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August 23, 2012

Via Hand Delivery

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

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2012 AUG 24 PM 2:50
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Re: Application of Leatherstocking Gas Company, LLC to Supply Natural Gas Service to the Public in Certain Townships and Boroughs in Northern Susquehanna County, Pennsylvania; Docket No. A-2011-2275595;
ANSWER TO BUREAU OF INVESTIGATION & ENFORCEMENT'S MOTION TO STRIKE PORTIONS OF LEATHERSTOCKING GAS COMPANY, LLC'S REPLIES TO EXCEPTIONS

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is an original and three (3) copies of Leatherstocking Gas Company, LLC's Answer to the Bureau of Investigation & Enforcement's Motion to Strike Portions of Leatherstocking Gas Company, LLC's Replies to Exceptions. Copies of this document have been served upon the parties of record as indicated on the certificate of service.

Should you have any questions or require anything further, please do not hesitate to contact me at 717.236.1300.

Very truly yours,

Thomas J. Sniscak

Counsel for Leatherstocking Gas Company, LLC

TJS/das
Enclosures

cc: Per Certificate of Service
Honorable David A. Salapa

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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Leatherstocking Gas :
Company, LLC to Supply Natural Gas :
Service to the Public in Northern :
Susquehanna County, in the Townships of :
Bridgewater, Forest Lake, Great Bend, :
Harmony, New Milford, and Oakland and in :
the Boroughs of Great Bend, Hallstead, :
Lanesboro, Montrose, New Milford, :
Oakland and Susquehanna :

Docket No. A-2011-2275595

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**ANSWER TO BUREAU OF INVESTIGATION & ENFORCEMENT'S
MOTION TO STRIKE PORTIONS OF LEATHERSTOCKING GAS COMPANY, LLC'S
REPLIES TO EXCEPTIONS**

Leatherstocking Gas Company, LLC ("Leatherstocking") hereby files its answer in opposition to this latest motion by the Bureau of Investigation & Enforcement ("I&E"). Specifically, I&E moves to strike certain portions of Leatherstocking's Reply Exceptions. In response, Leatherstocking avers and argues as follows:

1. I&E essentially argues that it would have this Commission consider Exceptions and Reply Exceptions in this matter without consideration of the implication or effects of the related issues presented by the Joint Stipulation providing for the withdrawal of UGI Penn Natural Gas, Inc.'s ("UGI/PNG") Protest to Leatherstocking's Application and UGI/PNG's Application to serve the same territory sought by Leatherstocking. Simply put, this Commission should not decide the case in a vacuum and it is both pertinent and useful to the Commission, and in the public interest, for it to consider whether the Exceptions and Reply Exceptions need or need not be addressed if the Joint Stipulation is granted effectuating the withdrawals referenced above. UGI/PNG provided that type of background in its Exceptions which in turn prompted a

lengthy Letter in Lieu of Exceptions making the same or similar arguments as in I&E's instant motion.

2. Clearly, the Joint Stipulation is pertinent to the ALJ's Decision because the Joint Stipulation resolves the issue of whether UGI/PNG is or is not in the Leatherstocking Application proceeding—the very subject the ALJ's Decision addressed. Yet, despite such relevancy and interplay, I&E in this motion claims that portions of the Reply Exceptions responding to UGI/PNG's Exceptions regarding the Joint Stipulation or the need or lack of need to rule on Exceptions and Replies, is beyond the subject of the ALJ's Decision.

3. *I&E filed no Reply Exceptions in this matter nor did it file Exceptions regarding the ALJ's Decision and therefore has not participated in or preserved arguments on these issues.*

4. Specifically, I&E presents a technical argument that UGI/PNG and Leatherstocking have not complied with the Commission's Rules of Practice and Procedure by including, in the background section of UGI/PNG's Exceptions and Leatherstocking's Reply Exceptions, discussion alerting the Commission as to issues related between the Joint Stipulation and the ALJ's Decision and the need or lack of need for a decision on Exceptions and Reply Exceptions.

5. I&E's motion should be denied. First, as explained in paragraphs 1-3 above, there is obvious relevance and interplay between the ALJ's Decision and the Joint Stipulation. Second, I&E should be estopped in this proceeding from making any argument about strict compliance with Rules of Practice and Procedure as I&E itself—including relative to UGI/PNG's Exceptions—has repeatedly filed in this proceeding documents neither recognized nor permitted by the very technical Rules of Practice and Procedure it accuses UGI/PNG and Leatherstocking of violating. For example:

- a. On Friday, June 22, 2012, I&E sent a lengthy email (attached as Appendix 1) to the ALJ and parties regarding the Joint Stipulation where I&E presented arguments both legal and substantive calculated to delay and oppose the Joint Stipulation. The Commission's Rules of Practice and Procedure do not permit such document or argument.
- b. On June 27, 2012, I&E filed a single spaced, two page letter (attached as Appendix 2) to the Commission's Secretary, and to the ALJ and parties again making substantive and procedural arguments against the Joint Stipulation which caused additional delay in Leatherstocking's application being decided. The Commission's Rules of Practice and Procedure do not permit such document or argument.
- c. On June 27, 2012 I&E filed an 11 page Motion to Strike the Joint Stipulation providing for the withdrawal of UGI/PNG's Protest and UGI/PNG's application to serve the area previously sought by Leatherstocking including I&E's contention that the Joint Stipulation was "legally untenable, bogus and patently unauthorized."¹ I&E in its Motion to Strike at page 10 also stated:

It is important to also emphasize at this juncture that I&E has not Indicated to date any opposition to the granting of the exclusive Territorial service rights sought by Leatherstocking at this docket and it was the attempted involvement of UGI Penn in [sic] this Leatherstocking's application proceeding, and the subsequent procedural wrangling that has ensued, that has delayed the granting of Leatherstocking's application and stalled the initiation of service to potential gas customers in the identified territories.

- d. I&E did not file Reply Exceptions to UGI/PNG's Exceptions to the ALJ's decision. Instead, on August 6, 2012, I&E filed a Letter in Lieu of Replies to Exceptions (attached as Appendix 3), in which it chastised UGI/PNG for discussing the relationship of the Joint Stipulation to the ALJ's Decision and its Exceptions. The Commission's Rules of Practice and Procedure do not recognize or permit a Letter in Lieu of Replies to Exceptions.

6. I&E's umbrage regarding compliance with technical rules by others should be disregarded given I&E's pattern of not following them itself in this proceeding. Instead, Leatherstocking implores the Commission to focus not on the technical skirmish invited by the I&E motion but on the merits of the Joint Stipulation and if necessary the merits of the ALJ's Decision, the Exceptions, the Reply Exceptions, and Leatherstocking's application itself.

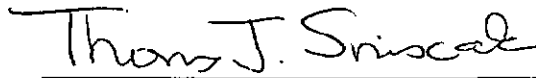
¹ I&E Motion to Strike at 4.

Leatherstocking believes I&E did not intend to delay approval of Leatherstocking's application by its Motion to Dismiss the Stipulation and the instant Motion; however, the motions unfortunately have had exactly that result and that is not in the public interest.

7. In any event, the Commission's Rules of Practice and Procedure do, at 52 Pa Code §1.2, state they should be "liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding"... and that the "Commission ... at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties." Here, the Commission should disregard the alleged errors or *defects of procedure claimed by I&E in its motion and thereby promote a truly "speedy and inexpensive determination"* and cut to the important merits of Leatherstocking's application. That way, the Commission can further what should be the collective goal of all involved - promoting prompt provision of natural gas service from local sources to local rural customers who do not have this badly needed service. Leatherstocking knows of potential customers requesting service in the applied-for territory, such as a Community Action Agency Housing Project for the needy who, due to the delay in this proceeding and housing project deadlines, may have to go with other more expensive forms of energy if Leatherstocking's application is not approved by no later than mid-September.

8. At this point the bottom line is that (1) no party objects to Leatherstocking serving the rural areas sought, (2) UGI/ PNG has agreed to withdraw both its protest and application to serve the same area, (3) everyone wants to see natural gas service as soon as possible, and (4) additional delay works at cross-purposes and against the public interest. Thus, Leatherstocking respectfully asks that the Commission approve Leatherstocking's application as soon as possible.

Respectfully submitted,

Handwritten signature of Thomas J. Sniscak in black ink.

Thomas J. Sniscak, I.D. No. 33891

Hawke McKeon & Sniscak LLP

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PO Box 1778

Harrisburg, PA 17105-1778

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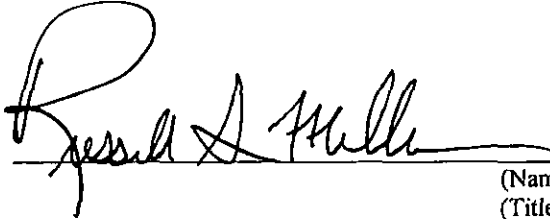
Counsel for Leatherstocking Gas Company, LLC

Dated: August 23, 2012

VERIFICATION

I, Russell S. Miller, on behalf of Leatherstocking Gas Co. LLC

hereby state that the facts set forth in the foregoing statement and its attachments 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 in this matter. This verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.


(Name)
(Title)

DATED: 8/23/12

RECEIVED
2012 AUG 24 PM 2:50
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From: Shields, Charles Daniel <CHSHIELDS@pa.gov>
Sent: Friday, June 22, 2012 9:46 AM
To: Janet L. Miller; Hassell, Michael; Wright, Christopher; MacGregor, David; Mark C. Morrow (morrowm@ugicorp.com); Melanie J. Elatieh (melanie.elatieh@ugicorp.com); James A. Mullins; Tanya J. McCloskey (tmccloskey@paoca.org); Alan M. Seltzer (alan.seltzer@bipc.com); Lauren Lepkoski; 'mdewitt2@echoes.net'; Thomas J. Sniscak; Todd S. Stewart
Cc: Salapa, David; Simms, Johnnie; Kanaskie, Richard
Subject: Notice of I&E opposition to all procedural and substantive aspects of filed document [RE: Joint Stipulation in Settlement Between Leatherstocking Gas Company, LLC and UGI Penn Natural Gas, Inc.]
Importance: High

Counsel,

Please clarify whether the document provided to us yesterday electronically is being submitted to presiding ALJ Salapa for his consideration. The language of the "Introduction" seems to indicate that it will be submitted to the ALJ for his consideration, but the document itself was filed with the Secretary and no certificate of service was attached to the e-mail.

Also the accompanying cover letter to the document (displayed in the electronic file received by us from you) seeks a further extension of the time for filing Exceptions directly from the Commission on behalf of UGI PNG but curiously the letter is signed by counsel for Leatherstocking, when it was Leatherstocking that sought the dismissal of the UGI PNG protest in the first place.

Please be advised that I&E will be (1) formally conveying by letter to the Commission our opposition to the requested further extension of the time for filing Exceptions in the Leatherstocking proceeding; (2) will be formally conveying to the ALJ our opposition to the document itself on procedural grounds – asserting that the document is simply not entitled to be addressed at all, given that the ALJ has denied UGI PNG party status in the Leatherstocking case; and potentially (3) if the ALJ were for whatever reason to indicate that he is even considering acting upon a document signed by an entity he has declared is not properly in the Leatherstocking proceeding, I&E would then request an opportunity to address the serious substantive issues involved through the submission of briefs and would then also insist upon a hearing to address those substantive issues raised by the document. Among those substantive issues are gas safety concerns, the likelihood of similar such convoluted proceedings whenever certification is sought for previously uncertified service territories, and the Commission's previously expressed reservations about gas-on-gas distribution competition that would arise if Leatherstocking was granted non-exclusive, rather than exclusive rights to the identified service territory.

These representations are conveyed now to ensure that no counsel is subsequently surprised by the I&E submitted documents and to alert the ALJ – who has been copied with this present message – of the nature of the many I&E documents to be submitted to either him or the Commission regarding this matter. And on that point, rest assured that all of these I&E positions will be presented in the appropriate procedural documents, beginning with a letter to the Secretary indicating our opposition to the requested further extension of the date for filing of Exceptions in the Leatherstocking case.

And in response to any assertion that I&E is responsible for delaying the development of a gas distribution system that would begin to provide service in the identified service territory, we would emphasize that I&E has not indicated to date any opposition to the granting of the exclusive territorial service rights sought by Leatherstocking and it was the attempted involvement of UGI PNG in Leatherstocking's application proceeding, and the subsequent procedural wrangling that has ensued, that has delay the granting of Leatherstocking's application and stalled the initiation of service to potential gas customers.

Finally, the use of both captions in the document has no substantive or procedural authority and begs the very question of a consolidated docket's filing, when the ALJ has not in fact granted such consolidation.

Cholly Shields

cc: ALJ Salapa

From: Janet L. Miller [<mailto:JLMiller@hmslegal.com>]

Sent: Thursday, June 21, 2012 12:52 PM

To: Shields, Charles Daniel; Hassell, Michael; Wright, Christopher; MacGregor, David; Mark C. Morrow (morrowm@ugicorp.com); Melanie J. Elatieh (melanie.elatieh@ugicorp.com)

Cc: James A. Mullins; Tanya J. McCloskey (tmccloskey@paoca.org); Alan M. Seltzer (alan.seltzer@bipc.com); Lauren Lepkoski; 'mdewitt2@echoes.net'; Thomas J. Sniscak; Todd S. Stewart

Subject: Joint Stipulation in Settlement Between Leatherstocking Gas Company, LLC and UGI Penn Natural Gas, Inc.

Counsel,

Attached is a time-stamped copy of the Joint Stipulation in Settlement executed by Leatherstocking Gas Company, LLC and UGI Penn Natural Gas, Inc. in connection with the proceedings at Docket Nos. A-2011-2275595 and A-2012-2284831. This Stipulation was filed this morning with the Pennsylvania Public Utility Commission.

If you have any questions or are unable to open the attachment, please let us know.

Thank you

Tom Sniscak
Jan Miller

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PO Box 1778
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jlmiller@hmslegal.com

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

June 27, 2012

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

SECRETARY'S BUREAU

PA 17105

IN REPLY PLEASE
REFER TO OUR FILE
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2012 JUN 27 PM 2:34

Re: Application of Leatherstocking Gas Company, LLC for Approval to Supply Natural Gas Service to the Public in Northern Susquehanna County, in the Townships of Bridgewater, Forest Lake, Great Bend, Harmony, New Milford and Oakland, and in the Boroughs of Great Bend, Hallstead, Lanesboro, Montrose, New Milford, Oakland and Susquehanna

Docket No. A-2011-2275595

**OPPOSITION OF THE BUREAU OF INVESTIGATION AND
ENFORCEMENT TO THE REQUEST TO CIRCUMVENT
ESTABLISHED PROCEDURES AND SEEK DIRECT COMMISSION
CONSIDERATION OF A SELF-STYLED "JOINT STIPULATION"**

Dear Secretary Chiavetta:

The Commission's Bureau of Investigation and Enforcement ("I&E") hereby respectfully provides notice of its staunch opposition to the submission of a self-styled "Joint Stipulation for Settlement" ("stipulation") directly to the Commission, as attempted in a June 26, 2012, letter to the Commission Secretary by UGI Penn Natural Gas, Inc., ("UGI Penn") at the above and another captioned proceeding. Of note, only UGI Penn and Applicant, Leatherstocking Gas Company, LLC ("Leatherstocking") are signatories to that stipulation.

I&E asserts that this such a submission to the Commission by UGI Penn represents an attempt to circumvent the Commission's Rules of Practice and Procedure and no compelling reasons are identified to justify any such action by the Commission. This proceeding has been assigned to the Office of Administrative Law Judge and should remain there until a final Decision is issued by the Administrative Law Judge ("ALJ").

Further, by Initial Decision issued March 20, 2012, the presiding ALJ denied UGI Penn standing to participate in this proceeding and UGI Penn have to date filed no Exceptions to that Initial Decision. The filing of such Exceptions is UGI Penn's only authorized course of action at this docket. *A copy of that Initial Decision is attached as Appendix A to this letter.*

This present submission by UGI Penn to the Commission represents an inappropriate and unauthorized attempt to avoid the existence of their lack of standing to further participate in this proceeding and should not be condoned or permitted.

In contrast, I&E has today submitted a Motion to Strike the Stipulation to the presiding ALJ, *a copy of which is attached as Appendix B to this letter*. In addition to asserting UGI Penn's lack of standing, the I&E Motion also identifies a number of substantive issues raised by the stipulation that must be addressed with record evidence prior to any consideration of the stipulation. In particular, the stipulation provides for non-exclusive service by the Applicant, a provision that raises serious concerns regarding the potential adverse effect upon gas safety were overlapping gas distribution territories to be allowed in previously uncertificated areas.

I&E respectfully submits that the public interest is served by the Commission either denying or simply ignoring UGI Penn's request for direct Commission consideration of the stipulation. The I&E Motion is properly before the ALJ and his ruling will be forthcoming.

If you have any questions, please contact me at (717) 783-6151.

Sincerely,



Charles Daniel Shields
Senior Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. No. 29363

CDS/edc

cc: Parties of Record
Counsel for UGI Penn Natural Gas, Inc.
ALJ Salapa

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

| | | |
|------------------------------------|---|---------------------------|
| Application of Leatherstocking Gas | : | |
| Company, LLC to Supply Natural Gas | : | |
| Service to the Public in Certain | : | Docket No. A-2011-2275595 |
| Townships and Boroughs in Northern | : | |
| Susquehanna County, Pennsylvania | : | |

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Letter to the Commission Secretary** dated June 27, 2012, either personally, by first class mail, electronic mail, express mail and/or by fax upon the persons listed below, in accordance with the requirements of § 1.54 (relating to service by a party):

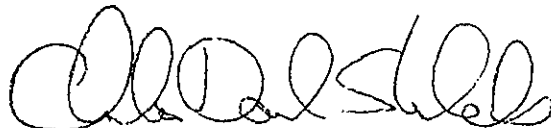
Thomas J. Sniscak, Esquire
Todd S. Stewart, Esquire
Janet L. Miller, Esquire
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Alan Michael Seltzer, Esquire
Lauren Lepkoski, Esquire
Buchanan Ingersoll & Rooney PC
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Also provided to Counsel of UGI Penn Natural Gas:

Michael W. Hassell, Esquire
Christopher T. Wright, Esquire
Post & Schell, PC
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601



Charles Daniel Shields
Senior Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #29363



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

August 6, 2012

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REFER TO OUR FILE
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SECRETARY'S BUREAU

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Application of Leatherstocking Gas Company, LLC for Approval to Supply Natural Gas Service to the Public in Northern Susquehanna County, in the Townships of Bridgewater, Forest Lake, Great Bend, Harmony, New Milford and Oakland, and in the Boroughs of Great Bend, Hallstead, Lanesboro, Montrose, New Milford, Oakland and Susquehanna

Docket No. A-2011-2275595

**LETTER IN LIEU OF REPLIES TO EXCEPTIONS AND REFERENCE
TO UGI PENN'S BREACH OF COMMISSION INSTRUCTIONS**

Dear Secretary Chiavetta:

The Commission's Bureau of Investigation and Enforcement ("I&E") hereby respectfully submits this letter in lieu of Replies to Exceptions to the Exceptions filed by UGI Penn Natural Gas, Inc., ("UGI Penn") on July 30, 2012, to the Initial Decision of the presiding Administrative Law Judge ("ALJ") issued on March 20, 2012. In response to a filing by the Applicant, Leatherstocking Gas Company, LLC ("Leatherstocking"), raising the issue of UGI Penn's standing to participate in the instant proceeding, the ALJ issued his Initial Decision ruling that UGI Penn lacked such standing. As a result, pending resolution of this issue, UGI Penn currently is not a duly recognized party.

The timetable and express instructions for the filing of Exceptions and Replies to Exceptions were subsequently established by the Commission's Secretarial Letter dated July 20, 2012, that specifically and unequivocally states, "[T]he Commission instructs the parties to **confine their Exceptions and Replies to Exceptions to the issues raised by ALJ's Initial Decision.**" This Commission directive is entirely consistent with the I&E position that the issue of UGI Penn's standing must first be resolved prior to addressing any further issues in this proceeding.

A review of the filed Exceptions discloses that under the guise of providing an "Introduction and Background" section, UGI Penn addresses specific matters outside the scope of the Initial Decision. The language of that section is particularly egregious given that it includes a separate and distinct prayer for relief not addressed anywhere in the Initial Decision. The inclusion of such matters in the Exceptions is **in direct breach of the Commission's instructions** and it is incumbent upon I&E to reference that fact in response.

In previous submissions by I&E to the ALJ during this already convoluted and unduly long proceeding, I&E has enumerated various actions by UGI Penn at this docket that evidence a total disregard for the Commission's Rules of Practice and Procedure. This instant breach by UGI Penn serves only to further evidence and confirm those I&E representations.

I&E advocates that the Commission's Order addressing the Initial Decision and UGI Penn's Exceptions include a reiteration that compliance with Commission rules, directives and instructions is mandatory and that any and all demonstrated noncompliance is subject to remedial Commission action.

If you have any questions, please contact me at (717) 783-6151.

Sincerely,



Charles Daniel Shields
Senior Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. No. 29363

CDS/edc

cc: Parties of Record
Robert F. Powelson, Chairman
John F. Coleman, Jr., Vice Chairman
Wayne E. Gardner, Commissioner
James H. Cawley, Commissioner
Pamela A. Witmer, Commissioner
Chief Counsel Pankiw, Law Bureau
Director Cheryl Walker Davis, OSA
Hon. David A. Salapa

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Leatherstocking Gas :
Company, LLC to Supply Natural Gas :
Service to the Public in Certain : Docket No. A-2011-2275595
Townships and Boroughs in Northern :
Susquehanna County, Pennsylvania :

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Letter in Lieu of Replies to Exceptions and Reference to UGI Penn's Breach Of Commission Instructions** dated August 6, 2012, either personally, by first class mail, electronic mail, express mail and/or by fax upon the persons listed below, in accordance with the requirements of § 1.54 (relating to service by a party):

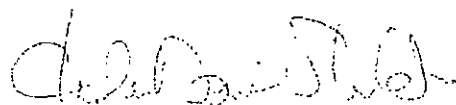
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Harrisburg, PA 17101

Also provided to Counsel of UGI Penn Natural Gas:

Michael W. Hassell, Esquire
Christopher T. Wright, Esquire
Post & Schell, PC
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601



Charles Daniel Shields
Senior Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. No. 29363

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

Via Hand Delivery

Office of Special Assistants (with CD)
Pennsylvania Public Utility Commission
400 North Street
3rd Floor, Keystone Building
Harrisburg, PA 17120

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Via Electronic Mail and First Class U.S. Mail

James A. Mullins, Esquire
Tanya J. McCloskey, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

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Harrisburg, PA 17101-1601

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Melanie J. Elatieh, Esquire
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406

Attorneys for UGI Penn Natural Gas, Inc.



Thomas J. Sniscak
Counsel for Leatherstocking Gas Co., LLC

Dated: August 23, 2012