



607 14th St. N.W.
Washington, DC 20005-2006
202-347-1000 Main
202-661-6970 Main Fax
www.postschell.com

Jessica R. Rogers

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

June 5, 2017

VIA ELECTRONIC FILING

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 Answer of UGI Central Penn Gas, Inc. to the Petition for Reconsideration of the Office of Small Business Advocate, 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: Certificate of Service
Honorable Angela T. Jones

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

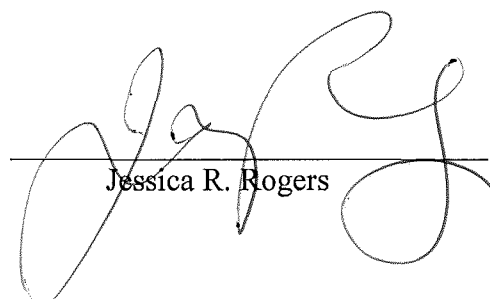
Steven C. Gray
Office of Small Business Advocate
Commerce Building
300 North Second Street, Suite 202
Harrisburg, PA 17101

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: June 5, 2017



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 :

**ANSWER OF UGI CENTRAL PENN GAS, INC.
TO THE PETITION FOR RECONSIDERATION OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

UGI Central Penn Gas, Inc. (“UGI-CPG” or the “Company”), pursuant to 52 Pa. Code § 5.572(e), hereby answers the “Petition for Reconsideration of the Office of Small Business Advocate” (“Petition”). For the reasons set forth below, the Petition filed by the Office of Small Business Advocate (“OSBA”) should be denied.

I. SUMMARY

OSBA’s Petition asks the Pennsylvania Public Utility Commission (“Commission”) to reconsider its May 10, 2017 Order in the above-captioned proceeding, wherein the Commission granted UGI-CPG’s request for waiver of the distribution system improvement charge (“DSIC”) rate cap, and increased the cap to 7.5% until the end of the Company’s existing Long Term Infrastructure Improvement Plan (“LTIIIP”) (*i.e.*, December 31, 2018), at which time the Company would need to provide support for continuing the 7.5% DSIC rate cap. OSBA’s Petition does not meet the well-established standards for reconsideration. The Petition simply restates the same arguments previously made by OSBA before the Administrative Law Judge (“ALJ”), as well as in OSBA’s Exceptions. These arguments were clearly considered and

rejected by this Commission, as indicated by the numerous places where the OSBA quotes the Commission's May 10 Order and then restates its disagreement with the Commission's conclusions. (See, e.g., ¶¶ 23, 31). OSBA offers no new arguments, facts, or changed circumstances that warrant the Commission's reconsideration of its May 10 Order. OSBA has provided no legitimate basis for the Commission to reconsider its well-reasoned prior decision in this proceeding, and therefore OSBA's Petition should be denied for the reasons detailed further in this Answer.

II. ANSWER

Introduction

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted. The Company would note that OSBA was not the only party to file testimony. Pursuant to the procedural schedule, UGI-CPG, the Bureau of Investigation and Enforcement ("I&E"), and the Office of Consumer Advocate ("OCA") also filed direct, rebuttal and surrebuttal testimonies.¹
5. Admitted.
6. Admitted.
7. Admitted. On September 22, 2016, Main Briefs were also submitted by UGI-CPG, OCA, I&E, and CPGLUG.

¹ The DSIC Waiver Petition included the direct testimony of Mr. William J. McAllister on behalf of UGI-CPG, with supporting exhibits. The Company also filed the testimony of Mr. Hans G. Bell as part of its rebuttal case. Testimony was filed by Mr. Sunil R. Patel on behalf of I&E, Mr. Robert D. Knecht on behalf of the OSBA, and Mr. Jerome D. Mierzwa on behalf of the OCA. The Central Penn Gas Large Users Group ("CPGLUG") did not file any testimony in this proceeding.

8. Admitted. On September 30, 2016, Reply Briefs were also submitted by UGI-CPG, OCA, and I&E.

9. Admitted.

10. Admitted.

11. Admitted.

12. Admitted. On January 4, 2017, Exceptions were also filed by UGI-CPG, OCA, I&E, and CPGLUG.

13. Admitted. On January 11, 2017, Replies to Exceptions were also filed by UGI-CPG, OCA, and I&E.

14. Admitted.

The Legal Requirements to Grant a Petition for Reconsideration

15. Admitted in part. It is admitted that OSBA has properly quoted a portion of the Commission's decision in *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa. PUC 553 (1982) ("*Duick*"). However, the portion of the quote OSBA includes in Paragraph 15 omits a sentence that is critical to this proceeding, and in full reads as follows:

A petition for reconsideration, under the provisions of 66 Pa C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in the Pennsylvania Railroad Company case, wherein it was said that "[p]arties . . ., cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them. . . ." What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission.

(emphasis added to portion of quote omitted by OSBA). As described in this Answer, OSBA's Petition is a second motion on issues already considered and decided by the Commission against

the position advocated by the OSBA. Therefore the Petition does not meet the standard articulated in *Duick*.

16. It is admitted that OSBA has properly quoted a portion of the Commission's decision in *Pennsylvania Public Utility Commission v. Jackson Sewer Corporation*, 2001 Pa. PUC LEXIS 44 (Order entered November 13, 2001) ("*Jackson Sewer*").

17. The averments in Paragraph 17 are denied. OSBA has not met the Commission's articulated standard requiring "new or novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission." *Duick*, 1982 Pa. PUC LEXIS 4, at *13 (emphasis added). Rather, OSBA's Petition merely re-raises identical arguments it made previously in its Main and Reply Briefs, and in its Exceptions and Replies to Exceptions, and which the Commission explicitly rejected. Further, OSBA does not allege errors of law in its Petition. Rather, OSBA points to the Commission's Order and "disagrees" with the conclusions drawn therein. (See, e.g., ¶ 23, where OSBA "respectfully differs" from the Commission).

The Commission outlined its standard in *Duick v. Pa. Gas and Water Co.*, 56 Pa. PUC 553 (1982), wherein it found that "[p]arties . . . cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them. . . ." and that what it "expect[s] to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission." 56 Pa. PUC at 559 (quoting *Pa. R.R. Co. v. Pub. Serv. Comm'n*, 179 A. 850, 854 (Pa. Super. Ct. 1935); see also *Petition of Laser Northeast Gathering Company, LLC for Approval to Begin to Offer, Render, Furnish or Supply Natural Gas Gathering and Transporting or Conveying Service by Pipeline to the Public in Certain*

Townships of Susquehanna County, Pennsylvania, Docket No. A-2010-2153371., Pa., 2011 Pa. PUC LEXIS 1303, *19 (Aug. 25, 2011) (denying petitions for reconsideration because the petitioners “have repeated the same arguments that they have already made throughout the proceeding”); *Peluso v. Pennsylvania Power Company.*, 2011 Pa. PUC LEXIS 275, *10, 16 (Oct. 28, 2011) (denying the petition for reconsideration because the complainant failed to raise any new or novel arguments and agreeing with the utility that the complainant “seeks to justify reconsideration by ‘recycling’ arguments he made at the evidentiary hearing and which were considered and rejected” in the Commission’s previous order); *Petition of Pa. Elec. Co. for Approval to Locate and Construct the Bedford North-Osterburg East 115 kv HV Transmission Line Project Situated in Bedford and E. St. Clair Twps., Bedford Cnty., Pa.*, 2013 Pa. PUC LEXIS 418, *4-5 (July 16, 2013) (holding that the petition did not satisfy the *Duick* standards because the petitioner neither raised a new or novel argument nor “alleged that she has discovered new evidence that was unavailable to her prior to the issuance” of the previous order). Disagreement with the Commission’s explicit rejection of the OSBA’s previously stated positions cannot meet the standard articulated in *Duick*.

Argument

18. It is admitted that OSBA has properly quoted a portion of the Commission’s May 10 Order.
19. Admitted.
20. Admitted.
21. Denied. While OSBA correctly identifies the Commission’s standard, OSBA focuses exclusively on the word necessary, and ignores that DSIC waiver is appropriate to ensure “adequate, efficient, safe, reliable and reasonable service.” 66 Pa. C.S. § 1358(a)(1) (emphasis

added). OSBA has raised this “extraordinary circumstances” or absolute necessity standard repeatedly in this DSIC waiver proceeding and many prior proceedings. *See, e.g., Petition of Philadelphia Gas Works for Waiver of Provisions of Act 11 to Increase the Distribution System Improvement Charge CAP and to Permit Levelization of DSIC Charges*, Docket No. P-2015-2501500, pp. 19-20 (Order entered January 28, 2016) (“*PGW*”) (summarizing OSBA’s position before rejecting it). OSBA’s position has consistently been rejected by the Commission. *See, e.g., PGW*, pp. 43-44; *Pa. Pub. Util. Comm’n v. Aqua Pennsylvania, Inc.*, Docket No. R-2008-2079310, pp. 11-15 (Order entered July 23, 2009) (“*Aqua*”) and *Petition of Columbia Gas of Pa., 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-2016-2521993, p. 54 (Order entered Dec. 22, 2016) (“*Columbia*”). Raising the identical argument it made in its Exceptions does not meet the legal standard for reconsideration.

Further, as a matter of law, the OSBA’s “extraordinary circumstances” standard must fail. The standard applied by OSBA in its Petition has previously been rejected by the Commission and the Commonwealth Court in other contexts addressing safe and reliable service. *See Hess, et. al. v. Pa. PUC*, 107 A.3d 246, 262 (Pa. Cmwlth. 2014) (“Not only would this [absolute necessity] approach be impractical and unrealistic, it would actually pose a danger to the health, safety and welfare of the public.”). The impact of applying the OSBA’s interpretation, as acknowledged by their own witness Mr. Knecht, is that no investor-owned utility would qualify for waiver of a DSIC. (Tr. 123-124). Such a result is improper under the Statutory Construction Act. *See* 1 Pa.C.S. § 1922(1) (stating that it is presumed “[t]hat the General Assembly does not intend a result that is absurd, impossible of execution or

unreasonable”). OSBA’s position in its Petition merely restates its previously argued position in this proceeding, and the Commission should once again reject that position.

22. Denied for the reasons set forth in response to Paragraph No. 21 of this Answer, which is incorporated by reference.

23. Denied. OSBA “respectfully differs” from the Commission’s conclusions. This does not meet the standard for reconsideration, which requires new or novel facts or issues that have been overlooked. OSBA raised these very same claims regarding safety in its Exceptions using its absolute necessity standard (OSBA Exceptions, pp. 10-11). The Commission rejected those arguments in its Order. (May 10 Order, p. 65). OSBA’s argument in Paragraph 23 concedes that the Commission already addressed the facts and circumstances surrounding the OSBA’s safety claims, and drew a conclusion that OSBA does not agree with. Disagreement with the conclusions of the Commission does not meet the standard for reconsideration.

Moreover, the Commission, the ALJ, and the safety witness for I&E all found that there were sufficient impacts on safety to conclude that waiver of the DSIC rate cap would further the provision of adequate, efficient, safe, reliable, and reasonable service. OSBA did not produce testimony showing that accelerated investment was not necessary to ensure safe and reliable service. The only credible record evidence in this proceeding on this topic shows that the investment identified in the Modified LTIP is necessary and appropriate in order to address serious safety and reliability issues, and that the DSIC provides recovery for some, but not all, of that modified LTIP spending. (I&E St. No. 1, pp. 9-11; UGI-CPG St. No. 2-R, pp. 2-5; Tr. 90; 104). Accelerated distribution infrastructure improvement supports UGI-CPG’s ability to reduce the number of leaks on its system, enables it to install additional safety mechanisms, and to

relocate meters that are currently located inside customers' buildings. (UGI-CPG St. No. 2-R, pp. 2-5). All of these activities provide important safety benefits on the UGI-CPG system.

OSBA's standard would require the Company to be in violation of its obligations under 66 Pa.C.S. § 1501 before waiver could be granted. Section 1501 provides:

Every public utility shall furnish and *maintain adequate, efficient, safe, and reasonable service and facilities*, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay.

(emphasis added). The Commission should not require a utility to be at the point of violating its legal obligation to provide safe and reliable service in order to obtain financial relief to undertake infrastructure work and to maintain the Company's financial health. And yet that is exactly the standard the OSBA demands from the Commission in its Petition.

OSBA's arguments ignore the complementary relationship between Sections 1501 and 1358. However, the General Assembly has provided that Section 1501 is about service, and Section 1358 is a mechanism for ensuring the financial health of utilities while they undertake the repairs required to meet their obligations under Section 1501. The Commission's multi-factor test struck the appropriate balance, and evidence of imminent physical and financial failure should not be required in order for the Commission to utilize its authority under Section 1358.

24. Denied. The referenced order speaks for itself, and UGI-CPG denies any characterizations of the May 10 Order by OSBA. Further, the testimony of Mr. Patel speaks for itself. UGI-CPG notes, however, that I&E concluded, based on the testimony of Mr. Patel, that UGI-CPG's position merited waiver of the DSIC rate cap because the safety metrics were more

complicated than the item OSBA selectively highlights in Paragraph 24. (I&E Main Brief pp. 9-14; Reply Brief pp. 4-8; Reply Exceptions pp. 5-6). This position was also adopted by the ALJ, and finally the Commission, as acknowledged by OSBA. (UGI-CPG Recommended Decision, pp. 24-25; May 10 Order, p. 40). OSBA does not present any new facts or arguments in its Petition that differ from those it has raised previously in this proceeding.

25. Denied. OSBA raised arguments regarding the risk of inside meters in its Main Brief before the ALJ. (*See* OSBA Main Brief, p. 19). I&E thoroughly debunked the same OSBA claims regarding the accuracy of the data in its Reply Brief. (I&E Reply Brief, pp. 6-7). The Commission considers inside meters a safety risk, and requires utilities to move all meters outside. *See* 52 Pa. Code § 59.18; *see also* *Rulemaking Re Amendment to 52 Pa. Code § 59.18 Meter Location*, Docket No. L-2009-2107155 (Order entered May 23, 2014). The OSBA has failed to specify an appropriate and safe number of inside meters, nor has it challenged the Company's data showing that it has accelerated the replacement of inside meters. (UGI-CPG Reply Brief, p. 15). The only testimony in this proceeding shows that this category of expense represents a serious safety concern identified by the safety experts, and recognized by the Commission. (Tr. 104). However, as with other issues identified in OSBA's Petition, OSBA's arguments on this issue have already been considered by the Commission and were decided against the position advocated by OSBA. *See* May 10 Order, p. 42.

26. Denied. The referenced Order speaks for itself, and UGI-CPG denies any characterizations of the May 10 Order by OSBA. UGI-CPG particularly denies the OSBA's claim that steel risk data is "the main issue upon which the Commission rests its decision." Rather, the Commission rightly weighed a number of variables. The OSBA must agree to some extent, because it identifies many other factors in its Petition that it contends were given

improper weight by the Commission, *see, e.g.*, inside meters, the prior use of the DSIC, the ability of the Company to obtain rate relief. However, OSBA's argument in Paragraph 26 suffers from a more fundamental flaw, which is that OSBA continues to rely on its absolute necessity standard, which has been rejected by the Commission. Applying this incorrect standard, the OSBA once again argues that "necessary" must mean that rate relief is absolutely necessary in order to avoid an imminent financial or physical collapse of the system. Rather, applying the correct standard identified by the Commission, it is clear that leaks pose a significant safety risk, (Tr. 104), that the modified LTIP is addressing leaks as well as a number of other pressing safety risks, (UGI-CPG St. No. 2-R, pp. 2-5), and that rate relief will allow the Company to continue ensuring the safety and reliability of the system. (Tr. 88).

27. Denied. The OSBA's arguments in Paragraph 27 restate arguments raised previously in this proceeding. (OSBA Exceptions, pp. 8-10). Further, the Company specifically denies the OSBA's paraphrase of Mr. Bell's testimony, particularly the misstatement of the Company's position. For the purposes of clarity, Mr. Bell described the importance of a DSIC waiver to the Company's operations as follows:

[T]he ability to support the increased level of investment in our system as shown in the recently approved annual asset optimization plan and petition to increase...our long-term infrastructure plan, that underlying investment is certainly supported financially through an enhanced DSIC cap.

Absent the DSIC cap [increase], it becomes more financially burdensome on the company to sustain the level of investment as we have set forth in our annual asset optimization plan and long-term infrastructure improvement plans.

(Tr. 88). Further, Mr. Bell testified that the Company's accelerated spending in its Modified LTIP, which was filed before the Company sought waiver of the DSIC rate cap and was approved during the pendency of the DSIC waiver proceeding, was undertaken with the

anticipation that the Company could obtain financial relief through the DSIC waiver proceeding to support the work. (Tr. 89). The increased investment associated with the Modified LTIP is financially burdensome to the Company. However, undertaking the work identified in the Modified LTIP is necessary to ensure safe and reliable service to customers. (*See* Recommended Decision, pp. 23-24). The Company has accepted the financial burden and it is this very burden that the DSIC waiver was designed to address – infrastructure work that is necessary in order for the Company to continue to ensure safe and reliable service to its customers under its existing LTIP.

28. Denied. OSBA’s entire argument in Paragraph 28 appears to be a disagreement with the Commission’s determination of the relative weight to give the testimony of Mr. Patel and Mr. Bell, who are both qualified safety experts. However, issues regarding the weight of evidence are largely within the Commission’s discretion, and in any event, do not constitute sufficient grounds for reconsideration. *See, e.g., Sayre v. Pennsylvania Public Utility Com.*, 161 Pa. Super. 182, 185, 54 A.2d 95, 97 (Pa. Super. Ct. 1947) (“The weight to be given the evidence is for the commission to decide...”); *Pittsburgh v. Pa. P.U.C.*, 174 Pa. Super. 363, 370, 101 A.2d 761, 764 (Pa. Super. Ct. 1954) (“[T]he weight of the testimony was for the Commission...”).

29. UGI-CPG agrees that the record does not demonstrate that the Company is on the brink of “disastrous consequences”, because that evidence is not required in order to meet the standard for waiver identified in Section 1358(a)(1), and articulated by the Commission. The Commission has already identified an appropriate policy, which is designed to avoid the “disastrous consequences” envisioned by OSBA. As UGI-CPG noted in its Reply Brief, the DSIC waiver provision is not intended to address dire operational circumstances. (*See* UGI-CPG Reply Brief, pp. 6-7). For a utility experiencing serious financial circumstances, the

Commission is already empowered with the authority under 66 Pa.C.S. § 1308(e) (extraordinary rate relief) to craft relief that will ensure that customers are not harmed. (UGI-CPG St. No. 1-R, p. 8). Proper statutory construction requires the different parts of the Code to be read together, where possible, to give effect to all provisions. 1 Pa.C.S. § 1921. OSBA seeks both to create redundancy in the Public Utility Code, and to interpret the DSIC waiver standard so that utilities would need to show evidence of imminent failure. This would require a violation of the obligation to provide safe and reliable service, pursuant to 66 Pa.C.S. § 1501, before a DSIC waiver could be granted.² Such a policy would endanger the public and should be rejected.

30. OSBA's arguments in Paragraph 30 are outside the record evidence in this proceeding, and are irrelevant based on the testimony of OSBA witness Mr. Knecht. UGI's stock price is not a fact of record and therefore cannot be considered in this proceeding. *See, e.g., Petition of Pa. Elec. Co. for Approval to Locate and Construct the Bedford North-Osterburg East 115 kv HV Transmission Line Project Situated in Bedford and E. St. Clair Twps., Bedford Cnty., Pa., 2013 Pa. PUC LEXIS 418, *4-5 (July 16, 2013) (rejecting reconsideration where petitioner failed to show she had discovered new evidence that was unavailable prior to the issuance of the Commission's order).*

OSBA appears to be arguing in Paragraph 30 that the Commission should not find that the Company could experience a disastrous operational consequence, because if the Commission did so, it would cause a negative reaction on Wall Street and harm the Company financially. This argument should be rejected, because the Commission's standard does not require that there be evidence of imminent disastrous consequences in order for a DSIC waiver to be granted. The Commission's May 10 Order merely identifies the obvious serious threat posed by system

² For a full discussion of why the relief offered by the DSIC rate cap waiver would not be sufficient if a true operational crisis were to occur, see the UGI-CPG Reply Brief at pages 5 to 7.

degradation for any natural gas utility – a threat that UGI-CPG is effectively neutralizing through the DSIC-eligible repair programs that it now properly seeks to recover through the DSIC.

31. Denied. Once again, the fact that OSBA “respectfully disagrees with” the May 10 Order does not meet the OSBA’s burden for reconsideration. Nor are OSBA’s efforts to compare UGI-CPG to PGW a new or novel issue, as shown by the fact that OSBA quotes its own witness’ testimony on this topic. Further, testimony by Mr. Knecht on the relevance of PGW should be rejected for three reasons. First, Mr. Knecht did not believe that even PGW met the standard for a waiver of the DSIC. (Tr. 124; *see also, Petition of Philadelphia Gas Works for Waiver of Provisions of Act 11 to Increase the Distribution System Improvement Charge CAP and to Permit Levelization of DSIC Charges*, Docket No. P-2015-2501500, pp. 19-20 (Order entered January 28, 2016)). Second, Mr. Knecht acknowledged in his testimony that he is not qualified to discuss safety issues. (Tr. 117-118). Therefore his testimony on safety should be given no weight. Finally, the qualified safety experts in this proceeding agreed that a waiver of the DSIC rate cap will support infrastructure work that is critical to providing safe and reliable service to customers. (I&E St. No. 1, pp. 9-11; UGI-CPG St. No. 2-R, pp. 2-5; Tr. 90, 104).

32. Denied. OSBA’s argument in Paragraph 32 boils down to a disagreement with the Commission’s consideration of the prior use of the DSIC as part of its multi-factor analysis. The same criteria were used in *Aqua* and *Columbia*. OSBA was aware of the Commission’s reliance on this information, because UGI-CPG noted its importance as part of its Exceptions. (*See* UGI-CPG Exceptions, p. 6). OSBA already had the opportunity to respond to the relevance of this factor in the Commission’s analysis, and therefore re-raising it without further facts is insufficient to meet the legal burden in a petition for reconsideration. Prior use of the DSIC, and the reaching of the DSIC rate cap, are relevant pieces of information for the Commission to

consider and weigh in determining whether waiver of the DSIC rate cap and an increase are appropriate at this time.

In addition, OSBA's arguments regarding the viability of obtaining relief through a base rate proceeding should be rejected. First, this issue was already expressly raised on Exceptions by OCA. (OCA Exceptions, p. 12). Second, OSBA quotes Commissioner Brown's statement, showing that the Commission already considered this issue. Third, as previously argued in both its Reply Brief and Reply Exceptions in response to this same argument, the Company noted that base rate relief is always an available avenue to the Company, but the existence of base rate relief does not negate the statutory provision allowing for waiver of the DSIC rate cap where the statutory standards are met. (*See* 66 Pa.C.S. § 1308; UGI-CPG Main Brief, pp. 16-17; UGI-CPG Reply Brief, pp. 17-18; UGI-CPG Reply Exceptions, p. 6). OSBA's argument that the availability of base rate relief makes the Company ineligible for DSIC waiver would improperly read Section 1358(a)(1) out of the statute. That conclusion violates the rules of appropriate statutory interpretation. *See* 1 Pa.C.S. § 1921(a) ("every statute shall be construed, if possible, to give effect to all its provisions"); § 1922 ("the General Assembly intends the entire statute to be effective"). The OSBA's arguments should be rejected.

III. CONCLUSION

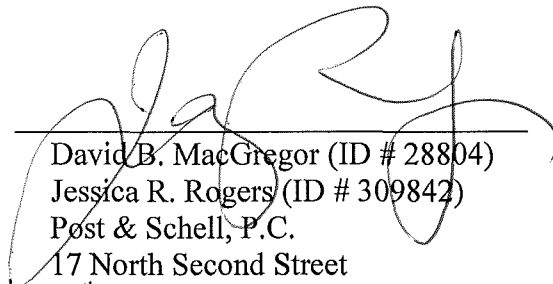
WHEREFORE, for all the foregoing reasons, UGI Central Penn Gas, Inc. respectfully requests that the "Petition for Reconsideration of the Office of Small Business Advocate" be denied, and that the Commission affirm its determination that the Company be allowed to increase its maximum allowable DSIC up to 7.5% of billed distribution revenues until the end of its current LTIP period (*i.e.*, December 31, 2018).

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
E-mail: jouenned@ugicorp.com

Post & Schell, P.C.

Date: June 5, 2017



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

Attorneys for UGI Central Penn Gas, Inc.