

COMMONWEALTH OF PENNSYLVANIA



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July 25, 2011

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

RE: Petition of UGI Utilities Inc. – Electric
Division for Approval of its Energy
Efficiency and Conservation Plan
Docket No. M-2010-2210316

Dear Secretary Chiavetta:

Enclosed for filing are the Exceptions of Office of Consumer Advocate, in the
above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

A handwritten signature in cursive script that reads "David T. Evrard".

David T. Evrard
Assistant Consumer Advocate
PA Attorney I.D. # 33870

Enclosures

cc: Honorable Susan D. Colwell

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of UGI Utilities Inc. – Electric :
Division for Approval of its Energy : Docket No. M-2010-2210316
Efficiency and Conservation Plan :

EXCEPTIONS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: July 25, 2011

TABLE OF CONTENTS

I. INTRODUCTION.....1

II. EXCEPTION.....2

OCA Exception No. 1: The ALJ Erred In Rejecting the Proposal of the OCA
Regarding Low-Income Customers and the Conversion to Propane as a Fuel Source.
(R.D. at 42-43; OCA I.B. at 26-27; OCA R.B. at 15)2

III. CONCLUSION5

I. INTRODUCTION

On July 15, 2011, the Office of Administrative Law Judge issued the Recommended Decision (R.D.) of Administrative Law Judge (ALJ) Susan D. Colwell in the case of the Energy Efficiency and Conservation (EE&C) Plan (Plan) of UGI Utilities, Inc. – Electric Division (UGI-Electric or Company). The ALJ recommended that the EE&C Plan proposed by UGI-Electric be approved in part and denied in part. On two of the most contentious issues in the case, the ALJ recommended that: (1) UGI-Electric’s request to recover the revenue lost as a result of implementation of its EE&C Plan be denied; and (2) the level of incentives applicable to the EE&C program for residential fuel-switching be cut in half. In addition, the ALJ recommended that UGI-Electric’s expenditures for its EE&C Plan be capped at 2% of the Company’s revenues. On each of these points, the ALJ recommended a result that is consistent with the positions advocated by the Office of Consumer Advocate (OCA) and to one degree or another by the other public advocates in this case, the Office of Small Business Advocate and the Commission’s Office of Trial Staff. The OCA submits that on these most critical elements of the case, the ALJ made a careful review of the record in this proceeding and reached determinations that are most consistent with the public interest. These determinations should be adopted by the Commission.

In a few other respects, the ALJ made recommendations that are contrary to positions advanced by the OCA, most notably regarding the scope of the Compact Fluorescent Lighting (CFL) Campaign (the OCA advocated a substantial increase in the number of CFL bulbs included in the program) and the inclusion of prescriptive lighting rebates as part of the Plan’s Commercial and Industrial Custom Incentive Program (the OCA supported including specific preset rebate levels for various types of lighting conversions under this program). While the OCA continues to believe in the merit of the positions it advanced on these points, it does not

intend to file exceptions to these portions of the R.D. Rather, if UGI-Electric goes forward with implementing its Plan, the OCA is hopeful that as the Plan evolves, as different components of the Plan show greater or lesser degrees of success and adjustments are contemplated, there may be opportunities to revisit the CFL and Commercial and Industrial Custom Incentive programs to reconsider the recommendations made by the OCA. The OCA trusts that the Company will be receptive to such opportunities and looks forward to working cooperatively with UGI-Electric should those opportunities arise.

In the R.D., the ALJ also rejected the OCA's position that UGI-Electric should eliminate from its residential Fuel-Switching Program any incentive for low-income customers to switch to propane, an unregulated fuel source. For the reasons set forth below, the OCA respectfully excepts to this portion of the R.D.

II. EXCEPTION

OCA Exception No. 1: The ALJ Erred In Rejecting the Proposal of the OCA Regarding Low-Income Customers and the Conversion to Propane as a Fuel Source. (R.D. at 42-43; OCA I.B. at 26-27; OCA R.B. at 15)

The OCA's position in this case regarding offering incentives to low-income customers to switch to propane for home heating and other household uses is straightforward – the OCA is concerned that moving these economically vulnerable customers from a regulated energy source to an unregulated energy source such as propane, will result in these customers losing the consumer protections afforded them under the Public Utility Code and its accompanying regulations. The OCA submits that such a proposal raises a number of public policy concerns particularly when being funded at ratepayer expense. Accordingly, the OCA advocated that UGI-Electric eliminate from its residential fuel-switching program the incentive for low-income customers to switch to propane, an unregulated fuel source. Other incentives for switching to

natural gas or for improving the efficiency of electric heat pumps would be maintained under the OCA's proposal.

The ALJ rejected this recommendation of the OCA relying on three grounds. First, while the ALJ found the OCA's intentions reasonable, she noted that there is a limit to how far low-income customers can be protected and a point at which they must be allowed to exercise the same freedom of choice as all other customers. Second, the ALJ noted that there may be circumstances where switching to another fuel source is the best choice for the customer even if it means foregoing regulated utility protections. Third, the ALJ asserted that not extending fuel-switching opportunities to a class of customers because they are low-income is in effect discriminatory.

In response to each of these points, the OCA would first note that its recommendation is not a denial of freedom of choice. The OCA is not recommending that low-income customers be prohibited from switching to propane as a primary fuel source. Customers can make that choice if it is their desire. Rather, the OCA is recommending that these customers not be incentivized with ratepayer funds to make what could prove to be an ill-advised decision. The OCA submits that it is not appropriate to use ratepayer money to encourage low-income customers to make a switch that could potentially put them at risk of losing the protections associated with using a regulated fuel source.

Second, as to whether switching to propane would be the best choice for the customer, the current economics of the fuel market suggest otherwise. On a dollar per million Btu (mmBtu) basis, propane is simply not comparable to natural gas. Adding a one-time incentive into the economic decision point could simply mask the comparison to the detriment of the

customer. Repeating the point made above, the OCA submits it is not appropriate to devote ratepayer money to incentivizing an uneconomic decision.

Third, with respect to whether removing an incentive for one form of fuel-switching from low-income customers constitutes discrimination, the OCA would note that sections 1304 and 1502 of the Public Utility Code (66 Pa.C.S. §§ 1304 and 1502) do not prohibit all differences in rates (Section 1304) or service (Section 1502). Rather they prohibit an *unreasonable* preference or advantage. Indeed, with respect to low-income customers there are any number of accommodations and protections that are extended uniquely to these customers that are not available to other customers, including things such as Customer Assistance Programs or Low-Income Usage Reduction Programs. The fact that these programs are available only to low-income customers does not mean they are discriminatory. They are considered needed protections for low-income customers and consequently are regarded as *reasonable*, and therefore permissible, preferences or advantages under the Code.

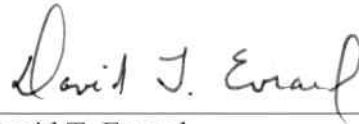
The OCA submits that such would be the case if the incentive for switching to propane under UGI-Electric's residential Fuel Switching Program were eliminated for low-income customers. This should not be viewed as a form of discrimination, but rather as a *reasonable* distinction applicable to low-income customers in the nature of a protection from the potential of moving to a fuel source that would not be beneficial for them from either an economic or consumer protection standpoint.

For these reasons, the Commission should adopt the recommendation of the OCA to eliminate from UGI-Electric's residential Fuel Switching Program, the incentive for low-income customers to switch to propane.

III. CONCLUSION

The OCA respectfully submits that the ALJ erred in not adopting the recommendation of the OCA to eliminate the incentives for low-income customers to switch to propane. Accordingly, the ALJs' recommendation on that point should be rejected in favor of the position advocated by the OCA in this proceeding as discussed above.

Respectfully Submitted,



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Dated: July 25, 2011

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CERTIFICATE OF SERVICE

Petition of UGI Utilities Inc. – Electric :
Division for Approval of its Energy : Docket No. M-2010-2210316
Efficiency and Conservation Plan :

I hereby certify that I have this day served a true copy of the foregoing document, the Exceptions of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 25th day of July 2011.

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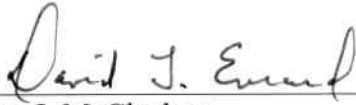
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