**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held September 21, 2017

Commissioners Present:

Gladys M. Brown, Chairman

Andrew G. Place, Vice Chairman

David W. Sweet

John F. Coleman, Jr.

Petition of UGI Central Penn Gas, Inc. for a P-2016-2537609

Waiver 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

**OPINION AND ORDER**

**BY THE COMMISSION:**

# I. Matter Before the Commission

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition for Reconsideration (Reconsideration Petition), filed by the Office of Small Business Advocate (OSBA), on May 25, 2017, concerning the Opinion and Order entered May 10, 2017 (*May 2017 Order*), in the above-captioned proceeding. Answers to the Reconsideration Petition were filed by the Commission’s Bureau of Investigation and Enforcement (I&E) and UGI Central Penn Gas, Inc. (UGI-CPG or the Company) on June 5, 2017. For the reasons stated below, we shall deny the Reconsideration Petition.

# II. History of the Proceeding

On February 14, 2012,Governor Corbett signed into lawAct 11 of 2012, (Act 11), which amended Chapters 3, 13 and 33 of the Public Utility Code (Code). 66 Pa. C.S. § 101, *et seq.* Act 11, *inter alia*, provides jurisdictional water and wastewater utilities, electric distribution companies, and natural gas distribution companies (NGDCs) or a city natural gas distribution operation with the ability to implement a distribution system improvement charge (DSIC) that is designed to provide for “the timely recovery of the reasonable and prudent costs incurred to repair, improve or replace eligible property in order to ensure and maintain adequate, efficient, safe, reliable and reasonable services.” 66 Pa.C.S. § 1353 (a). On August 2, 2012, the Commission entered its Order in *Implementation of Act 11 of 2012,* Docket Number M-2012-2293611 (*Final Implementation Order*), which included a Model Tariff for DSIC filings and established procedures and guidelines necessary to implement Act 11.

On December 12, 2013, UGI-CPG filed a Petition for Approval of a Distribution System Improvement Charge (DSIC Petition), as well as a Petition for Approval of a Long-Term Infrastructure Improvement Plan, at Docket No. P-2013-2398835. UGI-CPG’s DSIC Petition included all the components required by Act 11 and the *Final Implementation Order*. By Order entered on September 11, 2014, the Commission approved UGI-CPG’s proposed Long-Term Infrastructure Improvement Plan (LTIIP) and DSIC, subject to refund, pending final resolution of four issues that were assigned to the Office of Administrative Law Judge (OALJ).[[1]](#footnote-1) In that proceeding, UGI-CPG negotiated a settlement with the other Parties on the outstanding litigated issues, and the Commission approved the settlement in an Order entered July 8, 2015.[[2]](#footnote-2)

On February 29, 2016, UGI-CPG filed a *Petition for Approval of a Modification to its Long-Term Infrastructure Improvement Plan* at Docket No. P-2013-2398835 *(Modified LTIIP Petition).* In the *Modified LTIIP Petition*, UGI-CPG identified increased DSIC-eligible investments that triggered the Commission’s requirement at 52 Pa. Code § 121.5(a) because it exceeded 20% of the cost of the original plan. The increased investment relates to the three categories of previously identified projects, including system reliability improvements, service replacements, and mandated relocations of utility facilities. The Commission approved the *Modified LTIIP* *Petition* by Order entered June 30, 2016.[[3]](#footnote-3)

On March 31, 2016, UGI-CPG filed a Petition for a waiver pursuant to Section 1358(a) of the Code, 66 Pa. C.S. § 1358(a) (Petition), requesting the Commission’s approval of the following: (1) a waiver of the DSIC cap of 5% of billed revenues; and (2) an increase of the maximum allowable DSIC from 5% to 10% of billed distribution revenues. The Petition sought implementation of the waiver to become effective July 1, 2016, subject to hearing and refund, since UGI-CPG’s DSIC rate had already reached the 5% cap.

On April 20, 2016, the OCA filed a Notice of Intervention, Public Statement and an Answer to the Petition. On the same day, the OSBA filed a Notice of Intervention, Public Statement and an Answer. On May 6, 2016, I&E filed a Notice of Appearance.

A prehearing conference was held on June 17, 2016. Counsel for UGI-CPG, I&E, the OCA, and the OSBA participated. Counsel for CPGLUG asked and received permission to observe the prehearing conference as the group was determining whether to intervene in this proceeding.

On June 29, 2016, CPGLUG filed a Petition to Intervene and Answer opposing the Petition. By Order dated July 20, 2016, the ALJ granted the intervention of CPGLUG as there was no objection.

On July 22, 2016, UGI-CPG filed a Motion for Protective Order. On July 27, 2016, UGI-CPG’s Motion for a Protective Order was granted which defined and implemented the procedure for proprietary information at this docket.

All Parties except CPGLUG filed their respective direct, rebuttal and surrebuttal testimonies.

On September 8, 2016, an evidentiary hearing was held to cross examine witnesses and admit into the record the prepared testimony and exhibits after timely motions and objections were addressed. UGI-CPG, I&E, the OCA, and the OSBA participated in the evidentiary hearing. During the hearing, UGI-CPG, I&E, the OCA, and the OSBA, presented written testimonies and exhibits for admission into the record. CPGLUG did not sponsor any documents for admission into the record. R.D. at 4-5. UGI-CPG, I&E, the OCA and the OSBA each moved to have their exhibits and written testimonies entered into the record. As there were no objections, all the Parties’ testimony and/or exhibits were admitted into the record during the hearing.

On September 12, 2016, the OSBA’s late-filed exhibit was admitted as there were no objections.

On September 21, 2016, by a written request, counsel for UGI-CPG presented corrections to the transcript for accuracy pursuant to 52 Pa. Code § 5.253(b). UGI-CPG’s request was granted as there were no objections.

The Parties filed Main Briefs on September 22, 2016, and, with the exception of CPGLUG, Reply Briefs on September 30, 2016. The record closed on September 30, 2016, upon receipt of the Reply Briefs. The evidentiary hearing generated a transcript of 136 pages.

On October 26, 2016, the Parties were given official notice of the *Modified LTIIP Petition,* at Appendix B, pursuant to 52 Pa. Code § 5.408. Due to the official notice, the record was reopened pursuant to 52 Pa. Code § 5.571(d)(1).

By letter dated November 3, 2016, the OSBA indicated that while it did not object to the official notice, the entire *Modified LTIIP Petition* should be noticed so that the information could be placed in context. OSBA also suggested that the *Commission-approved Modified LTIIP* should be given notice as well. No other party objected or otherwise requested alternatives to the official notice.

By Order dated November 4, 2016, the ALJ granted the OSBA’s suggestion and modified the official notice to the entire*Modified LTIIP* *Petition*including the appendices to the *Modified LTIIP* *Petition*, but denied the OSBA’s suggestion to take official notice of the *Commission-approved Modified LTIIP*. The record was closed on November 4, 2016, with the ruling on the official notice.

In the Recommended Decision, issued on December 5, 2016, the ALJ granted UGI-CPG’s request to waive the DSIC cap but denied the Company’s request to increase the DSIC cap to 10%. Alternatively, the ALJ recommended a DSIC cap waiver increase of 8.65%. R.D. at 31, 35-36. Exceptions to the Recommended Decision were filed on January 4, 2017, by the following Parties: UGI-CPG, OSBA, I&E and the Central Penn Gas Large Users Group (CPGLUG). Replies to Exceptions were filed on January 11, 2017, by all the Parties that filed Exceptions, except CPGLUG.

In our *May 2017 Order*, we (1) granted I&E’s Exceptions; (2) granted, in part, the Exceptions of UGI-CPG, the OSBA, the OCA and CPGLUG; (3) modified the ALJ’s Recommended Decision, (4) and granted, in part, UGI-CPG’s Waiver Petition to waive the 5% DSIC cap and increase it from 5% to 10%. *May 2017 Order* at 1, 38, 44, 62-65, 71-73. In doing so, we, *inter alia,* granted UGI-CPG a waiver of the 5% capped DSIC rate and permitted it to increase its current DSIC rate by 2.5 percentage points for a new capped DSIC rate of 7.5% as proffered by I&E. *Id.* at 65, 73.

As previously noted, the OSBA filed its Reconsideration Petition on May 25, 2017, and Answers to the Reconsideration Petition were filed by I&E and UGI-CPG on June 5, 2017. By Order entered June 2, 2017, we granted the Reconsideration Petition, pending further review of, and consideration on, the merits.

**III. Background**

In its Waiver Petition, UGI-CPG sought a waiver of Section 1358(a) of the Code, 66 Pa. C.S. § 1358(a), to increase the DSIC cap from 5% to 10% of billed distribution revenues due to the Company’s substantial ongoing investment in DSIC-eligible plant with a potential for less frequent base rate case filings. According to UGI-CPG, due to the Company’s substantial ongoing investment in DSIC-eligible plant, the revenue from the current 5% DSIC cap is not sufficient to maintain the level of investment even for a single year. Petition at 1, 5. The Company asserted that under the current projections, it would have exceeded the 5% DSIC cap on July 1, 2016; therefore, the 10% increase in the DSIC cap would allow the Company to maintain its accelerated main replacement program and ensure that customers receive safe and reliable service consistent with Section 1501 of the Code, 66 Pa. C.S. § 1501. UGI-CPG indicated that even with the 10% DSIC cap, it would exceed the cap well before the end of the current modified LTIIP period. According to the Company, consistent with the *Commission-approved Modified LTIIP*, UGI-CPG is currently investing approximately $20 million per year in DSIC-eligible plant or a 38.5% increase from the 2009 to 2011 investments, and anticipates spending approximately $67.9 million from January 2016 through December 2018. *Id.* at 6. UGI-CPG further noted that without the increase, it would forego approximately $3 million in revenue associated with DSIC-eligible plant investment by October 1, 2017, which would require the Company to file a base rate case. The Company averred that the 10% increase in DSIC cap would add an additional $2.80[[4]](#footnote-4) to its customers’ monthly bills and that this incremental cost is minimal compared to the noticeable benefits that would result from the accelerated infrastructure replacement. *Id.* at 6-9.

I&E supported a waiver request for a DSIC cap increase from 5% to 7.5% of billed distribution revenues as opposed to the 10% DSIC cap requested by the Company. On the other hand, the OCA, the OSBA and CPGLUG were opposed to any increase to the DSIC cap. Our *May 2017 Order* addressed in detail the positions of the Parties, the ALJ’s recommendations on the issues, and our dispositions of the issues, and will also be discussed in pertinent detail, *infra*.

**IV. Discussion**

**A. Legal Standards**

The Code establishes a party’s right to seek relief following the issuance of our final decisions pursuant to Subsection 703(f), relating to rehearing, as well as Subsection 703(g), relating to the rescission and amendment of orders. 66 Pa. C.S. § 703(f) and § 703(g). Such requests for relief must be consistent with Section 5.572 of our Regulations, relating to petitions for relief following the issuance of a final decision. 52 Pa. Code § 5.572.

The standards for granting a Petition for Reconsideration were set forth in *Duick v. Pennsylvania Gas and Water Company*, 56 Pa. P.U.C. 553 (1982):

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 stated that “[p]arties . . ., cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically 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 by the Commission.

*Duick,* 56 Pa. P.U.C. at 559 (quoting *Pennsylvania Railroad Co. v. Pennsylvania Public Service Commission*, 179 A. 850, 854 (Pa. Super.1935)).

Under the standards of *Duick*, a petition for reconsideration may properly raise any matter designed to convince this Commission that we should exercise our discretion to amend or rescind a prior Order, in whole or in part. Such petitions are likely to succeed only when they raise “new and novel arguments” not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. *Duick*, 56 Pa. P.U.C. at 559.

Before addressing the Reconsideration Petition, we note that any issue not specifically addressed herein has been duly considered and will be denied without further discussion. It is well settled that the Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC,* 625 A.2d 741 (Pa. Cmwlth. 1993); *also see, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

**B. *May 2017 Order***

In our *May 2017 Order*, we granted, in part, UGI-CPG’s Waiver Petition to waive the 5% DSIC cap and increase the cap from 5% to 10% of billed distribution revenues. In that Order, we concurred with the ALJ’s approval of the waiver request; however, we disagreed with the ALJ’s calculation and recommendation in support of an increase of the DSIC cap to 8.65%. Rather, we allowed the Company to increase the DSIC cap to 7.5% of billed distribution revenues which we will discuss in more detail below.

**Standard for Waiver of the 5% DSIC Cap**

In addressing the standard for waiver of the 5% DSIC cap in our *May 2017 Order*, we considered several factors in reaching our decision to grant the waiver request. First, we emphasized that while this was not a case of first impression, we only had two other opportunities to consider whether the DSIC should be raised above the 5% cap for gas distribution companies.We also highlighted our policy in conducting an evaluation of a DSIC cap waiver request on a case-by-case basis on the merits of the record evidence in each individual case. Specifically, we emphasized our decision to grant PGW’s waiver request and our decision to increase PGW’s DSIC cap from 5% to 7.5% in the *PGW Order[[5]](#footnote-5)* to permit PGW to address its safety and reliability concerns. We also highlighted the *Columbia* *DSIC Waiver Order*,[[6]](#footnote-6) where we denied any increase above 5% after we considered: (1) the state of Columbia’s infrastructure; (2) the current and projected pace of replacement; (3) the Company’s experience using the DSIC; (4) evidence regarding future filings; and (5) the Company’s ability to fund its replacement program without a waiver. *May 2017 Order* at 38-41 (citing *PGW Order* at 42, *Columbia* *DSIC Waiver Order* at 52-54). We pointed out the clear differences between this case and the aforementioned DSIC-waiver proceedings as they relate to the justifications for the requested waiver, as well as to the companies’ ratemaking methodologies, capital formation, and status of plant in service. [[7]](#footnote-7) *May 2017 Order* at 39.

More importantly, we agreed with the ALJ’s decision to grant the waiver of the 5% DSIC cap, noting that the Code provides that “[t]he 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*.” *Id.* (quoting 66 Pa. C.S. § 1358(a)(1)) (emphasis added). We acknowledged I&E’s testimony regarding the current state of UGI-CPG’s distribution system as it pertained to safety and reliability. We noted that I&E, the only Party with the requisite qualification and expertise in this proceeding to assess UGI-CPG’s system, highlighted the safety and reliability concerns regarding the system and the need for the Commission to grant the waiver to allow the Company to address those concerns. We further noted that I&E’s Gas Safety witness, Sunil Patel, testified that “CPG’s risk for cast iron/wrought iron mains was trending down from 4,352 to 3,986, but steel risks increased from 63,475 points to 65,441 points (2012-2015).” *May 2017 Order* at 39-40 (quoting I&E St. 1 at 10; I&E M.B at 10-11). We acknowledged I&E’s testimony that granting the waiver of the DSIC cap would allow UGI-CPG to make the necessary repairs and replacements to ensure safety and reliability of its system and that denying the Company’s waiver request could deter the Company’s effort to replace its at-risk mains and result in disastrous consequences for the Company, including a gas explosion. *May 2017 Order* at 39-40 (citing I&E R. Exc. at 2-3, I&E M.B. at 11-15). Based on the record evidence, we concluded that UGI-CPG had demonstrated that a waiver of the 5% DSIC cap would help the Company “ensure and maintain adequate, efficient, safe, reliable and reasonable service.” *May 2017 Order* at 40-41.

Also, in our disposition, we noted that consistent with the *Commission-approved Modified LTIIP,* UGI-CPG proposed in its Petition to increase the amount of infrastructure spending over its original LTIIP to improve the safety and reliability of its system. UGI‑CPG proposed to increase its total projected DSIC-eligible plant expenditures from 2014 through 2018, from a total of $68.5 million over the five-year term of the plan to $94.9 million over the same period. The Company proposed a 54.3% increase from 2016 through 2018 in its modified LTIIP. We emphasized in our *May 2017 Order* that while the *Commission-approved Modified LTIIP* is only one factor we considered in making a determination on the waiver request, we believe it supported the Company’s case for granting the waiver of the 5% DSIC cap. *May 2017 Order* at 41-42.

Additionally, we noted that while the proposed increase did not change the timeline for replacement of the Company’s legacy facilities, the “predominate focus” of the spending increase in the Company’s modified LTIIP was “installing or upgrading regulator stations and higher pressure pipelines to increase system pressure.” *May 2017 Order* at 42 (quoting *Commission-approved Modified LTIIP* at 6). We pointed out that according to UGI-CPG, “[t]hese projects will improve system reliability in many areas of UGI’s distribution system, including projects in the Harrisburg/Camp Hill region and the Millersville/Lancaster region.” *Id.* We acknowledged in our *May 2017 Order* that problems with low pressure qualify as a reliability issue within the meaning of the statute, and are a safety concern as well. We noted UGI-CPG’s averment that the proposed increase would help the Company address the Pennsylvania Department of Transportation mandated facility relocations. *Id.* In our disposition, we emphasized that not only was UGI-CPG increasing its main replacement investments to improve the safety and reliability of its system, it was also addressing mandated improvements. We also recognized Mr. Patel’s testimony regarding UGI-CPG’s effort to comply with meter relocations as mandated by the Commission’s Regulations and the potential positive impact of the Company’s compliance through the meter relocation project. *May 2017 Order* at 42 (citing Tr. at 104; 52 Pa. Code § 59.18). For the reasons, above, we concluded that although UGI-CPG did not commit to increasing its pipeline replacement schedule, DSIC recovery should not be strictly limited to pipeline replacement. *May 2017 Order* at 42.

Furthermore, in our *May 2017 Order*, we recognized UGI-CPG’s averment that the current 5% DSIC cap is insufficient to support the investments identified in its modified LTIIP, especially because it has reached the 5% DSIC cap as of July 1, 2016. We acknowledged the Company’s claim that it no longer can recover DSIC-eligible investments through the DSIC due to the existing cap. We noted that UGI-CPG implemented its DSIC on October 1, 2014, and reached the 5% DSIC cap on July 1, 2016. *May 2017 Order* at 43 (citing UGI-CPG St.1 at 5, 7; UGI-CPG Exh. WJM-3). We stated that contrary to the *Columbia* *DSIC Waiver Order,* in which Columbia used the DSIC for only one quarter at a 1.5% DSIC rate prior to requesting a waiver of the DSIC cap, UGI-CPG utilized its DSIC mechanism for almost two years prior to requesting a waiver of the DSIC cap in the instant proceeding. *May 2017 Order* at 43 (citing *Columbia* *DSIC Waiver Order*at 56).

Finally, we explained that this case is distinguishable from the *Columbia* *DSIC Waiver Order*, in which in addition to the 5% DSIC cap, Columbia effectively utilized base rate cases on an almost annual basis, including utilizing the fully projected future test year (FPFTY) mechanism in Act 11 to adequately address its main replacement efforts. *May 2017 Order* at 44 (citing *Columbia* *DSIC Waiver Order*at 50). We stated that the record evidence in this proceeding indicates that UGI-CPG’s most recent base rates went into effect in August 2011. *May 2017 Order* at 44 (citing UGI-CPG St. 1-R at 5). We noted that the record evidence in this case shows that UGI-CPG has not filed a base rate case for almost seven years and has also not utilized the FPFTY mechanism that Columbia effectively used to address its main replacement efforts. We, therefore, concluded that while we echo the OCA’s proposal encouraging UGI-CPG to utilize the FPFTY mechanism in Act 11 to recover some of its main replacement investment costs in the future, the record evidence in this case supports a waiver of the DSIC cap for UGI-CPG. *May 2017 Order* at 44.

Based on all the above factors, we agreed with the ALJ, I&E and the Company that UGI-CPG satisfied its burden of proof and met the standard for granting the 5% DSIC cap waiver. Accordingly, we rejected the Exceptions of the OCA, the OSBA and CPGLUG regarding this matter. *Id.*

## DSIC Cap Increase from 5% to 10% and the ALJ’s Calculation and Recommended Increase

Regarding UGI-CPG’s request to increase its DSIC cap from 5% to 10%, we rejected both the Company’s request to increase the DSIC rate cap to 10% and the ALJ’s calculation and recommended DSIC cap of 8.65%. We, however, granted I&E’s proposal that the DSIC rate cap be increased from 5% to 7.5%. We noted that every Party in the proceeding, including the Company, filed Exceptions to the ALJ’s calculation and recommended increase arguing that the ALJ’s calculation, which was based on the percentage increase in spending on DSIC-eligible plant in the *Commission-approved Modified LTIIP,* was unprecedented and was not supported by the record evidence.[[8]](#footnote-8) *May 2017 Order* at 62.

In our disposition, we acknowledged UGI-CPG’s suggestion in its Exceptions that the Commission adopt a DSIC cap increase that appropriately balances the interests of the Company and those of its customers, rather than the ALJ’s recommended calculation. *Id.* (citing UGI-CPG Exc. at 7-8). In particular, UGI-CPG argued that the ALJ’s calculation and recommended increase of 8.65% DSIC cap rate could potentially encourage gamesmanship on the part of utilities and should, therefore, be rejected. UGI-CPG explained this potential gamesmanship on the part of the utilities regarding a DSIC-waiver request, as follows:

. . . but applying the RD’s approach would provide a perverse incentive for utilities to start with a lower original LTIIP investment, and then adopt a higher percentage increase in order to manipulate the outcome of the methodology. For instance, a utility that showed a 60% increase in its original LTIIP and only a 20% increase in its modified LTIIP would receive a much lower DSIC rate cap than an identically situated utility that showed a 20% increase in its original LTIIP, and a 60% increase in its modified LTIIP.

*Id.* at 62-63 (quoting UGI-CPG Exc. at 8).

We also noted in our *May 2017 Order* that the OCA dismissed the Company’s request for a 10% increase, which, according to the Company, was based on the fact that 10% is near the mid-point between the existing 5% cap and the total charge of 14.49% that would be applicable if all its DSIC-eligible projects as of January 1, 2019, were reflected in the DSIC rate. Referencing the *Columbia* *DSIC Waiver Order* and *PGW Order*, the OCA stated that UGI-CPG is not entitled to recover 100% of its projected LTIIP spending through the DSIC. To this end, we agreed with the OCA’s argument that “Act 11 does not mandate that the Commission guarantee that a utility be able to recover all of its eligible infrastructure investments through a quarterly surcharge.” *May 2017 Order* at 63 (citing OCA R. Exc. at 4-5). In our disposition, we also agreed with the OCA that the purpose of the DSIC is not to *eliminate* all regulatory lag, because the lag will exist regardless of the DSIC cap and the lag is actually built into the statutory DSIC calculation, as the utility can recover costs only after the funds have been invested. *May 2017 Order* at 63 (citing OCA R. Exc. at 6-7). We further noted that, just as we highlighted in our *Columbia* *DSIC Waiver Order,* the function of the DSIC is not to replace but to supplement a utility’s base rate case recovery of capital investments. *May 2017 Order* at 64 (citing *Columbia* *DSIC Waiver Order* at 50).

In our *May 2017 Order*, we also acknowledged I&E’s argument in support of the waiver request and I&E’s proposal that the DSIC cap be increased to 7.5% and that increasing the DSIC cap to 7.5% was in the public interest because it would facilitate the replacement of the Company’s cast iron mains in a timelier manner and ultimately promote safe and reliable service for the Company’s customers. I&E argued that UGI-CPG demonstrated in its modified LTIIP that the additional DSIC funding would be used prudently to address the safety concerns identified by I&E’s Gas Safety Division. *May 2017 Order* at 64.

Additionally, we stated that, like our decision in the *PGW Order*, we believe an increase of the DSIC cap to 7.5% would enhance UGI-CPG’s accelerated main replacement program as well as address the Company’s safety and reliability issues to ensure “adequate, efficient, safe, reliable and reasonable service.” We cited to Mr. Patel’s testimony that although the Company’s risk for cast iron mains is trending downward, the risks for its steel mains has increased from 63,475 points in 2012 to 65,441 points in 2015. In doing so, we agreed with I&E that the fact that one set of risk is trending downward does not mean the others should be ignored, and that granting the waiver of the DSIC cap would allow the Company to make the necessary repairs and replacements to ensure safety and reliability of its system. *May 2017 Order* at 65 (citations omitted).

Finally, we noted in our *May 2017 Order* that the record evidence in this proceeding indicates that a 1% increase in the DSIC cap increases the Company’s customers’ bills by $0.56 per month. Therefore, an increase of the DSIC cap from 5% to 7.5% would result in an additional increase of 2.5% or $1.40 per month compared to the additional 5% or $2.80 per month increase in the Company’s customer bill for a 10% increase. We stated that given the additional benefits of repairing and replacing at-risk mains in the Company’s distribution system, we believed a 7.5% increase appeared adequate to provide sufficient funds for the Company to embark on its accelerated main replacement program, while also resulting in a moderate increase in the Company’s customers’ monthly bills compared to the significant increase in monthly customer bills for a 10% increase. We, therefore, concluded in our *May 2017 Order* that a 7.5% increase was reasonable in this case and was also consistent with our prior decisions permitting a 7.5% increase. *Id.* (citing *Pa. PUC v. Aqua Pennsylvania, Inc.,* Docket Nos. R-2008-2079310, *et al.* (Order entered July 23, 2009) (*Aqua PA Order)*; *PGW Order; Petition of Pennsylvania-American Water Company for Approval to Implement a Tariff Supplement To Tariff Water-PA P.U.C. No. 4 Revising the Distribution System Improvement Charge*, Docket Nos. P-00062241, *et al.*, (Order entered August 14, 2007)).

Considering all the above, we granted UGI-CPG a waiver of the 5% capped DSIC rate and permitted it to increase the current rate by 2.5 percentage points for a new capped DSIC rate of 7.5% as proffered by I&E. However, we also emphasized that the increase of UGI-CPG’s DSIC rate to 7.5% was not a permanent rate change. Accordingly, we approved a waiver of the 7.5% DSIC rate until UGI-CPG’s next LTIIP filing, absent a statutory reason to reduce or suspend the DSIC.

**C. Reconsideration Petition and Answers**

**1. OSBA’s Reconsideration Petition**

In its Petition for Reconsideration, the OSBA requests that we reconsider our *May 2017 Order*, wherein we granted UGI-CPG’s Petition to waive the 5% DSIC cap and allowed the Company to increase its maximum allowable DSIC charge up to 7.5% of billed distribution revenues. Reconsideration Petition at 3-4 (citing *May 2017 Order* at 44, 73). The OSBA argues that the legislature intended that DSIC cap waivers under Section 1358(a)(1) of the Code, 66 Pa. C.S. § 1358(a)(1), be granted only in extraordinary circumstances. According to the OSBA, in order to grant a DSIC waiver, a demonstration of a utility’s inability to meet its service obligations without a DSIC cap waiver is necessary. However, in the instant proceeding, the OSBA avers that there is no evidence of necessity to justify granting a waiver of UGI-CPG’s DSIC rate cap. Reconsideration Petition at 4-5 (citing *May 2017 Order* at 10-11, 38-39).

Specifically, the OSBA contends that while the record evidence indicates that UGI-CPG has undertaken substantial repairs to its distribution system in line with Act 11, nothing in the record demonstrates that UGI-CPG is in dire need of financial help to complete these repairs or that the Company’s distribution system poses a danger to its customers. Moreover, the OSBA notes UGI-CPG has committed to continuing the repairs regardless of the outcome of this proceeding. In other words, from the OSBA’s perspective, nothing in the record supports the assertion that UGI-CPG will be unable to provide adequate, efficient, safe, reliable, and reasonable service if the waiver isnot granted. Reconsideration Petition at 5. The OSBA questions the Commission’s decision to grant the waiver request despite Mr. Patel’s testimony and exhibits that portrays UGI‑CPG as the safest NGDC in the Commonwealth. According to the OSBA, Mr. Patel testified that UGI-CPG has the lowest “total leaks per mile” of any NGDC in the Commonwealth and has the second lowest number of inside meters of any NGDC in the Commonwealth.[[9]](#footnote-9) Reconsideration Petition at 6 (quoting *May 2017 Order* at 40, 44; I&E St. 1; I&E Exh.1).[[10]](#footnote-10)

The OSBA also disputes the Commission’s use of two of I&E’s propositions as a basis for granting the waiver. According to the OSBA, the Commission stated:

I&E believes granting the waiver of the DSIC cap would ***allow*** UGI-CPG to make the necessary repairs and replacements to ensure safety and reliability.

Reconsideration Petition at 7 (quoting *May 2017 Order* at 40) (emphasis supplied). The OSBA believes the statement above contradicts the record evidence considering the OSBA’s unrebutted testimony which stated:

Moreover, the Companies indicate that granting a waiver to the DSIC cap in this proceeding will have zero impact on public safety, since the Companies’ proposed investment programs are not affected by approval or rejection of the waiver.

Reconsideration Petition at 7 (quoting OSBA St. 1-R (Redacted) at 3). The OSBA also argues the Company’s witness, Mr. Bell, testified that UGI-CPG would continue its main replacement program whether or not the waiver was approved. Reconsideration Petition at 7-8.

The OSBA further disputes the Commission’s reference to I&E’s testimony which states:

I&E further indicated that denying the Company’s waiver request could ***deter*** the Company’s effort to replace its at-risk mains and result in ***disastrous consequences*** for the Company, including ***gas explosion***.

Reconsideration Petition at 8 (quoting *May 2017 Order* at 40) (emphasis supplied). The OSBA states the Commission erred by relying on Mr. Patel’s unsubstantiated opinion because UGI-CPG’s witness, Mr. Bell, stated unequivocally that UGI-CPG will not be deterred from replacing its at-risk mains even if the DSIC rate cap waiver is not granted. The OSBA contends that nothing in the record supports the fact that “UGI-CPG is on the brink of “‘disastrous consequences’ up to and including gas explosions” or that a failure to grant the waiver would result in such dire consequences. Reconsideration Petition at 8.

Finally, the OSBA faults the suggestion in the *May 2017 Order* that UGI-CPG is prone to disastrous consequences, including gas explosions. Per the OSBA, such a suggestion could lead to a negative perception of the Company in the financial markets and result in serious financial harm to the Company. The OSBA also disagrees with the Commission’s comparison of the safety and reliability concerns associated with UGI‑CPG to those of PGW.[[11]](#footnote-11) The OSBA further argues that UGI-CPG’s assertion that the waiver is necessary because the Company “indicated that . . . it has reached the 5% DSIC cap as of July 1, 2016,” is irrelevant, because UGI-CPG has several options to finance both its original and modified LTIIP, including through traditional distribution rates, shareholder equity, retained earnings, the DSIC, and debt. *Id.* at 9-10.

**2. I&E’s Answer**

In its Answer, I&E finds no merit in the OSBA’s Reconsideration Petition. I&E states that the Reconsideration Petition fails to satisfy the *Duick* standard as the OSBA simply just restated the same arguments it presented throughout this proceeding and which the ALJ and the Commission duly considered and rejected. I&E Answer at 7. Specifically, I&E disagrees with the OSBA’s argument that for the Commission to grant a DSIC cap waiver, there must be a finding of extraordinary circumstances. *Id.* at 8. I&E argues that contrary to the OSBA’s assertion, the standard for granting a DSIC cap waiver only requires that the waiver be necessary for the utility to provide adequate, efficient and reasonable service and not a demonstration of extraordinary circumstances. I&E contends the Commission clearly articulated this position in its *May 2017 Order* when it stated that:

[T]he Commission’s approval of PGW’s waiver request was not limited to the presence of extraordinary circumstances. Rather, the Commission relied on a combination of substan-tial evidence on the record that justified accelerating the replacement of PGW’s aging infrastructure and how the repair, improvement or replacement would help PGW ensure and maintain adequate, efficient, safe, reliable and reasonable service.

*Id.* (quoting *May 2017 Order* at 22).

I&E argues this is further evident in the Commission’s acknowledgement of the Company’s low pressure and meter relocation issues, which are safety and reliability issues, and the need for UGI-CPG’s modified LTIIP to address these issues through the installation or upgrade of regulator stations and higher pressure mains to increase the pressure of UGI-CPG’s system. I&E contends that the *May 2017 Order* also recognized Mr. Patel’s testimony that risks for UGI-CPG’s steel mains were trending upwards. According to I&E, this affirms that safety measures need to be undertaken to ensure that customers of the Company continue to receive safe and reliable service. *Id.* at 9 (citing *May 2017 Order* at 40, 42).

Furthermore, responding to the OSBA’s argument regarding Mr. Patel’s testimony on the safety of UGI-CPG’s system, I&E counters that the Commission rightly relied on Mr. Patel’s expertise as a pipeline safety engineer in support of its decision to grant the waiver request. I&E avers that the fact that some of the metrics employed in this case show that the Company is increasing the safety of its distribution system in certain aspects does not mean other areas depicting higher risks for the system are less important. I&E also disputes the OSBA’s effort to discount Mr. Patel’s and Mr. Bell’s testimonies concerning meter relocation. Rather, I&E points out the Commission’s recognition of the Company’s effort to comply with the Commission’s meter relocation requirements, the positive impact of the Company’s meter relocation program, and the potential positive impact of these efforts in granting the waiver request. *Id.* at 9-12 (citing *May 2017 Order* at 42; OSBA M.B. at 19).

I&E also disagrees with the OSBA’s conclusion that the *May 2017 Order* indicates that UGI-CPG is “on the brink of ‘disastrous consequences.’” I&E explains that the Commission only emphasized the need for a proactive, rather a reactive approach, in terms of gas pipeline safety for the Company’s system. UGI-CPG asserts that like the *PGW Order*, the *May 2017 Order* was only a way for the Commission to provide UGI‑CPG with the tools it needed to address the safety issues associated with its system to prevent any disastrous consequences that would cause harm to the Company and its customers. *Id.* at 14-15 (citing *May 2017 Order* at 16; *PGW Order*).

Finally, responding to the OSBA’s request that the Company utilize other cost recovery methods rather than depending solely on the DSIC, I&E argues that unlike other forms of recovery, recovery through the DSIC ensures the funds are used specifically for the projects identified in the LTIIP and nothing else. I&E contends that not only is a DSIC increase a more modest increase compared to a base rate case increase but it also allows for a quicker recovery of the money spent, which encourages a focus on addressing the safety issues of the Company. I&E asserts that a quicker recovery helps utilities to improve service quality and rate stability, reduce the number of main breaks, lower the number of service interruptions, increase safety, and lower lost-and-unaccounted-for-gas for NGDCs. I&E Answer at 12-13, 15-16.

**3. UGI-CPG’s Answer**

In its Answer, UGI-CPG also disagrees with the OSBA’s Reconsideration Petition. UGI-CPG avers the Reconsideration Petition fails to meet the *Duick* standard because there are no new, novel or overlooked arguments, as espoused by the OSBA. UGI-CPG Answer at 2-5. UGI-CPG asserts that the “extraordinary circumstances” or “absolute necessity” standard proposed by the OSBA in its Reconsideration Petition is the same standard the OSBA always advocated in every DSIC-waiver proceeding and has always been rejected by the Commission and the Commonwealth Court.[[12]](#footnote-12) *Id.* at 5-7. The Company argues the OSBA’s standard, which ignores the complementary relationship between Section 1501 of the Code and Section 1358, would require UGI‑CPG or any investor-owned utility to be in violation of its obligation under Section 1501 of the Code before a waiver could be granted. UGI-CPG avers that the Commission’s multi-factor test is the most appropriate form of evaluating DSIC-waiver requests under Section 1358. *Id.* at 8.

Responding to the OSBA’s dispute of Mr. Patel’s testimony regarding the safety of UGI-CPG’s system, the Company avers that the safety metrics and risk of inside meters highlighted by Mr. Patel, were more complicated than portrayed by the OSBA and have been adequately addressed by I&E in the instant proceeding. The Company states the OSBA failed to present any new facts or arguments in its Reconsideration Petition that differ from those it previously raised and which were duly considered and rejected by the Commission in its *May 2017 Order*. *Id.* at 8-10 (citing Reconsideration Petition at 6; OSBA M.B. at 19; I&E M.B. at 9-14; I&E R.B. at 4-8; I&E R. Exc. at 5-6; R.D. at 24-25; Tr. at 88, 104; *May 2017 Order* at 40, 42).

UGI-CPG also denies the OSBA’s paraphrase and misstatement of Mr. Bell’s testimony in the Reconsideration Petition. In its Reconsideration Petition, the OSBA asserts Mr. Bell testified that UGI-CPG would continue its main replacement program regardless of whether the waiver was approved or not. Specifically, the OSBA submits that under cross examination, Mr. Bell stated:

UGI CPG will “continue with [its annual] asset optimization [plan] as filed . . . in order to maintain our current levels or improve our levels of safe and reliable service” regardless of whether a DSIC rate cap waiver was approved (Transcript, at 86).

In regard to the Company’s originally filed LTIIP, and its modified LTIIP, UGI CPG will “execute the LTIIP Plans as approved” regardless of whether a DSIC rate cap was approved (Transcript, at 88-89); and

The granting of a DSIC rate cap waiver will not make UGI CPG materially safer (Tr[.] at 87).

Reconsideration Petition at 7-8. The OSBA, therefore, concludes that “granting a DSIC rate cap waiver does not ***allow*** UGI CPG anything. Granting the DSIC rate cap waiver does, as Mr. Bell stated, help support the Company financially.” *Id.* at 8 (citing Tr. at 88). However, UGI-CPG retorts that for clarity, Mr. Bell described the importance of a DSIC waiver to the Company’s operations, stating:

[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.

UGI-CPG Answer at 10 (citing Tr. at 88). UGI-CPG clarifies that Mr. Bell also testified that the Company’s modified LTIIP, which was approved during the pendency of the instant proceeding, was undertaken with the anticipation that UGI-CPG would obtain financial relief through the DSIC-waiver proceeding to support its main replacement program. The Company notes while undertaking the work identified in the modified LTIIP is necessary to ensure safe and reliable service to customers, the increased investment associated with the modified LTIIP is burdensome and the DSIC waiver is designed to address this burden. UGI-CPG Answer at 10-11 (citing Tr. at 89, R.D. at 23‑24).

Pertaining to the OSBA’s argument that the *May 2017 Order* suggests that UGI-CPG is prone to disastrous consequences, the Company considers this argument outside the record evidence, irrelevant to the instant proceeding, and requests that it be rejected. UGI-CPG Answer at 12-13 (citing *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).

Regarding the OSBA’s disagreement with the Commission’s comparison of the safety and reliability concerns of UGI-CPG with those of PGW, the Company argues the OSBA’s disagreement with the Commission does not make the argument a new or novel issue. Moreover, the Company asserts that the OSBA’s witness, Mr. Knecht, is not a qualified expert to discuss safety issues and has no grounds to challenge the conclusion reached by two experts in gas safety, Mr. Patel and Mr. Dell, that a waiver of the DSIC rate cap will help enhance UGI-CPG’s main replacement program, which is critical to the Company’s provision of safe and reliable service to its customers. UGI-CPG Answer at 13.

Finally, the Company asserts that most of the arguments in the Reconsideration Petition, including the OSBA’s argument regarding obtaining relief though a base rate proceeding, have already been considered and rejected by the Commission throughout the instant proceeding. Thus, the Company requests that the Commission deny the Reconsideration Petition because it is merely a repetition of the same arguments that have already been considered and rejected by the Commission in the *May 2017 Order*. UGI-CPG Answer at 13-15.

**D. Disposition**

As stated above, Petitions for Reconsideration are governed by *Duick*, which essentially requires a two-step analysis. First, we determine whether a party has offered new or novel arguments, or identified considerations that appear to have been overlooked or not addressed by the Commission in its previous order. We will not reconsider our previous decision based on arguments that have already been considered. However, we will not necessarily modify our prior decision just because a party offers a new and novel argument, or identifies a consideration that was overlooked or not addressed by the Commission in its previous order. The second step of the *Duick* analysis is, therefore, to evaluate the new or novel argument or overlooked consideration, in order to determine whether to modify our previous decision.

Based on our review of the OSBA’s Reconsideration Petition, and in light of the record in this proceeding, other than the OSBA’s assertion that our *May 2017 Order* connotes that UGI-CPG’s system is prone to disastrous consequences, with which we disagree, we find no new or novel arguments in the Reconsideration Petition or any evidence that we overlooked in our *May 2017 Order*. Rather, we agree with I&E that the *May 2017 Order* highlights the potential safety issues associated with UGI-CPG’s system and provides the Company with the tools it needs to proactively address the safety issues in order to prevent future potential disastrous consequences that could cause harm to the Company and its customers. Reconsideration Petition at 9-11; I&E Answer at 14-15. We therefore see no reason to reconsider our *May 2017 Order* as discussed below.

In reaching our determination to grant UGI-CPG’s request for a waiver of the 5% DSIC cap and to increase the cap from 5% to 10% of billed distribution revenues, we properly exercised our discretion under Section 1358(a)(1) of the Code, 66 Pa. C.S. § 1358(a)(1), in finding that the waiver was necessary for UGI-CPG to provide “adequate, efficient, safe, reliable and reasonable service.” In our *May 2017 Order*, we did not adopt the OSBA’s position that UGI-CPG was required to show “extraordinary circumstances” for a waiver of the DSIC cap. Moreover, we emphasized that we conduct evaluations of DSIC cap waiver requests on a case-by-case basis on the merits of the record evidence in each individual case. As we stated earlier, we granted the waiver request in our *May 2017 Order* after we considered several factors that we deemed relevant. Our evaluation of UGI-CPG’s waiver request and consideration of the record evidence in this case revealed there was sufficient evidence in the record to support granting the waiver request and increasing the DSIC cap from 5% to 7.5% of billed distribution revenues.

Under the circumstances, we considered, *inter alia,* the testimonies of I&E and UGI-CPG’s gas safety experts regarding safety and reliability concerns associated with the Company’s system. The record evidence also indicates that per the *Commission-approved Modified LTIIP,* UGI-CPG proposed to increase the amount of infrastructure spending over its original LTIIP to improve safety and reliability of its system. We emphasized in our *May 2017 Order* that the *Commission-approved Modified LTIIP* would, among other things*,* improve system reliability in many areas of UGI’s distribution system, including projects in the Harrisburg/Camp Hill region and the Millersville/Lancaster region. We noted that the *Commission-approved Modified LTIIP* would also help the Company to address the Pennsylvania Department of Transportation mandated facility relocations and Commission mandated meter relocation project. We noted that UGI averred it had reached the 5% DSIC cap as of July 1, 2016, and could no longer recover DSIC-eligible investments through the DSIC due to the cap. *May 2017 Order* at 38-43. Moreover, unlike the Columbia DSIC-waiver proceeding, UGI-CPG has not filed a base rate case for almost seven years and has also not utilized the fully projected future test year mechanism that Columbia effectively used to address its main replacement efforts. *Id.* at 44.

Additionally, we reiterate that we adopted a DSIC cap increase in our *May 2017 Order* that appropriately balances the interests of the Company and those of its customers, rather than the ALJ’s recommended calculation of 8.65%. *Id.* at 62. In doing so, we agreed with I&E that increasing the DSIC cap to 7.5% is in the public interest because it would facilitate the replacement of the Company’s cast iron mains in a timelier manner and ultimately promote safe and reliable service for the Company’s customers. We noted that UGI-CPG demonstrated in its modified LTIIP that the additional DSIC funding would be used prudently to address the safety concerns identified by I&E’s Gas Safety Division. *Id.* at 64.

We also noted that the record evidence in this proceeding indicates that a 1% increase in the DSIC cap increases the Company’s customers’ bills by $0.56 per month. Therefore, an increase of the DSIC cap from 5% to 7.5% would result in an additional increase of 2.5% or $1.40 per month compared to the additional 5% or $2.80 per month increase in the Company’s customer bill for a 10% increase. We emphasized that given the additional benefits of repairing and replacing at-risk mains in the Company’s distribution system, we believed a 7.5% increase appeared adequate to provide sufficient funds for the Company to embark on its accelerated main replacement program, while also resulting in a moderate increase in the Company’s customers’ monthly bills compared to the significant increase in monthly customer bills for a 10% increase. Thus, we concluded that an increase in the DSIC cap from 5% to 7.5% is reasonable in this case and is also consistent with our prior decisions in which we permitted an increase to 7.5%. *Id.* at 65. We reiterate that the increase of UGI-CPG’s DSIC rate to 7.5% is not a permanent rate change but is only valid until UGI-CPG’s next LTIIP filing or until there is a statutory reason to reduce or suspend the DSIC.

In light of the above, we conclude that we do not see any new or novel arguments in the Reconsideration Petition or any evidence we overlooked that justifies a reconsideration of our decision to grant, in part, UGI-CPG’s request to waive the 5% DSIC cap and to allow the Company to increase its maximum allowable DSIC charge up to 7.5% of billed distribution revenues in our *May 2017 Order*. As such, we will deny the OSBA’s Reconsideration Petition.

**V. Conclusion**

Based on the foregoing discussion, we shall deny the OSBA’s Reconsideration Petition, consistent with the discussion set forth in this Opinion and Order; **THEREFORE,**

**IT IS ORDERED:**

1. That the Petition for Reconsideration filed by the Office of Small Business Advocate, on May 25, 2017, relative to the Opinion and Order entered on May 10, 2017, in the above-captioned proceeding is denied, consistent with this Opinion and Order.

2. That this proceeding be marked closed.

 **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: September 21, 2017

ORDER ENTERED: September 21, 2017

1. *See, Petition of UGI Central Penn Gas, Inc. for Approval of its Long-Term Infrastructure Improvement Plan; Petition of UGI Penn Natural Gas, Inc. for Approval of a Distribution System Improvement Charge,* Docket No. P-2013-2398835 (Order entered September 11, 2014) *(September 2014 UGI-CPG DSIC Order)*. [↑](#footnote-ref-1)
2. *See, Petition of UGI Central Penn Gas, Inc. for Approval of a Distribution System Improvement Charge,* Docket No. P-2013-2398835 (Order entered July 8, 2015) *(July 2015 UGI-CPG DSIC Order).* [↑](#footnote-ref-2)
3. *See,* *Petition of UGI Central Penn Gas, Inc. for Approval of their Modified Long-Term Infrastructure Improvement Plan (Modified LTIIP Petition),* Docket No. P‑2013-2398835 (Order entered June 30, 2016) *(Commission-approved Modified LTIIP).* [↑](#footnote-ref-3)
4. The Company averred that for each 1% increase to the DSIC cap, the customer bills would increase by only $0.56 per monthly bill. Petition at 7. [↑](#footnote-ref-4)
5. *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 (Order entered January 28, 2016) (*PGW Order*). [↑](#footnote-ref-5)
6. *Petition of Columbia Gas of Pennsylvania, Inc. for a Waiver 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,* Docket No. P-2016-2521993 (Opinion and Order entered December 22, 2016) (*Columbia* *DSIC Waiver Order*). [↑](#footnote-ref-6)
7. PGW, a municipally-owned utility with limited access to capital (funded by City bonds) and entirely without equity capital, is regulated on a cash flow (not rate base) basis and, therefore, is not comparable to UGI or any of the private companies that serve Pennsylvania. [↑](#footnote-ref-7)
8. *See,* UGI-CPG Exc. at 3-8; OCA Exc. at 10-11; OSBA Exc. at 13; I&E Exc. at 2-5; CPGLUG Exc. at 8. [↑](#footnote-ref-8)
9. Consistent with the testimony of UGI-CPG’s witness, Hans G. Bell, that Mr. Patel’s data regarding inside meters “are accurate to the extent the underlying records upon which the figures were prepared are also accurate,” the OSBA questions Mr. Patel’s testimony that the number of inside meters at the Company increased from 2,853 in 2013 to 3,848 in 2014. Reconsideration Petition at 6 (quoting Tr. at 84). [↑](#footnote-ref-9)
10. Although the OSBA agrees with Mr. Patel’s testimony that UGI-CPG’s “steel risks increased from 63,475 points to 65,441 points (2012-2015),” the OSBA, however, questions if just one safety risk identified by I&E justifies the granting of the waiver. Reconsideration Petition at 7. [↑](#footnote-ref-10)
11. The OSBA avers that while it agrees with the serious safety and reliability issues the Commission identified in a similar DSIC-waiver proceeding for UGI Penn Natural Gas, Inc. (UGI-PNG), at Docket No. P-2016-2537594, filed contemporaneously with the instant proceeding, no such safety issues exist on the UGI-CPG’s system. Reconsideration Petition at 11. [↑](#footnote-ref-11)
12. *See,* *May 2017 Order* at 65, *Columbia* *DSIC Waiver Order, PGW Order, Aqua PA Order, Hess, et. al. v. Pa. PUC*,107 A.3d 246, 262 (Pa. Cmwlth. 2014). [↑](#footnote-ref-12)