

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on May 16, 2013

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman  
Patricia L. Acampora  
Maureen F. Harris  
James L. Larocca  
Gregg C. Sayre

CASE 12-G-0141 - Petition of Corning Natural Gas Corporation for Authority to Form a Holding Company and for Approval of Certain Related Transactions.

CASE 11-G-0417 - Joint Petition of Corning Natural Gas Corporation and Mirabito Holdings, Inc., for Approval, Pursuant to Section 70 of the Public Service Law, of Stock Acquisition.

ORDER ADOPTING TERMS OF A JOINT PROPOSAL AND APPROVING  
FORMATION OF A HOLDING COMPANY, WITH MODIFICATIONS  
AND CONDITIONS

(Issued and Effective May 17, 2013)

BY THE COMMISSION:

INTRODUCTION

Before us are two petitions, considered on a common record, concerning the corporate structure, affiliate relations, and shareholder stock acquisition of Corning Natural Gas Corporation (Corning or the Company), a local gas distribution company. Corning and Department of Public Service Staff (Staff) have reached and filed a Joint Proposal resolving the issues in both petitions as well as in a Corning petition for reconsideration of our recent order governing affiliate transactions. The Joint Proposal is unopposed.

Corning "is involved in efforts to expand the areas of New York State and Pennsylvania served by local distribution of

natural gas.”<sup>1</sup> The Company proposes to create gathering and interstate pipeline entities to take advantage of its location in New York’s Southern Tier, recognizing gas production in Pennsylvania and anticipating production in New York. Corning expects that these enterprises cannot reasonably be carried out by a regulated utility and therefore seeks approval for reorganization into a holding company structure.

The earlier petition<sup>2</sup> was filed pursuant to Public Service Law (PSL) §70 by Corning and Mirabito Holdings, Inc. (Mirabito), a nearly 10% shareholder in Corning, seeking approval for the purchase by Mirabito of an additional 5% of Corning shares, bringing its holdings to 15%.<sup>3</sup> The second petition<sup>4</sup> was filed by Corning to seek authorization pursuant to PSL §§70, 107, 108, and 110 to form a holding company, and for other relief. Section 107 approval is sought to authorize a loan from Corning to Leatherstocking Gas Company, LLC

---

<sup>1</sup> Case 12-G-0141, Holding Company Petition, filed March 26, 2012, at 3.

<sup>2</sup> Case 11-G-0417, Stock Acquisition Petition, filed August 8, 2011.

<sup>3</sup> PSL §70(4) provides, in pertinent part, that “no stock corporation of any description ... other than a gas corporation or electric corporation ... shall purchase or acquire, take or hold, more than ten per centum of the voting capital stock issued by any gas corporation ... Provided, that with the consent of [the] commission and upon and subject to such terms and conditions as [the] commission may fix and impose, any such stock corporation, company, association, partnership or person may acquire, take and hold more than ten per centum of the voting capital stock of any gas corporation ... organized or existing under or by virtue of the laws of this state.”

<sup>4</sup> Case 12-G-0141, Holding Company Petition, filed March 26, 2012.

(Leatherstocking), a Corning affiliate jointly owned by Corning Natural Gas Appliance Company (Appliance Company) and Mirabito.<sup>5</sup>

PROCEDURAL HISTORY

Corning's recent gas rate proceeding provides the backdrop to this decision. In that case, the issue of affiliate standards for Corning arose independent of consideration of a corporate reorganization. A Gas Rates Joint Proposal was filed by parties including an agreement to collaborate on allocation of expenses, a business code of conduct, and affiliate transaction rules related to Leatherstocking.<sup>6</sup> When parties failed to resolve all aspects of these issues, we adopted Affiliate Standards to resolve the remaining controversies.<sup>7</sup> In the Order adopting Affiliate Standards under the existing

---

<sup>5</sup> PSL §107(1) provides, "Except with the consent and approval of the commission ... no public utility shall use revenues received from the rendition of public service within the state for any purpose other than its operation, maintenance and depreciation expenses, the construction, extension, improvement or maintenance of its facilities and service, the payment of its indebtedness and interest thereon, and the payment of dividends to its stockholders."

<sup>6</sup> Case 11-G-0280, *Corning Natural Gas Corporation - Rates*. Relations between Corning and Leatherstocking have raised affiliate transaction, potential sharing of services, and potential conflicts of interest concerns. Originally a joint venture between Mirabito and Corning, Leatherstocking conducted the efforts by Corning to establish a natural gas distribution system outside its service territory. Today Appliance Company is an unregulated, wholly owned subsidiary of Corning. Under this Joint Proposal, Appliance Company will be transferred to become a direct subsidiary of Holdco. Appliance Company holds 50% interest in Leatherstocking and Leatherstocking Pipeline Company, LLC (Leatherstocking Pipeline); the remaining 50% is held by an affiliate of Mirabito.

<sup>7</sup> Case 11-G-0280, *Corning Natural Gas Corporation - Rates*, Order Adopting Affiliate Standards (issued October 19, 2012) (Affiliate Standards Order).

corporate structure, we anticipated that future modifications might result from this proceeding.<sup>8</sup>

These two petitions were joined for consideration on a common record in August 2012 for administrative efficiency and in recognition that the parties and issues overlapped in key areas.<sup>9</sup> A procedural conference held on September 20, 2012, revealed differences between Staff and Corning with respect to the proceedings' scope and the applicable legal standard.

In an effort to join issue on these questions, Corning supplemented its petition with a further filing as to ratepayer benefits and protections resulting from the formation of a holding company on October 9, 2012 and parties were instructed but were unable to propose a common list of issues and a joint schedule. Instead, Staff filed its own proposed issues list and schedule on October 12, 2012, with which the New York State Department of State Utility Intervention Unit (UIU) concurred on October 17, 2012. Corning responded with its issue list on October 26, to which Staff filed a surreply on November 2, 2012. On November 8 Corning filed a response, after which the administrative law judge (ALJ) allowed no further filings.

A December ruling resolved disputed issues of scope and established a litigation schedule.<sup>10</sup> The ruling adopted the Staff position that the standard of review of these petitions was best seen as a public interest standard, pursuant to PSL §70(5), rather than the more cursory review asserted by Corning. Accordingly, the ALJ determined that potential structure and ratepayer safeguards governing the anticipated holding company were an integral part of the public interest inquiry. However,

---

<sup>8</sup> Affiliate Standards Order.

<sup>9</sup> Notice Consolidating Proceedings and Scheduling Procedural Conference (issued August 16, 2012).

<sup>10</sup> Ruling on Scope and Schedule (issued December 21, 2012).

the judge rejected Staff's analogy of this case to past acquisitions by non-U.S. corporations, on the ground that the customer service, transparency, and financial concerns were not necessarily comparable.

As to schedule, the ruling established dates for initial and rebuttal testimony, and for a hearing. On January 20, 2013, Corning filed and served notice of settlement negotiations and requested an extension of deadlines. Several subsequent letter rulings further extended the schedule, to facilitate the parties' discussions.

Staff and Corning filed a Joint Proposal on March 15, 2013;<sup>11</sup> the parties did not anticipate any opposition from the Department of State Utility Intervention Unit, the one other party, and none has been filed.

THE JOINT PROPOSAL AND THE PARTIES' STATEMENTS IN SUPPORT

The Joint Proposal is offered to resolve five principal sets of issues: (1) the establishment by Corning of a holding company structure; (2) relationships among affiliates; (3) the rehearing petition in the rate case; (4) authorization for the purchase of Corning stock by Mirabito, and (5) authorization of the use of revenues received from the rendition of public service. The Joint Proposal would not modify Corning's delivery rates established in Case 11-G-0280 and would continue all existing Corning service quality requirements and other regulatory obligations.

The proponents of the Joint Proposal assert it provides protections for customers from the risks related to the proposed transactions, including the strengthening of certain

---

<sup>11</sup> The Joint Proposal is attached as Appendix A. The Joint Proposal is the best statement of and should be consulted for its terms; a summary is provided here for the convenience of the reader.

sections of the Affiliate Standards. The protections include a Board of Directors' recusal policy, limitations on employee sharing and emergency loan of employees, minimum equity ratio and dividend limitations, restrictions on Corning participation in money pools and common insurance policies, and limitations on loans.

Establishment of the Holding Company

The signatories agree to support the reorganization of Corning into a holding company structure (Holdco) in which each shareholder owning Corning common stock will own a corresponding amount of Holdco common stock, and Holdco will then own all outstanding shares of Corning stock. With its formation, Holdco will assume Corning's equity issuance obligations and equity will no longer be issued by Corning. The Corning Local Distribution Company (Corning) will be a subsidiary of Holdco and remain subject to Commission jurisdiction under the Public Service Law.

The Corning interest in Leatherstocking and Leatherstocking Pipeline Company, LLC, currently owned by Appliance Company, will be transferred to Holdco within one month of its establishment. Holdco may hold interests in other regulated or unregulated enterprises. The Joint Proposal details Holdco's required Federal Energy Regulatory Commission filings and shareholder approvals.<sup>12</sup>

Generally, Corning asserts that this reorganization will facilitate financing of operations, particularly those outside Corning's core business. The new structure, the Company asserts, would enable it to finance non-utility operations. Corning states the restructuring will protect customers by removing unregulated operations as subsidiaries of the regulated

---

<sup>12</sup> Appendix A, Joint Proposal, §IV(A)(1).

company. Corning will more easily pursue unregulated businesses while separating financing and operations to insulate ratepayers from risk.

In Staff's view, the Joint Proposal includes important conditions attached to reorganization into a holding company structure and approval of Mirabito's acquisition of up to 15% of the Company's stock. The critical conditions are the divestiture of Appliance Company, corporate governance provisions, limitations on employee sharing, and protections for Corning's financial integrity and ratepayers.

#### Board of Directors and Officers

The Joint Proposal provides that a majority of Corning's Board of Directors shall be independent. "Independent" is defined "as that term is defined in Section 10A of the Securities Exchange Act of 1934".<sup>13</sup> For the purpose of this provision of the Joint Proposal, each of Corning's subsidiaries would be considered affiliates. Corning's officers and/or employees, and the officers and/or employees of its affiliates, are not barred from serving on the Corning Board, but they would not be considered independent. With the formation of Holdco, directorship in Holdco would indicate that a Corning Board member was not independent.

Some Corning Board members may also be members of Holdco's or affiliates' boards as long as the majority of members are independent. The Joint Proposal provides that all

---

<sup>13</sup> Appendix A, Joint Proposal, §IV(A)(2). See Securities and Exchange Act of 1934, §10A(m)(3)(B). That provision refers to the definition of independence for members of a Board of Directors audit committee and is applied more generally to Board membership in the Joint Proposal by way of analogy. Under that definition, a Board member is not considered independent if he or she accepts any consulting, advisory, or other compensatory fee from the corporation or any subsidiary or affiliate other than in the capacity of a Board member.

Directors shall follow the recusal process set forth in the Affiliate Standards. This process requires Directors to indicate when they are required to recuse themselves from discussion of any issue; that Director is then excused from the meeting during that discussion. No other Board members shall disclose to that Director the content of the discussion of that issue.<sup>14</sup>

If a Board member fails to adhere to the recusal process or misuses information obtained as a result of such failure, the Commission will immediately be notified. Such failure, if proven, will prevent a Board member standing for election to Corning's Board. The Affiliate Standards presumption that a 5% or greater ownership interest in a Corning competitor indicates a conflict of interest barring an officer or director from certain activities would be eliminated by the Joint Proposal.

The Joint Proposal also states, in the context of Board member recusal, that the minutes of Corning's Board of Directors meetings "shall be subject to audit by the Commission to the extent necessary to confirm the accuracy of the facts pertaining to failure to adhere to the System of Recusals."<sup>15</sup> Neither party comments on this provision; however, we discuss it below.<sup>16</sup>

In Corning's view, these recusal provisions are more restrictive than the Affiliate Standards, and unparalleled among New York utilities and holding companies. Although Corning's pending petition for rehearing challenged, among other things, the 5% restriction, Corning agrees to the Joint Proposal provision more broadly sanctioning conflicts of interest by

---

<sup>14</sup> Affiliate Standards Order, Exhibit 1 at 6.

<sup>15</sup> Joint Proposal, Appendix A, §IV(A)(2), at 7.

<sup>16</sup> See page 15, *infra*.

Board members regardless of their share percentage. Corning views this provision as going farther in protecting ratepayers against potential conflicts while also allowing for what it views as a salutary practice of some commonality of Board membership among Holdco and its subsidiaries.

In Staff's view, these provisions alleviate some of its key concerns regarding potential conflicts of interest, as currently two Mirabito officers hold seats on Corning's Board, while Mirabito owns competitive businesses in the utility's service territory. Staff supports the elimination of the 5% automatic bar, because in its view a strong recusal enforcement mechanism would be more effective in protecting ratepayers from Board conflicts.

#### Employee Sharing

Under the existing Affiliate Standards, certain specified officers and directors of the Company may be provided by Corning to an affiliate on a fully loaded cost basis. Under the Joint Proposal, the Affiliate Standards provision pertaining to employee sharing would be modified to allow the Corning Chief Financial Officer to work on behalf of affiliated companies. However, the Vice President of Administration would no longer be allowed to work for affiliated companies. In addition, two clerical accounting employees may provide services to affiliates. Their services would be allocated on a fully loaded basis and capped at no more than a combined 5% of their time and salary.

Corning considers this provision one of its more significant concessions. Corning has consistently asserted the value of Corning employees' provision of services to unregulated entities when they are not immediately needed by the LDC, at

fully allocated cost. The proposal, in its view, moderates the Affiliate Standards bar on what Corning terms "modest sharing."<sup>17</sup>

In Staff's view, the proposal is consistent with its concern that lending operational employees to affiliates could undermine utility safety and reliability. Staff acknowledges, however, that some additional accounting work will flow from the new corporate structure.

#### Emergency Use of Employees

Corning's current Affiliate Standards provide for Corning to lend employees, on a fully loaded cost basis, to other regulated utilities, whether affiliated or not, to respond to an emergency that threatens safety or reliability of service. The Joint Proposal would modify this provision of the Affiliate Standards to permit Corning employees to respond to emergency situations for both the regulated company and unregulated affiliates. Emergency situations will continue to be limited to those entailing immediate risk to human health and safety, and exclude economic exigencies.

In Corning's view, this is an exceptionally narrow expansion of the Affiliate Standards. The Commission must also be notified of such employee use. Corning views this provision as a recognition that there may be circumstances where an unregulated affiliate requires emergency assistance and urges its approval.

Staff was concerned that broadening the Affiliate Standards provision that Corning could share employees only with other regulated companies in response to emergencies could be abused. The Joint Proposal would provide for emergency sharing with unregulated companies as well; Staff supports this change

---

<sup>17</sup> Corning Statement of Support, at 9.

because such emergency response is limited to immediate risk to human health and safety.

Dividend Restrictions and the Equity Ratio

In order to pay dividends, Corning must maintain a minimum common equity ratio of no less than 300 basis points below the equity ratio used to set rates (measured using a trailing 13-month average).<sup>18</sup> Cumulative dividends in one year cannot exceed 90% of regulated net income, for an equity ratio within 200 basis points of that used to set rates. If the equity ratio falls between 200 and 300 basis points below that mark, dividends are restricted to 50% of regulated net income, and should the common equity ratio fall below 300 points lower than that rate, no dividends are payable.<sup>19</sup>

In addition, the Joint Proposal recognizes that in future rate proceedings, the Commission may establish rates on a basis below Corning's actual equity capitalization. Under those circumstances, the Company would be allowed to pay dividends on the excess equity capitalization to match that recognized in rates.<sup>20</sup>

Corning explains that these restrictions are intended to protect the financial health of Corning by prohibiting excessive dividends to Holdco. Corning notes these provisions tighten the current rules on its payment of dividends, which

---

<sup>18</sup> The common equity ratio adopted in the recent Corning rate case was 48.0%. Case 11-G-0280, Order Adopting Terms of Joint Proposal and Establishing a Multi-year Rate Plan (issued April 20, 2012), at 8.

<sup>19</sup> As illustrated in a table, under Corning's current rate plan, at an equity ratio of 46% and above, dividends are payable up to 90% of net income; at 45-46%, dividends of 50% may be paid; and below 45%, no dividends may be paid. Joint Proposal, Appendix A, §IV(B)(3), at 9.

<sup>20</sup> Joint Proposal, Appendix A, §IV(B)(4), at 9.

require the Company to maintain a minimum common equity ratio of 30% before any declaration of dividends. In Corning's view, the Joint Proposal restrictions operate as an incentive to maintain the LDC's financial strength.

In Staff's view, the formation of Holdco could put at risk Corning's finances and therefore its rates, for reasons unrelated to the operation of Corning itself. Staff's intention in negotiating the provisions on dividend restrictions and other financial transactions, as well as rates, was to protect the LDC from this eventuality and to avoid draining capital from the LDC to support riskier non-regulated ventures. In Staff's view, the Joint Proposal dividend restrictions will help ensure the Company will maintain the common equity ratio upon which its rates were calculated.

Money Pooling, Financial Transparency, Insurance, and Cross-Default Provisions

The Joint Proposal provides that Corning may participate in a money pool only if all other pool participants are regulated entities with the exception of Holdco. Holdco may participate only as a lender. In addition, Corning may not participate directly or indirectly in any money pool in which any participant directly or indirectly transfers funds to Holdco. Corning would also be barred under the Joint Proposal from lending to, guaranteeing, or financially supporting Holdco or any affiliates; only with Commission approval may Corning provide any financial support for any non-regulated businesses. Corning's banking and financial management arrangements will be separate from other affiliates.

The Joint Proposal also elaborates on the provisions of the Affiliate Standards, to the effect that Corning, Holdco and any other affiliates may be covered by common insurance policies as long as Corning is protected from potential claims

against affiliates and increases in premiums that may result from inclusion of an affiliate in such policies.

With respect to cross-default provisions, the Joint Proposal bars Holdco or affiliates from entering into any cross-default provision which might in any manner affect Corning.

According to Corning the money pooling restriction is intended to maintain financial separation between Corning and Holdco, so as to ensure unregulated operations have no access to Corning funds. This ring-fencing provision protects Corning. In Staff's view, these provisions are intended to prevent inappropriate financing arrangements with the parent or any subsidiaries, similar to conditions we adopted in other corporate reorganizations.

Competition with Affiliates and Sharing of Revenues from Unregulated Operations in Service Territory

The Joint Proposal provides that neither Holdco nor any of its affiliates will engage in activities that compete with Corning within its service territory, including constructing facilities that connect to local production. Holdco or affiliates that construct pipelines outside of Corning's service territory and connect to Corning's facilities must pay access and transportation rates.

Corning agrees to this provision, recognizing that it protects ratepayers by preserving for their benefit the revenues they receive under the current rate case mechanism as well as future revenues from access and transportation services.

Staff views this prohibition as meeting its concern that Holdco would pursue local production connections, thereby bypassing Corning's system and denying ratepayers access and transportation revenues. This provision prohibits such competition with affiliates and ensures that benefits associated

with local production in Corning's territory accrue to ratepayers.

Use of Revenues Pursuant to Public Service Law §107

Parties agree to support the granting of authority for Corning to use up to \$1.0 million of revenues to invest in unregulated operations. The \$1.0 million is to be a loan from Corning to Holdco and/or to Leatherstocking, and Holdco will be required to repay the \$1.0 million loan with proceeds from the first equity issuance following formation of Holdco.

Corning views this funding for Leatherstocking as critical to its efforts to increase the availability of natural gas in unserved or underserved areas. It asserts the loan will not impair Corning's service, and that customers will be compensated at the same rate utilities pay on customer deposits, and prompt repayment is assured. Staff agrees the \$1.0 million loan will neither place Corning at financial risk nor impair its ability to provide safe and adequate service; in addition, the prompt repayment provision is an added ratepayer benefit not required under PSL §107.

Other Provisions

Corning agrees to withdraw the Rehearing Petition in Case 11-G-0280 with prejudice. Parties agree to support approval of the Mirabito Petition for acquisition of up to 15% of Corning's common stock by Mirabito.

DISCUSSION AND CONCLUSION

The Joint Proposal includes significant protections for ratepayers against possible negative impacts of the existing relationship with affiliates of the regulated distribution company. Among these are certain financial protections to ensure that the Company and its ratepayers will not be exposed to additional financial risk. Upon review of Corning's current

finances, we are confident that the \$1.0 million loan will still leave the Company's equity ratio above 48%. The Joint Proposal also offers protections related to the use of employees that ensure the provision of safe and reliable service, and improved governance measures to eliminate conflicts of interest and ensure Board of Directors independence. To these we add the express proviso that the costs of the formation of Holdco should not be incurred by Corning's ratepayers.

We are troubled, however, by the provision related to potential Commission audits of minutes of Corning's Board of Directors. This provision shall not be read to restrict the Commission's broad and long-standing authority to audit regulated utility books and records pursuant to PSL §§66(9) and (10).<sup>21</sup> Therefore we do not approve this term of the Joint Proposal.<sup>22</sup> In addition, this order will modify the terms of the Joint Proposal to include the requirement that the Commission and the Department of Public Service have access to the books and records of all Corning's affiliates, including Holdco, to the extent such information and materials are relevant to the Commission's exercise of authority under the Public Service Law or any other applicable statute. The Commission's authority to review such books and records is vital to ensuring that ratepayers are protected under the new organization. Therefore our approval of this reorganization as in the public interest is conditional upon the affirmation of this legal authority.

---

<sup>21</sup> PSL §66(9) provides that the Commission shall have power "to examine the accounts, books, contracts, records, documents and papers" of any gas corporation.

<sup>22</sup> Joint Proposal, Appendix A, §IV(A)(2), at 7. A footnote to this language cautions that such right to audit shall not be construed as acknowledgement by Corning that the minutes to be audited are public documents. Commission access to utility books and records is statutory, and does not imply public access to such documents.

We will also condition our approval upon a commitment by Corning to retain the headquarters of the local distribution company within its service territory. By headquarters, we refer not only to the facility but to the leaders responsible for Corning's day-to-day operations. This issue is not addressed in the Joint Proposal, although in discovery Corning stated it was committed to maintaining the headquarters of the local distribution company in the Corning service territory. The Corning commitment to continue the locally based leadership of the company will promote Corning's capability of understanding and responding to its customers' needs, incentives for providing safe and adequate service, and alacrity of identifying necessary improvements to its system.

There are anticipated tangible benefits for Corning ratepayers: the elimination of competition from affiliates for local production in the LDC's service territory, and the opportunity for the Company and customers to increase their share in revenues derived from Corning access and transportation services to local natural gas producers in New York and Pennsylvania.

The Joint Proposal effects a restructuring of Corning to clarify the respective roles of the LDC and its affiliates and to better align those roles with the interests of ratepayers and shareholders. Activities in high-risk ventures or in those unrelated to regulated operations are now properly the domain of unregulated affiliates, while opportunities for the LDC within its service territory are properly reserved for Corning without conflicts of interest with affiliates. In addition, the recusal policy is of key importance in ensuring that Corning maintains its proper focus on ratepayer interests.

Adoption of the Joint Proposal with the three conditions noted above is just and reasonable and in the public

interest. As modified, its terms represent a fair balance of the interests of ratepayers, investors, and the long-term stability of the utility. The discovery and extensive filings by parties concerning the scope and merits demonstrate that the issues disputed in the course of this proceeding are resolved fairly in the Joint Proposal, which is unopposed. The provisions of the Joint Proposal fall within the range expressed in the parties' submissions, and represent the resolution of disputes between normally adverse parties. Accordingly, the terms of the Joint Proposal are adopted, except as modified herein.

The Commission orders:

1. The terms of the Joint Proposal attached hereto as Appendix A are adopted, with the conditions and modifications discussed in this order.

2. Corning Natural Gas Corporation is authorized to form a holding company in accordance with the terms of this order.

3. Corning Natural Gas Corporation is authorized to lend up to \$1.0 million in accordance with the terms of this order.

4. The joint petition in Case 11-G-0417 of Corning Natural Gas Corporation and Mirabito Holdings, Inc. for approval of stock acquisition pursuant to Public Service Law §70 is granted and the acquisition is approved.

5. The costs incurred to establish a holding company shall not be incurred by Corning customers, and Corning Natural Gas Corporation shall submit a compliance filing demonstrating the associated accounting within 60 days of the formation of the holding company.

6. Corning Natural Gas Corporation shall withdraw its pending petition for rehearing in Case 11-G-0280.

7. Corning Natural Gas Corporation shall notify the Secretary to the Commission of its acceptance of the conditions noted in this order within seven days of issuance.

8. These proceedings are continued.

By the Commission,

(SIGNED)

JEFFREY C. COHEN  
Acting Secretary

# APPENDIX A

**STATE OF NEW YORK  
BEFORE THE  
PUBLIC SERVICE COMMISSION**

---

- Case 12-G-0141 – Petition of Corning Natural Gas Corporation for Authority to Form a Holding Company and for Approval of Certain Related Transactions.
- Case 11-G-0417 – Joint Petition of Corning Natural Gas Corporation and Mirabito Holdings, Inc. for Approval, Pursuant to Section 70 of the Public Service Law, of Stock Acquisition.
- 

**JOINT PROPOSAL  
REGARDING CORPORATE RESTRUCTURING, STANDARDS GOVERNING  
AFFILIATE RELATIONS, ACQUISITION OF STOCK AND USE OF REVENUES  
RECEIVED FROM THE RENDITION OF PUBLIC SERVICE**

March 15, 2013

## TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION .....	1
II. PROCEDURAL HISTORY .....	1
III. TERM .....	4
IV. RESOLUTION OF ISSUES .....	4
A. Establishment of and Operation Under Holding Company Structure .....	4
1. Corporate Reorganization .....	4
2. Board of Directors and Officers .....	6
B. Relationship Among Affiliates .....	8
1. Employee Sharing .....	8
2. Emergency Use of Employees .....	8
3. Dividend Restrictions .....	9
4. Rate Setting .....	9
5. Money Pooling .....	10
6. Financial Transparency and Reporting .....	10
7. Cross-Default Provisions .....	10
8. Equity Issuances .....	10
9. Sharing of Revenues from Unregulated Operations in Service Territory .....	11
10. Insurance .....	11
C. Withdrawal of Rehearing Petition .....	12
D. MHI Stock Acquisition .....	12
E. Use of Revenues Pursuant to PSL Section 107 .....	12
V. GENERAL PROVISIONS .....	13
A. Provisions Not Separable .....	13
B. Provisions Not Precedent .....	13
C. Submission of Proposal .....	14
D. Effect of Commission Adoption of Terms of this Proposal .....	14
E. Further Assurances .....	15
F. Execution .....	15
G. Entire Agreement .....	15

**STATE OF NEW YORK  
BEFORE THE  
PUBLIC SERVICE COMMISSION**

---

- Case 12-G-0141 – Petition of Corning Natural Gas Corporation for Authority to Form a Holding Company and for Approval of Certain Related Transactions.
- Case 11-G-0417 – Joint Petition of Corning Natural Gas Corporation and Mirabito Holdings, Inc. for Approval, Pursuant to Section 70 of the Public Service Law, of Stock Acquisition.
- 

**JOINT PROPOSAL  
REGARDING CORPORATE RESTRUCTURING, STANDARDS GOVERNING  
AFFILIATE RELATIONS, ACQUISITION OF STOCK AND USE OF REVENUES  
RECEIVED FROM THE RENDITION OF PUBLIC SERVICE**

**I. INTRODUCTION**

This Joint Proposal is made as of the 15th day of March, 2013, by and among Corning Natural Gas Corporation (“Corning,” “Corning LDC” or the “Company”) and the Staff of the Department of Public Service (“Staff”) (collectively, the “Signatory Parties”).<sup>1</sup> This Joint Proposal resolves all contested issues among the Signatory Parties in the above-captioned cases.

**II. PROCEDURAL HISTORY**

On August 8, 2011, Corning and Mirabito Holdings, Inc. (“MHI”) filed with the New York State Public Service Commission (the “Commission”) a Joint Petition (the “MHI Petition”) seeking Commission authorization, pursuant to Public Service Law (“PSL”) Section 70(4), for the proposed acquisition by MHI of up to 15 percent of the Company’s voting capital stock.

---

<sup>1</sup> The Utility Intervention Unit, Division of Consumer Protection, of the Department of State (“UIU”) participated briefly in settlement negotiations, but subsequently discontinued its participation and indicated that it would not become a Signatory Party to this agreement.

Subsequently, on March 26, 2012, Corning filed a Petition (the “Holdco Petition”) seeking Commission authorization to reorganize into a holding company structure and to enter into certain related transactions, including the provision of up to \$4.3 million in funding for the proposed holding company and other affiliates, principally Leatherstocking Gas Company, LLC (“Leatherstocking”).

On January 13, 2012, prior to the filing of the Holdco Petition, Corning, Staff, the UIU, Multiple Intervenors and the Village of Bath Electric, Gas and Water Systems had entered into and filed a Gas Rates Joint Proposal in Case 11-G-0280<sup>2</sup> in which the parties had agreed to collaborate in an effort to agree upon a methodology for allocating expenses, a business code of conduct and affiliate transaction rules associated with Leatherstocking and any other affiliates.<sup>3</sup> The Gas Rates Joint Proposal was approved by the Commission on April 20, 2012.<sup>4</sup> Despite the parties’ efforts, they were not able to agree on all elements of the expense allocation methodology, code of conduct and affiliate rules. The Commission, on October 19, 2012, ultimately issued an Order Adopting Affiliate Standards (the “Affiliate Standards Order”), which decided the relatively few issues that had been contested. Attached to the Order as Exhibit 1 are the Standards adopted by the Commission.<sup>5</sup> On November 19, 2012, Corning filed a petition for clarification and/or rehearing of the Affiliate Standards Order (the “Rehearing Petition”), seeking

---

<sup>2</sup> Case 11-G-0280, Corning Natural Gas Corporation - Rates (the “Rate Case”).

<sup>3</sup> Id., Gas Rates Joint Proposal p. 6.

<sup>4</sup> Id., Order Adopting Terms of Joint Proposal and Establishing a Multi-Year Rate Plan (issued April 20, 2012).

<sup>5</sup> Standards Pertaining to Transactions, Conflicts of Interest, Cost Allocation and Sharing of Information Between Corning Natural Gas Corporation and Affiliates (the “Standards”). Appended to the Standards as Schedule II is the Corning Natural Gas Corporation Code of Business Conduct and Ethics (the “Code”).

modification of that Order as it pertained to the sharing of employees and restrictions on members of the Board of Directors.

Prior to the issuance of the Order adopting the Standards, the Commission, on August 16, 2012, issued a Notice Consolidating Proceedings and Scheduling Procedural Conference (the "Consolidation Notice") in Cases 12-G-0141 and 11-G-0417, the two proceedings that are the focus of this Joint Proposal. As indicated in the Consolidation Notice, the Commission determined that, in light of the overlapping nature of some of the issues in each proceeding, it would be efficient and reasonable to consolidate the two proceedings. Pursuant to the schedule set forth in the Consolidation Notice, a Procedural Conference was held before Administrative Law Judge Eleanor Stein in Albany on September 20, 2012. Following input from the parties on the procedures to be followed in the consolidated proceedings, Judge Stein, on December 21, 2012, issued a Ruling on Scope and Schedule, which addressed the scope of the proceeding, the standard of review to be applied, and established a litigation schedule.

In a series of telephone conference calls culminating on January 30, 2013, Staff and the Company held exploratory discussions to determine whether there might be an opportunity to settle some or all of the outstanding issues in these consolidated proceedings. Upon concluding with Staff that such settlement was possible, the Company, on the same date, sent the Acting Secretary of the Commission a notice of impending settlement negotiations pursuant to Section 3.9 of the Commission's regulations (16 NYCRR) and provided copies to Administrative Law Judge Stein, Administrative Law Judge David L. Prestemon,<sup>6</sup> and counsel for UIU, as well as to Staff. Pursuant to that notice, an initial settlement conference was held by conference call on January 31, 2013 and subsequent conferences, all telephonic, were held on February 7, 15, 20

---

<sup>6</sup> Presiding in Case 11-G-0280.

and 22, and on March 1, 13 and 14, 2013. By a Letter Ruling Revising Schedule issued February 4, 2013, Judge Stein extended the deadlines for filing initial and reply testimony and postponed the previously scheduled hearing sine die, to allow time for settlement negotiations. During the course of negotiations, draft language and similar materials, including drafts of this Joint Proposal, were exchanged among the Signatory Parties. This Joint Proposal is the product of the foregoing negotiations and exchanges of documents.

### **III. TERM**

Except as otherwise specified herein, all provisions of this Joint Proposal, if adopted by the Commission, shall remain in effect until such provisions are modified by the Commission. Nothing contained in this Joint Proposal shall be construed as modifying or amending the existing Standards adopted by the Commission on October 19, 2012, unless specifically enumerated herein.

### **IV. RESOLUTION OF ISSUES**

This Joint Proposal is intended to resolve all outstanding issues with respect to the (A) the establishment of a holding company structure, (B) relationships among affiliates, (C) the Rehearing Petition, (D) the authorization for the purchase of stock by MHI, and (E) the authorization for the use of revenues pursuant to PSL Section 107.

#### **A. Establishment of and Operation Under Holding Company Structure**

##### **1. Corporate Reorganization**

The Signatory Parties agree to support Corning's reorganization into a holding company structure whereby each shareholder owning Corning common stock immediately prior to the reorganization will own a corresponding number of shares of holding company common stock, and the holding company will then own all outstanding shares of Corning's common stock. The

local distribution company business shall remain subject to the jurisdiction of the Commission as a gas corporation under the PSL (“Corning LDC”), as a subsidiary of a holding company (“Corning Holdco or Holdco”).

Moreover, the interest in Leatherstocking and Leathestocking Pipeline Company, LLC (“Pipeline Company”), each of which is currently owned by Corning Natural Gas Appliance Company (the “Appliance Company”),<sup>7</sup> shall be transferred to Corning Holdco, either directly or through the transfer of Corning LDC’s ownership of the Appliance Company to the Holdco, within one month of the establishment of the Holdco. Corning Holdco may hold interests in other businesses, whether regulated or unregulated.

Holdco will file with the Federal Energy Regulatory Commission (“FERC”) pursuant to any applicable exemption from registration and waiver of the Public Utility Holding Company Act of 2005. The approval of shareholders of Corning LDC’s common stock will be required for the reorganization of Corning LDC into a holding company organization. The Company will seek shareholder approval at a meeting of shareholders to be held within six months following the Commission’s adoption and approval of this Joint Proposal. In connection with its solicitation of proxies to vote at the meeting, Holdco will file a Registration Statement on Form S-4 with the SEC to register the Holdco common stock to be exchanged for the outstanding Corning LDC common stock and such Registration Statement must become effective. The Registration Statement will also contain a proxy statement of Corning LDC describing the

---

<sup>7</sup> The indicated 50 percent interests in Leatherstocking and Pipeline Company were originally held by Corning LDC, although the investment came from the Appliance Company. On March 1, 2013, the Corning LDC Board of Directors authorized the transfer of those interests from Corning LDC to the Appliance Company and the necessary transfers and assignments of membership interests were executed as of that date.

corporate restructuring, which proxy statement will be mailed to Corning LDC shareholders prior to the anticipated meeting of shareholders.

The adoption and approval of this Joint Proposal shall be deemed to constitute authorization to the Secretary of the Commission, pursuant to Section 108 of the PSL, to endorse on behalf of the Commission, upon presentation by Corning LDC, any certificates required to effectuate the transactions contemplated herein that require such endorsement for purposes of filing with the New York Secretary of State. Following such endorsement, Corning LDC will make the requisite filing or filings with the New York Secretary of State.

## 2. Board of Directors and Officers

A majority of the Corning LDC Board of Directors shall be independent, as that term is defined in Section 10A of the Securities Exchange Act of 1934. This provision shall not be construed as precluding members of the Corning LDC Board of Directors from also being members of the Corning Holdco Board of Directors or from also being members of the Boards of Directors of other affiliates or non-affiliates, provided that the Corning LDC Board of Directors continues to maintain a majority of Directors who meet the requirements of being independent. In lieu of restricting membership on any of the foregoing Boards of Directors, Corning LDC shall require all members of the Corning LDC's Board of Directors to follow the Process for Recusals set forth in the existing Standards. In the event Corning LDC determines that a member of the Corning LDC's Board of Directors fails to adhere to the Process for Recusals or misuses information obtained as a result of such failure, the Secretary to the Board of Directors shall immediately notify the Commission and Corning LDC's Nominating Committee and legal counsel as to the facts and circumstances pertaining to such event. Unless the allegations as to the individual member of the Board of Directors are shown to be incorrect, the Nominating

Committee shall refrain from including such member on the slate of candidates for election or re-election to the Board of Directors. Such exclusion shall be in addition to, and shall not preclude resort to, all other remedies available pursuant to the PSL, New York Business Corporation Law,<sup>8</sup> the Corning Certificate of Incorporation,<sup>9</sup> and the Corning By-Laws,<sup>10</sup> in addition to the Standards and the Code. The minutes of the Corning LDC's Board of Directors meetings shall be subject to audit by the Commission to the extent necessary to confirm the accuracy of the facts pertaining to failure to adhere to the System of Recusals.<sup>11</sup> In the event of a violation of the system of Recusals, the Company will file a Form 8-K with the Securities and Exchange Commission ("SEC"), if necessary.

The presumption indicated in the existing Standards on Relationships with Competitors, that a 5 percent or greater ownership interest in a competitor gives rise to a conflict of interest that would automatically bar an individual officer or director from certain activities, shall be eliminated. Nothing contained in this section shall be construed as limiting or modifying rights and obligations otherwise applicable to Corning LDC, its officers and directors, and the Commission with respect to the conduct of officers and directors.

---

<sup>8</sup> E.g., §§ 713 (interested directors), 720 (action against director engaged in misconduct).

<sup>9</sup> E.g., ¶ Sixth (intentional misconduct; gaining advantage without legal entitlement thereto).

<sup>10</sup> E.g., Art. III, § 2 (removal for cause); Art. VIII, § 1 (disqualification from right to indemnification).

<sup>11</sup> Such right to audit shall not be construed as acknowledgment by Corning LDC that the minutes to be audited are public documents.

B. Relationship Among Affiliates

1. Employee Sharing

To facilitate the provision of accounting, financial reporting and similar services to affiliates of Corning LDC, the Company shall be permitted to utilize the services of its Chief Financial Officer for such purposes and to include the cost thereof in the allocation to Leatherstocking established in the Gas Rates Joint Proposal (Section V.C.1, at p. 6) by, in effect, substituting it for the allocation of the cost associated with Corning's Vice President of Administration (listed as "Salary 13").<sup>12</sup> Such substitution shall not result in any reduction to the costs allocated to Leatherstocking. For purposes of this provision, "Leatherstocking" shall be deemed to include the Appliance Company and other unregulated affiliates. In addition, two clerical accounting employees may provide such services to unregulated affiliates on a fully allocated cost basis at no more than a combined five percent of their time.<sup>13</sup>

2. Emergency Use of Employees

The provision of the existing Standards on Employee Loans in an Emergency shall be modified slightly to permit, as an exception to the broad prohibition on use of Corning LDC employees, such employees to respond to emergencies on behalf of affiliates other than regulated utilities. Such emergency situations will continue to be limited to those that are in the nature of immediate risk to human health and safety, and such situations shall not include economic circumstances. Corning LDC shall employ its best efforts to provide prompt notice to the Commission whenever such emergency use of its employees occurs.

---

<sup>12</sup> The Chief Financial Officer's corresponding designation is "Salary 12."

<sup>13</sup> The calculation of the maximum allowable time and amount is as follows: salary of clerical accounting employee no. 1 + salary of clerical accounting employee no. 2 divided by 2 multiplied by .05.

3. Dividend Restrictions

At each month-end, Corning LDC will be required to maintain a minimum common equity ratio (measured using a trailing 13-month average) of no less than 300 basis points below the equity ratio used to set rates in order to pay dividends. Cumulative dividends declared in a year are restricted to 90 percent of regulated net income (calculated on a two-year rolling average basis) for an equity ratio that is within 200 basis points of the equity ratio used to set rates. Cumulative dividends declared in a year are restricted to 50 percent of regulated net income (calculated on a two-year rolling average basis) for an equity ratio that is between 200 and 300 basis points of the equity ratio to set rates. In the event that the common equity is more than 300 basis points below the equity ratio used to set rates, dividends are not payable until such time as the common equity ratio is within 300 basis points of the equity ratio used to set rates. The table below illustrates what the dividend pay-out ratio would be when the equity ratio used to set rates is 48 percent:

<u>Equity Ratio</u>	<u>Dividend Pay-Out</u>
48% and above	90%
46% - 48%	90%
45% - 46%	50%
Below 45%	0%

4. Rate Setting

In the event the Commission establishes rates for Corning LDC on a basis that does not recognize Corning LDC's actual equity capitalization, or deems or imputes for ratemaking purposes an equity capitalization below Corning LDC's actual equity capitalization, Corning LDC shall be free to dividend its excess equity capitalization to match that recognized or deemed by the Commission in establishing Corning LDC's rates.

5. Money Pooling

Corning LDC may participate in a money pool only if all other participants, with the exception of Corning Holdco, are regulated utilities operating within the United States, in which case, Corning LDC may participate as either a borrower or a lender. Corning Holdco may participate only as a lender in money pools involving Corning LDC. Corning LDC may not participate directly or indirectly in any money pool in which any participant directly or indirectly loans or transfers funds to Corning Holdco.

6. Financial Transparency and Reporting

Except as expressly provided otherwise in this Joint Proposal,<sup>14</sup> Corning LDC will not lend to, guarantee or financially support Corning Holdco or any of its affiliates, or any subsidiary or other joint venture of Corning LDC. Furthermore, Corning LDC will not engage in, provide financial support to or guarantee any non-regulated businesses, except as authorized herein or by Commission order. Corning LDC shall maintain banking, committed credit facilities and cash management arrangements which are separate from other affiliates.

7. Cross-Default Provisions

Neither Corning Holdco, nor any of its affiliates, may enter into any cross-default provision following the formation of Corning Holdco, which affects Corning LDC in any manner.

8. Equity Issuances

With the formation of Corning Holdco, equity will no longer be issued by Corning LDC. Corning Holdco will assume Corning LDC's equity issuance obligations.

---

<sup>14</sup> See Section IV.E, infra.

9. Sharing of Revenues from Unregulated Operations in Service Territory

The Signatory Parties agree that neither Corning Holdco nor any of its affiliates will engage in activities that compete with Corning LDC within its service territory,<sup>15</sup> including constructing facilities that connect to local production. Corning Holdco or any affiliate that constructs pipelines (operated at any pressure) for gathering and/or transportation that utilize Corning LDC's facilities shall be required to pay access and transportation charges for use of those facilities.<sup>16</sup> Such access and transportation revenues shall be shared in the same percentages as are in place for existing sharing pursuant to the Gas Rates Joint Proposal in the Rate Case. The thresholds for such sharing shall be the same as in the Gas Rates Joint Proposal.

10. Insurance

The cost of insurance shall be allocated and billed among Corning LDC and its affiliates pursuant to the provisions of the Standards. In addition, to ensure that the costs of insurance policies are allocated among Corning LDC and its affiliates in an equitable manner, Corning

---

<sup>15</sup> For purposes of this Joint Proposal, the Corning LDC "service territory" shall be the area of New York State within which Corning LDC provides natural gas distribution service pursuant to Commission-approved municipal franchises.

<sup>16</sup> The above "service territory" shall be deemed to include additional areas served by Corning LDC pursuant to franchises approved following the effective date of this Joint Proposal; provided, however, that, where a franchise is approved following the installation, within the relevant geographical area, of gathering and/or transportation pipelines that were not subject to revenue sharing pursuant to this provision at the time they were installed, the exercise of such franchise shall not subject such pipelines to revenue sharing unless the facilities use Corning LDC's local distribution system, in which case the entity owning such connected pipelines shall be required to pay access and transportation charges and sharing of such access and transportation revenues shall apply pursuant to the Gas Rates Joint Proposal in the Rate Case. In the event that a new local gas distribution company ("New LDC") owned by Corning Holdco seeks approval to operate in New York State pursuant to Section 68 of the PSL, such New LDC shall state, either in its initial application, if it chooses to do so, or upon request during such Section 68 proceeding, how New LDC proposes to address local production issues where an affiliate of New LDC connects gathering and/or transportation pipelines directly to New LDC's distribution system.

LDC shall request that its insurance brokers and/or carriers provide such allocations. Where such allocations from brokers and/or carriers cannot be obtained, Corning LDC shall make such allocation based on the value of the property or assets held by the respective entities, or such other methodology as shall be agreed upon with Staff. The amount that is allocated to Leatherstocking or any other affiliate will be reimbursed to Corning LDC annually.

C. Withdrawal of Rehearing Petition

As part of the settlement of all issues addressed herein, the Company agrees to withdraw its Rehearing Petition in Case 11-G-0280 with prejudice. In the event that any of the provisions of this Joint Proposal are not adopted, Corning reserves its right to prosecute the Rehearing Petition.

D. MHI Stock Acquisition

As part of the settlement of all issues addressed herein, the Signatory Parties agree to support approval of the MHI Petition.

E. Use of Revenues Pursuant to PSL Section 107

The Signatory Parties agree to support, as part of the Commission's approval of this Joint Proposal, the granting of Corning's request for authority, pursuant to PSL Section 107, to use \$1.0 million of revenues received from the rendition of public service in New York to invest in unregulated operations. The \$1.0 million will be a loan from Corning LDC to Corning Holdco and/or to Leatherstocking at a rate of 2.10 percent. The rate of 2.10 percent is the current customer deposit rate, which is the rate provided on utility customer deposits. There will be no deduction for administrative costs of customer deposits, which is not applicable here. The \$1.0 million loan will be repaid by Corning Holdco to Corning LDC with proceeds from the first

equity issuance following the formation of Corning Holdco. The remainder of Corning's PSL Section 107 request is withdrawn with prejudice.

## **V. GENERAL PROVISIONS**

### **A. Provisions Not Separable**

The Signatory Parties intend this Joint Proposal to be a complete resolution of all the issues in Cases 12-G-0141, 11-G-0417 and those portions of Case 11-G-0280 pertaining to Standards. The terms of this Joint Proposal are submitted as an integrated whole. If the Commission does not accept this Joint Proposal according to its terms as the basis of the resolution of all issues addressed without change or condition, each Signatory Party shall have the right to withdraw from this Joint Proposal upon written notice to the Commission within ten days of the Commission Order. Upon such a withdrawal, the Signatory Parties shall be free to pursue their respective positions in this proceeding without prejudice, and this Joint Proposal shall not be used in evidence or cited against any such Signatory Party or used for any other purpose. It is also understood that each provision of this Joint Proposal is in consideration and support of all the other provisions, and expressly conditioned upon acceptance by the Commission. Except as set forth herein, none of the Signatory Parties is deemed to have approved, agreed to or consented to any principle, methodology or interpretation of law underlying or supposed to underlie any provision herein.

### **B. Provisions Not Precedent**

The terms and provisions of this Joint Proposal apply solely to, and are binding only in the context of the purposes and results of this Joint Proposal. None of the terms or provisions of this Joint Proposal and none of the positions taken herein by any Signatory Party may be referred

to, cited, or relied upon by any other party in any fashion as precedent or otherwise in any other proceeding before this Commission or any other regulatory agency or before any court of law for any purpose other than furtherance of the purposes, results, and disposition of matters governed by this Joint Proposal. This Joint Proposal shall not be construed, interpreted or otherwise deemed in any respect to constitute an admission by any Signatory Party regarding any allegations, contentions or issues raised in this proceeding or addressed in this Joint Proposal.

C. Submission of Proposal

Each Signatory Party agrees to submit this Joint Proposal to the Commission, to support and request its adoption by the Commission, and not to take a position in this proceeding contrary to the agreements set forth herein or to assist another participant in taking such a contrary position in these proceedings. The Signatory Parties believe that the resolutions of the issues, as set forth in this Joint Proposal, are just and reasonable and otherwise in accordance with the PSL, the Commission's regulations and applicable Commission precedent.

D. Effect of Commission Adoption of Terms of this Proposal

No provision of this Joint Proposal or the Commission's adoption of the terms of this Joint Proposal shall in any way abrogate or limit the Commission's statutory authority under the PSL. The Signatory Parties recognize that any Commission adoption of the terms of this Joint Proposal does not waive the Commission's ongoing rights and responsibilities to enforce its orders and effectuate the goals expressed therein, nor the rights and responsibilities of Staff to conduct investigations or take other actions in furtherance of its duties and responsibilities. To the extent that the terms of this Joint Proposal conflict with the provisions of any other requirements applicable to Corning or its affiliates, including but not limited to the Standards and the Code, the terms of this Joint Proposal shall control.

**E. Further Assurances**

The Signatory Parties recognize that certain provisions of this Joint Proposal require that actions be taken in the future to fully effectuate this Joint Proposal. Accordingly, the Signatory Parties agree to cooperate with each other in good faith in taking such actions. In the event of any disagreement over the interpretation of this Joint Proposal or implementation of any of the provisions of this Joint Proposal, which cannot be resolved informally among the Signatory Parties, such disagreement shall be resolved in the following manner: (a) the Signatory Parties shall promptly convene a conference and in good faith attempt to resolve any such disagreement; and (b) if any such disagreement cannot be resolved by the Signatory Parties, any Signatory Party may petition the Commission for resolution of the disputed matter.

**F. Execution**

This Joint Proposal may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument which shall be binding upon each Signatory Party when it is executed in counterpart, filed with the Secretary of the Commission and approved by the Commission. However, upon execution, filing with the Secretary of the Commission and prior to approval by the Commission, each Signatory Party shall be bound to support adoption of this Joint Proposal and, to the extent required by the context, to undertake actions necessary for implementation of the provisions of this Joint Proposal upon its approval by the Commission.

**G. Entire Agreement**

This Joint Proposal, including all attachments, exhibits and appendices, if any, represents the entire agreement of the Signatory Parties with respect to the matters resolved herein.

CASES 12-G-0141 AND CASE 11-G-0417

This JOINT PROPOSAL agreed to as of the 15th day of March, 2013.

STAFF OF THE DEPARTMENT OF  
PUBLIC SERVICE

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to read "Brian P. Ossias", written over a horizontal line.

Brian P. Ossias, Esq.  
Staff Counsel

CASES 12-G-0141 AND 11-G-0417

This JOINT PROPOSAL agreed to as of the 15<sup>th</sup> day of March, 2013.

CORNING NATURAL GAS CORPORATION

By: Stanley W. Widger, Jr.

Stanley W. Widger, Jr., Esq.  
Nixon Peabody LLP