

Order

IN THE MATTER OF
EQUITABLE RESOURCES, INC. ET AL.

Docket No. 9322 – Order, April 16, 2007

**ORDER STAYING FURTHER BRIEFING ON COMPLAINT
COUNSEL'S MOTION TO STRIKE**

Complaint Counsel filed a Motion to Strike the Affirmative Defense of State Action” with the Commission on April 11, 2007, moving that the Commission strike defenses pled by both Equitable Resources and Dominion Resources to the effect that the Commission’s Complaint was precluded by the state action doctrine. Pursuant to Commission Rule 3.22(c), 16 C.F.R. § 3.22(c), the Respondents must file an answer or answers to Complaint Counsel’s motion on or before April 23, 2007.

On April 13, 2007, the Commission filed a complaint and motions for a temporary restraining order and a preliminary injunction against Respondents in federal district court in the Western District of Pennsylvania. At the hearing on the temporary restraining order, the court scheduled briefing and argument on a motion to dismiss the complaint based on state action grounds, and stated that it would contemplate a decision on that motion during the week of May 7, 2007. For these reasons, the Commission stays all further briefing on Complaint Counsel’s motion until further notice.

Accordingly,

IT IS ORDERED THAT all further briefing on Complaint Counsel’s motion to strike be stayed pending the proceedings in the federal district court (Case Number 07CV0490).

By the Commission.

Interlocutory Orders, etc.

IN THE MATTER OF
EQUITABLE RESOURCES, INC. ET AL.

Docket No. 9322 – Order, April 24, 2007

SCHEDULING ORDER

In accordance with Federal Trade Commission rule 16 C.F.R. § 3.21(b), a Scheduling Conference with Complaint Counsel and counsel for Respondents was held April 20, 2007, at 11 a.m. before the Federal Trade Commission. By order of the Commission, Commissioner J. Thomas Rosch presided over the Scheduling Conference. The parties' positions on the discovery schedule and other matters were described in a Joint Case Management Statement submitted to the Commission on April 19, 2007, and a Revised Joint Case Management Statement submitted to the Commission on April 24, 2007.

1. Initial Disclosures. Complaint Counsel and Respondents shall fully comply with 16 C.F.R. § 3.31(b).

2. Statement of Facts. On March 1, 2006, Equitable Resources Inc. executed an agreement to acquire the capital stock of The Peoples Natural Gas Company from the Consolidated Natural Gas Company, a subsidiary of Dominion Resources, Inc. Equitable and Peoples are, *inter alia*, local distribution companies that distribute natural gas to residential and nonresidential end users within their service territories. Equitable and Peoples both provide local distribution services to end users in western Pennsylvania.

The Commission issued an administrative complaint on March 14, 2007, alleging that Equitable's acquisition of Peoples violates the antitrust laws. The complaint alleges that a relevant product market is the local distribution of natural gas to individual nonresidential end users, and that the relevant geographic market