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July 10, 2009

Via Electronic Filing

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265

RE: Petition of West Penn Power Company d/b/a Allegheny Power for Approval of its Energy Efficiency and Conservation Plan, Approval of Recovery of its Cost through a Reconcilable Adjustment Clause and Approval of Matters Relating to the Energy Efficiency and Conservation Plan; Docket No. M-2009-2093218;
PETITION TO INTERVENE

Dear Secretary McNulty:

Enclosed for filing with the Commission is an original copy of the Petition to Intervene of UGI Utilities, Inc., - Gas Division, UGI Penn Natural Gas, Inc., and UGI Central Penn Gas, Inc. in the above-captioned proceeding, along with a receipt of electronic filing.

Please do not hesitate to contact me if you have any questions related to this filing.

Very truly yours,

Lillian S. Harris

LSH/TLG/bes

Enclosures

cc: Per Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of West Penn Power Company :
d/b/a Allegheny Power for Approval :
of its Energy Efficiency and Conservation : Docket No. M-2009-2093218
Plan, Approval of Recovery of its Costs :
through a Reconcilable Adjustment Clause :
and Approval of Matters Relating to the :
Energy Efficiency and Conservation Plan :

**PETITION TO INTERVENE
OF UGI UTILITIES, INC. – GAS DIVISION, UGI PENN NATURAL
GAS, INC. AND UGI CENTRAL PENN GAS, INC.**

UGI Utilities, Inc., - Gas Division, UGI Penn Natural Gas, Inc., and UGI Central Penn Gas, Inc. (collectively, the “UGI Distribution Companies”), by and through their counsel, Hawke McKeon & Sniscak LLP, hereby files this Petition to Intervene in the above-captioned matter pursuant to 52 Pa. Code § 5.71. In support thereof, the UGI Distribution Companies represent as follows:

1. The UGI Distribution Companies are represented in the above-captioned matter by the following counsel:

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Please include the above-listed counsel on the service list for all documents in this matter.

2. On June 29, 2009, West Penn Power Company d/b/a Allegheny Power (“Allegheny Power”) filed its Act 129 Energy Efficiency and Conservation Plan (“EE&C Plan”) with the Pennsylvania Public Utility Commission (“PUC” or “Commission”). Each electric distribution company (“EDC”) that serves at least 100,000 customers is required to file an EE&C Plan pursuant to the mandate of Act 129 of 2008,¹ and as ordered by the Commission in its Implementation and Reconsideration Orders, entered on January 16, 2009 and June 2, 2009, respectively, under Docket No. M-2008-2069887.

3. UGI Utilities, Inc. – Gas Division (“UGI Gas”) is a natural gas distributor serving approximately 328,000 customers in a service territory encompassing all or portions of 16 counties. Its service area includes the cities of Allentown, Bethlehem, Easton, Harrisburg, Lancaster, Lebanon and Reading, which includes portions of Allegheny Power’s territory.

4. UGI Penn Natural Gas, Inc. (“UGI Penn”), headquartered in Wilkes-Barre, Pennsylvania, provides natural gas distribution service to approximately 161,000 additional customers in 13 counties in northeastern Pennsylvania, including the cities of Scranton, Wilkes-Barre and Williamsport, which provide services in PPL’s service territory which provide services in Allegheny Power’s service territory.

¹ Section 2806.1 of the Public Utility Code (“Code”), 66 Pa.C.S. § 2806.1.

5. UGI Central Penn Gas, Inc. (“UGI Central Penn”), headquartered in Reading, Pennsylvania, provides natural gas distribution service to approximately 76,000 additional customers in 34 counties in Pennsylvania and one county in Maryland, which provide services in PPL’s service territory which provide services in Allegheny Power’s service territory.

6. The Commission’s regulations provide that a petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought.² In order to successfully demonstrate that intervention is appropriate, at least one of the eligibility requirements of 52 Pa. Code § 5.72 must be met.³

7. The UGI Distribution Companies assert eligibility to intervene in this proceeding under both § 5.72(a) (2) and (a) (3). The UGI Distribution Companies have interests which are directly affected and are not adequately represented by existing participants in the proceeding as to which the UGI Distribution Companies may be bound by the action of the Commission in the proceeding. Given the broad requirements and clear intent of Act 129 for the EDCs’ employment of energy efficiency and conservation measures such as “energy efficient heating and cooling equipment or systems and energy efficient appliances and other technologies,” the UGI Distribution Companies – which advocate the inclusion of fuel substitution technologies in the EE&C plans – have interests that are of such a nature that their participation in this proceeding is in the public interest.

² 52 Pa. Code § 5.72 (a).

³ The right or interest may be one of the following: (1) a right conferred by statute of the United States or of the Commonwealth; (2) an interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding; or (3) another interest of such nature that participation of the petitioner may be in the public interest. *Id.*

(a) Act 129 and the Commission's Orders implementing it clearly contemplate that fuel substitution programs are eligible to meet the EDCs' Act 129 load reduction targets⁴ and that the statute requires procedures to be established "through which recommendations can be made as to additional measures that will enable an EDC to improve its plan."⁵ It does not appear that Allegheny Power has included fuel substitution measures such as the installation of high efficiency natural gas furnaces or appliances as part of its EE&C Plan. Under the EE&C Plan requirement, Allegheny Power has developed a proposed roadmap for Commission approval that it proposes to follow to reduce electric load through the implementation of efficiency and conservation measures – fuel substitution should be a significant part of the plan.

(b) The UGI Distribution Companies should also be granted intervention in this proceeding because the use of natural gas resources as an electric usage reduction measure has the potential to significantly affect the total costs that Allegheny Power customers may ultimately pay for their total energy consumption once an approved EE&C plan is fully implemented. In addition, once approved, the EE&C plans will be in place for an extended timeframe with limited opportunities for plan review and adjustment. Thus, the Commission must gather and consider a broad spectrum of industry and consumer input on the sufficiency of

⁴ 66 Pa. C.S. §2806.1 (a), (b)(1)(i)(A), and (m); *Implementation Order -- Energy Efficiency and Conservation Program*, ("Implementation Order"), Order entered January 16, 2009 in Docket No. M-2008-2069887 at 14 (Act requires an EDC to demonstrate that its plan is cost-effective using the TRC test, and that it provides a diverse cross section of alternatives for all rate classes). *Implementation of Act 129 of 2008 – Total Resource Cost (TRC) Test*, Order entered June 23, 2009 at Docket No. M-2009-2108601 (In response to a request that the Commission indicate that the process is not designed to slow or deter innovations such as substitution technologies, Commission stated that "TRC testing will be at the plan level. This should give any new technologies sufficient opportunity to establish whether they are able to contribute to the energy efficiency and demand reduction goals of Act 129" TRC Order at 6; and "[w]hile no commenter opposed testing the TRC at the plan level, the Joint Supporters, NAESCO, and OCA suggested that EDCs should also be required to calculate and provide information on the TRC at the program level as well. We shall adopt this recommendation that EDC plans should also provide information on the TRC at the program level. This will facilitate interested parties and this Commission in reviewing the balance of programs that EDCs select for their EE&C plans." TRC Order at 8-9.

⁵ Implementation Order at 23-24.

the EDCs' EE&C plans now so that the goals of Act 129 are achieved in a cost-effective manner for the long term.

(c) The UGI Distribution Companies seek to intervene in this proceeding for the purpose of providing input regarding the significant benefits of including fuel substitution measures in Allegheny Power's EE&C Plan to not only meet the load reduction mandate of Act 129, but to provide long-term sustainable benefits to consumers such as downward pressure on wholesale electric and natural gas prices resulting from the more efficient use of natural gas on a source-to-end-use basis and a reduction in greenhouse gas. The UGI Distribution Companies are uniquely positioned to provide valuable input to the Commission on fuel substitution measures because they provide natural gas service to a large number of customers in Allegheny Power's territory. The UGI Distribution Companies' interest is not adequately represented by any other party or participant in this proceeding.

WHEREFORE, the UGI Distribution Companies respectfully request that the Commission grant them leave to intervene and admit them as parties to this proceeding.

Respectfully submitted,



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Dated: July 10, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing Petition to Intervene upon the parties, listed below, in accordance with the requirements of §1.54 (relating to service by a party).

Via First Class Mail & Electronic Mail

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