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District, Inc. and City of Reading*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

CENTRE PARK HISTORIC DISTRICT, :
INC. :
 :
vs. : Docket No. C-2015-2516051
 :
UGI UTILITIES, INC. :

CITY OF READING, :
 :
v. : Docket No. C-2016-2530475
 :
UGI UTILITIES, INC. :

**MOTION FOR SPECIAL RELIEF IN FORM OF DISPOSITION
OF PETITION FOR INTERLOCUTORY REVIEW**

Centre Park Historic District, Inc. (“CPHD”) and the City of Reading (“City”) (collectively referred to as “City Parties”), by and through their attorneys, Eastburn and Gray, P.C. and Michael J. Savona, Esquire, Michael E. Peters, Esquire, and Zachary A. Sivertsen, Esquire, hereby file this Motion for Special Relief, requesting that the Pennsylvania Public Utility Commission (“Commission”) dispose of the Petition for Interlocutory Review filed by UGI Utilities, Inc. and in support thereof aver as follows:

1. These consolidated matters were filed by the City Parties pursuant to Section 701 of the Pennsylvania Public Utility Code seeking an adjudication by the Administrative Law Judge of whether UGI has failed to comply with 52 Pa.Code § 59.18 in effectuating its meter-replacement program in the City, including in the City's historic districts. The City also challenged UGI's meter relocations on the basis that the meters were being placed in dangerous locations, both within and outside of historic districts, in further violation of 52 Pa.Code § 59.18 and 49 C.F.R. 192.353.

2. The matter before the Administrative Law Judge is an interpretation and application of Section 59.18 (and other codes and regulations where applicable) as applied to UGI's meter relocation program within the City and ultimately an adjudication of whether UGI has violated those regulations. In connection with that adjudication, the City has performed a meter-by-meter analysis for the Administrative Law Judge's consideration.

3. Notwithstanding the nature of the City Parties' complaints in this matter, on September 1, 2016, UGI filed a Petition for Interlocutory Review ("Petition"), asking the Commission to dismiss City Parties' complaints on the basis that the relief requested was beyond the scope of a formal complaint proceeding and should be addressed through a petition for amendment of the PUC's regulations pursuant to 52 Pa.Code § 5.43. UGI's Petition alternatively requested that the Commission limit the matters to be considered by the Administrative Law Judge.

4. On September 9, 2016, City Parties filed a Brief in Opposition to UGI's Petition. The basis of City Parties' opposition was that (1) the Administrative Law Judge had jurisdiction to consider the matters before her in a formal complaint proceeding and (2) that the

Administrative Law Judge could appropriately determine, at her discretion, the scope of the evidence and issues before her.

5. The Administrative Law Judge already considered UGI's assertion that City Parties seek relief beyond her powers by way of UGI's preliminary objections, and overruled those objections by Interim Order dated March 29, 2016.

6. On September 13, 2016, the Commission, through Secretary Rosemary Chiavetta, issued a Secretarial Letter waiving the 30-day review period for consideration of UGI's Petition pursuant to 52 Pa.Code §§ 5.303 and 1.2(c), indicating that the Petition "will be addressed at a forthcoming Public Meeting."

7. Over three (3) months have passed since issuance of the Secretarial Letter.

8. Section 5.303(b) requires the Commission to "act promptly on petitions." 53 Pa.Code § 5.303(b). Furthermore, petitions not granted within thirty (30) days of filing are deemed to be denied. *Id.*

9. Although Section 1.2(c) permits the Commission or presiding officer to waive requirements of the PUC's Rules of Administrative Practice and Procedure when necessary or appropriate, the waiver "may not adversely affect a substantive right of a party." 52 Pa.Code § 1.2(c).

10. The substantive rights of the parties are adversely affected by the Commission's delay in ruling on the Petition.

11. While this matter has been stayed, UGI has continued to relocate and install gas meters throughout the City, including within the City's historic districts.

12. The City maintains that, while this matter has been stayed, UGI has continued to relocate and install meters in violation of Section 59.18.

13. A final adjudication in this matter is necessary so that the parties may know whether the challenged meter installations are in compliance with PUC regulations. Such a ruling, in addition to affecting meters currently installed, will guide the parties as future meter relocations and installations occur in the City.

14. Discovery must be concluded, and this matter must still proceed to a hearing.

15. In the meantime, the City is adversely affected by meter relocations and installations in violation of section 59.18, should installed meters be found by the Administrative Law Judge to violate Section 59.18, as is UGI, should the meters need to be brought into compliance with Section 59.18.

16. As installation and relocation of gas meters will increase after the winter months, it is increasingly critical that this matter be permitted to proceed to adjudication.

17. City Respondents seek disposition of UGI's Petition so that these matters may move towards final adjudication.

WHEREFORE, for the foregoing reasons City Parties respectfully request that the Commission act promptly on UGI's Petition.

EASTBURN AND GRAY, P.C.

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Dated: December 29, 2016

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CERTIFICATE OF SERVICE

It is hereby certified that on December 30, 2016, Michael E. Peters, Esquire served, by first class mail, postage prepaid, a true and correct copy of the foregoing motion for special relief on the following:

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By:

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