PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Petition of UGI Penn Natural Gas, Inc. for a Waiver of the Distribution System Improvement Charge Cap	**Public Meeting held April 20, 2017** **2537594-OSA** **Docket No. P-2016-2537594**

STATEMENT OF CHAIRMAN GLADYS M. BROWN

Before the Commission are the Exceptions to the Recommended Decision (RD) of Administrative Law Judge (ALJ) Angela T. Jones in the proceeding involving UGI Penn Natural Gas, Inc.'s (UGI-PNG) Petition for a Waiver of the Distribution System Improvement Charge (DSIC) Cap from 5% to 10%.

In the RD the ALJ concluded that the standard for modification of a utility Long-Term Infrastructure Improvement Plan (LTIIP) is the same standard for the waiver of the DSIC cap.[1] The Commission's Regulations at 52 Pa. Code §121.5 detail the requirements for modification of an LTIIP. The regulations, in pertinent part, state:

> ...the utility shall clearly identify the change and explain the operational, financial or other justification for the change in its petition.

66 Pa. C.S. §1358(a)(1) of the statute contains the standard for approval to waive the 5% DSIC cap:

> The commission may upon petition grant a waiver of the 5% limit under this paragraph for a utility in order to ensure and maintain adequate, efficient, safe, reliable and reasonable service.

UGI-PNG's initial LTIIP, which spans the five-year period from 2014 to 2018, and its DSIC tariff were both approved by the Commission in September of 2014.[2] UGI-PNG's LTIIP was recently modified by the Commission.[3] Specifically, the Commission approved UGI-CPG's proposal to increase by 24.5% the expenditures for the 2016 – 2018 period of the LTIIP, concluding that the modified LTIIP demonstrated expenditures which were reasonable, cost effective, and designed to ensure and maintain efficient, safe, adequate, reliable, and reasonable service to the Company's customers. The additional expenditures were to be used to for improved reliability; including increasing system pressures to higher volume demand areas, regulator station improvements and installations, corrosion control and weatherization of facilities, and PennDOT mandated facility relocations.

Given this approval, the ALJ submitted that the Company met its burden of proof to waive the 5% DSIC cap. The ALJ also determined that 6.89% is an appropriate cap, as opposed

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[1] Page 23 of the Recommended Decision
[2] Opinion and Ordered entered September 11, 2014 at Docket P-2013-2398835
[3] Order entered June 30, 2016 at Docket No. P-2013-2398835

to the Company's request of 10%. The ALJ's figure is based on UGI-CPG's claim that 14.02% is the cap necessary to recover all expenditures detailed under its modified LTIIP, and, the 21.0% increase in total expenditures approved in the modified LTIIP.[4]

Numerous parties filed exceptions to the RD. These parties include UGI-CPG, the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), and the Commission's Bureau of Investigation and Enforcement (I&E).

As evidenced from 66 Pa. C.S. §1358(a)(1), the Commission is empowered with discretion and latitude in its determinations on petitions to waive the 5% DSIC customer protection cap. The Commission presently reviews each waiver filing on the merits of that specific case, without reference to one uniform standard set of components. Items which the Commission can evaluate to guide its decisions on such cases include, but are not limited to:

- when the company's existing tariffed distribution rates were established,
- how often the company files base rate cases,
- the company's utilization a fully-projected future test year,
- the company's utilization of the DSIC,
- the company's DSIC percentage,
- the company's LTIIP,
- the existing state of the company's infrastructure as it relates to safety and reliability, and
- the realized benefits to reliability and/or safety resultant from any waiver approval.

This Commission has exerted its discretion under §1358(a)(1) in previous DSIC waiver proceedings. The Commission approved a petition filed by Philadelphia Gas Works (PGW) to increase its cap to 7.5% (PGW Proceeding).[5] In the PGW Proceeding, the Commission first determined PGW's aging gas distribution infrastructure poses significant safety and reliability issues, and that the pace of PGW's infrastructure replacement effort in place at the time of the proceeding was unacceptable and potentially harmful to the public. Next the Commission concluded that PGW's proposal to increase the DSIC cap to 7.5%, and consequently spend an additional $11 million per year on its main replacement program, was reasonable as it would permit PGW to achieve an approximate 44% reduction in the projected timeline to replace its at-risk mains. As detailed in the PGW Proceeding, PGW's timeline to replace at-risk mains was reduced from 86 to 48 years.

Conversely, the Commission denied a petition filed by Columbia Gas seeking to increase the 5% customer protection DSIC cap to 10% (Columbia Proceeding).[6] In the Columbia Proceeding, I&E contended that Columbia was providing and maintaining adequate, efficient, safe, reliable and reasonable service under the existing 5% DSIC cap.[7] Therefore, the Commission concluded there was no showing that Columbia's infrastructure posed significant safety or reliability issues. As well, the record in the Columbia case exhibited neither a further

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[4] See page 28 of the Recommended Decision
[5] Opinion and Order entered January 28, 2016 at Docket P-2015-2501500
[6] Opinion and Order entered December 22, 2016 at docket P-2016-2521993
[7] See I&E Main Brief at page 5

acceleration of its pipeline replacement program nor any increased reliability resultant from its proposed waiver. The record also indicated that Columbia could not make any commitments to reducing its frequency of rate case filings. Lastly, Columbia had never fully utilized the DSIC, having only recovered funds during one quarter, at a rate of 1.5%. Based on these unique facts, the Commission determined that a waiver was not warranted in the Columbia Proceeding.

The instant proceeding presents important distinctions from both the PGW Proceeding and the Columbia Proceeding. UGI-PNG's most recent distribution rates went into effect in August of 2009. The Company's existing DSIC tariff reached the 5% customer protection cap as of April 1, 2016. Relating to UGI-PNG's existing system, I&E claims that the Company's infrastructure implicates safety concerns. Specifically, I&E submits that the company has a high number of leaks per mile when compared to others, detailing the UGI-PNG has 1.65 leaks per mile when compared to the statewide average of 0.95. Therefore, I&E avers that increasing the DSIC to 7.5% is in the public interest because it would facilitate the replacement of the Company's dangerous mains in a more timely manner.[8] However, I believe it is important to note that the record does not indicate that UGI-CPG's existing pipeline replacement program, as established within its LTIIP, will be accelerated in any fashion by approving the requested waiver.[9]

Understanding this background, I now detail first why I do not agree with the Recommended Decision. The standard for approval to waive the 5% DSIC customer protection cap is not the exact same as that for the modification of an LTIIP. I do not make a claim as to any exact standard for waiver of the DSIC cap. Instead, I simply submit that it is not the same as that used by the Commission in reviewing proposed modifications to an LTIIP. Such a notion inherently ties the costs of the LTIIP to recovery within the DSIC with no acknowledgment of the 5% DSIC cap customer protection. In fact, the requirements of an LTIIP, and associated Commission review process, do not include the financing of the utility's expenditures, whether that be from traditional distribution rates, shareholder equity, retained earnings, the DSIC, or debt. Rather, the LTIIP provides a tool for the Commission to monitor infrastructure improvement and associated expenditures to ensure that any potential DSIC funds recovered are utilized for their proper purpose.

I submit that the 5% DSIC cap was established by the General Assembly in effort to provide some capital cost recovery between rate cases, thereby assisting in the accelerated replacement of at-risk infrastructure, but not marginalizing the importance of base rate case filings. Any waiver of this customer protection cap is ultimately up to the determination of the Commission as guided by 66 Pa. C.S. §1358(a)(1) of the statute based on the unique merits of each petition. In exceptions, OSBA posits that Section 1358(a) does not permit a waiver of the 5% cap if the cap is not sufficient to support the utility's planned levels of plant replacement and DISC-eligible spending corresponding to the utility's LTIIP. I concur with this position.

I am deeply sensitive to the safety concerns claimed by I&E, most notably I&E's reference to leaks. I take I&E's assessment in this regard as fact. Nonetheless, I must disagree with I&E when it states that approval of a waiver will facilitate the replacement of at-risk

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[8] See I&E Main Brief at pages 9-11

[9] The present LTIIP plans to remove all cast iron main in 14 years and all bare steel in 28 years.

infrastructure in a more timely manner. Similar to the record presented in the Columbia proceeding, the record in this proceeding is devoid of any facts detailing how approval of a waiver will facilitate any material benefit as it relates to UGI-PNG's at-risk pipeline, or any other program documented under the Company's LTIIP. Review of the case appears to simply indicate that approval of a waiver will only provide for more timely recovery of expenditures and may possibly decrease the frequency of rate case filings.

Therefore, this case is similar to the Columbia Proceeding in that the waiver provides no discernable benefit to safety or reliability, but differs from the Columbia Proceeding in that the existing status of UGI-PNG's infrastructure poses safety concerns. Consequently, I believe it would be prudent to afford UGI-PNG the opportunity to file, if it so chooses, an amended petition detailing how the waiver of the 5% DSIC customer protection cap will be used to further remedy the safety concerns presented by I&E in a manner that goes above and beyond the existing requirements under the Company's present LTIIP.

April 20, 2017
Date

Gladys M. Brown, Chairman