

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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June 15, 2016

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 171020

Re: Petition of UGI Penn Natural Gas, Inc.
for a Waiver of the Distribution System
Improvement Charge Cap of 5% of Billed
Distribution Revenues and Approval to
Increase the Maximum Allowable DSIC to
10% of Billed Revenues
Docket No. P-2016-2537594

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Erin L. Gannon

Erin L. Gannon
Assistant Consumer Advocate
PA Attorney I.D. #83487

Attachment

cc: Honorable Angela T. Jones
Certificate of Service
222443

CERTIFICATE OF SERVICE

Petition of UGI Penn Natural Gas, Inc. :
for a Waiver of the Distribution System :
Improvement Charge Cap of 5% of Billed : Docket No. P-2016-2537594
Distribution Revenues and Approval to :
Increase the Maximum Allowable DSIC :
to 10% of Billed Revenues :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 15th day of June 2016.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Carrie B. Wright, Esquire
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

Steven C. Gray, Esquire
Small Business Advocate
Office of Small Business Advocate
300 North Second Street
Harrisburg, P A 17101

Jessica R. Rogers, Esquire
David B. Macgregor
Post & Schell
17 North Second Street, 12th Floor
Harrisburg, PA 17101

Danielle Jouenne, Esquire
UGI Corporation
460 Gulph Road
King of Prussia, PA 19406

/s/ Erin L. Gannon
Erin L. Gannon
Senior Assistant Consumer Advocate
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Darryl Lawrence
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*222444

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of UGI Penn Natural Gas, Inc. for Waiver :
of the Distribution System Improvement Charge :
Cap of 5% of Billed Distribution Revenues and : P-2016-2537594
Approval to Increase the Maximum Allowable :
DSIC to 10% of Billed Distribution Revenues :

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333 and the Prehearing Conference Order issued by Administrative Law Judge Angela T. Jones on June 8, 2016, the Office of Consumer Advocate (OCA) provides the following:

I. BACKGROUND

On March 31, 2016, UGI Penn Natural Gas, Inc. (UGI-PNG or the Company) filed a Petition for waiver of Section 1358(a) of Act 11 relating to the Distribution System Improvement Charge (DSIC) cap of 5% of billed revenues and to increase the maximum allowable DSIC from 5% to 10%, 66 Pa. C.S. §1358(a). On April 20, 2016, the OCA filed a Notice of Intervention, Public Statement and Answer to UGI-PNG's Petition.

On the same date, the Office of Small Business Advocate (OSBA) filed a Notice of Appearance, Answer and Public Statement to UGI-PNG's Petition. The Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance on May 6, 2016.

The OCA now files this Prehearing Memorandum to set forth the procedure and issues that the OCA submits are relevant to this proceeding.

II. ISSUES

UGI-PNG's proposed modification to its DSIC presents several important issues of law and fact. The OCA has identified the following preliminary concerns, which are discussed in its Answer:

1. UGI-PNG's requested waiver must be carefully considered to determine that it is legal, absolutely necessary, and needed to the degree proposed. The Commission may waive the statutory 5% DSIC cap only if a higher DSIC rate is necessary for the Company "to ensure and maintain adequate, efficient, safe, reliable and reasonable service" for purposes of Section 1358(a)(1). 66 Pa. C.S. § 1358(a)(1).

2. UGI-PNG must show that its proposal to charge a DSIC rate of up to 10% is just and reasonable for purposes of Section 1301. 66 Pa. C.S. § 1301.

3. The Company's proposal to increase the DSIC cap subject to refund should be denied so that all issues identified by the OCA and any other parties participating in the proceeding can be fully investigated prior to rates increasing above the statutory cap. The Commission has never granted waiver of the DSIC cap subject to refund. Waiving the cap is factually and legally distinct from allowing an initial DSIC tariff to take effect.

The OCA continues to review UGI-PNG's filing and this list should not be considered inclusive or binding. The OCA reserves the right to address any additional issues that arise during the course of the proceeding.

III. WITNESSES

The OCA intends to present the Direct, Rebuttal and Surrebuttal testimony, as may be necessary, of Jerome D. Mierzwa regarding the accounting and policy issues identified above. Mr. Mierzwa will present testimony in written form and will also attach various exhibits,

documents, and explanatory information, which will assist in the presentation of the OCA's case.

His contact information is as follows:

Jerry Mierzwa
Exeter Associates, Inc.
10480 Little Patuxent Parkway, Suite 300
Columbia, MD 21044
Telephone: (410) 992-7500
Email: jmierzwa@exeterassociates.com

The OCA specifically reserves the right to call additional witnesses and to expand the issues addressed in testimony, as necessary. If the OCA determines that an additional witness is necessary for any portion of its case, it will notify all parties of record immediately.

IV. SERVICE ON THE OCA

The OCA will be represented in this proceeding by Senior Assistant Consumer Advocate Erin L. Gannon. Two copies of all documents should be served on the OCA as follows:

Erin L. Gannon
Senior Assistant Consumer Advocate
Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, Pa. 17101-1923
Telephone: 717-783-5048
Fax: 717-783-7152
E-mail: egannon@paoca.org

In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be mailed directly to the expert witness(es) responsible for the area of the case, as well as mailing a copy to counsel for the OCA. The OCA also requests that emails containing any interrogatory responses be emailed directly to the expert witness(es) and to the OCA's legal assistant, Valerie Hironimus.

Jerome D. Mierzwa jmierzwa@exeterassociates.com
Valerie Hironimus vhironimus@paoca.org.

V. PROPOSED SCHEDULE

It is the OCA's understanding that the schedule proposed in Appendix A is acceptable to UGI-PNG and I&E. The OCA will work with all parties to develop a schedule.

VI. PROPOSED REVISED RULES FOR DISCOVERY

The OCA proposes that the Commission's rules and regulations, 52 Pa. Code §5.321, *et seq.*, be modified as follows:

1. Answers to written interrogatories will be served in-hand within ten (10) calendar days of service of the interrogatories except that service of interrogatories on a Friday shall be deemed service on the following business day;
2. Objections to interrogatories will be communicated orally within three (3) business days of service; unresolved objections shall be served on the parties in writing within five (5) business days of service of the interrogatories;
3. Motions to dismiss objections and/or direct the answering of interrogatories will be filed within three (3) business days of service of written objections;
4. Answers to motions to dismiss objections and/or direct the answering of interrogatories will be filed within three (3) business days of service of such motions;
5. Responses to requests for document production, entry for inspection, or other purposes will be served in-hand within ten (10) calendar days;
6. Requests for admission will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) business days of service;
7. Answers to on-the-record data requests will be served in-hand within five (5) calendar days of the request;
8. Rulings over motions shall be issued, if possible, within seven (7) calendar days of the filing of the motion;
9. Any discovery or discovery related pleadings such as objections, motions, answers to motions served on a Friday or on any business day preceding a state holiday shall be deemed to have been served on the following business day for purposes of tracking responsive due dates; and

10. Due dates will be “in-hand” with electronic service on the due date satisfying the “in-hand” requirement and where such service is immediately followed by a hard copy sent by first-class mail.

After the due date for Rebuttal, the OCA proposes that the following modifications will replace those above:

1. Answers to written interrogatories will be served in-hand within five (5) calendar days of service of the interrogatories except that service of interrogatories on a Friday shall be deemed service on the following business day;

2. Objections to interrogatories will be communicated orally within one (1) business day of service; unresolved objections shall be served on the parties in writing within two (2) business days of service of the interrogatories;

3. Motions to dismiss objections and/or direct the answering of interrogatories will be filed within one (1) business day of service of written objections;

4. Answers to motions to dismiss objections and/or direct the answering of interrogatories will be filed within one (1) business day of service of such motions;

5. Responses to requests for document production, entry for inspection, or other purposes will be served in-hand within five (5) calendar days;

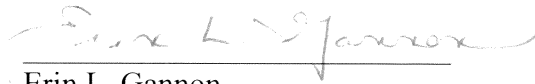
6. Requests for admission will be deemed admitted unless answered within five (5) calendar days or objected to within two (2) business days of service; and

8. Rulings over motions shall be issued, if possible, within four (4) calendar days of the filing of the motion.

VII. SETTLEMENT

The OCA is willing to participate in settlement discussions, to the extent possible within the litigation timeframe.

Respectfully Submitted,



Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. # 83487
E-Mail: EGannon@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

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DATE: June 15, 2016

222248

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of UGI Penn Natural Gas, Inc. for Waiver :
of the Distribution System Improvement Charge :
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Approval to Increase the Maximum Allowable :
DSIC to 10% of Billed Distribution Revenues :

OFFICE OF CONSUMER ADVOCATE
PROPOSED LITIGATION SCHEDULE

Prehearing Conference	June 17, 2016
Non-Company Direct	July 22, 2016
Rebuttal	August 19, 2016
Surrebuttal	August 29, 2016
Oral Rejoinder Outline	September 7, 2016
Hearings in Harrisburg/Oral Rejoinder	September 8, 2016
Main Brief	September 22, 2016
Reply Brief	September 30, 2016