



April 17, 2023

**VIA E-FILE**

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Petition of the Office of Consumer Advocate, the Office of Small Business Advocate and the Pennsylvania Utility Law Project Requestion Initiation of a Proceeding on Federal Funding Opportunities Under the Infrastructure Investment and Jobs Act

Docket No. P-2022-3032929

***Letter in Lieu of Answer, Pennsylvania Utility Law Project***

Dear Secretary Chiavetta:

On April 5, 2023, UGI Utilities, Inc. filed a Petition for Clarification of the March 21, 2023 Order of the Public Utility Commission (Petition for Clarification). In response thereto, the Pennsylvania Utility Law Project (PULP) files this brief Letter in lieu of a formal Answer.

In its Petition for Clarification, UGI seeks clarification of two matters: “(1) whether utilities may track costs incurred to prepare, apply, administer and otherwise execute on opportunities for federal programs will qualify for regulatory asset accounting treatment, along with related offsetting funding receipts; and (2) that the Commission will engage Pennsylvania utilities to the extent it seeks federal

funding as an eligible entity, so utilities may plan for any related impact those additional funds may have on their operations.” (Pet. Clarification at 2).

With regard to UGI’s first request of clarification, PULP takes no formal position on whether UGI’s request for deferred accounting should be granted – though we note that deferred accounting in the manner requested should only be granted in extraordinary circumstances. Nevertheless, should the Commission agree with UGI that pursuit of federal funding under the Investment and Jobs Act (IIJA), the Inflation Reduction Act (IRA), or other related federal funding opportunities constitutes an extraordinary circumstance that warrants deferred accounting treatment, we urge the Commission to further clarify that approval of deferred accounting does not constitute approval for such costs to be recovered. Specifically, consistent with prior Commission precedent and the formal position advanced by the Office of Consumer Advocate (OCA) in response to UGI’s Petition for Clarification, we submit that any approval of UGI’s request for deferred accounting include the following conditions:


(1) the authorization for deferred accounting treatment carries with it no assurance of future rate recovery; (2) that the utility make a claim for the deferred expenses at the first opportunity; (3) that the authorization for deferral treatment be limited to actual operations and maintenance expenses and not include capitalized costs; and (4) that any Opinion and Order in the instant matter not limited the ability of a party in a future rate case to contest recovery of any of the costs deferred pursuant to the limited authority by the allowance to defer.

(OCA Answer at 3 (citing Petition of MetEd for Authorization to Defer, for Regulatory Accounting and Reporting Purposes, Certain Losses from Extraordinary Storm Damage, Docket No. P-2018-3005957 (opinion and order entered Jan. 17, 2019))).

With respect to UGI’s second request for clarification, PULP notes its general support of the request that the Commission engage with utilities to the extent the Commission pursues federal funding. PULP submits, however, that such engagement should not be limited to engagement with utilities – and should include engagement with consumer advocates and other potential stakeholder groups. Recently, in a separate proceeding related to the development of policy to deploy electric vehicle (EV) infrastructure and

the impact of that deployment on rate design, the Commission utilized a collaborative approach to engage with a multitude of stakeholders.<sup>1</sup> To PULP's knowledge, the Commission has not applied for federal funding to support this work; however, we believe it is relevant here given the Commission has taken decisive steps to ensure that related policy is developed with input and engagement from a range of stakeholders. We commend this approach to stakeholder engagement and encourage the Commission to take a similar collaborative approach to gather input from a range of stakeholders if it decides to pursue an application for federal funding under the Infrastructure Investment and Jobs Act (IIJA), the Inflation Reduction Act (IRA), or other related federal funding opportunities.

Respectfully Submitted,



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<sup>1</sup> See Electric Vehicle Charging Rate Design Working Group, Docket P-2022-3030743.

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Petition of the Office of Consumer Advocate, the :  
Office of Small Business Advocate and the :  
Pennsylvania Utility Law Project Requestion : Docket No. P-2022-3032929  
Initiation of a Proceeding on Federal Funding :  
Opportunities Under the Infrastructure Investment :  
and Jobs Act :

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**Certificate of Service**

I hereby certify that I have, on this day, served copies of the Pennsylvania Utility Law Project's **Letter in Lieu of Answer to the Petition of UGI Utilities, Inc. for Clarification of the March 21, 2023 Order of the Public Utility Commission** in the above captioned matter upon the following persons and in accordance with the requirements of 52 Pa. Code § 1.54.

**VIA EMAIL**

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