

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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April 14, 2017

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Petition of UGI Utilities, Inc. – Gas Division
for Approval of a Distribution System
Improvement Charge
Docket No. P-2013-2398833

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

Attachment

cc: Honorable Conrad A. Johnson, ALJ
Certificate of Service

231842

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of UGI Utilities, Inc. – Gas Division	:	
for Approval of a Distribution System	:	Docket No. P-2013-2398833
Improvement Charge	:	
	:	
Office of Consumer Advocate	:	
v.	:	Docket No. C-2016-2540745
UGI Utilities, Inc. – Gas Division	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 33 and the Prehearing Conference Order issued by Administrative Law Judge Conrad A. Johnson on March 31, 2017, the Office of Consumer Advocate (OCA) provides the following:

I. BACKGROUND

On December 12, 2013, UGI Utilities, Inc. – Gas Division (UGI-GD or the Company) filed a Petition for approval of its LTIIIP with the Commission (Petition) pursuant to Section 1352 of the Public Utility Code, 66 Pa.C.S. § 1352. On January 2, the OCA filed Comments on the LTIIIP. By Order entered July 31, 2014, the Commission entered an Order approving the LTIIIP. On February 9, 2016, UGI-GD filed a Petition to Modify its LTIIIP, which proposed to increase investment during the LTIIIP period by 44.9% over the initial plan. The OCA filed a Notice of Intervention in this proceeding on March 31, 2017.

On the same date, pursuant to Section 1353, the Company filed a Petition for Approval of a Distribution System Improvement Charge (DSIC). 66 Pa. C.S. § 1353. On April 19, 2016, the OCA filed a Formal Complaint, Notice of Intervention and Answer to the Petition. The OCA's complaint was assigned Docket No. C-2016-2540745.

By Order entered on June 30, 2016, the Commission approved the Petition to Modify the UGI-GD LTIP.

On November 9, 2016, the Commission entered an Order approving the Company's proposed DSIC, subject to recoupment and/or refund pending final resolution of certain issues raised in the parties' Petitions and Answers. The June 30, 2016 Order addressed issues raised in the OCA's Formal Complaint, consistent with its disposition of those issues in the in the UGI Penn Natural Gas, Inc. and UGI Central Penn Gas, Inc. DSIC proceedings at Docket Nos. P-2013-2397056 and P-2013-2398835. The Order granted, in part, and denied, in part, the OCA's Formal Complaint and Answer.

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

II. ISSUES

A. Application of the DSIC

In its June 30, 2016 Order, the Commission directed that an issue raised by the UGI Industrial Intervenors (UGIII) be assigned to the OALJ for hearing and preparation of a Recommended Decision: whether or not customers receiving service under specific Rate Schedules should be exempt from the DSIC.

In the June 30 Order, the Commission also approved a tariff provision, which states that the Company may reduce or eliminate the DSIC rider to any customer with competitive

alternatives or flexed, discounted, or negotiated rates. June 30, 2016 Order at 15-16. This language limits when a customer qualifies for a discount and otherwise requires UGI-GD to apply the DSIC to all customers, consistent with Act 11's requirement and the Commission's Model Tariff, which provide that the DSIC "shall be applied equally to all customer classes." 66 Pa. C.S. § 1358(d)(1). The OCA's position with regard to the issue referred for hearing, therefore, is that the full DSIC rate should be charged unless the customer qualifies under the tariff and the Company determines it is reasonably necessary to reduce or eliminate the DSIC rate.

B. Federal and State Income Tax Deductions and Credits

The OCA raises a second issue for consideration by the Presiding Officer and Commission: the impact of Act 40, codified at 66 Pa. C.S. § 1301.1, on the calculation of federal and state income tax deductions in the DSIC calculation. The statute took effect on August 12, 2016 – after the Commission's Order approving UGI-GD's DSIC – and states that it shall apply to all cases where the final order is entered after its effective date. 66 Pa. C.S. § 1301.1. The statute provides:

If an expense or investment is allowed to be included in a public utility's rates for ratemaking purposes, the related income tax deductions and credits shall also be included in the computation of current or deferred income tax expense to reduce rates.

Id. (emphasis added). The OCA's position is that Section 1301.1 requires that federal and state income tax deductions generated by DSIC investment be reflected in UGI-GD's DSIC calculations. The OCA notes that the same legal issue is pending before the Commission in the First Energy Companies' consolidated DSIC proceeding at Docket Nos. P-2015-2508942, P-2015-2508936, P-2015-2508931, and P-2015-2508948.

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:

Jerome D. Mierzwa
Exeter Associates, Inc.
Suite 300
10480 Little Patuxent Parkway
Columbia, MD 21044
Telephone: 410-992-7500
E-mail: 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. DISCOVERY

The OCA proposes no changes to the Commission's discovery regulations at this time. To date, the OCA has not served any interrogatories on the Company.

V. SERVICE ON THE OCA

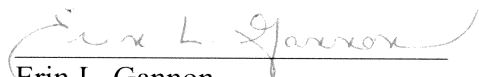
The OCA will be represented in this proceeding by Senior Assistant Consumer Advocates Erin L. Gannon and Darryl Lawrence. Two copies of all documents should be served on the OCA as follows:

Erin L. Gannon
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VI. PROPOSED SCHEDULE

The parties have discussed the issues raised by UGIII and the OCA regarding (1) application of the DSIC to specific customers and (2) inclusion of income tax deductions and credits in the DSIC calculation. Based on those continuing discussions, the OCA does not propose to set a schedule for litigation at this time. Instead, the OCA proposes that the parties file a settlement agreement or a joint status report by May 18, 2017.

Respectfully Submitted,



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DATE: April 14, 2017
231845

CERTIFICATE OF SERVICE

Petition of UGI Utilities, Inc. – Gas Division :
for Approval of a Distribution System : Docket No. P-2013-2398833
Improvement Charge :

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 14th day of April 2017.

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