



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

IN REPLY PLEASE
REFER TO OUR FILE

December 20, 2010

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Application of UGI Penn Natural Gas, Inc. for Expedited Review and Approval of the Transfer By Sale of a 9.0 Mile Natural Gas Pipeline, Appurtenant Facilities and Right of Way, located in Mehoopany, PA, and a Related Affiliated Interest Agreement

Docket Nos. A-2010-2213893 &
G-2010-2213894

Dear Secretary Chiavetta:

Enclosed please find an original and three (3) copies of the Office of Trial Staff's (OTS) **Protest** in the above-captioned proceeding.

Copies are being served on all active parties of record. If you have any questions, please contact me at (717) 783-6151.

Sincerely,

Charles Daniel Shields
Senior Prosecutor
Office of Trial Staff
PA Attorney I.D. #29863

SECRETARY'S BUREAU
37A PUC

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Enclosure
CDS/edc

cc: Applicant's Counsel, OCA and OSBA
Cheryl Walker Davis, Director, OSA [Electronically]
Bohdan Pankiw, Chief Counsel, Law Bureau

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of UGI Penn Natural Gas, Inc. :
for Expedited Review and Approval of the :
Transfer By Sale of a 9.0 Mile Natural Gas : Docket Nos. A-2010-2213893
Pipeline, Appurtenant Facilities and Right : G-2010-2213894
of Way, located in Mehoopany, PA, and a :
Related Affiliated Interest Agreement :

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**PROTEST OF THE
OFFICE OF TRIAL STAFF**

The Office of Trial Staff (“OTS”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its Chief Prosecutor Johnnie E. Simms and Senior Prosecutor Charles Daniel Shields, pursuant to 52 Pa. Code § 5.52, herewith submits this present Protest to the above-captioned Application of UGI Penn Natural Gas, Inc. (“UGI PNG” or “Company”) seeking approval for (1) the transfer of certain natural gas pipeline, appurtenant facilities and right of way, docketed at A-2010-2213893, and (2) a related affiliated interest agreement, docketed at G-2010-2213894.¹

¹ Section 5.52 of the Commission’s Rules of Practice and Procedure, 52 Pa. Code § 5.52, entitled “Content of a protest to an application” provides in full:

- (a) *Form*. A protest to an application must:
 - (1) Set out clearly and concisely the facts from which the alleged interest or right of the protestant can be determined.
 - (2) State the grounds of the protest.
 - (3) Set forth the facts establishing the protestant’s standing to protest.
- (b) *Motor carrier*. Protests in motor carrier cases must conform with § 3.381(c)(1) (relating to applications for transportation of property and persons).
- (c) *Filing and service*. A protest shall be filed with the Secretary and served upon the applicant or the applicant’s attorney, if any.

As an essential component of this Protest, OTS respectfully requests the Commission to assign the matter to the Office of Administrative Law Judge for hearings and the issuance of a decision by an assigned Administrative Law Judge. As grounds for this OTS Protest, we submit that the instant Application seeks authorization from the Commission to allow the Company to transfer property to an affiliate that would essentially serve to enhance the revenue producing ability of a corporate affiliate of the Company without providing sufficient justification and proof of a substantive benefit to the Company's ratepayers. While the Company's proposal to sell certain property at its valuation amount of \$242,166 (per Paragraph 12 of Application) would reduce the corresponding revenue requirement for such property by an OTS-estimated \$29,060,² such reduction to rate base and the corresponding annual depreciation expense would apparently only become effective with the Company's next base rate when such reductions would be incorporated into the ratemaking formula.³

As to further grounds, OTS references that the proceeds of the sale that would be received by the Company (however reflected) would be offset by the proposed creation of a \$5,000 a month/\$60,000 a year interconnection fee that the Company would then pay the affiliated corporate entity. *See*: Article IV, Interconnection Agreement. As such,

2 The \$29,060 amount is an estimate that assumes an annual common equity rate of return of 10% for the \$232,166 and a service life of 50 years. With that estimated amount, the annual return on the \$242,166 is \$24,217 ($\$242,166 \times 10\% = \$24,217$) and the depreciation expense is \$4,843 ($242,166/50 \text{ years} = \$4,843$) to reach that total of \$29,060.

3 A current review of the Commission's records discloses that no notice of a pending base rate filing has been filed by this Company.

simple math discloses that within a mere four (4) year span, this \$60,000 annual payment would repay almost all of the affiliate's initial outlay of \$242,166 for the pipeline. The Application also fails to demonstrate why the Company could not continue to operate the pipeline and make the necessary improvements to provide the described services.

Further, there is no reference in the Application for the possibility of the imposition of any other future fees that the Company may be required to pay for the very use of a pipeline segment that it presently owns. Such fees are not unprecedented and simply cannot be ruled out without further scrutiny of the proposed transaction terms, conditions and restrictions during the course of a formal proceeding.


Finally, it would appear that the pipeline operation and services proposed to be provided by the affiliated corporate entity would render it a public utility requiring a Certificate of Public Convenience granted by this Commission. The instant Application neither includes nor references any other filing seeking such status for the affiliate.

As standing to present this instant Protest, OTS represents that our office is charged with representing the public interest in Commission proceedings having an impact upon rates and other matters as directed to participate by the Commission. This OTS representation of the public interest includes balancing the interests of both ratepayers and the utilities. OTS asserts that the Application, if granted, would affect the rates charged to customers and, as such, OTS has the requisite authority to be actively

involved in any proceeding initiated by the Commission at the above-captioned dockets in order to represent the public interest.

OTS has and will continue to scrutinize all aspects of the subject filed Application and proposed Affiliated Interest Agreement. To reiterate, OTS submits that the Application presently provides insufficient information and support for its present approval and that a formal proceeding is required to fully develop a record regarding all aspects and ramifications of the proposals contained therein. The OTS position on the issues raised in this Application can and will be further refined during such a proceeding where we would have the ability to conduct discovery and analyze the provided responses, review any testimonies distributed by other parties, and have the ability to subject witnesses presented at the evidentiary hearings to cross examination regarding any and all material issues raised by the Application.

Respectfully submitted,



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

Dated: December 20, 2010

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BEFORE THE
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Application of UGI Penn Natural Gas, :
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of the Transfer By Sale of a 9.0 Mile : Docket Nos. A-2010-2213893 &
Natural Gas Pipeline, Appurtenant : G-2010-2213894
Facilities and Right of Way, located in :
Mehoopany, PA, and a Related Affiliated :
Interest Agreement :

CERTIFICATE OF SERVICE

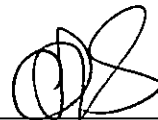
I hereby certify that I am serving the foregoing **Protest** dated December 20, 2010, either personally, by first class mail, electronic mail, express mail and/or by fax upon the persons listed below, in accordance with the requirements of § 1.54 (relating to service by a party):

Irwin Popowsky, Esquire
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Forum Place
Harrisburg, PA 17101-1921

Kent D. Murphy, Esquire
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406

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

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Charles Daniel Shields
Senior Prosecutor
Office of Trial Staff
PA Attorney I.D. #29363