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File #: 2270/152373

August 13, 2012

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

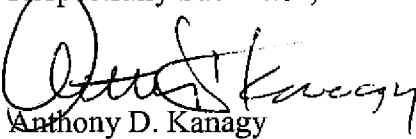
**RE: Pennsylvania Public Utility Commission v. UGI Penn Natural Gas, Inc.  
Docket Nos. R-2012-2302221, C-2012-2304836, C-2012-2305783 and C-2012-  
2310661**

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Dear Secretary Chiavetta:

Enclosed please find the Stipulation in Settlement of Section 1307(f) Rate Investigation for the above-referenced proceeding. Copies have been served on all parties as indicated on the Certificate of Service.

Respectfully Submitted,



Anthony D. Kanagy

ADK/skr

Enclosures

cc: Honorable Kandace F. Melillo  
Certificate of Service

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document 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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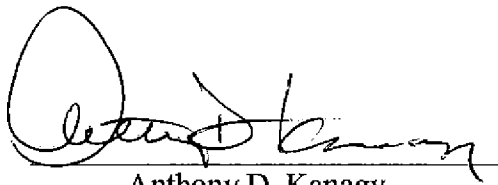
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**AND BY FIRST CLASS MAIL**

George Keener  
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Danville, PA 17821

Date: August 13, 2012



Anthony D. Kanagy

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION, ET AL.	:	Docket Nos. R-2012-2302221
	:	C-2012-2304836
v.	:	C-2012-2305783
	:	C-2012-2310661
UGI PENN NATURAL GAS, INC.	:	

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

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TO ADMINISTRATIVE LAW JUDGE KANDACE F. MELILLO:

**I. INTRODUCTION**

UGI Penn Natural Gas, Inc. (“PNG”), the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), and the Office of Consumer Advocate (“OCA”), 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 Partial Settlement Of Section 1307(f) Rate Investigation (“Stipulation”).<sup>1</sup> Under this Stipulation, the stipulating parties have resolved all issues except for one. The Parties have reserved for briefing the issue of the sharing of capacity releases revenue associated with the release of certain capacity from Transcontinental Gas Pipe Line. The Parties will brief this issue and request that the Commission make the necessary findings described herein, subject to the outcome of this reserved issue.

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<sup>1</sup> The Office of Small Business Advocate (“OSBA”) has indicated that it does not oppose this Stipulation.

The Stipulating Parties hereby request that Administrative Law Judge Kandace F. Melillo (the "ALJ") and the Commission approve this stipulation without modification as to the settled issues; and:

(1) authorize PNG to file a tariff supplement for service rendered on or after December 1, 2012, that implements, subject to updates and tariff modifications traditionally performed on December 1, the rates set forth in Attachments (1) - (4) of its June 1, 2012 PGC filing, as adjusted to reflect the outcome of the capacity release issue that has been reserved for briefing; and

(2) make all associated findings required by Section 1307(f) and Section 1318 of the Public Utility Code, 66 Pa.C.S. § 1307(f) and 66 Pa.C.S. § 1318, subject to the outcome of the capacity release issue that has been reserved for briefing.

The Parties note that a customer complainant, Mr. George Keener, filed a complaint at Docket No. C-2012-2310661 that was consolidated with the PGC proceeding. Mr. Keener did not attend the Prehearing Conference, did not file testimony, and did not otherwise actively participate in this matter. As indicated on the Certificate of Service, PNG is serving a copy of the Stipulation on him.

Attached as Appendices A, B, and C, hereto are statements in support of the Stipulation submitted by PNG, I&E, and OCA. Attached as Appendix D hereto is the statement of position of the OSBA.

## **II. BACKGROUND**

In support of this Stipulation, the Parties state as follows:

1. PNG 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 May 1, 2012, PNG provided the Commission with the pre-filing information required by 52 Pa. Code § 53.64(c) and 52 Pa. Code § 53.65.

3. On or about May 15, 2012, the I&E filed a Notice of Appearance.

4. On or about May 16, 2012, the OCA filed a notice of appearance, formal complaint, and public statement, docketed at C-2012-2304836.

5. On or about May 21, 2012, the OSBA filed a notice of appearance, formal complaint, and public statement, docketed at C-2012-2305783.

6. On June 1, 2012, in accordance with the schedule for Section 1307(f) filings established by the Commission, PNG submitted its 2012 PGC filing to the Commission, with proposed modifications to PNG's Tariff Gas - Pa. P.U.C. No. 8, to become effective December 1, 2012.

7. PNG's June 1, 2012 PGC filing proposed to implement a PGC rate of \$4.7608/Mcf applicable to rate R and GL customers, and a PGC rate of \$4.6874/Mcf applicable to rates N and CIAC customers effective December 1, 2012.

8. PNG also filed the direct written testimony of its supporting witnesses with its PGC filing on June 1, 2012.

9. On June 14, 2012, a consolidated Prehearing Conference in the PNG, UGI Central Penn Gas, Inc. (“CPG”) PGC proceeding at Docket No. R-2012-2302219 and UGI Utilities, Inc. – Gas Division (“UGI”) PGC proceeding at Docket No. R-2012-2302220 was conducted by ALJ Melillo.

10. At the Prehearing Conference, amongst other things, the PNG, CPG and UGI PGC proceedings were consolidated by the ALJ for the limited purposes of hearing; a procedural schedule was adopted; and certain discovery response rules were established.

11. On June 19, 2012, PNG, CPG and UGI jointly filed a Petition for a Protective Order for all three PGC proceedings.

12. In an Order dated June 20, 2012, the ALJ granted the Petition for a Protective Order.

13. On or about June 22, 2012, George Kenner filed a formal complaint, docketed at C-2012-2310661. PNG filed an answer to the complaint on July 10, 2012.

14. On July 19, 2012, the ALJ issued an order consolidating Docket Nos. C-2012-2304836, C-2012-2305783 and C-2012-2310661 with Docket No. R-2012-2302221.

15. In accordance with the procedural schedule established by the ALJ, the OCA filed written direct testimony on July 6, 2012. PNG filed rebuttal testimony on July 20, 2012; the OCA filed surrebuttal testimony on July 26, 2012, and PNG filed written rejoinder testimony on July 30, 2012.

16. 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.

17. On July 27, 2012, PNG notified the ALJ that an agreement in principle of all issues of the PNG PGC proceeding had been reached, except for the capacity release revenue sharing issue identified above.

18. A hearing was held on July 31, 2012. At the hearing, the parties' testimony and exhibits were admitted into the record by stipulation with accompanying signed affidavits or affirmations of the sponsoring witnesses.

### **III. GENERAL PROVISIONS OF STIPULATION**

19. The Parties agree the rates for the recovery of the purchased gas costs of PNG should be revised effective December 1, 2012, subject to updates, to reflect the rates set forth in Attachments (1) - (4) of its June 1, 2012 PGC filing, and adjusted to reflect the outcome of the capacity release issue that has been reserved for briefing.

20. The Parties agree that PNG will not issue an RFP for peaking service for the winter of 2013-2014 prior to the 2013 PGC proceeding. Any RFP issued for the winter of 2013-2014 will be based on the peak day as determined by the parties during the 2013 PGC proceeding.

21. All other provisions associated with PNG's 1307(f) proceeding, excluding the capacity release issue that has been identified for briefing, will be as stated in PNG's May 1, 2012 filing, PNG's June 1, 2012 filing and the testimony filed in support thereof.

22. The parties do not agree to a resolution regarding the allocation of capacity release revenues as described in the testimonies of PNG's witnesses David Beasten and Shaun Hart and the OCA's witness Jerome Mierzwa. The Parties do agree to reserve the issue for litigation and are briefing this issue.

#### IV. STANDARDS AND FINDINGS

23. This proceeding involves Commission review 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 PNG may recover for a previous 12-month period under the standards set forth in Section 1318. In addition, because PNG has filed tariffs proposing new PGC rates, the Commission must determine whether the requirements of Section 1318 can be met. This determination 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, 2012. The new tariff rates are intended to become effective December 1, 2012.

##### A. Historic Reconciliation Period Standards

24. With respect to PNG's gas purchases and gas purchasing practices during the twelve-month historic reconciliation period ending March 31, 2012, all Parties agree, and request the Commission to find, that PNG 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, subject to the outcome of the capacity release issue that has been reserved for briefing. 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, 2012, PNG 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 PNG in support of the required statutory findings can be found in the following sections of the PNG 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. 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 2012 PGC Rates:
  - 1. June 1, 2012 Filing, Attachments (1) - (4).
  - 2. June 1, 2012 Filing, Written Direct Testimony of William J. McAllister.
- H. Reliability (§1317(c)): Prefiling, Section 14.

B. Projected Period Findings

25. With respect to the twelve-month period beginning December 1, 2012, the period of time during which the proposed rates contained in this Stipulation would be in effect, all Parties agree and request the Commission to find that PNG 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, subject to the outcome of the capacity release issue that has been reserved for briefing. Nevertheless, it is expressly understood and agreed that such findings, relating to the rates to become effective

December 1, 2012, 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 Stipulation, 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, 2012 through November 30, 2012, 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.

26. If, in an appropriate future proceeding, gas purchases and gas purchasing practices relating to the period December 1, 2012 through November 30, 2013 are challenged, the Commission's findings made pursuant to Section IV.B. of this Stipulation 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, 2012, except as provided in Section III above.

27. The Parties also agree that future examination of the gas costs relating to the period April 1, 2012 through November 30, 2013 to determine whether PNG'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 Stipulation 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 STIPULATION

28. This Stipulation is conditioned upon the Commission's approval of the terms and conditions contained herein without modification, addition or deletion. If the Commission modifies the Stipulation or fails to approve, by December 1, 2012, the terms and conditions of this Stipulation and the rates contained in Attachments (1) - (4) of its June 1, 2012 PGC filing, as modified to reflect updates and tariff modifications traditionally performed on December 1 effective for service rendered on and after December 1, 2012, and adjusted to reflect the outcome of the capacity release issue that has been reserved for briefing, then any of the Parties may elect to withdraw from this Stipulation and may proceed with litigation. In such event, this Stipulation 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 Stipulation.

29. If the Commission modifies or does not approve the Stipulation and the proceedings continue to hearings on the issues that are the subjects of this Stipulation, the Parties reserve their respective rights to present additional testimony and to conduct full cross-examination, briefing and argument on these subjects.

30. Except as otherwise specifically provided in this Stipulation, this Stipulation is proposed by the Parties to settle all issues in the instant proceeding, excluding the capacity release issue reserved for briefing, 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 Stipulation, or any position that any Party may adopt in any other proceeding.

31. It is understood and agreed among the Parties that this Stipulation 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.

32. This Stipulation 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. Except as otherwise specifically provided in this Stipulation, the Stipulation reflects compromises on all sides, and is presented without prejudice to any position that any of the parties may have advanced and without prejudice to the positions that any of the parties may advance in the future on the merits of the issues.

33. The Parties acknowledge and agree that this Stipulation 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, 2012.

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

35. This Stipulation 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 Stipulation, including all terms and conditions thereof.

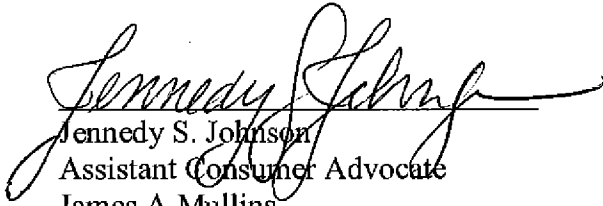
2. That the Commission enter a final Order consistent with this Stipulation that: (a) finds that there is sufficient evidence in the record for this Commission to make the findings

referenced in Sections IV.A and IV.B of this Stipulation; and (b) sets forth the findings referenced in Section IV.A and IV.B of this Stipulation.

3. That the Commission enter a final Order, consistent with this Stipulation: (a) approving the proposed rates contained in Attachments (1) - (4) of PNG's June 1, 2012 PGC filing, as modified to reflect updates and tariff modifications traditionally performed as part of PNG's December 1 PGC compliance filings, and as adjusted to reflect the outcome of the capacity release issue that has been reserved for briefing and (b) directing PNG to file a final tariff implementing such rates for gas service rendered by PNG on and after December 1, 2012.

4. That the Commission terminate and mark closed its inquiry and investigation at Docket Nos. R-2012-2302221, C-2012-2304836, C-2012-2305783 and C-2012-2310661.

Respectfully submitted,



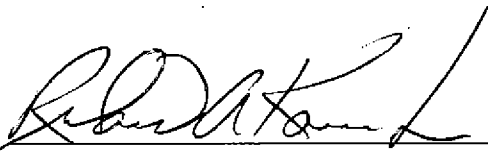
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Counsel for the Bureau of Investigation and  
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Dated: August 13, 2012

# Appendix A

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION, ET AL.	:	Docket Nos. R-2012-2302221
	:	C-2012-2304836
v.	:	C-2012-2305783
	:	C-2012-2310661
UGI PENN NATURAL GAS, INC.	:	

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

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TO ADMINISTRATIVE LAW JUDGE KANDACE F. MELILLO:

**I. INTRODUCTION**

UGI Penn Natural Gas, Inc. (“PNG” or the “Company”) hereby submits this Statement in Support of the Stipulation in Partial Settlement of Section 1307(f) Rate Investigation (“Stipulation”) entered into by PNG, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), and the Office of Consumer Advocate (“OCA”).<sup>1</sup> Under the Stipulation, the stipulating parties have resolved all issues except for one which relates to the sharing of capacity release revenues associated with the release of certain capacity from Transcontinental Gas Pipe Line. The Parties did not agree to a resolution regarding this issue as described in the testimonies of PNG’s witnesses David Beasten and Shaun Hart and the OCA’s witness Jerome Mierzwa. The Parties will brief this issue and PNG requests that the

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<sup>1</sup> The Office of Small Business Advocate (“OSBA”) does not oppose the Settlement and is filing a Statement of Position. In addition, the Parties noted that a customer complainant, Mr. George Keener, filed a complaint at Docket No. C-2012-2310661 that was consolidated with the PGC proceeding. Mr. Keener did not attend the Prehearing Conference, did not file testimony, and did not otherwise actively participate in this matter.

Commission make the necessary findings described in the Stipulation and herein, subject to the outcome of this reserved issue.

The Stipulation has been entered into or not opposed by all active parties to this proceeding. PNG believes that this Stipulation is in the best interests of PNG, its customers and the Joint Petitioners, and therefore is in the public interest and should be approved. The Settlement of a portion of this proceeding was achieved only after a comprehensive investigation of PNG's gas procurement practices. PNG responded to numerous formal discovery requests, many of which had multiple subparts. Parties also filed several rounds of testimony, including PNG's and OCA's direct, PNG's rebuttal testimony, OCA's surrebuttal testimony, and PNG's rejoinder testimony. In addition, the Joint Petitioners participated in numerous settlement discussions which ultimately led to the Stipulation.

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

## **II. SETTLEMENT TERMS**

### **A. Rates**

The Parties have agreed that the rates for the recovery of the purchased gas costs of PNG should be revised effective December 1, 2012, subject to updates, to reflect the rates set forth in Attachments (1) - (4) of its June 1, 2012 PGC filing, and adjusted to reflect the outcome of the capacity release issue that has been reserved for briefing.

Under Section 1307(f), the Commission must determine what portion of the gas costs PNG may recover for a previous 12-month period under the standards set forth in Section 1318. In addition, because PNG has filed tariffs proposing new PGC rates, the

Commission must determine whether the requirements of Section 1318 can be met. This determination 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, 2012. The new tariff rates are intended to become effective December 1, 2012.

The testimony of William J. McAllister, PNG Statement No. 1, described how PNG calculates its gas costs, including the C, S, and E factors. Mr. McAllister's testimony also provided information on the Revenue Sharing Incentive Mechanism, retainage rates, and the Tennessee Pipeline Refund. With regard to the retainage rates, consistent with the terms of the 2009 PGC Settlement, Docket No. R-2009-2105904, PNG's current retainage rate is 1.2%. St. No. 1, p. 9. The testimony of David C. Beasten, PNG Statement No. 2, addressed PNG's gas supply and storage contracts, including its practices regarding peaking service. In his testimony on peaking service, Mr. Beasten described the RFP process used by PNG in the historic test year, as well as changes to the RFP for peaking service that will be implemented for winter 2012-2013. PNG St. No. 2, pp. 5-18.

The parties have agreed that PNG has supplied the necessary evidence to support its rates in its filing, with the exception of the capacity release revenues issue that has been reserved for briefing. Therefore, the ALJ and the Commission should approve all other provisions associated with PNG's 1307(f) proceeding, as stated in PNG's May 1, 2012 filing, PNG's June 1, 2012 filing and the testimony filed in support thereof, subject to adjustments based on the resolution of the capacity release revenues issue and the settlement provision regarding the RFP for peaking service discussed below.

**B. Peaking Service RFP For 2013-2014**

On pages 2 through 5 of his direct testimony, Shaun Hart describes PNG's firm peak day demand projections and how the company calculates its firm peak day demand. According to PNG's calculations, the firm peak day demand was projected to increase from 396,648 Dth for the winter of 2011-2012 to 413,526 Dth for the winter of 2012-2013, PNG St. No. 3, p. 2, with a 0.6% increase in each of the three years thereafter. *Id.* at p. 5.

In his direct testimony, Mr. Mierzwa argued that PNG failed to take into account conservation measures when calculating its peak day demand, and thus PNG's forecast was overstated. OCA St. No 1, p. 11. As a result of his findings, Mr. Mierzwa recommended that PNG not acquire any additional peaking service, and not issue an RFP for peaking service at this time. OCA St. No. 1, p. 13.

In his rebuttal testimony, Mr. Hart disagreed with Mr. Mierzwa's calculations regarding peak day demand. Mr. Hart argued that Mr. Mierzwa's calculations did not adequately adjust for the unusual economic and weather conditions that were present in the four year period he used to calculate the peak day demand. Specifically, Mr. Hart noted that the period of extreme economic stress that customers are experiencing, as well as one of the warmest winters on record, would cause a downward shift in peak day demand that may not be reflective of the projected period. PNG St. No. 3-R, p. 10. Mr. Hart also noted that the lower cost of gas has led to an increased number of customers converting to natural gas as their heating source. PNG St. No. 3-R, p. 9.

In his surrebuttal testimony, Mr. Mierzwa noted that PNG temporarily released capacity on Tennessee pipeline to UGI Central Penn Gas for a one year period, effective October 3, 2012. OCA St. No. 1-SR, p. 13. The capacity will revert back to PNG after

one year. *Id.* With the additional capacity, Mr. Mierzwa argued PNG would have sufficient capacity for the increased peak day demand using the Company's own projections for the winter of 2012-2013. *Id.*

The Stipulation provides that PNG will not issue an RFP for peaking service for the winter of 2013-2014 prior to the 2013 PGC proceeding. Any RFP issued for the winter of 2013-2014 will be based on the peak day as determined by the parties during the 2013 PGC proceeding. The Stipulation provides PNG with sufficient capacity to meet its current peak day demand projections for the winter of 2012-2013, while still ensuring flexibility for the Company to meet its capacity requirements for the 2013-2014 winter season.

This Stipulation provision fairly resolves the disputes over PNG's proposed peak day demand for the 2013-2014 winter season, and should be approved.

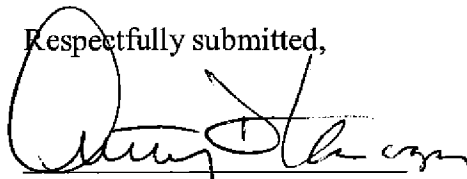
### **III. CONCLUSION**

As explained above, the Stipulation is in the public interest and should be approved. The Stipulation was achieved only after considerable investigation of PNG's gas procurement practices, through both discovery and submission of testimony by a number of Joint Petitioners in this proceeding. The Stipulation, 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 all of the elements of 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 Stipulation 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 Stipulation and in the testimony filed by PNG in this proceeding.

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

Respectfully submitted,



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Dated: August 13, 2012

Counsel for UGI Penn Natural Gas, Inc.

## Appendix B

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	R-2012-2302221
	:	
UGI Penn Natural Gas, Inc.	:	

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**BUREAU OF INVESTIGATION AND ENFORCEMENT  
STATEMENT IN SUPPORT OF  
STIPULATION IN PARTIAL SETTLEMENT  
OF SECTION 1307(f) RATE INVESTIGATION**

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

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its Prosecutor Richard A. Kanaskie, hereby respectfully submits that the terms and conditions of the foregoing *Stipulation in Partial Settlement of Section 1307(f) Rate Investigation* (“Stipulation” or “Settlement”) are in the public interest and represent a fair, just, reasonable and equitable balance of the interest of UGI Penn Natural Gas, Inc. (“UGI PNG” or “Company”) and its customers. In support of this position, I&E offers the following enumerated Comments:

**INTRODUCTION**

1. I&E is charged with the representation of the public interest in proceedings relating to rates, rate-related services and application proceedings affecting the public interest held before the Commission. Consequently, in all contested proceedings

including those resolved through negotiated settlements, it is incumbent upon I&E to ensure that the public interest is served and to comment on how the amicable resolution of any such proceeding will benefit the public interest. The request for approval of the Stipulation is based on the I&E conclusion that the Settlement meets all the legal and regulatory standards necessary for approval. “The prime determinant in the consideration of a proposed Settlement is whether or not it is in the public interest.”<sup>1</sup> I&E concludes that this unopposed filing meets these criteria.

2. Prior to agreeing to the instant Stipulation, I&E conducted a thorough review of the Company’s filing and supporting information, discovery responses and submitted filing data. Based on its analysis of the Company’s entire filing, I&E determined that the submission of testimony was unnecessary.

3. The Settlement includes the acknowledgement that the natural gas costs incurred by UGI PNG during the historic period were done so under adherence to a least cost fuel procurement policy. The I&E analysis in this proceeding confirms this representation. A least cost procurement policy protects ratepayers from unnecessary and imprudent gas costs and prevents the Company from making a profit on gas supplies provided to its Purchased Gas Cost (“PGC”) customers.

4. The Stipulation also provides that the natural gas costs that UGI expects to incur in the upcoming period will be based on the Company’s adherence to its established least cost fuel procurement policy. The Company’s diligence in adhering to a least cost procurement strategy benefits customers directly in their gas bills. The Company’s

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<sup>1</sup> *Pennsylvania Public Utility Commission v. Philadelphia Electric Company*, 60 PA PUC 1, 22 (1985).

procurement strategy, despite the quarterly fluctuations, benefits ratepayers on an annual basis as it ensures that the Company is diligently obtaining gas on a reliable basis for its customers at the most advantageous prices possible. This statutory policy must be adhered to and I&E is of the opinion that UGI's practices reflect this requirement and are based on sound regulatory principles. The Company's average costs reported to the Commission in its quarterly filings demonstrate the prudence of its purchasing practices.

5. The I&E review of the Company's annual PGC filing includes an analysis of its claimed E-Factor to ensure that it was done in accordance with established Commission practices. The proper calculation of the E-Factor protects ratepayers by ensuring that rates are adjusted appropriately to reflect the impact that these factors have on purchased gas costs. I&E is satisfied that the Company's E-Factor calculations are appropriate and accurate and conform to proper regulatory practices.

6. In addition, the Company's projected gas costs ("C-Factor") are also planned in accordance with established Commission practices as determined by the I&E review. This adherence to accepted regulatory principles aids ratepayers in that the Company's purchased gas practices are being accomplished with the balanced interests of the Company and its ratepayers being considered. The actual implementation of the Company's plan will be reviewed in next year's PGC proceeding. I&E opines that ratepayers are protected in that UGI does not gain any unwarranted financial advantage through its gas purchasing practices.

7. The Settlement does not propose any adjustments to the Company's claimed PGC based on its reported Lost and Unaccounted for Gas ("LUFG"). I&E has reviewed the

Company's filing and believes that UGI PNG's reported LUFG is reasonable based on the standards presented in this proceeding. No party has presented any evidence indicating that the LUFG reported in the instant proceeding is excessive or unreasonable. A reasonable amount of LUFG is expected in a natural gas distribution system. As the costs associated with this gas are recovered from ratepayers through the PGC it is necessary to take appropriate measures to control this expense. If acceptable levels of LUFG are not achieved, ratepayers will be protected from unjust and unreasonable rates by the regulatory provision that allows for the denial of the recovery of costs associated with imprudent Company practices. I&E opines that UGI PNG's LUFG levels are reasonable and no action or recommendation is necessary in this proceeding.

8. The Retainage percentage applied to transportation customers will reflect the appropriate level of LUFG and Company Use ("CU") gas. The establishment of the proper Retainage levels is necessary to ensure that transportation customers contribute an adequate, but not excessive, amount of gas to compensate for the corresponding system wide LUFG as well as Company Use gas. This practice of establishing proper Retainage percentages eliminates the unwarranted shifting of responsibility for LUFG and CU between retail and transportation customers. Proper Retainage levels equalize the responsibilities of the rate classifications and protect all ratepayers by ensuring equitable contributions to account for LUFG and CU. The Retainage percentage applied to UGI's transportation customers in this proceeding represents the appropriate level of its responsibility for LUFG and CU. As discussed above, establishment of the proper Retainage percentages protects PGC customers and transportation customers from unwarranted subsidies.

9. The Settlement Agreement provides that UGI PNG may place into effect the natural gas supply rates as proposed and identified in Attachments 1 – 4 of its June 1, 2012 PGC filing. The proposed rates are subject to quarterly updates, with limited exceptions, as required by the Commission's Regulations. The I&E analysis in this proceeding supports that these rates are just and reasonable, accurately reflect the costs of its purchased natural gas and are based on sound regulatory practices. As such, I&E opines that these rates are in the public interest and should be approved.

10. I&E and the signatories to this Stipulation are in agreement that the Company will adhere to the purchasing plan as established by the data and calculations provided in the Company's testimony and associated exhibits as no party has submitted evidence challenging any provision. The purchasing plan provides reasonable protections for ratepayers and enables the company to adhere to the regulatory requirements in acquiring supplies for its customers. The Company's projections and plans are reasonable and are in the public interest. Therefore, they should be adopted as presented.

11. Although I&E did not file testimony, I&E fully supports the Settlement and believes that any concerns have been satisfactorily resolved through discovery and discussions with the Company and, where necessary, are incorporated in the Settlement. Line by line identification of the ultimate resolution of every averment is not necessary as I&E represents that the Settlement maintains the proper balance of the interests of all parties. I&E is satisfied that no further action is necessary and considers its investigation of this filing complete.

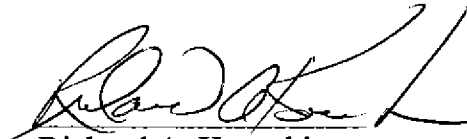
## CONCLUSION

12. Based upon I&E's analysis of the filing, acceptance of this proposed Stipulation is in the public interest as the provisions adequately protect the interests of all affected parties, including the signatories to this Settlement.

13. The Bureau of Investigation and Enforcement is satisfied that the provisions and data contained in the Company's annual PGC filing, as confirmed by this Stipulation, accurately support the finding that the Company's purchased gas costs and its practices adequately protect the public interest.

**WHEREFORE**, the Commission's Bureau of Investigation and Enforcement represents that it supports the *Stipulation in Partial Settlement of Section 1307(f) Rate Investigation* as being in the public interest and respectfully requests that Administrative Law Judge Kandace F. Melillo recommend, and the Commission subsequently approve, the foregoing Settlement, including all terms and conditions contained therein.

Respectfully submitted,



Richard A. Kanaskie  
Deputy Chief Prosecutor  
PA Attorney I.D. #80409

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(717) 787-1976

Dated August 13, 2012

## Appendix C

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :  
 :  
 v. : Docket No. R-2012-2302221  
 :  
 UGI Penn Natural Gas, Inc. :

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STATEMENT OF THE  
OFFICE OF CONSUMER ADVOCATE  
IN SUPPORT OF PARTIAL SETTLEMENT

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

I. INTRODUCTION

On May 1, 2012, pursuant to Sections 53.64 and 53.65 of the Commission's Rules and Regulations, UGI Penn Natural Gas, Inc. (PNG or Company) submitted its pre-filing information in support of its annual reconciliation of purchased gas cost (PGC) rates. PNG's pre-filed information did not indicate the anticipated effect of the annual PGC reconciliation on existing rates. On May 16, 2012, the OCA filed its Formal Complaint in this matter. On June 1, 2012, the Company made its definitive filing. The Company proposes a PGC rate of \$4.7608/Mcf for the residential class (Rate R), which is a \$0.4575/Mcf decrease from its current PGC rate.

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. ALJ Melillo scheduled a Prehearing Conference in this matter for June 14, 2012. At the prehearing conference, a procedural schedule was established, and the parties agreed to certain modifications to the discovery rules on a going-forward basis.<sup>1</sup>

As part of its investigation and analysis of the Company's filings, the OCA served multiple sets of discovery on PNG. On July 6, 2012, the OCA submitted the Direct Testimony of Jerome D. Mierzwa. That testimony set forth the OCA's recommendations as to PNG's design peak day demand and PNG's proposed application of its Revenue Sharing Incentive Mechanism (RSIM). On July 26, 2012, the OCA also submitted the Surrebuttal Testimony of Mr. Mierzwa addressing these same issues.

Prior to hearings, the Parties to the proceeding, except Formal Complainant Mr. Kenner, met to discuss the issues in the case and were able to reach a settlement on all issues except one. Evidentiary hearings were convened on July 31, 2012 at which time the OCA and the Company entered the testimony of their respective witnesses via stipulation. In accordance with the briefing schedule established at the Prehearing Conference, the OCA submitted its Main Brief addressing the application of the Company's Revenue Sharing Incentive Mechanism on August 9, 2012. For the reasons set forth below, the OCA submits that the Partial Settlement is in the public interest.

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<sup>1</sup> George Keener filed a Formal Complaint against UGI-PNG's rate proposal on June 18, 2012, which was docketed as Docket No. C-2012-2310661. Mr. Keener's Complaint also included a service issue, which was separately docketed as C-2012-2310668.

## II. TERMS AND CONDITIONS OF THE SETTLEMENT

The following represents the terms of the Settlement that directly address the OCA's outstanding concerns in this case with the exception of the RSIM, which is the subject of ongoing litigation. The OCA expects that the other signatory parties will address those areas of the Settlement that apply to their issues.

### Design Peak Day Demand

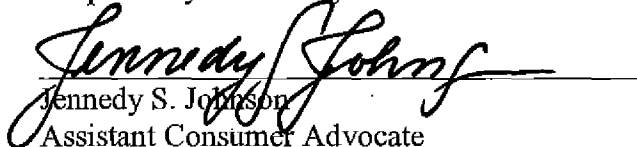
In his testimony, Mr. Mierzwa expressed his concerns as to the Company's design peak day demand. OCA St. 1 at 8-13, OCA St. 1-S at 9-14. Specifically, Mr. Mierzwa stated that his analysis of the design peak day demand of PNG's customers indicated that those demands are not increasing as the Company contends, resulting in an overstatement by the Company of the design day projections for both the 2012 and for future periods beyond the 2012-2013 winter season. OCA St. 1 at 12-13, OCA St. 1-S at 12-13. Mr. Mierzwa recommended that PNG modify its design peak day forecasting procedures to reflect the conservation efforts of its customers and modify its contracting decisions accordingly.

The Settlement addresses this issue in Paragraph 20, which states that the Company will not issue an RFP for peaking service for the winter of 2013-2014 prior to the 2013 PGC proceeding. Settlement at ¶ 20. By delaying the procurement for one year the Company and the Parties will be able to evaluate the data in the Company's 2013 PGC proceeding and propose modifications to the Company's design peak day demand, if necessary. This provision addresses the OCA's concerns regarding design peak day as it will allow for statistical analysis of the data from the entire 2012-2013 period to allow for proper design day projections.

III. CONCLUSION

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

Respectfully submitted,



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Date: August 13, 2012

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## Appendix D

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>PENNSYLVANIA PUBLIC UTILITY COMMISSION</b>	:	
	:	
	:	
v.	:	<b>DOCKET NO. R-2012-2302221</b>
	:	
<b>UGI PENN NATURAL GAS, INC.</b>	:	

**STATEMENT OF POSITION  
OF THE  
OFFICE OF SMALL BUSINESS ADVOCATE**

**Introduction**

The Small Business Advocate is authorized and directed to represent the interests of the small business consumers of utility services in the Commonwealth of Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50. Pursuant to that statutory authority, the Office of Small Business Advocate (“OSBA”) filed a complaint in the above-captioned proceeding on May 21, 2012.

**History of the Proceeding**

On June 1, 2012, UGI Penn Natural Gas, Inc. (“PNG” or the “Company”) made its 2012 Section 1307(f) Gas Cost Rate (“GCR”) filing.

On June 14, 2012, a prehearing conference was held before Administrative Law Judge (“ALJ”) Kandace F. Melillo.

On July 31, 2012, an evidentiary hearing was held before ALJ Melillo.

On August 1, 2012, ALJ Melillo distributed an Order Suspending Procedural Schedule, in Part, and Providing for Settlement Procedures (“*Settlement Order*”).

The OSBA submits this Statement of Position in compliance with the *Settlement Order*.

### **Statement of Position**

In its complaint, the OSBA stated, as follows:

The OSBA files this Formal Complaint to ensure that the Company's proposed purchased gas cost rates are consistent with a least cost fuel procurement policy and do not result in rates and charges that are excessive, unjust or unreasonable, discriminatory or otherwise contrary to Commission regulation or policy.

OSBA Complaint, Paragraph 7, at 2.

The OSBA conducted an investigation into the Company's 2012 Section 1307(f) filing which included a review of the filings, testimony, and interrogatory responses served in this proceeding, focusing on issues in which small business customers could potentially be treated unfairly. This review was aided by the assistance of OSBA consultant Robert D. Knecht. Based upon this review, the OSBA did not find any reason to object to the Company's purchased gas cost ("PGC") rates for PNG's small business customers, and did not identify any instance in which PNG's small business customers were treated in an unduly discriminatory manner by the Company.

Furthermore, the OSBA actively participated in the negotiations that led to the proposed settlement. Based on that participation, the OSBA concluded that the specific provisions negotiated into the settlement were neither detrimental nor unduly discriminatory to small business customers. The OSBA does not oppose the proposed settlement, as the settlement produces PGC rates for PNG's small business customers that are just, reasonable, and not unduly discriminatory.

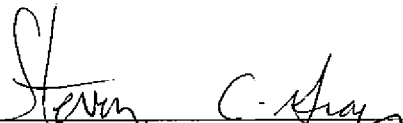
### **Litigation of the Revenue Sharing Issue**

In regard to the litigation of the issue of PNG's interpretation of its revenue sharing mechanism, the OSBA will advance its legal arguments in its briefs.

**Conclusion**

The OSBA has investigated PNG's 2012 Section 1307(f) filing, as well as the proposed settlement to that Section 1307(f) proceeding, and has found no basis to dispute that the resulting PGC rates for PNG's small business customers are just, reasonable and not unduly discriminatory.

Respectfully submitted,

  
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Dated: August 13, 2012