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File #: 205959

August 28, 2024

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Fl
400 North Street
Harrisburg, PA 17120

Re: Petition of UGI Utilities, Inc. – Electric Division For Approval of a Default Service Plan (DSP V) for the Period of June 1, 2025 through May 31, 2029
Docket Nos. P-2024-3049343, et al.

Dear Secretary Chiavetta:

Attached for filing is the Motion for Protective Order in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Nicholas A. Stobbe

NAS/kl
Attachment

cc: The Honorable Dennis Buckley (*via email; w/attachment*)
The Honorable Alphonso Arnold III (*via email; w/attachment*)
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL

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Date: August 28, 2024



Nicholas A. Stobbe

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of UGI Utilities, Inc. – Electric :
Division For Approval of a Default : Docket Nos. P-2024-3049343
Service Plan (DSP V) for the Period of : G-2024-3049351
June 1, 2025 through May 31, 2029 :

MOTION FOR PROTECTIVE ORDER

**TO ADMINISTRATIVE LAW JUDGES DENNIS J. BUCKLEY AND ALPHONSO
ARNOLD III:**

UGI Utilities, Inc. – Electric Division (“UGI Electric” or the “Company”) hereby requests that Administrative Law Judges Alphonso Arnold III and Dennis J. Buckley (collectively, the “ALJs”) enter a Protective Order in this proceeding pursuant to the provisions of 52 Pa. Code § 5.365(a), and in support thereof represents as follows:

1. On May 31, 2024, UGI Electric filed the above-captioned Petition with the Pennsylvania Public Utility Commission (“Commission”) requesting approval for a Default Service Plan for the period of June 1, 2025 through May 31, 2029 (“DSP V,” “Default Service Plan,” or “Plan”).

2. In the Default Service Plan, UGI Electric proposes to: (1) procure a competitive mix of default service supplies through load-following, block and spot market purchases, and related Alternative Energy Portfolio Standards (“AEPS”) credits over the 4-year DSP V Term (i.e., 2025-2029); (2) implement a procurement schedule designed to obtain these supplies at the least cost; (3) issue Requests for Proposals (“RFPs”) seeking default supply in accordance with the agreements and forms included with this Petition; (4) adopt a contingency plan that addresses any procurement target shortfalls; (5) recover all incurred default service costs on a full and current

basis through a specified default service rate design; (6) adopt revised tariff rules clarifying the application of GSR-1 and GSR-2 default service rate classifications; and (7) continue the retail enhancement programs adopted in DSP IV.

3. On June 5, 2024, the Commission issued an Initial Call-In Telephone Hearing Notice, scheduling a Prehearing Conference in this proceeding for Friday, June 28, 2024, at 10:00 a.m. before the ALJs.

4. On June 11, 2024, the Commission issued a Notice to Be Published, dictating that Formal Protests, Petitions to Intervene, and Answers must be filed in accordance with Title 52 of the Pennsylvania Code on or before July 12, 2024.

5. On June 13, 2024, the ALJs issued a Prehearing Order directing, among other things, the submission of Prehearing Conference Memorandums on or before June 25, 2024.

6. Also on June 13, 2024, the Office of Small Business Advocate (“OSBA”) filed a Notice of Appearance.

7. On June 18, 2024, Penn Renewables LLC (“Penn Renewables”) filed a Formal Complaint.

8. On June 21, 2024, the Office of Consumer Advocate (“OCA”) filed an Answer.

9. On June 25, 2024, UGI Electric, OCA, OSBA, and Penn Renewables filed Prehearing Memorandums.

10. On June 28, 2024, the Prehearing Conference was held as scheduled.

11. On July 2, 2024, the ALJs issued a Post Conference Order.

12. On August 19, 2024, the ALJs issued a Telephonic Hearing Notice, scheduling Telephonic Evidentiary Hearings on September 30, 2024, and October 1, 2024.

13. Proprietary Information within the definition of 52 Pa. Code § 5.365 has been requested during the course of this proceeding, which justifies the issuance of a Protective Order. For example, parties have sought information that is customarily treated as sensitive, proprietary, or highly confidential, including but not limited to specific pricing information, information regarding discounts provided to certain customers, and other information. Treatment of such information as set forth in the attached proposed Protective Order is justified because unrestricted disclosure of such information would not be in the public interest. These considerations constitute cause for the restrictions specified in 52 Pa. Code § 5.365 and in Administrative Law Judge or Commission Orders granting relief pursuant to said regulation.

14. Under 52 Pa. Code §§ 5.362(a)(7) and 5.365, the Office of Administrative Law Judge or the Commission may issue a Protective Order to limit or prohibit disclosure of confidential commercial information where the potential harm to a participant would be substantial and outweighs the public's interest in having access to the confidential information. In applying this standard, relevant factors to be considered include: (1) the extent to which disclosure would cause unfair economic or competitive damage; (2) the extent to which the information is known by others and used in similar activities; and (3) the worth or value of the information to the party and to the party's competitors. 52 Pa. Code § 5.365(a)(1)-(3).

15. The attached proposed Protective Order defines two categories of protected information. The first is "Confidential," which is defined in Paragraph 3 of the attached proposed Protective Order as "those materials which customarily are treated by that party as sensitive or proprietary, which are not available to the public, or which, if disclosed freely, would subject that party or others to risk of competitive disadvantage or other business injury." The second is "Highly Confidential," which is defined in Paragraph 4 of the attached proposed Protective Order as "those

materials that are of such a commercially sensitive or of such a private, personal nature that the producing party is able to justify a heightened level of confidential protection with respect to those materials.”

16. Paragraph 22 of the attached proposed Protective Order protects against overly broad designations of protected information by giving all parties the right to question or challenge the confidential or proprietary nature of the “Confidential” or “Highly Confidential” information.

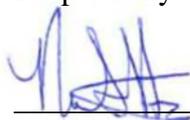
17. Limitation on the disclosure of “Confidential” or “Highly Confidential” information will not prejudice the rights of the participants, nor will such limitation frustrate the prompt and fair resolution of this proceeding. The proposed Protective Order balances the interests of the parties, the public, and the Commission.

18. The attached Protective Order sought by UGI Electric will protect the proprietary nature of competitively valuable information while allowing the parties to use such information for purposes of the instant litigation. The proposed Protective Order applies the least restrictive means of limitation that will provide the necessary protections from disclosure.

19. UGI Electric has consulted with all other parties to this proceeding, and none of them have an objection to the granting of this Motion.

WHEREFORE, for all the reasons set forth above, UGI Utilities, Inc. – Electric Division, with the concurrence of all other parties in this proceeding, respectfully requests that Your Honors issue the attached Protective Order.

Respectfully submitted,



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Date: August 28, 2024

APPENDIX A

PROPOSED PROTECTIVE ORDER

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of UGI Utilities, Inc. – Electric :
Division For Approval of a Default : Docket Nos. P-2024-3049343
Service Plan (DSP V) for the Period of : G-2024-3049351
June 1, 2025 through May 31, 2029 :

PROTECTIVE ORDER

Upon consideration of the Motion for a Protective Order that was filed by UGI Utilities, Inc. – Electric Division on August 28, 2024,

IT IS ORDERED THAT:

1. The Motion is hereby granted with respect to all materials and information identified in Paragraphs 3 and 4 below.

2. That the materials subject to this Protective Order are all correspondence, documents, data, information, studies, methodologies, and other materials, furnished in this proceeding, which are believed by the producing party to be of a proprietary or confidential nature and which are so designated by being stamped “Confidential” or “Highly Confidential.” Such materials will be referred to below as “Proprietary Information.”

3. That the Parties may designate as “Confidential” those materials which customarily are treated by that Party as sensitive or proprietary, which are not available to the public, or which, if disclosed freely, would subject that Party or others to risk of competitive disadvantage or other business injury.

4. That the Parties may designate as “Highly Confidential” those materials that are of such a commercially sensitive or of such a private, personal nature that the producing Party is able to justify a heightened level of confidential protection with respect to those materials.

5. That Proprietary Information shall be made available to counsel for the non-producing party, subject to the terms of this Protective Order. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, cross examination, or argument or for settlement discussions in this proceeding. To the extent required for participation in this proceeding, counsel for a non-producing party may afford access to Proprietary Information subject to the conditions set forth herein.

6. Proprietary Information produced in this proceeding shall be made available to the Pennsylvania Public Utility Commission (“Commission”) and its Staff. For purposes of filing, to the extent that Proprietary Information is placed in the Commission’s report folders, such information shall be handled in accordance with routine Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information is placed in the Commission’s testimony or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Protective Order. Public inspection of Protected Information shall be permitted only in accordance with this Protective Order.

7. That “Confidential” information may be made available to a “Reviewing Representative” who is a person who has signed a Non-Disclosure Certificate in the form attached as **Appendix A** hereto and who is:

- (i) an attorney for one of the Parties to this Stipulated Protective Agreement who has entered an appearance in this proceeding;
- (ii) an attorney, paralegal, or other employee associated for purposes of this proceeding with an attorney described in subparagraph 7(i);
- (iii) an expert or an employee of an expert retained by a Party to this Stipulated Protective Agreement for the purpose of advising, preparing for or testifying in this proceeding;

- (iv) an employee or other representative of a Party to this Stipulated Protective Agreement with significant responsibility in this proceeding; or
- (v) a person mutually agreed to by the Parties to this Stipulated Protective Agreement.

Provided, however, that no Reviewing Representative may be a “Restricted Person.” For the purpose of this Stipulated Protective Agreement, “Restricted Person” shall mean: (a) an officer, director, stockholder, partner, or owner of any competitor of a Party to this Stipulated Protective Agreement or an employee of such an entity if the employee’s duties involve marketing or pricing of the competitor’s products or services; (b) an officer, director, stockholder, partner, or owner of any affiliate of a competitor of a Party to this Stipulated Protective Agreement (including any association of competitors of a Party) or an employee of such an entity if the employee’s duties involve marketing or pricing of the competitor’s products or services; (c) an officer, director, stockholder, owner, or employee of a competitor of a customer of a Party to this Stipulated Protective Agreement if the Proprietary Information concerns any specific, identifiable customer of a Party; and (d) an officer, director, stockholder, owner, or employee of an affiliate of a competitor of a customer of a Party to this Stipulated Protective Agreement if the Proprietary Information concerns a specific, identifiable customer of the Party; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert’s interest in the business would provide a significant motive for violation of the limitations of permissible use of the Proprietary Information. For purposes of this Stipulated Protective Agreement, stocks, partnership or other ownership interests valued at more than \$10,000 (excluding mutual funds) or constituting more than a one percent interest in a business establishes a significant motive for violation. The Office of Small Business’s (“OSBA”) consultant, Mr. Mark Ewen, will not be considered a “Restricted Person,” provided that Mr. Ewen does not share,

distribute, or discuss the Proprietary Information with any person except authorized OSBA representatives.

If an expert for a Party to this Stipulated Protective Agreement, another member of the expert's firm or the expert's firm also serves as an expert for, or as a consultant or advisor to, a Restricted Person, said expert must: (a) identify for the other Party to this Stipulated Protective Agreement each Restricted Person and each expert or consultant; (b) make reasonable attempts to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a Restricted Person; and (c) if segregation of such personnel is impractical, the expert shall give to the producing Party written assurances that the lack of segregation will in no way jeopardize the interests of the Party or its customers. The Parties retain the right to challenge the adequacy of the written assurances that the Parties or their customers' interests will not be jeopardized.

8. That "Highly Confidential" information may be made available to a "Reviewing Representative" who has signed a Non-Disclosure Certificate in the form attached as **Appendix A** hereto and who is:

- (i) an attorney for one of the Parties to this Stipulated Protective Agreement who has entered an appearance in this proceeding;
- (ii) an attorney, paralegal, or other employee associated for purposes of this proceeding with an attorney described in subparagraph 8(i);
- (iii) an expert or an employee of an expert retained by a Party to this Stipulated Protective Agreement for the purpose of advising, preparing for or testifying in this proceeding; or
- (iv) a person mutually agreed to by the Parties to this Stipulated Protective Agreement.

Provided, further, that in accordance with the provisions of Sections 5.362 and 5.365(e) of the Commission's Rules of Practice and Procedure, 52 Pa. Code §§ 5.362, 5.365(e), any party may,

by subsequent objection or motion, seek further protection with respect to HIGHLY CONFIDENTIAL information and materials, including, but not limited to, total prohibition of disclosure or limitation of disclosure only to particular parties.

9. If any person who has had access to Proprietary Information subsequently is assigned to perform any duties which would make that person ineligible to be a Reviewing Representative of “Confidential” or “Highly Confidential” information, that person shall immediately inform the producing Party of his or her new duties, shall dispose of any Proprietary Information and any information derived therefrom in his or her possession, and shall continue to comply with the requirements of this Stipulated Protective Agreement with regard to the Proprietary Information to which that person previously had access.

10. That no other persons may have access to the Proprietary Information except as authorized by order of the Commission or the Presiding Administrative Law Judges.

11. That qualified “Reviewing Representatives of Highly Confidential” information may review and discuss “Highly Confidential” information with their client or with the entity with which they are employed or associated, to the extent that the client or entity is not a “Restricted Person,” but may not share with or permit the client or entity to review the “Highly Confidential” information. Such discussions must be general in nature and not disclose specific “Highly Confidential” information; provided, however, that counsel for Office of Consumer Advocate (“OCA”), and the OSBA may share proprietary information with the Consumer Advocate and Deputy Consumer Advocate and the Small Business Advocate, respectively, without obtaining a Non-Disclosure Certificate from these individuals, provided that these individuals otherwise abide by the terms of the Protective Agreement.

12. That Proprietary Information shall be treated by non-producing Parties to this Stipulated Protective Agreement and by all Reviewing Representatives in accordance with the certificate executed pursuant to Paragraphs 7 and 8 of this Protective Order. Information deemed Proprietary Information shall not be used except as necessary for the conduct of this proceeding, nor shall it be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding.

13. That Reviewing Representatives may not use information contained in any Proprietary Information obtained through this proceeding to give any commercial advantage. If a Party wishes to designate as a Reviewing Representative a person not described in Paragraphs 7(i)-(iv) and 8(i)-(iii) above, the Party shall seek agreement from the Party providing the Proprietary Information. If an agreement is reached, that person shall be a Reviewing Representative with respect to those materials. If no agreement is reached, the Party shall submit the disputed designation to the presiding Administrative Law Judge for resolution.

14. That a Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Proprietary Information pursuant to this Stipulated Protective Agreement unless that Reviewing Representative has first executed a Non-Disclosure Certificate, provided that if an attorney qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial, and clerical personnel under the attorney's instruction, supervision, or control need not do so. A copy of the Non-Disclosure Certificate executed by each Reviewing Representative shall be provided to counsel for the Party asserting confidentiality prior to disclosure of any Proprietary Information to that Reviewing Representative.

15. That attorneys and outside experts qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this Stipulated Protective Agreement.

16. That none of the Parties waive their right to pursue any other legal or equitable remedies that may be available in the event of actual or anticipated disclosure of Proprietary Information.

17. That the producing Party shall designate data or documents as constituting or containing Proprietary Information by stamping the documents “Confidential” or “Highly Confidential.” Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the Parties, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information. The Proprietary Information shall be served in an envelope separate from the nonproprietary materials, and the envelope shall be conspicuously marked “Confidential” or “Highly Confidential.”

18. That the non-producing Party will consider and treat the Proprietary Information as within the exemptions from disclosure provided in Section 335(d) of the Public Utility Code, 66 Pa. C.S. § 335(d), as applicable, and is within the definition of “confidential proprietary information” in the Pennsylvania Right-to-Know Law, Act of February 14, 2008, P.L. 6, 65 P.S. §§ 67.101-67.3104, until such time as the information is found to be non-proprietary. In the event that any person or entity seeks to compel the disclosure of Proprietary Information, the non-producing Party shall promptly notify the producing Party in order to provide the producing Party an opportunity to oppose or limit such disclosure.

19. That any public reference to Proprietary Information by a Party shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to understand fully the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

20. That, when a statement or exhibit is identified for the record, the portions thereof that constitute Proprietary Information shall be designated as such for the record.

21. That any part of the record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination and argument, and including reference thereto as mentioned in Paragraph 17 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Stipulated Protective Agreement, either through the agreement of the Parties to this Stipulated Protective Agreement or pursuant to an order of the Commission.

22. That the Parties shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information and to question or challenge the admissibility of Proprietary Information. If a Party challenges the designation of a document or information as proprietary, the Party providing the information retains the burden of demonstrating that the designation is appropriate.

23. That the Parties shall retain the right to object to the production of Proprietary Information on any proper ground; to refuse to produce Proprietary Information pending the adjudication of the objection; and to seek additional measures of protection of Proprietary Information beyond those provided in this Stipulated Protective Agreement.

24. That within 30 days after a Commission final order is entered in the above-captioned proceeding, or in the event of appeals, within 30 days after appeals are finally decided,

the non-producing Party, upon request, shall either destroy or return to the producing Party all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information. In the event that the non-producing Party elects to destroy all copies of documents and other materials containing Proprietary Information instead of returning the copies of documents and other materials containing Proprietary Information to the producing Party, the non-producing Party shall certify in writing to the other Party that the Proprietary Information has been destroyed.

Dated: _____

Honorable Dennis J. Buckley
Honorable Alphonso Arnold III

APPENDIX A
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of UGI Utilities, Inc. – Electric :
Division For Approval of a Default : Docket Nos. P-2024-3049343
Service Plan (DSP V) for the Period of : G-2024-3049351
June 1, 2025 through May 31, 2029 :

NON-DISCLOSURE CERTIFICATE

TO WHOM IT MAY CONCERN:

The undersigned is a Reviewing Representative of the _____, a party to this proceeding (“Party”), and is not or has no knowledge or basis for believing that he/she is a “Restricted Person” based upon reasonable knowledge and efforts as that term is defined in Paragraph 7 of the Protective Order, or prohibited from being a Reviewing Representative of Highly Confidential information pursuant to Paragraph 8 of the Protective Order. The undersigned has read and understands the Protective Order in the above-referenced proceeding, which Protective Order deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Protective Order.

Name

Address

Signature

Employer