

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560

 @pa_oca
 /pennoca

FAX (717) 783-7152
consumer@paoca.org

March 24, 2020

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
Docket No. R-2019-3015162

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Answer in Support of the Bureau of Investigation and Enforcement's Motion to Suspend the Procedural Schedule in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Phillip D. Demanchick
Phillip D. Demanchick
Assistant Consumer Advocate
PA Attorney I.D. # 324761
E-Mail: PDemanchick@paoca.org

Enclosures:

cc: The Honorable Christopher P. Pell, ALJ (**Via electronic mail only**)
Certificate of Service
*285550

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
 :
 v. : Docket No. R-2019-3015162
 :
 UGI Utilities, Inc. – Gas Division :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate’s Answer in Support of the Bureau of Investigation and Enforcement’s Motion to Suspend the Procedural Schedule, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 24th day of March 2020.

SERVICE BY E-MAIL ONLY

Scott B. Granger, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Steven C. Gray, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17109-1923

Michael W. Hassell, Esquire
Jessica R. Rogers, Esquire
Devin T. Ryan, Esquire
Garrett P. Lent, Esquire
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601

Kent Murphy, Esquire
Michael S. Swerling, Esquire
Danielle Jouenne, Esquire
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406

David B. MacGregor, Esquire
Post & Schell, P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2808

Daniel Clearfield, Esquire
Carl R. Shultz, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101

John W. Sweet, Esquire
Elizabeth R. Marx, Esquire
Ria M. Pereira, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101

Robert D. Knecht
Industrial Economics, Inc.
2067 Massachusetts Avenue
Cambridge, MA 02140

Martha A. Verbonitz, Esquire
John McNutt, Esquire
United States Army
Tobyhanna Army Depot
11 Hap Arnold Boulevard
Tobyhanna, PA 18466-5000

Micah Cameron
40 High Street
Apt #1
Pittston, PA 18640

/s/ Phillip D. Demanchick
Phillip D. Demanchick
Assistant Consumer Advocate
PA Attorney I.D. # 324761
E-Mail: PDemanchick@paoca.org

Darryl A. Lawrence
Senior Assistant Consumer Advocate
PA Attorney I.D. # 93682
E-Mail: DLawrence@paoca.org

Derrick Price Williamson, Esquire
Barry A. Naum, Esquire
Spilman Thomas & Battle, PLLC
1100 Bent Creek Boulevard
Suite 101
Mechanicsburg, PA 17050

Joseph L. Vullo, Esquire
Commission on Economic Opportunity
1460 Wyoming Avenue
Forty Fort, PA 18704

David P. Zambito, Esquire
Jonathan P. Nase, Esquire
Cozen O'Connor
17 North Second Street
Suite 1410
Harrisburg, PA 17101

Barrett C. Sheridan
Assistant Consumer Advocate
PA Attorney I.D. # 61138
E-Mail: BSheridan@paoca.org

Counsel for:
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: March 24, 2020
*285551

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION	:	
	:	
V.	:	R-2019-3015162
	:	
UGI UTILITIES INC. – GAS DIVISION	:	

ANSWER OF THE OFFICE OF CONSUMER ADVOCATE IN SUPPORT OF
THE BUREAU OF INVESTIGATION AND ENFORCEMENT’S MOTION TO SUSPEND
THE PROCEDURAL SCHEDULE

Pursuant to Section 5.103 of the Pennsylvania Public Utility Commission’s (Commission) Regulations, 52 Pa. Code Section 5.103, the Office of Consumer Advocate (OCA) files this Answer in Support of the Bureau of Investigation and Enforcement’s (I&E) Motion to Suspend the Procedural Schedule (Answer) in the above-referenced proceeding. Suspending the procedural schedule is necessary and proper during this emergency period due to the OCA and other parties’ reduced ability to properly and fully investigate the Company’s filing. In addition, the Commission’s closing will likely prevent public input hearings from being convened in a timely manner.

I. BACKGROUND

On January 28, 2020, UGI Utilities, Inc. – Gas Division (UGI or the Company) filed Supplement No. 6 to Tariff Gas – PA. P.U.C. Nos. 7 and 7-S (Supplement No. 6). Through Supplement No. 6, the Company seeks Commission approval to increase rates to produce additional annual operating revenue of \$74.6 million, or an increase of 8.5 percent. The Company

is engaged in the business of furnishing natural gas to approximately 650,000 residential, commercial and industrial customers in over 45 counties throughout Pennsylvania.

On February 27, 2020, the Commission issued an Order initiating an investigation into the lawfulness, justness and reasonableness of the proposed rate increase in this filing, in addition to the Company's existing rates, rules, and regulations, and suspended the effective date of Supplement No. 6 until October 28, 2020, by operation of law. The case was assigned to the Office of Administrative Law Judge (OALJ) and further assigned to Deputy Chief Administrative Law Judge Christopher P. Pell.

After the submission of Formal Complaints, Notices of Appearance, and Petitions to Intervene by numerous parties, including, but not limited to, the OCA, I&E, the Office of Small Business Advocate (OSBA), and the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA), a prehearing conference was convened telephonically on March 9, 2020. Subsequently, Prehearing Order #1 was issued establishing discovery modifications and a procedural schedule in this proceeding. The procedural schedule is currently as follows:

Non-Company Direct	April 22, 2020
Rebuttal Testimony	May 19, 2020
Surrebuttal Testimony	May 29, 2020
Oral Rejoinder Outline	June 2, 2020
Hearings/Rejoinder	June 3-5, 2020
Close of Record	June 5, 2020
Main Briefs	June 25, 2020
Reply Briefs	July 6, 2020 (2:00 p.m.)

Prehearing Order #1 at 8.

On March 6, 2020, the Governor of the Commonwealth of Pennsylvania, Tom Wolf, issued a Proclamation of Disaster Emergency. See Motion to Suspend Procedural Schedule, Exh. A (Proclamation). The Proclamation established the existence of a disaster emergency throughout the Commonwealth as a result of the novel coronavirus (hereinafter COVID-19). As a result of this emergency disaster Proclamation, Governor Wolf issued the following directive:

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...

See Motion to Suspend the Procedural Schedule, Exh. A. At the time of issuing the Proclamation, Pennsylvania had 2 presumed positive cases of COVID-19. Id.

On March 15, 2020, Governor Wolf issued an Executive Order implementing telework protocol for state employees for at least fourteen days beginning March 16, 2020, and the closing of all state offices in Dauphin County and the Capitol Complex. See Motion to Suspend the Procedural Schedule at 2-3. As a result, the Commission's offices and the OCA's office in Harrisburg are closed and all employees are required to work from home, with extremely limited exception.

On March 16, 2020, I&E filed its 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 (Motion to Suspend the Procedural Schedule). Through its Motion to Suspend the Procedural Schedule, I&E requested that the Presiding Officer, pursuant to his authority under Section 331 of the Public Utility Code, 66 Pa. C.S. Section 331, suspend the procedural schedule until the completion of the emergency disaster period and the resumption of normal Commission operations. See Motion to Suspend the Procedural Schedule at 5-6. After such

time, I&E requested that the Presiding Officer convene a second prehearing conference to establish a new procedural schedule in this proceeding. See Motion to Suspend the Procedural Schedule at 6.

On March 20, 2020, an Emergency Order was issued by the Commission at Docket No. M-2020-3019262. The Emergency Order provides the Commission with the authority to waive any statutory or procedural deadline, *sua sponte*, in any proceeding if strict adherence to an established deadline will interfere with its ability to administer the Public Utility Code. Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements, Docket No. M-2020-3019262, Emergency Order at 2 (Mar. 20, 2020) (Emergency Order). Moreover, the Emergency Order authorizes the Presiding Officer to establish reasonable deadlines in rate case proceedings after consideration of the positions of the parties. Emergency Order at 2-3.

As of March 23, 2020, Pennsylvania now has 644 confirmed COVID-19 cases and four deaths as a result of this pandemic. Furthermore, Governor Wolf has continued to issue further restrictions on travel and business operations, including closing non-life-sustaining businesses until further notice. See Order of the Governor of the Commonwealth of Pennsylvania Regarding the Closure of All Businesses That Are Not Life Sustaining (Mar. 19, 2020). Accordingly, the OCA files this Answer in support of I&E's Motion to Suspend the Procedural Schedule.

II. ANSWER

The Office of Consumer Advocate supports I&E's Motion to Suspend the Procedural Schedule. Suspending the procedural schedule is necessary during this emergency disaster period due to the OCA's and the other parties' reduced ability to properly and fully investigate the Company's filing during the emergency period. In addition, the Commission's closing may prevent public input hearings from being convened in a timely manner.

A. Legal Authority

Generally, base rate increase proceedings have a nine-month statutory deadline that ensures prompt investigation and review of the filing. See 66 Pa. C.S. § 1308(d). If the Commission fails to render a decision within that period, the increase can go into effect as filed, subject to refund plus interest for any amounts paid that are subsequently not determined to be just and reasonable. Id. The Public Utility Code further provides that Presiding Officers shall have the authority, subject to the Commission's Regulations, to regulate the course of the hearing, dispose of procedural requests or similar matters, and take any other action authorized by Commission rule. 66 Pa. C.S. § 331(d).

As noted above, however, the Proclamation issued by Governor Wolf states that regulatory statutes governing the business of a Commonwealth agency, or order, rule or regulation of that agency, is suspended to the extent strict compliance would prevent, hinder, or delay the actions necessary to comply with the emergency declaration. See Motion to Suspend the Procedural Schedule, Exh. A; see also 35 Pa. C.S. § 7301. The Commission has since recognized in its Emergency Order that certain statutory and regulatory deadlines may hinder the public service mission of the Commission and its affected stakeholders. Emergency Order at 2. Thus, the Commission is allowing these deadlines to be postponed where appropriate, without violating the timing requirements set forth in the Public Utility Code.

Accordingly, the Presiding Officer has the authority, pursuant to the Public Utility Code, the Governor's Proclamation, and the Commission's Emergency Order, to postpone the procedural schedule in this proceeding, without violating the statutory deadline set forth in the Public Utility Code. 66 Pa. C.S. Section 1308(d). This will assist all parties in being able to comply with the

ongoing emergency declarations, while providing the parties the opportunity to present their case in this matter when normal Commission operations resume.

B. Suspension of the Procedural Schedule will Prevent a Limited Investigation and Review of UGI Gas' Rate Increase Filing.

The procedural schedule as currently set forth will limit the ability of the OCA, and the other parties, to adequately investigate and analyze the Company's filing, thus preventing the development of a full and complete record. In addition, the Commission's closing will likely prevent public input hearings from being convened in a timely manner.

As indicated above, the circumstances surrounding the COVID-19 pandemic are changing rapidly. Since the issuance of the Proclamation, government offices have been closed in favor of telework arrangements, non-life-sustaining businesses have been closed until further notice, and confirmed cases are continuing to rise. In the midst of all this, many of the parties are trying to adjust to these changes, while continuing to meet their obligations in this proceeding. That said, the full impact of the COVID-19 pandemic may not be known for some time. For example, the OCA concurs with I&E's remarks that the present state of financial and economic impacts resulting from this pandemic, will make it difficult to perform rate of return analysis at this time. As noted by I&E, the Federal Reserve has cut its benchmark interest rate to zero percent as of March 15, 2020, and the stock market has been subject to extreme volatility over the past few weeks. Providing additional time to analyze these issues will be critical going forward.

Lastly, the OCA requested that we convene at least two public input hearings to provide customers the opportunity to speak on the record about how this rate increase will impact them. Subject to the Commission's availability, two 'smart' hearings were to be scheduled in Harrisburg. However, given the closing of the Commission's offices statewide, the Commission may not be able to convene public input hearings in a timely manner. Therefore, customers will not be

provided a timely opportunity to respond to any issues they may have with the requested increase. This is particularly critical during this time as many customers will be experiencing financial hardship for an extended period of time and the Company's request will impact them significantly.

For these reasons, the OCA will not be able to fully investigate and analyze the Company's rate increase request before the due date for the filing of the OCA's direct testimony on April 22, 2020. Accordingly, the OCA supports I&E's Motion to Suspend the Procedural Schedule to allow for additional time for the parties to analyze the Company's filing and to provide sufficient opportunity for customers to provide comments.

III. CONCLUSION

For the reasons set forth above, the OCA supports I&E's Motion to Suspend the Procedural Schedule. This suspension is necessary to meet the mounting challenges resulting from the COVID-19 pandemic. It will also ensure that the OCA has sufficient time and resources to adequately investigate and support its position in this proceeding and develop a full and complete record for the Commission's consideration.

Respectfully submitted,



Phillip D. Demanchick
Assistant Consumer Advocate
PA Attorney ID: 324761
Email: PDemanchick@paoca.org

Barrett C. Sheridan
Assistant Consumer Advocate
PA Attorney ID: 61138
Email: BSherridan@paoca.org

Darryl A. Lawrence
Senior Assistant Consumer Advocate
PA Attorney ID: 93682s
Email: DLawrence@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: March 24, 2020
285516