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File #: 153583

March 19, 2015

***VIA ELECTRONIC FILING***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

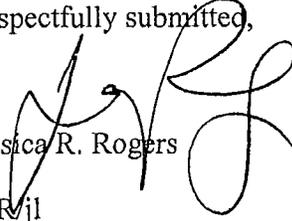
**Re: Petition of UGI Penn Natural Gas, Inc. for Approval of a Distribution System  
Improvement Charge  
Docket Nos. P-2013-2397056, C-2014-2399316 & C-2014-2401382**

Dear Secretary Chiavetta:

Enclosed for filing is the Joint Petition for Settlement of All Issues in the above-referenced proceeding.

Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

  
Jessica R. Rogers

JRW/jl

Enclosures

cc: Honorable Joel H. Cheskis  
Certificate of Service

**CERTIFICATE OF SERVICE**

**UGI Penn Natural Gas, Inc.  
(Docket Nos. P-2013-2397056, C-2014-2399316 & C-2014-2401382)**

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

**VIA E-MAIL & FIRST CLASS MAIL**

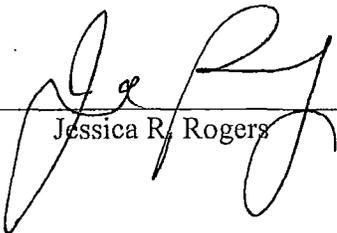
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Date: March 19, 2015

  
\_\_\_\_\_  
Jessica R. Rogers

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

	:	
Petition of UGI Penn Natural Gas, Inc. for	:	Docket No. P-2013-2397056
Approval of a Distribution System	:	C-2014-2399316
Improvement Charge	:	C-2014-2401382
	:	

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**JOINT PETITION FOR SETTLEMENT OF ALL ISSUES**

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**TO ADMINISTRATIVE LAW JUDGE JOEL H. CHESKIS:**

**I. INTRODUCTION**

UGI Penn Natural Gas, Inc. (“UGI-PNG” or the “Company”) and the Office of Consumer Advocate (“OCA”),<sup>1</sup> collectively referred to as the “Parties” herein, hereby join in this “Joint Petition for Settlement of All Issues” (“Joint Petition for Settlement”) in the above captioned Distribution System Improvement Charge (“DSIC”) proceeding. The Parties respectfully request that Administrative Law Judge Joel H. Cheskis (the “ALJ”) and the Pennsylvania Public Utility Commission (“Commission”) approve this Joint Petition for Settlement.

**II. BACKGROUND**

1. UGI-PNG is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania. UGI-PNG is engaged in the business of selling and distributing natural gas to retail customers within the Commonwealth, and is therefore a “public

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<sup>1</sup> The Office of Small Business Advocate (“OSBA”) indicated that it does not oppose the Joint Petition for Settlement. The Commission’s Bureau of Investigation and Enforcement (“I&E”) did not participate in the proceeding.

utility” within the meaning of Section 102 of the Public Utility Code, 66 Pa. C.S. § 102, subject to the regulatory jurisdiction of the Commission. UGI-PNG provides natural gas service to approximately 160,000 customers in and around Northeastern Pennsylvania, pursuant to certificates of public convenience granted by the Commission. Its system contains approximately 2,575 miles of natural gas distribution mains and 66 miles of natural gas transmission mains. (UGI-PNG Exhibit 2, page 6).

2. On December 12, 2013, UGI-PNG filed a Petition for Approval of its Long Term Infrastructure Improvement Plan (“LTIIP Petition”) pursuant to Section 1352 of the Public Utility Code, 66 Pa. C.S. § 1352. Also on December 12, 2013, pursuant to Section 1353, UGI-PNG filed a Petition for Approval of a Distribution System Improvement Charge (“DSIC Petition”). 66 Pa. C.S. § 1353. With the DSIC Petition, UGI-PNG submitted written direct testimony in support of its DSIC. The two Petitions were docketed at P-2013-2397056.

3. On January 2, 2014, the OSBA filed a Notice of Intervention, Complaint Against Petition, Notice of Appearance and Public Statement.

4. On January 3, 2014, the OCA filed an Answer, Notice of Intervention, Comments, and Formal Complaint and Public Statement.

5. On January 28, 2014, UGI-PNG filed Answers in response to the OCA Complaint and the OSBA Complaint to UGI-PNG’s Petitions.

6. By Order entered September 11, 2014, the Public Utility Commission (“Commission”) approved UGI-PNG’s LTIIP and DSIC (the “September 11 Order”). The DSIC was approved subject to refund, pending final resolution of issues raised in the Parties’ filings and identified in the Commission’s Order.

7. An initial prehearing conference was held on October 28, 2014, before the ALJ. The Parties who participated in the prehearing conference filed prehearing memoranda identifying potential issues and witnesses. A litigation schedule was established at the initial prehearing conference.

8. UGI-PNG served written supplemental direct testimony on October 21, 2014, prior to the prehearing conference. OCA served written direct testimony on November 26, 2014. On December 23, 2014, UGI-PNG served rebuttal testimony. OCA served surrebuttal testimony on January 21, 2015. On February 3, 2015 UGI-PNG served rejoinder testimony.

9. The Parties agreed to waive cross-examination of witnesses with respect to all issues. A hearing was held on February 10, 2015, to admit testimony and exhibits into the record.

10. The Parties held several settlement discussions over the course of the proceeding. As a result of these discussions and the efforts of the Parties to examine the issues identified in the Commission's September 11 Order, a Settlement in Principle of all issues was achieved prior to the due date for the filing of briefs. The Settlement agreed to, or not objected to, by all of the active parties to this proceeding is as follows:

### **III. SETTLEMENT TERMS**

11. In its September 11 Order, the Commission assigned the following issues to the Office of Administrative Law Judge for hearing and determination:

- a. DSIC-recovery of costs related to "other related capitalized costs", including but not limited to, regulator stations and equipment, electronic systems and software, and vehicles, tools and power equipment;
- b. DSIC-recovery of expenditures related to the inclusion of gathering lines and storage lines as DSIC-eligible property; and

- c. Proposal of UGI Penn Natural Gas, Inc. to include qualifying plant investment placed into service during the December 1, 2013 to November 30, 2014 timeframe in its April 1, 2015 DSIC rate.

(September 11 Order, p. 46.) The Commission did not refer issues regarding the calculation of federal and state income taxes to the Administrative Law Judge for disposition because it determined they are legal issues pending before the Commonwealth Court. Accordingly, those DSIC calculation issues are not addressed by this Joint Petition for Settlement.

12. The Parties agree to resolve the issues identified in the Commission's September 11, 2014 Order as set forth below:

**a. Other Related Capitalized Costs:**

1. Subject to paragraph 12(a)(2), below, the parties agree that UGI-PNG will be allowed to recover through the DSIC "other related capitalized costs" including, but not limited to, regulator stations and equipment, electronic systems and software, vehicles, tools and power equipment, consistent with the DSIC Petition filed by UGI-PNG at Docket No. P-2013-2397056 on December 12, 2013.
2. The parties agree that UGI-PNG will exclude from the DSIC certain costs associated with the Smallworld Geographic Information System ("GIS") software which are at controversy in this docket, specifically the amount of \$146,669 that UGI-PNG included in the DSIC in September 2014. Such exclusion is without prejudice to UGI-PNG's right to include any new eligible incremental GIS or other eligible software in future DSIC filings.

**b. Gathering and Storage Lines:**

1. The parties agree that UGI-PNG may include eligible gathering lines and storage lines that serve a distribution function in the DSIC at such time when UGI-PNG actually installs or acquires such facilities.
2. UGI-PNG agrees to provide specific notice of the inclusion of such property to the OCA. Such inclusion is without prejudice to the OCA's right to serve discovery on UGI-PNG relating to such property and/or to file a complaint challenging UGI-PNG'S inclusion of such property.

**c. Timeframe for Inclusion of Qualifying Plant:**

1. The parties agree that as of April 1, 2015, UGI-PNG will be allowed to recover costs for eligible property through the DSIC, and the DSIC calculation at that time will include qualifying plant additions placed into service from June 1, 2014 through February 28, 2015, at the net depreciated original cost as of April 1, 2015.

13. Any other terms or provisions of the UGI-PNG DSIC mechanism which are not specifically modified by the Joint Petition for Settlement will be implemented consistent with the DSIC Petition filed by UGI-PNG at Docket No. P-2013-2397056 on December 12, 2013 as implemented or modified by the Commission in its September 11 Order.

**IV. CONDITIONS OF SETTLEMENT**

14. The Joint Petition for Settlement is conditioned upon the Commission's approval of the terms and conditions contained in this Joint Petition for Settlement without modification. If the Commission modifies the Joint Petition for Settlement, any Party may elect to withdraw from the Joint Petition for Settlement and may proceed with litigation and, in such event, this Joint Petition for Settlement shall be void and of no effect. Such election to withdraw must be

made in writing, filed with the Secretary of the Commission and served upon all Parties within five (5) business days after the entry of an Order modifying the Joint Petition for Settlement.

15. This Joint Petition for Settlement is proposed by the Parties to settle all issues in the instant proceeding. If the Commission does not approve the Joint Petition for Settlement and the proceeding continues, the Parties reserve their respective procedural rights to briefing, and to argue their respective positions. The Joint Petition for Settlement is made without any admission against, or prejudice to, any position that any Party may adopt in the event of any subsequent litigation of this proceeding, or in any other proceeding.

16. This Joint Petition for Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement the Joint Petition for Settlement.

17. This Joint Petition for Settlement is being presented only in the context of this proceeding in an effort to resolve all issues identified in the proceeding in a manner which is fair and reasonable. The Joint Petition for Settlement is the product of compromise. This Joint Petition for Settlement is presented without prejudice to any position which any of the parties may have advanced and without prejudice to the position any of the parties may advance in the future on the merits of the issues in future proceedings except to the extent necessary to effectuate the terms and conditions of this Joint Petition for Settlement.

18. The Parties acknowledge and agree that this Joint Petition for Settlement shall have the same force and effect as if the Parties had fully litigated this proceeding.

19. Attached as Appendices "A" and "B" are Statements of Support submitted by UGI-PNG and the OCA, which set forth the bases upon which they believe the Joint Petition for Settlement is in the public interest. Appendix "C" is OSBA's Statement of Non-Opposition to the Settlement.

20. If the ALJ adopts the Joint Petition for Settlement without modification, the Parties waive their rights to file Exceptions.

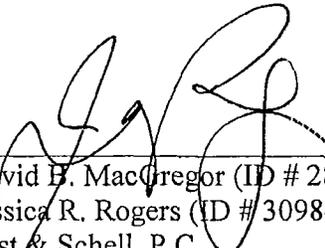
**V. CONCLUSION**

WHEREFORE, the Parties, by their respective counsel, respectfully request as follows:

1. That Administrative Law Judge Joel H. Cheskis and the Pennsylvania Public Utility Commission approve this Joint Petition for Settlement, including all terms and conditions thereof.

2. That the Commission enter a final Order, consistent with this Joint Petition for Settlement, that: (a) effective April 1, 2015, UGI-PNG's DSIC will include qualifying plant additions placed into service from June 1, 2014 through February 28, 2015, at the net depreciated original cost as of April 1, 2015; (b) that UGI-PNG will exclude from its DSIC \$146,669 of GIS costs incurred which were reflected in UGI-PNG's DSIC Petition; and (c) that UGI-PNG's DSIC may include eligible gathering lines and storage lines that serve a distribution function at such time when UGI-PNG installs or acquires such facilities.

3. That the Commission terminate and mark closed its inquiry and investigation at Docket Nos. P-2013-2397056, C-2014-2399316 and C-2014-2401382.



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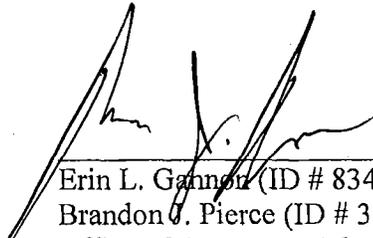
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Jessica R. Rogers (ID # 309842)  
Post & Schell, P.C.  
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Respectfully submitted,

Date: March 19, 2015

Mark C. Morrow (ID # 33590)  
Danielle Jouenne (ID # 306839)  
UGI Corporation  
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King of Prussia, PA 19406

*For UGI Penn Natural Gas, Inc.*



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Erin L. Gannon (ID # 83487)  
Brandon J. Pierce (ID # 307665)  
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5<sup>th</sup> Floor, Forum Place  
555 Walnut Street  
Harrisburg, PA 17101-1923

Date: 3/19/15

*For Office of Consumer Advocate*

# APPENDIX “A”

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

	:		
Petition of UGI Penn Natural Gas, Inc. for	:	Docket No.	P-2013-2397056
Approval of a Distribution System	:		C-2014-2399316
Improvement Charge	:		C-2014-2401382
	:		

**UGI PENN NATURAL GAS, INC.  
STATEMENT IN SUPPORT**

UGI Penn Natural Gas, Inc. (“UGI-PNG” or the “Company”) submits this Statement in Support of the “Joint Petition for Settlement of All Issues” (“Joint Petition for Settlement”) in the above-captioned proceeding. Signatories to the Joint Petition for Settlement are UGI-PNG and the Office of Consumer Advocate (“OCA”), parties to the above-captioned proceeding (hereinafter collectively referred to as the “Parties”).<sup>1</sup>

On December 12, 2013, UGI-PNG filed its “*Petition of UGI Penn Natural Gas, Inc. for Approval of a Distribution System Improvement Charge*” (“DSIC Petition”). On September 11, 2014, the Pennsylvania Public Utility Commission (“Commission”) issued an Order in the above-captioned proceeding addressing the DSIC Petition (“September 11 Order”) which allowed UGI-PNG’s DSIC to become effective on October 1, 2014, subject to reconciliation based on the final outcome of certain issues which the OCA had raised in its pleadings. The Commission assigned the following issues to the Office of Administrative Law Judge for hearing and determination:

- a. DSIC-recovery of costs related to “other related capitalized costs”, including but not limited to, regulator stations and equipment,

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<sup>1</sup> The Office of Small Business Advocate (“OSBA”) indicated that it does not oppose the Joint Petition for Settlement. The Commission’s Bureau of Investigation and Enforcement (“I&E”) did not participate in the proceeding.

electronic systems and software, and vehicles, tools and power equipment;

- b. DSIC-recovery of expenditures related to the inclusion of gathering lines and storage lines as DSIC-eligible property; and
- c. Proposal of UGI Penn Natural Gas, Inc. to include qualifying plant investment placed into service during the December 1, 2013 to November 30, 2014 timeframe in its April 1, 2015 DSIC rate.

(September 11 Order, p. 46.) The Parties to this proceeding explored the issues set for hearing by the Commission in its September 11 Order. The Joint Petition for Settlement resolves the issues identified in the September 11 Order in a way that is consistent with the standards set forth in the Public Utility Code and is in the public interest. Any other terms or provisions of the UGI-PNG DSIC mechanism which were not subject to litigation, or specifically modified by the Joint Petition for Settlement, will be implemented consistent with the DSIC Petition filed by UGI-PNG at Docket No. P-2013-2397056 on December 12, 2013 as implemented or modified by the Commission in its September 11 Order.

Settlement was achieved in this proceeding after a comprehensive investigation of the issues identified by the Commission in its September 11 Order, including discovery, multiple rounds of testimony, and discussion among the Parties. UGI-PNG submits that the Joint Petition for Settlement fairly balances the interests of the Company and its customers and, therefore, is in the public interest. UGI-PNG respectfully requests that Administrative Law Judge Joel H. Cheskis (the "ALJ") and the Commission approve the Settlement in its entirety, without modification.

For the reasons set forth below, the Joint Petition for Settlement is just and reasonable and should be approved.

## I. SETTLEMENT

### A. Other Related Capitalized Costs

Act 11 includes a provision that allows utilities to recover “other related capitalized costs.” 66 Pa. C.S. § 1351(2)(x). As part of its DSIC Petition, UGI-PNG included a number of items that it identified as falling within the scope of § 1351(2)(x), and which therefore can be recovered through the DSIC. These items included, but were not limited to, regulator stations and regulator station equipment, electronic systems and software, and vehicles, tools and power equipment. (UGI-PNG DSIC Petition, Exhibit No. 2, pp. 7-18). In its Answer to the Company’s DSIC Petition, OCA requested that the Commission investigate whether these items were properly included in the DSIC. (OCA Answer, p. 4). As a result, the Commission identified this issue in its September 11 Order as one of the three issues reserved for litigation. (September 11 Order, p. 27).

In the supplemental direct testimony of Company Witness William J. McAllister, Mr. McAllister explained how UGI-PNG calculated the inclusion of tools, equipment, and vehicles. (UGI-PNG St. 1-S, pp. 10-11). Company Witness Hans G. Bell described the repair and replacement associated with regulator stations and regulator station equipment which was included in the DSIC. (UGI-PNG St. 2-S, pp. 2-3). Mr. McAllister explained the accounting associated with regulator stations and regulator station equipment. (UGI-PNG St. 1-S, p. 11). Mr. McAllister also described the inclusion of \$146,669 in software for the upgrade of the Company’s Smallworld Geographic Information System (“GIS”). (UGI-PNG St. 1-S, pp. 11-12). The function of this technology was described more fully by Mr. Bell in his supplemental direct testimony. (UGI-PNG St. 2-S, p. 4).

In OCA’s direct testimony, OCA Witness Thomas S. Catlin agreed that the Company’s inclusion of tools, power equipment, and vehicles were appropriate. (OCA St. 1, p. 5). Mr.

Catlin also agreed that the inclusion of regulator stations and regulator station equipment qualifies as DSIC-eligible investment. (OCA St. 1, p. 5). Mr. Catlin disagreed, however, with the inclusion of the \$146,669 associated with GIS. (OCA St. 1, p. 6). While Mr. Catlin agreed that electronic systems and software may be recoverable through the DSIC, he did not believe that the specific expenditure described in the Company's supplemental direct testimony should be included. (OCA St. 1, pp. 6-7).

As part of the settlement of this proceeding, UGI-PNG has agreed that it will not include the \$146,669 associated with GIS in the DSIC. This exclusion is without prejudice to UGI-PNG's right to include any new eligible incremental GIS or other eligible software in future DSIC filings. The parties also agree that UGI-PNG will be allowed to recover through the DSIC "other related capitalized costs" including, but not limited to, regulator stations and equipment, electronic systems and software, vehicles, tools and power equipment, consistent with the DSIC Petition filed by UGI-PNG at Docket No. P-2013-2397056 on December 12, 2013.

This settlement provision is in the public interest because it adequately addresses the limited concerns raised by Mr. Catlin, which pertained to a particular cost item identified in the "other related capitalized cost" category, while allowing the Company to include a broad range of other legitimate costs that are incurred in order to repair and replace its aging infrastructure. It also acknowledges the legitimacy of the Company's proposal to include electronic systems and software in the future, should they be eligible for inclusion in the DSIC.

#### **B. Gathering and Storage Lines**

As part of its DSIC Petition, UGI-PNG proposed to include gathering and storage lines. As the Company described in its Supplemental Direct testimony, it does not currently own gathering or storage lines, nor does it have plans to own such facilities in the immediate future. (UGI-PNG St. 2-S, p. 1). However, as part of its initial DSIC tariff, the Company included

gathering and storage lines because if the Company does have these facilities in the future, they would physically be part of the Company's distribution system, and would contribute to the safety and reliability of the system. (UGI-PNG St. 2-S, p. 2). As a result, improvement of gathering and storage lines would be DSIC-eligible.

The OCA did not oppose gathering and storage lines as a category of DSIC-eligible property, generally. However Mr. Catlin did identify certain conditions which he felt needed to be present in order for gathering and storage facilities to be DSIC-eligible. (OCA St. 1, pp. 4-5). The parties addressed the details of these conditions in their rebuttal, surrebuttal, and rejoinder testimony. As a result of this exchange, the parties were able to agree that UGI-PNG may include eligible gathering lines and storage lines that serve a distribution function in the DSIC at such time when UGI-PNG actually installs or acquires those facilities.

In order to protect the public interest, UGI-PNG has agreed to provide specific notice to the OCA of the inclusion of gathering and storage lines in the DSIC, if and when that event occurs. The inclusion of these facilities will be without prejudice to the OCA's right to serve discovery on UGI-PNG relating to such property and/or to file a complaint challenging UGI-PNG'S inclusion of such property.

### **C. Timeframe for Inclusion of Qualifying Plant**

UGI-PNG filed its DSIC Petition on December 12, 2013. In its DSIC Petition, UGI-PNG requested that its DSIC become effective on April 1, 2014, and that it reflect plant placed in service from December 1, 2013 through February 28, 2014. In its September 11 Order, the Commission stated that UGI-PNG's DSIC would become effective October 1, 2014, reflecting plant placed in service from June 1, 2014 through August 30, 2014. (September 11 Order, p. 30). However, the Commission also set the issue of what plant should be reflected in the DSIC as of April 1, 2015 for hearing. (September 11 Order, p. 35-36).

As the Company described in its supplemental direct testimony, UGI-PNG is not eligible to actively recover dollars through the DSIC until April 1, 2015. (UGI-PNG St. 1-S, p. 5). This is the result of language contained in the Settlement Agreement at Docket No. C-2012-2308997 (“Allentown Settlement”), which established a 24-month period where the Company was prohibited from recovering costs through the DSIC (“non-recovery period”). (UGI-PNG St. 1-S, p. 5). The 24-month non-recovery period commenced on February 19, 2013, when the Commission approved the Allentown Settlement. (UGI-PNG St. 1-S, p. 6). As a result, the earliest that UGI-PNG could use the DSIC to recover costs associated with the repair and replacement of eligible property is the quarter beginning after the end of the non-recovery period, *i.e.*, April 1, 2015. (UGI-PNG St. 1-S, p. 6).

After the DSIC was made effective by the Commission on October 1, 2014, but while the non-recovery period was still in effect, UGI-PNG used a 0.00% DSIC rate. (UGI-PNG St. 1-S, pp. 6-7). On April 1, 2015, UGI-PNG will no longer set its DSIC at 0.00% to reflect the non-recovery period. In its testimony, UGI-PNG argued that on April 1, 2015, it should be allowed to reflect plant placed in service beginning on December 1, 2013 through February 28, 2015. (UGI-PNG St. 1-S, p. 7). This position was consistent with the Company’s original proposal in its Petition.

In its testimony, OCA challenged the inclusion of plant placed in service prior to December 1, 2014. (OCA St. 1, pp. 7-8). OCA proposed that on April 1, 2015, UGI-PNG’s DSIC should reflect only plant placed in service from December 1, 2014 through February 28, 2015. (OCA St. 1, p. 8). The OCA argued that its position was consistent with an effective date of April 1, 2015. (OCA St. 1, p. 8).

In order to resolve this issue, the parties agreed that as of April 1, 2015, UGI-PNG will be allowed to recover costs for eligible property through the DSIC, subject to the consumer protection provisions of Act 11. The DSIC calculation at that time will reflect the inclusion of qualifying plant additions placed into service from June 1, 2014 through February 28, 2015, at the net depreciated original cost as of April 1, 2015. The settlement adopts the same starting date for inclusion of plant as was initially reflected in the Commission's September 11 Order. This settlement provision is in the public interest because it accurately reflects the intent of the parties to the Allentown Settlement agreement, allows the Company to recover its costs for DSIC-eligible plant, and is consistent with the express language and intent of Act 11. This provision will help the Company maintain its accelerated pace of infrastructure repair and replacement, which will allow the Company to ensure safe and reliable service to its customers.

**II. CONCLUSION**

The Joint Petition for Settlement resolves all issues raised during this proceeding. For the reasons explained above, and those set forth in the Joint Petition for Settlement, the resolution of this proceeding in accordance with the terms of the Joint Petition for Settlement is in the public interest. The Joint Petition for Settlement should be approved without modification.

Respectfully submitted,



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Post & Schell, P.C.

*Attorneys for UGI Penn Natural Gas, Inc.*

Date: March 19, 2015

# APPENDIX “B”

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of UGI Penn Natural Gas, Inc. for	:	P-2013-2397056
Approval of a Distribution System Improvement	:	C-2014-2399316
Charge	:	C-2014-2401382

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STATEMENT OF THE  
OFFICE OF CONSUMER ADVOCATE  
IN SUPPORT OF THE JOINT PETITION FOR  
SETTLEMENT OF ALL ISSUES

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The Office of Consumer Advocate (OCA), one of the signatory parties<sup>1</sup> to the Joint Petition for Settlement of All Issues (Joint Petition or Settlement) in the above-captioned Distribution System Improvement Charge (DSIC) proceeding, respectfully requests that the terms and conditions of the Settlement be approved by the Pennsylvania Public Utility Commission (Commission). This request is based upon the OCA's finding that the proposed Settlement is in the public interest and is in the interest of the customers of UGI Penn Natural Gas, Inc. (UGI-PNG or the Company).

**I. INTRODUCTION AND HISTORY OF THE PROCEEDING**

On December 12, 2013, UGI-PNG filed a Petition for approval of its Long Term Infrastructure Improvement Plan (LTIIP) pursuant to Section 1352 of the Public Utility Code, 66 Pa. C.S. § 1352. On January 2, 2014, the OCA filed Comments on the LTIIP.

Also on December 12, 2013, pursuant to Section 1353 of the Public Utility Code, 66 Pa. C.S. § 1353, the Company filed a Petition for Approval of a Distribution System Improvement Charge (DSIC). On January 2, 2014, the OCA filed an Answer (OCA Answer), Notice of

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<sup>1</sup> The Office of Small Business Advocate indicated that it does not oppose the Joint Petition for Settlement.

Intervention, and Formal Complaint and Public Statement. In its Answer, the OCA raised six issues, as follows:

1. The proposed DSIC computation, by ignoring the balance of accumulated deferred income taxes associated with DSIC investments, will allow UGI-PNG to earn a return on an investment balance that exceeds UGI-PNG's actual investment in DSIC eligible plant.
2. The calculation of the state income tax component of the DSIC revenue requirement determination requires further examination to ensure that it is consistent with the actual taxes paid doctrine.
3. UGI-PNG's proposal to treat gathering lines and storage lines as "distribution system" property for purposes of DSIC recovery requires further consideration.
4. The Company's proposal to expand DSIC-eligible plant to include, *inter alia*, transmission regulator stations and vehicles, should be reviewed to determine that the projects are consistent with Act 11 and the Commission's Final Implementation Order.
5. UGI-PNG's proposal to recover qualifying plant investment placed into service during the period December 1, 2013 through November 30, 2014 in a DSIC charge effective April 1, 2015 does not appear to comply with Section 1357(a)(ii), which limits recovery to eligible plant placed in service during the three-month period ending one month prior to the effective date of the charge, *i.e.* December 1, 2014 through February 28, 2015.
6. The language in the tariff relating to customers with competitive alternatives may not be consistent with Act 11 and the Commission's Final Implementation Order.

OCA Answer at 2-3.

The Office of Small Business Advocate (OSBA) also filed an Answer, Notice of Intervention, and Complaint and Public Statement on January 2, 2014. On January 27, 2014, the Company filed Answers to both the OCA and OSBA Complaints.

On September 11, 2014, the Commission issued an Opinion and Order regarding the LTIP and the DSIC (September 11 Order). In the September 11 Order, the Commission

approved the Company's LTIP, consistent with its order. The Commission also approved the Company's proposed DSIC, consistent with its order, subject to recoupment and/or refund pending final resolution of certain issues raised in the parties' Petitions and Answers. In the September 11 Order, the Commission set for hearing the following issues:

1. DSIC-recovery of costs related to "other related capitalized costs," including but not limited to, regulator stations and equipment, electronic systems and software, and vehicles, tools, and power equipment;
2. DSIC-recovery of expenditures related to the inclusion of gathering lines and storage lines as DSIC-eligible property; and
3. UGI-PNG's proposal to include qualifying plant investment placed into service during the December 1, 2013 to November 30, 2014 timeframe in its April 1, 2015 DSIC rate. See September 11 Order at 46.

With regard to the issues raised by the OCA regarding the Company's recognition of accumulated deferred income taxes (ADIT) and actual state income tax expense in the DSIC calculation, the Commission acknowledged that the issues are on appeal in another proceeding, that the OCA has preserved the issues in this proceeding, and stated that it would not refer them to the OALJ for disposition. September 11 Order at 33-34. As such, these issues were not before the Presiding Officer for hearing and are not addressed by this proposed Settlement.

UGI-PNG served written supplemental direct testimony on October 21, 2014. An initial prehearing conference was held on October 28, 2014, before Administrative Law Judge (ALJ) Joel H. Cheskis. The OCA served written direct testimony on November 26, 2014. On December 23, 2014, UGI-PNG served rebuttal testimony. The OCA served surrebuttal

testimony on January 21, 2015. On February 3, 2015, UGI-PNG served rejoinder testimony. A hearing was held on February 10, 2015, to admit testimony and exhibits into the record.<sup>2</sup>

The Parties participated in settlement discussions and reached a complete settlement of the issues set for hearing by the September 11 Order. The OSBA does not oppose the proposed Settlement. The OCA submits this Statement in Support to provide its views on why this Settlement, taken as a whole, is in the public interest and in the interests of the ratepayers of UGI-PNG.

## **II. TERMS AND CONDITIONS OF THE JOINT SETTLEMENT AGREEMENT**

The following terms of the proposed Settlement directly address the OCA's concerns raised in its Answer and testimony:

### Paragraph 12(a): Other Related Capitalized Costs

The Company, in its Petition, proposed to include "other related capitalized costs," including, but not limited to, transmission and distribution measuring and regulator stations and equipment, electronic systems and software, vehicles, power equipment, tools, and shop and garage equipment. Petition, Pro Forma Tariff Addendum at Page 43(b). The OCA sought review of each of the Company's proposed expansions to the categories of DSIC-eligible property to determine whether the costs are properly recovered through base rates as part of the Company's normal capital planning process, rather than through a DSIC surcharge intended to accelerate the replacement of aging infrastructure. OCA Answer at 4. Based on the supplemental direct testimony of Company witnesses William J. McAllister and Hans Bell, OCA witness Thomas S. Catlin did not object to the Company's inclusion of most costs as DSIC-eligible. See, e.g., OCA St. No. 1 at 5-6.

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<sup>2</sup> The Parties agreed to waive cross-examination of witnesses with respect to all issues.

However, OCA witness Catlin also recommended that the Company's inclusion of costs for its "Smallworld Geographical Information System" (Smallworld GIS) was not DSIC-eligible. Mr. Catlin testified that geographical information systems are routinely used for the planning, operation, and maintenance of utility distribution systems and are not unique or specific to making distribution system improvements. OCA St. No. 1 at 6-7.

The Settlement proposes that the Company may recover "other related capitalized costs." Settlement ¶ 12(a)(1). In response to the OCA's testimony, however, the Settlement excludes costs associated with the Smallworld GIS system in the amount of \$146,669. The Settlement does not preclude the Company from including new GIS or other software that may be eligible for future DSIC recovery. Settlement ¶ 12(a)(2). The OCA retains its right to oppose such recovery.

The OCA submits that the proposed Settlement provisions address its concerns by permitting the Company to recover those capitalized costs determined to be improvements to the distribution system through the DSIC, while excluding those costs from DSIC recovery that are used in the routine operation of the Company's distribution system. These provisions are in the public interest because they ensure that only eligible property that is part of the Company's distribution system will be included in the DSIC, while routine operational projects are recovered through base rates as part of the Company's normal capital planning process.

Paragraph 12(b): Gathering and Storage Lines

In its Petition, the Company proposed to include gathering lines and storage lines as DSIC-eligible property. Petition ¶ 12 and Pro Forma Tariff Addendum at Page 43(b). The OCA raised concerns that it was not clear from the Petition that gathering lines were part of the utility's distribution system and that all customers who make use of and benefit from the

replacement of those lines would be required to bear a share of the replacement costs.<sup>3</sup> See OCA St. No. 1 at 4-5; OCA St. No. 1S at 1-3. The OCA recommended that gathering lines and storage lines not be included as DSIC-eligible at this time because the Company does not currently own any gathering and storage lines; the issue of whether they should be included in the DSIC is moot until such time as the Company acquires or installs those lines—and, subsequently, those gathering or storage lines that serve a distribution function need repair. See OCA St. No. 1 at 4-5; OCA St. No. 1S at 1-3. The OCA further explained that, with regard to those customers that, in the future, would make use of gathering and storage lines, those customers should be subject to the DSIC.<sup>4</sup> The Company's testimony indicated that UGI-PNG did not own any gathering lines or storage lines, nor did it anticipate owning any in the "immediate future." UGI-PNG St. No. 2-S at 1; see also, UGI-PNG St. No. 1-S at 12-13. Further, the Company indicated that, "if Mr. Catlin's proposal is that the Company should include gathering and storage lines so long as all customers who reasonably should be charged the DSIC are in fact being charged the DSIC, then the Company has no issue with this specific proposal." UGI-PNG St. No. 1-RJ at 2.

The Settlement proposes that the Company may include eligible gathering and storage lines that serve a distribution function when the Company acquires or installs those facilities. Settlement ¶ 12(b)(1). The Settlement further includes a provision that the Company will notify the OCA when it intends to include such property in its DSIC, and that nothing in the Settlement precludes the OCA from challenging the inclusion of such property. Settlement ¶ 12(b)(2).

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<sup>3</sup> Section 1351 limits DSIC recovery to property that "is part of the utility's distribution system." 66 Pa. C.S. § 1351.

<sup>4</sup> OCA witness Catlin further explained, "This condition was not intended to have any effect on the Company's ability to reduce or eliminate the DSIC charge to customers with competitive alternatives who are paying flexed or discounted rates and customers having negotiated contracts with the Company, if it is reasonably necessary to do so." OCA St. No. 1S at 2.

The proposed Settlement provisions address the OCA's issue by deferring inclusion of gathering lines and storage lines until such time when the Company actually installs or acquires that type of property and permitting the OCA to challenge that inclusion in the DSIC, if appropriate. These provisions are in the public interest because they help to ensure that only eligible property that is part of the Company's distribution system will be included in the DSIC and that all customers who make use of and benefit from the those lines will be required to bear a share of the replacement costs.

Paragraph 12(c): Timeframe for Inclusion of Qualifying Plant

The Company and the Commission's Bureau of Investigation and Enforcement entered into a settlement agreement at Docket No. C-2012-2308997 that was approved by the Commission on February 19, 2013 (February 19, 2013 Settlement). The February 19, 2013 Settlement "prohibited [the Company] from seeking recovery of any costs that would otherwise be eligible for recovery through a distribution system improvement charge (DSIC), for a period of 24 months following the month in which the Commission enters a final order approving this Joint Settlement Petition." February 19, 2013 Settlement ¶ IV.A.32.G. Because of the February 19, 2013 Settlement, the Company implemented a zero-dollar DSIC on October 1, 2014. However, the Company sought to recover qualifying plant investment placed into service during the period December 1, 2013 through November 30, 2014 at its net depreciated original cost, in a DSIC rate effective April 1, 2015. Petition at 5 and Pro Forma Tariff Addendum at Page 43(b). The OCA took the position that recovering investment from any period prior to December 1, 2014 in a DSIC effective on April 15, 2015 is not permitted by Section 1357 of the Public Utility Code, 66 Pa. C.S. § 1357(a).<sup>5</sup> Further, OCA witness Catlin testified that the conditions of the

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<sup>5</sup> Section 1357(a) of the Public Utility Code permits recovery of eligible plant that has been placed in service during the three-month period ending one month prior to the effective date of the DSIC. 66 Pa. C.S. § 1357(a).

February 13, 2013 Settlement prohibit the Company from seeking recovery of costs that would otherwise be recoverable through a DSIC for a 24-month period that ends on February 28, 2015.

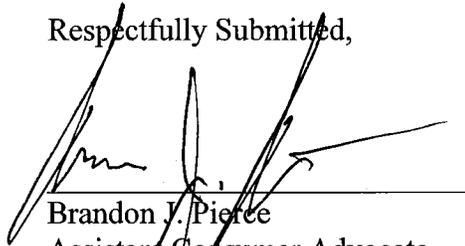
In response, the Company's witnesses testified that the February 19, 2013 Settlement was intended only to require a 0.0% DSIC rate until the end of the settlement period and not to preclude the Company from recovering plant placed into service during the settlement period at its depreciated book value. UGI-PNG St. No. 1-S at 8. Mr. McAllister also noted that the Commission approved the Company's DSIC tariff effective October 1, 2014, although a non-zero DSIC rate would not be implemented until April 1, 2015 due to the February 19, 2013 Settlement. UGI-PNG St. No. 1-R at 6.

The Settlement limits recovery to plant placed in service after June 1, 2014, which is consistent with the requirement of Section 1357(a) permitting DSIC recovery of eligible plant that has been placed in service during the three-month period ending one month prior to the effective date of October 1, 2014. The Settlement provision reflects a compromise of the parties' positions with regard to the impact of the February 19, 2013 Settlement by eliminating recovery of plant placed in service between December 1, 2013 and May 30, 2014. Based on the unique facts and unique circumstances of this specific proceeding, the OCA submits that the included Settlement provision is in the interests of the Company's ratepayers and the public interest.

### III. CONCLUSION

The Joint Petition for Settlement of All Issues effectively resolves all of the issues that the Office of Consumer Advocate raised and considered in response to UGI Penn Natural Gas, Inc.'s Petition for Approval of a Distribution System Improvement Charge. For the foregoing reasons, the Office of Consumer Advocate submits that the terms and conditions of the Settlement are in the public interest and should be approved.

Respectfully Submitted,



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Dated: March 19, 2015  
00203459

# APPENDIX “C”



COMMONWEALTH OF PENNSYLVANIA

March 19, 2015

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

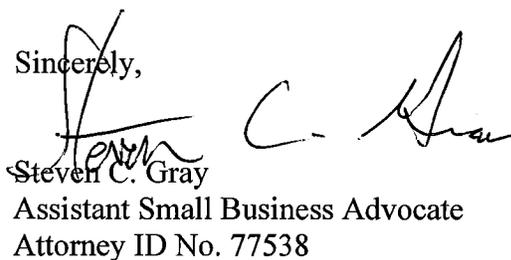
**Re: UGI Penn Natural Gas, Inc. For Approval of a Distribution System  
Improvement Charge  
Docket No. P-2013-2397056**

Dear Secretary Chiavetta:

The Office of Small Business Advocate (“OSBA”) filed a Complaint in the above-referenced matter in order to protect the interests of the small business customers of UGI Penn Natural Gas, Inc. (the “Company”). The OSBA is not a signatory to the Joint Petition for Settlement of all Issues filed with the Pennsylvania Public Utility Commission in the above-referenced matter. Nevertheless, the OSBA does not oppose the modifications to the Company’s filing proposed in the Joint Petition.

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

Sincerely,

  
Steven C. Gray  
Assistant Small Business Advocate  
Attorney ID No. 77538

cc: Parties of Record  
Robert D. Knecht

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of UGI Penn Natural Gas, Inc. :**  
**For Approval of a Distribution System :** **DOCKET NO. P-2013-2397056**  
**Improvement Charge :**

**CERTIFICATE OF SERVICE**

I certify that I am serving two copies of the forgoing document, on behalf of the Office of Small Business Advocate, by e-filing, e-mail, and/or first-class mail (unless otherwise noted) upon the persons addressed below:

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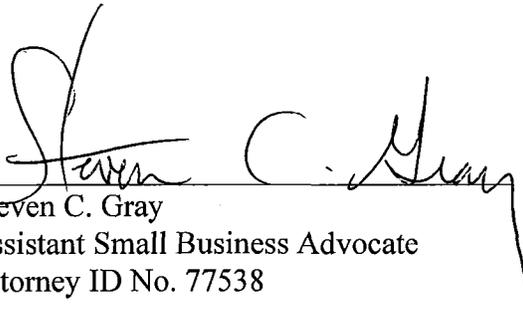
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Date: March 19, 2015

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