

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2022-3032242
Office of Consumer Advocate	:	C-2022-3032385
Office of Small Business Advocate	:	C-2022-3032539
	:	
v.	:	
	:	
UGI Utilities, Inc. – Gas Division	:	
1307(f) Proceeding	:	

RECOMMENDED DECISION

Before
Dennis J. Buckley
Administrative Law Judge

INTRODUCTION

This Decision recommends that the Pennsylvania Public Utility Commission (Commission) adopt, without modification, the Joint Settlement filed by UGI Utilities, Inc. - Gas Division (UGI or Company), the Commission’s Bureau of Investigation and Enforcement (I&E), the Office of Consumer Advocate (OCA), and the Office of Small Business Advocate (OSBA) (collectively the Joint Petitioners), which resolves all of the issues of the Section 1307(f) rate investigation in the above-captioned proceeding reflecting actual and projected changes in natural gas purchased gas costs (PGC) rate of \$8.0136/Mcf.¹ For the reasons stated, below, the Joint Settlement is reasonable and in the public interest and is in conformity with the requirements of the Public Utility Code. The statutory deadline in this case is December 1, 2022.

¹ In its definitive filing on June 2, 2022, UGI proposed a PGC rate of \$8.0136 per Mcf effective December 1, 2022. The filing provides for a PGC rate increase of \$0.9848 per Mcf, or a 15.69% increase, from the PGC rate that took effect December 1, 2021. The calculated PGC rate of \$8.0136 per Mcf, effective December 1, 2022, is an increase of \$0.7521 per Mcf, or a 10.36% increase, from the current PGC rate. This is the same rate that was ultimately agreed to, without change, by the parties.

HISTORY OF THE PROCEEDING

On April 29, 2022, the Company made its 30-day pre-filing (Book 1) with the Commission containing data related to the recovery of PGC pursuant to Section 1307(f) of the Public Utility Code, 66 Pa.C.S. § 1307(f), and in accordance with the Commission's regulations at 52 Pa. Code §§ 53.64 and 53.65.

On May 6, 2022, OCA filed a Notice of Appearance, Formal Complaint (C-2022-3032385), and Public Statement in the Company's PGC proceeding.

On May 19, 2022, the OSBA filed a Notice of Appearance, Formal Complaint (C-2022-3032539), Public Statement, and Verification in this proceeding.

On May 24, 2022, I&E filed a Notice of Appearance.

On June 1, 2022, the Company filed with the Commission its definitive PGC filing (Book 2), including supporting information required by the Commission's regulations, the Company's direct testimony and exhibits, and the Pro Forma Tariff Supplements reflecting actual and projected changes in natural gas costs arriving at a PGC rate of \$8.0136/Mcf.

On June 9, 2022, a telephonic prehearing conference was held, at which time a procedural schedule was adopted.

On June 13, 2022, an Order was issued consolidating the proceedings at Docket Nos. R-2022-3032242, C-2022-3032385, and C-2022-3032539, for litigation and resolution.

On July 7, 2022, a hearing Notice was issued setting July 25, 2022, as the date for an evidentiary hearing in this matter.

On July 18, 2022, counsel for the Company advised the presiding officer of a settlement in principle and requested that the evidentiary hearing scheduled for July 25, 2022, be

canceled as the Joint Petitioners would submit their evidence by stipulation. Accordingly, the evidentiary hearing was cancelled.

On August 9, 2022, the Joint Petitioners filed a Joint Stipulation for Admission of Evidence, with accompanying signed verifications of the sponsoring witnesses, to admit the testimony and exhibits into the record. Also on that date, UGI filed an unopposed Motion for a Protective Order, which was granted.

On August 12, 2021, the Parties submitted a Joint Petition for Settlement which includes the terms of the Joint Settlement, itself. Also accompanying the Joint Settlement were the Supporting Statements of the Parties, attached as individual exhibits.

On August 30, 2022, an Order was issued granting a Motion submitted by the parties for the admission of verified documents to the record in this matter pursuant to a Stipulation agreed to by the parties. The record in this case closed with the issuance of that Order.

The statutory deadline in this case is December 1, 2022.² For the reasons set forth below, the Joint Settlement is fair, reasonable and in the public interest; therefore, it is recommended that the Commission adopt the Joint Settlement without modification.

JOINT SETTLEMENT

In this case, UGI, OSBA, OCA and I&E have reached a Settlement (the Settlement or Joint Settlement). The Settlement includes Statements in Support of the Settlement filed by UGI, OSBA, OCA and I&E. Commission policy promotes settlements. 52 Pa. Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative hearing resources. The Commission has indicated that

² In order to meet the statutory deadline in this case, the Commission must act on this matter by the November 10, 2022, Public Meeting.

settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401.

In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Order entered October 4, 2004) (*York Water*); *Pa. Pub. Util. Comm'n v. CS Water & Sewer Assocs.*, 74 Pa. PUC 767 (1991). Furthermore, the decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1961); and *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

The purpose of this Recommended Decision is to determine whether the Joint Settlement resolving all contested issues is: in the public interest, satisfies applicable statutes and regulations, and is supported by substantial evidence.

TERMS OF SETTLEMENT

The parties have presented a comprehensive Joint Settlement. For ease of reference, I have retained the presentation and paragraph numbering of the original Settlement document. The terms of the Joint Settlement are, *in verbatim*, as follows:

A. DESIGN DAY

13. The Joint Petitioners agree that UGI Gas will be permitted to use a design day figure of 2.282 BCF, which includes 2.225 BCF of design cold firm requirements and 0.057 BCF of capacity reserves for the Company's firm core market (PGC and Choice Customer markets) needs, as discussed in the direct testimony of Jesse R. Tyahla, page 11, lines 8-10.

B. PEAK DAY CAPACITY SUPPLY ADDITIONS

14. The Joint Petitioners agree that in order to address its total peak day capacity supply shortfall needs, UGI Gas will accept two winning bids from UGI Energy Services (“UGIES”) for a combined volume of 9,468 dth/day for two years as recommended on page 19 of the direct testimony of Jesse R. Tyahla. The first accepted bid will provide 8,700 dth/day of delivered supply on Columbia Pipeline and Sunbury Pipeline. The second accepted bid will provide 768 dth/day of peaking supply with delivery on Texas Eastern Pipeline.

C. HEDGING POLICY

15. The Joint Petitioners agree that UGI Gas will hire a consultant to evaluate the performance of its hedging plan in order to identify areas where it may further mitigate customer exposure to significant market volatility. UGI Gas will provide the results of its analysis and any proposed modifications to its hedging plan in its 2023 PGC proceeding. The costs for hiring the consultant will be recovered through the PGC and will be capped at \$80,000.00.

D. CERTIFIED GAS PILOT

16. As part of a Certified Gas Pilot Program, the Joint Petitioners agree that UGI Gas can execute the purchase described on page 24 of the direct testimony of Jesse R. Tyahla for 1,200 dth per day of certified natural gas from November 2022 through March 2023 at the Tennessee Station 313 receipt point for its PGC portfolio and recover the cost of the transaction from PGC customers. The certified natural gas transaction constitutes less than 0.5% of the Company’s total gas supply portfolio. UGI Gas will report the monthly cost of the certified natural gas in its 2023 PGC proceeding.

17. The Parties reserve their respective rights to challenge any certified gas proposals in future proceedings.

E. INTEREST CORRECTION

18. The Joint Petitioners agree that UGI Gas will make a \$259,061 accounting adjustment to correct the erroneous interest caused by the booking error described in the direct testimony of Kimberly M. Bassininsky, page 9, lines 1-3, the rebuttal testimony of Ms. Bassininsky, pages 1-5, and in the response to OCA-II-1. The adjustment will be made effective December 1, 2022, in order to accurately reflect interest due to PGC customers pursuant to a correct calculation of costs pursuant to Section 1307(f)(5).

F. PEAKING CONTRACT RFP MODIFICATIONS

19. The Joint Petitioners agree that UGI Gas will continue the three-year pilot regarding the format of its peaking contract RFPs as stated in paragraph #24 of the 2021 Joint Petition for Settlement of Section 1307(f) Rate Investigation at Docket No. R-2021-3025652.

III. STANDARDS AND FINDINGS

20. This proceeding involves Commission review pursuant to Sections 1307 and 1318 of the Public Utility Code. Under Section 1307(f), the Commission, after hearing, must determine what portion of the gas costs UGI Gas may recover for a previous 12-month period under the standards set forth in Section 1318. In addition, the Commission must determine whether the requirements of Section 1318 can be met. This determination must precede Commission approval of the Company's proposed rates. The historic period reviewed in this proceeding is the 12-month reconciliation period ending March 31, 2022. The proposed rates are intended to become effective December 1, 2022.

A. HISTORIC RECONCILIATION PERIOD STANDARDS

21. With respect to UGI Gas's gas purchases and gas purchasing practices during the 12-month historic reconciliation period ending March 31, 2022, the Joint Petitioners agree that UGI Gas has met the standards set forth in Section 1318 of the Public Utility Code, as required by

Section 1307(f)(5) of the Public Utility Code. As a result, the Joint Petitioners request that the Commission find, pursuant to Section 1307(f)(5) of the Public Utility Code, and based upon the evidence presented by the Joint Petitioners in this case, that during the 12-month period ended March 31, 2022, UGI Gas has pursued a least-cost fuel procurement policy, consistent with its obligation to provide safe, adequate and reliable service to its customers, as required by Section 1318 of the Public Utility Code. Information submitted by UGI Gas in support of the required statutory findings can be found in the following sections of UGI Gas Exhibit 1 and UGI Gas Exhibit 2:

- a) FERC Participation (66 Pa. C.S. §§ 1317(a)(1), 1318(a)(1); 52 Pa. Code § 53.64(c)(4)): UGI Gas Exhibit 1, Section 3.
- b) Supplier Negotiations/Renegotiations (66 Pa. C.S. §§ 1317(a)(2), 1318(a)(2); 52 Pa. Code §§ 53.64(c)(3), (c)(6)): UGI Gas Exhibit 1, Sections 1, 2 and 5.
- c) Efforts to Obtain Lower Cost Supplies (66 Pa. C.S. §§ 1317(a)(3), 1318(a)(3); 52 Pa. Code §§ 53.64(c)(1), (c)(3), (c)(6)): UGI Gas Exhibit 1, Sections 1, 2, and 5.
- d) Withheld Supplies (66 Pa. C.S. §§ 1317(a)(4), 1318(a)(4); 52 Pa. Code § 53.64(c)(6)): UGI Gas Exhibit 1, Section 5.
- e) Affiliated Purchases (66 Pa. C.S. §§ 1317(b), 1318(b); 52 Pa. Code § 53.65): UGI Gas Exhibit 1, Section 13.
- f) Least Cost Fuel Procurement Policy (66 Pa. C.S. §§ 1317(a), 1318(a); 52 Pa. Code §§ 53.64(c)(1), (c)(3), (c)(6)): UGI Gas Exhibit 1, Sections 1, 2 and 5.

- g) Calculation of 2021 PGC Rates:
- i) June 1, 2022, Filing, Schedule A – Computation of Purchased Gas Cost Rate effective December 1, 2022;
 - ii) June 1, 2022, Filing, Schedule B (page 1) – Development of Projected Cost of Gas (C-factor);
 - iii) June 1, 2022, Filing, Schedule B (pages 2-13) – Projected Supply Volumes, Rates, Costs April 2022 through November 2022;
 - iv) June 1, 2022, Filing, Schedule C – Development of Experienced Cost of Gas (E-factor);
 - v) June 1, 2022, Filing, UGI Gas Statement No. 1, Written Direct Testimony of Kimberly A. Bassininsky, Senior Analyst – Rates.
- h) Reliability (66 Pa. C.S. §1317(c)): UGI Gas Exhibit 1, Section 14, and June 1, 2022, Filing, UGI Gas Statement No. 2, Written Direct Testimony of Jesse R. Tyahla, Director – Energy Supply and Planning.

B. PROJECTED PERIOD FINDINGS

22. With respect to the 12-month period beginning December 1, 2022, the period of time during which the proposed rates would be in effect, the Joint Petitioners agree and request the Commission find that UGI Gas has satisfied each of the standards for a least cost procurement policy set forth in Section 1318 of the Public Utility Code, including the standards set forth in Sections 1318(a)(1), 1318(a)(2), 1318(a)(3), 1318(a)(4), 1318(b)(1), 1318(b)(2), and 1318(b)(3), based upon the evidence of record in this proceeding. Nevertheless, it is expressly understood and agreed that such findings, relating to the rates to become effective December 1, 2022, are made solely for the purpose of setting prospective rates and shall be subject to further review in an appropriate future proceeding. This Section of the Settlement, Section III.B, is not intended to limit or prevent any party from challenging projected gas purchases that actually have been made, including those made during the interim period of April 1, 2022 through November 30, 2022 and future gas purchasing practices that have been implemented, or from reviewing whether these gas

purchases and gas purchasing practices have, in fact, complied with the standards of Section 1318, except as provided in Section II above.

23. If in an appropriate future proceeding gas purchases and gas purchasing practices relating to the period December 1, 2022 through November 30, 2023 are challenged, the Commission's findings made pursuant to Section III.B of this Settlement shall pose no bar to the examination of such purchases and practices including, but not limited to, disallowance of or reductions to, such costs during the one-year period commencing December 1, 2022, except as provided in Section II above.

24. The Joint Petitioners also agree that future examination of the gas costs relating to the period April 1, 2022 through November 30, 2022, to determine whether UGI Gas's experienced and projected gas purchases and gas purchasing practices complied with the standards set forth in Section 1318 of the Public Utility Code, 66 Pa. C.S. § 1318, shall be permitted and that the Commission's adoption of the findings under Section III.B of this Settlement shall not be construed to limit or prevent any disallowance or reduction of such costs, except as provided in Section II above.

IV. GENERAL PROVISIONS

25. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification, addition or deletion. If the Commission modifies the Settlement or fails to approve, by December 1, 2022, the terms and conditions of this Settlement, then any of the Joint Petitioners may elect to withdraw from this Settlement and may proceed with litigation. In such event, this Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all Joint Petitioners within five (5) business days after the entry of an order modifying or disapproving the Settlement.

26. If the Commission modifies or does not approve this Settlement and the proceeding continues to hearing on the issues that are the subjects of this Settlement, the Joint Petitioners

reserve their respective rights to present additional testimony and to conduct full cross-examination, briefing and argument on these subjects.

27. If the ALJ approves this Settlement without modification, the Joint Petitioners waive their rights to file exceptions.

28. Except as otherwise specifically provided in this Settlement, this Settlement is proposed by the Joint Petitioners to settle all issues in the instant proceeding and is made without any admission against, or prejudice to: (1) any position that any party may adopt during any subsequent litigation of this proceeding if the Commission disapproves or modifies this Settlement; or (2) any position that any party may adopt in any other proceeding.

29. It is understood and agreed among the Joint Petitioners that this Settlement is the result of compromises by all Joint Petitioners and does not necessarily represent the position(s) that would be advanced by any party in the event this proceeding were to be litigated fully.

30. This Settlement is being presented only in the context of this Section 1307(f) proceeding in an effort to resolve certain outstanding issues in a manner that is fair and reasonable. Except as otherwise specifically provided in this Settlement, the Settlement reflects compromises on all sides and is presented without prejudice to any position that any of the Joint Petitioners may have advanced and without prejudice to the positions that any of the Joint Petitioners may advance in the future on the merits of the issues.

31. The Joint Petitioners acknowledge and agree that this Settlement shall have the same force and effect as if the Joint Petitioners had fully litigated this proceeding with regard to the historic period that ended on March 31, 2022.

Joint Petition for Settlement at 3-10.

DISCUSSION

Legal Standard

UGI's filing in this case was made pursuant to Section 1307 of the Public Utility Code, 66 Pa.C.S. § 1307. This is an annual filing that all large natural gas distribution companies (NGDCs) make to reconcile their actual costs of natural gas. Section 1307 governs a sliding scale of rates and adjustments. More specifically, Section 1307(f) governs recovery of natural gas costs and allows natural gas distribution companies with gross intrastate annual operating revenues in excess of \$40,000,000 to file tariffs reflecting actual and projected increases or decreases in their natural gas costs, with the tariffs being effective six months from the date of filing. 66 Pa.C.S. § 1307(f)(1). Section 1307 of the Public Utility Code further provides that the Commission, after hearing, determine that the portion of the company's natural gas distribution costs in the previous 12-month period meet the standards set out in Section 1318 of the Public Utility Code. 66 Pa.C.S. § 1307(f)(5). Section 1318 provides that no rates for a natural gas distribution utility shall be deemed just and reasonable unless the Commission finds that the utility is pursuing a least cost fuel procurement policy, consistent with the utility's obligation to provide safe, adequate and reliable service to its customers. 66 Pa.C.S. § 1318(a).

In determining whether UGI is pursuing a least cost fuel procurement policy under Section 1318 of the Code, specific findings in Section 1318(a)(1)-(4) must be made as follows:

- (1) that the utility has fully and vigorously represented its ratepayers' interests before the Federal Energy Regulatory Commission (FERC);
- (2) that the utility has taken all prudent steps necessary to negotiate favorable gas supply contracts and to relieve the utility from terms in existing contracts with its gas suppliers which are or may be adverse to ratepayer interests;
- (3) that the utility has taken all prudent steps necessary to obtain lower cost gas supplies on both short-term and long-term bases both within and outside the Commonwealth, including the use

of gas transportation arrangements with pipelines and other distribution companies; and,

(4) that the utility has not withheld from the market or caused to be withheld from the market any gas supplies which should have been utilized as part of a least cost fuel procurement policy.

66 Pa.C.S. § 1318(a)(1)-(4).

Furthermore, UGI purchases various transportation and storage services from an affiliate, and, therefore, with respect to purchases from affiliates, the Commission is required to make the following specific findings pursuant to Sections 1318(b):

(1) that the utility has fully and vigorously attempted to obtain less costly gas supplies on both short-term and long-term bases from nonaffiliated interests;

(2) that each contract for the purchase of gas from an affiliated interest is consistent with a least cost fuel procurement policy; and,

(3) that neither the utility nor its affiliated interest has withheld from the market any gas supplies which should have been utilized as part of a least cost fuel procurement policy.

66 Pa.C.S. § 1318(b)(1)-(3).

Section 1317 of the Public Utility Code requires the submission of certain information to enable the Commission to make a least cost fuel procurement finding. 66 Pa.C.S. § 1317. The Commission has promulgated regulations pursuant to these statutes that include extensive filing requirements that also govern such filings. *See*, 52 Pa. Code §§ 53.64 (Filing requirements for natural gas distributors with gross intrastate annual operating revenues in excess of \$40 million) and 53.65 (Special provisions relating to natural gas distributors with gross intrastate annual operating revenues in excess of \$40 million with affiliated interests). UGI complied with these requirements in its April 30, 2021, pre-filing.

Public Interest Analysis

As noted above, it is the policy of the Commission to encourage settlements. 52 Pa. Code § 5.231(a). The benchmark for determining the acceptability of a settlement or partial settlement is whether the proposed terms and conditions are in the public interest. *York Water*. This Recommended Decision will examine whether the Joint Settlement is in the public interest, satisfies applicable statutes and regulations for 1307(f) filings and is supported by substantial evidence, and therefore should be adopted. In this case, the Settlement itself does not contain any detailed discussion of whether it is in the public interest. Rather, the Parties have relied upon their respective Statements in Support of the Settlement to demonstrate that the Settlement is in the public interest and should be approved.

UGI's Statement in Support

UGI submitted a Statement in support of the Joint Settlement.

In its Statement in Support, UGI confirmed that no party challenged UGI's design day needs as identified by the Company. In the proposed Settlement, the Joint Petitioners agreed to adopt the Company's projected design day figure as identified in the Company's direct testimony. Settlement ¶ 13; UGI Supporting Statement at 2.

UGI contends that the projected design day figure is in the public interest:

Adopting UGI Gas's projected design day figure, which was unopposed by the parties to this proceeding, is in the public interest because it provides the Company with the capacity needed to respond to the needs of its core market customers on peak winter days in accordance with its obligations as the supplier of last resort. The design day figure agreed to by the Joint Petitioners is necessary for UGI Gas to ensure continuous, reliable service under design day conditions. (UGI Gas St. 2, pp. 6, 11-12). The Company's projected design day figure also accounts for the experienced growth of UGI Gas's core market customers, which UGI Gas anticipates will continue. If the Company did not include this expected customer growth, it

would put the Company at risk of underestimating peak day demand. (UGI Gas St. 2, p. 12). Therefore, this Settlement term is in the public interest and should be approved.

UGI Supporting Statement at 2-3.

UGI identified a capacity shortfall for the upcoming winter. UGI Gas St. 2, p. 13. In order to address the shortfall, UGI issued a Request for Proposals (RFP). UGI Gas St. 2, p. 19. UGI requested approval for two winning bids from UGI Energy Services (UGIES). After evaluating the bids received, UGI determined that the two UGIES bids provided the best solution to its immediate capacity needs at the least cost to customers. One of the two bids provides UGI Gas with a delivered supply offer for 8,700 Dth per day on Columbia Pipeline and Sunbury Pipeline. The other approval requested is for a partial award of a peaking offer on Texas Eastern Pipeline, with the awarded component being 768 Dth per day of delivery. UGI Gas St. 2, p. 19; UGI Supporting Statement at 3.

No party challenged the need for additional peak day capacity for the upcoming winter, nor did they challenge UGI Gas's request to include the winning bids in its supply portfolio. Settlement at ¶ 14. UGI stated in its statement in support that it is in the public interest for UGI Gas to include the proposed capacity in its supply portfolio because the capacity is needed to satisfy the projected shortfall for the 2022-2023 winter. The requested additions to UGI Gas's supply portfolio will enable UGI Gas to continue providing reliable and continuous service through the 2022-2023 winter by addressing the projected capacity shortfall, and, therefore, the Settlement term is in the public interest and should be approved.

UGI states that the current natural gas market impacting UGI Gas has become increasingly volatile since Fall 2021, and market conditions specific to commodity prices for natural gas have significantly impacted UGI Gas's procurement of supply. UGI St. 2, pp. 6-7. In the Settlement, the Joint Petitioners agreed that UGI Gas will hire a consultant to evaluate the performance of its hedging plan in order to identify areas where it may further mitigate customer exposure to significant market volatility.³ UGI Gas will provide the results of its analysis and

³ The Settlement provides that the costs for hiring the consultant will be recovered through the PGC and will be capped at \$80,000.00. Settlement ¶ 15.

any proposed modifications to its hedging plan in its 2023 PGC proceeding. Settlement ¶ 15. The review of UGI Gas's hedging program is beneficial for PGC customers and is in the public interest. No comprehensive review of the Company's hedging program has occurred for more than a decade. UGI St. 2, p. 12; UGI Statement in Support at 4-5.

UGI stated in its statement in support that the settlement is in the public interest because parties engaged in comprehensive settlement discussions regarding the certified gas proposal. The proposed Settlement reflects a compromise of the Joint Petitioners' positions. The proposed Settlement adopts the Company's certified gas proposal but does so in the context of a pilot program with certain reporting requirements. The proposed Settlement expressly states that the parties reserve their respective rights to challenge any certified gas proposals in future proceedings. Settlement ¶ 17; UGI Statement in Support at 7. UGI's certified gas proposal, as modified by the Settlement, is in the public interest and should be approved because it provides a critical opportunity to reduce emissions with no additional cost to the customer. Approval of the certified natural gas transactions, as modified by the Settlement, strikes an appropriate balance between environmental prudence, customer price impacts, and gas supply requirements consistent with the Company's least-cost gas supply obligations. UGI Gas St. 2-R, p. 9; UGI Statement in Support at 8.

UGI candidly stated that it inadvertently booked \$7.7 million in demand charges in November 2021 that were subsequently corrected and removed in December 2021. UGI Gas St. No. 1-R, p. 1. UGI has, therefore, proposed to make a \$259,061 accounting adjustment as part of the Company's December 1, 2022 PGC Compliance Filing that corrects for the understated interest amount due from PGC customers. UGI Gas St. 1-R, p. 4. UGI explains this in its Supporting Statement:

[A]s a result of the accounting error and the impact of the interest weighting applied to PGC under and overcollections, the interest calculation impact to PGC customers for November 2021 was overstated by \$146,426 and understated by \$405,486 for December 2021, which results in an overall net understatement of interest expense due from PGC customers of \$259,061. (UGI Gas St. No. 1-R, pp. 1-2). To correct this error, UGI Gas proposed to make a \$259,061 accounting adjustment as part of

the Company's December 1, 2022 PGC Compliance Filing that corrects for the understated interest amount due from PGC customers. (UGI Gas St. 1-R, p. 4). The Settlement provides that UGI Gas will make the \$259,061 accounting adjustment to correct the erroneous interest caused by the booking error as described by UGI Gas witness Bassininsky. The adjustment will be reflected in the Company's compliance filing made on December 1, 2022, in order to accurately reflect interest due from PGC customers related to this correction. (Settlement ¶ 18).

UGI Statement in Support at 8-9.

UGI maintains that this Settlement term is in the public interest and should be approved because the correction is necessary to accurately reflect the correct amount of interest that was due from PGC customers as provided for in Section 1307(f)(5) of the Public Utility Code. UGI Statement in Support at 9.

UGI stated in its statement in support that the settlement is in the public interest because the Joint Petitioners agreed that UGI will continue the three-year pilot regarding the format of its peaking contract RFPs as stated in Paragraph 24 of the 2021 *Joint Petition for Settlement of Section 1307(f) Rate Investigation* at Docket No. R-2021-3025652. Settlement ¶ 19.

In UGI's 2021 PGC case, the parties to the Settlement agreed that the Company would conduct a three-year pilot regarding the format of its peaking contract RFPs and provide an evaluation of the pilot in the Company's 2025 PGC proceeding. UGI states that it has complied with its settlement obligations by requiring prospective bidders of RFPs to submit bids that included payment terms for November through March and from December through March. UGI Gas St. 2, p. 18; UGI Statement in Support at 9. UGI maintains that the three-year pilot regarding the format of peaking contract RFPs is in the public interest because it will provide the Company with an opportunity to fully evaluate and compare the pricing impacts of excluding and including November payment terms for these contracts.⁴ UGI Statement in Support at 9-10.

⁴ The terms of Paragraph 19 of the Settlement for this PGC proceeding continues UGI Gas's obligation from the prior 2021 settlement.

UGI asserts that the parties' commitment to maintaining the prior settlement obligations helps ensure that parties can continue negotiating settlements in good faith in the future. UGI Statement in Support at 10.

UGI concludes that based on the foregoing reasons and agreements, the Settlement is in the public interest and should be approved. UGI Statement in Support at 10.

The Bureau of Investigation and Enforcement's Statement in Support

The Bureau of Investigation and Enforcement submitted a Statement in Support of the Settlement. The Statement is reflective of the fact that the public advocates, including I&E, fully analyzed the Company's filing, including all testimony and exhibits. I&E supports the proposed Joint Settlement as a full and fair compromise that provides regulatory certainty and a resolution of this issue; all of which facilitates the Commission's stated preference favoring negotiated settlements as in the public interest. I&E believes these agreed upon Settlement terms reflect an amicable agreement among the parties.

I note that with respect to what might have been a contentious matter, that is, UGI's proposed \$259,061 accounting adjustment to correct the erroneous interest caused by the booking error, I&E closely reviewed the issue and supports the proposed resolution. I&E Statement in Support at 10.

I&E submits that the terms and conditions of the Joint Settlement are in the public interest and represent a fair, just, and reasonable balance of the interests of the parties in the above-captioned proceeding and UGI Gas customers and asks that the proposed Joint Settlement be approved without modification. I&E Statement in Support at 14.

Office of the Consumer Advocate's Statement in Support

The OCA filed a Statement in Support of the proposed Joint Settlement. The OCA states that the proposed Joint Settlement is in the public interest.

The OCA notes that the filing provides for a PGC rate increase of \$0.9848 per Mcf, or a 15.69% increase, from the PGC rate that took effect December 1, 2021. The calculated PGC rate of \$8.0136 per Mcf, effective December 1, 2022, is an increase of \$0.7521 per Mcf, or a 10.36% increase, from the current PGC rate. The calculated PGC rate of \$8.0136 per Mcf has been accepted in the proposed Joint Settlement as filed. OCA Statement in Support at 1-2.

With respect to hedging policy, the OCA stated the following:

[t]he current gas market has produced substantial increases in the commodity portion of residential bills. In addition to increased pricing, the OCA has observed increased swings in PGC rates across the Commonwealth. For example, 20% swings in PGC rates when gas is selling in the three-to-four-dollar range is sixty to eighty cents. Those same gas price swings, however, become exacerbated when gas is selling in the eight-to-nine-dollar range, as it is in the current market, producing nearly two dollar swings in gas. The OCA expressed concerns in testimony regarding this volatility in natural gas commodity prices and the impact of such price swings on customers.

OCA Statement in Support at 3.

The OCA recommended (and UGI accepted) UGI's retention of a consultant to evaluate the performance of its hedging plan to identify areas where it can further mitigate customer exposure to significant market volatility, and it will provide the results of its analysis and any proposed modifications to its hedging plan in its 2023 PGC proceeding. Settlement ¶ 15. The costs for hiring the consultant will be recovered through the PGC and will be capped at \$80,000.00. *Id.*; OCA Statement in Support at 3.

The OCA acknowledged that the proposed Joint Settlement includes five other provisions that the OCA did not address in testimony: design day, peak day capacity supply additions, the Certified Gas Pilot Program, peaking contract RFP modifications, and an accounting adjustment made to correct erroneous interest caused by a Company booking error. The OCA states that it reviewed these issues in the proceeding, both in testimony and discovery,

and submits that these provisions reasonably resolve the concerns of the parties and are reasonable. OCA Statement in Support at 4.

Office of Small Advocate Non-opposition

On August 12, 2022, the OSBA filed a Letter of Non-Opposition to the Joint Settlement.

CONCLUSION

First, the parties should be commended for their efforts to resolve this case through settlement rather than litigation. I also thank the parties for their well-drafted Statements in Support of the Joint Settlement.

Second, the Joint Petition for Settlement of Rate Investigation Pursuant to 66 Pa.C.S. § 1307 filed on August 25, 2021, by UGI, I&E, OSBA and OCA, is in the public interest, consistent with the Commission standard for approving settlements and consistent with applicable law and regulations governing such filings. No opposition was received in response to the Settlement. Furthermore, the Joint Motion of the Parties for Admission of Evidence has been granted by a separate Order and the parties were directed to provide the Secretary's Bureau with these documents consistent with the Secretary's efilings requirements. As a result, the Settlement is also supported by substantial evidence of record.

This Settlement is also in the public interest because it will conserve the resources of the Commission and the parties. Commission policy promotes settlements. 52 Pa. Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative hearing resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401. This Settlement will relieve the necessity for the Parties to submit additional pre-served testimony, participate in hearings, file post-hearing briefs, prepare any Exceptions or Reply Exceptions to a Recommended Decision or undertake any appellate

activities following issuance of the Commission’s decision, if necessary. The costs of such activities are ultimately borne by UGI’s customers and will be avoided through the filing of the Settlement. Avoiding further litigation will serve judicial efficiency and allow the parties and the Commission to conserve costly resources.

Each of the provisions of the Settlement is reasonable and in sum support adopting the Settlement, without modification, as being in the public interest and consistent with applicable statutes governing 66 P.C.S. § 1307(f) filings. The Settlement addresses the areas of concern that were raised by the intervening Parties in this proceeding, and as stated, above, the Settlement is supported by substantial evidence of record.

On its face, the resolution of each issue appears to be reasonable. This, however, is also borne out by the discussions contained in the Statements of Support filed by each of the Parties which reflect the concerns and compromises reached in crafting the Joint Settlement. Obviously, these issues (which were, for the most part, also the subject of testimony) were discussed among the parties, and unlike the usual “black box” settlement offered in a rate case, we can see the relative positions of the parties and the steps taken to address and to accommodate their concerns. The interests of both the Company and the public advocates have been addressed and resolved in the Joint Settlement.

Therefore, I recommend that the Commission find that the proposed Joint Settlement constitutes a fair, just and reasonable resolution of the Commission’s investigation, is in the public interest and should be adopted without modification by the Commission. It is further recommended that the associated formal Complaints filed by the OCA at Docket No. C-2022-3032385 and the OSBA at Docket No. C-2022-3032539 be dismissed as satisfied.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. §§ 501, 1301, 1307(f), 1317 and 1318.

2. Commission policy promotes settlements. 52 Pa. Code § 5.231.

3. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative hearing resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401.

4. In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Order entered October 4, 2004); *Pa. Pub. Util. Comm'n v. CS Water & Sewer Assocs.*, 74 Pa. PUC 767 (1991).

5. The decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704.

6. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1961); and *Murphy v. Pa. Dept. of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

7. UGI Utilities, Inc. – Gas Division is pursuing a least cost fuel procurement policy during the relevant time period consistent with its obligation to provide safe, adequate and reliable service to its customers in compliance with Section 1318 of the Public Utility Code. 66 Pa.C.S. § 1318.

8. UGI Utilities, Inc. – Gas Division's rates for purchased gas costs, as the parties have agreed upon in this proceeding, during the relevant time period are just and reasonable and in compliance with Section 1318 of the Public Utility Code. 66 Pa.C.S. § 1318.

9. UGI Utilities, Inc. – Gas Division has fully and vigorously represented the interests of its ratepayers in proceedings before the Federal Energy Regulatory Commission during the relevant time period in compliance with Section 1318(a)(1) of the Public Utility Code. 66 Pa.C.S. § 1318(a)(1).

10. UGI Utilities, Inc. – Gas Division has taken all prudent steps necessary to negotiate favorable gas supply contracts and to relieve itself from terms in existing contracts with its gas suppliers, which are or may be adverse to the interests of its ratepayers, during the relevant time period in compliance with Section 1318(a)(2) of the Public Utility Code. 66 Pa.C.S. § 1318(a)(2).

11. UGI Utilities, Inc. – Gas Division has taken all prudent steps necessary during the relevant time period to obtain lower cost gas supplies on both short-term and long-term bases both within and outside the Commonwealth, including the use of gas transportation arrangements with pipelines and other distribution companies in compliance with Section 1318(a)(3) of the Public Utility Code. 66 Pa.C.S. § 1318(a)(3).

12. UGI Utilities, Inc. – Gas Division has not withheld from the market or caused to be withheld from the market during the relevant time period any gas supplies, which should have been used as part of a least cost fuel procurement policy in compliance with Section 1318(a)(4) of the Public Utility Code. 66 Pa.C.S. § 1318(a)(4).

13. UGI Utilities, Inc. – Gas Division has fully and vigorously attempted to obtain less costly gas supplies on both short-term and long-term bases from nonaffiliated interests during the relevant time period in compliance with Section 1318(b)(1) of the Public Utility Code. 66 Pa.C.S. § 1318(b)(1).

14. UGI Utilities, Inc. – Gas Division’s contracts, if any, for the purchase of gas from any affiliated interest during the relevant time period are consistent with a least cost fuel procurement policy in compliance with Section 1318(b)(2) of the Public Utility Code. 66 Pa.C.S. § 1318(b)(2).

15. Neither UGI Utilities, Inc. – Gas Division, nor any affiliated interest, during the relevant time period has withheld from the market any gas supplies, which should have been used as part of a least cost fuel procurement policy in compliance with Section 1318(b)(3) of the Public Utility Code. 66 Pa. C.S. § 1318(b)(3).

16. The Commission should approve, without modification, the Joint Petition for Settlement of the Rate Investigation Pursuant to 66 Pa.C.S. § 1307(f) that UGI Utilities, Inc., the OCA, the OSBA and the I&E have submitted at this docket as in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Order entered October 4, 2004); *Pa. Pub. Util. Comm'n v. CS Water & Sewer Assocs.*, 74 Pa. PUC 767 (1991).

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Settlement of the Rate Investigation Pursuant to 66 Pa.C.S. §1307(f) submitted by UGI Utilities, Inc. – Gas Division, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Bureau of Investigation and Enforcement at Docket Nos. R-2022-3032242, C-2022-3032385 and C-2022-3032539, dated August 12, 2022, be approved in its entirety without modification.

2. That UGI Utilities, Inc. – Gas Division be authorized to file a tariff supplement for service rendered on or after December 1, 2022, that implements, subject to updates and tariff modifications traditionally performed on December 1, the Purchased Gas Cost rate of \$8.0136/Mcf.

3. That UGI Utilities, Inc. – Gas Division be authorized to file a tariff supplement, on at least one day's notice to the Commission, containing changes in rates to

provide for the recovery of its costs of purchased gas, consistent with the terms and conditions of the Joint Petition for Settlement of Section 1307(f) Rate Investigation.

4. That UGI Utilities, Inc. – Gas Division, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Bureau of Investigation and Enforcement, shall comply with the terms of the Settlement of Section 1307(f) Rate Investigation submitted in this proceeding, as though each term and condition stated therein had been the subject of an individual ordering paragraph.

5. That upon the filing of a tariff supplement by UGI Utilities, Inc. – Gas Division, acceptable to the Commission as conforming with this Order and the Joint Petition for Settlement of Section 1307(f) Rate Investigation, and the Commission’s approval thereof, the purchased gas rates established therein shall become effective for service rendered on and after December 1, 2022.

6. That the Complaint of the Office of Consumer Advocate at Docket No. C-2022-3032385 is deemed satisfied.

7. That the Complaint of the Office of Small Business Advocate at Docket No. C-2022-3032539 is deemed satisfied.

8. That upon acceptance and approval by the Commission of the tariff supplement and supporting data filed by UGI Utilities, Inc. – Gas Division, as being consistent with the Joint Petition for Settlement, the inquiry and investigation at Docket Number R-2022-3032242 shall be terminated and the docket marked closed.

Date: September 9, 2022

/s/
Dennis J. Buckley
Administrative Law Judge