peoples' earlier request for information about Equitable's customers previously served by another company and whether retainage was waived, Equitable argued that the scope of this proceeding was narrow. Equitable simply cannot have it both ways.

7. Equitable, correctly, notes that a Commission policy statement requires that a chronological log of tariff waivers be maintained. The logs referred to, however, apply to tariff waivers for utility affiliates to the possible detriment of marketers. *See*, 52 Pa. Code § 69.192(1)-(4). Therefore, this policy statement is wholly inapplicable in this situation involving a utility's transportation agreement with a customer.

8. As noted above, earlier in this proceeding, Dominion Peoples sought discovery about Equitable's customers previously served by another gas distribution company and whether, inter alia, retainage was waived (and limited the scope of its discovery, unlike Equitable's interrogatories, to competitive customers). Equitable objected, however, stating that "Equitable does not maintain records which would indicate whether a customer has been served by another natural gas distribution company."³ Further, Equitable objected to being "required to go beyond

² Equitable Gas Company's Motion to Dismiss the Petition to Intervene of NRG Energy Center-Pittsburgh For Lack of Standing at 2 (¶ 4).

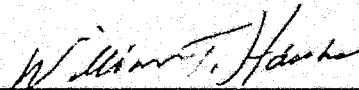
³ Equitable Gas Company's Answer to Interrogatory Set I-22.

its company's existing records" and stated that "the investigation proposed (by Dominion Peoples) is unreasonable" in its Answer to Dominion Peoples' Motion to Compel.⁴

9. In ruling upon Dominion Peoples' request for discovery, Your Honor agreed with Equitable. Thus, at this stage of the proceeding, Dominion Peoples has been denied access to Equitable's information that is not already kept in an existing format (but which is available) based upon Equitable's claim of "unreasonableness." It is submitted, therefore, that it would be fundamentally unfair in this proceeding to give Equitable greater discovery rights than Dominion Peoples in this proceeding.

WHEREFORE, The Peoples Natural Gas Company d/b/a Dominion Peoples respectfully requests that Your Honor deny Equitable's Motion to Compel Response in its entirety.

Respectfully submitted,



William T. Hawke
Hawke McKeon Sniscak & Kennard LLP
100 North Tenth Street
PO Box 1778
Harrisburg, PA 17105-1778
717-236-1300

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

DATED: February 12, 2004

RECEIVED
2004 FEB 12 PM 4: 21
SECRETARY'S BUREAU

⁴ Equitable Gas Company's Answer to Dominion Peoples' Motion to Compel Responses to Its Interrogatories Set I (Nos. 1 & 22) at 4 (¶ 5).

CERTIFICATE OF SERVICE

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

BY HAND DELIVERY

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

Johnnie E. Simms, Senior Prosecutor
Office of Trial Staff
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

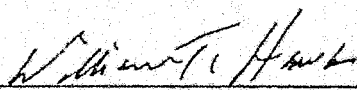
Anthony P. Picadio, Esquire
Picadio, Sneath, Miller & Norton, P.C.
4710 US Steel Tower
600 Grant Street
Pittsburgh, PA 15219-2702

Dennis S. Shilobod, General Counsel
PACT
806 Law & Finance Building
Pittsburgh, PA 15219

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

Kevin J. Moody, Esq.
Wolf Block Schorr and
Solis-Cohen LLP
212 Locust Street, Suite 300
Harrisburg, PA 17101

RECEIVED
2004 FEB 12 PM 4:21
SECRETARY'S BUREAU



William T. Hawke

DATED: February 12, 2004

ORIGINAL

212 Locust Street, Suite 300, Harrisburg, Pennsylvania 17101
Tel: (717) 237-7160 ■ Fax: (717) 237-7161 ■ www.WolfBlock.com

Kevin J. Moody
Direct Dial: (717) 237-7187
Direct Fax: (717) 237-2767
E-mail: kmoody@wolfblock.com

February 13, 2004

VIA HAND DELIVERY

Thomas T. Niesen, Esquire
Thomas, Thomas, Armstrong & Niesen
212 Locust Street, Suite 500
Harrisburg, PA 17108-9500

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

Dear Mr. Niesen:

Enclosed are NRG Energy Center-Pittsburgh LLC's Responses to Equitable Gas Company's First Set of Interrogatories, in the above-referenced matter.

Very truly yours,

Kevin J. Moody

Kevin J. Moody
For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

KJM/jls
Enclosure

cc: Certificate of Service (w/enc)

BTL

SECRETARY'S BUREAU

04 FEB 17 7:10:13

DSH:39780 I/NRG002-217031

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of NRG Energy Center-Pittsburgh LLC's Responses to Equitable Gas Company's First Set of Interrogatories on the participants listed below in accordance with the requirements of § 1.54 (relating to service by a participant).

VIA HAND DELIVERY

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

VIA FIRST CLASS MAIL

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

Johnnie E. Simms
Office of Trial Staff
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

VIA FIRST CLASS MAIL

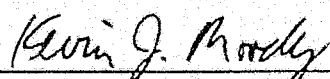
Norman J. Kennard, Esquire
Hawke McKeon Sniscak & Kennard LLP
100 North Tenth Street
Harrisburg, PA 17101

Susan G. George, Esquire
Managing Counsel
Dominion Resources
625 Liberty Avenue, 19th Floor
Pittsburgh, PA 15222-3197

Anthony P. Picadio, Esquire
Picadio Sneath Miller & Norton, P.C.
4170 USX Tower
600 Grant Street
Pittsburgh, PA 15219-2702

Dennis S. Shilobod, General Counsel
PACT
806 Law & Finance Bldg.
Pittsburgh, PA 15219

Date: February 13, 2004



Kevin J. Moody, Esquire