



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

October 31, 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 Motion of UGI Utilities, Inc. to Vacate the October 5, 2017 Interim Order Suspending Litigation in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



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)

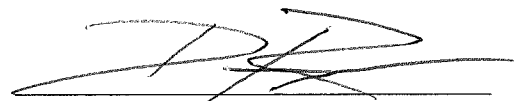
I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL & FIRST CLASS MAIL

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

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

Date: October 31, 2017


Devin T. Ryan

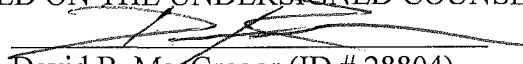
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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.	:	

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO ADMINISTRATIVE LAW JUDGE MARY D. LONG'S INTERIM ORDER ON REQUEST FOR FURTHER PROCEEDINGS, YOU MAY ANSWER THE ENCLOSED MOTION WITHIN 10 DAYS AFTER THE DATE OF SERVICE. YOUR ANSWER SHOULD BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.

Mark C. Morrow (ID # 33590)
Chief Regulatory Counsel
Danielle Jouenne (ID # 306829)
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)
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

Date: October 31, 2017

Attorneys for UGI Utilities, Inc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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	:	
v.	:	Docket No. C-2016-2530475
	:	
UGI Utilities, Inc.	:	

**MOTION OF UGI UTILITIES, INC. TO
VACATE THE OCTOBER 5, 2017 INTERIM ORDER SUSPENDING LITIGATION**

TO ADMINISTRATIVE LAW JUDGE MARY D. LONG:

AND NOW, comes UGI Utilities, Inc. (“UGI” or the “Company”), by and through its attorneys, Post & Schell, P.C., and files this Motion to Vacate the October 5, 2017 Interim Order Suspending Litigation, pursuant to 52 Pa. Code §§ 5.1 and 5.103 and Administrative Law Judge Mary D. Long’s (the “ALJ”) Interim Order on Request for Further Proceedings. The October 5, 2017 Interim Order suspended litigation while UGI’s Exceptions to the ALJ’s Initial Decision (“ID”) granting in part and denying in part the Company’s Motion for Summary Judgment was pending before the Pennsylvania Public Utility Commission (“Commission”).

Concurrent with filing the instant Motion, UGI is filing a letter with the Commission requesting that its Exceptions be withdrawn, provided that the Company retains the right to raise these issues and arguments in briefing and, if necessary, in exceptions from an Initial Decision issued after the conclusion of the evidentiary hearings. Such a process will enable the case to proceed on to evidentiary hearings and reach a final disposition more quickly. Moreover, rather

than having to issue two Orders in this case, the Commission would only have to issue one Final Order on the Complaints' merits.

For these reasons, and as explained in more detail below, UGI's approach serves judicial economy, will reduce the ratepayer and public funds expended in this proceeding, and is in the public interest. Thus, the Company respectfully requests that the ALJ vacate the October 5, 2017 Interim Order Suspending Litigation and enable the case to proceed onward, upon the Commission's granting of the withdrawal of UGI's Exceptions and in accordance with the procedural schedule set forth herein.

In support, UGI states as follows:

I. BACKGROUND AND PROCEDURAL HISTORY

1. The following background and procedural history is relevant to this Motion to Vacate the October 5, 2017 Interim Order Suspending Litigation.

2. On November 25, 2015, Centre Park Historic District ("CPHD") filed a Formal Complaint at Docket No. C-2015-2516051 alleging UGI's meter location practices in the historic districts of Reading, PA violated amended Section 59.18 and Section 59.33 of the Commission's regulations. (*See* CPHD Complaint ¶ 4) On February 23, 2016, UGI received e-service of the Complaint filed by the City of Reading ("City"). In its Complaint, the City alleged UGI violated amended Section 59.18 and Section 59.33 of the Commission's regulations. (*See* City Complaint, Counts I and II) UGI timely filed Answers to both Complaints.

3. On July 6, 2017, UGI filed its Motion for Summary Judgment, which relied on, among other things, the updated meter spreadsheets and supporting materials submitted on May

22, 2017.¹ In the Motion, the Company argued that the Complaints should be summarily dismissed, in whole or in part, for the following reasons:

(A) Certain meters in historic districts identified by Complainants were relocated before amended Section 59.18(d)(1) became effective and, therefore, UGI did not have to “consider” inside meter locations for those meters;

(B) Certain meters alleged by Complainants to violate the safety requirements of amended Section 59.18 were relocated before the amended regulation became effective;

(C) Certain meters do not violate amended Section 59.18(a)(8)(i) because Complainants have conceded that those meters are not beneath or in front of an opening that can be used as a fire exit;

(D) Complainants have failed to establish that certain meters are in contact with soil or other corrosive material in violation of amended Section 59.18(a)(8)(vi);

(E) Complainants have failed to establish that any meters are located under exterior staircases in violation of amended Section 59.18(a)(8)(iii);

(F) Certain locations identified by Complainants do not, in fact, have a meter and, therefore, cannot be in violation of amended Section 59.18 or Section 59.33, as alleged by Complainants;

(G) Complainants have raised issues and claims that are clearly beyond the Commission’s jurisdiction;

(H) The Commission’s meter placement regulation does not, as a matter of law, require NGDCs to comply with local ordinances; and

(I) The Complaints should be dismissed as a matter of law because the requested relief would impose new, additional regulatory requirements and, therefore, cannot be granted in a complaint proceeding initiated under 66 Pa. C.S. § 701.

¹ Also on July 6, 2017, the City and CPHD (collectively, “Complainants”) filed a Motion for Partial Summary Judgment, and UGI filed an Answer to the Complainants’ Motion. On September 7, 2017, the ALJ issued an Interim Order denying the Complainants’ Motion in its entirety.

4. On July 26, 2017, the Complainants filed an Answer to UGI's Motion, in which they: (1) withdrew their claim that the 163 meters identified in UGI's Motion were in contact with soil or other corrosive material in violation of Section 59.18(a)(8)(vi); (2) withdrew their claim that two of the seven meters were located under exterior stairways in violation of Section 59.18(a)(8)(iii); and (3) disputed all other arguments raised in UGI's Motion.

5. On September 7, 2017, the ALJ issued the ID granting in part and denying in part UGI's Motion for Summary Judgment.

6. On September 27, 2017, UGI filed Exceptions to the ID, in which the Company sought Commission review and clarification of three specific issues: (1) whether UGI can be held to violate Commission's meter regulations at locations where no meter is installed; (2) whether Section 59.18 impliedly requires gas utilities to consider or comply with local historic district regulations and permit requirements; and (3) whether the Complainants' relief can be granted in this proceeding.

7. On October 6, 2017, the Complainants filed Replies to UGI's Exceptions, in which they claimed that the ALJ reached the correct result, that UGI's Exceptions were filed to delay the resolution of this case, and, according to the Complainants, that UGI has no confidence in the ALJ's abilities to adjudicate this matter.

8. On October 17, 2017, counsel for UGI via email requested a conference call with the parties and the ALJ to "discuss the status of the proceeding and potential approaches to move the case faster toward disposition." (Interim Order on Request for Further Proceedings, p. 6)

9. The Complainants objected to UGI's request via email on October 17, 2017. In the email, counsel for the Complainants stated that "[i]f UGI wishes to expedite resolution of the

underlying merits of the Complaints, the simplest path would be to withdraw the Exceptions.”
(Interim Order on Request for Further Proceedings, p. 7)

10. On October 18, 2017, the ALJ issued the Interim Order on Request for Further Proceedings setting forth the following:

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.

II. MOTION TO VACATE

11. Pursuant to the Interim Order on Request for Further Proceedings, UGI respectfully requests that the ALJ vacate the October 5, 2017 Interim Order Suspending Litigation and enable the case to proceed onward, upon the withdrawal of UGI’s Exceptions and in accordance with the procedural schedule set forth herein.

12. Simultaneous with the filing of the instant Motion, UGI is filing a letter with the Commission requesting that its Exceptions to the ID be withdrawn, provided that the Company retains its rights to raise these issues and arguments in briefing and, if necessary, in exceptions from an Initial Decision issued after the conclusion of the evidentiary hearings.

13. The Complainants erroneously claimed in their Replies to Exceptions that UGI only filed Exceptions to delay the proceeding and that the Company lacks confidence in the ALJ's abilities to adjudicate this matter. (City and CPHD Replies to Exceptions, pp. 1-2) To be clear, the Company has no desire to prolong or otherwise delay the resolution of this case. Moreover, UGI has the utmost respect for the ALJ and her abilities, and any claims by the Complainants otherwise are simply false. The Company simply filed Exceptions because it was constrained procedurally by the Commission's regulations, which require a party to file Exceptions to an Initial Decision in order to preserve its rights. See 52 Pa. Code § 5.536.

14. As all parties have an interest in moving the case toward final disposition quicker, UGI has respectfully requested that its Exceptions be withdrawn so long as it can brief the issues raised in its Exceptions. To accommodate that request, UGI respectfully requests that the ALJ vacate the October 5, 2017 Interim Order Suspending Litigation for following reasons.

15. First, UGI's proposal will move the case faster toward a final disposition because there is no deadline for the Commission to act on the Company's Exceptions. Accordingly, the Commission could act on the Exceptions at the next public meeting or at one five months from now. However, if the Company's Exceptions are withdrawn as proposed by UGI, the Commission need not rule on UGI's Exceptions. Accordingly, the case will be sent back to the ALJ for evidentiary hearings on the merits.

16. Second, the Company's proposed approach serves judicial economy. Under the Company's proposed approach, the Commission would only have to expend time and resources to rule on one Initial Decision. However, if UGI's Exceptions remain pending, the Commission would likely have to issue Orders: (1) an Order on UGI's Exceptions; and (2) an Order on the

Initial Decision on the Complaints' merits. Moreover, the issues raised in UGI's Exceptions are largely legal issues that should not require the development of additional factual records.

17. Third, UGI's proposal is an appropriate expenditure of ratepayer and public funds. Bringing the case to a quicker resolution will reduce the litigation expenses incurred by all parties. In fact, counsel for the Complainants averred that "[i]f UGI wishes to expedite resolution of the underlying merits of the Complaints, the simplest path would be to withdraw the Exceptions." (Interim Order on Request for Further Proceedings, p. 7) UGI's proposal would accomplish that.

18. Fourth, the Company's request is in the public interest. Both UGI and the Complainants have stated that they seek a quick resolution in this proceeding. Indeed, as noted by the Commission previously, this case is one of first impression regarding the application of the Commission's amended 52 Pa. Code § 59.18. Therefore, a prompt and final resolution of the Complaints will facilitate UGI and other natural gas utilities in maintaining compliance with the Commission's regulations when installing and relocating meters. Furthermore, under UGI's proposal, the Company would not be forced to waive any of its substantive rights on some of the important legal issues raised in this proceeding.

19. Finally, the Interim Order on Request for Further Proceedings directed UGI to propose a litigation schedule. Considering both the Complainants and UGI are seeking a prompt resolution in this matter, UGI proposes the following litigation schedule:

Parties' Direct Testimony and Exhibits – December 15, 2017

Hearings and Oral Rejoinder – January 10-12, 2017

Main Briefs – February 13, 2017

Reply Briefs – March 6, 2017

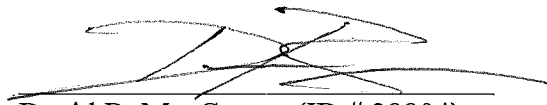
UGI notes that this proposed schedule is contingent on the Commission granting the withdrawal of UGI's Exceptions, as set forth herein and in the letter being filed simultaneously with the Commission, in a timely manner.

20. Based on the foregoing, UGI respectfully requests that the ALJ grant the instant Motion to Vacate and enable the case to proceed onward upon the Commission's granting of the withdrawal of UGI's Exceptions and in accordance with the procedural schedule set forth above.

III. CONCLUSION

WHEREFORE, UGI Utilities, Inc. respectfully requests that the Honorable Administrative Law Mary D. Long grant its Motion to Vacate the October 5, 2017 Interim Order Suspending Litigation as set forth above.

Respectfully submitted,



Mark C. Morrow (ID # 33590)
Chief Regulatory Counsel
Danielle Jouenne (ID # 306829)
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)
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

Date: October 31, 2017

Attorneys for UGI Utilities, Inc.