



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

July 18, 2018

Secretary Rosemary Chiavetta  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building, Second Floor  
400 North Street  
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v.  
UGI Utilities Inc. - Electric Division  
Base Rates  
Docket No. R-2017-2640058

Dear Secretary Chiavetta:

Enclosed for filing please find the Bureau of Investigation and Enforcement's (I&E) **Reply Brief** for the above-captioned proceeding

Copies are being served on all active parties of record. If you have any questions, please contact me at (717) 425-7593.

Sincerely,

Scott B. Granger  
Prosecutor

Bureau of Investigation and Enforcement  
PA Attorney I.D. No. 63641

SBG/smw  
Enclosure

cc: Certificate of Service  
ALJ Steven K. Haas  
ALJ Andrew M. Calvelli

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Pennsylvania Public Utility Commission</b>	:	
	:	
v.	:	<b>Docket No. R-2017-2640058</b>
	:	
<b>UGI Utilities, Inc. – Electric Division</b>	:	

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**REPLY BRIEF  
OF THE  
BUREAU OF INVESTIGATION & ENFORCEMENT**

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Dated: July 18, 2018

## TABLE OF CONTENTS

I.	INTRODUCTION .....	1
A.	History of the Proceeding.....	1
B.	Legal Standards / Burden of Proof.....	1
II.	SUMMARY OF ARGUMENT .....	2
III.	STIPULATION OF PARTIAL SETTLEMENT .....	7
A.	Capital Structure.....	7
B.	Depreciation Rates .....	7
C.	EV Rider.....	7
D.	Storm Damage Expense Rider .....	7
E.	Pennsylvania Public Utility Realty Tax .....	7
F.	Universal Service Programs .....	7
G.	Miscellaneous Accounting Issues .....	8
IV.	RATE BASE.....	8
A.	Original Cost Utility Plant in Service .....	8
1.	Average Rate Base Methodology vs Year End .....	8
2.	Electrical Engineering and Operations Center .....	14
B.	Accumulated Depreciation.....	14
C.	Additions to Rate Base.....	15
1.	Cash Working Capital .....	15
2.	Materials and Supplies .....	17
D.	Deductions from Rate Base.....	18
1.	Accumulated Deferred Income Taxes.....	18
2.	Excess Accumulated Deferred Income Taxes.....	18
3.	Act 40.....	19
4.	Customer Deposits .....	19
E.	Cloud Based Program .....	20
F.	Unite Phase 2 Costs.....	21

G.	Conclusions as to Rate Base.....	21
V.	REVENUES.....	21
VI.	EXPENSES.....	22
A.	Vegetation Management Expense.....	23
B.	Company Owned Services (“COS”) Program Expenses .....	24
C.	Environmental Remediation Expense .....	27
D.	Storm Damage Expense .....	29
E.	Rate Case Expense .....	30
F.	Employees Expenses .....	32
1.	Salaries and Wages Net of Employee Additions.....	32
2.	Employee Additions.....	33
3.	Outside Services Employed .....	34
4.	Employee Activity Costs.....	35
5.	Allocated Stock Options and Restricted Stock Awards .....	36
G.	Depreciation Expense.....	39
H.	Other Post-Employment Benefits.....	40
I.	Power Supply Expense.....	40
J.	Conclusion as to Expenses .....	41
VII.	TAXES.....	41
A.	Tax Cuts and Jobs Act of 2017 .....	41
B.	Excess Accumulated Deferred Income Taxes.....	46
VIII.	RATE OF RETURN .....	50
A.	Rate of Return Standards.....	50
B.	Barometer Group.....	51
C.	Capital Structure.....	53
D.	Cost of Long Term Debt .....	53
E.	Cost of Common Equity.....	53
E.	Quarterly Earnings Reports and Rate of Return/Return on Equity .....	57
F.	Conclusion as to Overall Rate of Return.....	57
IX.	RATE STRUCTURE.....	58

A.	Allocated Class Cost of Service Study.....	59
B.	Revenue Allocation.....	59
1.	Gradualism.....	59
C.	Rate Design.....	61
1.	Summary of Rate Design.....	61
2.	Residential Customer Charge.....	61
3.	Non-Residential Customer Charges.....	63
D.	Scale Back.....	63
D.	Summary and Alternatives.....	64
X.	UNIVERSAL SERVICE.....	64
XI.	MISCELLANEOUS ISSUES.....	65
A.	UGI Electric’s Quarterly Earnings Reports.....	65
B.	Public Input Hearings.....	74
XII.	CONCLUSION.....	75
	APPENDICES.....	76
	Appendix A.....	76
	I&E TABLE I – INCOME SUMMARY.....	76
	I&E TABLE I(A) – RATE OF RETURN.....	77
	I&E TABLE I(B) – REVENUE FACTOR.....	78
	I&E TABLE II – SUMMARY OF ADJUSTMENTS.....	79
	I&E TABLE III – INTEREST SYNCHRONIZATION.....	80
	I&E TABLE IV – CASH WORKING CAPITAL.....	81
	I&E TABLE V – CASH WORKING CAPITAL-TAXES.....	82
	I&E TABLE VI – CASH WORKING CAPITAL-O&M EXPENSE.....	83
	Appendix B.....	84
	Federal Tax Adjustment Credit (FTAC).....	84

## TABLE OF CITATIONS

### Cases

<i>Barasch v. Pa. P.U.C.</i> , 493 A.2d 653 (Pa. 1985).....	44
<i>Bluefield Water Works &amp; Improvements Co. v. Public Service Commission of West Virginia</i> , 292 U.S. 679 (1923).....	51
<i>Cup v. Pa. P.U.C.</i> , 556 A.2d 470 (Pa. Commw. 1989).....	22
<i>Estate of Cowart v. Nicklos Drilling Co.</i> , 112 S. Ct. 2589 (1992).....	71
<i>Federal Power Commission v. Hope Natural Gas Co.</i> , 320 U.S. 591 (1944).....	51
<i>Pa. P.U.C. v. Roaring Creek Water Company</i> , 81 Pa. P.U.C. 285, 150 P.U.R. 4 <sup>th</sup> 449 (1994).....	37, 38
<i>Pa. P.U.C. v. West Penn Power</i> , 73 Pa. P.U.C. 454, 199 PUR 4 <sup>th</sup> 110 (1990).....	58
<i>Peoples Natural Gas Company v. Pa. P.U.C.</i> , 502 A.2d 722 (Pa. Commw. 1985).....	58
<i>Philadelphia Electric Co. v. Pa. Public Utility Commission</i> , 502 A.2d 722 (Pa. Commw. 1985).....	43
<i>Pittsburgh &amp; Lake Erie R.R. v. Railway Labor Executives' Ass'n</i> , 491 U.S. 490 (1989).....	71
<i>UGI Corp. v. Pa. P.U.C.</i> , 410 A.2d 923 (Pa. Commw. 1980).....	22
<i>Western Pennsylvania Water Company v. Pa. P.U.C.</i> , 422 A.2d 906 (Pa. Commw. 1980).....	22

## **Pennsylvania Administrative Agency Decisions**

<i>Pa. P.U.C. v. City of DuBois-Bureau of Water,</i> Docket No. R-2016-2554150.....	54
<i>Pa. P.U.C. v. Emporium Water Company,</i> Docket No. R-2014-2402324.....	30
<i>Tax Cuts and Jobs Act of 2017,</i> Docket No. M-2018-2641242.....	2, 5, 41, 42, 43, 44, 45, 46, 47, 55

## **Statutes**

1 Pa. C.S. § 1921(b) .....	71
66 Pa. C.S. § 315(a) .....	22
66 Pa. C.S. § 315(e) .....	9, 10, 68
66 Pa. C.S. § 523 .....	56
66 Pa. C.S. § 523(a) .....	56
66 Pa. C.S. § 1304.....	58
66 Pa. C.S. § 1321 .....	35
66 Pa. C.S. § 1358(b)(3) .....	69

## **Regulations**

52 Pa. Code § 53.53 .....	67
52 Pa. Code §§ 71.1 et. seq. ....	6, 68
52 Pa. Code § 71.2 .....	68, 69
52 Pa. Code § 71.6(d) .....	74

## **Other Authorities**

The Rehnquist Court's Canons of Statutory Construction (1994) .....	71
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## **I. INTRODUCTION**

### **A. History of the Proceeding**

The history of the proceeding was addressed in I&E's Main Brief ("I&E MB") and does not need to be addressed further here.<sup>1</sup> The evidentiary hearings were held on June 11-12, 2018. A court reporter was present, and Hearing Transcripts ("Tr.") for June 11, 2018, pages 72 through 154, and for June 12, 2018, pages 155 through 169, were prepared and distributed to the parties.

All parties submitted their main briefs on July 2, 2018, including UGI Electric ("UGI MB"); Office of Consumer Advocate ("OCA MB"); and the Office of Small Business Advocate ("OSBA MB"). I&E now submits this I&E Reply Brief ("I&E RB") in response to the main briefs submitted by the parties and in support of the arguments made by the I&E witnesses in the record-evidence presented.

### **B. Legal Standards / Burden of Proof**

I&E fully addressed the burden of proof in its Main Brief.<sup>2</sup> I&E contends that with respect to both existing and proposed tariff rates and terms, the burden of proving the justness and reasonableness of those rates is always on the utility.

I&E asserts that UGI Utilities, Inc. - Electric Division has failed to meet its burden and therefore I&E respectfully requests that the Administrative Law Judges ("ALJs") and the Commission adopt the adjustments; the overall revenue requirement; and the return

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<sup>1</sup> I&E MB, pp. 1-4.

<sup>2</sup> I&E MB, pp. 4-5.



on equity (“ROE”) and overall rate of return (“ROR”) set forth in the record evidence presented by I&E and as asserted in this I&E Main Brief.

## II. SUMMARY OF ARGUMENT

Briefly, on January 26, 2017, UGI Utilities, Inc. - Electric Division (“UGI Electric” or “Company”) filed its proposed Tariff - Electric - PA. P.U.C. Nos. 6 and 2S (“Tariffs 6 and 2S”) with a proposed effective date of March 27, 2018. UGI Electric stated that it is requesting an increase in its annual jurisdictional distribution operating revenues by \$9.254 million.<sup>3</sup> UGI Electric claimed the \$9.254 million increase would produce an increase in total revenues (distribution, transmission and generation charges) of approximately 10.4%.<sup>4</sup> UGI Electric’s January 26<sup>th</sup> filing, however, did not address the impact of the Tax Cut and Jobs Act of 2017 (“TCJA”) signed into law on December 22, 2017, which significantly reduced the corporate Federal Income Tax rate from 35% to 21%.

Forty-five days later, on March 12, 2018, UGI Electric finally filed supplemental direct testimony after announcing its analysis of the TCJA was complete. The UGI Electric management team, however, failed to include any type of mechanism to flow back the tax savings to consumers on a current basis. This is the same management team that now asks this Commission for “management performance points” regarding the Company’s requested return on equity and overall rate of return. The Company’s

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<sup>3</sup> UGI Electric Statement of Reasons, p. 1.

<sup>4</sup> *Id.*

supplemental testimony contained slight adjustments and the Company revised its filing reducing its revenue requirement increase request from \$9,254,354 to \$8,491,187.<sup>5</sup>

I&E rejects the Company's requested increase. I&E submits that the totality of I&E's adjustments demonstrates that UGI Electric is only entitled to receive a revenue requirement increase of \$818,000<sup>6</sup> to I&E's adjusted present rate revenue of \$89,032,000<sup>7</sup> which results in a total allowable revenue of \$89,850,000 as represented in Appendix A on I&E Table I - Income Summary attached hereto. This will allow UGI Electric to have the opportunity to earn a fair return on and of its investments while providing safe and reliable service at just and reasonable rates. Further, for the reasons discussed below, I&E contends that the record evidence presented by UGI Electric does not substantiate a revenue increase of \$8,491,187; instead, based upon the evidence of record, the Commission should only grant UGI Electric the I&E recommended revenue increase of \$818,000 and a return on equity of 8.62%.<sup>8</sup>

I&E recommends, in the absence of clear guidance regarding the application of the FPFTY to base rate proceedings in Pennsylvania, that the ALJs recommend and the Commission adopt, the use of an average rate base methodology to calculate UGI Electric's FPFTY utility plant-in-service amount. I&E asks that the Commission reject the Company's use of the year-end rate base methodology. I&E believes that using the average rate base methodology results in rates that are more just and reasonable because

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<sup>5</sup> I&E St. No. 3, p. 2, *citing* UGI Elec. St. No. 2-SD, p. 3.

<sup>6</sup> I&E RB, App. A, Table I, I&E Revenue Increase.

<sup>7</sup> I&E RB, App. A, Table I, Total Allowable Revenues.

<sup>8</sup> I&E RB, App. A, Table IA, I&E Cost of Common Equity.

ratepayers are not paying for approximately one year of plant that is only proposed and is not subject to any guarantee of being completed and placed into service. Therefore, after all appropriate I&E adjustments are made to rate base, I&E recommends the Company's FPFTY rate base equal \$93,835,143.

I&E asserts, regarding the Company's claimed expenses, that the Company has not met its burden of proof and has not submitted substantial record evidence to support the Company's proposed expenses. Instead, as fully discussed in I&E's Main Brief and this I&E Reply Brief, I&E has submitted substantial record evidence to support I&E's adjustments to the Company's proposed expenses. I&E's total expense adjustments are \$(1,283,000) as shown in Appendix A on I&E Table II, Summary of Adjustments attached hereto.

Further, I&E recommends that the Company be required to flow back to ratepayers, via a reconcilable 1307 surcharge mechanism (which could be entitled the Federal Tax Adjustment Credit, or FTAC), the net tax savings associated with the reduction in the federal income tax rate for the period January 1, 2018 through the date when new rates from this proceeding are expected to go into effect. I&E's suggested language for the FTAC is set forth in Appendix B attached hereto.

I&E also asserts that the Company return the excess Accumulated Deferred Income Tax ("ADIT") currently held by the Company to ratepayers over a period of time equal to the remaining life of the affected assets per IRS regulations. In conjunction, I&E also recommends that the Company be required to reduce rate base in the revenue requirement formula for the excess ADIT balance which resulted as a reclassification of

the portion of the accumulated ADIT associated with the reduction in the federal income tax rate from 35% to 21% due to the enactment of the Tax Cut and Jobs Act.

I&E recommends that the return on equity (“ROE”), for the Company be set at 8.62% and the overall rate of return (“ROR”), for the Company be set at 6.82%. I&E arrived at these figures by implementing the Discounted Cash Flow (“DCF”) method as the primary method to determine the cost of common equity. I&E also used the results of the Capital Asset Pricing Model (“CAPM”) as a comparison to I&E’s DCF results. This methodology for determining I&E’s recommended cost of common equity using a DCF analysis, with a CAPM analysis for comparison purposes, has been accepted by the Commission as recently as March of 2017. Further, I&E’s methodology of calculating a ROE and an overall ROR, as implemented in this proceeding, withstands all of the various arguments propounded by the Company witnesses and should therefore be approved.

Additionally, regarding the ROE and overall ROR discussion, I&E asks the ALJs and the Commission to consider the substantial evidence presented by I&E regarding the apparent attempt by the Company to manipulate the Company’s Quarterly Earnings Reports (“QER”) to reflect a substantially lower ROE and ROR than the Company was actually earning. In fact, the substantial evidence uncovered by I&E regarding the QERs reveals that the Company was actually earning a full five percentage points (14.9%) above the 2017 national average of 9.75% cited by UGI Electric in its Main Brief.

Regarding rate structure and rate design, it has been 22 years since UGI Electric customers have seen an increase in their customer charge and their overall rates;

therefore, I&E asks that the ALJs and the Commission consider the rate design concepts of rate shock, gradualism, and scale back, while setting the new rates for the UGI Electric customers based on any revenue increase granted in this base rate proceeding. I&E has attempted to balance the interests of both the ratepayers and the Company in setting the I&E proposed customer charges and usage rates for Rate R and for Rate GS-5 as set forth in this I&E Reply Brief. Further, I&E believes that its recommended scale back methodology of scaling back the usage rates for Rate R and Rate GS-5 sequentially to produce specific revenue levels for each class before any scale back of I&E's recommended customer charge, if necessary, is the appropriate approach. I&E notes that its scale back methodology is based upon the recommendation that usage rates should be scaled back first, prior to any scale back of the customer charge, to avoid inadvertently increasing the usage rates.

And finally, I&E has presented the ALJs and the Commission with substantial record evidence regarding the Company's Quarterly Earnings Reports, specifically the QER for the period ending September 30, 2017. I&E witness Joseph Kubas presented extensive testimony regarding the apparent manipulation of the Company's QER that resulted in a representation that the Company was earning a substantially reduced ROE and overall ROR. The Company's argument that somehow Act 11 modified the QER reporting regulations set forth in 52 Pa. Code Chapter 71 ("Chapter 71") is wholly without merit and defies the rules of statutory construction. Further, the evidence uncovered by I&E renders the Company's hollow pleas for a higher ROE and ROR baseless.

UGI Electric has failed to present substantial credible evidence demonstrating the need for an \$8.5 million revenue requirement increase. Instead, I&E submits that its substantial record evidence and adjustments support a revenue requirement increase of only \$818,000.

### **III. STIPULATION OF PARTIAL SETTLEMENT**

The Stipulation of Partial Settlement was addressed in I&E's Main Brief and does not need to be addressed further here.<sup>9</sup>

#### **A. Capital Structure**

Addressed in I&E's Main Brief.

#### **B. Depreciation Rates**

Addressed in I&E's Main Brief.

#### **C. EV Rider**

Addressed in I&E's Main Brief.

#### **D. Storm Damage Expense Rider**

Addressed in I&E's Main Brief.

#### **E. Pennsylvania Public Utility Realty Tax**

Addressed in I&E's Main Brief.

#### **F. Universal Service Programs**

Addressed in I&E's Main Brief.

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<sup>9</sup> I&E MB, pp. 13-14.

## **G. Miscellaneous Accounting Issues**

Addressed in I&E's Main Brief.

## **IV. RATE BASE**

### **A. Original Cost Utility Plant in Service**

Utility plant-in-service comprises all the utility's intangible assets (i.e., organization costs, franchise and consents costs, and land and land right costs) and tangible assets (i.e., facilities and equipment). Moreover, for a utility plant to be included in rates, the plant must be used and useful in the provision of utility service to the customers. Therefore, by definition, only plant currently providing or capable of providing utility service to customers is eligible to be reflected in rates.<sup>10</sup>

UGI Electric has selected the year ended September 30, 2017 as the HTY, the year ending September 30, 2018 as the FTY, and the year ending September 30, 2019 as the FPFTY.<sup>11</sup>

#### **1. Average Rate Base Methodology vs Year End**

As I&E argued in its Main Brief, in the absence of clear guidance regarding the application of the FPFTY to base rate proceedings in Pennsylvania, I&E recommends that the Company use an average rate base methodology to calculate UGI Electric's FPFTY utility plant-in-service amount.<sup>12</sup> I&E recommended the use of an average rate base methodology rather than the year-end rate base methodology used by the

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<sup>10</sup> I&E St. No. 3, pp. 4-5.

<sup>11</sup> UGI Elec. St. No. 1, p. 8.

<sup>12</sup> I&E MB, pp. 15-25.

Company.<sup>13</sup> I&E believes that using the average rate base methodology results in rates that are more just and reasonable because ratepayers are not paying for approximately a year of plant that is only proposed and is not subject to any guarantee of being completed and placed into service.<sup>14</sup> Therefore, I&E recommends that UGI Electric's FPFTY year-end utility plant-in-service be rejected and that a total utility plant-in-service amount of \$173,871,383 be adopted instead.<sup>15</sup> I&E's recommendation regarding the use of an average rate base methodology instead of the end-year methodology is also supported by OCA.<sup>16</sup>

The Company argues that, generally, rates are established based on a test year and a utility's annual revenue requirement.<sup>17</sup> Rates set in this proceeding will provide for twelve months return of, through depreciation, and return on the approved rate base.<sup>18</sup> As a result, the Company argues, over the course of an annual period, customers will pay exactly one year of revenue requirement associated with plant in service regardless of when particular plant is placed in service during the test year.<sup>19</sup> By this statement, the Company appears to be guaranteeing that all proposed FPFTY plant will be placed in service by the end of the FPFTY. This is in direct contradiction to the Company's failure to provide in-service dates for the proposed plant in its case in chief.<sup>20</sup>

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<sup>13</sup> I&E St. No. 3, p. 5-6.

<sup>14</sup> I&E St. No. 3, p. 6.

<sup>15</sup> I&E St. No. 3-SR, pp. 11-12, *citing* I&E Exh. No. 3-SR, Sch. 1, ln. 6

<sup>16</sup> *See* OCA MB pp. 13-19.

<sup>17</sup> UGI MB, p. 26.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*, pp. 26-27.

<sup>20</sup> *See* I&E St. No. 3-SR, pp. 6-7; I&E Exh. No. 3, Sch. 2.



The Company also argues that I&E’s “used and useful” argument is inconsistent with the plain language of Act 11.<sup>21</sup> The Company cites Section 315(e)<sup>22</sup> but ignores some of the key language in Section 315(e).<sup>23</sup> Section 315(e) uses qualifying language throughout. For example, Section 315(e) states the Commission *may*, in its discretion, adjust the utilities rates on the basis of the data provided by the company evidencing the accuracy of the estimates contained in the FPFTY.<sup>24</sup> Section 315(e) also states the Commission *may* permit facilities which are projected to be in service during the FPFTY to be included in the rate base.<sup>25</sup> And logically, the qualifying language of Section 315(e) is also balanced by the alternative, the Commission *may* not.<sup>26</sup> The language in Section 315(e) is not absolute. Additionally, the Company’s reliance on Section 315(e) is weakened as it references the rules and regulations regarding the implementation of the FPFTY which are not yet in place.<sup>27</sup>

Further, the Company argues the use of the end of test year plant balances is consistent with the policy underlying Act 11 which was to reduce regulatory lag and thereby encourage plant investment through the use of the DSIC to address aging infrastructure.<sup>28</sup> These provisions, the Company argues, can substantially reduce regulatory lag and lengthen the time between base rate cases; both of which the Company

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<sup>21</sup> UGI MB, p. 28.

<sup>22</sup> 66 Pa. C.S. § 315(e).

<sup>23</sup> UGI MB, p. 28.

<sup>24</sup> 66 Pa. C.S. § 315(e) (*emphasis added*). In the instant proceeding, UGI Electric merely states that the projects are proposed and budgeted to be completed in the FPFTY.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> UGI MB, p. 30.

argues would be substantially undercut by the use of a yearly average rate base methodology.<sup>29</sup> Additionally, the Company states that by using an average year instead of an end of year balance, I&E would eliminate essentially half the benefits of using the FPFTY by effectively denying rate recovery on half of the plant placed into service during the FPFTY.<sup>30</sup>

I&E rejects the Company's arguments. These arguments, again, illustrate that the Company assumes that all proposed FPFTY plant will absolutely be placed into service by the end of the FPFTY. Interestingly, the Company points out that it has "budgeted" \$31,838,000 of plant additions for the FPFTY, but by contrast, has identified only \$13,303,000 for the FTY.<sup>31</sup> These amounts reveal that the "budgeted" amount for plant additions in the FPFTY is almost three times larger than the amount for new plant in the FTY. Unsurprisingly, the number that is almost three times larger falls in the FPFTY year, which is the year upon which the Company is asking the Commission to base its new increased rates.

The Company also argues that the authority from other jurisdictions cited by I&E is not relevant in the interpretation and application of Act 11 in Pennsylvania.<sup>32</sup> I&E rejects this argument.<sup>33</sup> I&E did not offer the authority from Illinois to interpret the application of Act 11, but rather as guidance in the absence of Pennsylvania regulations regarding the application of the FPFTY in base rate proceedings. Further, the Illinois

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<sup>29</sup> *Id.*, p. 31.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> UG1 MB, p. 33.

<sup>33</sup> I&E MB, pp. 20-21.

authority reinforces I&E's recommendation of the average rate base methodology as a superior alternative to the year-end methodology.<sup>34</sup>

Again, in the absence of clear guidance regarding the application of the FPFTY to base rate proceedings in Pennsylvania, I&E asserts the Company's proposed use of the FPFTY year-end methodology has additional negative effects.<sup>35</sup> As I&E witness Cline points out, the return of investment, or depreciation expense, which is recovered on a dollar for dollar basis, will also be overstated to reflect an amount greater than the Company's actual recorded depreciation expense in the FPFTY.<sup>36</sup> Because the plant is added at different dates throughout the year, the Company will not record a full-year of depreciation expense for plant that is added variably throughout the year, which results in a greater revenue requirement result than necessary when the full end-of-year depreciation expense is included in the Company's FPFTY claim.<sup>37</sup>

Additionally, the Company's projected usage declines and customer count adjustments projected to the end of the FPFTY will not accurately reflect the actual FPFTY usage, nor will annualized expenses for which a full year's expense is not realized in the FPFTY accurately reflect the actual FPFTY expenses.<sup>38</sup> Both will impact the revenue requirement through the ratemaking equation on a dollar for dollar basis and overinflate the Company's FPFTY revenue needs.<sup>39</sup> These items will all serve to shift

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<sup>34</sup> I&E MB, pp. 15-25.

<sup>35</sup> I&E St. No. 3, pp. 9-11.

<sup>36</sup> I&E St. No. 3, pp. 9-10.

<sup>37</sup> *Id.*

<sup>38</sup> I&E St. No. 3, p. 10.

<sup>39</sup> *Id.*

the return graph even further upward, which would result in an end of FPFTY ROR that is even higher than the authorized ROR.<sup>40</sup>

And, while the reduction in revenue requirement associated with using the average rate base methodology may impact rate case frequency, Companies should file rate cases on the frequency demanded by revenue needs and should not unnecessarily inflate customer rates beyond what is just and reasonable for the sole purpose of decreasing rate case frequency.<sup>41</sup> Imposing rates on customers that are excessive and unreasonable to alleviate a single issue does not comport with a utility's obligation to provide service at just and reasonable rates.

With regard to the application of a utility company's DSIC, utilizing the average rate base methodology could allow earlier implementation of a DSIC if the Company demonstrated that the plant-in-service used to establish rates had been added to rate base.<sup>42</sup> Implementation of the DSIC earlier would mitigate the impact of the rate increase that would result from assuming a year-end rate base in establishing rates and still provide a company the opportunity to recover later DSIC-eligible plant investments, potentially within the FPFTY.<sup>43</sup> Earlier implementation of the DSIC could also limit any increase in rate case frequency presumed to be associated with usage of the average rate base method.<sup>44</sup>

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<sup>40</sup> *Id.* See also I&E St. No. 1 (expenses) and I&E St. No. 2 (rate of return) for the domino effect of the FPFTY year-end methodology.

<sup>41</sup> I&E St. No. 3, pp. 10-11.

<sup>42</sup> I&E St. No. 3, p. 11.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

Therefore, in consideration of all of the above, the arguments made in I&E's Main Brief,<sup>45</sup> and the record evidence presented by I&E, I&E recommends that the Company be required to use an average rate base methodology, rather than the year-end rate base methodology used by the Company, to calculate UGI Electric's FPFTY utility plant-in-service amount.

## **2. Electrical Engineering and Operations Center**

I&E took no position regarding the Company's rate base claim for its electrical engineering and operations center.

### **B. Accumulated Depreciation**

I&E recommends an accumulated depreciation level based on the average rate base methodology, advocated for by I&E and OCA, of \$58,992,386 ( $(\$58,179,104 + \$59,805,668) / 2$ ).<sup>46</sup> I&E's recommended accumulated depreciation was determined by taking the average of the Company's accumulated depreciation for the FTY ending September 30, 2018 and the Company's rebuttal accumulated depreciation for the FPFTY ending September 30, 2019.<sup>47</sup>

UGI Electric's accumulated depreciation claim for the FTY is \$58,179,104 and for the rebuttal FPFTY is \$59,805,668.<sup>48</sup> UGI Electric rejected I&E's use of the average rate base methodology, and therefore, UGI Electric recommended that I&E's accumulated

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<sup>45</sup> I&E MB, pp. 15-25.

<sup>46</sup> I&E MB, pp. 25-26. *See also* I&E St. No. 3-SR, pp. 15-16.

<sup>47</sup> I&E St. No. 3-SR, pp. 15-16. I&E Exh. No. 3-SR, Sch. 1, ln. 7. Note: The depreciation rates agreed to by the parties in the Partial Settlement were used in the calculation of the accumulated depreciations.

<sup>48</sup> I&E St. No. 3-SR, pp. 15-16.

depreciation based on the use of the average rate base methodology be similarly rejected.<sup>49</sup>

In surrebuttal, I&E adjusted its original accumulated depreciation recommendation set forth in its direct testimony based on adjustments to the plant-in-service made by the Company in rebuttal, and therefore, the accumulated depreciation expense recommendation was necessarily revised as well to the final amount.<sup>50</sup> In consideration of the above; the arguments made in I&E's Main Brief; and the record evidence presented by I&E, I&E recommends an accumulated depreciation level based on the average rate base methodology of \$58,992,386.

### **C. Additions to Rate Base**

#### **1. Cash Working Capital**

Cash Working Capital, ("CWC"), includes the amount of funds necessary to operate a utility during the interim period between the rendition of service, including the payment of related expenses, and the receipt of revenue in payment for services rendered by the utility.<sup>51</sup>

I&E recommends an allowance of \$6,755,000, or a reduction of \$425,000 (\$7,180,000 - \$6,755,000), to the Company's claim based on: (1) modification of the Meter Read Lag Day Factor from 2.70 days to 1.50 days due to major software system improvements by the Company; (2) modification of Other O&M Expense Lag Days from 12.56 days to 15.06 days based on a twelve-month average rather than four sample

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<sup>49</sup> I&E St. No. 3-SR, p. 15, *citing* UGI Elec. St. No. 4-R, pp. 14-15.

<sup>50</sup> I&E St. No. 3-SR, pp. 15-16.

<sup>51</sup> I&E St. No. 1, p. 42.

months as used by the Company; and (3) modification of the Company's claim based on I&E witness Christine Wilson's recommended adjustments to O&M expenses and the recommendations of I&E witnesses Ethan Cline and Brenton Grab.<sup>52</sup>

The Company argues that there is no record evidence to support the conclusion that the Company's new software system has reduced meter read lag by the 44% claimed by I&E.<sup>53</sup> The Company also argues that I&E witness Wilson's experience as a witness (10 years with the PUC's Bureau of Investigation and Enforcement) is not sufficient grounds to establish that the Company's new software system would impact meter read lag particularly where that positive result was not identified in the scope of work for the software system.<sup>54</sup>

I&E rejects the Company's unusual argument that the UNITE Phase I software system has had no effect on the Company's meter read lag days. Attacking the 10 years of experience of the I&E witness is an unusual way to defend and deflect from the inadequacies of the Company's new and expensive software program.<sup>55</sup> Further, I&E reiterates the arguments made in its Main Brief regarding the CWC expense.<sup>56</sup> I&E does not agree with the Company's claimed meter read lag factor of 2.70 days. Instead, I&E continues to recommend a meter read lag day factor of 1.50 days.<sup>57</sup> I&E also continues to note that the Company has made a major investment in software installation in its

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<sup>52</sup> I&E St. No. 1-SR, pp 52-58. *See also* I&E St. No. 1, pp. 43-49.

<sup>53</sup> UGI MB, p. 39.

<sup>54</sup> *Id.*

<sup>55</sup> *See* I&E St. No. 1 PROPRIETARY, p. 45 for a proprietary description of the software improvements.

<sup>56</sup> I&E MB, pp. 26-29.

<sup>57</sup> I&E St. No. 1, p. 45; I&E St. No. 1-SR, pp. 46-47.

UNITE Phase I software implementation.<sup>58</sup> I&E argues that the Company must realize some reduction in the time it takes to read the meters and process data in its computer system after spending a substantial amount of money on the new software.<sup>59</sup> The Company simply stated it has no plan to change the number of its meter read lag days but offered no adequate explanation.<sup>60</sup>

In consideration of the above; the arguments in I&E's Main Brief; and the record evidence presented by I&E, I&E's updated recommendation for CWC is an allowance of \$6,755,000 or a reduction of \$425,000 (\$7,180,000 - \$6,755,000).<sup>61</sup>

## **2. Materials and Supplies**

I&E recommended, based upon the 13-month average calculated using updated Materials and Supplies balances provided by the Company, that Materials and Supplies be increased by \$24,692 to \$1,464,692.<sup>62</sup>

The Company agrees with the I&E adjustment to Materials and Supplies in its Main Brief.<sup>63</sup>

In consideration of the above; the arguments in I&E's Main Brief; and the record evidence presented by I&E; the Company; and the Company's Main Brief, I&E recommends \$1,464,692 for the Companies Materials and Supplies.<sup>64</sup>

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<sup>58</sup> I&E St. No. 1, pp. 45-46. I&E St. No. 1-SR, p. 47.

<sup>59</sup> I&E St. No. 1-SR, p. 47.

<sup>60</sup> I&E St. No. 1, p. 46. I&E St. No. 1-SR, p. 47.

<sup>61</sup> I&E St. No. 1-SR, p. 58.

<sup>62</sup> I&E St. No. 3-SR, p. 16.

<sup>63</sup> UGI MB, p. 40.

<sup>64</sup> *Id.*



## **D. Deductions from Rate Base**

### **1. Accumulated Deferred Income Taxes**

I&E recommended that the Company's claim for ADIT be reduced by \$287,500, from \$16,572,000 to \$16,284,500.<sup>65</sup> I&E determined its recommended adjustment to the Company's claim for ADIT by using the average rate base methodology.<sup>66</sup>

The Company rejected I&E's recommendation and referred to Section VIII in its Main Brief for a full discussion of the issue.<sup>67</sup>

I&E reiterates its Main Brief, and, as noted above, I&E determined its recommended adjustment to the Company's claim for ADIT by averaging the Company's FTY and FPFTY claims.<sup>68</sup> In consideration of the above; the arguments made in I&E's Main Brief; and the record evidence presented by I&E, I&E recommends \$16,284,500 for the Company's ADIT claim.<sup>69</sup>

### **2. Excess Accumulated Deferred Income Taxes**

I&E reiterates its recommendation in its Main Brief<sup>70</sup> that the Company be required to reduce rate base in the revenue requirement formula for the excess ADIT balance which resulted as a reclassification of the portion of ADIT associated with the reduction in the federal income tax rate from 35% to 21% due to the enactment of the TCJA.<sup>71</sup> I&E recommends reducing the Company's rate base by the excess ADIT

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<sup>65</sup> I&E St. No. 3, p. 22. I&E St. No. 3-SR, p. 17.

<sup>66</sup> *Id.*

<sup>67</sup> UGI MB, p. 40.

<sup>68</sup> I&E St. No. 3-SR, p. 17.

<sup>69</sup> *Id.*, citing I&E Exh. No. 3, Sch. 1, ln 10.

<sup>70</sup> I&E MB, pp. 30-33.

<sup>71</sup> I&E St. No. 1, p. 38; I&E St. No. 1-SR, p. 37.

balance at the end of the FPFTY in the amount of \$11,483,354.<sup>72</sup> The full argument regarding the excess ADIT is set forth in the Section VII. Taxes, B. Excess Accumulated Deferred Income Taxes of I&E's Main Brief<sup>73</sup> and in I&E's Reply Brief, *infra*.<sup>74</sup> This same argument applies to I&E's recommendation set forth here.

In consideration of all of the above; the arguments made in I&E's Main Brief; and the record evidence presented by I&E, I&E recommends the Company be required to reduce rate base in the revenue requirement formula for the excess ADIT balance which resulted as a reclassification of the portion of ADIT associated with the reduction in the federal income tax rate from 35% to 21% due to the enactment of the TCJA. I&E recommends reducing the Company's rate base by the excess ADIT balance at the end of the FPFTY in the amount of \$11,483,354.

### **3. Act 40**

I&E takes no position regarding the reduction of rate base for Act 40.

### **4. Customer Deposits**

I&E recommended the Company's Customer Deposit claim be increased by \$76,692 from \$1,419,000 to \$1,495,692 in both the FTY and the FPFTY.<sup>75</sup> I&E determined its recommended level of customer deposits by calculating an average of the most recent 13 months of actual customer deposits balances.<sup>76</sup>

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<sup>72</sup> I&E St. No. 1, p. 39, *citing* I&E Exh. No. 1, Sch. 11, p. 5.

<sup>73</sup> I&E MB, pp. 61-65.

<sup>74</sup> I&E RB, pp. 45-49.

<sup>75</sup> I&E St. No. 3, p. 24. I&E Exh. No. 3, Sch. 1. I&E St. No. 3-SR, p. 18.

<sup>76</sup> *Id.*

The Company argues that the Company continues to see lower customer deposits because it can no longer collect deposits from low-income customers.<sup>77</sup> The Company also argues that as a result of adopting an OCA proposal, the Company will be required to refund deposits held for a certain number of customers who are currently not identified as “confirmed low-income.”<sup>78</sup>

I&E rejects the Company’s argument.<sup>79</sup> I&E asserts that based on the actual customer deposit levels from October 2016 through February 2018, the Company’s assertion that the customer deposit balance is decreasing or has leveled off is unsupported.<sup>80</sup> In fact, the \$1,419,000 balance at September 2017 is actually the lowest balance in the referenced seventeen-month period, which does not indicate a decreasing trend.<sup>81</sup>

In consideration of the above; the arguments made in I&E’s Main Brief; and the record evidence presented by I&E, I&E recommends a customer deposits level of \$1,495,692 for both the FTY and the FPFTY based on a 13-month average.<sup>82</sup>

#### **E. Cloud Based Program**

The Company shall be permitted to record the Cloud Based Implementation Costs as set forth in paragraph 12(a) of the Partial Stipulation Resolving Certain Contested Issues.

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<sup>77</sup> UGI MB, p. 41.

<sup>78</sup> *Id.*

<sup>79</sup> I&E St. No. 3-SR, pp. 18-19.

<sup>80</sup> I&E St. No. 3-SR, p. 18.

<sup>81</sup> I&E St. No. 3-SR, p. 18, *citing* I&E Exh. No. 3, Sch. 8.

<sup>82</sup> I&E St. No. 3-SR, p. 19.

## **F. Unite Phase 2 Costs**

The Company shall be permitted to capitalize the UNITE Phase 2 pre-implementation costs as set forth in paragraph 12(b) of the Partial Stipulation Resolving Certain Contested Issues.

## **G. Conclusions as to Rate Base**

Ultimately, I&E recommends that, after its use of the average rate base methodology and the resulting recommended adjustments; coupled with I&E witness Wilson's rate base adjustments are all applied; the Company's claimed rate base for the FPFTY be reduced by \$(25,436,011) as shown on I&E Exhibit No. 3-SR, Schedule 1, line 15.<sup>83</sup> Therefore, I&E's recommended FPFTY rate base is \$93,835,143.<sup>84</sup>

Further, I&E recommended, and the Company agreed, that the Company provide the Commission's Bureau of Technical Utility Services and I&E with rate base updates which should include actual capital expenditures, plant additions, and retirements by months from October 1, 2017 through September 30, 2018 and an additional update for actuals from October 1, 2018 through September 30, 2019; to be provided no later than January 2, 2020.<sup>85</sup>

## **V. REVENUES**

Reiterated from Appendix A, Table I attached to I&E's Main Brief, I&E has proposed a total revenue requirement increase of \$818,000<sup>86</sup> which results in a total

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<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> I&E St. No. 3, p. 27. I&E St. No. 3-SR, p. 19, *citing* I&E Exh. No. 3-SR, Sch. 1, ln. 15.

<sup>86</sup> I&E RB, App. A, Table I, Income Summary.

proposed operating revenue of \$89,850,000.<sup>87</sup> In consideration of the record evidence presented by I&E and the arguments made in I&E's Main Brief and this Reply Brief; I&E recommends that I&E's proposed revenue of \$89,850,000 should be approved.<sup>88</sup> Additionally, I&E notes that I&E's Main Brief contained a mathematical error regarding I&E's proposed present rate revenues that was transposed from I&E testimony.<sup>89</sup> I&E's proposed present rate revenue presented in I&E's Main Brief should have been \$88,859,000 (not \$87,859,000).<sup>90</sup>

The Company argues that its final claimed revenues at proposed rates of \$96,767,000 should be approved.<sup>91</sup>

I&E rejects the Company's claimed revenues at proposed rates based on the above; the arguments made in I&E's Main Brief; and the record evidence presented by I&E. Therefore, I&E recommends that after all adjustments and allowances I&E's proposed revenue of \$89,890,000 should be approved.

## **VI. EXPENSES**

It is well settled that a utility is entitled to recover its reasonably incurred expenses.<sup>92</sup> Operating and maintenance expenses, if properly incurred, are allowed as part of the overall rate computation. As such, a public utility is entitled to recover all reasonable and normal operating and maintenance expenses incurred by providing

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<sup>87</sup>

*Id.*

<sup>88</sup>

*Id.*

<sup>89</sup>

I&E MB, p. 36, *citing* I&E St. No. 3-SR, p. 21.

<sup>90</sup>

*Id.*

<sup>91</sup>

UGI MB, p. 43.

<sup>92</sup>

*UGI Corp. v. Pa. P.U.C.*, 410 A.2d 923, 932 (Pa. Cmwlth. 1980).

regulated service.<sup>93</sup> To the extent that expenses are not incurred, imprudently incurred, or abnormally overstated during the test year, they should be disallowed and found not recoverable through rates. The public utility requesting a rate increase and seeking to recover expenses has the burden of showing that the rate requested, including all claimed expenses, is just and reasonable.<sup>94</sup>

#### **A. Vegetation Management Expense**

I&E recommended an allowance of \$1,912,266 for vegetation management or a reduction of \$206,235 (\$2,118,501 - \$1,912,266) for the FPFTY.<sup>95</sup>

I&E based its recommended allowance for vegetation management expense on an average increase between fiscal years ended September 30, 2015, 2016, and 2017 for the non-payroll/other component which is 5.2%.<sup>96</sup> The Company's proposed 14.8% increase for the FTY was unsupported in its case in chief.<sup>97</sup> I&E's methodology minimizes the Company's 14.8% increase to its future test year claim but allows for a trended reasonable year-to-year increase in this expense.<sup>98</sup> While the Company indicated that this 14.8% issue was due to a relatively new issue with Pennsylvania ash trees, I&E expressed concerns that UGI Electric has not adequately supported this claimed increase.

The Company now argues in rejoinder testimony that the Company added one additional vegetation maintenance crew.<sup>99</sup> Further, the Company claims the increased

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<sup>93</sup> *Western Pennsylvania Water Company v. Pa. P.U.C.*, 422 A.2d 906 (Pa. Cmwlth. 1980).

<sup>94</sup> 66 Pa. C.S. § 315(a); *See also Cup v. Pa. P.U.C.*, 556 A.2d 470 (Pa. Cmwlth. 1989).

<sup>95</sup> I&E St. No. 1, p. 13; I&E St. No. 1-SR, p. 12.

<sup>96</sup> I&E St. No. 1, p. 13. I&E St. No. 1-SR, p. 10.

<sup>97</sup> IE MB, p. 38.

<sup>98</sup> I&E St. No. 1, p. 14. I&E St. No. 1-SR, p. 10.

<sup>99</sup> UGI MB, p. 45.

expense is now quantifiable and reasonable.<sup>100</sup> Additionally, the Company continued its argument regarding the effect of the damage done by the Emerald Ash Borer to the Company's planned vegetation maintenance.

I&E expects that year-to-year changes in vegetation management issues, such as types of trees to address, extent of damage, etc., would be captured in an overall historic average of the expense, thus supporting the I&E recommended yearly inflation of the HTY actual expenses.<sup>101</sup> Further, as noted by I&E witness Wilson, the Company always has the ability to file for a deferral and recovery of an extraordinary event such as the current emerald ash borer issue.<sup>102</sup> It is not appropriate to memorialize the added extraordinary expense into the Company's base rates. In consideration of the above; the arguments in I&E's Main Brief; and the record evidence presented by I&E, I&E recommends an allowance of \$1,912,266 for vegetation management or a reduction of \$206,235 (\$2,118,501 - \$1,912,266) for the FPFTY.

#### **B. Company Owned Services ("COS") Program Expenses**

I&E recommended an allowance of \$140,000 or a reduction of \$314,418 (\$454,418 - \$140,000) to the Company's claim for the Company-owned service transition program.<sup>103</sup> It is important to note that even though I&E argues strongly against the Company-owned services program expense, I&E is not advocating to eliminate it completely. I&E is recommending that the inspections be made voluntary while trying to

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<sup>100</sup>

*Id.*

<sup>101</sup>

I&E St. No. 1-SR, p. 11.

<sup>102</sup>

Tr., p. 130. *See generally* 66 Pa. C.S. § 1308(e).

<sup>103</sup>

I&E St. No. 1, p. 30.

balance the claimed expense against the inherent unknowns and the speculative nature of the claimed expense.<sup>104</sup>

The Company continues to argue that under the Company's interpretation of the law, the Company is obligated to inspect every Company owned service prior to turning ownership back to the customer.<sup>105</sup> The Company also claims maintenance of the equipment within the home has proven difficult due to the Company's service technicians limited ability to gain access to the equipment.<sup>106</sup> Further, the Company also claims that a voluntary program would not produce the same critical safety benefits as a mandatory inspection program.<sup>107</sup> Therefore, the Company claims mandatory inspection is a must and it optimistically proposes to inspect 500 services per year over a ten-year period.<sup>108</sup>

I&E rejects the Company's arguments. The Company claims it must now inspect 5,000 company-owned services that it apparently did not inspect over the last 50 years. The Company's proposal to inspect these 5,000 Company-owned services to coincide with the filing of this base rate case casts a shadow of doubt over this unmeasurable expense claim. I&E's recommendation of an allowance of \$140,000 per year is more than reasonable given the speculative nature of this claimed expense and should be accepted.

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<sup>104</sup> I&E St. No. 1, pp. 29-31. I&E St. No. 1-SR, p. 24.

<sup>105</sup> UGI MB, p. 49-50.

<sup>106</sup> UGI MB, p. 47.

<sup>107</sup> *Id.*, p. 49.

<sup>108</sup> *Id.*, pp. 49-50.



Further, I&E reiterates the arguments made in I&E's Main Brief<sup>109</sup> that the Company admits it is not guaranteed that it will be afforded access to all of the affected homes for maintenance, so there is no reason to believe that all 5,000 homeowners will allow access for the proposed final inspections.<sup>110</sup> Secondly, the Company previously indicated that it is not required by law to perform these inspections prior to relinquishing ownership of the equipment.<sup>111</sup> Therefore, it is more appropriate to make the inspections voluntary, giving homeowners the ability to decide by a certain date whether they wish to have such inspections performed prior to the change in ownership of the equipment. Finally, the true amount of the total cost for either mandatory or voluntary inspections is not accurately known and measurable at this time, particularly not 9.44 years into the future, considering that costs will change over time and that it is unknown how many affected homeowners will grant access to the inspectors.<sup>112</sup>

I&E also argues that the Company has the potential to profit from the COS program. In theory, if the Company inflated its 2019 budget amount of \$140,000 by \$314,418 due to its revised estimate of \$454,418 where it reflected increased costs and a period of 9.44 years to complete the project;<sup>113</sup> and, if the inflated claimed expenses are built into the revenue requirement equation, even if no portion is capitalized, the Company would over-recover and profit based on the erroneous expense projection.<sup>114</sup>

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<sup>109</sup> I&E MB, pp. 39-42.

<sup>110</sup> I&E St. No. 1, p. 30, *citing* UGI Elec. St. No. 3, p. 15.

<sup>111</sup> *Id.*, *citing* I&E Exh. No. 1, Sch. 10, p. 2, response H.

<sup>112</sup> I&E St. No. 1, pp. 30-31.

<sup>113</sup> I&E St. No. 1, pp. 29-30, *citing* I&E Exh. No. 1, Sch. 10, p. 4.

<sup>114</sup> I&E St. No. 1-SR, pp. 25-26.

Finally, the Company's present safety concerns regarding these service facilities are arguably self-serving.<sup>115</sup> During the 50 years of ownership, the Company was receiving both a return of and a return on the service facilities through rate base inclusion.<sup>116</sup> And, because the Company was obligated to provide safe and reliable service, the Company was also logically including a claim in expenses for the repairs and maintenance associated with these Company owned assets.<sup>117</sup> But, the reality was, no inspections or maintenance was being performed.

In consideration of the above; the arguments made in I&E's Main Brief; and the record evidence presented by I&E, I&E recommends an allowance of \$140,000 or a reduction of \$314,418 (\$454,418 - \$314,418) to the Company's claim for the Company-owned service transition program.

### **C. Environmental Remediation Expense**

While I&E originally recommended disallowance of the entire \$139,000 environmental remediation expense claim, I&E ultimately expressed its agreement with the position propounded by OCA witness Lafayette Morgan.<sup>118</sup> Specifically, I&E agrees with the OCA recommendation that these costs should be removed from the cost of service, because they should be recovered from the sales proceeds of the associated property.<sup>119</sup>

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<sup>115</sup> I&E St. No. 1-SR, pp. 26-29.

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> I&E St. No. 1-SR, pp. 6-7.

<sup>119</sup> I&E St. No. 1-SR, p. 7, *citing* OCA St. No. 1, p. 17.

UGI Electric argues that it has provided an estimate from its long-standing remediation contractor in support of these costs and therefore they are not preliminary or speculative in nature.<sup>120</sup> UGI Electric argues further that the Company has shown that the remediation expense will occur in the FPFTY, and that the estimated cost is reasonable.<sup>121</sup> UGI states the remediation is necessary as a result of years of use of the building in service to customers; and this remediation will allow the Company to provide a safe environment to its employees in the public.<sup>122</sup> Further, the Company states any net proceeds from an eventual sale of the building will be reflected in future cost of service as part of net salvage expense.<sup>123</sup> Therefore, the Company's environmental remediation expense claim should be allowed.

I&E rejects the Company's arguments and reiterates the arguments made in I&E's Main Brief.<sup>124</sup> Explaining further, I&E agrees with the position of OCA witness Lafayette Morgan, that the gain on the sale of the property could be reduced by the cost of remediation and that the revenue requirement should be reduced by the \$139,000 claim.<sup>125</sup> However, if the ALJs recommend and the Commission decides to allow this cost to be recovered in the Company's revenue requirement, I&E recommends that it be amortized over a period of five years, which is more in line with I&E's proposed rate

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<sup>120</sup> UGI MB, p. 52.

<sup>121</sup> *Id.*, p. 54.

<sup>122</sup> *Id.*, p. 55.

<sup>123</sup> *Id.*

<sup>124</sup> I&E MB, pp. 42-43.

<sup>125</sup> *Id.*

case filing frequency.<sup>126</sup> A five-year amortization would produce a yearly allowance of \$83,400, or a reduction of \$55,600 (\$139,000 - \$83,400) to the Company's claim.<sup>127</sup>

#### **D. Storm Damage Expense**

I&E recommended an allowance of \$253,229 for the Company's storm damage expense claim, or a reduction of \$47,771 (\$301,000 - \$253,229).<sup>128</sup> I&E had originally accepted the Company's use of a five-year historic average for this expense and the resulting \$355,000 claim.<sup>129</sup> The Company, however, changed its claim in its rebuttal testimony.<sup>130</sup>

In rebuttal, the Company revised its storm damage expense claim to \$301,000 (from the Company's original claim of \$275,000) based on dropping the oldest year (2013) from its average and replacing it with 2018 in the five-year average.<sup>131</sup>

The Company now argues that it corrected the partial year data provided by the Company for its 2018 storm expenses.<sup>132</sup> The Company claims that inclusion of the Company's actual experience for 2018 would make the Company's numbers more reflective of its actual experience.<sup>133</sup>

I&E rejects the Company's replacement of 2013 with 2018 in the five-year historic average.<sup>134</sup> The 2018 expense claim is based on estimates as the 2018 FTY ends

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<sup>126</sup> I&E St. No. 1-SR, p. 7

<sup>127</sup> *Id.*

<sup>128</sup> I&E St. No. 1-SR, p. 43.

<sup>129</sup> I&E St. No. 1, p. 41.

<sup>130</sup> I&E St. No. 1-SR, p. 43, *citing* UGI Elec. St. No. 8-R, pp. 22-23.

<sup>131</sup> I&E St. No. 1-SR, p. 43, *citing* UGI Elec. St. No. 8-R, pp. 22-23.

<sup>132</sup> UGI MB, p. 56.

<sup>133</sup> *Id.*

<sup>134</sup> I&E St. No. 1-SR, p. 43-44. I&E did, however, accept the Company's correction of a 2017 error based on historic data.

September 30, 2018.<sup>135</sup> Rather, it is more relevant to include the actual historic expenses from 2013 in the five-year historic average.<sup>136</sup> The Company seeks to replace 2013 with 2018 as it skews the five-year average slightly higher.<sup>137</sup>

In consideration of the above; the arguments presented in I&E's Main Brief; and the record evidence presented by I&E, I&E recommends an allowance of \$253,229 for the Company's storm damage expense claim, or a reduction of \$47,771 (\$301,000 - \$253,229).

#### **E. Rate Case Expense**

I&E recommended that the Company's rate case expense be normalized over a period of 60 months (five years) resulting in an annual expense of \$135,000 [(\$676,000 ÷ 60 months) x 12 months], or a reduction of \$90,000 (\$225,000 - \$135,000) to the Company's claim.<sup>138</sup>

The Company argues that the Commission should ignore the fact that UGI Electric last filed for a base rate increase 22 years ago, in 1996.<sup>139</sup> Instead the Company argues the Commission should simply accept the Company's proposed three-year normalization period.<sup>140</sup>

I&E rejects the Company's self-serving arguments. The Commission has historically stated that it considers prudently incurred rate case expense as an ongoing

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<sup>135</sup>

*Id.*

<sup>136</sup> I&E St. No. 1-SR, p. 44

<sup>137</sup> UGI MB, p. 56.

<sup>138</sup> I&E St. No. 1, pp. 9-11. I&E St. No. 1-SR, pp. 7-10.

<sup>139</sup> UGI MB, pp. 56-57.

<sup>140</sup> *Id.*, p. 57.

expense, occurring at irregular intervals, related to the rendering of utility service.<sup>141</sup> The Commission has also cited the importance of considering the involved utility's history regarding the frequency of rate case filings as an essential element to determine the normalized level of rate case expense for ratemaking purposes.<sup>142</sup> In fact, in a recent base rate case filed by *Emporium Water Company*, the Commission adopted the I&E-recommended historic filing frequency.<sup>143</sup>

The Company's claimed 36-month normalization period is not supported by the Company's historic filing frequency.<sup>144</sup> The proposed normalization period fails to properly rely upon the historic data and is speculative in nature.<sup>145</sup> I&E's recommendation is based on an average historic base rate filing frequency of every 103 months when considering all cases filed by the Company since 1992.<sup>146</sup> While the Company's history shows a filing frequency in excess of every five years, I&E recommended a 60-month normalization period that moderates the impact of that longer historic filing frequency.<sup>147</sup>

In consideration of the above; the arguments in I&E's Main Brief; and the record evidence presented by I&E, I&E recommends that the Company's rate case expense be normalized over a period of 60 months (five years) resulting in an annual expense of

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<sup>141</sup> I&E St. No. 1, pp. 9-11. I&E St. No. 1-SR, pp. 7-10.

<sup>142</sup> *Id.*

<sup>143</sup> *Pa. P.U.C. v. Emporium Water Company*, Docket No. R-2014-2402324, p. 50, (Order Entered January 18, 2015).

<sup>144</sup> I&E St. No. 1, p. 11. I&E St. No. 1-SR, pp. 8-9.

<sup>145</sup> *Id.*

<sup>146</sup> I&E St. No. 1, p. 11, *citing* I&E Exh. No. 1, Sch. 2.

<sup>147</sup> I&E St. No. 1, p. 11. I&E St. No. 1-SR, pp. 7-8.

\$135,000 [(\$676,000 ÷ 60 months) x 12 months], or a reduction of \$90,000 (\$225,000 - \$135,000) to the Company's claim.

## **F. Employees Expenses**

### **1. Salaries and Wages Net of Employee Additions**

I&E recommended an allowance for salaries and wages (net of employee additions) of \$4,959,000 or a reduction of \$34,000 (\$4,993,000 – \$4,959,000) based on the recommended disallowance of FPFTY pay annualizations, to provide a more accurate representation of expenses actually incurred in that twelve-month period.<sup>148</sup>

The Company argues that it rejects I&E's use of the average year rate base methodology.<sup>149</sup>

I&E rejects the Company's argument and reiterates I&E's arguments in its Main Briefs that I&E's recommendation for salaries and wages expense (net of employee additions) based on disallowance of the annualization of FPFTY pay increases is appropriate.<sup>150</sup> I&E's recommendation more accurately represents salaries and wages that the Company will pay across the twelve months that make up the FPFTY.<sup>151</sup> Annualization of the end-of-year salaries and wages, that include all increases, should not be allowed.<sup>152</sup> The annualization of end-of-year salaries and wages would allow the Company to recover in rates more than it requires for the test year utilized. Allowing

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<sup>148</sup> I&E St. No. 1, p. 16. I&E St. No. 1-SR, p. 12.

<sup>149</sup> UGI MB, p. 59.

<sup>150</sup> I&E St. No. 1, p. 16.

<sup>151</sup> *Id.*

<sup>152</sup> I&E St. No. 1-SR, p. 13. *See also* I&E MB, pp. 15-24, and I&E St. No. 3, pp. 3-13 rejecting the Company's year-end methodology.

only the amount to be incurred in the twelve months making up the FPFTY is more in line with the average rate base methodology employed by I&E witness Ethan Cline in I&E Statement No. 3.<sup>153</sup>

Further, I&E asserts the Company added \$494,000 to its budgeted salaries and wages expense for three additional positions not reflected in the FPFTY budget.<sup>154</sup> This amount is addressed below in the Employee Additions section. It must be noted that the \$494,000 amount on UGI Electric Revised Exhibit A – Fully Projected, Sch. D-7 is an error because the Company included the entire amount and not the amount attributable to distribution (\$382,000).<sup>155</sup>

In consideration of the above; the arguments in I&E’s Main Brief; and the record evidence presented by I&E, I&E recommends an allowance for salaries and wages (net of employee additions) of \$4,959,000 or a reduction of \$34,000 (\$4,993,000 - \$4,959,000).

## **2. Employee Additions**

I&E recommended an expense allowance of \$318,000 for employee additions or a reduction of \$64,000 (\$382,000 - \$318,000) to the Company’s claim.<sup>156</sup> I&E’s recommendation for employee additions is based on the removal of the annualization of compensation for the three positions in the FPFTY, reflecting the actual amount anticipated to be incurred during that period.<sup>157</sup> This recommendation mirrors I&E’s recommendation for salaries and wages net of employee additions *supra*.

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<sup>153</sup> I&E St. No. 1, p. 17.

<sup>154</sup> I&E St. No. 1, p. 17, *citing* I&E Exh. No. 1, Sch. 4.

<sup>155</sup> I&E St. No. 1, p. 17, *citing* UGI Elec. Rev. Exh. A – Fully Projected Sch. D-9.

<sup>156</sup> I&E St. No. 1, p. 19.

<sup>157</sup> *Id.*



Again, the Company argues that it rejects I&E's use of the average year rate base methodology.<sup>158</sup>

I&E rejects the Company's argument and reiterates the arguments in its Main Brief that the FPFTY expense allowance be based on the actual amounts incurred across the FPFTY period and not an annualization of the end-of-year inflated projections.<sup>159</sup>

In consideration of the above; the arguments made in I&E's Main Brief; and the record evidence presented by I&E, I&E recommends an expense allowance of \$318,000 for employee additions or a reduction of \$64,000 (\$382,000 - \$318,000) to the Company's claim.

### **3. Outside Services Employed**

I&E recommended an allowance of \$21,000 or a reduction of \$170,000 (\$191,000 - \$21,000) based on a three-year historic average of this expense due to the 2015, 2016, and 2017 expense amounts being substantially less than FTY amount of \$171,000 and the FPFTY claim of \$191,000, which are not supported by substantial record evidence.<sup>160</sup>

The Company now argues that it incorrectly attributed the bulk of the outside services employed expenses to UNITE audit fees.<sup>161</sup> The Company argues that this included \$17,000 associated with management development programs; \$19,000 of printing costs that are budgeted but not booked until the printing job is processed; and \$91,000 of unspecified other professional services costs across various groups.<sup>162</sup> These

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<sup>158</sup> UGI MB, p. 60.

<sup>159</sup> I&E St. No. 1-SR, p 15.

<sup>160</sup> I&E St. No. 1, pp. 23-24. I&E St. No. 1-SR, pp. 15-16.

<sup>161</sup> UGI MB, p. 60.

<sup>162</sup> *Id.*, p. 61.

amounts, the Company claims are in addition to the \$39,000 workers compensation claim.<sup>163</sup>

I&E continues to reject the Company's claim, because the Company's recently produced breakdown of this expense is still insufficient, and therefore, the Company has not provided substantial evidence to support this expense.<sup>164</sup> The Company attempted to provide an explanation; however, the Company's explanation fails to provide adequate substantial evidence to support the Company's claim.<sup>165</sup> In consideration of the above; the arguments made in I&E's Main Brief; and the record evidence presented by I&E, I&E recommends an allowance of \$21,000 based on the historic average.

#### **4. Employee Activity Costs**

I&E recommended disallowance of the Company's total claim of \$11,848 for employee activity costs.<sup>166</sup> These Company-sponsored employee events are not necessary for the provision of safe and reliable service to UGI Electric ratepayers and should be denied.<sup>167</sup>

The Company argues that the employee activities offered by the Company, a private, for-profit, shareholder owned, regulated public utility are just like the Commission's Employee Appreciation Day.<sup>168</sup> The Company, however, is comparing apples to oranges. The Company may offer, and the Shareholders may pay for, as many

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<sup>163</sup>

*Id.*

<sup>164</sup>

I&E St. No. 1, p. 22.

<sup>165</sup>

I&E St. No. 1-SR, pp. 16-17.

<sup>166</sup>

I&E St. No. 1, p. 25.

<sup>167</sup>

*Id.* See also 66 Pa. C.S. § 1321.

<sup>168</sup>

UGI MB, pp. 62-63.

employee activities as it wishes to build morale and increase returns to shareholders; but ratepayers should not be required to reimburse the Company for these expenses.

Therefore, I&E rejects the Company's argument.<sup>169</sup>

I&E reiterates that these expenses are not necessary for the provision of safe and reliable service to ratepayers and that hosting a picnic or a party to boost morale or employee engagement is not justified as a business meeting qualified for recovery from the ratepayers.<sup>170</sup>

In consideration of the above; the arguments made in I&E's Main Brief; and the record evidence presented by I&E, I&E recommends disallowance of the Company's total claim of \$11,848 for employee activity costs.

#### **5. Allocated Stock Options and Restricted Stock Awards**

I&E recommended the disallowance of the Company's total claim for Allocated Stock Options and also recommended the disallowance the Company's total claim for Restricted Stock Awards.<sup>171</sup> Ratepayers should not be responsible for paying a benefit available only to high-level UGI employees such as the President and CEO, numerous Vice Presidents, and the Controller that are likely based on stock prices and/or earnings targets rather than goals that benefit ratepayers.<sup>172</sup>

UGI Electric argues that the use of incentive compensation programs is only part of its total compensation package and that the Allocated Stock Options and Restricted

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<sup>169</sup> I&E St. No. 1-SR, pp. 18-19.

<sup>170</sup> I&E St. No. 1-SR, p. 19.

<sup>171</sup> I&E St. No. 1, pp. 27-28.

<sup>172</sup> *Id.*

Stock Awards are only a part of its incentive compensation program.<sup>173</sup> UGI Electric then cites to industry organizations and discusses industry compensation standards, noting that 83% of organizations have at least one plan for management employees (excluding executives), and 79% of organizations have at least one plan for non-management exempt employees.<sup>174</sup> However, unlike the UGI Electric executive incentive compensation plans, neither of these industry-standard compensation plans are for company executives and officers.

UGI Electric also argues that its incentive compensation plans include both financial and operational metrics in their calculations.<sup>175</sup> The Company states further that the Company's management employees have goals that include metrics which are not specifically tied to financial performance.<sup>176</sup> This argument, however, is in direct contradiction to the statements made by UGI Electric witness Mattern during cross examination where she stated "for the cash bonus component, there are non-financial metrics built in; but the stock components are primarily based on financial metrics to determine actual payout."<sup>177</sup> Also interesting to note, is the fact that in the seven pages of UGI Electric's Main Brief<sup>178</sup> that address the Allocated Stock Options and Restricted Stock Awards issue, the Company is careful to discuss "incentive compensation plans" without ever mentioning that the stock options and stock awards programs are for

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<sup>173</sup> UGI MB, p. 64.

<sup>174</sup> *Id.*

<sup>175</sup> UGI MB, p. 66.

<sup>176</sup> *Id.*

<sup>177</sup> *See* Tr. pp. 109-110.

<sup>178</sup> UGI MB, pp. 63-69.

executives and should be correctly identified as “executive incentive compensation plans.”

Further, the Commission has, in the past, rejected management bonuses that are primarily based on financial metrics to determine payouts. In *Pa. P.U.C. v. Roaring Creek Water Company*<sup>179</sup> the Commission held:

... we are not concerned with the details of any individual’s performance. Rather, we are disturbed by the Company’s errant focus on profitability over operational effectiveness.<sup>180</sup>

Additionally, the Commission stated:

RCWC’s ratepayers are now being asked to underwrite bonuses for management personnel for achievements related largely to the concerns of the parent company, corporate revenues, and income targets.<sup>181</sup>

For the reasons stated above; in I&E’s Main Brief;<sup>182</sup> and the substantial record evidence presented by I&E, I&E rejects the Company’s arguments.<sup>183</sup> I&E disagrees with the Company’s argument that offering stock options and awards will directly correlate to a reduced base rate case filing intervals and lower requested revenue increases.<sup>184</sup> I&E also disagrees that the Company would have to raise salaries if it did not continue to offer stock options and awards.<sup>185</sup> To the contrary, it is the Company’s discretion as to whether or not to offer these benefits, and the ratepayers should not be required to fund them.<sup>186</sup> Also, the Company’s reference to a report regarding plans that

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<sup>179</sup> *Pa. P.U.C. v. Roaring Creek Water Company*, 81 Pa. P.U.C. 285, 150 P.U.R. 4<sup>th</sup> 449 (1994).

<sup>180</sup> *Id.*, at 298, 150 P.U.R. 4<sup>th</sup> at 463.

<sup>181</sup> *Id.*, at 297, 150 P.U.R. 4<sup>th</sup> at 462.

<sup>182</sup> I&E MB, pp. 50-52.

<sup>183</sup> I&E St. No. 1-SR, pp. 22-23.

<sup>184</sup> I&E MB, pp. 50-52.

<sup>185</sup> *Id.*

<sup>186</sup> *Id.*

exclude executives is not relevant to the executive options and awards offered here.<sup>187</sup>

Finally, the Company also offers its executives an executive bonus plan of which I&E did not recommend a disallowance.<sup>188</sup>

In consideration of the above, the arguments in I&E's Main Brief; and the record evidence presented by I&E, I&E recommends the disallowance of the Company's total claim of \$189,000 for the upper echelon earnings-based benefits for ratemaking purposes identified by the Company as Allocated Stock Options and Restricted Stock Awards.

### **G. Depreciation Expense**

I&E recommends an annual depreciation expense of \$5,290,062 based on the average rate base methodology.<sup>189</sup> I&E's adjusted annual depreciation expense recommendation was determined by taking the average annual depreciation expense plus the average amortization of net salvage less the average amount charged to clearing accounts.<sup>190</sup>

The Company's argues that I&E's depreciation expense based on the FPPTY average rate base methodology should be rejected and the Commission should accept the Company's end-year methodology.<sup>191</sup> The Company also states this issue was fully addressed in Section IV.A.1 of its Main Brief.<sup>192</sup>

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<sup>187</sup> I&E St. No. 1-SR, p. 23.

<sup>188</sup> I&E St. No. 1-SR, p. 22.

<sup>189</sup> I&E St. No. 3, p. 13, *citing* I&E Exh. No. 3-SR, Sch. 2.

<sup>190</sup> I&E St. No. 3-SR, pp. 13-14, *citing* I&E Exh. No. 3, Sch. 2, col. F. Note: The depreciation rates agreed to by the parties in the Partial Settlement were used in the calculation of the annual depreciation expense.

<sup>191</sup> UGI MB, p. 69.

<sup>192</sup> *Id.*

I&E rejects the Company's argument and continues to recommend use of the average rate base methodology for FPFTY plant-in-service and as it relates to the Company's annual depreciation expense.<sup>193</sup> Based on the Company's adjustments to plant-in-service, I&E altered its annual depreciation expense recommendation in surrebuttal.<sup>194</sup>

In consideration of the above; the arguments made in I&E's Main Brief; and the record evidence presented by I&E, I&E recommends the revised annual depreciation expense level calculated based on the average rate base methodology of \$5,290,062.<sup>195</sup>

#### **H. Other Post-Employment Benefits**

UGI Electric witness Mattern made an adjustment to the Company's direct case in her rebuttal testimony.<sup>196</sup> The Company revealed that it had been over collecting on an OPEB expense since the Company's last base rate proceeding dating back to 1996. The Company proposed to refund this over-collection to customers over 20 years. UGI Electric has offered to return \$0.395 million annually to its ratepayers.<sup>197</sup>

I&E did not present testimony regarding the return of the OPEB over collection to ratepayers. Therefore I&E has no objection to the Company's proposal.

#### **I. Power Supply Expense**

I&E recommends the Company's claimed power supply expense adjustment be increased by approximately \$19,500 from \$1,933,000 to \$1,952,500 as a result of I&E's

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<sup>193</sup> I&E MB, pp. 52-54, *citing* I&E St. No. 3-SR, p. 13.

<sup>194</sup> I&E St. No. 3-SR, pp. 13-14.

<sup>195</sup> I&E St. No. 3-SR, p. 14, *citing* I&E Exh. No. 3, Sch. 2.

<sup>196</sup> UGI Electric, St. No. 4-R, pp. 16-18.

<sup>197</sup> *Id.* See also UGI Electric Rev. Sch. D-14.

use of the average rate base methodology adjustment to present rates.<sup>198</sup> UGI Electric disagreed with the I&E recommendation on the basis that the Company rejects the use of an average FTY and FPFTY to calculate adjustments.<sup>199</sup> I&E continues to recommend using the average rate base methodology, therefore, I&E will continue to recommend its adjustment to present rate revenue and power supply expense.<sup>200</sup>

## **J. Conclusion as to Expenses**

I&E's total expense adjustments are \$(1,283,000) as shown in Table II Summary of Adjustments attached hereto in Appendix A. I&E's use of the average rate base methodology reduces the annual depreciation expense claim for the FPFTY by \$(579,062) also shown on Table II Summary of Adjustments attached hereto in Appendix A; and, as shown on I&E Exhibit No. 3-SR, Schedule 2.<sup>201</sup>

In consideration of all of the I&E adjustments; the arguments made in I&E's Main Brief; and the record evidence presented by I&E, I&E recommends the ALJs and the Commission adopt I&E's total operation and maintenance expense adjustments of \$(1,283,000) and depreciation expense adjustment of \$(579,062).<sup>202</sup>

## **VII. TAXES**

### **A. Tax Cuts and Jobs Act of 2017**

On December 22, 2017, Public Law No. 115-97 was signed into law by the President Trump. The short title of this law is the Tax Cuts and Jobs Act of 2017.

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<sup>198</sup> I&E St. No. 3-SR, p. 22. *See also* I&E St. No. 3, pp. 28-32.

<sup>199</sup> I&E St. No. 3-SR, p. 22, *citing* UGI Elec. St. No. 8-R, p. 3.

<sup>200</sup> I&E St. No. 3-SR, p. 23.

<sup>201</sup> *Id.*, pp. 19-20.

<sup>202</sup> *See* I&E M.B. Appendix A, Table II.



Pursuant to the TCJA, effective January 1, 2018, various provisions of the Tax Reform Act of 1986 (the governing tax law in the United States prior to the effective date of the TCJA) have been repealed or amended. One of the many modifications to the Tax Reform Act of 1986 resulting from the passage of the TCJA is a reduction in the corporate Federal Income Tax rate. Specifically, the TCJA reduces the corporate Federal Income Tax rate from 35% to 21%.

By Secretarial Letter issued February 12, 2018, the Pennsylvania Public Utility Commission initiated a proceeding at Docket No. M-2018-2641242 to determine the effects of the TCJA on the tax liabilities of Commission-regulated public utilities for 2018 and future years and the feasibility of reflecting such impacts in the rates charged to Pennsylvania utility ratepayers. Ultimately, the Commission issued a Temporary Rates Order<sup>203</sup> on May 17, 2018. The Commission concluded generally that due to the substantial decrease in federal corporate income tax rates and its effect on utility revenue requirements, the existing rates of the identified public utilities are no longer just and reasonable and, indeed, excessive.<sup>204</sup> The Commission added, for utilities with a pending general rate case, the proceedings in regard to their temporary rates will be consolidated with their pending base rate case for hearing and decision.<sup>205</sup>

In its Main Brief, The Company makes two arguments regarding I&E's proposal for the Company to implement a reconcilable 1307 surcharge to flow back to ratepayers

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<sup>203</sup> Tax Cut and Jobs Act of 2017 Temporary Rates Order, Docket No. M-2018-2641242, (Order Entered May 17, 2018)(“Temporary rates Order”).

<sup>204</sup> Temporary Rates Order, p. 22.

<sup>205</sup> *Id.*

the net tax savings associated with the reduction in the federal income tax rate for the period January 1, 2018 through the date when new rates from this proceeding are expected to go into effect.<sup>206</sup> First, the Company argues that rate reductions proposed by I&E violate long-standing rules against single issue and retroactive ratemaking.<sup>207</sup> The Company asserts that, generally, single issue ratemaking is prohibited. Further, the Company argues, regarding retroactive ratemaking, it is fundamental that a Commission-made rate furnishes the applicable law for the utility and its customers until a change is made by the Commission.<sup>208</sup> The Company does, however, note that the Commission is of course free to take prospective action on the reasonableness of the Company's rates now being charged and collected.<sup>209</sup>

Second, the Company argues adoption of the proposed 2018 TCJA adjustment would be extraordinarily poor public policy and is not in the public interest.<sup>210</sup> The Company relies on the testimony of UGI witness Moul discussing the negative impacts of the TCJA on UGI Electric's credit quality and ability to attract common equity capital.<sup>211</sup>

I&E rejects the Company's arguments as they all have already been addressed by I&E in its Main Brief and by the Commission in its Temporary Rates Order.<sup>212</sup> To reiterate, the Commission stated:

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<sup>206</sup> UGI MB, pp. 109-117.

<sup>207</sup> *Id.*, p. 109.

<sup>208</sup> *Id.*

<sup>209</sup> *Id.*, p. 110.

<sup>210</sup> *Id.*, p. 115.

<sup>211</sup> *Id.*, p. 116.

<sup>212</sup> See I&E MB, pp. 55-62. Note: The Company, in its Main Brief, consistently cites to the March 15, 2018 Temporary Rates Order seemingly to avoid the Commission's disposition stated in the May 17, 2018 Temporary Rates Order.

While ratemaking is generally *prospective* in nature, an exception to this rule applies in the case of expenses that are extraordinary, substantial and nonrecurring. *Philadelphia Electric Co. v. Pa. Public Utility Commission*, 502 A.2d 722 (Pa. Cmwlth. 1985) In this regard, we agree with the OCA that the TCJA tax savings represent “an extraordinary and substantial, non-recurring reduction in utility expenses that should be treated outside of a general rate proceeding and flowed back to ratepayers.” OCA Comments at 1 and 7. Therefore, in the Commission’s judgment, there is no legal impediment to our present consideration of the substantial tax savings from the TCJA and we need not await a base rate case filing to address its effect on the justness and reasonableness of consumer rates.<sup>213</sup>

Accordingly, the Commission has already determined that there are no legal impediments (e.g., single-issue ratemaking or retroactive ratemaking) preventing the Commission from adopting I&E’s recommendation regarding the reconcilable 1307 surcharge. The Commission stated further:

Similarly, the Commission does not deem it appropriate to permit utilities to retain TCJA savings due to a perceived risk of possible negative outlooks from credit rating firms. Once again, if a utility’s cash flow is of concern, a general rate increase is the appropriate vehicle to address such a concern. But, as pointed out by BI&E, an increased cash flow realized because a utility is permitted to retain revenues resulting from customers paying a “phantom 35%” income tax rate would not be lawful or appropriate. BI&E Comments at 4. Indeed, while utilities are entitled to recover in rates all reasonable and prudently incurred expenses, there is no warrant for the recovery of taxes or other expenses from consumers that are not incurred. *Barasch v. Pa. PUC*, 493 A.2d 653 (Pa. 1985). Accordingly, the Commission declines to allow rates for non-existent tax expenses for the purpose of artificially augmenting a utility’s cash flow.<sup>214</sup>

Accordingly, the Commission has already determined that flowing back the substantial tax savings to ratepayers is good public policy and in the public interest. And finally, the Commission has already contemplated “whether a retroactive surcharge or other measure

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<sup>213</sup> Temporary Rates Order, p. 15 (*emphasis added*).

<sup>214</sup> Temporary Rates Order, pp. 16-17 (*emphasis added*).

is necessary to account for the tax rate changes that became effective on January 1, 2018.”<sup>215</sup> The Commission has clearly rejected the single-issue ratemaking; the retroactive ratemaking; the negative effect on credit quality; and, the poor public policy and against the public interest arguments proffered by the Company; and has determined a reconcilable surcharge mechanism is a valid solution that is good public policy and is in the public interest.

Therefore, in consideration of substantial record evidence presented by I&E; the arguments made in I&E’s Main Brief;<sup>216</sup> and the conclusions reached by the Commission in its investigation regarding the effects of the TCJA on Commission-regulated public utilities: I&E recommends that the Company be required to flow back to ratepayers, via a reconcilable 1307 surcharge mechanism (which could be entitled the Federal Tax Adjustment Credit, or FTAC), the net tax savings associated with the reduction in the federal income tax rate for the period January 1, 2018 through the date when new rates from this proceeding are expected to go into effect.<sup>217</sup> The I&E suggested language for the FTAC is set forth on Appendix B attached hereto. The recommended FTAC is necessary to return to ratepayers an amount equal to the excess income tax recovery resulting during the FTY plus interest.

And remember, the Company did not propose to return any of the substantial net tax savings to ratepayers after completing its “analysis” of the effects of the TCJA. This, after making the statutory parties wait forty-five days for the Company’s supplemental

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<sup>215</sup> *Id.*, pp. 20-21.

<sup>216</sup> I&E MB, pp. 55-62.

<sup>217</sup> I&E St. No. 1, pp. 33-34.

direct testimony.<sup>218</sup> The Company, instead, made a veiled argument regarding lower cash flows and credit rating concerns by stating that UGI Electric's actual FTY rate of return (ROR) at present rates was/is 4.83%.<sup>219</sup>

I&E rejected the Company's argument that its actual FTY ROR at present rates is 4.83%. I&E witness Wilson cited to I&E witness Kubas' thorough testimony<sup>220</sup> detailing the apparent manipulation by the Company to portray lower historic ROR figures in its Quarterly Earnings Reports.<sup>221</sup> I&E's arguments based on Mr. Kubas' testimony are set forth in I&E's Main Brief at Section IX - Miscellaneous Issues, A – UGI's Quarterly Earnings Reports.<sup>222</sup> In summary, Mr. Kubas revealed that UGI Electric's actual ROE and ROR for September 2017 were **14.9% for ROE** and **10.17% for overall ROR**.<sup>223</sup>

#### **B. Excess Accumulated Deferred Income Taxes**

I&E recommended that the excess ADIT currently held by the Company be returned to ratepayers over a period of time equal to the remaining life of the affected assets per IRS regulation.<sup>224</sup> Each year, the balance in the excess ADIT account will be ratably reduced until the entire amount is refunded to ratepayers. In conjunction, I&E also recommended that the Company be required to reduce rate base in the revenue requirement formula for the excess ADIT balance which resulted as a reclassification of the portion of ADIT associated with the reduction in the federal income tax rate from

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<sup>218</sup> See UGI Elec. St. No. 2-SD; UGI Elec. St. No. 5-SD; UGI Elec. St. No. 6-SD; UGI Elec. St. No. 8-SD; and UGI Elec. St. No. 9-SD.

<sup>219</sup> I&E St. No. 1, p. 32, *citing* UGI Elec. Rev. Exh. A – Future, Sch. A-1. See also UGI Elec. St. No. 1, p. 6.

<sup>220</sup> See I&E St. No. 5; I&E Exh. No. 5; and, I&E St. No. 5-SR for I&E's full detailed explanation.

<sup>221</sup> I&E St. No. 1, pp. 32-33.

<sup>222</sup> I&E MB, pp. 81-93.

<sup>223</sup> I&E MB, p. 86, *citing* I&E St. No. 5, p. 7 and I&E Exh. No. 5, Sch. 3, p. 2.

<sup>224</sup> I&E St. No. 1, p. 36.

35% to 21% due to the enactment of the TCJA.<sup>225</sup> I&E recommends reducing the Company's rate base by the excess ADIT balance at the end of the FPFTY in the amount of \$11,483,354.<sup>226</sup> While the full argument regarding the excess ADIT was set forth in the Tax section of I&E's Main Brief,<sup>227</sup> this same argument applies to I&E's recommendation set forth in Section IV. D. Deductions from Rate Base, 2. Excess Accumulated Deferred Income Taxes *supra*.<sup>228</sup>

The Company argued that generally a public utility may not capitalize an item in its rate base and at the same time recover the item as an expense from ratepayers.<sup>229</sup> Expressed another way, the Company argues a utility should not receive credit for the same deduction by treating it as an ordinary expense on one occasion and by capitalizing it on another.<sup>230</sup> Ultimately, the Company asserts, as a public utility may not receive double credit for the same deduction through capitalization and expensing, so too may ratepayers not benefit twice through a rate base deduction and a refund of the unamortized balance of a regulatory liability (in this case, the impacts of the TCJA).<sup>231</sup> The Company also noted that the last change to federal corporate income tax rate occurred in 1996<sup>232</sup> but also argued elsewhere that change in the tax law is not extraordinary and that changes in tax law occur all the time.<sup>233</sup>

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<sup>225</sup> I&E St. No. 1, p. 38; I&E St. No. 1-SR, p. 37.

<sup>226</sup> I&E St. No. 1, p. 39, *citing* I&E Exh. No. 1, Sch. 11, p. 5.

<sup>227</sup> I&E MB, pp. 62-66.

<sup>228</sup> I&E RB, p. 18.

<sup>229</sup> UGI MB, p. 124.

<sup>230</sup> *Id.*

<sup>231</sup> *Id.*

<sup>232</sup> UGI MB, p. 122.

<sup>233</sup> UGI MB, p. 111. I&E notes this amorphous argument to reinforce the Company's proclivity to alter data and arguments to fit their needs, e.g., their inclusion of the FPFTY rate base in their 2017 Quarterly

The Company argues further that excess ADIT was once ADIT, but it is no longer ADIT and should not be deducted from rate base in setting prospective rates as argued by I&E.<sup>234</sup> The Company agrees that this amount should be returned to customers, but then denies that customers should receive a return on the amortized balance of an expense item and should not receive a prospective rate base deduction for deferred taxes that the Company claims no longer exist.<sup>235</sup> Finally, the Company argues that the position argued by I&E in this proceeding is inconsistent and not in the public interest.

I&E rejects the Company's arguments and reiterates the arguments asserted in its Main Brief.<sup>236</sup> The excess ADIT monies were originally built into the rate formula to cover future income tax payments to the government.<sup>237</sup> The fact that this money (i.e., the excess ADIT) is no longer due in future income tax payments but is now due to ratepayers via a refund over the remaining useful life of affected plant, does not change the fact that the Company has received this money from ratepayers in prior years, which has been available for infrastructure improvements.<sup>238</sup> Each regulatory asset or liability needs to be reviewed based on its own merits to determine whether it should be an addition/reduction to rate base.<sup>239</sup> In this instance, the original intent should be considered. Specifically, that the funds were an interest-free loan from the government (taxes due at some point in the future), and now due to the reclassification, the money is

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Earnings Report to "indicate" a lowered ROE and ROR; and their argument regarding the use of the word "will" in Act 11 to somehow imply that Act 11 amended or modified Chapter 71.

<sup>234</sup>

UGI MB, p. 124.

<sup>235</sup>

*Id.* pp. 124-125.

<sup>236</sup>

I&E MB, p. 62-66.

<sup>237</sup>

I&E St. No. 1, p. 38.

<sup>238</sup>

I&E St. No. 1, p. 38.

<sup>239</sup>

I&E St. No. 1, p. 38.

basically an interest-free loan from ratepayers.<sup>240</sup> I&E asserts that ratepayers should not be required to pay the Company a return on the remaining balance during the time it takes to refund the money to them.

Regardless of whether the account for this balance is entitled ADIT or excess ADIT, the fact remains that the Company over-collected in rates an amount of ADIT based on the pre-January 1, 2018 federal income tax rate of 35%.<sup>241</sup> When classified as ADIT, this was previously the equivalent of an interest-free loan from the government to UGI Electric and should now be considered an interest-free loan from ratepayers until fully refunded over future years using the Average Rate Assumption Method (“ARAM”).<sup>242</sup> I&E views the Company’s argument regarding a lack of precedent as unsupported and incorrect given the infrequency of major tax reform.<sup>243</sup> I&E also disagrees with the fact that all regulatory assets and liabilities should be treated in the same manner for rate base purposes.<sup>244</sup> In this instance, the excess ADIT represents monies over-collected for payment of future taxes. In I&E’s opinion, it is 100% accurate not to allow the Company to earn its cost of capital on the excess ADIT balance since the monies were over-collected from ratepayers with the intent of paying future tax liabilities, which no longer exist due to the lower tax rate.<sup>245</sup> The excess ADIT amount needs to be returned to ratepayers over a period of time equal to the remaining life of the

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<sup>240</sup> I&E St. No. 1, p. 38.

<sup>241</sup> I&E St. No. 1-SR, p. 38.

<sup>242</sup> I&E St. No. 1, pp. 38-39.

<sup>243</sup> I&E St. No. 1, p. 39.

<sup>244</sup> I&E St. No. 1, pp. 36-39; I&E St. No. 1-SR, pp. 37-39.

<sup>245</sup> I&E St. No. 1-SR, p. 39.



affected assets per IRS regulation.<sup>246</sup> Each year, the balance in the excess ADIT account will be ratably reduced until the entire amount is refunded to ratepayers.<sup>247</sup>

In consideration of all of the above; the arguments made in I&E’s Main Brief; and the record evidence presented by I&E, I&E recommends that the excess accumulated deferred income tax currently held by the Company be returned to ratepayers over a period of time equal to the remaining life of the affected assets per IRS regulation.<sup>248</sup>

### VIII. RATE OF RETURN

#### A. Rate of Return Standards

I&E reiterates its recommended rates of return from I&E’s Main Brief<sup>249</sup> for UGI Electric:

<u>Type of Capital</u>	<u>Ratio</u>	<u>Cost Rate</u>	<u>Weighted Cost</u>
Long-Term Debt	45.98%	4.69%	2.16%
Common Equity	54.02%	8.62%	4.66%
Total	100.00%		6.82%

In utility ratemaking, the concept of rate of return enjoys the dubious status of being at once both well-documented legally and highly disputed factually. Simply stated, rate of return is the revenue an investment generates in the form of net income; and is generally expressed as a percentage of the amount of capital invested over a given period

<sup>246</sup> I&E St. No. 1, p. 36.

<sup>247</sup> I&E St. No. 1, p. 36.

<sup>248</sup> I&E St. No. 1, p. 36;

<sup>249</sup> I&E MB, p. 66, *citing* I&E St. No. 2, p. 7; I&E Exh. No. 2, Sch. 1; I&E St. No. 2-SR, p. 28.

of time. It is perhaps the most controversial component of the revenue requirement formula.<sup>250</sup>

I&E set forth the legal principles regarding overall rate of return in I&E's Main Brief as pronounced in the seminal cases of *Bluefield Water Works & Improvements Co. v. Public Service Comm. of West Virginia*,<sup>251</sup> and *Federal Power Commission v. Hope Natural Gas Co.*,<sup>252</sup> and they need not be repeated here.<sup>253</sup>

## **B. Barometer Group**

As is its common practice, I&E selected a proxy group of companies to act as a benchmark for determining UGI Electric's rate of return in this base rate proceeding.<sup>254</sup> The proxy group's cost of equity is used as a benchmark to satisfy the long-established guideline of utility regulation that seeks to provide the subject utility with the opportunity to earn a return similar to that of enterprises with corresponding risks and uncertainties.<sup>255</sup>

As more fully explained by I&E witness Anthony Spadaccio, a proxy group is typically utilized since the use of data exclusively from one company may be less reliable than using a proxy group.<sup>256</sup> The lower reliability occurs because the data for one company may be subject to events that can cause short-term anomalies in the marketplace. The rate of return on common equity for a single company could become

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<sup>250</sup> For calculation of a utility's base rate revenue requirements, the formula used  $RR = E + D + T + (RB \times ROR)$ , where RR = Revenue Requirement; E = Operating Expense; D = Depreciation Expense; T = Taxes; RB = Rate Base; and ROR = Overall Rate of Return. I&E St. 1 at 4-5.

<sup>251</sup> *Bluefield Water Works & Improvements Co. v. Public Service Comm. of West Virginia*, 292 U.S. 679, 692-93 (1923).

<sup>252</sup> *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).

<sup>253</sup> I&E MB, pp. 66-68.

<sup>254</sup> I&E St. No. 2, pp. 7-11.

<sup>255</sup> I&E St. No. 2, p. 7.

<sup>256</sup> I&E St. No. 2, pp. 7-10; I&E St. No. 2-SR, pp. 2-5.

distorted in these circumstances and would therefore not be representative of similarly situated companies.<sup>257</sup> Therefore, a proxy group has the effect of smoothing out potential anomalies associated with a single company.<sup>258</sup>

UGI Electric witness Paul R. Moul criticized I&E's proxy group stating that using the percentage of revenue as a criterion for a proxy group is incorrect, and that the percentage of electric assets to total assets is a more appropriate criterion.<sup>259</sup>

I&E rejects the Company's argument.<sup>260</sup> Calculating the percentage of utility assets that make up the total assets of a company is not always a reliable way of determining if a business is primarily a regulated utility.<sup>261</sup> Further, the percentage of utility business is not always accurately represented by using the percentage of utility assets to total assets because there are differences between businesses in the amount of capital needed.<sup>262</sup> A utility with all new equipment may need a large level of assets to produce a small level of cash flow while another business may need only a small amount of assets to produce a large level of cash flow.<sup>263</sup> Therefore, comparing the assets of an electric utility segment to the total assets of a company is not an appropriate criterion as it could be misleading.<sup>264</sup> I&E witness Spadaccio concluded there is no reason to change the I&E proxy group.<sup>265</sup>

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<sup>257</sup> I&E St. No. 2, p. 8.

<sup>258</sup> *Id.*

<sup>259</sup> UGI Elec. St. No. 5-R.

<sup>260</sup> I&E St. No. 2-SR, pp. 2-5.

<sup>261</sup> I&E St. No. 2-SR, p. 3.

<sup>262</sup> *Id.*

<sup>263</sup> *Id.*

<sup>264</sup> *Id.*, pp. 3-4.

<sup>265</sup> I&E St. No. 2-SR, p. 5.

**C. Capital Structure.**

By stipulation, the parties accepted the Capital Structure proposed by the Company. I&E recommended using the Company's claimed capital structure as presented; consisting of 45.98% Long Term Debt; and 54.02% Common Equity.<sup>266</sup>

**D. Cost of Long Term Debt**

I&E recommends using the Company's claimed long-term debt cost rate of 4.69% for the FPFTY.<sup>267</sup> The Company's claimed cost rate of long-term debt falls within I&E's proxy group's implied long-term debt cost range of 3.91% to 6.30%, with an average implied long-term debt cost of 5.21%.<sup>268</sup>

**E. Cost of Common Equity**

I&E continues to recommend using the Discounted Cash Flow (DCF) method as the primary method to determine the cost of common equity.<sup>269</sup> Further, I&E continues to recommend using the results of the Capital Asset Pricing Model (CAPM) as a comparison to the DCF results.<sup>270</sup> As a result of I&E's DCF analysis I&E recommended a cost of common equity of 8.62%.<sup>271</sup> The comparable results of I&E's CAPM analysis are 8.00% (forecasted) and 8.98% (historic), placing the DCF result of 8.62% and I&E's recommendation comfortably within the CAPM range.<sup>272</sup>

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<sup>266</sup> See I&E MB, p. 70. See also, I&E St. No. 2, pp. 11-12.

<sup>267</sup> UGI Elec. St. No. 5, p. 16.

<sup>268</sup> See I&E MB, pp. 70-71. See also I&E Exh. No. 2, Sch. 3.

<sup>269</sup> I&E St. No. 2, p. 16; I&E St. No. 2-SR, p. 6.

<sup>270</sup> *Id.*

<sup>271</sup> I&E St. No. 2, p. 20; I&E St. No. 2-SR, p. 6.

<sup>272</sup> *Id.*

Further, as recently as *Pa. P.U.C. v. City of DuBois-Bureau of Water (City of DuBois)* the Commission reaffirmed its support for I&E’s methodology of basing its recommended cost of common equity on a DCF method analysis with a CAPM analysis solely as a check.<sup>273</sup> The Commission stated, “although there are various models used to estimate the cost of equity, the DCF method applied to a barometer group of similar utilities, has historically been the primary determinant utilized by the Commission.”<sup>274</sup> The DCF model assumes that the market price of a stock is the present value of the future benefits of holding that stock.<sup>275</sup> These benefits are the future cash flows of holding the stock, *i.e.*, the dividends paid and the proceeds from the ultimate sale of the stock.<sup>276</sup> Because dollars received in the future are worth less than dollars received today, the cash flow must be “discounted” back to the present value at the investor’s rate of return.<sup>277</sup>

The Company argues that it is uncontested that there have been six (6) one-quarter percentage point increases in the Fed Funds rate since the Federal Open Market Committee began to normalize interest rates and that there is the expectation of possible additional interest rate increases.<sup>278</sup> However, the Company fails to mention that the Fed Fund target rate range is still only 1.75% to 2.0%.<sup>279</sup> Additionally, the forecasted growth rates, forecasted dividends, and stock prices utilized by the DCF methodology take into

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<sup>273</sup> See *PA P.U.C. v City of DuBois-Bureau of Water (City of Dubois)*, Docket No. R-2016-2554150, (Order Entered March 28, 2017). See also RECOMMENDED DECISION (Entered January 9, 2017).

<sup>274</sup> *City of DuBois* Order, p. 88.

<sup>275</sup> I&E St. No. 2, pp. 14-16.

<sup>276</sup> *Id.*

<sup>277</sup> *Id.*

<sup>278</sup> UGI MB, p. 74.

<sup>279</sup> <http://www.businessinsider.com/federal-reserve-fomc-statement-and-interest-rate-decision-june-2018-2018-6>

consideration all current and future information that is available (Yahoo!, Zacks, Value Line, etc.), including the Fed Funds overall target range and planned increases. Finally, the Company argues that the impacts of the TCJA on federal corporate income taxes increase the risks faced by the Company.<sup>280</sup>

I&E rejects the Company's arguments. As explained in I&E's Main Brief, Section VII A - Tax Cut and Jobs Act of 2017,<sup>281</sup> the Commission considered these arguments and has rejected them across the board.<sup>282</sup> The Commission did not deem it appropriate to permit utilities to retain TCJA savings due to a perceived risk of possible negative outlooks from credit rating firms, or for purposes of offsetting the effects of alleged reduced revenues.<sup>283</sup> I&E asserts that this same logic should be applied to the Company's request for an inflated return on equity. Further, as more fully discussed in I&E's Main Brief, the Company has been earning an actual return on equity of 14.9%.<sup>284</sup>

The Company asks the Commission to recognize the need of Pennsylvania utilities to raise significant amounts of capital to permit utilities to continue to attract capital on reasonable terms, particularly where capital costs are rising.<sup>285</sup> The Company argues the Commission should apply supportive regulatory policies and above average ROE allowances.<sup>286</sup>

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<sup>280</sup> *Id.*, p. 75.

<sup>281</sup> I&E MB, p. 58.

<sup>282</sup> Temporary Rate Order, pp. 16-17.

<sup>283</sup> *Id.*, p. 16.

<sup>284</sup> I&E MB, p. 86, *citing* I&E St. No. 5-SR, p. 7.

<sup>285</sup> UGI MB, p. 75.

<sup>286</sup> *Id.*

I&E rejects the Company's argument. I&E reiterates the arguments made in its Main Brief regarding the application of the Discounted Cash Flow (DCF) method to UGI Electric's ROE.<sup>287</sup> I&E's recommended ROE of 8.62% based on the DCF analysis is in line with the comparable CAPM analysis results of 8.00% (forecasted) and 8.98% (historic), placing the I&E DCF result of 8.62% comfortably within the CAPM range.<sup>288</sup> Further, I&E reiterates that the Company has been earning an actual ROE of 14.9%.<sup>289</sup>

The Company argues further that the Commission is required by law to consider utility management effectiveness and efficiency when it sets rates.<sup>290</sup> The Company claims that the bottom line of effective management is excellent service at reasonable rates.<sup>291</sup> The Company also states it has focused on a number of areas and programs to enhance and improve the quality and effectiveness of the service it provides to customers.<sup>292</sup>

I&E rejects these arguments and reiterates the arguments made in I&E's Main Brief.<sup>293</sup> Further, I&E asserts that the Commission can consider all other relevant and material evidence of record under Section 523(a).<sup>294</sup> In this regard, I&E asks the Commission to consider the Company's failure to propose a reconcilable surcharge mechanism to return the substantial tax savings back to the ratepayers. I&E also asks the Commission to consider the substantial evidence presented by I&E regarding the

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<sup>287</sup> I&E MB, pp. 66-74.

<sup>288</sup> I&E MB, p. 71, *citing* I&E St. No. 2, p. 20; I&E St. No. 2-SR, p. 6.

<sup>289</sup> I&E MB, p. 86, *citing* I&E St. No. 5-SR, p. 7.

<sup>290</sup> UGI MB, p. 75, *citing* 66 Pa. C.S. § 523.

<sup>291</sup> *Id.*, p. 75.

<sup>292</sup> *Id.*, p. 76.

<sup>293</sup> I&E MB, p. 73-74.

<sup>294</sup> 66 Pa. C.S. § 523(a).

apparent attempt to manipulate the Company's Quarterly Earnings Reports to reflect a substantially lower ROE than the Company was actually earning.<sup>295</sup> Finally, the substantial evidence uncovered by I&E regarding the QERs reveals that the Company was actually earning a full five percentage points (14.9%) above the 2017 national average of 9.75% cited by UGI Electric in its Main Brief.<sup>296</sup>

**E. Quarterly Earnings Reports and Rate of Return/Return on Equity**

In its Main Brief, I&E presented arguments<sup>297</sup> regarding the Company's inclusion of FPPTY Plant in their QERs. Specifically, the inclusion of \$44,453,000 FPPTY Plant and \$1,600,000 of annual depreciation expense in the September 30, 2017 QER, which severely skewed the Company's presentation of their claimed actual ROE and ROR, which in turn permeated throughout the Company's testimony trying to justify their requested ROR and ROE going forward.<sup>298</sup> As a result, the Company's entire testimony regarding their requested ROE and ROR is tainted and not reliable.

**F. Conclusion as to Overall Rate of Return**

In consideration of the above; the arguments made in I&E's Main Brief; and the record evidence presented by I&E, I&E recommends the Company should be afforded the opportunity to earn an overall rate of return of 6.82%.<sup>299</sup> This recommended overall

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<sup>295</sup> I&E MB, pp. 81-93. *See also* I&E St. No. 5; I&E St. No. 5-SR.

<sup>296</sup> UGI MB, p. 76.

<sup>297</sup> *See* I&E St. No. 5, pp. 1-15; I&E St. No. 5-SR, pp. 1-30.

<sup>298</sup> *See* I&E MB, Section XI. A. UGI Electric's Quarterly Earnings Reports, pp. 81-93.

<sup>299</sup> I&E St. No. 2, p. 20; I&E St. No. 2-SR, p. 6.



rate of return is comprised of a weighted average of a 4.69% rate of return on long-term debt and an 8.62% rate of return on equity.<sup>300</sup>

## IX. RATE STRUCTURE

I&E reiterates from its Main Brief that a utility's rate structure addresses how the Commission's approved revenue increase will be allocated among the utility's various tariffed rate classes.<sup>301</sup> Once a class revenue allocation is determined, development of a rate design will address how the tariffed rates and rate elements will generate the allocated revenues. A properly designed rate structure will not unduly burden one class of ratepayers to the benefit of another. Under the Public Utility Code, "[n]o public utility shall...make or grant any unreasonable preference to any person, corporation....No public utility shall establish or maintain any unreasonable difference as to rates, either as between localities or as between classes of service."<sup>302</sup> Differences in rates charged to different classes are permissible so long as there is reasonable basis for the discrepancy.<sup>303</sup> Further, as the Company noted, "other factors may be considered in revenue allocation, such as value of service and gradualism."<sup>304</sup> Finally, "public utility rates should enable the utility to recover its cost of providing service and should allocate this cost among the utility's customers in a just, reasonable and nondiscriminatory manner."<sup>305</sup>

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<sup>300</sup> I&E St. No. 2, p. 7.

<sup>301</sup> See I&E MB, pp. 74-80.

<sup>302</sup> 66 Pa. C.S. §1304.

<sup>303</sup> *Peoples Natural Gas Company v. Pa. P.U.C.*, 409 A.2d 446 (Pa. Cmwlth 1979).

<sup>304</sup> UGI MB, p. 134.

<sup>305</sup> *Pa. P.U.C. v. West Penn Power*, 73 Pa. P.U.C. 454, 510, 199 PUR 4<sup>th</sup> 110 (1990)

## **A. Allocated Class Cost of Service Study**

I&E reiterates from its Main Brief, I&E did not present testimony regarding the Company's allocated class cost of service study<sup>306</sup>. I&E did recognize that the Company prepared a customer cost analysis presented in CORRECTED REVISED UGI Electric Exhibit D.<sup>307</sup> Although I&E did not make a specific recommendation regarding the customer cost analysis, I&E did state that I&E's believes the Company's customer cost analysis is overly inclusive.<sup>308</sup>

## **B. Revenue Allocation**

### **1. Gradualism**

I&E reiterates its assertions in its Main Brief regarding the application of the concept of Gradualism to the ultimate revenue allocation recommended by the ALJs and approved by the Commission in this proceeding.<sup>309</sup> Gradualism is a well-established ratemaking concept that seeks to limit the immediate increases customers receive when rates are increased and instead seeks to implement significant rate changes on a more gradual basis over time.<sup>310</sup> In this proceeding, the Company's proposed one-time sudden 155% increase to its residential customer charge is excessive and violates the concept of gradualism. For this reason, I&E has applied the concept of gradualism to its analysis of the Company's proposed customer charge increase.<sup>311</sup>

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<sup>306</sup> I&E MB, p. 75.

<sup>307</sup> I&E St. No. 3, p. 34.

<sup>308</sup> I&E St. No. 3, p. 34. I&E St. No. 3-SR, p. 23.

<sup>309</sup> I&E MB, pp. 76-77.

<sup>310</sup> I&E St. No. 3, p. 36.

<sup>311</sup> I&E St. No. 3, pp. 33-37.

I&E believes that gradualism concerns, from the standpoint of rate design, must be handled differently than those of the overall rate class.<sup>312</sup> Rate design determines how individual customers will generate revenue allocated to each rate class.<sup>313</sup> However, when a customer looks at their bill, they will only care about how much their own rate has increased (commonly referred to as rate shock) and not how much revenue the rate classes generating. This is particularly true for the customer charge component of rate design, which is a defined, constant amount on the customer's bill that the customer cannot control through usage.<sup>314</sup> Further, the percent increase to the customer charge must be specifically considered because every customer pays a customer charge and the large 155% increase in the residential customer charge proposed by the Company will disproportionately negatively impact low usage customers.<sup>315</sup> Therefore, gradualism and rate shock must be considered for individual components of a customer's bill and the customer charge in particular.<sup>316</sup>

The Company addressed certain modifications recommended by OSBA and OCA in its Main Brief.<sup>317</sup> I&E did not present testimony regarding these recommendations therefore I&E takes no position on these recommendations. Nevertheless, I&E reiterates its strong support for the I&E rate structure and rate design recommendations

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<sup>312</sup>

*Id.*

<sup>313</sup>

*Id.*

<sup>314</sup>

I&E St. No. 3-SR, p. 25.

<sup>315</sup>

I&E St. No. 3-SR, p. 25.

<sup>316</sup>

*Id.*

<sup>317</sup>

UGI MB, pp. 145-150.

In consideration of the above; the arguments made in I&E's Main Brief; and the record evidence presented by I&E, I&E urges the ALJs to recommend and the Commission to apply the concept of gradualism to any increase in the customer's bills, and customer charge in particular, granted in this proceeding, while also guarding against rate shock.

### **C. Rate Design**

#### **1. Summary of Rate Design**

I&E reiterates from its Main Brief<sup>318</sup> that this base rate proceeding presents some unique challenges in that UGI Electric has not been in for a base rate increase for nearly 22 years. Those challenges will need to be met through careful consideration regarding the ultimately approved rate design and customer charges. Concepts mentioned herein like gradualism, rate shock, and scale back will need to be artfully applied. I&E's recommendations regarding rate design are addressed below under "customer charge." It is worth noting here that I&E agrees with the Company that, in general, a single block usage rate is preferable to multiple block usage rates.<sup>319</sup>

#### **2. Residential Customer Charge**

I&E reiterates from Appendix A, Table I, Income Summary attached hereto, I&E has proposed a total revenue requirement increase of \$818,000<sup>320</sup> which results in a total proposed operating revenue of \$89,850,000.<sup>321</sup> Further, I&E recommends a customer

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<sup>318</sup> I&E MB, pp. 77-80.

<sup>319</sup> I&E St. No. 3, p. 38.

<sup>320</sup> I&E RB, App. A, Table I, Income Summary.

<sup>321</sup> *Id.*

charge for Rate R of \$10.00 per month; an increase of \$4.50 (81.8%).<sup>322</sup> For Rate GS-5 I&E also recommends \$10.00 per month; an increase of \$4.50 (81.8%).<sup>323</sup> Additionally, based on the recommended \$10.00 customer charges, I&E also recommends single block usage rates of \$0.036567 per kWh for Rate R and \$0.033927 per kWh for Rate GS-5.<sup>324</sup> All of I&E’s recommendations for rate design and customers charges take the concepts of rate shock and gradualism into consideration.<sup>325</sup>

<u>Rate Class</u>	<u>Customer Charge</u>	<u>Demand Charge</u>	<u>Volumetric Usage Single Block</u>
Rate R Residential	\$10.00	N. A.	\$0.036567/kWh
Rate G-5 General Service	\$10.00	N. A.	\$0.033927/kWh

If the ALJs recommend, and the Commission approves, a higher revenue requirement than recommended by I&E, but lower than the revenue requirement requested by the Company, then I&E requests the Commission apply a Scale Back methodology as set for the in I&E’s Main Brief.<sup>326</sup>

Further, I&E rejects UGI Electric’s proposed a total revenue increase of \$8,491,187 with \$8,475,717 (99.8%) going to the residential Rate R customer class; and \$15,470 (0.2%) going to the general service Rate GS-5 customer class.<sup>327</sup> I&E also rejects the Company’s proposed customer charge for Rate R is \$14.00 per month; an increase of \$8.50 (155%) from the present charge of \$5.50;<sup>328</sup> and, the Company’s

<sup>322</sup> I&E St. No. 3-SR, pp. 23-28.

<sup>323</sup> *Id.*, p. 27.

<sup>324</sup> I&E St. No. 3-SR, p. 28.

<sup>325</sup> I&E St. No. 3, pp. 34-38. I&E St. No. 3-SR, pp. 23-28.

<sup>326</sup> I&E MB, pp. 79-80.

<sup>327</sup> UGI Elec. St. No. 8-SD, p. 4.

<sup>328</sup> UGI MB, p. 151.

proposed customer charge for Rate GS-5 of \$14.00 per month; an increase of \$8.50 (155%) from the present charge of \$5.50.<sup>329</sup> Finally, I&E recommends its proposed volumetric usage rates in place of the Company's proposed volumetric rate for Rate R of \$0.03077/kWh and for Rate GS-5 of \$0.04707/kWh.<sup>330</sup>

### **3. Non-Residential Customer Charges**

The Company's proposed rates for Rate GS-1; GS-4; LP; Lighting; and HTP are set forth in the Company's Main Brief.<sup>331</sup> I&E did not take a position on these rates.

#### **D. Scale Back**

I&E reiterates its recommendation that if the Commission grants less than the Company's requested revenue increase, as strongly recommended by I&E, then I&E recommends that the usage rates for the GS-5 and Rate R classes be scaled back sequentially to produce specific revenue levels for each rate class first. And then I&E's recommended \$10.00 customer charge for each rate class could be scaled back if necessary.<sup>332</sup>

The Company argues that any scale back should be based on the Company's originally proposed rates and not the reduced customer charge proposed by I&E and OCA.<sup>333</sup>

I&E rejects the Company's argument. I&E argues that its scale back methodology is based first upon the fact that the recommended decrease to the Company's requested

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<sup>329</sup>

*Id.*

<sup>330</sup>

*Id.*

<sup>331</sup>

UGI MB, pp. 151, 161-164.

<sup>332</sup>

I&E MB, pp. 79-80, *citing* I&E St. No. 3, p. 39. I&E St. No. 3-SR, p. 29.

<sup>333</sup>

UGI MB, p. 165.

customer charge has the effect of increasing the usage rates at the fully requested revenue increase.<sup>334</sup> Therefore, usage rates should be scaled back prior to any scale back of the customer charge.<sup>335</sup> Second, I&E recommends the GS-5 class be scaled back first because the overall increase to that class is minimal.<sup>336</sup> Then, the bulk of the scale back is left for the Rate R class, which will most likely be assessed the majority of the proposed increase.<sup>337</sup> Finally, any scale back methodology used should be based upon the customer charges ultimately granted by the Commission.<sup>338</sup>

In consideration of the above; the arguments made in I&E's Main Brief; and the record evidence presented by I&E, I&E recommends, as propounded above, that the usage rates for the GS-5 and Rate R classes be scaled back sequentially to produce specific revenue levels for each class first, and then I&E's recommended \$10 customer charge for each class be scaled back if required.

#### **D. Summary and Alternatives**

I&E's proposed monthly customer charge; as well as its gradualism and scale back recommendations, are based on sound Commission ratemaking policies and precedent and should be adopted and implemented as set forth.

### **X. UNIVERSAL SERVICE**

UGI Electric's Universal Service Programs issues, including the Customer Assistance Program (CAP); Self-certification; Rider C; Budget Billing; and Payment

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<sup>334</sup> I&E St. No. 3, p. 39.

<sup>335</sup> *Id.*

<sup>336</sup> *Id.*

<sup>337</sup> *Id.*

<sup>338</sup> I&E St. No. 3-SR, p. 29.

Plans, are all resolved as fully set forth in the Partial Stipulation filed by the parties in this proceeding. I&E presented no further position regarding Universal Service.

## **XI. MISCELLANEOUS ISSUES**

### **A. UGI Electric's Quarterly Earnings Reports**

As I&E asserted in its Main Brief,<sup>339</sup> the purpose of a quarterly earnings report is to establish uniform and industrywide financial reporting requirements designed so the Commission can monitor, on a regular basis, the financial performance and earnings of the electric, gas, telephone, water and wastewater public utilities that are subject to commission jurisdiction.<sup>340</sup> During the natural course of I&E's investigation it became apparent that the Company was significantly understating its QER return because it was including FPPTY plant in those quarterly reports. QERs should be based on verifiable current data because the purpose of the QERs is to provide the Commission a snapshot of the utility's current financial performance and earnings. This is not achieved if UGI Electric is including projected 2019 plant in its September 30, 2017 QER. Including FTY and FPPTY plant and annual depreciation expense renders the QERs meaningless because the reports are based on unsupported projections that do not reflect the current financial position of the utilities being reported.

This issue arose because the Company's filing alluded to an actual rate of return and return on equity that appeared to be so low so as to be a mistake. UGI Electric Chief Regulatory Officer, Paul J. Szykman, stated that:

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<sup>339</sup> I&E MB, pp. 81-93.

<sup>340</sup> I&E St. No. 5, p.4; I&E St. No. 5-SR, p. 15.



as reflected in UGI Exhibit A (Fully Projected), Schedule A-1, the Company's operations are projected to produce an overall return on rate base of 3.20%, which equates to a return on common equity of only 1.92% for the twelve months ending September 30, 2019.<sup>341</sup>

Followed by the statement:

As explained by Company witness Paul R. Moul (UGI Electric Statement No. 5), these returns are not adequate based on applicable financial data and the risks confronted by UGI Electric. Unless UGI Electric receives the requested rate relief, those returns will continue to decline.<sup>342</sup>

Continuing to follow the natural course of its investigation, I&E conducted a review of UGI Electric's recent Quarterly Earnings Reports looking for confirmation.<sup>343</sup> Instead, I&E found discrepancies between the Company's HTY net plant claim shown on UGI Exhibit A - Historic, Schedule A-1, sponsored by UGI witness Megan Mattern,<sup>344</sup> compared to the Quarterly Earnings Report submitted to the Commission by UGI Utilities, Inc. - Electric Division for the period ending September 30, 2017.<sup>345</sup>

By including FPFTY plant in its September 2017 QER, UGI Electric dramatically decreased its reported ROE and overall ROR. Specifically, in the September 30, 2017 QER, the Company added \$44,453,000 of FPFTY net plant to the actual net plant balance of \$86,742,000 to arrive at an "adjusted" net plant of \$131,195,000.<sup>346</sup> This additional FPFTY plan of \$44,453,000 represented a 51.2% increase in the Company's actual net plant. The Company also added \$1,600,000 of annual depreciation expense to the actual annual depreciation expense of \$4,495,000 to arrive at an "adjusted" annual depreciation

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<sup>341</sup> UGI Elec. St. No. 1, p. 6.

<sup>342</sup> *Id.*

<sup>343</sup> I&E St. No. 5, pp. 1-2.

<sup>344</sup> *Id.* See also UGI Elec. St. No. 4.

<sup>345</sup> UGI Elec. St. No. 5, pp. 1-2.

<sup>346</sup> I&E St. No. 5, p. 3.

expense of \$6,095,000 (I&E Exhibit No. 5, Schedule 1, page 1, line 18). Because it included the FPFTY plant and depreciation expense, the Company reported its ROR to be 4.94% and its ROE to be 5.22%.<sup>347</sup> However, by removing the projected plant and corresponding annual depreciation expense the ROR would have been 10.17% and the ROE would have been 14.9%.<sup>348</sup>

The Company argues that Chapter 53<sup>349</sup> of the Pennsylvania Code and the Suspension Order for this proceeding reflect the appropriate scope of this base rate proceeding.<sup>350</sup> The Company recognizes that all issues that are related to the justness and the reasonableness of the Company's proposed rates, rules and regulations currently reflected in its tariff or proposed in the tariff to be adopted as part of this proceeding are relevant issues to be included in this proceeding.<sup>351</sup> The Company then argues that the Company's QER does not fall into either of these categories and therefore should be excluded from this proceeding.<sup>352</sup> But as I&E illustrated in the testimony submitted by Joseph Kubas<sup>353</sup> and in I&E's Main Brief,<sup>354</sup> it was UGI Electric that brought the QERs into relevance in this proceeding through the testimony of UGI Electric witnesses Paul Szykman and Paul Moul; and the testimony and exhibits submitted by UGI Electric witness Megan Mattern. I&E recognizes that Act 11 permits utilities to set rates based on

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<sup>347</sup> I&E St. No. 5, p. 6.

<sup>348</sup> I&E St. No. 5, p. 7.

<sup>349</sup> 52 Pa. Code, § 53.53.

<sup>350</sup> UGI MB, p. 168.

<sup>351</sup> *Id.*, p. 169.

<sup>352</sup> *Id.*

<sup>353</sup> I&E St. No. 5, pp. 1-15; I&E St. No. 5-SR, pp. 1-30.

<sup>354</sup> I&E MB, pp. 81-83.

a FPFTY; including FPFTY Plant in rate cases is appropriate.<sup>355</sup> It, however, does not follow that FPFTY Plant should be reflected in the QERs, as the purpose of the QERs is to provide the Commission a snapshot of the utility's current financial performance and earnings at that point in time.<sup>356</sup> Therefore, only verifiable, current data should be included in the QER.<sup>357</sup>

The Company also argues that one available remedy would be an industrywide rulemaking proceeding which would allow all interested participants to provide the Commission with comments on the impact of adopting I&E's recommendations for QER reporting.<sup>358</sup> I&E rejects this argument as there is no need for an industrywide rulemaking proceeding when all of the relevant facts regarding UGI Electric are on the record in this proceeding, and therefore, this issue is ripe for a decision.

I&E asserts further, the QERs are governed by the regulations found in Chapter 71 of the Pennsylvania Code.<sup>359</sup> Chapter 71 states that the QERs are required to reflect the actual per book "revenues, expenses and investment amounts that reflect the unadjusted results of operations for the 12-month periods ending each March 31, June 30, September 30 and December 31 as recorded in the public utility's financial books of account."<sup>360</sup> Further, annualization, normalization, and ratemaking adjustments are required to bring a public utility's accounts to a 12-month level of activity for changes to the actual per

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<sup>355</sup> I&E St. No. 5-SR, p. 5. *See also* 66 Pa. C.S. § 315(e).

<sup>356</sup> *Id.* *See* 52 Pa. Code § 71.1 *et seq.*

<sup>357</sup> *Id.*

<sup>358</sup> UGI MB, pp. 170-171.

<sup>359</sup> 52 Pa. Code § 71.1 *et seq.*

<sup>360</sup> 52 Pa. Code § 71.2 - *Actual per books.*

books accounts which occur before the end of the 12-month period ending December 31 of each historic year.<sup>361</sup> It is clear that Chapter 71 is backward looking, as all adjustments are made to the actual per books accounts for the historic period. There is no mention of future or fully projected future accounts or periods in Chapter 71.

Chapter 71 defines “ratemaking adjustments” as “adjustments to a public utility’s actual per book amounts to reflect disallowances made in prior cases by the Commission to revenues, expenses and investments which are not reflected in the public utility’s financial books of account.”<sup>362</sup> Meaning these disallowances have already occurred but are not yet reflected in the utilities books of account for the relevant historic period. Again, there is no mention of future or projected future.

I&E asserts that Chapter 71, does not permit projected rate base included in a FPFTY in a current base rate case to be included as an adjustment in a QER as that rate base does not qualify as an adjustment approved by the Commission in a prior case.<sup>363</sup> Nor is I&E aware of the Commission issuing any Secretarial Letters allowing the practice.<sup>364</sup>

The Company continues to argue that Act 11 amended and/or modified Chapter 71.<sup>365</sup> The Company continues to rely on that part of Act 11 that discusses the reset of the distribution system improvement charge.<sup>366</sup> The Company focuses on the use of the

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<sup>361</sup>

*Id.*

<sup>362</sup> 52 Pa. Code § 71.2 - *Ratemaking adjustments*.

<sup>363</sup> I&E St. No. 5, p. 6.

<sup>364</sup> *Id.*

<sup>365</sup> UGI MB, p. 173.

<sup>366</sup> 66 Pa. C.S. § 1358(b)(3).

word “will” in relation to “will earn a rate of return that would exceed the allowable rate of return used to calculate its fixed cost under the distribution system improvement charge.”<sup>367</sup>

I&E rejects this argument as a self-serving interpretation of the use of the word “will” in Act 11. The Company’s conclusion that that word “will” somehow means it can project out two years and include that projected plant in the QER is wholly unsupported. The word “will” used in this context refers to the current quarter, not FPFTY Plant. For example, if a utility that is charging DSIC and including the DSIC related revenue in its total revenue, results in an overearning situation, the utility is required to reset the DSIC to zero, so they no longer “will” overearn. This provision of Act 11 was not meant to open the door for utilities to manipulate the overearning calculation by adding proposed FPFTY plant into the overearning formula and into the utility’s QERs. If the legislature, in drafting Act 11, truly intended to modify Chapter 71, rules of statutory drafting dictate that Act 11 would have clearly stated somewhere within its four corners that Act 11 was specifically amending or modifying Chapter 71. UGI Electric, however, cites to NO provision of Act 11 were any such statement was made.<sup>368</sup>

Further, I&E reiterates, there is simply no support for the Company’s position that Act 11 modified Chapter 71. There is no pronouncement in the plain language of Act 11 that it modified Chapter 71, nor is there any pronouncement of any intent to modify Chapter 71. The language of both Act 11 and Chapter 71 are un-ambiguous and their

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<sup>367</sup> UGI MB, p. 174.

<sup>368</sup> UGI MB, pp. 173-178.

meaning and intent is clear.<sup>369</sup> Therefore, there is no need to go beyond a “plain meaning” analysis of Act 11.<sup>370</sup> Finally, courts have long held that there is a presumption against repeals by implication.<sup>371</sup>

The Company argues that I&E has made arguments regarding the accuracy of UGI Electric’s QER calculations that are without merit and should be rejected.<sup>372</sup> In response, I&E asserts that the testimony presented by I&E witness Kubas is based entirely on the facts and figures provided by the Company. Mr. Kubas relied on the testimony of the Company witnesses, the exhibits submitted by the Company witnesses, and the QERs submitted to the Commission by the Company. There was no opinion involved in the compiling of the facts by I&E witness Kubas. The numbers provided and submitted by the Company speak for themselves. The only explanation given by the Company is that the differences are principally related to “budget adjustments,”<sup>373</sup> a common theme running throughout UGI Electric’s base rate filing. Further, any reasonable mind would draw the same conclusions as I&E when confronted with the substantial factual record evidence presented in this proceeding.

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<sup>369</sup> See 1 Pa. C.S. § 1921(b). See also The Rehnquist Court’s Canons of Statutory Construction (Rehnquist Canons), Section I Textual Canons, (1994), citing *Estate of Cowart v. Nicklos Drilling Co.*, 112 S. Ct. 2589, 2594 (1992). [http://www.ncsl.org/documents/lss/2013PDS/Rehnquist\\_Court\\_Canons\\_citations.pdf](http://www.ncsl.org/documents/lss/2013PDS/Rehnquist_Court_Canons_citations.pdf).

<sup>370</sup> 1 Pa. C.S. § 1921(b).

<sup>371</sup> See Rehnquist Canons, Section VII Statute-Based Canons, citing *Pittsburgh & Lake Erie R.R. v. Railway Labor Executives’ Ass’n*, 401 U.S. 490, 509 (1989).

<sup>372</sup> UGI MB, p. 178.

<sup>373</sup> UGI MB, p. 180.

It is I&E's contention that the overall rate of return claimed by the Company for the Quarter ending September 30, 2017 should have been 10.17% and not 4.94%; and, that the return on equity should have been 14.9% and not 5.22%.<sup>374</sup>

It is patently obvious that the Company's projections made in the September 30, 2017 QER were overly optimistic at best and woefully inaccurate at worst.<sup>375</sup> The over optimism and inaccuracies became obvious during the course of I&E's investigation and comparison of the September 30, 2017 QER with the information filed by UGI Electric as part of its base rate filing.<sup>376</sup> I&E was compelled to compare the two as the logical next step after the Company claimed the very low ROE and ROR.<sup>377</sup>

The Company also argues that adopting I&E's methodology will reverse the progress accomplished by Act 11 and will significantly increase regulatory lag and may impact the ability of UGI Electric to use the DSIC as intended by the legislature.<sup>378</sup> I&E rejects this argument. As explained by I&E in its Main Brief, the recommendations made by I&E are intended to provide the Commission with meaningful Quarterly Earnings Reports that will provide the Commission with uniform and industrywide financial reporting on which to base the Commission's review of its regulated utilities current financial performance and earnings at a certain point in time.<sup>379</sup>

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<sup>374</sup> See I&E St. No. 5, pp. 1-15; I&E St. No. 5-SR, pp. 1-30.

<sup>375</sup> I&E St. No. 5, pp. 9-10.

<sup>376</sup> *Id.*

<sup>377</sup> See I&E St. No. 5, pp. 6-7; I&E St. No. 5-SR, pp. 5-6. See also UGI Elec. St. No. 1, p. 6.

<sup>378</sup> UGI MB, p. 182.

<sup>379</sup> I&E MB, p. 85.

The Company’s statement “since UGI Electric does not currently have a DSIC” is misleading.<sup>380</sup> Rather, the Company has filed for its LTIP, which will pave the way for the Company to initiate its DSIC.<sup>381</sup> I&E also noted that the inclusion of the FPFTY Plant that dramatically reduces the overall ROR and ROE in the Company’s September 30, 2017 QER also allows UGI Electric to be eligible for a DSIC.<sup>382</sup> Further, the Company has a financial incentive to report lower ROR and ROE results in the future to be eligible for the DSIC or not subject to an overearning investigation.<sup>383</sup> A lower ROR allows UGI Electric to be eligible for a DSIC.<sup>384</sup> Utilities that earn more than the authorized ROR would have their DSIC reset to zero.<sup>385</sup> It is critical for the QERs to not include the additional FPFTY Plant, which serves to artificially lower the ROR and ROE, thus not triggering a DSIC reset to zero which has the effect of invalidating the important customers safeguard built into the DSIC statute.<sup>386</sup> Therefore, the Commission should also consider the customer protections of the DSIC statute as another reason to not permit the inclusion of the FPFTY Plant in future QERs.<sup>387</sup>

I&E reiterates that the inclusion of the FPFTY plant in the QER dramatically reduces the Company’s as presented return on equity and overall rate of return, thereby manipulating the Company’s eligibility for a DSIC.<sup>388</sup> It is not I&E’s intent to prevent

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<sup>380</sup> I&E St. No. 5-SR, pp. 12-13.

<sup>381</sup> I&E St. No. 5-SR, pp. 12-14.

<sup>382</sup> I&E St. No. 5, pp. 6-7. I&E St. No. 5-SR, pp. 10-11.

<sup>383</sup> I&E St. No. 5-SR, p. 12.

<sup>384</sup> *Id.*

<sup>385</sup> I&E St. No. 5, p. 7. I&E St. No. 5, p. 12.

<sup>386</sup> I&E St. No. 5-SR, pp. 12-14.

<sup>387</sup> I&E St. No. 5-SR, p. 13.

<sup>388</sup> *Id.*, pp. 89-92.



any Pennsylvania utility from using the DSIC as intended by the legislature, but rather to avoid enticing utilities, through a financial incentive, to report lower rates of return and returns on equity in their QERs by using an inflated rate base in order to be eligible for the DSIC.<sup>389</sup>

In consideration of the above; the arguments made in I&E's Main Brief; and the record evidence presented by I&E in this proceeding, I&E recommends that the Administrative Law Judges and the Commission recognize that the Company's arguments regarding its requested return on equity and resultant overall rate of return are contaminated by the Company's manipulation of its September 30, 2017 QER and the nature in which the Company witnesses wove the skewed QER return on equity and rate of return into the Company's overall rate of return arguments. I&E also recommends that the ALJ's recommend, and the Commission issues, a Secretarial Letter pursuant to Section 71.6(d)<sup>390</sup> specifically precluding the use of FPFTY rate base, and the related annual depreciation expense, in public utility Chapter 71 Quarterly Earnings Reports.

#### **B. Public Input Hearings**

Public Input Hearings were held on April 18, 2018 in Hearing Room 1 of the Commonwealth Keystone Building using the Commission's Smart Hearing technology. I&E did not incorporate any of the on-the-record testimony into its litigation position in this proceeding.

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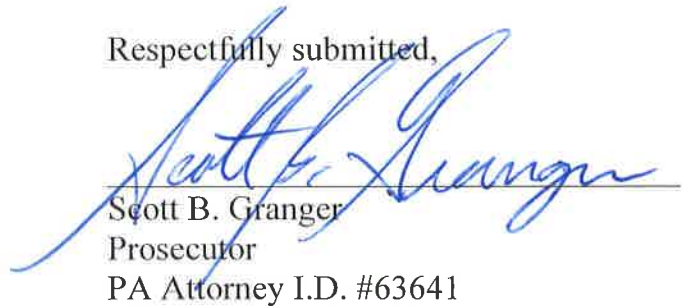
<sup>389</sup> *Id.*, pp. 90-91.

<sup>390</sup> 52 Pa. Code § 71.6(d).

## XII. CONCLUSION

I&E respectfully submits that for all the reasons presented in I&E's written testimony; Main Brief; and this Reply Brief; UGI Electric has not met its burden of proof with respect to each and every element of the Company's proposed base rate and revenue requirement increase. Therefore, the Company's proposal must be adjusted. The Bureau of Investigation and Enforcement respectfully requests the Administrative Law Judges and the Commission to adopt I&E's recommendations in this proceeding as reflected in I&E's written testimony and the Tables attached as Appendix A to I&E's Reply Brief.

Respectfully submitted,



Scott B. Granger  
Prosecutor  
PA Attorney I.D. #63641

Dated: July 18, 2018

# APPENDICES

## Appendix A

### I&E TABLE I – INCOME SUMMARY

TABLE I  
UGI Utilities, Inc. - Electric Division  
INCOME SUMMARY (in thousands)  
R-2017-2640058

	Pro Forma Present Rates (1)	Company Adjustments (1)	Pro Forma Present Rates (Revised) (1)	I&E Adjustments	I&E Pro Forma Present Rates	I&E Revenue Increase	Total Allowable Revenues
	\$	\$	\$	\$	\$	\$	\$
Operating Revenue	89,092	0	89,092	(60)	89,032	818	89,850
Expenses:							
O & M Expense	72,027	0	72,027	(1,283)	70,744	9	70,753
Depreciation	5,869	0	5,869	(579)	5,290	0	5,290
Taxes, Other	6,514	0	6,514	(356)	6,158	48	6,206
Income Taxes:							
State	(317)	0	(317)	271	(46)	76	30
Federal	(460)	0	(460)	510	50	144	194
Deferred Taxes	981	0	981	0	981	0	981
Total Expenses	84,614	0	84,614	(1,437)	83,177	277	83,454
Net Inc. Available for Return	4,478	0	4,478	1,377	5,855	541	6,396
Rate Base	119,272	0	119,272	(25,436)	93,836		93,836
Rate of Return	3.75%		3.75%				6.82%

(1) Company Rebuttal

## I&E TABLE I(A) – RATE OF RETURN

TABLE I(A) - As filed  
UGI Utilities, Inc. - Electric Division  
RATE OF RETURN  
R-2017-2640058

	<u>Structure</u>	<u>Cost</u>	<u>After-Tax Weighted Cost</u>	<u>Effective Tax Rate Complement</u>	<u>Pre-Tax Weighted Cost Rate</u>
Total Cost of Debt			2.16000000%		
Long-term Debt	46.00%	4.69%	2.15740000%		2.16%
Short-term Debt	0.00%	0.00%	0.00000000%		
Preferred Stock	0.00%	0.00%	0.00000000%	0.711079	0.00%
Common Equity	<u>54.00%</u>	11.25% (1)	<u>6.07500000%</u>	0.711079	<u>8.54%</u>
	<u>100.00%</u>		<u>8.23240000%</u>		<u>10.70%</u>
Pre-Tax Interest Coverage	4.96				
After-Tax Interest Coverage	3.82				

(1) Company Brief

Total Cost of Debt			2.16000000%		
Long-term Debt	45.98%	4.69%	2.15650000%		2.16%
Short-term Debt	0.00%	0.00%	0.00000000%		
Preferred Stock	0.00%	0.00%	0.00000000%	1.000000	0.00%
Common Equity	<u>54.02%</u>	8.62% (2)	<u>4.65650000%</u>	1.000000	<u>4.66%</u>
	<u>100.00%</u>		<u>6.81300000%</u>		<u>6.82%</u>
Pre-Tax Interest Coverage	3.16				
After-Tax Interest Coverage	3.16				

(2) I&E

## I&E TABLE I(B) – REVENUE FACTOR

TABLE I(B)  
 UGI Utilities, Inc. - Electric Division  
 REVENUE FACTOR  
 R-2017-2640058

100%	<u>1.00000000</u>		
Less:			
Uncollectible Accounts Factor (*)	0.01107000		
PUC, OCA, OSBA Assessment Factors (*)	0.00000000		
Gross Receipts Tax	0.05900000		
Other Tax Factors	<u>0.00000000</u>		
	0.92993000		
State Income Tax Rate (*)	<u>0.09990000</u>		
Effective State Income Tax Rate	<u>0.09290000</u>		
Factor After Local and State Taxes	0.83703000		
Federal Income Tax Rate (*)	<u>0.21000000</u>		
Effective Federal Income Tax Rate	<u>0.17577600</u>		
Revenue Factor (100% - Effective Tax Rates)	<u><u>0.66125400</u></u>	I&E SS =	Diff
		0.661718	0.000464

(\*) Company Main Brief

## I&E TABLE II – SUMMARY OF ADJUSTMENTS

TABLE II  
UGI Utilities, Inc. - Electric Division  
SUMMARY OF I&E RECOMMENDED ADJUSTMENTS  
R-2017-2640058

<u>Adjustments</u>	<u>Rate Base</u>	<u>Revenues</u>	<u>Expenses</u>	<u>Depreciation</u>	<u>Taxes-Other</u>	<u>State Income Tax</u>	<u>Federal Income Tax</u>
	\$000's	\$000's	\$000's	\$000's	\$000's	\$000's	\$000's
<b>RATE BASE:</b>							
CWC:							
Int. & Div. (Table IV)	(IV)B38)						
Taxes (Table V)	(V)P34)						
O & M (Table VI)	(VI)B42)						
Excess ADIT	(11,483)						
CWC	(425)						
Rate Base net of CWC	(13,528)						
Company Change							
<b>REVENUES:</b>							
Average revenues		(60)			(4)	(6)	(11)
<b>EXPENSES:</b>							
Uncollectibles			(6)			1	1
Envi Remediation			(139)			14	26
Rate Case Expense			(90)			9	17
Veg. Management			(206)			21	39
Sal. & Wages			(98)			10	18
O/S Services-Misc.			(170)			17	32
Employee Activity Costs			(12)			1	2
Stock Options/Awards			(189)			19	36
Co-Owned Svc Transition Pgm			(314)			31	59
Storm Damage Expense			(48)			5	9
Purchased Power			(11)			1	2
Depreciation Expense				(579)		58	109
PURTA					(352)	35	67
<b>TAXES:</b>							
Interest Synchronization (Table III)						55	104
<b>TOTALS</b>	<u>(25,436)</u>	<u>(60)</u>	<u>(1,283)</u>	<u>(579)</u>	<u>(356)</u>	<u>271</u>	<u>510</u>

## I&E TABLE III – INTEREST SYNCHRONIZATION

TABLE III  
 UGI Utilities, Inc. - Electric Division  
 INTEREST SYNCHRONIZATION  
 R-2017-2640058

	Amount \$
Company Rate Base Claim	119,272
I&E Rate Base Adjustments	<u>(25,436)</u>
I&E Rate Base	93,836
Weighted Cost of Debt	<u>2.16000000%</u>
I&E Interest Expense	2,027
Company Claim (1)	<u>2,576</u>
Total I&E Adjustment	549
Company Adjustment	<u>0</u>
Net I&E Interest Adjustment	549
State Income Tax Rate	<u>9.99%</u>
State Income Tax Adjustment	<u>55</u>
Net I&E Interest Adjustment	549
State Income Tax Adjustment	<u>55</u>
Net I&E Adjustment for F.I.T.	494
Federal Income Tax Rate	<u>21.00%</u>
Federal Income Tax Adjustment	<u><u>104</u></u>

(1) Company Rebuttal

## I&E TABLE IV – CASH WORKING CAPITAL

TABLE IV  
 UGI Utilities, Inc. - Electric Division  
 CASH WORKING CAPITAL - Interest and Dividends  
 R-2017-2640058

Accrued Interest			Preferred Stock Dividends		
	Long-Term Debt	Short-Term Debt			
Company Rate Base Claim	\$119,272	\$119,272	Company Rate Base Claim	\$119,272	
ALJ Rate Base Adjustments	<u>(\$25,436)</u>	<u>(\$25,436)</u>	ALJ Rate Base Adjustments	<u>(\$25,436)</u>	
ALJ Rate Base	\$93,836	\$93,836	ALJ Rate Base	\$93,836	
Weighted Cost of Debt	<u>2.15740000%</u>	<u>0.00%</u>	Weighted Cost Pref. Stock	<u>0.00000000%</u>	
ALJ Annual Interest Exp.	<u>\$2,024</u>	<u>\$0</u>	ALJ Preferred Dividends	<u>\$0</u>	
Average Revenue Lag Days	0.0	0.0	Average Revenue Lag Days	0.0	
Average Expense Lag Days	<u>0.0</u>	<u>0.0</u>	Average Expense Lag Days	<u>0.0</u>	
Net Lag Days	<u>0.0</u>	<u>0.0</u>	Net Lag Days	<u>0.0</u>	
 Working Capital Adjustment					
ALJ Daily Interest Exp.	\$6	\$0	ALJ Daily Dividends	\$0	
Net Lag Days	<u>0.0</u>	<u>0.0</u>	Net Lag Days	<u>0.0</u>	
ALJ Working Capital	\$0	\$0		\$0	
Company Claim (1)	<u>\$0</u>	<u>\$0</u>	Company Claim (1)	<u>\$0</u>	
ALJ Adjustment	<u>\$0</u>	<u>\$0</u>		<u>\$0</u>	
Total Interest & Dividend Adj.	<u>\$0</u>				

(1) Company Main Brief



## I&E TABLE V – CASH WORKING CAPITAL-TAXES

TABLE V  
UGI Utilities, Inc. - Electric Division  
CASH WORKING CAPITAL -TAXES  
R-2017-2640058

Description	Company Proforma Tax Expense Present Rates	ALJ Adjustments	ALJ Pro forma Tax Expense Present Rates	ALJ Allowance	ALJ Adjusted Taxes at Present Rates	Daily Expense	Net Lead/ Lag Days	Accrued Tax Adjustment
PUC Assessment	\$0	\$0	\$0	\$48	\$48	\$0.13	0.00	\$0
Public Utility Realty	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
Capital Stock Tax	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
State Income Tax	\$0	\$271	\$271	\$76	\$347	\$0.95	0.00	\$0
Federal Income Tax	\$0	\$510	\$510	\$144	\$654	\$1.79	0.00	\$0
	<u>\$0</u>	<u>\$781</u>	<u>\$781</u>	<u>\$268</u>	<u>\$1,049</u>			
								ALJ Allowance
								0
								Company Claim (1)
								0
								ALJ Adjustment
								0

(1) Company Main Brief

## I&E TABLE VI – CASH WORKING CAPITAL-O&M EXPENSE

TABLE VI  
 UGI Utilities, Inc. - Electric Division  
 CASH WORKING CAPITAL -- O & M EXPENSE  
 R-2017-2640058

Description	Company Pro forma F.T.Y. Expense	ALJ	ALJ Pro forma Expenses	Lag Days	Lag Dollars
Service Company	\$0	\$0	\$0	0.00	\$0
Chemicals	\$0	\$0	\$0	0.00	\$0
Group Insurance	\$0	\$0	\$0	0.00	\$0
Insurance, Other	\$0	\$0	\$0	0.00	\$0
Labor	\$0	\$0	\$0	0.00	\$0
Leased Equip./Rent	\$0	\$0	\$0	0.00	\$0
Leased Vehicles	\$0	\$0	\$0	0.00	\$0
Miscellaneous	\$0	\$0	\$0	0.00	\$0
Natural Gas	\$0	\$0	\$0	0.00	\$0
Power	\$0	\$0	\$0	0.00	\$0
Purchased Water	\$0	\$0	\$0	0.00	\$0
Telephone	\$0	\$0	\$0	0.00	\$0
Waste Disposal	\$0	\$0	\$0	0.00	\$0
Post Retirement Benefits	\$0	\$0	\$0	0.00	\$0
Pensions	\$0	\$0	\$0	0.00	\$0
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>#DIV/0!</u>	<u>\$0</u>

ALJ Average Revenue Lag 0.0  
 Less: ALJ Avg. Expense Lag #DIV/0!

Net Difference #DIV/0! Days  
 ALJ Pro forma  
 O & M Expense per Day \$0

ALJ CWC for O & M #DIV/0!  
 Less: Company Claim (1) \$0

ALJ Adjustment #DIV/0!

(1) Company Main Brief

## **Appendix B**

### **Federal Tax Adjustment Credit (FTAC)**

A credit value of x.xx% will apply to all Pennsylvania Public Utility Commission jurisdictional distribution charges during the period xxx x, xxxx through xxx x, xxxx to pass the January 1, 2018 through September 30, 2018 effects of the Tax Cuts and Jobs Act (TCJA) to customers. The FTAC will be computed annually, will be effective ten days after filing, and will continue until the effect of the change in tax rates resulting from the TCJA has been refunded to customers.

The FTAC will be based on the difference in total annual revenue requirement before and after implementing the 2018 effects of the TCJA and the calculation will reflect the reduction in required revenues. The reduction in required revenues will be divided by estimating annual applicable base revenues to develop the FTAC to be applied to customers' bills for service rendered during the twelve-month period beginning on the effective date of new rates. The difference between the actual reduction in required revenue and the reduction in revenues produced by the FTAC as applied will be subject to refund or recovery in an annual revision to the FTAC. The interest rate on the over or under collection will be applied using the residential mortgage lending rate specified by the Secretary of Banking in accordance with the Loan Interest and Protection Law (41. P.S. §§ 101, et seq.). For any over/under credit balance that remains after the twelve-month refund period elapses, the Company shall propose a final additional FTAC adjustment in the thirteenth month to ensure the balance is eliminated.

A reconciliation statement will be submitted to the Commission at the end of the twelfth month. A final reconciliation statement will be filed with the Commission within 30 days after the final over/under balance has been eliminated in the thirteenth month after the effective date of new rates. The FTAC revenues and reconciliation will be subject to audit by the Commission's Bureau of Audits.

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :  
 :  
 v. : Docket No. R-2017-2640058  
 :  
 UGI Utilities Inc. – Electric Division :  
 Base Rates :

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Reply Brief** dated July 18, 2018, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

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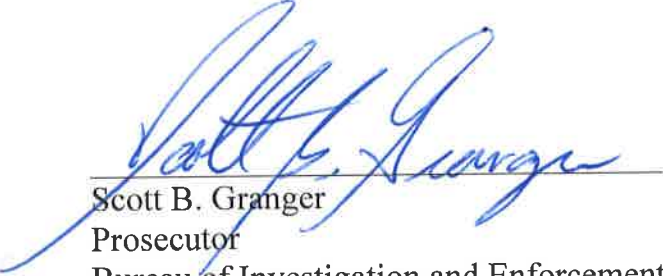
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