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July 20, 2009

Secretary James McNulty  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

Re:

Metropolitan Edison Company (Met-Ed) - Docket No. M-2009-209222  
Pennsylvania Electric Company (Penelec) - Docket No. M-2009-2112952  
Pennsylvania Power Company (Penn Power) - Docket No. M-2009-2112956

Dear Secretary McNulty:

Enclosed for filing on behalf of Metropolitan Edison Company ("Met-Ed"), please find an Answer Opposing the Petition to Intervene filed by UGI in the above-referenced matters. This Answer was electronically filed today.

If you have questions, please do not hesitate to contact me.

Sincerely,

  
Michael A. Gruin

cc: Certificate of Service w/encl.

Philadelphia • Reading • Valley Forge • Lehigh Valley • Harrisburg • Lancaster • Scranton  
Williamsport • Wilkes-Barre • Princeton • Cherry Hill • New York • Wilmington

A PROFESSIONAL CORPORATION

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company for Consolidation of Proceedings and Approval of Energy Efficiency and Conservation Plans</b>	<b>:</b>	<b>:</b>	<b>Docket Nos. M-2009-2092222, M-2009-2112952 and M-2009-2112956</b>
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**METROPOLITAN EDISON COMPANY’S ANSWER OPPOSING THE PETITION TO INTERVENE OF UGI UTILITIES, INC. – GAS DIVISION, UGI PENN NATURAL GAS, INC., AND UGI CENTRAL PENN GAS, INC.**

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Pursuant to 52 Pa. Code §5.66, Metropolitan Edison Company (“Met-Ed”), by and through its attorneys, Stevens & Lee, hereby files the Answer Opposing the Petition to Intervene of UGI Utilities, Inc.- Gas Division, UGI Penn Natural Gas, Inc., and UGI Central Penn Gas, Inc. (collectively referred to as “UGI”). In support of this Answer, Met-Ed avers as follows:

**I. SUMMARY OF OPPOSITION TO UGI’S PETITION TO INTERVENE**

UGI has no legitimate “right or interest” that warrants intervention in this proceeding. UGI’s request for leave to participate in this proceeding is based solely upon its own desire to have gas and propane fuel switching measures included in Act 129 Energy Efficiency and Conservation (“EE&C”) plans, despite the fact that the Commission has already concluded that the issue of fuel switching was not relevant to the evaluation of the EE&C plans.

“Fuel Switching” or “Fuel-Substitution” measures are not proposed by Met-Ed or presented as an issue in the Met-Ed EE&C plan. UGI’s attempted Intervention in these proceedings marks the fourth time that UGI has sought to convince the Commission that gas and propane fuel switching measures should be interjected into Act 129 proceedings. The Commission has clearly and unequivocally rejected UGI’s three prior attempts to raise this issue in the context of the Act 129

implementation process, and there is no legal basis that warrants a different result for this most recent attempt.

UGI's Petition for Intervention is a transparent attempt to use Act 129 as leverage to force competing energy providers, such as Met-Ed, to facilitate UGI's own success in the utility competition for residential, commercial and industrial heating customers. Granting UGI's Petition in these proceedings would be inconsistent with the intent of Act 129, and undermine the Commission's established procedures for the timely and reasonable evaluation of Met-Ed's EE&C Plan. Nothing in Act 129 requires Electric Distribution Companies ("EDCs") to include "fuel-substitution" programs in their EE&C plans. Moreover, this Commission has clearly indicated that fuel-substitution programs will be addressed by the Commission in an entirely separate proceeding unrelated to Act 129. To the extent that UGI has other "interests" besides its competitive fuel-switching objective, all of those interests are already adequately represented by the Office of Trial Staff, Office of Small Business Advocate and the Office of Consumer Advocate. As such, UGI's Petition does not meet the Commission's standards for granting Intervention and therefore the Petition should be denied.

This Commission should find that UGI has no right to intervene in this proceeding conferred by statute, nor any interest which may be directly affected or which is not adequately represented by existing parties in this proceeding. Additionally, this Commission should conclude that UGI will in no way be bound by the Commission's approval of Met-Ed's proposed EE&C Plan in this proceeding and that their participation is not in the public interest.

## **II. BACKGROUND**

1. On October 15, 2008, Governor Rendell signed House Bill 2200 into law as Act 129 of 2008 ("Act 129"). Act 129 became effective on November 14, 2008, and imposed new requirements on Pennsylvania's EDCs in the areas of energy efficiency and conservation, smart meters, electricity procurement and alternative energy sources.

2. Among other things, Act 129 created a requirement for the design and implementation of Energy Efficiency and Conservation Programs. 66 Pa. C.S. §§ 2806.1 and 2806.2. Act 129 requires an EDC with at least 100,000 customers to adopt and implement a plan, approved by the Commission, to reduce energy demand and consumption within its service territory. Pursuant to Act 129, the EDC plan must be designed to allow the EDC to achieve the following specific reductions in energy consumption and peak demand:

- Reduce electric consumption by at least 1% by May 31, 2011, 66 Pa. C.S. §2806.1(c)(1);
- Reduce electric consumption by at least 3% by May 31, 2013, 66 Pa. C.S. §2806.1(c)(2); and
- Reduce demand by a minimum of 4.5% of the EDC's annual system peak demand for the 100 hours of highest demand by May 31, 2013, 66 Pa. C.S. §2806.1(d)(1).

3. Following the passage of Act 129, the Commission conducted an extensive process to implement the new law. On January 15, 2009, the Commission adopted an Implementation Order establishing standards for the EE&C Plans. The Implementation Order provided details and specific directives and guidance on Act 129 and the procedures for submitting, reviewing and approving the EDC EE&C plans.

4. On May 7, 2009, the Commission issued a Secretarial Letter which was developed in accordance with the Commission's Implementation Order, and provided an EE&C Plan template to be used by each EDC in preparing and filing their respective EE&C Plans with the Commission.<sup>1</sup> The

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<sup>1</sup> The Commission also issued Secretarial Letters and Orders seeking input from interested parties on other issues including: procedures for registering and approving conservation service providers and contracts; consumption forecasts and peak demand reduction targets; modification of the existing Technical Reference Manual for use in evaluating energy efficiency and conservation plans; and modification of the California Total Resource Cost test for ranking and prioritizing EE&C programs under Pennsylvania-specific criteria.

template provided a standardized format for an EDC to present and file all the information required by Act 129 and the Commission's Implementation Order relating to an EDC's EE&C Plan.

5. On May 28, 2009 the Commission adopted standards for an updated Technical Reference Manual to guide the evaluation of savings impacts. (Docket No. M-00051865, Order entered June 1, 2009) ("TRM Order").

6. Further, on June 23, 2009 the Commission issued its final Order setting forth the nature of the Total Resource Cost ("TRC") test to be used to analyze the costs and benefits of the EE&C plans that EDCs are required to file. (Docket No. M-2009-2108601, Order entered June 23, 2009) ("TRC Order").

7. On July 1, 2009, Met-Ed, Pennsylvania Electric Company (Penelec) and Pennsylvania Power Company (Penn Power) (collectively the "FirstEnergy Companies") submitted their EE&C Plans pursuant to Act 129 and the Commission's Implementation Order, along with a Joint Petition for Consolidation of Proceedings and Approval of such plans.<sup>2</sup> The FirstEnergy Companies selected by competitive bid and entered into a contract with Black & Veatch Corporation ("Black & Veatch"), a Conservation Service Provider ("CSP") listed on the Commission's Registry of Approved CSPs<sup>3</sup>, to assist the Companies with the development of their EE&C plans.

8. The FirstEnergy Companies utilized the template prescribed by the Commission in preparing and filing these EE&C plans. These plans outline the Companies' strategies and proposed programs developed to achieve the required reductions in energy consumption and peak demand in accordance with Act 129. Each plan includes a proposed tariff rider that would establish an Energy

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<sup>2</sup> See, Metropolitan Edison Company (Met-Ed) - Docket No. M-2009-2092222; Pennsylvania Electric Company (Penelec) - Docket No. M-2009-2112952; and, Pennsylvania Power Company (Penn Power) - Docket No. M-2009-2112956

<sup>3</sup> See, [www.puc.state.pa.us](http://www.puc.state.pa.us); *Implementation of Act 129 of 2008 Phase 2 – Registry of Conservation Service Providers*, Docket No. M-2008-2074154, Final Order entered February 5, 2009.

Efficiency and Conservation Charge Rider (“Tariff Rider”) to be utilized to recover the costs associated with the FirstEnergy Companies’ EE&C Plans.

9. In developing the proposed EE&C programs, the FirstEnergy Companies received significant input from various interested parties and stakeholders in Pennsylvania.

10. The FirstEnergy Companies evaluated numerous models to achieve the consumption reductions required by Act 129, and their filed EE&C plans include a custom-designed suite of programs which are expected to achieve the consumption reduction requirements of Act 129.

11. On July 10, 2009, UGI filed its Petition to Intervene in this matter, for the stated purpose of “providing input regarding the significant benefits of including fuel substitution measures in Met-Ed’s EE&C Plan.”

### **III. STANDARDS FOR ALLOWING INTERVENTION**

12. Under the Commission’s regulations, non-Commonwealth entities have limited rights to intervene in Commission proceedings. The Commission’s regulations at 52 Pa Code §5.72 state:

“(a) *Persons*. 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. 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.
- (3) Another interest of such nature that participation of the petitioner may be in the public interest.”

13. “[S]tanding to participate in proceedings before an administrative agency is primarily within the discretion of the agency.”<sup>4</sup> Generally, the Commission has held that a person or entity has standing when the person or entity has a substantial, direct and immediate interest in the subject matter

of a proceeding.<sup>5</sup> Requiring a person or entity to have a substantial, direct and immediate interest in the subject matter of a proceeding helps avoid frivolous, harassing lawsuits whose costs are ultimately borne, at least in part, by utility ratepayers.<sup>6</sup>

14. A 'substantial' interest is an interest in the outcome of the litigation which surpasses the common interest of all citizens in procuring obedience to the law. A 'direct' interest requires a showing that the matter complained of caused harm to the party's interest. An 'immediate' interest involves the nature of the causal connection between the action complained of and the injury to the party challenging it and is shown where the interest the party seeks to protect is within the zone of interests sought to be protected by the statute or the constitutional guarantee in question.<sup>7</sup>

15. Interests that are purely competitive do not meet the test for standing.<sup>8</sup>

#### IV. ARGUMENT

16. UGI has no "right to intervene" in these proceedings - and does not claim one. UGI's alleged "interests", as claimed in its Petition to Intervene, simply fail to meet the Commission's requirements for intervention as set forth in the regulations and the Commission's previous Orders. Therefore, UGI's Petition should be denied.

17. This Commission is aware that in order to fulfill its obligations under Act 129, the Commission and its staff engaged in an exhaustively thorough implementation process. The purpose of this process was to establish and confirm the standards that each EDC's plan must meet and to provide

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<sup>4</sup> Pennsylvania Natural Gas Association v. T.W. Phillips Gas and Oil Co., 75 Pa. PUC 598, 603 (1991).

<sup>5</sup> Joint Application of Pennsylvania-American Water Co. and Evansburg Water Co. for Approval of the transfer, by sale, of the water works property and rights of Evansburg Water Co. to Pennsylvania-American Water Co., Docket Nos. A-212285F0046/47 and A-210870F01, Opinion and Order entered July 9, 1998, (citing William Penn Parking Garage, Inc. v. City of Pittsburgh, 464 Pa. 168, 346 A.2d 269 (1975)).

<sup>6</sup> See, Pennsylvania Public Utility Commission v. National Fuel Gas Distribution Corp., 73 Pa. PUC 552 (1990).

<sup>7</sup> Pa. Petroleum Assoc. v. Pa. Power & Light Co., 377 A.2d 1279 (Pa. Commw. 1977), *aff'd* 488 Pa. 308, 412 A.2d 522 (1990)(*Pa. Petroleum Association*)

<sup>8</sup> Pa. Publ. Util. Comm'n v. PG&W, et al., Docket Nos. R-922169, R-922169C001, and R-922169C002 (1992 Pa. PUC LEXIS 113)(Order Issued October 29, 1992)

guidance on the procedures to be followed for submittal, review and approval of all aspects of EDC EE&C plans.

18. This Commission is also aware that UGI actively participated in the Commission's implementation process and advocated for the inclusion of the issue of "fuel switching" (sometimes referred to as "fuel substitution") in EDC Plans and the final Commission evaluation process for review and approval of such Plans under Act 129. UGI has filed three sets of comments with this Commission in which it has advocated for this issue, as set forth more fully below.

19. In Comments to Additional Questions related to the Commission's draft Implementation Order filed by UGI on December 8, 2008, UGI argued that "the Total Resource Cost Test can evaluate the effectiveness of a fuel switching program to meet the goals of Act 129." UGI also argued that the "Commission's Technical Resource Manual needed to be updated to quantify the expected saving associated with common fuel substitution measures, and that the Commission should facilitate the completion of this work in an expeditious manner to make sure that the TRM is available as a guide to facilitate the consideration of fuel substitution measures in evaluating Act 129 compliance programs, and should include alternate fuel representatives as interested stakeholders in future TRM meetings."<sup>9</sup>

20. In Reply Comments to the Commission's draft Implementation Order filed on December 18, 2008, UGI again argued that the "Commission should develop projected costs of natural gas and propane which could be used in evaluating the cost effectiveness of fuel substitution measures in meeting Act 129 requirements under the Total Resource Cost Test".<sup>10</sup>

21. The Commission's implementation process culminated in its January 16, 2009 EE&C Program Implementation Order. The Implementation Order sets forth a detailed list of items that were required to be included in each EDC's EE&C Plan and the criteria that would be used to evaluate the

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<sup>9</sup> See UGI Comments filed December 8, 2008, attached hereto as Exhibit 1.

EDC's proposals to achieve the required consumption reductions. Contrary to UGI's assertion in paragraph 7(a) of its Petition, the Implementation Order contains no mention whatsoever of "fuel switching" or "fuel substitution", as one of the issues to be analyzed when evaluating the EE&C plans. Consequently, this Commission has already rejected the "fuel substitution" suggestions made by UGI in its comments and reply comments referenced above.

22. The Implementation Order further indicated that the Commission will utilize the TRM for the EE&C Program evaluation process requirements. Soon after the adoption of the EE&C Program Implementation Order, Commission staff initiated a collaborative process to review and update the TRM with the purpose of supporting the Act 129 EE&C program, and sought comments from interested parties.

23. UGI again filed comments to the Commission's proposed TRM revisions, and once again UGI advocated for including gas and propane fuel substitution cost saving measures in the TRM, for use in the Act 129 evaluation process.<sup>11</sup>

24. On June 1, 2009, the Commission entered its TRM Order, outlining the standards by which energy savings associated with various energy efficiency and conservation measure are to be determined under the Plans. This Order directly and unequivocally rejected UGI's request to alter the TRM to quantify energy and demand savings when electric equipment is removed and replaced with equipment that uses natural gas. In rejecting UGI's request to include "fuel switching" in the updated TRM, the Commission stated as follows:

The Commission recognizes that fuel switching is a complicated topic that will require additional time and effort to fully address. As the TRM will provide vital guidance to EDCs in developing their EE&C plans, which are due to be filed by July 1, 2009, there is not enough time to convene a working group to address all the related issues, fuel switching will not be included in this TRM. The Commission will convene a fuel switching working group in the near future to identify, research and address issues

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<sup>10</sup> See UGI Reply Comments filed December 19, 2008, attached hereto as Exhibit 2

<sup>11</sup> See UGI Comments filed March 12, 2009 in Docket No. M-00051865, attached hereto as Exhibit 3

related to fuel switching. Depending on the outcome of this working group, fuel switching may be incorporated into a future version of the TRM.<sup>12</sup>

The Commission's express exclusion of "fuel switching" from the TRM and postponement of discussion of such matters until a future "fuel switching working group" is convened should preclude UGI from even attempting to advance such issues in connection with the July 1, 2009 EE&C filings of EDCs.

25. While the Commission acknowledged that fuel switching is "complicated" and "will require additional time and effort to fully address," it must be noted that "fuel switching" or "fuel substitution" (as argued by UGI to include gas and propane fuel substitutions) is not specifically listed as an "energy efficiency and conservation measure" under Act 129. As directed by this Commission and the Act, Met-Ed's EE&C plan includes energy and conservation measures to reduce energy consumption within its service territory. Section 2806.1(k)(2) of the Act states that "Energy efficiency and conservation measures shall include solar or solar photovoltaic panels, energy efficient windows and doors, energy efficient lighting, including exit sign retrofit, high bay fluorescent retrofit and pedestrian and traffic signal conversion, geothermal heating, insulation, air sealing, reflective roof coatings, energy efficient heating and cooling equipment or systems and energy efficient appliances and other technologies, practices or measures approved by the commission." Plainly, the Act's list of energy efficiency and conservation measures does not include "natural gas or propane fuel-switching".

26. As set forth above, the Commission's Implementation Order and TRM Order make it clear that analysis of alleged "fuel switching" savings has no part to play in the evaluation of the July 1, 2009 EE&C Plans submitted under Act 129. Moreover, this Commission should conclude that causing Met-Ed customers to pay for having other customers switch from electric service to gas and/or propane service is simply not an energy efficiency and conservation measure under Act 129.

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<sup>12</sup> June 1, 2009 Order at 9.

27. On page 5 of the Petition to Intervene, UGI states that it is seeking to intervene in this proceeding “for the purpose of providing input regarding the significant benefits of including fuel substitution measures in Met-Ed’s EE&C plan.”<sup>13</sup> In stating that “fuel substitution should be a significant part of [Met-Ed’s] plan”, UGI’s real objectives are transparent. As a competitor of Met-Ed for heating customers, UGI distributes natural gas and propane to customers within Met-Ed’s service territory. Clearly, UGI has a competitive interest in seeking to have Met-Ed be required to include fuel switching proposals as part of its EE&C plan. Ironically, to do so would effectively cause Met-Ed customers to pay to assist others with reducing electric consumption by replacing electric service with increased gas and/or propane consumption. This Commission should conclude that this result is not in the public interest and does not further Act 129’s stated goals of reducing overall energy demand and consumption.

28. Exploration of UGI’s competitive interests does not justify intervention in this proceeding under the Commission’s regulations governing intervention nor under the Commission’s Orders regarding standing. Interests that are purely competitive clearly do not meet the Commission’s requirements for standing.<sup>14</sup>

29. The intervention of UGI in this proceeding is not authorized as a matter of right under Act 129, which is the statute under which this proceeding is brought. Nowhere in the statute or in the Commission’s Implementation Orders does it specify that the competitive interest of UGI in fuel substitution measures are required, or necessary, in order for Met-Ed to achieve, or exceed, its required consumption reduction objectives. In fact, the Commission’s express rejection of the inclusion of fuel substitution measures as one of the criteria for evaluating plans confirms that no interest of UGI will be

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<sup>13</sup> UGI Petition to Intervene, at p. 5

<sup>14</sup> Pa. Publ. Util. Comm’n v. PG&W, et al., Docket Nos. R-922169, R-922169C001, and R-922169C002 (1992 Pa. PUC LEXIS 113)(Order Issued October 29, 1992)

directly affected in this proceeding and UGI will in no way be bound by the Commission's approval of Met-Ed's proposed EE&C Plans as submitted.

30. UGI can not be bound by the action of the Commission in these proceedings because the Commission has already determined that given the time constraints in the filing of the EE&C Plans, there is no time to consider all of the implications of fuel substitution. Hence, the Commission has determined that a working group will be convened at a later date to "identify, research and address issues related to fuel switching."<sup>15</sup> UGI will certainly be able to participate in those proceedings and will likely advocate again in favor of fuel substitution programs. Those proceedings, not this proceeding to evaluate Met-Ed's EE&C plan, may potentially bind UGI with respect to the implementation of fuel substitution programs.

31. Apart from its competitive interests, UGI has no genuine interest in this proceeding beyond that of the general public. Those interests are more than adequately represented by the statutory advocates in this proceeding.

32. This Commission should find that UGI's participation in this proceeding is simply not in the public interest. Arguably, the examination of fuel switching programs – proposed by UGI, not Met-Ed - in the review of Met-Ed's EE&C plan would require significant time to properly study the applicability of such programs in Met-Ed's service territory and an evaluation of costs associated with the administration and implementation of such programs. As a proposal of UGI, Met-Ed should not be compelled to spend its customers' funds to determine, or respond to, how UGI might increase its customer base through fuel switching programs. Permitting UGI to intervene in this proceeding will only add what this Commission has already observed as another "complicated issue" to what is already a highly technical and abbreviated review process. This Commission has already rejected UGI's three prior attempts to insert the issue of "fuel substitution" into Act 129 proceedings. For the reasons set

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<sup>15</sup> See TRM Order, Docket No. M-00051865, at page 9

forth above, the Commission should conclude that UGI's fourth attempt, in the form of a Petition to Intervene, is similarly lacking in merit and should be denied.

WHEREFORE, for all of the foregoing reasons, Met-Ed respectfully requests that UGI's Petition to Intervene be denied.

Respectfully submitted,



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Dated: July 20, 2009

Counsel for Metropolitan Edison Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Joint Petition of Metropolitan Edison</b>	<b>:</b>	
<b>Company, Pennsylvania Electric Company</b>	<b>:</b>	
<b>and Pennsylvania Power Company for</b>	<b>:</b>	<b>Docket Nos. M-2009-2092222,</b>
<b>Consolidation of Proceedings and Approval</b>	<b>:</b>	<b>M-2009-2112952 and M-2009-2112956</b>
<b>of Energy Efficiency and Conservation</b>	<b>:</b>	
<b>Plans</b>	<b>:</b>	

**VERIFICATION**

I, Charles V. Fullem, holding the position of Director, Rates and Regulatory Affairs, verify that the information provided in the foregoing Answer to Petition is 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 held in this matter. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsifications to authorities.

7/17/09  
Date



**EXHIBIT 1**  
**UGI Comments Filed December 8, 2008**



BOX 858 VALLEY FORGE, PA 19482 • 610-337-1000

December 8, 2008

VIA EXPRESS MAIL

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**Re: Energy Efficiency and Conservation Program and EDC Plans,  
Docket No. M-2008-2069887**

Dear Secretary McNulty;

Enclosed, please find an original and fifteen copies of the combined comments of UGI Utilities, Inc., UGI Penn Natural Gas, Inc. and UGI Central Penn Gas, Inc. filed in response to the Commission's November 26, 2008 Secretarial Letter issued in the above docket. In conformance with the instructions set forth in the November 26, 2008 Secretarial Letter, a copy of these comments has also been sent electronically to [ra-Act129@state.pa.us](mailto:ra-Act129@state.pa.us).

Very truly yours,

A handwritten signature in black ink, appearing to read "Mark C. Morrow". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark C. Morrow

Counsel for UGI Utilities, Inc.,  
UGI Penn Natural Gas, Inc. and  
UGI Central Penn Gas, Inc.

BEFORE THE PENNSYLVANIA  
PUBLIC UTILITY COMMISSION

Energy Efficiency and Conservation :  
Program and EDC Plans : Docket No. M-2008-2069887

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JOINT COMMENTS OF UGI UTILITIES, INC.,  
UGI PENN NATURAL GAS, INC. AND UGI  
CENTRAL PENN GAS, INC.

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UGI Utilities, Inc., UGI Penn Natural Gas, Inc. and UGI Central Penn Gas, Inc. (collectively "UGI Gas Distribution"), which are certificated natural gas distribution companies serving approximately 550,000 natural gas distribution customers in Pennsylvania, appreciate this opportunity to submit comments in response to the Commission's November 26, 2008 Secretarial Letter in the above-captioned matter. The Electric Division of UGI Utilities, Inc. has joined in the comments provided by the Energy Association of Pennsylvania ("EAP") in response to the Secretarial Letter, and UGI Gas Distribution wishes to supplement the EAP responses to the Secretarial Letter's questions pertaining to the Total Resource Test, and in particular Question 3(k) which provides:

*The gas industry raised some interesting points on the net impact of displacing natural gas heating equipment (space and water) with electric heating equipment. Should the TRC test include parameters to capture the consequences of net energy gains and losses in delivering alternate fuel to customers?*

Initially, UGI Gas Distribution assumes Question 3(k) intended to indicate the gas industry proposed that gas equipment could displace electric equipment to meet the electric generation and peak load reduction goals of Act 129, and not vice versa.

UGI Gas Distribution believes that the public interest would best be served if the electric generation and peak load reduction goals of Act 129 are met in the most cost-effective manner. As a result of the inherent efficiency gains associated with the direct end use of natural gas or other alternate fuels in many applications, as well as customer willingness in many instance to contribute towards the costs of direct end use equipment because of a preference for such equipment, the direct end use of natural gas or other alternate fuels may often be the most cost effective means of meeting the goals of Act 129, and should be actively considered and addressed in Act 129 compliance plans and accommodated under applicable administrative rules and procedures.

Turning to Question 3(k), the Total Resource Cost Test (“TRC test”) can evaluate the effectiveness of a fuel switching program to meet the goals of Act 129, and this issue is addressed in the *California Standard Practice Manual – Economic Analysis of Demand-Side Programs and Projects* (July 2002). UGI Gas Distribution supports the recommendations of EAP to establish a working group to develop a common understanding of the TRC test and believes such a group could best address the issue of fuel substitution.

In addition, UGI Gas Distribution believes that the Commission’s Technical Reference Manual (“TRM”) needs to be updated to quantify the expected saving associated with common fuel substitution measures, and that the Commission should facilitate the completion of this work in an expeditious manner to make sure that the TRM is available as guide to facilitate the consideration of fuel substitution measures in evaluating Act 129 compliance programs, and should include alternate fuel

representatives as interested stakeholders in future TRM meetings.

Respectfully submitted,



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(Attorney I.D. No. 33590)  
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Fax: 610.992.3258  
morrowm@ugicorp.com

Counsel for UGI Utilities, Inc.  
UGI Penn Natural Gas, Inc. and  
UGI Central Penn Gas, Inc.

Dated: December 8, 2008

**EXHIBIT 2**  
**UGI Reply Comments Filed December 19, 2008**



BOX 858 VALLEY FORGE, PA 19482 • 610-337-1000

December 19, 2008

**VIA EXPRESS MAIL**

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**Re: Energy Efficiency and Conservation Program and EDC Plans,  
Docket No. M-2008-2069887**

Dear Secretary McNulty;

Enclosed, please find an original and fifteen copies of the combined reply comments of UGI Utilities, Inc., UGI Penn Natural Gas, Inc. and UGI Central Penn Gas, Inc. filed in accordance with the provisions of the Commission's November 26, 2008 Secretarial Letter issued in the above docket. In conformance with the instructions set forth in the November 26, 2008 Secretarial Letter, a copy of these comments has also been sent electronically to ra-Act129@state.pa.us.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mark C. Morrow", written in a cursive style.

Mark C. Morrow

Counsel for UGI Utilities, Inc.,  
UGI Penn Natural Gas, Inc. and  
UGI Central Penn Gas, Inc.

BEFORE THE PENNSYLVANIA  
PUBLIC UTILITY COMMISSION

Energy Efficiency and Conservation :  
Program and EDC Plans : Docket No. M-2008-2069887

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JOINT REPLY COMMENTS OF UGI UTILITIES, INC.,  
UGI PENN NATURAL GAS, INC. AND UGI  
CENTRAL PENN GAS, INC.

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UGI Utilities, Inc., UGI Penn Natural Gas, Inc. and UGI Central Penn Gas, Inc. (collectively "UGI Gas Distribution"), which are certificated natural gas distribution companies serving approximately 550,000 natural gas distribution customers in Pennsylvania, appreciate this opportunity to submit reply comments in the above-captioned matter.

**I. Measuring required reductions in peak demand.**

At the December 10, 2008 stakeholder meeting, some participants argued that reductions in peak demand, or the capability of reductions in peak demand, should be determined by the 100 hours of highest demand in the summer period or some extended summer period rather than the 100 hours of highest demand determined on an annual basis because the cost of peaking power is allegedly higher during summer, rather than winter, peaks. UGI Gas Distribution believes that this these proposal should be rejected because they are contrary to the plain requirements of Act 129, make assumptions concerning peak power prices that may not be true over time or in every EDC service territory and would disadvantage potential direct end use fuel alternatives.

66 Pa.C.S. §2806.1(d)(1) provides, in pertinent part:

By May 31, 2013, the weather-normalized demand of the retail customers of each electric distribution company shall be reduced by a minimum of 4.5% of annual system peak demand in the 100 hours of highest demand. The reduction shall be measured against the electric distribution company's peak demand for June 1, 2007, through May 31, 2008. (Emphasis added.)

The plain language of the Section 2806.1(d)(1) requires reductions in annual system peak demand in the 100 hours of highest demand, and not reductions in a seasonal system peak demand. This plain language cannot be disregarded.

Moreover, it is not clear that the assumption underlying this suggestion – that summer peak prices will always be higher than winter peak prices - will always be true in the future or on all EDC systems. By way of example, UGI Utilities, Inc. – Electric Division, although not subject to the provisions of Act 129, experienced higher peak prices in 2007 during the winter period than it did during the summer period.

In addition, adopting a summer or modified summer seasonal peak reduction target, while excluding winter peaks, would place potentially cost effective alternative direct end use fuels, such as natural gas and propane, at a competitive disadvantage since such direct end use fuels can more easily shave winter heating, rather than summer cooling, demands.

## **II. Avoided costs under the total resource test.**

66 Pa.C.S. §2806.1(m) defines the “total resource cost test” as:

a standard test that is met if, over the effective life of each plan not to exceed 15 years, the net present value of the avoided monetary cost of supplying electricity is greater than the net present value of the monetary cost of the energy efficiency conservation measures.

In applying this test to determine the cost effectiveness of measures utilized to reduce peak demand, the Commission should establish a standard based on the costs of

obtaining power from a natural gas fired peaking facility, since such a facility is most likely to be displaced on the margin by peak demand reductions. In applying this test to determine the cost effectiveness of measures used to reduce overall demand, the Commission should establish a standard based on the costs of a combined cycle gas powered electric generation plant since it is representative of the typical plant that would currently be built to meet increases in general load. Anticipated savings associated with avoided transmission and distribution costs should also be considered.

The Commission should also develop projected costs of natural gas and propane which could be used in evaluating the cost effectiveness of fuel substitution measures in meeting Act 129 requirements under the Total Resource Test.

Respectfully submitted,



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Counsel for UGI Utilities, Inc.,  
UGI Penn Natural Gas, Inc. and  
UGI Central Penn Gas, Inc.

Dated: December 19, 2008

**EXHIBIT 3**  
**UGI Comments Filed March 12, 2009**



BOX 858 VALLEY FORGE, PA 19482 • 610-337-1000

March 12, 2009

**VIA EXPRESS MAIL**

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**COPY**

**Re: Implementation of the Alternative Energy Portfolio Standards Act of 2004:  
Standards for the Participation of Demand Side Management Resources –  
Technical Reference Manual at Docket No. M-00051865**

**Implementation of Energy Efficiency and Conservation Program at  
Docket No. M-2008-2069887**

Dear Secretary McNulty:

Enclosed for filing please find an original and fifteen copies of the comments of the UGI Distribution Companies, comprised of UGI Utilities, Inc. – Gas Division, UGI Penn Natural Gas, Inc. and UGI Central Penn Gas, Inc. An electronic copy of these comments was also send to [ra-Act129@state.pa.us](mailto:ra-Act129@state.pa.us) in conformance with the instructions of the February 20, 2009 Secretarial Letter issued at this docket.

Should you have any questions concerning this filing, please feel free to contact me.

Very truly yours,

Mark C. Morrow

Counsel for the UGI Distribution  
Companies

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MAR 12 2009

PA PUBLIC UTILITY COMMISSION  
SECRETARY OF PUBLIC UTILITIES  
460 NORTH GULPH ROAD, KING OF PRUSSIA, PA 19406

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Implementation of the Alternative	:	
Energy Portfolio Standards Act of 2004	:	Docket No. M-00051865
Standards for the Participation of Demand	:	
Side Management Resources – Technical	:	
Reference Manual	:	
Implementation of energy Efficiency and	:	
Conservation Program	:	Docket No. M-2008-2069887
	:	

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**COMMENTS OF THE UGI GAS  
DISTRIBUTION COMPANIES**

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UGI Utilities, Inc. - Gas Division (“UGI”), UGI Penn Natural Gas, Inc. (“PNG”) and UGI Central Penn Gas, Inc. (“CPG”) (collectively the “UGI Distribution Companies”) appreciate this opportunity to submit comments in response to the Commission’s draft revisions to the Technical Reference Manual (“TRM”). The TRM was previously adopted in the Alternative Energy Portfolio Standards Act (“AEPS Act”) proceedings at Docket No. M-00051865, and used to determine measures that would qualify for the issuance of Alternative Energy Portfolio Standard credits pursuant to the AESP Act. The proposed revisions are designed to assist Electric Distribution Companies (“EDC”) in meeting the electric peak and load reduction goals established in Act 129.

SUMMARY OF RECOMMENDATIONS

The UGI Distribution Companies believe the TRM should:

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

- Recognize that the direct end use of natural gas in lieu of electric for space, water or industrial heating purposes is an acceptable measure or practice for meeting the electric peak and load reduction goals of Act 129;
- Establish rules for the application of the total resource test in the TRM or elsewhere for evaluating fuel substitution measures, and in such rules recognize the likely savings from reduced wholesale electric and gas prices resulting from the increased efficiencies associated with the direct end use of natural gas.
- In projecting gas and electric prices for purposes of applying the total resource test, utilize easily understood methodologies, and in the case of electric retail price projections use post-rate cap rates to the extent known.

#### BACKGROUND

Under the provisions of 66 Pa.C.S. §2806.1(a), added by Act 129, the Commission was required to, amongst other things, to:

*[A]dopt an energy and conservation program to require electric distribution companies to adopt and implement cost-effective energy efficiency and conservation plans to reduce energy demand and consumption within the service territory of each electric distribution company in this Commonwealth.*

66 Pa.C.S. §2806.1(m)(2), in turn, provides:

*Energy efficiency and conservation measures shall include solar or solar photovoltaic panels, energy efficient windows and doors, energy efficient lighting, including exit sign retrofit, high bay fluorescent retrofit and pedestrian and traffic signal conversion, geothermal heating, insulation, air sealing, reflective roof coating, energy efficient*

heating and cooling equipment or systems and energy efficient appliances and other technologies, practices or measures approved by the Commission. (Emphasis added.)

Such EDC Energy Efficiency and Conservation programs must also be subject to:

*An analysis of the cost and benefit of each plan . . . in accordance with a total resource test approved by the Commission.*

66 Pa.C.S. §2806.1(a)(3). The term “total resource test” is defined, in turn, as:

*A standard test that is met if, over the effective life of each plan not to exceed 15 years, the net present value of the avoided monetary cost of supplying electricity is greater than the net present value of the monetary cost of energy efficiency conservation measures.*

66 Pa.C.S. §2806.1(m).

In its Implementation Order at Docket No. M-2008-2069887, entered on January 16, 2009, the Commission indicated:

*The Commission believes that the TRC test set forth in The California Standard Of Practice Manual – Economic Analysis of Demand-Side Programs and Projects, July 2002, p. 18 (“California Manual”) provides an excellent beginning framework. As the TRC test will be a critical measuring tool in determining the cost effectiveness of the Act 129 EE&C plans, the Commission believes it may be necessary to modify the California Manual to meet the unique requirements of Act 129 and this Commonwealth’s electric industry. As such, the Commission will institute a process to review and, if necessary, modify the California Manual.*

January 16, 2009 Order at pp. 14-15.

A. The Direct End Use of Natural Gas for Space, Water or Industrial Heating Purposes

The TRM should recognize that the direct end use of natural gas for space, water or industrial heating purposes promotes energy efficiency and meets the goal of Act 129 to reduce peak and total electric usage. Attached as Appendix A to these comments is a copy of the testimony of Paul H. Raab presented at the Commission's November 19, 2008 *en banc* energy efficiency hearing. As Mr. Raab's testimony indicates, the substitution of natural gas for electric energy for direct end use applications results in large energy efficiency gains because 73 percent of the energy used to provide electric energy to an end user is lost in the electric energy production, conversion, transmission and distribution process, whereas only about ten percent of energy is lost in the natural gas production, transmission and distribution process, resulting in a three-to-one energy efficiency gain when gas is substituted for electricity. Raab Test. pp. 5-11. Indeed, electric conversion losses alone currently consume more energy in the commercial/residential sector than the total amount of electric and natural gas energy consumed by these customer groups. Raab Test. p. 10. As Mr. Raab's testimony also indicates, a number of other jurisdictions already have fuel substitution programs in place. Raab Test., p. 25.

Attached as Appendix B to these comments is a copy of the testimony of Ronald Edelstein also presented at the Commission's November 19, 2008 *en banc* energy efficiency hearing. As Mr. Edelstein's analysis concludes, the conversion of all residential electric space and water heating loads from electricity to natural gas could reduce residential electric consumption in Pennsylvania between 16-31%.

These compelling energy efficiency facts highlight the importance of reflecting the use of natural gas for direct end uses in lieu of electricity as an important tool in meeting the goals of Act 129 that should be recognized in the TRM.

#### B. Total Resource Test

As noted above, the California Manual has been adopted by the Commission as a beginning framework for defining the total resource test, and this manual already contains provisions for considering the effects of fuel substitution programs. Specifically, it provides:

*For fuel substitution programs, the test measures the net effect of the impacts from the fuel not chosen versus the impacts from the fuel that is chosen as a result of the program. TRC test results for fuel substitution programs should be viewed as a measure of the economic efficiency implications of the total energy supply system (gas and electric)*

\* \* \* \*

*For fuel substitution programs, benefits include the avoided device costs and avoided supply costs for the energy, using equipment not chosen by the program participant.*

\* \* \* \*

*For fuel substitution programs, the costs also include the increase in supply costs for the utility providing the fuel that is chosen as a result of the program.*

The UGI Distribution Companies believe that since (1) natural gas is increasingly being used to generate electricity in the PJM control area, (2) the consumption of gas for that purpose places upward pressure on the costs of natural gas distributed in the Commonwealth, (3) the increased end use of natural gas in lieu of electricity would eventually decrease natural gas costs, and (4) such a substitution could reasonably be expected to have a similar effect on wholesale electric energy prices, a simple comparison of electric and gas retail rates at the time of the substitution or conversion may not accurately all savings that may result from the increased direct end use of natural gas. The Commission should work with interested stakeholders to develop measures for estimating deemed natural gas and electric cost savings resulting from electric to gas conversions/substitutions that could be added to the TRM, and consider these savings in applying the total resource test.

Also, to the extent the California Model requires a projection of the costs of electric and gas to a retail customer in applying the total resource test, the Commission should provide

additional guidance through the TRM or elsewhere as to how such price projections should appropriately be made in applying the test. The UGI Distribution Companies believe, at a minimum, post-rate cap retail electric prices, to the extent known, should be applied to the expected usage of the electric appliance that is replaced or displaced, and that current gas retail distribution rates and an average of Purchased Gas Cost rates over the most recent three-year period should be applied to the expected usage of the gas appliance that is substituted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark C. Morrow". The signature is fluid and cursive, with the first name "Mark" being the most prominent.

Mark C. Morrow

Counsel for the UGI Distribution Companies

Dated: March 12, 2009

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Metropolitan Edison Company Energy and Conservation Plan	:	Docket No. M-2009-2092222
	:	
Pennsylvania Electric Company and Conservation Plan	:	Docket No. M-2009-2112952
	:	
Pennsylvania Power Company and Conservation Plan	:	Docket No. M-2009-2112956

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing Answer to Petition filed in the above referenced matters by first class mail upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 and 1.55.

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Renardo L Hicks, Esq.

Dated: July 20, 2009