



17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Main Fax
www.postschell.com

Devin Ryan

dryan@postschell.com
717-612-6052 Direct
717-731-1985 Direct Fax
File #: 165082

March 8, 2017

VIA ELECTRONIC FILING

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

**Re: Centre Park Historic District v. UGI Utilities, Inc.
Docket No. C-2015-2516051**

**City of Reading v. UGI Utilities, Inc.
Docket No. C-2016-2530475**

Dear Secretary Chiavetta:

Enclosed for filing is the Petition of UGI Utilities, Inc. for Protective Order in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'DR', with a long horizontal flourish extending to the right.

Devin Ryan

DTR/jl
Enclosures

cc: Honorable Mary D. Long
Certificate of Service

CERTIFICATE OF SERVICE
(Docket Nos. C-2015-2516051 and C-2016-2530475)


I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL & FIRST CLASS MAIL

Michael J. Savona, Esquire
Michael E. Peters, Esquire
Zachary A. Sivertsen, Esquire
Eastburn and Gray, P.C.
PO Box 1389
Doylestown, PA 18901

Adam Young, Esquire
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
PO Box 3265
Harrisburg, PA 17105-3265

Date: March 8, 2017


Devin T. Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Centre Park Historic District	:	
	:	
v.	:	Docket No. C-2015-2516051
	:	
UGI Utilities, Inc.	:	
	:	
City of Reading	:	
	:	
v.	:	Docket No. C-2016-2530475
	:	
UGI Utilities, Inc.	:	

PETITION OF UGI UTILITIES, INC. FOR PROTECTIVE ORDER

TO ADMINISTRATIVE LAW JUDGE MARY D. LONG:

UGI Utilities, Inc. (“UGI”) hereby petitions, pursuant to the provisions of 52 Pa. Code §§ 5.41 and 5.365, for the issuance of a protective order with respect to confidential or proprietary information that might need to be filed with the Pennsylvania Public Utility Commission (“Commission”), produced in discovery, or otherwise introduced into the record in the above-captioned proceeding. In support thereof, UGI states the following:

1. On November 25, 2015, Centre Park Historic District (“CPHD”) filed a Complaint at Docket No. C-2015-2516051, alleging that UGI’s meter location practices in the historic districts of Reading, Pennsylvania violated 52 Pa. Code § 59.18. On December 15, 2015, UGI filed an Answer to CPHD’s Complaint denying any violation of 52 Pa. Code § 59.18(d)(1).

2. On February 23, 2016, the City of Reading (“City”) filed a Complaint at Docket No. C-2016-2530475, alleging that UGI violated 52 Pa. Code § 59.18(d)(1) by failing to

“consider” inside meter locations for historic buildings and for buildings in historic districts in Reading, Pennsylvania, and that UGI’s exterior meter location practices have created unsafe conditions. On March 14, 2016, UGI filed an Answer denying the material allegations in the City’s Complaint and averring that its meter location practices have been consistent with 52 Pa. Code § 59.18.

3. These proceedings were consolidated by Administrative Law Judge Mary D. Long (the “ALJ”) in her Second Prehearing Order dated March 30, 2016.

4. On September 1, 2016, UGI filed a Petition for Interlocutory Review and Answer to Material Questions, pursuant to 52 Pa. Code § 5.302.¹ UGI requested that the Commission answer two material questions: (1) whether CPHD and the City’s Complaints should be dismissed because the relief requested -- impose new rules and standards concerning meter locations that do not currently exist under the Commission’s regulations -- is beyond the scope of a formal complaint proceeding and should be addressed through a petition for amendment of the Commission’s regulations pursuant to 52 Pa. Code § 5.43; or (2) alternatively, whether the scope of the evidence and issues to be addressed in this proceeding should be limited to whether the locations of UGI’s meters violate the Public Utility Code or Commission regulations as currently enacted.

5. On September 2, 2016, the ALJ issued her Fourth Prehearing Order, which suspended the litigation schedule pending the Commission’s decision on UGI’s Petition for Interlocutory Review and Answer to Material Questions.

¹ Also on September 1, 2016, UGI and the Commission’s Bureau of Investigation and Enforcement (“I&E”) filed a Joint Motion requesting: the procedural schedule be extended; the parties be permitted to submit written testimony pursuant to 52 Pa. Code § 5.412 or, alternatively a bifurcated hearing process; and a new prehearing conference to address these procedural issues.

6. On February 9, 2017, the Commission entered an Order declining to answer the material questions and remanding the case to the ALJ.

7. On February 22, 2017, the ALJ issued the Fifth Prehearing Order that scheduled a further prehearing conference and directed the parties to file and serve prehearing memoranda before 12:00 PM on March 13, 2017.

8. During the course of this proceeding, it may be necessary for participants to disclose confidential or proprietary information in filings with the Commission, through discovery responses or through evidence introduced into the record.

9. Confidential and proprietary information may include, but not be limited to, confidential information about UGI's customers, operations, and facilities.

10. Under 52 Pa. Code § 5.365, the presiding Administrative Law Judge may issue a Protective Order to limit or prohibit disclosure of confidential and proprietary information where "the potential harm to the party providing the information would be substantial and . . . the harm to the party if the information is disclosed without restriction outweighs the public's interest in free and open access to the administrative hearing process."

11. In applying this standard, relevant factors to be considered include the extent to which disclosure would cause unfair economic or competitive damage; the extent to which the information is known by others and used in similar activities; the worth or value of the information to the party and to the party's competitors; the difficulty and costs of developing the information and other statute and regulations dealing specifically with disclosure of the information. 52 Pa. Code § 5.365(a)(1)-(5).

12. The release of non-public information about UGI's customers, operations, and facilities could cause harm to customers who do not want their information released to the

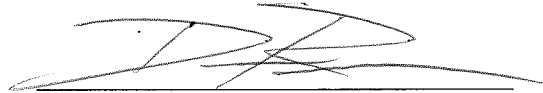
public, cause unfair economic or competitive damage to UGI, and place UGI and the public at risk if confidential information about its customers, operations, and facilities are publicly disclosed.

13. Conversely, the language proposed in the attached Protective Order protects against overly broad designations of protected information by giving all parties the right to “question or challenge the confidential or proprietary nature” of information marked as “Confidential” by a producing party.

14. The limitation on the disclosure of proprietary information proposed in the attached Protective Order fairly balances the interests of the parties, the public, and the Commission and will neither prejudice the rights of the participants to develop a full record, nor frustrate the prompt and fair resolution of this proceeding.

WHEREFORE, UGI respectfully requests that the presiding Administrative Law Judge issue a protective order substantially in the form attached in **Exhibit A** to this petition.

Respectfully submitted,



Mark C. Morrow (ID # 33590)
Chief Regulatory Counsel
Danielle Jouenne (ID # 306829)
Associate Counsel
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406
Phone: 610-768-3628
E-mail: morrowm@ugicorp.com
jouenned@ugicorp.com

David B. MacGregor (ID # 28804)
Post & Schell, P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2808
Phone: 215-587-1197
Fax: 215-587-1444
E-mail: dmacgregor@postschell.com

Christopher T. Wright (ID # 203412)
Devin T. Ryan (ID # 316602)
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: cwright@postschell.com
dryan@postschell.com

Dated: March 8, 2017

Attorneys for UGI Utilities, Inc.

EXHIBIT A
Protective Order

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Centre Park Historic District	:	
	:	
v.	:	Docket No. C-2015-2516051
	:	
UGI Utilities, Inc.	:	
	:	
City of Reading	:	
	:	
v.	:	Docket No. C-2016-2530475
	:	
UGI Utilities, Inc.	:	

PROTECTIVE ORDER

AND NOW, this ____ day of March, 2017, upon consideration of the Petition of UGI Utilities, Inc. (“UGI”) for a Protective Order, such Petition is hereby granted. Therefore, it is ORDERED that:

1. This Protective Order dated March __, 2017, in this matter, is hereby granted with respect to all materials and information identified at Paragraph 2 of this Protective Order which are filed with the Commission, produced in discovery, or otherwise presented during these proceedings. All persons now and hereafter granted access to the materials and information identified in Paragraph 2 of this Protective Order shall use and disclose such information only in accordance with this Order.

2. The materials subject to this Order are all correspondence, documents, data, information, studies, methodologies and other materials which a party or an affiliate of a party furnishes in this proceeding pursuant to Commission rules and regulations, discovery procedures or cross-examination or provides as a courtesy to a party to this proceeding, which are claimed to be of a proprietary or confidential nature and which are designated “CONFIDENTIAL” (hereinafter collectively referred to as “Proprietary Information”).

3. Proprietary Information shall be made available to the Commission and its Staff for use in this proceeding, including counsel for and non-lawyer experts engaged by the Bureau of Investigation and Enforcement (“I&E”). For purposes of filing, to the extent that Proprietary Information is placed in the Commission’s report folders, such information shall be handled in accordance with routine Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information is placed in the Commission’s testimony or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Order. Public inspection of Proprietary Information shall be permitted only in accordance with this Protective Order.

4. In addition to I&E personnel identified in Paragraph 3, Proprietary Information shall also be provided to (a) each party’s counsel of record and (b) the party’s witness(es) or expert(s), to the extent required and for the limited purpose of participation in the above-captioned proceedings, who comply with the provisions of Paragraph 6 hereof.

5. No other persons may have access to the Proprietary Information except as authorized by Order of the Commission or the presiding Administrative Law Judge. No person who may be entitled to receive, or who is afforded access to any Proprietary Information shall use or disclose such information for the purposes of business or competition, or any purpose other than the preparation for and conduct of this proceeding or any administrative or judicial review thereof.

6. Prior to making Proprietary Information available to any person as provided in numbered Paragraph 4 above, counsel for the non-producing party shall deliver a copy of this Order to such person and, except for employees of I&E, shall: (1) receive a written acknowledgment from that person in the form attached to this Order and designated as “Appendix A”; and (2) deliver a copy of the executed Appendix A to the producing party. The producing party retains the right to challenge the adequacy of the written assurances that its interests will not be jeopardized or the accuracy of the assurances provided through the submission of an executed Appendix A.

7. A producing party shall designate data or documents as constituting or containing Proprietary Information by affixing an appropriate proprietary stamp or typewritten or printed designation on such data or documents. Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the producing party, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information.

8. Any federal agency which has access to and/or receives copies of the Proprietary Information will consider and treat the Proprietary Information as within the exemption from disclosure provided in the Freedom of Information Act as set forth at 5 U.S.C.A. § 552(b)(4) until such time as the information is found to be non-proprietary.

9. Any state agency which has access to and/or receives copies of the Proprietary Information will consider and treat the Proprietary Information as within the exemption from disclosure provided in the Pennsylvania Right to Know Law, Act of February 14, 2008, P.L. 6, 65 P.S. §§ 67.101-67.3104, until such time as the information is found to be non-proprietary.

10. Any public reference to Proprietary Information by counsel or persons afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to fully understand the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

11. Parts of any record of this proceeding containing Proprietary Information, including, but not limited to, all exhibits, writings, testimony, cross examination, argument and responses to discovery, and including reference thereto as specified in Paragraph 10 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Order, either through the agreement of the

parties or pursuant to an order of the Administrative Law Judge or the Commission. Unresolved challenges arising under Paragraph 6 shall be decided on motion or petition by the presiding officer or the Commission in conformity with applicable rules, regulations, orders, statutes, precedent, etc., to the extent that such guidance is available.

12. The parties affected by the terms of this Order shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information; to question or challenge the admissibility of Proprietary Information; to refuse or object to the production of Proprietary Information on any proper ground, including, but not limited to, irrelevance, immateriality, or undue burden; to seek an order permitting disclosure of Proprietary Information beyond that allowed in this Order; and to seek additional measures of protection of Proprietary Information beyond those provided in this Order. If a challenge is made to the designation of a document or information as Proprietary Information, the party claiming that the information is Proprietary Information shall carry the burden of demonstrating that the designation is necessary and appropriate.

13. Except in the case of Proprietary Information provided by UGI to I&E, upon completion of this proceeding, including any administrative or judicial review, all copies of all documents and other materials, including notes, which contain any Proprietary Information, shall be immediately returned upon request to the party furnishing such Proprietary Information. In the alternative, parties may provide an affidavit of counsel affirming that the materials containing or reflecting Proprietary Information have been destroyed.

Dated: March __, 2017

Mary D. Long
Administrative Law Judge

APPENDIX A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Centre Park Historic District	:	
	:	
v.	:	Docket No. C-2015-2516051
	:	
UGI Utilities, Inc.	:	
	:	
City of Reading	:	
	:	
v.	:	Docket No. C-2016-2530475
	:	
UGI Utilities, Inc.	:	

TO WHOM IT MAY CONCERN:

The undersigned is the _____ of _____
(the non-producing party) and has read and understands the Protective Order that deals with the treatment of Proprietary Information in the above-captioned proceeding. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order. In the case of a witness or expert, the undersigned represents that he or she has complied with the applicable provisions of the Order.

SIGNATURE

PRINT NAME

ADDRESS

EMPLOYER

DATE: _____