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April 24, 2017

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

Re: Pennsylvania Public Utility Commission, Office of Consumer Advocate and Office of Small Business Advocate, Michael Ochs v. UGI Penn Natural Gas, Inc., Docket Nos. – R-2016-2580030; C-2017-2585510; C-2017-2589092 and C-2017-2596537

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Direct Energy's Statement in Support of Joint Petition for Approval of Settlement of All Issues with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Karen

Karen O. Moury

KOM/lww
Enclosure

cc: Hon. Mary D. Long w/enc.
Certificate of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Direct Energy's Statement in Support of Joint Petition for Approval of Settlement of All Issues upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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Hon. Mary D. Long
Administrative Law Judge
Pennsylvania Public Utility Commission
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Dated: June 30, 2017

Karen O. Moury, Esq.

{L0681375.1}

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	R-2016-2580030
Office of Consumer Advocate	:	C-2017-2585510
Office of Small Business Advocate	:	C-2017-2589092
Michael Ochs	:	C-2017-2596537
	:	
v.	:	
	:	
UGI Penn Natural Gas, Inc.	:	

STATEMENT OF DIRECT ENERGY, LLC, DIRECT ENERGY SERVICES, LLC AND DIRECT ENERGY BUSINESS MARKETING, LLC IN SUPPORT OF JOINT PETITION FOR APPROVAL OF SETTLEMENT OF ALL ISSUES

TO ADMINISTRATIVE LAW JUDGE MARY D. LONG:

Pursuant to 52 Pa. Code §§ 5.231 and 5.232, Direct Energy, LLC, Direct Energy Services, LLC and Direct Energy Business Marketing, LLC ("Direct Energy") files this Statement in Support of Joint Petition for Approval of Settlement of All Issues ("Settlement") filed in the above-captioned matter on June 30, 2017. The Settlement comprehensively addresses and resolves all issues raised by Tariff Gas – PA. P.U.C. Nos. 9 ("Proposed Tariff") and 9-S ("Proposed Supplier Tariff") filed on January 19, 2017 by UGI Penn Natural Gas, Inc. ("UGI PNG" or "Company"). As a signatory to the Settlement, Direct Energy respectfully submits that the terms and conditions of the Settlement are in the public interest and should be approved by the Pennsylvania Public Utility Commission ("Commission") without modification. In support hereof, Direct Energy states as follows:

I. INTRODUCTION

Direct Energy is a natural gas supplier ("NGS") licensed by the Commission to provide natural gas and related services to retail customers in the UGI PNG service territory.[1] Through its intervention in this proceeding, Direct Energy sought to address issues that may have an adverse impact on the competitive natural gas retail market or its business operations as an NGS serving retail customers who receive distribution services from UGI PNG.

The Settlement contains several measures that are designed to improve the functioning of the competitive retail market in the UGI PNG service area, by lowering costs paid by customers receiving gas supply service from NGSs and by opening a dialogue about the Company's capacity release program with interested parties, including NGSs. These provisions, which are set forth in Section F, Paragraphs 48 through 51, of the Settlement specifically address penalty charges for Intentional Imbalances, Operational Flow Orders, and Unauthorized Overruns, and include a commitment regarding Capacity Assignment.

The Settlement improves UGI PNG's Proposed Tariff with respect to the functioning of the competitive retail market and adequately addresses issues of primary concern to Direct Energy. Importantly, with respect to penalty charges for Intentional Imbalances and Operational Flow Orders, the Settlement would align these amounts with the levels recently approved for UGI Utilities, Inc. – Gas Division ("UGI Utilities").[2] Such consistency would ease participation by Direct Energy in these competitive markets. If approved without modification, the Settlement will avoid significant costs that would be incurred to fully litigate this proceeding and provide certainty that issues of importance to Direct Energy are fairly resolved.

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[1] *See* PUC Docket Nos. A-125072 (Direct Energy Business, LLC), A-125135 (Direct Energy Services, LLC) and A-2013-2365792 (Direct Energy Business Marketing, LLC).

[2] *Pa. PUC v. UGI Utilities, Inc. – Gas Division*, Docket No. R-2015-2518438 (Order entered October 14, 2016) ("*UGI Utilities*").

II. BACKGROUND

Direct Energy adopts the background as set forth in Paragraphs 1 through 14 of the Settlement.

III. SETTLEMENT

As Direct Energy's interest in the Settlement is limited to Section F, this Statement in Support discusses only those issues that affect NGSs and the overall functioning of the competitive retail market for natural gas supply. However, Direct Energy urges the Commission to adopt the comprehensive Settlement without modification, which will preserve those provisions negotiated by Direct Energy that are relevant to its operations as an NGS.

Under the Settlement, UGI PNG has agreed to revise Proposed Tariff Rule 20.4, to reduce the Daily Excess Balancing Charges that occurs on Non-Critical Days for Intentional Imbalances from the Gas Daily Index ("GDI") x 10 to GDI x 5.[3] The Settlement would also reduce the penalty charge in Proposed Tariff Rule 20.5 from $50.00 per Mcf to $25.00 per Mcf for failure to comply with Operational Flow Orders and Daily Flow Directives.[4] On the issue of Unauthorized Overruns for Rate Schedules LFD (Large Firm Delivery Service) and XD (Extended Large Firm Delivery Service), the Settlement would maintain those charges at their current level of $27.50 per Mcf, rather than increasing them to the proposed level of $50.00 per Mcf.[5]

With respect to Capacity Assignment, the Settlement provides for approval of the Company's capacity release proposal, which includes: (1) mandatory assignment of upstream pipeline and storage capacity to Rate DS (Delivery Service) customers from the Company

[3] Proposed Tariff, Original Page 67. Settlement ¶ 48.

[4] Proposed Tariff, Original Page 67. Settlement ¶ 49.

[5] Proposed Tariff, Original Pages 82 and 85. Settlement ¶ 50.

sufficient to meet their contract demand requirements; and (2) voluntary assignment to Rate LFD customers. Further, the Settlement obligates UGI PNG to conduct a collaborative within 30 days from entry of the final order approving the Settlement to address any concerns regarding capacity releases.[6]

IV. STANDARDS FOR SETTLEMENTS

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements reduce the time and expense that parties must expend litigating a case and, at the same time, conserve administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. *See id.* § 69.401. In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. PUC v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. PUC v. C.S. Water and Sewer Assocs.*, 74 Pa. P.U.C. 767 (1991).

V. THE SETTLEMENT IS IN THE PUBLIC INTEREST

Direct Energy believes that the Settlement is reasonable and in the public interest because it contains provisions designed to improve the overall functioning of the competitive retail market by reducing the costs incurred by customers participating in this market and by opening a dialogue with interested parties, including NGSs, about the Company's capacity release program. In general, the Settlement would align various practices of UGI PNG with those of UGI Utilities. Consistency in these provisions would ease Direct Energy's participation in these two competitive markets.

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[6] Settlement ¶ 51.

Under the Settlement, UGI PNG has agreed to revise Proposed Tariff Rule 20.4, which establishes Maximum Daily Excess Balancing Charges. Specifically, UGI PNG would reduce the penalty charge for Intentional Imbalances on Non-Critical Days from the Gas Daily Index ("GDI") x 10 to GDI x 5. In Direct Energy's view, this level of penalty is sufficient to deter Intentional Imbalances without being overly punitive. Also, it is consistent with the penalty amount that UGI Utilities agreed to as part of its last base proceeding and was approved by the Commission.[7]

The Settlement would also reduce the penalty charge in Proposed Tariff Rule 20.5 from $50.00 per Mcf to $25.00 per Mcf for failure to comply with Operational Flow Orders and Daily Flow Directives. Again, Direct Energy believes that this level of penalty is adequate to encourage compliance and is less punitive than the existing charges. Further, this reduction mirrors the penalty charges approved during UGI Utilities' last base rate proceeding.[8]

On the issue of Unauthorized Overruns, the Settlement would maintain those charges at their current level of $27.50 per Mcf, rather than increasing them to the proposed level of $50.00 per Mcf. From Direct Energy's perspective, the current level is adequate to address Unauthorized Overruns and no increase is warranted. Also, maintaining the charge at the current level would keep it more in line with the $25.00 per Mcf charge that is imposed by UGI Utilities.[9]

With respect to Capacity Assignment, the Settlement provides for approval of the Company's capacity release proposal, which includes: (1) mandatory assignment of upstream

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[7] *UGI Utilities (*Recommended Decision served August 5, 2016 at 69).

[8] *Id.* (Recommended Decision at 73).

[9] UGI Utilities Gas Service Tariff No. 6 at Original Pages 83 and 86.

pipeline and storage capacity to Rate DS customers from the Company sufficient to meet their contract demand requirements; and (2) voluntary assignment to Rate LFD customers. Further, the Settlement obligates UGI PNG to conduct a collaborative within 30 days from entry of the final order approving the Settlement to address any concerns regarding capacity releases.

Particularly with the new components of the Company's capacity assignment program, this collaborative would provide a valuable opportunity for Direct Energy and other interested parties to raise questions or concerns to the extent that NGSs have not previously been consulted by UGI PNG about the changes.[10] Also, the Settlement provision permitting issues related to the assignment of capacity to Rate DS and LFD customers to be addressed in either the Company's annual Purchased Gas Cost proceedings or a base rate case affords sufficient flexibility for Direct Energy and other interested parties to pursue desired changes to the capacity release program. In addition, UGI PNG's proposed changes to its capacity assignment program align it with the approached followed by UGI Utilities.[11]

With respect to the questions that Vice Chairman Place directed the parties to address as part of this base rate proceeding, Direct Energy generally has no responsive information and takes no position on these issues. However, in the discussion above regarding the capacity release collaborative that UGI PNG agreed to as part of the Settlement, Direct Energy addresses the importance of this forum in allowing NGSs and other interested parties to raise questions and concerns about the Company's proposed changes to its capacity assignment program.[12]

[10] *See* OSBA St. No. 1 at 70.

[11] UGI PNG St. No. 13 (Borelli Direct Testimony).

[12] Vice Chairman Place Statement dated February 9, 2017 (Question 3 addresses the proposed capacity release program).

Direct Energy believes that the Settlement improves the UGI PNG's Proposed Tariff and adequately addresses issues of primary concern to Direct Energy. Importantly, it would align various practices of UGI PNG with those of UGI Utilities, and such consistency would ease participation by Direct Energy in these competitive markets. If approved without modification, the Settlement will avoid significant costs that would be incurred to fully litigate this proceeding and provide certainty that issues of importance to Direct Energy are fairly resolved. For these reasons, and because this proceeding has been resolved in an acceptable manner by all parties without the need for further litigation, Direct Energy submits that the Settlement is in the public interest and should be approved by the Commission without modification.

WHEREFORE, Direct Energy respectfully requests that Administrative Law Judge Mary D. Long and the Pennsylvania Public Utility Commission grant the Joint Petition for Approval of Settlement of All Issues.

Respectfully submitted,

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Date: June 30, 2017

Attorneys for Direct Energy