

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120**

Public Meeting held June 16, 2022

Commissioners Present:

Gladys Brown Dutrieuille, Chairman  
John F. Coleman, Jr., Vice Chairman  
Ralph V. Yanora

Petition of UGI Utilities, Inc. - Electric  
Division for Approval of a Modification to  
its Phase III Energy Efficiency and  
Conservation Plan

M-2018-3004144

**OPINION AND ORDER**

**BY 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 a Modification to its Act 129 Phase III Energy Efficiency and Conservation Plan (EE&C Plan or Phase III EE&C Plan) (Petition) filed on February 22, 2022, in the above-captioned proceeding. The Petition seeks approval of a 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. No Comments or Reply Comments were received. For the reasons stated herein, we will grant UGI Electric's Petition.

## I. Procedural History

Act 129 of 2008, P.L. 1592 (Act 129) amended the Public Utility Code (Code), 66 Pa. C.S. §§ 101, *et seq.*, to, *inter alia*, require the Commission to develop and adopt an EE&C Plan 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). On December 23, 2009, the Commission issued a Secretarial Letter at Docket No. M-2009-2142851, encouraging EDCs with fewer than 100,000 customers to voluntarily file EE&C Plans for Commission approval.

Pursuant to the Commission's request for voluntary participation, UGI Electric, as an EDC serving fewer than 100,000 customers, filed a Petition requesting approval of its voluntary Phase I EE&C Plan. *See Petition of UGI Electric*, Docket No. M-2010-2210316 (Filed November 9, 2010). On April 10, 2012, the Commission issued a Secretarial Letter that granted UGI Electric's request to begin implementing its EE&C 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. The Commission 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. On June 9, 2016, the Commission entered an Order approving the 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 was 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 (Phase II Extension Petition). The Commission approved the Phase II Extension Petition by its Order entered on May 4, 2017. On August 31, 2017, UGI Electric filed a Petition for approval of changes to its Phase II EE&C Plan, which were approved by the Commission on December 21, 2017.

On August 21, 2018, UGI Electric filed a Petition for approval of its Phase III EE&C Plan at Docket No. M-2018-3004144, which included EE&C programs for the five-year period of June 1, 2019, through May 31, 2024. The parties reached a Settlement of all issues, and on January 31, 2019, filed a Joint Petition for Approval of Settlement (Joint Petition).<sup>1</sup> On March 14, 2019, the Commission entered an Order approving the Joint Petition.

On April 22, 2020, UGI Electric filed an Amendment to its Phase III EE&C Plan in accordance with the Settlement, to include a Residential Low-Income Program, starting in program year two (PY 2). By Secretarial Letter dated May 13, 2020, the

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<sup>1</sup> The parties to the Settlement included: (1) UGI Electric; (2) the Office of Consumer Advocate (OCA); (3) the Office of Small Business Advocate (OSBA); and (4) Commission on Economic Opportunity (CEO).

Commission determined that the Amendment filing was consistent with the requirements of the Settlement.

On March 27, 2020, UGI Electric filed a Petition for Approval of Modifications to its Phase III EE&C Plan. The Petition sought the approval of: (1) two major modifications to the Company's EE&C Plan; and (2) a clarification as to when the Company would file an updated EE&C Plan that uses PPL Electric Utilities Corporation's (PPL Electric) Phase IV avoided costs for the last two years of UGI Electric's Phase III Plan. On August 17, 2020, the Commission entered an Opinion and Order granting, in part, and denying, in part, the Petition. The Commission approved the two proposed major changes and granted UGI Electric an extension of time to update its Phase III EE&C Plan<sup>2</sup> within three months after the Commission approved PPL Electric's Phase IV EE&C Plan. The Commission approved PPL Electric's Phase IV EE&C Plan on March 25, 2021, at Docket No. M-2020-3020824. UGI Electric timely filed its updated Phase III EE&C Plan on June 22, 2021.

As previously noted, UGI Electric filed the instant Petition on February 22, 2022, which was served on the OCA, the OSBA, and CEO. UGI Electric stated in its Petition that it consulted with the OCA and the OSBA. UGI Electric averred that it is authorized to represent that the OCA does not object to the Petition, as filed, and the OSBA does not oppose the requested relief in the Petition. Petition at 2. No Comments or Reply Comments were received.

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<sup>2</sup> UGI Electric had requested a stay of the duty to file its updated Phase III EE&C Plan by March 2020. While the request for a stay was denied, an extension to file was provided.

## II. Discussion

### A. 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 permit 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.

Also, within the *Minor Plan Change Order*, the Commission 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). The Commission stated that this petition should explain the specific reasons supporting the proposed modifications, evidence supporting the modifications to the plan, and any cost recovery mechanism. The Commission directed that the petition be served on all parties, who will have thirty days to file comments, an answer, or both. The Commission further established a twenty-day reply period for parties who desire to file reply comments, after which the Commission 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 Commission's *Phase III Implementation Order*, the Commission determined that it would continue to use the EE&C Plan change approval processes described in the *Minor Plan Change Order. Energy Efficiency and Conservation Program*, Docket No. M-2014-2424864 (Order entered June 19, 2015) (*Phase III Implementation Order*) at 115-118. Similarly, the Commission determined it would continue to use these approval processes for Phase IV EE&C Plans. *Energy Efficiency and Conservation Program*, Docket No. M-2020-3015228 (Order entered June 18, 2020) (*Phase IV Implementation Order*) at 94-96.

While UGI Electric is not subject to the *Minor Change Plan Order* and *Phase III Implementation Order*, the Company's Phase III EE&C Plan states that UGI Electric "will not, without Commission approval" do any of the following: (1) add new programs; (2) eliminate existing programs; (3) deviate significantly from the approved program parameters; or (4) exceed the total approved budget for the Plan. When making changes to its EE&C Plan that meet any of these criteria, UGI Electric previously has followed the Commission's procedures for approval of "major" and "minor" EE&C Plan changes. The proposed change to the C&I Custom Incentive Program's budget, and the associated increase to the overall Phase III EE&C Plan budget, is a major EE&C Plan change. Petition at 5 (citing Phase III EE&C Plan at 7).

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); *also see, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

## **B. UGI Electric's Petition**

In the instant Petition, UGI Electric requests that the Commission approve a major change to the Company's Phase III EE&C Plan. UGI Electric requests the approval of an increase to the Company's Commercial and Industrial (C&I) Custom Incentive Program budget of approximately \$1.63 million due to the high level of customer participation in the program. Petition at 6.

The C&I Custom Incentive Program targets all new and existing commercial and industrial facilities, including government and municipal customers. The program will be available for any type of new or replacement energy-efficient equipment that is not eligible for a prescriptive rebate through UGI's other EE&C Programs. Petition Attachment A at 35. UGI Electric will offer a custom incentive of up to \$0.18 per kWh saved and will maintain an overall incentive level up to \$0.10 per kWh, on average, over the lifetime of the Plan. UGI Electric will limit the rebate amount to the lesser of \$100,000 or 50% of the customer project cost. Projects must save electricity and be cost-effective under the Total Resource Cost (TRC) Test (have a benefit-cost ratio of at least 1.0). Where possible, measure savings will be calculated using the current Act 129 Technical Reference Manual. *Id.* at 37-38.

UGI Electric notes that in Section 2.2 of the Company's Phase III EE&C Plan, Table 26 outlines the projected program savings and costs. The Direct Utility Costs to implement and administer the C&I Custom Incentive Program currently are approximately \$1,871,100. Petition at 6 (citing Phase III EE&C Plan at 40). UGI Electric proposes to increase this figure by \$1,628,347 to \$3,499,447 to reflect the updated projected costs for the program over the lifetime of the EE&C Plan. *Id.* (citing Petition Attachment A at 40, Attachment B at 39).

UGI Electric’s proposed budget changes (an increase to the C&I budget and, therefore, the overall budget) are detailed in the following Table:

**Projected Budgets by Customer Class**

Customer Class	Current Total Budget	Current % of Total EEC Budget	Proposed Total Budget	Proposed % of Total Budget
Residential	\$2,915,794	45.7%	\$2,915,794	36.3%
C&I	\$1,871,100	29.3%	\$3,499,447	43.7%
Portfolio-wide	\$1,600,000	25.1%	\$1,600,000	20.0%
Total	\$6,386,894	100%	\$8,015,241	100%

Petition Attachment A at 8.

The Company avers that given present enrollment and the forecast of future trends based on the disproportionate number of Large C&I Projects that have been placed on a waitlist, approximately 74% of the proposed budget increase will be dedicated to Large C&I Projects, with 26% dedicated to Small C&I Projects. UGI Electric proposes to cap spending for Small C&I Projects for PY11-PY12 at \$425,000, which is the maximum amount that the Company can collect from Small C&I ratepayers during this two-year period. UGI Electric explains that this \$425,000 cap includes the program costs related to marketing, administration, and customer incentives for Small C&I Projects, but does not include UGI Electric’s internal EE&C staff expenses. Petition at 6.

UGI Electric explains that as a result of customer participation exceeding projected levels, the C&I Custom Incentive Program budget would be depleted by January 31, 2022. Beginning in September 2021, UGI Electric accepted only waitlist customer applications for proposed C&I Projects. UGI Electric notes that there is approximately \$500,000 of forecasted spending associated with the customer projects on the waitlist. Petition at 6-7.

As noted above, the overall EE&C Plan budget increased to \$8,015,241 as a result of the increase to the C&I program budget. UGI Electric provides the updated Total Resource Cost - Benefit/Cost Ratio (B/C ratio) for the proposed new C&I budget at 2.40 and the overall EE&C Plan B/C Ratio is 1.97.<sup>3</sup> Petition Attachment A at 8.

UGI Electric avers that its proposed change to the C&I Custom Incentive Program's budget and the overall EE&C Plan's budget should be approved because it will enable the C&I Custom Incentive Program to continue operating through the entirety of the Phase II EE&C Plan (through May 31, 2024). Petition at 7.

According to UGI Electric, without approval of the proposed budget increase, the C&I Custom Incentive Program will shut down well before the end of Phase III or May 31, 2024. UGI Electric contends that an early end to the program would have detrimental effects on business customers' efforts to implement EE&C measures in the Company's service territory, especially when they have shown a strong willingness to participate in the C&I Custom Incentive Program. Petition at 7-8.

Additionally, UGI Electric argues that a program shut-down would negatively affect the Company's program vendors and trade allies. UGI Electric explains that current vendors may lose their contracts, and trade allies that use the program to facilitate the installation of higher-efficiency equipment would be required to alter their sales model. UGI Electric explains further that a long shut-down could negatively impact future programs, as market perceptions that the program has run out of money may linger

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<sup>3</sup> The B/C ratio is the ratio of the discounted total benefits of the program to the discounted total costs over some specific time period. The B/C gives an indication of the rate of return of this program to the utility and its ratepayers. A B/C ratio above one indicates that the program is beneficial to the utility and its ratepayers on a total resource cost basis. *Implementation Order* at 16.

even after funding is restored, which would likely diminish future customer participation. Petition at 8.

UGI Electric maintains that the Commission itself has repeatedly noted that allowing EE&C programs to “go dark” before the end of an EE&C Phase is not a preferred outcome, particularly when additional savings can be achieved. Petition at 8 (citing *Phase III Implementation Order* at 83 (“We believed that this approach will encourage EDCs to continue the full implementation of programs and not allow programs to ‘go dark,’ without reaching a scenario where target attainment is achieved solely through multiple phase carryover savings.”); *Phase IV Implementation Order* at 44 (stating the same)).

Finally, UGI Electric states that by approving this proposed change to the C&I Custom Incentive Program’s budget and the overall EE&C Plan’s budget, UGI Electric will be equipped to manage and foster the increased level of participation in the C&I Custom Incentive Program by continuing to offer incentives consistent with the Phase III EE&C Plan. UGI Electric provides that the proposed change would not alter the funding for any of its other Phase III EE&C programs. According to UGI Electric, the fully funded program will be able to better achieve the EE&C goals outlined in the EE&C Plan and help customers reduce their electric consumption and demand. Petition at 8-9.

### **C. Disposition**

Upon our consideration of UGI Electric’s proposal, we will approve UGI Electric’s request, including: (1) the proposed change to the C&I Custom Incentive Program budget; and (2) the associated increase to the overall EE&C Phase III Plan budget. We note that in its Petition, UGI Electric avers that it consulted with the OCA and the OSBA prior to filing its Petition and they authorized UGI Electric to represent

that they do not oppose the requested changes. We further note that no comments were filed pertaining to the Petition.

The increase in budget for the C&I Custom Incentive Program from \$1,871,100 to \$3,499,447 appears to be reasonable, both because of its potential energy savings and cost-benefit ratio. UGI Electric expects the program to achieve electricity consumption savings of approximately 20,250 MWh with a TRC B/C ratio of 2.40. We agree with the Company that the change will allow UGI Electric to continue to allow participation in a program that is in demand. Rather than shutting down the program, additional funding will allow UGI Electric to clear its waitlist for the program and offer the program to additional participants. UGI Electric expects the program to have a projected participation of 225 projects. With the additional funding, this is an increase of approximately 36 participating projects. Petition Attachment A at 39-41. We also note that the overall budget for the EE&C Phase III Plan remains less than 2% of annual revenues for the 12-month period ended May 31, 2008.<sup>4</sup> Petition Attachment A at 3. Accordingly, we shall approve UGI Electric's proposed major change regarding the C&I Custom Incentive Program in its Phase III EE&C Plan.

### **III. Conclusion**

Consistent with the foregoing discussion, and in view of the OCA's and the OSBA's accord with the proposed change, we shall grant UGI Electric's proposed

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<sup>4</sup> Act 129 dictates that the total cost of any plan must not exceed two percent of the EDC's total annual revenue as of December 31, 2006, excluding LIURP, established under 52 Pa. Code § 58 (relating to residential Low Income Usage Reduction Programs). 66 Pa. C.S. § 2806.1(g). As UGI Electric's EE&C Plan is voluntary and the cost limit from Act 129 is not applicable, the use of a 12-month period ending May 31, 2008, was approved in UGI Electric's Phase I EE&C Plan and carried forward to subsequent plans. *Petition of UGI Utilities, Inc.- Electric Division for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2010-2210316 at 38-39 (Order entered October 19, 2011).

change to its Phase III EE&C Plan, consistent with this Opinion and Order;  
**THEREFORE,**

**IT IS ORDERED:**

1. That the Petition of UGI Utilities, Inc. – Electric Division for Approval of a Modification to its Phase III Energy Efficiency and Conservation Plan filed on February 22, 2022, is granted, consistent with this Opinion and Order.

2. That the following proposed change within the UGI Utilities, Inc. – Electric Division’s Petition is approved:

Proposed Major Change – Increase the Direct Utility Costs budget for the C&I Custom Incentive Program from \$1,871,100 to \$3,499,447, which is an increase of \$1,628,347. The overall budget for the Phase III EE&C Plan is therefore increased by the same amount.

**BY THE COMMISSION,**



Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: June 16, 2022

ORDER ENTERED: June 16, 2022