BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	R-2022-3037368
Office of Consumer Advocate	:	C-2023-3038105
Office of Small Business Advocate	:	C-2023-3038172
William Ostroski	:	C-2023-3037880
Travis Clay Buchanan	:	C-2023-3038072
Bridget Gimbi	:	C-2023-3038293
James Stambaugh	:	C-2023-3038131
Beverly A. Howell	:	C-2023-3038300
Bernadette Truszkowski	:	C-2023-3038357
Summer Newell	:	C-2023-3038215
Kayla Bloom-Trosky	:	C-2023-3038337
Kayla Bloom-Trosky	:	C-2023-3038341
Michele Gingo	:	C-2023-3038229
Jennifer Patla	:	C-2023-3038238
Melissa Pugh	:	C-2023-3038244
Brittany Shannon	:	C-2023-3038245
Chuck Lipinski	:	C-2023-3038354
John Fleschut	:	C-2023-3038399
Charles M. Mangan	:	C-2023-3038538
Robyn Wood	:	C-2023-3038346
Kathleen Yurkoski	:	C-2023-3038417
Lindsey Wosik	:	C-2023-3038547
Nicole Scavone	:	C-2023-3038548
Patricia King	:	C-2023-3038549
Christina Bauserman	:	C-2023-3038597
Phyllis Johnson	:	C-2023-3038684
Tara Yamelski	:	C-2023-3038886
Andrew Timko	:	C-2023-3038980
Christopher Dorr	:	C-2023-3039127
Michael L. Oresick	:	C-2023-3039230
	:	
v.	:	
	:	
UGI Utilities, Inc. Electric Division	:	

RECOMMENDED DECISION

Before
Christopher P. Pell, Deputy
Chief Administrative Law Judge

And

Charece Z. Collins,
Administrative Law Judge

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I. INTRODUCTION

This decision recommends that the Pennsylvania Public Utility Commission (Commission) approve the Joint Petition for Approval of Settlement of All Issues (Joint Petition or Settlement) filed in the above-captioned proceeding in its entirety without modification because it is in the public interest, consistent with the Public Utility Code, and supported by substantial evidence. In general, in lieu of the originally requested increase of $11.4 million per year in additional operating revenues, the Settlement provides UGI Utilities, Electric Division (UGI Electric or Company) with an increase of $8.5 million per year.

Currently, the total monthly bill for the average residential customer using 1,000 kWh per month from UGI Electric is approximately $192.73; the total monthly bill for a small commercial customer using 1,000 kWh per month from UGI Electric is approximately $199.06; and the total monthly bill for an industrial customer using 50,000 kWh per month from UGI Electric is approximately $6,455.07. Under the increase proposed by UGI Electric in its base rate case filing, the total monthly bill for the average residential customer using 1,000 kWh per month would have increased from $192.73 to $209.96, or by 8.9%; the total monthly bill for a small commercial customer using 1,000 kWh per month would have increased from $199.06 to $220.49, or by 10.3%; and the total monthly bill for an industrial customer using 50,000 kWh per month would have increased from $6,455.07 to $6,475.18, or by 0.3%. Under the Settlement rates, the total monthly bill for a residential customer using 1,000 kWh per month will increase from $192.73 to approximately $204.76, or by 6.2%; the total monthly bill for a small commercial customer using 1,000 kWh per month will increase from $199.06 to approximately $207.21, or by 4.1%; and the total monthly bill for an industrial customer using 50,000 kWh per month will increase from $6,455.07 to approximately $6,556.36, or by 1.6%.

The end of the suspension period for UGI Electric's filing is October 28, 2023.

II. HISTORY OF THE PROCEEDING

On January 27, 2023, UGI Electric filed Supplement No. 51 to UGI Electric Tariff Pa. P.U.C. No. 6 and Supplement No. 7 to UGI Electric Tariff Pa. P.U.C. No. 2S to become effective March 28, 2023. The filing contains proposed changes in rates, rules, and regulations calculated to produce $11.4 million (7.5%) in additional annual revenues. Under the proposal, bills for residential customers using 1,000 kWhs per month would increase from $192.73 to $209.96, or by 8.9%.

On January 27, 2023, William Ostroski filed a Formal Complaint to the proposed rate increase. The Complaint was docketed at C-2023-3037880.

On February 2, 2023, Travis Clay Buchanan filed a Formal Complaint to the proposed rate increase. The Complaint was docketed at C-2023-3038072.

On February 3, 2023, Harrison W. Breitman, Esquire, Darryl A. Lawrence, Esquire, and Christy M. Appleby, Esquire filed a Notice of Appearance on behalf of the Office of Consumer Advocate (OCA). Also on February 3, 2023, OCA, through its attorneys, filed a Public Statement and a Formal Complaint. The Complaint was docketed at C-2023-3038105.

Also on February 3, 2023, Bridget Gimbi filed a Formal Complaint to the proposed rate increase. The Complaint was docketed at C-2023-3038293.

On February 6, 2023, James Stambaugh and Beverly A. Howell filed Formal Complaints to the proposed rate increase. The Complaints were docketed at C-2023-3038131 and C-2023-3038300, respectively.

On February 7, 2023, Bernadette Truszkowski filed a Formal Complaint to the proposed rate increase. The Complaint was docketed at C-2023-3038357.

On February 8, 2023, Steven C. Gray, Esquire filed a Notice of Appearance on behalf of the Office of Small Business Advocate (OSBA). Also on February 8, 2023, OSBA, through its attorney, filed a Verification, Public Statement, and a Formal Complaint. The Complaint was docketed at C-2023-3038172.

On February 9, 2023, Summer Newell filed a Formal Complaint to the proposed rate increase. The Complaint was docketed at C-2023-3038215.

Also on February 9, 2023, Kayla Bloom-Trosky filed two Formal Complaints to the proposed rate increase for two separate addresses. The Complaints were docketed at C-2023-3038337 and C-2023-3038341.

On February 10, 2023, Michele Gingo filed a Formal Complaint to the proposed rate increase. The Complaint was docketed at C-2023-3038229.

On February 13, 2023, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene in this proceeding.

Also on February 13, 2023, Jennifer Patla, Melissa Pugh, and Brittany Shannon filed Formal Complaints to the proposed rate increase. The Complaints were docketed at C-2023-3038238, C-2023-3038244 and C-2023-3038245, respectively.

On February 14, 2023, Chuck Lipinski filed a Formal Complaint to the proposed rate increase. The Complaint was docketed at C-2023-3038354.

On February 15, 2023, the Commission on Economic Opportunity (CEO) filed a Petition to Intervene in this proceeding.

On February 16, 2023, John Fleschut and Charles M. Mangan filed Formal Complaints to the proposed rate increase. Their Complaints were docketed at C-2023-3038399 and C-2023-3038538, respectively.

On February 17, 2023, Robyn Wood and Kathleen Yurkoski filed Formal Complaints to the proposed rate increase. The Complaints were docketed at C-2023-3038346 and C-2023-3038417, respectively.

On February 23, 2023, Lindsey Wosik and Nicole Scavone filed Formal Complaints to the proposed rate increase. The Complaints were docketed at C-2023-3038547 and C-2023-3038548, respectively.

On February 27, 2023, Patricia King, Christina Bauserman and Phyllis Johnson filed Formal Complaints to the proposed rate increase. The Complaints were docketed at C-2023-3038549, C-2023-3038597 and C-2023-3038684, respectively.

By Order entered on March 2, 2023, the Commission instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase. Pursuant to Section 1308(d) of the Public Utility Code, 66 Pa.C.S. § 1308(d), Supplement No. 51 to UGI Electric Tariff Pa. P.U.C. No. 6 and Supplement No. 7 to UGI Electric Tariff Pa. P.U.C. No. 2S were suspended by operation of law until October 28, 2023, unless permitted by Commission Order to become effective at an earlier date. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness, and reasonableness of UGI Electric's existing rates, rules, and regulations. The matter was assigned to the Office of Administrative Law Judge for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision.

In accordance with the Commission's March 2, 2023, Order, the matter was assigned to Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge Charece Z. Collins (the Presiding Officers). Also on March 2, 2023, the Commission served a notice establishing an initial telephonic prehearing conference for this matter for Thursday, March 9, 2023, at 9:00 a.m.

On March 6, 2023, Tara Yamelski filed a Formal Complaint to the proposed rate increase. The Complaint was docketed at C-2023-3038886.[1]

A telephonic prehearing conference was held as scheduled on March 9, 2023. Counsel for UGI Electric, I&E, OCA, OSBA, and CAUSE-PA participated.[2] Also, the following Consumer Complainants appeared *pro se* and indicated their desire to be limited participants in this proceeding: Ms. Phyllis Johnson, Ms. Summer Newell, Ms. Kayla Bloom-Trosky, Ms. Nicole Scavone, Ms. Melissa Pugh, Ms. Bridget Gimbi, and Ms. Christina Bauserman.

On March 14, 2023, the Presiding Officers issued Prehearing Order #1 granting the Petitions to Intervene of CAUSE-PA and CEO. Additionally, a schedule for the submission of pre-served testimony was set and evidentiary hearings were scheduled for June 13-14, 2023.

On March 15, 2023, the Presiding Officers issued Prehearing Order #2 granting UGI Electric's Motion for a Protective Order.

Also on March 15, 2023, Andrew Timko, Christopher Dorr, and Michael Oresick filed Formal Complaints to the proposed rate increase. The Complaints were docketed at C-2023-3038980, C-2023-3039127, and C-2023-3039230, respectively.

On April 11, 2023, telephonic Public Input Hearings were held at 1:00 p.m. and 6:00 p.m. A total of three witnesses testified during the 1:00 p.m. Public Input Hearing. A total of three witnesses testified during the 6:00 p.m. Public Input Hearing.

On April 25, 2023, the following parties served Direct Testimony: OCA (Direct Testimonies of Dante Mugrace, OCA St. No. 1 (Public and Confidential Versions); Aaron L.

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1 Although Ms. Yamelski filed her Complaint on March 6, 2023, the Presiding Officers did not become aware of her filing until the Commission's Secretary attached it to the Commission's electronic docketing system at this docket on the afternoon of March 9, 2023.

2 Joseph Vullo, Esquire, counsel for CEO, requested to be excused from our prehearing conference as he would be out of the country on the prehearing conference date. The Presiding Officers granted his request on March 3, 2023.

Rothschild, OCA St. No. 2; Karl R. Pavlovic, OCA St. No. 3 (Public and Confidential Versions); Roger D. Colton, OCA St. No. 4; and Morgan N. DeAngelo, OCA St. No. 5); I&E (Direct Testimonies of Vanessa Okum, I&E St. No. 1; Christopher Keller, I&E St. No. 2 (Proprietary and Non-Proprietary); D.C. Patel, I&E St. No. 3; Ethan Cline, I&E St. No. 4; and Esyan Sakaya, I&E St. No. 5); OSBA (Direct Testimony of Robert D. Knecht, OSBA St. No. 1); and CEO (Direct Testimony of Jennifer Warabak, CEO St. No. 1). CAUSE-PA submitted a letter advising that it would not be submitting direct testimony in this proceeding, but that it reserved the right to file rebuttal and surrebuttal testimony in response to other parties' testimony.

On May 25, 2023, the following parties served Rebuttal Testimony: UGI (Rebuttal Testimonies of Christopher R. Brown, UGI Electric St. No. 1-R; Tracy A. Hazenstab, UGI Electric St. No. 2-R (Public and Confidential); Vivian K. Ressler, UGI Electric St. No. 3-R (Public and Confidential); Eric W. Sorber, UGI Electric St. No. 4-R; Vicky A. Schappell, UGI Electric St. No. 5-R (with Confidential UGI Electric Exhibit VAS-1R); John D. Taylor, UGI Electric St. No. 6-R; Paul R. Moul, UGI Electric St. No 9-R; Sherry A. Epler; UGI Electric St. No. 10-R; and Daniel V. Adamo, UGI Electric St. No. 11-R); OCA (Surrebuttal Testimony of Karl R. Pavlovic, OCA St. No. 3-R); I&E (Surrebuttal Testimony of Christopher Keller, I&E St. No. 2-R); and OSBA (Surrebuttal Testimony of Robert D. Knecht, OSBA St. No. 1-R).

On June 7, 2023, the following parties served Surrebuttal Testimony: OCA (Surrebuttal Testimonies of Dante Mugrace, OCA St. No. 1-SR (Public and Confidential); Aaron L. Rothschild, OCA St. No. 2-SR; Karl R. Pavlovic, OCA St. No. 3-SR; Roger Colton, OCA St. No. 4-SR; and Morgan N. DeAngelo, OCA St. No. 5-SR); I&E (Surrebuttal Testimonies of Vanessa Okum, I&E St. No. 1-SR; Christopher Keller, I&E St. No. 2-SR (Proprietary & Non-Proprietary); D.C. Patel, I&E St. No. 3-SR; and Ethan Cline, I&E St. No. 4-SR); and OSBA (Surrebuttal Testimony of Robert D. Knecht; OSBA St. No. 1-S).

On June 9, 2023, UGI Electric emailed a preliminary cross-examination matrix to the Presiding Officers and advised that the parties were working towards the potential waiver of additional witness testimony. UGI Electric further advised that the parties were continuing to engage in settlement negotiations.

On June 12, 2013, UGI Electric served the following Surrebuttal Testimonies: Christopher R. Brown, UGI Electric St. No. 1-RJ; Tracy A. Hazenstab, UGI Electric St. No. 2-RJ; Vivian K. Ressler, UGI Electric St. No. 3-RJ (Public and Confidential); Eric W. Sorber, UGI Electric St. No. 4-RJ; John D. Taylor, UGI Electric St. No. 6-RJ; Paul R. Moul, UGI Electric St. No. 9-RJ; and Daniel V. Adamo, UGI Electric St. No. 11-RJ.

On June 12, 2023, the parties advised that they had achieved a partial settlement with one outstanding issue preserved for litigation. The parties further advised that they had agreed to waive cross-examination of all party witnesses.

The evidentiary hearing was held as scheduled on June 13, 2023. All party witnesses were excused from appearing at the hearing, as cross-examination was waived by all parties and the Presiding Officers did not have questions for them. UGI, I&E, OCA, OSBA and CEO each moved to have their witnesses' testimonies and exhibits entered into the record. As there were no objections, all parties' testimony and exhibits were admitted into the record during the hearing. The June 14, 2023, hearing was cancelled on the record at the June 13, 2023, hearing, and the Commission served a cancellation notice also on June 13, 2023.

On June 15, 2023, the Presiding Officers issued a Briefing Order to the parties.

By email received on June 27, 2023, UGI Electric informed the Presiding Officers that the parties were able to achieve a settlement of the remaining issue that had been preserved for litigation. UGI Electric further advised that, consistent with the instructions provided by the Presiding Officers at the evidentiary hearing and in their Briefing Order, the parties would submit a Joint Petition for Settlement of All Issues, along with Statements in Support on July 14, 2023.

On July 14, 2023, the Joint Petition for Approval of Settlement of All Issues was filed along with Statements in Support by UGI Electric, I&E, OCA, OSBA, CAUSE-PA, and CEO.

By letter dated July 17, 2023, the Presiding Officers informed the consumer Complainants in this matter of the Settlement and requested that they indicate, by no later than July 27, 2023, if they wished to join, oppose, or take no position on the proposed Settlement. The Presiding Officers also enclosed a signature page that the consumer Complainants could sign and return if they wished to join in the Settlement. Seven consumer Complainants provided written objections to the Settlement by the July 27, 2023, deadline.

The record in this matter consists of the transcripts of the March 9, 2023, prehearing conference, the April 11, 2023, public input hearings, and the June 13, 2023, evidentiary hearing, as well as the statements and exhibits which were admitted into the record during the June 13, 2023, evidentiary hearing. The Joint Petition for Approval of Settlement of All Issues, with its appendices, will be admitted into the record through this Recommended Decision.

The parties' position is that the Settlement is fair, just, and reasonable and reflects a reasonable compromise of the disputed issues in this proceeding. We agree. The Settlement terms appear to be a fair and reasonable resolution of the various issues, and appropriately balances the interests of the company and its customers. Therefore, we will recommend that the Joint Petition for Approval of Settlement of All Issues be approved without modification by the Commission.

III. FINDINGS OF FACT

After having duly considered the evidence of record in this proceeding, the findings of fact are made as follows:

1. UGI Electric is a "public utility" and "electric distribution company" ("EDC") as those terms are defined in Sections 102 and 2803 of the Public Utility Code, 66 Pa.C.S. §§ 102, 2803, subject to the regulatory jurisdiction of the Commission, and provides electric distribution, transmission, and default electric supply services to customers located in its certificated service territory.

2. On January 27, 2023, UGI Electric filed with the Commission its 2023 Base Rate Case filing ("2023 Base Rate Case"), which consisted of Supplement No. 51 to Electric Pa. P.U.C. No. 6 ("Tariff No. 6") and Supplement No. 7 to UGI Electric Tariff – Pa. P.U.C. No. 2S ("Tariff No. 2S"), responses to filing requirements and standard data requests, and supporting direct testimony and exhibits. The Company proposed changes to UGI Electric's base retail distribution rates designed to produce an increase in revenues of approximately $11.4 million, based upon data for a fully projected future test year ("FPFTY") ending September 30, 2024.[3]

3. On June 27, 2023, UGI Electric informed the ALJs that the parties reached a settlement in principle on all issues.

4. The Settlement is supported by the active parties in this case: UGI Electric, the Commission's Bureau of Investigation and Enforcement ("I&E"), the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"), and the Commission on Economic Opportunity ("CEO") (collectively, "Joint Petitioners").

5. The Settlement reflects a carefully balanced compromise of the interests of all of the Joint Petitioners.

6. Under the Settlement, UGI Electric will be permitted to increase annual distribution rate revenue by $8.5 million, to become effective on or before October 1, 2023, for service rendered thereafter. Settlement ¶ 46.

7. The distribution rate revenue increase of $8.5 million is 74.4% of the proposed revenue increase of $11.425 million requested in UGI Electric's 2023 Base Rate Case filing. Settlement ¶ 46; UGI Electric St. No. 1 at 6.

[3] In the interest of clarity and to avoid any potential confusion, page two, paragraph 2 of the Settlement states that the increase in revenues is based on an FPFTY ending September 30, 2023, when it should state 2024, as it does in every other part of the Settlement.

8. The revenue increase under the Settlement represents a compromise of the parties' competing litigation positions.

9. UGI Electric relied upon a class cost of service study to allocate its proposed total revenue and costs to each of the retail customer classes. UGI Electric St. No. 6 at 4-18, 21-24; UGI Electric Exh. D.

10. While UGI Electric, OCA, and OSBA took differing positions on revenue allocation, all of these parties agreed that the majority of the revenue increase should be allocated to the residential customer class. *See, e.g.*, UGI Electric St. No. 6 at 22; OCA St. No. 3 at 20; OSBA St. No. 1 at 17, 19.

11. The Company originally proposed increasing the Rate R customer charge[4] to $13.50, which was an increase of $4.00 from the current charge of $9.50 and increasing the Rate GS-1 customer charge to $14.00, which was an increase of $1.00 from the current charge of $13.00. UGI Electric St. No. 6 at 24-25.

12. The parties have agreed to the customer charges proposed by the Company, except that: (1) the Rates R and GS-5 customer charges will be $10.75 per month, instead of the $13.50 per month proposed by UGI Electric; (2) the Rate GS-1 customer charge will be $17.00 per month, rather than the $14.00 per month originally proposed by the Company; and (3) the Rate GS-4 customer charge will be $18.00 per month, rather than the $15.00 per month originally proposed by UGI Electric. Settlement ¶ 49.

13. Regarding the Company's Distribution System Improvement Charge ("DSIC"), the Settlement provides that, as of the effective date of rates in this proceeding, UGI Electric will be eligible to include plant additions in the DSIC once the Company's total gross plant balances exceed a level of $275,000,001. Settlement ¶ 50.

[4] The "Rate R customer charge" is the charge to residential customers.

14. The Settlement further states that, for purposes of calculating its DSIC, UGI Electric shall use the equity return rate for electric utilities contained in the Commission's most recent Quarterly Report on the Earnings of Jurisdictional Utilities and shall update the equity return rate each quarter consistent with any changes to the equity return rate for electric utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa.C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa.C.S. § 1358(b)(1). Settlement ¶ 51.

15. The Settlement also provides that the Company will submit an update to UGI Electric Exhibit A, Schedule C-2 no later than January 2, 2024, which will include actual capital expenditures, plant additions, and retirements by month from October 1, 2022, through September 30, 2023. Settlement ¶ 52. An additional update for actuals from October 1, 2023, through September 30, 2024, shall be filed no later than January 2, 2025. Settlement ¶ 52.

16. Under the Settlement, the Joint Petitioners accept UGI Electric's as-filed depreciation rates. Settlement ¶ 53.

17. Under the Settlement, the Company's Accumulated Deferred Income Tax ("ADIT") and pro-rationing methodology as required by Treasury Regulation 1.167(l)-1(h)(6)(ii) is accepted. Settlement ¶ 54; *see* 26 C.F.R. § 1.167(l). The Settlement also provides that the Company's method to amortize Excess Accumulated Deferred Federal Income Taxes ("EDFIT") according to the Average Rate Assumption Method ("ARAM") is accepted. Settlement ¶ 54.

18. In its tax return for the year ended September 30, 2009, UGI Electric adopted a tax accounting method to expense as repairs certain items capitalized for book purposes in accordance with federal tax regulations. UGI Electric St. No. 8 at 7.

19. As it did in the Company's previous base rate case at Docket No. R-2021-3023618, UGI Electric chose to normalize its federal income tax expense claim, inclusive of the repairs tax deduction. UGI Electric St. No. 8 at 7.

20. This difference between accelerated tax depreciation versus book depreciation in the calculation of federal tax expense creates ADIT. UGI Electric St. No. 8 at 7. Therefore, the Company reduced its rate base by the sum of the federal ADIT balance and the state repair regulatory liability. UGI Electric St. No. 8 at 7.

21. The Settlement states that, for purposes of determining the revenue requirement in this case, all capitalized repairs deductions claimed on a tax return have been normalized for ratemaking purposes, and the appropriate related amount of tax effect of those deductions has been treated similarly to ADIT as a reduction to UGI Electric's rate base. Settlement ¶ 55.

22. UGI Electric has experienced increased uncollectible accounts expenses due to the COVID-19 pandemic. UGI Electric St. No. 3 at 16-17.

23. Under the Settlement, the Company's revenue increase provided in the Settlement is reflective of a three-year non-reconcilable amortization of the Company's COVID-19 regulatory assets related to incremental uncollectible accounts expense, as follows: (a) a continuing amortization of $337,666 per year, which includes all incremental uncollectible expense through September 30, 2020; plus (b) a new amortization of $105,000 per year, which includes incremental uncollectible expense from October 1, 2020, through September 30, 2021. Settlement ¶ 56.

24. The Settlement provides that the Company's revenue increase reflects a 30-month (2.5 year) normalization for ratemaking purposes and a 30-month (2.5 year) amortization for accounting purposes. Settlement ¶ 57.

25. Further, the Company will not claim any unamortized amount in a future rate case and agrees that normalization of rate case expense (as opposed to amortization) is the proper treatment for ratemaking purposes. Settlement ¶ 57.

26. The Company's hardship fund (Operation Share) provides energy assistance grants up to $400 to qualified customers who experience difficulty paying their heating bills. UGI Electric St. No. 11-R at 14-15.

27. Under the Settlement, effective January 1, 2024, the Company will expand eligibility of the Electric Operation Share grant program from 200% Federal Poverty Level ("FPL") to 250% FPL and will increase its annual funding contribution by $30,000, which will bring the Company's annual funding for Operation Share to a total of $117,423 for 2024 and each year thereafter until a change in hardship fund contribution levels is otherwise ordered in a subsequent proceeding. Settlement ¶ 58.

28. Effective January 1, 2024, the Company will also increase the maximum grant size from $400 to $600, to the extent funds are available. Settlement ¶ 58.

29. The Low-Income Usage Reduction Program ("LIURP") helps reduce energy consumption for low-income customers through installation of energy efficiency and conservation measures and education. UGI Electric St. No. 11-R at 15.

30. The Settlement provides that within 60 days after a final order is entered in this proceeding, UGI Electric will issue a Request For Proposal ("RFP") seeking an additional LIURP resource(s) that is able to perform 20 additional baseload and 10 additional heating jobs annually. Settlement ¶ 59.

31. Organizations that would be sent the RFP shall include community-based-organizations ("CBOs") in the Company's service territory. Settlement ¶ 59.

32. UGI Electric shall provide an update on the results of the RFP during its first Universal Service Advisory Committee ("USAC") meeting after the RFP is completed. Settlement ¶ 59.

33. All associated incremental costs shall be recoverable as expanded through Rider USP as LIURP costs. Settlement ¶ 59(a).

34. The Settlement further provides that effective January 1, 2024, UGI Electric will expand its Electric LIURP heating and baseload job access to customers between 151% and 200% FPL; a limit of 20% of the overall LIURP budget shall apply for jobs related to customers falling between 151% and 200% FPL. Settlement ¶ 59(b).

35. The Settlement sets forth several provisions related to CAP solicitation and enrollment, income verification requirements, and Pennsylvania Department of Human Services ("DHS") data sharing. *See* Settlement ¶ 60.

36. UGI Electric will solicit customers who self-reported Level 1 income in the prior 12 months for enrollment in the Company's CAP two times a year until at least the effective date of the Company's next Universal Service and Energy Conservation Plan ("USECP"). Settlement ¶ 60(a).

37. For each solicitation, UGI Electric will provide an update to the USAC on the results of the solicitation. Settlement ¶ 60(a).

38. UGI Electric will accept verbal self-reported income eligibility for customers at or below 250% of the FPL during the Winter Moratorium for purposes of winter shutoff protections, requests for deferred payment arrangements, or any other customer contact with the call center for an unpaid bill. Settlement ¶ 60(b).

39. Normal income verification requirements maintained by the Company shall apply upon the end of the Winter Moratorium period. Settlement ¶ 60(b).

40. No fewer than two times a year, the Company will provide an update to the USAC of the number of customers identified through such verbal self-reported income. Settlement ¶ 60(b).

41. The Settlement provides that at such time that DHS notifies the LIHEAP Advisory Committee that it is ready to share LIHEAP participant income data with utilities, currently anticipated to begin in Fall 2024, UGI Electric will implement required modifications to its IT system and processes, within a reasonable time frame, such that it may utilize that data to automatically enroll non-shopping LIHEAP recipients into CAP and/or recertify their income and eligibility. Settlement ¶ 60(c).

42. Until such time as Information Technology ("IT") system and process changes are made, the Company will use best efforts to implement manual processing as soon as practicable, not to exceed three (3) months from the date data is first received. Settlement ¶ 60(c).

43. All related costs to modify IT systems and processes shall be eligible for timely recovery through the Company's Rider USP as CAP costs, including any related interim costs related to manual processing. Settlement ¶ 60(c).

44. All automatically enrolled LIHEAP recipients will be deemed by UGI Electric as confirmed low-income customers and will be eligible for winter shutoff protections. Settlement ¶ 60(c).

45. UGI Electric will conduct an interim pilot to auto-enroll non-shopping customers who receive LIHEAP into CAP, pending implementation of the auto-enrollment process identified in Settlement Paragraph 60(c). Settlement ¶ 60(d).

46. The interim pilot will contain the following elements: (1) UGI Electric will auto-enroll non-shopping customers who received LIHEAP during the 2022/2023 LIHEAP season and will continue to enroll new LIHEAP recipients during each subsequent LIHEAP season until the time that DHS begins sharing LIHEAP income participant data with utilities (as described in Settlement Paragraph 60(c)); (2) auto-enrolled customers will be placed on CAP under the average bill methodology, unless they provide the Company with proof of income documentation demonstrating qualification for the opportunity to be placed on the lesser of a

percent of income ("PIP") bill or minimum bill amount; (3) auto-enrolled customers will receive a notification by mail or email as applicable from the Company explaining (a) the reason for the auto-enrollment, (b) the ability to opt-out of the auto-enrollment, and (c) the opportunity to be placed on the lesser of the CAP minimum bill or PIP bill by providing proof of income; (4) auto-enrolled customers will be required to recertify their CAP enrollment one year after they are auto-enrolled; (5) auto-enrolled customers, who are enrolled through the interim pilot and for whom UGI Electric later receives detailed income information from DHS through the data-sharing process identified in Settlement Paragraph 60(c), will be transitioned to the best available CAP rate (*i.e.*, PIP, average bill, or minimum bill); (6) auto-enrolled CAP customers with arrearages less than $300 at the time of auto-enrollment will be eligible to include their pre-program arrearage ("PPA") debt forgiveness if they later reenroll in the program; and (7) auto-enrolled customers will be eligible for a one-time payment arrangement (after they leave or are otherwise removed from CAP) on arrears incurred while enrolled in CAP at the average bill rate. Settlement ¶ 60(d).

47. Within 30 days of a final order in this proceeding, UGI Electric will convene a collaborative with interested parties to this proceeding to identify the following: (1) the manner and method of outreach and education for auto-enrolled customers to verify their income and inform them of the program rights and responsibilities; (2) data points that can be tracked to measure the effectiveness of the pilot program; (3) associated pilot program action dates related to outreach, education, and auto-enrollment start; (4) during the term of the interim pilot, UGI Electric will provide updates during each USAC meeting regarding the data points identified in Settlement Paragraph 60(e)(ii) to determine whether adjustments to the pilot are necessary; and (5) the pilot program will cease operation if and when the terms of Settlement Paragraph 60(c) take effect. Settlement ¶ 60(e).

48. In the 2021 Electric Rate Case at Docket No. R-2021-3023618, the Commission approved a settlement provision allowing UGI Electric to install a 1.25 MWh battery storage project as a targeted means to enhance resiliency and improve reliability to customers served off the Ruckle Hill Road circuit ("Ruckle Hill"). UGI Electric St. No. 4 at 17.

49. Under the Settlement, the Company will complete a project to upgrade the highest risk section of the circuit servicing Ruckle Hill Road customers in order to improve reliability and implement storm hardening techniques. Settlement ¶ 61.

50. The Settlement will include the replacement of older non-standard wood poles with Class 2 – 45-foot and 50-foot wood poles where appropriate, and the installation of approximately 10,000 feet of spacer-cable construction and associated conductor. Settlement ¶ 61.

51. This work will increase pole and conductor resistance to tree contact and damage. Settlement ¶ 61.

52. The Company will provide notice to the parties to this proceeding upon completion of the project, including a report on the actual costs of the work. Settlement ¶ 61.

53. Regarding vegetation management practices, UGI Electric continues its accelerated efforts in critical areas to support system reliability, including robust vegetation management practices on a shorter cycle. UGI Electric St. No. 4 at 5.

54. Under the Settlement, the Company agrees to report actual monthly vegetation management expenses on an annual basis for the 12-month period ending September 30, 2024, with the first report being due as part of the Company's 2024 AAOP filing. Settlement ¶ 62.

55. The report shall include quantities of vegetation management work performed, along with a summary overview of the Company's vegetation management program. Settlement ¶ 62.

IV. PUBLIC INPUT HEARINGS

Two telephonic public input hearings were scheduled for 1:00 p.m. and 6:00 p.m. on April 11, 2023. A total of six people testified during these public input hearings, with three people testifying at the 1:00 p.m. public input hearing, and an additional three people testifying at the 6:00 p.m. public input hearing.

William J. Ostroski testified that he is a UGI Electric customer and that he is opposed to the proposed rate increase due to the exponential rate increases that have already taken place since 2021 through the present. Mr. Ostroski testified that these rate increases have increased his monthly bills, on average, by $72.00.[5]

Lisa Delaney testified that she is a UGI Electric customer and that over the last ten years she has experienced a slow increase in her electric bills. Ms. Delaney further testified that she is currently working three part-time jobs to make ends meet, and that the regular increases to her utility bills have placed a financial strain on her and her family. Ms. Delaney explained that she is using less wattage but paying approximately 25% more for service. Ms. Delaney also questioned the frequency of UGI Electric's rate filing, noting that it has been approximately two years since their last rate increase request.[6]

Christina Bauserman testified that she is not a UGI Electric customer, that she is instead a UGI Gas customer. Ms. Bauserman noted generally the financial strain rate increases are placing on consumers.[7]

Maureen Ruhl testified that she is a UGI Electric customer, and that she is concerned about how her bills have continued to increase, and how company programs that are in place to assist consumers are ineffective. Ms. Ruhl noted that both she and her husband are

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[5] Tr. 65-67.

[6] Tr. 73-76.

[7] Tr. 80-82.

retired, that they struggle to pay their bills, and that they must decide if they can afford a medical procedure, their medicine, or food.[8]

Bridget Gimbi testified that she is a UGI Electric customer, that she is on a fixed income, and that because of a personal condition, she needs air conditioning and heat to survive. Ms. Gimbi questioned why the rate increase is not proportionate across all customers, noting that the industrial rate increase proposal was low. Ms. Gimbi further questioned the high salaries paid to UGI Electric executives, asserting that excess profits should be used towards infrastructure. Lastly, Ms. Gimbi questioned why communities are paying for the community support provided by the Company, arguing that the Company can provide support by providing a necessary service at a reasonable price.[9]

Melissa Pugh testified that she is a UGI Electric customer and that she opposes UGI Electric's rate increase request because the Company will not do anything to benefit the community with the proposed increase. Ms. Pugh asserted that an increase will not result in customers receiving better, superior, or different service. Ms. Pugh further asserted that the proposed increase would place a financial burden on her family and the community. Ms. Pugh wants UGI Electric's request to be denied in its entirety.[10]

V. DESCRIPTION OF THE SETTLEMENT

UGI Electric filed a Joint Petition for Approval of Settlement of All Issues on July 14, 2023. The Petition includes the terms of the Settlement, including terms related to revenue requirement, revenue allocation and rate design, DSIC reporting, accounting issues, universal service issues, as well as provisions specifically addressing Ruckle Hill Road and vegetation management. The Settlement also included the following pertinent appendices:

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[8] Tr. 107-110.

[9] Tr. 114-116.

[10] Tr. 119-121.

Appendix A	Pro Forma Tariff Supplement
Appendix B	Proof of Revenues
Appendix C	Bill and Rate Impact Tables

Additionally, statements in support of each party joining the Settlement are attached to the Joint Petition for Approval of Settlement of All Issues.

VI. TERMS AND CONDITIONS OF THE SETTLEMENT

The Joint Petitioners have agreed to a Settlement covering all issues in this proceeding. The terms and conditions of the Settlement are set forth verbatim below, beginning at paragraph 44 through and including paragraph 62 of the Joint Petition for Approval of Settlement of All Issues filed on July 14, 2023. The Joint Petition also includes the usual settlement conditions that are typically included in settlements. These terms, which, among other things, protect the parties' rights to file exceptions if any part of the Settlement is modified, condition the agreement upon approval by the Commission and provide that no party is bound in future rate cases by any particular position taken in this case. These additional terms and conditions will not be repeated here verbatim. The reader is directed to the Petition itself.

The Joint Petitioners to the UGI Electric Settlement include I&E, OCA, OSBA, CAUSE-PA, and CEO, who are the active parties in this matter. The Settlement terms among the Joint Petitioners and UGI Electric consist of the following terms and conditions:

General

44. The following terms of this Settlement reflect a carefully balanced compromise of the Joint Petitioners' positions on various issues. The Joint Petitioners agree that the Settlement is in the public interest.

45. The Joint Petitioners agree that UGI Electric's distribution base rate increase filing should be approved, including those tariff changes included in and specifically identified in **Appendix A**, subject to the terms and conditions of this Settlement that are specified below.

Revenue Requirement

46. UGI Electric shall be permitted to submit a revised tariff supplement that is designed to produce an annual distribution revenue increase of $8.5 million, to become effective on or before October 1, 2023, for service rendered thereafter. The increase in annual distribution rate revenue is in lieu of the as-filed increase of approximately $11.4 million. The Settlement as to revenue requirement shall be a "black box" settlement, except for the items set forth below.

47. Billing Determinants. For all billing determinants, the use per customer and number of customer billing determinants utilized in UGI Electric Exhibit E, Proof of Revenue as set forth in the Company's initial filing are approved.

48. Revenue Allocation. For purposes of this Settlement, class revenue allocation is as shown in **Appendix B**, the settlement proof of revenue.

49. Monthly Customer Charges. The Company's proposed customer charges shall be approved, except as set forth below:

    a) Rates R and GS-5: $10.75 per month ($9.50 currently; $13.50 proposed)

    b) Rate GS-1: $17.00 per month ($13.00 currently; $14.00 proposed)

    c) Rate GS-4: $18.00 per month ($15.00 currently; no change proposed)

DSIC Reporting

50. DSIC Eligible Plant. As of the effective date of rates in this proceeding, UGI Electric will be eligible to include plant additions in the Distribution System Improvement Charge ("DSIC") once the Company's total gross plant balance exceeds $275,000,001. The foregoing provision is included solely for purposes of calculating the DSIC and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in a FPFTY filing.

51. DSIC Equity Return. For purposes of calculating its DSIC, UGI Electric shall use the equity return rate for electric utilities contained in the Commission's most recent Quarterly Report on

the Earnings of Jurisdictional Utilities and shall update the equity return rate each quarter consistent with any changes to the equity return rate for electric utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa. C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa. C.S. § 1358(b)(1).

52. Test Year Plant Reporting. The Company shall submit an update to UGI Electric Exhibit A, Schedule C-2 no later than January 2, 2024, which will include actual capital expenditures, plant additions, and retirements by month from October 1, 2022, through September 30, 2023. An additional update for actuals from October 1, 2023, through September 30, 2024, shall be filed no later than January 2, 2025.

Accounting

53. Depreciation Rates. For purposes of this Settlement, UGI Electric's as-filed depreciation rates are accepted. (*See* UGI Electric St. No. 7; *see also* UGI Electric Exhibit C (Fully Projected Future).)

54. ADIT/EDFIT. The Company's Accumulated Deferred Income Tax ("ADIT") and pro-rationing methodology as required by Treasury Regulation 1.167(l)-1(h)(6)(ii) is accepted. (UGI Electric St. No. 8 at 7.) Further, the Company's method to amortize Excess Accumulated Deferred Federal Income Taxes ("EDFIT") according to the Average Rate Assumption Method ("ARAM") is accepted. (UGI Electric St. No. 8 at 6.) Absent a change in federal or state law, regulation, judicial precedent, or policy, the remaining unamortized EDFIT balance will continue as a reduction to rate base in all future proceedings until the full amount is returned to ratepayers.

55. Repairs Allowance. For purposes of determining the revenue requirement in this case, all capitalized repairs deductions claimed on a tax return have been normalized for ratemaking purposes, and the appropriate related amount of tax effect of those deductions has been treated similarly to ADIT as a reduction to UGI Electric's rate base.

56. COVID-19 Cost Deferral. The Company's revenue increase provided in this Settlement is reflective of a three-year non-reconcilable amortization of the Company's COVID-19 regulatory assets related to incremental uncollectible accounts expense, as follows:

a) A continuing amortization of $337,666 per year, which includes all incremental uncollectible expense through September 30, 2020; plus

b) A new amortization of $105,000 per year, which includes incremental uncollectible expense from October 1, 2020, through September 30, 2021.

57. Rate Case Expense. The Company's revenue increase provided in this Settlement is reflective of a 30-month (2.5 year) normalization for ratemaking purposes and a 30-month (2.5 year) amortization for accounting purposes. The Company will not claim any unamortized amount in a future rate case and agrees that normalization of rate case expense (as opposed to amortization) is the proper treatment for ratemaking purposes.

Universal Service Issues

58. Hardship Fund (Operation Share). Effective January 1, 2024, the Company will expand eligibility of the Electric Operation Share grant program from 200% Federal Poverty Level ("FPL") to 250% FPL and will increase its annual funding contribution by $30,000. This will bring the Company's annual funding for Operation Share to a total of $117,423 for 2024 and each year thereafter until a change in hardship fund contribution levels is otherwise ordered in a subsequent proceeding. Effective January 1, 2024, the Company will also increase the maximum grant size from $400 to $600, to the extent funds are available.

59. Low Income Usage Reduction Program ("LIURP"). As a part of this Settlement, UGI Electric agrees that:

a) Within 60 days after a final order is entered in this proceeding, UGI Electric will issue a Request For Proposal ("RFP") seeking an additional LIURP resource(s) that is able to perform 20 additional baseload and 10 additional heating jobs annually. Organizations that would be sent the RFP shall include community-based-organizations in the Company's service territory. UGI Electric shall provide an update on the results of the RFP during its first Universal Service Advisory Committee ("USAC") meeting after the RFP is completed. All associated incremental costs shall be recoverable as expanded through Rider USP as LIURP costs.

b) Effective January 1, 2024, UGI Electric will expand its Electric LIURP heating and baseload job access to customers between 151% and 200% FPL; a limit of 20% of the overall LIURP budget shall apply for jobs related to customers falling between 151% and 200% FPL.

60. Customer Assistance Program ("CAP"), Winter Moratorium, and Low-Income Home Energy Assistance Program ("LIHEAP"). As a part of this Settlement, UGI Electric agrees that:

a) UGI Electric will solicit customers who self-reported Level 1 income in the prior 12 months for enrollment in the Company's CAP 2 times a year until at least the effective date of the Company's next Universal Service and Energy Conservation Plan ("USECP"). For each solicitation, UGI Electric will provide an update to the USAC on the results of the solicitation.

b) UGI Electric will accept verbal self-reported income eligibility for customers at or below 250% of the FPL during the Winter Moratorium for purposes of winter shutoff protections, requests for deferred payment arrangements, or any other customer contact with the call center for an unpaid bill. Normal income verification requirements maintained by the Company shall apply upon the end of the Winter Moratorium period. No fewer than two times a year, the Company will provide an update to the USAC of the number of customers identified through such verbal self-reported income.

c) At such time that the Pennsylvania Department of Human Services ("DHS") notifies the LIHEAP Advisory Committee that it is ready to share LIHEAP participant income data with utilities, currently anticipated to begin in Fall 2024, UGI Electric will implement required modifications to its IT system and processes, within a reasonable time frame, such that it may utilize that data to automatically enroll non-shopping LIHEAP recipients into CAP and/or recertify their income and eligibility. Until such time as IT system and process changes are made, the Company will use best efforts to implement manual processing as soon as practicable, not to exceed three (3) months from the date data is first received. All related costs to modify IT systems and processes shall be eligible for timely recovery through the Company's Rider USP as CAP costs, including any related interim costs related to manual processing. All automatically enrolled LIHEAP recipients will be deemed by UGI Electric as confirmed low-income customers and will be eligible for winter shutoff protections.

d) UGI Electric will conduct an interim pilot to auto-enroll non-shopping customers who receive LIHEAP into CAP, pending implementation of the auto-enrollment process identified in Paragraph 60(c). The interim pilot will contain the following elements:

i. UGI Electric will auto-enroll non-shopping customers who received LIHEAP during the 2022/2023 LIHEAP season and will continue to enroll new LIHEAP recipients during each subsequent LIHEAP season until the time that DHS begins sharing LIHEAP income participant data with utilities (as described in Paragraph 60(c)).

ii. Auto-enrolled customers will be placed on CAP under the average bill methodology, unless they provide the Company with proof of income documentation demonstrating qualification for the opportunity to be placed on the lesser of a percent of income ("PIP") bill or minimum bill amount.

iii. Auto-enrolled customers will receive a notification by mail or email as applicable from the Company explaining: (a) the reason for the auto-enrollment; (b) the ability to opt-out of the auto-enrollment; and (c) the opportunity to be placed on the lesser of the CAP minimum bill or PIP bill by providing proof of income.

iv. Auto-enrolled customers will be required to recertify their CAP enrollment one year after they are auto-enrolled.

v. Auto-enrolled customers, who are enrolled through the interim pilot and for whom UGI Electric later receives detailed income information from DHS through the data-sharing process identified in Paragraph 60(c), will be transitioned to the best available CAP rate (*i.e.*, PIP, average bill, or minimum bill).

vi. Auto-enrolled CAP customers with arrearages less than $300 at the time of auto-enrollment will be eligible to include their pre-program arrearage (“PPA”) debt forgiveness if they later reenroll in the program.

vii. Auto-enrolled customers will be eligible for a one-time payment arrangement (after they leave or are otherwise removed from CAP) on arrears incurred while enrolled in CAP at the average bill rate.

e) Within 30 days of a final order in this proceeding, UGI Electric will convene a collaborative with interested parties to this proceeding to identify the following:

i. The manner and method of outreach and education for auto-enrolled customers to verify their income and inform them of the program rights and responsibilities.

ii. Data points that can be tracked to measure the effectiveness of the pilot program.

iii. Associated pilot program action dates related to outreach, education, and auto-enrollment start.

iv. During the term of the interim pilot, UGI Electric will provide updates during each USAC meeting regarding the data points identified in Paragraph 60(e)(ii) to determine whether adjustments to the pilot are necessary.

v. The pilot program will cease operation if and when the terms of Paragraph 60(c) take effect.

Additional Provisions

61. Ruckle Hill Road. The Company will complete a project to upgrade the highest risk section of the circuit servicing Ruckle Hill Road customers in order to improve reliability and implement storm hardening techniques. This solution will include the replacement of older non-standard wood poles with Class 2 – 45’ and 50’ wood poles where appropriate, and the installation of approximately 10,000’ of spacer-cable construction and associated conductor. This work will increase pole and conductor resistance to tree contact and damage. The Company anticipates completing the project by the end of the FPFTY and will provide notice to the parties to this proceeding upon completion, including a report on the actual costs of the work.

62. Vegetation Management. The Company agrees to report actual monthly vegetation management expenses on an annual basis for the 12-month period ending September 30, with the first report being due as part of the Company's 2024 Annual Asset Optimization Plan ("AAOP") filing. The report shall include quantities of vegetation management work performed, along with a summary overview of the Company's vegetation management program.

VII. LEGAL STANDARD

The purpose of this investigation is to establish rates for UGI Electric's customers that are just and reasonable pursuant to Section 1301 of the Public Utility Code.[11] The burden of proof in a ratemaking proceeding is on the public utility.[12]

A public utility seeking a general rate increase is entitled to an opportunity to earn a fair rate of return on the value of the property dedicated to public service.[13] In determining what constitutes a fair rate of return, the Commission is guided by the criteria set forth in *Bluefield Water Works & Improvement Co. v. Public Service Commission of West Virginia*,[14] and *Federal Power Commission v. Hope Natural Gas Co*.[15] In *Bluefield*, the United States Supreme Court stated:

> A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no

11 66 Pa.C.S. § 1301.

12 *See* 66 Pa.C.S. § 315(a); *Lower Frederick Twp. v. Pa. Pub. Util. Comm'n*., 409 A.2d 505, 507 (Pa. Cmwlth. 1980) (citations omitted). *See also*, *Brockway Glass v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlth. 1981).

13 *Pa. Gas & Water Co. v. Pa. Pub. Util. Comm'n*, 341 A.2d 239 (Pa. Cmwlth. 1975).

14 *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679 (1923).

15 *Fed. Power Comm'n v. Hope Nat. Gas Co*., 320 U.S. at 591 (1944).

> constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.[16]

The Commission encourages parties in contested on-the-record proceedings to settle cases.[17] Settlements eliminate the time, effort, and expense of litigating a matter to its ultimate conclusion, which may entail review of the Commission's decision by the appellate courts of Pennsylvania. Such savings benefit not only the individual parties, but also the Commission and all ratepayers of a utility, who otherwise may have to bear the financial burden such litigation necessarily entails. It is unusual for a proposed settlement in a general base rate case to be rejected.[18]

By definition, a "settlement" reflects a compromise of the positions that the parties of interest have held, which fosters and promotes the public interest. When active parties in a proceeding reach a settlement, the principal issue for Commission consideration is whether the agreement reached suits the public interest.[19] In their supporting statements, the Joint Petitioners conclude, after extensive discovery and discussion, that this Settlement resolves all of the contested issues in this case, fairly balances the interests of the company and its ratepayers, is in the public interest, and is consistent with the requirements of the Public Utility Code.

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[16] 262 U.S. at 692-93.

[17] *See* 52 Pa. Code § 5.231.

[18] *Pa. Pub. Util. Comm'n v. Cmty. Utils. of Pa., Inc. – Wastewater Div.*, Docket No. R-2021-3025206, (Opinion and Order entered Jan. 13, 2022) (reversing the presiding officer's order recommending rejection of a joint petition for settlement of a rate case concluding that on balance, the settlement is in the public interest and should be approved).

[19] *Pa. Pub. Util. Comm'n v. CS Water and Sewer Assoc.*, 74 Pa.P.U.C. 767 (1991). *See also Pa. Pub. Util. Comm'n v. York Water Co*., Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm'n v. Phila Elec. Co.*, 60 Pa.P.U.C. 1 (1985).

Not every issue was of equal concern to every party. Accordingly, each of the Joint Petitioners' statements in support did not address each and every aspect of the Settlement.

VIII. DISCUSSION OF THE SETTLEMENT

A. Revenue Requirement

The Settlement provides that UGI Electric will submit a revised tariff supplement that is designed to produce an annual distribution revenue increase of $8.5 million, to become effective on or before October 1, 2023, for service rendered thereafter, in lieu of the as-filed increase of approximately $11.4 million.[20] The agreed upon revenue requirement is a "black box" settlement, with certain exceptions discussed below.[21]

UGI Electric notes that under a "black box" settlement, parties do not specifically identify or resolve individual rate base, revenue, expenses, and rate of return issues. This "black box" concept often facilitates settlement agreements because it permits parties to retain their positions on important ratemaking issues for the proceeding at hand as well as for future proceedings. The Commission encourages settlements and permits the use of black box settlements.[22] UGI Electric further notes that under a "black box" settlement, it is not necessary for the ALJs to decide individual rate base or revenue and expense adjustments proposed by the parties or determine the return on equity under the Settlement in order to ascertain the reasonableness of the proposed revenue increase under the Settlement. UGI Electric Statement in Support at 4.

UGI Electric maintains that the settled revenue increase is essential to its continued ability to attract capital on reasonable terms, and continued extensive efforts to repair,

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[20] Settlement ¶ 46.

[21] *Id*.

[22] *See, e.g.*, *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.*, Docket No. R-2011-2267958 (Opinion and Order entered June 7, 2012); *Pa. Pub. Util. Comm'n v. Peoples TWP LLC*, Docket No. R-2013-2355886 (Opinion and Order entered Dec. 19, 2013); Statement of Chairman Robert F. Powelson, *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611 (Public Meeting, Aug. 2, 2012).

replace, improve and modernize the aging portions of its distribution system.[23] The Company's current rates do not provide it with a reasonable opportunity to earn a fair rate of return on its investments made to serve the public in the provision of safe and reliable electric distribution service.[24] Absent rate relief, UGI Electric projected that its operations at current rates would produce an overall return on rate base of just 3.768%, which equates to a return on common equity of only 3.28%, for the twelve months ending September 30, 2024.[25] UGI Electric explains that those returns are not adequate based upon the applicable financial analyses and the risks confronted by the Company, as detailed by UGI Electric witness Paul R. Moul.[26] Unless UGI Electric receives the requested rate relief, those returns will continue declining, deny the Company an opportunity to earn a fair and reasonable rate of return, and jeopardize the Company's ability to attract the capital needed to make the system investments necessary to support and ensure continued system reliability, safety, and customer service performance.[27] UGI Electric Statement in Support at 5.

In this proceeding, UGI Electric, I&E, and OCA presented testimony on the overall revenue requirement. In its initial filing, UGI Electric proposed a revenue increase of $11.425 million,[28] which included a proposed return on equity of 11.30%.[29] In its rebuttal testimony, UGI Electric explained that its originally proposed revenue increase was justified, even though its most recent data and updates supported an annual revenue increase of $11.435 million.[30] UGI Electric Statement in Support at 5.

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[23] UGI Electric St. No. 1 at 6.

[24] *Id*. at 8.

[25] *Id*.

[26] *Id*.

[27] *Id*.

[28] UGI Electric St. No. 1 at 6.

[29] UGI Electric St. No. 9 at 1

[30] UGI Electric St. No. 2-R at 4-5; UGI Electric Exh. A – Fully Projected (REBUTTAL).

By comparison, I&E initially recommended a revenue requirement increase of approximately $6.829 million[31] with a return on equity of 8.76%[32] in its direct testimony. Subsequently, in I&E's surrebuttal testimony, I&E updated its recommended revenue requirement to a revenue increase of $6.864 million.[33] The OCA, on the other hand, initially recommended a revenue requirement increase of $3,540,663[34] based on what it described as a hypothetical capital structure of 55.25% debt and 44.75% equity and a return on equity of 8.44%.[35] In its surrebuttal testimony, the OCA updated its recommended revenue requirement increase to $5,591,225.[36] UGI Electric Statement in Support at 6.

UGI Electric notes that through extensive negotiations, the Joint Petitioners were able to reach a compromise within a range of their competing litigation positions. The $8.50 million settlement increase falls within the range of the parties' overall revenue requirement proposals, is just and reasonable, is in the public interest, and supported by substantial evidence. Thus, the Commission should approve the "black box" $8.50 million revenue requirement increase without modification. UGI Electric Statement in Support at 6.

I&E maintains that, based on its analysis of the Company's filing and discovery responses received, the rate increase under the proposed Settlement represents a result that is within the range of likely outcomes in the event that the case was fully litigated. I&E maintains that the increase is appropriate and, when accompanied by other important provisions contained in the Settlement, yields a result that is both just and reasonable and in the public interest. I&E Statement in Support at 7.

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[31] I&E St. No. 1 at 3.

[32] I&E St. No. 3 at 6, 25.

[33] I&E St. No. 1-SR, at 3.

[34] OCA St. No. 1 at 3-4

[35] OCA St. No. 2 at 8-10.

[36] OCA St. No. 1-SR at 2.

Similar to UGI Electric, I&E notes that the additional revenue in this proceeding is base rate revenue and has been agreed to in the context of a black box settlement. I&E is of the opinion that an agreement as to the resolution of each and every disputed issue in this proceeding would not have been possible without judicial intervention. The involvement of the ALJs would have added time and expense to an already cumbersome proceeding. Avoiding this necessity will benefit ratepayers by keeping the expenses associated with this filing at a reasonable level. I&E further noted that the previous Chairman of the Commission has commented on black box settlements and stated that the "[d]etermination of a company's revenue requirement is a calculation that involves many complex and interrelated adjustments affecting revenue, expenses, rate base and the company's cost of capital. To reach an agreement on each component of a rate increase is an undertaking that in many cases would be difficult, time-consuming, expensive, and perhaps impossible. Black Box settlements are an integral component of the process of delivering timely and cost-effective regulation."[37] I&E Statement in Support at 7-8.

This increased level of black box revenue adequately balances the interests of ratepayers and the Company. UGI will receive sufficient operating funds in order to provide safe and adequate service while ratepayers are protected as the resulting increase minimizes the impact of the initial proposal. Mitigation of the level of the rate increase benefits ratepayers and results in rates that satisfy the regulatory standard requiring just and reasonable rates. As such, I&E maintains that this element supports the standard for approval of a settlement as the resulting rates are just and reasonable and in accordance with the Public Utility Code and all pertinent case law. I&E Statement in Support at 8.

Similar to UGI and I&E, the OCA notes that the Settlement represents a "black box" approach to the revenue requirement, including cost of capital issues. Black box settlements avoid the need for protracted disputes over the merits of individual revenue requirement adjustments and avoid the need for a diverse group of stakeholders to attempt to reach a consensus on each of the disputed accounting and ratemaking issues raised in this matter,

[37] *See* Statement of Commissioner Robert F. Powelson, *Pa. Pub. Util. Comm'n v. Wellsboro Elec. Co.,* Docket No. R-2010-2172662 (Order entered Jan. 13, 2011); *See also* Statement of Commissioner Robert F. Powelson, *Pa. Pub. Util. Comm'n v. Citizens' Elec. Co. of Lewisburg, Pa.,* Docket No. R-2010-2172665 (Order entered Jan. 13, 2011).

as policy and legal positions can differ. As such, the parties have not specified a dollar amount for each issue or adjustment raised in this case. Attempting to reach agreement regarding each adjustment in this proceeding would have likely prevented any settlement from being reached. OCA Statement in Support at 5.

OCA maintains that, based on its analysis of UGI Electric's filing, discovery responses received, and testimony by all parties, the revenue increase under the Settlement represents a result that would be within the range of likely outcomes in the event of full litigation of the case. As such, the OCA submits that the increase agreed to in this Settlement is in the public interest and in the interest of UGI Electric's ratepayers and should be approved by the Commission. OCA Statement in Support at 5.

CAUSE-PA expressed concerns from the outset of the proceeding that UGI's rate proposal would increase the cost of basic services – imposing a severe hardship on low and moderate income residential customers.[38] The proposed Settlement reduces UGI's original proposal from $11.4 to $8.5 million, a 25% decrease, which will help to lessen the economic hardship. Together with the other terms of the proposed Settlement, and in balance with other competing interests in this proceeding, CAUSE-PA believes the proposed revenue requirement represents a reasonable compromise and should be approved. CAUSE-PA Statement in Support at 4.

B. Revenue Allocation and Rate Design

1. Revenue Allocation

UGI Electric relied upon a class cost of service study to allocate its proposed total revenue and costs to each of the retail customer classes.[39] UGI Electric, OCA, and OSBA all

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38 CAUSE-PA Pet. to Intervene at ¶ 14.

39 UGI Electric St. No. 6 at 4-18, 21-24; UGI Electric Exh. D.

presented evidence regarding revenue and cost allocation.[40] While UGI Electric, OCA, and OSBA took differing positions on revenue allocation, all of these parties agreed that the majority of the revenue increase should be allocated to the residential customer class.[41] UGI Electric Statement in Support at 6-7.

Ultimately, the Joint Petitioners were able to reach a full settlement that allocated the revenue in a manner that will move all classes closer to the cost of service.[42] The rate impact of the settled revenue allocation can be derived using the Proof of Revenue attached as Appendix B to the Settlement. UGI Electric Statement in Support at 7.

UGI Electric believes that the revenue allocation under the Settlement is fully consistent with the Commonwealth Court's decision in *Lloyd v. Pennsylvania Public Utility Commission*[43] and prior Appellate Court precedent regarding revenue allocation. In addition, in considering the *Lloyd* decision, it is important to recognize that *Lloyd* did not overturn prior judicial precedent regarding revenue allocation and the applicability of cost of service studies. When allocating revenues to the rate classes, the Commission is not required to adopt a single cost of service study or strictly allocate revenues according to the study's results. In *Executone of Philadelphia, Inc. v. Pennsylvania Public Utility Commission*, 415 A.2d 445 (Pa. Cmwlth. 1980), the Court stated as follows:

> [t]here is no single correct cost study or methodology that can be used to answer all questions pertaining to costs; there are only appropriate and inappropriate cost analyses depending upon the type of service under study and the management and regulatory decision in question.[44]

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[40] *See* UGI Electric St. Nos. 6, 6-R, and 6-RJ; OCA St. Nos. 3, 3-R, and 3-SR; OSBA St. Nos. 1, 1-R, and 1-S.

[41] *See, e.g.*, UGI Electric St. No. 6 at 22; OCA St. No. 3 at 20; OSBA St. No. 1 at 17, 19.

[42] Settlement ¶ 48.

[43] *See Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010 (Pa. Cmwlth. 2006) ("*Lloyd*"), *allocatur denied*, 916 A.2d 1104 (Pa. 2007).

[44] 415 A.2d at 448.

Likewise, in *Peoples Natural Gas Co. v. Pennsylvania Public Utility Commission*, 409 A.2d 446 (Pa. Cmwlth. 1979), the Court stated as follows with respect to rate design:

> there is no set formula for determining proper ratios among the rates of different customer classes. *Natona Mills v. Pennsylvania Public Utility Commission*, 179 Pa. Super. 263, 116 A.2d 876 (1955). What is reasonable under the circumstances, the proper difference among rate classes, is an administrative question for the [C]ommission to decide. This court's scope of review is limited.[45]

UGI Electric Statement in Support at 7-8.

As *Lloyd* and the other cases cited above demonstrate, the Commission retains considerable discretion in designing rates, is not required to follow any particular cost of service study, and can consider other factors, including gradualism and extenuating economic circumstances, in designing just and reasonable rates, as long as cost of service is the primary guiding factor. The agreed-upon revenue allocation under the Settlement provides movement towards cost of service for all rate classes. As such, UGI Electric submits that the Settlement's proposed revenue allocation is fully consistent with the *Lloyd* decision and other relevant precedent regarding revenue allocation. UGI Electric Statement in Support at 8.

Accordingly, UGI Electric maintains that the Settlement's proposed revenue allocation is just, reasonable, and in the public interest and, therefore, should be approved without modification. UGI Electric Statement in Support at 9.

OCA notes that in its filing, UGI Electric proposed to increase annual distribution revenues by $11.425 million for a system average increase of 20.5 percent (on a distribution revenue-only basis).[46] Of that amount, the Company proposed to allocate approximately $10.705 million, or 93.7% of the requested increase to the residential customer class.[47] The

45 409 A.2d at 456.

46 UGI Electric St. 6 at 22.

47 *Id*.

Company's proposed allocation resulted in a 27.5 percent increase to the residential class on a distribution-only basis.[48] The Company also proposed to increase its existing fixed residential customer charge from $9.50 to $13.50 per month.[49] OCA Statement in Support at 5.

OCA witness Karl R. Pavlovic reviewed the Company's revenue allocation proposal and the Company's cost of service study (COSS) upon which the Company's allocation was based. The OCA contested the Company's COSS and recommended that the Commission adopt the allocated cost of service study (ACOSS) without minimum-size classification as a guide in determining UGI's class revenue allocation and tariff distribution rates.[50] Based on Dr. Pavlovic's preferred COSS, Dr. Pavlovic recommended that the residential class be allocated approximately $7.643 million of the Company's proposed increase.[51] Lastly, Dr. Pavlovic recommended that the Company's fixed monthly customer charge remain at $9.50.[52] OCA Statement in Support at 5-6.

Based on the OCA's review of the cost of service studies presented in this proceeding and the varying revenue allocation proposals, the OCA views the Settlement to be within the range of reasonable outcomes that would result from full litigation of this case. Under the Settlement, the residential customer class will be allocated approximately $7.396 million, or 87% of the settled-upon revenue increase, which is an approximate 6.3% increase over present distribution revenue.[53] Thus, the OCA maintains that the Settlement reduces the impact of this rate increase on residential customers. OCA Statement in Support at 6.

OSBA witness Robert D. Knecht summarized the Company's small commercial and industrial (Small C&I) GS-1 and GS-4 classes, as follows:

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48 *Id*.

49 UGI Electric St. 6 at 24.

50 OCA St. 3 at 17.

51 *Id*. at 20.

52 *Id*. at 24.

53 Settlement ¶ 48, App. B.

> The two primary categories for service to small and medium business customers are Rates GS-1 and GS-4.
>
> Rate GS-1 comprises the smallest non-residential customers, with a maximum billing demand of only 5 kW. The average customer consumes about 506 kWh per month, only a little more than half that of the average residential customer.
>
> * * *
>
> The GS-1 tariff for distribution services consists of a monthly customer charge and a flat energy charge. The vast majority of Rate GS-1 load takes utility default service electric supply (93 percent of load).
>
> Rate GS-4 service applies to customers with at least 5 kW in billing demand, generally up to the 100-kW minimum for Rate LP large power service. Service is generally 3-phase, although single phase service is provided to certain customers.
>
> * * *
>
> The GS-4 tariff for distribution services consists of a two-block demand charge (sharply declining), and a three-load-factor-block 'Wright' energy tariff. A significant share of GS-4 service load takes default service, although approximately 27 percent of the load is purchased from competitive electric generation suppliers ('EGSs').[54]

In this proceeding, pursuant to the settlement in the last base rates case, Rate FCP[55] is treated as a separate class for cost allocation purposes. OSBA Statement in Support at 2.

Mr. Knecht testified extensively regarding the ACOSS methodology and revenue allocation.[56] Due to errors and oversights in the Company's original ACOSS, Mr. Knecht created two alternative ACOSSs in this proceeding to provide a reasonable range of cost bases for this

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[54] OSBA St. No. 1, at 2-3 (footnote omitted).

[55] Rate FCP is a "flood control service," applicable only to seven municipalities for flood pumping stations, for emergency pumping operations. Rate FCP was treated as a separate class for cost allocation in this proceeding. *See* OSBA Statement No. 1, at 3-4.

[56] *See*, *e.g.*, OSBA St. No. 1, at 4-13.

proceeding.[57] Ultimately, Mr. Knecht summarized his results compared to the Company's filing in Table RDK-1:[58]

Table RDK-1 Comparative ACOSS Results						
	Class Rate of Return at Current Rates			**Revenue-Cost Ratios Current Rates**		
	UGI Electric*	**RDK WP2**	**RDK WP3**	**UGI Electric***	**RDK WP2**	**RDK WP3**
Residential	-0.33%	-0.29%	1.11%	87.2%	86.9%	92.2%
GS-1	3.10%	3.20%	9.13%	94.5%	96.1%	119.4%
GS-4	16.58%	17.42%	9.09%	155.4%	157.7%	119.9%
FCP	4.40%	4.50%	-4.46%	96.7%	98.1%	56.9%
Large Power	28.87%	30.40%	10.73%	222.6%	226.3%	128.0%
Lighting	37.71%	40.39%	34.67%	246.2%	250.1%	227.5%
System	**3.77%**	**3.77%**	**3.77%**	**100.0%**	**100.0%**	**100.0%**
* Filed version, as updated in Attachment OSBA-II-1.2, and replicated in RDK WP1. Sources: RDK WP1, RDK WP2, RDK WP3						

OSBA Statement in Support at 3.

Mr. Knecht then applied the results of each of his ACOSS simulations to develop alternative class revenue allocations at the originally requested Company revenue requirement. The table below shows Mr. Knecht's proposed revenue allocations, compiled from Tables RDK-3 and RDK-4 of his direct testimony:[59]

OSBA Revenue Allocation Proposals Summary				
	RDK WP2 Simulation		**RDK WP3 Simulation**	
	Increase ($000)	**Increase (%)**	**Increase ($000)**	**Increase (%)**
Residential	$10,706	27.5%	$10,827	27.8%
GS-1	$714	26.3%	$595	21.9%
GS-4	$0	0.0%	$0	0.0%
FCP	$5	26.3%	$3	16.0%
Large Power	$0	0.0%	$0	0.0%
Lighting	$0	0.0%	$0	0.0%
System	**$11,425**	**20.9%**	**$11,425**	**20.9%**
Sources: OSBA Statement No. 1, Tables RDK-2 and RDK-3				

OSBA Statement in Support at 3-4.

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57 *See* OSBA St. No. 1, at 12-13, for a full discussion of Mr. Knecht's ACOSS.

58 OSBA St. No. 1, at 13.

59 OSBA St. No. 1, at 16.

UGI-Electric originally requested an increase in annual revenues of approximately $11.4 million.[60] As shown in the table above, this increase represented an average base rate increase of 20.9 percent. The Joint Petition proposes an annual revenue increase of $8.5 million, an average base rate increase of 15.5 percent.[61] OSBA Statement in Support at 4.

OSBA notes that the revenue allocation positions of the parties varied widely in this proceeding. For the combined GS-1 and GS-4 rate classes, the revenue allocation positions of the parties were as follows:

Revenue Allocation Proposals for Combined GS-1 and GS-4 Classes ($000)		
	Full Claim	**Scaled Settlement**
UGI-E Filed	$ 714	$ 531
OCA	$1,899	$1,060
OSBA WP2	$ 595	$ 443
OSBA WP3	$ 664	$ 494
Settlement	--	$ 723

OSBA Statement in Support at 4.

The OSBA acknowledges that the UGI Electric and OSBA WP2 revenue allocation proposals are based on ACOSS simulations that are consistent with established Commission precedent for the UGI Electric cost allocation methodology, and that both simulations would imply a lower revenue allocation to the GS-1/GS-4 classes than that offered in this settlement. Nevertheless, the Commission has recently made it clear that precedent regarding the cost allocation methodology is not binding, that the Commission will evaluate cost allocation analyses on a case-by-case basis, and that revenue allocation settlements need not be consistent with cost allocation studies based on Commission precedent.[62] OSBA Statement in Support at 5.

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60 Joint Petition, at Paragraph 1.

61 Joint Petition, at 46.

62 *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc*. Docket No. R-2022-3031211 (Opinion and Order entered Dec. 8, 2022).

The OSBA maintains that the proposed revenue allocation settlement represents a reasonable balance among the positions of the parties in this proceeding. OSBA Statement in Support at 5.

CAUSE-PA notes that the Settlement reduces the amount of the rate increase to the residential class from that which was proposed originally in the Company's filing. As originally filed, the Company sought a rate increase that would have increased a typical residential customer's bill by 8.9%. Under the settlement, a typical residential customer's bill will increase by 6.2%, which CAUSE-PA notes is a significant reduction, especially to the Company's low-income customers. CEO Statement in Support at 1-2.

2. Rate Design

UGI Electric notes that the primary objective of the Company's proposed rate design was to develop rate schedules that would produce the requested revenues when applied to forecasted conditions for the FPFTY. Under the comprehensive Settlement, the parties have agreed that the pro forma annual revenue increase will be incorporated through the Company's volumetric distribution charges and monthly customer charges and will be based on the Company's filed usage billing determinants.[63] UGI Electric Statement in Support at 8.

UGI Electric notes that the Company's proposed increase for the Rate R customer charge was opposed by OCA and CEO, based predominantly on their belief that higher fixed customer charges discourage energy conservation and adversely affect low-income customers.[64] Relatedly, I&E proposed that the Rates R and GS-5 customer charges increase to $12.00, instead of the $13.50 proposed by the Company, and that those customer charges be subject to a scale-back if the Commission granted less than the Company's full requested base rate increase.[65] OSBA opposed UGI Electric's proposed customer charge levels for Rates GS-1 and GS-4,

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[63] Settlement ¶¶ 47 and 49.

[64] *See, e.g.*, OCA St. No. 3 at 23-24; OCA St. No. 4 at 22-32; CEO St. No. 1 at 4-5, 7.

[65] I&E St. No. 3 at 8.

proposing higher customer charges of $17.00 and $18.00, respectively.[66] UGI Electric Statement in Support at 8-9.

UGI Electric agreed with OSBA's increases of the Rates GS-1 and GS-4 customer charges and provided thorough and substantial evidence in support of its other proposed customer charges, including testimony demonstrating that OCA's and CEO's claims about the impact of higher customer charges on energy efficiency and conservation and low-income customers lack merit.[67] UGI Electric Statement in Support at 9.

UGI Electric maintains that under the Settlement, the parties have reached a reasonable compromise of their respective positions on the proposed increases to the monthly customer charges. Specifically, the parties have agreed to the customer charges proposed by the Company, except that: (1) the Rates R and GS-5 customer charges will be $10.75 per month, instead of the $13.50 per month proposed by UGI Electric; (2) the Rate GS-1 customer charge will be $17.00 per month, rather than the $14.00 per month originally proposed by the Company; and (3) the Rate GS-4 customer charge will be $18.00 per month, rather than the $15.00 per month originally proposed by UGI Electric.[68] UGI Electric Statement in Support at 9.

UGI Electric notes that the overall rate design reflects a gradual increase in rates over the course of the FPFTY, moves all customer classes toward the overall cost of service, and strikes a reasonable balance between the interests of customers and the Company. For these reasons, UGI Electric maintains that the Settlement's proposed rate design is just, reasonable, and in the public interest and, therefore, should be approved without modification. UGI Electric Statement in Support at 9.

I&E notes that in this proceeding, UGI provided a summary of various costs related to the customer charge in its Exhibit D. I&E Witness Cline specifically addressed UGI's proposal to

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[66] OSBA St. No. 1 at 21-22.

[67] *See, e.g.*, UGI Electric St. No. 6 at 28-29; UGI Electric St. No. 6-R at 21-32; UGI Electric St. No. 6-RJ at 4-6.

[68] Settlement ¶ 49.

increase the fixed monthly costs for the residential customer class and the general services customer class. I&E asserts that it is important to allow the utility to recover only those direct monthly costs that vary with the addition or loss of a customer through the Customer Charge. This charge provides the Company with a steady, predictable level of income that will allow for the proper maintenance and upkeep of the system. Establishing the proper customer charge protects ratepayers by ensuring that UGI is not being overcompensated. Moderating the requested increase in this proceeding also benefits ratepayers as it allows them to reap a greater portion of the benefit of conservation. Shifting costs to the volumetric portion of a customer's bill allows for the immediate realization of the benefit of conserving usage. Designing rates to allow customers to have greater control of their electric bills is in the public interest. I&E Statement in Support at 8-9.

UGI proposed to increase the residential Customer Charge from its current rate of $9.50 to $13.50.[69] I&E disagreed with such a large increase in the fixed Customer Charge.[70] Under the Settlement, UGI agreed to set the residential Customer Charge at $10.75 per month. I&E supports the Settlement, which moderates the increase in the Customer Charge for residential customers. I&E Statement in Support at 9.

Based on I&E's review of the cost of service studies presented in this proceeding, I&E views the Settlement to be within the range of reasonable outcomes that would result from full litigation of this case. Further, the mitigated level of Customer Charge demonstrates a compromise of the interests of the parties. As such, these provisions are in the public interest. I&E Statement in Support at 9-10.

OCA notes that the fixed monthly customer charge for residential customers will increase from $9.50 to $10.75 per month.[71] The OCA maintains that reducing the amount of the increase allocated to the fixed monthly customer charge will ensure that customers have greater

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[69] UGI St. No. 6, p. 24.

[70] I&E St. No. 4, p. 6-7.

[71] Settlement ¶ 49.

control over lowering their monthly bills through conservation and usage reduction efforts. OCA Statement in Support at 6.

Regarding UGI Electric's proposal for the Rate GS-1 customer charge, OSBA witness Robert D. Knecht concluded:

> major Pennsylvania EDCs generally have monthly customer charges well in excess of the UGI Electric proposed charge, and most have lower energy charges.
>
> Moreover, for UGI Electric, my simulations of the ACOSS model imply a customer component of costs for GS-1 of $42.86 under RDK WP2 and $26.96 under RDK WP3.
>
> Finally, as I indicated earlier, it is likely that there are a significant number of small GS-1 customers that are not small businesses. Each of these customers is attracting customer costs to the class of at least $27 per month in the ACOSS but providing only a small fraction of that amount in the monthly customer charge.
>
> Despite this evidence, the Company proposes only a minimal increase in the customer charge for Rate GS-1, and an enormous increase (45.4 percent) to the GS-1 commodity charge. When the effects of the DSIC are recognized, the current customer charge is effectively $13.65, to which the Company would apply an increase of 2.6 percent.
>
> I disagree with this proposal. Given the substantial under-recovery of customer costs, a larger percentage increase should apply to the customer charge. At the Company's proposed class increase for the class is 26.1 percent, an increase in the customer charge to $17.00 is cost justified and is not out of line with the practices of other Pennsylvania EDCs.[72]

OSBA Statement in Support at 5-6.

The Joint Petition adopts Mr. Knecht's proposal in this respect. Mr. Knecht recommended a commensurate increase in the GS-4 customer charge to $18 per month, and this

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[72] OSBA St. No. 1, at 20-23.

proposal was also adopted in the Joint Petition. The OSBA therefore concludes that the Joint Petition reasonably represents the OSBA's positions regarding rate design for the GS-1 and GS-4 rate classes. Consequently, the OSBA submits that the Joint Petition's rate design proposal represents a just and reasonable resolution of these contentious issues. OSBA Statement in Support at 6.

One of CAUSE-PA's concerns regarding UGI's proposed rate increase was the negative effect of its proposal to significantly increase its fixed residential customer charge, which could have a disparate impact on smaller households with limited economic means.[73] As previously noted, the residential fixed customer charge will be set at $10.75.[74] Noting that UGI initially proposed a customer charge of $13.50, CAUSE-PA supports this provision and recommends that the Commission approve it. CAUSE-PA maintains that limiting the amount of the fixed charge increase will preserve the ability of low and moderate income households to reduce their bill through energy efficiency and conservation and advance rate equity - helping ensure consumers with smaller homes and lower usage do not shoulder a disproportionately high rate increase.[75] CAUSE-PA Statement in Support at 4-5.

CEO notes that the initial proposal to increase the fixed monthly residential charge from $9.50 to $13.50 would have lessened the motive and ability of the residential class to conserve energy and reduce their monthly bills. CEO maintains that the Settlement lessens such a negative impact in that it provides that the fixed monthly residential customer charge will be set at $10.75. CEO Statement in Support at 2.

C. DSIC Reporting

The Settlement provides that, as of the effective date of rates in this proceeding, UGI Electric will be eligible to include plant additions in the Distribution System Improvement

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73 CAUSE-PA Pet. to Intervene at ¶ 16.

74 Joint Pet. at ¶ 49.

75 OCA St. 4 at 27-30.

Charge (DSIC) once the total gross plant balances exceed a level of $275,000,001.[76] The Joint Petitioners agree that this provision is included solely for purposes of calculating the DSIC and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in a FPFTY filing.[77] UGI Electric maintains that this provision fully complies with the requirements of 66 Pa.C.S. § 1358 and the Commission's Model Tariff that the DSIC be set to zero as of the effective date of new base rates that include the DSIC-eligible plant. UGI Electric Statement in Support at 9-10.

UGI Electric maintains that this threshold provides it with a reasonable opportunity to recover its capital costs incurred to repair, improve, or replace its aging distribution infrastructure that is placed in service between base rate cases, which, in turn, provides customers with enhanced electric service safety and reliability benefits. UGI Electric also notes that this settlement provision is similar to other settlement provisions the Commission has adopted in recent proceedings.[78] For these reasons, UGI Electric submits that this settlement provision should be approved without modification. UGI Electric Statement in Support at 10.

The Settlement further provides that for purposes of calculating its DSIC, UGI Electric shall use the equity return rate for electric utilities contained in the Commission's most recent Quarterly Report on the Earnings of Jurisdictional Utilities as updated each quarter consistent with any changes to the equity return rate for electric utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa.C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa.C.S. § 1358(b)(1).[79] UGI Electric asserts that this Settlement provision is in the public interest because it satisfies the Commission's request

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[76] Settlement ¶ 50.

[77] Settlement ¶ 50.

[78] *See, e.g.*, *Pa. Pub. Util. Comm'n, v. Pa. Am. Water Co.*, Docket No. R-2020-3019369, (Opinion and Order entered Feb. 25, 2021) (approving a similar rate case settlement provision); *Pa. Pub. Util. Comm'n, v. PECO Energy Co. – Elec. Div.*, Docket No. R-2018-3000164 (Opinion and Order entered Dec. 20, 2018) (approving similar rate case settlement provision).

[79] Settlement ¶ 51.

that parties to a rate case settlement identify a return on equity for DSIC computation purposes.[80] UGI Electric Statement in Support at 10-11.

In addition, the Settlement provides that the Company will submit an update to UGI Electric Exhibit A, Schedule C-2 no later than January 2, 2024, which will include actual capital expenditures, plant additions, and retirements by month from October 1, 2022, through September 30, 2023.[81] An additional update for actuals from October 1, 2023, through September 30, 2024, shall be filed no later than January 2, 2025.[82] This will enable the parties and interested stakeholders to track the Company's actual capital expenditures, plant additions, and retirements for the FPFTY and evaluate to what extent the actual figures match the Company's projections in this case. Accordingly, UGI Electric requests that the Commission approve this Settlement provision without modification. UGI Electric Statement in Support at 11.

I&E avers that the settlement provisions related to the DSIC are in the public interest and benefits both UGI and its ratepayers. UGI benefits because it will have access to DSIC funding for necessary infrastructure improvements which helps to ensure UGI is able to meet its obligation to provide its customers with safe and reliable service. Customers will benefit from the assurance that improved infrastructure will facilitate safe and reliable service. I&E Statement in Support at 10.

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[80] *See, e.g.*, *Pa. Pub. Util. Comm'n v. UGI Utils., Inc. – Gas Div.*, Docket No. R-2015-2518438, p. 27 (Opinion and Order entered Oct. 14, 2016).

[81] Settlement ¶ 52.

[82] Settlement ¶ 52.

D. Accounting

1. Depreciation Rates

UGI Electric presented detailed depreciation studies on the Company's plant for the Historic Test Year (HTY), Future Test Year (FTY), and FPFTY.[83] The depreciation studies were sponsored and supported by the direct testimony of UGI Electric witness Mr. Wiedmayer.[84] No party filed testimony in opposition to the Company's claimed depreciation rates. UGI Electric Statement in Support at 11.

Under the Settlement, the Joint Petitioners accept UGI Electric's as-filed depreciation rates.[85] UGI Electric submits that this Settlement provision is in the public interest because it properly accounts for the Company's outlook and plans and is consistent with the depreciation procedure used by most other Pennsylvania utilities. UGI Electric Statement in Support at 11.

2. ADIT/EDFIT

Under the Settlement, the Joint Petitioners agree the Company's ADIT and pro-rationing methodology as required by Treasury Regulation 1.167(l)-1(h)(6)(ii) is accepted.[86] The Settlement also provides that the Company's method to amortize Excess Accumulated Deferred Federal Income Taxes (EDFIT) according to the Average Rate Assumption Method (ARAM) is accepted.[87] UGI Electric Statement in Support at 12.

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[83] *See* UGI Electric Exh. C – Fully Projected, UGI Electric Exh. C – Future, and UGI Electric Exh. C – Historic.

[84] *See* UGI Electric St. No. 7.

[85] Settlement ¶ 53.

[86] Settlement ¶ 54; *see* 26 C.F.R. § 1.167(l).

[87] Settlement ¶ 54.

In its filing, the Company calculated an FPFTY ending balance for federal ADIT and deducted this amount from rate base.[88] Company witness Mr. Espigh explained that the federal ADIT amount "reflects the difference in income tax expense for book and tax purposes attributable to the difference between the accelerated tax depreciation and straight-line book depreciation on test year plant balances, net of offsets associated with contributions in aid of construction."[89] In addition, as the state tax consequence of accelerated depreciation is flowed through, there is no associated state ADIT balance.[90] The Company also included a reduction to rate base associated with the unamortized EDFIT in its ADIT balance.[91] Finally, Company witness Mr. Espigh testified that the Company's calculation of its federal ADIT rate base deduction properly reflects the pro-rationing concept in accordance with Treasury Regulation 1.167(l)-1(h)(6)(ii) that it must follow for ratemaking purposes to comply with IRS normalization requirements.[92] None of the parties challenged UGI Electric's proposals regarding ADIT/EDFIT. UGI Electric Statement in Support at 12.

The Settlement provision reflects that the Company's claim is based on a FPFTY and ensures compliance with IRS normalization requirements. The Settlement further provides that absent a change in federal or state law, regulation, judicial precedent or policy, the remaining unamortized EDFIT balance will continue as a reduction to rate base in all future proceedings until the full amount is returned to ratepayers.[93] Therefore, this provision of the Settlement is reasonable and in the public interest and should be approved without modification. UGI Electric Statement in Support at 12-13.

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88 UGI Electric St. No. 8 at 6.

89 *Id*.

90 *Id*.

91 *Id*. at 7.

92 *Id*.

93 Settlement ¶ 54.

3. Repairs Allowance

UGI Electric explained in its initial filing that in its tax return for the year ended September 30, 2009, UGI Electric adopted a tax accounting method to expense as repairs certain items capitalized for book purposes in accordance with federal tax regulations.[94] As it did in the Company's previous base rate case at Docket No. R-2021-3023618, UGI Electric chose in this base rate proceeding to normalize its federal income tax expense claim, inclusive of the repairs tax deduction.[95] This difference between accelerated tax depreciation versus book depreciation in the calculation of federal tax expense creates ADIT.[96] Therefore, the Company reduced its rate base by the sum of the federal ADIT balance and the state repair regulatory liability.[97] None of the parties challenged UGI Electric's proposed treatment of the repairs allowance. UGI Electric Statement in Support at 13.

The Settlement states that, for purposes of determining the revenue requirement in this case, all capitalized repairs deductions claimed on a tax return have been normalized for ratemaking purposes, and the appropriate related amount of tax effect of those deductions has been treated similarly to ADIT as a reduction to UGI Electric's rate base.[98] UGI Electric maintains that the Settlement continues the practice that it has followed since its adoption of the current methodology used for calculating the repairs allowance. Normalization benefits customers by ensuring that they receive a fair portion of the benefit of the repairs allowance deduction through rate base, over the life of the plant giving rise to the deductions, regardless of when UGI Electric files a rate case. Moreover, normalizing the repairs allowance deduction provides an important source of cash flow to UGI Electric that can be used to support UGI Electric's large, related capital spending program and reduce outside borrowing. UGI Electric Statement in Support at 13-14.

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[94] UGI Electric St. No. 8 at 7.

[95] *Id*.

[96] *Id*.

[97] *Id*. at 7-8.

[98] Settlement ¶ 55.

4. COVID-19 Related Costs

UGI Electric stated that it has experienced increased uncollectible accounts expenses due to the COVID-19 pandemic.[99] As a result of these increased costs, the Company proposed to: (1) adjust budgeted uncollectible accounts expense to reflect a three-year average rate of uncollectible accounts expense for FY 2020-2022, where the baseline amounts for FY 2020 and FY 2021 include $1.013 million and $0.315 million, respectively, of amounts recorded as a regulatory asset; (2) amortize the regulatory asset balance of $1.013 million for COVID-19 Pandemic uncollectible costs over a three-year amortization period (in accordance with Ordering Paragraph 63 in the Commission's Order for settlement of the 2021 UGI Electric rate case, entered October 28, 2021 at Docket No. R-2021-3023618); and (3) amortize over a three-year amortization period the regulatory asset balance for FY 2021 of $0.315 million for COVID-19 Pandemic uncollectible costs, which were deferred for recovery because these costs were incurred between October 1, 2020, and the November 9, 2021 effective date of the new rates established in UGI Electric's 2020 base rate case at Docket No. R-2021-3023618.[100] UGI Electric Statement in Support at 14.

UGI Electric noted that none of the parties challenged its adjustments to its uncollectible accounts expense due to the COVID-19 pandemic. In addition, UGI averred that the Commission has allowed public utilities to defer costs for accounting and financial reporting purposes on numerous occasions. More specifically, UGI averred that the Commission has repeatedly authorized public utilities to defer incremental uncollectible expenses incurred due to the COVID-19 pandemic, including in its approval of the settlements in the Company's last base rate proceeding.[101] UGI Electric Statement in Support at 14-15.

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[99] UGI Electric St. No. 3 at 16-17.

[100] *Id*.

[101] *See, e.g.*, *Pa. Pub. Util. Comm'n v. UGI Utils., Inc. – Elec. Div.*, Docket No. R-2021-3023618, pp. 44-45 (Opinion and Order entered Oct. 28, 2021). Moreover, Recovery of these costs is also consistent with prior Commission orders wherein the Commission has granted deferred accounting for expenses that are extraordinary, not reasonably foreseeable, and non-recurring. *See, e.g., Petition of PPL Elec. Utils. Corp. for Authority to Defer, for Accounting Purposes, Certain Unanticipated Expenses Relating to Storm Damage*, Docket No. P-2012-2338996 (Opinion and Order entered Feb. 14, 2013) (authorizing the deferral and amortization of certain expenses related to extraordinary and non-recurring storm damage); *Petition of PPL Elec. Utils. Corp. for Authority to Defer for*

Under the Settlement, the Joint Petitioners agree that Company's revenue increase provided in this Settlement is reflective of a three-year non-reconcilable amortization of the Company's COVID-19 regulatory assets related to incremental uncollectible accounts expense, as follows: (a) a continuing amortization of $337,666 per year, which includes all incremental uncollectible expense through September 30, 2020; plus (b) a new amortization of $105,000 per year, which includes incremental uncollectible expense from October 1, 2020 through September 30, 2021.[102] This provision is reasonable because it: (1) reflects incremental uncollectible expenses incurred due to the pandemic; and (2) balances the Company's interest in recovering these costs with customers' interests in having these extraordinary and unforeseeable costs be recovered over a reasonable period of time. Thus, UGI Electric maintains that this Settlement provision is just, reasonable, and in the public interest and should be approved without modification. UGI Electric Statement in Support at 15.

5. Rate Case Expense

Consistent with accepted ratemaking principles, UGI Electric proposed to recover rate case expenses totaling $769,000 as a part of its initial filing.[103] While none of the parties opposed the Company's claimed total expenses, both I&E and OCA recommended different normalization periods for the recovery of this expense. UGI Electric Statement in Support at 15-16.

I&E recommended that the rate case expenses be normalized over a 30-month period, thereby reducing the Company's claim for the FPFTY by $77,400.[104] OCA

Accounting and Financial Reporting Purposes Certain Losses from Extraordinary Winter Storm Damage and to Amortize Such Losses, Docket No. P-00052148 (Order entered Aug. 25, 2005) (authorizing deferral and amortization of extraordinary winter storm damage); *Petition of PPL Elec. Utils. Corp. for Authority to Defer for Accounting and Financial Reporting Purposes Certain Losses from Extraordinary Storm Damage and to Amortize Such Losses*, 231 P.U.R. 4th 521 (2004) (Commission approved deferral of expenses associated with storm related damages).

[102] Settlement ¶ 56.

[103] UGI Electric St. No. 2 at 16.

[104] I&E St. No. 1 at 6.

recommended a five-year normalization, thereby reducing the Company's claim by $231,200.[105] UGI Electric opposed these adjustments and explained that I&E's and OCA's proposed normalization periods were not reflective of the Company's anticipated rate case filing frequency, which was based upon its assessment of future capital requirements, continued information system improvements through the UGI Next Information Technology Enterprise (UNITE) project, and the cost of other improvements as detailed in the Company's second Long-Term Infrastructure Improvement Plan (LTIIP).[106] UGI Electric Statement in Support at 16.

The Settlement provides that the Company's revenue increase reflects a 30-month (2.5 year) normalization for ratemaking purposes and a 30-month (2.5 year) amortization for accounting purposes.[107] Further, the Settlement states that the Company will not claim any unamortized amount in a future rate case and agrees that normalization of rate case expense (as opposed to amortization) is the proper treatment for ratemaking purposes.[108] UGI Electric asserts that this provision is in the public interest because it reflects information regarding the Company's presently anticipated rate case filing frequency, as well as recent historical information regarding this topic. Therefore, UGI maintains that the Settlement should be approved without modification. UGI Electric Statement in Support at 16.

Regarding this provision of the Settlement, I&E notes that I&E Witness Okum rejected UGI's requested 24-month normalization period due to its speculative nature in favor of a 30-month normalization period.[109] As such, I&E supports this settlement provision. I&E Statement in Support at 11.

OCA notes that its witness Dante Mugrace recommended that rate case expense should be normalized under a two-year period, as opposed to being amortized over a two-year

105 OCA St. No. 1 at 35-36.

106 UGI Electric St. No. 2-R at 9-14.

107 Settlement ¶ 57.

108 *Id*.

109 I&E St. No. 1, p. 6-7.

period as proposed by the Company.[110] OCA maintains that the Settlement represents a reasonable compromise as an alternative to litigation on this issue as it includes a 2.5-year normalization period for ratemaking purposes. OCA Statement in Support at 7.

E. Universal Service Issues

1. Hardship Fund (Operation Share)

The Company's hardship fund (Operation Share) provides energy assistance grants up to $400 to qualified customers who experience difficulty paying their heating bills.[111] CEO proposed that UGI Electric make a contribution to its Hardship Fund in an amount commensurate to the approved increase in the residential rate.[112] UGI Electric argued that an increase to Operation Share's budget was not required because the Company's rate design protects low-income customers from the proposed customer charge change, as explained in UGI Electric witness Taylor's rebuttal testimony.[113] UGI Electric Statement in Support at 16-17.

Under the Settlement, effective January 1, 2024, the Company will expand eligibility of the Electric Operation Share grant program from 200% Federal Poverty Level (FPL) to 250% FPL and will increase its annual funding contribution by $30,000.[114] This will bring the Company's annual funding for Operation Share to a total of $117,423 for 2024 and each year thereafter until a change in hardship fund contribution levels is otherwise ordered in a subsequent proceeding.[115] Effective January 1, 2024, the Company will also increase the maximum grant size from $400 to $600, to the extent funds are available.[116] UGI Electric asserts

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[110] OCA St. 1 at 35.

[111] UGI Electric St. No. 11-R at 14-15.

[112] CEO St. No. 1 at 7.

[113] UGI Electric St. No. 11-R at 41; *see* UGI Electric St. No. 6-R at 23-31.

[114] Settlement ¶ 58.

[115] *Id.*

[116] *Id.*

that these provisions reasonably balance the parties' positions on the funding and design of the Company's Operation Share program. Thus, UGI asserts that they should be approved without modification. UGI Electric Statement in Support at 17.

I&E maintains that this provision of the Settlement serves to protect vulnerable low-income customers who are facing financial hardship while not imposing undue financial burden on non-low income customers who must pay for these programs. As such, I&E submits that this proposed term is in the public interest. I&E Statement in Support at 12.

OCA asserts that increasing the hardship fund grants and the maximum grant size will provide important resources to help customers to maintain essential electric service, particularly in light of the rate increase proposed by the Settlement. OCA Statement in Support at 7.

CAUSE-PA asserts that continued delivery of safe, affordable service is of critical importance to the safety, welfare, and economic stability of all Pennsylvanians – including those with limited financial means.[117] In recognition of this fact, the law requires utilities to maintain universal service programs that are appropriately funded and accessible to ensure low-income households can reasonably afford to maintain service to their homes.[118] CAUSE-PA Statement in Support at 5.

CAUSE-PA notes that UGI's increased annual contributions to its Operation Share hardship fund program by $30,000[119] will help ensure a greater level of assistance is available to address the increased need for rate assistance driven by UGI's rate increase. Moreover, increasing the maximum hardship fund grant size from $400 to $600[120] will help to

117 *See* 66 Pa.C.S. § 2802(9).

118 66 Pa.C.S. §§ 2802(10), (17), 2803, 2804(9).

119 Joint Pet. at ¶ 58.

120 *Id*.

ensure the availability of expanded emergency assistance to serve the increased need for assistance as a result of UGI's rate increase. CAUSE-PA Statement in Support at 5.

CAUSE-PA supports these provisions of the Settlement and recommends that they be approved to help mitigate the impact of UGI's rate increase on low-income customers and improve the availability and accessibility of UGI's universal service programs to those in need. These provisions will meaningfully expand the availability of comprehensive bill assistance to UGI's low income customers – helping to mitigate the significant financial impact of the rate increase on low income consumers and, in turn, improve the health and safety of UGI's low income customers.[121] CAUSE-PA Statement in Support at 6.

2. <u>Low Income Usage Reduction Program (LIURP)</u>

LIURP consists of Weatherization and Rehabilitation Programs.[122] The Weatherization Program helps reduce energy consumption for low-income customers through installation of conservation measures and education.[123] Through the Rehabilitation Program, the Company funds the installation of energy efficient measures during construction/rehabilitation of low-income households.[124] UGI Electric Statement in Support at 17.

OCA recommended that the Company's LIURP budget be increased to fund: (1) an additional 66 electric baseload jobs per year; (2) an additional 66 electric heating jobs per year; and (3) an additional 27 jobs aimed at customers within 151-200% of the FPL.[125] OCA made these recommendations because, according to OCA, the Company's proposed base rate

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121 OCA St. 4 at 11-12, 18-22 (analyzing the financial impact of UGI's proposed rate increase on low income customers, and the consequences of energy insecurity to the health and safety of low income families).

122 UGI Electric St. No. 11-R at 15.

123 *Id*.

124 *Id*.

125 OCA St. No. 4 at 32-37.

increase and customer charge would adversely affect low-income customers.[126] Also, CEO proposed to increase the annual LIURP budget "by the commensurate increase in rates to residential customers that result from this proceeding."[127] CEO also recommended that the Company "continue to partner with the [community-based organizations]" that "it has traditionally employed to provide LIURP services to its customers."[128] UGI Electric Statement in Support at 17-18.

UGI Electric rebutted these recommendations in detail. In particular, UGI Electric averred that its USECP programs, including LIURP, are performing well and that nothing presented by OCA or CEO establishes that the increased spending amount is justified or reasonably attainable.[129] The Company also argued that there was no evidence that the alleged benefits from increasing the LIURP spending would significantly offset the increased costs, all of which are borne by non-low-income residential customers.[130] I&E also disputed OCA's and CEO's recommendations to increase the Company's LIURP budget as part of this proceeding, reasoning that such issues are better addressed in the USECP proceeding.[131] OCA responded to UGI Electric's and I&E's arguments in its surrebuttal testimony, maintaining that its proposed LIURP funding increases should be granted as part of this proceeding.[132] UGI Electric Statement in Support at 18.

Under the Settlement, the parties have reached a reasonable compromise of their positions on the LIURP-related issues and recommendations. The Settlement provides that within 60 days after a final order is entered in this proceeding, UGI Electric will issue an RFP seeking an additional LIURP resource(s) that is able to perform 20 additional baseload and 10

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126 *Id*. at 6-32.

127 CEO St. No. 1 at 6.

128 *Id*.

129 UGI Electric St. No. 11-R at 4, 12-34.

130 *Id*. at 4, 29-34.

131 I&E St. No. 2-R at 2-7.

132 OCA St. No. 4-SR at 1-5, 10-12, 19-37.

additional heating jobs annually.[133] Organizations that would be sent the RFP shall include CBOs in the Company's service territory.[134] UGI Electric shall provide an update on the results of the RFP during its first USAC meeting after the RFP is completed.[135] All associated incremental costs shall be recoverable as expanded through Rider USP as LIURP costs.[136] Additionally, the Settlement states that effective January 1, 2024, UGI Electric will expand its Electric LIURP heating and baseload job access to customers between 151% and 200% FPL; a limit of 20% of the overall LIURP budget shall apply for jobs related to customers falling between 151% and 200% FPL.[137] Therefore, UGI Electric maintains that the Settlement adequately balances the parties' positions on LIURP's design and funding, and that these provisions should be approved without modification. UGI Electric Statement in Support at 18-19.

I&E notes that, in rebuttal testimony, I&E Witness Keller opposed the recommendations that UGI's LIURP budget be increased. Mr. Keller noted that UGI has been unable to exhaust its LIURP budget in the three most recent historic years.[138] I&E supports this settlement provision as the 20 additional baseload and 10 additional heating jobs represent a modest budget increase. I&E Statement in Support at 11.

OCA maintains that the Settlement is a reasonable compromise of the concerns identified by OCA witness Colton[139] for expanded LIURP investment and also addresses the OCA's concern that additional LIURP dollars be directed towards customers between 151-200% of the FPL. LIURP benefits both the participants who receive the weatherization services and the non-CAP residential ratepayers who pay the costs of the program. OCA therefore maintains

133 Settlement ¶ 59.

134 *Id*.

135 *Id*.

136 Settlement ¶ 59(a).

137 Settlement ¶ 59(b).

138 I&E St. No. 2-R, p. 3.

139 OCA St. 4SR at 32.

that the Settlement provisions should be approved as in the public interest. OCA Statement in Support at 8-9.

CAUSE-PA asserts that continued delivery of safe, affordable service is of critical importance to the safety, welfare, and economic stability of all Pennsylvanians – including those with limited financial means.[140] In recognition of this fact, the law requires utilities to maintain universal service programs that are appropriately funded and accessible to ensure low-income households can reasonably afford to maintain service to their homes.[141] CAUSE-PA Statement in Support at 5.

CAUSE-PA notes that by issuing an RFP to expand the availability of usage reduction services to an additional 30 low-income homes,[142] UGI will help to remediate disproportionate impacts of the proposed rate increase on high-usage, low-income households. Moreover, by expanding the availability of LIURP services to households with income between 151-200% of the federal poverty level,[143] UGI will help to ensure that households with income just over the guidelines for UGI's customer assistance program have greater access to usage reduction services necessary to help control their utility costs. CAUSE-PA Statement in Support at 5-6.

CAUSE-PA supports this provision of the Settlement and recommends that it be approved to help mitigate the impact of UGI's rate increase on low-income customers and improve the availability and accessibility of UGI's universal service programs to those in need. This provision will meaningfully expand the availability of comprehensive bill assistance to UGI's low income customers – helping to mitigate the significant financial impact of the rate

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140 *See* 66 Pa.C.S. § 2802(9).

141 66 Pa.C.S. §§ 2802(10), (17), 2803, 2804(9).

142 Joint Pet. at ¶ 59(a).

143 Joint Pet. at ¶ 59(b).

increase on low income consumers and, in turn, improve the health and safety of UGI's low income customers.[144] CAUSE-PA Statement in Support at 6.

3. Customer Assistance Program (CAP), Winter Moratorium, and Low-Income Home Energy Assistance Program (LIHEAP)

The OCA initially maintained that UGI Electric failed to comply with certain settlement obligations from the Company's 2018 and 2021 base rate cases related to CAP, LIHEAP, and other low-income issues.[145] Specifically, OCA contended that UGI Electric did not comply with: (1) Paragraph 68(d) of the 2021 base rate case settlement because the Company does not accept "verification of income eligibility 'by any community organization delivering public or private assistance'"; (2) Paragraphs 68(a), 68(b), 68(f), and 68(g) of the 2021 base rate case settlement concerning CAP solicitations of customers who received LIHEAP and who self-reported Level 1 income; (3) Paragraph 68(e) of the 2021 base rate case settlement regarding contacting Pennsylvania Department of Human Services (DHS) administrators and deeming any household identified by the administrators as confirmed low-income; and (4) Paragraph 11(b)[146] of the 2018 base rate case partial stipulation because the Company does not "accept self-certification of low-income status for purposes of identifying 'confirmed low-income customers' in the same way that self-certification is required to be accepted by the UGI gas affiliates."[147] UGI Electric Statement in Support at 19-20.

UGI Electric notes that it presented detailed rebuttal testimony and exhibits demonstrating the Company's compliance with these settlement obligations.[148] In particular, the Company explained that contrary to OCA's allegations, the Company's designation of a customer as confirmed low-income is not dependent on the customer enrolling in CAP, receiving

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144 OCA St. 4 at 11-12, 18-22 (analyzing the financial impact of UGI's proposed rate increase on low income customers, and the consequences of energy insecurity to the health and safety of low income families).

145 OCA St. No. 4 at 37-44.

146 OCA incorrectly stated Paragraph 11(c) in its direct testimony. The correct paragraph reference is Paragraph 11(b), as explained in UGI Electric's rebuttal testimony. UGI Electric St. No. 11-R, p. 11.

147 OCA St. No. 4 at 37-44.

148 UGI Electric St. No. 11-R at 6-11.

LIURP and weatherization services, receiving an Operation Share grant, or receiving a LIHEAP Cash or Crisis payment, nor is it dependent on any specific type of CBO providing that information to UGI Electric.[149] Therefore, UGI avers that it is and has been complying with Paragraph 68(d) of the 2021 base rate case settlement.[150] UGI Electric also provided details on the solicitations of customers for enrollment in CAP and the provision of CAP solicitation materials to various entities that were required under Paragraphs 68(a), 68(b), 68(f), and 68(g) of the 2021 base rate case settlement.[151] UGI Electric also noted that it contacted DHS administrators and deemed any household identified by the administrators as confirmed low-income, as required by Paragraph 68(e) of the 2021 base rate case settlement.[152] As part of that discussion, UGI Electric noted DHS's position on data sharing with utilities—that those issues would have to be addressed between DHS and the LIHEAP Advisory Committee, of which UGI Electric is a member.[153] As for Paragraph 11(c) of the 2018 base rate case partial stipulation, UGI Electric explained that it complies with this provision because UGI Electric's self-certification practices are consistent with UGI Utilities, Inc. – Gas Division's practices.[154] OCA and UGI Electric continued to debate these points in surrebuttal and rejoinder testimony.[155] UGI Electric Statement in Support at 20-21.

The Settlement sets forth several provisions related to CAP solicitation and enrollment, income verification requirements, and DHS data sharing, all of which balance the parties' positions in this proceeding on these issues. Specifically, UGI Electric will solicit customers who self-reported Level 1 income in the prior 12 months for enrollment in the Company's CAP two times a year until at least the effective date of the Company's next

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[149] *Id*. at 8.

[150] *Id*.

[151] *Id*. at 8-10
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[152] *Id*. at 10-11.

[153] *Id*. at 10.

[154] *Id*. at 11.

[155] *See* OCA St. No. 4-SR at 12-21; UGI Electric St. No. 11-RJ at 1-10.

USECP.[156] For each solicitation, UGI Electric will provide an update to the USAC on the results of the solicitation.[157] UGI Electric Statement in Support at 21.

Additionally, UGI Electric will accept verbal self-reported income eligibility for customers at or below 250% of the FPL during the Winter Moratorium for purposes of winter shutoff protections, requests for deferred payment arrangements, or any other customer contact with the call center for an unpaid bill.[158] Normal income verification requirements maintained by the Company shall apply upon the end of the Winter Moratorium period.[159] No fewer than two times a year, the Company will provide an update to the USAC of the number of customers identified through such verbal self-reported income.[160] UGI Electric Statement in Support at 21.

The Settlement also states that at such time that DHS notifies the LIHEAP Advisory Committee that it is ready to share LIHEAP participant income data with utilities, currently anticipated to begin in Fall 2024, UGI Electric will implement required modifications to its Information Technology (IT) system and processes, within a reasonable time frame, such that it may utilize that data to automatically enroll non-shopping LIHEAP recipients into CAP and/or recertify their income and eligibility.[161] Until such time as IT system and process changes are made, the Company will use best efforts to implement manual processing as soon as practicable, not to exceed three (3) months from the date data is first received.[162] All related costs to modify IT systems and processes shall be eligible for timely recovery through the Company's Rider USP as CAP costs, including any related interim costs related to manual processing.[163] All automatically enrolled LIHEAP recipients will be deemed by UGI Electric as

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156 Settlement ¶ 60(a).

157 *Id*.

158 Settlement ¶ 60(b).

159 *Id*.

160 *Id*.

161 Settlement ¶ 60(c).

162 *Id*.

163 *Id*.

confirmed low-income customers and will be eligible for winter shutoff protections.[164] UGI Electric Statement in Support at 21-22.

Relatedly, UGI Electric will conduct an interim pilot to auto-enroll non-shopping customers who receive LIHEAP into CAP, pending implementation of the auto-enrollment process identified in Settlement Paragraph 60(c).[165] The interim pilot will contain the following elements: (1) UGI Electric will auto-enroll non-shopping customers who received LIHEAP during the 2022/2023 LIHEAP season and will continue to enroll new LIHEAP recipients during each subsequent LIHEAP season until the time that DHS begins sharing LIHEAP income participant data with utilities (as described in Settlement Paragraph 60(c)); (2) auto-enrolled customers will be placed on CAP under the average bill methodology, unless they provide the Company with proof of income documentation demonstrating qualification for the opportunity to be placed on the lesser of a percent of income ("PIP") bill or minimum bill amount; (3) auto-enrolled customers will receive a notification by mail or email as applicable from the Company explaining (a) the reason for the auto-enrollment, (b) the ability to opt-out of the auto-enrollment, and (c) the opportunity to be placed on the lesser of the CAP minimum bill or PIP bill by providing proof of income; (4) auto-enrolled customers will be required to recertify their CAP enrollment one year after they are auto-enrolled; (5) auto-enrolled customers, who are enrolled through the interim pilot and for whom UGI Electric later receives detailed income information from DHS through the data-sharing process identified in Settlement Paragraph 60(c), will be transitioned to the best available CAP rate (*i.e.*, PIP, average bill, or minimum bill); (6) auto-enrolled CAP customers with arrearages less than $300 at the time of auto-enrollment will be eligible to include their pre-program arrearage (PPA) debt forgiveness if they later reenroll in the program; and (7) auto-enrolled customers will be eligible for a one-time payment arrangement (after they leave or are otherwise removed from CAP) on arrears incurred while enrolled in CAP at the average bill rate.[166] UGI Electric Statement in Support at 22-23.

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164 *Id*.

165 Settlement ¶ 60(d).

166 *Id*.

Lastly, within 30 days of a final order in this proceeding, UGI Electric will convene a collaborative with interested parties to this proceeding to identify the following: (1) the manner and method of outreach and education for auto-enrolled customers to verify their income and inform them of the program rights and responsibilities; (2) data points that can be tracked to measure the effectiveness of the pilot program; (3) associated pilot program action dates related to outreach, education, and auto-enrollment start; (4) during the term of the interim pilot, UGI Electric will provide updates during each USAC meeting regarding the data points identified in Settlement Paragraph 60(e)(ii) to determine whether adjustments to the pilot are necessary; and (5) the pilot program will cease operation if and when the terms of Settlement Paragraph 60(c) take effect.[167] UGI Electric Statement in Support at 23.

Thus, the Settlement contains several provisions that reflect a reasonable compromise of the parties' positions on UGI Electric's settlement compliance and the related issues of CAP solicitation, income verification requirements, and DHS data sharing. Moreover, the Settlement sets forth well-designed parameters for the pilot program, which will enable the Company to conduct the auto-enrollment pilot program and will allow interested parties to track and evaluate the pilot program's performance. Accordingly, UGI Electric requests that the Commission approve these settlement provisions without modification. UGI Electric Statement in Support at 23-24.

I&E maintains that these provisions of the Settlement serve to protect vulnerable low-income customers who are facing financial hardship while not imposing undue financial burden on non-low-income customers who must pay for these programs. As such, I&E submits that these proposed terms are in the public interest. I&E Statement in Support at 12.

As previously noted by UGI Electric, OCA witness Colton identified concerns with the Company's compliance with certain provisions of the 2018 and 2021 base rate proceeding Settlements regarding the acceptance of verbal self-reported income and additional

[167] Settlement ¶ 60(e).

outreach to low-income customers.[168] Mr. Colton recommended that the Commission direct the Company to comply with these provisions. The Settlement incorporates several of the provisions identified in the 2018 and 2021 base rate proceeding settlements. These actions will provide important protections for vulnerable customers during the winter moratorium, and the Company will provide for additional outreach to CAP twice a year for those customers that the Company reasonably believes have Level 1 income and are eligible for enrollment in CAP. OCA Statement in Support at 9-10.

The proposal to develop a pilot program to utilize the data provided by DHS will benefit low-income customers by providing them with important access to the benefits of the CAP program at a minimum of the average bill rate. It will provide a tool to allow for outreach and extension of the benefits of CAP to LIHEAP recipients. The data tracked will allow the program to be evaluated. The OCA supports the proposed program to help increase CAP enrollment and to utilize the data provided by DHS in a manner that will benefit known low-income customers. The above provisions, taken together, provide targeted outreach to customers to ensure that they have access to the Company's assistance programs when they may need it most. The OCA submits that the Settlement provisions should be approved as in the public interest. OCA Statement in Support at 11.

CAUSE-PA asserts that continued delivery of safe, affordable service is of critical importance to the safety, welfare, and economic stability of all Pennsylvanians – including those with limited financial means.[169] In recognition of this fact, the law requires utilities to maintain universal service programs that are appropriately funded and accessible to ensure low-income households can reasonably afford to maintain service to their homes.[170] CAUSE-PA Statement in Support at 5.

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[168] OCA St. 4 at 38-44.

[169] *See* 66 Pa.C.S. § 2802(9).

[170] 66 Pa.C.S. §§ 2802(10), (17), 2803, 2804(9).

CAUSE-PA notes that improving CAP outreach to customers who may be eligible for the program based on self-reported income within the prior year[171] will help to increase UGI's low CAP enrollment. CAUSE-PA further notes that ensuring winter termination protections are applied to all households that have self-reported that their income is at or below 250% of the federal poverty level[172] will help to ensure that a greater number of economically vulnerable households are protected from termination in the cold winter months. Lastly, CAUSE-PA maintains that improving cross-enrollment in LIHEAP and UGI's CAP[173] will help to improve low CAP enrollment rates and leverage available federal assistance. CAUSE-PA Statement in Support at 6.

CAUSE-PA supports these provisions of the Settlement and recommends that they be approved to help mitigate the impact of UGI's rate increase on low-income customers and improve the availability and accessibility of UGI's universal service programs to those in need. These provisions will meaningfully expand the availability of comprehensive bill assistance to UGI's low-income customers – helping to mitigate the significant financial impact of the rate increase on low income consumers and, in turn, improve the health and safety of UGI's low income customers.[174] CAUSE-PA Statement in Support at 6.

Noting the provision of the Settlement pursuant to which the Company will issue an RFP seeking to increase the capacity of its LIURP contractors to perform 20 additional baseload jobs and ten additional heating jobs under its LIURP program, CEO asserts that additional LIURP jobs will help low-income customers conserve energy to offset the impact of the resulting rate increase. CEO notes that the settlement is consistent with the Commission's obligation to ensure that universal service programs are appropriately funded and available, and also that energy conservation measures are promoted and available to consumers, particularly low-income consumers. CEO Statement in Support at 2.

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[171] Settlement ¶ 60(a)

[172] Settlement ¶ 60(b).

[173] Settlement ¶ 60(c).

[174] OCA St. 4 at 11-12, 18-22 (analyzing the financial impact of UGI's proposed rate increase on low income customers, and the consequences of energy insecurity to the health and safety of low income families).

F. Additional Provisions

1. Ruckle Hill Road

In the 2021 Electric Rate Case at Docket No. R-2021-3023618, the Commission approved a settlement provision allowing UGI Electric to install a 1.25 MWh battery storage project as a targeted means to enhance resiliency and improve reliability to customers served off the Ruckle Hill Road circuit.[175] UGI Electric witness Mr. Sorber explained that the Company is not continuing to pursue the battery storage project currently because "[a]fter a comprehensive review of the battery storage project options available, none of the options currently on the market were able to provide a cost-effective solution that met the intended design parameters necessary to move forward with project construction at this time."[176] However, the Company redirected approximately $1.5 million of battery storage funding to other reliability projects.[177] UGI Electric Statement in Support at 24.

In its direct testimony, OCA recommended that the Company prioritize its efforts in searching for a reliability solution for the Ruckle Hill customers, be required to provide a status report at the end of the FPFTY (including any information or developments it has made toward the battery storage projects) and be required to provide an explanation of where the $1.5 million for the battery projected has been reallocated.[178] UGI Electric Statement in Support at 24.

In rebuttal, UGI Electric explained that it has continued to explore long-term potential solutions for the reliability challenges associated with Ruckle Hill Road but that "[i]n the interim, the Company has already undertaken additional targeted vegetation work that is expected to provide short-term relief[,] and the Ruckle Hill Road customers have benefited in

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175 UGI Electric St. No. 4 at 17.

176 *Id*. at 18-19.

177 *Id*. at 19.

178 OCA St. No. 5 at 2-5, 7.

part from the installation of a redundant primary distribution circuit across the Susquehanna River which provides a second source of supply to that segment of the UGI Electric distribution system."[179] The Company also stated that it is willing to report on identified long-term approaches as part of its November 2024 Annual Asset Optimization Plan (AAOP) filing.[180] Further, UGI Electric provided details on how the Company reallocated the $1.5 million to other capital projects focused on reliability and end of life replacements.[181] UGI Electric Statement in Support at 24-25.

In surrebuttal, OCA reiterated its recommendations related to Ruckle Hill Road and additionally recommended that: (1) the Company develop a plan that will keep it accountable in finding a long-term reliability solution; (2) every six months, the Company report the status of its long-term approaches on a separate basis from the AAOP to the Commission and all stakeholders in this proceeding; and (3) the Company be required to reallocate $1.5 million for a reliability solution specifically for Ruckle Hill Road and keep these funds separate from any other budget, as they should be used toward the battery storage project or an alternative solution to resolve reliability issues.[182] UGI Electric Statement in Support at 25.

UGI Electric responded to these additional recommendations in its rejoinder testimony. The Company explained that it had exhausted low-cost and readily available solutions, and the only options for long-term reliability solutions involved extensive capital projects, which the Company described in its rebuttal testimony in the 2021 base rate case.[183] The Company disagreed with OCA's proposals that UGI Electric develop a plan to identify a project and to provide a status report every six months.[184] UGI Electric also opposed the recommendation to keep $1.5 million separately earmarked for a Ruckle Hill Road project

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[179] UGI Electric St. No. 4-R at 13-14.

[180] *Id*. at 14.

[181] *Id*.

[182] OCA St. No. 5-SR at 1-5.

[183] UGI Electric St. No. 4-RJ at 8.

[184] *Id*. at 9.

because: (1) the Company already spent the $1.5 million included in the Company's budget for the 2021 FPFTY (*i.e.*, FY2022) and ultimately spent that money on reliability projects that improved reliability for hundreds of customers, including in part the 67 customers that would have been originally served by the battery storage project; and (2) earmarking those funds would come at the expense of the rest of the Company's customers and may compromise other reliability projects with an equal or greater impact.[185] UGI Electric Statement in Support at 25-26.

Under the Settlement, the Company will complete a project to upgrade the highest risk section of the circuit servicing Ruckle Hill Road customers in order to improve reliability and implement storm hardening techniques.[186] This solution will include the replacement of older non-standard wood poles with Class 2 – 45-foot and 50-foot wood poles where appropriate, and the installation of approximately 10,000 feet of spacer-cable construction and associated conductor.[187] This work will increase pole and conductor resistance to tree contact and damage.[188] The Company anticipates completing the project by the end of the FPFTY and will provide notice to the parties to this proceeding upon completion, including a report on the actual costs of the work.[189]

UGI Electric maintains that the Settlement reasonably balances and addresses the issues raised regarding the Company's reliability investments for Ruckle Hill Road and should be approved without modification. UGI Electric Statement in Support at 26. Similarly, OCA maintains that the Settlement provisions reflect a reasonable compromise of this issue and should be approved as in the public interest. OCA Statement in Support at 13.

185 *Id*. at 9-10.

186 Settlement ¶ 61.

187 *Id*.

188 *Id*.

189 *Id*.

2. Vegetation Management

UGI Electric witness Mr. Sorber testified that UGI Electric continues its accelerated efforts in critical areas to support system reliability, including robust vegetation management practices on a shorter cycle.[190] OCA maintained that the planned vegetation management expense proposed by UGI Electric should be reduced by $1,431,151 to a level of approximately $2,500,626.[191] This adjustment was based on OCA's use of a five-year historic average for 2018 through 2022.[192] UGI Electric Statement in Support at 26-27.

UGI Electric disagreed with OCA's recommendation. In rebuttal, the Company explained that utilizing a five-year historic average significantly understates the Company's actual vegetation management expenses for the FPFTY because: (1) a five-year average does not consider or reflect that the Company has significantly accelerated its vegetation management activities and expenses over the five-year period; and (2) a five-year backward-looking analysis does not account for planned increases to vegetation management expense in the FTY or FPFTY.[193] Also, UGI argued that OCA's use of a five-year average includes 2020, where COVID-19 materially impacted the Company's vegetation management spending.[194] UGI Electric Statement in Support at 27.

In surrebuttal, OCA continued to oppose the Company's total vegetation management expense.[195] However, in response to the "Company's need to remove the deteriorating and rotting trees to maintain service reliability and safety issues," OCA reduced its proposed disallowance by 50% to $715,565.[196] OCA also claimed that the Company has not

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190 UGI Electric St. No. 4 at 5.

191 OCA St. No. 1 at 24-25.

192 *Id*. at 24.

193 UGI Electric St. No. 4 at 1-9.

194 *Id*. at 6.

195 OCA St. No. 1-SR at 11-14.

196 *Id*. at 13.

provided a specific plan for acceleration or details regarding its approach to vegetation management and, consequently, recommended that the Company prepare a report on an annual or semi-annual basis addressing these elements.[197] UGI Electric Statement in Support at 27.

In the Company's rejoinder testimony, UGI Electric responded to these recommendations, provided updated data to support its claimed level of vegetation management expense, and averred an inconsistency in OCA's position (namely that OCA considers the 2020 vegetation management expense an outlier due to COVID-19, but includes that year in its normalization calculation for vegetation management expense).[198] UGI Electric also opposed OCA's reporting recommendation because the Company's biennial Inspection and Maintenance (I&M) Plan already provides a detailed review of the Company's planned vegetation management activities.[199] UGI Electric Statement in Support at 27-28.

Under the Settlement, the Company agrees to report actual monthly vegetation management expenses on an annual basis for the 12-month period ending September 30, with the first report being due as part of the Company's 2024 AAOP filing.[200] The report shall include quantities of vegetation management work performed, along with a summary overview of the Company's vegetation management program.[201]

UGI Electric asserts that the Settlement reasonably balances the parties' positions on vegetation management, particularly on the Company's reporting requirements for its vegetation management work. Accordingly, UGI Electric requests that the Commission approve these provisions without modification. UGI Electric Statement in Support at 28.

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197 *Id*.

198 UGI Electric St. No. 4-RJ at 2-7.

199 *Id*. 5-7.

200 Settlement ¶ 62.

201 *Id*.

Similar to UGI Electric, OCA contends that the Settlement represents a reasonable compromise on the issue that is within the possible outcome of litigation. OCA explains that the Company's agreement to report actual monthly vegetation expenses ensures that all interested stakeholders are aware of the Company's expenses related to tree-trimming on an ongoing basis. OCA Statement in Support at 13-14.

G. Consumer Complainant Objections

As noted above, by letter dated July 17, 2023, the Presiding Officers informed the consumer Complainants in this matter of the Settlement and requested that they indicate, by no later than July 27, 2023, if they wished to join, oppose, or take no position on the proposed Settlement. The Presiding Officers also enclosed a signature page that the consumer Complainants could sign and return if they wished to join in the Settlement. Seven consumer Complainants provided written objections to the Settlement by the July 27, 2023, deadline.

On July 19, 2023, William J Ostroski submitted a written objection to the Settlement via email. Mr. Ostroski noted that, under the Settlement, customers will still see a 6-7% increase to their bills instead of the originally proposed 10-11% increase. Mr. Ostroski asserted that those who receive Social Security benefits would only see a 3% increase to their cost-of-living adjustment (COLA), and they also face a 20-30% increase to insurance costs, a 5% increase in taxes, and a 5-6% increase for food costs. Mr. Ostroski argued that it is a "death spiral for the senior citizen to try and maintain their home they built their whole life."

Also on July 19, 2023, Nicole Scavone submitted a written objection to the Settlement via email, stating that she agreed with Mr. Ostroski's comments.

Also on July 19, 2023, Bridget Gimbi submitted a written objection to the Settlement via email. Ms. Gimbi argued that her wages will not increase by the 6.2% that UGI Electric will receive under the Settlement. Ms. Gimbi stated that the monthly residential customer charge is minimal, but "every penny counts in [her] household." Ms. Gimbi argued that the Distribution System Improvement Charge was "glossed over," and referred the reader to

"Part III, Section D, number 50" of the Settlement. Ms. Gimbi argued that once the clause goes into effect, "there is no limit on the amount to be paid." Lastly, Ms. Gimbi pointed out language stating, "once the Company's total gross plan balance exceeds $275,000,000," and questioned why "[customers] would [pay] a fee when there is already a profit." In a second email, Ms. Gimbi asked the reader to "look at page 10 part D. DSIC reporting" and asked why UGI may request additional money "after they already profit."

Also on July 19, 2023, Travis Buchanan submitted a written objection to the Settlement via email. Mr. Buchanan argued that UGI should not be permitted to "lower the amount of money they supposedly needed just to get the rate increase." Mr. Buchanan further argued that if UGI needed $11.4 million, the money should have been taken from its industrial customers instead of "putting it on the backs of residential and light commercial" customers. Mr. Buchanan did not agree that industrial customers will only pay a 0.3% increase under the Settlement.

On July 20, 2023, Charles Mangan submitted a written objection to the Settlement via email. Mr. Mangan stated his agreement with the objections submitted on July 19, 2023. Mr. Mangan argued that "the price of natural gas is declining rapidly and is a major factor in charging electric rates," and therefore, there should not be a request for an increase in electric rates. Mr. Mangan referred to a website and other sources that are not a part of the evidentiary record and cannot therefore be considered in our decision.

On July 24, 2023, Michael Oresick submitted a written objection to the Settlement via email. Mr. Oresick provided three arguments to the Settlement. In his first argument, Mr. Oresick referenced "Section I B Introduction and Section II Background 1 et al.," and asserted that reducing the proposed $11.4 million rate increase to $8.5 million is not acceptable. Mr. Oresick argued that the "kWh/month increase applied does not definitively explain how any substantial rate increase would occur since the difference in cost would be minimal." Mr. Oresick also cited "Supplement 51, UGI Electric Tariff Number 6, Supplement No. 7, and UGI Electric Tariff No. 25" and argued that the "application of kilowatt hours (kWh) . . . still does not justify this extraordinary rate increase." In his second argument, Mr. Oresick cited

"Section II Background 33 et al." and argued that "voluminous documents are not grounds for a rate increase." Mr. Oresick asserted that "reasonable costs" should be based on "customer usage, economic inflation, cost of living increase, and financial duress," and UGI did not address these factors. In his third argument, Mr. Oresick cited "Section II F Universal Service Issues 58 et al. Hardship Fund (Operation Share) Section F 60 Customer Assistance Program (CAP) and Low Income Home Energy Assistance Program (LIHEAP) et al. Section IV F 63 et al. The Settlement is in the Public Interest." Mr. Oresick asserted that some residential customers may not be at the Federal Poverty Level to qualify for CAP or LIHEAP, but other factors may affect their ability to pay. Mr. Oresick argued that while settlements may "lessen time and expense overall," this Settlement is not "Fair, Just, or Reasonable and is not in the Best Interest of the UGI Customers."

On July 25, 2023, Michele Gingo submitted a written objection to the Settlement via email. Ms. Gingo asserted that "most working households are seeing less than a 3% cost of living increase, yet utilities, food, fuel, etc. are increasing at a rate that far outpaced their earnings." Ms. Gingo argued that the rate increase will "further disadvantage households across the Commonwealth." Ms. Gingo asserted that people "are already making difficult choices during this economy, and electricity to provide lighting, heat, etc. should not have to be factored into decision making," and "vulnerable populations [would be put] at risk."

H. Recommendation

We find the proposed Settlement to be reasonable and in the public interest. We therefore recommend approval without modification. The Settlement represents a just and fair compromise of the serious issues raised in this proceeding. After substantial investigation and discovery, the settling parties have reached a reasoned accord on a broad array of issues resulting in just and reasonable rates for electric service rendered by UGI Electric.

The Settlement is a "black box" settlement. This means that the parties could not agree as to each and every element of the revenue requirement calculations. The Commission has recognized that "black box" settlements can serve an important purpose in reaching consensus in rate cases:

> We have historically permitted the use of "black box" settlements as a means of promoting settlement among the parties in contentious base rate proceedings. Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not have been realized during the litigation process. Determining a company's revenue requirement is a calculation involving many complex and interrelated adjustments that affect expenses, depreciation, rate base, taxes, and the company's cost of capital. Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases.[202]

Yet, it is also the Commission's duty to ensure that the public interest is protected. Therefore, there must be sufficient information provided in a settlement in order for the Commission to determine that a revenue requirement calculation and accompanying tariffs are in the public interest and properly balance the interests of ratepayers and the company.[203]

In reviewing the Settlement terms and the accompanying statements in support, the Settlement provides sufficient information to support the conclusion that the revenue requirement and other Settlement terms are in the public interest. The downward adjustment to the proposed revenue requirement, the revenue allocations, the downward adjustment to the proposed monthly customer charge, as well as the provisions to assist low-income customers, along with all the other terms and conditions of the Settlement together represent a fair and reasonable compromise. In particular, the downward adjustments to the proposed revenue requirement and proposed monthly customer charge are particularly important to those residential ratepayers who offered testimony regarding the hardship they would incur due to UGI Electric's proposed rate increase. Similarly, the Universal Service provisions within the

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[202] *Pa. Pub. Util. Comm'n v. Peoples TWP LLC*, Docket No. R-2013-2355886 at 27 (Opinion and Order entered Dec. 19, 2013) (citations omitted).

[203] *See Pa. Pub. Util. Comm'n v. Pa. Power Co.*, 55 Pa.P.U.C. 552 (1982); *Pa. Pub. Util. Comm'n v. Nat'l Fuel Gas Dist. Corp*., 73 Pa.P.U.C. 552 (1990).

Settlement offer reasonable resolutions to address residential and low-income customer issues and concerns raised by the parties during this proceeding as well as the concerns raised by those who testified at the Public Input Hearings.

Also of note, the Settlement finds support from a broad range of parties with diverse interests. Each party represents a variety of interests. UGI Electric advocates on behalf of its corporate interests. The OCA is tasked with advocacy on behalf of Pennsylvania consumers in matters before the Commission.[204] The OSBA represents the interests of the Commonwealth's small businesses.[205] I&E is tasked with balancing these various interests and concerns on behalf of the general public interest. Each of these public advocates maintain that the interests of their respective constituencies have been adequately protected and they further represent that the terms of the Settlement are in the public interest. Other interests were also represented, and they too support the Settlement. These interests include organizations representing the interests of low-income customers of UGI Electric (CAUSE-PA and CEO). These parties, in a collaborative effort, have reached agreement on a broad array of issues, demonstrating that the Settlement is in the public interest and should be approved.

Resolution of this proceeding by negotiated settlement removes the uncertainties of litigation. In addition, all parties will benefit by the reduction in rate case expense and the conservation of resources made possible by adoption of the Settlement in lieu of litigation. The acceptance of the Settlement will negate the need for filing of main and reply briefs on the issues contained in the Settlement, exceptions and reply exceptions, and potential appeals. These savings in rate case expense serve the interests of UGI Electric and its ratepayers, as well as the parties themselves.

As to the non-settling parties, each consumer Complainant was provided a copy of the Joint Petition for Approval of Settlement of All Issues and offered an opportunity to

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[204] Section 904-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended,* 71 P.S. § 309-1.

[205] Section 399.45 of the Small Business Advocate Act, Act of December 21, 1988, P.L. 1871, 73 P.S. § 399.45.

comment or object to its terms. Seven consumer Complainants responded by the July 27, 2023, deadline. We have reviewed the objections and are not unsympathetic to the concerns raised. However, based on our review of the evidence of record as noted above, and the compromise reached by all parties, including OCA, whose interest it is to represent consumers in cases before the Commission, we find that the Settlement is in the public interest. We further note that many of the statements made by the consumers, regarding their interpretation of what was not addressed by the Settlement or whether the increase is necessary, are contradictory to the evidence of record. These Formal Complaints will therefore be dismissed. Two consumer Complainants submitted objections to the Settlement after the established deadline, and their comments were not incorporated into this decision. Their Formal Complaints will also be dismissed for lack of prosecution. The remainder of the consumer Complainants did not provide a response to the Settlement. Inasmuch as their due process rights have been fully protected, their Formal Complaints can also be dismissed for lack of prosecution.[206]

For all of the foregoing reasons, we find the terms embodied in the Joint Petition for Approval of Settlement of All Issues are both reasonable and its approval is in the public interest. Accordingly, we recommend the Commission approve the Settlement without modification.

IX. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of and parties to this proceeding. 66 Pa.C.S. § 1308(d).

2. The burden of proof in a ratemaking proceeding is on the public utility. *See* 66 Pa.C.S. § 315(a); *Lower Frederick Twp. v. Pa. Pub. Util. Comm'n*., 409 A.2d 505, 507 (Pa. Cmwlth. 1980) (citations omitted). *See also*, *Brockway Glass v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlth. 1981).

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[206] *See*, *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth.1984) (Commission is required to provide due process to the parties; when parties are afforded notice and an opportunity to be heard, Commission requirement to provide due process is satisfied).

3. To determine whether a settlement should be approved, the Commission must decide whether the settlement promotes the public interest. *Pa. Pub. Util. Comm'n v. CS Water & Sewer Assoc.*, 74 Pa.P.U.C. 767 (1991); *Pa. Pub. Util. Comm'n v. Phila. Elec. Co.*, 60 Pa.P.U.C. 1 (1985).

4. The Joint Petition for Approval of Settlement of All Issues at Docket No. R-2022-3037368 is in the public interest, and, therefore, should be approved without modification. *Pa. Pub. Util. Comm'n v. City of Lancaster – Bureau of Water*, Docket No. R-2010-2179103 (Opinion and Order entered July 14, 2011) (citing, *Warner v. GTE North, Inc.*, Docket No. C-00902815 (Opinion and Order entered Apr. 1, 1996)); *Pa. Pub. Util. Comm'n v. CS Water and Sewer Assoc.*, 74 Pa.P.U.C. 767 (1991).

5. The rates, terms and conditions contained in UGI Utilities, Inc. Electric Division's base rate increase filing of January 27, 2023, as modified by the Settlement, are just, reasonable and in the public interest and are in accord with the rules and Regulations of the Commission and the provisions of the Public Utility Code. *See* 66 Pa.C.S. § 315(a).

6. Commission policy promotes settlement. *See* 52 Pa. Code § 5.231.

7. The Commission is required to provide due process to the parties; when parties are afforded notice and an opportunity to be heard, the Commission requirement to provide due process is satisfied. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth.1984).

X. ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Approval of Settlement of All Issues, including attachments, filed on July 14, 2023, by UGI Utilities, Inc. Electric Division, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, and the Commission on Economic Opportunity, be admitted into the record of this proceeding.

2. That the Joint Petition for Approval of Settlement of All Issues, including attachments, filed on July 14, 2023 by UGI Utilities, Inc. Electric Division, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, and the Commission on Economic Opportunity, be approved in its entirety without modification.

3. That UGI Utilities, Inc. Electric Division be permitted to file a tariff supplement incorporating the terms of the Joint Petition for Approval of Settlement of All Issues and changes to rates, rules and regulations as forth in Appendices A and B of the Joint Petition for Approval of Settlement of All Issues to become effective upon at least one day's notice after entry of the Commission's Order approving the Joint Petition for Approval of Settlement of All Issues, for service rendered on and after October 1, 2023, which tariff supplement increases UGI Utilities, Inc. Electric Division's rates as to permit an annual increase in base rate operating revenues of not more than $8.5 million.

4. That the following Complaints consolidated with the Commission's investigation at Docket No. R-2022-3037368 be deemed satisfied: Office of Consumer

Advocate at Docket No. C-2023-3038105; and Office of Small Business Advocate at Docket No. C-2023-3038172.

5. That the following Complaints consolidated with the Commission's investigation at Docket No. R-2022-3037368, at the following docket numbers, be deemed dismissed: C-2023-3037880, C-2023-3038072, C-2023-3038293, C-2023-3038131, C-2023-3038300, C-2023-3038357, C-2023-3038215, C-2023-3038337, C-2023-3038341, C-2023-3038229, C-2023-3038238, C-2023-3038244, C-2023-3038245, C-2023-3038354, C-2023-3038399, C-2023-3038538, C-2023-3038346, C-2023-30, 38417, C-2023-3038547, C-2023-3038548, C-2023-3038549, C-2023-3038597, C-2023-3038684, C-2023-3038886, C-2023-3038980, C-2023-3039127, and C-2023-3039230.

6. That the Commission's investigation at Docket No. R-2022-3037368 and the Formal Complaints at Docket Nos. C-2023-3038105, C-2023-3038172, C-2023-3037880, C-2023-3038072, C-2023-3038293, C-2023-3038131, C-2023-3038300, C-2023-3038357, C-2023-3038215, C-2023-3038337, C-2023-3038341, C-2023-3038229, C-2023-3038238, C-2023-3038244, C-2023-3038245, C-2023-3038354, C-2023-3038399, C-2023-3038538, C-2023-3038346, C-2023-30, 38417, C-2023-3038547, C-2023-3038548, C-2023-3038549, C-2023-3038597, C-2023-3038684, C-2023-3038886, C-2023-3038980, C-2023-3039127, and C-2023-3039230 be marked closed.

Date: August 21, 2023

/s/
Christopher P. Pell
Deputy Chief Administrative Law Judge

/s/
Charece Z. Collins
Administrative Law Judge