



OFFICE OF CONSUMER ADVOCATE

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August 29, 2016

Honorable Angela T. Jones
Administrative Law Judge
PA Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107

Re: Pa. Public Utility Commission
v.
UGI – Central Penn Gas, Inc.
Docket No. P-2016-2537609

Dear Judge Jones:

Enclosed please find a copy of the testimony being submitted on behalf of the Office of Consumer Advocate in the above proceeding, as follows:

Surrebuttal Testimony of Jerome D. Mierzwa, OCA Statement No. 1S.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

/s/ Erin L. Gannon

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

cc: Secretary's Office of the PUC (letter & certificate only)
Certificate of Service
*225348

CERTIFICATE OF SERVICE

Petition of UGI Central Penn Gas, Inc. for :
a Waiver of the Distribution System Improvement :
Charge Cap of 5% of Billed Distribution : Docket No. P-2016-2537609
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 testimony of the Office of Consumer Advocate as follows:

Surrebuttal Testimony of Jerome D. Mierzwa, OCA Statement No. 1S;

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 29th day of August 2016.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

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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
Revenues and Approval to Increase the)
Maximum Allowable DSIC to 10% of Billed)
Distribution Revenues)

SURREBUTTAL TESTIMONY
OF
JEROME D. MIERZWA

ON BEHALF OF THE
PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE

August 29, 2016

SURREBUTTAL TESTIMONY OF JEROME D. MIERZWA

1 Q. WOULD YOU PLEASE STATE YOUR NAME AND BUSINESS AD-
2 DRESS.

3 A. My name is Jerome D. Mierzwa. I am a principal and Vice President with Exeter
4 Associates, Inc. (“Exeter”). My business address is 10480 Little Patuxent Parkway,
5 Suite 300, Columbia, Maryland 21044. Exeter specializes in providing public utility-
6 related consulting services.

7 Q. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY IN THIS
8 PROCEEDING?

9 A. Yes. My direct testimony was submitted as OCA Statement No. 1, and my rebuttal
10 testimony was submitted as OCA Statement No. 1R.

11 Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

12 A. The purpose of my surrebuttal testimony is to respond to the rebuttal testimony of
13 UGI Central Penn Gas, Inc. (“CPG”) witness Mr. William J. McAllister.

14 Q. MR. MCALLISTER BELIEVES THAT CPG HAS MET THE STATUTORY
15 REQUIREMENT FOR SEEKING AN INCREASE IN ITS DSIC REVENUE
16 CAP TO 10 PERCENT UNDER ACT 11, AND THAT IT HAS
17 PRESENTED COMPELLING EVIDENCE AS TO WHY THE
18 COMMISSION SHOULD EXERCISE ITS STATUTORILY-GRANTED
19 DISCRETION TO PERMIT AN INCREASE IN CPG’S DSIC REVENUE
20 CAP. DO YOU AGREE WITH MR. MCALLISTER?

21 A. No. Act 11 is very clear as to the statutory requirement for obtaining a waiver of the
22 5 percent DSIC limit. Act 11 does not give the Commission authority to waive the
23 5 percent cap unless, without the waiver, the utility cannot ensure and maintain
24 adequate, efficient, safe, reliable and reasonable service. 66 C.S. §1358(a)(1). As

1 indicated in my Direct Testimony, the Company stated that it will continue to meet its
2 obligation to provide safe and reliable service to its customers, if the DSIC cap is not
3 increased to 10 percent. Therefore, CPG does not meet the statutory requirement for
4 an increase in the DSIC limit.

5 Q. WHAT WAS MR. MCALLISTER'S RESPONSE TO THIS STATEMENT,
6 WHEN YOU MADE IT IN YOUR DIRECT TESTIMONY?

7 Mr. McAllister claims that Act 11 does not specifically state that a utility must
8 demonstrate that it is financially or otherwise incapable of meeting its service
9 obligations without waiver of the cap be granted a waiver. He claims that “Counsel
10 has advised me that the language on the standard for granting a waiver of the cap is
11 identical to the language applicable to approving a Long Term Infrastructure
12 Improvement Plan (“LTIP”) and implementing a DSIC, which is ‘in order to ensure
13 and maintain adequate, efficient, safe, reliable and reasonable service’.” Earlier in his
14 testimony, Mr. McAllister draws the same comparison between the language
15 addressing a waiver of the cap and the language addressing approval of a DSIC under
16 Section 1353.

17 Q. DOES THIS COMPARISON CHANGE YOUR POSITION?

18 A. Counsel for the OCA will address in its briefs the legal arguments and advice of CPG
19 Counsel advanced in Mr. McAllister's testimony. As a practical matter, however, if
20 the evidentiary burden for a utility to receive approval for a waiver is the same as the
21 burden to receive approval for an LTIP or DSIC, then every utility that qualifies for a
22 DSIC under Act 11 would automatically and immediately qualify for a waiver of the
23 cap upon request. That would mean that the cap and the waiver provision serve no
24 purpose. I disagree. My position continues to be that the statute requires the utility to
25 establish the necessity of a waiver.

1 Second, based on a plain reading of Act 11, the standards for approval of an
2 LTIP, DSIC and cap waiver are not the same. Sections 1352(a)(1)-(7) and
3 1353(b)(1)-(6) include a specific list of requirements. Section 1358(a)(1) relating to
4 the waiver of the DSIC cap does not contain the same requirements nor provide any
5 limitations on the evidence the Commission will require. 66 Pa. C.S. § 1358(a)(1).

6 Q. WHAT DOES MR. MCALLISTER CLAIM IS THE IMPACT OF THE
7 POSITION THE OCA HAS TAKEN ON THE COMMISSION'S
8 AUTHORITY UNDER ACT 11?

9 A. Mr. McAllister claims that the legal position advocated by the OCA would remove
10 the Commission's discretion and thwart Act 11's system of rate reform by imposing a
11 standard of proving a utility is "financially or otherwise incapable of meeting its
12 service obligations" before being permitted to increase the DSIC above 5 percent. He
13 claims such a standard could never be met by an investor-owned utility.

14 Q. DO YOU AGREE THAT THE OCA'S POSITION WOULD REMOVE THE
15 COMMISSION'S DISCRETION?

16 A. No. To the contrary, the Company's position would eliminate Commission discretion
17 with respect to authorizing a DSIC cap greater than 5 percent. The only question for
18 the Commission would be how high the DSIC cap should be set, which would
19 effectively be a mathematical equation dependent on the utility's level of spending.

20 Q. MR. MCALLISTER NOTES THAT THE 7.5 PERCENT DSIC CAP FOR
21 WATER UTILITIES IS HIGHER THAN THE 5 PERCENT AUTHORIZED
22 FOR NGDCs AND ELECTRIC DISTRIBUTION COMPANIES ("EDCs")
23 AND ALSO APPLIES TO THE TOTAL BILL FOR WATER UTILITIES
24 RATHER THAN JUST THE DISTRIBUTION PORTION OF THE BILL AS
25 IS THE CASE FOR NGDCs AND EDCs. WHAT IS YOUR RESPONSE?

1 A. The General Assembly was aware of the DSIC for water companies and specifically
2 limited the DSIC for NGDCs and EDCs to 5 percent and to the distribution portion of
3 the bill.

4 Q. IN YOUR DIRECT TESTIMONY, YOU DISCUSSED THE
5 COMMISSION'S GRANTING OF A 7.5 PERCENT DSIC FOR
6 PHILADELPHIA GAS WORKS ("PGW") (DOCKET NO. P-2015-2501500),
7 AND CONTENDED THAT THE FACTS AND CIRCUMSTANCES FOR
8 PGW WERE QUITE DIFFERENT THAN THOSE FOR CPG. DID MR.
9 MCALLISTER AGREE WITH YOUR ASSESSMENT?

10 A. No. Mr. McAllister contends that fundamentally, the facts and circumstances are the
11 same for PGW and CPG.

12 Q. WHAT IS YOUR RESPONSE TO MR. MCALLISTER?

13 A. As explained in my Direct Testimony, the facts and circumstances for PGW are quite
14 different from those of CPG. The increase in the DSIC cap to 7.5 percent for PGW
15 was approved to address significant safety and reliability issues, and to enable PGW
16 to undertake an aggressive, accelerated replacement strategy. There has been no
17 claim in this proceeding that the current state of CPG's infrastructure poses
18 significant safety and reliability issues or that the current pace of the Company's
19 replacement efforts is unacceptable and potentially harmful to the public.

20 Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY AT THIS
21 TIME?

22 A. Yes, it does.

225343

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 Distribution : Docket No. P-2016-2537609
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VERIFICATION

I, Jerome D. Mierzwa, hereby state that the facts above set forth in my Surrebuttal Testimony, OCA Statement No. 1S, are true and correct and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Signature:



Jerome D. Mierzwa

Consultant Address: Exeter Associates, Inc.
Suite 300
10480 Little Patuxent Parkway
Columbia, MD 21044

DATED: August 29, 2016