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File #: 2270/145119

August 17, 2010

BY HAND

Rosemary Chiavetta  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**RE: Pennsylvania Public Utility Commission, et al. v. UGI Central Penn Gas, Inc.  
Docket Nos. R-2010-2172922, C-2010-2175535 and C-2010-2180501**

Dear Secretary Chiavetta:

Enclosed please find the original and three copies of the Stipulation in Settlement of Section 1307(f) Rate Investigation for the above-referenced proceeding. In addition, as directed by the Order Modifying Procedural Schedule and Providing for Settlement Procedures dated July 28, 2010, enclosed is a disk containing searchable pdf versions of the Stipulation and Exhibits.

Respectfully Submitted,

Michael W. Hassell

MWH/skr

Enclosures

cc: Honorable Kandace F. Melillo  
Certificate of Service

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY :  
COMMISSION, : Docket No. R-2010-2172922  
OFFICE OF CONSUMER ADVOCATE, : Docket No. C-2010-2175535  
: Docket No. C-2010-2181712

CENTRAL PENN GAS LARGE USERS GROUP :

v. :

UGI CENTRAL PENN GAS, INC. :

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**STIPULATION IN SETTLEMENT OF  
SECTION 1307(f) RATE INVESTIGATION**

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**TO ADMINISTRATIVE LAW JUDGE KANDACE F. MELILLO:**

**I. INTRODUCTION**

UGI Central Penn Gas, Inc. ("CPG"), the Office of Trial Staff ("OTS") of the Pennsylvania Public Utility Commission ("Commission"), the Office of Consumer Advocate ("OCA"), and the Office of Small Business Advocate ("OSBA"), parties in the above-captioned proceeding (hereinafter individually referred to as "Party" or collectively referred to as the "Parties"), hereby join in this Stipulation In Settlement Of Section 1307(f) Rate Investigation ("Settlement"),<sup>1</sup> and hereby request that Administrative Law Judge Kandace F. Melillo ("ALJ") and the Commission:

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<sup>1</sup> In addition, the Central Penn Gas Large Users Group ("CPGLUG"), the only other party in this proceeding, has indicated that it neither supports nor opposes the Settlement.

(1) authorize CPG to file a tariff supplement for service rendered on or after December 1, 2010, that implements, subject to updates and tariff modifications traditionally performed on December 1, the rates set forth in Appendix A hereto; and

(2) make all associated findings required by Sections 1307(f) and 1318 of the Public Utility Code, 66 Pa. C.S. §§ 1307(f) and 1318.

The rates set forth in Appendix A reduces CPG's June 1, 2010 PGC rate of \$7.00/Dth to \$6.27/Dth, or a reduction of \$0.73/Dth.

Attached as Appendices B, C, D, and E, hereto are statements in support of the Settlement submitted by CPG, OTS, OCA, and OSBA. Attached as Appendix F is a letter from CPGLUG indicating that it neither supports nor opposes this Settlement.

## **II. BACKGROUND**

In support of this Settlement, the Parties respectfully submit as follows:

1. CPG is a natural gas distribution company with gross intrastate annual operating revenues in excess of \$40 million and is authorized by the provisions of Section 1307(f) of the Public Utility Code, and the Commission's gas cost recovery regulations at 52 Pa. Code §§ 53.61 - 53.68, to make annual purchased gas cost ("PGC") filings proposing gas rate modifications to reflect increases or decreases in its natural gas costs.

2. On April 30, 2010, CPG provided the Commission with the pre-filing information required by 52 Pa. Code §§ 53.64(c) and 53.65.

3. On June 1, 2010, in accordance with the schedule for Section 1307(f) filings established by the Commission, CPG submitted its 2010 PGC filing to the Commission, with proposed modifications to CPG's Gas Tariff Pa. P.U.C. Nos. 3 and 3S, to become effective December 1, 2010.

4. CPG's June 1, 2010 filing proposed a PGC rate of \$6.27/Dth, effective December 1, 2010. This reflected a decrease of \$0.73/Dth from the PGC rate of \$7.00/Dth that became effective June 1, 2010.

5. CPG also submitted the direct written testimony of its supporting witnesses with its PGC filing.

6. On or about May 12, 2010, the OCA filed a formal complaint and Public Statement, docketed at C-2010-2175535, which CPG answered on June 4, 2010.

7. On or about June 7, 2010, the OSBA filed a formal complaint and Public Statement, which CPG answered on June 15, 2010.

8. On or about June 9, 2010, OTS filed a Notice of Appearance.

9. On or about June 15, 2010, CPGLUG petitioned to intervene.

10. On June 17, 2010, a consolidated prehearing conference in the CPG, UGI Penn Natural Gas, Inc. ("PNG") and UGI Utilities, Inc. – Gas Division ("UGI") PGC proceedings was conducted by ALJ Melillo.

11. At the prehearing conference, the individually docketed CPG, PNG, and UGI PGC proceedings were procedurally consolidated for the limited purposes of hearing; the CPGLUG motion to intervene in the CPG case was granted; a procedural schedule was adopted and certain discovery response rules were modified.

12. In accordance with the procedural schedule established by the ALJ, the OCA, OSBA and OTS distributed written direct testimony on July 9, 2010.

13. Throughout this proceeding, all active parties explored the possibility of settlement in accordance with the Commission's Rules of Practice at 52 Pa. Code § 5.231. On July 27, 2010, CPG on behalf of the Parties notified the ALJ that the Parties had reached a

settlement in principle of all issues in the CPG proceeding and requested that the procedural schedule for this case be suspended.

14. In an Order issued July 28, 2010, the ALJ suspended the procedural schedule, with the exception of retaining the previously scheduled July 29, 2010 hearing date for the purpose of admitting the previously distributed written testimony into the record by stipulation, and directed the parties to submit a fully executed settlement agreement “in-hand to the presiding officer by close of business (4:30 pm.) on Tuesday, August 17, 2010, in both an electronic version and hard copy, and filed with the Secretary’s Bureau, along with a CD of all settlement documents in searchable pdf format.”

15. A hearing was subsequently held on July 29, 2010, at which time all of the testimony and exhibits that had been previously distributed by the Parties in the proceeding, including CPG’s April 30, 2010 pre-filing information and June 1, 2010 PGC filing and accompanying direct testimony, were admitted into the record by stipulation.

### **III. GENERAL PROVISIONS OF SETTLEMENT**

16. The Parties agree the rates for the recovery of the purchased gas costs of CPG should be revised, subject to updates, effective December 1, 2010, to reflect the rates set forth in Appendix A hereto.

17. CPG agrees it will propose mandatory direct assignment rules in its 2011 PGC proceeding that (a) retain its current methodology through October 30, 2012 and (b) are consistent with UGI Penn Natural Gas, Inc. rules, with appropriate modifications for the index price, storage percentage and delivery path, for annual periods beginning November 1, 2012 and thereafter.

18. The Parties agree CPG will not be denied PGC cost recovery for any portion of its PGC supplies or sharing mechanism revenues because of its implementation of the direct assignment settlement terms set forth in paragraph 17.

19. CPG agrees in future PGC proceedings to continue to report on the status of any legal proceedings against Dominion Transportation, Inc. (“DTI”) to recover excess natural gas charges, if any, caused by the November 24, 2004 DTI storage inventory reporting error.

20. If CPG experiences an increase in its Lost-and-Unaccounted-For-Gas (“LUFG”) levels as reported in its next PGC proceeding, it shall explain in its filing why it believes the LUFG level increased and possible remedies for both the present and any future increases.

21. CPG will use its best efforts, consistent with its statutory least cost fuel procurement obligations, to acquire Marcellus Shale supplies, and will provide a report in its next PGC filing addressing (a) its efforts to purchase Marcellus Shale supplies, (b) the volumes, if any, purchased, (c) to the extent determinable, the percentage of its total supplies provided by Marcellus Shale gas and (d) barriers, if any, to such purchases.

#### **IV. STANDARDS AND FINDINGS**

22. This proceeding involves two reviews the Commission is required to undertake pursuant to Sections 1307 and 1318 of the Public Utility Code. Under Section 1307(f), the Commission, after hearing, must determine what portion of the gas costs CPG may recover for a previous 12-month period under the standards set forth in Section 1318. In addition, because CPG has filed tariffs proposing new PGC rates, the Commission must determine whether the specific findings of Section 1318 can be made. This is a requirement that must precede Commission approval of the Company’s proposed rates. The historic period reviewed in this

proceeding is the twelve-month reconciliation period ending March 31, 2010. The new tariff rates are intended to become effective December 1, 2010.

A. Historic Reconciliation Period Standards

23. With respect to CPG's gas purchases and gas purchasing practices during the twelve-month historic reconciliation period ending March 31, 2010, all Parties agree, and request the Commission to find, that CPG has met the standards set forth in Section 1318 of the Public Utility Code, as required by Section 1307(f)(5) of the Public Utility Code, as to all historic period purchased gas costs. All Parties request that the Commission find, pursuant to Section 1307(f)(5) of the Public Utility Code, and based upon the evidence presented by the parties in this case, that, during the twelve-month period ended March 31, 2010, CPG has met the requirements of Section 1318 of the Public Utility Code by pursuing a least-cost fuel procurement policy, consistent with its obligation to provide safe, adequate and reliable service to its customers. Information submitted by CPG in support of the required statutory findings can be found in the following sections of the CPG Exhibit 1:

- A. FERC Participation (§1317(a)(1); §1318(a)(1)): Prefiling, Section 3.
- B. Supplier Negotiations/Renegotiations (§1317(a)(2); §1318(a)(2)): Prefiling, Sections 2 and 5.
- C. Efforts to Obtain Lower Cost Supplies (§1317(a)(3); §1318(a)(3)): Prefiling, Sections 1, 2, and 5.
- D. Withheld Supplies (§1317(a)(4); §1318(a)(4)): Prefiling, Section 5.
- E. Non-Affiliated Purchases (§1317(b); §1318(b)): Prefiling, Section 13.
- F. Least Cost Fuel Procurement Policy (§1317(a); §1318(a)): Prefiling, Section 1, 2 and 5.
- G. Calculation of 2010 PGC Rates:
  - 1. June 1, 2010 Filing, Attachments (1) - (4).

2. June 1, 2010 Filing, "E" Factor Calculations: Filing, Attachment (4).
3. June 1, 2010 Filing, Written Direct Testimony of William J. McAllister.

H. Reliability (§1317(c)): Prefiling, Section 14.

B. Projected Period Findings

24. With respect to the twelve-month period beginning December 1, 2010, which is the period of time during which the proposed rates contained in this Settlement would be in effect, all Parties agree and request the Commission to find that CPG has satisfied each of the standards for a least cost procurement policy set forth in Section 1318 of the Public Utility Code, including the standards set forth in Sections 1318(a)(1), 1318(a)(2), 1318(a)(3), 1318(a)(4), 1318(b)(1), 1318(b)(2) and 1318(b)(3), based upon the evidence of record in this proceeding concerning its purchasing policies. Nevertheless, it is expressly understood and agreed that such findings, relating to the rates to become effective December 1, 2010, are made solely for the purpose of setting prospective rates, and shall be subject to further review in an appropriate future proceeding. This Section of the Settlement, Section IV.B., is not intended to limit or prevent any party from challenging projected gas purchases that actually have been made, including those made during the interim period of April 1, 2010 through November 30, 2010, and future gas purchasing practices that have been implemented, or from reviewing whether these gas purchases and gas purchasing practices have, in fact, complied with the standards of Section 1318, except as provided in Section III above.

25. If, in an appropriate future proceeding, gas purchases and gas purchasing practices relating to the period December 1, 2009 through November 30, 2010 are challenged, the Commission's findings made pursuant to Section IV.B. of this Settlement shall pose no bar to

the examination of such purchases and practices including, but not limited to, disallowance of, or reductions to, such costs during the one-year period commencing December 1, 2009, except as provided in Section III above.

26. The Parties also agree that future examination of the gas costs relating to the period April 1, 2009, through November 30, 2010, to determine whether CPG's experienced and projected gas purchases and gas purchasing practices complied with the standards set forth in Section 1318 of the Public Utility Code, 66 Pa. C.S. § 1318, shall be permitted, and that the Commission's adoption of the findings under Section IV.B. of this Settlement shall not be construed to limit or prevent any disallowance or reduction of such costs, except as provided in Section III above.

#### V. CONDITIONS OF SETTLEMENT

27. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification, addition or deletion. If the Commission modifies the Settlement or fails to approve, by December 1, 2010, the terms and conditions of this Settlement and the rates contained in Appendix A, as modified to reflect updates and tariff modifications traditionally performed on December 1 effective for service rendered on and after December 1, 2010, then any of the Parties may elect to withdraw from this Settlement and may proceed with litigation. In such event, this 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 Parties within five (5) business days after the entry of an order modifying or disapproving the Settlement.

28. If the Commission modifies or does not approve the Settlement and the proceedings continue to hearings on the issues that are the subjects of this Settlement, the Parties

reserve their respective rights to present additional testimony and to conduct full cross-examination, briefing and argument on these subjects.

29. This Settlement is proposed by the Parties to settle all issues in the instant proceeding and is made without any admission against, or prejudice to, any position that any Party may adopt during any subsequent litigation of this proceeding if the Commission disapproves or modifies this Settlement or in any other proceeding.

30. It is understood and agreed among the Parties that this Settlement is the result of compromises by all Parties, and does not necessarily represent the position(s) that would be advanced by any party in the event this proceeding were to be litigated fully.

31. This Settlement is being presented only in the context of this Section 1307(f) proceeding in an effort to resolve certain outstanding issues in a manner that is fair and reasonable. The Settlement reflects compromises on all sides, and is presented without prejudice to any position any of the parties may have advanced and without prejudice to the positions any of the parties may advance in the future on the merits of the issues.

32. The Parties acknowledge and agree that this Settlement shall have the same force and effect as if the Parties had fully litigated this proceeding with regard to the historic period ended March 31, 2010.

33. Except as provided above, all Parties agree to fully support the terms and conditions of the Settlement during further litigation in this proceeding.

34. This Settlement may be executed in counterparts.

WHEREFORE, the Parties, by their respective counsel, respectfully request as follows:

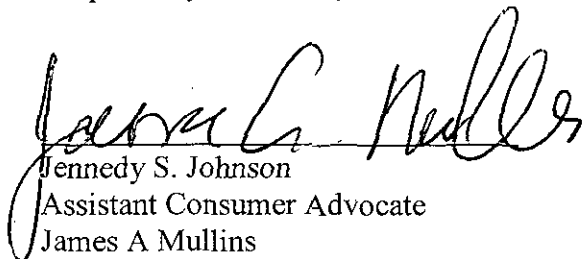
1. That Administrative Law Judge Kandace F. Melillo and the Commission approve this Settlement, including all terms and conditions thereof.

2. That the Commission enter a final Order consistent with this Settlement that: (a) finds that there is sufficient evidence in the record for this Commission to make the findings referenced in Sections IV.A and IV.B of this Settlement; and (b) sets forth the findings referenced in Section IV.A and IV.B of this Settlement.

3. That the Commission enter a final Order, consistent with this Settlement, (a) approving the proposed rates contained in Appendix A hereto, as modified to reflect updates and tariff modifications traditionally performed as part of CPG's annual December 1 PGC compliance filings, and (b) directing CPG to file a final tariff implementing such rates for gas service rendered by CPG on and after December 1, 2010.

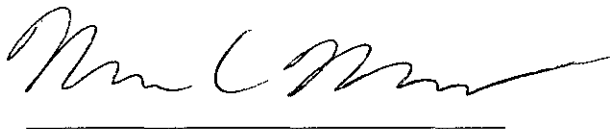
4. That the Commission terminate and mark closed its inquiry and investigation at

Respectfully submitted,



Jennedy S. Johnson  
Assistant Consumer Advocate  
James A Mullins  
Assistant Consumer Advocate  
Office Of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1921

Counsel for the Office of Consumer Advocate



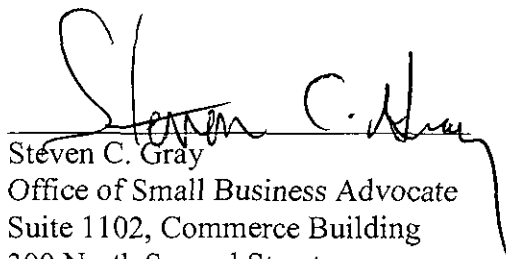
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Charles Daniel Shields, Senior Prosecutor  
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Counsel for the Office of Trial Staff



Steven C. Gray  
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Harrisburg, PA 17101

Counsel for the Office of Small Business Advocate

Dated: August 17, 2010

**APPENDIX A**

**(CPG Settlement Rates – Subject to Updates)**

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**AUG 17 2010**

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SECRETARY'S BUREAU**

Appendix A  
Settlement Filing

UGI Central Penn Gas, Inc.  
Computation of the Cost of Gas  
Applicable to Rates: R, G, RS & O.

Effective December 1, 2010  
Computation Year Ending November 30, 2011

C - Projected Cost per June 2010 PGC Filing	\$	57,110,874
S - Projected Sales (dth)		8,911,912
C / S Projected Cost per dth	\$	6.4080
E - Experienced Cost Rate R per June 2010 PGC Filing	\$	1,262,676
E - Experienced Cost Rates G,RS,O per June 2010 PGC Filing	\$	1,386,392
E / S Experienced Cost per dth Rate R	\$	(0.1417)
E / S Experienced Cost per dth Rates G,RS,O (or Gas Cost Adjustment (GCA))	\$	(0.1772)
PGC = (GSC + GCA) @ 12.1.2010 - Proposed Rate R	\$	6.2663
PGC = (GSC + GCA) @ 12.1.2010 - Proposed Rates G,RS,O	\$	6.2308
PGC = (GSC + GCA) @ 6.1.2010 - Current:	\$	6.9993
<b><u>PGC Change Rate R</u></b>	<b>\$</b>	<b><u>(0.7330)</u></b>
<b><u>PGC Change Rate G,RS,O</u></b>	<b>\$</b>	<b><u>(0.7685)</u></b>
<b><u>Percent Residential Heating Change</u></b>		<b><u>-5.4%</u></b>

**APPENDIX B**

**(CPG Statement in Support)**

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**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION,	:	Docket No. R-2010-2172922
OFFICE OF CONSUMER ADVOCATE,	:	Docket No. C-2010-2175535
OFFICE OF TRIAL STAFF, and	:	Docket No. C-2010-2181712
	:	
	:	
Complainants and	:	
	:	
CENTRAL PENN GAS LARGE USERS GROUP,	:	
	:	
Intervenors	:	
	:	
v.	:	
	:	
UGI CENTRAL PENN GAS, INC.	:	

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**UGI CENTRAL PENN GAS, INC.’S STATEMENT  
IN SUPPORT OF STIPULATION IN SETTLEMENT OF  
SECTION 1307(f) RATE INVESTIGATION**

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TO THE HONORABLE KANDACE F. MELILLO, ADMINISTRATIVE LAW  
JUDGE:

**I. INTRODUCTION**

UGI Central Penn Gas, Inc. (“CPG”) hereby submits this Statement in Support of the Stipulation in Settlement of Section 1307(f) Rate Investigation (“Settlement”) entered into by CPG, the Office of Trial Staff (“OTS”) of the Pennsylvania Public Utility Commission (“Commission”), the Office of Consumer Advocate (“OCA”), and the Office of Small Business Advocate (“OSBA”), parties in the above-captioned proceeding

(hereafter referred to as “Joint Petitioners”).<sup>1</sup> The Settlement has been entered into or not opposed by all parties in this proceeding. CPG believes that this Settlement of all issues is in the best interests of CPG, its customers and the Joint Petitioners, and therefore is in the public interest and should be approved.

The Settlement of this proceeding was achieved only after a comprehensive investigation of CPG’s gas procurement practices. CPG responded to approximately 129 formal discovery requests, many of which had multiple subparts. Parties also filed written testimony, including CPG’s direct testimony and the direct testimony of the OCA, OTS and OSBA. In addition, the Joint Petitioners participated in numerous settlement discussions which ultimately led to the Settlement.

The Settlement reflects a carefully balanced compromise of the interests of all the Joint Petitioners in this proceeding. For the reasons set forth below, the Settlement is just and reasonable and should be approved.

## **II. SETTLEMENT TERMS**

### **A. Direct Assignment to Choice Suppliers**

Section 3.3 of CPG’s Tariff Gas – Pa.P.U.C. No. 3S provides, in pertinent part, that CPG shall release to Choice Suppliers “sufficient firm pipeline capacity to transport to the applicable pipeline delivery point(s), in the month of highest usage in a normal annual cycle, the average flowing gas requirements of all customers in a pool.”

(Emphasis added.)

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<sup>1</sup> The Central Penn Gas Large Users Group (“CPGLUG”), the only other party in this proceeding, has indicated that it does not oppose the Settlement.

CPG did not propose any modification to its direct assignment rules in its PGC filing, but the OCA advocated in its direct testimony that CPG should propose in its next PGC proceeding that Choice Suppliers be assigned “capacity sufficient to meet the extreme (or design) peak day requirements of the customers of each Choice Supplier.” OCA Statement No., p. 6, lines 3-6.

The settlement fairly resolves this question by providing that CPG “will propose mandatory direct assignment rules in its 2011 PGC proceeding that (a) retain its current methodology through October 30, 2012 and (b) are consistent with UGI Penn Natural Gas, Inc. rules, with appropriate modifications for the index price, storage percentage and delivery path, for annual periods beginning November 1, 2012 and thereafter.” CPG Settlement ¶17. Under the terms of a Stipulation in Settlement in the UGI Penn Natural Gas, Inc.’s (“PNG”) PGC proceeding at Docket Nos. R-2010-2172928 et al., in turn, PNG would, effective November 1, 2012, base direct assignment options on each Choice Supplier’s peak day requirements. PNG Settlement ¶ 20.

These settlement terms are in the public interest because they will provide for notice and an opportunity to be heard in next year’s PGC proceeding before proposed modifications to CPG’s direct assignment rules are implemented, and if implemented as proposed, will enable Choice Suppliers to plan in advance in establishing their supply portfolios and in pricing their retail product offerings. Moreover, if the proposed changes are implemented it will bring CPG’s direct assignment rules into conformance with those of PNG as of November 1, 2012, thereby easing the administrative burdens associated with the administration of differing direct assignment rules among affiliated companies.

The CPG Settlement also provides that CPG will not be denied “PGC cost recovery for any portion of its PGC supplies or sharing mechanism revenues because of its implementation of the direct assignment settlement terms set forth in paragraph 17.” CPG Settlement ¶18. This Settlement provision is in the public interest because it provides important cost recovery protections for CPG.

**B. Dominion Transportation, Inc. Storage Reporting Error Litigation**

CPG has agreed to report in future PGC proceedings on the status of any legal proceedings against Dominion Transportation, Inc. (“DTI”) to recover excess natural gas charges, if any, caused by the November 24, 2004 DTI storage inventory reporting error. This Settlement provision was important to the OSBA, and CPG believes that it is reasonable for settlement purposes.

**C. Lost-and-Unaccounted-For-Gas**

In its direct testimony the OTS noted “CPG’s 3-year twelve month combined rolling average of LUFG as of September 2009 equals 2.9% . . . {and t]he 2.9 % represents a low level of LUFG and indicates that the Company presently does a comparatively good job managing its distribution system to control its LUFG level.” OTS Statement No. 1, pp. 2-3. Under the Settlement CPG has agree that is it experiences an increase in its Lost-and-Unaccounted-For-Gas (“LUFG”) levels as reported in its next PGC proceeding, it shall explain in its filing why it believes LUFG levels are increasing and possible remedies for the increase. This Settlement provision is reasonable and in the public interest since it will provide future PGC participants with additional information to evaluate CPG’s efforts in controlling LAUG levels.

**D. Marcellus Shale**

In its direct testimony the OTS asserted “the Company should use its best efforts to supply the section 1307(f) customers with the cheapest gas possible. If that gas is Marcellus Shale gas, the Company should maximize its purchase of Marcellus Shale gas.” OTS Statement No. 1, p. 7. Under the Settlement CPG has agree to “use its best efforts, consistent with its statutory least cost fuel procurement obligations, to acquire Marcellus Shale supplies, and will provide a report in its next PGC filing addressing (a) its efforts to purchase Marcellus Shale supplies, (b) the volumes, if any, purchased, (c) to the extent determinable, the percentage of its total supplies provided by Marcellus Shale gas and (d) barriers, if any, to such purchases.” CPG Settlement ¶30. This commitment to use best efforts and to provide additional information in its next PGC is in the public interest since it is consistent with CPG’s statutory least cost obligations and will provide additional information to participants in next year’s PGC proceeding to help participants evaluate CPG’s efforts to acquire Marcellus Shale supplies.

### **III. CONCLUSION**

As explained above, the Settlement is in the public interest and should be approved. The Settlement was achieved only after considerable investigation of CPG’s gas procurement practices, through both discovery and submission of testimony by a number of Joint Petitioners in this proceeding. The Settlement, if approved by Administrative Law Judge Kandace F. Melillo and the Commission, will reduce the amount of expense and effort that will be required by the Joint Petitioners and the Commission to bring this matter to a conclusion. Furthermore, the Joint Petitioners and the Commission will be able to avoid the substantial effort and expense that would be incurred in continuing to litigate this proceeding, including preparation for and

participation in hearings, preparation of briefs, reply briefs, exceptions, and replies to exceptions.

All of the Joint Petitioners to the Settlement also request that the required statutory findings be made in this proceeding. These statutory findings are appropriate and are amply supported by the information outlined in the Settlement and in the testimony filed by PNG in this proceeding.

The Settlement is the result of compromise. Each of the agreements set forth in the Settlement resolves a dispute fairly and without the expense and uncertainty associated with litigation. CPG accordingly fully supports the Settlement, and urges the presiding Administrative Law Judge and the Commission to approve the Settlement without modification.

Respectfully submitted,



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Mark C. Morrow  
UGI Corporation  
460 North Gulph Road  
King of Prussia, PA 19406  
(610) 768-3628

Counsel for UGI Central Penn Gas, Inc.

Dated: August 17, 2010

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AUG 17 2010

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**APPENDIX C**

**(OTS Statement in Support)**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	Docket No. R-2010-2172922
v.	:	[2010 1307(f) Proceeding]
	:	
UGI Central Penn Gas, Inc.	:	

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**OFFICE OF TRIAL STAFF  
STATEMENT IN SUPPORT OF  
STIPULATION IN SETTLEMENT OF  
SECTION 1307(f) RATE INVESTIGATION**

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**TO ADMINISTRATIVE LAW JUDGE KANDACE F. MELILLO:**

The Office of Trial Staff (“OTS”) of the Pennsylvania Public Utility Commission (“Commission”) respectfully requests that the terms and conditions of the foregoing Stipulation in Settlement of Section 1307(f) Rate Investigation (“Stipulation”) in the instant 66 Pa.C.S. §1307(f) proceeding involving UGI Central Penn Gas, Inc. (“CPG” or “Company”) be approved by Your Honor and the Commission. OTS submits that the proposed settlement is in the public interest and, in support thereof, avers as follows:

1. On June 1, 2009, the Company filed copies of its definitive filing under Section 1307(f) of the Public Utility Code and said Commission regulations. This definitive filing proposed a decrease to the Company’s Section 1307(f) rates of \$0.73 per Dth. On June 9, 2010, OTS filed its Notice of Appearance.

2. The subject filing was docketed by the Commission and assigned to Administrative Law Judge Kandace F. Melillo (“ALJ” or “ALJ Melillo”). On June 8, 2010, the ALJ issued a Prehearing Conference Order directing the submission of prehearing conference memorandum by each party and establishing other parameters for the conduct of the Prehearing Conference.

3. On June 17, 2010, ALJ Melillo conducted a consolidated Prehearing Conference and subsequently issued an Order the next day officially consolidating the 2010 Section 1307(f) cases of the three (3) affiliated UGI Companies - UGI Penn Natural Gas, Inc. at Docket No. R-2010-2172928; the instant CPG proceeding and UGI Utilities, Inc.- Gas Division at Docket No. R-2010-2172933.<sup>1</sup>

4. On June 18, 2010, ALJ Melillo issued an Order Granting, In Part, Joint Petition for a Protective Order and on that date issued a Protective Order. By subsequent Revised Protective Order issued June 28, 2010, the ALJ provided that the prior Protective Order was superseded due to circumstances that had arisen since the date of the original June 18, 2010, Order.

5. OTS and the other active parties to this proceeding served several sets of interrogatories to CPG and timely responses were provided. Settlement discussions were held among the active parties regarding this and the other two proceedings. Those

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<sup>1</sup> Per ALJ Melillo’s June 18, 2010 Order, the three cases were consolidated for purposes of hearing due to common questions of law or fact but were not consolidated for purposes of the rendering of a single decision. As such, a separate decision will be issued for each proceeding. Order, p. 3.

discussions eventually produced an agreement in this case as embodied in the foregoing Stipulation.

6. On July 27, 2010, the parties informed ALJ Melillo that a settlement in principle as to all issues had been reached in this proceeding. On July 29, 2010, ALJ Melillo conducted a consolidated hearing at which time the OTS Direct Testimony and accompanying Exhibit at this docket were offered and admitted into the record by stipulation of the parties.<sup>2</sup> On July 28, 2010, the ALJ issued an Order Modifying Procedural Schedule and Providing for Settlement Procedures that accepted the parties proposal to submit settlement documents regarding this case by the close of business on August 17, 2010.

7. Along with the other terms and conditions to the settlement agreed to by CPG to settle these this particular proceeding are provisions of particular interest to OTS whereby CPG has agreed that if they experience an increase in lost and unaccounted for gas (“LUGF”) levels as reported in the next (2011) PGC proceeding, they will explain in the filing why it believes the LUGF level increased and possible remedies for the both the present and any future increases. CPG has also agreed to use their best efforts, consistent with their statutory least cost fuel procurement obligations, to acquire Marcellus Shale supplies and will provide a report in its next PGC filing addressing their efforts to purchase such supplies; any such volumes purchased; the determinable percentage of

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<sup>2</sup> OTS Statement No. 1, the Direct Testimony of Ethan H. Cline and OTS Exhibit No. 1, the Exhibit to Accompany the Direct Testimony of Ethan H. Cline had been previously distributed to the ALJ and the parties on July 9, 2010.

total gas supplies represented by such purchases; and will identify a barriers to such purchases.

8. Based upon OTS's analysis, acceptance of this proposed settlement is in the public interest for the following additional reasons:

a. Resolution of this case by settlement rather than litigation will avoid the substantial time and expense involved in continuing litigation of certain issues in this proceeding. Specifically, acceptance of this settlement will negate the need for any direct and cross-examination of witnesses, the preparation of main briefs, reply briefs, exceptions and reply exceptions, and potential appeals on matters contained in the settlement petition. OTS respectfully submits that the avoidance of further and unnecessary rate case expense by settlement of this case serves the interests of both CPG and its customers.

b. OTS agrees after review of the filing and extensive discovery and settlement discussions that the purchased gas cost recovery rates contained in the settlement are fair and reasonable. OTS represents that the natural gas costs that CPG incurred during the historic period adhered to a least cost fuel procurement policy. A demonstrated least cost procurement policy benefits ratepayers as it ensures that the Company obtains gas at the most advantageous prices.

c. OTS analyzed the Company's E-factor and has determined that it was calculated in accordance with established Commission practices. The E-Factor

represents the interest associated with over-collection or under-collection of revenue based on the cost of purchased gas. The proper calculation of the E- Factor protects ratepayers by ensuring that the rates are adjusted appropriately to reflect the impact that these charges have on purchased gas costs.

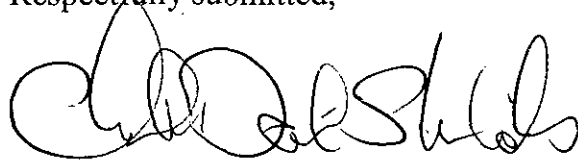
d. OTS reviewed the Company's projected gas costs and determined that they are reasonable projections. We note that the experienced costs are subject to review in a future PGC proceeding and, as such, ratepayers are protected in that CPG gains no unwarranted financial advantages through its projected gas purchases and projected gas purchasing policies.

e. Commission acceptance of this settlement does not preclude future Commission investigation and/or litigation of CPG's fuel procurement policies, in accordance with the Commission's obligations mandated by 66 Pa.C.S. 1307(d) and (f) and other pertinent law.

f. The settlement establishes terms and conditions that OTS considers to be in the public interest. However, in the event this matter proceeds to full litigation, OTS is prepared to take positions that may differ from the terms of this settlement.

**WHEREFORE**, for the reasons set forth above, the Office of Trial Staff respectfully requests that Administrative Law Judge Mellilo and the Commission approve the Stipulation in Settlement of Section 1307(f) Rate Investigation in this present 2010 proceeding involving UGI Central Penn Gas, Inc., docketed at R-2010-2172922.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles Daniel Shields", written in a cursive style. The signature is positioned above a horizontal line.

Charles Daniel Shields  
Senior Prosecutor

Johnnie E. Simms  
Chief Prosecutor

Office of Trial Staff  
Pennsylvania Public Utility Commission  
Post Office Box 3265  
Harrisburg, Pennsylvania 17105-3265  
(717) 787-1976

Dated: August 17, 2010

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**APPENDIX D**

**(OCA Statement in Support)**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2010-2172922
	:	
UGI Central Penn Gas, Inc.	:	

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STATEMENT OF THE  
OFFICE OF CONSUMER ADVOCATE  
IN SUPPORT OF SETTLEMENT

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The Office of Consumer Advocate (OCA), one of the signatory parties to the proposed Settlement of Rate Proceeding Pursuant to Section 1307(f) (Settlement), finds the terms and conditions of the Settlement to be in the public interest for the following reasons:

I. INTRODUCTION

On April 30, 2010, pursuant to Sections 53.64 and 53.65 of the Commission’s Rules and Regulations, UGI Central Penn Gas, Inc., (CPG or Company) submitted its pre-filing information in support of its annual reconciliation of purchased gas cost (PGC) rates. CPG’s pre-filed information did not indicate the anticipated effect of the annual PGC reconciliation on existing rates. On May 12, 2010, the OCA filed its Formal Complaint in this matter.

The Company’s filing was assigned to the Office of Administrative Law Judge and was further assigned to Administrative Law Judge Kandace F. Melillo (ALJ Melillo), for investigation and scheduling of hearings to determine whether the Company’s gas costs comply with the standards set forth in the Public Utility Code.

On June 1, 2010, the Company made its definitive filing. The Company proposed a PGC rate of \$6.2663/Dth.

On June 17, 2010, ALJ Melillo held a prehearing conference in this matter. A procedural schedule was established, and the parties agreed to certain modifications to the discovery rules on a going-forward basis.

As part of its investigation and analysis of the Company's filings, the OCA served multiple sets of discovery on CPG. On July 9, 2010, the OCA submitted the Direct Testimony of Jerome D. Mierzwa. That testimony set forth the OCA's concerns regarding CPG's lack of proposed mandatory capacity assignment options of pipeline capacity to CHOICE suppliers.

Settlement discussions were ongoing during this period of time, and resulted in the proposed Settlement of all outstanding issues. For the reasons set forth below, the OCA submits that the Settlement is in the public interest.

## II. TERMS AND CONDITIONS OF THE SETTLEMENT

The following represents the terms of the Settlement that directly address all of the OCA's outstanding concerns in this case. The OCA expects that the other signatory parties will address those areas of the Settlement that apply to their issues.

### Capacity Assignment

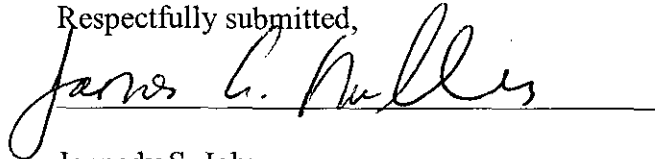
In his Direct testimony, Mr. Mierzwa expressed his concerns as to the Company's lack of proposed mandatory capacity assignment options. OCA St. 1 at 4-5. Specifically, Mr. Mierzwa stated that, as CPG reserves capacity to meet the design peak day demands of its customers, failure to assign capacity to Choice Suppliers sufficient to meet design peak day demands could result in an inappropriate shifting of costs to PGC customers. The Settlement addresses this issue at page 5. In particular, the Settlement provides that CPG will propose

mandatory direct assignment rules in its 2011 PGC proceeding that (a) retain its current methodology through October 30, 2012 and (b) are consistent with UGI Penn Natural Gas, Inc. rules, with appropriate modifications for the index price, storage percentage and delivery path, for annual periods beginning November 1, 2012 and thereafter. The Settlement terms address the OCA's concerns regarding mandatory capacity assignment because they assure that CPG will be able to mandatorily assign quantities of capacity to CHOICE suppliers, thereby eliminating the inappropriate shifting of costs to PGC customers.

III. CONCLUSION

For the foregoing reasons, the Office of Consumer Advocate submits that the terms and conditions of the Settlement are in the public interest and therefore, should be approved.

Respectfully submitted,

A handwritten signature in cursive script, reading "James A. Mullins", is written over a horizontal line.

Jennedy S. Johnson  
Assistant Consumer Advocate  
PA Attorney I.D. # 203098  
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Counsel for:  
Irwin A. Popowsky  
Consumer Advocate

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Date: August 16, 2010

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**APPENDIX E**  
**(OSBA Statement in Support)**



### The Stipulation

The *Stipulation* sets forth a comprehensive list of issues that were resolved through the negotiation process. The following issue was of significance to the OSBA when it concluded that the *Stipulation* was in the best interests of CPG's small business customers.

**November 2004 Event** – On November 24, 2004, the Energy Information Administration (“EIA”) released a Weekly Gas Storage Report that led to a significant spike in natural gas prices, apparently as a result of a clerical error in the underlying data supplied by Dominion Transmission, Incorporated (“DTI”). In the 2005 Peoples Natural Gas Company Section 1307(f) proceeding, the Commission required that a natural gas distribution company (“NGDC”) “actively seek to recover from its suppliers, including its affiliates, the amounts paid for gas supplies that were in excess of reasonably anticipated prices as a result of the DTI reporting error.” *Peoples Natural Gas Company 1307(f) Proceeding*, Docket R-00050267 (Order entered September 30, 2005), at 16.

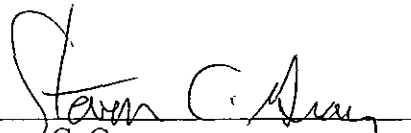
The *Stipulation* requires that CPG report on the status of any legal proceedings against DTI (or any of CPG's suppliers) to recover any excess natural gas charges caused by the November 24, 2004, DTI storage inventory reporting error. *See Stipulation*, Paragraph 19. This will require CPG to monitor the current lawsuit against DTI in West Virginia (*Jacquet et al v. Dominion Transmission, Inc. et al*, Docket No. 2:05-cv-00548 (S.D. W.Va.)) on behalf of the Company's customers. This will be particularly important if *Jacquet* survives a motion to dismiss and is given a class action designation.

The OSBA respectfully submits that this provision is in the interest of CPG's PGC customers as it will assure that the Company will be able to participate to the fullest extent possible in any relief granted if the *Jacquet* case proceeds to litigation.

**Conclusion**

For the reasons set forth in the *Stipulation*, as well as the additional factors enumerated in this statement, the OSBA supports the proposed *Stipulation* and respectfully requests that the ALJ and the Commission approve the *Stipulation* in its entirety.

Respectfully submitted,



Steven C. Gray  
Assistant Small Business Advocate  
Attorney ID No. 77538

For:

William R. Lloyd, Jr.  
Small Business Advocate  
Attorney ID No. 16452

Office of Small Business Advocate  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101

Dated: August 17, 2010

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SECRETARY'S BUREAU**

**APPENDIX F  
(CPGLUG Letter of Non-Opposition)**



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Carl J. Zwick  
Direct Dial: 717.237.5271  
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August 17, 2010

Honorable Kandace F. Melillo  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
400 North Street, 2<sup>nd</sup> Floor West  
Harrisburg, PA 17120

**VIA E-MAIL AND  
HAND DELIVERY**

**RE: Pennsylvania Public Utility Commission v. UGI Central Penn Gas, Inc.;**  
**Docket No. R-2010-2172922**

Dear Judge Melillo:

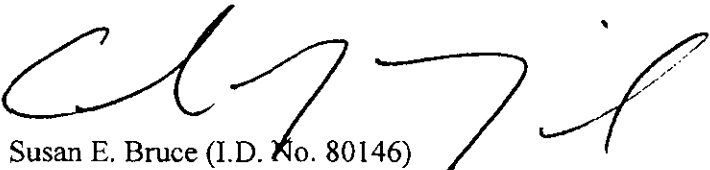
Central Penn Gas Large Users Group ("CPGLUG"), an intervenor in this proceeding, hereby submits this letter to indicate that it neither supports nor opposes the Stipulation in Settlement of Section 1307(f) Rate Investigation in the above-referenced proceeding.

Please feel free to contact us with any questions regarding this letter. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By



Susan E. Bruce (I.D. No. 80146)  
Vasiliki Karandrikas (I.D. No. 89711)  
Carl J. Zwick (I.D. No. 306554)

Counsel to Central Penn Gas Large Users Group

VK/sds

Enclosure

C: Rosemary Chiavetta, Secretary (via Hand Delivery)  
Certificate of Service

[www.mwn.com](http://www.mwn.com)

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**CERTIFICATE OF SERVICE**  
**(Docket No. R-2010-2172922, etc.)**

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

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

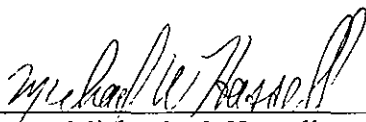
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Date: August 17, 2010

  
\_\_\_\_\_  
Michael W. Hassell

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