PENNSYLVANIA

PUBLIC UTILITY COMMISSION

Harrisburg, PA 17105-3265

Public Meeting held May 19, 2015

Commissioners Present:

Gladys M. Brown, Chairman

John F. Coleman, Jr., Vice Chairman

James H. Cawley

Pamela A. Witmer

Robert F. Powelson

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| Petition of UGI Utilities, Inc.- Electric Division for Approval of its Energy Efficiency and Conservation Plan | M-2010-2210316 |
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**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition of UGI Utilities, Inc. – Electric Division (UGI Electric or the Company) to Continue its Phase I Energy Efficiency and Conservation (EE&C) Plan Until its Phase II Plan is Approved (Phase I Continuation Petition or Petition) filed on April 9, 2015, at Docket No. M-2015-2477174. Because the Phase I Continuation Petition represents a revision of our prior order entered at this docket on October 19, 2011 (*October 2011 Order)*, the Phase I Continuation Petition will be considered a petition to rescind or amend a prior order. As such, pursuant to 66 Pa. C.S. § 703(g) and 52 Pa. Code § 5.572(d), answers to such petitions must be filed within ten days after the date of service of the Petition. On April 29, 2015, the Office of Small Business (OSBA) filed a Notice of Intervention, Public Statement, Answer and Verification. On May 4, 2015, the Office of Consumer Advocate (OCA) filed an Answer. While both Answers were late-filed, we shall exercise our discretion and take them under consideration.

**Background**

Act 129 of 2008, P.L. 1592 (Act 129) amended the Pennsylvania Public Utility Code (Code), 66 Pa. C.S. §§ 101 *et seq*., to, *inter alia*, require the Commission to develop and adopt an EE&C Plan by January 15, 2009. Under Act 129, the Commission’s EE&C program requires electric distribution companies (EDCs) to adopt and implement cost-effective energy efficiency and conservation plans to reduce energy demand and energy consumption within the service territory of each EDC. 66 Pa. C.S. § 2806.1(a). However, Act 129 exempted EDCs with fewer than 100,000 customers from the EE&C Program. 66 Pa. C.S. § 2806.1(l).

UGI Electric is not formally subject to the energy efficiency requirements of Act 129 because it has fewer than 100,000 customers. However, on December 23, 2009, at Docket No. M-2009-2142852, the Commission issued a Secretarial Letter that encouraged smaller EDCs to file voluntary EE&C Plans. The Company filed a petition requesting approval of its voluntary Phase I EE&C Plan pursuant to the Secretarial Letter on November 9, 2010. The *October 2011 Order* granted, in part, the Company’s Phase I EE&C petition and directed UGI Electric to file a revised plan consistent with that Order. On December 19, 2011, UGI Electric filed that revised plan, which was approved by the Commission in an Order entered March 16, 2012. As such, UGI Electric began implementation of its three-year voluntary Phase I EE&C Plan on June 1, 2012.

**History of the Proceeding**

On April 9, 2015, UGI filed the Phase I Continuation Petition to extend its Phase I EE&C Plan until its Phase II Plan is approved. Concurrent with the Phase I Continuation Petition, UGI Electric filed a Petition for Approval of its proposed Phase II EE&C Plan (Phase II Petition). In the Phase I Continuation Petition, UGI Electric explained that the Company’s Phase I programs are set to expire on May 31, 2015, and that the purpose of this Petition is to allow for the Phase I Plan to continue in case the Phase II Petition is not approved by June 1, 2015. UGI Electric avers that continuation of the Phase I Plan pending approval of the Phase II Plan will allow customers to continue to receive uninterrupted EE&C programs, will facilitate a smoother transition from Phase I to Phase II, and will promote administrative efficiencies. Petition at 3.

Pursuant to 66 Pa. C.S. § 703(g) and 52 Pa. Code § 5.572(d), we find that the Phase I Continuation Petition should be considered a petition to rescind or amend the *October 2011 Order.* As such, any answers to the Phase I Continuation Petition must be filed within ten days after the date of service of the Petition. UGI Electric noted that it served copies of the filing upon the Commission’s Bureau of Investigation & Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, as well as the other parties at this docket. Additionally, UGI Electric stated that it will send a letter via e-mail to the Conservation Service Providers in Pennsylvania advising them of this filing and directing them to the Company’s website where the filing will be posted. Answers to the Phase I Continuation Petition have been received by the Commission on April 29, 2015, from the OSBA and on May 4, 2015, from the OCA.

**Discussion**

By this Petition, UGI Electric seeks approval of a limited extension of its current Phase I EE&C Plan for an interim period until such time as the Company’s Phase II EE&C Plan is approved and becomes effective. UGI Electric notes that its Phase I plan is set to expire on May 31, 2015, and that it has concurrently filed for approval of its proposed Phase II EE&C Plan. UGI Electric explains that in the event that its proposed Phase II EE&C Plan is not approved by June 1, 2015, continuation of Phase I is necessary to ensure that customers continue to receive uninterrupted EE&C program benefits. Petition at 2-3.

UGI Electric states that its customers have experienced substantial benefits from participating in the Phase I EE&C Plan, which has enabled customers to take advantage of nine programs that offer a wide range of energy efficiency and conservation measures. According to UGI Electric, if the Commission does not grant this Petition, the Phase I EE&C Plan will terminate and customers would not benefit from additional EE&C program measures until the proposed Phase II EE&C Plan becomes effective. Furthermore, a continuance would facilitate a smoother transition from Phase I to Phase II and promote administrative efficiencies. Allowing the Phase I Program to expire could be detrimental and confusing to UGI Electric’s customers and trade allies who take advantage of these programs. Petition at 3.

Next, UGI Electric states that it proposes to count the costs of continuing the Phase I EE&C programs toward the budgets established for Plan Year 1 of the Company’s Phase II EE&C Plan. The Company proposes that the continuation costs will not exceed the program or customer class budgets established for Plan Year 1 of Phase II. According to UGI Electric, this will ensure that the Company’s EE&C program costs will not exceed 2% of annual revenues. The Company further proposes to recover the continuation costs through the proposed Phase II EE&C Section 1307 Rider and that like the Phase I EEC Rider, the Phase II EEC Rider will be subject to an annual review and reconciliation. Petition at 4.

In its Statement and Answer, the OSBA requests that the Petition be subject to investigation and evidentiary hearings. According to the OSBA, a thorough inquiry by the Commission into all of the elements of the Petition is necessary to ascertain whether UGI’s proposal to continue the Company’s Phase I EE&C Plan is just and reasonable. OSBA Statement at 1-2, OSBA Answer at 4.

In its Answer, the OCA states that it does not object to UGI’s request for a limited extension of its Phase I EE&C Plan finding it to be reasonable. The OCA does submit that to the extent the Company has determined that Phase I programs are no longer cost effective and have proposed termination in Phase II, than those programs should be terminated at this time. OCA Answer at 2-4.

**Disposition**

Upon our review of the record in this proceeding and the applicable law, we find that the Petition filed by UGI Electric to Continue its Phase I Energy Efficiency and Conservation Plan Until its Phase II Plan is Approved is reasonable, appropriate under the circumstances, and in the public interest, and it should be approved. We have reviewed the Answers received in response to the UGI Electric Petition and reject the recommendations of the OSBA and OCA at this time. The OSBA has failed to identify any specific concerns with the limited extension of the Phase I EE&C Plan. Furthermore, we find that it would be premature to terminate any existing Phase I programs as suggested by the OCA. The determination concerning whether existing Phase I programs should be terminated should be decided in the context of UGI Electric’s pending Phase II Plan. Considering the success of UGI Electric’s currently effective Phase I EE&C Plan, we find that it would be detrimental to the future success of these programs, and to the current participants in these programs, to allow them to terminate pending the resolution of the Company’s proposed Phase II EE&C Plan. Accordingly, we shall approve UGI Electric’s request for a limited extension of the current Phase I EE&C Plan until the effective date of a Phase II compliance plan filed in response to a final Commission Order approving the Company’s proposed Phase II EE&C Plan.

**Conclusion**

In light of the above discussion, we shall grant UGI Electric’s Petition to Continue its Phase I Energy Efficiency and Conservation Plan Until its Phase II Plan is Approved, consistent with the discussion in this Opinion and Order; **THEREFORE,**

**IT IS ORDERED:**

1. That the Petition of UGI Utilities, Inc. – Electric Division to Continue its Phase I Energy Efficiency and Conservation Plan Until its Phase II Plan is Approved is approved, consistent with this Opinion and Order.

2. That UGI Utilities, Inc. – Electric Division is permitted to continue its Phase I Energy Efficiency and Conservation Plan for an interim period to begin at the end of its currently-approved Phase I Plan and end with the effective date of a Phase II compliance plan filed in response to a final Commission Order with regard to UGI Utilities, Inc. – Electric Division’s Phase II Energy Efficiency and Conservation Plan at Docket Number M-2015-2477174.

3. That UGI Utilities, Inc. – Electric Division file an Implementation Plan for the Phase I Continuation Program within thirty (30) days of entry of this Opinion and Order.

**BY THE COMMISSION,**



Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: May 19, 2015

ORDER ENTERED: May 19, 2015