**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :

Bureau of Investigation and Enforcement :

: v. : C-2012-2308997

:

UGI Utilities, Inc. :

**ORDER GRANTING PETITION TO INTERVENE**

**OF UGI PENN NATURAL GAS INC. AND UGI CENTRAL PENN GAS, INC.**

On June 11, 2012, the Pennsylvania Public Utility Commission’s (Commission’s) Bureau of Investigation and Enforcement (I&E) filed a complaint with the Commission against UGI Utilities, Inc. (UGI). The complaint concerns a natural gas explosion that occurred on February 9, 2011 at 542 and 544 North 13th Street, Allentown. The complaint alleges that UGI supplied natural gas service to 542 and 544 North 13th Street.

According to the complaint, the natural gas explosion occurred at approximately 10:48 p.m. and killed all five occupants of the residences at 542 and 544 North 13th Street. The explosion also injured the patron of a car wash located on Allen Street. The fire resulting from the explosion destroyed or damaged six other residences.

The complaint asserts that the cause of the explosion was a twelve inch cast iron gas main with a circumferential crack located under Allen Street. The complaint states that the twelve inch cast iron main was installed in 1928.

The complaint alleges that UGI violated the Public Utility Code, Commission regulations and federal regulations. The complaint requests that the Commission impose a civil penalty of $386,000.00 on UGI, direct UGI to monitor the level of odorant throughout its distribution system, direct UGI to modify its procedures on odorant testing, direct UGI to conduct continuing surveillance on its mains, direct UGI to commence a pipeline replacement program for all its cast iron mains to be completed within ten years and direct UGI to commence a pipeline replacement program for all its bare steel mains within thirteen years.

UGI filed an answer on July 2, 2012. The answer generally admits that a natural gas explosion occurred on February 9, 2011 at 542 and 544 North 13th Street and that UGI supplied natural gas service to 542 and 544 North 13th Street. The answer admits that the explosion caused the deaths, injuries and property damage set forth in the complaint.

The answer denies that that UGI violated the Public Utility Code, Commission regulations and federal regulations. The answer requests that the Commission deny the complaint.

By notice dated July 18, 2012, the Commission scheduled a prehearing conference for this matter on September 25, 2012 at 10:00 a.m. in Hearing Room 5, Commonwealth Keystone Building in Harrisburg and assigned the matter to me. I issued a prehearing conference order on July 19, 2012, setting forth the procedural matters to be addressed at the prehearing conference.

I conducted a prehearing conference in this case as scheduled on September 25, 2012 at 10:00 a.m. in Harrisburg. Present were counsel for I&E and UGI. At the time the prehearing conference took place, I had not been served with any petitions to intervene. The Commission’s records indicated that no petitions to intervene had been filed at the time of the prehearing conference. Neither I&E nor UGI were aware of any petitions to intervene at the time of the prehearing conference. I received a copy of the petition to intervene described below on the afternoon of September 25.

On September 21, 2012, Manuel E. Cruz (Cruz) filed a petition to intervene in this proceeding. The petition alleges that Cruz was the owner of the home located at 542 North 13th Street. According to the petition, Cruz has been appointed administrator of the estates of Katherine Cruz and Ofelia Ben, both of whom resided at 542 North 13th Street. Both Katherine Cruz and Ofelia Ben perished in the February 9, 2011 natural gas explosion. The petition asserts that Cruz has filed an action on his own behalf and as administrator of the estates of Katherine Cruz and Ofelia Ben against UGI in the Court of Common Pleas of Northampton County. The petition requests that the Commission grant Cruz leave to intervene in this proceeding.

As of the date of this order, neither I&E nor UGI have filed an answer to Cruz’s petition to intervene. Since I&E and UGI, pursuant to 52 Pa. Code §5.66, have twenty days from the date of service of Cruz’s petition to file answers, their answers to Cruz’s petition are not yet due. Therefore, I have not yet ruled on Cruz’s petition to intervene.

On October 3, 2012, UGI filed a joint petition for settlement and attachments. Included in the attachments to the joint petition are statements in support of the joint petition by I&E and UGI. In addition to I&E and UGI, the joint settlement petition includes UGI Central Penn Gas, Inc. (UGI Central Penn) and UGI Penn Natural Gas, Inc. (UGI Penn Natural) as parties and signatories.

Also on October 3, 2012, UGI Central Penn and UGI Penn Natural filed a petition to intervene in this proceeding. The petition to intervene explains that both UGI Central Penn and UGI Penn Natural are natural gas utilities affiliated with UGI.

The petition to intervene states that I&E, UGI, UGI Central Penn and UGI Penn Natural have filed the joint petition for settlement and that portions of the joint petition for settlement will affect UGI Central Penn’s and UGI Penn Natural’s facilities, operations, practices and procedures. The petition to intervene asserts that the outcome of the I&E complaint against UGI may affect the interests of UGI Central Penn and UGI Penn Natural, which are not adequately represented by any existing parties.

The petition to intervene represents that UGI Central Penn and UGI Penn Natural have conferred with I&E and that I&E does not oppose their intervention and that I&E waives the twenty day objection period. The petition to intervene requests that the Commission grant the petition and allow UGI Central Penn and UGI Penn Natural to participate in the proceeding for the sole purposes of being parties to the joint settlement petition.

UGI Central Penn’s and UGI Penn Natural’s petition to intervene is ready for decision. For the reasons set forth below, I will grant the petition.

The Commission’s Rules of Practice and Procedure permit petitions to intervene. 52 Pa. Code §§5.71-5.76. The provision at 52 Pa. Code §5.72 governs what entities are eligible to intervene in a proceeding and states as follows:

#### § 5.72. Eligibility to intervene.

(a)  *Persons.* A petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought. The right or interest may be one of the following:

    (1)  A right conferred by statute of the United States or of the Commonwealth.

    (2)  An interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.

    (3)  Another interest of such nature that participation of the petitioner may be in the public interest.

  (b)  *Commonwealth.* The Commonwealth or an officer or agency thereof may intervene as of right in a proceeding subject to paragraphs (1)—(3).

  (c)  *Supersession.* Subsections (a) and (b) are identical to 1 Pa. Code §  35.28 (relating to eligibility to intervene).

Allowance of intervention is a matter within the discretion of the Commission. City of Pittsburgh v. Pennsylvania Pub. Util. Comm’n, 33 A.2d 641(Pa. Super. 1943); N.A.A.C.P., Inc. v. Pennsylvania Pub. Util. Comm’n, 290 A.2d 704(Pa. Cmwlth. 1972)

UGI Central Penn’s and UGI Penn Natural’s eligibility to intervene in this proceeding is governed by 52 Pa. Code §5.72(a)(2) since they are not Commonwealth agencies pursuant to 52 Pa. Code §5.72(b). In addition, neither a statute of the United States nor the Commonwealth confers on them the right to intervene pursuant to 52 Pa. Code §5.72(a)(1). UGI Central Penn’s and UGI Penn Natural’s interest in this proceeding must be of such a nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought.

UGI Central Penn and UGI Penn Natural assert that portions of the joint petition for settlement will affect their facilities, operations, practices and procedures. None of the other parties to this proceeding has a similar interest. This interest is of such a nature that UGI Central Penn’s and UGI Penn Natural’s intervention is appropriate to the administration of the statute under which the complaint was brought.

Since UGI Central Penn’s and UGI Penn Natural’s petition to intervene is unopposed, I will grant the petition to intervene and enter the following order.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the petition to intervene filed by UGI Central Penn Gas, Inc. and UGI Penn Natural Gas, Inc. in the above-captioned case is granted.

2. That UGI Central Penn Gas, Inc. and UGI Penn Natural Gas, Inc. is admitted as an intervenor in the above-captioned case for the purposes of being parties to the joint settlement petition.

3. That admission of UGI Central Penn Gas, Inc. and UGI Penn Natural Gas, Inc. as intervenors, will not be construed as recognition by the Pennsylvania Public Utility Commission that they have a direct interest in the proceeding or might be aggrieved by an order of the Commission in the proceeding.

4. That UGI Central Penn Gas, Inc. and UGI Penn Natural Gas, Inc. be added as intervenors to the service list in the above-captioned proceeding.

Date: October 9, 2012

David A. Salapa

Administrative Law Judge

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