**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held December 21, 2017

Commissioners Present:

Gladys M. Brown, Chairman

Andrew G. Place, Vice Chairman

Norman J. Kennard

David W. Sweet

John F. Coleman, Jr.

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| Petition of UGI Utilities, Inc. - Electric Division for Approval of Modifications to its Phase II Energy Efficiency and Conservation Plan |  M-2015-2477174 |

**OPINION AND ORDER**

**BY THE COMMISSION:**

# I. Matter Before the Commission

 Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition of UGI Utilities, Inc. - Electric Division (UGI Electric or the Company) for Approval of Changes to its Act 129 Phase II Energy Efficiency and Conservation Plan (EE&C Plan) (Petition) filed on August 31, 2017, in the above-captioned proceeding.[[1]](#footnote-1) The Petition seeks approval of one proposed minor modification and one proposed major modification to the Company’s EE&C Plan under the major change process set forth in the Commission’s *Energy Efficiency and Conservation Program Implementation Order,* Docket No. M-2008-2069887 (Order Entered January 16, 2009) (*Implementation Order)* and the Commission’s Order in *Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887 (Order entered June 10, 2011) (*Minor Plan Change Order*) at 20-21. On September 29, 2017, Comments in response to the Petition were filed by the Office of Small Business Advocate (OSBA). The Office of Consumer Advocate (OCA) also filed Comments in response to the Petition on October 2, 2017. On October 16, 2017, Reply Comments were submitted by UGI Electric. For the reasons stated herein, we will grant UGI Electric’s Petition.

# II. Procedural History

Act 129 of 2008, P.L. 1592 (Act 129) amended the Code, 66 Pa. C.S. §§ 101 *et seq*., to, *inter alia*, require the Commission to develop and adopt an EE&C Program by January 15, 2009. Under Act 129, the Commission’s EE&C program requires electric distribution companies (EDCs) to adopt and implement cost-effective energy efficiency and conservation plans to reduce energy demand and energy consumption within the service territory of each EDC. 66 Pa. C.S. § 2806.1(a). However, Act 129 exempted EDCs with fewer than 100,000 customers from the EE&C Program. 66 Pa. C.S. § 2806.1(l).

UGI Electric is not subject to the energy efficiency requirements of Act 129 because it has fewer than 100,000 customers. Nevertheless, on December 23, 2009, the Commission issued a Secretarial Letter at Docket No. M-2009-2142851, encouraging smaller EDCs to file voluntary EE&C Plans.

UGI Electric obliged, and on November 9, 2010, it filed a Petition at Docket No. M‑2010‑2210316 requesting approval of its voluntary Phase I EE&C Plan pursuant to the Commission’s Secretarial Letter. On April 10, 2012, we issued a Secretarial Letter that permitted UGI Electric to begin implementing its Energy Efficiency and Conservation Plan within three months of the date of that letter.

On April 9, 2015, UGI Electric filed a Petition at Docket No. M-2010-2210316 to extend its Phase I EE&C Plan until its Phase II EE&C Plan was approved. We approved UGI Electric’s Petition by Order entered May 19, 2015.

Also, on April 9, 2015, UGI Electric filed a Petition at Docket No. M-2015-2477174 seeking Commission approval of its Phase II EE&C Plan. The parties were able to reach a settlement of all issues and, thereafter, filed a Joint Petition for Settlement on April 21, 2016. On May 13, 2016, the Recommended Decision of Administrative Law Judge David A. Salapa was issued in which he recommended the approval of UGI Electric’s Phase II EE&C Plan, as modified by the Joint Petition for Settlement. On June 9, 2016, we entered an Order adopting the Recommended Decision without modification and approving UGI Electric’s Phase II EE&C Plan. *See Petition of UGI Utilities, Inc. – Electric Division for Approval of Phase II of its Energy Efficiency and Conservation Plan,* Docket No. M-2015-2477174 (Order Entered June 9, 2016) (*Phase II Order)*. UGI Electric’s Phase II EE&C Plan is set to expire on May 31, 2018.

On March 22, 2017, UGI Electric filed a Petition to amend the *Phase II Order* and extend its Phase II EE&C Plan by one year or until May 31, 2019, and to authorize it to move funding between programs within the same customer class based on customer participation *(Extension Petition)*. On May 4, 2017, we entered an Order granting the *Extension Petition* (*Extension Petition Order)*. *Extension Petition Order* at 5-6.

As previously noted, UGI Electric filed the instant Petition on August 31, 2017. On September 29, 2017, and October 2, 2017, Comments in response to the Company’s Petition were received from the OSBA and OCA, respectively. On October 16, 2017, UGI Electric submitted Reply Comments.

# III. Discussion

## **Legal and Procedural Standards**

Pursuant to Section 2806.1(a)(6) of the Code, 66 Pa. C.S. § 2806.1(a)(6), we established procedures in our *Implementation Order* that permits the Commission, an EDC or any interested party to make recommendations for improvements to an EDC’s EE&C Plan. We addressed the procedure for modifications pursuant to Section 2806.1 of the Code, as follows:

Regarding approved plans, the Commission will permit EDCs and other interested stakeholders, as well as the statutory advocates, to propose plan changes in conjunction with the EDC’s annual report filing required by the Act at 66 Pa. C.S. § 2806.1(i)(1). The Commission will establish a deadline for the filing of annual reports by the EDCs following the approval of the EDCs’ plans in 2009. These annual reports are to be served on OCA, OSBA and OTS. The Commission will also post the annual reports on a web page dedicated to the EE&C program. The Commission and any interested party can make a recommendation for plan improvement or object to an EDC’s proposed plan revision within 30 days of the annual report filing. EDCs will have 20 days to file replies, after which the Commission will determine whether to rule on the recommended changes or refer the matter to an ALJ for hearings and a recommended decision.

*Implementation Order* at 24.

In addition, the expedited process for reviewing EDCs’ requests for minor changes to their Act 129 EE&C Plans was established in our *Minor Plan Change Order*. *See Minor Plan Change Order* at 18-20. Minor EE&C Plan changes that can be reviewed under the expedited review process are defined as follows:

1. The elimination of a measure that is underperforming, no longer viable for reasons of cost-effectiveness, savings or market penetration or has met its approved budgeted funding, participation level or amount of savings;

2. The transfer of funds from one measure or program to another measure or program within the same customer class; and

3. Adding a measure or changing the conditions of a measure, such as its eligibility requirements, technical description, rebate structure or amount, projected savings, estimated incremental costs, projected number of participants, or other conditions so long as the change does not increase the overall costs to that customer class.

*Id*. at 19-20.

Also, within the *Minor Plan Change Order*, we stated that EDCs seeking approval of changes that do not fit within the Minor EE&C Plan change criteria must file a petition requesting that the Commission rescind and amend its prior order approving the plan in accordance with 52 Pa. Code §§ 5.41 (relating to petitions generally) and 5.572 (relating to petitions for relief). We stated that this petition should explain the specific reasons supporting the proposed modifications, evidence supporting the modifications to the plan and cost recovery mechanism. We directed that the petition be served on all parties, who will have thirty days to file comments, an answer or both. We further established a twenty-day reply period for parties who desire to file reply comments, after which we will determine whether to rule on the changes or refer the matter to an Administrative Law Judge for hearings and a recommended decision. *Minor Plan Change Order* at 20.

In the instant Petition, UGI Electric requests that we approve the following changes to its EE&C Plan: (1) eliminate the $50 customer contribution fee for its Home Energy Assessment Program (HEAP) for a minimum of six months or, if it is successful in increasing participation, until the Program Year Budget has been met; and (2) eliminate its Heating, Ventilation and Air Conditioning System (HVAC) Tune-Up Program (HTUP)[[2]](#footnote-2) due to low commercial customer utilization. Petition at 1. UGI Electric avers its proposal to reduce the customer contribution for its HEAP is a minor modification and therefore, it would be eligible to receive expedited review under the *Minor Plan Change Order*. However, the Company notes that its proposal to eliminate its HTUP does not fit the criteria for expedited review; therefore, its proposal to eliminate HTUP is considered a major modification. *Id.* at 4. For this reason, UGI Electric requests that the Commission consider both modifications under the procedure outlined in the *Implementation Order*. *Id.* at 5.

Finally, we note that any issue that we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. It is well settled that we are not required to consider expressly or at length each contention or argument raised by the parties. [*Consolidated Rail Corp. v. Pa. PUC,* 625 A.2d 741 (Pa. Cmwlth. 1993);](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=5&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b625%20A.2d%20741%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=ad2b02d95c2a9216e83b92a3570d4785) *also see, generally,* [*University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=6&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b485%20A.2d%201217%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=9b1cc8319afd12440738bb82d74455ef)

## **UGI Electric’s Petition**

In its Petition, UGI Electric avers that its current HEAP program, which was launched in December 2016, and requires a customer contribution of $50 toward the home energy assessment value of $500, has, to date, attracted only twelve participants.[[3]](#footnote-3) The Company states that this number falls short of the Company’s target of twenty-two participants per month. Therefore, the Company proposes to eliminate the $50 customer contribution for a period of six-months, subject to participation caps, [[4]](#footnote-4) to evaluate whether the elimination of the $50 customer contribution fee would result in increased customer participation. Petition at 5. The Company proffers that if the elimination of the fee increases participation and allows the Company to meet its monthly participation target, it will continue to offer the reduction until the participation budget has been met for each Program Year. According to the Company, while HEAP has a budget of $411,000, expenditures to-date for that program amount to only $36,409, of which $33,000 accounts for startup costs for the program. The Company believes a decrease in customer contribution and an increase in customer participation would not impact the Commission-approved budget for the program’s residential customer class. *Id.* at 6.

Regarding its HTUP, the Company avers that for Program Years 4 and 5, only a total of thirty-eight commercial customers utilized the program and that there were only 365 measures installed compared to an anticipated total measure of 544 per Program Year. The Company avers this results in an adoption rate of only 0.005. The Company submits that although the total budget per Program Year for this program is $35,575, the total amount of incentives paid out so far is only $28,525, which is less than the budgeted amount. The Company also notes that the Total Resource Cost (TRC) of 0.44 in Program Year 4 and 0.62 in Program Year 5, were also both less than the anticipated value of 1.02 for the program. *Id.* Due to this minimal customer program participation, the Company does not think it makes financial sense to continue paying the program provider a monthly labor charge when those funds can be better utilized in the Company’s Customer Incentive Program (CIP).[[5]](#footnote-5) *Id.* at 7.

1. **Comments, Replies and Disposition**
2. **OSBA’s Comments and UGI Electric’s Replies**

In its Comments, the OSBA states that it supports UGI Electric’s proposal to eliminate its HTUP but opposes the Company’s proposed funding reallocation for several reasons discussed below.

First, the OSBA contends UGI Electric did not offer sufficient justification or a basis for its proposal to reallocate the program funding to the Company’s CIP. OSBA Comments at 3.

Second, the OSBA argues the Company’s *Annual Report* shows the CIP operated far below its budget level for the Program Year 5 period or June 1, 2016 to May 31, 2017. *Id.* (citing *Annual Report* at 23, Tables 32 and 33). The OSBA submits that UGI Electric engaged in only nine projects compared to its Program Year budget of twenty projects, thus achieving only forty-five percent of its target. The OSBA also points out that the Company obtained an annual savings of only 812 MWh compared to its budget of 3,141 MWh, achieving only twenty-six percent of its target. The OSBA further notes that the Company’s direct utility costs amount to only $182,000 compared to its budget amount of $750,120, which represents only twenty-four percent of its Program Year target. OSBA Comments at 3 (citing *Annual Report* at 23).

The OSBA points out that UGI Electric’s *Compliance Plan* reflects actual ratio of customer incentives to direct participant cost of over fifty-six percent compared to a budget that is under twenty-six percent. The OSBA believes this result appears to contradict the Company’s *Compliance Plan[[6]](#footnote-6)* and shows the Company seems to be operating the CIP in a way that is more generous to participants than originally envisioned. OSBA Comments at 4. The OSBA emphasizes that the issue of incentives exceeding the total project cost borne by the customer was an issue of contention during the approval of the Phase II EE&C Plan, and the referenced language was included in the settlement agreement to address this issue. *Id.* The OSBA believes the Company substantially increased subsidies to induce participation resulting in an unfair cost burden for some customers, which contravenes the settlement agreement in the above-referenced proceedings. OSBA Comments at 4 (citing *Annual Report* at 23, Table 33).

Third, the OSBA contends there is no indication in the *Annual Report* that the budget savings will be expanded to mirror the budget in the *Compliance Plan*.[[7]](#footnote-7) OSBA Comments at 4. According to the OSBA, although the *Annual Report* recognizes that HTUP will be eliminated, there is no indication that additional spending for the CIP is necessary or desirable. *Id.* Hence, the OSBA does not believe reallocating the funds from HTUP to CIP will make CIP any more efficient or fairer to the non-participating ratepayers who bear the cost of CIP. Consequently, the OSBA requests that any savings from the elimination of HTUP be returned to ratepayers in the form of lower EE&C charges. *Id.* at 5.

In its Reply Comments, UGI Electric agrees with the OSBA’s recommendation that rather than reallocating the funds from HTUP to CIP, the funds should be returned to ratepayers in the form of lower EE&C charges. Reply Comments at 1-2 (citing OSBA Comments at 3‑5). With regard to the OSBA’s observation that customer incentives under CIP were in excess of fifty percent of the total project cost, the Company acknowledges making an error regarding the Program Year 5 data in the *Annual Report*. Therefore, concurrent with its Reply Comments, UGI Electric has filed corrected Program Year 5 data at this docket which reflects a customer incentive account of approximately thirty-nine percent. This new customer incentive data is much lower than the fifty-six percent initially reported by the Company. Reply Comments at 2 (citing OSBA Comments at 4).

1. **OCA’s Comments and UGI Electric’s Replies**

While the OCA is not opposed to UGI Electric’s minor modification regarding the HEAP, it nonetheless avers that UGI Electric’s HEAP may not be cost-effective as currently designed and proposes further modifications to the program. According to the OCA, in addition to the audit fee of $50, the Company’s sole reliance on direct install measures and the lack of incentives including rebates for the audit recommended measures could also present additional challenges to the Company’s ability to realize the energy savings from such measures.[[8]](#footnote-8) OCA Comments at 1-2. The OCA believes offering a walk-through assessment in addition to the Company’s existing measures would help lower the program costs.[[9]](#footnote-9) *Id.* at 2.

Additionally, the OCA suggests making changes to the marketing process for the Company’s HEAP.[[10]](#footnote-10) The OCA believes using online marketing to leverage the Company’s “offer of direct install measures at no additional cost” would encourage participation. The OCA also suggests UGI Electric update its current online marketing to reflect what the audit assesses in a home, how long the audit takes, and ways the audit will save money. The OCA believes this would help set participant expectations for the program and encourage customer participation. *Id.* at 2-3. Finally, the OCA submits that at the end of the six-month period, UGI Electric should provide updated data on customer participation, program cost, and program energy savings to allow for further evaluation on whether the audit fee should continue. *Id.* at 3.

In its Reply Comments, UGI Electric concurs with the OCA’s recommendation to include additional information about the program on its online marketing platform. Regarding the walk-through proposal, the Company avers it currently already offers a one-hour walk-through assessment and that the costs of the walk-through assessment and installation of the direct install measures are already part of the whole home assessment cost of $500. Reply Comments at 2. The Company also agrees with the OCA’s recommendation that UGI Electric provide updated information regarding the HEAP program at the end of the six-month period. *Id.* (citing OCA Comments at 3).

1. **Disposition**

Upon our consideration of UGI Electric’s proposal and the Comments of the Parties, as well as the Replies thereto, we conclude that UGI Electric’s responses to the OSBA and the OCA’s comments effectively addresses the concerns of the Parties. We note that UGI Electric agrees with both the OSBA and the OCA’s recommendations regarding the proposed modifications to both the Company’s HEAP and HTUP.

With regard to UGI Electric’s proposed minor modification regarding HEAP, we note that none of the Parties to this proceeding is in opposition to the elimination of the $50 audit fee for the specified six-month period, and beyond, if necessary. Specifically, while the OCA is not opposed to the fee elimination, it recommends additional program design and marketing changes to the program. UGI Electric indicated that it already offers the walk-through audit proposed by the OCA. Further, the Company, which currently markets HEAP through bill inserts, direct mails, email blasts and customer outreach events, has agreed to include additional information about the program on its online marketing platform, as suggested by the OCA. UGI Electric also has agreed to provide an update to the Parties regarding the performance of HEAP at the end of the six-month period, including updated data on customer participation, costs and energy savings. Reply Comments at 2. Based on the Company’s response, we find that UGI Electric has adequately addressed the concerns expressed by the OCA. We reiterate that the Company has agreed to all of the OCA’s proposed recommendations regarding the program and we find them all to be reasonable. Accordingly, we shall approve UGI Electric’s proposed Minor Change regarding HEAP in its Phase II EE&C Plan.

While the OSBA is not opposed to the Company’s proposal to eliminate its HTUP, it recommends that rather than reallocating funds from the Company’s HTUP to CIP, the savings from the elimination of HTUP should be returned to ratepayers in the form of lower EE&C charges. As discussed above, UGI Electric agrees with the OSBA’s recommendation regarding this change. Also, regarding the OSBA’s observation that customer incentives under the Company’s CIP were above fifty percent, UGI Electric acknowledges there was an error in the Program Year 5 data in the *Annual Report*. The Company promptly filed corrected Program Year 5 data showing that the customer incentive account is at approximately thirty-nine percent of total project costs rather than the fifty-six percent initially reported. Reply Comments at 1-2. It appears the updated Program Year 5 data filed by the Company aptly allays the OSBA’s fears or concerns regarding customer incentives exceeding the total project cost. None of the Parties to this proceeding have expressed any concerns or issues with the updated Program Year 5 data filed by the Company regarding customer incentives under the Company’s CIP. Therefore, we find that UGI Electric has adequately addressed the concerns expressed by the OSBA. Accordingly, we shall approve UGI Electric’s proposed Major Change involving the elimination of the HTUP from its Phase II EE&C Plan.

**IV. Conclusion**

Consistent with the foregoing discussion, we shall grant UGI Electric’s Petition and approve the Company’s two proposed changes, as modified or clarified, to its Phase II EE&C Plan; **THEREFORE,**

**IT IS ORDERED:**

1. That the Petition of UGI Utilities, Inc. – Electric Division for Approval of Modifications to its Phase II Energy Efficiency and Conservation Plan filed on August 31, 2017, is granted, consistent with this Opinion and Order.

1. That the following proposed changes within UGI Electric’s Petition are approved, as modified or clarified by UGI Utilities, Inc. – Electric Division:

a. Proposed Minor Change - Eliminate the $50 customer contribution for the Home Energy Assessment Program for a minimum of six months or, if successful in increasing participation, until the Program Year Budget has been met.

b. Proposed Major Change – Eliminate the HVAC Tune-Up Program due to low commercial customer utilization.

1. That UGI Utilities, Inc. – Electric Division, shall include on its online marketing platform, additional information about its Home Energy Assessment Program, such as, what the audit assesses in a home, how long the audit takes, and ways the audit will save money.
2. That UGI Utilities, Inc. – Electric Division, shall, at the end of the six-month trial period, provide an update to the Parties regarding the performance of its Home Energy Assessment Program including updated data on customer participation, program costs and program energy savings.
3. That UGI Utilities, Inc. – Electric Division, shall return the anticipated savings from the proposed elimination of its HVAC Tune-Up Program from its Phase II EE&C Plan, to its ratepayers in the form of lower EE&C charges.

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**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: December 21, 2017

ORDER ENTERED: December 21, 2017

1. On the same day, UGI Electric filed an Annual Report of its EE&C Plan Program Year 5 (June 1, 2016 to May 31, 2017), pursuant to Section 2806.1(i)(1) of the Public Utility Code (Code), 66 Pa. C.S. 2806.1(i)(1) *(Annual Report)*. The *Annual Report* was filed in compliance with the Company’s Commission-approved EE&C Plan *(Compliance Plan).* [↑](#footnote-ref-1)
2. HTUP provides instant discounts on specific contractor’s services for adjustments and retrofits of a commercial customer’s HVAC system. UGI Electric also provides rebates on the cost of these services through contractor discounts on customer invoices. Petition at 6. [↑](#footnote-ref-2)
3. In HEAP, a certified energy efficiency professional provides an assessment of a participating customer’s home and makes recommendations designed to increase the home’s energy efficiency. The customer can receive direct installed measures including up to 6 LEDs, a smart strip, two faucet aerators, water pipe insulation, and a water heater thermostat setback. *Id.* at 5. [↑](#footnote-ref-3)
4. The Company plans to set a customer participation cap of 260 participants per Program Year. Petition at 6. [↑](#footnote-ref-4)
5. According to the Company, the CIP also serves UGI Electric’s commercial customers. *Id.* at 7. [↑](#footnote-ref-5)
6. The *Compliance Plan* states that: “Additionally, for the C&I Custom Program, incentives may not exceed $100,000 or 50% of total project costs borne by the customer.” OSBA Comments at 4 (citing *Compliance Plan* at 57, footnote 14). [↑](#footnote-ref-6)
7. The OSBA avers that the *Annual Report* indicates that the savings goal is 7,812 MWh through 2019, whereas the approved plan shows planned savings of 9,423 MWh. OSBA Comments at 4 (citing *Annual Report* at 22; *Compliance Plan* at 57). [↑](#footnote-ref-7)
8. Audit recommended measures could include attic insulation and duct sealing. OCA Comments at 2. [↑](#footnote-ref-8)
9. According to the OCA, a walk-through assessment is a one-hour walk-through with an audit professional who installs the direct install measures, similar to those offered in UGI’s program. OCA believes the cost for a walk-through assessment is significantly lower than the $500 whole home audit and could potentially provide the same amount of energy savings. *Id.* [↑](#footnote-ref-9)
10. UGI Electric currently markets the program through bill inserts, direct mail, email blasts, and customer outreach such as home shows, community events, etc. Reply Comments at 2. [↑](#footnote-ref-10)