



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

March 16, 2020

Via Electronic Filing

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

Re: Pennsylvania Public Utility Commission v.
UGI Utilities, Inc. – Gas Division
Supplement No. 6 to UGI Gas Tariff – Pa. P.U.C. Nos. 7 and 7S
Docket No. R-2019-3015162
I&E Motion To Amend and Suspend the Procedural Schedule

Secretary Chiavetta,

Enclosed please find the Bureau of Investigation and Enforcement's (I&E) **Motion to Amend and Suspend the Procedural Schedule** in the above-captioned proceeding.

Copies are being served on active parties of record as evidenced in the attached Certificate of Service. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Scott B. Granger
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 63641
(717) 425-7593
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SBG/ac
Enclosure

cc: Honorable Christopher P. Pell (*ALJ, PUC Philadelphia*)
Diane Harvell (*PUC Philadelphia*)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission

v.

UGI Utilities, Inc. - Gas Division
Base Rates

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R-2019-3015162

**MOTION TO SUSPEND THE PROCEDURAL SCHEDULE DURING THE
EMERGENCY INTERRUPTION OF NORMAL OPERATIONS OF THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION
AND TO ORDER THE PARTIES TO AMEND AND ESTABLISH A NEW
PROCEDURAL SCHEDULE UPON THE RESUMPTION OF NORMAL
OPERATIONS OF THE COMMISSION**

AND NOW, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) respectfully request that presiding Administrative Law Judge Christopher Pell (“ALJ Pell”) issue an Order suspending the procedural schedule established in the March 10, 2020 Prehearing Order #1 during the disaster emergency interruption of the normal operations of the Commission and to Order the parties to establish a new procedural schedule upon the resumption of normal operations of the Commission. In support of this Motion, I&E avers the following:

1. Your Honor has the authority pursuant to 66 Pa. C.S. § 331(d) regarding the authority of the presiding officer to: (d)(4) regulate the course of the hearing; (d)(7) dispose of procedural requests or similar matters; and (d)(9) take any other action authorized by commission rule. *See also* 52 Pa. Code § 5.483.

2. Further, on March 6, 2020, the Governor of the Commonwealth of Pennsylvania, Tom Wolf, (“Governor Wolf”) issued a Proclamation of Disaster Emergency (*see* Proclamation of Disaster Emergency attached hereto as Exhibit A) wherein it states: “WHEREAS, a novel coronavirus (now known as “COVID-19”) emerged in Wuhan, China, began affecting humans in December 2019, and has since spread to 89 countries, including the United states: and ...”

3. The Proclamation further states: “... NOW THEREFORE, pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code, 35 Pa. C.S. § 7101, *et seq*, I do hereby proclaim the existence of a disaster emergency throughout the Commonwealth.”

4. Additionally, the Proclamation states: “FURTHER, I hereby suspend the provisions of any regulatory statute prescribing the procedures for conduct of Commonwealth business, or the orders, rules or regulations of any Commonwealth agency, if strict compliance, with the provisions of any statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with this emergency.”

5. Further, on March 15, 2020, Governor Wolf, through the Deputy Secretary for Human Resources and Management, issued an Executive Order implementing

telework protocol for at least 14 days beginning March 16, 2020, and the closing of all state offices in Dauphin County and the Capitol Complex thereby effectively physically closing the Commission's offices, including I&E's offices. Further, the Executive Order instituted the state's telework protocol for the foreseeable future.

6. The closing of I&E's offices will render it extremely difficult, if not impossible, for I&E, as a statutory party in this base rate proceeding, to fulfill I&E's duties regarding investigating the requested base rate increase by the Company.

7. Even though there are "telework" and work from home provisions in place for Commission employees, I&E will be severely hampered in its ability to function as an investigating arm and statutory party to this proceeding regarding the Company's request for a base rate increase if I&E's expert witnesses and prosecuting attorneys do not have access to the necessary resources only available at I&E's offices.

8. For example, I&E experts will not have remote access to the Commission's InfoMap document and data management system. This lack of access to InfoMap will severely limit I&E's expert witnesses' ability to review the Company's filing, all Company direct testimony, the supporting exhibits, and all of the Company's responses to the parties' ongoing discovery requests.

9. Also, for example, I&E experts will also not have access to the CONFIDENTIAL and HIGHLY CONFIDENTIAL documents provided by the Company during discovery that must physically remain at the I&E offices in a secured location.

10. Additionally, on March 3, 2020 the Federal Reserve (“Fed”) cut its benchmark interest rate by 0.5%; and, then on March 15, 2020, the Fed cut its benchmark interest rate by another 1.0% effectively reducing its benchmark down to Zero percent.

11. The drastic cut in interest rates over a short period of time will have a drastic effect on I&E’s ability to perform its Return on Equity and overall Rate of Return analysis at this time.

12. Further, the drastic cut in interest rates since the filing of the Company’s direct testimony will also make it almost impossible to fairly evaluate the assumptions made in the Company’s Rate of Return testimony.

13. I&E’s inability to fully and completely review the Company’s filing, all Company direct testimony, the supporting exhibits, and all of the Company’s responses to the parties’ ongoing discovery requests will severely hamper I&E’s ability to prepare full and complete direct testimony by the current April 22, 2020 deadline.

14. Further, I&E’s overall ability to fully and completely investigate the Company’s base rate increase request; conduct discovery; review discovery responses and prepare competent and complete testimony in compliance with the established procedural schedule will be severely limited if not rendered impossible.

15. I&E’s inability to fully and completely investigate the Company’s requested base rate increase will severely hamper I&E and the parties from establishing a full and complete record at the currently scheduled June 3, 4, 5, 2020 evidentiary hearings.

16. Further, the inability of the parties to establish a full and complete record at the June 3, 4, 5, 2020 evidentiary hearings will severely hamper ALJ Pell's and the Commission's ability to render a decision within the statutory time limitations as set forth in 66 Pa. C.S. § 1308(d).

17. The Company filed its base rate increase request on January 28, 2020. Therefore, pursuant to the statutory deadlines for Commission action, the Commission is currently required to act by October 28, 2020.

18. The suspension of the procedural schedule is necessary to avoid the consequences of 66 Pa. C.S. § 1308(d) which provides that "... If however, such an order has not been made at the expiration of such seven-month period, the proposed general rate increase shall go into effect at the end of such period."

19. Therefore, the suspension of the procedural schedule is reasonable and necessary; and, the suspension order must also stay the mandates regarding Commission action in 66 Pa. C.S. § 1308(d).

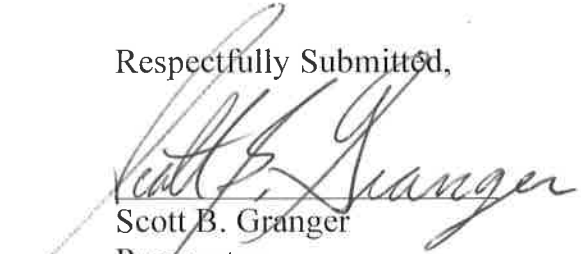
20. On the other hand, if I&E were to require its expert witnesses and prosecuting attorneys to continue to physically work from the I&E offices in order to fully and completely investigate the Company's requested base rate increase filing in order to establish a full and complete record at the June 3, 4, 5, 2020 evidentiary hearings so that the Commission has a full and complete record to consider when rendering its decision before the expiration of the seven-month time limitation; such action counter to the intent of the clear language of the Proclamation would prevent and hinder I&E from

taking the actions necessary to cope with this disaster emergency as set forth in the Proclamation.

21. I&E also requests that, upon completion of the emergency disaster period and the return to normal Commission operations, ALJ Pell Order a second Prehearing Conference at which time the parties and ALJ Pell will establish a new procedural schedule at that time based on the time lost during the emergency disaster period thereby establishing new statutory time restrictions applicable to this proceeding.

WHEREFORE, the Bureau of Investigation and Enforcement respectfully requests that Administrative Law Judge Christopher Pell issue an Order suspending the procedural schedule established in the March 10, 2020 Prehearing Order #1 for the duration of the disaster emergency interruption of the normal operations of the Commission; and, to Order the parties to establish a new procedural schedule at a second prehearing conference upon the resumption of normal operations of the Commission.

Respectfully Submitted,



Scott B. Granger

Prosecutor

PA Attorney I.D. # 63641

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth keystone Building
400 North Street
Harrisburg, Pennsylvania 17120
(717) 425-7593

Dated: March 16, 2020

EXHIBIT A



PROCLAMATION OF DISASTER EMERGENCY

March 6, 2020

WHEREAS, a novel coronavirus (now known as "COVID-19") emerged in Wuhan, China, began infecting humans in December 2019, and has since spread to 89 countries, including the United States; and

WHEREAS, the World Health Organization and the Centers for Disease Control and Prevention ("CDC") have declared COVID-19 a "public health emergency of international concern," and the U.S. Department of Health and Human Services ("HHS") Secretary has declared that COVID-19 creates a public health emergency; and

WHEREAS, the Commonwealth of Pennsylvania ("Commonwealth") has been working in collaboration with the CDC, HHS, and local health agencies since December 2019 to monitor and plan for the containment and subsequent mitigation of COVID-19; and

WHEREAS, on February 1, 2020, the Commonwealth's Department of Health activated its Department Operations Center at the Pennsylvania Emergency Management Agency's headquarters to conduct public health and medical coordination for COVID-19 throughout the Commonwealth; and

WHEREAS, on March 4, 2020, the Director of the Pennsylvania Emergency Management Agency ordered the activation of its Commonwealth Response Coordination Center in support of the Department of Health's Department Operations Center, to maintain situational awareness and coordinate the response to any potential COVID-19 impacts across the Commonwealth; and

WHEREAS, as of March 6, 2020, there are 233 confirmed and/or presumed positive cases of COVID-19 in the United States, including 2 presumed positive cases in the Commonwealth; and

WHEREAS, while it is anticipated that a high percentage of those affected by COVID-19 will experience mild influenza-like symptoms, COVID-19 is a disease capable of causing severe symptoms or loss of life, particularly to older populations and those individuals with pre-existing conditions; and

WHEREAS, it is critical to prepare for and respond to suspected or confirmed cases in the Commonwealth and to implement measures to mitigate the spread of COVID-19; and

WHEREAS, with 2 presumed positive cases in the Commonwealth as of March 6, 2020, the possible increased threat from COVID-19 constitutes a threat of imminent disaster to the health of the citizens of the Commonwealth; and

WHEREAS, this threat of imminent disaster and emergency has the potential to cause significant adverse impacts upon the population throughout the Commonwealth; and

WHEREAS, this threat of imminent disaster and emergency has already caused schools to close, and will likely prompt additional local measures, including affected county and municipal governments to declare local disaster emergencies because of COVID-19; and

WHEREAS, this threat of imminent disaster and emergency situation throughout the Commonwealth is of such magnitude and severity as to render essential the Commonwealth's supplementation of emergency resources and mutual aid to the county and municipal governments of this Commonwealth and to require the activation of all applicable state, county, and municipal emergency response plans.

NOW THEREFORE, pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code, 35 Pa. C.S. § 7101, et seq., I do hereby proclaim the existence of a disaster emergency throughout the Commonwealth.

FURTHER, I hereby authorize the Pennsylvania Emergency Management Agency Director or his designee, to assume command and control of all statewide emergency operations and authorize and direct that all Commonwealth departments and agencies utilize all available resources and personnel as is deemed necessary to cope with this emergency situation.

FURTHER, I hereby transfer up to \$5,000,000 in unused appropriated funds to the Pennsylvania Emergency Management Agency for Emergency Management Assistance Compact expenses related to this emergency, to be decreased as conditions require, pursuant to the provisions of section 7604(a) of the Emergency Management Services Code, 35 Pa. C.S. § 7604(a). In addition, I hereby transfer up to \$20,000,000 in unused appropriated funds, to be decreased as conditions require, to the Pennsylvania Emergency Management Agency pursuant to section 1508 of the Act of April 9, 1929 (P.L.343, No. 176) (the Fiscal Code), 72 P.S. § 1508. The aforementioned funds shall be used for expenses authorized and incurred related to this emergency. These funds shall be credited to a special account established by the Office of the Budget. I hereby direct that any funds transferred herein that remain unused after all costs related to this emergency have been satisfied shall be returned to the General Fund.

FURTHER, All Commonwealth agencies purchasing supplies or services in response to this emergency are authorized to utilize emergency procurement procedures set forth in Section 516 of the Commonwealth Procurement Code, 62 Pa. C.S. § 516. This Proclamation shall serve as the written determination of the basis for the emergency under Section 516.

FURTHER, I hereby suspend the provisions of any regulatory statute prescribing the procedures for conduct of Commonwealth business, or the orders, rules or regulations of any Commonwealth agency, if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with this emergency. Commonwealth agencies may implement emergency assignments without regard to procedures required by other laws, except mandatory constitutional requirements, pertaining to performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, and expenditures of public funds.

FURTHER, pursuant to the powers vested in me by the Constitution and laws of the Commonwealth pursuant to 51 Pa. C.S. § 508, I hereby authorize the Adjutant General of Pennsylvania to place on state active duty for the duration of the emergency disaster proclamation, such individuals and units of the Pennsylvania National Guard, for missions designated by the Pennsylvania Emergency Management Agency, as are needed to address the consequences of the aforementioned emergency.

FURTHER, I authorize the Commissioner of the Pennsylvania State Police to use all available resources and personnel in whatever manner he deems necessary during this emergency to assist the actions of the Pennsylvania Emergency Management Agency in addressing the consequences of the emergency.

FURTHER, I hereby authorize the Secretary of the Pennsylvania Department of Health, in her sole discretion, to suspend or waive any provision of law or regulation which the Pennsylvania Department of Health is authorized by law to administer or enforce, for such length of time as may be necessary to respond to this emergency.

FURTHER, I hereby authorize the Secretary of the Pennsylvania Department of Education, in his sole discretion, to suspend or waive any provision of law or regulation which the Pennsylvania Department of Education is authorized by law to administer or enforce, for such length of time as may be necessary to respond to this emergency.

FURTHER, if investigations made on my behalf determine that the Commonwealth needs greater flexibility in the application of state and federal motor carrier regulations to accommodate truck drivers involved in emergency activities during this emergency, I hereby direct the Commonwealth Department of Transportation to waive or suspend any laws or federal or state regulations related to the drivers of commercial vehicles.

FURTHER, I hereby direct that the applicable emergency response and recovery plans of the Commonwealth, counties, municipalities and other entities be activated as necessary and that actions taken to implement those plans be coordinated through the Pennsylvania Emergency Management Agency.

STILL FURTHER, I hereby urge the governing bodies and executive officers of all political subdivisions affected by this emergency to act as necessary to meet the current exigencies as legally authorized under this Proclamation, namely, by the employment of temporary workers, by the rental of equipment, and by entering into such contracts and agreements as may be required to meet the emergency, all without regard to those time consuming procedures and formalities normally prescribed by law, mandatory constitutional requirement excepted.



GIVEN under my hand and the Seal of the Governor, at the City of Harrisburg, this sixth day of March in the year of our Lord two thousand twenty, and of the Commonwealth the two hundred and forty fourth.

Tom Wolf
TOM WOLF
Governor

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2019-3015162
	:	
UGI Utilities, Inc. – Gas Division	:	
Supplement No. 6 to UGI Gas Tariff –	:	
Pa. P.U.C. Nos. 7 and 7S	:	

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Motion to Amend and Suspend the Procedural Schedule** dated March 16, 2020, 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):

Served via Electronic Mail

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