

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

**Pennsylvania Public Utility
Commission Law Bureau Prosecutory
Staff v. Equitable Gas Company**

**Public Meeting – June 18, 2009
1197285-OSA
Docket No. C-20065790**

MOTION OF VICE CHAIRMAN TYRONE J. CHRISTY

Before the Commission for consideration is the Joint Settlement Agreement (Settlement) filed on May 8, 2007, by Equitable Gas Company (Equitable or Company), and the Commission's Law Bureau Prosecutory Staff (Prosecutory Staff). The Settlement, among other things, requires Equitable to pay a \$5,000 civil penalty and a \$45,000 civil settlement. In addition Equitable will provide up to twenty Gascope Model 60 combustible gas indicators to small natural gas distribution companies, including necessary training, as directed by the Commission's Gas Safety Division. I do not believe it would be appropriate that these instruments and this training be provided to any affiliate of the Company. Finally Equitable will maintain certain new files related to safety-related matters and it will amend certain of its operating procedures. Equitable will not claim or include the cost of the gas equipment, the civil penalty or the civil settlement in future ratemaking proceedings.

Pursuant to an Opinion and Order adopted August 22, 2008, the proposed Settlement was served on the parties to the proceeding (Prosecutory Staff and Equitable), the OCA and the OSBA for comment. In addition, the parties were ordered to provide Statements in Support of the Settlement and to provide an explanation of the distinction between a civil penalty and a civil settlement.

On September 11, 2008, Equitable filed comments to the August 22 Opinion and Order. In part Equitable advises, "Personal injury and property damage was the subject of a separate civil action which was finally resolved through settlement in 2007. The settlement terms are the subject of a confidential civil settlement. The property involved was a single residence with damage of less than \$100,000." Comments at p. 9. The record indicates that the person injured in the fire that destroyed the home was taken to Mercy Hospital with burns on his face and arms. On November 20, 2008, Prosecutory Staff filed comments to the August 22 Opinion and Order.

Upon review of the comments and additional review of the Settlement I believe it is appropriate to again seek public comment before taking final action on the Settlement.

I am troubled by the small amount of the monetary sanctions provided for in the Settlement after considering the circumstances, which include property damage and personal injury. Additionally, there was no one present from Equitable to stop the person from entering the house and being injured. However, I will not second guess the dollar amount provided for in

the Settlement, but caution that in the future, similar circumstances may suggest that larger sanctions should be imposed.

I believe the \$50,000 payment provided for in the Settlement could be better utilized by directing it to Equitable's Low Income Usage Reduction Program (LIURP) and its Hardship fund. The average cost per LIURP recipient was \$4,595 in the 2008 program year. An increase of \$25,000 to LIURP would provide program services to approximately 5 additional customers. The average grant dispensed from Equitable's Hardship Fund was \$449 in the 2006-2007 program year. An increase of \$25,000 to this fund would provide support to approximately 56 additional customers. In these increasingly tough economic times I believe directing \$50,000 to these programs would be a better use of these funds. The \$50,000 shall be in addition to Equitable's already established 2009 LIURP budget of \$772,135 and shall be in addition to any support already committed to the Hardship Fund through utility and shareholder contributions. . In addition, Equitable should not make any claim for these monies in future ratemaking proceedings.

THEREFORE I MOVE:

1. That the Office of Special Assistants prepare an Opinion and Order consistent with this Motion.
2. That the Opinion and Order be issued for comment so as to afford any interested party an opportunity to comment within twenty (20) days of the date of entry of the Opinion and Order.
3. That a copy of the Opinion and Order be served on the parties to the proceeding, the Office of Consumer Advocate and the Office of Small Business Advocate.
4. That, subsequent to the Commission's review of the comments filed in this proceeding, a final Opinion and Order shall be issued.

DATE

TYRONE J. CHRISTY, VICE CHAIRMAN