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November 12, 2019

**VIA E-FILING**

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

**Re: Petition of UGI Utilities, Inc. – Electric Division for Approval of a  
Distribution System Improvement Charge;  
Docket No. P-2017-2619834**

Dear Secretary Chiavetta:

Enclosed for filing, please find the Joint Petition for Settlement in the above-referenced proceeding. Copies of this filing have been served upon the persons indicated on the attached certificate of service.

Very truly yours,



Michael S. Swerling  
Counsel for UGI Utilities, Inc. – Electric Division

Enclosure

cc: Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of UGI Utilities, Inc. – Electric Division	:	
for Approval of a Distribution System	:	Docket No. P-2017-2619834
Improvement Charge	:	

**JOINT PETITION FOR SETTLEMENT**

UGI Utilities, Inc. - Electric Division (“UGI Electric” or the “Company”), the Office of Consumer Advocate ("OCA") and the Office of Small Business Advocate (“OSBA”) (hereafter collectively referred to as the "Joint Petitioners"), hereby submit this Joint Petition for Settlement ("Settlement") in the above-captioned proceeding and respectfully request that the Pennsylvania Public Utility Commission (“Commission”) approve this Settlement without modification. In support of this Settlement, the Joint Petitioners represent as follows:

**I. BACKGROUND**

1. UGI Electric is a division of UGI Utilities, Inc. (“UGI Utilities”), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, and a wholly owned subsidiary of UGI Corporation. UGI Electric primarily provides electric distribution service to approximately 62,000 customers in Luzerne and Wyoming counties in Northeastern Pennsylvania, pursuant to certificates of public convenience granted by the Commission. UGI Electric is a “public utility” and an “electric distribution company” (“EDC”) within the meaning of Sections 102 and 2803 of the Public Utility Code, 66 Pa. C.S. § 102 and § 2803, subject to the regulatory jurisdiction of the Commission.

2. On September 4, 2019, the Company filed its *Petition of UGI Utilities, Inc. – Electric Division for Approval of a Distribution System Improvement Charge* at Docket

No. P-2017-2619834 (“Petition”) with the Commission. In the Petition, the Company requested approval to implement a Distribution System Improvement Charge (“DSIC”) effective January 1, 2020, to recover, between base rate cases, capital expenses related to eligible property constructed or installed to rehabilitate, improve and replace portions of the Company’s electric distribution system.

3. As stated in the Company’s Petition, before a public utility may be eligible to recover costs through a DSIC, it must first have a Commission-approved Long Term Infrastructure Improvement Plan (“LTIIIP”). 66 Pa. C.S § 1352. UGI Electric’s LTIIIP was approved by the Commission on December 21, 2017.<sup>1</sup> The LTIIIP will achieve a significant acceleration of infrastructure replacements over those installed during the Company’s baseline period (*i.e.*, 2012-2015).

4. UGI Electric requested permission to implement a DSIC for bills rendered on and after January 1, 2020.

5. In its Petition, UGI Electric acknowledged that it cannot recover any costs associated with infrastructure replacements through the DSIC until it has placed in service a level of plant that exceeds the level approved by the Commission for base rate recovery in Docket No. R-2017-2640058, or as otherwise directed by the Commission. In the base rate proceeding at Docket No. R-2017-2640058, UGI Electric used a Fully Projected Future Test Year (“FPFTY”) ending September 30, 2019 to establish its current base rates.

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<sup>1</sup> *Petition of UGI Utilities Inc. – Electric Division for Approval of its Long-Term Infrastructure Improvement Plan*, Docket No. P-2017-2619834 (Order entered Dec. 21, 2017). A copy of the LTIIIP was included as Appendix B to the Petition. UGI Electric’s LTIIIP is a 5-year program (2018-2022), which will increase projected capital expenditures by approximately \$22.2 million (during the five-year term of the LTIIIP) over the level of investments made during the baseline period. The LTIIIP enhances system safety and reliability by replacing aging facilities with newer/safer equipment.

As determined by the Commission, the current base rates reflect \$115,522,000 of net plant placed in service. Once UGI Electric exceeds this level of plant placed in service, dollars associated with DSIC-eligible plant that are above that amount will be considered eligible for recovery through the DSIC. Until that time, UGI Electric will reflect a DSIC of 0.0%.

6. Along with its Petition, the Company filed a Pro Forma Tariff Addendum (reflecting the DSIC calculation applicable to distribution rates), a copy of the Company's approved LTIIP, the Direct Testimony of Stephen F. Anzaldo (UGI Electric Statement No. 1), and the Direct Testimony of Eric W. Sorber (UGI Electric Statement No. 2).

7. The Pro Forma Tariff incorporates the following customer safeguards set forth in the Commission's Model DSIC Tariff:

- a. A cap on the total amount of distribution revenue that can be collected through the DSIC as determined on an annualized basis, in this case, 5%;
- b. Periodic audit reviews conducted by the Commission;
- c. Annual reconciliations performed by UGI Electric;
- d. A reset of the DSIC to zero as of the effective date of new base rates;
- e. Customer notices of any change in the DSIC;
- f. Equal application of the DSIC to all customer classes; and
- g. Provisions for the charge to be set to zero if, in a quarter, UGI Electric's most recent earnings report shows that UGI Electric is earning a rate of return that exceeds the allowable rate of return used to calculate its fixed costs under the DSIC.

8. On September 23, 2019, the Office of Consumer Advocate ("OCA") filed a Notice of Intervention and Answer to the Petition. In its Answer, OCA stated that "[t]he costs that UGI Electric proposed to recover through the DSIC under the category 'other related capitalized costs' should be reviewed to determine whether they are properly



recovered through base rates as part of the Company's normal capital planning process, rather than through a surcharge intended to accelerate the replacement of infrastructure." Specifically, the OCA referred to costs associated with tools, equipment and vehicles, as well as, software or electronic systems for which UGI Electric sought DSIC recovery.

9. The OCA's Answer also requested clarification of a statement made in the direct testimony of UGI Electric witness, Eric W. Sorber regarding the extent to which UGI Electric plans to recover software/electronic system costs through the DSIC in the future.<sup>2</sup>

10. Finally, the OCA's Answer claimed that Section 1301.1(a) requires the Company's DSIC calculation to include federal and state income tax deductions/credits related to LTIP investments.<sup>3</sup>

11. On October 8, 2019, the Office of Small Business Advocate ("OSBA") filed a Notice of Appearance, Intervention and Public Statement.

12. The Parties held settlement discussions in this proceeding. As a result of these discussions and the efforts of the Parties to examine the issues raised, a complete settlement was achieved such that an evidentiary hearing is not needed.

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<sup>2</sup> OCA's Answer noted that Mr. Sorber's testimony referred to Settlement terms reached in the Petition of UGI Gas Penn Natural Gas, Inc. for Approval of a DSIC, Docket No. P-2013-2397056, Petition of UGI Central Penn Gas, Inc. for Approval of a DSIC, Docket No. P-2013-2398835 and Petition of UGI Utilities, Inc. – Gas Division for Approval of a DSIC, Docket No. P-2013-2398833 ("UGI Gas DSIC Settlements"). Mr. Sorber relied on these UGI Gas Settlements in claiming that electronic systems and software may be included in the Electric DSIC at some point in the future. However, OCA pointed out that the UGI Gas DSIC Settlements specifically excluded certain software costs from DSIC recovery, while preserving the parties' rights to propose and challenge such claims in future gas DSIC filings. Therefore, OCA questioned how the inclusion of electronic systems and software in the Electric DSIC at a future point was consistent with the UGI Gas DSIC Settlements.

<sup>3</sup> On September 24, 2019, the OCA submitted a correction to its September 23, 2019 Answer (the "Correction"). The Correction stated that the original cover letter to OCA's Answer incorrectly stated that it was responding to a Petition for Waiver of the DSIC Charge Cap. However, the original cover letter should have stated that the Answer was responding to a Petition for Approval of a DSIC.

13. The Settlement agreed to by all of the Parties to this proceeding is as set forth in Section II.

## II. TERMS OF SETTLEMENT

14. The Joint Petitioners agree that UGI Electric's DSIC, as proposed in the Company's Petition and supporting testimony and exhibits filed on September 4, 2019, should be approved, and specifically agree to the following:

a. The parties agree that UGI Electric's DSIC currently does not identify any supportive IT computer systems which would be capitalized and/or software as being DSIC-eligible property for inclusion in the DSIC calculation. However, the Company may seek to identify such supportive IT computer systems and/or software as being eligible property for inclusion in the DSIC in the future. To the extent that occurs (by way of a filing by UGI Electric to request Commission approval), the rights of the parties to this Settlement are preserved to challenge the Company's claim to recover such identified costs through the DSIC once the Company affirmatively identifies them for inclusion in the DSIC.

b. The parties agree that UGI Electric will be allowed to recover through the DSIC "other related capitalized costs" including, but not limited to, vehicles, tools and power equipment, consistent with the DSIC Petition filed by UGI Electric at Docket No. P-2017-2619834 on September 4, 2019.

c. Issues regarding the impact of 66 Pa.C.S. § 1301.1 on the treatment of federal and state income tax deductions in calculating the DSIC charge are currently being litigated. *See Petition of Metropolitan Edison Co., et. al., for Approval of a DSIC*, Docket Nos. P-2015-2508942, P-2015-2508936, P-2015-2508931, and P-2015-2508948, Order (Apr. 19, 2018), *aff'd McCloskey v. Pa. PUC*, 697 C.D. 2018 (Pa. Commw. Jul. 11,

2019), *petitions for allocator filed*, 585 MAL 2019 and 586 MAL 2019 (Pa. Oct. 4, 2019); *Pa. PUC v. Newtown Artesian Water Co.*, R-2017-2624240, Order (Apr. 26, 2018), 1183 C.D. 2018 (Pa. Commw. Jul. 11, 2019), *petition for allocator filed*, 587 MAL 2019 (Pa. Oct. 4, 2019). The parties agree that in subsequent DSIC filings, UGI Electric will follow Commission directives, subject to its right to appeal any such directive, regarding the outcome of the appeals on the issue of Accumulated Deferred Income Taxes (“ADIT”) and flow through of state income tax deductions and credits in the DSIC calculation.

d. Any other terms or provisions of the UGI Electric DSIC mechanism which are not specifically modified by the Settlement will be implemented consistent with the DSIC Petition filed by UGI Electric at Docket No. P-2017-2619834 on September 4, 2019.

e. That OCA agrees to withdraw its request for an evidentiary hearing in this proceeding.

### **III. CONDITIONS OF SETTLEMENT**

15. The Settlement is conditioned upon the Commission’s approval of the terms and conditions contained in this Settlement without modification. If the Commission modifies the Settlement, any Joint Petitioner may elect to withdraw from the Settlement and may proceed with litigation and, in such event, the Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all Joint Petitioners within five (5) business days after the entry of an Order modifying the Settlement.

16. The Joint Petitioners acknowledge and agree that this Settlement, if approved, shall have the same force and effect as if the Joint Petitioners had fully litigated this proceeding.

17. This Settlement is proposed by the Joint Petitioners to settle all issues in the instant proceeding. If the Commission does not approve the Settlement and the proceedings continue, the Joint Petitioners reserve their respective rights to present additional testimony and to conduct full cross-examination, briefing and argument. The Settlement is made without any admission against, or prejudice to, any position that any Party may adopt in the event of any subsequent litigation of these proceedings, or in any other proceeding.

18. The Joint Petitioners acknowledge that the Settlement reflects a compromise of competing positions and does not necessarily reflect any party's position with respect to any issues raised in this proceeding. This Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement this Settlement.

19. This Settlement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner which is fair and reasonable. The Settlement is presented without prejudice to any position which any of the parties may have advanced and without prejudice to the position any of the parties may advance in the future on the merits of the issues in future proceedings except to the extent necessary to effectuate the terms and conditions of the Settlement. This Settlement does not preclude the parties from taking other positions in proceedings of other public utilities.



#### **IV. THE SETTLEMENT IS IN THE PUBLIC INTEREST**

20. This Settlement was achieved by the Joint Petitioners after an investigation of UGI Electric's filing. It resolves all issues raised during this proceeding.

21. The Parties agree that the Settlement is in the public interest because approval of the DSIC Petition, as modified by this Settlement, will provide an additional mechanism for UGI Electric to recover reasonable and prudent costs incurred to ensure and maintain adequate, efficient, safe, reasonable and reliable service as required by 66 Pa. C.S. § 1501.

22. The terms of Settlement maximize administrative efficiency and judicial economy. It avoids the necessity of further administrative, and potentially appellate, proceedings at what would have been a substantial cost to the Joint Petitioners and UGI Electric's customers.

23. The Joint Petitioners agree that UGI Electric's DSIC Petition, as modified by this Settlement, meets: 1) the statutory requirements established in 66 Pa.C.S. § 1353 (for Commission allowance of a DSIC); and 2) the Commission's regulations at 52 Pa. Code § 121.1 *et. seq.*

24. Further, the Company's DSIC Petition, as modified by the Settlement, is consistent with prior precedent addressing these issues.<sup>4</sup> Accordingly, the Joint Petitioners agree that the terms reflected in this Settlement are in the public interest. Therefore, the Settlement is fair, just, and reasonable, and should be approved.

#### **V. CONCLUSION**

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<sup>4</sup> See, e.g., *Joint Petition for Settlement of All Issues* filed on May 18, 2017 at Docket No. P-2013-2398833, approved in *Petition of UGI Utilities Inc. – Gas Division for Approval of a Distribution System Improvement Charge* (July 12, 2017).

WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request:

- 1) That the Pennsylvania Public Utility Commission approve the Petition of UGI Utilities, Inc. – Electric Division for a Distribution System Improvement Charge, as modified by the Settlement, to be effective on January 1, 2020;
- 2) That the Pennsylvania Public Utility Commission approve this Joint Petition for Settlement, including all terms and conditions thereof, without modification; and
- 3) That the Commission mark closed its inquiry and investigation at Docket No. P-2017-2619834.

Respectfully submitted,



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Dated: 11/12/2019

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*For UGI Utilities, Inc. – Electric Division*

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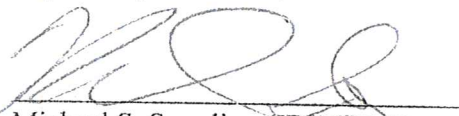
Dated:

*For the Office of Consumer Advocate*

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Respectfully submitted,

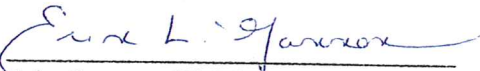


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Dated: 11/12/2019

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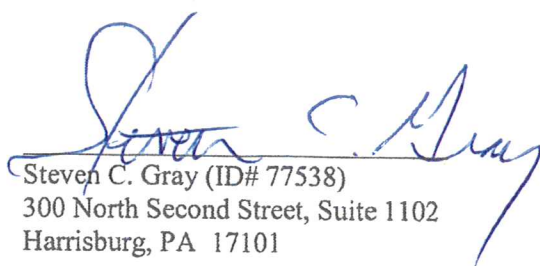
*For UGI Utilities, Inc. – Electric Division*



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Dated: 11/12/2019

*For the Office of Consumer Advocate*



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Dated:

11/12/19

*For the Office of Small Business Advocate*



**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of UGI Utilities, Inc. – Electric Division	:	
for Approval of a Distribution System	:	Docket No. P-2017-2619834
Improvement Charge	:	

**CERTIFICATE OF SERVICE**

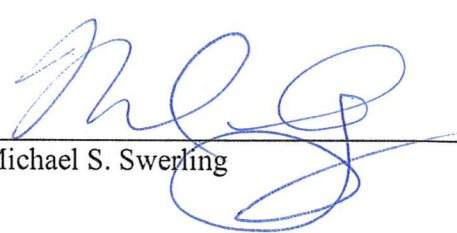
I hereby certify that I have, this 12th day of November, 2019, served a true and correct copy of the foregoing document in the manner and upon the persons listed below in accordance with requirements of 52 Pa. Code §1.54 (relating to service by a participant):

**VIA E-MAIL AND FIRST CLASS MAIL:**

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