

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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|-------------------------------------|---|----------------|
| Centre Park Historic District, Inc. | : | |
| | : | |
| v. | : | C-2015-2516051 |
| | : | |
| UGI Utilities, Inc. – Gas Division | : | |
| | : | |
| City of Reading | : | |
| | : | |
| v. | : | C-2016-2530475 |
| | : | |
| UGI Utilities, Inc. | : | |

**INTERIM ORDER
ON REQUEST FOR FURTHER PROCEEDINGS**

On November 25, 2015, the Centre Park Historic District, Inc. (CPHD), filed a formal complaint which alleged that UGI Utilities, Inc. – Gas Division (UGI), violated the Commission’s regulation regarding the placement of meters in historic districts of Reading, Pennsylvania, 52 Pa.Code § 59.18. UGI filed an answer denying the material allegations of the complaint on December 15, 2015. It is UGI’s position that Section 59.18 grants it discretion in the placement of meters in historic areas and that its actions have been appropriate as required by the Public Utility Code. The City of Reading later filed a similar complaint, which was consolidated with the CPHD complaint, with the agreement of the parties, on March 30, 2016.¹

On March 14, 2016, along with its answer to the City of Reading’s complaint, UGI filed preliminary objections. The City of Reading filed an answer to the preliminary objections on March 24, 2016. The basis for the preliminary objections was that the complaints should be dismissed because the Complainants seek to impose new rules and standards beyond

¹ CPHD and the City of Reading are hereafter referred to as “Complainants.”

those provided in Section 59.18 and request relief that the Commission could not grant. By interim order dated March 29, 2016, the preliminary objections were denied.

On September 1, 2016, UGI filed a petition for interlocutory review and answer to material questions to the Commission. BIE and UGI filed a joint motion to modify the litigation schedule. The request was granted and by interim order dated September 2, 2016, the litigation schedule was suspended pending action by the Commission on UGI's petition.

By Opinion and Order entered February 7, 2017, the Commission declined to answer the material question and returned the matter to the Office of Administrative Law Judge for disposition:

Based upon our review of the Parties' positions and the applicable law, we conclude that UGI has not satisfied the standards for interlocutory review, as UGI has not established compelling reasons why interlocutory review will prevent substantial prejudice or expedite the conduct of this proceeding. In its Petition, UGI contends that it will be substantially prejudiced by spending a significant amount of time and resources to undertake discovery, prepare exhibits and testimony, and proceed to hearings on a matter that UGI believes cannot be addressed in the context of a complaint proceeding. UGI argues that the City Parties' requested relief cannot be granted in this proceeding, because the City Parties are seeking to re-write the Commission's Regulations and impose new regulatory requirements that are not contained in the current Regulations. While UGI may disagree with the relief that the City Parties are seeking, we do not find that this is an instance where interlocutory review is warranted on the basis that the Complaints or aspects of the Complaints fall outside of the Commission's jurisdiction. As the ALJ stated in the March 2016 Order, the City's Complaint "challenges UGI's application of a Commission regulation and whether UGI's actions complied with the regulations." March 2016 Order at 2 (citing 66 Pa. C.S. §§ 701 and 1501). We also find that it would not be appropriate to limit the scope of possible relief or to make a predetermination regarding relief at this stage in the proceeding. We have previously determined that it is within the ALJ's discretion to determine what remedy to recommend in the event that the ALJ finds a violation of the Code, a Commission Order, or Regulation after a full evidentiary hearing. *See Susan Kreider v. PECO*

Energy Company, Docket No. P-2015-2495064 (Order entered January 28, 2016).²

Prehearing conferences have been held on February 11, 2016; March 30, 2016; July 14, 2016; March 16, 2017; and June 15, 2017. A schedule for discovery and dispositive motions were set by interim orders dated March 21, 2017 and June 15, 2017. In accordance with those orders, the parties completed discovery, filed a stipulation,³ and each filed dispositive motions on July 6, 2017 and responses on July 26, 2017. An interim order was entered on September 7, 2017, which denied the Complainants' motion for partial summary judgement.

Also on September 7, 2017, the Commission served an initial decision which granted in part and denied in party UGI's motion for summary judgement. UGI filed exceptions to the initial decision on September 27, 2017. In its exceptions UGI argued:

The ID erred in denying UGI's motion with respect to meters where there are no meters installed;

The ID erred in implying that Section 59.18 requires gas utilities to consider or comply with local historic district regulations and permit requirements; and

The ID erred in failing to address UGI's argument that the Commission cannot grant the Complainants' requested relief in a complaint proceeding.

By interim order dated October 5, 2017, the litigation in these proceedings was suspended pending the Commission's review of UGI's exceptions. The Complainants filed reply exceptions on October 6, 2017.

By email dated October 17, 2017, UGI requested a conference call to "discuss the status of the proceedings and potential approaches to move the case faster toward disposition."

² Commission Opinion and Order at pp. 17-18.

³ The Joint Stipulation, filed on September 5, 2017, largely agrees to the facts presented in spreadsheets which catalog contested meter locations in both the historic and non-historic districts in the City of Reading. For a more thorough description of these spreadsheets, the reader is directed to the Initial Decision Denying in Part and Granting in Part UGI's Motion of Summary Judgment, served on September 7, 2017.

By email, the Complainants' objected to the request because, in the Complainants' view, it would be inefficient to further litigate the complaints while the Commission considers UGI's exceptions.⁴

THEREFORE,

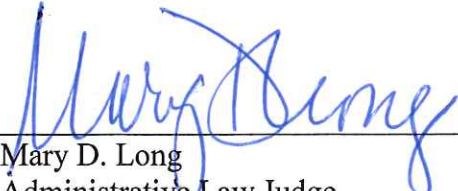
IT IS ORDERED:

1. That UGI shall file a motion to vacate the October 5, 2017 interim order. That motion shall include a thorough proposal explaining an approach to move the case faster toward a final disposition. UGI's proposal shall include an analysis of the manner in which its proposal serves judicial economy, is an appropriate expenditure of ratepayer and public funds and is in the public interest.

2. That UGI's proposal shall include a proposed schedule which provides for the concurrent exchange of exhibits, properly marked and paginated and written direct testimony for each witness to be called at the hearing. The proposed schedule shall also include proposed dates for evidentiary hearings in Harrisburg.

3. The Complainants and BIE shall file a response within 10 days of filing and service of the motion.

Date: October 18, 2017



Mary D. Long
Administrative Law Judge

⁴ These emails are included as Attachment A to this order.

C-2015-2516051 - CENTRE PARK HISTORIC DISTRICT INC v. UGI UTILITIES INC

C-2016-2530475 - CITY OF READING v. UGI UTILITIES, INC.

Revised 6/15/17

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Long, Mary

From: Ryan, Devin <DRyan@PostSchell.com>
Sent: Tuesday, October 17, 2017 12:02 PM
To: Long, Mary
Cc: Michael J. Savona (msavona@eastburngray.com); Michael E. Peters (mpeters@eastburngray.com); Zachary A. Sivertsen (zsivertsen@eastburngray.com); Michael T. Pidgeon (mpidgeon@eastburngray.com); Swindler, Michael; Mark C. Morrow (morrowm@ugicorp.com); MacGregor, David; Wright, Christopher
Subject: City of Reading/CPHD v. UGI Utilities, Inc. - Request for Conference Call

Judge Long,

UGI Utilities, Inc. ("UGI") respectfully requests a conference call with Your Honor and counsel for the other parties to discuss the status of the proceeding and potential approaches to move the case faster toward a final disposition.

Please let me know if Your Honor is agreeable to having such a conference call. If so, please indicate the dates and times that would work best for Your Honor, and we will consult with the other parties to finalize a date and time for the call that works for everyone.

Thank you.

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Attachment A

Long, Mary

From: Michael J. Savona <MSavona@eastburngray.com>
Sent: Tuesday, October 17, 2017 12:06 PM
To: Ryan, Devin; Long, Mary
Cc: Michael E. Peters; Zachary Sivertsen; Michael T. Pidgeon; Swindler, Michael; Mark C. Morrow (morrowm@ugicorp.com); MacGregor, David; Wright, Christopher
Subject: RE: City of Reading/CPHD v. UGI Utilities, Inc. - Request for Conference Call

With all due respect, the City objects to this request.

The ALJ entered an appropriate order to stay proceedings pending resolution of UGI's Exceptions. If UGI wishes to expedite resolution of the underlying merits of the Complaints, the simplest path would be to withdraw the Exceptions.

The City is not inclined to continue to spend public funds on unnecessary litigation expenses while the Commission considers the Exceptions.

Of course, we'll defer to the ALJ regarding the determination of UGI's request.



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