

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	C-2023-3044989
	:	
UGI Utilities, Inc. – Gas Division	:	

INITIAL DECISION

Before
John M. Coogan
Administrative Law Judge

INTRODUCTION

The Bureau of Investigation and Enforcement filed a Formal Complaint alleging UGI Utilities, Inc. – Gas Division violated the Public Utility Code, Commission regulations, and the Code of Federal Regulations in connection with a natural gas incident that occurred on December 25, 2020 on Lower Swiftwater Road, Swiftwater, Monroe County, Pennsylvania. This decision approves the Joint Petition for Approval of Settlement of the Formal Complaint without modification as in the public interest.

HISTORY OF THE PROCEEDING

On December 19, 2023, the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission) filed a Formal Complaint against UGI Utilities, Inc., Gas Division (UGI or Respondent), alleging

violations of the Public Utility Code, Commission regulations, and the Code of Federal Regulations in connection with a natural gas incident that occurred on December 25, 2020, on Lower Swiftwater Road, Swiftwater, Monroe County, Pennsylvania. I&E's Formal Complaint avers that a pipeline failure occurred at a butt fusion of 12-inch high-pressure high-density plastic pipe in the natural gas service territory of Respondent, and the failure resulted in gas release causing a six-foot wide by eight-foot long and four-foot deep void in the roadway. I&E's Formal Complaint states that the butt fusion failure and gas release resulted in one adult fatality and injuries to two other adults. I&E's Formal Complaint also alleges that the butt fusion failure and gas release resulted in the evacuation of two nearby residences, loss of gas service to downstream customers, and caused approximately \$60,000 in damage. As relief, I&E requested that UGI pay a total civil penalty of \$1,600,000, and that UGI take various corrective actions.

On December 22, 2023, UGI filed an unopposed motion for extension of time to file an answer to the Formal Complaint. On December 27, 2023, the Commission issued a Secretarial Letter, granting an extension of time to answer the Formal Complaint.

On January 31, 2024, UGI filed an answer and new matter to I&E's Formal Complaint.

On February 5, 2024, the Commission issued an initial telephonic hearing notice, setting an initial call-in telephonic hearing for April 24, 2024, and assigning Administrative Law Judge (ALJ) Dennis J. Buckley as presiding officer to this proceeding.

On February 15, 2024, I&E filed a reply to UGI's new matter.

On February 28, 2024, the Commission issued a corrected initial telephonic hearing notice, converting the April 24, 2024 telephonic hearing to a call-in telephonic prehearing conference.

On April 22, 2024, the Commission issued a notice rescheduling the April 24, 2024 call-in telephonic prehearing conference from April 24, 2024 to June 11, 2024.

On June 7, 2024, the Commission issued a notice cancelling the June 11, 2024 call-in telephonic prehearing conference.

On July 9, 2024, I&E and UGI (Joint Petitioners) filed a Joint Petition for Approval of Settlement (Joint Petition or Settlement). The Joint Petition also includes each party's Statement in Support of the Joint Petition. (I&E's Statement is Appendix "B" to the Settlement and UGI's Statement is Appendix "C" to the Settlement).

On April 22, 2025, the Commission issued a judge change notice, reassigning this proceeding from ALJ Buckley to the undersigned.¹

For the reasons discussed below, the Joint Petition is approved in its entirety, without modification, as in the public interest.

SETTLEMENT TERMS

The Joint Petitioners agreed to the following specific settlement terms. The Settlement Terms are reproduced without modification and the paragraph and footnote

¹ The record reflects no other activity from the Settlement filing in July 2024 to the judge change notice in April 2025.

numbering are consistent with the original in the Joint Petition filed with the Commission.

31. Pursuant to the Commission's policy of encouraging settlements that are reasonable and in the public interest,³ I&E and UGI held a series of discussions and meetings after the filing of I&E's Complaint that culminated in this Settlement. The purpose of this Joint Petition for Approval of Settlement is to terminate I&E's Complaint and to settle this matter completely without further litigation. Although I&E filed a Formal Complaint, there has been no evidentiary hearing before any tribunal, and no sworn testimony has been taken in any proceeding related to this incident.

32. The Settlement is a compromise of a disputed complaint, which I&E intended to prove, and that UGI intended to disprove.

33. The Parties recognize that their positions and claims are disputed and further recognize the significant and more immediate benefits of amicably resolving the disputed issues through settlement as opposed to time-consuming and expensive litigation.

34. I&E and UGI, intending to be legally bound and for consideration given, desire to fully and finally conclude this litigation and agree that a Commission Order approving the Settlement without modification will create the following rights and obligations:

³ See 52 Pa Code § 5.231(a).

a. **Civil Penalty:**

UGI will pay a civil penalty in the amount of Seven Hundred Fifty Thousand Dollars (\$750,000.00) pursuant to 66 Pa.C.S. § 3301(c). Said payment will be made within thirty (30) days of the entry date of the Commission’s Final Order approving the Settlement Agreement and will be made by certified check or money order payable to the “Commonwealth of Pennsylvania.” The docket number of this proceeding, C-2023-3044989, will be indicated with the certified check or money order and the payment will be sent to:

Rosemary Chiavetta, Secretary^[2]
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

The civil penalty will not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f). UGI will not seek recovery of any portion of any agreed upon total civil penalty amount in any future ratemaking proceeding.

b. **Butt-Fusion Procedures:**

UGI has incorporated ASTM F2620-2019 edition in its entirety into its Gas Operations Manual (“GOM”) effective on June 6, 2022. In support of UGI’s current adoption of ASTM F2620-2019, it provided documentation to I&E demonstrating compliance with the applicable qualifying plastic butt-fusion joint

² On April 19, 2025, Matthew L. Homsher was appointed Secretary of the Commission. Accordingly, in the ordering paragraphs approving the Settlement, UGI is directed to send payment to Matthew L. Homsher instead of Rosemary Chiavetta.

procedure requirements in 49 C.F.R. §§ 192.281 and 192.283. UGI will incorporate subsequent editions of ASTM F2620 into its qualified plastic butt-fusion procedure as such subsequent editions are incorporated into the United States Department of Transportation's Pipeline and Hazardous Materials Safety Administration's ("PHMSA") pipeline safety regulations applicable to natural gas pipelines at 49 C.F.R., Parts 191—193 and 199 or develop an alternative written procedure that has been demonstrated to provide an equivalent or superior level of safety (pursuant to 49 C.F.R. § 192.281(c)).

c. **Butt-Fusion Field Sampling:**

UGI maintains and conducts training at its learning/training/testing facility for purposes of qualifying workers to produce successful butt-fusions. UGI will implement the following actions to expand its butt-fusion oversight activities:

- i. UGI will require distribution construction contractor(s) and/or Company employee(s) that will use butt-fusion equipment for a project to create sample butt fusion(s) on a project site, using actual project materials, that will then be destructively tested by UGI.
- ii. The creation and testing of such samples pursuant to subpart (i) above will be done for each new construction project involving the installation of plastic distribution pipes in excess of 100 ft. in length and a diameter of eight (8) inches or greater.
- iii. If multiple pipe sizes are present for a project that will require the creation and testing of samples pursuant to subparts (i)-(ii) above, then each qualified contractor/employee responsible for the completion of a butt-fusion will make a butt-fusion sample of the largest diameter pipe.
- iv. If multiple butt-fusion machines are used for a project that will require the creation and testing of samples

pursuant to subparts (i)-(ii) above, then one butt-fusion sample will be made from each butt-fusion machine that will be used.

- v. Sampling and testing of the sample butt-fusion joints pursuant to subparts (i)-(ii) above will occur within the first two weeks of the start of each covered project.
- vi. The results of sampling and testing conducted pursuant to subparts (i)-(ii) above will be documented in Quality Assurance Inspection Reports.

d. **Quality Assurance (“QA”)/Quality Control (“QC”) Program:**

UGI will continue to expand and enhance the responsibilities of its QA Group² in order to continue to improve its QA/QC Program. UGI has already taken, and will maintain, the following steps to improve this program:

- i. In February 2023, UGI’s QA employees began proactively performing destructive testing of plastic pipe butt-fusions on projects installing eight (8) inch and larger diameter HDPE pipes, consistent with the sampling and testing requirements set forth in Paragraph C(i), above.
- ii. UGI will maintain staffing of QA inspectors sufficient to fulfill the commitments set forth in Paragraphs C(i)-(vi), above, as well as the commitments contained in a written QA/QC Plan.

² The QA Group operates separately from Field Construction Inspectors, and its responsibilities include performing audits of various construction and maintenance activities occurring across UGI’s service territory.

e. **QA/QC Plan:**

UGI's QA/QC department currently performs a robust set of field inspections pertaining to various construction and maintenance activities. The frequency of inspections is determined by the work type, project risks, contractor experience, contractor performance history, and any other information deemed relevant to the frequency of inspections. UGI's QA Inspectors performed over three-thousand (3,000) inspections in calendar year 2023 and are on a similar pace for calendar year 2024. In order to improve UGI's QA/QC for plastic pipe installations with a focus on best practice fusion approaches, UGI will review and enhance its current QA/QC Program by hiring an experienced consultant that will assist UGI in developing targeted spans of control and/or appropriate inspection frequency intervals for UGI's QA/QC and construction inspectors (of capital main construction projects) that will be based on risk profiling and other related factors. The review will focus on QA/QC oversight of plastic fusion practices including, but not limited to, spans of control, internal and external inspector qualifications, risk-based inspection, and project complexity. The results of this review and UGI's intended actions for implementation of any recommendations from the consultant will be shared with Pipeline Safety within one hundred and eighty (180) days of the issuance of the consultant's report.

Additionally, UGI will further enhance and formalize its current QA/QC Program by developing an overall written QA/QC Plan that incorporates the following:

- i. The QA/QC Plan will document and formalize the current inspection practices by QA Inspectors to evaluate the effectiveness of UGI's training and procedures in terms of identifying areas for process improvement.

- ii. The QA/QC Plan will formalize a process to review QA/QC inspection reports completed by the Company's QA Inspectors for trends and opportunities for improvement.

f. **Butt-Fusion Equipment – Identification Verification:**

UGI will modify its procedures to more clearly state a listing of permitted butt-fusion equipment. Butt-fusion machine information related to make, model and last maintenance date will be recorded and maintained as part of field data collection activities.

g. **Butt-Fusion Equipment – Training:**

During both initial and requalification training for employees and contractors responsible for the completion of butt-fusions, approved butt-fusion units are currently used within the training environment. As a part of this training, trainees utilize tip cards, which provide a list of all approved butt-fusion units that are listed in GOM 25.10.10. To further enhance this training:

- i. UGI will utilize visuals of all approved butt-fusion units, including appropriate hydraulic cylinders, to reinforce the approved pieces of plastic butt-fusion equipment permitted under its GOM.
- ii. UGI will emphasize the requirement to perform recommended maintenance on butt-fusion equipment and check for maintenance stickers on each piece of butt-fusion equipment used on a job site.
- iii. UGI will mandate the need to remove and report to supervision the use of any unapproved or out of compliance butt-fusion equipment on a job site.
- iv. UGI will revise its butt-fusion training materials to

emphasize the importance of incorporating values for drag pressure and fusion pressure, according to the specific butt-fusion equipment used, when creating plastic joints. Once the results of the Datalogging Pilot referenced in Paragraph H below are implemented, any modifications (to the extent any modifications are deemed necessary) to the training material will be incorporated. All field employees and contractors, who perform butt-fusions, will be retrained in any newly adopted butt-fusion documentation processes.

- v. UGI will continue to incorporate specific fusion pressure calculation instructions for both the McElroy Manufacturing “Fusion Pressure Calculator” and the mobile phone application.
- vi. UGI will review the Operator Qualification (“OQ”) training and testing material and make any other changes related to butt- fusion equipment training and testing deemed pertinent.
- vii. UGI’s QA Inspectors will perform field assessments to ensure the consistent application of the elements described in subparts (i)-(vi) above.

h. **Datalogging Pilot:**

UGI will initiate a pilot to evaluate the feasibility of using available technology to collect attribute information during butt-fusion construction activities. As part of this pilot, UGI will perform the following:

- i. UGI will evaluate available technologies, including datalogging equipment, to determine compatibility with approved butt-fusion equipment and UGI’s information technology system(s). Appropriate enhancements (e.g., to IT system(s), procedures, practices, training, staffing, costs, etc.) that can be implemented will be identified.
- ii. UGI will pilot datalogging technology, as well as any other available technologies, on at least three (3) plastic

construction projects ranging from pipe diameters of six (6) – eight (8) inches, and if feasible up to twelve (12) inches in diameter. A minimum of one hundred (100) butt-fusions will be included as part of the pilot. The attribute information to be reviewed pursuant to this pilot will include total fusion pressure, drag pressure, and other attributes deemed pertinent to ensure an acceptable butt-fusion is made.

- iii. The pilot will review process options and associated costs for auditing fusion information collected through available technologies during plastic butt-fusions, including frequency, time and staffing requirements.
- iv. At the conclusion of the pilot, UGI commits to providing a report and meeting with Pipeline Safety to review the results of the pilot. Should the results of the pilot demonstrate the technical and practical feasibility of integrating datalogging technology, or alternate technology, into projects involving the creation of butt-fusion joints, UGI will develop an implementation plan with appropriate processes, procedures, and training.

i. Field Inspector Training:

UGI will continue to provide annual field inspector training for all internal field inspectors and a separate, targeted onboarding class for external field inspectors, in addition to mandatory OQ requirements for all plastic fusion tasks. Effective March 1, 2024, UGI has implemented the utilization of an enhanced daily inspection report under GOM 30.10.90-1 to ensure uniform inspections occur. UGI will update GOM Sections 25.10.10 and 80.10.10 to include new language which requires field inspectors of plastic pipe fusions to be Operator Qualified for making plastic fusions.

j. Butt-Fusion Reporting:

Since November 8, 2021, UGI's Emergency Plan has required notification to the Commission when a plastic fusion leak/failure occurs. UGI also issued a revision to GOM 60.70.10 – Reporting and Investigating Material Failures on December 20, 2023, reinforcing that “[a]ll failed/leaking PE pipe and fitting materials that have been removed from service must be submitted to the Standards & Materials Department (to the UGI Learning Center).” UGI will maintain this notification requirement on a going forward basis and clarify language in its Emergency Plan that notification to the Commission be made as soon as practical, but not to exceed the next business day.

k. MCTA [Monroe County Transit Authority] Pipeline Integrity:

UGI and I&E agree that since the occurrence of the underlying incident, UGI has taken a number of proactive steps to reduce risk and ensure the continued safe operation of the MCTA Project facilities. These proactive steps included the following:

- i. UGI reduced the 94 psig operating pressure of the subject pipeline by 20 percent in the immediate hours following the incident. UGI further reduced operating pressure by an additional 20 percent on January 8, 2021, and the system continues to operate at such a reduced operating pressure on an on-going basis.
- ii. UGI has performed daily leak surveys of the entire MCTA Pipeline since the occurrence of the underlying incident. The Parties acknowledge that no further leaks attributable to butt-fusion joints have been found.
- iii. UGI conducted pipeline replacement and retirement work that led to the total retirement of approximately 2,350 feet of HDPE main and eliminated all pipe

installed on sloping portions of the roadway along Swiftwater Road, including the replacement of 550 feet of 12-inch HDPE main with 12-inch steel main in the immediate area of the incident between January and March 2021, and the replacement of approximately 1,800 feet of adjoining 12-inch HDPE main with 12-inch steel main heading east along a sloped portion of Swiftwater Road, ending at the terminus of this project between January and March 2022.

- iv. UGI installed a district regulator station (“DRS”) at the entry into the MCTA Project pipeline to provide reliable gas delivery (e.g., maintaining upstream capacity, regulating pressure, and ensuring a lower downstream operating pressure). The configuration of this DRS included a worker-monitor regulator with a redundant relief valve. This DRS allowed UGI to lower the operating pressure of the MCTA Project to levels that have not exceed 60 psig since February 2022.
- v. UGI contracted with the Gas Technology Institute (“GTI”) beginning in January 2021 to perform an independent root cause analysis of pipeline specimens removed from the incident area. GTI issued its final report on April 11, 2022.

1. MCTA Project Replacement:

In addition to these acknowledged efforts to ensure the continued safe operation of the MCTA Project facilities, UGI will replace the remaining 12-inch HDPE main pipeline that was installed as part of the original MCTA Project which is still in operation. The total replacement will involve approximately 15,048 feet of 12-inch main, which encompasses the remaining 12-inch HDPE in service. UGI will meet with Pipeline Safety on a quarterly basis to review the progress of the pipeline replacement design and construction.

Until the MCTA Project Replacement is complete, UGI will perform the following operations and maintenance activities along the remaining pipeline installed as a part of the original MCTA Project:

- i. Reduction of the maximum allowable operating pressure (“MAOP”) of the MCTA Project pipeline to 60 psig;
- ii. Weekly leak surveys on the remaining MCTA Project pipeline;
- iii. Excavation inspection for all third-party excavations when any portion of the original MCTA Project is expected to be exposed;
- iv. Enhanced special weather patrols triggered when special weather events occur in the geographic area where the original MCTA Project is installed; and
- v. Frost patrol surveys to be performed between January 1 – March 31, consistent with UGI’s GOM 70.10.10 – Leak Survey procedure.

m. Implementation Timeline:

UGI has implemented or will implement the measures set forth in Paragraphs D-K above within 18 months and Paragraph L above within 24 months of the date of entry of the Commission’s Final Order approving the Settlement Agreement, subject to the Company’s obtaining any necessary federal, state, and/or local permits to implement such measures and any potential contingencies beyond the Company’s control that could arise. UGI will provide Pipeline Safety Division with regular updates regarding the status of the Company’s compliance with Paragraphs D-L of the Settlement Agreement.

35. Upon Commission approval of the Settlement in its entirety without modification, I&E will not file any other complaints or initiate other action

against UGI at the Commission with respect to the allegations that were the subject of I&E's instant Complaint.

36. Following the performance of each non-monetary, remedial measure referenced above, UGI will file with the Commission a verification acknowledging that each non-monetary, remedial measure has been met or complied with, pursuant to 52 Pa. Code § 5.591.

37. I&E and UGI jointly acknowledge that approval of this Settlement Agreement is in the public interest and fully consistent with the Commission's Policy Statement regarding Factors and Standards for Evaluating Litigated and Settled Proceedings, 52 Pa. Code § 69.1201. The Parties submit that the Settlement Agreement is in the public interest because it effectively addresses the allegations in I&E's formal Complaint and avoids the time and expense of further litigation, which entails hearings, travel for out-of-state witnesses, and the preparation and filing of briefs, exceptions, and reply exceptions, as well as possible appeals. Attached as Appendices B and C are Statements in Support submitted by I&E and UGI, respectively, setting forth the bases upon which the Parties believe the Settlement Agreement is in the public interest.

Joint Petition, ¶¶ 31-37 (footnotes in original included).

CONDITIONS OF SETTLEMENT

The Joint Petitioners agreed to the following specific settlement conditions. The settlement conditions are reproduced without modification and the paragraph numbering is consistent with the numbering in the Joint Petition.

38. This document represents the Settlement Agreement in its entirety and constitutes a negotiated resolution solely of the above-referenced proceeding at Docket No. C-2023-3044989. No changes to obligations set forth herein may be made unless they are in writing and are expressly accepted by the parties involved. This Settlement Agreement shall be construed and interpreted under Pennsylvania law, without regard to its conflict of laws provisions.

39. The Parties agree that this Settlement may be executed in one or more counterparts, each of which will be deemed an original, and all of which taken together constitute one and the same agreement that is binding upon the Parties as if they executed a single petition.

40. The Settlement is conditioned upon the Commission's approval of the terms and conditions contained in this Joint Petition for Approval of Settlement without modification. If the Commission modifies this Settlement Agreement, any party may elect to withdraw from this Settlement Agreement and may proceed with litigation or take such other action as deemed appropriate and, in such event, this Settlement Agreement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission, and served upon all parties within twenty (20) business days after entry of an Order modifying the Settlement.

41. In the event that the presiding ALJ issues an initial decision or recommended decision approving this Joint Petition for Approval of Settlement without modification, the Parties agree to waive the exception period, thereby allowing the Settlement Agreement to be presented directly to the Commission for review, pursuant to 52 Pa. Code § 5.232(e).

42. The Parties agree that the underlying allegations were not the subject of any hearing and that there has been no Order, findings of fact, or conclusions of law rendered in this Complaint proceeding. It is further understood that, by entering into this Settlement Agreement, UGI has made no concession or admission of fact or law and may dispute all issues of fact and law for all purposes in any other proceeding, including but not limited to any civil proceedings, that may arise as a result of the circumstances described in this Joint Settlement Petition. Nor may this settlement be used by any other person or entity as a concession or admission of fact or law.

43. The Parties acknowledge that this Settlement Agreement reflects a compromise of competing positions and does not necessarily reflect any party's position with respect to any issues raised in this proceeding.

44. This Settlement Agreement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner that is fair and reasonable and in the public interest. This Settlement is presented without prejudice to any position that any of the Parties may have advanced and without prejudice to the position any of the Parties may advance in the future on the merits of the issues in any other proceedings, except to the extent necessary to effectuate or enforce the terms and conditions of this Settlement Agreement. This Settlement does not preclude the Parties from taking other positions in any other proceeding but is conclusive in this proceeding and may not be reasserted in any other proceeding or forum except for the limited purpose of enforcing the Settlement by a Party.

45. The terms and conditions of this Settlement Agreement represent reasonably negotiated compromises on the issues addressed herein. Thus, the Settlement Agreement is consistent with the Commission's rules and practices encouraging negotiated settlements set forth in 52 Pa. Code §§ 5.231 and 69.1201.

Joint Petition, ¶¶ 38-45.

LEGAL STANDARDS

The Pennsylvania Public Utility Commission is an agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within this Commonwealth, as well as other entities subject to its jurisdiction, pursuant to the Public Utility Code (Code), 66 Pa.C.S. §§ 101–3316. I&E is the entity established to prosecute complaints against public utilities and other entities subject to the Commission’s jurisdiction pursuant to 66 Pa.C.S. § 308.2(a)(11).

Section 501(a) of the Code, 66 Pa.C.S. § 501(a), authorizes and obligates the Commission to execute and enforce the provisions of the Code. Section 701 of the Code, 66 Pa.C.S. § 701, authorizes the Commission to hear and determine complaints alleging a violation of any law, regulation, or order that the Commission has jurisdiction to administer.

Section 3301 of the Code, 66 Pa.C.S. § 3301, authorizes the Commission to impose civil penalties on any public utility or on any other person or corporation subject to the Commission’s authority for violations of the Code, the Commission’s regulations and orders. Section 3301 allows for the imposition of a fine for each violation and each day’s continuance of such violation(s).

It is the policy of the Commission to encourage settlements. 52 Pa. Code § 5.231(a). In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm’n*

v. C.S. Water & Sewer Assocs., 74 Pa.P.U.C. 767 (1991); *Pa. Pub. Util. Comm'n v. Phila. Elec. Co.*, 60 Pa.P.U.C. 1 (1985); 52 Pa. Code § 69.1201.

DISCUSSION

In the Settlement, I&E asserts that, if this matter had been fully litigated rather than resolved through this Settlement, I&E would have contended that UGI violated certain provisions of the Public Utility Code, Commission regulations, and/or Code of Federal Regulations in that:

- a. UGI operated pipeline in the MCTA Project and Tobyhanna system that were not designed, installed, constructed, initially inspected, or initially tested in accordance with 49 CFR §§ 192.1, et. seq., in that UGI permitted the installation of six (6) butt fusion joints that were not visually acceptable, installed without procedures, and installed under outdated procedures, and/or operated pipeline above maximum allowable operating procedures. If proven, this is a violation of 49 CFR § 192.13(a) (General Requirements).
- b. UGI and its contractor failed to inspect and/or improperly inspected no less than six (6) visually unacceptable butt fusion joints that were installed in the MCTA Project, in that the failed butt fusion joint had a bead size smaller than that permitted by its own procedures and five (5) other butt fusions were mitered. If proven, this is a violation of 49 CFR § 192.273(c) (Joining of Materials Other than by Welding - General) and 49 CFR § 192.305 (Inspection: General).
- c. UGI and its contractor permitted the installation of plastic pipe that was joined by miter joint, in that no less than five (5) joints installed in the MCTA Project were mitered. If proven, this is a violation of 49 CFR § 192.281(a) (Plastic Pipe – General).

- d. UGI did not incorporate ASTM F2620-12 into their procedures by January 22, 2019, completing parts of the MCTA Project, including the failed butt fusion joint, under outdated procedures. UGI's procedures fell short of ASTM F2620-12 in the areas of cleaning, facing, heating, holding time, and cooling time. If proven, this is a violation of 49 CFR § 192.281(a) (Plastic Pipe – Heat Fusion Joints) and 49 CFR § 192.303 (Compliance with Specifications and Standards).
- e. The 12-inch high density plastic (“HDPE”) pipe installed along Lower Swiftwater Road as part of the MCTA Project was under significant tensile stresses, as observed when the pipes were cut apart. If proven, this is a violation of 49 CFR § 192.321(c) (Installation of Plastic Pipe).
- f. UGI and its contractor used and permitted the use of a McElroy DynaMC 412 HP (Hand Pump) for the completion of butt fusion joints on the MCTA Project. The McElroy DynaMC 412 HP (Hand Pump) is not approved for use in the creation of butt fusions under UGI's procedures, as it has a different setup and fusion processes than the McElroy Rolling Type 412 butt fusion machine approved by UGI's procedures, nor has UGI established procedures for how to successfully complete a butt fusion on a McElroy DynaMC 412 HP (Hand Pump) or similar machine. If proven, this is a violation of 49 CFR § 192.605(a) (Procedures manual for operations, maintenance, and emergencies).
- g. UGI's procedures for determining drag pressure are not applicable to the McElroy DynaMC 412 HP (Hand Pump) due to configuration differences and UGI is unable to demonstrate how drag pressures and fusion pressures were calculated and used with the McElroy DynaMC 412 HP (Hand Pump). If proven, this is a violation of 49 CFR § 192.605(a) (Procedures manual for operations, maintenance, and emergencies).
- h. UGI and its contractor failed to follow UGI's procedure at GOM 25.10.10, Section 6.12, in that UGI and its contractor failed to verify the bead size of the failed butt

fusion joint and permitted that joint to be installed when the bead size was 1/8-inches, which was smaller than the size required. If proven, this is a violation of 49 CFR § 192.605(a) (Procedures manual for operations, maintenance, and emergencies).

- i. UGI operated a segment of steel or plastic pipeline in excess of the maximum allowable pressure, in that UGI permitted main ID 4-599- 9923 1805, a 2 inch pipe without pipe specifications or pressure test documentation, and ten (10) other services, with MAOP's less than 80 psig, in the Tobyhanna System to be operated at 80 psig. If proven, this is a violation of 49 CFR § 192.619 (Maximum Allowable Operating Pressure – Steel or Plastic Pipeline).
- j. UGI did not have procedures in place to record the maintenance of equipment used in joining plastic pipe in accordance with the manufacturer's recommended practices, in that UGI is unable to identify the make, model, calibration settings, or maintenance history of the machines used to complete butt fusions on the MCTA Project. If proven, this is a violation of 49 CFR § 192.756 (Joining Plastic Pipe by Heat Fusion: Equipment maintenance and calibration).
- k. UGI failed to furnish and maintain adequate, efficient, safe and reasonable service and facilities and make such repairs, changes, alterations, substitutions, extensions and improvements in or to it[s] service and facilities necessary or proper for the accommodation and safety of its patrons, employees and the public, thereby placing the safety of its customers, employees and the public in danger. If proven, this is a violation of 66 Pa.C.S. § 1501 (character of service and facilities).

Joint Petition, ¶ 27.

In the Settlement, UGI asserts that, if this matter had been fully litigated, UGI would have submitted evidence to demonstrate that it did not violate provisions of

the Public Utility Code, Commission regulations, and/or Code of Federal Regulations.

Among other things, UGI believes that it could demonstrate the following:

- a. UGI's pipeline facilities in the MCTA Project and Tobyhanna system were designed in accordance with 49 CFR §§ 192.1, et. seq., and its contractors responsible for the construction, inspection and/or testing of such pipeline facilities received appropriate training with respect to the UGI's standard and procedures applicable to the construction/inspection/testing of these pipeline facilities that, if followed, would have resulted in the completion of appropriate and compliant butt-fusions.
- b. UGI complied with 49 C.F.R. § 192.281(c) by incorporating "an alternative written procedure [to ASTM F2620] that has been demonstrated to provide an equivalent or superior level of safety and has been proven by test or experience to produce strong gastight joints..." into its Gas Operations Manual ("GOM") by January 22, 2019, and that the MCTA Project, including the failed butt fusion joint, should have been completed in accordance with UGI's GOM.
- c. No intentionally "mitered" plastic joints were designed, constructed, or placed into service as a part of the MCTA Project; and, moreover, any allegedly "mitered" joints did not cause and/or contribute to the subject pipeline failure and UGI demanded strict proof thereof.
- d. The 12-inch high density plastic ("HDPE") pipe installed along Lower Swiftwater Road as part of the MCTA Project was under normal and expected amounts of tensile stress and that the subject joint would not have failed due to the observed tensile stress, then and there existing, if the joint had been fused in accordance with UGI's standards and procedures in effect at the time the fusion was completed.
- e. UGI and its contractors are permitted under the GOM to use a McElroy DynaMC 412 HP (Hand Pump) for the completion of butt fusion joints on the MCTA Project,

and UGI has established procedures for how to successfully complete a butt fusion.

- f. UGI has appropriate procedures in place for determining drag pressure applicable to the McElroy DynaMC 412 HP (Hand Pump).
- g. UGI's contractor should have followed UGI's procedure at GOM 25.10.10, Section 6.12, to verify the bead size of the failed butt fusion joint.
- h. UGI did not operate a segment of steel or plastic pipeline in excess of the maximum allowable pressure.
- i. UGI had compliant procedures in place to record the calibration of butt-fusion machine equipment used in joining plastic pipe in accordance with the manufacturer's recommended practices.

Joint Petition, ¶ 28.

Both parties recognize that their respective positions and arguments may or may not have been accepted by the Commission if the matter was fully litigated. Joint Petition, ¶ 29.

Public Interest

Joint Petitioners assert that the Settlement is in the public interest because it effectively addresses the allegations in I&E's Formal Complaint and avoids the time and expense of further litigation. Joint Petition, ¶ 23. I&E separately contends that the Settlement will provide substantial public benefits, including improved quality control and quality assurance programs, improved safety procedures related to the use of and training on butt fusion equipment, improved data collection and retention, and replacement of the 12-inch plastic mains in the MCTA Project. I&E submits that the Settlement is a reasonable compromise of the issues presented and is in the public interest

as it provides for a number of corrective measures, as well as a substantial civil penalty. I&E Statement in Support (SIS) at 6.

In UGI's view, the Settlement will provide benefits to customers and communities served by UGI, including a variety of enhancements and modifications to its policies, procedures and training related to the completion of butt-fusions of plastic pipe. UGI notes that these enhancements and modifications are in addition to the changes to UGI's policies, procedures, and training that were made in response to the December 25, 2020 incident and I&E's Formal Complaint being filed. UGI SIS at 10.

Joint Petitioners also submit that the Settlement is consistent with the Commission's policy statement and associated ten *Rosi* factors for evaluating litigated and settled proceedings at 52 Pa. Code § 69.1201 (Commission policy statement). Joint Petition, ¶ 37. The "*Rosi* factors" are found at 52 Pa. Code § 69.1201(c)(1)-(10). The Commission's policy statement states that the *Rosi* factors should not be strictly construed in settled cases, and parties "will be afforded flexibility in reaching amicable resolutions to complaints and other matters as long as the settlement is in the public interest." 52 Pa. Code § 69.1201(b). I&E and UGI's statements in support each provide a discussion on each *Rosi* factor.

The first *Rosi* factor considers whether the conduct at issue was of a serious nature, and, if so, whether the conduct may warrant a higher penalty. 52 Pa. Code § 69.1201(c)(1). "When conduct of a serious nature is involved, such as willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty." *Id.* I&E asserts that, although the conduct alleged does not include willful fraud or misrepresentation, it is of a serious nature in that it involves risks to public safety. I&E SIS at 10. UGI acknowledges that gas safety is a significant issue. UGI SIS at 11.

The second factor considers whether the resulting consequences of the conduct in question were of a serious nature. 52 Pa. Code § 69.1201(c)(2). “When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty.” *Id.* I&E asserts that the consequences were of a serious nature where the conduct in question led to one fatality and two injuries, in addition to evacuation of two individuals from residences and loss of service. I&E SIS at 11. UGI acknowledges the serious consequences of the incident. UGI SIS at 11-12.

The third factor considers whether the conduct at issue was deemed intentional or negligent. 52 Pa. Code § 69.1201(c)(3). This factor is not relevant here in that it may only be taken into consideration in evaluating litigated cases. *Id.*

The fourth factor to be considered is whether UGI made efforts to modify internal policies and procedures to address the alleged conduct at issue and to prevent similar conduct in the future. 52 Pa. Code § 69.1201(c)(4). I&E avers that, since the December 25, 2020 incident, UGI has engaged in appropriate measures to correct the conduct at issue and prevent similar future conduct. I&E SIS at 12-13. UGI states that the Settlement memorializes the actions it made to enhance the safety and reliability of its service, and the Settlement contains additional modifications and enhancements that UGI will implement as part of the resolution of this case. UGI SIS at 12.

The fifth factor considers the number of customers affected and the duration of the violation. 52 Pa. Code § 69.1201(c)(5). I&E avers that relatively few customers were affected and they were only affected for a short period of time. I&E SIS at 13. UGI states that one adult died, two others were injured, and others in the community sustained damages or lost property, experienced service interruptions, and other concerns. UGI SIS at 12-13.

The sixth factor considers the compliance history of the company. 52 Pa. Code § 69.1201(c)(6). I&E submits that UGI has had a history of compliance issues, that those issues are largely concentrated 10 or more years ago, between 2012 and 2024. I&E SIS at 13-16. However, I&E avers that UGI has made significant strides in improving its compliance since that time span, as evidenced by only one Formal Complaint filed by I&E against UGI regarding safety issues between 2014 and the current proceeding. I&E SIS at 16. UGI states that it has strived to continuously improve its training, policies and procedures related to the installation and inspection of pipeline facilities by its contractors, and that UGI aims to prioritize and remove risky pipe from its system. UGI SIS at 13.

The seventh factor to be considered is whether the regulated entity cooperated with the Commission's investigation. 52 Pa. Code § 69.1201(c)(7). I&E states that UGI cooperated with I&E's investigation and has been cooperative with I&E related to identifying policies and procedures, facilities, and training that can be further improved to assist UGI in enhancing the safety and reliability of service and to satisfy the commitments that I&E has required in the settlement process. I&E SIS at 16. UGI states it fully cooperated with I&E's investigation. UGI SIS at 13.

The eighth factor is the amount of the civil penalty or fine necessary to deter future violations. 52 Pa. Code § 69.1201(c)(8). I&E contends that a civil penalty of \$750,000 and the cost of remedial measures is sufficient to deter UGI from committing future violations. I&E SIS at 17. UGI avers that the civil penalty is substantial and will carry substantial deterrent weight. UGI SIS at 13-14.

The ninth factor to be considered relates to past Commission decisions in similar situations. 52 Pa. Code § 69.1201(c)(9). I&E submits that the Settlement is consistent with past Commission actions, in that a substantial civil penalty will be paid

and numerous, valuable corrective actions to address the alleged violation will be or have been performed. I&E SIS at 17. UGI submits that the Settlement is not inconsistent with past Commission actions. UGI SIS at 14.

The tenth factor considers “other relevant factors.” 52 Pa. Code § 69.1201(c)(10). I&E and UGI both aver that settlement of this proceeding is another relevant factor because fines, penalties, and remedial actions resulting from a fully litigated proceeding are difficult to predict and can differ from those that result from a settlement. I&E SIS at 17-18; UGI SIS at 14.

Disposition

For the reasons detailed by the parties, I agree that the Settlement is in the public interest, that the proposed civil penalty is appropriate, and therefore that it should be approved. Although UGI has already made corrective actions in response to the December 25, 2020 incident, the Settlement provides that UGI will take further corrective actions in accordance with the Settlement terms. These commitments are in the public interest as they will provide safer and more reliable service to UGI’s customers and the public in general. The Settlement also provides for a substantial civil penalty that will not be passed through to ratepayers or used as a tax benefit. This penalty should serve as a deterrent to prevent a similar incident from occurring in the future. Additionally, approving the Settlement is in the public interest because it will avoid the substantial time and expense involved in litigating the issues in this proceeding.

Accordingly, the Settlement will be approved without modification.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. §§ 501(a), 701.

2. UGI Utilities, Inc. – Gas Division is a “public utility” and a “natural gas distribution company.” 66 Pa.C.S. §§ 102; 2022.

3. The Commission is authorized to impose civil penalties on any public utility or on any other person or corporation subject to the Commission’s authority for violations of the Code, the Commission’s regulations and orders. Section 3301 allows for the imposition of a fine for each violation and each day’s continuance of such violation(s). 66 Pa.C.S. § 3301.

4. It is the policy of the Commission to encourage settlements. 52 Pa. Code § 5.231(a).

5. In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm’n v. C.S. Water & Sewer Assocs.*, 74 Pa.P.U.C. 767 (1991); *Pa. Pub. Util. Comm’n v. Phila. Elec. Co.*, 60 Pa.P.U.C. 1 (1985); 52 Pa. Code § 69.1201.

6. The Commission has adopted a policy statement setting forth ten factors that the Commission will consider in evaluating whether a civil penalty for violating a Commission Order, Regulation, or statute is appropriate, as well as if a proposed settlement for a violation is reasonable and approval of a proposed settlement agreement is in the public interest. 52 Pa. Code § 69.1201.

7. The Joint Petition for Settlement is in the public interest as its terms provide for an appropriate resolution to I&E's Formal Complaint and the terms and conditions contained in the Joint Petition for Settlement are just, reasonable and in the public interest. *Pa. Pub. Util. Comm'n v. C.S. Water & Sewer Assocs.*, 74 Pa.P.U.C. 767 (1991).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Joint Settlement Petition filed on July 9, 2024 between the Commission's Bureau of Investigation and Enforcement and UGI Utilities, Inc. - Gas Division is approved in its entirety without modification.

2. That, in accordance with Section 3301(c) of the Public Utility Code, 66 Pa.C.S. § 3301(c), within thirty (30) days of the date this Order becomes final, UGI Utilities, Inc. - Gas Division will pay a civil penalty of Seven Hundred Fifty Thousand Dollars (\$750,000.00). Said payment will be made by certified check or money order payable to "Commonwealth of Pennsylvania" and will be sent to:

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

3. That the civil penalty will not be tax deductible or passed through as an additional charge to UGI Utilities, Inc. - Gas Division's customers in Pennsylvania.

