



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166  
Tel: 717.232.8000 • Fax: 717.237.5300

Alessandra L. Hylander  
Direct Dial: 717.237.5435  
Direct Fax: 717.260.1689  
ahylander@mcneeslaw.com

September 1, 2016

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

**VIA E-MAIL**  
**HARD COPY VIA USPS**


**RE: Petition of UGI Central Penn Gas, Inc. for Waiver of the Distribution System Improvement Charge ("DSIC") Cap of 5% of Billed Distribution Revenues and Approval to Increase the Maximum Allowable Distribution System Improvement Charge to 10% of Billed Distribution Revenues; Docket No. P-2016-2537609**

Dear Secretary Chiavetta:

Enclosed for filing please find the Motion to Compel of the Central Penn Gas Large Users Group ("CPGLUG") in the above-referenced proceeding. As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with a copy of this document. Thank you.

Sincerely,

McNEES WALLACE & NURICK LLC

By   
Alessandra L. Hylander

Counsel to the Central Penn Gas Large Users Group

Enclosure

c: Administrative Law Judge Angela T. Jones  
Certificate of Service

A5321560:1

[www.mwn.com](http://www.mwn.com)

HARRISBURG, PA • LANCASTER, PA • SCRANTON, PA • STATE COLLEGE, PA • COLUMBUS, OH • WASHINGTON, DC

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

**VIA FIRST CLASS MAIL AND E-MAIL**

Mark C. Morrow, Esquire  
Danielle Jouenne, Esquire  
UGI Corporation  
460 N. Gulph Road  
King of Prussia, PA 19406  
[jouenned@ugicorp.com](mailto:jouenned@ugicorp.com)  
[morrowm@ugicorp.com](mailto:morrowm@ugicorp.com)

David B. MacGregor, Esquire  
Jessica R. Rogers, Esquire  
Post & Schell, P.C.  
17 North Street, 12<sup>th</sup> Floor  
Harrisburg, PA 17101-1601  
[dmacgregor@postschell.com](mailto:dmacgregor@postschell.com)  
[jrogers@postschell.com](mailto:jrogers@postschell.com)

Carrie B. Wright, Esquire  
Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
[carwright@pa.gov](mailto:carwright@pa.gov)

Darryl A. Lawrence, Esquire  
Erin L. Gannon, Esquire  
Office of Consumer Advocate  
555 Walnut Street  
5th Floor, Forum Place  
Harrisburg, PA 17101  
[dlawrence@paoca.org](mailto:dlawrence@paoca.org)  
[egannon@paoca.org](mailto:egannon@paoca.org)

Steven C. Gray, Esquire  
Office of Small Business Advocate  
300 North Second Street, Suite 202  
Harrisburg, PA 17101  
[sgray@pa.gov](mailto:sgray@pa.gov)

  
Alessandra L. Hylander

Counsel to Central Penn Gas Large Users Group

Dated this 1st day of September, 2016, at Harrisburg, Pennsylvania.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of UGI Central Penn Gas, Inc. for Waiver : P-2016-2537609  
of the Distribution System Improvement Charge ("DSIC") Cap :  
of 5% of Billed Distribution Revenues and Approval :  
to Increase the Maximum Allowable DSIC to 10% of :  
Billed Distribution Revenues :

---

**MOTION TO COMPEL OF  
CENTRAL PENN GAS LARGE USERS GROUP**

---

**TO THE HONORABLE ANGELA T. JONES:**

Pursuant to Section 5.342(g) of the Pennsylvania Public Utility Commission's ("PUC" or "Commission") regulations, 52 Pa. Code § 5.342(g), and the procedural rules set forth in *Prehearing Conference Order #2*, the Central Penn Gas Large Users Group ("CPGLUG") hereby files this Motion to Compel in the above-referenced proceeding. In support of this Motion to Compel, CPGLUG avers as follows:

**I. BACKGROUND**

1. On August 31, 2016, UGI Central Penn Gas, Inc. ("CPG" or "Company") submitted Objections to CPGLUG's Set I Interrogatories ("CPGLUG Set I"), Question Nos. CPGLUG-CPG I-1 through CPGLUG-CPG I-6.<sup>1</sup> The Interrogatories to which CPG objects are as follows:

**CPGLUG-CPG I-1:** Please reference Supplement No. 21 to CPG Gas – Pa. P.U.C. No. 4, Original Page 43(e). Since its implementation, has CPG ever eliminated the Rider DSIC for any customer "with competitive alternatives who [pays] flexed or discounted rates and [has] negotiated contracts with the Company?"

**CPGLUG-CPG I-2:** Please reference your response to CPGLUG-CPG-I-1. If you answered in the affirmative, please identify the number of customers each year for whom the Company eliminated the DSIC.

---

<sup>1</sup> A copy of CPGLUG's Set I is attached as Exhibit A, and the Company's Objections are attached to this as Exhibit B.

**CPGLUG-CPG I-3:** Please reference Supplement No. 21 to CPG Gas – Pa. P.U.C. No. 4, Original Page 43(e). Has CPG ever reduced the Rider DSIC for any customer "with competitive alternatives who [pays] flexed or discounted rates and [has] negotiated contracts with the Company?"

**CPGLUG-CPG I-4:** Please reference your response to CPGLUG-CPG-I-3. If you answered in the affirmative, please identify the number of customers each year that received a DSIC reduction from CPG.

**CPGLUG-CPG I-5:** Please describe the criteria CPG considers in determining whether it should eliminate the Rider DSIC for a customer.

**CPGLUG-CPG I-6:** Please describe the criteria CPG considers in determining whether it should reduce the Rider DSIC for a customer.

2. As discussed more fully herein, CPG has not met the burden of proving that the information requested by CPGLUG Set I is irrelevant for purposes of this proceeding. Moreover, CPG has not demonstrated that the discovery questions were produced in an untimely manner. Accordingly, the Company's objections should be dismissed, and the Company compelled to respond to CPGLUG Set I.

3. Under Section 5.342(g) of the Commission's regulations, "[w]ithin 10 days of service of an objection to interrogatories, the party submitting the interrogatories may file a motion requesting the presiding officer to dismiss an objection and compel that the interrogatory be answered." *See* 52 Pa. Code § 5.342(g). *Prehearing Conference Order #2* modified this timeframe, providing that once the due date for Rebuttal has passed, "Motions to dismiss objections and/or direct the answering of interrogatories will be filed within one (1) business day of service of written objections." *Prehearing Conference Order #2*, Docket No. P-2016-2537609, p. 3 (June 21, 2016). Accordingly, CPGLUG hereby files this Motion to Compel.

## II. MOTION TO COMPEL

### A. CPG Should Be Compelled To Answer CPGLUG Set I, as Claims of Irrelevancy and Untimeliness Are Unsupported.

4. CPG objects to the entirety of CPGLUG Set I on the basis that these questions seek purportedly irrelevant information and are not likely to lead to the discovery of relevant admissible evidence. *See* CPG Objections, Docket No. P-2016-2537609, pp. 2-4 (Aug. 31, 2016). CPGLUG Set I focuses on obtaining information about CPG's past practices regarding the application of certain DSIC safeguards to customers with negotiated contracts. Information about CPG's past practices is intended to establish a benchmark by which to evaluate CPG's proposal in this proceeding. The issue in this proceeding is the lawfulness of CPG's request to waive the DSIC cap of 5% of billed distribution revenues and increase the DSIC cap to 10% of billed distribution revenues. Any increase in the DSIC cap will impact all DSIC-eligible customers, including CPGLUG members. CPG's DSIC rider, Rider G, sets forth several customer safeguards, including the option to reduce or eliminate the Rider DSIC for customers with competitive alternatives who pay flexed or discounted rates and have a negotiated contract with CPG. *See* Supplement No. 21 to CPG Gas – Pa. P.U.C. No. 4, Original Page 43(e). Therefore, CPG's historical application of customer safeguards like eliminating or reducing the DSIC is relevant to assessing the customer impact of CPG's request to implement a 10% DSIC and determining whether such an increase should be approved by the Commission. Furthermore, there is no limitation in the procedural schedule or in the Commission's discovery rules which provides that CPGLUG cannot submit questions to CPG at this time. Accordingly, CPGLUG Set I is relevant, reasonably calculated to lead to the discovery of admissible evidence, and timely.

**i. CPG's Claims of Irrelevancy Are Unsupported.**

5. According to PUC regulations, "[a] party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action...." 52 Pa. Code § 5.321(c). "Relevancy depends upon the nature and facts of the individual case, and any doubts are to be resolved in favor of relevancy." *Koken v. One Beacon Ins. Co.*, 911 A. 2d 1023, 1025 (Pa. Commw. Ct. 2006). "Discovery is liberally allowed, and all doubts should be resolved in favor of permitting discovery." *Id.* The party contending discovery is not relevant bears the burden of proving irrelevancy. *Id.*

6. When CPG filed its request to increase its DSIC cap, Mr. William J. McAllister testified that the proposed increase to the DSIC cap is in the best interest of CPG's customers, and did not negatively impact consumer protections. *See* UGI Statement No. 1, Docket No. P-2016-2537609, pp. 10-11. After reviewing CPG's DSIC increase request and its supporting testimony, CPGLUG filed its Petition to Intervene in this proceeding to address the effect of CPG's requested DSIC increase on CPG's large commercial and industrial customers: "CPGLUG opposes UGI-CPG's request for a waiver of the 5% DSIC cap and an increase in the DSIC cap to 10%. In the alternative, [CPG] should revise its tariff to specifically exempt customers under Rates XD and IS." *See* CPGLUG Petition to Intervene and Answer, Docket No. P-2016-2537609, p. 4 (June 29, 2016). CPG did not object to the basis for CPGLUG's intervention.

7. CPGLUG Set I is intended to obtain information about CPG's past practices regarding the application of one of its customer safeguards of particular interest to large commercial and industrial customers. This safeguard appears at 14.C.8.6 of Rider G in the CPG Tariff. CPGLUG seeks to evaluate Mr. McAllister's assertion that customer safeguards will sufficiently protect customers despite the Company's proposed DSIC cap increase. *See* UGI

Statement No. 1, Docket No. P-2016-2537609, pp. 10-11. Mr. McAllister, however, does not directly identify the customer safeguard at 14.C.8.6 of Rider G as one of those safeguards. *Id.* at p. 11. Thus, it is important for CPGLUG to explore whether that DSIC waiver/elimination provision currently affords any meaningful customer protection in order to evaluate whether it will offer any customer protection in the event the Company's requested DSIC cap increase is approved. Thus, CPGLUG Set I has been calculated to explore the Company's application of the DSIC waiver/elimination provision, including the circumstances under which CPG has elected to eliminate or reduce the DSIC for any customer. CPGLUG is not requesting CPG to reveal any potentially confidential information such as which customers received a DSIC elimination or reduction. Accordingly, CPGLUG Set I should be answered by CPG because this information is clearly "relevant to the subject matter involved in the pending action...." 52 Pa. Code § 5.321(c).

8. The Company itself raised the issue of customer safeguards in Rider G in support of its DSIC increase proposal. To limit discovery in the manner sought by CPG would unreasonably impede CPGLUG from obtaining important information to test the Company's own assertions regarding the existence of meaningful customer safeguards. Dismissing CPG's objections to CPGLUG Set I would enable CPGLUG to gather evidence that would provide important information on the measures potentially available to safeguard large commercial and industrial customers, such as CPGLUG members, against the impact of a 10% DSIC cap. This approach comports with the Commission's regulations, which allow discovery on "any matter, not privileged, which is relevant to the subject matter involved in the pending action..." and precedent which directs any doubt as to relevancy be resolved in favor of relevancy. 52 Pa. Code § 5.321(c); *see Koken*, at 1025.

12. Even assuming, *arguendo*, that the information produced by CPG in response to CPGLUG Set I is ultimately found to be irrelevant for purposes of admittance into the evidentiary record, PUC regulations governing discovery explicitly reject such grounds for objections. Rather, the Commission's regulations permit discovery "if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." 52 Pa. Code § 5.321(c). While CPG claims in its general objections that CPGLUG Set I will not lead to the discovery of admissible evidence, CPG fails to provide any specific foundation for this claim. In this instance, CPGLUG is seeking information regarding CPG's previous application of one of its customer safeguards. Information regarding CPG's past practices on this issue could point to relevant information regarding whether this safeguard will provide meaningful protection in light of CPG's request to increase the DSIC cap to 10% of billed distribution revenues. Therefore, while crafted to obtain relevant information from CPG, CPGLUG Set I is, at a minimum, reasonably calculated to lead to the discovery of admissible evidence. Consequently, CPG's relevancy objections should be dismissed.

13. Because CPG has not met its burden of showing that the information sought by CPGLUG Set I is irrelevant, and because CPGLUG Set I is relevant to the subject matter involved in this proceeding and reasonably calculated to lead to the discovery of admissible evidence, CPGLUG requests that CPG be compelled to respond to these Interrogatories in full.

**ii. CPG's Claims of Untimeliness Are Unsupported.**

14. As previously stated, in its August 31 Objections, CPG contends that CPGLUG Set I is untimely. *See* CPG Objections, Docket No. P-2016-2537609, pp. 2, 4 (Aug. 31, 2016). For the reasons discussed below, CPG's claims of untimeliness should be dismissed.



15. CPG contends that "it is inappropriate to introduce competitive customer issues in this proceeding now that direct, rebuttal, and surrebuttal testimony have been served. No party addressed in their testimony any issues relating to UGI-CPG's practices in applying the DSIC to competitive customers." *Id.* at p. 4.

16. The Commission prohibits discovery only under specific circumstances, such as cases where furnishing discovery responses exhibits bad faith, would cause "unreasonable annoyance, embarrassment, oppression, burden or expense to the deponent," relates to privileged issues, or would require "unreasonable investigation by the deponent." 52 Pa. Code § 5.361(a). The PUC's regulations, and *Prehearing Conference Order #2* do not provide a deadline after which discovery is deemed "untimely." Furthermore, contrary to CPG's assertion, the issue of CPG's customer safeguards is relevant in this proceeding and was addressed by CPG witness William J. McAllister in his Direct Testimony, as previously discussed. *See* UGI Statement No. 1, Docket No. P-2016-2537609, pp. 9-11. The fact that CPGLUG itself did not submit testimony should have no limitative effect on CPGLUG's ability to inquire about CPG's past practices of applying such safeguards at this stage of the proceeding. As explained in Section II.A.i of this Motion, the Commission's evaluation of CPG's proposal to increase its DSIC cap includes consideration of the customer impact.

17. CPG also alleges that "because of the late stage of this proceeding, there will be no further opportunity for CPGLUG to follow-up on the responses in order to obtain information that could be relevant under the existing scope of this proceeding." *Id.* According to the Commission's procedural rules, a witness is subject to cross-examination and their responses become part of the evidentiary record. 52 Pa Code § 5.402(a); *id.* at § 5.411(a); *id.* at § 5.431(a) (providing that

the record closes at the conclusion of the hearing). Contrary to CPG's assertion, CPGLUG will have the opportunity to explore any additional questions during cross-examination.

18. Thus, responding to CPGLUG Set I is not untimely because these questions seek information with respect to consumer protection issues that are relevant to this proceeding and were brought before the Commission through the Company's own witness. Accordingly, the Commission should compel CPG to answer the Interrogatories propounded by CPGLUG.


### III. CONCLUSION

**WHEREFORE**, CPGLUG respectfully requests that the Pennsylvania Public Utility Commission provide relief as follows:

1. Dismiss CPG's Objections to CPGLUG Set I; and
2. Compel CPG to respond to CPGLUG Set I consistent with this Motion.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By   
Pamela C. Polacek (I.D. No. 78276)  
Vasiliki Karandrikas (I.D. No. 89711)  
Alessandra L. Hylander (I.D. No. 320967)  
McNEES WALLACE & NURICK LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
Phone: (717) 232-8000  
Fax: (717) 237-5300  
[ppolacek@mcneeslaw.com](mailto:ppolacek@mcneeslaw.com)  
[vkandrikas@mcneeslaw.com](mailto:vkandrikas@mcneeslaw.com)  
[ahylander@mcneeslaw.com](mailto:ahylander@mcneeslaw.com)

Counsel to the Central Penn Gas Large Users  
Group

Dated: September 1, 2016

# **Exhibit A**



1107 Park Square - PO Box 1107 - Harrisburg, PA 17103-1107  
Tel: 717.237.5435 • Fax: 717.237.5300

Alessandra L. Hylander  
Direct Dial: 717.237.5435  
Direct Fax: 717.260.1689  
ahylander@mcneeslaw.com

August 29, 2016

**VIA E-MAIL AND FIRST CLASS MAIL**

David B. MacGregor, Esquire  
Jessica R. Rogers, Esquire  
Post & Schell, P.C.  
17 North Street, 12<sup>th</sup> Floor  
Harrisburg, PA 17101-1601  
[dmacgregor@postschell.com](mailto:dmacgregor@postschell.com)  
[jrogers@postschell.com](mailto:jrogers@postschell.com)

Mark C. Morrow, Esquire  
Danielle Jouenne, Esquire  
UGI Corporation  
460 N. Gulph Road  
King of Prussia, PA 19406  
[jouened@ugicorp.com](mailto:jouened@ugicorp.com)  
[morrowm@ugicorp.com](mailto:morrowm@ugicorp.com)

**RE: Petition of UGI Central Penn Gas, Inc. for Waiver of the Distribution System Improvement Charge Cap of 5% of Billed Distribution Revenues and Approval to Increase the Maximum Allowable Distribution System Improvement Charge to 10% of Billed Distribution Revenues; Docket No. P-2016-2537609**

Dear Mr. MacGregor, Ms. Rogers, Mr. Morrow, and Ms. Jouenne:

Enclosed please find one (1) copy of the Central Penn Gas Large User Group's ("CPGLUG") Interrogatories – Set I to UGI Central Penn Gas, Inc., in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Please endeavor to forward responses in an organized manner as they are completed; it is not necessary to await completion of all responses prior to forwarding those completed more quickly.

Please communicate any objections or questions that you may have to these interrogatories as soon as possible. Thank you for your attention to this matter.

Sincerely,

McNEES WALLACE & NURICK LLC

By

Alessandra L. Hylander

Counsel to the Central Penn Gas Large Users Group

Enclosure

c: Rosemary Chiavetta, Secretary (via electronic filing)  
Certificate of Service

A5311649:1

[www.mwn.com](http://www.mwn.com)

Harrisburg, PA • Lancaster, PA • Scranton, PA • State College, PA • Columbus, OH • Washington, DC

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

**VIA FIRST CLASS MAIL AND E-MAIL**

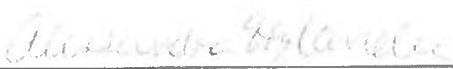
Mark C. Morrow, Esquire  
Danielle Jouenne, Esquire  
UGI Corporation  
460 N. Gulph Road  
King of Prussia, PA 19406  
[jouenned@ugicorp.com](mailto:jouenned@ugicorp.com)  
[morrowm@ugicorp.com](mailto:morrowm@ugicorp.com)

David B. MacGregor, Esquire  
Jessica R. Rogers, Esquire  
Post & Schell, P.C.  
17 North Street, 12<sup>th</sup> Floor  
Harrisburg, PA 17101-1601  
[dmacgregor@postschell.com](mailto:dmacgregor@postschell.com)  
[jrogers@postschell.com](mailto:jrogers@postschell.com)

Carrie B. Wright, Esquire  
Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
[carwright@pa.gov](mailto:carwright@pa.gov)

Darryl A. Lawrence, Esquire  
Erin L. Gannon, Esquire  
Office of Consumer Advocate  
555 Walnut Street  
5th Floor, Forum Place  
Harrisburg, PA 17101  
[dlawrence@paoca.org](mailto:dlawrence@paoca.org)  
[egannon@paoca.org](mailto:egannon@paoca.org)

Steven C. Gray, Esquire  
Office of Small Business Advocate  
300 North Second Street, Suite 202  
Harrisburg, PA 17101  
[sgray@pa.gov](mailto:sgray@pa.gov)

  
\_\_\_\_\_  
Alessandra L. Hylander

Counsel to Central Penn Gas Large Users Group

Dated this 29th day of August, 2016, at Harrisburg, Pennsylvania.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of UGI Central Penn Gas, Inc. for Waiver :  
of the Distribution System Improvement Charge :  
Cap of 5% of Billed Distribution Revenues and : Docket No. P-2016-2537609  
Approval to Increase the Maximum Allowable :  
Distribution System Improvement Charge to 10% :  
of Billed Distribution Revenues :  
:  
:  
:

---

**CENTRAL PENN GAS LARGE USERS GROUP  
INTERROGATORIES - SET I  
TO UGI CENTRAL PENN GAS, INC.**

---

The Central Penn Gas Large Users Group ("CPGLUG") propound the following interrogatories to UGI Central Penn Gas, Inc. ("CPG") to be answered by those officers, employees, or agents who may be cognizant of the requested facts and who are authorized to answer on behalf of CPG. Telephone or other contact concerning the availability and timing of formal responses is encouraged to the extent that it supplements, amplifies and/or explains the formal written responses.

Dated: August 29, 2016

## DEFINITIONS AND INSTRUCTIONS

- (a) As used herein, "CPG" shall mean UGI Central Penn Gas, Inc. and any affiliated companies.
- (b) As used herein, "Tariff" shall refer to the tariff provided on CPG's website (<http://gasmngmt.ugi.com/UGIC/statetariff.shtml>) as "CPG Gas – Pa. P.U.C. No. 4."
- (c) As used herein, the words "documents," "material," "studies," and "analyses" shall include, but are not limited to, the original and all copies of all memoranda, reports, books, manuals, instructions, directives, records, forms, notes, letters, notices, confirmations, telegrams, pamphlets, notations of any sort concerning conversations, telephone calls, meetings, electronic or other communications, bulletins, transcripts, diaries, analyses, summaries, correspondence and enclosures, circulars, opinions, studies, investigations, questionnaires and surveys, worksheets, and all drafts, preliminary versions, alterations, modifications, revisions, changes, amendments, and written comments concerning the foregoing.
- (d) The responses provided should first restate the question asked and also identify the person(s) supplying the information. Each response should be stated on a separate sheet of paper.
- (e) These requests apply to all responsive information and documents in CPG's knowledge, possession, custody, and control, or within the knowledge, possession, custody, or control of CPG's attorneys, witnesses, or other agents, from all files, wherever located, including active and inactive files and including electronic files.
- (f) The requests shall be deemed to be continuing. CPG is obliged to change, supplement, and correct all responses to conform to available information, including such information as first becomes available to CPG after responses hereto are provided.
- (g) If any request or portion of a request is ambiguous or unclear to CPG in any way, please notify CPGLUG's attorneys as soon as possible so that the item(s) may be properly clarified prior to the preparation of a written response.
- (h) If any responsive information or document is not within CPG's knowledge, possession, custody, or control, but CPG knows or believes that it exists, please identify the information or document and indicate, to the best of CPG's ability, the document's location and custodian of the information or document.
- (i) Where the response to any request requires reference to or production of calculations, analyses, assumptions, or studies that have been prepared, please provide such calculations, analyses, assumptions, and studies and all workpapers relating thereto.



**CENTRAL PENN GAS LARGE USERS GROUP  
INTERROGATORIES - SET I  
TO UGI CENTRAL PENN GAS, INC.  
DOCKET NO. P-2016-2537609**

- CPGLUG-CPG I-1: Please reference Supplement No. 21 to CPG Gas – Pa. P.U.C. No. 4, Original Page 43(e). Since its implementation, has CPG ever eliminated the Rider DSIC for any customer "with competitive alternatives who [pays] flexed or discounted rates and [has] negotiated contracts with the Company?"
- CPGLUG-CPG I-2: Please reference your response to CPGLUG-CPG-I-1. If you answered in the affirmative, please identify the number of customers each year for whom the Company eliminated the DSIC.
- CPGLUG-CPG I-3: Please reference Supplement No. 21 to CPG Gas – Pa. P.U.C. No. 4, Original Page 43(e). Has CPG ever reduced the Rider DSIC for any customer "with competitive alternatives who [pays] flexed or discounted rates and [has] negotiated contracts with the Company?"
- CPGLUG-CPG I-4: Please reference your response to CPGLUG-CPG-I-3. If you answered in the affirmative, please identify the number of customers each year that received a DSIC reduction from CPG.
- CPGLUG-CPG I-5: Please describe the criteria CPG considers in determining whether it should eliminate the Rider DSIC for a customer.
- CPGLUG-CPG I-6: Please describe the criteria CPG considers in determining whether it should reduce the Rider DSIC for a customer.

Dated: September 1, 2016

# **Exhibit B**



17 North Second Street  
12th Floor  
Harrisburg, PA 17101-1601  
717-731-1970 Main  
717-731-1985 Main Fax  
www.postschell.com

---

Jessica R. Rogers

jrogers@postschell.com  
202-661-6964 Direct  
202-661-6944 Direct Fax  
File #: 153583

August 31, 2016

***VIA HAND DELIVERY***

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 Central Penn 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 Distribution Revenues  
Docket No. P-2016-2537609**

Dear Secretary Chiavetta:

Enclosed for filing please find the Objections of UGI Central Penn Gas, Inc. to the Interrogatories Propounded by Central Penn Gas Large Users Group Set I, in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

Jessica R. Rogers

JRR/jl  
Enclosures

cc: Honorable Angela T. Jones  
Certificate of Service

**CERTIFICATE OF SERVICE**

**UGI Central Penn Gas, Inc.  
(Docket No. P-2016-2537609)**

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 AND/OR FIRST CLASS MAIL**

Erin L. Gannon  
Darryl Lawrence  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5th Floor  
Harrisburg, PA 17101-1923

Pamela C. Polacek  
Vasiliki Karandrikas  
Alessandra L. Hylander  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

Steven C. Gray  
Office of Small Business Advocate  
Commerce Building  
300 North Second Street, Suite 202  
Harrisburg, PA 17101

Robert D. Knecht  
Consultant for OSBA  
Industrial Economics Incorporated  
2067 Massachusetts Avenue  
Cambridge, MA 02140

Carrie B. Wright  
Bureau of Investigation & Enforcement  
PO Box 3265  
Harrisburg, PA 17105-3265

Jerome Mierzwa  
Exeter Associates, Inc.  
10480 Little Patuxent Parkway, Suite 300  
Columbia, MD 21044

Date: August 31, 2016

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

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of UGI Central Penn Gas, Inc. for a :  
Waiver of the Distribution System :  
Improvement Charge Cap of 5% of Billed : Docket No. P-2016-2537609  
Distribution Revenues and Approval to :  
Increase the Maximum Allowable DSIC to :  
10% of Billed Distribution Revenues :

---

**OBJECTIONS OF UGI CENTRAL PENN GAS, INC.  
TO THE INTERROGATORIES PROPOUNDED BY  
CENTRAL PENN GAS LARGE USERS GROUP'S SET I**

---

TO ADMINISTRATIVE LAW JUDGE ANGELA T. JONES:

UGI Central Penn Gas, Inc. ("UGI-CPG"), pursuant to 52 Pa. Code § 5.342 and the procedural rules established in *Prehearing Conference Order #2*, issued in the above captioned proceeding on June 21, 2016, hereby objects to certain interrogatories set forth in the Interrogatories of the Central Penn Gas Large Users Group ("CPGLUG") Set I. In support thereof, UGI-CPG states as follows:

1. On March 31, 2016, UGI-CPG filed the above-captioned petition requesting that the Public Utility Commission ("Commission") allow the Company to waive the 5% Distribution System Improvement Charge ("DSIC") revenue cap, and allow the Company to implement a cap at 10% of billed distribution revenues.

2. A prehearing conference was held in this matter on June 17, 2016. At the prehearing conference, CPGLUG announced that it would be intervening out of time. Subsequent to the prehearing conference, CPGLUG filed its Petition to Intervene and Answer on June 29, 2016. UGI-CPG did not object to that intervention.

3. Pursuant to the procedural schedule adopted at the prehearing conference, direct, rebuttal, and surrebuttal testimony have been filed in this proceeding. At each due date, CPGLUG filed a letter indicating that it did not intend to file testimony.

4. On August 29, 2016, CPGLUG served on UGI-CPG its Set I Interrogatories.

5. Under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c), in turn, provides that a party is entitled to obtain discovery of any matter not privileged that is relevant to a pending proceeding, or any matter that is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c).

6. For the reasons explained below, the interrogatories set forth in CPGLUG Set I are not relevant to the above-captioned request to waive the 5% DSIC cap and to increase that cap to 10% of billed distribution revenues, nor are they likely to lead to the discovery of relevant, admissible evidence, particularly because of the late stage in the proceeding at which they were propounded. Therefore, UGI-CPG hereby objects to all of the interrogatories in CPGLUG Set I.

**A. Requests in CPGLUG Set I:**

7. CPGLUG-CPG-I-1 provides:

Please reference Supplement No. 21 to CPG Gas – Pa. P.U.C. No. 4, Original Page 43(e). Since its implementation, has CPG ever eliminated the Rider DSIC for any customer "with competitive alternatives who [pays] flexed or discounted rates and [has] negotiated contracts with the Company?"

8. CPGLUG-CPG-I-2 provides:

Please reference your response to CPGLUG-CPG-I-1. If you answered in the affirmative, please identify the number of customers each year for whom the Company eliminated the DSIC.

9. CPGLUG-CPG-I-3 provides:

Please reference Supplement No. 21 to CPG Gas – Pa. P.U.C. No. 4, Original Page 43(e). Has CPG ever reduced the Rider DSIC for any customer "with

competitive alternatives who [pays] flexed or discounted rates and [has] negotiated contracts with the Company?"

10. CPGLUG-CPG-I-4 provides:

Please reference your response to CPGLUG-CPG-I-3. If you answered in the affirmative, please identify the number of customers each year that received a DSIC reduction from CPG.

11. CPGLUG-CPG-I-5 provides:

Please describe the criteria CPG considers in determining whether it should eliminate the Rider DSIC for a customer.

12. CPGLUG-CPG-I-6 provides:

Please describe the criteria CPG considers in determining whether it should reduce the Rider DSIC for a customer.

**B. Grounds for Objecting**

13. CPGLUG Set I includes six questions, all of which are on the same subject matter – the Company’s application of its DSIC Rider to customers with competitive alternatives who pay flexed or discounted rates and who have negotiated rates with the Company. As a result, UGI-CPG’s objections apply to the entire set, rather than to individual interrogatories. UGI-CPG objects to CPGLUG Set I on the grounds that the information requested is irrelevant to the issues presented in this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence.

14. The issue presented in this proceeding is whether UGI-CPG’s request to waive the 5% cap, and to increase the cap to 10% of billed distribution revenues, should be approved. UGI-CPG’s request does not change, in any way, the provisions of the tariff applicable to competitive customers. Thus, UGI-CPG’s application of the DSIC to competitive customers, and the details of whether and under what circumstances it has eliminated or reduced application of the DSIC, is not within the scope of this proceeding.

15. The Commission's final order in this proceeding will not establish practices relating to UGI-CPG's treatment of competitive customers. Those practices were established in the proceeding at Docket No. P-2013-2398835 ("DSIC Proceeding"), where the Commission approved UGI-CPG's use of the DSIC mechanism. The scope of this proceeding is more narrow than either UGI-CPG's DSIC Proceeding, or a base rate proceeding. As such, the scope of allowable discovery is also more narrow.

16. Further, these data requests are untimely. Even if there were some grounds upon which CPGLUG could argue that its interrogatories were within the scope of this proceeding, or likely to lead to admissible evidence in this proceeding, it is inappropriate to introduce competitive customer issues in this proceeding now that direct, rebuttal, and surrebuttal testimony have been served. No party addressed in their testimony any issues relating to UGI-CPG's practices in applying the DSIC to competitive customers. CPGLUG Set I was served immediately after all surrebuttal testimony had been filed and served on August 29. These interrogatories do not relate to or address the content of any direct, rebuttal, or surrebuttal testimony served in these proceedings. As a result, there are no grounds for CPGLUG to include any information obtained through these data requests in rejoinder testimony. Similarly, there is no use for this information in the cross-examination of witnesses, because the entire topic of competitive customers is outside the scope of the testimony provided in this proceeding.

17. In addition, because of the late stage of this proceeding, there will be no further opportunity for CPGLUG to follow-up on the responses in order to obtain information that could be relevant under the existing scope of this proceeding. Thus, these interrogatories cannot lead to admissible evidence.

18. Based on the foregoing, CPGLUG Set I seeks information that is irrelevant, immaterial, untimely and not likely to lead admissible evidence related to the Company's filing.



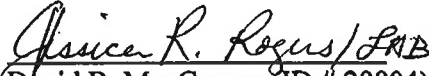
WHEREFORE, for the reasons discussed above, UGI Central Penn Gas, Inc. respectfully requests that its objections to the interrogatories contained in CPGLUG Set I be granted, and that it not be required to answer those interrogatories.

Respectfully Submitted,

Mark C. Morrow (ID # 33590)  
Danielle Jouenne (ID # 306839)  
UGI Corporation  
460 North Gulph Road  
King of Prussia, PA 19406  
Phone: 610-768-3628  
Fax: 610-992-3258  
E-mail: [morrowm@ugicorp.com](mailto:morrowm@ugicorp.com)  
E-mail: [jouenned@ugicorp.com](mailto:jouenned@ugicorp.com)

Post & Schell, P.C.

Dated: August 31, 2016

  
David B. MacGregor (ID # 28804)  
Jessica R. Rogers (ID # 309842)  
Post & Schell, P.C.  
17 North Second Street  
12<sup>th</sup> Floor  
Harrisburg, PA 17101-1601  
Phone: 717-731-1970  
Fax: 717-731-1985  
E-mail: [dmacgregor@postschell.com](mailto:dmacgregor@postschell.com)  
E-mail: [jrogers@postschell.com](mailto:jrogers@postschell.com)

*Attorneys for UGI Central Penn Gas, Inc.*