

COMMONWEALTH OF PENNSYLVANIA



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September 8, 2026

**Via Electronic Filing**

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

Re: Pennsylvania Public Utility Commission  
vs.  
UGI Utilities, Inc. – Electric Division

Docket No. R-2025-3059430

Dear Secretary Homsher:

Attached for electronic filing please find the Office of Consumer Advocate's Main Brief **PUBLIC** version in the above-referenced proceeding.

Please note that the **CONFIDENTIAL** and **HIGHLY CONFIDENTIAL** versions of the OCA's Main Brief will only be sent to the parties that have executed the non-disclosure agreement as indicated on the Certificate of Service. The **CONFIDENTIAL** and **HIGHLY CONFIDENTIAL** versions of the OCA's Main Brief will be e-filed using the Public Utility Commission's Share Point file process.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

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Enclosures

cc: The Honorable Stephen K. Haas (email only)  
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Certificate of Service

## CERTIFICATE OF SERVICE

|                                         |   |                           |
|-----------------------------------------|---|---------------------------|
| Pennsylvania Public Utility Commission  | : |                           |
|                                         | : |                           |
| v.                                      | : | Docket No. R-2025-3059430 |
|                                         | : |                           |
| UGI Utilities, Inc. – Electric Division | : |                           |
|                                         | : |                           |

I hereby certify that I have this day filed electronically on the Commission's electronic filing system and served a true copy of the following document, the Office of Consumer Advocate's Main Brief, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 8<sup>th</sup> day of September, 2026.

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

|                                        |   |                           |
|----------------------------------------|---|---------------------------|
| Pennsylvania Public Utility Commission | : |                           |
|                                        | : |                           |
| v.                                     | : | Docket No. R-2025-3059430 |
|                                        | : |                           |
| UGI Utilities – Electric Division      | : |                           |
|                                        | : |                           |

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MAIN BRIEF  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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**Public Version**

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## **I. INTRODUCTION**

In accordance with the procedural schedule established in this proceeding, before the Honorable Presiding Officers of the Pennsylvania Public Utility Commission (Commission), the Office of Consumer Advocate (OCA) now submits this Main Brief in opposition to UGI Electric's requested rate increase.

The OCA's Tables are attached as Appendix A for the Company's Overall Revenue Requirement (Summary Table) Appendices B, C, and D provide the OCA's proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs. Appendix E contains a list of the OCA's Testimony and Exhibits that were admitted into the evidence in this case.

### **A. Description of the Office of Consumer Advocate**

The OCA is a statutory advocate with the authority and duty to represent the interest of consumers as a party before the Commission in public utility rate requests. 71 P.S. § 309-4. The OCA's interest in this case is to ensure that utility consumers – who ultimately pay the revenue requirement to the utility – are paying no more than is necessary to ensure that public utility service remains adequate, reliable, and safe while allowing the utility to have the opportunity to recover its prudently incurred costs and earn a fair rate of return on its investments. Given that a utility's general rate increase request will substantially affect the interests of consumers, the Commission must “consistent with its other statutory responsibilities, take such action with due consideration to the interests of consumers.” 71 P.S. § 309-5.

### **B. Procedural History**

On March 27, 2026, UGI Utilities – Electric Division (UGI), filed Supplement No. 92 to UGI Electric Tariff – Pa. P.U.C. No. 6 with the Commission to become effective on June 1, 2026. UGI's proposed tariffs would increase the Company's total annual base rate operating revenues by approximately \$17.283 million, or 11.89% overall, based on a fully projected future test year

(FPFTY) ending September 30, 2027. On April 8, 2026, the OCA filed its Formal Complaint and Public Statement challenging the lawfulness of the proposed rate increase.

On April 16, 2026, the Commission entered an Order at the captioned docket, suspending the tariff by operation of law until January 1, 2027, instituting an investigation to determine the lawfulness, justness, and reasonableness of the proposed and existing rates, rules, and regulations, and assigning the rate filings to the Office of Administrative Law Judge (OALJ) for the prompt scheduling of hearings as may be necessary culminating in the issuance of a recommended decision.

Customers have filed approximately four formal complaints and fifteen informal comments. There were 4 Public Input Hearings at which five customers and one public official testified under oath, a majority of them in opposition to the Company's rate relief request.<sup>1</sup> The Public Input Hearings were held as follows:

- June 10, 2026 – Scranton at 1 pm and 6 pm
- June 11, 2026 – Telephonic at 1 pm and 6 pm

Consistent with the procedural schedule issued by the Administrative Law Judges (ALJs) Steven K. Haas and Chad L. Allensworth, the OCA served on the ALJs and the parties its written Direct and Surrebuttal Testimonies from OCA witnesses Michael W. Deupree,<sup>2</sup> Dante Mugrace,<sup>3</sup>

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<sup>1</sup> OCA St. 7.

<sup>2</sup> Mr. Deupree is a Senior Research Consultant with the Acadian Consulting Group, where he has been working in positions of increasing responsibility since 2011. He has a B.A. degree in Business Economics from Buena Vista University and an M.A. degree in Economics from the University of Kansas. Mr. Deupree began his professional career with the Staff of the Kansas Corporation Commission in 2008. Mr. Deupree's background and qualifications are attached as Appendix A to OCA Corrected St. 1.

<sup>3</sup> Mr. Mugrace is a Senior Consultant with the Economic and Management Consulting Firm of PCMG and Associates. He has 35 years' experience in all aspects of regulatory accounting and policy including processing, analyzing and evaluating utility rate case petitions before Public Service Commissions. Prior to undertaking consulting assignments, Mr. Mugrace was the Bureau Chief Utility Rate Manager for the New Jersey Board of Public Utilities. Mr. Mugrace's background and qualifications are attached as Appendix A to OCA Corrected St. 2.

David J. Garrett,<sup>4</sup> James S. Garren,<sup>5</sup> Barbara R. Alexander,<sup>6</sup> Roger Colton,<sup>7</sup> and Zach Teti,<sup>8</sup> on June 18, 2026, July 17, 2026, and August 5, 2026, respectively, in which the OCA opposed and/or recommended adjustments to the Company's requests.

On August 12-13, 2026, ALJs Steven K. Haas and Chad L. Allensworth, held evidentiary hearings, during which, the ALJs admitted the OCA's written direct, supplemental direct, rebuttal, and surrebuttal testimonies, and accompanying exhibits into the record. The OCA conducted cross-examination of UGI witnesses John F. Wiedmeyer. UGI conducted cross-examination of OCA witnesses Michael Deupree, David J. Garrett, and James S. Garren.

On August 19, 2026, the ALJs issued a Briefing Order establishing deadlines for the filing of briefs. In accordance with the Briefing Order, the OCA now submits this Main Brief in opposition to UGI's rate increase.

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<sup>4</sup> Mr. Garrett is the managing member of Resolve Utility Consulting PLLC. He has a B.B.A. with a major in Finance, an M.B.A., and a Juris Doctor from the University of Oklahoma. He has fifteen years of experience in regulatory proceedings. Mr. Garrett is a Certified Depreciation Professional with the Society of Depreciation Professionals and a Certified Rate of Return Analyst with the Society of Utility and Regulatory Financial Analysts. Mr. Garrett's background and qualifications are attached as OCA Exhibit DG1-1 to OCA St. 3.

<sup>5</sup> Mr. Garren is a Senior Manager at NewGen where he provides expert witness testimony with a specialized focus on depreciation. He has provided expert testimony before the Federal Energy Regulatory Commission as well as regulatory bodies in 13 states and Barbados. Mr. Garren is a member of, and has been made a Certified Depreciation Professional, by the Society of Depreciation Professionals. He has also attended the National Association of Regulated Utility Commissioners' Rate School. Mr. Garren's background and qualifications are attached as OCA Exhibit JSG-1 to OCA St. 4.

<sup>6</sup> Ms. Alexander is the sole member manager of Barbara Alexander Consulting LLC where she provides services directed to consumer protection, customer service and low-income programs and policies relating to the regulation of the telephone, electric, and gas industries. Ms. Alexander has appeared in over 30 U.S. and Canadian jurisdictions as an expert witness on behalf of state utility consumer advocates and national and state non-profit consumer organizations. She has an additional ten years of experience testifying as an expert witness before the Maine Public Utilities Commission as the Director of the Consumer Assistance Division. Ms. Alexander's background and qualifications are attached as OCA Exhibit BA-1 to OCA St. 5 (PUBLIC).

<sup>7</sup> Mr. Colton is a principal at Fisher, Sheehan & Colton with over 30 years of experience providing services in areas such as regulatory economics, poverty law and economics, public benefits, fair housing, community development, energy efficiency, utility law and economics (energy, telecommunications, water/sewer), government budgeting, and planning and zoning. Mr. Colton has also been licensed to practice law in Iowa for over 30 years. Mr. Colton has testified in state and federal courts in the United States and Canada, as well as before regulatory and legislative bodies in more than forty (40) states. Mr. Colton's background and qualifications are attached as OCA Exhibit RDC-1 to OCA Corrected St 6.

<sup>8</sup> Mr. Teti is a Senior Regulatory Analyst at the OCA. He earned a BA degree in Quantitative Economics with a minor in Statistics from Millersville University and an MS degree in Energy Economics from Penn State University. Mr. Teti's background and qualifications are attached as OCA Exhibit ZT-1 to OCA Statement 7.

## C. Legal Standards

### 1. Utility Monopoly Regulation

UGI Electric is an electric distribution with an exclusive monopoly franchise. Customers who reside in its certificated service territory have no choice; if they want natural gas service, they must buy it from UGI Electric. Utility regulation stems from the state's police power to protect the health, safety, morals, and general welfare of their citizens. States have the power to regulate the use of private property and the rates charged by certain private companies in industries "clothed with a public interest."<sup>9</sup> "[T]he regulation of utilities is one of the most important of the functions traditionally associated with the police power of the States."<sup>10</sup> The Public Utility Code governing sales that are only rationally dealt in by a monopoly is a proper exercise of the state police power to regulate the health, safety, morals, and general welfare of citizens.<sup>11</sup> The Commission's comprehensive authority under the Public Utility Code to oversee and regulate jurisdictional public utilities is a constitutional exercise of traditional state police powers as a reasonable exercise of police power by appropriate means for a legitimate end.<sup>12</sup>

### 2. Burden of Proof

The Company bears the full burden of proof to establish the justness and reasonableness of every element of its requested rate increase:

Reasonableness of rates – In any proceeding upon the motion of the Commission, involving any proposed or existing rate of any public utility, or in any proceedings upon the complaint involving any proposed increase in rates, the burden of proof

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<sup>9</sup> *Munn v. Illinois*, 94 U.S. 113, 126 (1877).

<sup>10</sup> *Ark. Elec. Coop. Corp. v. Ark. Pub. Serv. Comm'n*, 461 U.S. 375, 377 (1983).

<sup>11</sup> *Relief Elec. Light, Heat & Power Co.'s Petition*, 63 Pa. Super 1, 6-11, 1916 Pa. Super. LEXIS 89 (Pa. Super. 1916).

<sup>12</sup> *Jenkins Twp. v. Pub. Serv. Comm'n*, 65 Pa. Super. 122, 1916 Pa. Super. LEXIS 30, \*\*15-16 (Pa. Super. 1916) ("The authority which the commission seeks to exercise in this case is clearly the exercise of the police power inherent in our State as delegated to the commission by the provisions of the Public Service Company Law" (which the Public Utility Law of 1937 replaced) (which the Code (of 1978) replaced)); see also Charles F. Phillips, Jr., *The Regulation of Public Utilities: Theory and Practice*, 87 (Pub. Utils. Reports, Inc., 3rd ed. 1993); James H. Booser, *The Constitutional Limitations on Public Utility Regulation*, 67 Dick. L. Rev. 363, 364 (1963), available at: <https://ideas.dickinsonlaw.psu.edu/dlra/vol67/iss4/3> (last visited Mar. 21, 2024).



to show that the rate involved is just and reasonable shall be upon the public utility.<sup>13</sup>

The evidence necessary to meet that burden must be substantial, legally credible, and cannot be a mere “suspicion” or “scintilla” of evidence.<sup>14</sup>

The party with the burden of proof has a formidable task to show that the Commission may lawfully adopt its position.<sup>15</sup> Even where a party has established a prima facie case, the party with the burden must establish that “the elements of that cause of action are proven with substantial evidence which enables the party asserting the cause of action to prevail, precluding all reasonable inferences to the contrary.”<sup>16</sup> Furthermore, it is well-established that the “degree of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of the evidence.”<sup>17</sup>

The burden of proof does not shift to parties challenging the rate increase, but rather must be met by the utility:

It is well-established that in general rate increase proceedings, the burden of proof does not shift to parties challenging a requested rate increase. Rather, the utility’s burden of establishing the justness and reasonableness of every component of its rate request is an affirmative one and that burden remains with the public utility throughout the course of the rate proceeding. It has been held that there is no similar burden placed on other parties to justify a proposed adjustment to the utility’s filing.<sup>18</sup>

In *Berner*, the Pennsylvania Supreme Court stated:

[T]he appellants did not have the burden of proving that the plant additions were improper, unnecessary or too costly; on the contrary, that burden is, by statute, on the utility to

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<sup>13</sup> 66 Pa. C.S. § 315(a).

<sup>14</sup> *Lower Frederick Twp. Water Co. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. Ct. 1980); *Lansberry v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. Ct. 1990) (*Lansberry*).

<sup>15</sup> *Burleson v. Pa. PUC*, 461 A.2d 1234, 1236 (Pa. 1983) (*Burleson*).

<sup>16</sup> *Id.*

<sup>17</sup> *Lansberry* at 602.

<sup>18</sup> *Pa. PUC v. Pa.-American Water Co.*, 231 P.U.R.4th 277, 2004 Pa. PUC LEXIS 29, \*16-18 (Jan. 29, 2004) (PAWC 2004) (citing *Berner v. Pa. PUC*, 116 A.2d 738 (Pa. 1955) (*Berner*)).

demonstrate the reasonable necessity and cost of the installations and that is the burden which the utility patently failed to carry.<sup>19</sup>

The Commission recognizes in its rate determinations that the burden of proof will not shift to a complainant or intervener that is challenging the requested rate increase.<sup>20</sup> Thus, it is unnecessary for the OCA (or any challenger) to prove that the Company's proposed rates – including its proposed alternative ratemaking mechanism – are unjust, unreasonable, or not in the public interest. To prevail in its challenge, Pennsylvania law requires only that the OCA show *how* the Company failed to meet its burden of proof. While subtle, this critical distinction shows that parties opposing a utility in a rate proceeding need only to shift the burden of going forward to prevail.

A public utility may elect to use a future test year (FTY) or a fully projected future test year (FPFTY) “in discharging its burden of proof.”<sup>21</sup> However, the utility must provide evidence to support all estimates of increased costs in its FTY and FPFTY. The Code provides:

Whenever a utility utilizes a future test year or a fully projected future test year in any rate proceeding and such future test year or a fully projected test year forms a substantive basis for the final rate determination of the commission, *the utility shall provide*, as specified by the commission in its final order, *appropriate data evidencing the accuracy of the estimates contained in the future test year or a fully projected future test year*, and the commission may after reasonable notice and hearing, in its discretion, adjust the utility's rates on the basis of such data.<sup>22</sup>

Should the utility fail to prove that the projections relied upon in its FTY or FPFTY are accurate, the Commission should not accept those projections and may adjust the public utility's revenue requirement increase request to remove unsupported projections.<sup>23</sup>

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<sup>19</sup> *Berner* at 744.

<sup>20</sup> *Pa. PUC v. Equitable Gas Co.*, 57 Pa. PUC 423, 471 (1983); *see also University of Pa. v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. Ct. 1984); *Pa. PUC v. PPL Elec. Utils. Corp.*, 237 PUR4th 419 (PaPUC 2004) (Order entered Dec. 22, 2004).

<sup>21</sup> 66 Pa. C.S. § 315(e).

<sup>22</sup> *Id.* (emphasis added).

<sup>23</sup> *Id.*

### 3. Just and Reasonable and Not Unduly Discriminatory Rates

As a matter of law, a public utility's rates must be just and reasonable and in conformity with regulations or orders of the Commission.<sup>24</sup> A public utility may obtain "a rate that allows it to recover those expenses that are reasonably necessary to provide service to its customers[,] as well as a reasonable rate of return on its investment."<sup>25</sup>

The Commission "has broad discretion in determining whether rates are reasonable" and "is vested with discretion to decide what factors it will consider in setting or evaluating a utility's rates."<sup>26</sup> The Commission's discretion to determine if a requested rate is just and reasonable includes the "power to make and apply policy" concerning the appropriate balance between rates charged to consumers and returns allowed to utility investors.<sup>27</sup>

There is ample authority for the proposition that the power to fix "just and reasonable" rates imports a flexibility in the exercise of a complicated regulatory function by a specialized decision-making body and that the term "just and reasonable" *was not intended to confine the ambit of regulatory discretion to an absolute or mathematical formulation but rather to confer upon the regulatory body the power to make and apply policy* concerning the appropriate balance between prices charged to utility customers and returns on capital to utility investors consonant with constitutional protections applicable to both.<sup>28</sup>

Moreover, the Commission has "recognized that [a public utility] is not automatically entitled to any level of rate increase simply by virtue of filing a request to increase its rates."<sup>29</sup> It has additionally noted that any public utility seeking a rate increase "faces a range of outcomes in the proceeding, including the possibility that the utility's entire increase may be denied."<sup>30</sup>

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<sup>24</sup> 66 Pa. C.S. § 1301(a).

<sup>25</sup> *City of Lancaster Sewer Fund v. Pa. PUC*, 793 A.2d 978, 982 (Pa. Cmwlth. 2002) (*Lancaster 2002*).

<sup>26</sup> *Popowsky v. Pa. PUC*, 683 A.2d 958, 961 (Pa. Cmwlth. Ct. 1996) (*Popowsky 1996*) (emphasis added).

<sup>27</sup> *Popowsky v. Pa. PUC*, 665 A.2d 808, 812 (Pa. 1995) (*Popowsky 1995*).

<sup>28</sup> *Id.* (citations omitted) (emphasis added).

<sup>29</sup> *Pa. PUC v. Columbia Gas Co.*, Docket No. R-2025-3053499 (Dec. 4, 2025), Order at 31-34 (*Columbia 2025*).

<sup>30</sup> *Id.* (citing *Nat'l Utils., Inc. v. Pa. PUC*, 709 A.2d 972, 979 (Pa. Cmwlth. 1998)).

A utility's cost of providing service guides the ratemaking process.<sup>31</sup> Additional important ratemaking concerns include quality of service, rate gradualism, and rate affordability.<sup>32</sup>

The Commission must determine whether projected expenses “are reasonably necessary to provide service...” during the prospective period in which its rates will be in effect.<sup>33</sup> Only prudently incurred expenses are includable in expense claims; it is the burden of the public utility to prove that the expenses incurred are just and reasonable; and it is within the discretion of the Commission to exclude expenses as unreasonable.<sup>34</sup>

Additionally, rates must not be unduly discriminatory among customer groups.<sup>35</sup> The Commission has discretion to determine reasonable classification of service of rates as may be justified “by a variety of considerations including the quantity of service used, the nature of the use, the time of the use, the pattern of the use, differences of conditions of service or cost of service.”<sup>36</sup>

#### **4. Reasonable Opportunity to Earn a Fair Rate of Return**

A public utility is entitled to no more than a reasonable opportunity to earn a fair rate of return on its investments dedicated to public service.<sup>37</sup> The United States Supreme Court held:

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 raise the money necessary for the proper discharge of public duties.<sup>38</sup>

The allowed rate of return should reflect:

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<sup>31</sup> *Lloyd v. Pa. PUC*, 904 A.2d 1010, 1019-21 (Pa. Cmwlth. 2006) (*Lloyd*).

<sup>32</sup> *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket No. R-2020-3018835 (Order Feb. 19, 2021) (*Columbia 2021*), at 46-47 (citing 66 Pa. C.S. §§ 523, 526(a)) (citing also *Lloyd* at 1020 and *Pa. PUC v. Twin Lakes Util., Inc.*, Docket No. R-2019-3010958 (Order Mar. 26, 2020) (*Twin Lakes*), at 48, 80.

<sup>33</sup> *Lancaster 2002* at 982.

<sup>34</sup> *Popowsky v. Pa. PUC*, 674 A.2d 1149, 1154 (Pa. Cmwlth. 1996) (*LP Water*) (internal citations omitted).

<sup>35</sup> 66 Pa. C.S. § 1304.

<sup>36</sup> *Zucker v. Pa. PUC*, 402 A.2d 1377, 1382 (Pa. Cmwlth. 1979) (*Zucker*).

<sup>37</sup> *Pennsylvania Gas & Water Co. v. Pa. PUC*, 341 A.2d 239, 251 (Pa. Cmwlth. 1975) (citations omitted).

<sup>38</sup> *Bluefield Water Works and Improvement Co. v. Public Serv. Comm'n of W.Va.*, 262 U.S. 679, 692-93 (1923) (*Bluefield*).

[A] return on the value of the [utility's] property which it employs for the convenience of the public equal to that being made at the same time on investments in other business undertakings which are attended by corresponding risks and uncertainties.<sup>39</sup>

However, a fair return for public utility service is not equivalent to “profits such as are realized or anticipated in highly profitable enterprises or speculative ventures.”<sup>40</sup> A fair rate of return “should be commensurate with returns on investments in other enterprises having corresponding risks” while being sufficient “to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and attract capital.”<sup>41</sup> The Supreme Court noted, however, that:

The rate-making process under the Act, i.e., the fixing of ‘just and reasonable’ rates, involves a balancing of the investor and consumer interests. Thus we stated...that *regulation does not insure that the business shall produce **net** revenues.*<sup>42</sup>

Consumers cannot readily negotiate with a utility and must “rely upon” the Commission to provide “a complete, permanent, and effective bond of protection from excessive rates and charges” of the public utility.<sup>43</sup> The Commission’s “responsibilities include the protection of future, as well as present, consumer interests.”<sup>44</sup> Rates adopted by the Commission that are within a “zone of reasonableness” can withstand constitutional scrutiny.<sup>45</sup> Moreover, “[r]ates which enable the company to operate successfully, to maintain its financial integrity, to attract capital, and to compensate its investors for the risks assumed certainly *cannot be condemned as invalid, even though they might produce only a meager return on the so-called ‘fair value’ rate base.*”<sup>46</sup>

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<sup>39</sup> *Bluefield* at 692.

<sup>40</sup> *Id.* At 692-693.

<sup>41</sup> *Federal Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944) (*Hope*).

<sup>42</sup> *Id.* (emphasis added) (internal quotations omitted); see also *Pa. PUC v. Phila. Suburban Water Co.*, 71 Pa. PUC 593, 623 (1989) (*PSW 1989*) (citing *Pittsburgh v. Pa. PUC*, 69 A.2d 844 (Pa. Super Ct. 1949)); see also *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 310, 312 (1989) (*Duquesne Light*), *aff’g Barasch v. Pa. PUC*, 532 A.2d 325 (Pa. 1987).

<sup>43</sup> *Permian Basin Area Rate Cases*, 390 U.S. 747, 794-95 (1968) (*Permian Basin*) (citing *Atlantic Ref. Co. v. Pub. Serv. Comm’n*, 360 U.S. 378, 388 (1959)).

<sup>44</sup> *Permian Basin* at 797.

<sup>45</sup> *Id.* at 797.

<sup>46</sup> *Hope*, 320 U.S. at 605 (emphasis added).

Cost of capital analyses are generally accepted by the Commission as a basis for determining a fair rate of return under the “just and reasonable” standard of the Code. In *PSW* 1989, the Commission defined an appropriate rate of return as:

[T]he amount of money a utility earns, over and above operating expenses, depreciation expense, and taxes, expressed as a percentage of the legally established net valuation of utility property, the rate base. Included in the “return” are interest on long-term debt, dividends on preferred stock, and earnings on common equity. In other words, the return is the money earned from operations which is available for distribution among the various classes of contributors of money capital.<sup>47</sup>

Additionally, the Commission stated:

A fair rate of return for a public utility, however, is not a matter which is to be determined by the application of a mathematical formula. It requires the exercise of informed judgment based upon an evaluation of the particular facts presented in each proceeding. There is no one precise answer to the question as to what constitutes the proper rate of return. The interests of the Company and its investors are to be considered along with those of the customers, *all to the end of assuring adequate service to the public at the least cost*, while at the same time maintaining the financial integrity of the utility.<sup>48</sup>

## **5. Due Consideration to the Interest of Consumers**

As a matter of law, an increase in base rates involves a substantial property right, entitling ratepayers to notice and procedural due process.<sup>49</sup> Given that a utility’s general rate increase request will substantially affect the interests of consumers, the Commission must “consistent with its other statutory responsibilities, take such action with due consideration to the interests of consumers.”<sup>50</sup>

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<sup>47</sup> *PSW* 1989 at 622-23 (quoting Paul J. Garfield & Wallace F. Lovejoy, *Public Utility Economics*, 116 (1964)).

<sup>48</sup> *Pa. PUC v. Pa. Power Co.*, 55 Pa. PUC 552, 579 (1982) (*Pa. Power*) (emphasis added); *see also Pa. PUC v. Nat’l Fuel Gas Dist. Corp.*, 73 Pa. PUC 552, 603-05 (1990) (*NFGD* 1990).

<sup>49</sup> *McCloskey v. Pa. PUC*, 195 A.3d 1055, 1068 (Pa. Cmwlth. Ct. 2018) (*McCloskey* 2018) (citing *Barasch v. Pa. PUC*, 546 A.2d 1296, 1305-06 (Pa. Cmwlth. Ct. 1988) (*Barasch* 1988); citing also U.S. Const. amend. XIV, § 1).

<sup>50</sup> 71 P.S. § 309-5.

## II. SUMMARY OF ARGUMENT

Overall Position: UGI's proposed rate increase results in unaffordable rates. UGI's customers have experienced base rate increases in 2018, 2021, and 2023. Due to compounding affordability issues caused by UGI's frequent base rate cases and current macroeconomic conditions and UGI's failure to meet its burden of proof, the Commission should deny UGI's proposed rate increase. In the event the Commission determines UGI requires some level of increased revenue requirement and return on equity, a ceiling of the OCA's recommended ROE and the recommended decrease to the requested annual revenue requirement based on the OCA's recommended adjustments is supported by substantial evidence.

Revenue Requirement: UGI has failed to meet its burden of proof in demonstrating that its requested overall revenue increase of \$16,050,000<sup>51</sup> will produce rates that are just and reasonable, equitable among customer groups, or in the public interest. Rather, the Commission should adopt an overall revenue requirement of \$5,127,616<sup>52</sup> which is based on OCA witness Garrett's ROE of 8.7% and capital structure of 58% debt and 42% equity as well as all other OCA adjustments. This represents a decrease of \$10,922,384 from UGI's revised increase of \$16,050,000.

Rate of Return: The Commission should approve the OCA's recommended return on equity (ROE) of 8.7% and capital structure of 42% equity and 58% debt resulting in an overall rate of return (ROR) of 6.65% and reject UGI's proposed ROE of 10.85% as excessive. A ROE of 8.7% with an equity ratio of 42%, as proposed by OCA witness Garrett, is supported by substantial record evidence, will provide UGI with a fair rate of return, and will ensure consumers are paying

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<sup>51</sup> UGI originally requested a \$17,283,000 rate increase, however, in rebuttal testimony UGI accepted many OCA and I&E accounting adjustments resulting in UGI's updated requested revenue increase of \$16,050,000. UGI St. 2R at 6-7.

<sup>52</sup> The OCA originally recommended a \$1,768,159 rate increase, however, in surrebuttal testimony the OCA accepted UGI's position on Lineman and Substation bonuses resulting in an updated recommendation of \$5,127,616. OCA Corrected St. 2 at 3.

no more than necessary. If the Commission determines to use UGI's proposed capital structure, a reasonable ROE is 8% and a reasonable ROR of 6.71%. The OCA's recommendation evaluates a multitude of factors in setting its ROE and capital structure which results in just and reasonable rates while enabling UGI to earn a sufficient and reasonable return in accordance with the *Hope* and *Bluefield* standards.

Depreciation: UGI's atypical use for electric distribution utilities of the Equal Life Group (ELG) procedure results in ratepayers paying over \$1.8 million more than they otherwise would. UGI failed to meet its burden of proof that its proposed depreciation procedure would result in just and reasonable rates. The OCA produced substantial record evidence that use of the Average Life Group (ALG) procedure will produce just and reasonable rates. Adopting the ALG procedure is squarely within the Commission's ratemaking discretion, as no state or federal law prohibits the Commission's adoption of the ALG procedure in this proceeding.

Substantial record evidence demonstrates that the use of the ALG procedure will permit UGI's recovery of reasonable amounts charged to operating expenses for depreciation so that UGI is whole and the integrity of its investments maintained. Substantial record evidence further demonstrates that use of the ALG procedure will allow UGI's accumulated depreciation and annual depreciation to be calculated on a reasonably consistent basis. Use of the ALG procedure would remove the excess amounts charged in rates for depreciation expense. Furthermore, substantial record evidence demonstrates that the use of the ELG procedure unreasonably accelerates the recovery of depreciation expense, violates the matching principle, and creates intergenerational inequity among consumers paying utility rates. A significant majority of state commissions require the ALG procedure, leaving Pennsylvania in the small minority of jurisdictions that allows the ELG procedure.



Cost of Service, Revenue Allocation, and Rate Design: The Commission should adopt the OCA's proposed alternative cost of service study methodology, which allocates 100% of the costs of primary and secondary distribution infrastructure based on customer demand. UGI's proposed minimum system study methodology inaccurately correlates the number of customers connected to UGI's distribution system with the Company's investment in primary and secondary distribution infrastructure and fails to consider the load carrying capability of minimum system-sized distribution plant. While the Commission has accepted the minimum system study methodology in prior cases, it is not bound to do so where record evidence indicates that a different cost of service study methodology more accurately reflects the design and buildout of the utility's infrastructure. The Commission should also adopt the OCA's proposed revenue allocation which allocates costs on a pure demand basis and incorporates a 1.15 times system average increase gradualism ceiling. The OCA's revenue allocation proposal more accurately tracks cost causation on UGI's distribution system and more appropriately considers rate gradualism.

Further, the Commission should reject the Company's proposal to more than double its residential customer charge. UGI currently earns sufficient revenue through its residential customer charge to recover its customer-related costs. The Company's proposal also fails to consider rate gradualism, would make UGI's residential customer charge inconsistent with similar regional utilities, and would disproportionately harm low-income customers. The Commission should include customer charges in the authorized scale-back in this proceeding.

Customer Service and Quality of Service: OCA witness Alexander reviewed the service quality and customer service issues in this matter. Ms. Alexander recommended the following:

- UGI Electric should be required to meet its 2024-2025 call center performance standards in its rate effective year as a condition of any rate increase ordered in this proceeding. In addition, the Company should be required to improve its call center

performance in months with higher level of customer calls to improve significant deterioration in those months.

- UGI Electric should be required to create and implement field agent training and compliance oversight to implement the Chapter 56 requirements to attempt personal contact immediately prior to termination of service with the minimum content that I have listed in this testimony.
- UGI's web portal serves both its gas and electric Pennsylvania customers but the website is dominated by information for its larger gas service customer base. A more distinctive section of this website should be created to provide a targeted set of information for electric service customers.
- UGI Electric should be required to develop and implement the findings of a Root Cause Analysis of customer complaints similar to that ordered for UGI-Gas in its 2025 base rate case.
- UGI should adopt additional and more targeted customer communications to assist customers in ensuring affordability for basic natural gas service due to high EGS charges that appear on the customer bill that UGI collects under threat of termination of service. In addition, UGI's bill should be reformed to more directly link the presentation of EGS charges with the Price to Compare (PTC).

Low-Income Customer Assistance: OCA witness Colton reviewed the Customer Assistance programs and Low-income issues in this proceeding. Mr. Colton made the following recommendations:

- The Commission should consider ALICE wage information because it provides a practical, household-level measure of affordability that is not captured by traditional poverty metrics alone.
- CAP is a system-wide program, so its costs should be paid by all customer groups.
- UGI should share 50/50 Sharing of Credit and Collection Costs Under Section 523 of the Public Utility Code.
- The Commission should require a Plain-English CAP Notice for Confirmed Low-Income Customers and prohibit UGI's continued conflation of Confirmed Low Income with CAP Eligibility.
- UGI should be directed to use something like a COMPASS screenshot to confirm low-income status and tag the customer for protections related thereto. His recommendation should not be understood as offering COMPASS as a means of satisfying CAP's income-verification requirements for enrollment.

- Low-income customers should receive clear notice of their right to enroll in CAP instead of entering a deferred payment agreement.
- UGI Electric should be directed to modify its processes and procedures regarding the low-income exemption from deposits.
- The Commission should require evaluation of non-SSN identification methods

### III. OVERALL POSITION ON RATE INCREASE

#### A. UGI's request for rate relief should be denied because UGI failed to meet its burden of proof before the Commission.

The Commission has the authority under 66 Pa. C.S. Section 1301 to set rates at an amount it determines to be “just and reasonable” and that authority includes the ability to deny a utility its requested increase.<sup>53</sup> UGI failed to meet its burden of proof to demonstrate that any increase in rates at this time, let alone UGI's requested increase in annual base rate operating revenues of \$16.050 million,<sup>54</sup> and return on equity of 10.85%,<sup>55</sup> will produce rates that are just and reasonable, equitable among customer groups, or in the public interest.<sup>56</sup> The main drivers of this rate case filing are (1) UGI's request for an excessive 10.85% return on equity;<sup>57</sup> (2) UGI's unreasonable proposed capital structure of 54.85% equity and the resulting impact to UGI's proposed rate increase<sup>58</sup>; and (3) UGI's continued use of the ELG method, instead of the widely applied ALG method, to calculate depreciation rates.<sup>59</sup>

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<sup>53</sup> 66 Pa. C.S. § 1301; *Pa. PUC v. Columbia Gas Co.*, Docket No. R-2025-3053499 (Dec. 4, 2025), Order at 31-34 (*Columbia 2025*) (recognizing that a public utility “is not automatically entitled to any level of rate increase simply by virtue of filing a request to increase its rates” and noting that a public utility seeking a rate increase “faces a range of outcomes in the proceeding, including the possibility that the utility's entire increase may be denied.”) (citation omitted).

<sup>54</sup> UGI St. 1R at 5. UGI's initial filing requested an increase of \$17.283 million. *See id.*; UGI St. 1 at 6.

<sup>55</sup> UGI St. 8 at 3; UGI St. 8R at 5.

<sup>56</sup> 66 Pa. C.S. § 315(e); *see also Pa. PUC v. Pa. American Water Co.*, 2004 Pa. PUC LEXIS 29, \*16-18 (Order Jan. 29, 2004); *Burleson v. Pa. PUC*, 461 A.2d 1234, 1236 (Pa. 1983); *Lansberry v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. Ct. 1990).

<sup>57</sup> *See infra* Section VIII.

<sup>58</sup> *See infra* Section VIII(B)

<sup>59</sup> *See infra* Section IV(B)

UGI's request for an excessive 10.85% return on equity is premised on UGI's belief that its resulting ROE after making an additional \$28.6 million of investments in the Future Test Year (FTY) and implementing plans to invest an additional \$37.3 million in infrastructure and business systems through the Fully Projected Future Test Year (FPFTY) ending September 30, 2027,<sup>60</sup> could jeopardize its ability to attract the capital needed for future investments.<sup>61</sup> UGI further claims that it is unable to earn a reasonable rate of return because of (1) significant system investments since its last base rate case in 2023, which UGI anticipates causing it to exceed the DSIC cap by September 1, 2026; (2) "relatively stagnant customer usage and growth trends"; and (3) significant economic changes impacting costs of operation.<sup>62</sup>

The Commission has the authority and discretion to deny the requested rate increase so long as that amount is not confiscatory and the utility has the opportunity to earn a fair rate of return.<sup>63</sup> Where a public utility is covering its expenses, debt, and making profit for shareholders, it is earning a fair rate of return in difficult macroeconomic conditions, even if it is not provided with an increased or desirable rate of return. Indeed, "[r]ates which enable the company to operate successfully, to maintain its financial integrity, to attract capital, and to compensate its investors for the risks assumed certainly *cannot be condemned as invalid, even though they might produce only a meager return* on the so-called 'fair value' rate base."<sup>64</sup>

UGI's most recent 2023 rate base case ended in the Commission adopting a Joint Settlement that granted UGI a rate increase of \$8.5 million.<sup>65</sup> If no rate increase is granted, UGI

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<sup>60</sup> UGI St. 1 at 6; UGI St. 1R at 6.

<sup>61</sup> UGI St. 1 at 7.

<sup>62</sup> UGI St. 1 at 7.

<sup>63</sup> *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 310 (1989) (*Duquesne*).

<sup>64</sup> *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 605 (1944) (emphasis added).

<sup>65</sup> See *Pa. PUC v. UGI Utilities, Inc. – Electric Division*, Docket No. R-2024-3052716, Order at 3 (Sept. 21, 2023) (*UGI Order 2025*); *Pa. PUC v. UGI Utilities, Inc. – Electric Division*, Docket No. R-2024-3052716, Recommended Decision at 29 (Aug. 21, 2023) (*UGI Order 2025*).

projects an effective rate of return of 3.426% and a return on equity of 1.95% by the end of its FPFTY ending September 30, 2027.<sup>66</sup> UGI's current filing failed to demonstrate, however, that its existing revenue requirement and projected future rate of return would prevent it from maintaining a successful operation, financial integrity, attract capital, or compensate its investors, all factors that could make the current rates confiscatory by the end of the FTFPY.<sup>67</sup> Instead, UGI has argued that "[t]he positions advanced by the I&E and OCA *could* frustrate the Company's ability to [attract capital at a reasonable cost in order to undertake the investments necessary to provide safe and reliable service.]"<sup>68</sup> Without such demonstration, the Commission is well within its authority to determine that UGI's current rates are sufficient and to deny the requested increase.<sup>69</sup>

"[J]ust compensation depends upon many circumstances and must be determined by the exercise of a fair and enlightened judgment, having regard to all relevant facts."<sup>70</sup> UGI's filing presented no evidence that it cannot cover the projected \$37.3 million investment in plant through the FPFTY with the current rate structure and revenue requirement. Indeed, UGI represented as a main reason for filing, not that its current revenue requirement cannot cover the amount of investment while providing a return on investment, but that UGI's current rates "do not provide UGI Electric with reasonable opportunity to earn a fair rate of return on its increased rate base investments."<sup>71</sup> UGI contends that unless it receives the rate relief requested in this proceeding, its projected returns "will continue to decline" which will further deny the opportunity to earn a fair

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<sup>66</sup> UGI St. 1 at 7; UGI Gas Exh. A (Fully Projected), Schedule A-1.

<sup>67</sup> See *Hope*, 320 U.S. at 605 ("Rates which enable the company to operate successfully, to maintain its financial integrity, to attract capital, and to compensate its investors for the risks assumed certainly cannot be condemned as invalid, even though they might produce only a meager return on the so-called 'fair value' rate base.").

<sup>68</sup> UGI St. 1R at 8-9.

<sup>69</sup> Any rate adopted by the Commission that is within a "zone of reasonableness" can withstand constitutional scrutiny. *Permian Basin Area Rate Cases*, 390 U.S. 747, 797 (1968) (*Permian Basin*).

<sup>70</sup> *Bluefield Water Works and Improvement Co. v. Public Serv. Comm'n of W.Va.*, 262 U.S. 679, 690 (1923). Rates become "unjust, unreasonable and confiscatory" if they "are not sufficient to yield a reasonable return on the value of the property used at the time it is being used." *Id.*

<sup>71</sup> UGI St. 1 at 7.

and reasonable rate of return and jeopardize UGI's ability to attract necessary capital to make investments that support operating a safe and reliable distribution system and enhance the reach and capacity of facilities that are required for system growth."<sup>72</sup> However, as explained below in Section I, UGI failed to provide sufficient evidence to substantiate that claim.

**B. UGI's request for rate relief should be denied because, based on a ratemaking analysis which properly considers evidence of rate affordability for ratepayers and the impact of the current macroeconomic environment in evaluating the interest of the consumer and balancing that interest with the interest of UGI's investors, an increase in rates at this time would not result in rates that are "just and reasonable."**

Affordability concerns for all UGI ratepayers properly lay at the heart of this proceeding. Affordability is an important ratemaking consideration when the Commission is determining whether a utility's requested revenue requirement and rate of return would result in rates that are just and reasonable.<sup>73</sup> The Commission may "consider rate affordability" when evaluating a rate case and, in doing so, is required to "carefully consider the underlying record, including resolving conflicts in testimony and weighing evidence presented before it."<sup>74</sup> In its Order deciding the most recent Pennsylvania-American Water Company (PAWC) rate increase request, the Commission held that since "water and wastewater service are *essential, non-discretionary services*," it agreed with the ALJs that "affordability should be a central consideration when determining whether PAWC's proposed rates are 'just and reasonable.'"<sup>75</sup> The electric service provided by UGI is

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<sup>72</sup> UGI St. 1 at 8.

<sup>73</sup> See *Pa. PUC et al. v. Pennsylvania-American Water Company*, Docket Nos. R-2025-3058051 (Order July 26, 2026) (PAWC 2026), at 36; *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket Nos. R-2025-3053499 (Opinion and Order entered December 9, 2025) (*Columbia Gas 2025*), at 33, *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket Nos. R-2020-3018835 (Order Feb. 19, 2021) (*Columbia 2021*), at 46-47; *Pa. PUC v. Roaring Creek Water Co.*, 1995 Pa. PUC LEXIS 67 at \*116 (Order entered May 31, 1995) ("Affordable bills will maximize revenues for the Company and will enable ratepayers to continue to receive an essential service.").

<sup>74</sup> PAWC 2026 at 36.

<sup>75</sup> PAWC 2026 at 37.

equally an *essential, non-discretionary service* and so affordability should likewise be a central consideration in the Commission's evaluation of UGI Electric's request.

In this proceeding, OCA witness Deupree recommended that "the Commission take into consideration current macroeconomic conditions, including consumer affordability, when determining just and reasonable rates for [UGI]" and encouraged the Commission to "require some level of shared burden, balancing consumer affordability concerns with the financial interests of [UGI]."<sup>76</sup> By recommending the consideration of macroeconomic conditions facing UGI's customers, the OCA and OCA witness Deupree is not suggesting that affordability is the *only* consideration for the Commission in this case and that the Commission should depart from the ratemaking framework.<sup>77</sup> Instead, his recommendation incorporates the position that the Commission has long viewed, and more recently affirmed, that affordability is an important and central consideration, of the regulatory framework.<sup>78</sup>

Reviewing the affordability of UGI's rates for ratepayers as impacted by the macroeconomic environment is an appropriate undertaking for the Commission in this proceeding, as the Commission is required to balance the interests of all involved,<sup>79</sup> and it is in both the utility's interest and customers' interest that the utility's rates remain affordable.<sup>80</sup> Moreover, in the recent *PAWC* case, the Commission determined that affordability must be viewed within the "the context

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<sup>76</sup> OCA Corrected St. 1 at 20; OCA St. 1SR at 3

<sup>77</sup> See UGI St. 1R at 19-20.

<sup>78</sup> See Tr. at 245:22-246:3 ("As I discussed within my testimony, and it seemed that the Commission recognizes within the American Water, the current macroeconomic conditions and customer affordability concerns is just one of many items that have to be balanced when ... adjudicating just and reasonable rates."); see also *PAWC* 2026 at 36-37 ("When setting rates in a base rate proceeding, the Commission may consider rate affordability.") (first citing *Columbia 2025* at 33 and then citing *Columbia 2021* at 46-47); *Roaring Creek Water Co.*, 1995 Pa. PUC LEXIS 67 at \*116; *Twin Lakes*, Docket No. R-2019-3010958 at 48, 80.

<sup>79</sup> *Columbia 2025* at 33 ("[T]he Commission cited its obligation to balance between the interests of the utility's customers, investors, and the public interest, which it interpreted as additionally requiring the Commission to weigh evidence or unique considerations related to changes in service, market forces, and the economy." (quoting *Columbia 2021* at 48 (internal quotations omitted))).

<sup>80</sup> *Roaring Creek Water Co.*, 1995 Pa. PUC LEXIS 67 at \*116.

of the magnitude and frequency of PAWC’s rate cases” but *also* in the context of “the impact of recent and current economic conditions.”<sup>81</sup> Finally, the Commission has recognized that “[a]ffordability is an issue that must be addressed *for all customers*, not just for those who apply for and are found eligible to receive low-income assistance.”<sup>82</sup>

OCA witness Deupree testified that UGI’s customers have experienced three base rate increases since 2018.<sup>83</sup> As a result, “[c]ompany revenues have increased by more than 57.80 percent in just seven years, averaging nearly 8.26 percent per year.”<sup>84</sup> If UGI’s rate increase is granted as requested, the cumulative increase since 2018 “will exceed 76.56 percent, averaging nearly 10.94 percent per year, without considering the impact on the total customer bill from rate increases associated with the cost of electric supply.”<sup>85</sup>

As evidenced by this cumulative increase, UGI’s bills in recent years have been rising in unaffordability and for a broader set of UGI customers than can be reached by customer assistance programs for confirmed low-income customers. OCA witness Colton demonstrated that “there are “serious affordability problems facing UGI Electric customers, even at current rates,”<sup>86</sup> through his testimony analyzing customer payment difficulties, and the burden of affording electric service at UGI’s current rates, which he determined to be an average of 4.9%, with it rising to 5.7% at the proposed rates<sup>87</sup> OCA witness Colton also testified that as of March 2026, “more than one quarter (26.25) of *all* [UGI] residential customers are in arrears of some age, while one-in-eight (11.5%)

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<sup>81</sup> PAWC 2026 at 41.

<sup>82</sup> *Id.* (emphasis added).

<sup>83</sup> OCA Corrected St. 1 at 6-7.

<sup>84</sup> OCA Corrected St. 1 at 6-7.

<sup>85</sup> OCA Corrected St. 1 at 6-7.

<sup>86</sup> OCA Corrected St. 6 at 21; *see also* Section XI, *infra*, examining OCA witness Colton’s testimony in more detail.

<sup>87</sup> OCA Corrected St. 6 at 19-25.



of all residential customers are 180 or more days in arrears”<sup>88</sup> and that the average arrears at the time of disconnection of electric service is more than \$3,400.<sup>89</sup>

The testimony from both OCA witness Deupree and Colton indicate that many UGI customers are struggling to maintain electric service as a result of UGI’s recent rate increases and other macroeconomic pressures. Testimony from the public input hearings and written comments to UGI’s proposed increase underscores the affordability issues UGI customers are facing with current rates.<sup>90</sup> Fifteen written comments were submitted, with almost all commenters addressing the affordability of UGI’s rates.<sup>91</sup> Five additional customers testified in person, also raising affordability as a central concern.<sup>92</sup>

UGI argues through testimony that the OCA, by putting forth its recommendation and providing evidence of consumer affordability concerns, “encourage[s] the Commission to supplant its detailed analytic process for evaluating the need for and level of various costs incurred to serve customers with a generic rejection of the proposed rate increase based on macroeconomic conditions.”<sup>93</sup> Instead, UGI “ask[ed] the Commission to evaluate its case based on the traditional ratemaking principles it has developed over decades of experience,” in part because UGI “has significantly underearned on a reasonable return for many years” while modernizing its system, and in part because no party challenged its planned capital investments.<sup>94</sup> UGI is mistaken, however, both in its initial overall premise that evidence of macroeconomic conditions and general affordability concerns do not belong in this ratemaking proceeding apart from reviewing customer

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<sup>88</sup> OCA Corrected St. 6 at 23 (emphasis in original).

<sup>89</sup> OCA Corrected St. 6 at 23-24.

<sup>90</sup> See OCA St. 7 at 3-8.

<sup>91</sup> See OCA St. 7 at 3.

<sup>92</sup> OCA St. 7 at 6-7.

<sup>93</sup> UGI St. 1R at 6.

<sup>94</sup> UGI St. 1R at 9.

assistance programs, and that the OCA is recommending the Commission forgo the ratemaking balancing process to decide the case only based on macroeconomic reasons.

Commission precedent bears out that considering rate affordability within the context of major market events is not disregarding the Commission's process, nor is it “ask[ing] the Commission to depart from its statutory requirements, its precedent, and the fundamental concept of cost-of-service ratemaking” as UGI contends.<sup>95</sup> The Commission has affirmed that it considers rate affordability to be an important and central consideration in setting just and reasonable rates.<sup>96</sup> Indeed, the Commission has noted recently that “the applicable legal standards that require the Commission to balance between the interests of the utility’s customers, investors, and the public interest, require the Commission, by necessary implication, *to weigh evidence or unique considerations related to changes in service, market forces, and the economy.*”<sup>97</sup> The Commission has thus rejected past arguments like UGI’s in this case, that its use of “traditional” ratemaking methodologies limits it from considering such concerns, whether in normal or extraordinary circumstances.<sup>98</sup> Moreover, cost of service is of primary concern in the rate design and allocation process, where cost of service guides the Commission alongside other ratemaking principles of quality of service, rate gradualism, and rate affordability<sup>99</sup>

UGI states that a primary concern in this case is that without the Commission granting its proposed ROE it will be unable to attract capital at a reasonable cost, thereby impeding future infrastructure investment and frustrating their ability to provide safe and reliable service.<sup>100</sup> While utilities are entitled to the opportunity to earn a fair rate of return,<sup>101</sup> as part of the regulatory

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<sup>95</sup> UGI St. 1R at 19-20.

<sup>96</sup> *Columbia 2021* at 46-47 (citing 66 Pa. C.S. §§ 523, 526(a)) (citing also *Lloyd* at 1020 and *Twin Lakes* at 48, 80).

<sup>97</sup> *Columbia 2021* at 48. (emphasis added).

<sup>98</sup> *Id.*

<sup>99</sup> *Lloyd v. Pa. PUC*, 904 A.2d 1010, 1019-21 (Pa. Cmwlth. 2006) (*Lloyd*).

<sup>100</sup> UGI St. 1 at 7; UGI St. 1R at 6, 8-9.

<sup>101</sup> *Pennsylvania Gas & Water Co. v. Pa. PUC*, 341 A.2d 239, 251 (Pa. Cmwlth. 1975) (citations omitted).

compact, public utilities do not face risks associated with a competitive market, which would not guarantee a captive customer base or the opportunity to earn.<sup>102</sup>

UGI's request for an excessively high return on equity and revenue requirement is not an example of a utility seeking a fair rate of return, but of a utility attempting to maximize the revenue extracted from its captive customers and increase the profit to its shareholders at the cost of its ratepayers. The Company contends that weighing affordability concerns and denying UGI's rate request would result in shifting the burden of economywide customer hardship to UGI.<sup>103</sup> However, by requesting an excessive ROE and an unnecessary revenue requirement increase, UGI seeks to shift its burden onto ratepayers. While "[i]t must be recognized that there is always the desire of the utility to get as large a return as possible," there is likewise "a desire on the part of the ratepayer to buy as cheaply as possible. Only the Commission can stand between the public and the utility. It is almost the only protection which the public has."<sup>104</sup> "The Commission is charged with the duty of protecting the rights of the public."<sup>105</sup>

In this case, it is necessary for the Commission to act on its duty and protect UGI's ratepayers from the Company's rate increase request. The Commission is tasked with setting utility rates that are "just and reasonable" based on all relevant facts.<sup>106</sup> Utility regulators "typically evaluate 'just and reasonable' in the context of what is called a 'zone of reasonableness.'"<sup>107</sup> This "zone of reasonableness" means that there is no one right answer but that regulators must balance "the interests of several sectors of the public, including not only utility investors, but also the

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<sup>102</sup>*Pittsburgh v. Pa. PUC*, 128 A.2d 372, 382-83 (Pa. Super. 1956).

<sup>103</sup> UGI St. 11R at 58.

<sup>104</sup> *Phila. Suburban Transp. Co. v. Pa. PUC*, 281 A.2d 179, 186-87 (Pa. Cmwlth. 1971) ("[R]ates must be designed to furnish the most efficient and satisfactory service at the lowest reasonable price for the greatest number of customers, i.e., the public generally").

<sup>105</sup> *Pittsburgh v. Pa. PUC*, 82 A.2d 515, 517 (Pa. Super. 1951) *otherwise modified in Pittsburgh v. Pa. PUC*, 88 A.2d 59 (Pa. 1952) (*Pittsburgh* 1951).

<sup>106</sup> 66 Pa. C.S. § 1301; *Bluefield*, 262 U.S. at 690.

<sup>107</sup> OCA Corrected St. 1 at 5-6.

interests of the utility’s customers . . . and the public policy interests of local governments impacted by the utility’s operations.”<sup>108</sup> It is a basic tenet of ratemaking that the Commission, in setting “just and reasonable” rates must consider not only the investor and company’s interest, but also that of the consumers.<sup>109</sup>

Rate affordability is a significant consumer interest that goes beyond just lower-income households within UGI ratepayers.<sup>110</sup> OCA witness Deupree’s reference to Governor Shapiro’s April 29, 2026 open letter to the Commission underscores the importance of the Commission needing to “balance consumer affordability concerns with the financial interests of utilities when determining just and reasonable rates.”<sup>111</sup> UGI’s approach of wanting to address the general affordability of its rates only through targeted assistance programs is only “more effective”<sup>112</sup> if the Commission believes that rate affordability concerns are only relevant to the most vulnerable households and not in the interest of UGI’s customer base as a whole.<sup>113</sup> Commission precedent, as noted above, demonstrates this is not the case and that rate affordability is an important consideration for the Commission as a part of its determination and setting rates that are “just and reasonable.”<sup>114</sup>

The continued upwards pressure on rates for UGI’s captive customers due to its rate increases in 2018, 2021, and 2023 adds to customer affordability burdens which are exacerbated by the current macroeconomic environment.<sup>115</sup> To that end, OCA witness Deupree provided relevant evidence of the current macroeconomic trends facing customers, including the impact on

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<sup>108</sup> OCA Corrected St. 1 at 5-6.

<sup>109</sup> OCA St. 1SR at 3; *see also Columbia 2025* at 33.

<sup>110</sup> OCA Corrected St. 6 at 10-40.

<sup>111</sup> OCA Corrected St. 1 at 16-20.

<sup>112</sup> *See* UGI St. 11RJ at 15:10-16.

<sup>113</sup> *See* OCA St. 6SR at 33.

<sup>114</sup> *See PAWC 2026* at 41 (“Affordability is an issue that must be addressed for all customers, not just for those who apply for and are found eligible to receive low-income assistance.”).

<sup>115</sup> OCA Corrected St. 1 at 5-16, 20.

affordability of rising prices in consumer products, recent inflation, energy-related prices, energy market uncertainty due to the conflict in the Persian Gulf, and tariffs.<sup>116</sup> Consumers today are faced with increased expenses for food, housing, transportation, and other necessities, which are especially acute for low-income consumers, but not limited to those customers.<sup>117</sup>

Indeed, UGI customers testified at public input hearings to a frustration with rising utility bills in light of other rising costs: “Families are already stretched in. Groceries are up, rent is up, healthcare is up, and a utility bill is not optional,” and “How much more can ... the citizens and the residents of our community take as far as prices going up. And what is the end game?”<sup>118</sup> Others filed comments regarding similar frustrations, noting that: “People like myself – and there are many – are struggling daily with the costs of everything! Tariffs, war, gas, everything is way too expensive! My electric bills were insane over the past several months – already way more expensive from last year at the same time!”<sup>119</sup> And again, “Electric service is not a luxury; it is a necessity. Every increase in my monthly bills creates a real hardship and forces me to make difficult choices between basic necessities such as electricity, food, medicine, and other essential expenses.”<sup>120</sup>

Mr. Deupree additionally testified that there is observed evidence of these macroeconomic trends in prices and refers to the Consumer Price Index (CPI) and U.S. Bureau of Labor Statistics in his analysis.<sup>121</sup> Between January 2021 and January 2026, consumer prices increased 24.3

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<sup>116</sup> *Id.*

<sup>117</sup> See generally OCA Corrected St.6.

<sup>118</sup> OCA St. 7 at 6 (quoting Tr. at 65-66, 71).

<sup>119</sup> OCA St. 7 at 4-5.

<sup>120</sup> OCA St. 7 at 4-5.

<sup>121</sup> OCA Corrected St. 1 at 11-12. Chairman DeFrank connected Consumer Price Index reports to overall customer affordability in *Columbia 2025*, where he issued a statement in support of the Commission’s Order noting his concern “that Columbia is losing sight of the importance of customer affordability. The most recently released Consumer Price Index report reveals a 3% increase in prices for the 12-months ending September 2025. From food to medical care to utilities, consumer pricing for essential goods and services is rising. The frequency and steepness of Columbia’s requested rate increases is agnostic to this reality.” *Columbia 2025* (Statement of Chairman DeFrank).

percent overall, which, when coupled with rapidly rising utility prices, leaves consumers left with burdens of unaffordability.<sup>122</sup> Overall inflation as judged by both the Federal Reserve and the Survey of Professional Forecasters, is projected to remain high through 2026.<sup>123</sup> Pennsylvania consumers feel the burden of these price increases from all aspects of the energy market.<sup>124</sup>

Market functions are not the only contributing factor to the pinch felt by consumers. The recent conflict in the Persian Gulf has also contributed to a rise in crude oil prices.<sup>125</sup> Both international and domestic prices for crude oil have risen in recent months, and at the time of Mr. Deupree's direct testimony were trading in excess of \$100 per barrel, well above historic ranges of \$60-\$80.<sup>126</sup> According to Mr. Deupree's testimony, "[t]he observed increase in crude oil prices shows how price shocks caused by the conflict in the Persian Gulf will likely filter through the larger macroeconomy."<sup>127</sup> Restrictions on the flow of oil from this region force consumers to turn to alternative supplies from the U.S. as stored supplies lessen, this in turn increases the wholesale natural gas prices in the United States, which has been shown to drive wholesale electric prices.<sup>128</sup>

Although inflation is an issue affecting the company as well as consumers,<sup>129</sup> OCA witness Deupree testified that "the increased operating costs experienced by UGI Electric due to the current inflationary environment have not resulted in noticeable negative impacts on UGI Electric's shareholder income or its parent company stock price," in part because of UGI's ability to file for rate increases.<sup>130</sup> While the Commission can and should look at the impact inflation has on the

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<sup>122</sup> OCA Corrected St. 1 at 9.

<sup>123</sup> OCA Corrected St. 1 at 10-11.

<sup>124</sup> OCA Corrected St. 1 at 14.

<sup>125</sup> OCA Corrected St. 1 at 12-15.

<sup>126</sup> OCA St. 1SR at 13.

<sup>127</sup> OCA St. 1SR at 13.

<sup>128</sup> OCA St. 1SR at 13-14.

<sup>129</sup> See UGI St. 1R at 22.

<sup>130</sup> OCA St. 1SR at 6; *see also* OCA Corrected St. 1 at 16 ("[I]t does not appear that the Company has been experiencing significant financial concerns due to the recent macroeconomic concerns.").

company, in doing so, “[t]he Commission must balance the pressure inflation places on utility operating costs with the general economic effects inflation places on customer affordability, rather than shifting all inflationary risks from utilities to ratepayers.”<sup>131</sup>

Bringing affordability concerns to the forefront of a rate base case driven primarily by a desire to afford UGI’s investors an excessive ROE at the expense of its ratepayers does not change core ratemaking principles, nor does it “increase regulatory uncertainty and weaken the link between the cost of service and rates.”<sup>132</sup> Moreover, it does not risk turning the public utilities into a social safety net to serve as a substitute for state-developed social welfare policy.<sup>133</sup> Reviewing affordability concerns is nothing new to the Commission and is in alignment with Commission ratemaking principles and policies.<sup>134</sup> The OCA urges that the Commission consider the evidence provided as to consumer affordability concerns, balance those concerns with the other relevant ratemaking principles including cost-of-service, and determine that, after weighing all considerations, an increase to UGI’s rates at this time would not result in rates that are “just and reasonable.”

**C. In the event the Commission determines UGI requires some level of increased revenue requirement and return on equity, a ceiling of the OCA’s recommended Return on Equity and the recommended decrease to the requested annual revenue requirement based on the OCA’s recommended adjustments is supported by substantial evidence.**

UGI has not met the burden of demonstrating it is entitled to the ratemaking claims challenged by the OCA. Recognizing that the OCA does not bear the burden of proof in this proceeding, the OCA’s recommended decrease to the annual revenue requirement is fully

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<sup>131</sup> OCA St. 1SR at 6; *see also* PAWC 2026 at 212.

<sup>132</sup> UGI St. 11R at 59.

<sup>133</sup> UGI St. 11R at 57.

<sup>134</sup> *See e.g.*, PAWC 2026 at 36-37; *Columbia* 2025 at 33; *Columbia* 2021 at 46-47; *Roaring Creek Water Co.*, 1995 Pa. PUC LEXIS 67 at \*116; *Twin Lakes* at 48, 80.

substantiated, and should be the ceiling of what could be considered to produce rates that are just and reasonable, equitable among customer groups, and in the public interest.<sup>135</sup>

The OCA has not challenged the approximately \$37.3 million in capital investment through the FPFTY as not necessary or proper for safely and reliably serving customers. As a result, the OCA's calculations were made with the additional investment in plant in mind. Moreover, the OCA's calculations were made with the additional investment in plant in mind. Moreover, the OCA's recommended market-based Return on Equity (ROE) and reasonable ratemaking capital structure is based on a fully substantiated cost of capital analysis.<sup>136</sup> Thus, adoption of the OCA's recommendations would allow UGI to recover reasonable costs, have an opportunity to earn a fair rate of return, and maintain financial stability to provide safe and adequate natural gas service to customers.

OCA witness Mugrace calculated his recommended decrease to the requested annual revenue requirement utilizing the OCA's recommended revenue adjustments, including the OCA's adjustments for rate of return, capital structure, depreciation and UGI's credit and collection expense.<sup>137</sup> In making these recommendations, and as discussed in more detail below, the OCA has shown that UGI has not met its affirmative burden of proof on these elements of its revenue requirement. Thus, the OCA's recommendations, as explained below, should be the ceiling of what is considered "just and reasonable rates" if the Commission determines that UGI needs an increase in rates and ROE at this time and has met its burden of proof justifying some level of increase.

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<sup>135</sup> OCA St. 2SR at 8.

<sup>136</sup> OCA St. 3 at 3.

<sup>137</sup> OCA Corrected St. 2 at 8; OCA St. 2SR at 3; OCA St. 3 at 3-5.



#### **IV. RATE BASE**

##### **A. Electric Plant In Service**

The OCA did not address this issue in testimony.

##### **B. Accumulated Depreciation**

###### **1. Introduction**

The primary issue before the Commission in this case regarding depreciation is whether the Average Life Group (ALG)<sup>138</sup> versus the Equal Life Group (ELG) procedure should be used by UGI in this proceeding and on a going forward basis. Currently, UGI uses the ALG procedure for plant prior to 1982 and the ELG procedure on plant after 1982.<sup>139</sup> The ELG procedure is an accelerated form of depreciation because it produces depreciation expense higher at the beginning of the recovery period.<sup>140</sup> ALG is also used by most major EDC's in Pennsylvania.<sup>141</sup> Unless the Commission requires a change in procedure, the use of the ELG procedure will prejudice UGI's current ratepayers who will be forced to pay an accelerated depreciation expense. If the Commission requires UGI to switch to the ALG procedure, ratepayers would be saved from paying \$1.8 million more than they otherwise would.<sup>142</sup> In the ongoing affordability crisis affecting our Commonwealth and discussed in the testimonies of OCA witnesses Deupree and Colton, this relief is needed for UGI's current ratepayers.

Further, the ELG procedure's accelerated nature does not help ratepayers. OCA witness Garren testified that the use of the ELG procedure does not necessarily mean that customer rates

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<sup>138</sup> The average life group procedure is also referred to as the average service life procedure.

<sup>139</sup> OCA St. 4 at 22.

<sup>140</sup> OCA St. 4SR at 4.

<sup>141</sup> Tr. at 340-341.

<sup>142</sup> OCA St. 4 at 6.

will be lower over time because plant is continuously added which is then accelerated at a higher rate under ELG which then drives up customer rates.<sup>143</sup> Mr. Garren testified:

The natural question one might ask is that if accelerating the collection of depreciation results in lower returns over time, as Mr. Wiedmayer suggests, why would a utility push to do this? The answer has already been hinted at above when we talked about the impact of inflation on the relative value of older plant versus newer plant. A line of distribution poles placed in 1982 might have an original cost of \$100,000. If the company recovers this \$100,000 on a straight-line basis at a 2% rate over fifty years, then the \$2,000 it recovers in 1983 will be *worth* significantly more in real dollars than the final \$2,000 dollars it recovers on this investment in 2032. Likewise, the \$100,000 rate base is being devalued by inflation each year, making the return on that investment less valuable over time. It is therefore highly advantageous to the utility to attempt to front-load its recovery of all its investments.<sup>144</sup>

The OCA submits that it is inequitable to allow UGI to use a procedure which gives it more cashflow earlier at the expense of current UGI customers. UGI customers need the value that each dollar brings today rather than an empty promise that rates may be lower at an undefined and unknowable future date.

Lastly, the ELG procedure is harmful to UGI's current and future ratepayers due to the fact that the ELG procedure is more precise. While it may initially seem counter-intuitive that greater precision would be harmful, OCA witness Garren explained that if the ELG rates are not updated for a few years, then the "accelerated" depreciation rates may not be accurately accounted for resulting in ratepayers paying accelerated depreciation rates or for a return on an understated depreciation reserve when new rates are set.<sup>145</sup> For these reasons and the reasons set forth *infra*, the OCA request the Commission rule that UGI has failed to meet its burden that its continued use of the ELG procedure results in just and reasonable rates and require UGI to switch to the ALG procedure by accepting UGI witness Garren's calculations or requiring that on a going forward

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<sup>143</sup> OCA St. 4SR at 7.

<sup>144</sup> OCA St. 4SR at 7.

<sup>145</sup> OCA St. 4 at 25.

basis UGI use the ALG procedure. By doing so, the Commission can affirmatively act in a way that protects UGI customers from paying excessive and unreasonable depreciation rates.

## **2. Adopting the ALG procedure results in fairer rates to consumers.**

The U.S. Supreme court defined depreciation as follows:

Depreciation is defined as the loss in service value of a capital asset over time. In the context of public utility accounting and regulation, it is a process of charging the cost of depreciable property, adjusted for net salvage, to operating expense accounts over the useful life of the asset. Thus, accounting practices significantly affect, among other things, the rates that customers pay for service. This is so because a regulated carrier is entitled to recover its reasonable expenses and a fair return on its investment through the rates it charges its customers, and because depreciation practices contribute importantly to the calculation of both the carrier's investment and its expenses.<sup>146</sup>

The ELG procedure significantly impacts current UGI customers rates by increasing the revenue requirement by \$1.83 million.<sup>147</sup> Meaning, current UGI customers are paying millions more than they otherwise would because of the depreciation methodology chosen by UGI.

Under Pennsylvania Court precedent, annual depreciation is defined as follows: “Annual depreciation is an operating expense representing the consumption of assets in rendering service.”<sup>148</sup> “A utility is entitled under the law to recover from the rate payers the original cost of construction of its depreciable plant.”<sup>149</sup> Additionally, “it is clear in our law that ‘[i]n no event will a utility be permitted to recover by annual allowances for depreciation a total amount in excess of the original cost, since annual depreciation is computed on original cost and not upon fair value or reproduction cost.’”<sup>150</sup> In other words, annual depreciation is the return of the investment, which is returned through the depreciation O&M expense over the life of the plant.

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<sup>146</sup> La. Pub. Serv. Comm’n v. FCC 476 U.S. 355, 364-365.

<sup>147</sup> OCA St. 4 at 6.

<sup>148</sup> *Penn Sheraton Hotel v. Pa. PUC*, 198 Pa. Super. 618, 627 (Pa. Super. 1962) (*Penn Sheraton*).

<sup>149</sup> *Id.*

<sup>150</sup> *Penn Sheraton* at 627.

The Pennsylvania Superior Court defined accrued depreciation (also referred to as accumulated depreciation) as follows: “[a]ccrued depreciation for rate purposes means ‘the actual depreciation of the utility's property as it has accrued to the date that fair value is in issue.’”<sup>151</sup> The Superior Court further noted that “accrued depreciation properly determined ‘should disclose the consumption of property to date.’”<sup>152</sup>

Under both the ALG and the ELG procedure UGI will be able to recover the full amount of its investment over its service life.<sup>153</sup> However, the ELG procedure harms ratepayers because it is a form of permanent accelerated depreciation.<sup>154</sup> OCA witness Garren testified that while ELG procedure is supposed to only produce higher depreciation rates and expenses early in the life of plant, ELG will always produce higher depreciation expense than the ALG procedure because the overall age of plant relative to its service life does not change that much.<sup>155</sup>

It is inequitable to have current UGI customers pay accelerated depreciation expense. UGI has failed to meet its burden to demonstrate that the proposed depreciation procedure will result in just and reasonable rates. Further, UGI has also failed to demonstrate that it will be unable to recover its depreciation rates under the ALG procedure. As such, the Commission must require UGI to switch to the ALG procedure because it is the only procedure provided in this proceeding that will produce just and reasonable rates.

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<sup>151</sup> *Penn Sheraton* at 624.

<sup>152</sup> *Id.*

<sup>153</sup> OCA St. 4 at 24.

<sup>154</sup> OCA St. 4 at 24.

<sup>155</sup> *Id.*

- a. The ELG procedure's precision lacks accuracy and therefore, can result in UGI over-collecting depreciation expense to the detriment of ratepayers.**

The ELG procedure's precision is ultimately a flaw in the method because it ultimately lacks accuracy over time and will result in current ratepayers paying more. OCA witness Garren testified that depreciation cannot be calculated with precision because it requires an estimation of the total and remaining service life of plant.<sup>156</sup> Mr. Garren testified that to ensure the depreciation analysis is accurate as is reasonably possible, the determination of depreciation rates requires the knowledge and informed judgment of an expert trained in the field of utility depreciation.<sup>157</sup> This judgment is the estimation of the future surviving life of plant as indicated by past patterns of retirements, industry trends, and corporate investment plans.<sup>158</sup>

OCA witness Garren testified that errors are inevitable when estimating the average service lives and retirement curves over the long run.<sup>159</sup> Mr. Garren testified:

The sense in which the ELG procedure is precise is that it will create a pattern of recovery that tracks the life estimates we make in a way that closely tracks our estimated average service lives. This precision creates greater extremes in the variation of rates over time, which would be useful if we assume that our estimates are perfectly accurate. However, when we assume that our estimates are accurate and commit to procedures and calculations that produce more extreme results based on that assumption of precision, the impact of errors in estimates ultimately produces rate shock for consumers when corrections need to be made. Because these rate shocks are considered particularly harmful for consumers, a principle of moderation is considered preferable to adopting policies or depreciation parameters that result in extreme shifts in depreciation expense over time.<sup>160</sup>

OCA witness Garren testified that if the Company's remaining lives are not updated for a few years, then the "accelerated" depreciation rates may not be accurately accounted for at the

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<sup>156</sup> OCA St. 4 at 7.

<sup>157</sup> OCA St. 4 at 7-8.

<sup>158</sup> OCA St. 4 at 8.

<sup>159</sup> OCA St. 4 at 8.

<sup>160</sup> OCA St. 4 at 9.

time of the utility's next rate case.<sup>161</sup> When depreciation rates are not accurately accounted for it will result in ratepayers paying accelerated depreciation rates or for return on an understated depreciation reserve when new rates are set.<sup>162</sup>

OCA witness Garren emphasized this principle when he testified:

[T]he curves that we're using are always just a best guess and are always going to be either inaccurate, i.e. just wrong, or will change over time, such that even if - even if our accurate - even if our estimate is accurate today to - in five years it might have changed dramatically due to one thing or another. Different plant - different expectations of future plant lives, what have you. But in reality, it would be both, right? It would be both inaccurate and subject to change. So given that, a less precise method, a method that less precisely tracks this curve will be more accurate over time if we assume that the estimates will have to change to match, number one, these solutions..<sup>163</sup>

Using the ALG method will eliminate the need to perform annual updates to the company's remaining lives, and utilities can wait intervals of five years or more between depreciation studies which will in turn reduce costs to ratepayers over time. Mr. Garren testified that the ALG procedure is superior to the ELG procedure because the ELG procedure assumes a level of accuracy that is impossible to achieve at any point in the life cycle of the plant.<sup>164</sup> Mr. Garren further testified that the ALG procedure more closely tracks the appropriate recovery period of plant because it distributes the recovery of plant more evenly of its life.<sup>165</sup>

The precision offered under the ELG method has the potential to cause rate shock to UGI consumers.<sup>166</sup> Further, the degree of precision under the ELG method can result in higher overcollection of depreciation expense. Thus, the Commission should require UGI to use the ALG procedure to protect Pennsylvania consumers.

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<sup>161</sup> OCA St. 4 at 25.

<sup>162</sup> OCA St. 4 at 25.

<sup>163</sup> Tr. at 335-336.

<sup>164</sup> OCA St. 4 at 27.

<sup>165</sup> *Id.*

<sup>166</sup> OCA St. 4 at 9.

**b. Case law does not prohibit the adoption of ALG.**

While UGI is entitled to recover depreciation expense to ensure the utility is whole and the integrity of its investment maintained, the utility bears the burden of demonstrating that its claimed amounts to recover in its expenses are not excessive.<sup>167</sup> The U.S. Supreme court stated:

[T]he company has the burden of making a convincing showing that the amounts it has charged to operating expenses for depreciation have not been excessive. That burden is not sustained by proof that its general accounting system has been correct. The calculations are mathematical, but the predictions underlying them are essentially matters of opinion.<sup>168</sup>

Additionally, the *Hope* court stated: “this Court recognized in [*Lindheimer*], the propriety of basing annual depreciation on cost. By such a procedure the utility is made whole and the integrity of its investment maintained. No more is required.”<sup>169</sup>

Importantly, the Commission is not bound by any particular methodology or procedure in determining annual depreciation expense. The Commonwealth Court stated as follows:

The [Commission] is not bound to accept any particular method in estimating accrued depreciation which is essentially a judgment figure. If the Commission based its finding on substantial evidence, it is binding upon appellate review.<sup>170</sup>

Similarly, the Superior Court stated:

It is recognized that accrued depreciation is essentially a judgment figure, based on all the evidence, and the weight to be given any particular estimate is for the commission. The commission is not bound to accept any particular method of estimating accrued depreciation.<sup>171</sup>

The only limitation on procedure is that the Commission must provide for the computation of a utility’s accumulated depreciation and annual depreciation expense on a reasonably consistent

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<sup>167</sup> 66 Pa. C.S. § 315(a); *Lindheimer v. Illinois Bell Telephone Co.*, 292 U.S. 151, 169 (1934) (*Lindheimer*); *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 606 (1944) (*Hope*).

<sup>168</sup> *Lindheimer* at 169.

<sup>169</sup> *Hope*, 320 U.S. at 606.

<sup>170</sup> *Pa. Power & Light Co. v. Pa. PUC*, 311 A.2d 151, 158 (Pa. Cmwlth. 1973) (*Pa. Power*).

<sup>171</sup> *Pittsburgh v. Pa. PUC*, 222 A. 2d 395 (Pa. Super. 1966) (upholding a Commission decision to give less weight to a utility’s depreciation study as the Commission had considered all relevant factors in connection with accrued depreciation).

basis. Indeed, the Commonwealth Court in *Pa. Power* held that “[i]n a rate case, both annual depreciation expense allowance and accrued depreciation should be calculated on a reasonably consistent basis.”<sup>172</sup> Moreover, “[a]lthough the PUC **may be guided** by its finding of accrued and annual depreciation in a prior case or cases, in determining such items in a rate case currently before it, **such prior findings are not res judicata.**”<sup>173</sup>

In *Pa. Power*, the Commonwealth Court affirmed a Commission decision which disallowed PPL’s proposed rate increases based upon a determination of “annual depreciation” of PPL’s assets. The Commonwealth Court reasoned that the Commission consistently applied the same reserve requirement study methods and statistics for both accrued and annual depreciation.<sup>174</sup>

Importantly, the “reasonably consistent basis” language used by the Commonwealth Court specifically relates to the calculation of accrued depreciation and annual depreciation in determining just and reasonable rates.<sup>175</sup> However, it is not *de facto* authority of a utility’s depreciation procedure for its plant in rate base or a mandate that a utility’s procedure be accepted indefinitely. Merely because a utility used a depreciation procedure in the past is neither a justification nor a limitation for determining what constitutes just and reasonable rates in this proceeding.<sup>176</sup> Instead, both accrued and annual depreciation must be reasonably consistent with each other, which is accomplished by ALG.<sup>177</sup>

### c. The ELG procedure results in intergeneration inequity.

UGI’s use of the ELG procedure results in intergenerational inequity. The ELG procedure is an accelerated form of depreciation, which causes current customers to pay greater depreciation

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<sup>172</sup> *Pa. Power* at 158.

<sup>173</sup> *Id.* (emphasis added).

<sup>174</sup> *Pa Power* at 158.

<sup>175</sup> *See id.*

<sup>176</sup> *See id.*

<sup>177</sup> *Pa Power* at 158.



expense than future customers for the same level of utility service, resulting in intergenerational inequity.<sup>178</sup>

As stated in *Re Minnegasco, Inc.* “[a]s a general rule, it is inequitable and economical [sic] unsound to ask one ‘generation’ of captive ratepayers to bear the cost of providing service to another.”<sup>179</sup> UGI’s ratepayers should not be required to pay accelerated depreciation costs for the potential that years from now even though those rates may be lower to future customers, who may or may not be the same customers paying accelerated rates now. Moreover, Section 1304 of the Public Utility Code, which prohibits discrimination in rates, provides:

**Section 1304. Discrimination in rates.**

No public utility shall, as to rates, make or grant any unreasonable preference or advantage to any person, corporation, or municipal corporation, or subject any person, corporation, or municipal corporation to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, either as between localities or as between classes of service.<sup>180</sup>

Under Section 1304, UGI’s current customers are being unreasonably disadvantaged because they are subject to UGI’s preferred depreciation procedure which benefits UGI and not ratepayers. Consumers, on their own, cannot readily negotiate with a utility and must “rely upon” the Commission to provide “a complete, permanent, and effective bond of protection from excessive rates and charges” of the public utility.<sup>181</sup> The Commission’s “responsibilities include the protection of future, as well as present, consumer interests.”<sup>182</sup>

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<sup>178</sup>See *Re Limerick Nuclear Generating Station*, 1982 Pa. PUC LEXIS 102, \*65 Order (May 7, 1982) (“Intergenerational inequities -- Current consumers should not pay for a plant from which they may not be around to benefit.”)

<sup>179</sup> *Re Minnegasco, Inc.*, 143 PUR4th 419, 426 (May 3, 1993) (Re Minnegasco is not available on LEXIS so the OCA has appended the case in full to this brief as Appendix F); see also *Re Limerick Nuclear Generating Station*, 1982 Pa. PUC LEXIS 102, \*65 Order (May 7, 1982).

<sup>180</sup> 66 Pa. C.S. § 1304.

<sup>181</sup> *Permian Basin Area Rate Cases*, 390 U.S. 747, 794-95 (1968) (*Permian Basin*) (citing *Atlantic Ref. Co. v. Pub. Serv. Comm’n*, 360 U.S. 378, 388 (1981)).

<sup>182</sup> *Permian Basin*, 390 U.S. at 797.

The ALG procedure will simplify the Commission's ability to monitor depreciation practices and capital planning for regulated utilities, it will also further the Commission's regulations regarding depreciation "to establish uniform and industry-wide reporting requirements designed to improve the Commission's ability to monitor on a regular basis the depreciation practices and capital planning of electric, telephone, gas and water public utilities subject to Commission jurisdiction."<sup>183</sup>

**d. Nothing prohibits the adoption of the ALG procedure.**

The Public Utility Code does not require that a utility's currently utilized depreciation procedure for certain plant must be accepted indefinitely. Importantly, the Public Utility Code provides the following regarding depreciation:

**a) Accounts.**--Every public utility shall carry on its books or records of account, proper and reasonable sums representing the annual depreciation on its property used or useful in the public service, which sums shall be based upon the average estimated life of each of the several units or classes of depreciable property. The commission, by appropriate order, after hearing, shall, **except where found to be inappropriate**, establish for each class of public utilities, the units of depreciable property, the loss upon the retirement of which shall be charged to the depreciation reserve.

**(b) Statements.**--Every public utility shall file with the commission, at such times and in such form as the commission may prescribe, statements setting forth the details supporting its computation of annual depreciation, as recorded on the books or records of accounts of the public utility. **If the commission, upon review of such statements, is of the opinion that the amount of annual depreciation so recorded by any public utility is not reasonable and proper, it may, after hearing, require that provision be made for annual depreciation in such sums as may be found by it to be reasonable and proper.** In making its findings, the commission shall give consideration to the experience of the public utility, and the predecessors of the public utility in accumulating depreciation reserves, the retirements actually made, and such other factors as may be deemed relevant.

**(c) Use of estimates.**--The commission shall not be bound in rate proceedings to accept, as just and reasonable for rate-making purposes, estimates of annual depreciation established under the provisions of this section, but in such rate

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<sup>183</sup> 52 Pa. C.S. § 73.1.

proceedings it shall give consideration to statements submitted under this section, in addition to such other factors as may be relevant.<sup>184</sup>

The Public Utility Code does not require that a utility's currently utilized depreciation procedure for certain plant must be accepted indefinitely.

The Commission's regulations provide:

(c) In subsequent ratemaking proceedings, the most recent annual depreciation report or service life study approved or deemed approved for accounting purposes **only** under this chapter, **constitutes a rebuttable presumption** as to the reasonableness of the accrued depreciation claimed for ratemaking purposes, and the burden of proving the unreasonableness of the accrued depreciation shall be on the challenging party.<sup>185</sup>

The purpose of the Commission's regulations regarding annual depreciation reports, service life studies, and capital investments plans is "to establish uniform and industry wide reporting requirements designed to improve the Commission's ability to monitor on a regular basis the depreciation practices and capital planning of electric, telephone, gas and water public utilities subject to Commission jurisdiction."<sup>186</sup>

The Commission's regulations must be read in the context of Section 1301(a)'s mandate that all rates be "just and reasonable"<sup>187</sup> and Section 315(a)'s placing of the burden of proof on the utility to establish the justness and reasonableness of every element of a proposed rate increase.<sup>188</sup> Additionally, the U.S. Supreme Court stated that the public utility bears the burden of proof regarding operating expenses for depreciation:

The point is as to the necessity for the annual charges for depreciation, as made or claimed by the Company, in order to avoid confiscation through the rates in suit. On that point the Company has the burden of proof. We find that this burden has not been sustained. Nor is the result changed by figuring the allowances at the somewhat reduced amounts fixed by the court below.

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<sup>184</sup> 66 Pa. C.S. § 1703 (emphasis added).

<sup>185</sup> 52 Pa. Code § 73.9(c) (emphasis added).

<sup>186</sup> 52 Pa. Code § 73.1

<sup>187</sup> 66 Pa. C.S. § 1301(a).

<sup>188</sup> 66 Pa. C.S. 315(a).

We find this point to be a critical one. The questionable amounts annually charged to operating expenses for depreciation are large enough to destroy any basis for holding that it has been convincingly shown that the reduction in income through the rates in suit would produce confiscation.<sup>189</sup>

UGI has the burden of proof to demonstrate that its rates are just and reasonable including depreciation. UGI's current and continued use of ELG is unjust and unreasonable.

**e. The ELG procedure is inconsistent with the “matching principle.”**

The well-established “matching principle” of ratemaking requires that expenses, revenue, and rate base match over the same time period.<sup>190</sup> For example, if post-test year additions to expenses and revenues are allowed, “the balance established by the test year is lost and the matching principle is violated.”<sup>191</sup> Two basic principles of public utility ratemaking are that: 1) a public utility only earns money from its rate base and 2) a public utility does not earn money on its expenses.<sup>192</sup> “A utility is not permitted to pad its estimates of annual depreciation so as to meet unknown contingencies, or to compensate for possible future errors in judgment.”<sup>193</sup>

Therefore, it is inequitable to continue to allow UGI to use the ELG principle because it is overcharging current customers depreciation rates violating the matching principle.

**f. Conclusion**

UGI's use of the ELG procedure imposes an unjustified and unreasonable burden on ratepayers. The Commission has the authority to protect ratepayers from unjustified rate increase

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<sup>189</sup> *Lindheimer* at 175.

<sup>190</sup> *Pa. PUC v. NFGD*, 1994 Pa. PUC LEXIS 135, \*13 (Order Oct. 7, 1994) (*NFGD*).

<sup>191</sup> *Id.*; see also *Re. Niagara Mohawk Power Co.*, 1986 N.Y. PUC LEXIS 3, \*97 (Dec. 19, 1986) (a plant running for 50 years but packing all of its depreciation accruals into the first 40 years would violate generational equity and the matching principle).

<sup>192</sup> *Pa. Power* at 159.

<sup>193</sup> *Pa. Power* at 157.

proposals, including UGI's proposal to use the ELG procedure.<sup>194</sup> Further, continued use of the ELG procedure is not required by law or regulation.<sup>195</sup>

Substantial record evidence demonstrates that the ALG procedure is the procedure that will produce just and reasonable rates while the ELG procedure is a form of accelerated depreciation.<sup>196</sup> Rejecting UGI's proposal to continue using ELG is not only legally sound, it is essential in preventing the systematic overcharging of customers due to UGI's choice of depreciation procedure to provide UGI with a higher immediate cash flow at the expense of its ratepayers. By requiring UGI to switch to the ALG procedure, the Commission will ensure reasonable consistency between annual depreciation and accrued depreciation. The Commission will also join the supermajority of states that require the ALG procedure.

### **3. Adopting OCA witness Garren's Service Life and Net Salvage Recommendation Can Save Ratepayers nearly \$400,000.**

After reviewing UGI's depreciation study, OCA witness Garren proposed adjustments to the service lives of three accounts. The Commission is empowered under the Public Utility Code to consider other relevant factors when making its determination of depreciation in a rate case and is not bound by UGI's estimates.<sup>197</sup> Section 1703(c) of the Public Utility Code provides:

(c) Use of estimates.-- The commission shall not be bound in rate proceedings to accept, as just and reasonable for rate-making purposes, estimates of annual depreciation established under the provisions of this section, but in such rate proceedings it shall give consideration to statements submitted under this section, in addition to such other factors as may be relevant.<sup>198</sup>

OCA witness Garren proposed changes to the life and curves of accounts 364, 365, and 368.1.<sup>199</sup> Mr. Garren testified that UGI's proposed services lives for these accounts were

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<sup>194</sup> See Section IV(B)(2).

<sup>195</sup> See Section IV(B)(2)(d).

<sup>196</sup> OCA St. 4 at 24.

<sup>197</sup> 66 PA.C.S. § 1703(c).

<sup>198</sup> 66 PA.C.S. § 1703(c).

<sup>199</sup> OCA St. 4 at 33.

inappropriate because they relied too heavily on subjective or vague factors while inappropriately disregarding UGI's own historical data and UGI's own experts analysis of that historical data.<sup>200</sup> Mr. Garren further testified that UGI did not provide adequate justification for disregarding this data, and appears to have omitted certain long-lived data from consideration without properly acknowledging or explaining why.<sup>201</sup>

Adopting OCA witness Garren's service life recommendations will decrease UGI's depreciation expense by approximately \$400,000.<sup>202</sup>

**a. Account 364 Poles, Tower, and Fixtures**

For account 364 UGI witness Wiedmayer's proposed life and curve was 59-R2.5 and OCA witness Garren recommended that a R3-95 life be used instead as it better fits the totality of the data.<sup>203</sup> Mr. Garren testified:

[T]he best fit according to Mr. Wiedmayer's curve-fitting analysis is a 63-R2 life and curve, which is a better visual fit to the totality of the data. Mr. Wiedmayer appears to have omitted consideration of data points beyond approximately age 68.5. However, the oldest retirements in the data occur at age 92.5. Mr. Wiedmayer's selection is a moderately good fit to the available data through approximately age 55.5, but then begins to deviate more and more substantially as ages increase. Mr. Wiedmayer does not address the life analysis of this account in his study, nor do his notes on plant tours or management interview provide insight on this deviation from the historical data. In consideration of all these factors, I am proposing an increase to the service life, and the use of a wider retirement curve, a 63-R2 life and curve.<sup>204</sup>

Based on OCA witness Garren's expert recommendation, the OCA requests the Commission adopt his recommendation of a 93-R2 life and curve. Adopting this recommendation will bring further savings to ratepayers and is supported by substantial evidence.

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<sup>200</sup> *Id.*

<sup>201</sup> *Id.*

<sup>202</sup> OCA St. 4 at 34.

<sup>203</sup> OCA St. 4 at 30.

<sup>204</sup> OCA St. 4 at 30.

### **b. Account 365 – Overhead Conductors**

For account 365, UGI witness Wiedmayer's proposed life and curve was 58-R1.5.<sup>205</sup> OCA witness Garren testified that the best fitting life and curve for the full range of data in this account was a 67-R2 as it is based on the data through the highest ages.<sup>206</sup> OCA witness Garren testified:

Mr. Wiedmayer's proposed life and curve for this account appears to be a reasonable fit to the available data until around age 40.5. After that age, the historical data begins to indicate a significantly longer average service life than Mr. Wiedmayer has proposed. Mr. Wiedmayer states in his discussion of service life considerations that the typical range of lives for this account is 40-60 years, however that is not consistent with industry data of which I am aware, which shows service lives as high as 75-years. Mr. Wiedmayer appears to have only considered data through age 60.5, however the retirement data continues through age 96.5 and continues to be based on fairly significant amounts of exposures until near the final age. This higher age data is not at all consistent with Mr. Wiedmayer's proposed life and curve. While the best fit according to Mr. Wiedmayer's curve fitting analysis shows a higher best fit life with a somewhat steeper drop-off in retirements, that appears to be based on a range of data that doesn't go through the highest ages, which continues to be based on considerable exposures.<sup>207</sup>

Based on these factors Mr. Garren recommended a relatively moderate increase to the average service life to 65 years while retaining UGI witness Wiedmayer's retirement curve shape.<sup>208</sup> As such the OCA requests the Commission to adopt OCA witness Garren's recommendation for account 365 that a 67-R2 life and curve is appropriate and supported by substantial evidence.

### **c. Account 368.1 Transformers**

UGI witness Wiedmayer's proposed life and curve was 45-S1.<sup>209</sup> OCA witness Garren testified that the best-fitting life and curve for this account is 55-L1.<sup>210</sup> OCA witness Garren testified:

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<sup>205</sup> OCA St. 4 at 31.

<sup>206</sup> *Id.*

<sup>207</sup> OCA St. 4 at 31.

<sup>208</sup> OCA St. 4 at 31.

<sup>209</sup> OCA St. 4 at 32.

<sup>210</sup> OCA St. 4 at 32.

The best-fitting life and curve for this account according to Mr. Wiedmayer's curve-fitting analysis is a 55-L1 life and curve for this account. However, this curve shape is generally not a good fit for this type of plant, and unlike with Accounts 364 and 365 in this case, the higher ages of retirement rate analysis appear not to be based on as significant an amount of exposures, with relatively little plant in this account having achieved ages of 60 or more.<sup>211</sup>

Therefore, the OCA requests the Commission adopt OCA witness Garren's 55-L1 life and curve recommendation for account 368.1. This recommendation is supported by Mr. Garren's expertise and will result in just and reasonable rates.

**C. Additions to Rate Base**

The OCA did not address this issue in testimony.

**D. Deductions from Rate Base**

The OCA did not address this issue in testimony.

**V. REVENUES**

The OCA did not address this issue in testimony.

**VI. EXPENSES**

**A. Summary of Expense Adjustments Accepted by UGI in Rebuttal.**

UGI's originally filed revenue requirement was \$17,283,000.<sup>212</sup> OCA witness Mugrace testified that if the Commission accepts all OCA adjustments and OCA witness Garrett's ROE of 8.7% and 42% equity ratio, UGI's overall revenue requirement is \$5,127,616.<sup>213</sup>

OCA witness Mugrace recommended several adjustments to UGI's expenses.<sup>214</sup> In rebuttal UGI accepted many of OCA's and I&E's accounting adjustments which resulted in reducing

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<sup>211</sup> OCA St. 4 at 32.

<sup>212</sup> OCA Corrects St. 2 at 17.

<sup>213</sup> OCA St. 2SR at 3.

<sup>214</sup> See generally OCA Corrected St. 2.



UGI's requested revenue increase by \$1.233 million to \$16,050,000.<sup>215</sup> UGI witness Hazenstab testified:

Of I&E's proposed adjustments, UGI Electric is accepting I&E's adjustments to Forfeited Discounts, Legal Services, Professional Fees – Treasury, AmeriGas Administrative Services, Employee Activity (also proposed by OCA), and portions of the adjustments to Payroll, Benefits, and Payroll Taxes. Of OCA's proposed adjustments, UGI Electric is accepting OCA's adjustments to Overtime, SERP, Storm Damage Expense, Meter Reading, Miscellaneous Customer Accounts, Customer Assistance Expense, Sales Expense, Pension, Advertising, and Employee Activity and portions of the recommended adjustments for Membership Dues, Incentive Compensation and, capitalized Incentive Compensation.<sup>216</sup>

UGI did not accept all of UGI witness Mugrace's adjustments to UGI's expenses which will be discussed *infra*. After reviewing UGI's position in rejoinder, the OCA accepts UGI's position regarding UGIU Management Incentive plan reducing the number of contested issues in this case.

## **B. Cash Working Capital**

The methodology for calculating Cash Working Capital (CWC) is not disputed in this case.<sup>217</sup> Rather, UGI disputes the underlying adjustments related to CWC made by OCA witness Mugrace.<sup>218</sup> As will be explained *infra* OCA witness Mugrace's adjustments to UGI's revenue requirement are reasonable and establish UGI failed to meet their burden that these expenses will result in just and reasonable rates.<sup>219</sup> Therefore, the Commission should accept OCA witness Mugrace's CWC calculations set forth in OCA Schedule SR-DM-7 resulting in a disallowance of \$1,186,518.<sup>220</sup>

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<sup>215</sup> UGI St. 2R at 2.

<sup>216</sup> UGI St. 2R at 6-7.

<sup>217</sup> OCA St. 2SR at 5.

<sup>218</sup> *Id.*

<sup>219</sup> OCA Corrected St. 2 at 8.

<sup>220</sup> OCA Sch. SR-DM-7.

**C. Incentive Compensation**

UGI requested recovery of (BEGIN CONFIDENTIAL) [REDACTED] (END CONFIDENTIAL) related to its Incentive Compensation and Bonus Plan.<sup>221</sup> This expense is comprised as follows: (BEGIN HIGHLY CONFIDENTIAL) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]<sup>222</sup> (END HIGHLY CONFIDENTIAL) OCA witness Mugrace accepted UGI's proposal regarding Customer Care.<sup>223</sup> OCA witness Mugrace recommended a disallowance of all other incentive compensation expense with all but the expense relating to UGIU being accepted by UGI in its rebuttal testimony.<sup>224</sup> Thus, the sole issue regarding incentive compensation expense for the Commission to decide is whether to accept OCA witness Mugrace's recommendation regarding UGIU.

The Commission has established that, for a utility to meet its burden of proof regarding the inclusion of incentive compensation expenses in the utility's rates, the utility must demonstrate that the incentive compensation expense claim aligns primarily with ratepayer, not shareholder, interests.<sup>225</sup> In *Columbia 2025*, the Commission adopted the OCA and ALJs' recommendation to disallow the totality of Columbia's requested incentive compensation request when "Columbia did not explain why 70% of the incentive compensation expense is necessary to provide adequate

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<sup>221</sup> OCA Corrected St. 2 at 21.

<sup>222</sup> OCA Corrected St. 2 at 21-22.

<sup>223</sup> OCA Corrected St. 2 at 24.

<sup>224</sup> UGI St. 4R at 6, see also CONFIDENTIAL UGI Exh. VKR-2R.

<sup>225</sup> 66 Pa. C.S. § 315(a).

service to ratepayers, given that only 30% of this claimed expense is related to operational safety and customer experience.”<sup>226</sup> Similarly, in *PAWC 2026*, the Commission found that the utility:

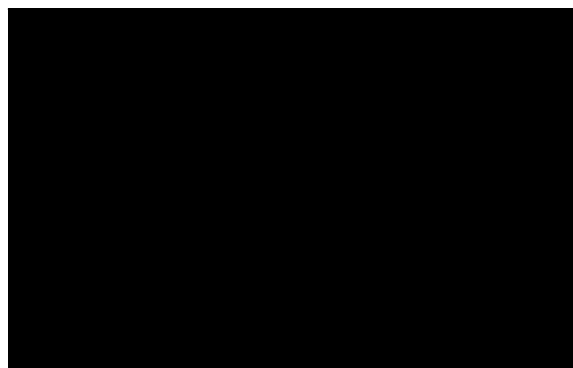
failed to: (1) demonstrate, with credible evidence, that its financial metrics are reasonable or that they provide a benefit to ratepayers; and (2) meet its burden of proving that its claim in allocated performance compensation expenses is fair and necessary, or that it pertains to providing safe, adequate, and reliable service to customers. As noted by the ALJs and I&E, although operational metrics align employees with customers, financial metrics in performance pay align employees primarily with shareholder interests. Therefore, ratepayers should not be required to exclusively fund the payout of financial metrics, particularly given that PAWC did not establish that such costs are fair and necessary, or that they pertain to providing safe, adequate, and reliable service to customers.<sup>227</sup>

These holdings demonstrate that incentive compensation expenses compensating employees for a utility’s financial performance are targeted to primarily benefit shareholders, and, as a result, the cost of such expenses is appropriately recovered from shareholders and not ratepayers.

In this proceeding UGI is proposing to include **(BEGIN CONFIDENTIAL)** 

<sup>228</sup> **(END**  
**CONFIDENTIAL)** The Company provided the following metrics regarding this expense:

**(BEGIN CONFIDENTIAL)**



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<sup>226</sup> *Pa. PUC v. Columbia Gas of Pa., Inc.*, 2025 PA. PUC LEXIS 395, \*86-87 (Dec. 4, 2025) (*Columbia 2025*).

<sup>227</sup> *Pa. PUC v. Pa. American Water Co.*, Docket Nos. R-2025-3057983 *et al*, Order at 114 (July 27, 2026) (*PAWC 2026*).

<sup>228</sup> OCA Corrected CONFIDENTIAL St. 2 at 24.

<sup>229</sup> OCA Corrected CONFIDENTIAL St. 2 at 24.

**(END CONFIDENTIAL)**

OCA witness Mugrace testified:

**(BEGIN CONFIDENTIAL)**

[REDACTED]

**(END CONFIDENTIAL)**

In Surrebuttal, OCA witness Mugrace accepted UGI's position and recommended an additional **(BEGIN CONFIDENTIAL)** [REDACTED] **(END CONFIDENTIAL)** regarding the UGIUG expense.<sup>231</sup>

It is inequitable to require ratepayers to fund portions of an incentive compensation program that do not relate to the safe and reliable service of electric distribution. As such, UGI has failed to meet its burden to show that this percentage of its incentive compensation program will result in just and reasonable rates. Therefore, the OCA requests the Commission reduce UGI's revenue requirement by **(BEGIN CONFIDENTIAL)** [REDACTED]<sup>232</sup> **(END CONFIDENTIAL)**

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<sup>230</sup> OCA Corrected CONFIDENTIAL St. 2 at 24-25.

<sup>231</sup> OCA CONFIDENTIAL St. 2 SR at 9.

<sup>232</sup> OCA CONFIDENTIAL Sch. SR-DM-9.

#### **D. Rate Case Expense**

UGI proposed a total rate case expense of \$1,071,000 to be amortized over a two year period resulting in an annual recovery of \$536,000.<sup>233</sup> OCA witness Mugrace disagreed with UGI's proposal and recommended that UGI's rate case expense should be normalized rather than amortized based on UGI's historic filing frequency.<sup>234</sup> Over the past 33 years UGI has filed six rate cases as follows: the current filing in 2025, then in 2023, 2021, 2018, 1996, and 1993.<sup>235</sup> OCA witness Mugrace calculated UGI's normalization period at 5.5 years.<sup>236</sup> OCA witness Mugrace testified that the Commission routinely normalizes, not amortizes rate case expense.<sup>237</sup> In *Pa. PUC v. Phila. Elec. Co.*, the Commission stated that "[o]ur present policy also is to allow for a normalized amount for current rate case expense; we do not amortize current rate case expense."<sup>238</sup> Mr. Mugrace testified that next the Commission looks to the historical filing frequency of the company to determine the proper normalization period.<sup>239</sup> The Commission's Bureau of Investigation and Enforcement (I&E) also recommended UGI's rate case expense be normalized based on its historic filing frequency.<sup>240</sup> I&E witness Bedasa testified that UGI's rate case expense should be normalized over a period of 33 months resulting in a reduction of \$147,000 to UGI's claim.<sup>241</sup>

The OCA's proposed adjustment to rate case expense is consistent with Commission precedent. For example, in the *PGW 2023* rate case the Commission stated: "Moreover, the

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<sup>233</sup> OCA Corrected St. 2 at 42.

<sup>234</sup> *Id.*

<sup>235</sup> See OCA Corrected St. 2 at 42-43.

<sup>236</sup> OCA Corrected St. 2 at 43.

<sup>237</sup> OCA Corrected St. 2 at 43; see also *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2025-3053499 Order at 138 (Dec. 4, 2025) (*Columbia 2025*); *Pa. PUC v. Phila. Gas Works*, Docket No. R-2023-3037933 Order at 66 (Nov. 9, 2023).

<sup>238</sup> *Pa. PUC v. Phila. Elec. Co.*, 1982 Pa. PUC LEXIS 83, \*58 (Order June 25, 1982).

<sup>239</sup> *Id.*

<sup>240</sup> I&E St. 1 at 8

<sup>241</sup> I&E St. 1 at 9-10.

normalization period should reflect the company's historical rate case frequency, not the Company's future intention for filing a rate case.”<sup>242</sup>

In *PGW 2023*, I&E's methodology to determine the appropriate normalization period, which was ultimately adopted by the Commission, was to average the three most recent rate cases and the then currently filed base rate case in 2023 filed by PGW.<sup>243</sup> PGW had filed rate cases in 2020, 2017, and 2009.<sup>244</sup> Including the 2023 rate case I&E calculated a historical filing frequency of 53 months.<sup>245</sup> The Commission ordered that PGW's rate case expense be normalized over a period of 53 months because it is the Commission's precedent to normalize a rate case expense based on the Company's historical filing frequency not the Company's future intention for filing a rate case.<sup>246</sup>

OCA witness Mugrace, in alignment with current Commission practice, performed a similar analysis to I&E in *PGW 2023*. Mr. Mugrace performed a historical analysis of UGI's previous filings and recommended a normalization period of three years.<sup>247</sup> Mr. Mugrace testified that this recommendation takes into consideration UGI's proposed accelerated replacement program and provides a balance between the Company and ratepayers.<sup>248</sup> By adopting OCA witness Mugrace's recommendation, UGI's revenue requirement would be reduced by \$179,000.<sup>249</sup>

Therefore, the OCA requests that the Commission normalize UGI's rate case expense over a three-year period because it reflects UGI's historic filing frequency and is in line with

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<sup>242</sup> *Pa. PUC v. Phila. Gas Works*, Docket No. R-2023-3037933 Order at 66 (Nov. 9, 2023) (*PGW 2023*). *See also Columbia 2025* at 138.

<sup>243</sup> *Pa. PUC v. Phila. Gas Works*, Docket No. R-2023-3037933 R.D. at 37 (Sept. 5, 2023) (*PGW 2023 R.D.*).

<sup>244</sup> *PGW 2023 R.D.* at 37.

<sup>245</sup> *Id.*

<sup>246</sup> *Id.*

<sup>247</sup> OCA St. 2SR at 14.

<sup>248</sup> *Id.*

<sup>249</sup> OCA St. 2SR at 14.

Commission precedent. As such, the OCA requests that the Commission reduce UGI's revenue requirement by \$179,000.<sup>250</sup>

#### **E. Vegetation Management**

UGI proposed to include \$4,141,000 in vegetation management expense in its FPFTY.<sup>251</sup> Included in this expense are salaries and benefits, transportation, and contractor costs.<sup>252</sup> OCA witness Mugrace recommended averaging out those costs over a five-year historic period (2021-2025).<sup>253</sup> Mr. Mugrace testified that a five-year normalization period better reflects the recovery of costs based upon the most recent actual tree trimming costs and vegetation management costs.<sup>254</sup> In response to OCA-7-7 UGI provided the costs related to Total Vegetation Management Expenses:

#### **UGI Response to OCA-7-7 Attachment OCA-7-7(b-e).**

|            |             | <u>Difference</u> | <u>Variance</u> |
|------------|-------------|-------------------|-----------------|
| FY 2021    | \$3,239,000 |                   |                 |
| FY 2022    | \$3,205,000 | (\$33,000)        | -1.03%          |
| FY 2023    | \$3,745,000 | \$540,000         | 16.84%          |
| FY 2024    | \$4,078,000 | \$333,000         | 8.88%           |
| FY 2025    | \$3,790,000 | (\$288,000)       | -7.06%          |
| FTY 2026   | \$3,940,000 | \$151,000         | 3.97%           |
| FPFTY 2027 | \$4,141,000 | \$201,000         | 5.09%           |

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<sup>250</sup> OCA ST. 2SR at 14.

<sup>251</sup> OCA Corrected St. 2 at 33.

<sup>252</sup> *Id.*

<sup>253</sup> OCA Corrected St. 2 at 33.

<sup>254</sup> OCA Corrected St. 2 at 33.

<sup>255</sup> OCA St. 2SR at 11.

OCA witness Mugrace testified that:

In my opinion, the above balances do not reflect an accelerated activity related to vegetation management. In fact, the Company reduced its expenses from 2021 – 2022, increased the balance by 16.84% in the FY 2023 and increased the balance by 8.88% in FY 2024. In FY 2025, there was a reduction of \$288,000 or 7.06%. In the FTY 2026 there was an increase of \$151,000 or 3.97% and in the FPFTY 2027 there was an increase of \$201,000 or 5.09%. I do not consider these adjustments to be accelerated in nature; at best it is a slight increase over historical periods. I note that the overall increase in vegetation management (in recent years) has gone from FY 2021 of \$3,239,000 to a projected FPFTY 2027 of \$4,141,000 or increase of \$902,000 or 27.85%. At best, the average annual increase from FY 2021 to the FPFTY period has been 4.64%. The Company's vegetation management expenses are increasing over time but not as much as Mr. DeGiusto has stated.<sup>256</sup>

OCA witness Mugrace further testified that vegetation management is uncontrolled in nature and unplanned in advance. Mr. Mugrace explained that although UGI may argue that its vegetation management activities are planned in advance, circumstances may prevent such activities to be completed.<sup>257</sup> Mr. Mugrace testified that normalizing these types of costs better reflect the level of recovery based upon prior cost levels.<sup>258</sup> Based on the foregoing OCA witness Mugrace recommend using the five-year historic average of costs associated with vegetation management resulting in a disallowance of \$265,000 from UGI's proposed \$4,141,000 resulting in an ongoing level of tree trimming costs of \$3,876,000.<sup>259</sup>

#### **F. Major Storms Expense**

UGI included \$373,000 of Storm Costs in the FTY and in the FPFTY periods.<sup>260</sup> UGI then calculated an eight-year average of Maintenance Expense and Mutual Assistance Expense of

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<sup>256</sup> OCA St. 2SR at 12.

<sup>257</sup> *Id.*

<sup>258</sup> *Id.*

<sup>259</sup> OCA St. 2SR at 12-13, *see also* OCA Sch. SR-DM-10.

<sup>260</sup> OCA St. 2SR at 34.



\$436,000 and \$151,000, respectively.<sup>261</sup> In UGI's 2017 base rate case, the Commission found that using a five-year historical average for UGI's storm expense was reasonable.<sup>262</sup>

In line with Commission practice, OCA witness Mugrace recommended, similar to the treatment of the vegetation management expense, a five year normalization treatment to the major storms expense.<sup>263</sup> OCA witness Mugrace testified:

Vegetation management along with Major Storms, when taken together are uncontrolled in nature and unplanned in advance. There are some mutual characteristics. In a major storm event, vegetation management is part of the recovery of costs, and the occurrences vary over time given the severity of the storm event. Normalizing these types of costs better reflects the level of recovery based upon prior cost levels. Although the Company may argue that its vegetation management activities are planned in advance, circumstances may prevent such activities to be completed.<sup>264</sup>

Thus, the OCA requests the Commission normalize UGI's major storms expense over a five-year period. By doing so, UGI's major storms expense will be decreased by \$23,000.<sup>265</sup>

#### **G. Credit and Collections Expense**

As discussed below in section XI(E)(2) OCA witness Colton recommended that UGI's credit and collection expenses totaling \$941,028 should be shared 50/50 or \$470,514.<sup>266</sup>

#### **H. Insurance & Damages**

UGI has proposed \$1,017,000 in its FPFTY period for costs associated with Injury and Damages (I&D).<sup>267</sup> OCA witness Mugrace recommended averaging out the costs related to UGI's I&D expenses over a three-year period (2023-2025).<sup>268</sup> Mr. Mugrace testified that:

These costs include workers compensation, safety and health claims, and the cost of various liability insurance coverages. These costs should be normalized to

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<sup>261</sup> *Id.*

<sup>262</sup> *Pa. PUC v. UGI Utilities Inc., - Electric Division*, Docket No. R-2017-2640058 Order at 56 (Oct. 4, 2018).

<sup>263</sup> OCA Corrected St. 2 at 34.

<sup>264</sup> OCA St. 2SR at 12.

<sup>265</sup> OCA Sch. SR-DM-10

<sup>266</sup> OCA Corrected St. 2 at 38, *see also* OCA Exh. DM-11.

<sup>267</sup> OCA Corrected St. 2 at 44.

<sup>268</sup> OCA Corrected St. 2 at 44.

account for fluctuations of claims incurred related to damages and litigation and the changes in various liability insurance coverages.<sup>269</sup>

OCA witness Mugrace recommended a decrease to UGI's I&D expense by \$209,000 resulting in a total I&D valance of \$808,000.<sup>270</sup> As such the OCA request the Commission decrease UGI's revenue requirement by \$209,000 to reflect a three year normalization of the expense.

## **I. Membership Dues**

In its filing UGI provided a schedule of association dues for the period of 2025-2026, in the amounts of \$78,000, \$58,000 and \$59,000, respectively.<sup>271</sup> These costs included a removal of 16.05% which was allocated to transmission expenses.<sup>272</sup>

Under the Public Utility Code, utilities are not permitted to recover the costs of “membership fees, dues or charges to fraternal, social or sports clubs or organizations.”<sup>273</sup> UGI's customers receive no benefit from UGI's participation in organizations that are related to civic causes or lobbying. UGI should not be able to recover the costs of memberships which reflect its corporate citizenship and should be incurred “below-the-line.”<sup>274</sup> The Commission has recently ruled that a utility should not be permitted to recover costs which mainly benefit the Company as being a good corporate citizen, advocacy on policy issues before various agencies, and civic related initiatives.<sup>275</sup>

OCA witness Mugrace testified:

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<sup>269</sup> OCA Corrected St. 2 at 44-45.

<sup>270</sup> OCA St. 2SR at 16.

<sup>271</sup> OCA Corrected St. 2 at 45.

<sup>272</sup> *Id.*

<sup>273</sup> 66 Pa. C.S. § 1316.1.

<sup>274</sup> *Pa. PUC v. Columbia Gas of Pa.*, Docket No. R-2022-3032167, 2023 PA. PUC LEXIS 173 at \*27 (Order June 15, 2023) (tariff charge determined by the Commission to not be necessary for the provision of service should have been included “below the line,” despite providing service which is desirable for some consumers, and could not be included in rates); *cf. Pa. PUC v. Pa.-American Water Co.*, Docket No. R- 00038304, 2003 Pa. PUC LEXIS 498 (Order Nov. 26, 2003) at \*145 (charitable contributions which the Commission lacks authority to order a public utility to make are properly considered “below the line” for ratemaking purposes, even if such contributions may provide benefits to some ratepayers).

<sup>275</sup> *Columbia 2025 Order* at 157-158.

In response to OCA Set 7-11 the Company provided a breakdown of these costs. \$47,000 is related to Edison Electric Institute (EEI), (\$39,245 net of Transmission Expenses) \$11,000 is related to Energy Association of Pennsylvania (EA of PA) (\$9,185 net of Transmission Expenses), \$8,000 is related to Company Memberships (\$6,680 net of Transmission Expenses) and \$4,000 Other (\$3,340 net of Transmission Expenses).<sup>276</sup>

OCA witness Mugrace recommended a disallowance expense to Edison Electric Institute (\$39,245), Energy Association of PA (\$9,185), Other – PA Chamber of Commerce (\$3,340) resulting in a total disallowance of \$51,770.<sup>277</sup> In its rebuttal position UGI accepted OCA witness Mugrace's recommendation to disallow \$3,340 related to the PA chamber of Commerce.<sup>278</sup>

UGI stated that the Edison Electric Institute (EEI) supports its electric utility members that focus on providing reliable affordable and clean energy.<sup>279</sup> EEI also develops industry best practices and technical standards that utilities rely upon.<sup>280</sup> The collaborative participation in these efforts allow electric utilities to be prepared and informant so that they can maintain safe and reliable service for their customers.<sup>281</sup> With regard to the Energy Association of PA (EA PA), UGI stated that costs from EA PA focus on creating a collaborative environment to support sharing of best utility practices and to address customer affordability.<sup>282</sup> OCA witness Mugrace testified:

I believe these costs are essentially lobbying costs in which EEI, EA of PA and PA Chamber of Commerce, engages with legislators, regulators and other policymakers and advocate with regulated utilities in regulatory proceedings. EEI runs the Political Action Committee (PAC) in which I believe are for engaging with federal agencies on matters before the federal and state legislation bodies. Ratepayers should not be paying for such costs when they are not related to employee duties not related to customer service, especially when these costs are outside the normal course of business. There is no discernable link between these types of costs and customer service metrics nor do they benefit ratepayers. These

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<sup>276</sup> OCA Corrected St. 2 at 45.

<sup>277</sup> OCA Corrected St. 2 at 45.

<sup>278</sup> OCA St. 2SR at 17.

<sup>279</sup> OCA Corrected St. 2 at 45.

<sup>280</sup> *Id.*

<sup>281</sup> OCA Corrected St. 2 at 45-46.

<sup>282</sup> OCA Corrected St. 2 at 46.

costs are far too removed from utility service to justify the inclusion in the revenue requirement.<sup>283</sup>

Ratepayers should not pay in rates costs associated with UGI's lobbying and other political actions. UGI Electric ratepayers should only pay for costs associated with the safe, reliable distribution of electricity or provide them with a benefit in a meaningful way. OCA witness Mugrace testified that there is no nexus between these costs and ratepayer benefits. As such UGI has failed to meet their burden of proof that these expenses would result in just and reasonable rates.<sup>284</sup> Therefore, the OCA requests the Commission disallow all expenses related to EEI, EA PA, and the Chamber of Commerce resulting in a revenue requirement decrease of \$51,770.

## **VII. TAXES**

### **A. Accumulated Deferred Income Taxes**

UGI accepted OCA witness Mugrace's recommendations regarding Accumulated Deferred Income Taxes (ADIT).<sup>285</sup> However, UGI did not include changes to ADIT based on OCA witness Garren's recommendation to depreciation.<sup>286</sup> If the Commission adopts OCA witness Garren's recommendation regarding depreciation which was explained *supra* the accompanying adjustment to UGI's ADIT is a reduction of \$427,174.<sup>287</sup>

## **VIII. RATE OF RETURN**

### **A. Summary**

UGI proposed an excessive 10.85% return on equity (ROE).<sup>288</sup> I&E proposed a ROE of 9.69%.<sup>289</sup> The OCA recommends an ROE of 8.7% based on OCA witness Garrett's discounted

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<sup>283</sup> OCA Corrected St. 2 at 46.

<sup>284</sup> OCA St. 2SR at 17-18.

<sup>285</sup> OCA St. 2SR at 4.

<sup>286</sup> *Id.*

<sup>287</sup> OCA Corrected St. 2 at 16, *see also* OCA Sch. SR-DM-8.

<sup>288</sup> OCA St. 3 at 2.

<sup>289</sup> I&E St. 2 at 6.

cash flow (DCF) and capital asset pricing model (CAPM).<sup>290</sup> The OCA requests the Commission adopt an overall weighted Rate of Return of 6.65%, including a capital structure for ratemaking purposes of 42% common equity and 58% debt, and a ROE of 8.7%.<sup>291</sup> Alternatively if the Commission adopts UGI's equity rich capital structure, the OCA requests the Commission grant a ROE of 8.0% with an overall weighted rate of return of 6.71% based on OCA witness Garretts calculations.<sup>292</sup>

OCA witness Mugrace testified that if the Commission accepts all OCA adjustments and OCA witness Garrett's ROE of 8.7% and 42% equity ratio, UGI's overall revenue requirement is \$5,127,616.<sup>293</sup> In recognition of the facts and analysis presented *infra*, the OCA requests the Commission accept the OCA's 8.7% ROE because it falls within of the range of possible results, is supported by substantial evidence, and would result in just and reasonable rates.

**B. UGI's Proposed Equity Rich Capital Structure Exacerbates the Unwarranted, Excessive Transfer of Wealth from Customers to UGI's Shareholders.**

UGI's requested capital structure includes a high common equity ratio consisting of 54.25% equity and 45.75% debt.<sup>294</sup> Vice Chair Barrow's opening statement in this case expressed concern regarding UGI's proposed capital structure and its impact to UGI's proposed rate increase.<sup>295</sup> Vice Chair Barrow stated:

I urge the Parties to take a critical look at the Company's requested rate of return and return on equity (ROE) as well as the capital structure (common equity ratio and debt capital) to ensure reasonableness. Deviations in each of these items translate into millions of dollars charged to customers of all rate classes. Too often, the relationship between debt and ROE to cost of debt and capital is asserted as a general matter from basic economic principle alone. However, those relationships are not established empirically and left for the Commission to assume the

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<sup>290</sup> OCA St. 3 at 2.

<sup>291</sup> OCA St. 3 at 3.

<sup>292</sup> OCA St. 3 at 3.

<sup>293</sup> OCA St. 2SR at 3.

<sup>294</sup> OCA St. 3 at 3.

<sup>295</sup> OCA St. 3 at 4-5.

relationship without any supporting data. Therefore, I believe a careful and detailed review of UGI's claimed capital structure and ROE is warranted.<sup>296</sup>

Consistent with Vice Chair Barrow's statement OCA witness Garrett performed an analysis on UGI's proposed capital structure and found it to be entirely unreasonable.<sup>297</sup> OCA witness Garrett testified that there is a significant difference between UGI's proposed capital structure and the proxy group's capital structure.<sup>298</sup> Mr. Garrett testified that UGI's equity rich capital structure exacerbates "the unwarranted, excessive transfer of wealth from customers to UGI's shareholders."<sup>299</sup>

Precedent recognizes that the Commission may make adjustments to a utility's capital structure where circumstances may be unfair to customers. The Pennsylvania Superior Court held that the capital structure of utilities that are wholly-owned subsidiaries may not be one which it would maintain if it were obliged to obtain its debt and equity financing on the open market rather than from a parent company.<sup>300</sup>

The Court further explained:

In such instances the actual capital structure may be weighted too heavily on the debt side or the equity side...The use of the actual capital structure in such peculiar circumstances might be unfair to either the utility or its customers, depending upon whether debt or equity is disproportionately high. Under such circumstances the commission must make adjustments based upon substantial evidence in order to reach a fair result.<sup>301</sup>

As discussed in Mr. Garrett's Direct Testimony, according to Value Line, the average capital structure mix for the proxy group consists of 58% debt and 42% equity.<sup>302</sup> This debt ratio

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<sup>296</sup> I&E Exh. 2, Sch. 2, at 1.

<sup>297</sup> OCA St. 3 at 4-5.

<sup>298</sup> Tr. at 377-379.

<sup>299</sup> OCA St. 3 at 5.

<sup>300</sup> *Riverton Consol. Water Co. v. Pa. PUC*, 140 A.2d 114 at 121 (Pa. Super. 1958).

<sup>301</sup> *Id.*

<sup>302</sup> OCA St. 3 at 54.

is notably higher than UGI's proposed capital structure consisting of roughly 46% debt.<sup>303</sup> OCA witness Garrett testified that this discrepancy means that UGI has a lower level of financial risk relative to the proxy group.<sup>304</sup> There are more than 2,000 firms in U.S. industries with higher debt ratios than 50% and with an average debt ratio of approximately 63%.<sup>305</sup> OCA witness Garrett testified that UGI Corp., UGI's parent company, had a long-term debt ratio of 57.8% at the end of 2025, which is significantly higher than what UGI is proposing for ratemaking purposes.<sup>306</sup> OCA witness Garrett testified that UGI's proposed capital structure is not fair to ratepayers.<sup>307</sup> Mr. Garrett testified that if the Commission accepts UGI's proposed capital structure then there must be a reduction in the ROE.<sup>308</sup> OCA witness Garrette testified that a ROE of 8%, in other words a 70 point basis point reduction, would be fair if UGI's proposed capital structure is adopted.<sup>309</sup>

In order to calculate this 70 basis point reduction, OCA witness Garrett calculated a Hamada model showing varying debt ratios and their effect on the cost of equity or ROE.

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<sup>303</sup> *Id.*

<sup>304</sup> OCA St. 3 at 54.

<sup>305</sup> OCA St. 3 at 55.

<sup>306</sup> OCA St. 3 at 57.

<sup>307</sup> Tr. at 379.

<sup>308</sup> *Id.*

<sup>309</sup> Tr. at 379.

**Figure 12:  
Hamada Model ROE**

| Unlevering Beta                              |           |              |                |
|----------------------------------------------|-----------|--------------|----------------|
| Proxy Debt Ratio                             |           | 58%          |                |
| Proxy Equity Ratio                           |           | 42%          |                |
| Proxy Debt / Equity Ratio                    |           | 1.4          |                |
| Tax Rate                                     |           | 21%          |                |
| Equity Risk Premium                          |           | 4.9%         |                |
| Risk-free Rate                               |           | 5.0%         |                |
| Proxy Group Beta                             |           | 0.75         |                |
| Unlevered Beta                               |           | 0.36         |                |
| Relevered Betas and Cost of Equity Estimates |           |              |                |
| Debt Ratio                                   | D/E Ratio | Levered Beta | Cost of Equity |
| 0%                                           | 0.0       | 0.36         | 6.8%           |
| 20%                                          | 0.3       | 0.43         | 7.1%           |
| 25%                                          | 0.3       | 0.45         | 7.2%           |
| 30%                                          | 0.4       | 0.48         | 7.4%           |
| 46%                                          | 0.8       | 0.59         | 8.0%           |
| 58%                                          | 1.4       | 0.75         | 8.7%           |
| 60%                                          | 1.5       | 0.78         | 8.9%           |

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In this case, the Commission should adopt Mr. Garrett’s proposed capital structure of 42% equity and 58% debt in the interest of fairness to ratepayers because a debt ratio which is closer to the proxy groups debt ratio and UGI’s parent company will ensure fairness in rates by alleviating the unfair practice of double leveraging.<sup>311</sup> Authorizing a regulatory capital structure for UGI with a common equity ratio considerably higher than the average of other comparable utility companies without justification will result in unreasonably high rates. Simply put, UGI failed to meet its burden of proof in establishing that a 54.25% equity ratio is supportable or reasonable for

<sup>310</sup> OCA St. 3 at 58.

<sup>311</sup> OCA St. 2SR at 5.



ratemaking purposes. Mr. Garrett explained how this discrepancy harms ratepayers when he testified:

Since the parent company has a debt ratio of 58%, this means UGI Corp. is using debt to finance the Company's "equity." Since the Company also issues its own debt, this strategy is known as "double leverage." While this arrangement is not problematic among competitive firms, it often results in unfair, excessive returns for regulated utilities to the extent there is not an adjustment made by the regulator. If no adjustment is made, shareholders of the parent company effectively earn a high-cost equity return on low-cost debt. In fact, UGI Corp's earned ROE last year was 15.2%, which is significantly higher than its cost of equity, or even the inflated ROEs typically authorized by regulators.<sup>312</sup>

OCA witness Garrett further testified that the Commission can mitigate the excessive return that would otherwise occur through double leveraging by imputing a capital structure that is equal to the proxy group average.<sup>313</sup> Here, the proxy group proffered in this case had an average debt ratio of 58% which is what OCA witness Garrett proposed as his primary recommendation for UGI's hypothetical capital structure.<sup>314</sup> OCA witness Garrett testified as to why UGI and other regulated utilities desire to have high equity ratios when he testified:

Debt is cheaper than equity and interest expense is deductible, and so companies are incentivized naturally to issue as much debt as they can until it becomes too much where the - you know, marginal benefits wouldn't outweigh the marginal cost of doing that. So there's this natural financial incentive for all companies to issue as much debt to that level. But that same incentive doesn't exist for regulated utilities because ... the return that they can ask for equity is going to be much higher than debt. And so for them it - there's more of an incentive not to have enough debt in their capital structures.<sup>315</sup>

Mr. Garrett testified that a regulator standing in the place of competition should ensure that a utility has enough of low cost debt instead of high cost equity.<sup>316</sup> Mr. Garrett testified that the process of allowing shareholders of the parent company to send debt down to the subsidiary level,

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<sup>312</sup> OCA St. 3 at 6.

<sup>313</sup> OCA St. 3 at 6.

<sup>314</sup> OCA St. 3 at 4, 54.

<sup>315</sup> Tr. at 382.

<sup>316</sup> *Id.*

call it equity then getting a high equity return on it cannot be described as fair.<sup>317</sup> OCA witness

Garrett testified:

[I]f you just took an example, if we started a utility company, you can run the parent and I'll run the sub, but we're just going to be a hundred percent debt financed. We can both issue our own debt. So now instead we issue a hundred percent debt finance at five percent, well our cost of capital is five percent. Our weighted average cost of capital, we don't even need a dual weighting, is five percent. But I'm at the sub. So I'm going to call your investment in my sub - say I'm 50/50 capital structure, I'm going to call it equity. Now still there's only debt in our organization exclusively at five percent, but I'm going to go past the Commission for ten percent. There's no way anyone would describe that as fair. It's just impossible to. The only difference between that and what's going on here is it's not a hundred percent.<sup>318</sup>

Therefore, UGI has failed to meet its burden that its proposed capital structure is reasonable. The OCA has presented substantial evidence that UGI's capital structure will harm ratepayers through the concept of double leveraging which unreasonably profits UGI's parent company at the expense of UGI ratepayers in Pennsylvania. As such, the OCA requests the Commission adopt an equity ratio of 42% to ensure UGI's rates are just and reasonable.

**C. Proxy Group**

OCA witness Garrett used the same proxy group presented by UGI.<sup>319</sup>

**D. Cost of Long term debt**

OCA witness Garrett uses the same long-term debt rate of 5.17% as Company witness D'Ascendis used.<sup>320</sup>

**E. A Reasonable Return on Equity for UGI is 8.7%.**

The OCA recommends an 8.7% ROE based on OCA witness Garrett's discounted cash flow (DCF) and capital asset pricing model (CAPM).<sup>321</sup> Mr. Garrett's DCF results were 7.3% to

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<sup>317</sup> Tr. at 383.

<sup>318</sup> Tr. at 383-384.

<sup>319</sup> OCA St. 3 at 14.

<sup>320</sup> OCA St. 3 at 4.

<sup>321</sup> OCA St. 3 at 4.

8.1% respectively.<sup>322</sup> Mr. Garrett's CAPM analysis produced a ROE of 8.7%.<sup>323</sup> Based the results of his financial models and his expert judgement, OCA witness Garrett' primary recommendation is that the commission should authorize a ROE of 8.7%.<sup>324</sup>

**1. OCA Witness Garrett's DCF Models Resulted in Reasonable ROE's of 7.3% and 8.1%.**

OCA witness Garrett applied a DCF analysis based on analyst growth projections and another based on sustainable growth projections.<sup>325</sup> The Analyst Growth DCF Model resulted in a 8.1% ROE and the Sustainable Growth DCF Model resulted in a 7.3% ROE.<sup>326</sup>

There are three primary inputs in the DCF Model: 1) stock price; 2) dividend; and 3) the long term growth rate.<sup>327</sup> Mr. Garrett used a 30-day average of stock prices for each company in the proxy group to calculate stock price.<sup>328</sup> Mr. Garrett testified that it "is preferable to use a short-term average of stock prices, which represents a good balance between adhering to well-established principles of market efficiency while avoiding any unnecessary contentions that may arise from using a single stock price on a given day."<sup>329</sup>

When calculating the dividend, OCA witness Garrett used forward-looking annualized dividends published by Yahoo! finance.<sup>330</sup> Mr. Garrett testified that the stock price and dividend inputs for each proxy group are not a significant issue in this case.<sup>331</sup> Mr. Garrett testified that:

Although my stock price and dividend inputs are more recent than those used by Mr. D'Ascendis, there is not a statistically significant difference between them because utility stock prices and dividends are generally quite stable. This is another reason that cost of capital models such as the CAPM and the DCF Model are well-

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<sup>322</sup> OCA St. 3 at 28.

<sup>323</sup> OCA St. 3 at 39.

<sup>324</sup> OCA St. 3 at 62.

<sup>325</sup> OCA St. 3 at 28.

<sup>326</sup> *Id.*

<sup>327</sup> OCA St. 3 at 21.

<sup>328</sup> *Id.*

<sup>329</sup> OCA St. 3 at 22-23.

<sup>330</sup> OCA St. 3 at 23.

<sup>331</sup> *Id.*

suited to be conducted on utilities. The differences between my DCF Model and Mr. D'Ascendis's DCF Model are primarily driven by differences in our growth rate estimates.<sup>332</sup>

OCA witness Garrett considered two variations in his DCF models one using analysts' growth rates and one using the maximum sustainable growth rate.<sup>333</sup> The results of these models produced ROEs of 8.1% and 7.3%, respectively.<sup>334</sup>

UGI witness D'Ascendis' DCF Model analysis produced an indicated cost of equity result of 10.43%.<sup>335</sup> However, OCA witness Garrett explained that Mr. D'Ascendis' results are overstated due to his use of unsustainably high growth rates.<sup>336</sup> OCA witness Garrett testified:

Mr. D'Ascendis incorporated an annual long-term growth rate as high as 11% for Entergy Corporation. This means Mr. D'Ascendis is suggesting the company's earnings will grow by more than 11% each year, every year, in perpetuity. This growth rate estimate published by S&P Capital IQ is a short-term growth rate. It is Mr. D'Ascendis, not the commercial analyst, who is suggesting that this annual earnings growth rate can be achieved each year in perpetuity, which is simply unsustainable and technically impossible. As a result, the cost of equity results indicated by Mr. D'Ascendis's DCF Model are overstated.<sup>337</sup>

Further, OCA witness Garrett explained that a fundamental concept in finances is that "no firm can grow forever at a rate higher than the growth rate of the economy in which it operates."<sup>338</sup> Mr. Garrett further testified that it is reasonable to assume that a regulated utility would grow at a rate less than the U.S. economic growth rate because, unlike competitive firms which can increase their growth by launching a new product line, franchising, or expanding into new and developing markets, utility operating companies with defined service territories cannot do any of these things to grow.<sup>339</sup> Thus, UGI failed to meet its burden that a 10.85% ROE is reasonable because it used

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<sup>332</sup> OCA St. 2 at 23.

<sup>333</sup> OCA St. 3 at 28.

<sup>334</sup> *Id.*

<sup>335</sup> OCA St. 3 at 28.

<sup>336</sup> OCA St. 3 at 29.

<sup>337</sup> OCA St. 3 at 29.

<sup>338</sup> OCA St. 3 at 27.

<sup>339</sup> *Id.*

unrealistic and unsustainable inputs in its calculations. Therefore, the Commission should adopt OCA witness Garrett's DCF Model results of 8.2% and 7.6% as reasonable because they are rooted in sound financial principles.

**2. OCA Witness Garrett's CAPM Produced a Reasonable ROE of 8.7%.**

In calculating the CAPM, OCA witness Garrett determined the appropriate values of ranges of the three model inputs: (1) risk-free rate; (2) beta, and; (3) equity risk premium.<sup>340</sup> OCA witness Garrett's CAPM resulted in an 8.7% cost of equity.<sup>341</sup>

**a. A Risk-Free Rate based on U.S. Treasuries is reasonable.**

The risk-free rate is the level of return investors can achieve without assuming any risk.<sup>342</sup> Mr. Garrett testified that, even though no investment is technically devoid of risk, investors often use U.S. Treasury securities to represent the risk-free rate because they accept that those securities essentially contain no default risk.<sup>343</sup> UGI calculated the risk-free rate based on the average of the Blue Chip consensus forecast of the expected yields on 30-year U.S. Treasury bonds for the six quarters ending with the second calendar quarter of 2027, and long-term projections for the years 2027 to 2031 and 2032 to 2036.<sup>344</sup> OCA witness Garrett noted "long-term Treasury bonds are usually used to represent the risk-free rate in the CAPM."<sup>345</sup> OCA witness Garrett considered a 30-day average of daily U.S. Treasury yield curve rates on 30-year Treasury bonds for the risk-free rate, which result in a risk-free rate of 5.02%.<sup>346</sup>

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<sup>340</sup> OCA St. 3 at 30.

<sup>341</sup> *Id.* at 39.

<sup>342</sup> OCA St. 3 at 30.

<sup>343</sup> *Id.*

<sup>344</sup> UGI St. 8 at 47.

<sup>345</sup> OCA St. 3 at 31.

<sup>346</sup> OCA St. 3 at 31.

**b. OCA witness Garrett used the most recent Value Line beta.**

Beta represents the sensitivity of a given security to movements in the overall market.<sup>347</sup> An index, such as the S&P 500, is used as a proxy for the market portfolio.<sup>348</sup> A security with a beta greater than 1.0 is more sensitive to market risk than the average stock while a security with a beta less than 1.0 is less sensitive to market risk.<sup>349</sup>

UGI used Value Line and Blomberg Betas; and Value Line betas in his calculations which resulted in an average blended beta of 0.60, and an average value line beta of 0.76.<sup>350</sup> OCA witness Garrett used betas recently published by Value Line Investment Survey.<sup>351</sup> The beta for each proxy company is less than 1.0 with the average beta for the total proxy group being 0.83.<sup>352</sup> Mr. Garrett testified that this survey objectively proves that utility stocks are less risky than the average stock in the market.<sup>353</sup>

**c. Reliance on expert surveys is reasonable.**

Equity Risk Premium (ERP) is the most important factor in estimating the cost of capital through the CAPM.<sup>354</sup> UGI calculated a market equity risk premium of 7.82% and an equity risk premium of 4.69%.<sup>355</sup> UGI then estimated three equity risk premiums based on S&P Utility Index holding period returns, and one equity risk premium based on the expected returns of the S&P Utilities Index, using *Value Line*, Bloomberg, and S&P Capital IQ data.<sup>356</sup> UGI then averaged all

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<sup>347</sup> OCA St. 3 at 31-32.

<sup>348</sup> *Id.*

<sup>349</sup> *Id.*

<sup>350</sup> UGI St. 8 at 29.

<sup>351</sup> OCA St. 3 at 32.

<sup>352</sup> OCA St. 3 at 32.

<sup>353</sup> *Id.*

<sup>354</sup> OCA St. 3 at 32.

<sup>355</sup> UGI St. 8 at 29.

<sup>356</sup> *Id.*

calculated betas to arrive at an average Equity Risk Premium of 4.94%.<sup>357</sup> OCA witness Garrett used two methods to estimate the ERP: (1) expert surveys and (2) calculating the implied ERP.<sup>358</sup>

The expert survey approach to estimating ERP relies on surveys of professors, analysts, chief financial officers, and other executives, asking what experts think the ERP is.<sup>359</sup> The IESE Business School conducts an expert survey every year and its 2025 survey reported an average ERP of 5.3%.<sup>360</sup>

OCA witness Garrett considered the results of expert surveys, the estimated ERP reported by Kroll, the estimated ERP calculated by Dr. Damodaran, and the implied ERP based on Mr. Garrett's calculations.<sup>361</sup> The results were as follows:

**Figure 7:  
Equity Risk Premium Results**

|                              |             |
|------------------------------|-------------|
| IESE Business School Survey  | 5.3%        |
| Kroll (Duff & Phelps) Report | 5.0%        |
| Damodaran (average)          | 4.5%        |
| Garrett                      | 5.0%        |
| <b>Average</b>               | <b>4.9%</b> |

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OCA witness Garrett used the average from these sources to arrive at the 4.9% ERP for his CAPM.<sup>363</sup> Mr. Garrett's ERP estimate is reasonable and falls within an appropriate range of possibilities. By contrast, UGI witness D'Ascendis used an ERP estimate as high as 8.61% in his

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<sup>357</sup> UGI St. 8 at 29.

<sup>358</sup> *Id.* at 33.

<sup>359</sup> OCA St. 3 at 35.

<sup>360</sup> *Id.*

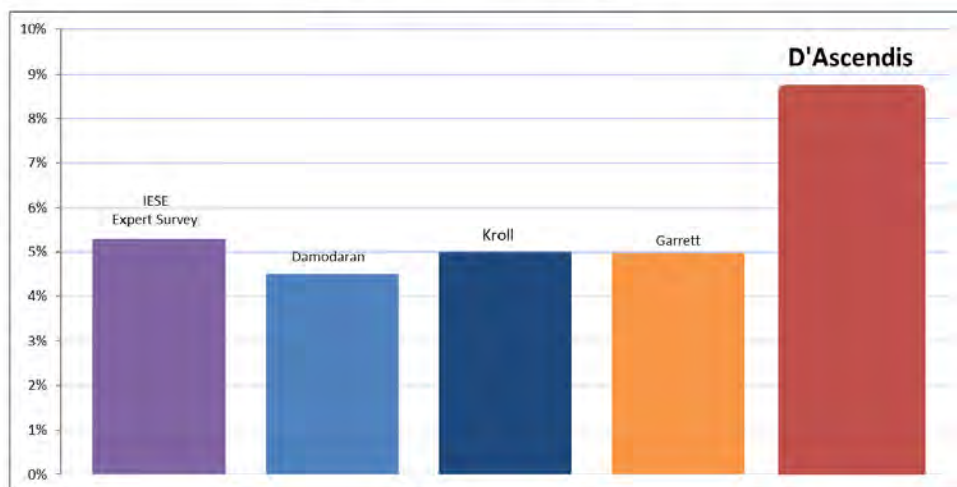
<sup>361</sup> OCA St. 3 at 38.

<sup>362</sup> OCA St. 3 at 38.

<sup>363</sup> OCA St. 3 at 39.

CAPM analysis.<sup>364</sup> The following table illustrates the significant variance between UGI witness D'Ascendis, OCA witness Garrett, and leading scholars/institutions:

**Figure 2:  
Equity Risk Premium Comparison**



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Mr. Garrett testified as follows:

When compared with other independent sources for the ERP (as well as my estimate), which do not have a wide variance, Mr. D'Ascendis's ERP estimate is clearly not within the range of reasonableness. Mr. D'Ascendis offers various criticisms of these sources, and basically argues the Commission should accept his estimate over the opinions of hundreds of CEOs, CFOs, scholars, and an international corporate finance advising company. I would argue that investors are more likely to rely on these types of sources for the ERP than Mr. D'Ascendis's personal ERP estimate. Effectively, Mr. D'Ascendis is suggesting the Commission should adopt his ERP estimate over the opinions of thousands of unbiased experts, Kroll (a global financial advisory firm), and one of the world's leading experts on the ERP.<sup>366</sup>

Thus, the Commission should find that UGI's CAPM analysis utilized an inappropriately high ERP.

<sup>364</sup> OCA St. 3 at 41.

<sup>365</sup> OCA St. 3SR at 7.

<sup>366</sup> OCA St. 3SR at 10-11.



## **F. Conclusion**

The Commission should find that UGI failed to meet its burden that its proposed ROE and capital structure will result in just and reasonable rates. Rather, the Commission should find that OCA witness Garrett proposed ROE of 8.7% is reasonable.<sup>367</sup> An 8.7% ROE is reasonable because it is supported by the substantial record evidence of OCA witness Garrett's financial analysis and modeling. A 8.7% ROE will decrease the overall revenue requirement in this proceeding which will provide a much needed benefit to UGI's customers who struggle with affordability while also giving UGI a fair return on its investment. The Commission should also find that OCA witness Garrett's proposed 58% debt ratio will result in just and reasonable rates.<sup>368</sup> A debt ratio which is closer to UGI's parent company will ensure fairness in rates by alleviating the unfair practice of double leveraging. As such the OCA submits that a ROE of 8.7% with a debt ratio of 58% will produce just and reasonable rates in this proceeding.

## **IX. RATE STRUCTURE AND RATE DESIGN**

### **A. Cost of Service Study**

The OCA disagrees with the minimum system study (MSS) allocated cost of service study (ACOSS) methodology because the MSS study used by UGI is inconsistent with the manner in which UGI's distribution infrastructure is designed and constructed. Namely, as described in the testimony of OCA witness Deupree, the Company's proposed MSS methodology utilizes a customer component in the allocation of the costs of primary and secondary distribution infrastructure despite the fact that there is no correlation between the number of customers connected to UGI's distribution system and the Company's investment in primary and secondary

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<sup>367</sup> OCA St. 3 at 3.

<sup>368</sup> OCA St. 3 at 3.

distribution infrastructure.<sup>369</sup> Primary and secondary distribution plant includes plant recorded in accounts 364 (Poles, Towers, and Fixtures), 365 (Overhead Conductors and Devices), 367 (Underground Conductors and Devices), and 368 (Transformers).<sup>370</sup> The OCA recommends that the cost of primary and secondary distribution plant, instead, be allocated on a 100% demand basis.

The Commission has previously held that the appropriate methodology for an ACOSS is dependent on the cost causation principles specific to and design of a utility's distribution system.<sup>371</sup> In other words, even though the Commission has previously accepted the minimum system method for the allocation of the costs of primary and secondary distribution plant for electric utilities, the minimum system method should not always be accepted where the specifics of the design, planning, and operation of a distribution system do not support the inclusion of a customer component in classifying primary and secondary distribution costs.<sup>372</sup> In the natural gas context, the Commission recently stated: "We note that even in cases in which the revenue allocation methodology is litigated, a determination regarding which [allocated class cost of service study] should be used should be determined on a case-by-case basis."<sup>373</sup> As a result, even though the Commission may have accepted the MSS methodology in prior proceedings, the Commission is not bound to accept the method as reasonable in this proceeding, and UGI bears

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<sup>369</sup> OCA Corrected St. 1 at 34; OCA Exh. MWD-2.

<sup>370</sup> OCA Corrected St. 1 at 29. OCA witness Deupree and UGI witness Fang also refer to primary and secondary distribution plant as including account 366 (Underground Conduit); however, UGI allocated the cost of account 366 in accordance with the allocation of account 367, meaning that any reference to account 367 applies equally to account 366. UGI Exh. D at 5.

<sup>371</sup> Cf. *Pa. PUC v. PECO Energy Co.*, Docket No. R-2020-3018929 (Order entered June 22, 2021 (*PECO Gas 2020*) at 230-31 ("the best-suited [allocated class cost-of-service study] may depend on the circumstances of the situation on a case-by-case basis.")).

<sup>372</sup> Compare *Pa. PUC v. Citizens Elec. Co. of Lewisburg*, Docket No. R-2019-3008212, Order at 121-23 (Apr. 27, 2020) (*Citizens' 2020*) and *Pa. PUC v. Wellsboro Elec. Co.*, Docket No. R-2019-3008208, Order at 101-02 (Apr. 29, 2020) (*Wellsboro 2020*) and *Pa. PUC v. UGI Utilities, Inc. – Electric Division*, Docket No. R-2017-2640058, Order at 160 (Oct. 25, 2018) (*UGI Elec. 2017*) with *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket No. R-2022-3031211, Order at n.30 (Dec. 8, 2022).

<sup>373</sup> *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket No. R-2022-3031211, Order at n.30 (Dec. 8, 2022).

the burden of proving that the MSS method is appropriate for purposes of cost allocation and rate design in this case.<sup>374</sup>

UGI has failed to meet that burden and presented insufficient evidence to indicate that its proposed application of the MSS method accurately captures the load carrying capability of the hypothetical minimum system used for purposes of assigning costs between customer classes. OCA witness Dueprey described the MSS as follows:

MSS and zero-intercept studies are cost allocation methodologies that attempt to estimate separate customer-related versus load-related costs. An MSS does this by estimating the hypothetical costs of developing a “minimum” system that only provides customers with connection to a utility’s electric distribution system but not a system sufficient to actually serve the customer’s electrical requirements.

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An MSS study attempts to separate the customer-related portion of total system costs from those associated with serving loads (or service volumes). An MSS study estimates the hypothetical costs of developing a minimum system to serve customers with no load. These calculations involve subjectivity since they use accounting and engineering analyses to develop assumptions about the minimum sizes and costs associated with various distribution system components, while still satisfying system requirements such as pole height and efficient conductor and transformer sizes. The costs associated with these “minimum” components are then added together to derive the total minimum costs associated with the hypothetical system with no energy usage. This estimate is then divided by total actual system costs to approximate the customer-related share of overall distribution system costs.<sup>375</sup>

Fundamentally, the flaw in the MSS method is clear, as the MSS attempts to measure something which does not exist, a distribution system with no load carrying capacity.<sup>376</sup> As OCA witness Dueprey testified at the evidentiary hearings, despite the assumptions of the MSS method,

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<sup>374</sup> *Bell Atl. – Pa., Inc. v. Pa. Pub. Util. Comm’n*, 672 A.2d 352, 354 (Pa. Cmwlth. 1995) (administrative agencies are not bound by the rule of *stare decisis*, but are, instead, tasked with rendering consistent opinions that affirm, overrule, or distinguish prior opinions); *Pa. PUC v. Pa.-American Water Co.*, Docket Nos. R-2025-3057983 *et al*, Order at 228 (July 27, 2026) (“Prior acceptance of a cost of service methodology may be relevant background, but it does not freeze that methodology in place or relieve [the utility] of its burden to support the continued use of” that methodology).

<sup>375</sup> OCA Corrected St. 1 at 30-31.

<sup>376</sup> OCA Corrected St. 1 at 31.

he is not aware of poles that are manufactured which cannot carry conductors, nor conductors which cannot carry load.<sup>377</sup> Under the MSS method, both are assumed to exist.<sup>378</sup>

Whether primary and secondary distribution plant investment may bear *some relationship* to the number of customers connected to the distribution system is not the critical question in this proceeding; instead, the Commission must answer whether the MSS method accurately captures the portion of primary and secondary distribution plant costs attributable to the interconnection of customers to the distribution system. It does not. Instead, it utilizes a hypothetical distribution system which is not representative of the manner in which UGI's distribution system was actually designed and constructed, and is subject to significant adjustment based purely on the opinion of the analyst as to how much load-carrying capability the minimum system study should classify as customer-related.

The National Association of Regulatory Utility Commissioners (NARUC) 1992 Electric Cost Allocation Manual (NARUC Manual) cautions that cost of service analysts retain significant discretion in determining how much of the load-carrying capability of a hypothetical minimum system is properly reflected as being demand-related.<sup>379</sup> Dr. James Bonbright, in his seminal work on public utility regulation, found that the use of analyses utilizing minimum-sized distribution systems are "clearly indefensible" because they are abstracted from the actual distribution system studied.<sup>380</sup> Indeed, nowhere in UGI's proposed cost of service study, or in her supporting direct, rebuttal, surrebuttal, or rejoinder testimony, did UGI witness Fang explain how her proposed MSS accounted for the unique features of UGI's distribution service territory, including characteristics

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<sup>377</sup> Tr. 239.

<sup>378</sup> Tr. 239-40.

<sup>379</sup> OCA Corrected St. 1 at 32 (*quoting* Electric Utility Cost Allocation Manual (January 1992), NARUC, p. 95.)

<sup>380</sup> OCA Corrected St. 1 at 33.

such as customer density.<sup>381</sup> Dr. Bonbright emphasized that the MSS method ““makes no allowance for the density factor (customers per linear mile or per square mile)”” in his critique of the analysis.<sup>382</sup> As a result, witness Fang’s averment that “[t]he cost allocation methodology utilized in the minimum system studies is based on the specific design and operating characteristics of the Company’s distribution system” lacks clear support.<sup>383</sup>

OCA witness Duepre prepared an analysis which demonstrates that the average number of customers on UGI’s distribution system does not vary directly with the investment in distribution plant for account numbers 364, 365, 367, and 368 from 2016 to 2025.<sup>384</sup> Specifically:

Exhibit MWD-2 examines trends between changes in average number of customers on the Company’s system and distribution plant accounts 364-368 for the years 2014 through 2024. This analysis finds that additions to the relevant distribution plant accounts are not highly correlated with changes in the Company’s average number of customers. Specifically, I estimate the correlation coefficient for the individual FERC accounts in question to range from negative 0.1416 to positive 0.5795, and I estimate the correlation coefficient of these distribution plant accounts in total to be 0.3327, while not being statistically significant at a 95 percent confidence level. Likewise, page 2 of Exhibit MWD-2 estimates the correlation coefficient associated with the annual growth rate of Company customers and distribution plant investments. This analysis again finds relatively weak correlation that is not statistically significant at a 95 percent confidence level. Overall, these results demonstrate the very weak correlation that was observed by Dr. Bonbright decades ago.<sup>385</sup>

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<sup>381</sup> UGI Exh. D at 4; UGI St. 11 at 18-23; UGI St. 11-R at 4-15; UGI St. 11-SR; UGI St. 11-RJ at 2-5.

<sup>382</sup> OCA Corrected St. 1 at 33 (*quoting* James C. Bonbright, et al. Principles of Public Utility Rates. 1988 Edition. Arlington, VA: Public Utilities Reports, Inc., p. 491).

<sup>383</sup> UGI Exh. D at 4.

<sup>384</sup> OCA Exh. MWD-2.

<sup>385</sup> OCA Corrected St. 1 at 34.

While UGI witness Fang criticizes Mr. Deupree's analysis on the basis that distribution system investments are inherently lumpy and are influenced by project timing, Ms. Fang's criticism overlooks the period over time in which Mr. Deupree's analysis was conducted.<sup>386</sup> Namely, Mr. Deupree examined the correlation over the past 10 years between changes in UGI's customer base and net additions to distribution plant, instead of examining the correlation between the change in the number of customers and net plant additions in any individual year.<sup>387</sup> By using a larger historical period, if Ms. Fang's proposed MSS were an accurate reflection of the design of UGI's distribution system, there would have been some statistical relationship between the changes in customer count and net plant additions.<sup>388</sup> However, because there is no statistical relationship, no evidence supports the conclusion that the number of customers connected to UGI's distribution system directly influences the Company's investment in distribution plant and that the MSS method, therefore, is inappropriate for UGI's distribution system, specifically.

This conclusion is further supported by the hypothetical Mr. Deupree addressed at hearings: if a no-load customer were interconnected to the distribution system, UGI would not need to invest in additional, upstream distribution plant to serve that customer, only in the customer's meter and services to connect them to the existing system.<sup>389</sup> If there were a customer component to the costs of accounts 364-368, then additional upstream investment would be required to service an additional customer. As the Commonwealth Court recently stated: "Under cost causation principles, the inquiry is 'who causes or influences' those costs."<sup>390</sup> The "cost causation principle is a 'forward-looking principle' that allocates to future beneficiaries their share

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<sup>386</sup> UGI St. 11-RJ at 4-5.

<sup>387</sup> OCA Exh. MWD-2.

<sup>388</sup> OCA St. 1SR at 11.

<sup>389</sup> Tr. 242-44.

<sup>390</sup> *Phila. Indus. & Comm. Gas Users Grp. v. Pa. PUC*, 342 A.3d 140, 156 (Pa. Cmwlth. 2025) (*PICGUG*).

of the costs” and does not assess to customers the costs of the benefits to customers “in hindsight.”<sup>391</sup> Because the interconnection of additional customers to UGI’s distribution system is not correlated, in actuality or hypothetically, with growth in investment in the distribution system, the proposed MSS ACOSS is inconsistent with cost causation principles.

Therefore, UGI has failed to meet its burden of proof that the MSS analysis presented by Ms. Fang is appropriate to use for purposes of setting rates for UGI’s distribution system.<sup>392</sup> As stated by Mr. Deupree: “The MSS approach is fundamentally flawed and provide[s] little to no value as to the just and reasonable setting of rates. Research has shown this method is flawed, and some state regulatory commissions have gone so far as to expressly reject its use.”<sup>393</sup>

For these reasons, OCA witness Deupree recommends the cost of primary and secondary distribution plant be allocated based solely on demand, excluding the customer component included in UGI’s proposed MSS.<sup>394</sup> While Mr. Deupree’s recommendation does not allocate costs to recognize that UGI’s distribution system serves a customer connection function, this is because the record evidence in this proceeding does not support such a conclusion. Rather, allocating costs on a 100% demand basis “better aligns with cost causation principles and the way the Company’s distribution system is designed and operated.”<sup>395</sup>

The Commission has recently and consistently adopted the approach, in the context of selecting the appropriate ACOSS methodology for the allocation of the costs of natural gas distribution mains, that the customer connection function of a distribution system does not need to materialize in the selection of the ACOSS methodology used to allocate revenue and design

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<sup>391</sup> *PICGUG*, 342 A.3d at 156-57 (citing *Louisiana Public Service Commission v. Fed. Energy Reg. Comm’n*, 184 F.3d 892, 896 (D.C. Cir. 1999)).

<sup>392</sup> 66 Pa. C.S. § 315(a).

<sup>393</sup> OCA Corrected St. 1 at 35.

<sup>394</sup> OCA Corrected St. 1 at 35.

<sup>395</sup> OCA Corrected St. 1 at 35.

rates.<sup>396</sup> In *Columbia 2025*, the Commission stated: “we remain of the opinion that although mains serve customers, it is the throughput that determines the type of main investment because it is the load that determines the main investment, not the number of customers served.”<sup>397</sup> The same principle applies in the electric distribution context. As a result, the OCA recommends that the Commission (1) find that the use of UGI’s proposed MSS ACOSS would not result in the determination of just and reasonable rates and (2) select the OCA’s proposed alternative ACOSS which uses a 100% demand allocation for the cost of primary and secondary distribution plant.

## **B. Revenue Allocation**

UGI’s proposed revenue allocation is based on its faulty MSS ACOSS, which the OCA recommends that the Commission grants little weight. Instead, the OCA recommends that the Commission adopt the revenue allocation proposal of OCA witness Deupree, which is based on his alternative ACOSS methodology, allocating the cost of primary and secondary distribution plant on a 100% demand basis, because it more accurately reflects cost causation on UGI’s distribution system. In addition, OCA witness Deupree recommends that the Commission adopt a gradualism ceiling of 1.15 times the system average increase when allocating revenue in this proceeding.<sup>398</sup> In light of the significant affordability challenges that UGI’s customers face,<sup>399</sup> as indicated by record evidence in this proceeding, the OCA’s recommended revenue allocation provides the best apportionment of revenue through its ACOSS selection and gradualism constraints.<sup>400</sup>

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<sup>396</sup> *Columbia 2025* at \*162.

<sup>397</sup> *Columbia 2025* at \*162.

<sup>398</sup> OCA Corrected St. 1 at 36-40.

<sup>399</sup> OCA Corrected St. 1 at 5-20; OCA St. 1SR at 2-7; OCA Corrected St. 6 at 6-41; OCA Corrected St. 6SR at 2-4, 13-18, 22-23, 30-44.

<sup>400</sup> OCA Corrected St. 1 at 5-20, 27; OCA St. 1SR at 1-8; *Popowsky v. Pa. Pub. Util. Comm’n*, 683 A.2d 958, 961 (Pa. Cmwlth. 1996) (*Popowsky 1996*) (providing that the Commission is vested with significant discretion in determining what factors to consider when establishing just and reasonable rates).



The Commission considers the results of cost of service studies to address ratemaking concerns such as unreasonable inter- and intra-class subsidization through revenue allocation.<sup>401</sup> Class specific revenue responsibilities are established by allocating the system wide revenue deficiency to classes that are under earning relative to their rate of return.<sup>402</sup> This process also includes policy considerations such as those noted by OCA witness Deupree:

Allocating the overall system-wide revenue deficiency entirely on a full cost of service basis can result in a very significant and adverse rate impact for certain under-earning classes. To avoid such a result, regulators often temper the revenue responsibilities assigned to various customer classes in order to meet a set of broad ratemaking policy goals.<sup>403</sup>

The Commission must also consider non-cost factors when determining the appropriate cost of service for each class.<sup>404</sup> Non-cost considerations include rate gradualism, continuity, affordability, and understandability, among others.<sup>405</sup>

While the Commission has typically applied a gradualism ceiling of 1.5 to 2.0 times,<sup>406</sup> instead of 1.15 times, due to the significant revenue increases required of the residential and general service customer classes in this proceeding, the OCA's recommendation is consistent with applicable Commission precedent and supported by the evidentiary record. Further, use of gradualism constraint of 1.15 times system the average increase would not require "one class of customers to subsidize the cost of service for another class of customers over an extended period of time," the Commonwealth Court's concern in *Lloyd*.<sup>407</sup> Instead, by authorizing no customer

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<sup>401</sup> *Lloyd v. Pa. PUC*, 904 A. 2d 1010, 1020 (Pa. Cmwlt. 2006).

<sup>402</sup> OCA Corrected St. 1 at 36.

<sup>403</sup> OCA Corrected St. 1 at 36.

<sup>404</sup> *Phila. Elec. Co. v. Pa. Pub. Util. Comm'n*, 470 A.2d 654, 658 (Pa. Cmwlt. 1984); *Hoover v. Pa. R.R.*, 27 A. 282, 283 (Pa. 1893) (it is appropriate to consider the conditions and circumstances of service when designing rates).

<sup>405</sup> OCA Corrected St. 1 at 37.

<sup>406</sup> See, e.g., *Pa. PUC v. PECO Energy Co. – Gas Div.*, 2021 Pa. PUC LEXIS 241 at 136 (Order June 22, 2021) (*PECO Gas 2021*) ("[A]lthough there are no definitive rules for determining what kind of rate increase would violate the principle of gradualism, limiting the maximum average rate increase for any particular class to 1.5 to 2.0 times the system average increase is one common metric that has been used by experts in the Commonwealth.").

<sup>407</sup> *Lloyd*, 904 A. 2d at 1020.

class to bear a revenue increase greater than 1.15 times the system average increase, all customer classes would move closer to their cost of service, as indicated by the ACROSS selected in this proceeding, while mitigating the significant impact that the Company's proposal would have on residential and small general service customers in allocating the two classes over 95% of the total revenue increase.<sup>408</sup> Further, such a gradualism ceiling would reflect the evidence presented in this proceeding regarding affordability pressures, which are having a peculiar impact on the customer classes to which the largest share of revenue will be allocated.<sup>409</sup> No party submitted testimony that the OCA's proposed gradualism constraint was unreasonable.<sup>410</sup> Indeed, the OSBA submitted testimony supporting OCA witness Deupree's proposed gradualism constraint of 1.15.<sup>411</sup>

For these reasons, the OCA recommends that the Commission adopt the revenue allocation proposal of OCA witness Duepre, which appropriately utilized a 100% demand-based allocation factor for the costs of primary and secondary distribution plant and a gradualism constraint which did not allocate revenue to a customer class in excess of 1.15 times the system average increase.

### **C. Rate Design and Customer Charges**

The Commission should reject UGI's proposed residential customer charge increase, which is not supported by substantial evidence and is inconsistent with principles of maintaining rate consistency, promoting conservation, encouraging affordability, and maintaining equity for low-income customers. UGI has proposed an enormous increase of 104.7% to its residential customer charge, increasing from \$10.75 to \$22.00, or by \$11.25.<sup>412</sup> UGI's proposal threatens to

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<sup>408</sup> OCA Corrected St. 1 at 39-40.

<sup>409</sup> OCA Corrected St. 1 at 5-20; OCA St. 1SR at 1-8.

<sup>410</sup> See UGI St. 11-RJ at 6 (stating a preference for the Company's proposed revenue allocation but not opining that the OCA's proposed gradualism constraint is unreasonable).

<sup>411</sup> OSBA St. 1-R at 2:10-12 ("Regardless of which ACROSS methodology the Commission accepts, I find OCA's rate gradualism constraints to be reasonable given the size of the proposed rate increases in this proceeding.").

<sup>412</sup> OCA Corrected St. 1 at 42.

create rate shock, deprive customers of the ability to control their bills through usage reduction,<sup>413</sup> disproportionately negatively impact low-income customers,<sup>414</sup> and position UGI as having one of the highest customer charges in the region.<sup>415</sup> For these reasons, set forth in full below, the OCA recommends that the Commission deny UGI's request to increase its residential customer charge.

First, UGI earns sufficient revenue through its existing customer charge to cover its customer-related costs without the need for an additional increase. Namely, the residential customer charge of \$10.75 per month recovers 39.44% of the estimated customer-related cost of \$27.26 per month at the Company's as-filed revenue requirement position.<sup>416</sup> UGI's revenue requirement increase request has already decreased by \$1.233 million, or by approximately 7.7%, which will further reduce the amount of customer-related costs in the Company's proposed cost of service.<sup>417</sup> Reductions to the Company's proposed return on equity, which are likely to be substantial, will have a significant impact on the portion of the Company's customer-related costs. As a result, OCA witness Duepre concluded that the Company's current recovery of project customer-related costs "do not demonstrate a need to increase residential and general service customer charges on a cost-causation basis."<sup>418</sup>

Second, if the Company's proposed customer charge were adopted, UGI would have a residential customer charge substantially higher than the average among electric distribution companies in the region of \$11.24 per month, only slightly higher than the current residential customer charge.<sup>419</sup> Approval of the customer charge proposal would create regulatory inconsistency with other Pennsylvania electric distribution companies.

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<sup>413</sup> OCA Corrected St. 1 at 46-49.

<sup>414</sup> OCA Corrected St. 1 at 49-50.

<sup>415</sup> OCA Corrected St. 1 at 45; OCA Exh. MWD-3.

<sup>416</sup> OCA Corrected St. 1 at 44.

<sup>417</sup> UGI St. 2-R at 2-5.

<sup>418</sup> OCA Corrected St. 1 at 44.

<sup>419</sup> OCA Corrected St. 1 at 45-46.

Third, because UGI's proposed customer charge places a greater portion of customers' rates into the fixed component than the variable component, the customer charge proposal will deter energy efficiency and conservation and reduce customers' control over their bills.<sup>420</sup> Under UGI's proposal, the portion of a residential customer occupied by the customer charge will increase from 5.5% of the bill for a customer using 1,000 kWh to 9.7% of their monthly bill.<sup>421</sup> While the OCA disagrees with the analysis utilized by the Commission in *Columbia 2025* to determine whether the proposed customer charge increase would violate the principle of gradualism,<sup>422</sup> the customer charge proposed by UGI far exceeds the 52.8% increase which would represent an increase to the current customer charge of twice the system average increase.<sup>423</sup> The OCA maintains that, if the Commission were to apply the same reasoning as in *Columbia 2025* to determine what customer charge increase would be appropriate for this proceeding, the resulting customer charge increase would be far in excess of what is reasonable.<sup>424</sup>

The correct consideration is to roughly maintain the portion of the customers' bills occupied by the customer charge; dramatic changes to the portion of customers' bills occupied by the customer charge can dilute price signals which incent customers to conserve and invest in energy efficiency improvements. The customer charge increase proposed by UGI will reward customers less over time for investing in energy efficiency improvements or, as stated by OCA witness Deupree, the proposal "reduces economic incentives for ratepayers to control monthly utility bills through energy efficiency and conservation efforts, because only the variable component of bills is avoidable."<sup>425</sup>

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<sup>420</sup> OCA Corrected St. 1 at 46.

<sup>421</sup> UGI St. 11-R at 26.

<sup>422</sup> *Columbia 2025* at \*182.

<sup>423</sup> See OCA Exh. MWD-4.

<sup>424</sup> *Columbia 2025* at \*182.

<sup>425</sup> OCA Corrected St. 1 at 46.

Fourth, the proposed customer charge increase would negatively impact the ability of low-income, low usage households to afford their monthly bills. While UGI argues that the Commission can improve affordability by increasing month-to-month bill stability through a higher customer charge, this argument is unsupported and demonstrates the Company's interest in ensuring long-term revenue stability instead of a concern for the affordability of its customers.<sup>426</sup> OCA witness Deupree conducted an analysis which "clearly shows that as income increases, electricity consumption increases, and vice versa: as income decreases, electricity usage decreases," with the exception of households between \$0 and \$4,999 per year, as depicted in Table 6 of his Direct Testimony.<sup>427</sup> Low usage customers, who are disproportionately low-income customers,<sup>428</sup> will face a higher energy burden under the Company's proposal than under the current customer charge or a customer charge increase which would occupy the same proportion of a customer's monthly bill.<sup>429</sup>

If the Company wishes to encourage households to better address seasonal bill variations, UGI "should engage in a more aggressive marketing of budget billing, particularly to customers (low-income and not) who experience payment difficulties."<sup>430</sup> Budget billing permits customers to normalize their annual bills over the course of a year, eliminating seasonal variations at the customer's election.<sup>431</sup> Customers may have a valid basis to wish to have lower bills during shoulder months than summer or winter peaks, such as using the additional savings to contribute towards energy efficiency investments in the home. UGI's proposal robs its residential customers

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<sup>426</sup> Compare UGI St. 11-R at 33-34 with *Columbia 2025* at \*179 ("While we understand the reasons behind the Company's request for greater revenue recognition from fixed monthly charges, in reviewing changes in rate design, it is important that we balance the interests of utilities ( i.e., revenue stability) and consumers ( i.e., affordability and conservation concerns).").

<sup>427</sup> OCA Corrected St. 1 at 50.

<sup>428</sup> OCA St. 1SR at 15.

<sup>429</sup> OCA Corrected St. 1 at 49-51.

<sup>430</sup> OCA Corrected St. 6 at 38.

<sup>431</sup> UGI Exh. F, Supplement No. 92 to UGI Electric Pa. PUC No. 6, Second Revised Pages 25-26 (Tariff Rule 13-e).

of their choice to pursue budget billing to address seasonal variations in bills, or to elect to have control over the distribution component of their monthly bills based on their actual consumption.

For these reasons, the OCA recommends that the Commission reject UGI's proposal to more than double its current residential customer charge, from \$10.75 to \$22.00, or 104.7%. As the Commission recently stated:

We find compelling the Parties' arguments that the Company's residential customer charge proposal is poised to produce significant price increases for low usage customers, which could be negatively exhibited in two ways. First, it will serve to penalize those customers who have invested in energy efficiency and minimized their consumption. Second, for low income customers who have reduced their usage to fit a budget, the bill increase, associated with the shifting of costs to the customer charge, represents another obstacle to financial stability. The Company has not adequately rebutted the notion that the ability of consumers (the most vulnerable of which are low income customers not enrolled in CAP) to save money on their distribution bills through energy efficiency investment or conservation is reliant on a bill structure that bases the recovery of costs on volumetric throughput.<sup>432</sup>

In *Columbia 2025*, the Commission emphasized its ability to consider factors beyond just the indicated cost of service when designing customer charges.<sup>433</sup> In this case, UGI failed to meet its burden of proof that the proposed customer charge would result in just and reasonable rates.<sup>434</sup> As a result, the Commission should maintain UGI's existing residential customer charge of \$10.75.

#### **D. Scale Back**

While the OCA did not specifically present testimony regarding the appropriate manner in which the Commission should authorize UGI to scale back the revenue allocation proposals of the parties should the Commission grant a revenue increase less than that proposed by the Company, the recommendation of I&E is reasonable.<sup>435</sup> I&E witness Cline recommends that the Commission

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<sup>432</sup> *Columbia 2025* at \*179-80.

<sup>433</sup> *Columbia 2025* at \*180 (citing *Popowsky 1996*).

<sup>434</sup> 66 Pa. C.S. § 315(a).

<sup>435</sup> I&E St. 3 at 12.

scale back the revenue allocation proportionately based on the cost of service study approved by the Commission, inclusive of scaling back customer charges.<sup>436</sup> Mr. Cline’s proposal is consistent with the scale-back methodologies recently approved by the Commission.<sup>437</sup> A scale-back proposal appropriately recognizes that, as the Commission-approved cost of service for a utility decreases, so too does the cost of service by customer class indicated by the selected cost of service study, inclusive of the costs which provide the basis for individual rate components such as a fixed monthly customer charge. For these reasons, the OCA recommends that the Commission adopt the scale-back proposal of I&E witness Cline.

## **X. CUSTOMER SERVICE AND QUALITY OF SERVICE**

The Commission should consider the service quality and customer service issues present in this case in its setting of just and reasonable rates for UGI’s customers.

Service<sup>438</sup> must be adequate, efficient, safe, and reasonable.<sup>439</sup> In setting just and reasonable rates, the Commission “shall consider...the efficiency, effectiveness and adequacy of service of each utility.”<sup>440</sup> The Commission can direct the adequate, reasonable, safe, sufficient service to be observed and furnished by the utility.<sup>441</sup> The Commission can order improvements to service as a condition of any rate increase.<sup>442</sup> The Commission has recently and properly recognized that “[a] base rate proceeding ‘is the proper venue for hearing [] customer service

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<sup>436</sup> I&E St. 3 at 12.

<sup>437</sup> *Columbia 2025* at \*174, 184.

<sup>438</sup> “Service” is used broadly and inclusively, and captures “any and all acts done, rendered, or performed” by public utilities. 66 Pa. C.S. § 102; *West Penn Power Co. v. Pa. PUC*, 578 A.2d 75, 77 (Pa. Cmwlth. Ct. 199)). As such, all parts of a public utility’s customer service must be adequate in order for the utility to comply with the requirements of Section 1501 of the Code, and “inappropriate and unreasonable treatment to customers can be interpreted as inadequate service.” See, e.g., *Laura Andracchio Johnson and Charles Johnson v. Duquesne Light Co.*, Docket No. C-2022-3032695, 2023 PA. PUC LEXIS 343 at \*17, Order (Dec. 21, 2023) (citing *Barbara R. Lolly v. Duquesne Light Co.*, Docket No. C-2010-2167824, Order (May 9, 2011)).

<sup>439</sup> 66 Pa. C.S. § 1501.

<sup>440</sup> 66 Pa. C.S. § 523.

<sup>441</sup> 6 Pa. C.S. §§ 1504, 1505.

<sup>442</sup> *Pa. PUC v. Pa. Gas & Water Co.*, 74 PUR4th 238, 244-45 (1986) (PG&W 1986); *Pa. PUC v. Phila. Gas Works*, 2000 Pa. PUC LEXIS 876, \*41-44, Order (Nov. 22, 2000) (PGW 2000).

issues.”<sup>443</sup> In the 2023 PGW base rate case, the Commission explicitly identified that the following factors were relevant considerations in evaluating whether PGW’s proposed rates were just and reasonable: (1) PGW’s management quality, efficiency, and effectiveness; (2) service quality and reliability; and (3) effect on universal service.<sup>444</sup> The Commission may also condition a portion of a utility’s requested rate increase on its compliance with service adequacy objectives.<sup>445</sup> The burden of proof to demonstrate that a public utility’s services are adequate is on the utility; other parties are not required to demonstrate the utility services are inadequate for the Commission to decide that such is the case.<sup>446</sup>

A primary concern of the OCA is that UGI did not present any information regarding its customer service performance or compliance related issues “with respect to the operation of its customer call center, complaints, Chapter 56 compliance, or customer satisfaction measures.”<sup>447</sup> UGI dismissed this concern, stating that the rate filing “focused on a limited range of primary drivers for the requested rate relief and not an exhaustive listing of activities that will be funded by the rates produced as an outcome of this proceeding. However, the requested rate relief will support ongoing customer service performance.”<sup>448</sup> It is important for the Commission to review and evaluate UGI’s customer service in the context of this proceeding and UGI’s “obligation to consider the ‘adequacy of service’ provided to its customers.”<sup>449</sup>

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<sup>443</sup> *Pa. PUC v. Phila. Gas Works*, 2023 PA. PUC LEXIS 93, Order at 193 (April 20, 2023) (PGW 2023).

<sup>444</sup> PGW 2023 at 193-194, citing 52 Pa. Code §§ 69.2703(a)(6)-(8). Although the Commission’s citation was made in the context of a Policy Statement applicable to PGW’s cash flow ratemaking method, it would be antithetical to public policy and the principles of just and reasonable ratemaking to determine that UGI’s status as an investor-owned utility somehow exempts it from meeting these standards.

<sup>445</sup> *Nat’l Utils. v. Pa PUC*, 709 A.2d 972, 977-78 (Pa. Cmwlth. Ct. 1998) (quoting *D.C. Transit System, Inc. v. Wash. Metro. Transit Comm’n*, 466 F.2d 394, 417 (D.C. Cir. 1972)).

<sup>446</sup> 66 Pa. C.S. § 315(c); *Pa. PUC v. Duquesne Light Co.*, Docket No. R-2021-3024750, Order at n. 14 (Dec. 16, 2021) (“While Section 315(a) addresses the utility’s burden with respect to ‘rates,’ Section 315(c) also places on the utility the burden to show that the service and facilities it provides are ‘adequate, efficient, safe, and reasonable [.]’”

<sup>447</sup> OCA St. 5 (PUBLIC) at 7.

<sup>448</sup> OCA St. 5 (PUBLIC) at 7 (quoting UGI Electric Response to OCA-3-45 (emphasis added)).

<sup>449</sup> OCA St. 5 (PUBLIC) at 9.



OCA witness Alexander made the following recommendations regarding UGI's customer service which should be adopted by the Commission as part of any rate increase:

- UGI Electric should be required to meet its 2024-2025 call center performance standards in its rate effective year as a condition of any rate increase ordered in this proceeding. In addition, the Company should be required to improve its call center performance in months with higher level of customer calls to improve significant deterioration in those months.
- UGI Electric should be required to create and implement field agent training and compliance oversight to implement the Chapter 56 requirements to attempt personal contact immediately prior to termination of service with the minimum content that I have listed in this testimony.
- UGI's web portal serves both its gas and electric Pennsylvania customers but the website is dominated by information for its larger gas service customer base. A more distinctive section of this website should be created to provide a targeted set of information for electric service customers.
- UGI Electric should be required to develop and implement the findings of a Root Cause Analysis of customer complaints similar to that ordered for UGI-Gas in its 2025 base rate case.
- UGI should adopt additional and more targeted customer communications to assist customers in ensuring affordability for basic natural gas service due to high EGS charges that appear on the customer bill that UGI collects under threat of termination of service. In addition, UGI's bill should be reformed to more directly link the presentation of EGS charges with the Price to Compare (PTC).<sup>450</sup>

In rebuttal testimony, UGI agreed with the OCA's recommendation regarding developing and implementing the findings of a Root Cause Analysis of customer complaints similar to that ordered for UGI Gas in its 2025 base rate case, and indicated through discovery that the scope of UGI Gas' root cause analysis includes UGI Electric because "they share the same call center resources."<sup>451</sup> The OCA offers additional recommendations for improvements in UGI's quality of customer service and asks that they be imposed as conditions of any rate increase awarded to UGI.

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<sup>450</sup> OCA St. 5 (PUBLIC) at 5-6.

<sup>451</sup> UGI St. 13R at 4.

These additional recommendations are not “performance-based rate mechanisms”<sup>452</sup> because they do not link rewards or penalties to the reforms recommended.<sup>453</sup> Instead, these recommendations acknowledge the importance of customer service performance and the need to review customer service and quality of service issues in a rate case and reflect a review of obligations that are directly related to UGI’s proposed rate increase. Moreover, even if they were performance based recommendations, the Commission has recently held that it has the authority to impose performance-based rates as part of a rate base case.<sup>454</sup>

**A. UGI should be required to meet its 2024-2025 call center performance standards**

The Commission should require UGI to meet its internal call center performance standards in the rate effective year and require UGI to improve its call center performance in months with higher levels of customer calls to improve significant deterioration in those months.<sup>455</sup> OCA witness Alexander testified that her review of the call center performance metrics showed that UGI’s “annual average Abandonment Rate increased from 4% in 2024 to 4.7% in 2025” while equaling the 2024 metric of 86% of calls answered within 30 seconds.<sup>456</sup> OCA witness Alexander testified to her particular concern “that the monthly abandonment rate reflects a wide range of customer call performance experience, reflecting a significant[] deterioration with abandonment rates of 6.14% in February, 9.57% in October, and 7.51% in November 2025.”<sup>457</sup> OCA witness Alexander further testified that “[t]he same sharp deterioration in performance occurred in March

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<sup>452</sup> See UGI St. 1R at 28.

<sup>453</sup> See OCA St. 5R at 4-5.

<sup>454</sup> *PUC v. Pa. American Water Co.*, Docket Nos. R-2025-3057983 *et al*, Order at 144 (July 27, 2026).

<sup>455</sup> *Id.* at 5, 14.

<sup>456</sup> OCA St. 5 (PUBLIC) at 12-13; OCA St. 5R at 6.

<sup>457</sup> OCA St. 5 (PUBLIC) at 14.

2026 with an abandonment rate of 9.64%” and that “[c]ustomers also experienced call answering percentages of below 80% during these same months with long wait times.”<sup>458</sup>

Although UGI believes the OCA’s recommendations unnecessary in light of its internal performance metrics for measuring management quality and the Commission’s determination in the most recent Columbia Gas proceeding,<sup>459</sup> UGI is not currently accountable to maintaining its internal performance metrics and could “legally reduce its investments in the call center to respond to lower revenues or lower profits than anticipated.”<sup>460</sup> Moreover, although the Commission found the OCA’s recommendation to require Columbia Gas to maintain its 2024 call center performance unnecessary in that case, the Order also cited to Columbia Gas’ record evidence regarding steps it was taking to improve call center performance.<sup>461</sup> UGI did not identify any similar steps it would take to improve the sharp deterioration of call abandonment rates identified by OCA witness Alexander.<sup>462</sup> Further, the OCA submits that, as OCA witness Alexander testified, documenting steps being taken for improvement does not provide the same level of accountability to its customers or the Commission as to the quality of customer service, which is an important part of any rate case proceeding.<sup>463</sup> The OCA is not asking the Commission to impose performance-based rates on UGI,<sup>464</sup> as there is no penalty being attached if they fail to meet the standard nor reward if they meet the standard,<sup>465</sup> but instead to require it as part and parcel of any rate increase for UGI to maintain and be held accountable for meeting its own internally set standards. Advocating for

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<sup>458</sup> OCA St. 5 (PUBLIC) at 14.

<sup>459</sup> See UGI St. 13-R at 4 (citing *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2025-3053499 (Dec. 9, 2025), Opinion and Order at 311).

<sup>460</sup> See OCA St. 5 (PUBLIC) at 10-11.

<sup>461</sup> OCA St. 5 (PUBLIC) at 11.

<sup>462</sup> See OCA St. 5 (PUBLIC) at 14.

<sup>463</sup> OCA St. 5 (PUBLIC) at

<sup>464</sup> See UGI St. 1R at 28.

<sup>465</sup> See OCA St. 5R at 4-5.

the Commission to adopt these standards during a rate case where such issues are appropriately raised and addressed is not the same as creating performance-based rate mechanisms.

The Commission should require UGI to maintain its performance of calls answered within 30 seconds and to improve the call abandonment rate to equal its 2024 performance, particularly focusing on the months where there has been deterioration.

**B. UGI should be required to develop and implement field agent training and compliance oversight to implement Chapter 56 protections and requirements related to termination of service.**

The Commission should require UGI to develop proper agent training and compliance related documents and solicit input from relevant stakeholders prior to any implementation of those documents.<sup>466</sup> Currently, UGI does not have any documents or written classroom formal training for field agents regarding service disconnection for nonpayment.<sup>467</sup> Although UGI has a form of “on the job training,” UGI’s response to OCA discovery failed to make mention of Chapter 56 mandates requiring an attempt at personal contact immediately prior to termination of service.<sup>468</sup> Instead, UGI responded that it “plans to evaluate this element of training along with other field training as part of its approach to continuous improvement in the near future.”<sup>469</sup>

OCA witness Alexander testified that UGI Gas was recently required, as a condition of its 2025 base rate case settlement, to develop revised and updated training materials that were then submitted to stakeholders for comment.<sup>470</sup> OCA witness Alexander then recommended that UGI Electric similarly be required to develop proper agent training and compliance related documents that include:

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<sup>466</sup> See OCA St. 5 (PUBLIC) at 17.

<sup>467</sup> OCA St. 5 (PUBLIC) at 16-17 (citing Exhibit BA-3 (UGI Electric Response to OCA-3-6)).

<sup>468</sup> OCA St. 5 (PUBLIC) at 17.

<sup>469</sup> OCA St. 5 (PUBLIC) at 17.

<sup>470</sup> OCA St. 5 (PUBLIC) at 17.

- The training materials need to reflect a written manual that includes a complete description of the obligation to knock on the customer's door prior to termination of service and require that the field agents are familiar with and can properly react to all the rights that a customer has to avoid termination of service, including a declaration of a medical emergency, a statement that payment has been made, a request for a payment plan and access to low income affordability programs, and indication of a protection from abuse order or other evidence of domestic violence.
- A high priority should be implemented to promptly train and supervise for compliance on these long-standing regulatory requirements.
- The purpose of the attempt at contact should require the field technician to at least refer the customer to their rights as stated in the most recent notice and solicit customer statements. If there is visible evidence of criteria that would trigger these rights, such as medical equipment, the field technician should be required to affirmatively inquire as to the existence of a medical emergency.<sup>471</sup>

Without these changes, UGI's training for field agents is deficient to protect customers' rights regarding termination of service.<sup>472</sup>

The OCA posits that UGI's rebuff of OCA witness Alexander's concerns and recommendations that field agents should be trained and familiar with customers' rights in avoiding termination of service because "they are not trained to function as customer service representatives or to assess sensitive customer matters such as medical conditions or income status" and as such "are not the appropriate resource to solicit or evaluate this type of information" should be rejected.<sup>473</sup> Even if customers are provided with multiple notifications outlining rights and available protections prior to termination as UGI asserts, one of those steps is in-person contact via telephone or by home visit,<sup>474</sup> and UGI stated that its field technicians "are responsible for in-person contact and the physical termination of service in the field."<sup>475</sup>

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<sup>471</sup> OCA St. 5 (PUBLIC) at 17-18.

<sup>472</sup> See OCA St. 5 (PUBLIC) at 17-18; OCA St. 5SR at 12-13.

<sup>473</sup> UGI St. 3R (PUBLIC) at 9.

<sup>474</sup> 52 Pa. Code § 56.93.

<sup>475</sup> See UGI St. 3R (PUBLIC) at 9-10.

Further, as OCA witness Alexander testified, “UGI’s field technicians have an obligation to attempt contact and recognize and respond to any contact with the customer or responsible adult in an appropriate manner.”<sup>476</sup> As such, UGI technicians need to be trained on how to respond to evidence of a customer’s rights, “including how and when to halt the termination and/or report the customer’s situation to internal management.”<sup>477</sup> Not training field technicians who are the individuals UGI sends to attempt the final conduct is not in line with the purpose of Chapter 56’s customer protections regarding termination of service.<sup>478</sup> UGI should thus be required to adopt the OCA’s recommendations on training materials.

**C. UGI should be required to further revise its written confirmations of customer payment arrangements.**

The OCA recommends that UGI be required to further revise the written communication it provides to customers when confirming a payment arrangement to provide better protections to its customers. OCA witness Alexander testified that the written communication is defective because it fails to include a notice of customer rights, and UGI should revise the document to include the notice of customer rights, “including the right to a dispute the terms of the payment arrangement with UGI and, if not satisfied, how to file an informal complaint to the Commission.”<sup>479</sup> OCA witness Alexander testified that UGI “is aware of how to present these rights as it does so in its notice of denial of service” and that the Commission should require UGI to add a similar disclosure to its written confirmations of payment arrangements.<sup>480</sup> Requiring UGI to provide the notice of customer rights when confirming a payment arrangement is important because it alerts customers that their customer rights continue to apply once a payment

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<sup>476</sup> OCA St. 5R at 13.

<sup>477</sup> OCA St. 5R at 13.

<sup>478</sup> 52 Pa. Code § 56.91-.94

<sup>479</sup> OCA St. 5 (PUBLIC) at 19.

<sup>480</sup> OCA St. 5 (PUBLIC) at 19.

arrangement is entered into between UGI and the customer. Thus, the Commission should require UGI to further revise its written communications confirming payment arrangements.

**D. UGI should be required to create a more distinctive section of its website for its electric service customers.**

UGI utilizes the same website to serve both its Gas Division and Electric Division customers.<sup>481</sup> The landing page for UGI's current website, however, is dominated by information pertaining to its larger gas service customer base.<sup>482</sup> Even though UGI witness Adamo testifies that many pages listed on the UGI landing page are applicable to both electric and gas customers,<sup>483</sup> there are several large blocks of information on the landing page related to the marketing of natural gas service and not related to safety or reliability reasons necessitating larger portions of the website being related to servicing natural gas customers.<sup>484</sup> Requiring UGI to create a more distinctive section of its website would allow for more information that directly targets its electric service customers as opposed to the gas service customers.

**E. UGI should be required to provide additional electric supply shopping information to its residential customers.**

The Commission should require UGI to provide additional shopping information to its residential customers in light of the impact on customer bills. OCA witness Alexander reviewed UGI Electric's calculations of how much customers paid to an Electric Gas Supplier (EGS) compared to UGI's price to compare (PTC).<sup>485</sup> Those calculations revealed that the total amount of excess charges was \$230,291.<sup>486</sup> UGI's data also showed that as of March 2026, 463 residential customers were enrolled with an EGS.<sup>487</sup> While UGI does not allow CAP customers to enroll with

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<sup>481</sup> OCA St. 5 (PUBLIC) at 5.

<sup>482</sup> OCA St. 5R at 15-16

<sup>483</sup> UGI St. 13R at 9.

<sup>484</sup> See OCA St. 5R at 16; Exhibit BA-8 at 3-4.

<sup>485</sup> OCA St. 5 (PUBLIC) at 21.

<sup>486</sup> OCA St. 5 (PUBLIC) at 21 (citing Exhibit BA-7 (UGI Electric Response to OCA 3-43)).

<sup>487</sup> OCA St. 5 (PUBLIC) at 21 (citing UGI Electric Response to OCA 3-36).

an EGS, this potential adverse impact on Confirmed Low Income residential customers not enrolled in CAP and who are able to enroll with an EGS should not be ignored.<sup>488</sup>

OCA witness Alexander reviewed UGI's standardized information about retail choice and noted her concern that UGI does not provide any customer specific communications about comparing EGS charges to the PTC.<sup>489</sup> OCA witness Alexander testified that UGI should be required to address this issue because it affects the affordability of basic and essential electric service and although UGI Electric does not purchase receivables and then assume the responsibility for billing and collecting EGS charges, and thus does not "disconnect customers for non-purchase of receivables unpaid balances," UGI still bills EGS charges to its customers.<sup>490</sup> And once UGI takes on the obligation to bill these charges, UGI "has the obligation to properly inform and educate its customers on how to reduce their electric bill and avoid unnecessary high EGS charges."<sup>491</sup>

To better inform customers about their likelihood of paying more to an EGS as compared to the PTC, OCA witness Alexander recommended that

UGI eliminate any reference to the potential to "save" in any presentation of retail choice since that is not the actual experience for the vast majority of residential customers who choose an EDS. The Company should include information in its FAQs and customer bill inserts about the right to choose and explain that the risk of higher prices is documented and how to avoid higher prices and bills. UGI should explain how to shop and compare EGS prices during the entire term of the contracts and alert customers to the potential for a change in the EGS price after any initial promotional price and how EGS variable rates can reflect volatile changes in the wholesale market that are not reflected in the more stable PTC. This fact-based content is justified by the actual results of residential customer shopping as documented both historically and most recently in UGI's analysis provided in this proceeding.<sup>492</sup>

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<sup>488</sup> OCA St. 5 (PUBLIC) at 21.

<sup>489</sup> OCA St. 5 (PUBLIC) at 21.

<sup>490</sup> OCA St. 5 (PUBLIC) at 22.

<sup>491</sup> OCA St. 5R at 15.

<sup>492</sup> OCA St. 5 (PUBLIC) at 23.



OCA witness Alexander further recommended that “UGI develop targeted communication to customers with EGS charges that increase significantly over the PTC to alert them to compare that price to the PTC and include a calculation that documents this difference in the customer’s recent bill(s).”<sup>493</sup> UGI’s rebuff of these proposals as not needed to comply with current regulations, “not appropriate for a base case,” and as an extra unwarranted cost<sup>494</sup> should be rejected because the argument does not rebut OCA witness Alexander’s testimony as to the cost of shopping on UGI’s customers and UGI’s ability and obligations to address customers’ understanding related to the EGS charges, which are directly applicable to the issues in this base rate proceeding.<sup>495</sup> Moreover, the cost that UGI identifies is a *de minimis* amount and not a reason for UGI to ensure its customers have a better understanding of EGS charges in comparison to the PTC.<sup>496</sup>

Finally, the OCA recommends that UGI’s bill should be reformed to more directly link the presentation of EGS charges with the PTC, as UGI identifies the PTC on the first page of its residential customer bills, but then identifies default service as “Generation Charge” in the itemized list of customer charges.<sup>497</sup> OCA witness Alexander recommends that the Commission require UGI to “either specifically reference the PTC in the ‘Generation Charge’ which is the label on the bill for the EGS charges or make clear in the Shopping Information Box that the PTC is the price for ‘Generation Charge.’” to ensure that customers can easily compare EGS charges to the PTC.<sup>498</sup>

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<sup>493</sup> OCA St. 5 (PUBLIC) at 23.

<sup>494</sup> UGI St. 13R at 5-6.

<sup>495</sup> OCA St. 5SR at 14-15.

<sup>496</sup> OCA St. 5SR at 14-15.

<sup>497</sup> OCA St. 5 (PUBLIC) at 19 (citing Exhibit BA-7 (UGI Electric Attachment OCA-3-7(e)).

<sup>498</sup> OCA St. 5 (PUBLIC) at 19-20; OCA 5R at 14.

## **XI. CUSTOMER ASSISTANCE PROGRAMS AND LOW-INCOME ISSUES**

The Pennsylvania Public Utility Code provides that “[e]very rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission.”<sup>499</sup> The Pennsylvania Public Utility Commission has also made clear that affordability is an aspect of what constitutes a “just and reasonable” rate.<sup>500</sup> The statutory role of the Office of Consumer Advocate further confirms that consumer interests are properly considered in Commission proceedings. The statute expressly provides that the Consumer Advocate “shall” represent consumers’ interests before the Commission and, in determining which consumer interests to advocate, “shall consider” both the public interest and “the substantiality of the effect of the proceeding on the interest of consumers.”<sup>501</sup>

These statutory directives would be rendered largely meaningless if the Commission’s inquiry were limited exclusively to whether rates reflect the prudent costs of providing utility service, as Ms. Fang and Ms. Rogers propose.<sup>502</sup> The legislature’s express requirement that the Consumer Advocate consider the substantial impact of a proceeding on consumers demonstrates that consumer impacts, including affordability, are a relevant component of the Commission’s broader obligation to ensure that rates are just and reasonable. Indeed, it would make little sense for the legislature to require the Consumer Advocate to represent consumers and expressly

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<sup>499</sup> 66 Pa.C.S. § 1301.

<sup>500</sup> See, e.g., *Pa. PUC v. Columbia Gas Company*, Docket R-2025-3053499, at 32–33, 37, 279–80; see also *Pa. PUC v. Roaring Creek Water Co.*, 73 Pa. PUC 373, 400 (1990) (recognizing that affordability is in the interests of both shareholders and ratepayers because affordable bills maximize revenues and enable ratepayers to continue receiving essential service).

<sup>501</sup> 71 P.S. § 309-4 (emphasis added).

<sup>502</sup> OCA Corrected St. 6 at 7; see also UGI St. R1 at 23, UGI St. 11R at 3, 54.

consider the substantial effects of a proceeding on consumers if those effects were categorically irrelevant to the Commission's ratemaking determination.<sup>503</sup>

Unaffordable utility rates are not solely a burden on customers; they can also create financial and regulatory risks for the utility.<sup>504</sup> Because credit-rating agencies themselves recognize customer affordability as a factor affecting utility credit quality, affordability is a legitimate consideration in determining rates and the utility's return.<sup>505</sup>

Affordability is also a critical consideration in establishing a utility's return on equity. The principles articulated by the U.S. Supreme Court in *Hope* and *Bluefield* are not directed solely to the interests of investors.<sup>506</sup> Rather, both decisions expressly recognize that the determination of "just and reasonable" rates requires a balancing of investor and ratepayer interests.<sup>507</sup> Accordingly, the Commission cannot meaningfully balance those interests unless it considers the interests of both sides, including the affordability of the rates that result from the authorized return on equity.<sup>508</sup>

**A. Base Rate Proceedings Are the Appropriate Forum for Consideration of Macroeconomic Conditions, Customer Affordability, and the Establishment of Just and Reasonable Rates.**

The PUC has broad discretion in determining whether rates are reasonable. *City of Pittsburgh v. Pennsylvania Public Utility Commission*, 42 Pa. Commw. 242, 400 A.2d 672 (Pa. Cmwlth. 1979). Moreover, the PUC is vested with discretion to decide what factors it will consider

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<sup>503</sup> *Id.*; see also 71 P.S. § 309-4(a), (c).

<sup>504</sup> OCA Corrected St. 6 at 8.

<sup>505</sup> OCA Corrected St. 6 at 8.

<sup>506</sup> OCA Corrected St. 6 at 9.; see *supra* Part I.C.4 (discussing the Reasonable Opportunity to Earn a Fair Rate of Return).

<sup>507</sup> *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944); *Bluefield Waterworks & Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923).

<sup>508</sup> OCA Corrected St. 6 at 9.



it is also a factor bearing on the utility's financial and revenue-raising capacity.<sup>513</sup> Although S&P's criteria discussed in the Burke 2020 paper concerned water and sewer utilities, the underlying principle is applicable to electric ratemaking: the financial capacity of the customers from whom a utility must recover its costs is relevant to assessing the utility's ability to sustain revenues and financial strength.<sup>514</sup>

Pennsylvania law does not prescribe a single methodology for determining whether utility rates are just and reasonable.<sup>515</sup> Rather, the Pennsylvania Public Utility Commission has broad discretion to determine what factors it will consider in evaluating rates.<sup>516</sup> The Commission has likewise recognized that an alternative rate design should be just and reasonable and "consider customer impacts."<sup>517</sup> Accordingly, the Commission may consider the ability of customers to afford proposed rates as part of its determination whether those rates are just and reasonable.<sup>518</sup> This consideration is particularly appropriate here, where Mr. Colton's<sup>519</sup> analyses and data demonstrate substantial affordability burdens across UGI Electric's customer base.

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<sup>513</sup> OCA Corrected St. 6 at 21-22.

<sup>514</sup> OCA Corrected St. 6 at 21-22.

<sup>515</sup> *McCloskey v. Pa. PUC*, 225 A.3d 192, 195, 205 (Pa. Cmwlth. 2020).

<sup>516</sup> *Id.* at 195, 202-03.

<sup>517</sup> 52 Pa. Code § 69.3301.

<sup>518</sup> See Pa. Pub. Util. Comm'n, *Proposed Rulemaking Order*, 55 Pa. B. 1170, 1172 & n.4 (Aug. 30, 2025) (citing *Pa. Pub. Util. Comm'n v. Twin Lakes Utils., Inc.*, Docket No. R-2019-3010958, at 48, 80 (Mar. 26, 2020)); see also 52 Pa. Code § 69.3301.

<sup>519</sup> OCA witness Roger Colton is a nationally recognized expert in utility affordability, universal service policy, and the impact of utility rates on low-income households. As a principal of Fisher, Sheehan & Colton, Mr. Colton has devoted much of his professional career to the study of utility affordability, customer payment behavior, arrearage management, rate design, and low-income customer assistance programs. He has conducted extensive research on the relationship between household income and utility costs and has developed methodologies for evaluating whether utility rates are affordable for residential customers. Mr. Colton has provided expert testimony before numerous state public utility commissions, including the Pennsylvania Public Utility Commission, on matters involving universal service programs, affordability, rate impacts, and consumer protections for vulnerable households. His testimony is grounded in decades of empirical research and practical experience evaluating how utility rates affect residential customers, particularly low-income and moderate-income households that face significant challenges in maintaining essential utility service. Accordingly, Mr. Colton's expertise provides the Commission with a reliable and informed basis for assessing the affordability implications of the Company's proposed rates and their effect on residential customers throughout the Commonwealth.

Of note, UGI Electric’s *own* data demonstrate significant payment difficulties among its customers.<sup>520</sup> In 2025, 44.0% of UGI Electric customers in arrears were more than 180 days past due, a figure similar to the 44.9% reported in 2024.<sup>521</sup> In addition, 21.2% of customers in arrears in 2025 were 91 to 120 days past due, with a similar percentage in 2024 (21.4%).<sup>522</sup> These levels of delinquency indicate that a substantial portion of customers in arrears are experiencing serious payment difficulties without factoring in the proposed rate increase.<sup>523</sup> Moreover, total customer arrears increased from October 2023, the beginning of the 2023–2024 heating season, through March 2026.<sup>524</sup> The increasing level of arrears provides further evidence of significant affordability and payment challenges among UGI Electric’s customers.<sup>525</sup> “As of March 2026, the most recent month for which data is available, more than one-quarter (26.2%) of all residential customers are in arrears of some age, while one-in-eight (11.5%) of all residential customers are 180 or more days in arrears.”<sup>526</sup>

When measured by the “delinquency and nonpayment rates” of the Company’s residential customers, it is clear that the Company faces a significant affordability problem. That affordability issue need not reach all customers for there a need to be aware of it and to take it into consideration. However, when one-in-eight of your residential customers are more than six months in arrears, and when the customers you are disconnecting service to have reached the point where they are more than \$3,400 in arrears at the time of disconnection, to assert that bills are generally affordable to residential customers is simply not credible.<sup>527</sup>

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<sup>520</sup> OCA Corrected St. 6 at 22-23.

<sup>521</sup> OCA Corrected St. 6 at 22 (citing UGI Electric Response to OCA-IV-30).

<sup>522</sup> OCA Corrected St. 6 at 22.

<sup>523</sup> OCA Corrected St. 6 at 22.

<sup>524</sup> OCA Corrected St. 6 at 23.

<sup>525</sup> OCA Corrected St. 6 at 23.

<sup>526</sup> OCA Corrected St. 6 at 23.

<sup>527</sup> OCA Corrected St. 6 at 24-25.

Further, the reasonableness of UGI Electric's rates is not determined in a vacuum.<sup>528</sup> Rather, the reasonableness of those rates must be evaluated in light of prevailing economic conditions.<sup>529</sup> "Requested rate increases are of particular concern when they are not only part of the economic challenges facing households, but when they actively contribute to the economic challenges facing households."<sup>530</sup>

UGI Electric witnesses spend considerable time asserting in their rebuttal testimony that a consideration of the unaffordability of Company's rates, and the means by which to address that unaffordability, do not belong in a base rate case. Company witness Rogers, for example, states that "the general impact of tariffs is irrelevant to the assessment of the Company's proposal. . ."<sup>531</sup> She argues that "macroeconomic events fraught with uncertainty as to their impacts do not meet the requirements established by statute, regulation, or Commission precedent, depart from cost of service ratemaking, and should not be accepted as a basis for disallowing the legitimate and largely uncontested costs for providing service that are reflected in this proceeding."<sup>532</sup> Company witness Fang argues that "a base rate case is not the most effective mechanism for resolving economywide affordability pressures; those issues are more effectively addressed through targeted, Commission-approved customer assistance programs, Universal Service Program mechanisms, and broader public policy tools designed to consider customer need, program design, funding responsibility, and customer impacts in a coordinated manner."<sup>533</sup> UGI Electric rebuttal witness Meilinger asserts that "Although I do not dispute the ALICE data presented, I disagree that it is appropriate to use this data to analyze the impacts of the Company's rate case and/or its Universal

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<sup>528</sup> OCA Corrected St. 6 at 25.

<sup>529</sup> OCA Corrected St. 6 at 25.

<sup>530</sup> OCA Corrected St. 6 at 25.

<sup>531</sup> UGI Statement 1-R at 24.

<sup>532</sup> UGI Statement 1-R at 25.

<sup>533</sup> UGI Statement 11-R at 53–54.

Service Programs. . . OCA witness Colton’s recommendation to analyze ALICE data would be better suited outside of a rate case proceeding. . .”<sup>534</sup>

However, the Commission disagrees with UGI. In the Final Order in the 2026 Pennsylvania American Water Company (PAWC) base rate case, the Commission held:

We preface our discussion in evaluating this rate case by acknowledging the Commission’s duty to ensure that the rates PAWC proposes to charge its customers will be just and reasonable and will ensure that the Company is able to provide adequate, efficient, safe, and reasonable service to its customers. See 66 Pa.C.S. §§ 1301, 1501. The Commission “has broad discretion in determining whether rates are reasonable” and “is vested with discretion to decide what factors it will consider in setting or evaluating a utility’s rates.” 66 Pa.C.S. §§ 501(b) and 1301; *Pa. PUC et al. v. Columbia Gas of Pa.*, Docket Nos. R-2020-3018835, *et al.* (Order entered February 19, 2021) (*Columbia Gas 2021*) at 9 (citing *Popowsky*). When setting rates in a base rate proceeding, the Commission may consider rate affordability.<sup>535</sup>

The Commission specifically noted “a resounding chorus of customers who are struggling.”<sup>536</sup> The Commission noted that “affordability” is not simply a problem facing low-income customers, though that problem is substantial. It stated that “While PAWC responds to the affordability of its rates to low-income customers through its [Bill Discount Program], we highlight that only a small fraction of eligible low-income customers are actually enrolled in the Company’s BDP.”<sup>537</sup> The Commission went on to recognize, however, that affordability is not an issue that is solely the province of the poor.<sup>538</sup>

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<sup>534</sup> UGI Statement 12-R at 5.

<sup>535</sup> *PUC v. Pa. American Water Co.*, Docket Nos. R-2025-3057983 *et al.*, Order at 36 (July 27, 2026).

<sup>536</sup> *Id.* at 37.

<sup>537</sup> *Id.* at 39.

<sup>538</sup> *Id.* at 41.



**B. ALICE Data Provides a More Complete Basis for Evaluating Affordability in Just and Reasonable Rate Determinations for UGI Electric’s Low and Moderate Income Customers**

ALICE (Asset Limited, Income Constrained, Employed) data provides a comprehensive measure of financial hardship by identifying households that earn above the federal poverty level but nevertheless lack sufficient income to afford the basic costs of housing, food, transportation, healthcare, childcare, and other necessities.<sup>539</sup> Developed by the United Way, ALICE data fills a critical gap left by traditional poverty metrics, which often underestimate the number of households experiencing economic insecurity.<sup>540</sup> In the utility ratemaking context, ALICE data proves helpful in assessing the affordability impacts of proposed rate increases on low- and moderate-income customers by identifying the share of households that are already financially constrained and have limited ability to absorb additional utility costs.<sup>541</sup> In Pennsylvania, where many households fall within the ALICE population despite being employed and ineligible for certain assistance programs, ALICE data provides an important benchmark for evaluating whether proposed rates are just and reasonable and for understanding the potential consequences of rate increases on service affordability, arrearages, payment difficulties, and utility insecurity.<sup>542</sup>

Mr. Colton recommends that the Commission should consider ALICE wage information because it provides a practical, household-level measure of affordability that is not captured by traditional poverty metrics alone.<sup>543</sup> Many customers who are not classified as low-income under federal guidelines nonetheless earn incomes below what is required to meet basic living expenses, including housing, food, transportation, healthcare, and utilities.<sup>544</sup> The ALICE wage translates

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<sup>539</sup> OCA Corrected St. 6 at 15-16.

<sup>540</sup> OCA Corrected St. 6 at 15-16.

<sup>541</sup> See OCA Corrected St. 6 at 36.

<sup>542</sup> OCA Corrected St. 6 at 37.

<sup>543</sup> OCA Corrected St. 6 at 15-16

<sup>544</sup> See OCA Corrected St. 6SR at 17.

these cost pressures into an hourly earnings benchmark, allowing the Commission to evaluate proposed rate increases in terms of the additional hours of work required for typical households to maintain essential utility service.<sup>545</sup> This perspective is particularly important in ratemaking, where the statutory obligation to set just and reasonable rates requires consideration not only of utility financial integrity, but also of the real-world ability of customers to pay. By incorporating ALICE wage analysis, the Commission can better assess whether proposed increases would exacerbate affordability challenges for working households and increase the risk of arrearages, service disconnections, and reliance on assistance programs, thereby ensuring that rates remain equitable and sustainable for all customer classes.

Mr. Colton's analysis specifically considers the ALICE Wage for Luzerne County, the primary county served by UGI Electric.<sup>546</sup> Again, the ALICE Wage represents the income a household needs to meet the ALICE Survival Budget.<sup>547</sup> United Way ALICE data shows that

[a] significant portion of the population in Luzerne County have insufficient income to meet the ALICE wage. According to the United Way's ALICE data, 82% of a single-female-headed household with children have income below the ALICE wage. High proportions of populations with income falling short of the ALICE wage are associated with income, with 69% of households under 25 years of age below; 41% of households between age 25 and 44 below; 43% of households between 45 and 64 years of age below; and 53% of households age 65 or older below.<sup>548</sup>

Utility payment difficulties are not limited to the lowest-income households.<sup>549</sup> Mr. Colton's analysis and data show that 10% to 13% of households in Pennsylvania with annual incomes between \$100,000 and \$200,000 reported being unable to pay their energy bills, or unable

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<sup>545</sup> OCA Corrected St. 6 at 17.

<sup>546</sup> OCA Corrected St. 6 at 17.

<sup>547</sup> OCA Corrected St. 6 at 15-17.

<sup>548</sup> OCA Corrected St. 6 at 17-18.

<sup>549</sup> OCA Corrected St. 6 at 18.

to pay the full amount, in almost every month, some months, or one or two months.<sup>550</sup> Among households earning \$75,000 to \$100,000, nearly 20% reported similar difficulties.<sup>551</sup> Although payment difficulties decline as income increases, Mr. Colton’s analysis demonstrates that energy affordability challenges extend well beyond the lowest-income households.

UGI does not dispute the income data that Mr. Colton presented.<sup>552</sup> UGI disputes whether it is appropriate to consider this data in a rate proceeding to review the affordability of UGI Electric rates or to review the Company’s Universal Service Programs.<sup>553</sup> Mr. Colton has proven, though, that ALICE data is relevant to the Commission’s consideration of whether proposed rates and rate structures are just and reasonable because it provides objective information regarding customers’ economic circumstances and ability to afford essential utility service.<sup>554</sup> Pennsylvania law requires all public utility rates to be “just and reasonable,” and the Commission has broad discretion in determining whether proposed rates satisfy that standard.<sup>555</sup> Courts have recognized that the Commission is not limited to a single methodology in determining just and reasonable rates and has discretion to determine what factors are relevant to its ratemaking analysis.<sup>556</sup>

UGI Witness Fang argues that Median Household Income (MHI) is a proper data set in response, matching UGI Electric customers with the Median Household Income (MHI) of the Census Block Group in which the customers in her sample reside,<sup>557</sup> without explaining why MHI

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<sup>550</sup> OCA Corrected St. 6 at 18.

<sup>551</sup> OCA Corrected St. 6 at 18.

<sup>552</sup> OCA Corrected St. 6SR at 13.

<sup>553</sup> *Id.*

<sup>554</sup> OCA Corrected St. 6SR at 17-18.

<sup>555</sup> 66 Pa. C.S. § 1301(a).

<sup>556</sup> *Popowsky v. Pennsylvania Public Utility Commission*, 683 A.2d 958, 961 (Pa. Cmwlth. 1996) (recognizing that the Commission has “broad discretion in determining whether rates are reasonable” and discretion to determine what factors it will consider in setting or evaluating utility rates); *McCloskey v. Pennsylvania Public Utility Commission*, 225 A.3d 192, 195 (Pa. Cmwlth. 2020) (recognizing that “[t]here is no single way to arrive at just and reasonable rates”).

<sup>557</sup> UGI St. 11R at 65.

is appropriate in this context.<sup>558</sup> Mr. Colton is clear: MHI was never intended to assess utility affordability and that the Environmental Protection Agency instead recommends using Median Household Effective Buying Income (MHHEBI), which accounts for taxes.<sup>559</sup> Because the analysis begins with MHI rather than MHHEBI, the analysis assumes households have more money available than they actually have after taxes, which could make utility rates appear more affordable than they really are.<sup>560</sup>

Mr. Colton also explains that Ms. Fang uses only a single MHI for each Census Block Group to represent the entire UGI Electric service territory obscures significant income differences among residents.<sup>561</sup> He explains that reliance on median income masks the financial burdens experienced by lower-income households because higher incomes within each geographic area raise the median, potentially leading to the erroneous conclusion that utility rates are affordable throughout the service territory.<sup>562</sup> Thus, UGI's arguments as to use of MHI should be rejected.

Customer affordability is also consistent with the Public Utility Code's recognition that utility service must be adequate, efficient, safe, and reasonable for the accommodation and convenience of customers and the public.<sup>563</sup> The Commission therefore may consider evidence concerning the customer impacts of proposed rates when evaluating whether those rates are just and reasonable.

ALICE data would not replace the traditional ratemaking analysis or establish a utility's revenue requirement, operating expenses, rate base, depreciation, or cost of capital.<sup>564</sup> Rather, it provides relevant evidence regarding the economic conditions of the customers who must pay the

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<sup>558</sup> OCA Corrected St. 6SR at 39-40.

<sup>559</sup> *Id.*

<sup>560</sup> *Id.*

<sup>561</sup> OCA Corrected St. 6SR at 40-41.

<sup>562</sup> *Id.*

<sup>563</sup> 66 Pa. C.S. § 1501.

<sup>564</sup> OCA Corrected St. 6SR at 14.

resulting rates.<sup>565</sup> Thus, the Commission may appropriately consider that evidence alongside the utility's cost-of-service and revenue-requirement evidence when determining whether the overall rates and rate structure are just and reasonable, and Mr. Colton has proven that doing so is in the best interests of all ratepayers to do so.<sup>566</sup>

Research examining utility affordability demonstrates that affordability is not merely a concern for individual customers; it is also relevant to a utility's financial health.<sup>567</sup> Patterson and Doyle's study of nearly 1,800 water utilities found that utilities serving significant populations of economically disadvantaged customers may face challenges recovering increasing costs without imposing substantial burdens on customers.<sup>568</sup> The study emphasizes that customer affordability and utility financial capability are interconnected because utilities depend on customers' ability to pay their bills to support operations, infrastructure, and other costs.<sup>569</sup>

The study also cautions against relying on a single measure of affordability.<sup>570</sup> Rather, affordability should be evaluated using multiple measures that capture both the severity of the burden on individual households and the number of households experiencing that burden.<sup>571</sup> These measures include the burden on lower-income households, the percentage of households below specified income thresholds, and the distribution of affordability burdens across the customer base.<sup>572</sup>

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<sup>565</sup> *Id.*

<sup>566</sup> *Id.*

<sup>567</sup> See OCA Corrected St. 6 at 19 (citing Lauren A. Patterson & Martin W. Doyle, *Measuring Water Affordability and the Financial Capability of Utilities*, 3 AWWA Water Science e1260 (2021), <https://doi.org/10.1002/aws2.1260> (Patterson and Doyle)).

<sup>568</sup> See *id.*

<sup>569</sup> See *id.*

<sup>570</sup> See *id.*

<sup>571</sup> See *id.*

<sup>572</sup> See *id.*

These principles are applicable to electric utility ratemaking.<sup>573</sup> Mr. Colton explains that because median income does not adequately represent the range of incomes within a utility's service territory, Patterson and Doyle recommend using a "Household Burden" or "HB Score" to measure affordability across the entire service territory.<sup>574</sup> The HB Score uses publicly available data from the U.S. Census Bureau's annual American Community Survey and accounts for both household income and the distribution of households across income levels.<sup>575</sup>

As Mr. Colton explains, using this approach provides a more complete measure of affordability because it reflects the actual distribution of household incomes throughout UGI Electric's service territory rather than relying on a single median-income household.<sup>576</sup>

For UGI Electric, Mr. Colton calculated the weighted average HB Score at existing rates is an electricity burden of 4.9%.<sup>577</sup> At proposed rates, the average HB Score for the UGI Electric service territory increases to 5.7%.<sup>578</sup> Of the 20 UGI Electric zip codes, 15 had total electricity burdens of more than 4.5%; of those, nine had total electricity burdens of greater than 6.0%.<sup>579</sup> The data, therefore, demonstrates significant affordability problems for UGI Electric customers under existing rates, which would be further exacerbated by the rates proposed in this proceeding.<sup>580</sup>

As Mr. Colton explains in his testimony and analysis, the Patterson and Doyle study also supports consideration of affordability as part of the broader assessment of utility financial health.<sup>581</sup> If a substantial portion of a utility's customers cannot reasonably afford their bills, the

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<sup>573</sup> OCA Corrected St. 6 at 19-21.

<sup>574</sup> OCA Corrected St. 6 at 19 (citing Patterson and Doyle).

<sup>575</sup> *Id.*

<sup>576</sup> OCA Corrected St. 6 at 20.

<sup>577</sup> OCA Corrected St. 6 at 20.

<sup>578</sup> OCA Corrected St. 6 at 20.

<sup>579</sup> OCA Corrected St. 6 at 20.

<sup>580</sup> OCA Corrected St. 6 at 21.

<sup>581</sup> OCA Corrected St. 6 at 19.

resulting payment difficulties and financial pressures may affect the utility itself.<sup>582</sup> Thus, customer financial capacity is relevant not only to the interests of ratepayers, but also to the utility's ability to maintain financial health and recover its costs.<sup>583</sup>

Accordingly, the Patterson and Doyle study supports the use of multiple affordability measures, including income-based burdens and the distribution of households across income levels, in evaluating proposed electric rates.<sup>584</sup> The framework provides an economic basis for considering customer affordability as part of the broader balancing of investor and ratepayer interests required in establishing just and reasonable rates, and should therefore be used and considered in this instant matter.

**A. Senior Citizens in the Service Territory Cannot afford an increase.**

Seniors, in particular, have been harmed by the rapid increases in UGI Electric rates. Since 2018, while UGI Electric rates have increased by 85.6%,<sup>585</sup> Social Security benefits have increased by only 26.8%.<sup>586</sup> Seniors are substantially worse off in 2025 relative to their ability to pay UGI Electric bills than they were in 2019. This should be of concern to the Commission, In 2024, the last year for which Census data has been publicly released, more than half (50.7%) of all households with a householder age 65 or older in the zip codes served by UGI Electric had income less than \$50,000, while nearly 30% (29.9%) had incomes less than \$30,000. More than one-in-ten (10.1%) senior households had an income of less than \$15,000. The UGI Electric burdens at these income levels was presented above (**Error! Reference source not found.**).<sup>587</sup>

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<sup>582</sup> OCA St. 6 at 21; Patterson and Doyle.

<sup>583</sup> *Id.*

<sup>584</sup> See OCA Corrected St. 6 at 21.

<sup>585</sup> OCA Corrected St. 6 at 39 (citing U.S. Department of Energy, Energy Information Administration, EIA Form 861 (annual), UGI Electric).

<sup>586</sup> OCA Corrected St. 6 at 39 (citing Social Security Administration, Cost of Living Adjustments, available at <https://www.ssa.gov/oact/cola/colaseries.html>).

<sup>587</sup> OCA Corrected St. 6 at 39-40.

## **B. Monthly Bill Volatility Creates Disproportionate Challenges for Low-Income UGI Electric Customers**

Unexpected changes in monthly bills create significant challenges for residential UGI Electric customers, particularly low-income households.<sup>588</sup> The problem is not simply the amount of the annual bill, but the month-to-month volatility that can produce unexpectedly high expenses for households without the resources to maintain an emergency fund. Energy efficiency investments do not adequately address this volatility because low-income households often lack the discretionary income to make even cost-effective improvements.<sup>589</sup> As discussed above, many UGI Electric customers already struggle to pay their bills and must choose between utility payments and other basic household necessities, leaving little capacity to make investments with uncertain future returns. Moreover, because low-income UGI Electric customers are disproportionately tenants, they generally lack the authority, or “dominion interest,” to make decisions about major energy-consuming systems in their homes, even when they could otherwise afford efficiency improvements.<sup>590</sup>

## **C. Affordability Study for low-income customers**

Mr. Colton’s affordability analysis examines the affordability of UGI Electric’s rates for low-income customers.<sup>591</sup> Affordability is measured using the household electric Bill-to-Income Ratio, calculated by dividing a household’s electric bill by the household’s income. OCA St. 6 at 10-11. His analysis assesses affordability for low-income households from two perspectives: (1) the First Quintile (Q1) of household income within UGI Electric’s service territory;<sup>592</sup> and (2)

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<sup>588</sup> OCA Corrected St. 6 at 30.

<sup>589</sup> *Id.* at 31.

<sup>590</sup> *Id.*

<sup>591</sup> Mr. Colton also made clear that his affordability analysis is separate from the review of the structure and operation of UGI Electric’s Universal Service Programs. The analysis of overall rate affordability for low-income customers does not form the basis for any subsequent conclusions regarding those programs. OCA Corrected St. 6 at 10.

<sup>592</sup> OCA Corrected St. 6 at 10. The U.S. Census Bureau ranks households within a geographic area by income and divides them into five equal groups, or quintiles. The First Quintile (Q1) represents the 20 percent of households with



household income measured in absolute dollars.<sup>593</sup> The analysis examines data for the 20 UGI Electric ZIP Codes for which UGI Electric reports at least one residential customer and for which the U.S. Census Bureau reports corresponding data.<sup>594</sup>

Mr. Colton evaluated affordability for low-income customers by comparing (1) UGI Electric's bills at median usage from April 2025 through March 2026 with affordable bills, and (2) Q1 household incomes with the income needed to afford those bills, under both existing and proposed rates.<sup>595</sup> Under existing rates, bills based on median usage exceeded an affordable bill by less than \$1,000 in only six of the 20 ZIP Codes analyzed.<sup>596</sup> In the remaining 14 ZIP Codes, six had excess bills exceeding \$1,200.

The proposed rate increase would further increase these affordability gaps.<sup>597</sup> Under the proposed rates, the smallest excess bill was nearly \$1,100, and 11 of the 20 ZIP Codes had excess bills exceeding \$1,300.<sup>598</sup> An "excess bill" is the amount by which a customer's actual bill, based on median usage, exceeds the bill considered affordable at the Q1 income level for the applicable ZIP Code.<sup>599</sup>

Mr. Colton's analysis also demonstrates the unaffordability of UGI Electric's bills for Q1 households.<sup>600</sup> The "income deficit" is the difference between the income required for a UGI Electric bill to impose an affordable electricity burden and the actual average Q1 household income

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the lowest incomes, while the Fifth Quintile (Q5) represents the 20 percent with the highest incomes. The Census Bureau publishes average household income by quintile annually in the American Community Survey (ACS), Table B19081.

<sup>593</sup> OCA Corrected St. 6 at 10. The income ranges used in Mr. Colton's affordability analysis are those reported by the U.S. Census Bureau in the American Community Survey (ACS), Table B19001.

<sup>594</sup> OCA Corrected St. 6 at 10. Mr. Colton limited his data to ZIP Codes for which UGI Electric reports at least one residential customer and the Census Bureau reports corresponding data. *Id.* The Census Bureau may not report data for certain geographic areas that are too small to permit disclosure without compromising privacy. *Id.*

<sup>595</sup> OCA Corrected St. 6 at 11.

<sup>596</sup> OCA Corrected St. 6 at 11.

<sup>597</sup> OCA Corrected St. 6 at 11.

<sup>598</sup> OCA Corrected St. 6 at 11.

<sup>599</sup> OCA Corrected St. 6 at 11.

<sup>600</sup> OCA Corrected St. 6 at 13.

in the applicable ZIP Code.<sup>601</sup> Thus, if \$40,000 in income were required for a bill to be affordable and the average Q1 income were \$25,000, the income deficit would be \$15,000.<sup>602</sup>

Under UGI Electric's existing rates, the smallest income deficit across the 20 ZIP Codes exceeds \$28,000, and 11 ZIP Codes have income deficits exceeding \$35,000.<sup>603</sup> Under the proposed rates, the smallest income deficit is nearly \$37,000, and 11 ZIP Codes have income deficits exceeding \$47,600.<sup>604</sup> These results demonstrate the substantial gap between Q1 household incomes and the income needed to afford UGI Electric's bills.<sup>605</sup>

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<sup>601</sup> OCA Corrected St. 6 at 13.

<sup>602</sup> OCA Corrected St. 6 at 13.

<sup>603</sup> OCA Corrected St. 6 at 13.

<sup>604</sup> OCA Corrected St. 6 at 13.

<sup>605</sup> OCA Corrected St. 6 at 13.

| Table 1. Excess Bill Over Affordable Bill at Q1 Income<br>Q1 Income Deficit Relative to Income Needed to Afford UGI Electric Bill<br>(Existing Rates <sup>18</sup> and Proposed Rates <sup>19</sup> ) |                                        |                                                                        |                                        |                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|------------------------------------------------------------------------|----------------------------------------|------------------------------------------------------------------------|
| Zip Code                                                                                                                                                                                              | Existing Rates, Median Usage           |                                                                        | Proposed Rates, Median Usage           |                                                                        |
|                                                                                                                                                                                                       | Excess Bill Over<br>Affordable Q1 bill | Q1 Income Deficit<br>Below That<br>Needed for Bill to<br>be Affordable | Excess Bill Over<br>Affordable Q1 bill | Q1 Income Deficit<br>Below That<br>Needed for Bill to<br>be Affordable |
| 17814                                                                                                                                                                                                 | \$1,177                                | \$39,239                                                               | \$1,428                                | \$47,616                                                               |
| 17878                                                                                                                                                                                                 | \$1,068                                | \$35,585                                                               | \$1,319                                | \$43,962                                                               |
| 18612                                                                                                                                                                                                 | \$1,019                                | \$33,958                                                               | \$1,270                                | \$42,335                                                               |
| 18617                                                                                                                                                                                                 | \$1,297                                | \$43,249                                                               | \$1,549                                | \$51,626                                                               |
| 18618                                                                                                                                                                                                 | \$927                                  | \$30,906                                                               | \$1,179                                | \$39,283                                                               |
| 18621                                                                                                                                                                                                 | \$916                                  | \$30,548                                                               | \$1,168                                | \$38,925                                                               |
| 18634                                                                                                                                                                                                 | \$1,264                                | \$42,129                                                               | \$1,515                                | \$50,506                                                               |
| 18636                                                                                                                                                                                                 | \$1,080                                | \$36,004                                                               | \$1,331                                | \$44,381                                                               |
| 18643                                                                                                                                                                                                 | \$1,188                                | \$39,613                                                               | \$1,440                                | \$47,990                                                               |
| 18644                                                                                                                                                                                                 | \$946                                  | \$31,549                                                               | \$1,198                                | \$39,926                                                               |
| 18651                                                                                                                                                                                                 | \$1,238                                | \$41,282                                                               | \$1,490                                | \$49,659                                                               |
| 18655                                                                                                                                                                                                 | \$1,007                                | \$33,551                                                               | \$1,258                                | \$41,928                                                               |
| 18656                                                                                                                                                                                                 | \$847                                  | \$28,221                                                               | \$1,098                                | \$36,598                                                               |
| 18657                                                                                                                                                                                                 | \$994                                  | \$33,142                                                               | \$1,246                                | \$41,519                                                               |
| 18660                                                                                                                                                                                                 | \$1,008                                | \$33,614                                                               | \$1,260                                | \$41,991                                                               |
| 18702                                                                                                                                                                                                 | \$1,232                                | \$41,056                                                               | \$1,483                                | \$49,433                                                               |
| 18704                                                                                                                                                                                                 | \$1,223                                | \$40,781                                                               | \$1,475                                | \$49,158                                                               |
| 18706                                                                                                                                                                                                 | \$1,244                                | \$41,456                                                               | \$1,495                                | \$49,833                                                               |
| 18708                                                                                                                                                                                                 | \$896                                  | \$29,857                                                               | \$1,147                                | \$38,234                                                               |
| 18709                                                                                                                                                                                                 | \$1,200                                | \$39,994                                                               | \$1,451                                | \$48,371                                                               |

Mr. Colton’s analysis also demonstrates the unaffordability of UGI Electric’s bills for Q1 households.<sup>606</sup> The “income deficit” is the difference between the income required for a UGI Electric bill to impose an affordable electricity burden and the actual average Q1 household income in the applicable ZIP Code.<sup>607</sup> “If for example, a household would need an income of \$40,000 for

<sup>606</sup> OCA Corrected St. 6 at 12-13.

<sup>607</sup> OCA Corrected St. 6 at 12-13.

a UGI Electric bill to be affordable, and the average Q1 income is \$25,000, the income deficit would be \$15,000.”<sup>608</sup>

Under UGI Electric’s existing rates, the smallest income deficit across the 20 ZIP Codes exceeds \$28,000, and 11 ZIP Codes have income deficits exceeding \$35,000.<sup>609</sup> Under the proposed rates, the smallest income deficit is nearly \$37,000, and 11 ZIP Codes have income deficits exceeding \$47,600.<sup>610</sup> These results demonstrate the substantial gap between Q1 household incomes and the income needed to afford UGI Electric’s bills.<sup>611</sup>

Mr. Colton’s analysis also evaluates the affordability of UGI Electric rates based on absolute household income.<sup>612</sup> He calculated the electricity burden across income ranges at or below \$50,000, a threshold roughly equivalent to 200% of the federal poverty level (FPL) for a three-person household in 2026 (\$54,640).<sup>613</sup> Using Census Bureau income ranges, approximately 39.1% of households in UGI Electric’s ZIP Codes have annual incomes below \$50,000.<sup>614</sup>

The results show substantial electricity burdens at both existing and proposed rates.<sup>615</sup> For households earning less than \$10,000, UGI Electric bills consume more than 30% of household income at existing rates and nearly 37% under the proposed rates.<sup>616</sup> Even for households earning \$45,000 to \$49,999, the electricity burden ranges from 3.3% at existing rates to 3.9% under the proposed rates.<sup>617</sup>

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<sup>608</sup> OCA Corrected St. 6 at 13.

<sup>609</sup> OCA Corrected St. 6 at 13.

<sup>610</sup> OCA Corrected St. 6 at 13.

<sup>611</sup> OCA Corrected St. 6 at 13.

<sup>612</sup> OCA Corrected St. 6 at 13.

<sup>613</sup> OCA Corrected St. 6 at 13.

<sup>614</sup> OCA Corrected St. 6 at 13.

<sup>615</sup> OCA Corrected St. 6 at 13-14.

<sup>616</sup> OCA Corrected St. 6 at 13-14.

<sup>617</sup> OCA Corrected St. 6 at 14.

The distribution of households across income levels is also significant. Among UGI Electric customers with household incomes below \$50,000, 27% have incomes below \$15,000, with electricity burdens ranging from 15% to 37% of household income.<sup>618</sup> Nearly 37% have incomes below \$20,000, and 47% have incomes below \$25,000.<sup>619</sup> Thus, the significant electricity burdens identified in the analysis affect a substantial portion of UGI Electric's lower-income customer base, not merely a small number of the lowest-income households.<sup>620</sup> The data demonstrates significant affordability concerns under existing rates, which would be further exacerbated by the proposed rates.<sup>621</sup>

**D. Housing Affordability Is a Material Customer-Affordability Consideration in the UGI Electric Service Territory**

One of the most significant financial challenges facing households in the UGI Electric service territory is the rising cost of housing.<sup>622</sup> This burden is particularly acute in Luzerne County, where housing affordability has deteriorated substantially and continues to worsen.<sup>623</sup> The issue is directly relevant to the Commission's instant consideration of customer affordability and just and reasonable rates.<sup>624</sup>

Accordingly, evidence concerning the increasingly unaffordable cost of housing is relevant to the Commission's assessment of customer affordability and the consumer consequences of UGI Electric's proposed rates. This evidence does not ask the Commission to regulate housing or to treat housing policy as an independent ratemaking objective. Rather, it provides important context

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<sup>618</sup> OCA Corrected St. 6 at 14.

<sup>619</sup> OCA Corrected St. 6 at 14.

<sup>620</sup> OCA Corrected St. 6 at 14.

<sup>621</sup> OCA Corrected St. 6 at 14.

<sup>622</sup> OCA Corrected St. 6 at 25.

<sup>623</sup> OCA Corrected St. 6 at 25.

<sup>624</sup> OCA Corrected St. 6 at 25.

for evaluating the economic burden that electric service imposes on customers and, therefore, whether the proposed rates are just and reasonable.<sup>625</sup>

To assess this trend in the instant Service Territory, Mr. Colton examined gross rent as reported by the U.S. Census Bureau.<sup>626</sup> Gross rent includes both contract rent and the estimated monthly cost of utilities and fuels paid by the renter, making it a particularly relevant measure of the total housing cost borne by households.<sup>627</sup> Mr. Colton also examined Fair Market Rents (FMRs) established by the U.S. Department of Housing and Urban Development (HUD), which also account for rent and the cost of necessary utilities.<sup>628</sup>

Importantly, the housing-burden measure used in Mr. Colton's analysis includes utility costs.<sup>629</sup> The Census Bureau distinguishes between "contract rent," which reflects charges imposed by the property owner, and "gross rent," which includes contract rent plus the estimated cost of utilities and fuels paid by the renter.<sup>630</sup> Thus, increases in utility costs contribute directly to increases in gross housing costs and, consequently, to the share of household income devoted to housing.<sup>631</sup>

This distinction is significant in evaluating the affordability consequences of UGI Electric's rates. The worsening housing burdens cannot be attributed solely to increases in charges imposed by landlords.<sup>632</sup> Because utility costs are incorporated into the gross-rent measure, increasing electric costs are themselves a component of the housing burden reflected in the Census

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<sup>625</sup> OCA Corrected St. 6 at 25-26.

<sup>626</sup> OCA Corrected St. 6 at 26.

<sup>627</sup> OCA Corrected St. 6 at 27.

<sup>628</sup> OCA Corrected St. 6 at 28.

<sup>629</sup> OCA Corrected St. 6 at 28.

<sup>630</sup> OCA Corrected St. 6 at 28.

<sup>631</sup> OCA Corrected St. 6 at 29.

<sup>632</sup> OCA Corrected St. 6 at 27.

data.<sup>633</sup> The substantial deterioration in housing affordability therefore provides relevant evidence of the growing economic burden borne by UGI Electric’s residential customers.<sup>634</sup>

The data from both measures demonstrate a sharp deterioration in housing affordability in Luzerne County.<sup>635</sup> Mr. Colton’s analysis demonstrates that the housing-affordability problem in Luzerne County is also not confined to the lowest-income households.<sup>636</sup> To isolate the broader affordability impacts, Mr. Colton examined Census data for 2019 through 2024 across three household-income ranges: \$20,000–\$34,999, \$35,000–\$49,999, and \$50,000–\$74,999.<sup>637</sup> He further focused on households whose housing burdens exceeded 40 percent of household income, well above the commonly recognized 30-percent threshold for housing cost burden.<sup>638</sup> This approach provides a conservative measure of severe housing burden and permits an examination of whether worsening affordability is confined to households at the lowest income levels.<sup>639</sup>

The results are striking. Across each of the three income ranges, the percentage of renter households experiencing housing burdens exceeding 40 percent of income is substantial and has increased over time.<sup>640</sup> Even among households earning \$35,000 to \$49,999 annually, nearly one in four renters experience housing costs exceeding 40 percent of household income.<sup>641</sup> Mr. Colton found that this deterioration is particularly pronounced in the UGI Electric service territory.<sup>642</sup> Between 2019 and 2024, the share of renters experiencing these severe housing burdens increased by 50 percent or more among households earning \$20,000–\$34,999 and \$50,000–\$74,999.<sup>643</sup> For

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<sup>633</sup> OCA Corrected St. 6 at 27.

<sup>634</sup> See OCA Corrected St. 6SR at 43.

<sup>635</sup> OCA Corrected St. 6 at 26.

<sup>636</sup> OCA Corrected St. 6 at 18, 27.

<sup>637</sup> OCA Corrected St. 6 at 27.

<sup>638</sup> OCA Corrected St. 6 at 27.

<sup>639</sup> OCA Corrected St. 6 at 27.

<sup>640</sup> OCA Corrected St. 6 at 27.

<sup>641</sup> *Id.*

<sup>642</sup> OCA Corrected St. 6 at 27.

<sup>643</sup> *Id.*

households earning \$35,000–\$49,999, the percentage increased by more than four and one-half times.<sup>644</sup>

| Table 6. Percentage of Households in Selected Income Ranges with<br>Gross Rent Burdens Exceeding 40% of Income (Luzerne County, PA) (2019 – 2024) <sup>33</sup> |       |       |       |       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|-------|-------|-------|
| Income                                                                                                                                                          | 2019  | 2022  | 2023  | 2024  |
| \$20,000 - \$34,999                                                                                                                                             | 28.9% | 40.5% | 43.6% | 45.2% |
| \$35,000 - \$49,999                                                                                                                                             | 4.2%  | 9.6%  | 16.1% | 22.6% |
| \$50,000 - \$74,999                                                                                                                                             | 2.0%  | 3.5%  | 4.5%  | 3.0%  |

These results undermine any suggestion that the housing-affordability problem is principally a consequence of the financial circumstances of only the poorest households.<sup>645</sup> The deterioration extends well into households earning between \$35,000 and \$74,999 per year.<sup>646</sup> The evidence therefore demonstrates a broad-based deterioration in housing affordability affecting households across multiple income levels, including households that would not ordinarily be characterized as the lowest-income customers.<sup>647</sup>

UGI Electric cannot dismiss worsening housing affordability as merely a macroeconomic condition beyond the Commission’s purview.<sup>648</sup> Electric service costs are themselves a component of housing costs, and increases in UGI Electric rates directly increase the cost of maintaining a household.<sup>649</sup> Accordingly, the affordability of electric service must be considered in the broader context of the increasingly unaffordable housing market in Luzerne County.

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<sup>644</sup> *Id.*

<sup>645</sup> OCA Corrected St. 6 at 27.

<sup>646</sup> *Id.*

<sup>647</sup> *Id.*

<sup>648</sup> OCA Corrected St. 6 at 83; *see 2019 Amendments to Policy Statement on Customer Assistance Program*, Docket No. M-2019-3012599 (Final Policy Statement and Order Nov. 5, 2019); *Energy Affordability for Low-Income Customers*, Docket No. M-2017-2587711.

<sup>649</sup> OCA Corrected St. 6 at 25-26.



Pennsylvania law establishes that the Commission’s obligation to establish just and reasonable rates under Section 1301 requires consideration of the interests and circumstances of utility customers, not merely the utility’s financial interests.<sup>650</sup> The Pennsylvania Supreme Court has repeatedly characterized ratemaking as a balancing of consumer and investor interests and has recognized that the Commission’s authority to determine just and reasonable rates encompasses consideration of broader public interests.<sup>651</sup> More recently, the Commonwealth Court has recognized affordability and energy burden as matters within the PUC’s regulatory oversight of utility service.<sup>652</sup>

Importantly, this deterioration cannot be explained simply by the circumstances of low-income households.<sup>653</sup> Rather, the evidence indicates a broader and worsening affordability problem affecting households across the service territory, one that makes the cost of electric service, including UGI Electric’s increasing rates, an increasingly consequential component of household financial burdens.<sup>654</sup>

#### **E. Identifying Inability to Pay Is Critical to Managing Utility Financial Risk**

According to United for ALICE, although the emergency savings rate for *all* Pennsylvania households reached 60% in 2022, only 46% of households below the ALICE Threshold had emergency savings, or “rainy day funds,” sufficient to cover their expenses for three months in the event of sickness, job loss, an economic downturn, or another emergency.<sup>655</sup> The National

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<sup>650</sup> *Pennsylvania Elec. Co. v. Pa. PUC*, 509 Pa. 324, 329–31, 502 A.2d 130, 133–34 (1985); *Popowsky v. Pa. PUC*, 542 Pa. 94, 107–08, 665 A.2d 615, 622–23 (1995).

<sup>651</sup> See *Pennsylvania Electric Co. v. Pa. PUC*, 509 Pa. 324, 329–31, 502 A.2d 130, 133–34 (1985); *Pa. PUC v. Pennsylvania Gas & Water Co.*, 492 Pa. 326, 337, 424 A.2d 1213, 1219 (1980); *Popowsky v. Pa PUC*, 542 Pa. 94, 107–08, 665 A.2d 615, 622–23 (1995).

<sup>652</sup> *The Tenant Union Representative Network v. Pa. PUC*, No. 10 C.D. 2023 (Pa. Cmwlth. Apr. 2, 2024).

<sup>653</sup> *Id.*

<sup>654</sup> *Id.*

<sup>655</sup> OCA Corrected St. 6 at 87 (citing United for ALICE (2024 Update), *An Update on Financial Hardship in Pennsylvania*, at 11; see also *The State of ALICE in Pennsylvania: 2025 Report*, at 9 (reporting that, in 2023, respondents below the ALICE Threshold in the Middle Atlantic Census Division, which includes Pennsylvania, were

Financial Capability Study (NFCS 2024) similarly found that 45% of Pennsylvania households did not have emergency funds.<sup>656</sup> One contributing factor, according to the NFCS 2024, was that 24% of Pennsylvania households were spending more than their income, while an additional 34% were spending approximately equal to their income.<sup>657</sup> The Federal Reserve Board has identified the availability of savings sufficient to cover three months of expenses following the loss of a primary source of income as “[o]ne common measure of financial resiliency.”<sup>658</sup>

To assess the affordability of electric service, Mr. Colton proves that the Commission should consider not only customers’ annual income but also the resources available to them to absorb fluctuations in their electric bills.<sup>659</sup> The evidence demonstrates that electric bills can vary substantially both from year to year and from month to month.<sup>660</sup> Low-income customers generally lack both the recurring income necessary to absorb higher-than-expected annual bills and the financial resources necessary to withstand sharp increases in cold-weather heating bills.<sup>661</sup>

These circumstances have direct implications for the UGI’s obligations and customer-service practices. The inability of low-income customers to absorb bill volatility underscores the importance of the UGI’s identifying eligible low-income customers and proactively enrolling those customers in CAP. The Company’s failure to do so deprives vulnerable customers of a mechanism specifically designed to make electric service more affordable and, therefore, contributes to the provision of service that is not reasonably adequate.

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substantially less likely than those above the Threshold to have savings sufficient to cover three months of expenses in an emergency (41% versus 74%))).

<sup>656</sup> OCA Corrected St. 6 at 37 (citing FINRA Investor Education Foundation (2024), *National Financial Capability Study (2024), Summary of Selected Findings: Pennsylvania*).

<sup>657</sup> OCA St. 6 at 35 (citing Federal Reserve System, Research and Analysis (May 2025). *Economic Well-Being of U.S. Households in 2024*, at 41 (hereafter, “2024 Economic Well-Being”)).

<sup>658</sup> *Id.*

<sup>659</sup> OCA Corrected St. 6 at 38.

<sup>660</sup> OCA Corrected St. 6 at 38.

<sup>661</sup> OCA Corrected St. 6 at 38.

The same considerations support more effective and aggressive promotion of budget billing. Budget billing can help customers manage substantial month-to-month fluctuations in electric bills by spreading costs more evenly over the year. UGI, therefore, should take additional steps to make budget billing available and understandable to customers experiencing payment difficulties, including both low-income and other customers whose bills fluctuate significantly.

Finally, the volatility of electric bills and the limited financial resources of low-income customers demonstrate the shortcomings of relying primarily on traditional credit and collection practices. Practices such as issuing termination notices, requiring substantial down payments for payment arrangements, and retaining deposits from customers who lack the resources to absorb unexpected bills do not address the underlying affordability problem. To the extent the UGI continues to rely on such practices without adequately accounting for customers' limited ability to withstand bill spikes, those practices are both inefficient and ineffective. A more effective approach would emphasize affordable payment structures, appropriate use of budget billing, and proactive enrollment of eligible customers in CAP rather than relying principally on collection mechanisms after a customer has already fallen behind.

**1. CAP is a system-wide program, so its costs should be paid by all customer groups.**

The cost of providing service through the Company's CAP program is not a cost that has a cost causation that can be limited to the residential class.<sup>662</sup> The Commission has previously recognized that universal service costs are caused by factors endemic to society as a whole. They are not caused by factors specific to residential customers. In its 2019 Order revising the CAP Policy Statement, the Commission explicitly found that "poverty, poor housing stock, and other factors that contribute to households struggling to afford utility service are not just 'residential

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<sup>662</sup> OCA St. 6 at 83.

class problems.”<sup>663</sup> Not only did the Commission explicitly find universal service programs further not merely the interests of residential customers, but also further a broader “public purpose,” it also concluded that “the General Assembly clearly identified the public purpose of these programs in the Competition Acts by requiring that their costs be nonbypassable”<sup>664</sup> The Commission explicitly found that “[c]early, there is a persuasive argument to be made that home heating and energy assistance for low-income households serves a public good whose responsibility is not merely other residential ratepayers.”<sup>665</sup>

The Commission<sup>666</sup> has previously determined that allocating CAP costs between all customer classes is lawful.<sup>667</sup> Indeed, as recently as the Commission’s 2026 Order in Docket M-2025-3054271,<sup>668</sup> the Commission held “We agree with CAUSE-PA and TURN that the Commission has the authority to require other customer classes, not just the residential class, to contribute to the costs of universal service programs and that we do have an obligation to ensure that electric service is available to all customers on reasonable terms and conditions.”<sup>669</sup>

There are two groups of residential customers about whom the Commission should have particular concern in this period of extraordinary concern about affordability. Group 1 is that population of residential customers who may be income-eligible for CAP but who, for whatever reason, do not participate in CAP. Group 2 is that population of residential customers who have

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<sup>663</sup> 2019 Amendments to Policy Statement on Customer Assistance Program, Docket No. M-2019-3012599, Final Policy Statement and Order, at 91 (Nov. 5, 2019).

<sup>664</sup> *Id.* (emphasis added).

<sup>665</sup> *Id.* at 94 – 95.

<sup>666</sup> PGW and PWSA allocate costs among all customer classes. This allocation methodology predates the entities’ jurisdiction under the Commission, as both utilities historically followed this practice prior to becoming subject to Commission regulation.

<sup>667</sup> “We note there is no statutory or appellate prohibition that limits the recovery of CAP costs, whether specifically calculated or as part of total universal service costs, to funding from the residential class. Universal service funding from non-residential classes, while not mandatory, is permissible.” Final CAP Policy Statement and Order, Docket No. M-2019-3012599, at 96 (Order entered Nov. 5, 2019).

<sup>668</sup> Interconnection and Tariffs for Large Load Customers, Docket No. M-2025-3054271, Final Order (April 30, 2026) (hereafter “Large Load Final Order”).

<sup>669</sup> *Id.* at 107.

income just over the maximum income eligibility and thus do not qualify to receive CAP benefits, but whose income is insufficient to allow these households to be able to afford their basic household necessities, including their monthly utility service. This line, about maximum income eligibility but below the ability to meet necessities, is often referred to as the income “cliff.”

The costs for CAP should be shared across all customer classes. Mr. Colton recommends that the Commission should allocate costs for CAP according to each group’s share of the utility’s overall distribution costs/revenue requirement, rather than trying to use peak electricity demand to allocate the costs. This approach would not require developing a new allocation factor. For example, if UGI’s proposed allocations in its rate case filing were used, the costs allocated among the customer classes would be as shown in the Table below. This illustration is provided for purposes of demonstrating the methodology, recognizing that the final allocations in this proceeding may differ because the appropriate allocation remains contested.

| Table 18. Inter-Class Allocation of CAP Costs (UGI Electric)<br>(per <u>each</u> \$1 million of CAP costs of increments thereof) <sup>145</sup> |                                                               |                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|------------------------------------------|
| Customer Class                                                                                                                                  | Revenue Requirement Allocation<br>(Rev. Req. excluding taxes) | CAP Cost Allocation<br>(per million \$s) |
| Residential                                                                                                                                     | 79.40%                                                        | \$794,000.00                             |
| General Service                                                                                                                                 | 4.20%                                                         | \$42,000.00                              |
| General Service (4)                                                                                                                             | 8.00%                                                         | \$80,000.00                              |
| Flood Control Power                                                                                                                             | 0.00%                                                         | \$0.00                                   |
| Large Power                                                                                                                                     | 7.40%                                                         | \$74,000.00                              |
| Lighting                                                                                                                                        | 1.00%                                                         | \$10,000.00                              |
| Sum                                                                                                                                             |                                                               | \$1,000,000.00                           |

UGI Electric witness Rogers objects to Mr. Colton’s recommendation that universal service costs be allocated, in part, to customers in addition to residential customers. She argues

first that his proposal “defies cost causation principles.”<sup>670</sup> The allocation of CAP costs among all customer classes involves allocating the cost of a public good, amongst all customer classes, not just the residential class.<sup>671</sup> Customer assistance/universal service costs benefit society broadly, so there is no particular reason to say that residential customers “cause” those costs and therefore should be the ones to pay for them.<sup>672</sup>

As set forth in his testimony, Mr. Colton has proven that it is incorrect to say that businesses and other non-residential customers have nothing to do with the need for universal service programs. One major reason people need these programs is that some workers are not paid enough to afford basic living expenses.<sup>673</sup> If UGI charges all of the universal service costs to residential customers, residential customers are effectively paying a cost that businesses otherwise would have to bear.<sup>674</sup> In other words, businesses can benefit from having low-wage employees while residential utility customers help cover the public assistance those employees need.<sup>675</sup> Mr. Colton explains, in detail, how that structure is essentially a subsidy from residential customers to businesses if nothing changes.<sup>676</sup> It is similar to what happens when taxpayers fund government programs that provide benefits to workers whose employers don't pay them enough to live on: the public—and in this case, residential utility customers—ends up helping cover costs associated with inadequate wages.<sup>677</sup>

Further, UGI did not dispute Mr. Colton’s testimony observing that the cost of providing service through the Company’s CAP program is not a cost that has a cost causation that can be

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<sup>670</sup> UGI Electric Statement 1-R, at 27.

<sup>671</sup> OCA Corrected St. 6SR at 6.

<sup>672</sup> *Id.*

<sup>673</sup> *Id.*

<sup>674</sup> *Id.*

<sup>675</sup> *Id.*

<sup>676</sup> OCA Corrected St. 6SR at 6.

<sup>677</sup> OCA Corrected St. 6SR at 6.

limited to the residential class.<sup>678</sup> Neither does UGI dispute the fact that the Commission has previously recognized that universal service costs are caused by factors endemic to society as a whole and are not caused by factors specific to residential customers.<sup>679</sup> Rather than being a cost “caused” by the residential class, the Commission explicitly found that “[c]early, there is a persuasive argument to be made that home heating and energy assistance for low-income households serves a public good whose responsibility is not merely other residential ratepayers.”<sup>680</sup> Mr. Colton has proven that the resulting direct financial subsidy from residential customers to non-residential customers is no different than the subsidy flowing to businesses from tax dollars that support the government-funded public benefits paid to employees who do not receive an adequate wage.<sup>681</sup>

UGI Witness Rogers further objects to an allocation of a portion of universal service costs to non-residential customers because, she asserts, such a decision “should be vetted in a policy statement or rulemaking proceeding, rather than an individual rate base rate case.”<sup>682</sup> This recommendation, however, is explicitly contrary to the Commission’s previous holding, which stated that:

the Commission finds it appropriate to consider recovery of the costs of CAP costs from all ratepayer classes. Utilities and stakeholders are advised to be prepared to address CAP cost recovery in utility-specific rate cases consistent

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<sup>678</sup> OCA Corrected St. 6SR at 6.

<sup>679</sup> *Id.*

<sup>680</sup> Final CAP Policy Statement and Order, Docket No. M-2019-3012599, at 94 -95 (Final Policy Statement and Order Nov. 5, 2019).

<sup>681</sup> OCA Corrected St. 6SR at 6 (citing, General Accounting Office (Oct. 2020). Federal Social Safety Net Programs, Millions of Full-Time Workers Rely on Federal Health Care and Food Assistance, GAO Report No. GAO-21-45, available at <https://www.gao.gov/assets/d2145.pdf>). For data specific to Pennsylvania, see, Ken Jacobs, et al. (January 2022). The Public Cost of Low-Wage Jobs in the Pennsylvania Construction Industry, U.C. Berkeley Labor Center, available at, <https://laborcenter.berkeley.edu/wp-content/uploads/2022/01/The-Public-Cost-of-Low-Wage-Jobs-in-the-Pennsylvania-Construction-Industry-1.pdf>; see also, Sylvania Allegretto, et al. (2013). The public cost of low-wage Jobs in the fast-food industry, U.C. Berkeley Labor Center, available at [https://laborcenter.berkeley.edu/pdf/2013/fast\\_food\\_poverty\\_wages.pdf](https://laborcenter.berkeley.edu/pdf/2013/fast_food_poverty_wages.pdf); Ken Jacobs, et al. (April 2015). The High Public Cost of Low Wages, U.C. Berkeley Labor Center, available at <https://escholarship.org/content/qt1m83q6dm/qt1m83q6dm.pdf?v=lg>.

<sup>682</sup> UGI Electric St. 1 at 27.

with the understanding that the Commission will no longer routinely exempt non-residential classes from universal service obligations.<sup>683</sup>

Thus, the allocation as is should not be permitted to continue and the Commission should adopt Mr. Colton's recommendation.

**2. UGI should share 50/50 Sharing of Credit and Collection Costs Under Section 523 of the Public Utility Code.**

The Commission should find that UGI Electric has neither demonstrated nor proven that its credit and collection activities are "efficient and effective" pursuant to Section 523 of the Public Utility Code.<sup>684</sup> Mr. Colton demonstrates why the Commission should approve a 50/50 sharing of the credit and collection expenses throughout this instant record.

Section 523 of Pennsylvania's Public Utility Code. Section 523 provides:

The commission shall consider, in addition to all other relevant evidence of record, the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates under this title. On the basis of the commission's consideration of such evidence, it shall give effect to this section by making such adjustments to specific components of the utility's claimed cost of service as it may determine to be proper and appropriate.<sup>685</sup>

Based on this statutory language, the Commission shall consider the "efficiency, effectiveness, and adequacy" of UGI Electric's credit and collection activities.<sup>686</sup> The Commission shall recommend adjustments to "specific components of the utility's claimed cost of service" to the extent those activities are determined to be ineffective or inefficient.<sup>687</sup>

UGI Electric does *not* want to share credit and collection costs with ratepayers and has argued that ratepayers should bear it all.<sup>688</sup> However, the statute is set forth in mandatory terms

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<sup>683</sup> Final CAP Policy Statement, at 97 (internal notes omitted).

<sup>684</sup> OCA Corrected St. 6 at 4.

<sup>685</sup> 66 Pa. Stat. § 523.

<sup>686</sup> OCA Corrected St. 6 at 42.

<sup>687</sup> *Id.*

<sup>688</sup> UGI St. 13R at 10-12.



(“shall consider”, “shall give effect”).<sup>689</sup> Additionally, UGI attempts to refute Mr. Colton’s concerns by trying to reframe a statistic from discovery.<sup>690</sup> Mr. Adamo attempts to celebrate the Company’s response to OCA-4-16, which provides that less than 15% of the 4,324 notices sent in 2025 to customers eligible for termination due to nonpayment resulted in the disconnection of service of the confirmed low income customer population.<sup>691</sup> However, this statistic does not, by itself, establish that UGI’s practices are inefficient or ineffective. Rather, the statistic further shows that this issue warrants examination as required by Sec 523. For example, the Commission could determine why such a large proportion of termination notices do not result in disconnection, what additional collection activities occur after notice, what those activities cost, and whether those practices are producing an adequate and efficient result. Those questions bear directly on whether the costs associated with UGI Electric’s credit and collection activities should be included in its claimed cost of service.<sup>692</sup>

Further, Mr. Adamo presents no evidence addressing whether UGI Electric’s credit and collection activities directed toward low-income customers are efficient, effective, or adequate within the meaning of Section 523.<sup>693</sup> Instead, he relies primarily on the assertion that “the Company has repeatedly explained that collection practices are consistent with the requirements of 52 Pa. Code § 56.93—56.100.”<sup>694</sup> Mr. Colton explains, though, that Mr. Adamo’s assertion addresses a different question from the one posed by Section 523.<sup>695</sup> Section 523 does not condition the Commission’s consideration of an adjustment on a finding that the utility has violated a

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<sup>689</sup> OCA Corrected St. 6SR at 11-12.

<sup>690</sup> UGI St. 6SR at 12.

<sup>691</sup> *Id.*

<sup>692</sup> OCA Corrected St. 6 at 24-25.

<sup>693</sup> OCA Corrected St. 6SR at 12.

<sup>694</sup> *Id.*; UGI Electric St. 13-R at 11.

<sup>695</sup> OCA Corrected St. 6SR at 12.

particular statutory or regulatory requirement.<sup>696</sup> Rather, Section 523 directs the Commission to “consider” the “efficiency, effectiveness and adequacy of service” and, based on that consideration, to “give effect” to the statute by making appropriate adjustments to specific components of the utility’s claimed cost of service.<sup>697</sup> Compliance with applicable regulations therefore does not, standing alone, establish that the utility’s credit and collection practices satisfy the separate standards of efficiency, effectiveness, and adequacy required by Section 523.<sup>698</sup>

For example, case law supports the application of Sec 523 in the base rate context as proposed by the OCA here. An Industrial Coalition had argued that the Commission lacked authority to award demand-side management program (DSM) incentives outside a general base-rate case and specifically relied on Section 523.<sup>699</sup> The Commission, by contrast, argued that Section 523 authorized the incentive mechanism and that incentives were necessary to overcome regulatory disincentives to DSM programs.<sup>700</sup> The Court agreed with the Industrial Coalition as to the timing and mechanism of the incentive adjustment.<sup>701</sup> The Court further reasoned that Section 523 applies to adjustments made when rates are determined and that those adjustments must relate to the utility’s claimed cost of service.<sup>702</sup> Thus, although Section 523 permits the Commission to consider the effectiveness of conservation activities and make an incentive or penalty adjustment based on that consideration, the adjustment must occur within a base-rate proceeding.<sup>703</sup>

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<sup>696</sup> *Id.*

<sup>697</sup> 66 Pa. Stat. § 523.

<sup>698</sup> OCA Corrected St. 6SR at 12.

<sup>699</sup> *Pa. Indus. Energy Coal. v. Pa. PUC*, 653 A.2d 1336, 1340 (Pa. Commw. Ct. 1995) (*Pennsylvania Industrial Energy Coalition*).

<sup>700</sup> *Id.*

<sup>701</sup> *Id.* at 1359.

<sup>702</sup> *Id.* at 1353.

<sup>703</sup> *Id.*

The Court did, however, distinguish between calculating or deferring an incentive and actually granting the incentive.<sup>704</sup> It found nothing prohibiting the Commission from calculating an incentive for later consideration.<sup>705</sup> But when a matter such as this comes before the Commission in a base-rate case, the Commonwealth Court was clear: the Commission has to comply with Section 523, including making the required findings based on evidence of record.<sup>706</sup>

*Pennsylvania Industrial Energy Coalition* confirms that Section 523 provides the Commission with an affirmative statutory basis to examine a utility's efficiency, effectiveness, and adequacy and, where warranted, to make appropriate adjustments to the utility's claimed cost of service.<sup>707</sup> The Court did not restrict the Commission's authority to examine a utility's practices under Section 523; rather, it addressed the circumstances and ratemaking context in which an adjustment may be made.<sup>708</sup> Any adjustment under Section 523 must be supported by the evidence of record and appropriate findings.<sup>709</sup>

Here, the 2025 termination-notice data provide a factual basis for such an examination. The record further supports examination of UGI Electric's collection practices under Section 523. The 2025 termination-notice data show that fewer than 15% of the 4,324 notices issued to customers eligible for termination due to nonpayment resulted in disconnection among the confirmed low-income customer population.<sup>710</sup> That result, standing alone, does not establish that UGI Electric's collection practices are inefficient or ineffective, as explained above. It does, however, warrant inquiry into the practices that produce that result.<sup>711</sup>

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<sup>704</sup> *Pennsylvania Industrial Energy Coalition* at 1347, 1350.

<sup>705</sup> *Id.* at 1353.

<sup>706</sup> *Id.*

<sup>707</sup> *Pennsylvania Industrial Energy Coalition* at 1353.

<sup>708</sup> *Id.*

<sup>709</sup> *Id.*

<sup>710</sup> UGI St. 13R at 12, citing to UGI Response to OCA-4-16.

<sup>711</sup> OCA Corrected St. 6SR at 12-13.

That inquiry is particularly appropriate in light of Mr. Adamo’s testimony that “no separate or differentiated collection activities are conducted across customer types.”<sup>712</sup> Thus, the record indicates that UGI Electric responds to instances of nonpayment using the same collection practices regardless of the circumstances underlying the delinquency or the intervention that may be appropriate to address it.<sup>713</sup> The absence of differentiated collection activities raises a legitimate question as to whether UGI Electric’s practices are designed to effectively address the causes of nonpayment and promote payment resolution, or instead rely on a uniform process regardless of the circumstances presented.<sup>714</sup>

Taken together, and along with Mr. Colton’s observations, the termination data and the undisputed absence of differentiated collection activities provide a reasonable factual basis for the Commission to examine the efficiency, effectiveness, and adequacy of UGI Electric’s credit and collection practices pursuant to Section 523. The evidence need not establish in advance that a cost-of-service adjustment is warranted; rather, it need only provide a sufficient basis for the Commission to undertake the examination that Section 523 expressly requires.<sup>715</sup> If that examination demonstrates that the practices are ineffective or inefficient, Section 523 provides the authority to consider an appropriate adjustment to the utility’s claimed cost of service.<sup>716</sup> Accordingly, UGI has not refuted that UGI Electric’s credit and collection practices satisfy the standards set forth in Section 523 or to foreclose further examination of whether an adjustment to the utility’s claimed cost of service is warranted. Thus, the Commission should adopt Mr. Colton’s

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<sup>712</sup> OCA Corrected St. 6SR at 12-13.

<sup>713</sup> *Id.*

<sup>714</sup> *Id.*

<sup>715</sup> *Pennsylvania Industrial Energy Coalition* at 1351.

<sup>716</sup> *Id.*

recommendation and ensure that the Company is sharing in the costs pursuant to the statutory mandate prescribing the same.

**3. The Commission should Require a Plain-English CAP Notice for Confirmed Low-Income Customers and prohibit UGI's continued conflation of Confirmed Low Income with CAP Eligibility.**

Mr. Colton explained that, in 2025, UGI Electric reported \$941,028 in collection expenses for residential customers, and \$341,986 for Confirmed Low-Income customers.<sup>717</sup> Not only are a disproportionately high number of Confirmed Low-Income customers in arrears, but they are also deeper in arrears.<sup>718</sup> On average through 2025, As of February 2026, more Confirmed Low-Income customers (no-CAP) were deeply in arrears than residential customers as a whole.<sup>719</sup> Mr. Colton elucidates these troubling trends:

While 44.0% of all residential customers in arrears were 180 or more days in arrears,<sup>720</sup> 59.4% of Confirmed Low-Income customers in arrears were 180 or more days in arrears.<sup>721</sup> A higher percentage of Confirmed Low-Income customers were reaching the stage of posing problematic arrears. While 21.2% of all residential accounts in arrears were accounts that turned 90 days old,<sup>722</sup> 36.1% of Confirmed Low-Income accounts in arrears fell into the aging bucket of 90 – 120 days.<sup>723</sup>

Mr. Colton found that low-income customers are deeper in arrears as well.<sup>724</sup> According to Mr. Colton's review of the record, residential customers had an average monthly arrears of \$757 in 2025, compared to the average monthly arrears of \$905 for Confirmed Low-Income customers.<sup>725</sup> Similarly, residential customers had an average median monthly arrears of

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<sup>717</sup> OCA Corrected St. 6 at 43.

<sup>718</sup> OCA Corrected St. 6 at 43-44.

<sup>719</sup> OCA Corrected St. 6 at 43-44.

<sup>720</sup> OCA Corrected St. 6 at 43-44 (citing UGI Electric response to OCA-IV- 30).

<sup>721</sup> OCA Corrected St. 6 at 43-44 (citing UGI Electric response to OCA-IV-31).

<sup>722</sup> OCA Corrected St. 6 at 44 (citing UGI Electric response to OCA-IV-30).

<sup>723</sup> OCA Corrected St. 6 at 44 (citing UGI Electric response to OCA-IV-31).

<sup>724</sup> OCA Corrected St. 6 at 44.

<sup>725</sup> OCA Corrected St. 6 at 44 (citing UGI Electric response to OCA-IV-10).

\$357 in 2025, compared to the average median monthly arrears of \$527 for Confirmed Low-Income customers. Even more troubling:

Not only are the Company's Confirmed Low-Income customers more likely to be in arrears, and deeper in arrears, a higher rate of Confirmed Low-Income customers proceed to the disconnection of service because of their arrears. In 2025, UGI Electric disconnected service to 1.74 residential accounts for every 100 accounts, it disconnected service to 8.52 Confirmed Low-Income accounts for every 100 accounts.<sup>726</sup>

Despite these poor payment patterns, UGI Electric continues to substantially under-enroll low-income customers in its CAP.<sup>727</sup>

UGI witness Meilinger presents extensive arguments about how well UGI Electric is doing to provide “a concerted focus on continued marketing and customer outreach to increase CAP enrollment.”<sup>728</sup> Mr. Colton explains that Mr. Meilinger's testimony misses the relevant distinction.<sup>729</sup> The issue is not limited to whether a customer is enrolled in CAP.<sup>730</sup> The Company has separate obligations to provide specified protections to “confirmed low-income customers.”<sup>731</sup> Those protections apply under a materially lower threshold than CAP enrollment.

CAP enrollment requires a customer to affirmatively apply for the program and establish income eligibility through the applicable verification process.<sup>732</sup> By contrast, a customer may be identified as a “Confirmed Low-Income Customer” when the Company has a “reasonable expectation” that the customer is low-income.<sup>733</sup> Thus, Commission regulations do not require the

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<sup>726</sup> OCA Corrected St. 6 at 44 (citing UGI Electric response to OCA-VI-1, OCA-VI-2).

<sup>727</sup> OCA Corrected St. 6 at 44.

<sup>728</sup> UGI Electric Statement 12-R at 6.

<sup>729</sup> OCA Corrected St. 6SR at 17.

<sup>730</sup> *Id.*

<sup>731</sup> OCA Corrected St. 6SR at 24.

<sup>732</sup> *Pennsylvania Public Utility Commission, CAP Policy Statement*, 52 Pa. Code § 69.265.

<sup>733</sup> OCA Corrected St. 6SR at 24.

Company to establish a customer's income eligibility before the customer may be treated as a confirmed low-income customer for purposes of the applicable protections.<sup>734</sup>

The distinction is important. CAP enrollment is an affirmative program enrollment determination based on verified eligibility, whereas identification as a confirmed low-income customer can be based on the Company's reasonable expectation of the customer's low-income status.<sup>735</sup> The latter standard necessarily permits the Company to identify and protect low-income customers even when they have not completed a CAP application or undergone formal income verification.<sup>736</sup> Accordingly, CAP enrollment data cannot be treated as a complete measure of the population of customers who may qualify for the protections afforded to confirmed low-income customers.<sup>737</sup>

Mr. Colton's recommendation concerns CAP enrollment, rather than merely the identification of a customer as low-income.<sup>738</sup> He distinguishes between establishing that a customer is a "Confirmed Low-Income" customer and ensuring that the customer is informed of the opportunity to enroll in CAP.<sup>739</sup> Mr. Colton recommends that customers from whom the Company has received sufficient information to establish that their household income falls within 0% to 150% of the Federal Poverty Level ("FPL") be provided with a stand-alone, written Plain Language notice informing them of their alternative right to enroll in the Company's CAP.<sup>740</sup> The notice should also explain the advantages of CAP, including its arrearage forgiveness provisions.<sup>741</sup>

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<sup>734</sup> OCA Corrected St. 6SR at 25-26.

<sup>735</sup> *Id.*

<sup>736</sup> *Id.*

<sup>737</sup> *Id.*

<sup>738</sup> OCA Corrected St. 6 at 62.

<sup>739</sup> *Id.*

<sup>740</sup> *Id.*

<sup>741</sup> *Id.*

Under Mr. Colton’s recommendation, this opportunity would provide a Confirmed Low-Income customer who is income-qualified for CAP with an alternative to agreeing to retire existing arrearages over an extended period of time.<sup>742</sup> Instead, the customer could enroll in CAP and, upon making the required payments, receive forgiveness of the underlying arrearages.

The written communication would be provided to Confirmed Low-Income customers—i.e., customers from whom UGI Electric has previously received sufficient information to reasonably establish their low-income status.

To help, Mr. Colton recommends that UGI use something like a COMPASS screenshot to confirm low-income status and tag the customer for protections related thereto.<sup>743</sup> His recommendation should not be understood as offering COMPASS as a means of satisfying CAP’s income-verification requirements for enrollment.<sup>744</sup> Rather, the screenshot serves a distinct purpose: establishing an individual’s Confirmed Low-Income status and enabling targeted outreach to potentially eligible households for universal service programs, including CAP and LIHEAP.<sup>745</sup> This distinction is important because the standards and purposes governing CAP enrollment and Confirmed Low-Income status are not the same, as discussed above. Although CAP enrollment may require a customer to affirmatively apply and provide verified income information through the applicable eligibility process, verified income is not necessary to establish Confirmed Low-Income status. Accordingly, a COMPASS screenshot can appropriately be used as evidence of Confirmed Low-Income status—and to facilitate proactive outreach to individuals who may benefit from CAP, LIHEAP, and other universal service programs—without treating that

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<sup>742</sup> OCA Corrected St. 6 at 62.

<sup>743</sup> OCA Corrected St. 6 at 59.

<sup>744</sup> *Id.*

<sup>745</sup> *Id.*



screenshot as a substitute for the income verification required when a customer actually applies for CAP.<sup>746</sup>

The recommendation to permit a COMPASS screenshot to establish a customer's Confirmed Low-Income status is not intended to suggest that the screenshot would satisfy the separate income-verification requirements applicable to enrollment in a utility's CAP. Rather, the screenshot would serve the distinct purpose of demonstrating that the customer has been identified through an established public-benefits system as low-income and therefore may warrant treatment as a Confirmed Low-Income customer for purposes of universal-service protections and targeted outreach. This distinction is important because Confirmed Low-Income status and CAP enrollment serve different functions and are governed by different requirements. A customer may be identified as Confirmed Low-Income—and therefore be appropriately targeted for outreach concerning CAP, LIHEAP, CARES, hardship assistance, and other universal-service programs—without having completed the affirmative application and income-verification process required to enroll in CAP.<sup>747</sup>

In other words, the use of a COMPASS screenshot would not bypass or replace CAP's eligibility-verification requirements; it would permit the utility to identify customers who may be entitled to, or may benefit from, additional protections and assistance and to proactively inform them of available programs.<sup>748</sup> Indeed, Pennsylvania's universal-service framework recognizes Confirmed Low-Income status as a basis for identifying customers for purposes of universal-service programs, including payment assistance, termination-of-service protections, energy-usage reduction programs, and consumer education.<sup>749</sup> Accordingly, requiring verified income at the

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<sup>746</sup> OCA Corrected St. 6 at 59.

<sup>747</sup> See 52 Pa. Code § 69.265(4)(ii), (8)(ii).

<sup>748</sup> OCA Corrected St. 6 at 59.

<sup>749</sup> See 52 Pa. Code § 54.72.

Confirmed Low-Income identification stage would conflate the preliminary identification and outreach function of that designation with the separate, subsequent process for establishing eligibility and enrolling in CAP.

**4. Low-Income Customers Should Receive Clear Notice of Their Right to Enroll in CAP Instead of Entering a Deferred Payment Agreement**

Mr. Colton recommends that UGI Electric provide a stand-alone written Plain Language notice to (1) Confirmed Low-Income customers who are negotiating a Deferred Payment Agreement (DPA) with the Company and (2) customers for whom the Company has information placing them within an income tier of 0% to 150% of the Federal Poverty Level (FPL).<sup>750</sup> The notice should explain that, rather than entering into a DPA to repay arrearages over time, the customer may have the option to enroll in CAP if the customer satisfies CAP's income-eligibility requirements.<sup>751</sup> Mr. Colton explains that providing this notice is important because CAP and a DPA have materially different financial consequences for eligible low-income customers.<sup>752</sup> CAP may provide a reduced monthly bill and, upon the customer's compliance with the program's payment requirements, forgiveness of qualifying arrearages. A DPA, by contrast, requires the customer to repay arrearages over time in addition to paying the customer's regular, undiscounted monthly bill.<sup>753</sup>

Accordingly, Mr. Colton recommends that a Confirmed Low-Income customer should not be placed into a DPA without first being informed of the potential CAP alternative.<sup>754</sup> The customer should be given sufficient information to make an informed choice between the two

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<sup>750</sup> OCA Corrected St. 6 at 62.

<sup>751</sup> OCA Corrected St. 6 at 62.

<sup>752</sup> OCA Corrected St. 6 at 62-63.

<sup>753</sup> OCA Corrected St. 6 at 62.

<sup>754</sup> *Id.*

options.<sup>755</sup> If, after receiving that information, the customer prefers to repay the arrearage through a DPA rather than enroll in CAP, the customer may choose the DPA.<sup>756</sup>

**5. UGI Electric should be directed to modify its processes and procedures regarding the low-income exemption from deposits.**

Mr. Colton recommends that the Commission direct UGI Electric to modify its processes and procedures governing the low-income exemption from cash security deposits.<sup>757</sup> Specifically, he recommends that UGI Electric accept information beyond income and household size that attests to a household's eligibility for a state benefit consistent with CAP income requirements.<sup>758</sup> As discussed in his testimony, COMPASS information is one example of such information that could be used to establish Confirmed Low-Income status that would then allow for an analysis as to whether a cash deposit is waived, should be refunded, or required.<sup>759</sup> Mr. Colton explains:

The Commission regulation exempting low-income customers from being required to post a cash security deposit, or qualifying them for a refund of any previously posted deposit, does not require the customer to complete an income verification process for CAP or LIHEAP.<sup>760</sup>

Mr. Colton further recommends that UGI Electric eliminate its requirement that a customer apply for CAP and be verified as income-eligible through the CAP application process before receiving a deposit exemption.<sup>761</sup> In his view, CAP enrollment should not be a prerequisite for establishing eligibility for the low-income deposit exemption where other reliable information establishes that the customer meets the applicable low-income standard.<sup>762</sup> UGI has made the CAP process a plug and play for all things “confirmed low income” and that is inappropriate.

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<sup>755</sup> OCA Corrected St. 6 at 62.

<sup>756</sup> *Id.*

<sup>757</sup> OCA Corrected St. 6 at 65-68.

<sup>758</sup> *Id.* at 68.

<sup>759</sup> *Id.*

<sup>760</sup> *Id.* at 68 (citing 56 Pa. Code § 56.41(4)).

<sup>761</sup> *Id.* at 68.

<sup>762</sup> *Id.*

To rectify the same, Mr. Colton recommends that, within three months after entry of a final Commission order in this proceeding—and every three months thereafter—UGI Electric review the cash security deposits it holds. To the extent UGI Electric holds a cash security deposit for a Confirmed Low-Income customer, Mr. Colton recommends that the deposit be refunded consistent with Commission precedent. The Commission regulation exempting low-income customers from being required to post a cash security deposit, or qualifying them for a refund of any previously posted deposit,<sup>763</sup> does not require the customer to complete an income verification process for CAP or LIHEAP. Instead, a customer need only demonstrate that they are receiving public assistance through a program whose income eligibility is “consistent with” the income eligibility for CAP.

Mr. Colton was clear:

Even though Mr. Meilinger seeks to conflate and confuse the various obligations which PUC regulations impose on the Company, the Commission’s regulations impose three distinctly different obligations:

- Customers who apply for and are verified to be eligible for CAP should be enrolled in CAP;
- Customers for whom the Company has information that creates a “reasonable expectation” that the customer is low-income is defined by PUC regulation to be “confirmed low-income.” This is a *different* test from having income-eligibility verified for purposes of CAP enrollment. This is an obligation with which UGI Electric does not reasonable comply.
- Customers who provide information, including but not limited to actual income, demonstrating that they are eligible for a public assistance program which has eligibility “consistent with” CAP are exempted from deposit requirements. This, too, is a *different* test from being verified to enroll in CAP or, the less stringent test,

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<sup>763</sup> 56 Pa. Code § 56.41(4).

of providing information which would raise a reasonable expectation that the customer is low-income.<sup>764</sup>

UGI's "continuing effort to confuse the issue by asserting that all three tests are the same should be rejected in light of the clear language of PUC regulations."<sup>765</sup> Thus, the OCA has met its burden in demonstrating that UGI Electric should be ordered to update their practices and procedures for low-income customers in accordance with Mr. Colton's recommendations.

**6. The Commission Should Require Evaluation of Non-SSN Identification Methods.**

UGI should be directed to report to the Commission, within 12 months of a final decision in this docket, its plan to eliminate the collection and retention of customer Social Security Numbers. This plan should include a plan for elimination of the SSNs currently retained in Company information technology.

At a minimum, UGI Electric should be directed to: (1) refrain from retaining SSNs from customers for more than 30-days after the customer establishes service; (2) refrain from providing a customer SSN to any entity outside of the Company; and (3) notify the customer, at the time the customer is asked to provide his/her/their SSN that, in the absence of the first two steps outlined above, that the SSN will be retained in perpetuity and that the SSN will be provided to a multi-national credit firm, to allow the customer to take such notice into account in deciding whether to provide their SSN.

In addition, not only does the Company collect these SSNs, but it also retains them in perpetuity. The Company's assertion, in other words, that it collects SSNs "for the limited purpose of credit verification in connection with establishing utility service" is not an accurate statement.<sup>766</sup>

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<sup>764</sup> OCA Corrected St. 6SR at 22.

<sup>765</sup> OCA Corrected St. 6SR at 22.

<sup>766</sup> OCA Corrected St. 6 at 78.

The use of SSNs by private entities is one of the leading causes of identity theft.<sup>767</sup> SSNs, along with a person's date of birth and name, are the three most sought-after pieces of personal information sought by identity thieves.<sup>768</sup> According to the 2007 report of the Presidential Task Force on Identity Theft, a person's SSN is the single most important piece of personally identifiable information available to identity thieves.<sup>769</sup>

SSNs are viewed as a "breeder document" by identity thieves.<sup>770</sup> As Mr. Colton explains:

With a Social Security Number, an identity thief can create other false documents supporting a false identity, including a driver's license, retail credit account, credit card account, bank account, and similar papers. Unlike names and addresses, which can change over a person's lifetime, it is "virtually impossible" for a person to change his/her SSN. The social security number cannot be changed merely because it has been lost or stolen. There must be evidence that (1) someone is in fact wrongfully using the number, and (2) that the individual to whom the number belongs is being disadvantaged by the wrongful use.<sup>771</sup>

Mr. Colton has proven that the clear direction in recent years is to reduce, and eliminate where possible, the unnecessary collection and use of SSNs. In 2007, the federal Office of Management and Budget (OMB) issued a memo requiring federal agencies to examine their use of SSNs in systems and programs to identify and eliminate instances where the collection of SSNs is unnecessary.<sup>772</sup> OMB required agencies to explore alternatives to their use of SSNs.<sup>773</sup> Like OMB's guidance to federal agencies, the Federal Trade Commission (FTC) has urged a reduction

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<sup>767</sup> OCA Corrected St. 6 at 71.

<sup>768</sup> OCA Corrected St. 6 at 71.

<sup>769</sup> OCA St. 6 at 71 (citing President's Identity Theft Task Force (2007). Combating Identity Theft: A Strategic Plan; available at: [https://www.govexec.com/management/2024/04/opm-rule-removes-social-security-numbers-mailed-documents/395700/#:~:text=The%20Office%20of%20Personnel%20Management,an%20effort%20to%20prevent%20fraud](https://www.govexec.com/management/2024/04/opm-rule-removes-social-security-numbers-mailed-documents/395700/#:~:text=The%20Office%20of%20Personnel%20Management,an%20effort%20to%20prevent%20fraud).)).

<sup>770</sup> OCA Corrected St. 6 at 72.

<sup>771</sup> OCA Corrected St. 6 at 72.

<sup>772</sup> OCA Corrected St. 6 at 73.

<sup>773</sup> *Id.*

in the use of SSNs in the private sector.<sup>774</sup> FTC testified to Congress that there was a need to eliminate the unnecessary use of SSNs.<sup>775</sup> The FTC cited the observation of the Presidential Task Force on Identity Theft that it is not clear whether the use of SSNs by the private sector was a necessity, or a result of “convenience and habit.”<sup>776</sup>

As noted by Peter Swire-- the Chief Counselor for Privacy in the Office of Management and Budget for President Bill Clinton’s Administration--“Social Security Numbers are an aging technology, and we have to do serious planning for what will come next.”<sup>777</sup> Swire’s comment responded to a study published in the proceedings of the National Academy of Science by Acquisti and Gross, researchers at Carnegie Mellon University. The Acquisti and Gross study identified-- through a computer statistical analysis--the first five digits of a person’s SSN for 44% of persons borne after 1988, and for 7% of those born from 1973 to 1988. Knowing the first five digits of an SSN leads to the discovery of the entire SSN. Due to different truncation protocols, while some entities truncate the first four digits of an SSN, other entities truncate the last four digits, thus allowing partial SSNs to be easily matched. The accuracy of the prediction system increased for smaller states and for people born after 1988. While the researchers were able to predict the full SSN for 8.5% of those born after 1988 in fewer than 1,000 attempts (testing the data on a half million persons), they needed 10 or fewer tries to predict all nine digits for 1 out of 20 Social Security numbers assigned in Delaware.<sup>778</sup> Unless mitigating strategies are implemented,” the

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<sup>774</sup> *Id.*

<sup>775</sup> *Id.*

<sup>776</sup> OCA St. 6 at 73, President’s Identity Theft Task Force (2007). Combating Identity Theft: A Strategic Plan, at 24. The President’s Task Force stated quite simply in 2007 that “more must be done to eliminate unnecessary use of SSNs.” *Id.*

<sup>777</sup> OCA St. 6 at 74 (citing New York Times, “Weakness in Social Security Numbers is Found,” July 6, 2009).

<sup>778</sup> OCA St. 6 at 74 (citing Acquisti and Gross (2009), “Predicting Social Security Numbers from Public Data,” Proc. Natl Acad. Sci. USA 106:10975-10980).

Acquisti and Gross study found, “the predictability of SSNs exposes people to risks of identity theft on mass scales.”<sup>779</sup>

The concerns raised by Acquisti and Gross were somewhat mitigated when, in 2011, the Social Security Administration began to randomly assign SSNs. Prior to that change in June 2011, however: (1) the first three digits of the SSN were called the “area number” and represented the state where a person lived when the SSN was issued; (2) the next two digits were the “group number” and grouped Social Security numbers within a state into blocks of numbers; and (3) the final four numbers were the “serial number” and identified each individual within a block. Regardless, the Acquisti and Gross research still presents cause for concern.

UGI Electric asserts, but provides no supporting data or analysis, that it needs to use SSNs in order to prevent fraud, by identifying the identity and creditworthiness of service applicants.<sup>780</sup> Moreover, UGI Electric argues that “The Company disagrees that its practice of collecting SSNs for the limited purpose of credit verification in connection with establishing utility service is improper and/or not in compliance with applicable legal and regulatory requirements.”<sup>781</sup>

UGI Electric collects SSNs from 99.3% of its customers.<sup>782</sup> The Company collects SSNs for the express purpose of providing them to a third party (“The Company asks for a new customer's SSN when they apply for service so an Experian check can be run to verify their identity.”)<sup>783</sup> Experian’s use of, and protection of, SSNs is not subject to the jurisdiction of the

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<sup>779</sup> *Id.*

<sup>780</sup> OCA Corrected St. 6 at 75, (citing UGI Electric response to OCA-IV-7).

<sup>781</sup> OCA Corrected St. 6 at 76, (citing UGI Electric response to OCA-IV-28).

<sup>782</sup> OCA Corrected St. 6 at 78, (citing UGI Electric response to OCA-IV-8).

<sup>783</sup> OCA Corrected St. 6 at 78, (citing UGI Electric response to OCA-IV-6 (emphasis added)).



Pennsylvania PUC.<sup>784</sup> Indeed, UGI Electric has no control over how Experian protects Social Security Numbers.

As. Mr. Colton observed and warned, when customers are asked to provide their SSNs at the time they apply for UGI Electric service, they are neither informed, nor notified, of the Company's intended retention and expansive use of the personal data. UGI Electric.<sup>785</sup>

- Does not inform or notify customers that their SSN will be retained in perpetuity, including after the time the household is no longer a customer of the Company;
- Does not inform or notify customers that their SSN will be provided to a third party (Experian), an international credit agency operating in North America, Central America, South America, Europe, the Middle East, Asia, and Australia. According to Experian, itself, its business purpose involves "transforming complex data into actionable insights. From credit risk assessment to fraud prevention and market analysis. . ."
- Does not inform customers of the fact that Experian will also appear to be authorized to retain customer Social Security Numbers. If Experian is not so authorized, there would be nothing for UGI Electric to match a customer SSN to in an "Experian Connect Check" in order to "verify the applicant's identity." UGI Electric states: "to establish service, a Customer Care Representative (CCR) will run an Experian Connect Check to verify the applicant's identity. If the Connect Check returns a result that indicates an identity issue, the CCR will deny service until valid identification is provided."<sup>786</sup>

UGI Witness Adamo does respond to Mr. Colton's testimony about the need for UGI Electric to eliminate its collection, use and retention, of customer Social Security Numbers (SSNs).<sup>787</sup> Mr. Adamo's rebuttal testimony, however, is more notable for what it does not dispute than for what it does. He expressly represents that "the Company does not share customers' SSNs with affiliates or corporate entities."<sup>788</sup> The OCA appreciates this confirmation; however, it does

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<sup>784</sup> See 66 Pa.C.S. § 501(a); The Pennsylvania Supreme Court has explained that PUC jurisdiction concerns "the relationship between public utilities and the public" and extends to matters such as rates, service, rules of service, and utility facilities. *Lansdale Borough v. Philadelphia Electric Co.*, 170 A.2d 565, 567 (Pa. 1961).

<sup>785</sup> OCA Corrected St. 6 at 79 (citing UGI Electric response to OCA-IV-7).

<sup>786</sup> OCA Corrected St. 6 at 80 (internal citations omitted).

<sup>787</sup> OCA Corrected St. 6R at 8.

<sup>788</sup> UGI Electric Statement 13-R, at 8.

not resolve the OCA's concerns regarding the Company's practices to date in collecting customers' SSNs.

While UGI affirms the above-information, UGI did not dispute Mr. Colton's observations that:

- UGI Electric collects SSNs from 99.3% of its customers.<sup>789</sup>
- The Company collects SSNs for the express purpose of providing them to a third party ("The Company asks for a new customer's SSN when they apply for service so an Experian check can be run to verify their identity."<sup>790</sup>
- Experian's use of, and protection of, SSNs is not subject to the jurisdiction of the Pennsylvania PUC. Indeed, UGI Electric has no control over how Experian protects Social Security Numbers.
- Not only does the Company collect these SSNs, but it also retains them in perpetuity.<sup>791</sup>

Thus, Mr. Colton has proven that the Company's assertion that it collects SSNs "for the limited purpose of credit verification in connection with establishing utility service" is not an accurate statement.<sup>792</sup> Moreover, Mr. Adamo's assertion that the utility provides a customer with the option of declining to provide an SSN when requested ignores the disparate power relationship between customers and the Company.<sup>793</sup> The disparity in power does not provide a realistic option for customers to say "no" to a customer request.<sup>794</sup> UGI has not demonstrated any reason regarding why UGI should be permitted to retain SSNs.

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<sup>789</sup> OCA Corrected Statement 6, at 78.

<sup>790</sup> UGI Electric St. 13-R, at 8.

<sup>791</sup> OCA Corrected St. 6 at 78.

<sup>792</sup> OCA Corrected St. 6SR at 9.

<sup>793</sup> *Id.*

<sup>794</sup> *Id.*

UGI Witness Adamo also failed to dispute that when customers are asked to provide their SSNs at the time they apply for UGI Electric service, they are neither informed, nor notified, of the Company's intended retention and expansive use of the personal data.<sup>795</sup> Thus, the following remain undisputed facts in the record that UGI Electric:

- Does not inform or notify customers that their SSN will be retained in perpetuity, including after the time the household is no longer a customer of the Company;
- Does not inform or notify customers that their SSN will be provided to a third party (Experian), an international credit agency operating in North America, Central America, South America, Europe, the Middle East, Asia, and Australia.
- Does not inform customers of the fact that Experian will also appear to be authorized to retain customer Social Security Numbers. If Experian is not so authorized, there would be nothing for UGI Electric to match a customer SSN to in an "Experian Connect Check" in order to "verify the applicant's identity."<sup>796</sup>

The OCA has proven that UGI should be directed to report to the Commission, within 12 months of a final decision in this docket, its plan to eliminate the collection and retention of customer Social Security Numbers.<sup>797</sup> This plan should include a plan for elimination of the SSNs currently retained in Company information technology.<sup>798</sup> Thus, Mr. Colton's recommendation is specific and complete.<sup>799</sup>

## **XII. OTHER ISSUES**

The OCA did not raise any other issues.

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<sup>795</sup> *Id.*

<sup>796</sup> OCA Corrected St. 6, at 78 (internal note omitted); OCA Corrected St. 6SR at 9-10.

<sup>797</sup> OCA Corrected St. 6SR at 10-11.

<sup>798</sup> *Id.*

<sup>799</sup> OCA Corrected St. 6SR at 10.

### **XIII. CONCLUSION**

In summary, UGI Electric has not affirmatively demonstrated the reasonableness of every element of its claims for rate base, revenues and expenses, rate of return, revenue allocations, cost of service allocation and rate design. Accordingly, it is within the discretion of the ALJ and the Commission to deny NFG's ratemaking claims and requests in this proceeding that are challenged by the OCA.

Respectfully submitted,

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Dated: September 8, 2026

## **Appendix A**

### **Tables**

UGI Utilities - Electric Division  
Docket No. R-2025-3059430

OCA Revenue Allocation w/ Scale backs

|                              | Current<br>Non-Fuel<br>Revenues<br>(\$000) | OCA Revenue Allocation       |             |                      |
|------------------------------|--------------------------------------------|------------------------------|-------------|----------------------|
|                              |                                            | Proposed Increase<br>(\$000) | (%)         | Relative<br>Increase |
| Residential                  | \$ 48,472                                  | \$ 3,820                     | 7.9%        | 1.01                 |
| <b>General Service</b>       |                                            |                              |             |                      |
| General Service              | \$ 2,851                                   | \$ 227                       | 7.9%        | 1.01                 |
| General Service-4            | 6,122                                      | 488                          | 8.0%        | 1.02                 |
| <b>Total General Service</b> | <b>\$ 8,973</b>                            | <b>\$ 715</b>                | <b>8.0%</b> | <b>1.02</b>          |
| Flood Control Power          | \$ 21                                      | \$ 2                         | 9.0%        | 1.15                 |
| Large Power                  | \$ 6,522                                   | \$ 591                       | 9.1%        | 1.16                 |
| Lighting                     | \$ 1,422                                   | \$ -                         | 0.0%        | 0.00                 |
| <b>Total UGI-E</b>           | <b>\$ 65,409</b>                           | <b>\$ 5,128</b>              | <b>7.8%</b> | <b>1.00</b>          |

\$ 5,128 < OCA Revenue Increase  
0.2967 < Scaleback Ratio

UGI Utilities - Electric Division  
Docket No. R-2025-3059430

OCA and UGI Filed Revenue Allocations

|                              | Current<br>Non-Fuel<br>Revenues | UGI Direct           |                                 | OCA Direct           |                      |
|------------------------------|---------------------------------|----------------------|---------------------------------|----------------------|----------------------|
|                              |                                 | Proposed<br>Increase | Relative<br>Increase<br>(\$000) | Proposed<br>Increase | Relative<br>Increase |
| Residential                  | \$ 48,472                       | \$ 15,383            | 1.20                            | \$ 12,875            | 1.01                 |
| <b>General Service</b>       |                                 |                      |                                 |                      |                      |
| General Service              | \$ 2,851                        | \$ 1,181             | 1.57                            | \$ 763               | 1.01                 |
| General Service-4            | 6,122                           | 314                  | 0.19                            | 1,646                | 1.02                 |
| <b>Total General Service</b> | <b>\$ 8,973</b>                 | <b>\$ 1,495</b>      | <b>0.63</b>                     | <b>\$ 2,409</b>      | <b>1.02</b>          |
| Flood Control Power          | \$ 21                           | \$ 2                 | 0.45                            | \$ 6                 | 1.15                 |
| Large Power                  | \$ 6,522                        | \$ 331               | 0.19                            | \$ 1,992             | 1.16                 |
| Lighting                     | \$ 1,422                        | \$ 71                | 0.19                            | \$ -                 | 0.00                 |
| <b>Total UGI-E</b>           | <b>\$ 65,409</b>                | <b>\$ 17,283</b>     | <b>1.00</b>                     | <b>\$ 17,283</b>     | <b>1.00</b>          |

26.42%

26.42%

TABLE I  
UGI Utilities, Inc. - Electric  
INCOME SUMMARY  
R-2025-3059430

|                   | Pro Forma<br>Present Rates<br>\$<br>(1) | Company<br>Adjustments<br>\$<br>(2) | Pro Forma<br>Present Rates<br>\$<br>(3) = (1) + (2) | OCA<br>Adjustments<br>\$<br>(4) | OCA<br>Pro Forma<br>Present Rates<br>\$<br>(5) = (3) + (4) | OCA<br>Revenue<br>Increase<br>\$<br>(6) | Total<br>Allowable<br>Revenues<br>\$<br>(7) = (5) + (6) |
|-------------------|-----------------------------------------|-------------------------------------|-----------------------------------------------------|---------------------------------|------------------------------------------------------------|-----------------------------------------|---------------------------------------------------------|
| Operating Revenue | 145,459,000                             | 16,050,000                          | 161,509,000                                         | 0                               | 145,459,000                                                | 5,127,616                               | 150,586,616                                             |
| Expenses:         |                                         |                                     |                                                     |                                 |                                                            |                                         |                                                         |
| O & M Expense     | 112,523,000                             | 348,000                             | 114,398,000                                         | (2,364,871)                     | 112,033,129                                                | 0                                       | 113,118,652                                             |
| Depreciation      | 11,948,000                              | 0                                   | 11,948,000                                          | (1,587,695)                     | 10,360,305                                                 | 0                                       | 10,360,305                                              |
| Taxes, Other      | 9,807,000                               | 1,006,000                           | 10,813,000                                          | (858,662)                       | 9,954,338                                                  | 0                                       | 9,954,338                                               |
| Income Taxes:     |                                         |                                     |                                                     |                                 |                                                            |                                         |                                                         |
| State             | 116,000                                 | 1,185,000                           | 1,301,000                                           | (1,194,948)                     | (106,454)                                                  | 0                                       | (106,454)                                               |
| Federal           | 180,000                                 | 3,074,000                           | 3,254,000                                           | (2,726,133)                     | (528,022)                                                  | 0                                       | (528,022)                                               |
| Total Expenses    | 134,574,000                             | 5,613,000                           | 141,714,000                                         | (8,732,309)                     | 131,713,296                                                | 0                                       | 132,798,819                                             |
| Return            | 10,885,000                              | 10,437,000                          | 19,795,000                                          | 8,732,309                       | 13,745,704                                                 | 2,155,266                               | 15,900,970                                              |
| Rate Base         | 239,087,000                             | 0                                   | 239,087,000                                         | (68,118)                        | 239,018,882                                                |                                         | 239,018,882                                             |
| Rate of Return    | 4.55%                                   |                                     | 8.28%                                               |                                 | 5.75%                                                      |                                         | 6.6526%                                                 |

(1) As filed

(3) Company Main Brief



TABLE I(A)  
0  
RATE OF RETURN  
0

|                             | <u>Structure</u><br>(1) | <u>Cost</u><br>(2) | <u>After-Tax<br/>Weighted<br/>Cost</u><br>[(3) = (1) x (2)] | <u>Effective<br/>Tax Rate<br/>Complement</u><br>(4) | <u>Pre-Tax<br/>Weighted<br/>Cost Rate</u><br>[(5) = (3) x (4)] |
|-----------------------------|-------------------------|--------------------|-------------------------------------------------------------|-----------------------------------------------------|----------------------------------------------------------------|
| Total Cost of Debt          |                         |                    | 2.99860000%                                                 |                                                     |                                                                |
| Long-term Debt              | 58.00%                  | 5.17%              | 2.99860000%                                                 |                                                     | 3.00%                                                          |
| Short-term Debt             | 0.00%                   | 0.00%              | 0.00000000%                                                 |                                                     |                                                                |
| Preferred Stock             | 0.00%                   | 0.00%              | 0.00000000%                                                 | 0.730829                                            | 0.00%                                                          |
| Common Equity               | <u>42.00%</u>           | 8.70%              | <u>3.65400000%</u>                                          | 0.730829                                            | <u>5.00%</u>                                                   |
|                             | <u>100.00%</u>          |                    | <u>6.65260000%</u>                                          |                                                     | <u>8.00%</u>                                                   |
| Pre-Tax Interest Coverage   | 2.67                    |                    |                                                             |                                                     |                                                                |
| After-Tax Interest Coverage | 2.22                    |                    |                                                             |                                                     |                                                                |

TABLE I(B)  
0  
REVENUE FACTOR  
0

|                                             |                          |
|---------------------------------------------|--------------------------|
| 100%                                        | <u>1.00000000</u>        |
| Less:                                       |                          |
| Uncollectible Accounts Factor (*)           | 0.02167000               |
| PUC, OCA, OSBA Assessment Factors (*)       | 0.00000000               |
| Gross Receipts Tax                          | 0.06270000               |
| Other Tax Factors                           | <u>0.00000000</u>        |
|                                             | 0.91563000               |
| State Income Tax Rate (*)                   | <u>0.07490000</u>        |
| Effective State Income Tax Rate             | <u>0.06858069</u>        |
| Factor After Local and State Taxes          | 0.84704931               |
| Federal Income Tax Rate (*)                 | <u>0.21000000</u>        |
| Effective Federal Income Tax Rate           | <u>0.17788036</u>        |
| Revenue Factor (100% - Effective Tax Rates) | <u><u>0.66916895</u></u> |

(\*) Company Main Brief

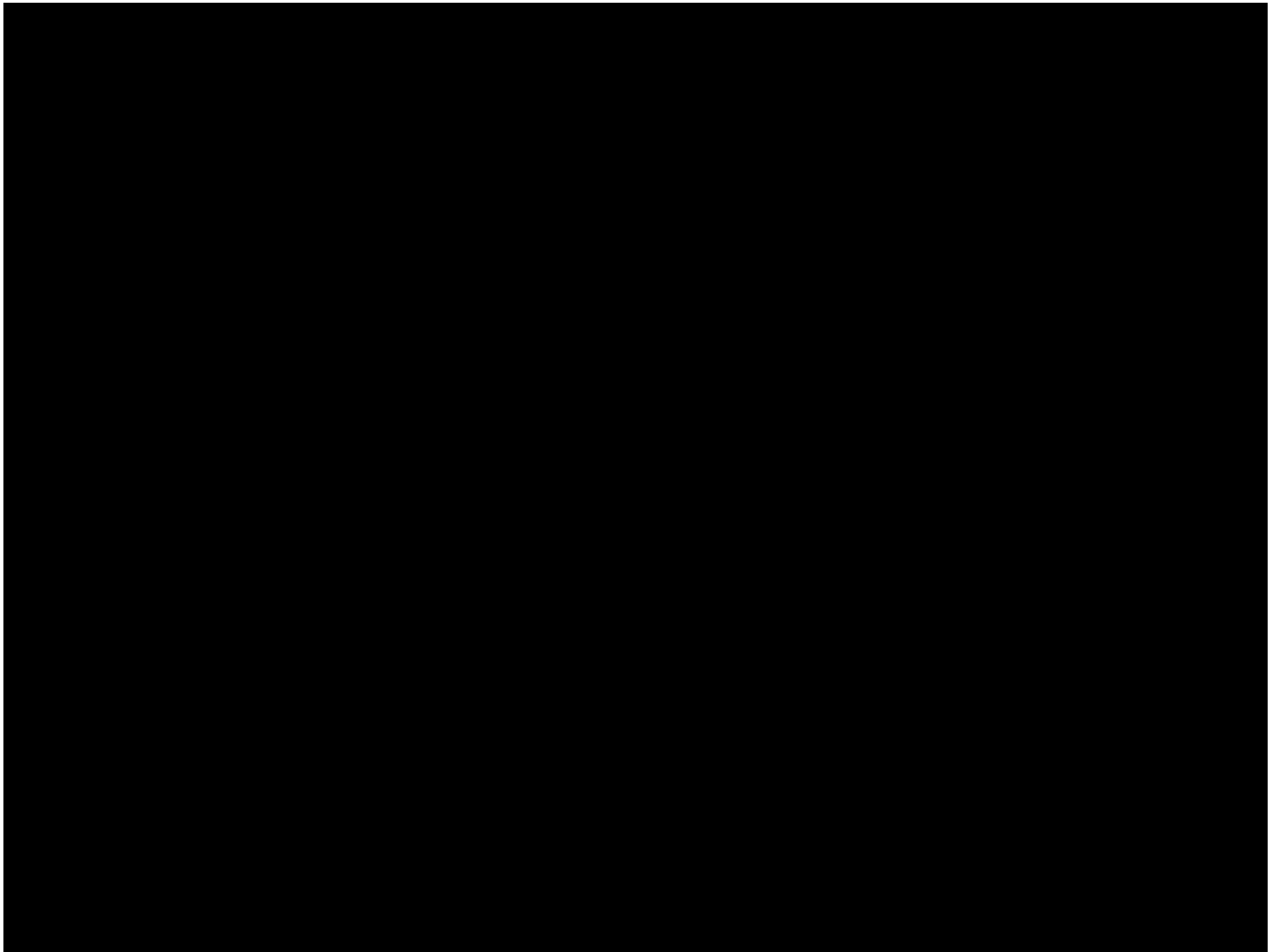


TABLE III  
0  
INTEREST SYNCHRONIZATION  
0

| (1)                                                                  | Amount<br>\$<br>(2)       |
|----------------------------------------------------------------------|---------------------------|
| Company Rate Base Claim                                              | 239,087,000               |
| OCA Rate Base Adjustments (Table II)                                 | <u>(68,118)</u>           |
| OCA Rate Base (Line 1 - Line 2)                                      | 239,018,882               |
| Weighted Cost of Debt (Table IA)                                     | <u>2.99860000%</u>        |
| OCA Interest Expense (Line 3 x Line 4)                               | 7,167,220                 |
| Company Claim <sup>(1)</sup>                                         | <u>0</u>                  |
| Total OCA Adjustment (Line 6 - Line 5)                               | (7,167,220)               |
| Company Adjustment <sup>(1)</sup>                                    | <u>0</u>                  |
| Net OCA Interest Adjustment (Line 7 - Line 8)                        | (7,167,220)               |
| State Income Tax Rate (Table IB)                                     | <u>7.49%</u>              |
| State Income Tax Adjustment (Line 9 x Line 10)<br>(Flow to Table II) | <u>(536,825)</u>          |
| Net OCA Interest Adjustment (Line 9)                                 | (7,167,220)               |
| State Income Tax Adjustment (Line 11)                                | <u>(536,825)</u>          |
| Net OCA Adjustment for F.I.T. (Line 12 - Line 13)                    | (6,630,395)               |
| Federal Income Tax Rate                                              | <u>21.00%</u>             |
| Federal Income Tax Adjustment (Line 14 x Line 15)                    | <u><u>(1,392,383)</u></u> |

<sup>(1)</sup> Company Main Brief

TABLE IV  
0  
CASH WORKING CAPITAL - Interest and Dividends  
0

| Accrued Interest                   |     |                       | Preferred Stock Dividends |                           |                    |
|------------------------------------|-----|-----------------------|---------------------------|---------------------------|--------------------|
|                                    | (1) | Long-Term Debt<br>(2) | Short-Term Debt<br>(3)    | (4)                       | (5)                |
| 1. Company Rate Base Claim         |     | \$239,087,000         | \$239,087,000             | Company Rate Base Claim   | \$239,087,000      |
| 2. OCA Rate Base Adjustments       |     | <u>(\$68,118)</u>     | <u>(\$68,118)</u>         | OCA Rate Base Adjustments | <u>(\$68,118)</u>  |
| 3. OCA Rate Base                   |     | \$239,018,882         | \$239,018,882             | OCA Rate Base             | \$239,018,882      |
| 4. Weighted Cost of Debt           |     | <u>2.99860000%</u>    | <u>0.00%</u>              | Weighted Cost Pref. Stock | <u>0.00000000%</u> |
| 5. OCA Annual Interest Exp.        |     | <u>\$7,167,220</u>    | <u>\$0</u>                | OCA Preferred Dividends   | <u>\$0</u>         |
| 6. Average Revenue Lag Days        |     | 64.2                  | 64.2                      | Average Revenue Lag Days  | 64.2               |
| 7. Average Expense Lag Days        |     | <u>29.4</u>           | <u>0.0</u>                | Average Expense Lag Days  | <u>0.0</u>         |
| 8. Net Lag Days                    |     | <u>34.7</u>           | <u>64.2</u>               | Net Lag Days              | <u>64.2</u>        |
| 9. Working Capital Adjustment      |     |                       |                           |                           |                    |
| 10. OCA Daily Interest Exp.        |     | \$19,636              | \$0                       | OCA Daily Dividends       | \$0                |
| 11. Net Lag Days                   |     | <u>34.7</u>           | <u>64.2</u>               | Net Lag Days              | <u>64.2</u>        |
| 12. OCA Working Capital            |     | \$681,566             | \$0                       |                           | \$0                |
| 13. Company Claim (1)              |     | <u>\$0</u>            | <u>\$0</u>                | Company Claim (1)         | <u>\$0</u>         |
| 14. OCA Adjustment                 |     | <u>\$681,566</u>      | <u>\$0</u>                |                           | <u>\$0</u>         |
| 15. Total Interest & Dividend Adj. |     | <u>\$681,566</u>      |                           |                           |                    |

(1) Company Main Brief.

TABLE V  
0  
CASH WORKING CAPITAL -TAXES  
0

| Description<br>(1)    | Company<br>Proforma<br>Tax Expense<br>Present<br>Rates<br>(2) | ALJ<br>Adjustments<br>(3) | ALJ<br>Pro forma<br>Tax Expense<br>Present<br>Rates<br>(4) | ALJ<br>Allowance<br>(5) | ALJ<br>Adjusted<br>Taxes at<br>Present<br>Rates<br>(6) | Daily Expense<br>(7) | Net Lead/<br>Lag Days<br>(8) | Accrued Tax<br>Adjustment<br>(9) |
|-----------------------|---------------------------------------------------------------|---------------------------|------------------------------------------------------------|-------------------------|--------------------------------------------------------|----------------------|------------------------------|----------------------------------|
| PUC Assessment        | \$0                                                           | \$0                       | \$0                                                        | \$0                     | \$0                                                    | \$0.00               | 0.00                         | \$0                              |
| Public Utility Realty | \$0                                                           | \$0                       | \$0                                                        |                         | \$0                                                    | \$0.00               | 0.00                         | \$0                              |
| Capital Stock Tax     | \$0                                                           | \$0                       | \$0                                                        |                         | \$0                                                    | \$0.00               | 0.00                         | \$0                              |
|                       | \$0                                                           | \$0                       | \$0                                                        |                         | \$0                                                    | \$0.00               | 0.00                         | \$0                              |
|                       | \$0                                                           | \$0                       | \$0                                                        |                         | \$0                                                    | \$0.00               | 0.00                         | \$0                              |
|                       | \$0                                                           | \$0                       | \$0                                                        |                         | \$0                                                    | \$0.00               | 0.00                         | \$0                              |
|                       | \$0                                                           | \$0                       | \$0                                                        |                         | \$0                                                    | \$0.00               | 0.00                         | \$0                              |
|                       | \$0                                                           | \$0                       | \$0                                                        |                         | \$0                                                    | \$0.00               | 0.00                         | \$0                              |
|                       | \$0                                                           | \$0                       | \$0                                                        |                         | \$0                                                    | \$0.00               | 0.00                         | \$0                              |
|                       | \$0                                                           | \$0                       | \$0                                                        |                         | \$0                                                    | \$0.00               | 0.00                         | \$0                              |
|                       | \$0                                                           | \$0                       | \$0                                                        |                         | \$0                                                    | \$0.00               | 0.00                         | \$0                              |
| State Income Tax      | \$0                                                           | (\$359,695)               | (\$359,695)                                                | \$0                     | (\$359,695)                                            | (\$985.47)           | 0.00                         | \$0                              |
| Federal Income Tax    | \$0                                                           | (\$932,958)               | (\$932,958)                                                | \$0                     | (\$932,958)                                            | (\$2,556.05)         | 0.00                         | \$0                              |
|                       | <u>\$0</u>                                                    | <u>(\$1,292,653)</u>      | <u>(\$1,292,653)</u>                                       | <u>\$0</u>              | <u>(\$1,292,653)</u>                                   |                      |                              |                                  |

ALJ Allowance 0

Company Claim (1) 0

OCA Adjustment 0

(1) Company Main Brief

TABLE VI  
0  
CASH WORKING CAPITAL -- O & M EXPENSE  
0

| Description<br>(1)         | Company<br>Pro forma<br>F.T.Y.<br>Expense<br>(2) | ALJ<br>(3) | OCA<br>Pro forma<br>Expenses<br>(4) | Lag Days<br>(5) | Lag Dollars<br>(6) |
|----------------------------|--------------------------------------------------|------------|-------------------------------------|-----------------|--------------------|
| Service Company            | \$0                                              | \$0        | \$0                                 | 0.00            | \$0                |
| Chemicals                  | \$0                                              | \$0        | \$0                                 | 0.00            | \$0                |
| Group Insurance            | \$0                                              | \$0        | \$0                                 | 0.00            | \$0                |
| Insurance, Other           | \$0                                              | \$0        | \$0                                 | 0.00            | \$0                |
| Labor                      | \$0                                              | \$0        | \$0                                 | 0.00            | \$0                |
| Leased Equip./Rent         | \$0                                              | \$0        | \$0                                 | 0.00            | \$0                |
| Leased Vehicles            | \$0                                              | \$0        | \$0                                 | 0.00            | \$0                |
| Miscellaneous              | \$0                                              | \$0        | \$0                                 | 0.00            | \$0                |
| Natural Gas                | \$0                                              | \$0        | \$0                                 | 0.00            | \$0                |
| Power                      | \$0                                              | \$0        | \$0                                 | 0.00            | \$0                |
| Purchased Water            | \$0                                              | \$0        | \$0                                 | 0.00            | \$0                |
| Telephone                  | \$0                                              | \$0        | \$0                                 | 0.00            | \$0                |
| Waste Disposal             | \$0                                              | \$0        | \$0                                 | 0.00            | \$0                |
| Post Retirement Benefits   | \$0                                              | \$0        | \$0                                 | 0.00            | \$0                |
| Pensions                   | \$0                                              | \$0        | \$0                                 | 0.00            | \$0                |
|                            | <u>\$13,426,000</u>                              | <u>\$0</u> | <u>\$12,239,852</u>                 | <u>0.00</u>     | <u>\$0</u>         |
| ALJ Average Revenue Lag    | 64.2                                             |            |                                     |                 |                    |
| Less: ALJ Avg. Expense Lag | <u>29.4</u>                                      |            |                                     |                 |                    |
| Net Difference             | 34.7                                             | Days       |                                     |                 |                    |
| ALJ Pro forma              |                                                  |            |                                     |                 |                    |
| O & M Expense per Day      | <u>\$33,534</u>                                  |            |                                     |                 |                    |
| ALJ CWC for O & M          | \$1,163,965                                      |            |                                     |                 |                    |
| Less: Company Claim (1)    | <u>\$0</u>                                       |            |                                     |                 |                    |
| ALJ Adjustment             | <u>\$1,163,965</u>                               |            |                                     |                 |                    |

(1) Company Main Brief

## **Appendix B**

### **OCA Proposed Findings of Facts**

#### **Overall Position On Rate Increase**

1. UGI Electric's most recent 2023 rate base case ended in the Commission adopting a Joint Settlement that granted UGI a rate increase of \$8.5 million. *See Pa. PUC v. UGI Utilities, Inc. – Electric Division*, Docket No. R-2024-3052716, Order at 3 (Sept. 21, 2023).
2. OCA witness Deupree recommended that the Commission take into consideration current macroeconomic conditions, including consumer affordability, when determining just and reasonable rates for UGI and encouraged the Commission to require some level of shared burden, balancing consumer affordability concerns with the financial interests of UGI. OCA Corrected St. 1 at 20 OCA St. 1SR at 3.
3. Affordability is an important and central consideration of the regulatory framework. Tr. at 245:22-246:3
4. UGI Electric's customers have experienced three base rate increases since 2018. OCA Corrected St. 1 at 6-7.
5. Company revenues have increased by more than 57.80 percent in just seven years, averaging nearly 8.26 percent per year. OCA Corrected St. 1 at 6-7.
6. If UGI's rate increase is granted as requested, the cumulative increase since 2018 will exceed 76.56 percent, averaging nearly 10.94 percent per year, without considering the impact on the total customer bill from rate increases associated with the cost of electric supply. OCA Corrected St. 1 at 6-7.
7. OCA witness Colton demonstrated that there are serious affordability problems facing UGI electric customers, even at current rates, through his testimony analyzing customer



payment difficulties, and the burden of affording electric service at UGI's current rates, which he determined to be an average of 4.9%, with it rising to 5.7% at the proposed rates. OCA Corrected St. 6 at 19-25.

- 8.** As of March 2026, more than one quarter (26.25) of all UGI residential customers are in arrears of some age, while one-in-eight (11.5%) of all residential customers are 180 or more days in arrears and that the average arrears at the time of disconnection of electric service is more than \$3,400. OCA Corrected St. 6 at 23-24.
- 9.** Testimony from the public input hearings and written comments to UGI's proposed increase underscores the affordability issues UGI customers are facing with current rates. See OCA St. 7 at 3-8.
- 10.** Fifteen written comments were submitted, with almost all commenters addressing the affordability of UGI's rates. OCA St. 7 at 3.
- 11.** Five additional customers testified in person, also raising affordability as a central concern. OCA St. 7 at 6-7.
- 12.** Utility regulators typically evaluate just and reasonable in the context of what is called a zone of reasonableness. OCA Corrected St. 1 at 5-6.
- 13.** This zone of reasonableness means that there is no one right answer but that regulators must balance the interests of several sectors of the public, including not only utility investors, but also the interests of the utility's customers and the public policy interests of local governments impacted by the utility's operations. OCA Corrected St. 1 at 5-6.
- 14.** It is a basic tenet of ratemaking that the Commission, in setting just and reasonable rates must consider not only the investor and company's interest, but also that of the consumers. OCA St. 1SR at 3.

15. Rate affordability is a significant consumer interest that goes beyond just lower-income households within UGI ratepayers. OCA Corrected St. 6 at 10-40.
16. OCA witness Deupree's reference to Governor Shapiro's April 29, 2026, open letter to the Commission underscores the importance of the Commission needing to balance consumer affordability concerns with the financial interests of utilities when determining just and reasonable rates. OCA Corrected St. 1 at 16-20.
17. The continued upwards pressure on rates for UGI's captive customers due to its rate increases in 2018, 2021, and 2023 adds to customer affordability burdens which are exacerbated by the current macroeconomic environment. OCA Corrected St. 1 at 5-16, 20.
18. OCA witness Deupree provided relevant evidence of the current macroeconomic trends facing customers, including the impact on affordability of rising prices in consumer products, recent inflation, energy-related prices, energy market uncertainty due to the conflict in the Persian Gulf, and tariffs. OCA Corrected St. 1 at 5-16, 20.
19. Consumers today are faced with increased expenses for food, housing, transportation, and other necessities, which are especially acute for low-income consumers, but not limited to those customers. OCA Corrected St. 1 at 5-16, 20.
20. UGI customers testified at public input hearings to a frustration with rising utility bills in light of other rising costs: "Families are already stretched in. Groceries are up, rent is up, healthcare is up, and a utility bill is not optional," and, "How much more can ... the citizens and the residents of our community take as far as prices going up. And what is the end game?" OCA St. 7 at 6; Tr. at 65-66, 71.

## **Depreciation**

21. Other consumers filed comments regarding similar affordability frustrations, noting that:  
“People like myself – and there are many – are struggling daily with the costs of everything! Tariffs, war, gas, everything is way too expensive! My electric bills were insane over the past several months – already way more expensive from last year at the same time!” OCA St. 7 at 4-5.
22. And another consumer stated, “Electric service is not a luxury; it is a necessity. Every increase in my monthly bills creates a real hardship and forces me to make difficult choices between basic necessities such as electricity, food, medicine, and other essential expenses.” OCA St. 7 at 4-5.
23. Mr. Deupree additionally testified that there is observed evidence of these macroeconomic trends in prices and refers to the Consumer Price Index (CPI) and U.S. Bureau of Labor Statistics in his analysis. OCA Corrected St. 1 at 11-12.
24. Between January 2021 and January 2026, consumer prices increased 24.3 percent overall, which, when coupled with rapidly rising utility prices, leaves consumers left with burdens of unaffordability. OCA Corrected St. 1 at 9.
25. Overall inflation as judged by both the Federal Reserve and the Survey of Professional Forecasters, is projected to remain high through 2026. OCA Corrected St. 1 at 10-11.
26. Pennsylvania consumers feel the burden of these price increases from all aspects of the energy market. OCA Corrected St. 1 at 14.
27. The recent conflict in the Persian Gulf has also contributed to a rise in crude oil prices. OCA Corrected St. 1 at 12-15.

- 28.** Both international and domestic prices for crude oil have risen in recent months, and at the time of Mr. Deupree's direct testimony, were trading in excess of \$100 per barrel, well above historic ranges of \$60-\$80. OCA St. 1SR at 13.
- 29.** The observed increase in crude oil prices shows how price shocks caused by the conflict in the Persian Gulf will likely filter through the larger macroeconomy. OCA St. 1SR at 13.
- 30.** Restrictions on the flow of oil from this region force consumers to turn to alternative supplies from the U.S. as stored supplies lessen, this in turn increases the wholesale natural gas prices in the United States, which has been shown to drive wholesale electric prices. OCA St. 1SR at 13-14.
- 31.** Although inflation is an issue affecting the company as well as consumers, OCA witness Deupree testified that the increased operating costs experienced by UGI Electric due to the current inflationary environment have not resulted in noticeable negative impacts on UGI Electric's shareholder income or its parent company stock price, in part because of UGI's ability to file for rate increases. *See* UGI St. 1R at 22; OCA Corrected St. 1 at 16; OCA St. 1SR at 6.
- 32.** While the Commission can and should look at the impact inflation has on the company, in doing so, the Commission must balance the pressure inflation places on utility operating costs with the general economic effects inflation places on customer affordability, rather than shifting all inflationary risks from utilities to ratepayers. OCA St. 1SR at 6.
- 33.** The OCA's recommended decrease to the annual revenue requirement is fully substantiated, and should be the ceiling of what could be considered to produce rates that are just and reasonable, equitable among customer groups, and in the public interest. *See* OCA St. 2SR at 8.

- 34.** The OCA's recommended market-based ROE reasonable ratemaking capital structure is based on a fully substantiated cost of capital analysis. OCA St. 3 at 3.
- 35.** OCA witness Mugrace calculated his recommended decrease to the requested annual revenue requirement utilizing the OCA's recommended revenue adjustments and an overall recommended ROR of 6.65% based on OCA witness Garrett's recommended ROE and debt ratio for ratemaking purposes. OCA Corrected St. 2 at 8; OCA St. 2SR at 3; OCA St. 3 at 3-5.
- 36.** UGI uses the ALG procedure for plant prior to 1982 and the ELG procedure on plant after 1982. OCA St. 4 at 22.
- 37.** The ELG procedure produces higher depreciation expense at the beginning of the recovery period. OCA St. 4SR at 4.
- 38.** The ALG procedure is used by most EDC's in Pennsylvania. Tr. at 340-341.
- 39.** If UGI switches to the ALG procedure the revenue requirement would be decreased by \$1.8 million. OCA St. 4 at 6.
- 40.** Under both the Average Life Group procedure and Equal Life Group procedure UGI will be able to recover the full amount of its investment over its service life. OCA St. 4 at 24.
- 41.** Depreciation cannot be calculated with precision because it requires an estimation of the total remaining service life of plant. OCA St. 4 at 7.
- 42.** The precision associated with the ELG procedure creates greater extremes in the variation of rates over time. OCA St. 4 at 9.
- 43.** The precision offered under the ELG method has the potential to cause rate shock to UGI consumers. OCA St. 4 at 9.

- 44.** A principle of moderation is preferable to adopting policies or depreciation parameters that result in extreme shifts in depreciation expense over time. OCA St. 4 at 9.
- 45.** If UGI's depreciation rates are not updated every few years, then the "accelerated" depreciation rates may not be accurately accounted for at the time of the utility's next rate case. OCA St. 4 at 25.
- 46.** If depreciation rates are not accurately accounted for, it will result in ratepayers paying accelerated depreciation rates or for return on an understated depreciation reserve when new rates are set. OCA St. 4 at 25.
- 47.** Errors are inevitable when estimating average service lives and retirement curves. OCA St. 4 at 8.
- 48.** Using the ALG method will eliminate the need to perform annual updates to the company's remaining lives, and utilities can wait intervals of five years or more between depreciation studies. OCA St. 4 at 27.
- 49.** For account 364 UGI's proposed life and curve was 59-R2.5. OCA St. 4 at 34.
- 50.** For account 364 the OCA recommended a R3-95 life and curve be used instead as it better fits the totality of the data. OCA St. 4 at 34.
- 51.** For account 368.1 UGI's proposed life and curve was 45-S1. OCA St. 4 at 32.
- 52.** For account 368.1 the OCA recommended a 55-L1 life and curve. OCA St. 4 at 31.
- 53.** For account 365 UGI's proposed life and curve was 58-R1.5. OCA St. 4 at 32.
- 54.** For account 365 the OCA recommended a 67-R2 as it is based on the data through the highest ages. OCA St. 4 at 31.
- 55.** Adopting the OCA's service life adjustments results in a decrease of approximately \$400,00 to UGI's revenue requirement. OCA St. 4 at 34.

## **Revenue Requirement**

- 56.** UGI's original revenue requirement was \$17,283,000. OCA St. 2SR at 3.
- 57.** In rebuttal UGI updated their revenue requirement to \$16,050,000 after accepting I&E and OCA adjustments. UGI St. 2R at 2.
- 58.** The OCA proposed a revenue requirement of \$5,127,616 based on a 8.7% ROE and 42% equity ratio. OCA St. 2SR at 4.
- 59.** UGI's proposed rate case expense is \$1,071,000 to be amortized over a two year period resulting in an annual recovery of \$536,000. OCA Corrected St. 2 at 42.
- 60.** Over the past 33 years UGI has filed six rate cases as follows: the current filing in 2025, then in 2023, 2021, 2018, 1996, and 1993. OCA Corrected St. 2 at 42-43.
- 61.** The OCA recommended UGI's rate case expense be normalized over a period of three years based on UGI's historic filing frequency resulting in a reduction of \$179,000 to UGI's claim. OCA St. 2SR at 14.
- 62.** UGI proposed to include \$4,141,000 in vegetation management expense in its FPFTY. OCA Corrected St. 2 at 33.
- 63.** The OCA recommended averaging vegetation management costs over a five-year historic period. OCA Corrected St. 2 at 33.
- 64.** Using a five year historic average for costs associated with vegetation management results in a disallowance of \$265,000 from UGI's proposed expense. OCA St. 2SR at 12-13.
- 65.** UGI included \$373,000 of Storm Costs in the FTY and in the FPFTY periods. OCA Corrected St. 2 at 34.
- 66.** UGI proposed \$1,017,000 in its FPFTY period for costs associated with Injury and Damages. OCA Corrected St. 2 at 44.

67. The OCA recommended averaging the costs associated with UGI's Injury and Damages expenses over a three-year period resulting in a reduction of \$209,000 to UGI's revenue requirement. OCA Corrected St. 2 at 44, OCA St. 2SR at 16.
68. UGI provided a schedule of association dues for the period of 2025-2026, in the amounts of \$78,000, \$58,000 and \$59,000, respectively. OCA Corrected St. 2 at 45.
69. The OCA recommended disallowing expenses relating to the Edison Electric Institute (\$39,245), Energy Association of PA (\$9,185), Other – PA Chamber of Commerce (\$3,340) resulting in a total disallowance of \$51,770. OCA Corrected St. 2 at 45.
70. In rebuttal, UGI accepted the OCA's recommendation to disallow \$3,340 related to the PA Chamber of Commerce. OCA St. 2SR at 17.
71. If the Commission adopts the OCA's recommendation regarding depreciation, UGI's updated accumulated deferred income taxes would result in a decrease of \$427,174. OCA Corrected St. 2 at 16.

**(BEGIN CONFIDENTIAL)**

72. [REDACTED]
- [REDACTED]

**(END CONFIDENTIAL)**

**(BEGIN HIGHLY CONFIDENTIAL)**

73. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]



[REDACTED]

[REDACTED]

(END HIGHLY CONFIDENTIAL)

(BEGIN CONFIDENTIAL)

74. [REDACTED]

(END CONFIDENTIAL)

(BEGIN CONFIDENTIAL)

75. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(END CONFIDENTIAL)

(BEGIN CONFIDENTIAL)

76. [REDACTED]

[REDACTED]

[REDACTED]

(END CONFIDENTIAL)

(BEGIN CONFIDENTIAL)

77. [REDACTED]

[REDACTED]

(END CONFIDENTIAL)

78. UGI Proposed a ROE of 10.85% OCA St. 3 at 2.

79. I&E proposed a ROE of 9.69%. I&E St. 2 at 6.

- 80.** The OCA recommended a ROE of 8.7% based on OCA witness Garrett's DCF and CAPM results. OCA St. 3 at 2.
- 81.** UGI proposed a capital structure of 54.25% equity and 45.75% debt. OCA St. 3 at 3.
- 82.** The OCA recommended a capital structure of 58% Debt and 42% equity. OCA St. 3 at 3.
- 83.** The OCA provided an alternative ROE of 8.0% based on UGI's proposed capital structure. OCA St. 3 at 3.
- 84.** An equity rich capital structure exacerbates the unwarranted, excessive transfer of wealth from customers to UGI's shareholders. OCA St. 3 at 5.
- 85.** The average capital structure for the proxy group in this proceeding consists of 58% debt and 42% equity. OCA St. 3 at 54.
- 86.** UGI Corp., UGI's parent company, had a long-term debt ratio of 57.8% at the end of 2025. OCA St. 3 at 57.
- 87.** UGI's proposed capital structure is unfair to ratepayers. OCA St. 3 at 57.
- 88.** If UGI's capital structure is accepted, the ROE must be reduced by 70 basis points to maintain fairness. Tr. at 379.
- 89.** A regulator standing in the place of competition should ensure that a utility has enough low cost debt instead of high cost equity. Tr. at 382.
- 90.** UGI's cost of long term debt is 5.17%. OCA St. 3 at 4.
- 91.** OCA witness Garrett's DCF results were 7.3% and 8.1%. OCA St. 3 at 39.
- 92.** OCA witness Garrett's CAPM analysis resulted in a ROE of 8.7%. OCA St. 3 at 39.
- 93.** UGI witness D'Ascendis' earnings risk premium (ERP) was significantly higher than the ERPs estimated by expert surveys, Kroll (formerly Duff & Phelps), Dr. Damodaran, and that calculated by OCA witness Garrett. OCA St. 3 SR at 7.

## **Rate Structure**

- 94.** The proposed MSS methodology utilizes a customer component in the allocation of the costs of primary and secondary distribution infrastructure despite the fact that there is no correlation between the number of customers connected to UGI's distribution system and the Company's investment in primary and secondary distribution infrastructure. OCA Corrected St. 1 at 34; OCA Exh. MWD-2.
- 95.** Primary and secondary distribution plant includes plant recorded in accounts 364 (Poles, Towers, and Fixtures), 365 (Overhead Conductors and Devices), 367 (Underground Conductors and Devices), and 368 (Transformers). OCA Corrected St. 1 at 29.
- 96.** MSS and zero-intercept studies are cost allocation methodologies that attempt to estimate separate customer-related versus load-related costs. OCA Corrected St. 1 at 30-31.
- 97.** An MSS does this by estimating the hypothetical costs of developing a "minimum" system that only provides customers with connection to a utility's electric distribution system but not a system sufficient to actually serve the customer's electrical requirements. OCA Corrected St. 1 at 30-31.
- 98.** An MSS study attempts to separate the customer-related portion of total system costs from those associated with serving loads (or service volumes). OCA Corrected St. 1 at 30-31.
- 99.** An MSS study estimates the hypothetical costs of developing a minimum system to serve customers with no load. OCA Corrected St. 1 at 30-31.
- 100.** These calculations involve subjectivity since they use accounting and engineering analyses to develop assumptions about the minimum sizes and costs associated with various distribution system components, while still satisfying system requirements such as pole height and efficient conductor and transformer sizes. OCA Corrected St. 1 at 30-31.

- 101.** The costs associated with these “minimum” components are then added together to derive the total minimum costs associated with the hypothetical system with no energy usage. OCA Corrected St. 1 at 30-31.
- 102.** This estimate is then divided by total actual system costs to approximate the customer-related share of overall distribution system costs. OCA Corrected St. 1 at 30-31.
- 103.** The flaw in the MSS method is clear, as the MSS attempts to measure something which does not exist, a distribution system with no load carrying capacity. OCA Corrected St. 1 at 31.
- 104.** OCA witness Dueprey testified at the evidentiary hearings that despite the assumptions of the MSS method, he is not aware of poles that are manufactured which cannot carry conductors, nor conductors which cannot carry load. Tr. 239.
- 105.** Under the MSS method, both are assumed to exist. Tr. 239-40.
- 106.** The National Association of Regulatory Utility Commissioners (NARUC) 1992 Electric Cost Allocation Manual (NARUC Manual) cautions that cost of service analysts retain significant discretion in determining how much of the load-carrying capability of a hypothetical minimum system is properly reflected as being demand-related. OCA Corrected St. 1 at 32.
- 107.** Dr. James Bonbright, in his seminal work on public utility regulation, found that the use of analyses utilizing minimum-sized distribution systems are “clearly indefensible” because they are abstracted from the actual distribution system studied. OCA Corrected St. 1 at 33.
- 108.** Nowhere in UGI’s proposed cost of service study, or in her supporting direct, rebuttal, surrebuttal, or rejoinder testimony, did UGI witness Fang explain how her

proposed MSS accounted for the unique features of UGI's distribution service territory, including characteristics such as customer density. UGI Exh. D at 4; UGI St. 11 at 18-23; UGI St. 11-R at 4-15; UGI St. 11-SR; UGI St. 11-RJ at 2-5.

**109.** Dr. Bonbright emphasized that the MSS method “makes no allowance for the density factor (customers per linear mile or per square mile)” in his critique of the analysis. OCA Corrected St. 1 at 33.

**110.** Witness Fang's averment that “[t]he cost allocation methodology utilized in the minimum system studies is based on the specific design and operating characteristics of the Company's distribution system” lacks clear support. UGI Exh. D at 4.

**111.** OCA witness Duepre prepared an analysis which demonstrates that the average number of customers on UGI's distribution system does not vary directly with the investment in distribution plant for account numbers 364, 365, 367, and 368 from 2016 to 2025. OCA Exh. MWD-2.

**112.** Exhibit MWD-2 examines trends between changes in average number of customers on the Company's system and distribution plant accounts 364-368 for the years 2014 through 2024. OCA Corrected St. 1 at 34.

**113.** OCA witness Deupree's analysis finds that additions to the relevant distribution plant accounts are not highly correlated with changes in the Company's average number of customers. OCA Corrected St. 1 at 34.

**114.** OCA witness Deupree estimates the correlation coefficient for the individual FERC accounts in question to range from negative 0.1416 to positive 0.5795, and estimates the correlation coefficient of these distribution plant accounts in total to be 0.3327, while not being statistically significant at a 95 percent confidence level. OCA Corrected St. 1 at 34.

- 115.** On page 2 of Exhibit MWD-2, OCA witness Deupree estimates the correlation coefficient associated with the annual growth rate of Company customers and distribution plant investments. OCA Corrected St. 1 at 34.
- 116.** OCA witness Deupree's analysis again finds relatively weak correlation that is not statistically significant at a 95 percent confidence level. OCA Corrected St. 1 at 34.
- 117.** OCA witness Deupree's results demonstrate the very weak correlation that was observed by Dr. Bonbright decades ago. OCA Corrected St. 1 at 34.
- 118.** Mr. Deupree examined the correlation over the past 10 years between changes in UGI's customer base and net additions to distribution plant, instead of examining the correlation between the change in the number of customers and net plant additions in any individual year. OCA Exh. MWD-2.
- 119.** By using a larger historical period, if Ms. Fang's proposed MSS were an accurate reflection of the design of UGI's distribution system, there would have been some statistical relationship between the changes in customer count and net plant additions. OCA St. 1SR at 11.
- 120.** OCA witness Deupree recommends the cost of primary and secondary distribution plant be allocated based solely on demand, excluding the customer component included in UGI's proposed MSS. OCA Corrected St. 1 at 35.
- 121.** Allocating costs on a 100% demand basis "better aligns with cost causation principles and the way the Company's distribution system is designed and operated." OCA Corrected St. 1 at 35.

- 122.** The Commission should adopt a gradualism ceiling of 1.15 times the system average increase when allocating revenue in this proceeding. OCA Corrected St. 1 at 36-40.
- 123.** In light of the significant affordability challenges that UGI's customers face, as indicated by record evidence in this proceeding, the OCA's recommended revenue allocation provides the best apportionment of revenue through its ACROSS selection and gradualism constraints. OCA Corrected St. 1 at 5-20; OCA St. 1SR at 1-8; OCA Corrected St. 6 at 6-41; OCA Corrected St. 6SR at 2-4, 13-18, 22-23, 30-44.
- 124.** Class specific revenue responsibilities are established by allocating the system wide revenue deficiency to classes that are under earning relative to their rate of return. OCA Corrected St. 1 at 36.
- 125.** Allocating the overall system-wide revenue deficiency entirely on a full cost of service basis can result in a very significant and adverse rate impact for certain under-earning classes. OCA Corrected St. 1 at 36.
- 126.** To avoid such a result, regulators often temper the revenue responsibilities assigned to various customer classes in order to meet a set of broad ratemaking policy goals. OCA Corrected St. 1 at 36.
- 127.** Non-cost considerations include rate gradualism, continuity, affordability, and understandability, among others. OCA Corrected St. 1 at 37.
- 128.** By authorizing no customer class to bear a revenue increase greater than 1.15 times the system average increase, all customer classes would move closer to their cost of service, as indicated by the ACROSS selected in this proceeding, while mitigating the significant impact that the Company's proposal would have on residential and small general service

customers in allocating the two classes over 95% of the total revenue increase. OCA Corrected St. 1 at 39-40.

**129.** Such a gradualism ceiling reflects the evidence presented in this proceeding regarding affordability pressures, which are having a peculiar impact on the customer classes to which the largest share of revenue will be allocated. OCA Corrected St. 1 at 5-20; OCA St. 1SR at 1-8.

**130.** No party submitted testimony that the OCA's proposed gradualism constraint was unreasonable. *See* UGI St. 11-RJ at 6

**131.** The OSBA submitted testimony supporting OCA witness Deupree's proposed gradualism constraint of 1.15. OSBA St. 1-R at 2:10-12.

**132.** UGI has proposed an increase of 104.7% to its residential customer charge, increasing from \$10.75 to \$22.00, or by \$11.25. OCA Corrected St. 1 at 42.

**133.** UGI's proposal threatens to create rate shock, deprive customers of the ability to control their bills through usage reduction, disproportionately negatively impact low-income customers, and position UGI as having one of the highest customer charges in the region. OCA Corrected St. 1 at 45-50; OCA Exh. MWD-3.

**134.** The residential customer charge of \$10.75 per month recovers 39.44% of the estimated customer-related cost of \$27.26 per month at the Company's as-filed revenue requirement position. OCA Corrected St. 1 at 44.

**135.** UGI's revenue requirement increase request has already decreased by \$1.233 million, or by approximately 7.7%, which will further reduce the amount of customer-related costs in the Company's proposed cost of service. UGI St. 2-R at 2-5.



- 136.** OCA witness Duepre concluded that the Company's current recovery of project customer-related costs "do not demonstrate a need to increase residential and general service customer charges on a cost-causation basis." OCA Corrected St. 1 at 44.
- 137.** If the Company's proposed customer charge were adopted, UGI would have a residential customer charge substantially higher than the average among electric distribution companies in the region of \$11.24 per month, only slightly higher than the current residential customer charge. OCA Corrected St. 1 at 45-46.
- 138.** UGI's customer charge proposal will deter energy efficiency and conservation and reduce customers' control over their bills because it places a greater portion of customers' rates into the fixed component than the variable component, OCA St. 1 at 46.
- 139.** Under UGI's proposal, the portion of a residential customer occupied by the customer charge will increase from 5.5% of the bill for a customer using 1,000 kWh to 9.7% of their monthly bill. UGI St. 11-R at 26.
- 140.** UGI's proposal "reduces economic incentives for ratepayers to control monthly utility bills through energy efficiency and conservation efforts, because only the variable component of bills is avoidable." OCA Corrected St. 1 at 46.
- 141.** OCA witness Deupree conducted an analysis which "clearly shows that as income increases, electricity consumption increases, and vice versa: as income decreases, electricity usage decreases," with the exception of households between \$0 and \$4,999 per year, as depicted in Table 6 of his Direct Testimony. OCA Corrected St. 1 at 50.
- 142.** Low usage customers, who are disproportionately low-income customers, will face a higher energy burden under the Company's proposal than under the current customer

charge or a customer charge increase which would occupy the same proportion of a customer's monthly bill. OCA St. 1SR at 15; OCA Corrected St. 1 at 49-51.

**143.** UGI "should engage in a more aggressive marketing of budget billing, particularly to customers (low-income and not) who experience payment difficulties." OCA Corrected St. 6 at 38.

**144.** Budget billing permits customers to normalize their annual bills over the course of a year, eliminating seasonal variations at the customer's election. UGI Exh. F, Supplement No. 92 to UGI Electric Pa. PUC No. 6, Second Revised Pages 25-26 (Tariff Rule 13-e).

**145.** I&E witness Cline recommends that the Commission scale back the revenue allocation proportionately based on the cost of service study approved by the Commission, inclusive of scaling back customer charges. I&E St. 3 at 12.

### **Customer Service and Quality of Service**

**146.** A primary concern of the OCA is that UGI did not present any information regarding its customer service performance or compliance related issues with respect to the operation of its customer call center, complaints, Chapter 56 compliance, or customer satisfaction measures. OCA St. 5 (PUBLIC) at 7.

**147.** It is important for the Commission to review and evaluate UGI's customer service in the context of this proceeding and UGI's obligation to consider the adequacy of service provided to its customers. OCA St. 5 (PUBLIC) at 9.

**148.** UGI Electric should be required to develop and implement the findings of a Root Cause Analysis of customer complaints similar to that ordered for UGI-Gas in its 2025 base rate case. OCA St. 5 at 6.

- 149.** UGI agreed with the OCA's recommendation regarding developing and implementing the findings of a Root Cause Analysis of customer complaints similar to that ordered for UGI Gas in its 2025 base rate case, and indicated through discovery that the scope of UGI Gas' root cause analysis includes UGI Electric because they share the same call center resources. UGI St. 13R at 4.
- 150.** The OCA's additional recommendations for improvements in UGI's quality of customer service are not performance-based rate mechanisms because they do not link rewards or penalties to the reforms recommended. *See* OCA St. 5R at 4-5; UGI St. 1R at 28.
- 151.** The call center performance metrics showed that UGI's annual average Abandonment Rate increased from 4% in 2024 to 4.7% in 2025 while equaling the 2024 metric of 86% of calls answered within 30 seconds. OCA St. 5 (PUBLIC) at 12-13; OCA St. 5R at 6.
- 152.** The monthly abandonment rate reflects a wide range of customer call performance experience, reflecting a significant deterioration with abandonment rates of 6.14% in February, 9.57% in October, and 7.51% in November 2025. OCA St. 5 (PUBLIC) at 14.
- 153.** The same sharp deterioration in performance occurred in March 2026 with an abandonment rate of 9.64% and that customers also experienced call answering percentages of below 80% during these same months with long wait times. OCA St. 5 (PUBLIC) at 14.
- 154.** UGI is not currently accountable to maintaining its internal performance metrics and could legally reduce its investments in the call center to respond to lower revenues or lower profits than anticipated. OCA St. 5 (PUBLIC) at 10-11.

- 155.** Although the Commission found the OCA’s recommendation to require Columbia Gas to maintain its 2024 call center performance unnecessary in that case, it also cited to Columbia Gas’ record evidence regarding steps it was taking to improve call center performance. OCA St. 5 (PUBLIC) at 11.
- 156.** UGI did not identify any similar steps it would take to improve the sharp deterioration of call abandonment rates identified by OCA witness Alexander. OCA St. 5 (PUBLIC) at 14.
- 157.** Documenting steps being taken for improvement does not provide the same level of accountability to its customers or the Commission as to the quality of customer service, which is an important part of any rate case proceeding. OCA St. 5 (PUBLIC) at 11.
- 158.** The OCA is not asking the Commission to impose performance-based rates on UGI, as there is no penalty being attached if they fail to meet the standard nor reward if they meet the standard. *See* OCA St. 5R at 4-5; UGI St. 1R at 28.
- 159.** Currently, UGI does not have any documents or written classroom formal training for field agents regarding service disconnection for nonpayment. OCA St. 5 (PUBLIC) at 16-17.
- 160.** Although UGI has a form of on the job training, UGI’s response to OCA discovery failed to mention Chapter 56 mandates requiring an attempt at personal contact immediately prior to termination of service. OCA St. 5 (PUBLIC) at 17.
- 161.** UGI plans to evaluate this element of training along with other field training as part of its approach to continuous improvement in the near future. OCA St. 5 (PUBLIC) at 17.

- 162.** UGI Gas was recently required, as a condition of its 2025 base rate case settlement, to develop revised and updated training materials that were then submitted to stakeholders for comment. OCA St. 5 (PUBLIC) at 17.
- 163.** UGI training materials need to reflect a written manual that includes a complete description of the obligation to knock on the customer's door prior to termination of service and require that the field agents are familiar with and can properly react to all the rights that a customer has to avoid termination of service, including a declaration of a medical emergency, a statement that payment has been made, a request for a payment plan and access to low income affordability programs, and indication of a protection from abuse order or other evidence of domestic violence. OCA St. 5 (PUBLIC) at 17.
- 164.** UGI should make it a high priority to promptly train and supervise for compliance on these long-standing regulatory requirements. OCA St. 5 (PUBLIC) at 17.
- 165.** The purpose of the attempt at contact should require the field technician to at least refer the customer to their rights as stated in the most recent notice and solicit customer statements. If there is visible evidence of criteria that would trigger these rights, such as medical equipment, the field technician should be required to affirmatively inquire as to the existence of a medical emergency. OCA St. 5 (PUBLIC) at 17-18.
- 166.** Without these changes, UGI's training for field agents is deficient to protect customers' rights regarding termination of service. OCA St. 5 at 14. 15.
- 167.** Even if customers are provided with multiple notifications outlining rights and available protections prior to termination as UGI asserts, one of those steps is in-person contact via telephone or by home visit, and UGI stated that its field technicians are

responsible for in-person contact and the physical termination of service in the field. OCA St. 5R at 13; UGI St. 3R (PUBLIC) at 9-10.

**168.** UGI's field technicians have an obligation to attempt contact and recognize and respond to any contact with the customer or responsible adult in an appropriate manner. OCA St. 5R at 13.

**169.** UGI technicians need to be trained on how to respond to evidence of a customer's rights, including how and when to halt the termination and/or report the customer's situation to internal management. OCA St. 5R at 13.

**170.** Not training field technicians who are the individuals UGI sends to attempt the final conduct is not in line with the purpose of Chapter 56's customer protections regarding termination of service. OCA St. 5R at 13.

**171.** The written communication is defective because it fails to include a notice of customer rights, and UGI should revise the document to include the notice of customer rights, including the right to a dispute the terms of the payment arrangement with UGI and, if not satisfied, how to file an informal complaint to the Commission. OCA St. 5 (PUBLIC) at 19.

**172.** OCA witness Alexander testified that UGI is aware of how to present these rights as it does so in its notice of denial of service and that the Commission should require UGI to add a similar disclosure to its written confirmations of payment arrangements. OCA St. 5 (PUBLIC) at 19.

**173.** UGI utilizes the same website to serve both its Gas Division and Electric Division customers. OCA St. 5 (PUBLIC) at 5.

- 174.** The landing page for UGI's current website, however, is dominated by information pertaining to its larger gas service customer base. OCA St. 5R at 15-16.
- 175.** Even though UGI witness Adamo testifies that many pages listed on the UGI landing page are applicable to both electric and gas customers, there are several large blocks of information on the landing page related to the marketing of natural gas service and not related to safety or reliability reasons necessitating larger portions of the website being related to servicing natural gas customers. UGI St. 13R at 9; OCA St. 5R at 16; Exhibit BA-8 at 3-4.
- 176.** OCA witness Alexander reviewed UGI Gas' calculations of how much customers paid to an Electric Gas Supplier (EGS) compared to UGI's price to compare (PTC). OCA St. 5 (PUBLIC) at 21.
- 177.** Those calculations revealed that the total amount of excess charges was \$230,291. OCA St. 5 (PUBLIC) at 21.
- 178.** UGI's data also showed that as of March 2026, 463 residential customers were enrolled with an EGS. OCA St. 5 (PUBLIC) at 21.
- 179.** OCA witness Alexander reviewed UGI's standardized information about retail choice and noted her concern that UGI does not provide any customer specific communications about comparing EGS charges to the PTC. OCA St. 5 (PUBLIC) at 21.
- 180.** UGI should be required to address standardized information related to retail choice because it affects the affordability of basic and essential electric service. OCA St. 5 (PUBLIC) at 22.
- 181.** Although UGI Electric does not purchase receivables and then assume the responsibility for billing and collecting EGS charges, and thus does not disconnect

customers for non-purchase of receivables unpaid balances, UGI still bills EGS charges to its customers. OCA St. 5 (PUBLIC) at 22.

**182.** OCA witness Alexander testified that once UGI takes on the obligation to bill these charges, UGI has the obligation to properly inform and educate its customers on how to reduce their electric bill and avoid unnecessary high EGS charges. OCA St. 5R at 15.

**183.** To better inform customers about their likelihood of paying more to an EGS as compared to the PTC, UGI should eliminate any reference to the potential to save in any presentation of retail choice since that is not the actual experience for the vast majority of residential customers who choose an EDS. OCA St. 5 (PUBLIC) at 23.

**184.** The Company should include information in its FAQs and customer bill inserts about the right to choose and explain that the risk of higher prices is documented and how to avoid higher prices and bills. OCA St. 5 (PUBLIC) at 23.

**185.** UGI should explain how to shop and compare EGS prices during the entire term of the contracts and alert customers to the potential for a change in the EGS price after any initial promotional price and how EGS variable rates can reflect volatile changes in the wholesale market that are not reflected in the more stable PTC. OCA St. 5 (PUBLIC) at 23.

**186.** This fact-based content is justified by the actual results of residential customer shopping as documented both historically and most recently in UGI's analysis provided in this proceeding. OCA St. 5 (PUBLIC) at 23.

**187.** OCA witness Alexander further recommended that UGI develop targeted communication to customers with EGS charges that increase significantly over the PTC to



alert them to compare that price to the PTC and include a calculation that documents this difference in the customer's recent bill(s). OCA St. 5 (PUBLIC) at 23.

**188.** The cost that UGI identifies is a *de minimis* amount and not a reason for UGI to not ensure its customers have a better understanding of EGS charges in comparison to the PTC. OCA St. 5SR at 14-15.

**189.** UGI's bill should be reformed to more directly link the presentation of EGS charges with the PTC, as UGI identifies the PTC on the first page of its residential customer bills, but then identifies default service as Generation Charge in the itemized list of customer charges. OCA St. 5 (PUBLIC) at 19.

**190.** UGI should specifically reference the PTC in the Generation Charge which is the label on the bill for the EGS charges or make clear in the Shopping Information Box that the PTC is the price for Generation Charge. to ensure that customers can easily compare EGS charges to the PTC. OCA St. 5 (PUBLIC) at 19-20; OCA 5R at 14.

### **Customer Assistance Programs and Low-Income Issues**

**191.** Unaffordable utility rates can impose burdens not only on customers, but also create financial and regulatory risks for the utility. OCA Corrected St. 6 at 8.

**192.** Credit-rating agencies recognize customer affordability as a factor that may affect a utility's credit quality. OCA Corrected St. 6 at 8.

**193.** The rates resulting from the Commission's authorized return on equity affect both utility investors and customers, including the affordability of utility service for customers. OCA Corrected St. 6 at 9.

- 194.** S&P Global Ratings recognizes that customer affordability can affect a utility's financial condition, including its financial performance, revenue stability, ratemaking flexibility, and credit quality. OCA Corrected St. 6 at 21.
- 195.** S&P Global Ratings considers elevated levels of customer nonpayment, service shutoffs, and customer or political opposition to proposed rate increases to be potential indications that a utility's future rate-setting flexibility may be constrained. OCA Corrected St. 6 at 21.
- 196.** Customer affordability is a factor that bears not only on customers' ability to pay utility rates, but also on a utility's financial condition, revenue recovery, and rate-setting flexibility. OCA Corrected St. 6 at 21.
- 197.** The financial capacity of a utility's customers to pay their rates affects the utility's ability to recover its costs, sustain revenues, and maintain its financial strength. OCA Corrected St. 6 at 21.
- 198.** UGI Electric's own customer-payment data demonstrate significant levels of payment difficulty among its customers, including customer arrearages and other indicators of difficulty in paying utility bills. OCA Corrected St. 6 at 22-23.
- 199.** In 2025, 44.0% of UGI Electric customers in arrears were more than 180 days past due, a figure similar to the 44.9% reported in 2024. OCA Corrected St. 6 at 22.
- 200.** In addition, 21.2% of customers in arrears in 2025 were 91 to 120 days past due, with a similar percentage in 2024 (21.4%). OCA Corrected St. 6 at 22.
- 201.** UGI's data reflects substantial levels of customer delinquency before giving effect to the proposed rate increase. OCA Corrected St. 6 at 22-23.

- 202.** UGI Electric’s total customer arrears increased from October 2023, the beginning of the 2023–2024 heating season, through March 2026. The increase in total arrears reflects a significant level of payment difficulty among UGI Electric’s customers. OCA Corrected St. 6 at 23.
- 203.** As of March 2026, the most recent month for which data are available, 26.2% of UGI Electric’s residential customers were in arrears of some duration, and 11.5% of all residential customers were 180 or more days in arrears. OCA Corrected St. 6 at 23.
- 204.** As of March 2026, 11.5% of UGI Electric’s residential customers were 180 or more days in arrears. OCA. Corrected St. 6 at 24-25.
- 205.** Among residential customers whose service was disconnected for nonpayment, the average or applicable amount owed at the time of disconnection was more than \$3,400. OCA. Corrected St. 6 at 24-25.
- 206.** The existence of affordability and payment difficulties among a material portion of UGI Electric’s residential customers does not depend on those difficulties being experienced by every residential customer. OCA. Corrected St. 6 at 24-25.
- 207.** Requested rate increases can affect household economic conditions by increasing the cost of utility service and reducing the amount of household income available for other essential expenses. OCA Corrected St. 6 at 25.
- 208.** ALICE (Asset Limited, Income Constrained, Employed) data provides a comprehensive measure of financial hardship by identifying households that earn above the federal poverty level but nevertheless lack sufficient income to afford the basic costs of housing, food, transportation, healthcare, childcare, and other necessities. OCA Corrected St. 6 at 15-16.

- 209.** Developed by the United Way, ALICE data fills a critical gap left by traditional poverty metrics, which often underestimate the number of households experiencing economic insecurity. OCA Corrected St. 6 at 15-16.
- 210.** According to United for ALICE, although 60% of all Pennsylvania households had emergency savings in 2022, only 46% of households below the ALICE Threshold had emergency savings, or “rainy day funds,” sufficient to cover three months of expenses in the event of sickness, job loss, an economic downturn, or another emergency. OCA Corrected St. 6 at 87.
- 211.** The National Financial Capability Study (“NFCS”) 2024 similarly found that 45% of Pennsylvania households did not have emergency funds. OCA St. 6 at 37 (citing FINRA Investor Education Foundation (2024), *National Financial Capability Study (2024), Summary of Selected Findings: Pennsylvania*).
- 212.** According to the NFCS 2024, 24% of Pennsylvania households reported spending more than their income, while an additional 34% reported spending approximately equal to their income. OCA Corrected St. 6 at 37 (citing FINRA Investor Education Foundation (2024), *National Financial Capability Study (2024), Summary of Selected Findings: Pennsylvania*).
- 213.** The Federal Reserve Board has identified the availability of savings sufficient to cover three months of expenses following the loss of a primary source of income as “[o]ne common measure of financial resiliency.” OCA Corrected St. 6 at 35 (citing Federal Reserve System, Research and Analysis (May 2025). *Economic Well-Being of U.S. Households in 2024*, at 41.)

- 214.** Mr. Colton’s analysis considers customers’ available financial resources, in addition to annual household income, when evaluating the affordability of electric service. OCA Corrected St. 6 at 38.
- 215.** In the utility ratemaking context, ALICE data proves helpful in assessing the affordability impacts of proposed rate increases on low- and moderate-income customers by identifying the share of households that are already financially constrained and have limited ability to absorb additional utility costs. OCA Corrected St. 6 at 36.
- 216.** In Pennsylvania, where many households fall within the ALICE population despite being employed and ineligible for certain assistance programs, ALICE data provides an important benchmark for evaluating whether proposed rates are just and reasonable and for understanding the potential consequences of rate increases on service affordability, arrearages, payment difficulties, and utility insecurity. OCA Corrected St. 6 at 37.
- 217.** ALICE wage information provides a practical, household-level measure of affordability that is not captured by traditional poverty metrics alone. OCA St. 6 at 15-16.
- 218.** Many customers who are not classified as low-income under federal guidelines nonetheless earn incomes below what is required to meet basic living expenses, including housing, food, transportation, healthcare, and utilities. OCA Corrected St. 6SR at 17.
- 219.** The ALICE wage provides an hourly earnings benchmark that can be used to evaluate household income relative to the cost of essential expenses, including utility service. OCA Corrected St. 6 at 15-16.
- 220.** Expressing utility costs in terms of the number of hours of work required to pay for essential utility service provides a measure of the burden that utility costs may impose on working households. OCA Corrected St. 6 at 15-16.

- 221.** ALICE wage analysis can be used to evaluate the effect of proposed utility rate increases on the amount of household income required to maintain essential utility service. OCA Corrected St. 6 at 15-16.
- 222.** The ALICE Wage represents the income a household needs to meet the ALICE Survival Budget. OCA Corrected St. 6 at 15-16.
- 223.** Increases in the amount of household income required to pay for utility service can increase the financial burden on working households and may contribute to payment difficulties, including arrearages, service disconnections, and increased reliance on utility assistance programs. OCA Corrected St. 6 at 15-16.
- 224.** The effects of utility rate increases on household income and the ability of customers to pay their utility bills can vary among customer classes and household income levels. OCA Corrected St. 6 at 15-16.
- 225.** Mr. Colton's analysis considers the ALICE Wage applicable to Luzerne County, which is the primary county served by UGI Electric. OCA Corrected St. 6 at 15-17.
- 226.** United Way ALICE data show that a substantial portion of households in Luzerne County have incomes below the ALICE Wage. OCA Corrected St. 6 at 15-17.
- 227.** According to United Way ALICE data, 82% of single-female-headed households with children in Luzerne County have incomes below the ALICE Wage. OCA Corrected St. 6 at 17-18.
- 228.** United Way ALICE data further show that 69% of households in Luzerne County under age 25, 41% of households between ages 25 and 44, 43% of households between ages 45 and 64, and 53% of households age 65 and older have incomes below the ALICE Wage. OCA Corrected St. 6 at 17-18.

- 229.** Mr. Colton's analysis and data show that, among Pennsylvania households with annual incomes between \$100,000 and \$200,000, approximately 10% to 13% reported being unable to pay their energy bills, or unable to pay the full amount, in almost every month, some months, or one or two months. Corrected OCA St. 6 at 18.
- 230.** Among Pennsylvania households with annual incomes between \$75,000 and \$100,000, nearly 20% reported similar difficulties paying their energy bills. OCA Corrected St. 6 at 18.
- 231.** Mr. Colton's analysis shows that reported energy-payment difficulties occur among households across a range of income levels, including households with annual incomes above \$100,000. OCA Corrected St. 6SR at 13.
- 232.** UGI does not dispute the income data that Mr. Colton presented. OCA Corrected St. 6SR at 13.
- 233.** Mr. Colton's analysis applies ALICE data to assess the economic circumstances of UGI Electric's customers and their ability to afford essential utility service. OCA Corrected St. 6SR at 13.
- 234.** ALICE data provides objective information concerning household income and the income necessary to meet a household's basic needs, including essential utility service. OCA Corrected St. 6SR at 13.
- 235.** Mr. Colton's analysis demonstrates that ALICE data can be used to evaluate the relationship between customers' household incomes and the costs of essential utility services. OCA Corrected St. 6SR at 13.
- 236.** The Median Household Income (MHI) was not developed as a measure of utility affordability. OCA Corrected St. 6SR at 39.

- 237.** The U.S. Environmental Protection Agency recommends Median Household Effective Buying Income (“MHHEBI”) as an alternative measure because it accounts for household taxes and therefore provides a measure of income available after taxes. OCA Corrected St. 6SR at 39-40.
- 238.** Using MHI may overstate the income available to households to pay for utility service and may therefore understate the burden of utility rates on customers. OCA Corrected St. 6SR at 39-40.
- 239.** Mr. Colton’s analysis identifies circumstances in which reliance solely on Census Block Group MHI could result in utility rates appearing more affordable than they are for lower-income households. OCA Corrected St. 6SR at 40-41.
- 240.** ALICE data can be considered alongside evidence concerning a utility’s cost of service and revenue requirement to provide information regarding the economic circumstances of customers affected by proposed rates and rate structures. OCA Corrected St. 6SR at 14.
- 241.** Patterson and Doyle studied nearly 1,800 water utilities and found that utilities serving substantial populations of economically disadvantaged customers may face challenges recovering increasing costs without imposing significant financial burdens on customers. OCA St. 6 at 19 (citing Lauren A. Patterson & Martin W. Doyle, *Measuring Water Affordability and the Financial Capability of Utilities*, 3 AWWA Water Science e1260 (2021), <https://doi.org/10.1002/aws2.1260>).
- 242.** Patterson and Doyle’s research identifies a relationship between customer affordability and utility financial capability because utilities depend on customers’ ability



to pay their bills to support operations, infrastructure, and other costs. OCA Corrected St. 6 at 19.

243. Patterson and Doyle’s research cautions against relying on a single measure of utility affordability. Lauren A. Patterson & Martin W. Doyle, *Measuring Water Affordability and the Financial Capability of Utilities*, 3 AWWA Water Science e1260 (2021), <https://doi.org/10.1002/aws2.1260>.
244. Patterson and Doyle’s research identifies multiple measures that can be used to evaluate affordability, including the burden of utility costs on lower-income households, the percentage of households below specified income thresholds, and the distribution of affordability burdens across the customer base. Lauren A. Patterson & Martin W. Doyle, *Measuring Water Affordability and the Financial Capability of Utilities*, 3 AWWA Water Science e1260 (2021), <https://doi.org/10.1002/aws2.1260>.
245. Patterson and Doyle’s research distinguishes between measures that assess the severity of an affordability burden on individual households and measures that assess the number or proportion of households experiencing that burden. Lauren A. Patterson & Martin W. Doyle, *Measuring Water Affordability and the Financial Capability of Utilities*, 3 AWWA Water Science e1260 (2021), <https://doi.org/10.1002/aws2.1260>.
246. Patterson and Doyle recommend use of a “Household Burden,” or “HB Score,” to measure utility affordability across an entire service territory. OCA St. 6 at 19 (citing Lauren A. Patterson & Martin W. Doyle, *Measuring Water Affordability and the Financial Capability of Utilities*, 3 AWWA Water Science e1260 (2021), <https://doi.org/10.1002/aws2.1260>).

- 247.** The HB Score uses publicly available data from the U.S. Census Bureau’s annual American Community Survey and accounts for both household income and the distribution of households across income levels. Lauren A. Patterson & Martin W. Doyle, *Measuring Water Affordability and the Financial Capability of Utilities*, 3 AWWA Water Science e1260 (2021), <https://doi.org/10.1002/aws2.1260>.
- 248.** The HB Score methodology accounts for the distribution of household incomes throughout a utility’s service territory rather than relying solely on a single median-income household. Lauren A. Patterson & Martin W. Doyle, *Measuring Water Affordability and the Financial Capability of Utilities*, 3 AWWA Water Science e1260 (2021), <https://doi.org/10.1002/aws2.1260>.
- 249.** Mr. Colton applied the HB Score methodology to UGI Electric’s service territory to evaluate electricity affordability across the Company’s customer base. OCA Corrected St. 6 at 20.
- 250.** Mr. Colton calculated a weighted-average HB Score for UGI Electric under existing rates of 4.9%, representing an electricity burden of 4.9%. OCA Corrected St. 6 at 20.
- 251.** Under UGI Electric’s proposed rates, Mr. Colton calculated a weighted-average HB Score of 5.7% for the Company’s service territory. OCA Corrected St. 6 at 20.
- 252.** Of the 20 UGI Electric ZIP codes evaluated by Mr. Colton, 15 had total electricity burdens exceeding 4.5%. OCA Corrected St. 6 at 20.
- 253.** Of those 15 ZIP codes, nine had total electricity burdens exceeding 6.0%. OCA Corrected St. 6 at 20.

- 254.** Mr. Colton's analysis demonstrates that electricity burdens vary across UGI Electric's service territory and increase under the proposed rates. OCA Corrected St. 6 at 21.
- 255.** If a substantial portion of a utility's customers cannot reasonably afford their bills, the resulting payment difficulties and financial pressures may affect the utility itself. OCA Corrected St. 6 at 21.
- 256.** Customer financial capacity is relevant not only to the interests of ratepayers, but also to the utility's ability to maintain financial health and recover its costs. OCA Corrected St. 6 at 21.
- 257.** Since 2018, UGI Electric's rates have increased by 85.6%, while Social Security benefits have increased by 26.8%. OCA Corrected St. 6 at 9.
- 258.** As a result, the increase in UGI Electric's rates since 2018 has substantially exceeded the increase in Social Security benefits over the same period. OCA. Corrected St. 6 at 26.
- 259.** In 2024, the most recent year for which Census data are publicly available, 50.7% of households in UGI Electric's service territory with a householder age 65 or older had annual household incomes below \$50,000. OCA. Corrected St. 6 at 40.
- 260.** In 2024, 29.9% of households in UGI Electric's service territory with a householder age 65 or older had annual household incomes below \$30,000. OCA. Corrected St. 6 at 39-40.
- 261.** In 2024, 10.1% of households in UGI Electric's service territory with a householder age 65 or older had annual household incomes below \$15,000. OCA Corrected St. 6 at 40.

- 262.** Monthly UGI Electric bills can vary from month to month, resulting in changes in the amount residential customers are required to pay for electric service. OCA Corrected St. 6 at 30.
- 263.** Month-to-month changes in electric bills can create additional financial challenges for households with limited discretionary income or limited financial reserves. OCA Corrected St. 6 at 31.
- 264.** Low-income households are less likely to have discretionary income or sufficient financial reserves to absorb unexpected increases in monthly utility expenses. OCA Corrected St. 6 at 30.
- 265.** Sharp increases in electric bills during periods of increased heating-related usage can impose additional financial burdens on households with limited income and financial reserves. OCA Corrected St. 6 at 30.
- 266.** Low-income customers who lack sufficient financial reserves to absorb bill increases may have less ability to maintain timely payment of their electric bills when actual bills exceed expected amounts. OCA Corrected St. 6 at 30.
- 267.** Energy-efficiency investments generally require customers to incur costs before realizing potential future reductions in energy consumption or utility expenses. OCA Corrected St. 6 at 30.
- 268.** Low-income households with limited discretionary income may have less capacity to make upfront investments in energy-efficiency improvements, including investments for which future savings may exceed the initial cost. OCA Corrected St. 6 at 30.
- 269.** Many residential households, especially Seniors, must allocate limited income among utility expenses and other basic household necessities. OCA Corrected St. 6 at 40.

- 270.** Low-income UGI Electric customers are disproportionately renters. OCA Corrected St. 6 at 27.
- 271.** Residential tenants generally do not have the authority or “dominion interest” to make decisions concerning major energy-consuming systems or other capital improvements to rental properties. OCA Corrected St. 6 at 30.
- 272.** As a result, a residential tenant’s ability to undertake certain energy-efficiency improvements may be constrained by the tenant’s lack of authority over the property or its major energy-consuming systems. OCA Corrected St. 6 at 30.
- 273.** Mr. Colton evaluates affordability by comparing UGI Electric bills based on median residential usage from April 2025 through March 2026 with the bills considered affordable at the applicable Q1 household income levels, under both existing and proposed rates. OCA Corrected St. 6 at 10-11.
- 274.** Under the proposed rates, the smallest excess bill was nearly \$1,100, and 11 of the 20 ZIP Codes had excess bills exceeding \$1,300. OCA Corrected St. 6 at 10-11.
- 275.** Under UGI Electric’s existing rates, the smallest income deficit among the 20 ZIP Codes analyzed exceeds \$28,000. OCA Corrected St. 6 at 13.
- 276.** Under UGI Electric’s existing rates, 11 of the 20 ZIP Codes analyzed have income deficits exceeding \$35,000. OCA Corrected St. 6 at 13.
- 277.** Under UGI Electric’s proposed rates, the smallest income deficit among the 20 ZIP Codes analyzed is nearly \$37,000. OCA Corrected St. 6 at 13.
- 278.** Under UGI Electric’s proposed rates, 11 of the 20 ZIP Codes analyzed have income deficits exceeding \$47,600. OCA Corrected St. 6 at 13.

- 279.** The income deficits calculated by Mr. Colton are larger under the proposed rates than under UGI Electric's existing rates. OCA Corrected St. 6 at 14.
- 280.** One of the most significant financial challenges facing households in the UGI Electric service territory is the rising cost of housing. OCA Corrected St. 6 at 25.
- 281.** This burden is particularly acute in Luzerne County, where housing affordability has deteriorated substantially and continues to worsen. OCA St. 6 at 25.
- 282.** Mr. Colton's analysis examines Census data for Luzerne County from 2019 through 2024 across three household-income ranges: \$20,000–\$34,999, \$35,000–\$49,999, and \$50,000–\$74,999. OCA St. 6 at 26.
- 283.** Mr. Colton's analysis focuses on renter households whose housing costs exceed 40% of household income. OCA St. 6 at 25.
- 284.** A housing-cost burden exceeding 40% of household income represents a level of housing cost burden substantially above the commonly used 30% threshold. OCA Corrected St. 6 at 25.
- 285.** Across each of the three household-income ranges examined, a substantial percentage of renter households in Luzerne County experienced housing costs exceeding 40% of household income. OCA Corrected St. 6 at 27.
- 286.** Among renter households with annual incomes of \$35,000–\$49,999, nearly one in four experienced housing costs exceeding 40% of household income. OCA Corrected St. 6 at 27.
- 287.** Households with annual incomes between \$35,000 and \$74,999 experienced housing-cost burdens exceeding 40% of household income during the period examined. OCA Corrected St. 6 at 27.

- 288.** Electric utility expenses constitute a component of household expenses associated with maintaining a residence. OCA Corrected St. 6 at 40.
- 289.** Increases in UGI Electric’s rates increase the amount that customers must pay for electric service and, consequently, increase household expenditures for electric service. OCA Corrected St. 6 at 40-41.
- 290.** The increase in UGI Electric’s electric-service costs occurs within a broader period of increasing housing costs and housing-cost burdens in Luzerne County. OCA Corrected St. 6 at 29.
- 291.** The housing-affordability data examined by Mr. Colton show worsening housing-cost burdens among households across multiple income levels within the UGI Electric service territory. OCA Corrected St. 6 at 29-30.
- 292.** UGI Electric has a Customer Assistance Program (“CAP”) designed to provide eligible low-income customers with more affordable electric service. OCA Corrected St. 6 at 83.
- 293.** UGI Electric’s identification and enrollment of eligible low-income customers in CAP affects the extent to which those customers receive the benefits of the program. OCA Corrected St. 6 at 38.
- 294.** In response to OCA-4-16, UGI Electric reported that fewer than 15% of the 4,324 termination notices sent in 2025 to customers eligible for termination due to nonpayment resulted in the disconnection of service of customers identified as confirmed low-income customers. OCA Corrected St. 6SR at 11-12.

- 295.** The fact that fewer than 15% of the identified termination notices resulted in disconnection does not, standing alone, establish the reasons why the remaining notices did not result in termination of service. OCA Corrected St. 6SR at 11-12.
- 296.** The record does not establish, solely from the percentage of termination notices resulting in disconnection, the extent of collection activities undertaken by UGI Electric following issuance of a termination notice. OCA Corrected St. 6SR at 11-12.
- 297.** The record does not establish, solely from the percentage of termination notices resulting in disconnection, the costs incurred by UGI Electric for collection activities undertaken before or after issuance of a termination notice. OCA Corrected St. 6SR at 11-12.
- 298.** The relationship between termination notices, subsequent collection activities, the costs of those activities, and the resulting collection outcomes is relevant to evaluating the efficiency and effectiveness of UGI Electric's credit and collection practices. OCA Corrected St. 6SR at 11-12.
- 299.** The termination notice data and UGI Electric's lack of differentiated collection activities provide information concerning the manner in which the Company administers its credit and collection practices. OCA Corrected St. 6SR at 12-13.
- 300.** According to Mr. Colton's review of the record, UGI Electric residential customers had average monthly arrears of \$757 in 2025. OCA Corrected St. 6 at 44.
- 301.** Confirmed Low-Income customers had average monthly arrears of \$905 in 2025. OCA Corrected St. 6 at 44.
- 302.** According to Mr. Colton's review of the record, UGI Electric residential customers had median monthly arrears of \$357 in 2025. OCA Corrected St. 6 at 44.



- 303.** Confirmed Low-Income customers had median monthly arrears of \$527 in 2025. OCA Corrected St. 6 at 44.
- 304.** In 2025, UGI Electric disconnected service to 1.74 residential accounts for every 100 residential accounts. OCA Corrected St. 6 at 44.
- 305.** In 2025, UGI Electric disconnected service to 8.52 Confirmed Low-Income accounts for every 100 Confirmed Low-Income accounts. OCA Corrected St. 6 at 44.
- 306.** The rate of disconnection among Confirmed Low-Income accounts in 2025 was therefore substantially higher than the rate of disconnection among residential accounts generally. OCA Corrected St. 6 at 44.
- 307.** The average and median monthly arrears for Confirmed Low-Income customers were higher than the corresponding average and median monthly arrears for residential customers generally in 2025. OCA Corrected St. 6 at 44.
- 308.** UGI Electric’s customer-assistance-program enrollment data show that eligible low-income customers are not fully enrolled in the Company’s Customer Assistance Program (“CAP”). OCA Corrected St. 6 at 44.
- 309.** The criteria for identifying a customer as a Confirmed Low-Income Customer differ from the criteria and process applicable to enrollment in UGI Electric’s Customer Assistance Program (“CAP”). OCA Corrected St. 6R at 22.
- 310.** The Pennsylvania Public Utility Commission’s regulations impose three distinct obligations on UGI Electric concerning low-income customers and CAP eligibility. OCA Corrected St. 6R at 19.
- 311.** Customers who apply for and are verified to be eligible for the Customer Assistance Program (CAP) are required to be enrolled in CAP. OCA Corrected St. 6R at 19.

- 312.** A customer for whom the Company possesses information creating a “reasonable expectation” that the customer is low-income is considered “confirmed low-income” under the PUC’s regulations. OCA Corrected St. 6R at 19.
- 313.** This standard is distinct from the income-eligibility verification required for CAP enrollment. OCA Corrected St. 6R at 19.
- 314.** UGI Electric does not reasonably comply with its obligation to identify and treat customers as “confirmed low-income” when the information available to the Company creates a reasonable expectation that the customer is low-income. OCA Corrected St. 6R at 19.
- 315.** Customers who provide information, including but not limited to actual income, demonstrating eligibility for a public assistance program with eligibility criteria “consistent with” CAP are exempt from deposit requirements. OCA Corrected St. 6R at 19.
- 316.** The deposit-exemption standard is distinct from both the verified income-eligibility standard for CAP enrollment and the less stringent “reasonable expectation” standard for identifying a customer as “confirmed low-income.” OCA Corrected St. 6R at 19.
- 317.** The three regulatory standards—(a) verified CAP eligibility, (b) “reasonable expectation” or “confirmed low-income” status, and (c) eligibility for a qualifying public assistance program for purposes of deposit exemption—serve different regulatory purposes and are not interchangeable. OCA Corrected St. 6R at 19.
- 318.** Accordingly, the assertion that these three standards impose the same test or obligation is inconsistent with the plain language and structure of the PUC’s regulations. OCA Corrected St. 6R at 19.

- 319.** The use of Social Security Numbers (SSNs) by private entities is one of the leading causes of identity theft. OCA Corrected St. 6 at 71.
- 320.** SSNs, along with a person's date of birth and name, are the three most sought-after pieces of personal information sought by identity thieves. OCA Corrected St. 6 at 71.
- 321.** According to the 2007 report of the Presidential Task Force on Identity Theft, a person's SSN is the single most important piece of personally identifiable information available to identity thieves. OCA Corrected St. 6 at 71.
- 322.** SSNs are viewed as a "breeder document" by identity thieves. OCA Corrected St. 6 at 72.
- 323.** Unlike a person's name or address, which may change over the course of a person's lifetime, an SSN is a persistent identifier that is extremely difficult to change. OCA Corrected St. 6 at 72.
- 324.** An SSN cannot be changed merely because it has been lost or stolen. OCA Corrected St. 6 at 72.
- 325.** To obtain a new SSN based on wrongful use of an existing SSN, there must be evidence establishing that (a) another person is wrongfully using the SSN, and (b) the individual to whom the SSN belongs is being disadvantaged by that wrongful use. OCA Corrected St. 6 at 72.
- 326.** In 2007, the federal Office of Management and Budget (OMB) issued a memo requiring federal agencies to examine their use of SSNs in systems and programs to identify and eliminate instances where the collection of SSNs is unnecessary. OCA Corrected St. 6 at 73.

- 327.** The Federal Trade Commission (FTC) has urged a reduction in the use of SSNs in the private sector. OCA Corrected St. 6 at 73.
- 328.** Social Security Numbers are an aging technology, and we have to do serious planning for what will come next. OCA Corrected St. 6 at 74.
- 329.** Researchers Alessandro Acquisti and Ralph Gross of Carnegie Mellon University conducted a study for the National Academy of Sciences examining the predictability of SSNs. OCA St. 6 at 74 (citing Acquisti and Gross (2009). “Predicting Social Security Numbers from Public Data,” Proc. Natl Acad. Sci. USA 106:10975-10980).
- 330.** Through computer-based statistical analysis, the Acquisti and Gross study was able to identify the first five digits of an SSN for approximately 44% of individuals born after 1988 and approximately 7% of individuals born between 1973 and 1988. OCA Corrected St. 6 at 74.
- 331.** Knowledge of the first five digits of an SSN can facilitate the discovery or reconstruction of the remaining digits of the SSN. OCA Corrected St. 6 at 74.
- 332.** Different entities use different SSN truncation practices. Some entities truncate the first four digits of an SSN, while others truncate the last four digits, thereby creating circumstances in which partial SSNs can be matched to reconstruct additional portions of an SSN. OCA Corrected St. 6 at 74.
- 333.** The accuracy of the Acquisti and Gross prediction methodology increased for individuals residing in smaller states and for individuals born after 1988. OCA Corrected St. 6 at 74.

- 334.** In testing data involving approximately 500,000 individuals, the researchers were able to predict all nine digits of an SSN for approximately 8.5% of individuals born after 1988 in fewer than 1,000 attempts. OCA Corrected St. 6 at 74.
- 335.** In Delaware, the prediction methodology was sufficiently accurate to predict all nine digits of the SSN within ten or fewer attempts for approximately one out of every twenty SSNs assigned in the state. OCA Corrected St. 6 at 74.
- 336.** The Acquisti and Gross study concluded that, absent mitigating strategies, the predictability of SSNs creates a substantial risk of identity theft on a mass scale. OCA Corrected St. 6 at 74.
- 337.** UGI Electric collects SSNs from 99.3% of its customers. OCA Corrected St. 6 at 78 (citing UGI Electric response to OCA-IV-8).
- 338.** The Company collects SSNs for the express purpose of providing them to a third party (“The Company asks for a new customer's SSN when they apply for service so an Experian check can be run to verify their identity.”). OCA Corrected St. 6 at 78 (citing UGI Electric response to OCA-IV-6 (emphasis added)).
- 339.** When customers apply for UGI Electric service and are asked to provide their SSNs, UGI Electric does not inform or notify them that their SSNs will be retained after the customer relationship ends. OCA Corrected St. 6 at 79-80.
- 340.** UGI Electric does not inform or notify customers that their SSNs may be retained indefinitely, including after the household is no longer a customer of UGI Electric. OCA Corrected St. 6 at 79-80.

- 341.** UGI Electric does not inform or notify customers, at the time their SSNs are collected, that their SSNs will be provided to Experian, a third-party international credit reporting and information-services company. OCA Corrected St. 6 at 79-80.
- 342.** Experian operates internationally, including in North America, Central America, South America, Europe, the Middle East, Asia, and Australia, and describes its business as involving the transformation of complex data into actionable insights, including for purposes such as credit-risk assessment, fraud prevention, and market analysis. OCA Corrected St. 6 at 79-80.
- 343.** UGI Electric does not inform customers, at the time their SSNs are collected, of the purposes for which their SSNs will be disclosed to and used by Experian. OCA Corrected St. 6 at 79-80.
- 344.** UGI Electric does not inform customers whether Experian is authorized to retain their SSNs after Experian receives them from UGI Electric. OCA Corrected St. 6 at 79-80.
- 345.** UGI Electric does not inform customers, when collecting their SSNs, that their SSNs will be used in connection with an Experian Connect Check or otherwise disclose to customers the scope of Experian's involvement in the identity-verification process. OCA Corrected St. 6 at 79-80.
- 346.** UGI Electric's customer disclosures therefore do not adequately inform applicants, at the time their SSNs are collected, of the Company's retention practices, its disclosure of SSNs to Experian, or the purposes for which Experian will use or retain those SSNs. OCA Corrected St. 6 at 79-80.

## Appendix C

### OCA Proposed Conclusions of Law

#### **Overall Position on Rate Increase**

1. The Commission has the authority under 66 Pa. C.S. Section 1301 to set rates at an amount it determines to be “just and reasonable” and that authority includes the ability to deny a utility its requested increase. 66 Pa. C.S. § 1301; *Pa. PUC v. Columbia Gas Co.*, Docket No. R-2025-3053499 (Dec. 4, 2025), Order at 31-34.
2. UGI failed to meet its burden of proof to demonstrate that any increase in rates at this time, let alone UGI’s requested increase in annual base rate operating revenues of \$16.050 million, and return on equity of 10.85%, will produce rates that are just and reasonable, equitable among customer groups, or in the public interest. 66 Pa. C.S. § 315(a).
3. The Commission has the authority and discretion to deny the requested rate increase so long as that amount is not confiscatory and the utility has the opportunity to earn a fair rate of return. *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 310 (1989).
4. “Rates which enable the company to operate successfully, to maintain its financial integrity, to attract capital, and to compensate its investors for the risks assumed certainly cannot be condemned as invalid, even though they might produce only a meager return on the so-called ‘fair value’ rate base.” *Federal Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591, 605 (1944).
5. “[J]ust compensation depends upon many circumstances and must be determined by the exercise of a fair and enlightened judgment, having regard to all relevant facts.” *Bluefield Water Works and Improvement Co. v. Public Serv. Comm’n of W.Va.*, 262 U.S. 679, 690 (1923).

6. Rates become “unjust, unreasonable and confiscatory” if they “are not sufficient to yield a reasonable return on the value of the property used at the time it is being used.” *Bluefield Water Works and Improvement Co. v. Public Serv. Comm’n of W.Va.*, 262 U.S. 679, 690 (1923).
7. Affordability is an important ratemaking consideration when the Commission is determining whether a utility’s requested revenue requirement and rate of return would result in rates that are just and reasonable. *Pa. PUC et al. v. Pennsylvania-American Water Company*, Docket Nos. R-2025-3058051 (Order July 26, 2026) at 36; *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket Nos. R-2025-3053499 (Opinion and Order entered December 9, 2025) at 33, *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket Nos. R-2020-3018835 (Order Feb. 19, 2021) at 46-47; *Pa. PUC v. Roaring Creek Water Co.*, 1995 Pa. PUC LEXIS 67 at \*116 (Order entered May 31, 1995).
8. The Commission may “consider rate affordability” when evaluating a rate case and, in doing so, is required to “carefully consider the underlying record, including resolving conflicts in testimony and weighing evidence presented before it.” *Pa. PUC et al. v. Pennsylvania-American Water Company*, Docket Nos. R-2025-3058051 (Order July 26, 2026) at 36.
9. In its Order deciding the most recent Pennsylvania-American Water Company (PAWC) rate increase request, the Commission held that since “water and wastewater service are essential, non-discretionary services,” it agreed with the ALJs that “affordability should be a central consideration when determining whether PAWC’s proposed rates are ‘just and reasonable.’” *Pa. PUC et al. v. Pennsylvania-American Water Company*, Docket Nos. R-2025-3058051 (Order July 26, 2026) at 37.
10. Reviewing the affordability of UGI’s rates for ratepayers as impacted by the macroeconomic environment is an appropriate undertaking for the Commission in this proceeding, as the



Commission is required to balance the interests of all involved, and it is in both the utility's interest and customers' interest that the utility's rates remain affordable. *Columbia 2025* at 33; *Roaring Creek Water Co.*, 1995 Pa. PUC LEXIS 67 at \*116.

11. In the recent *PAWC* case, the Commission determined that affordability must be viewed within “the context of the magnitude and frequency of PAWC’s rate cases” but also in the context of “the impact of recent and current economic conditions.” *Pa. PUC et al. v. Pennsylvania-American Water Company*, Docket Nos. R-2025-3058051 (Order July 26, 2026) at 41.
12. The Commission has recognized that “[a]ffordability is an issue that must be addressed for all customers, not just for those who apply for and are found eligible to receive low-income assistance.” *Pa. PUC et al. v. Pennsylvania-American Water Company*, Docket Nos. R-2025-3058051 (Order July 26, 2026) at 41.
13. The Commission has affirmed that it considers rate affordability to be an important and central consideration in setting just and reasonable rates. *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket Nos. R-2020-3018835 (Order Feb. 19, 2021) at 46-47.
14. The Commission has noted recently that “the applicable legal standards that require the Commission to balance between the interests of the utility’s customers, investors, and the public interest, require the Commission, by necessary implication, to weigh evidence or unique considerations related to changes in service, market forces, and the economy.” *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket Nos. R-2020-3018835 (Order Feb. 19, 2021) at 48.
15. The Commission has rejected past arguments that its use of “traditional” ratemaking methodologies limits it from considering such concerns, whether in normal or extraordinary circumstances. *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket Nos. R-2020-3018835 (Order Feb. 19, 2021) at 48.

16. Cost of service is of primary concern in the rate design and allocation process, where cost of service guides the Commission alongside other ratemaking principles of quality of service, rate gradualism, and rate affordability. *Lloyd v. Pa. PUC*, 904 A.2d 1010, 1019-21 (Pa. Cmwlth. 2006).
17. While utilities are entitled to the opportunity to earn a fair rate of return, as part of the regulatory compact, public utilities do not face risks associated with a competitive market, which would not guarantee a captive customer base or the opportunity to earn. *Pennsylvania Gas & Water Co. v. Pa. PUC*, 341 A.2d 239, 251 (Pa. Cmwlth. 1975); *Pittsburgh v. Pa. PUC*, 128 A.2d 372, 382-83 (Pa. Super. 1956).
18. While “[i]t must be recognized that there is always the desire of the utility to get as large a return as possible,” there is likewise “a desire on the part of the ratepayer to buy as cheaply as possible. Only the Commission can stand between the public and the utility. It is almost the only protection which the public has.” *Phila. Suburban Transp. Co. v. Pa. PUC*, 281 A.2d 179, 186-87 (Pa. Cmwlth. 1971).
19. “The Commission is charged with the duty of protecting the rights of the public.” *Pittsburgh v. Pa. PUC*, 82 A.2d 515, 517 (Pa. Super. 1951) *otherwise modified in Pittsburgh v. Pa. PUC*, 88 A.2d 59 (Pa. 1952).
20. The Commission is tasked with setting utility rates that are “just and reasonable” based on all relevant facts. 66 Pa. C.S. § 1301; *Bluefield Water Works and Improvement Co. v. Public Serv. Comm’n of W.Va.*, 262 U.S. 679, 690 (1923).
21. Commission precedent demonstrates that rate affordability is an important consideration for the Commission as a part of its determination and setting rates that are “just and reasonable.”

*Pa. PUC et al. v. Pennsylvania-American Water Company*, Docket Nos. R-2025-3058051 (Order July 26, 2026) at 41.

## **DEPRECIATION**

22. The U.S. Supreme court defines depreciation as “the loss in service value of a capital asset over time. In the context of public utility accounting and regulation, it is a process of charging the cost of depreciable property, adjusted for net salvage, to operating expense accounts over the useful life of the asset.” *La. Pub. Serv. Comm’n v. FCC*, 476 U.S. 355, 364-365.
23. “Annual depreciation is an operating expense representing the consumption of assets in rendering service.” *Penn Sheraton Hotel v. Pennsylvania Public Utility Com.*, 198 Pa. Super. 618, 627.
24. “A utility is entitled under the law to recover from the rate payers the original cost of construction of its depreciable plant.” *Penn Sheraton Hotel v. Pennsylvania Public Utility Com.*, 198 Pa. Super. 618, 627.
25. “[I]t is clear in our law that ‘[i]n no event will a utility be permitted to recover by annual allowances for depreciation a total amount in excess of the original cost, since annual depreciation is computed on original cost and not upon fair value or reproduction cost.’” *Penn Sheraton Hotel v. Pennsylvania Public Utility Com.*, 198 Pa. Super. 618, 627.
26. “Accrued depreciation for rate purposes means ‘the actual depreciation of the utility's property as it has accrued to the date that fair value is in issue.’” *Penn Sheraton Hotel v. Pennsylvania Public Utility Com.*, 198 Pa. Super. 618, 624.

27. The Superior Court further noted that “accrued depreciation properly determined ‘should disclose the consumption of property to date.’” *Penn Sheraton Hotel v. Pennsylvania Public Utility Com.*, 198 Pa. Super. 618, 624.
28. While the Company is entitled to recover depreciation expense to ensure the utility is whole and the integrity of its investment maintained, the utility bears the burden of demonstrating that its claimed amounts to recover in expenses are not excessive. 66 Pa. C.S. § 315(a); see *Lindheimer v. Illinois Bell Tel. Co.*, 292 U.S. 151, 169 (1934); *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 606 (1944).
29. “[T]he company has the burden of making a convincing showing that the amounts it has charged to operating expenses for depreciation have not been excessive. That burden is not sustained by proof that its general accounting system has been correct. The calculations are mathematical, but the predictions underlying them are essentially matters of opinion.” *Lindheimer v. Illinois Bell Tel. Co.*, 292 U.S. 151, 169 (1934).
30. “[T]his Court recognized in [Lindheimer], the propriety of basing annual depreciation on cost. By such a procedure the utility is made whole and the integrity of its investment maintained. No more is required.” *Hope*, 320 U.S. at 606.
31. The Commission is not bound by any particular methodology or procedure in determining annual depreciation expense. *Pa. Power & Light Co. v. Pa. Pub. Util. Com.*, 311 A.2d 151, 158 (Pa. Cmwlth. 1973); *Pittsburgh v. Pa. Pub. Util. Comm’n*, 222 A. 2d 395 (Pa. Super. 1966); and *Philadelphia v. Pa. Pub. Util. Comm’n*, 102 A. 2d 428 (Pa. Super. 1954).
32. “[I]t is recognized that accrued depreciation is essentially a judgment figure, based on all the evidence, and the weight to be given any particular estimate is for the commission. The

commission is not bound to accept any particular method of estimating accrued depreciation.”

*Pittsburgh v. Pa. Pub. Util. Comm’n*, 222 A. 2d 395, 401-402 (Pa. Super. 1966).

33. “In a rate case, both annual depreciation expense allowance and accrued depreciation should be calculated on a reasonably consistent basis.” *Pa. Power & Light Co. v. Pa. Pub. Util. Com.*, 311 A.2d 151, 158 (Pa. Cmwlth. 1973).
34. “Although the PUC may be guided by its finding of accrued and annual depreciation in a prior case or cases, in determining such items in a rate case currently before it, such prior findings are not res judicata.” *Pa. Power & Light Co. v. Pa. Pub. Util. Com.*, 311 A.2d 151, 158 (Pa. Cmwlth. 1973).
35. The “reasonably consistent basis” language used by the Commonwealth Court specifically relates to the calculation of accrued depreciation and annual depreciation in determining just and reasonable rates. *Pa. Power & Light Co. v. Pa. Pub. Util. Com.*, 311 A.2d 151, 158 (Pa. Cmwlth. 1973).
36. Merely because a utility used a depreciation procedure in the past is neither a justification nor a limitation for determining what constitutes just and reasonable rates in this proceeding. *Pa. Power & Light Co. v. Pa. Pub. Util. Com.*, 311 A.2d 151, 158 (Pa. Cmwlth. 1973).
37. Instead, both accrued and annual depreciation must be reasonably consistent with each other. *Pa. Power & Light Co. v. Pa. Pub. Util. Com.*, 311 A.2d 151, 158 (Pa. Cmwlth. 1973).
38. The Public Utility Code and Commission’s regulations do not require that a utility’s currently utilized depreciation procedure for certain plant must be accepted indefinitely. 66 Pa. C.S. § 1703; 52 Pa. C.S. § 73.9(c).
39. The public utility bears the burden of proof regarding operating expenses for depreciation. *Lindheimer v. Illinois Bell Tel. Co.*, 292 U.S. 151, 175 (1934).

- 40.** The use of the ELG procedure is not consistent with the well-established “matching principle” of ratemaking requires that expenses, revenue, and rate base match over the same time period. *Pa. PUC v. NFGD*, 1994 Pa. PUC LEXIS 135, \*13.
- 41.** If post-test year additions to expenses and revenues are allowed, “the balance established by the test year is lost and the matching principle is violated.” *Pa. PUC v. NFGD*, 1994 Pa. PUC LEXIS 135, \*13 ; *Re. Niagra Mohawk Power Co.*, 1986 N.Y. PUC LEXIS 3, \*97 (a plant running for 50 years but packing all of its depreciation accruals into the first 40 years would violate generational equity and the matching principle).
- 42.** Two basic principles of public utility ratemaking are that: 1) a public utility only earns money from its rate base and 2) a public utility does not earn money on its expenses. *Pa. Power & Light Co. v. Pa. Pub. Util. Com.*, 311 A.2d 151, 158 (Pa. Cmwlth. 1973).
- 43.** A utility is not permitted to pad its estimates of annual depreciation so as to meet unknown contingencies, or to compensate for possible future errors in judgment.” *Pa. Power & Light Co. v. Pa. Pub. Util. Com.*, 311 A.2d 151, 158 (Pa. Cmwlth. 1973).
- 44.** “As a general rule, it is inequitable and economical [sic] unsound to ask one ‘generation’ of captive ratepayers to bear the cost of providing service to another.” *Re Minnegasco, Inc.*, 143 PUR4th 419, 426 (May 3, 1993); *Re Limerick Nuclear Generating Station*, 1982 Pa. PUC LEXIS 102, \*65.
- 45.** Section 1304 of the Public Utility Code prohibits discrimination in rates. 66 Pa. C.S. § 1304.
- 46.** The ELG procedure is an accelerated form of depreciation, which causes current customers to pay greater depreciation expense than future customers for the same level of utility service, resulting in intergenerational inequity. *Re Limerick Nuclear Generating Station*, 1982 Pa. PUC LEXIS 102, \*65.

## REVENUE REQUIREMENT

47. The Commission has established that, for a utility to meet its burden of proof regarding the inclusion of incentive compensation expenses in the utility's rates, the utility must demonstrate that the incentive compensation expense claim aligns primarily with ratepayer, not shareholder, interests. 66 Pa. C.S. § 315(a).
48. Ratepayers should not be required to exclusively fund the payout of financial metrics, particularly where the utility did not establish that such costs are fair and necessary, or that they pertain to providing safe, adequate, and reliable service to customers. *Pa. PUC v. Pa. American Water Co.*, Docket Nos. R-2025-3057983 *et al*, Order at 114 (July 27, 2026).
49. UGI failed to satisfy its burden of proof that the totality of its proposed incentive compensation expense is known and measurable for purposes of inclusion in rates and, therefore, its request to recover the totality of the expense amount should be denied. 66 Pa. C.S. § 315(a).
50. The Commission routinely normalizes, not amortizes rate case expense. *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2025-3053499 Order at 138 (Dec. 4, 2025), *Pa. PUC v. Phila. Gas Works*, Docket No. R-2023-3037933 Order at 66 (Nov. 9, 2023).
51. The Commission's present policy is "to allow for a normalized amount for current rate case expense; we do not amortize current rate case expense." *Pa. PUC v. Phila. Elec. Co.*, 1982 Pa. PUC LEXIS 83, \*58 (Order June 25, 1982).
52. The Commission looks to the historic filing frequency to determine the proper normalization period of rate case expense. *Pa. PUC v. Phila. Elec. Co.*, 1982 Pa. PUC LEXIS 83, \*58 (Order June 25, 1982).
53. Utilities are not permitted to recover the costs of "membership fees, dues or charges to fraternal, social or sports clubs or organizations." 66 Pa. C.S. § 1316.1.

54. A utility cannot recover the costs of memberships which reflect its corporate citizenship and should be incurred “below-the-line”. *Pa. PUC v. Columbia Gas of Pa.*, Docket No. R-2022-3032167, 2023 PA. PUC LEXIS 173 at \*27 (Order June 15, 2023)
55. The Commission has ruled that a utility should not be permitted to recover costs which mainly benefit the Company as being a good corporate citizen, advocacy on policy issues before various agencies, and civic related initiatives. *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2025-3053499 Order at 157-158 (Dec. 4, 2025).

#### **RATE OF RETURN**

56. The Capital structure of utilities that are wholly-owned subsidiaries may not be one which it would maintain if it were obliged to obtain its debt and equity financing on the open market rather than from a parent company. *Riverton Consol. Water Co. v. Pa. PUC*, 140 A.2d 114 at 121 (Pa. Super. 1958).
57. When the use of the actual capital structure results in such circumstances where the debt or equity is disproportionately high that might be unfair to either the utility or its customers, the Commission must make adjustments based upon substantial evidence in order to reach a fair result. *Riverton Consol. Water Co. v. Pa. PUC*, 140 A.2d 114 at 121 (Pa. Super. 1958).

#### **RATE STRUCTURE**

58. The Commission has previously held that the appropriate methodology for an ACOSS is dependent on the cost causation principles specific to and design of a utility’s distribution system. *Cf. Pa. PUC v. PECO Energy Co.*, Docket No. R-2020-3018929 (Order entered June 22, 2021) at 230-31.



- 59.** Even though the Commission has previously accepted the minimum system method for the allocation of the costs of primary and secondary distribution plant for electric utilities, the minimum system method should not always be accepted where the specifics of the design, planning, and operation of a distribution system do not support the inclusion of a customer component in classifying primary and secondary distribution costs. *Compare Pa. PUC v. Citizens Elec. Co. of Lewisburg*, Docket No. R-2019-3008212, Order at 121-23 (Apr. 27, 2020) and *Pa. PUC v. Wellsboro Elec. Co.*, Docket No. R-2019-3008208, Order at 101-02 (Apr. 29, 2020) and *Pa. PUC v. UGI Utilities, Inc. – Electric Division*, Docket No. R-2017-2640058, Order at 160 (Oct. 25, 2018) with *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket No. R-2022-3031211, Order at n. 30 (Dec. 8, 2022).
- 60.** In the natural gas context, the Commission recently stated: “We note that even in cases in which the revenue allocation methodology is litigated, a determination regarding which [allocated class cost of service study] should be used should be determined on a case-by-case basis.” *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket No. R-2022-3031211, Order at n. 30 (Dec. 8, 2022).
- 61.** Even though the Commission may have accepted the MSS methodology in prior proceedings, the Commission is not bound to accept the method as reasonable in this proceeding, and UGI bears the burden of proving that the MSS method is appropriate for purposes of cost allocation and rate design in this case. *Bell Atl. – Pa., Inc. v. Pa. Pub. Util. Comm’n*, 672 A.2d 352, 354 (Pa. Cmwlth. 1995); *Pa. PUC v. Pa.-American Water Co.*, Docket Nos. R-2025-3057983 *et al*, Order at 228 (July 27, 2026).
- 62.** “Under cost causation principles, the inquiry is ‘who causes or influences’ those costs.” *Phila. Indus. & Comm. Gas Users Grp. v. Pa. PUC*, 342 A.3d 140, 156 (Pa. Cmwlth. 2025).

- 63.** The “cost causation principle is a ‘forward-looking principle’ that allocates to future beneficiaries their share of the costs” and does not assess to customers the costs of the benefits to customers “in hindsight.” *Phila. Indus. & Comm. Gas Users Grp. v. Pa. PUC*, 342 A.3d 140, 156-57 (Pa. Cmwlth. 2025).
- 64.** The Commission has recently and consistently adopted the approach, in the context of selecting the appropriate ACOSS methodology for the allocation of the costs of natural gas distribution mains, that the customer connection function of a distribution system does not need to materialize in the selection of the ACOSS methodology used to allocate revenue and design rates. *Pa. PUC v. Columbia Gas Co.*, Docket No. R-2025-3053499 (Dec. 4, 2025), Order at \*162.
- 65.** In *Columbia 2025*, the Commission stated: “we remain of the opinion that although mains serve customers, it is the throughput that determines the type of main investment because it is the load that determines the main investment, not the number of customers served.” *Pa. PUC v. Columbia Gas Co.*, Docket No. R-2025-3053499 (Dec. 4, 2025), Order at \*162.
- 66.** The Commission considers the results of cost of service studies to address ratemaking concerns such as unreasonable inter- and intra-class subsidization through revenue allocation. *Lloyd v. Pa. PUC*, 904 A. 2d 1010, 1020 (Pa. Cmwlth. 2006).
- 67.** The Commission must also consider non-cost factors when determining the appropriate cost of service for each class. *Phila. Elec. Co. v. Pa. Pub. Util. Comm’n*, 470 A.2d 654, 658 (Pa. Cmwlth. 1984); *Hoover v. Pa. R.R.*, 27 A. 282, 283 (Pa. 1893).
- 68.** The Commission recently stated:

We find compelling the Parties’ arguments that the Company’s residential customer charge proposal is poised to produce significant price increases for low usage customers, which could be negatively exhibited in two ways. First, it will serve to penalize those customers who have invested in energy

efficiency and minimized their consumption. Second, for low income customers who have reduced their usage to fit a budget, the bill increase, associated with the shifting of costs to the customer charge, represents another obstacle to financial stability. The Company has not adequately rebutted the notion that the ability of consumers (the most vulnerable of which are low income customers not enrolled in CAP) to save money on their distribution bills through energy efficiency investment or conservation is reliant on a bill structure that bases the recovery of costs on volumetric throughput.

*Pa. PUC v. Columbia Gas Co.*, Docket No. R-2025-3053499 (Dec. 4, 2025), Order at \*179-80.

69. In *Columbia 2025*, the Commission emphasized its ability to consider factors beyond just the indicated cost of service when designing customer charges. *Pa. PUC v. Columbia Gas Co.*, Docket No. R-2025-3053499 (Dec. 4, 2025), Order at \*180.

70. UGI failed to meet its burden of proof that the proposed customer charge would result in just and reasonable rates. 66 Pa. C.S. § 315(a).

## **CUSTOMER SERVICE AND QUALITY OF SERVICE**

71. Service must be adequate, efficient, safe, and reasonable. 66 Pa. C.S. § 1501.

72. In setting just and reasonable rates, the Commission “shall consider ... the efficiency, effectiveness and adequacy of service of each utility.” 66 Pa. C.S. § 523.

73. The Commission can direct the adequate, reasonable, safe, sufficient service to be observed and furnished by the utility. 6 Pa. C.S. §§ 1504, 1505.

74. The Commission can order improvements to service as a condition of any rate increase. *Pa. PUC v. Pa. Gas & Water Co.*, 74 PUR4th 238, 244-45 (1986) (PG&W 1986); *Pa. PUC v. Phila. Gas Works*, 2000 Pa. PUC LEXIS 876, \*41-44, Order (Nov. 22, 2000).

75. The Commission has recently and properly recognized that “[a] base rate proceeding is the proper venue for hearing [] customer service issues.” *PUC v. Phila. Gas Works*, 2023 PA. PUC LEXIS 93, Order at 193 (April 20, 2023).
76. In the 2023 PGW base rate case, the Commission explicitly identified that the following factors were relevant considerations in evaluating whether PGW’s proposed rates were just and reasonable: (1) PGW’s management quality, efficiency, and effectiveness; (2) service quality and reliability; and (3) effect on universal service. . *PUC v. Phila. Gas Works*, 2023 PA. PUC LEXIS 93, Order at 193-94 (April 20, 2023) (citing 52 Pa. Code §§ 69.2703(a)(6)-(8)).
77. The Commission may also condition a portion of a utility’s requested rate increase on its compliance with service adequacy objectives. *Nat’l Utils. v. Pa PUC*, 709 A.2d 972, 977-78 (Pa. Cmwlth. Ct. 1998) (quoting *D.C. Transit System, Inc. v. Wash. Metro. Transit Comm’n*, 466 F.2d 394, 417 (D.C. Cir. 1972)).
78. The burden of proof to demonstrate that a public utility’s services are adequate is on the utility; other parties are not required to demonstrate the utility services are inadequate for the Commission to decide that such is the case. 66 Pa. C.S. § 315(c); *Pa. PUC v. Duquesne Light Co.*, Docket No. R-2021-3024750, Order at n. 14 (Dec. 16, 2021).
79. The Commission has the authority to impose performance-based rates as part of a rate base case. *Pa. PUC et al. v. Pennsylvania-American Water Company*, Docket Nos. R-2025-3058051, Order at 144 (July 26, 2026).

## **CUSTOMER ASSISTANCE PROGRAMS AND LOW-INCOME ISSUES**

80. The Legislature’s express directive that the Office of Consumer Advocate consider the substantial impact of Commission proceedings on consumers establishes that consumer

impacts, including affordability, are relevant considerations within the Commission's broader obligation to ensure that rates are just and reasonable. 71 P.S. § 309-4.

- 81.** The Pennsylvania Public Utility Code provides that “[e]very rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission.” 66 Pa.C.S. § 1301.
- 82.** “In addition to any powers expressly enumerated in this part, the commission shall have full power and authority, and it shall be its duty to enforce, execute and carry out, by its regulations, orders, or otherwise, all and singular, the provisions of this part, and the full intent thereof; and shall have the power to rescind or modify any such regulations or orders. The express enumeration of the powers of the commission in this part shall not exclude any power which the commission would otherwise have under any of the provisions of this part.” 66 Pa.C.S. § 501(a).
- 83.** “Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission. Only public utility service being furnished or rendered by a municipal corporation, or by the operating agencies of any municipal corporation, beyond its corporate limits, shall be subject to regulation and control by the commission as to rates, with the same force, and in like manner, as if such service were rendered by a public utility.” 66 Pa.C.S.A. Sec. 1301.
- 84.** “There is no single way to arrive at just and reasonable rates.” *McCloskey v. Pa. Pub. Util. Comm’n*, 225 A.3d 192, 205 (Pa. Cmwlth. 2020).
- 85.** The Pennsylvania Public Utility Commission has recognized that affordability is a relevant consideration in determining whether a utility rate is “just and reasonable.” *Pa. PUC v.*

*Columbia Gas Company*, Docket R-2025-3053499, at 32–33, 37, 279–80; *see also Pa. PUC v. Roaring Creek Water Co.*, 73 Pa. PUC 373, 400 (1990).

- 86.** The Commission’s determination of just and reasonable rates is not limited to whether a utility’s claimed costs were prudently incurred. Prudence does not guarantee recovery of costs from ratepayers, and the Commission must consider whether the rates ultimately charged are just and reasonable. *Pennsylvania Power Co. v. Pa. Pub. Util. Comm’n*, 561 A.2d 43 at 48 (Pa. Cmwlth. 1989); 66 Pa.C.S. § 1301(a).
- 87.** “The rate-making process under the Act . . . involves a balancing of the investor and the consumer interests.” *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 at 603 (1944).
- 88.** Under *Bluefield Waterworks & Improvement Co. v. Public Service Commission of West Virginia*, a utility’s entitlement to a reasonable return is tied not only to the interests of its investors, but also to its role in providing service to the public. The return must be sufficient to maintain the utility’s financial soundness, support its credit, and enable it to obtain the capital necessary for the proper discharge of its public duties. *Bluefield Waterworks & Improvement Co. v. Pub. Serv. Comm’n of W. Va.*, 262 U.S. 679, 692–93 (1923).
- 89.** The Commission has broad discretion in determining whether rates are reasonable. *City of Pittsburgh v. Pennsylvania Public Utility Commission*, 42 Pa. Commw. 242, 400 A.2d 672 (Pa. Cmwlth. 1979).
- 90.** The Commission is vested with discretion to decide what factors it will consider in setting or evaluating a utility’s rates. *Popowsky v. PUC*, 683 A.2d 958 at 961 (Pa. Cmwlth. 1996)(internal citations omitted).

91. “As long as there is a rational basis for the PUC’s methodology [in establishing a rate structure], such decisions are left entirely up to the discretion of the PUC which, using its expertise, is the only one which can properly determine which method is the most accurate given the particular circumstances of the case and economic climate.” *City of Lancaster (Water) v. Pa. PUC*, 769 A.2d 567 at 571-572 (Pa Commwlth. 2001).
92. The Commission has recognized that an alternative rate design must be just and reasonable and must “consider customer impacts.” 52 Pa. Code § 69.3301.
93. The Commission does not treat cost-of-living wage increases as inherently subjective; rather, the amount claimed for such increases must be supported and justifiable based on applicable macroeconomic trends. *Use of Fully Projected Future Test Year 52 Pa. Code Chapter 53 Final Rulemaking Order*, Docket No. L-2012-2317273, 2025 Pa. P.U.C. LEXIS 16, at \*209 (Pa. Pub. Util. Comm’n Jan. 8, 2025).
94. The Commission may consider rate affordability when determining whether proposed rates are just and reasonable in a base-rate proceeding. *Pa. PUC v. Pennsylvania-American Water Co.*, Docket No. R-2025-3057563, Order at 36 (July 27, 2026).
95. The Commission has recognized that rate affordability is not limited to the circumstances of low-income customers, even though affordability concerns among low-income customers are substantial. *Pa. PUC v. Pennsylvania-American Water Co.*, Docket No. R-2025-3057563, Order at 37 (July 27, 2026).
96. The availability of a utility’s bill-discount program does not, standing alone, resolve concerns regarding the affordability of utility rates, particularly where only a small fraction of eligible low-income customers are enrolled in the program. *Pa. PUC v. Pennsylvania-American Water Co.*, Docket No. R-2025-3057563, Order at 38 (July 27, 2026).

- 97.** Consideration of customer affordability is consistent with the Public Utility Code’s requirement that utility service be “adequate, efficient, safe, and reasonable for the accommodation and convenience of the public,” 66 Pa.C.S. § 1501.
- 98.** The Commission may consider the affordability of utility service in evaluating the interests of different classes of ratepayers, including the interests of customers who require affordable utility bills and the interests of other ratepayers who bear the costs associated with providing such affordability. *The Tenant Union Representative Network v. Pa. Pub. Util. Comm’n*, 318 A.3d 416 (Pa. Cmwlth. Apr. 2, 2024) (unreported memorandum opinion).
- 99.** Pennsylvania’s just-and-reasonable standard requires the Commission to balance the interests of utility consumers and investors. See *Pennsylvania Electric Co. v. Pa. PUC*, 509 Pa. 324, 329–31, 502 A.2d 130, 133–34 (1985); *Pa. PUC v. Pennsylvania Gas & Water Co.*, 492 Pa. 326, 337, 424 A.2d 1213, 1219 (1980); *Popowsky v. Pa PUC*, 542 Pa. 94, 107–08, 665 A.2d 615, 622–23 (1995).
- 100.** The Commission’s obligation to balance consumer and investor interests is not limited to ensuring that a utility recovers its costs or earns an adequate return on capital; rather, the Commission must determine the appropriate balance between the prices charged to utility customers and the returns provided to utility investors. See *Pennsylvania Electric Co. v. Pa. PUC*, 509 Pa. 324, 329–31, 502 A.2d 130, 133–34 (1985); *Pa. PUC v. Pennsylvania Gas & Water Co.*, 492 Pa. 326, 337, 424 A.2d 1213, 1219 (1980); *Popowsky v. Pa PUC*, 542 Pa. 94, 107–08, 665 A.2d 615, 622–23 (1995).
- 101.** The Pennsylvania Public Utility Commission has recognized that the circumstances contributing to customers’ inability to afford utility service include poverty, poor housing stock, and other factors that are not limited to the residential customer class. *2019 Amendments*



*to Policy Statement on Customer Assistance Program*, Docket No. M-2019-3012599, Final Policy Statement and Order, at 91 (Nov. 5, 2019).

**102.** In its 2019 Order revising the CAP Policy Statement, the Commission expressly found that “poverty, poor housing stock, and other factors that contribute to households struggling to afford utility service are not just ‘residential class problems.’” *2019 Amendments to Policy Statement on Customer Assistance Program*, Docket No. M-2019-3012599, Final Policy Statement and Order, at 91 (Nov. 5, 2019).

**103.** The Commission has recognized that universal service programs serve interests beyond those of individual residential customers and further a broader public purpose. *2019 Amendments to Policy Statement on Customer Assistance Program*, Docket No. M-2019-3012599, Final Policy Statement and Order at 96 (Nov. 5, 2019).

**104.** The Commission has recognized that the General Assembly identified a public purpose for universal service programs through provisions of the Competition Acts requiring that the costs of such programs be nonbypassable. *2019 Amendments to Policy Statement on Customer Assistance Program*, Docket No. M-2019-3012599, Final Policy Statement and Order at 96 (Nov. 5, 2019).

**105.** The Commission has found that there is a persuasive basis for treating home heating and energy assistance for low-income households as serving a public good rather than as a responsibility limited to other residential ratepayers. *2019 Amendments to Policy Statement on Customer Assistance Program*, Docket No. M-2019-3012599, Final Policy Statement and Order, at 97 (Nov. 5, 2019).

**106.** “The commission shall consider, in addition to all other relevant evidence of record, the efficiency, effectiveness and adequacy of service of each utility when determining just and

reasonable rates under this title. On the basis of the commission's consideration of such evidence, it shall give effect to this section by making such adjustments to specific components of the utility's claimed cost of service as it may determine to be proper and appropriate.” 66 Pa. Stat. § 523.

- 107.** Section 523 of the Public Utility Code applies to adjustments made when rates are determined and to adjustments based upon components of a utility’s claimed cost of service. 66 Pa.C.S. § 523; *Pa. Indus. Energy Coal. v. Pa. PUC*, 653 A.2d 1336, 1351 (Pa. Commw. Ct. 1995).
- 108.** Section 523 requires the Commission, when determining just and reasonable rates, to consider “in addition to all other relevant evidence of record” the efficiency, effectiveness, and adequacy of the utility’s service. 66 Pa.C.S. § 523(a); *Pa. Indus. Energy Coal.*, 653 A.2d at 1351.
- 109.** The Commission’s consideration of the factors identified in Section 523 must be based upon specific findings supported by evidence of record, with the underlying rationale set forth explicitly in the Commission’s final order. 66 Pa.C.S. § 523(a); *Pa. Indus. Energy Coal.*, 653 A.2d at 1351.
- 110.** Section 523 does not merely authorize the Commission to consider the efficiency, effectiveness, and adequacy of utility service; it requires the Commission to consider those matters when determining just and reasonable rates and to give effect to that consideration through appropriate adjustments to the utility’s claimed cost of service. 66 Pa.C.S. § 523(a); *Pa. Indus. Energy Coal.*, 653 A.2d at 1351.

- 111.** The Commission’s discretion under Section 523 must be exercised in accordance with the statutory requirements of that section and on the basis of specific findings supported by evidence of record. *Pa. Indus. Energy Coal.*, 653 A.2d at 1351–52.
- 112.** Under 52 Pa. Code § 54.72, a “confirmed low-income residential account” is an account for which an electric distribution company has obtained information that would reasonably place the customer in a low-income designation.
- 113.** Under 52 Pa. Code § 54.72, a “low-income customer” is a residential utility customer whose household income is at or below 150% of the Federal poverty guidelines.
- 114.** CAP is an alternative collection method that provides payment assistance to low-income, payment-troubled utility customers, and CAP participants make regular monthly payments in exchange for continued provision of utility service. 52 Pa. Code § 54.72.
- 115.** The Pennsylvania Supreme Court has explained that PUC jurisdiction concerns “the relationship between public utilities and the public” and extends to matters such as rates, service, rules of service, and utility facilities. *Lansdale Borough v. Philadelphia Electric Co.*, 170 A.2d 565, 567 (Pa. 1961).
- 116.** “Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission.” 66 Pa.C.S. § 1301.
- 117.** Affordability is an aspect of what constitutes a “just and reasonable” rate. *Pa. PUC v. Columbia Gas Company*, Docket R-2025-3053499, at 32–33, 37, 279–80; *Pa. PUC v. Roaring Creek Water Co.*, 73 Pa. PUC 373, 400 (1990).
- 118.** The Consumer Advocate “shall” represent consumers’ interests before the Commission and, in determining which consumer interests to advocate, “shall consider” both the public

interest and “the substantiality of the effect of the proceeding on the interest of consumers.” 71 P.S. § 309-4.

- 119.** The U.S. Supreme Court decisions in *Hope* and *Bluefield* are not directed solely to the interests of investors but, recognize the determination of “just and reasonable” rates requires a balancing of investor and ratepayer interests. *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944); *Bluefield Waterworks & Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923).
- 120.** Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission. Only public utility service being furnished or rendered by a municipal corporation, or by the operating agencies of any municipal corporation, beyond its corporate limits, shall be subject to regulation and control by the commission as to rates, with the same force, and in like manner, as if such service were rendered by a public utility. 66 Pa.C.S.A. § 1301.
- 121.** “The Commission does not view cost of living wage increases as subjective, and the amount claimed as a cost of living wage increase should be justifiable based on macroeconomic trends.” *Use of Fully Projected Future Test Year 52 Pa. Code Chapter 53 Final Rulemaking Order*, Docket No. L-2012-2317273, 2025 Pa. P.U.C. LEXIS 16, at \*209 (Pa. Pub. Util. Comm’n Jan. 8, 2025).
- 122.** Pennsylvania law does not prescribe a single methodology for determining whether utility rates are just and reasonable. *McCloskey v. Pennsylvania Public Utility Commission*, 225 A.3d 192, 195, 202–03 (Pa. Commw. Ct. 2020).

- 123.** The Pennsylvania Public Utility Commission has broad discretion to determine what factors it will consider in evaluating rates. *McCloskey v. Pennsylvania Public Utility Commission*, 225 A.3d 192, 195, 202–03 (Pa. Commw. Ct. 2020).
- 124.** The Commission may consider the ability of customers to afford proposed rates as part of its determination whether those rates are just and reasonable. Pa. Pub. Util. Comm’n, *Proposed Rulemaking Order*, 55 Pa. B. 1170, 1172 & n.4 (Aug. 30, 2025) (citing *Pa. Pub. Util. Comm’n v. Twin Lakes Utils., Inc.*, Docket No. R-2019-3010958, at 48, 80 (Mar. 26, 2020)); *see also* 52 Pa. Code § 69.3301.
- 125.** The Commission has likewise recognized that an alternative rate design should be just and reasonable and “consider customer impacts.” 52 Pa. Code § 69.3301.
- 126.** When setting rates in a base rate proceeding, the Commission may consider rate affordability. *PUC v. Pa. American Water Co.*, Docket Nos. R-2025-3057983 *et al*, (July 27, 2026).
- 127.** Affordability is not an issue that is solely the province of the poor. *PUC v. Pa. American Water Co.*, Docket Nos. R-2025-3057983 *et al*, (July 27, 2026).
- 128.** Utility service must be adequate, efficient, safe, and reasonable for the accommodation and convenience of customers and the public. 66 Pa. C.S. § 1501.
- 129.** A utility cannot dismiss worsening housing affordability as merely a macroeconomic condition beyond the Commission’s purview. *2019 Amendments to Policy Statement on Customer Assistance Program*, Docket No. M-2019-3012599 (Final Policy Statement and Order Nov. 5, 2019); *Energy Affordability for Low-Income Customers*, Docket No. M-2017-2587711.

- 130.** The Commission’s obligation to establish just and reasonable rates under Section 1301 requires consideration of the interests and circumstances of utility customers, not merely the utility’s financial interests. *Pennsylvania Elec. Co. v. Pa. PUC*, 509 Pa. 324, 329–31, 502 A.2d 130, 133–34 (1985); *Popowsky v. Pa. PUC*, 542 Pa. 94, 107–08, 665 A.2d 615, 622–23 (1995).
- 131.** The Pennsylvania Supreme Court has repeatedly characterized ratemaking as a balancing of consumer and investor interests and has recognized that the Commission’s authority to determine just and reasonable rates encompasses consideration of broader public interests. *Pennsylvania Electric Co. v. Pa. PUC*, 509 Pa. 324, 329–31, 502 A.2d 130, 133–34 (1985); *Pa. PUC v. Pennsylvania Gas & Water Co.*, 492 Pa. 326, 337, 424 A.2d 1213, 1219 (1980); *Popowsky v. Pa PUC*, 542 Pa. 94, 107–08, 665 A.2d 615, 622–23 (1995).
- 132.** “Poverty, poor housing stock, and other factors that contribute to households struggling to afford utility service are not just ‘residential class problems.’” *2019 Amendments to Policy Statement on Customer Assistance Program*, Docket No. M-2019-3012599, Final Policy Statement and Order, at 91 (Nov. 5, 2019).
- 133.** “The General Assembly clearly identified the public purpose of these programs in the Competition Acts by requiring that their costs be nonbypassable” “the General Assembly clearly identified the public purpose of these programs in the Competition Acts by requiring that their costs be nonbypassable” *2019 Amendments to Policy Statement on Customer Assistance Program*, Docket No. M-2019-3012599, Final Policy Statement and Order, at 91 (Nov. 5, 2019).
- 134.** “Home heating and energy assistance for low-income households serves a public good whose responsibility is not merely other residential ratepayers.” *2019 Amendments to Policy*

*Statement on Customer Assistance Program*, Docket No. M-2019-3012599, Final Policy Statement and Order, at 94-95 (Nov. 5, 2019).

**135.** Allocating CAP costs between all customer classes is lawful. *2019 Amendments to Policy Statement on Customer Assistance Program*, Docket No. M-2019-3012599, Final Policy Statement and Order, at 91 (Nov. 5, 2019).

**136.** The Commission has the authority to require other customer classes, not just the residential class, to contribute to the costs of universal service programs and that has an obligation to ensure that electric service is available to all customers on reasonable terms and conditions. *Interconnection and Tariffs for Large Load Customers*, Docket No. M-2025-3054271, Final Order at 107 (April 30, 2026).

**137.** Section 523 of the Public Utility Code, directs the Commission to “consider” the “efficiency, effectiveness and adequacy of service” and, based on that consideration, to “give effect” to the statute by making appropriate adjustments to specific components of the utility’s claimed cost of service. 66 Pa. Stat. § 523.

**138.** Section 523 of the Public Utility Code applies to adjustments made when rates are determined and that those adjustments must relate to the utility’s claimed cost of service. *Pa. Indus. Energy Coal. v. Pa. PUC*, 653 A.2d 1336, 1359 (Pa. Commw. Ct. 1995).

**139.** The evidence need not establish in advance that a cost-of-service adjustment is warranted; rather, it need only provide a sufficient basis for the Commission to undertake the examination that Section 523 expressly requires. *Pa. Indus. Energy Coal. v. Pa. PUC*, 653 A.2d 1336, 1351 (Pa. Commw. Ct. 1995).

**140.** Section 523 of the Public Utility Code provides Commission with the authority to consider an appropriate adjustment to the utility’s claimed cost of service if the examination

demonstrates that the practices are ineffective or inefficient. *Pa. Indus. Energy Coal. v. Pa. PUC*, 653 A.2d 1336, 1351 (Pa. Commw. Ct. 1995).

- 141.** A customer may be identified as Confirmed Low-Income—and therefore be appropriately targeted for outreach concerning CAP, LIHEAP, CARES, hardship assistance, and other universal-service programs—without having completed the affirmative application and income-verification process required to enroll in CAP. 52 Pa. Code § 69.265(4)(ii), (8)(ii).
- 142.** Pennsylvania’s universal-service framework recognizes Confirmed Low-Income status as a basis for identifying customers for purposes of universal-service programs, including payment assistance, termination-of-service protections, energy-usage reduction programs, and consumer education. 52 Pa. Code § 54.72.
- 143.** The Commission regulation exempting low-income customers from being required to post a cash security deposit, or qualifying them for a refund of any previously posted deposit, does not require the customer to complete an income verification process for CAP or LIHEAP. 56 Pa. Code § 56.41(4).



## **Appendix D**

### **OCA Proposed Ordering Paragraphs**

It is hereby ORDERED THAT:

1. UGI Utilities, Inc.-Electric Division shall not place into effect the rates, rules, and regulations contained in No.92 to UGI Electric Tariff – Pa. P.U.C. No. 6 dated March 27, 2026, which have been found to be unjust, unreasonable and, therefore, unlawful.
2. The request of UGI Utilities, Inc.-Electric Division to receive an authorized Return on Equity of 10.85% is denied.
3. UGI Utilities, Inc.-Electric Division shall be authorized to earn a Return on Equity no greater than 8.7% using a capital structure of 42% common equity and 58% debt.
4. The request of UGI Utilities, Inc.-Electric Division to use the Equal Life Group procedure to calculate depreciation rates is denied.
5. UGI Utilities, Inc.-Electric Division shall adopt the Average Life Group procedure for calculating depreciation rates.
6. UGI Utilities, Inc.-Electric Division minimum system study allocated cost of service study methodology used in its electric COSS is inconsistent with the manner in which UGI's distribution infrastructure is designed and constructed and therefore rejected.
7. UGI Utilities, Inc.-Electric Division's cost of service, revenue allocation, and rate design proposals must be modified to incorporate the Office of Consumer Advocate's COSS.
8. UGI Utilities, Inc.-Electric Division's fixed charges for Residential customers are properly maintained at current levels to recover UGI Utilities, Inc.-Electric Division's costs.
9. The Office of Consumer Advocate's recommendations regarding UGI Utilities, Inc.-Electric Division's call center performance are adopted.
10. The Office of Consumer Advocate's recommendations regarding UGI Utilities, Inc.-Electric Division's field agent training are adopted.
11. The Office of Consumer Advocate's recommendations regarding UGI Utilities, Inc.-Electric Division's call center performance are adopted.
12. UGI shall create a more distinctive section of its website to provide a targeted set of information for electric service customers.

13. UGI shall adopt additional and more targeted customer communications to assist customers in ensuring affordability for basic natural gas service due to high EGS charges that appear on the customer bill that UGI collects under threat of termination of service.
14. UGI shall reform its bill to more directly link the presentation of EGS charges with the Price to Compare (PTC).
15. The Commission shall consider ALICE (Asset Limited, Income Constrained, Employed) wage information, including household-level ALICE income and household survival-budget data, in evaluating the affordability needs of UGI Electric's residential customers and in assessing the adequacy of the Company's Customer Assistance Program and related low-income protections. The Commission finds that ALICE wage information provides a practical, household-level measure of financial hardship that may not be fully captured by traditional federal poverty measures alone.
16. UGI Electric shall allocate among all customer classes the total costs of its Customer Assistance Program ("CAP") incurred during the most recently completed calendar year preceding the year in which the Company receives a final Commission order in a base rate proceeding. For purposes of this allocation, total CAP costs shall consist of the CAP costs reported by UGI Electric to the Pennsylvania Public Utility Commission, including CAP Credits, Arrearage Forgiveness, and CAP Administration costs.
  - a. Because the non-residential customer class allocations of CAP costs shall be established on a fixed-fee basis, UGI Electric shall maintain the dollar amount allocated to each non-residential customer class at the level established by the Commission in this proceeding until the Company files its next base rate proceeding. The non-residential class allocations shall not be adjusted during that period except as expressly authorized by subsequent Commission order.
17. Pursuant to Section 523 of the Public Utility Code, 66 Pa.C.S. § 523, UGI Electric shall share equally, on a 50/50 basis, the costs associated with credit and collection activities that are properly allocable to the Company's provision and administration of residential utility service, including costs addressed by the Commission in this proceeding.
18. UGI Electric shall develop and provide a plain-English notice to customers who are determined to be "confirmed low-income" under the Commission's regulations. The notice shall clearly explain the customer's confirmed low-income status, the protections and rights associated with that status, and the customer's right to apply for CAP if the customer has not been enrolled.
19. UGI Electric shall establish procedures under which information reasonably demonstrating that a customer is low-income, including documentation comparable to a COMPASS eligibility-screen or benefit-verification record, may be used to identify and tag the customer as "confirmed low-income" for purposes of applying the protections afforded to such customers under Commission regulations. Nothing in this Ordering Paragraph shall

be construed to authorize the use of a COMPASS screenshot or similar documentation as a substitute for the income-verification requirements applicable to CAP enrollment.

20. UGI Electric shall provide low-income customers with clear and conspicuous notice of their right to apply for and enroll in CAP before offering or entering into a deferred payment agreement with such customers, where the customer may be eligible for CAP. The notice shall be written in plain language and shall explain that a deferred payment agreement is not a substitute for the customer's right to seek CAP enrollment.
21. UGI Electric shall modify its policies, processes, and procedures governing exemptions from residential security-deposit requirements for low-income customers to ensure that customers who satisfy the applicable Commission requirements are identified and receive the applicable exemption. UGI Electric shall establish procedures for receiving, reviewing, documenting, and acting upon information demonstrating eligibility for the applicable low-income deposit exemption.
22. UGI Electric shall, within twelve (12) months of the effective date of the Commission's Final Order in this proceeding, file with the Commission a detailed plan to eliminate the collection and retention of customers' Social Security Numbers ("SSNs"). The plan shall include specific procedures and a timeline for eliminating SSNs currently retained in UGI Electric's information-technology systems, databases, and other Company records.
  - a. Pending implementation of the elimination plan, UGI Electric shall not retain a customer's SSN for more than thirty (30) days after the customer establishes electric service, unless otherwise expressly authorized by Commission order or applicable law.
23. UGI Electric shall not provide or disclose a customer's SSN to any entity outside of UGI Electric, except where disclosure is expressly required or authorized by applicable law or Commission order.
24. If UGI Electric continues to collect or retain SSNs notwithstanding the requirements above, UGI Electric shall, at the time it requests a customer's SSN, provide the customer with clear and conspicuous notice stating that the SSN will be retained by UGI Electric and provided to a third-party credit reporting or information-services company, and shall disclose the intended purposes of such collection, retention, and disclosure. The notice shall be provided in sufficient time for the customer to consider the implications of providing an SSN before deciding whether to provide it.
25. UGI Electric's twelve-month report shall identify the Company's existing systems and processes that collect, transmit, store, or retain customer SSNs; the steps the Company will take to eliminate such collection and retention; the third parties, if any, to which SSNs are currently disclosed; and the measures the Company will implement to ensure that SSNs are not retained or disclosed contrary to this Order.

26. UGI Utilities, Inc.-Electric Division shall comply with all directives, conclusions and recommendations contained in this Commission's Opinion and Order that are not the subject of individual ordering paragraphs as fully as if they were the subject of specific ordering paragraphs.
27. The Complaints filed by the various parties to this proceeding at Docket R-2025-3059428 are granted in part and denied in part, to the extent consistent with this Commission's Opinion and Order.
28. The Joint Petition for Approval of Nonunanimous Settlement filed on September 10, 2026, by UGI Utilities, Inc.-Electric Division and the Office of Small Business Advocate is denied.

DATE: \_\_\_\_\_

\_\_\_\_\_  
[Name]  
Administrative Law Judge

\_\_\_\_\_  
[Name]  
Administrative Law Judge

**Appendix E**

**LIST OF EVIDENCE ADMITTED INTO THE EVIDENTIARY RECORD BY THE  
OFFICE OF CONSUMER ADVOCATE**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|                                         |   |                           |
|-----------------------------------------|---|---------------------------|
| Pennsylvania Public Utility Commission  | : |                           |
|                                         | : |                           |
| v.                                      | : | Docket No. R-2025-3059430 |
|                                         | : |                           |
| UGI Utilities, Inc. – Electric Division | : |                           |
|                                         | : |                           |

**OCA HEARING EXHIBIT 1**

**LIST OF EVIDENCE**  
**TO BE MOVED INTO THE EVIDENTIARY RECORD**  
**BY THE OFFICE OF CONSUMER ADVOCATE**

The Office of Consumer Advocate (OCA) intends to submit the following evidence into the evidentiary record in the above captioned proceedings at the scheduled evidentiary hearings in this proceeding.

**DIRECT TESTIMONY**

OCA CORRECTED  
Statement No. 1:

Direct Testimony of Michael Deupree consisting of written testimony with signed verification of Michael Deupree, Senior Research Consultant, Acadian Consulting Group, and the following:

- Appendix A
- Exhibit MWD-1 through Exhibit MWD-8

OCA CORRECTED<sup>1</sup>  
Statement No. 2:

Direct Testimony of Dante Mugrace consisting of written testimony with signed verification of Dante Mugrace, Senior Consultant, PCMG and Associates LLC, and the following:

- Appendix A
- Exhibits DM – 1 through DM-2, DM-5 through DM-8, DM-11 through DM-14, DM-16 through DM-20, DM-23 through DM-26, and DM-28 through DM-31.

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<sup>1</sup> The Correction also applies to the Confidential version of Mr. Mugrace's direct testimony.

CONFIDENTIAL

- OCA Statement No. 2: CONFIDENTIAL Direct Testimony of Dante Mugrace consisting of written testimony with signed verification of Dante Mugrace, Senior Consultant, PCMG and Associates LLC, and the following:
- Appendix A
  - Schedule DM-1 through Schedule DM-31

- OCA Statement No. 3: Direct Testimony of David J. Garrett consisting of written testimony with signed verification of David J. Garrett, Managing Member, Resolve Utility Consulting PLLC, and the following:
- Appendix A through Appendix B
  - Exhibit DJG-1 through Exhibit DJG-16

- OCA Statement No. 4: Direct Testimony of James S. Garren consisting of written testimony with signed verification of James S. Garren, Senior Manager, NewGen Strategies and Solutions LLC, and the following:
- Exhibit JSG-1 through Exhibit JSG-3

- OCA Statement No. 5: Direct Testimony of Barbara R. Alexander consisting of written testimony with signed verification of Barbara Alexander, Sole Member, Barbara Alexander Consulting, LLC, and the following:
- Exhibit BA-1 through BA-7

CONFIDENTIAL

- OCA Statement No. 5: CONFIDENTIAL Direct Testimony of Barbara R. Alexander consisting of written testimony with signed verification of Barbara Alexander, Sole Member, Barbara Alexander Consulting, LLC, and the following:
- Exhibit BA-1 through Exhibit BA-7

OCA CORRECTED

- Statement No. 6: Direct Testimony of Roger Colton consisting of written testimony with signed verification of Roger Colton, Owner, Fisher Sheehan & Colton, and the following:
- Exhibit RDC-1

- OCA Statement No. 7: Direct Testimony of Zachary Teti consisting of written testimony with signed verification of

Zachary Teti, Senior Regulatory Analyst,  
Pennsylvania Office of Consumer Advocate, and the  
following:

- Exhibit ZT-1

### **SURREBUTTAL TESTIMONY**

OCA Statement No. 1SR: Surrebuttal Testimony of Michael Deupree consisting of written testimony with signed verification of Michael Deupree, Senior Research Consultant, Acadian Consulting Group

OCA Statement No. 2SR: Surrebuttal Testimony of Dante Mugrace consisting of written testimony with signed verification of Dante Mugrace, Senior Consultant, PCMG and Associates LLC, and the following:

- Exhibits SR-DM-1 through SR-DM-2, SR-DM\_5 through SR-DM-8, SR-DM-10 through SR-DM-14, SR-DM-16 through SR-DM-18

### **CONFIDENTIAL**

OCA Statement No. 2SR: CONFIDENTIAL Surrebuttal Testimony of Dante Mugrace consisting of written testimony with signed verification of Dante Mugrace, Senior Consultant, PCMG and Associates LLC, and the following:

- Exhibits SR-DM-1 through SR-DM-18

### **HIGHLY CONFIDENTIAL**

OCA Statement No. 2SR: HIGHLY CONFIDENTIAL Surrebuttal Testimony of Dante Mugrace consisting of written testimony with signed verification of Dante Mugrace, Senior Consultant, PCMG and Associates LLC, and the following:

- Exhibits SR-DM-1 through SR-DM-18

OCA Statement No. 3SR: Surrebuttal Testimony of David J. Garrett consisting of written testimony with signed verification of David J. Garrett, Managing Member, Resolve Utility Consulting PLLC.



OCA Statement No. 4SR: Surrebuttal Testimony of James S. Garren consisting of written testimony with signed verification of James S. Garren, Senior Manager, NewGen Strategies and Solutions LLC.

OCA Statement No. 5SR: Surrebuttal Testimony of Barbara R. Alexander consisting of written testimony with signed verification of Barbara Alexander, Sole Member, Barbara Alexander Consulting, LLC, and the following:

- Exhibit BA-8

OCA Statement No. 6SR: Surrebuttal Testimony of Roger Colton consisting of written testimony with signed verification of Roger Colton, Owner, Fisher Sheehan & Colton.

#### **ADDITIONAL EXHIBITS**

OCA Hearing Exhibit 1: List of Evidence to be Moved into the Evidentiary Record by the Office of Consumer Advocate (OCA)

**Appendix F**

***In Re Minnegasco, Inc.***



KeyCite Yellow Flag

Reconsideration Granted by [In Matter of Application of Minnegasco, a Div. of Arkla, Inc.](#), Minn.P.U.C., May 28, 1993**1993 WL 312274 (Minn.P.U.C.), 143 P.U.R.4th 416****Re Minnegasco, Inc.**

Docket No. G-008/GR-92-400

Minnesota Public Utilities Commission

May 3, 1993

Before Storm (dissenting), chairman, and Burton (dissenting), Kitlinski, Knaak, and McKanna, commissioners.

BY THE COMMISSION:

***PROCEDURAL HISTORY******I. INITIAL PROCEEDINGS***

**\*1** On July 2, 1992, Minnegasco, a Division of Arkla, Inc. (Minnegasco or the Company), filed a petition seeking a rate increase of \$24,822,800 or approximately 5.5 percent over existing rates. The Company filed its direct testimony in support of this increase as part of its rate case filing.

On August 17, 1992, the Commission issued Orders accepting the Company's filing, suspended the proposed rates, and set the matter for contested case hearing. The Office of Administrative Hearings assigned Administrative Law Judge Richard Luis to the case.

On August 27, 1992, the Administrative Law Judge (ALJ) convened a prehearing conference.

On August 31, 1992, the Commission issued its ORDER SETTING INTERIM RATES, authorizing an interim rate increase of \$11.8 million or 2.6 percent, effective September 1, 1992.

On September 14, 1992, Minnegasco made a supplemental filing of additional direct testimony and exhibits concerning the Weather Normalization Adjustment (WNA) and Financial Accounting Standard (FAS) 106.

On September 17, 1992, the ALJ issued a Prehearing Order granting the Petitions to Intervene of the Minnesota Department of Public Service (the Department), the Residential Utilities Division of the Office of the Attorney General (RUD-OAG), Honeymead Products Company (Honeymead), Minnesota Energy Consumers (MEC), Northern Natural Gas Company (Northern), and the Suburban Rate Authority (SRA). The ALJ's Order also established the hearing schedule and procedural guidelines governing the conduct of the case.

On October 26, 1992, the Department, RUD-OAG, MEC and SRA filed their direct testimony.

On November 10, 1992, the Commission issued an Order granting Minnegasco's motion to enlarge the time to object to Gas, Inc.'s petition to intervene and denying Gas, Inc.'s petition.

On or about November 20, 1992, the parties filed Rebuttal Testimony and on December 2, 1992 they filed Surrebuttal Testimony.

***II. PARTIES AND REPRESENTATIVES***

*A. Intervenor*

The intervenors and their representatives in this matter are as follows:

Minnesota Department of Public Service (the Department) represented by Scott Wilensky and Mark Chalfant, Special Assistant Attorneys General, 1100 Bremer Tower, Seventh Place and Minnesota Street, St. Paul, Minnesota 55101;

Residential Utilities Division of the Office of the Attorney General (RUD-OAG) represented by Gary R. Cunningham, Special Assistant Attorney General, 340 Bremer Tower, Seventh Place and Minnesota Street, St. Paul, Minnesota 55101;

Honeymead Products Company (Honeymead) represented by Rebecca J. Heltzer, McGrann, Shea, Franzen, Carnival, Straughn & Lamb, 1700 Lincoln Center, 333 South 7th Street, Minneapolis, Minnesota 55402-2436;

Minnesota Energy Consumers (MEC) represented by James J. Bertrand, Leonard, Street & Deinard, 50 South 5th Street, Suite 2300, Minneapolis, Minnesota 55402-2436;

Northern Natural Gas Company (Northern) represented by Patrick J. Joyce, P.O. Box 3330, Omaha, Nebraska 68102-0330; and

\*2 Suburban Rate Authority (SRA) represented by James M. Strommen, Holmes & Graven, 470 Pillsbury Center, Minneapolis, Minnesota 55402.

*B. The Company*

Minnegasco was represented by Brenda Bjorklund, Miggie E. Cramblit, and John C. Sprangers, 201 South Seventh Street, Minneapolis, Minnesota 55402, Sally A. Johnson, Faegre & Benson, 2200 Norwest Center, 90 South Seventh Street, Minneapolis, Minnesota 55402-3901, and Paul T. Ruxin, Jones, Day, Reavis & Pogue, 901 Lakeside Avenue, Cleveland, Ohio 44114.

*III. PUBLIC HEARINGS AND PUBLIC TESTIMONY*

The ALJ held public hearings to receive comments and questions from non-intervening ratepayers. The dates and locations of these hearings are listed below:

November 10, 1992 Minneapolis

November 10, 1992 Bloomington

November 18, 1992 Mankato

November 19, 1992 Willmar

In Minneapolis, 30 persons attended and four spoke. The four speakers addressed, in turn, their concerns regarding Minnegasco's rate structure, interruptible service, service contracts, and the delivery rate on gas purchased by the customer from a third party.

In Bloomington, of the 19 persons attending, three spoke. The first speaker questioned Minnegasco's rate increase in light of reductions in the cost of gas since 1983, criticized Minnegasco's billing practices, and objected to BTU billing. The second speaker questioned Minnegasco's willingness to invest in storage gas if it wasn't allowed a return on that investment. The

third speaker requested clarification regarding Minnegasco's distribution and fixed costs and opposed the increase in rates and monthly customer fee in light of declining real incomes.

In Mankato and Willmar, 15 and 10 persons attended, respectively, but none spoke. In addition, the Commission received several dozen written comments from affected ratepayers. Generally, the commentators opposed any rate increase, especially on low income or fixed income persons. The comments stressed the pressure of increasing the cost of a basic necessity of life.

#### ***IV. EVIDENTIARY HEARINGS***

The ALJ held evidentiary hearings on December 8-11, 14-16, 18, and 21, 1992 in St. Paul, Minnesota.

#### ***V. PROCEEDINGS BEFORE THE COMMISSION***

On December 4, 1992, four of the parties (Minnegasco, the Department, RUD-OAG, and the SRA) filed with the ALJ an Offer of Partial Settlement.

On December 31, 1992, the ALJ issued an Order submitting the proposed Settlement to the Commission to determine whether the Settlement was in the public interest and supported by substantial evidence in the record. The ALJ stated that he found the Offer of Partial Settlement to be reasonable and supported by substantial evidence. The ALJ recommended that the Commission accept the Offer of Partial Settlement as resolving the financial and rate design issues encompassed therein.

On December 30, 1992, the same parties filed with the ALJ an Amended Offer of Partial Settlement. The Amended Settlement included agreements reached by the parties on additional issues since the start of the evidentiary hearing on December 8, 1992 and made certain clerical and computational changes.

\*3 On January 29, 1993, the ALJ issued an Order submitting the proposed Amended Offer of Partial Settlement (Settlement) to the Commission to determine whether the Settlement was in the public interest and supported by substantial evidence in the record. The ALJ stated that he found the Settlement to be reasonable and supported by substantial evidence. The ALJ recommended that the Commission accept the Settlement as resolving the financial and rate design issues encompassed therein.

On February 19, 1993, the Commission met to deliberate upon the matter and decided to accept the Amended Offer of Partial Settlement in its entirety.

On March 8, 1993, the ALJ filed his final report and recommendations regarding the remaining contested issues.

On March 19, 1993, the Commission met on its own motion to reopen deliberations regarding its February 19, 1993 decision to accept the Offer of Partial Settlement. After further deliberations, the Commission left its acceptance of the Settlement unchanged.

On March 31, 1993, the Commission heard oral arguments from the parties and on April 1 and 2, 1993 the Commission met to deliberate this matter.

Upon review of the entire record of this proceeding, the Commission makes the following Findings of Fact, Conclusions of Law, and Order.

#### ***FINDINGS AND CONCLUSIONS***

## VI. JURISDICTION

The Commission has general jurisdiction over the Company under Minn. Stat. §§ 216B.01 and 216B.02 (1992). The Commission has specific jurisdiction over rate changes under Minn. Stat. § 216B.16 (1992).

The case was properly referred to the Office of Administrative Hearings under Minn. Stat. §§ 14.48-14.62 (1992) and Minn. Rules, Part 1400.0200 *et seq.*

## VII. FURTHER ADMINISTRATIVE REVIEW

Under Minn. Rules, Part 7830.4100, any petition for rehearing, reconsideration, or other post-decision relief must be filed within 20 days of the date of the Order. Such petitions must be filed with the Executive Secretary of the Commission, must specifically set forth the grounds relied upon and errors claimed, and must be served on all parties. The filing should include an original, 13 copies, and proof of service on all parties.

Adverse parties have ten days from the date of service of the petition to file answers. Answers must be filed with the Executive Secretary of the Commission and must include an original, 13 copies, and proof of service on all parties. Replies are not permitted.

The Commission, in its discretion, may grant oral argument on the petition or decide the petition without oral argument.

Under Minn. Stat. § 216B.27, subd. 3 (1992), no Order of the Commission shall become effective while a petition for rehearing is pending or until either of the following: ten days after the petition for rehearing is denied or ten days after the Commission has announced its final determination on rehearing, unless the Commission otherwise orders.

\*4 Any petition for rehearing not granted within 20 days of filing is deemed denied. Minn. Stat. § 216B.27, subd. 4 (1992).

## VIII. MINNEGASCO

Minnegasco is an operating division of Arkla, Inc. and maintains its principal office in Minneapolis, Minnesota. At the beginning of this matter, Minnegasco distributed natural gas at retail to customers in three states: Nebraska, South Dakota, and Minnesota. During the hearing, Minnegasco announced its plans to sell its Nebraska properties and trade its South Dakota properties for additional Minnesota properties.<sup>1</sup> At the end of 1991, the Company had approximately 499,539 customers in Minnesota, and an annual throughput of approximately 123 billion cubic feet. The largest metropolitan areas served are Minneapolis and the West Metro suburbs. Additionally, the Company has a significant large volume load.

## IX. BURDEN OF PROOF

Minn. Stat. § 216B.16, subd. 4 (1992) states: “The burden of proof to show that the rate change is just and reasonable shall be upon the public utility seeking the change.”

The Minnesota Supreme Court has articulated standards for the burden of proof in rate cases. *In the Matter of the Petition of Northern States Power Company for Authority to Change Its Schedule of Rates for Electric Service in Minnesota*, 416 N.W. 2d 719 (Minn. 1987). In the *States Power* case, the Court divided the ratemaking function of the Commission into quasi-judicial and legislative aspects. The Commission acts in a quasi-judicial mode when it determines the validity of facts presented. Just as in a civil case, the burden of proof is on the utility to prove the facts by a fair preponderance of the evidence. Such items as claimed costs or other financial data are facts which the utility must prove by a fair preponderance of the evidence.

The Commission acts in a legislative mode when it weighs the facts presented and determines if proposed rates are just and reasonable. Acting legislatively, the Commission draws inferences and conclusions from proven facts to determine if the conclusion sought by the utility is justified. The Commission weighs the facts in light of its statutory responsibility to enforce the state's public policy that retail consumers of utility services shall be furnished such services at reasonable rates. In its legislative capacity, the Commission forms determinations such as the usefulness of a claimed item, the prudence of company decisions, and the overall reasonableness of proposed rates.

\*5 The utility therefore faces a two part burden of proof in a rate case. When presenting its case in the rate change proceeding, the utility has the burden to prove its facts by a fair preponderance of the evidence. The utility also has the burden to prove, by means of a process in which the Commission uses its judgment to draw inferences and conclusions from proven facts, that the proposed rates are just and reasonable.

#### ***X. TEST YEAR***

Minnegasco used the period July 1, 1992 through June 30, 1993 for its test year. Accordingly, the financial data submitted by the Company was largely projected. No party objected to the Company's test year period. Minnegasco's test year was used but not specifically addressed in the Offer of Partial Settlement or in the ALJ's report.

The Commission finds that the Company's use of a twelve-month test year ending June 30, 1993 was appropriate in this proceeding.

#### ***XI. OFFER OF PARTIAL SETTLEMENT ACCEPTED AND ADOPTED***

The Commission finds that the Amended Offer of Partial Settlement (the Settlement) is supported by substantial evidence, promotes the public interest, and (in conjunction with the resolution of the remaining contested issues in this Order) will result in just and reasonable rates. The Commission will accept and adopt the Settlement.<sup>2</sup> A copy of the Settlement is incorporated into this Order by reference. The non-proprietary version of the Settlement is attached to this Order.

A Stipulation of Facts accompanied the Settlement. The parties set forth the evidentiary basis for their resolutions of individual issues and explained their basis in reason and policy. In addition, the parties made their witnesses available for questioning by Commission staff to clarify the evidentiary basis for Settlement positions if necessary. Since the Commission must base its rate case decisions on the record, this increased the Settlement's value and credibility. [Minn. Stat. § 14.60, subd. 2 \(1992\)](#). While the Commission could have approved the Settlement based solely on its independent review of the record, it is reassuring that the parties demonstrated that the record was central to their negotiations on every issue.

In non-ratemaking settlement negotiations it is common for parties to concede some issues to obtain a more favorable resolution of others they value more highly. This is reasonable and appropriate in private disputes, where the goal of the settlement process is to reach a result satisfactory to all parties. In Commission proceedings, however, the Commission's responsibility is to serve the public interest. This fundamental responsibility does not change when considering the proposed settlement of a rate case. The Commission certainly considers the monetary and administrative efficiency benefits of not subjecting settled issues to a fully contested case treatment. However, the Commission also scrutinizes a proposed settlement to see whether it protects the interests of the Company, the public, and all customer classes. To assure that this objective is achieved, the Commission examines to see that every issue is resolved within the bounds of acceptable regulatory practice. This is particularly important in rate case settlements because resolution of individual issues not only affects rate levels and structures adopted in this proceeding but has implications on future rate levels and rate structures.



\*6 The Commission is convinced that the Settlement proposed in this matter meets that standard. Each issue addressed in the Settlement has been resolved within the established parameters of acceptable regulatory practice. Accordingly, the Commission will accept the Settlement.

This is not to say that if the Commission had considered the issues resolved in the Settlement on the merits in a contested context the Commission would have decided these issues the same way that they were settled. The Commission has serious concerns regarding a number of the settled issues, including Minnegasco's capital structure, incentive plan costs, manufactured gas plant costs, and appliance service regulated/non-regulated cost allocations. The Commission notes that its acceptance of the Settlement in no way provides precedent on how it would resolve the issues contained therein in future rate cases, other than that the Settlement treatment of the issue was within the range of acceptable regulatory practice. In sum, acceptance of the Settlement does not diminish the Commission's discretion in future rate cases to choose other options that fall within the range of reasonable regulatory practice.

### *Additional Filing Requirements*

To underscore the Commission's particular concern regarding the resolution of certain issues, the Commission will require further attention to the following issues:

1. Definition of MGP Costs — Minnegasco's proposed and stipulated recovery amounts for Manufactured Gas Plant cleanup costs were categorized by amounts for remediation, legal services, investigation, and amortization. Minnegasco projected amounts in these categories that totaled over \$5 million. In its compliance filing within 60 days of this Order, the Company will be required to provide further definition of these costs, including the breakdown of costs that would be internal, external, legal, consulting, contracting, and other. Utility regulatory costs, if any, shall also be shown.
2. MGP Cost Recovery Efforts — In its compliance filing within 60 days of this Order, the Company also will be required to provide an update of its insurance recovery activities and plans, including what claims it has filed and what efforts have been made and will be made to identify and recover from other potential parties involved.
3. Annual Report of MGP Costs — Minnegasco will be required to file annually a report of its MGP cleanup costs and MGP cost recoveries.
4. Other issues — The Commission expects that the parties will address the merits of all the settled issues in future rate cases and will require the Company, in its next rate case filing, to describe 1) the treatment of incentive compensation, vacation accrual, and winter leak surveys in the test year costs, and 2) the impact on the revenue requirement of using an industry average capital structure.

## *XII. REMAINING CONTESTED FINANCIAL ISSUES*

### *A. Financial Accounting Standard 106*

#### *1. Factual Background*

\*7 In December of 1990 the Financial Accounting Standards Board, the professional association that sets accounting standards for American finance and business, issued a new standard on the appropriate accounting treatment of certain post-employment benefits. These benefits are known as PBOPs, for "Post-retirement Benefits Other than Pensions." The main benefit in this category is health insurance, but life insurance, dental insurance, and miscellaneous benefits are also included. The new accounting standard requires companies to account for PBOPs on an accrual basis. In the past nearly all Minnesota utilities, including Minnegasco, have recorded these expenses on a cash basis.



Under cash basis (pay-as-you-go) accounting, PBOP expenses are not recognized on a company's books until payment is made. Under accrual accounting, these expenses are recognized on a pro-rata basis during an employee's period of service, as the obligation to pay arises. In a recent all-utility proceeding, the Commission adopted Financial Accounting Standard 106 for recordkeeping and ratemaking purposes, subject to review of all expenses for prudence and reasonableness.<sup>3</sup> The Order in that proceeding authorized Minnesota utilities to shift to accrual accounting to record future PBOP obligations as they are incurred. It also authorized utilities to use deferred accounting to record PBOP costs in excess of those that would have been recorded under cash basis accounting.

To avoid prolonged uncertainty about the rate effects of the new accounting standard, the Commission limited deferred accounting to three years. Companies were required either to secure a ratemaking determination during that time or to forfeit any ability to recover deferred amounts in rates. This general rate case is the first proceeding in which the Commission has been asked to rule on the recoverability of the costs measured using the new FASB standard.

No party challenges the accuracy of the Company's calculations of current PBOP service costs being incurred for active employees or the recovery of these costs in rates. The Commission, too, finds the current service costs of the current plan reasonable, prudent, and recoverable in rates.

The remaining issue is the recoverability of Minnegasco's "transition obligation," the unrecognized amount of accumulated PBOPs as of the Company's adoption of the new accounting standard on January 1, 1993. Amortization of the transition obligation is a significant component of the revenue deficiency claimed in this rate case. The amortization, plus associated interest, accounts for roughly \$3.4 million of the annual rate increase sought by the Company.

\*8 Minnegasco has calculated its transition obligation using the formula prescribed by the Financial Accounting Standards Board (FASB). The total obligation is calculated on the basis of the cost of the Company's current PBOP plan, as required by FASB. The Company proposes to amortize the obligation over 14 years, which is acceptable under FASB guidelines. No party challenges the accuracy of the Company's calculations, which the Commission, too, accepts as accurate. The other parties do, however, challenge the reasonableness of allowing full recovery of the transition obligation and associated interest and the reasonableness of the proposed 14-year amortization period.

The Department and the RUD-OAG recommend disallowing 50 percent of the transition obligation, and associated interest, on grounds that an expense so extraordinary and unrepresentative of test year expense should be shared by ratepayers and shareholders. The SRA recommends total disallowance on grounds that the Company was imprudent in failing to adopt accrual accounting sooner. The Administrative Law Judge recommended granting recovery of the entire transition obligation and associated interest.

## ***2. Accounting Principles Do Not Control Ratemaking***

The Commission notes that costs can be treated differently for accounting and ratemaking purposes. As the Minnesota Supreme Court has explained,

Nothing in the federal regulations or the Minnesota Rules suggests that the system of accounts is determinative of the treatment of any item for purposes of setting rates or that the system deprives MPUC of its power or absolves it of the duty to decide the issues before it and to set just and reasonable rates.

*Petition of Continental Telephone Company*, 389 N.W.2d 910, 915 (Minn. 1986).

## ***3. Commission Action***

The Commission will allow recovery of 50 percent of the transition obligation and associated interest, establish a 20-year amortization period, and authorize internal funding, for the reasons set forth below.

***a. The Transition Obligation is an Out-of-Test-Year Expense***

In every general rate case, the Commission bases rates on a representative slice of the utility's normal operations called the “test year.” The main purpose of the test year is to ensure that rates are based on facts and experience instead of conjecture. It is also intended to replace the fiscal discipline of the marketplace, which is absent for monopolies, with the fiscal discipline of prior determination of reasonable costs. Finally, and most significantly in this case, it is intended to ensure as much precision as possible in matching the time a cost is incurred with the time it is recovered from ratepayers.

This final goal, matching the time a cost is incurred with the time it is recovered, is one of the most important functions of regulation. Since utility service is a public necessity provided in a monopoly environment, rates must be set to recover the full cost of providing service while they are in effect. Placing any portion of the cost of service on preceding or succeeding ratepayers raises grave issues of fairness, as well as resource allocation. As a general rule, it is inequitable and economically unsound to ask one “generation” of captive ratepayers to bear the cost of providing service to another.

\*9 Second, matching the time that costs are incurred to the time that they are recovered protects the integrity of the ratemaking process by ensuring that only representative, not aberrant, costs are included in rates. Regulatory commissions assume that actual costs will vary slightly from test year costs. Under normal circumstances, however, utilities are expected to place their costs in test year categories or bear them themselves. The Commission does not normally adjust test year costs to reflect non-test year expenses. As the Commission explained in an earlier Order:

. . . the test year method by which rates are set rests on the assumption that changes in the Company's financial status during the test year will be roughly symmetrical — some favoring the Company, others not. Not adjusting for either type of change maintains this symmetry and maintains the integrity of the test year process. Anomalies are likely to exist in and beyond any test year.

*In the Matter of the Petition of Minnesota Power & Light Company, d/b/a Minnesota Power, for Authority to Change Its Schedule of Rates for Retail Electric Service in the State of Minnesota*, Docket No. E-015/GR-87-223 ORDER AFTER RECONSIDERATION AND REHEARING (May 16, 1988).

Finally, utilities do not face the same pressure as unregulated enterprises to monitor costs precisely and continuously. The test year, and the time matching it forces, are valuable tools for ensuring that costs are promptly and properly identified, recognized, and recovered. In short, the test year is an important regulatory safeguard against under-recovery, over-recovery, and imprecision in ratemaking.

Since the transition obligation is an accounting adjustment for obligations incurred but not recognized in the past, it is an out-of-test-year expense that would normally be disallowed. The Commission believes there are sound reasons for allowing part of it in this case, however.

***b. Partial Recovery of the Transition Obligation is Equitable***

First of all, the costs represented in the transition obligation are costs whose recovery has been allowed in past ratemakings under cash basis accounting. Furthermore, in recording these expenses on a cash basis in the past, Minnegasco was following established accounting and regulatory practice. To disallow them entirely now because of a change in generally accepted accounting principles would be unduly harsh.

At the same time, however, placing the entire transition obligation in rates would be less than equitable. Although the ratepayers are now paying retirees' PBOPs under cash basis accounting, converting both retirees' and current employees' PBOPs to accrual accounting results in just the sort of overlap of past and current costs the test year concept is designed to avoid. It results in one group of ratepayers bearing expenses that would have been charged to another group, given perfect information earlier. Furthermore, the financial burden of the accounting change is substantial, increasing annual PBOP expense by some 350 percent. Placing the entire burden on ratepayers, then, cannot be done lightly.

**\*10** Finally, although the new accounting standard benefits all stakeholders by enhancing the accuracy of corporate financial statements, it benefits investors so significantly that apportioning part of the transition cost to them is reasonable. It is the investment community, after all, who has the greatest interest in the financial condition and prospects of individual companies, and the greatest need to make valid comparisons between them. It is these needs FAS 106 was designed to meet. Of course, ratepayers also benefit from meaningful financial disclosure and the confidence it produces in investors. Under these circumstances, the Commission concludes allowing recovery of 50 percent of the transition adjustment in rates is reasonable.

It is also consistent with Commission action in other cases involving extraordinary expenses that do not fit within established rate case categories. In such cases the Commission has not considered itself bound to allow or disallow the expenses in their entirety, but has instead sought creative and judicious regulatory treatment. See, for example, the decision in Minnesota Power's 1987 rate case partially disallowing the costs of maintaining excess capacity<sup>4</sup> and the decision in NSP's 1986 rate case apportioning manufactured gas plant clean up costs between ratepayers and shareholders.<sup>5</sup>

Other regulatory bodies have taken similar approaches. The Illinois Commerce Commission, for example, has determined that coal tar clean up costs should be apportioned equally between ratepayers and shareholders.<sup>6</sup> The Vermont Public Service Board has found that the costs of a management incentive plan should be allocated equally between ratepayers and shareholders. *In Re Green Mountain Power Corporation*, 119 PUR4th 62 (Vermont Public Service Board 1991).

***c. Full Recovery of the Transition Obligation Not Required for Investor Confidence***

The Commission rejects the Company's claim that failure to include the entire transition obligation in rates is likely to adversely affect investors' perception of the Minnesota regulatory environment and drive up the Company's cost of capital. The Commission believes that this Order speaks for itself and will be properly interpreted by the investment community. The Commission has consistently included, and will continue to include, all allowable costs in rates. The Commission will continue to seek innovative and equitable approaches to costs, such as the transition obligation, that do not qualify for automatic inclusion in rates.

***d. Total Disallowance Not Required for Failure to Adopt Accrual Accounting Sooner***

**\*11** The Suburban Rate Authority (SRA) argued that the entire transition obligation should be disallowed because the Financial Accounting Standards Board had indicated as early as 1979 that it was rethinking its position allowing cash basis accounting for PBOPs. The SRA contended the prudent course would have been to seek Commission approval to implement accrual accounting earlier.

The Commission agrees with and adopts Findings 46 and 53 of the Administrative Law Judge rejecting this claim. It was prevailing business practice, and the preferred practice under generally accepted accounting principles, to record PBOPs using cash accounting. The Commission believes the Company acted prudently in waiting for the new accounting standard to be issued before converting to accrual accounting.

*e. External Funding of PBOPs Unnecessary*

The Company proposed that it be allowed to fund its PBOP obligation internally, arguing that its strong equity position made external funding unnecessary and that its inability to use tax-deductible funding vehicles made it counterproductive. No party opposed internal funding, and the Administrative Law Judge recommended it.

The Commission agrees that internal funding offers adequate security and clear cost advantages at present. The Commission will require the Company to file an annual report with the Department of Public Service, however, detailing amounts accrued in the internal fund, amounts expended, projected future accruals and expenditures, the feasibility of alternative funding options (including tax-deductible funding options), and Company equity levels. This report will allow continuous monitoring of the internal fund and prompt identification of any conditions warranting re-examination of external funding.

*f. 50 Percent of the Interest on the Transition Obligation Allowed*

The Company seeks recovery of both the transition obligation and associated interest. The transition obligation consists of unrecognized PBOP obligations, reduced to present value. Interest on those obligations for the time between accrual and payment is necessary if the goal is to make the Company whole. The Administrative Law Judge found that interest on the transition obligation should be allowed to the same extent as the transition obligation itself. Finding No. 47. The Commission accepts and adopts that recommendation, believing it would be anomalous to allow recovery of interest on principal that has been disallowed.

*g. Twenty Year Amortization Period Established*

Under FAS 106 Minnegasco can recognize the total transition obligation immediately, amortize it over the average remaining service period of active participants in its PBOP plan, or amortize it over 20 years. The Company proposed a 14-year amortization period, based on the remaining service period of active plan participants, for ratemaking purposes. (The Company stated it had not yet determined whether to amortize the transition obligation or recognize it immediately for financial reporting purposes.) The Department proposed a 16-year period, based on the weighted average remaining lives of active and inactive plan participants. The RUD-OAG recommended a 20 year amortization; the SRA recommended a 40-year period.

**\*12** The Commission agrees with the Administrative Law Judge that a 20-year amortization period represents the best balance between shareholder and ratepayer interests. It eliminates the mismatch between the times costs are incurred and recognized within a reasonable time period and with moderate rate impact. The Financial Accounting Standards Board's acceptance of 20 year amortization periods is another indication of its basic reasonableness. The Commission accepts and adopts the Administrative Law Judge's finding (No. 43) and recommendation, and will establish a 20-year amortization period.

*B. Annual Adjustment for Gas Storage Carrying Costs*

Minnegasco proposed an annual true-up of carrying costs associated with gas storage inventory. The true-up would compare the carrying costs on the level of stored gas inventory included in base rates with the carrying costs on its actual month-end levels of inventory for the year purchased from Natural Gas Pipeline of America (NGPL). The difference would be included in its annual gas cost reconciliation (PGA true-up). The carrying charge would be the overall authorized rate of return.

The Company argued that gas inventory carrying costs are a direct gas cost which should be true-up through the PGA. Minnegasco stated that in the absence of a true-up, the Company will be at risk for under-recovery and ratepayers for over-recovery of these costs. Minnegasco argued that its position is consistent with Commission precedent on carrying costs on gas storage inventory.

The Department opposed the carrying-cost true-up proposed by Minnegasco. The Department contended that stored gas should be treated no differently than any other type of inventory used to provide utility service. Inventory is included in rate base and earns a return, thus allowing Minnegasco the opportunity to recover the associated carrying cost. The Department contended that there was no reason to guarantee the Company dollar for dollar recovery of this particular cost.

The ALJ recommended adopting Minnegasco's proposal to true-up carrying costs on gas storage inventory, finding it to be reasonable and to be consistent with past Commission orders.

The Commission rejects the Company's proposal to allow an annual true-up of carrying costs on stored gas inventory. The Commission finds no compelling reason to guarantee Minnegasco dollar for dollar recovery of this particular cost. Rather, stored gas inventory should be treated like all other types of inventory that are included in rate base and earn a return.

As noted by the parties, the Commission has granted variances to its PGA rules which allowed Minnegasco, and other gas companies, to recover carrying costs associated with recent gas storage contracts through the PGA. The Commission recognized that firm contract storage was a new service that was not built into the utility's base rates and was a benefit to ratepayers. Allowing recovery through the PGA would remove disincentives for the use of storage service by removing the risk of under-recovery. However, the Commission required that the issue of gas storage carrying charges be reviewed in the companies' next rate cases and specifically recognized that it may come to view recovery of carrying costs on a test year basis rather than through PGA filings.<sup>7</sup>

**\*13** The Commission agrees with the Department that varying its PGA rules to allow Minnegasco, and other gas utilities, to include carrying charges on gas storage inventory until its next rate case was an equitable stop-gap approach for dealing with a new market environment. At that time, Minnegasco did not have storage costs related to the NGPL contract built into its base rates and thus would not have recovered carrying costs if the variance had not been granted. However, the situation has changed. In the Settlement, the parties agreed to include \$18.2 million in rate base for Gas Stored Underground - Current. This reflects gas stored in Minnegasco's Waterville, Minnesota reservoir and gas storage purchased from NGPL. The Company will be allowed an opportunity to earn its overall rate of return on this amount, the same as with any other item included in rate base for the test year.

### *C. Annual Adjustment for Taxes, Fees, and Permits*

1991 amendments to [Minn. Stat. § 216B.241](#) gave the Commission authority to allow utilities to adjust their rates for changes in taxes, fees, and permits under certain conditions. [Minn. Stat. § 216B.241, subd. 2b](#). Recovery of expenses; taxes, provides in relevant part:

... a utility may file annually, or the public utilities commission may require the utility to file, and the commission may approve, rate schedules containing provisions for the automatic adjustment of charges for utility service in direct relation to changes in the expenses of the utility for real and personal property taxes, fees, and permits, the amounts of which the utility cannot control. A public utility is eligible to file for adjustment . . . under this subdivision only if, in the year previous to the year in which it files for adjustment, it has spent or invested at least 1.75 percent of its gross revenues from provision of electric service and .6 percent of its gross revenues from provision of gas service for that year for energy conservation improvements under this section.

Under [Minn. Stat. § 216B.241, subd. 1a](#), gas utilities are required to spend 0.5 percent of gross Minnesota operating revenues on energy conservation improvements. In order to be eligible for the adjustment for taxes, fees, and permits under subd. 2a, the gas utility must spend at least 0.6 percent.

Minnegasco proposed a Property Tax Adjustment Rider which would establish an annual adjustment for property taxes, fees, and permits, under this statute. Minnegasco proposed to file for the adjustment by March 31 of each year, to go into effect on



June 1. The filing would compare the actual annual expenditures for real and personal property taxes, permits, and fees imposed by state and local governments to the amount collected in rates, based on allowed costs in the most recent rate case. The filing would also include documentation to show that the Company had met the required conservation spending levels.

**\*14** Minnegasco argued that it is important to establish the adjustment rider now, before the Company has met the additional conservation spending levels. The rider will act as an incentive to encourage Minnegasco to spend more than the statutory minimum on conservation and avoid regulatory lag.

The Department opposed the Property Tax Adjustment Rider and argued that Minnegasco's request is premature. The Department noted that Minnegasco has not yet met the 0.6 percent conservation spending requirement. The Department argued that a more thorough review of the intent of the statute, the basis for authorizing such an adjustment, and the specifics of various terms need closer scrutiny to ensure consistent application. Therefore, if the statute is implemented it should be done through a rulemaking or some other generic proceeding.

The Department mentioned several policy questions that it believed should be addressed in a more generic manner. These included whether actual property tax expenses should be flowed through or just changes in tax rates; whether dollar for dollar recovery is appropriate; the effect of changes in jurisdictional allocations on tax expense; and how to define fees and permits. The Department also noted that if Minnegasco's merger with Midwest Gas is approved, its gross revenues and CIP expenses will change.

The ALJ recommended adopting the Company's proposed Property Tax Adjustment Rider. He stated that the concerns raised by the Department can be addressed in Minnegasco's compliance filing to be made when the Company achieves the required spending levels. The ALJ said that a rulemaking is not specifically required before the statute may be implemented and that a generic proceeding may not conclude before the Company reaches the required spending levels.

The Commission agrees with the Department that Minnegasco's proposal is premature and should be denied. The Company's CIP spending levels have not yet met the 0.6 percent threshold required to qualify for the automatic adjustment. If the proposed merger with Midwest Gas takes place, it may take some time to determine new annual revenue levels and to design and implement CIP programs at the required spending levels. There is therefore no clear need to act on the proposal now. Furthermore, establishing an automatic adjustment for the first time raises issues of law, policy, and implementation that were not thoroughly addressed in this proceeding. The Commission will therefore reject the Company's proposed Property Tax Adjustment Rider.

#### ***D. Lost and Unaccounted for Gas***

Lost and unaccounted for (LUF) gas is the difference between gas purchased and gas sold. Minnegasco proposed that LUF gas be included in the calculation of monthly PGA's. The Department recommended that the LUF gas be recovered by adjusting the volumes in the annual PGA trueup filing. Minnegasco agreed with the Department's approach. The Commission finds that this issue is uncontested and adjusting the volumes in the annual PGA trueup is a reasonable method to recover the cost for LUF gas. The Commission approves this method of recovery for LUF gas.

### ***XIII. DEMAND-SIDE MANAGEMENT (DSM) INCENTIVES AND CONSERVATION ISSUES***

#### ***A. Energy Conservation Improvement Plan***

**\*15** Minn. Stat. § 216B.16, subd. 1 (1992) requires utilities filing for a general rate change to include an energy conservation plan pursuant to Minn. Stat. § 216B.241 (1992). Minnegasco submitted its plan as part of its general rate case filing on July 2, 1992. Minnegasco's plan included information on the Company's strategy to expand its conservation activities into a comprehensive demand-side management plan.

The Department stated that Minnegasco's energy conservation plan complied with applicable statutes and contained the information requested by the Commission in the past. The Department recommended that the Commission accept the energy conservation plan filed by the Company.

The Commission believes the appropriate focus of a rate case conservation plan is on a utility's long-term conservation goals. Short-term projects and plans are currently reviewed by the Department in the Conservation Improvement Program (CIP) process under [Minn. Stat. § 216B.241 \(1992\)](#). The Commission finds that Minnegasco's energy conservation plan meets the requirements of the applicable statutes and addresses the long-term conservation goals of the Company. The Commission accepts the plan as filed.

### ***B. Carrying Charge on CIP Tracker Balances***

In a previous docket, the Commission authorized the establishment of a CIP tracker account for Minnegasco<sup>8</sup>. CIP expenditures and revenues are tracked in this account, until the balance is submitted for potential recovery or refund in the Company's next general rate case.

Minnegasco requested that it be allowed to implement a carrying charge on its CIP tracker balance in this rate case. The Company proposed that the carrying charge be applied at the Company's authorized rate of return on equity. The Company argued that setting the carrying charge at the return on equity rather than the overall return was consistent with the legislative mandate to encourage conservation.

The Department and the RUD-OAG agreed that Minnegasco should be allowed to implement a carrying charge on its CIP tracker balance. However, these parties recommended the carrying charge be set at the Company's overall rate of return, rather than the return on equity. The Department and RUD-OAG contended that a carrying charge at the overall rate of return adequately compensates the Company for the time value of money and that the carrying charge should not be used as a conservation incentive mechanism since it is tied only to spending, not to performance.

The ALJ agreed with the Department and RUD-OAG positions. He noted that in past cases, the Commission has set the carrying charge at the overall rate of return, finding that it adequately compensates utilities for the time value of money.

**\*16** The Commission agrees with all the parties and the ALJ that Minnegasco should be allowed a carrying charge on its CIP tracker account. In other dockets, the Commission has consistently found that application of a carrying charge to the CIP tracker account, at the utility's authorized overall rate of return, is an equitable means of adjusting the actual level of CIP expenditures to the level projected in the utility's last rate case.<sup>9</sup> Allowing a carrying charge gives recognition to the time value of money to the utility and its ratepayers. If a utility spends more than is collected through the rates set in the most recent rate case, the utility is made whole. By the same token, ratepayers are made whole if they have "lent" money to the company through over-collection between rate cases. The Commission will apply the same reasoning to this docket and will allow Minnegasco to apply carrying charges to its CIP tracker account at the Company's authorized overall rate of return.

The Commission agrees with the Department, RUD-OAG, and ALJ that Minnegasco's proposal to set the carrying charge at the rate of return on equity should be rejected. As stated above, setting the carrying charge at the overall rate of return adequately recognizes the time value of money and meets the objective of making the Company and ratepayers whole for any under- or over- collection of actual CIP costs. Any further encouragement for utility investment in conservation is better left to a well-designed demand-side management (DSM) financial incentive mechanism. DSM financial incentive proposals are discussed in a subsequent section of this Order.

### ***C. Conservation Cost Recovery Charge***

A conservation cost recovery charge (CCRC) is used by most utilities to track recovery of CIP-related costs. The CCRC is calculated by dividing allowed test-year CIP expenses by allowed test-year sales units; the result represents the revenue per Mcf that will be collected in rates related to test year CIP costs. These revenues are booked to the CIP tracker. The difference between the revenues booked and the actual expenses incurred will determine the CIP tracker balance.

In response to staff questions at evidentiary hearings, Department witness Kosowski stated that the proper CCRC to use in calculating the CIP-related revenues in this case was \$0.02894/Mcf. Minnegasco agreed with this calculation. The ALJ found it to be reasonable.

The Commission notes that the CCRC can be derived from numbers agreed to in the Settlement. Test year CIP expenses of \$3,544,833 are divided by test year gas sales volumes of 122,475,162 Mcf, resulting in the CCRC of \$0.02894/Mcf noted by the parties. Therefore, the Commission finds that a CCRC of \$0.02894 is reasonable and should be used by the Company.

### ***D. Demand-Side Management Financial Incentive***

#### ***1. The Company's Request***

\*17 On October 18, 1991, the Commission issued its ORDER REQUIRING GAS UTILITIES TO FILE FINANCIAL INCENTIVE PROPOSALS in Docket No. G-999/CI-91-188, *In the Matter of a Summary Investigation into Financial Incentives for Encouraging Demand-Side Resource Options for Minnesota Gas Utilities*. In that Order, the Commission required all natural gas utilities (except Midwest Gas, which was already implementing a financial incentive pilot program) to file DSM financial incentive proposals. Minnegasco filed its proposal as part of this rate case.

For its DSM financial incentive, Minnegasco proposed to recover 100 percent of lost margins due to conservation from direct impact programs. The Company planned to measure lost margins by comparing pre- and post-participation usage for a participant and comparison group. Minnegasco proposed to book lost margins to its tracker account on a monthly basis.

The Company stated that the removal of disincentives was the Company's highest priority at this time. Minnegasco argued that the Commission has previously found that 100 percent recovery of lost margins is adequately tied to performance and complies with statutory criteria. In rebuttal testimony, Minnegasco stated that if the Commission were to find a bonus incentive desirable, the Company could accept adding a 10 percent bonus on lost margins if the Company exceeded its energy savings goals.

Minnegasco opposed the performance-linked recovery of lost margins proposed by the Department and RUD-OAG. The Company stated that both proposals were unreasonable because the small "carrot" (amount of potential bonus recovery) would be quickly offset by the magnitude of the "stick" (less than full recovery of lost margins if 100 percent of goals were not met). Minnegasco argued that a number of factors beyond the Company's control could affect its ability to meet its CIP goals, and thus its ability to recover lost margins.

#### ***2. Position of the Parties; Recommendation of the ALJ***

The Department and the RUD-OAG both opposed Minnegasco's DSM financial incentive mechanism and instead proposed plans that would tie lost margin recovery to the achievement of energy savings goals. These parties argued that Minnegasco would be financially indifferent as to whether it achieves more or less than its projected energy savings, because it will receive 100 percent of the margin for each unit of gas sold or each unit of gas saved.



The Department proposed to tie lost margin recovery to savings goals for direct impact programs on a project by project basis. The Department incentive mechanism would allow recovery of 110 percent of lost margins if energy savings goals are exceeded; 100 percent recovery if the goals are met; 75 percent recovery if 75 to 100 percent of goals are achieved; 50 percent recovery if 35 to 75 percent of goals are met; and no recovery if less than 35 percent of goals are achieved.

\*18 The RUD-OAG incentive proposal would require at least 50 percent of program savings goals to be achieved before any lost margin recovery was allowed. If 50 percent or more of goals are achieved, the proposal would allow lost margin recovery as a percentage of actual savings compared to projected savings. For example, if Minnegasco achieved 60 percent of its projected goal, the Company would receive 60 percent of its lost margins. Recovery would be capped at 1.2 times savings, allowing a maximum bonus of 20 percent of lost margins.

The Department and the RUD-OAG recommended approval of Minnegasco's method for measuring lost margins, with the modification that CIP participants be excluded from the comparison group to provide a greater accuracy of measurement.

The Department and RUD-OAG argued that lost margins should be booked to the tracker annually, after the Commission has approved the energy savings achieved. These parties recommended that Minnegasco file its calculation of lost margins and incentives to be included in the tracker on November 1 of the succeeding CIP year, beginning in 1994. The RUD-OAG also recommended an initial compliance filing within 60 days of this Order which would list all projects the Company believes qualify for the incentive and the associated energy savings goals.

The Department recommended that the program be limited to a two year pilot project, as the Commission has done for all other DSM incentive programs.

The ALJ recommended approving Minnegasco's DSM incentive proposal to recover 100 percent of its lost margins from direct impact programs. He agreed with the RUD-OAG that CIP participants should be excluded from the comparison group for measuring lost margins. The ALJ agreed with the Department and OAG that lost margins should be booked annually, rather than monthly. He found that annual compliance filings were appropriate.

### *3. Commission Analysis*

[Minn. Stat. § 216B.16, subd. 6c \(1992\)](#) sets out the following factors the Commission is to consider when evaluating financial incentives:

- (1) whether the plan is likely to increase utility investment in cost-effective energy conservation;
- (2) whether the plan is compatible with the interest of utility ratepayers and other interested parties;
- (3) whether the plan links the incentive to the utility's performance in achieving cost-effective conservation; and
- (4) whether the plan is in conflict with other provisions of the statute.

The Commission put forth the following principles for developing proposed incentive plans in its October 18, 1991 Order requiring gas utilities to file DSM incentive proposals:

Utilities should tailor their incentive plans to meet their own individual needs . . .

. . . The Commission . . . expects financial incentives to be tied to cost effectiveness.

... financial incentives should be tied to achieving objective demand side goals. Awarding financial incentives for spending money without results would serve no useful purpose and would undermine the legislative goal of achieving significant reductions in Minnesota energy use.

**\*19** The Commission has approved several different types of DSM incentive mechanisms for Minnesota utilities, including 100 percent lost margin recovery, 100 percent lost margin recovery with a bonus, and incentives which vary the amount of lost margin recovery based on performance. There are a variety of potential DSM incentive mechanisms which can achieve the goals set out in statute and the principles outlined by the Commission.

The Commission notes that Minnegasco has a large CIP program with a relatively wide variety of projects. The Company has considerable experience in successfully running these programs, starting with its participation as one of the utilities in the pilot utility conservation improvement program (PUCIP) which started in 1980. The Commission finds that it would be valuable to look at the effect of a positive financial incentive mechanism, rather than simply removing the obstacle of lost margins, for a utility such as Minnegasco. The Commission finds that either the Department or the RUD-OAG proposal would provide a positive financial incentive to Minnegasco, since the Company has the opportunity to recover more than 100 percent of its lost margins.

The Commission will adopt the RUD-OAG proposal. This financial incentive mechanism employs a continuous sliding scale recovery, thereby providing an increased incentive for achieving energy savings at every step. The Commission finds that the RUD-OAG proposal provides an appropriate level of bonuses and penalties; the Company must achieve at least 50 percent of its energy savings goals before it is eligible for a bonus, and has the potential to receive up to a 20 percent bonus for exceeding its goals. The threshold for achieving recovery and the potential bonus are both higher than under the Department proposal.

The Commission rejects Minnegasco's argument that it is unreasonable to require that a performance threshold be met before lost margin recovery is allowed. In prior orders for other companies, the Commission has found that it is just as reasonable to penalize substandard conservation performance as it is to reward satisfactory or outstanding performance.<sup>10</sup>

Minnegasco proposed to measure lost margins by comparing the consumption levels of CIP participants with the consumption levels of a comparison group of similarly situated ratepayers. The Commission agrees with the RUD-OAG that this is generally a workable approach, but that it should be refined to exclude CIP participants from the comparison group, for greater accuracy.

The Commission will require the Company to file a calculation of lost margins for a given CIP year by November 1 of the succeeding year, beginning with November 1994, as recommended by the parties. The Commission will also adopt the RUD-OAG recommendation to require an initial compliance filing that lists all projects the Company believes qualify for the incentive and the associated energy savings goals. This will help ensure that all parties understand and agree on the specific parameters of the program before proceeding.

**\*20** The Commission has structured all current DSM financial incentive programs as two-year pilot projects. The Commission will do so for Minnegasco also. This structure allows the Commission to review the program in a timely manner and determine if incentive plans are working as intended, need modification, or whether the entire issue should be revisited.

#### ***XIV. OVERALL FINANCIAL SUMMARIES***

##### ***A. Rate Base Summary***

Based on the above findings, the Commission concludes that the appropriate rate base for the test year is \$275,055,140 as shown below:

|                                           |                     |
|-------------------------------------------|---------------------|
| UTILITY PLANT IN SERVICE                  | \$524,943,057       |
| Accumulated Depreciation and Amortization | (236,253,545)       |
|                                           | <hr/> 288,689,512   |
| Gas stored underground:                   |                     |
| Current                                   | 18,214,000          |
| Non-current                               | 997,000             |
| Accumulated Deferred Income Taxes         | (28,733,000)        |
| Materials and Supplies                    | 3,049,000           |
| Cash Working Capital                      | (6,493,737)         |
| Deferred Debits and Credits               | (4,235,635)         |
| Other Working Capital                     | 3,568,000           |
| TOTAL RATE BASE                           | <hr/> \$275,055,140 |

***B. Operating Income Statement Summary***

Based on the above findings, the Commission concludes that the appropriate Minnesota jurisdictional operating income for the test year under present rates is \$21,206,518 as shown below:

## OPERATING REVENUES:

|                          |                   |
|--------------------------|-------------------|
| Gas Sales                | \$448,887,256     |
| Other Revenues           | 2,219,000         |
| Total Operating Revenues | <hr/> 451,106,256 |

## OPERATING EXPENSES:

|                                  |             |
|----------------------------------|-------------|
| Cost of Gas                      | 305,567,255 |
| Production and Maintenance       | 13,412,723  |
| Distribution and Utilization     | 14,257,783  |
| Depreciation and Amortization    | 23,341,397  |
| Customer Service and Information | 5,160,029   |
| Sales and Customer Accounts      | 16,025,114  |
| Administrative and General       | 21,782,555  |
| Other Expense                    | 895,000     |

|                                |              |
|--------------------------------|--------------|
| Taxes Other Than Income        | 22,234,000   |
| Federal and State Income Taxes | 6,650,588    |
| Total Operating Expenses       | 429,326,444  |
| TOTAL OPERATING INCOME         | \$21,779,812 |

### *C. Gross Revenue Deficiency*

\*21 Based on the Commission findings and conclusions, the Minnesota jurisdictional revenue deficiency for the test year is as shown below:

|                           |               |
|---------------------------|---------------|
| Rate Base                 | \$275,055,140 |
| Rate of Return            | 10.41%        |
| Required Operating Income | \$28,633,240  |
| Operating Income          | 21,779,812    |
| Income Deficiency         | \$6,853,428   |
| Revenue Conversion Factor | 1.67977       |
| Revenue Deficiency        | \$11,512,000  |

## *XV. REMAINING CONTESTED RATE DESIGN ISSUES*

### *A. Revenue Apportionment to the Customer Classes*

MEC, a party to these proceedings but a non-signatory of the Settlement, challenged the revenue allocation among the customer classes proposed in the Settlement. In its consideration of the Settlement, the Commission considered MEC's claim that the revenue allocation was unreasonable. The Commission rejected MEC's claim and found that the Settlement's revenue allocation was reasonable, pursuant to the following analysis.

In the Amended Offer of Partial Settlement, the parties proposed the following rate increases and decreases:

|                                        |               |
|----------------------------------------|---------------|
| Residential                            | +7.30 percent |
| Commercial & Industrial Sales          | +2.63 percent |
| Large-Volume Commercial and Industrial | +0.00 percent |
| Small-Volume Dual Fuel                 | +7.90 percent |
| Large-Volume Dual Fuel                 | +0.00 percent |

MEC was not content that rates for Large-Volume customers remain unchanged while rates for all the other classes increased. MEC proposed that the rates for Large-Volume customers actually decrease. Under MEC's proposal, rates for the Residential

and small Commercial and Industrial customers would increase and rates for all of the other customer classes would decrease. MEC proposed rate increases and decreases which it modified in surrebuttal testimony to the following:

|                                        |               |
|----------------------------------------|---------------|
| Residential                            | +8.9 percent  |
| Small Commercial & Industrial Sales    | +8.9 percent  |
| Commercial & Industrial Sales          | -5.4 percent  |
| Large-Volume Commercial and Industrial | -3.52 percent |
| Small-Volume Dual Fuel                 | -3.28 percent |
| Large-Volume Dual Fuel                 | -6.76 percent |

\*22 MEC argued that the Settlement's revenue allocation would perpetuate what it characterized as the subsidization of residential and small C&I customers by the Large Volume C&I and Dual Fuel customers. MEC also argued that an 8.9 percent rate increase for Residential customers would not be large enough to cause "rate shock" and would move the Company more rapidly toward cost-based rates.

MEC failed to persuade the Commission that the Settlement's revenue allocations were outside the range of acceptable regulatory practice so that the resulting rates are unfair and unreasonable. Judgements as to what constitutes rate shock and how far and how rapidly the Commission should move toward cost-based rates are uniquely legislative decisions left to the Commission's sound discretion. In addition to cost, there are other critical rate design considerations. As the Minnesota Supreme Court has stated:

Once revenue requirements have been determined, it remains to decide how, and from whom, the additional revenue is to be obtained. It is at this point that many countervailing considerations come into play. The Commission must balance factors such as cost of service, ability to pay, tax consequences, and ability to pass on increases in order to achieve a fair and reasonable allocation of the increase among the customer classes. *St. Paul Area Chamber of Commerce vs. Minnesota Public Service Commission*, 251 N.W. 2d 350 (1977).

The Commission has recognized that moving prices toward cost is a reasonable policy. The Commission generally supports the movement toward cost-based pricing, but recognizes that there are other non-cost factors that are equally important. For example, the Commission has stated:

Avoiding rate shock is a primary ratemaking goal, because sudden, drastic increases in energy costs can be burdensome for residential and non-residential ratepayers alike. Avoiding rate shock is particularly important for residential ratepayers, however, because increases in the cost of basic needs can cause hardship for customers on low or fixed incomes. *In the Matter of the Application of Midwest Gas, a Division of Iowa Public Service Company, for Authority to Change Its Schedule of Gas Rates for Retail Customers within the State of Minnesota*, Docket No. G-010/GR-90-678, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER (July 12, 1991), p. 35.

Furthermore, the Commission recognizes that cost studies and their underlying economic theories necessarily involve some imprecision. This imprecision adds to the Commission's unwillingness to place the entire rate increase on residential customers and small businesses, as MEC proposed. Given these considerations, the Commission finds that the revenue allocations proposed in the Settlement are reasonable.

### ***B. Residential Customer Charge***

### *1. Historical and Factual Background*

**\*23** The residential customer charge is the fixed monthly rate residential customers pay for being hooked up to Minnegasco's system. Minnegasco proposed raising the customer charge for residential customers to \$5.00 from \$3.00 per month. The Department proposed an increase to \$5.50 and the RUD-OAG proposed leaving the customer charge at \$3.00. The parties reached no agreement on this issue and it was litigated in the contested case proceeding. (Customer charges for the other customer classes were agreed to by the parties to the Settlement.)

In setting the level of a customer charge, parties generally analyze the fixed cost of providing service to the customer class. Normally the monthly cost is determined through a Class Cost of Service Study (CCOSS) and is apportioned between the fixed monthly customer charge and the variable commodity charge. The proportional levels of these two factors have important effects on such issues as energy consumption, rate and revenue stability, and equity in and among customer classes.

In this rate case, the parties to the Settlement adopted the Department's Class Cost of Service Study (CCOSS) for the purpose of setting rates. This study demonstrated fixed residential customer costs of \$14.62 per month. Minnegasco did not believe there was a significant enough difference between the numbers in its CCOSS and the Department's to contest the Department's study. Both parties agreed that rate shock would occur if rates for the residential class were exactly aligned with the cost of service.

### *2. Positions of the Parties; Recommendation of the ALJ*

*Minnegasco* — The Company proposed to increase the residential customer charge from \$3.00 to \$5.00. The Company argued that a \$2.00 increase was a reasonable move towards the \$14.62 stipulated class cost of service in this case. The Company argued that a \$5.00 customer charge would only recover approximately 35 percent of its embedded customer costs.

Minnegasco argued that a higher customer charge would give it greater financial stability because the fixed monthly charge would provide it with additional revenue independent of weather conditions and customer gas usage.

Minnegasco also argued that moderating the increase to \$5.00 instead of going right to full cost, i.e. \$14.62, would make the increase more acceptable to customers and maintain a reasonable degree of continuity with the Company's historical rates.

*The Department* — The Department proposed to increase the customer charge to \$5.50. The Department proposed a higher increase than the Company because it believes the Company's proposal does not move far enough in the direction of cost based rates. The Department also argued that a higher customer charge would promote economically efficient use of gas because rates would better represent cost and would allow ratepayer to make better informed decisions about the cost of the energy they consume.

**\*24** The Department agreed that revenue stability would be improved and Minnegasco would have a better chance of recovering its revenue requirement.

The Department argued that setting the customer charge closer to cost would reduce the potential for intra-class cross-subsidization of fixed costs between high use and low use customers.

*RUD-OAG* — RUD-OAG proposed leaving the customer charge at \$3.00 and allowing the Company to collect the entire class revenue deficiency through an increase to the energy charge. RUD-OAG argued that putting the entire increase into the energy charge would encourage energy conservation because energy consumption is sensitive to price.

The RUD-OAG relied heavily upon [Minn. Stat. § 216B.03 \(1992\)](#) to support its argument. Among other things, that statute states: "To the maximum reasonable extent, the Commission shall set rates to encourage energy conservation . . ." The RUD-



OAG argued that increasing the proportion of fixed costs in the customer charge (and thereby decreasing the proportion in variable charges, which are tied to energy consumption) would diminish consumer incentives to conserve energy.

According to the RUD-OAG, analysis of a rate design proposal demands a balancing between the need for revenue stability and conservation goals. The RUD-OAG also argued that if a reliance on variable charges caused under-recovery in years with above-normal temperatures, this would eventually be balanced by over-recovery in years of below-normal temperatures.

RUD-OAG argued that maintaining the existing customer charge would give the Company a reasonable opportunity to meet its revenue requirement with the only difference between it and the Company's proposal being that more of the revenue requirement would be collected through the energy charge.

RUD-OAG believes its proposal would allow for a greater amount of historical continuity with prior rates and would promote a greater degree of customer acceptance of those rates because it would allow customers more control over their bills due to more of the cost being recovered through a variable charge.

*The ALJ's Recommendation* — The ALJ recommended adopting the Company's proposal for a \$5.00 customer charge. The ALJ found it appropriate to move in the direction of cost based rates and believes that a \$2.00 increase would be an appropriate step in that direction.

The ALJ concluded that a \$5.00 customer charge would improve the Company's revenue stability because it would allow the Company to recover more of its fixed costs on a steady basis and would reduce the Company's risk of under-recovering its revenue requirement in warmer than normal weather.

The ALJ recommended the Company's proposal over the Department's because he believes a \$5.00 rather than a \$5.50 customer charge would be more likely to gain customer acceptance and is more in line with historical rates.

### 3. Commission Analysis

**\*25** A rate design decision requires exercise of the Commission's legislative function. The Commission must weigh the facts in evidence to determine if the rate design proposed by the utility is justified and will result in just and reasonable rates.

The Commission agrees with the ALJ that Minnegasco's proposed increase to the residential customer charge should be approved. This position is reasonable and equitable, is not inconsistent with the facts in evidence, and is in line with prior Commission decisions.

In the 1992 Interstate rate case<sup>11</sup> the Commission adopted the Company's proposal for an increase to the residential customer charge, against opposition from the RUD-OAG. In that Order the Commission stated:

The Commission notes that customer charges are substantially below cost for all classes of customers. . . . As a result, the Commission believes an active step should be taken in this case to move these charges closer to cost. Moving prices toward cost is a reasonable policy which sends the proper price signals, spreads costs in an equitable fashion, and tends to eliminate intraclass cost subsidization.

Order at p. 44.

The Commission notes that in this case the present monthly residential customer charge is \$3.00 and fixed cost is approximately \$14.62. A move toward cost is warranted in this case and will promote the goals cited in the Interstate Order.

The Commission is aware of its statutory mandate to set rates to encourage energy conservation “[t]o the maximum reasonable extent.” [Minn. Stat. § 216B.03 \(1992\)](#). Even at \$5.00, the customer charge will not adversely affect the Commission's conservation goals because a substantial part of the Company's fixed costs will remain in the variable charge. This will provide customers with an incentive to conserve energy. Moreover, acting in its legislative mode, the Commission views any rate design proposal in its full context to determine what is reasonable in the context of the case. The Commission must balance such factors as fairness to ratepayer, conservation goals, revenue and rate stability when making a rate design decision. The Commission is also aware that the statute instructs the Commission to resolve all questions regarding reasonableness in favor of the consumer. [Minn. Stat. § 216B.03 \(1992\)](#). Having weighed the factors in this case, the Commission finds that Minnegasco's proposed increase in the residential customer charge will result in just and reasonable rates. The Commission will approve Minnegasco's increase.

### *C. Energy Charge for the Firm Customer Classes*

**\*26** At issue was how the “energy charge” for Residential and C&I firm customer classes would be designed.

#### *1. Historical and Factual Background*

In this rate case, the term energy charge is used to describe the combination of the unit margin (also called the commodity-margin or the non-gas unit margin) and the per unit demand costs that are included in the base cost of gas and the monthly purchased gas adjustments (PGAs). This explanation is necessary because it is more common to use the term energy charge to refer to the entire variable cost of energy including the commodity cost of gas.

In its current rates, Minnegasco recovers its unit margin and its demand costs at a constant rate per unit of gas over the entire 12 months of the year. The only seasonal variability in Minnegasco's rates are due to seasonal difference in the commodity cost of gas and the amount of gas its customers buy during one part of the year versus another.

#### *2. Proposals of the Parties; Recommendation of the ALJ*

*Minnegasco*—Minnegasco proposed what it termed a “balanced energy charge.” The Company proposed to recover its pipeline demand costs on a seasonal basis at the same time those costs are incurred, i.e. higher PGA demand charges in winter, during the five month heating season from November through March, when it uses more firm pipeline capacity, and lower PGA demand charges in the summer, during the seven month non-heating season, when it uses less pipeline capacity.

To balance the seasonal fluctuations that would be caused by recovering its pipeline demand costs on a seasonal basis, however, Minnegasco also proposed to vary the non-gas unit (commodity) margin on a seasonal basis *in the opposite direction* from PGA demand costs. During the five month winter heating season when demand costs are higher the unit margin would be reduced and in the summer when demand costs are lower the unit margin would be increased. This arrangement would offset the difference between heating season and non-heating season demand costs with a seasonal unit margin and keep the total per unit energy charge, excluding the commodity cost of gas, constant.

Minnegasco argued for a balanced energy charge because it would provide Minnegasco with a more stable revenue stream and a better opportunity to recover its fixed costs under abnormal weather conditions because it would reduce the Company's dependence on a high level of winter throughput. Minnegasco also argued that under its proposal the demand component of the balanced rate would be more closely based on cost.

*The Department*—The Department proposed rates fully responsive to the seasonal fluctuation of pipeline demand costs. The Department stated that the Company's rates should reflect pipeline capacity costs at the time those costs are incurred. The Department argued that fully seasonal rates would send more appropriate price signals to Minnegasco's customers when the



Company's system is at its peak. The Department argued that seasonal rates have the potential for improving Minnegasco's system load factor, lowering system-wide peak demand costs and would better promote energy conservation.

**\*27 RUD-OAG** — The RUD-OAG proposed making no design changes to the unit margin and in the way PGA demand costs are recovered. The RUD-OAG recommended maintaining level demand charges and margins throughout the entire year without any seasonal variation. The RUD-OAG argued that the Company had offered no cost justification for its balanced energy charge proposal except to maintain level year-round rates which already exist.

The RUD-OAG also objected to the Department's proposal on the grounds that it would put too much of a burden on customers during the winter and cause rate shock. The RUD-OAG argued that the benefits that would result from increased conservation due to higher winter bills must be carefully evaluated against the additional financial burden higher winter rates would place on customers during the heating season.

**ALJ** — The ALJ recommended adopting the Department's proposal for seasonal, time-of-use rates. The ALJ believes the Department's proposal would encourage customers to use and conserve natural gas efficiently, while attempting to keep overall cost recovery from the class constant.

The ALJ found that the Department's seasonal rate proposal sends the best price signals to firm customers by increasing the demand rate they pay during the winter season and lowering it in the summer when gas is cheaper. The ALJ also found that the Department's seasonal rates reflect actual cost by keeping the unit margin constant throughout the year. Any rate shock on customer bills during the winter is balanced by cheaper bills during the summer, and leads to the same amount of annual revenue.

The ALJ also found that the availability of the Company's budget plan mitigates any hardship that could result from higher winter bills. The ALJ believes that recording on budget plan customers' bills the actual rate charged such customers during the winter sends appropriate price signals.

The ALJ also found that the Company failed to demonstrate a benefit to ratepayers from its balanced recovery proposal beyond maintaining level rates throughout the year, a result which is achieved already under the current rate structure and the Company's budget plan.

### 3. Commission Analysis

The Commission finds Minnegasco's proposal for a balanced energy charge is unacceptable. It does not send accurate price signals, does not offer any benefit to ratepayers above and beyond what exists under current rates, and does not appear practical from a regulatory standpoint.

The Commission is intrigued by the Department's seasonal rate proposal. The Commission is interested in exploring the potential benefits to be achieved through the implementation of seasonal rates that send accurate price signals to consumers. These benefits may be in the form of increased energy conservation and/or lower rates because of improvements in the efficient utilization of Minnegasco's distribution system during periods of peak demand.

However, the Commission finds that the Department's proposal in this case leaves too many questions unanswered about how seasonal rates would transmit price signals to customers and whether those signals would have enough impact on customers to be worth the change in rate design. The Commission is also concerned about the regulatory feasibility of changing rates outside of a rate case or a miscellaneous tariff filing and believes this issue needs to be explored more carefully in any future request for implementation of a seasonal rate.

**\*28** After careful consideration of the three rate design proposals the Commission finds that it is appropriate to leave the design unchanged as recommended by the RUD-OAG. The Commission will not require Minnegasco to develop and propose

a seasonal rate at this time because the Company's existing rate design already sends a price signal during the heating season based on seasonal commodity prices and customer gas usage. However, the Commission would entertain a more fully developed proposal in the future.

#### ***D. Three-Part Rate for Large-Volume Commercial and Industrial (C&I) Customers***

The Department recommended that the Company design and propose a three-part rate for its Large-Volume C&I customer class. The Department argued that a three-part rate instead of the current two-part rate would be a more efficient pricing scheme because it would separate fixed costs, demand costs, and commodity costs on the customer's bill and would send a clear price signal to customers about the cost of using natural gas.

The Department recommended allowing the Company one year from the date of the final order in this rate case to design and propose a three-part rate for these customers in a miscellaneous tariff filing. The Department believed a year was needed because implementation would require each of these customers to install expensive tele-metering equipment at their place of business.

Minnegasco did not rebut the Department's position on the need for a three-part rate for this customer class and the ALJ did not make a recommendation on this issue. (All rate design issues for the Large-Volume C&I customer class were settled except for this one and the design of the energy charge.)

The Commission finds the Department's recommendation may warrant further consideration but will not require Minnegasco to make a proposal in a separate miscellaneous tariff filing. Rather, the Commission finds it would be a more efficient use of parties' and the Commission's time for Minnegasco to develop a three-part rate for its Large-Volume C&I customers as an alternative for parties to consider in its next rate case.

#### ***E. Additional Rate Classes for Small-Volume Dual Fuel Customers***

The Department recommended that the Company examine whether there is a need for additional customer classes and tariffs for smaller, more homogenous groups of Small-Volume Dual Fuel (interruptible) customers. All rate design issues for the Small-Volume Dual Fuel customer class except this one were settled. The Department made its recommendation in response to the Company's proposal to offer this customer class a two-tier declining block rate.

Minnegasco did not rebut the Department's recommendation. The ALJ recommended that the Company prepare a study of Dual-Fuel customers for submission prior to its next rate case, analyzing appropriate subclasses or customer groupings.

The Commission finds that a separate study of this issue is not necessary at this time and rejects the Department's recommendation without prejudice. The Commission notes that the Department recommended this study in response to the Company's original proposal to offer a declining block rate. Subsequently, the parties agreed to a single, flat-rate unit margin in the Settlement. The Commission finds that any party may make a specific proposal for additional interruptible customer classes when the Company files its next rate case.

#### ***F. Process Interruptible Sales Service Rider***

\*29 Under Minnegasco's original proposal, process gas users with no alternative fuel capability would be eligible for the Small-Volume Dual Fuel rate if they were willing to accept curtailment upon notice from the Company. Minnegasco identified three other conditions that would have to be met for a customer to qualify for this rate: a signed contract accepting the curtailment provisions of the service, designation of three individuals that can be notified in the event of a curtailment and installation of tele-metering equipment at the customer's expense.

The Department agreed that an interruptible rate would be appropriate for these customers under these conditions. However, the Department did not agree that eligibility for the rate should be limited only to process gas users. The Department recommended making the rate available to all customers with these load characteristics. Minnegasco amended its proposal to incorporate the Department's recommendation.

The ALJ recommended approving Minnegasco's amended proposal. The ALJ found that the Process Interruptible Sales Service Rider would improve the Company's overall load factor to the benefit of all customers.

The Commission agrees with the Department and believes rates should be based on load characteristics and conditions of service rather than on what the gas is going to be used for. Therefore, the Commission accepts and adopts the ALJ's recommendation and approves the Company's amended Process Interruptible Sales Service Rider.

### *G. Main and Service Line Extensions*

Minnegasco proposed an increase to the footage allowances for main and service line extensions provided to new customers without charge and decreases in the per foot charges for extensions in excess of the footage allowances. The Department agreed that the proposed changes were appropriate and would reflect Minnegasco's average cost for new extensions.

The Department also recommended that the Company add an economic feasibility formula to its tariff to clarify what criteria it uses to evaluate whether it needs to collect an extension charge, a contribution-in-aid-of-construction or a customer-advance-for-construction. The Department also suggested modifications that would require the Company to collect an advance-for-construction and make refunds under certain conditions instead of allowing the Company complete discretion over these decisions.

Minnegasco agreed to the Department's recommendations and proposed to incorporate them into its tariff when it makes its compliance filing. The ALJ found this tariff proposal to have merit.

The Commission accepts and adopts the ALJ's recommendation and approves the new extension footage allowances and excess footage charges. The Commission will require the Company to submit an economic feasibility formula and revised tariff language in its Compliance Filing as recommended by the Department.

### *H. Late Payment Policy for Commercial and Industrial (C&I) Customers*

**\*30** Minnegasco proposed to extend the due date for C&I customers to pay their gas bills by 10 days, an increase from 15 to 25 days. This increase would give C&I customers the same amount of time as Residential customers to pay their bill before a late charge is assessed. The Department agreed that this would be a fair policy for all customers.

The ALJ did not make a specific recommendation on the late payment policy for C&I customers.

The Commission finds that the Company's proposal is reasonable and approves the extension of the late payment time period for C&I customers.

### *I. Therm Billing*

Minnegasco proposed to bill all of its customers in therms because it would ensure that all of its customers receive an equivalent amount of energy for every unit billed. (A therm is a standardized unit of energy commonly used in the gas industry and is equivalent to 100,000 Btus.) Minnegasco proposed to replace its current Btu pressure adjustment with a therm factor adjustment.

The Department agreed this would be an appropriate change because it would ensure that all customers are billed using equivalent units of energy and that it would not have any impact on revenue. The ALJ recommended allowing Minnegasco to adopt therm billing.

The Commission accepts and adopts the ALJ's recommendation and approves the Company's proposal to bill all of its customers in therms instead of Btu-adjusted Ccfs.

#### ***J. Miscellaneous Tariff Book Organizational Changes***

Minnegasco proposed several language and organizational changes to its tariff book that make the tariffs easier to use. None of the parties objected to these changes and the ALJ found they were reasonable and appropriate. The ALJ recommended that they be approved.

The Commission accepts and adopts the ALJ's recommendation and approves the Company's miscellaneous tariff book changes.

#### ***K. Continuity of Service***

Minnegasco proposed to replace its tariff entitled Maintenance and Responsibility with a substitute tariff entitled Continuity of Service. Minnegasco's proposal would limit its risk for service interruptions and shifts some of that risk onto its customers. Minnegasco argued that NSP has been permitted to use language in its tariff that is practically identical to what Minnegasco has proposed.<sup>12</sup>

The Department argued against changing any of the existing tariff language because it believes the proposed language would unreasonably limit the Company's liability. The Department argued that the existing tariff language adequately addresses the Company's responsibility for providing an adequate and continuous supply of gas to its customers.

**\*31** The ALJ found that the Company's proposed language provides sufficient protection for customers and puts a reasonable limit on the Company's liability. The ALJ recommended adopting the Company's proposal.

The Commission is not completely persuaded by any of the arguments in favor or against maintaining the current standard of negligence and liability found in the Company's tariff and believes that further development and examination of the issues involved will be required. However, the Commission finds merit in the Company's proposal to limit its liability against claims resulting from loss of profits and other consequential damages due to service related problems because these kinds of losses are typically covered by a C&I or Dual-Fuel customer's own insurance.

Therefore, the Commission will maintain the current tariff language but permit the Company to add the following sentence:

Minnegasco will not be liable for any loss of profits or other consequential damages resulting from the use of service or any interruption or disturbance of service.

#### ***L. Right to Remove a Gas Meter***

Minnegasco proposed to be allowed to remove the gas meter from a customer's premise if the customer has not used any gas for at least 12 months. Minnegasco argued that the customer charge alone does not cover the cost of keeping an idle meter in place.

The Department suggested modifying the Company's proposal to require Minnegasco to give its customers advance notice of its intention to remove a meter at a customer's premise and a requirement that the meters selected for removal are chosen on a non-discriminatory basis.

The ALJ recommended acceptance of the Company's proposal with the modifications suggested by the Department. The ALJ found that with the Department's modifications the proposal was reasonable.

The Commission agrees with the ALJ and will approve the Company's amended tariff entitled Minnegasco's Right to Remove a Gas Meter.

#### *M. Customer Deposits*

The Department proposed making it mandatory for Minnegasco to collect a deposit from all new and existing customers. The Department was concerned that allowing Minnegasco discretion over whether it collects a deposit from customers would make it too easy for Minnegasco to administer its customer deposit program in an unfair or discriminatory manner.

The Company objected because it currently does not collect a deposit from any of its customers. The Company argued that a deposit program would cost more to administer than it would save by reducing unpaid bills. The Company also argued that a mandatory deposit program would be inconsistent with the Commission's Rules which allow a utility to collect a deposit only if the customer has an unsatisfactory credit or service record as determined using the criteria set forth in [Minn. Rules parts 7820.4100-.4700](#).

The ALJ recommended accepting the Company's tariff language as originally proposed because it is consistent with the Commission's rules on customer deposits and adequately describes the Company's customer deposit policy.

**\*32** The Commission agrees with the ALJ's recommendation and approves the Company's tariff as originally proposed. In light of Minnegasco's current practice of charging no deposit to any customer, the expense to Minnegasco and detriment to all customers of requiring the Company to collect a deposit from all customers clearly outweighs the value of guarding against potential discriminatory application of some future deposit requirement.

#### *N. No Charge Service*

The Department recommended changing the name of the Company's No Charge Service tariff to No Surcharge Service. This tariff describes some of the services Minnegasco provides to customers without any additional charge including emergency leak inspections, maintenance of meters, pressure regulator and service lines and meter turn-ons for new customers. The Company did not object to the Department's proposal and the ALJ recommended adopting it.

The Commission finds the Department's recommendation is reasonable and approves the new title for this tariff.

#### *O. New Area Surcharge*

Minnegasco proposed a New Area Surcharge Rider that would allow it to extend service to areas where service cannot be economically justified under Minnegasco's present rates. The New Area Surcharge Rider would allow Minnegasco to add a fixed monthly surcharge to customer bills for no longer than 10 years or whenever Minnegasco recovers its incremental cost of providing service to the new area, whichever comes first.

The Department agreed that a New Area Surcharge would be appropriate but objected to Minnegasco's proposal because it did not contain enough details for the Department to make an evaluation and did not conform to the New Town Rate that was approved for Northern Minnesota Utilities in Docket No. G-007/M-92-212.<sup>13</sup> The Department recommended rejecting the New Area Surcharge Rider and requiring the Company to make a separate miscellaneous tariff filing. The Department argued that this would ensure the Rider received an adequate level of review.



The Company agreed to redesign its tariff in conformance with Northern Minnesota Utilities' New Town Rate but proposed to do this as part of its compliance filing in this rate case.

The ALJ recommended approving a New Area Surcharge Rider for Minnegasco as consistent with the Commission's decision regarding Northern Minnesota Utilities' New Town Rate. The ALJ recommended allowing Minnegasco to make its revised filing a part-of its rate case compliance filing and suggested allowing parties additional time to comment on this particular issue. In response to questions during Oral Arguments the Department stated that it would not object to reviewing the Rider as part of the rate case compliance filing.

**\*33** The Commission believes that a New Area Surcharge Rider is appropriate but that it will need to review the Company's modified language of that rate before granting final approval. The Commission finds that review of the modified rate language in a compliance filing will afford adequate opportunity to address the issue. Therefore, the Commission will approve Minnegasco's modified New Area Surcharge Rider provisionally, i.e. subject to review in the Company's compliance filing.

### *P. Reconnection Charges*

Minnegasco proposed an increase for all customer reconnection charges to \$35 from the current level of \$10 for customers who have had their meter locked for non-payment of their bill and \$20 for customers who have had their meter removed for non-payment of their bill. Minnegasco argued that it costs the same to reconnect a customer regardless of the reason service is terminated and that charging a below cost reconnection charge to some of its customers sends an inaccurate price signal about the cost of not paying the gas bill.

The Department objected to Minnegasco's proposal and suggested that the reconnection charge for non-payment of a bill should be \$15 and the reconnection charge for all other reasons such as meter tampering should be \$35. The Department argued that it is more important to maintain access to service for low income ratepayer who have trouble paying their bills than it is to send the correct price signal about reconnection charges. The Department argued that it was important to try and maintain these people on the system and that a too high reconnection charge would prevent them from getting back onto the system after a disconnection. The Department did not object to the \$35 reconnection charge for meter tampering, breach of contract and fraudulent use of services.

The ALJ recommended adopting the Department's proposal for a \$15 and a \$35 reconnection charge depending on the Company's reason for disconnecting the customer's service. The ALJ believes that customers should not be penalized for reasons due to economic hardship to the same extent as customers who wrongfully avail themselves of the Company's property and services.

The Commission agrees with the Department's and the ALJ's recommendation for a \$15 reconnection charge for non-payment of a bill. The Commission finds that a higher charge may contribute to another cycle of non-payment of bills.

The Commission also finds that a \$50 reconnection charge for reasons other than non-payment of a bill would be more appropriate than a \$35 charge. The Commission believes that a higher reconnection charge for customer malfeasance will help offset some of the cost of allowing a lower reconnection charge for customers who are disconnected for non-payment of their bill. The Commission finds this two-fee rate structure is consistent with its decision in the 1991 NSP-Electric rate case.<sup>14</sup> In that case, the Commission viewed the relock issue with the utmost seriousness and found that customer tampering with Company equipment is a violation of the law as well as a safety hazard and an infringement on the Company's right to disconnect service for non-payment.

*Q. Seasonal Sales Cooling Service Rider*

**\*34** The Company proposed a Seasonal Sales Cooling Service Rider for separately metered, gas powered, energy efficient, air conditioning equipment that would make interruptible rates available to these customers off-peak between April 15 and October 15. The Company argued that this would encourage investment in gas powered air conditioning equipment, help the Company improve its off-peak system load factor and reduce the amount of electricity needed for summertime air conditioning.

The Department objected to the Company's proposal to offer a reduced rate to customers based on the customers' end-use for the gas. The Department argued that rates should be based instead on cost of service and load characteristics and that only if the customer meets the established criteria for a reduced rate should the customer be entitled to the reduced rate. The Department also argued that if the Company wanted to request permission to recover funds invested in natural gas air conditioning equipment because of potential conservation benefits, then the appropriate place to make that request would be in a CIP plan budget proposal.

The ALJ agreed with the Company and found that the use of gas for summertime air conditioning is likely to improve the Company's overall load curve to the advantage of all of its customers. The ALJ also found that it would be in the public interest to allow this rider because it would help reduce demand for electricity when electric utilities are at their summertime peaks. The ALJ did not agree with the Department's argument that the appropriate place to make this kind of proposal was in the Company's CIP plan.

The Commission agrees with the Department and will not allow the Company to charge natural gas air conditioning customers a reduced rate because of their end use for the gas. The Commission finds that rates should be based on a customer's load characteristics and that to qualify for an interruptible rate a customer will have to meet the criteria established in the Company's tariffs for those rates.

*R. Water Pumping Sales Service Rider*

Minnegasco proposed to reduce the Commercial and Industrial energy charge for municipal water pumping customers. The Company argued that a lower rate for these customers would promote the use of natural gas powered water pumping equipment and improve the Company's overall load curve.

The Department objected to the Company's proposal because it would make a reduced rate available to a customer on the basis of the customer's end-use for the gas. The Department argued that rates should be based on load characteristics and cost of service. The Department argued that municipal water pumping customers should receive whatever rate they are entitled to on the basis of how much gas they use and whether they are willing to be interrupted rather than on the basis of a seasonal difference in gas usage.

The ALJ recommended approving the rider because of its potential for improving the Company's overall load curve and for decreasing the demand for electricity in the summer. The ALJ believes these potential benefits outweigh any harmful impact rate discrimination might have on the Company's other Commercial and Industrial customers.

**\*35** The Commission agrees with the Department and will not approve a reduced Commercial and Industrial rate for municipal water pumping customers because of their end use for the gas. The Commission finds that rates should be based on a customer's load characteristics and that to qualify for a reduced rate a customer will have to meet the criteria established in the Company's tariffs for the reduced rate.

*S. Natural Gas Vehicle Service Rider*

Minnegasco proposed a Natural Gas Vehicle Service Rider that would allow it to give a \$2.00 per Mcf credit to Commercial and Industrial Sales Service customers who use natural gas as fuel for dedicated natural gas vehicles (NGVs). Under Minnegasco's proposal for a customer to qualify for this rate all NGVs would have to run exclusively on compressed natural gas, the customer would have to own and run its own gas compressor and the gas would have to be separately metered. In addition, the rate would only be available for a term of four years and would be used to help defray the cost of investing in dedicated NGVs.

Minnegasco argued that the use of alternate fuels in NGVs would reduce the level of air pollution and reduce the United States dependence on foreign oil. Minnegasco argued that these are compelling public policy reasons for approving this rider.

The Department objected to the Company's proposal because it would be a discriminatory rate based on end use rather than load characteristics or cost of service. The Department argued that Minnegasco's ratepayer should not be expected to subsidize private investment in NGVs. The Department also argued that if there are compelling public policy reasons that warrant subsidizing investment in NGVs then the Company's shareholders or taxpayers should pay for those subsidies.

The Department also argued that gas for use in dedicated NGVs is a year-round load and would add capacity costs during the winter as well as the summer. The Department argued that if these customers are buying gas under the same conditions as other firm customers they should pay the same rates as other firm customers. But if they are willing to risk being interrupted then they should be entitled to an interruptible rate.

The ALJ recommended approving the rider because an increase in the use of alternate fuels in NGVs would help promote the public policy objective of cleaner air and reduced dependence on foreign oil.

The Commission agrees with the Department and will not approve a \$2.00 per Mcf credit to the applicable Commercial and Industrial Sales Service rate for gas purchased for use in NGVs. The Commission finds that the Company's proposal would create a discriminatory rate based on end use instead of a rate based on load characteristics and cost of service. The Commission finds that to the extent that the Company's proposal would help society attain cleaner air and reduce the United States dependence on foreign oil it would be more appropriate for Minnegasco (or the NGV owners) to seek recovery of the \$2.00 per Mcf investment from all of the beneficiaries of the those policies rather than just Minnegasco ratepayers.

### ***ORDER***

**\*36** 1. Minnegasco is entitled to increase gross annual Minnesota jurisdictional revenues by \$11,512,000 in order to produce total gross annual jurisdictional operating revenues of \$462,618,256.

2. Within 30 days of the date of this Order, the Company shall file with the Commission for its review and approval, and serve on all parties in this proceeding, revised schedules of rates and charges reflecting the revenue requirement and the rate design decisions contained herein, along with the proposed effective date.

3. The compliance filing filed pursuant to Ordering Paragraph 2 shall contain:

a. Schedules showing all billing determinants collecting the total annual gross operating revenues from the sale of gas in the amount of \$460,399,256. These schedules shall include but not be limited to:

1. Total revenue by customer class,

2. Total number of customers, the customer charge and total customer charge revenue by customer class,

3. Total number of commodity related billing units, the per unit commodity and demand cost of gas, the non-gas unit margin and total commodity related sales revenue by customer class.



b. A revised version of the Company's Gas Rate Book incorporating the rate design decisions contained in this Order and including but not limited to the following:

1. The \$5.00 per month Residential Class customer charge and the customer charges contained in the stipulation,
2. The stipulated class revenue apportionments,
3. The Process Interruptible Sales Service Rider as agreed to by the parties,
4. The main and service line footage allowances extension charges as agreed to by the parties,
5. The extension of the late payment period for the C&I customer class by 10 days to correspond to the Residential customer class late payment period,
6. Therm billing,
7. The tariff changes not specifically referred to in this order except in Section XIII, J that are of a housekeeping nature,
8. The addition of the last sentence in Minnegasco's proposed language on continuity of service to the existing tariff on Maintenance and Responsibility,
9. The tariff language on Minnegasco's Right to Remove a Gas Meter as agreed to by the parties,
10. Minnegasco's customer deposit tariff language,
11. The renaming of the No Charge Service tariff to No Surcharge Service,
12. The increased reconnection charges of \$15.00 and \$50.00 depending on the reason for disconnection.

c. Proposed customer notices explaining the final rates.

d. A proposal for a separate customer notice on therm billing to be distributed in customer bills when therm billing goes into effect.

4. Within 30 days of the date of this Order, the Company shall file with the Commission and serve on the parties, a revised base cost of gas and supporting schedules incorporating the changes made herein. The Company shall also file its automatic adjustment establishing the proper adjustment to be in effect at the time final rates become effective. The Department shall review these filings as it does other automatic adjustment filings.

**\*37** 5. Within 30 days of the date of this Order, the Company shall file with the Commission for its review and approval, and serve upon all parties to this proceeding, a proposal to make refunds, including interest calculated at the average prime rate, or other appropriate adjustments, to affected customers. The proposal shall reflect the difference between the revenue collected during the interim rate period and the amount authorized herein.

6. Within 30 days of the service date of this Order, the Company shall file proposed extension tariff language that includes an economic feasibility formula detailing the conditions under which Minnegasco can waive extension charges and requiring the Company to collect advances-for-construction and make refunds under certain conditions.

7. Within 30 days of the date of this Order, the Company shall file with the Commission for its review and approval, and serve on all parties in this proceeding, a modified New Area Surcharge Rider as discussed herein.

8. Parties shall have 15 days to comment on the filings required in Ordering Paragraphs 1 through 7.

9. Within 60 days from the date of this Order, the Company shall file an update of its MGP cleanup cost recovery activities to date, including what claims it has filed, and what efforts it has made to identify and recover costs from other potential parties. Minnegasco shall also file information showing what future actions it plans to take and a schedule of those activities with regard to recovery of its MGP costs from insurance companies and other parties.

10. Within 60 days from the date of this Order, the Company shall file a report that explains and defines the categories of expenses that Minnegasco proposes to classify and recover as MGP cleanup costs.

11. Within 60 days of the date of this Order, the Company shall file with the Commission and serve on the parties a filing detailing which programs are eligible for lost margin recovery and the associated energy savings goals. Parties shall have 30 days to comment on this filing.

12. On an annual basis, beginning no later than November 1, 1994, instead of its current annual filing date, the Company shall file with the Commission and serve on the parties its annual conservation tracker account report. This report shall include conservation costs incurred, the conservation costs recovered, and the balance in the tracker account. This report shall also include the Company's calculations of actual lost margins and energy savings goals achieved due to its conservation efforts. Parties shall have 30 days to comment on these filings.

13. On an annual basis, beginning April 1, 1994 the Company shall file with the Department, an update of FAS 106 funding. This update shall include: 1) the existing funding situation; 2) tax-deductible alternatives available to Minnegasco; 3) a five year forecast of future funding levels; 4) the amount of equity in Arkla's and Minnegasco's capital structures; and 5) the existing post retirement benefit obligation.

**\*38** 14. Minnegasco shall file on an annual basis the amount of its expenditures for the year and its cumulative expenditures to date for MGP costs. The annual reporting of these costs shall explain and show the types of costs that were incurred and what monies were recovered from insurance companies and other parties. This information shall be filed by April 1st of each year.

15. Minnegasco, in its next rate case, shall file information and provide calculations showing the impact on proposed final and interim rates of using an industry average capital structure. Minnegasco shall also file information describing the effect of manufactured gas plant cleanup costs, incentive compensation, vacation accruals, and winter leak surveys on test year costs and rate base.

16. Minnegasco, in its next rate case, shall develop a proposal for a three-part rate for its Large-Volume Commercial & Industrial Sales Service customer class.

17. This Order shall become effective immediately.

## DISSENTING OPINION

Commissioners Storm and Burton, dissenting.

### *I. Introduction*

In a generally accepted model of utility regulation, utilities as regulated monopolies give up certain marketplace opportunities and choices which are allowed nonregulated entities. Their regulators in turn permit the regulated utilities to present evidence of their revenue requirements in rate cases. A properly presented rate case will allow a utility to recover its prudently incurred expenses, plus a reasonable return on its investment.

As will be shown in the body of this dissent, Minnegasco did not overstep the bounds of the regulatory model in its treatment of prudent post-retirement employee benefits. Neither did Minnegasco fail in its burden of proof when it presented those expenses for recovery in its rate case. In addition, Minnegasco consistently abided by specific Commission requirements in its accounting treatment of the expenses.

Despite these facts, the majority has chosen to disallow a significant portion of Minnegasco's prudently incurred SFAS 106 expenses. We respectfully dissent from that portion of the majority opinion.

## *II. Factual Background*

In the past, Minnegasco recorded PBOP expenses on a cash basis. In doing so, Minnegasco acted in accordance with standard utility practice. The ALJ recognized the prudence of Minnegasco's past accounting practices in Findings No. 46 and 53 of the ALJ's report. The Commission also found that Minnegasco's past treatment of PBOPs on a PAYGO basis was prudent. Order at p. 12.

In 1990 FASB changed its accounting standards for PBOPs from the cash basis to the accrual basis. The Commission issued its official response to the change in its September, 1992 ORDER ADOPTING ACCOUNTING STANDARD AND ALLOWING DEFERRED ACCOUNTING in Docket No. U-999/CI-92-96 (the FASB docket). In that Order the Commission stated:

The Commission adopts SFAS 106 accrual accounting for Minnesota utility recordkeeping and ratemaking purposes, subject to Commission review for prudence and reasonableness of the [PBOP] programs, expenses, and all calculations in future rate cases.

\*39 Order at p. 6.

The Commission also established a process for utility changeovers to the new accounting method. The Commission authorized a three year deferred accounting period for utilities, with the deferred balance of PBOP expenses subject to Commission general rate case review. In its November 2, 1992 ORDER DENYING PETITION FOR RECONSIDERATION, GRANTING IN PART AND DENYING IN PART PETITIONS FOR CLARIFICATION in the FASB docket, the Commission clarified that deferred balances which were not brought forward for rate case review within the allowed three year period would be denied recovery.

On July 2, 1992, Minnegasco filed a general rate case in which it sought, among other things, recovery of its PBOP expenses. Test year PBOP expenses consisted of three component parts:

1. The year's service cost, the present value of the future benefits earned by current employees during the year;
2. The interest cost, equal to the discount rate used to determine the present value multiplied by the accumulated present value, of the total of expected future PBOPs;
3. The amortization of the transition obligation, which is defined as the present value of the accumulated expected future PBOP liability on the day SFAS 106 is adopted.

The Commission found that the current service component of Minnegasco's PBOP expenses was "reasonable, prudent, and recoverable in rates." Order at p. 10. The ALJ also recommended complete recovery of the transition obligation, together with

interest. The majority, however, disallowed one half of the transition obligation component, and one half of the associated interest.

### *III. Analysis*

Analysis of Minnegasco's treatment of PBOPs brings us to the firm conclusion that the majority erred when it disallowed one half of the transition obligation and associated interest. Minnegasco experienced normal and ordinary expenses when it incurred liability for employees' post-retirement benefits. This category of expense is considered a normal cost of service in utility accounting, and is consistently treated as such in rate cases before the Commission. Prior to FASB accounting changes, Minnegasco accounted for the expenses in a manner consistent with prevailing industry practice and approved by the Commission in the Company's rate cases. Minnegasco changed to accrual accounting for PBOPs for ratemaking purposes in response to the Commission's direction in the September 22, 1992 Order addressed to all utilities. After Minnegasco's accounting change took place, the Company proposed an ongoing PBOP accounting plan in this rate case; neither the prudence of the plan nor its calculations was contested. Since the new accounting plan, pursuant to Commission direction, was based on the accrual method, a transition obligation was an inevitable and integral part of the proposed rate case expenses.

After reviewing this history, we are convinced that there was no action by Minnegasco at any time which converted a normal, ordinary, prudently incurred business expense into something for which shareholders should be penalized by disallowance. (Indeed, it is unclear how Minnegasco could have prudently made any other decisions throughout this period.) The benefits paid to employees and the timing of the payments are exactly the same under the PAYGO and the accrual methods. The character and the amount of the obligation remain unchanged; only the manner of booking the expense for accounting purposes changes. Nothing increases ratepayer liability or renders a prudent cost imprudent. An accounting change should not distract the Commission from its basic examination of the prudence and reasonableness of costs of service for rate case recovery. The PBOP costs under the accounting change, including the transition obligation and associated interest, were reasonable and prudent and should be recovered in full.

**\*40** Because Minnegasco adhered to sound regulatory practice in its treatment of PBOP costs and in its presentation of the expenses for rate case recovery, the Company should recover these prudent costs of utility service. We believe that this fundamental principle is ignored or misunderstood in the majority opinion. No reasoning offered by the majority convinces us otherwise.

#### **1. The Test Year Concept**

The majority focuses strongly upon a philosophical discussion of the test year principle. We agree with the majority that the test year is a useful device for balancing revenue and expense to arrive at a revenue requirement. However, nothing in the basic concept of the test year requires disallowance of these PBOP expenses.

The majority states that the transition obligation is an out-of-test year expense and therefore cannot be recovered. (Although, inexplicably, the Company is later allowed to recover one half of the transition obligation). In actuality, the obligation *was* recognized in the test year.

The majority lists a host of regulatory evils against which the test year concept stands as a bulwark. We believe that even if the transition obligation were considered an out-of-test-year expense, none of the cited evils would be present in this case. As will be explained later, there is no inequitable intergenerational matching present. The costs for which recovery is sought are "representative, not aberrant." There is absolutely nothing in the record to indicate that the proposed expenses are based on "conjecture" instead of "facts and experience." On the contrary, the expenses were determined carefully and precisely, using calculations accepted by all the parties. There is no need for the test year to act as a "regulatory safeguard against under-recovery, overrecovery, [or] imprecision in ratemaking" in this case.

In short, the Commission should continue to view the test year as a tool in arriving at the revenue requirement component of just and reasonable rates. The test year concept should not overshadow considered Commission judgment on the prudence and reasonableness of incurred expenses.

## 2. The Matching Concept

The majority holds that one half of the transition obligation should be disallowed because it produces an improper match between the time a cost is incurred and the recovery of that cost. The truth is that neither PAYGO or SFAS 106 accrual accounting, or any other accounting method, produces a perfect match. The SFAS 106 method, however, is a move toward better matching.

Under the PAYGO method, liability is incurred when service is rendered in the present, but that liability or cost is not recognized until benefits are paid in the future. If the incurring of a future liability is recognized as a present cost, as under SFAS 106 accounting, PAYGO may be viewed as the ultimate mismatch.

Under the SFAS 106 accrual method, the present value of future liabilities is booked at the time those liabilities are incurred, when present service is rendered. SFAS 106 accounting achieves a better match of the incurring of the obligation with both recognition of the cost and recovery from ratepayers. Because the transition obligation is an integral part of the changeover from cash basis to accrual basis, it is part of the move to better matching. The transition obligation actually accelerates the matching process, allowing recovery to rest with present ratepayers, who are more likely than future ratepayers (who would pay under PAYGO) to have rendered the service from whence the transition obligation arose.

**\*41** The majority seems to believe that the transition obligation produces a mismatch which is akin to retroactive ratemaking. “It results in one group of ratepayers bearing expenses that would have been charged to another group, given perfect information earlier.” Order at p. 4. In its September 22, 1992 Order, the Commission specifically found that the transition obligation does not result in retroactive ratemaking:

While under pay-as-you-go accounting [PBOP] expenses are recognized at the same time as they are paid out to employees, the employee services from which the benefits arose occurred in the past. This imperfect matching of expense recognition with employee services also occurs if a transition obligation is recognized. Recovery of [PBOP] costs under pay-as-you-go accounting has never been considered retroactive ratemaking, and neither should the recovery of a transition obligation which arises as a result of a change to accrual accounting. Neither of these situations is the type of reaching back for past costs which the retroactive ratemaking doctrine prohibits. The utility is not in either case attempting to recover in current rates costs which should properly have been recovered in past rates.

Order at pp. 5-6.

## 3. The Benefits to Shareholders

The majority disallows one half of the transition obligation amount because the transition obligation “. . . benefits investors so significantly that apportioning part of the transition cost to them is reasonable.” Order at p. 4. We find this reasoning flawed.

The SFAS 106 benefits to shareholders mentioned by the parties are more accurate financial reporting and more precise identification of costs. There is nothing in the record to show that these benefits would not result in more prudent managerial decisions, benefiting ratepayers at least as much as shareholders. More accurate financial reporting and identification of costs impose no burden or higher cost on ratepayers; employee benefit payouts remain unchanged after the switch to accrual accounting. There is absolutely no reason to penalize shareholders by a 50% disallowance because an accounting change has brought about greater accuracy and accountability in company recordkeeping and financial reporting.



#### 4. Extraordinary Expenses

The majority states that a disallowance of employee benefit expenses would be “. . . consistent with Commission action in other cases involving extraordinary expenses that do not fit within established rate case categories.” PBOP expenses, however, are not extraordinary expenses, but normal and ordinary costs of providing utility service. The only meaning of the term “extraordinary” which could possibly be applied to these expenses is a definition found in *Webster's Third New International Dictionary*: “not of the usual order or pattern.” The only thing “not of the usual” about these expenses is the one-time change in their recognition from cash basis to accrual. This accounting change does not render an ordinary, normal and necessary cost of providing service into something extraordinary, for which disallowance is justified.

#### 5. Other Regulatory Bodies

\*42 The majority cites actions taken by other regulatory bodies as justification for the disallowance of Minnegasco's expense. The majority notes a partial disallowance of coal tar clean up costs by the Illinois Commerce Commission and a partial disallowance of the costs of a management incentive plan by the Vermont Public Service Board.

These cited regulatory actions do not involve sets of facts similar to those before the Commission. Neither case addresses disallowances of otherwise inarguably ordinary and prudent expenses because of changes in booking the expenses. In cases in which regulators have addressed SFAS 106 accounting questions, the expenses, including the transition obligation, have been allowed. Wisconsin and California public utility commissions, as well as others, have adopted SFAS 106 accounting, including the recognition of the transition obligation for ratemaking purposes. The Federal Energy Regulatory Commission has endorsed the policy of allowing recovery of the transition obligation. While these decisions certainly do not bind our Commission, they are instructive.

#### IV. Conclusion

Within the framework of utility regulation, regulators have a responsibility to both ratepayers and utility shareholders. This is intrinsic to the dynamic “give and take” of the regulatory model.

Public utility commissions have the duty to ensure that ratepayers are provided high quality service at fair and reasonable rates. Ratepayers must be protected from discriminatory and unfair treatment by regulated monopolies. Goals of universal service must be promoted when possible.

Regulators also have a responsibility to utility shareholders. Shareholders have a right to expect that prudent and reasonable managerial decisions will allow them to achieve a reasonable return on their investment, comparable to returns made on investments and other business undertakings of corresponding risks and uncertainties. Shareholders have a right to regulatory decisions which will enable the utility to maintain its financial integrity and attract new capital on reasonable terms. See, *Bluefield Water Works and Improvement Co. v. P.S.C.*, 262 U.S. 679 (1923) and *FPC v. Hope Natural Gas Co.*, 320 U.S. 591 (1944).

For the reasons stated in this dissenting opinion, Minnegasco has the right to recover its prudent expenses for post-retirement employee benefits, including the transition obligation inherent in the Commission-sanctioned accounting method. Allowing Minnegasco full recovery of these prudent and reasonable costs of service would fulfill the Commission's responsibilities toward both ratepayers and shareholders.

**AMENDED OFFER OF PARTIAL SETTLEMENT**

The undersigned parties to this proceeding have entered into this Amended Offer of Partial Settlement ("Settlement") which resolves many of the disputed issues between the parties in the above referenced Dockets. In so doing, no party is admitting or supporting any of the positions agreed upon on any specific issues, other than for purposes of this Settlement.

**BACKGROUND**

\*43 On July 2, 1992, Minnegasco, a Division of Arkla, Inc. ("Minnegasco") filed a petition seeking a general revenue increase of \$24,823,000 or 5.5 percent. On August 17, 1992, the Minnesota Public Utilities Commission ("Commission") issued an Order Accepting Filing and Suspending Rates, and a Notice and Order for Hearing referring the case to the Office of Administrative Hearings for contested case proceedings. On August 31, 1992, the Commission issued an Order Setting Interim Rates authorizing Minnegasco to collect \$11,800,000 in interim rates.

The Administrative Law Judge ("ALJ") who will hear this matter is Richard C. Luis. A prehearing conference was held on August 27, 1992. The ALJ issued a Prehearing Order on September 17, 1992. The ALJ granted the Petitions to Intervene of the Minnesota Department of Public Service ("Department" or "DPS"), the Minnesota Office of Attorney General ("OAG"), Minnesota Energy Consumers ("MEC"), Honeymead Products Company, ("Honeymead") the Suburban Rate Authority ("SRA"), and Northern Natural Gas Company ("Northern").

Pursuant to the ALJ's Prehearing Order, Minnegasco's additional direct testimony and exhibits, filed September 14, 1992, concerning the Weather Normalization Adjustment (WNA) and FAS 106 constituted a supplemental filing. No parties objected to the inclusion of the supplemental information in the record.

On October 26, 1992, the Department, OAG, MEC and SRA filed intervenor Direct Testimony. On or about November 20, 1992, the parties filed Rebuttal Testimony.

Public Hearings were conducted on November 10, 1992 in Minneapolis and Bloomington, on November 18, 1992 in Mankato, and on November 19, 1992 in Willmar. Evidentiary hearings are scheduled to begin in St. Paul, Minnesota, on December 8, 1992.

**1. TERMS OF SETTLEMENT**

This section describes the terms of the Settlement, shows how the testimony or Stipulation of Facts (which will be filed Tuesday December 1, 1992 as Exhibit A) support the Settlement and describes why the Settlement should be approved. *The terms described herein reflect modifications to Joint Exhibit 1 made since the time of the evidentiary hearings. The terms described herein replace the agreements in Joint Exhibit 1 and represent the final agreement among the parties.*

**1.1 Overall Description of Stipulation.**

Through this Settlement, the parties intend that the agreed- to issues be brought to a close. To that end, the parties have agreed that Minnegasco's proposal to increase its annual Minnesota jurisdictional retail revenues by \$24,823,000 will be reduced. The final revenue requirement and fund rates cannot be determined until the remaining disputed financial and rate design issues have been resolved.

The parties believe this Settlement results in just and reasonable rates for the items settled and is in the public interest. The parties agree that the Commission's decision on disputed issues will not affect the reasonableness of this Settlement. The parties

further agree that the Commission can approve this Settlement without jeopardizing its ability to determine disputed issues, such that the Commission's final decision in this proceeding can result in just and reasonable rates.

### ***1.2 Evidentiary Basis for Settlement.***

**\*44** The parties agree that there is ample evidentiary support for this Settlement, both in prefiled testimony and in the Stipulation of Facts (Exhibit A). The parties offer this Settlement to resolve certain matters and to narrow the scope of contested issues to matters actually in dispute, as encouraged by the Commission and the ALJ. The evidentiary support is described below.

#### ***1.2.1 Financial and Capital Issues.***

The parties present complete financial schedules detailing the financial impact of this Settlement in Exhibit A, Revised Schedules 1-8. The remainder of this section of the Settlement discusses the parties' agreements on individual financial issues.

##### ***a. Rate Base Adjustments***

(1) *Pipeline Storage Inventories.* The Department recommended that Minnegasco update its pipeline storage information from its filing by decreasing rate base by \$310,000. This adjustment reflects the updated contract gas costs and volume levels for the test year filed by the Company in Docket No. G-008/M-92-777 which is still pending before the Commission. Layton Direct pp. 117-18. The parties agree to further update the test year for the actual volumes and cost of gas injected into storage and to recognize volumes associated with a new storage contract. Exhibit A, pp. 1-2 and Schedule 9 (*PROPRIETARY*). The parties agree to increase rate base by \$3,546,000 to reflect this adjustment.

(2) *Non-Cash Working Capital.* The Department and the OAG proposed a decrease to the cash working capital component of rate base to remove depreciation and deferred income taxes from the cash working capital calculation. Layton Direct pp. 15-16 and Nelson Direct pp. 13-15. The parties agree to decrease rate base by \$2,990,000 to reflect the adjustment. Exhibit A, p. 2 and Schedule 10.

(3) *Manufactured Gas Plant Deferred Clean-up Costs ("MGP Clean-up Costs").* The Department and the OAG recommended the MGP clean-up costs be shared 50/50 between ratepayers and Minnegasco shareholders. Layton Direct pp. 19-23 and Nelson Direct, pp. 15-21. Minnegasco does not agree to a 50/50 sharing arrangement. The SRA recommended the establishment of an amortization allowance for clean-up costs for all sites incurred since January 1, 1992. The amortization would take place over a rolling ten year period with no rate base treatment. Towers Direct, pp. 4-11. The parties agree to remove all deferred MGP clean-up costs and related accumulated deferred income taxes from rate base. It is agreed to remove \$1,661,000 of average deferred MGP clean-up costs, Daugherty Direct, Schedule 10, p. 1, and the offsetting related \$672,000 of accumulated deferred taxes, Daugherty Direct, Schedule 4, p. 3, from rate base. Exhibit A, p.3 and Schedule 11. See the Income Statement section for the impact on operating expenses.

(4) *Compressed Natural Gas (CNG) Assets.* The Department and the OAG proposed that all gross assets associated with Minnegasco's investment in its CNG facilities be removed. Chavez Direct, pp. 54-60, Kosowski Direct, pp. 15-16, and Nelson Direct, pp. 26-29. The parties agree to remove net CNG assets of \$700,925 and related offsetting accumulated deferred taxes of \$138,622 from rate base. Exhibit A, p.3 and Schedule 12. See Income Statement for the impact of this adjustment on depreciation expense.

**\*45** (5) *Prepaid Taxes on Unbilled Revenues.* The Department recommended removing the prepaid taxes on unbilled revenues from rate base. Layton Direct, pp. 13-15. The OAG offered three adjustments for unbilled revenues and recommended one. The OAG recommended amortizing the unbilled revenues to income over a period of time for ratemaking purposes and retaining Minnegasco's proposed adjustment for prepaid taxes on unbilled revenues. Nelson Direct, pp. 4-13.



<<- The parties agree to reduce Minnegasco's revenue requirement by recognizing unbilled revenues for regulatory purposes over twenty (20) years (see Income Statement section) and to recognize the related — accumulated deferred income taxes on unbilled revenues in rate base. ->>The parties agree to resolve all unbilled revenues issues in this proceeding by decreasing rate base by \$13,260,000 for the prepaid taxes on unbilled revenues. <<- and to increase rate base by \$1,070,389, Exhibit A, p.3 and Replacement Schedule 13., for the accumulated deferred income taxes on the unbilled revenues. ->>

(6) *Conservation Improvement Program (CIP) Tracker Balance*. The parties agree that if approved final rates result in an interim rate refund to customers, the refund will be offset by the CIP tracker balance of \$1,413,278. Hagen Direct, Schedule 19, p. 1. If any interim rate refund is not large enough to completely offset the CIP tracker balance, the parties agree to reduce the tracker balance by the amount of the refund and to amortize the remaining tracker balance over five years, with rate base recognition of the unamortized balance. If approved final rates do not result in any interim rate refund, the parties agree to amortize the CIP tracker balance over five (5) years, with rate base treatment of the unamortized balance, increasing rate base by \$212,000. Exhibit A, p.4 and Schedule 14. See the income statement section of this Settlement for the impact of this agreement on operating expenses.

(7) *Rate Case Expense Unamortized Balance*. The Department recommended that rate case expenses be shared 50/50 between ratepayers and Minnegasco shareholders together with an amortization of those remaining costs over five (5) years. Zamansky Direct, pp. 7-9. Minnegasco does not agree to a 50/50 sharing arrangement. The parties agree to amortize the rate case expenses over five years and to remove the average rate case expense balance of \$604,000, Daugherty Direct, Schedule 10, p. 3, from rate base. Exhibit A, p. 4 and Schedule 15. See Income Statement section for impact of the five (5) year amortization.

(8) *Cash Working Capital*. The Department recommended removing the zero day items from cash working capital, recalculating the change in the late payment revenues based on a 2.2 day adjustment instead of Minnegasco's proposed 4.4 days, and recalculating the lead-lag study based upon the revised level of operating expenses. Layton Direct, pp. 16-17. The parties agree to recalculate Minnegasco's cash working capital with the removal of zero-day items, use a zero 2.2 day impact of the change in the late payment policy for commercial/industrial customers rather than a 4.4 day impact proposed by Minnegasco, and to calculate the revised level of operating expenses as finally determined by the Commission. The parties have recalculated cash working capital based on the operating expenses agreed to in the Settlement in order to determine the revenue required under the Settlement. Exhibit A, p.4 and Replacement Schedule 16.

**\*46** (9) *Headquarters Allocations*. The parties agree to decrease rate base by \$271,563 associated with the joint use of furniture and fixtures, personal computers and office equipment in the Minnegasco headquarters building located in downtown Minneapolis. This rate base adjustment is based upon an allocation factor to unregulated activities of \*\*\* Begin Proprietary \*\*\* See Income Statement, Section 19, Proprietary Schedule 28 for an explanation of and calculation of this allocation factor.

The parties acknowledge that the allocation of Minnegasco's costs between its regulated and non-regulated businesses are at issue in the complaint made by the Minnesota Alliance for Fair Competition (MAC), Docket No. G-008/CI-91-942. The parties agree that this settlement or elements thereof shall not have any precedential effect on the MAC complaint proceedings for any purpose. The parties further agree that no party to this settlement is estopped from contesting any factual or legal issue in the MAC complaint and that no party has waived the right to challenge the appropriateness of any allocation process, method, or practice in the MAC complaint docket.

### ***b. Income Statement***

(1) *Correction of errors*. Minnegasco identified errors in its original filing in Ms. Reimer's rebuttal testimony. Reimer Rebuttal, Schedule 2, p. 10. *An additional correction was found since the close of hearings to remove the cost of merchandise from total appliance sales expense for the purpose of computing an allocation factor applied to accounting costs. This reduces the allocation correction presented in Ms. Reimer's rebuttal testimony. The calculation of this reduction and the revised correction*

of <<- these errors ->> are shown in Exhibit A, replacement Proprietary Schedule 17 and reduces revenue requirements by \$110,917. <<- \$138,375. Exhibit A, p. 5 and ->> <<- Schedule 17. ->> This amount includes the correction of an inflation adjustment error identified by the Department during their audit. The parties agree to reduce revenue requirements by \$110,917 <<- \$138,375 ->> to correct these errors.

(2) *Employee and Corporate Dues.* The Department and OAG recommended that certain employee and corporate dues be disallowed. Zamansky Direct, pp. 5-6 and Nelson Direct, pp. 29-31. The parties agree to remove \$25,601 for certain employee dues and \$6,000 for U.S. Chamber of Commerce dues. Zamansky Direct, pp. 5-6.

(3) *Marketing Expenses.* The Department recommended the marketing expenses related to Minnegasco's desiccant cooling, irrigation water pumping and natural gas vehicle (NGV) programs be disallowed. Kosowski Direct, pg. 13-15. The parties agree to remove \$541,442 of marketing expenses for these programs.

(4) *Advertising Expenses.* The Department recommended removal of certain Minnegasco advertising costs. Specifically, the Department recommended removal of twenty-five (25) percent of Minnegasco's customer information pamphlet, *In-Touch*, 100 percent of advertising account #913, and a portion of advertising account #930. Kosowski Direct, pg. 16-19. The parties agree to reduce revenue requirements by \$297,565 for these costs.

**\*47** (5) *Flowers/Tickets/Lobbying Meals/ Veterans Club.* The OAG recommended removal of the costs associated with these items. Nelson, Direct, pg 40. The parties agree to reduce revenue requirements by \$10,718 for the cost of flowers, tickets and lobbying meals. Exhibit A, p.5 and Schedule 18.

(6) *Carbon Monoxide (CO) Leak Checks.* As determined by the Commission in Docket No. G-008/C-91-942, the cost of CO checks should not be borne by the ratepayers and should not be allocated to the utility. *Certain errors were identified with this adjustment. However, the impact of these errors was de minimus. Therefore,* The parties continue to agree to reduce revenue requirements by \$224,217 for the direct cost of CO checks. *See Proprietary Schedule 30.*

(7) *Economic Development.* The Department recommended disallowance of all economic development costs. The Department and the OAG recommended only one-half of the economic development costs be allowed if the cost-benefit of these costs are demonstrated. Kosowski Direct, pp. 19-20 and Nelson Direct, pp. 21-24. The parties agree to disallow one-half of these costs, reducing revenue requirements by \$27,500. Exhibit A, Schedule 19.

(8) *Lobbying Expenses.* The OAG proposed to remove Minnegasco's lobbying expenses. Nelson Direct, pp. 24-25. The parties agree to remove these expenses, reducing revenue requirements by \$136,609.

(9) *Incentive Compensation.* The OAG recommended the disallowance of incentive compensation costs. Morrisette Direct, pp. 17-21. Minnegasco's incentive compensation payments are tied to the achievement of both employees' personal goals and Minnegasco's and Arkla's financial goals. Hagen Direct, p. 71. The parties agree to disallow 60% of management incentive compensation costs, reflecting the companies' financial goals, reducing revenue requirements by \$251,314. Exhibit A, pp. 5-6 and Schedule 20.

(10) *In-Kind Contributions.* The OAG recommended that one-half of Minnegasco's in-kind charitable contributions be excluded. Nelson Direct, pp. 25-26. The parties agree to reduce revenue requirements by \$2,375 to reflect this adjustment.

(11) *MGP Clean-Up Costs.* In its rate case filing, Minnegasco requested total test year expenses associated with MGP clean-up of \$5,060,277. This amount consists of \$2,975,000 in test year expenses for remediation of the former Minneapolis Gas Works plant, legal fees associated with the Park Board lawsuit of \$403,000 and investigation costs of other Minnesota MGP sites of \$575,000. The Company also included deferred expenses of \$2,214,554 for the period beginning in 1991 through June 30, 1992, amortized over two years, resulting in \$1,107,277 of test year expenses. Hagen Direct, Schedule 17. The Commission disallowed

the pre-1992 deferred balance of MGP clean-up costs in Docket No. G-008/M-91-1015. The parties agreed to decrease expenses by the \$482,277 in pre-1992 costs which Minnegasco amortized to operating expense in the filing.

**\*48** The DPS and the OAG recommended that the remaining amortized balance and test year expense be shared 50/50 with Minnegasco shareholders. Layton Direct, pp. 19-23 and Nelson Direct, pp. 15-21 (see Rate Base section for the SRA position. Minnegasco does not agree to a 50/50 sharing arrangement. The parties agree to recognize ongoing, annual MGP clean-up costs and legal fees of \$3.1 million. No deferred accounting of MGP clean-up costs will occur after December 31, 1992. Further, as a result of Docket No. G-008/M-91-1015, the Company began deferring MGP costs beginning January 1, 1992. However, the Company received no interim rate recovery for MGP costs. Therefore, the parties agree to amortize the estimated 1992 deferred balance of \$2,500,000 to expenses over five years, with no rate base treatment of the unamortized balance. This results in a total test year expenditure (including amortization) of \$3,600,000, requiring a reduction in revenue requirements of \$1,460,000 from the Company's original filing. Exhibit A, p. 6 and Schedule 21.

Minnegasco will place any insurance recoveries in a deferred debit account without carrying charges, until its next rate filing. Net insurance proceeds will be flowed back to ratepayers.

(12) *CNG Expenses*. The Department and OAG recommended the removal of CNG assets from rate base. See Rate Base section. The removal of the related depreciation expense associated with those assets is a reduction in revenue requirements of \$33,603.

The parties recognize that the Energy Policy Act of 1992 encourages the development of alternative fuel vehicles. For purposes of settlement in this case, other than \$18,458 associated with the Company's own fleet of vehicles which operate on CNG, the parties agree that the revenue requirements associated with the marketing, depreciation, O&M expenses and return on certain investments of Minnegasco's CNG vehicle program will not be reflected in the rates ultimately determined in this case. Lack of recognition of these costs in this case shall be without prejudice to Minnegasco's right to request full rate case treatment of these and similar costs in its next rate case and shall not be deemed of any precedential value in this or any other proceeding. The parties agree to a reduction in revenue requirements of \$52,061 for this issue. Exhibit A, pp. 6-7 and Schedule 22. See CNG Assets and Marketing Expenses for other revenue requirement impacts.

<<- (13)->> *Unbilled revenues*. The parties ->> <<- agree to reduce Minnegasco's revenue requirement by recognizing unbilled revenues for regulatory purposes each year over 20 years. This adjust- ment reduces revenue requirements by \$481,771. Exhibit A, p. 7 and Schedule 23. ->>

(13) *Allocation of Senior Officer's Pay*. The parties agree to remove \$24,193 in senior officer's pay due to updated 1992 percentages and a change in the allocation factor for certain senior officers to a factor based on the ratio of non-utility operating expenses to company operating expenses, removing cost of goods sold. See Proprietary Replacement Schedule 23 for calculation of this adjustment.

**\*49** (14) *Industrial Heating Sales Volumes*. The Department proposed an increase to the forecasted volumes for the industrial heating sales class based upon a higher level of customers in that class than Minnegasco proposed. O'Connell Direct, pp. 7. The parties agree to increase revenues by \$1,087,600, increase cost of gas by \$626,500, increase late payment revenues by \$5,656 and increase bad debt expense by \$8,755 for this adjustment. This adjustment decreases Revenue requirements by \$458,001. Exhibit A, p.7 and Schedule 24. Schedule 24 also provides a monthly breakout of the stipulated sales volumes by class.

(15) *Inflation on Adjusted Expenses*. Certain expenses that were removed for settlement were separately inflation impacted within Minnegasco's filing. The parties agree to reduce revenue requirements by \$42,965 to remove the related inflation for those items. Exhibit A, p. 8 and Schedule 25.

(16) *CIP Tracker Balance*. The Department recommended a five (5) year amortization of the underrecovered CIP tracker balance to the extent, if any, the balance is not offset by a rate refund. See Rate Base section. The parties agree to reduce amortized CIP expenses, and therefore revenue requirements, by \$423,983. Exhibit A, pp. 8-9 and Schedule 26.

(17) *Rate Case Expense*. As identified in the Rate Base section, the parties agree to amortize Minnegasco's rate case expense over five (5) years as recommended by the DPS. This reduces revenue requirements by \$241,431.

(18) *Coopers & Lybrand Audit*. The parties agree to remove \$38,540 with respect to the Coopers & Lybrand audit. Bender Direct, pp. 10-11.

(19) *Headquarters Allocations*. The parties agree to remove \*\*\* Begin Proprietary \*\*\* expenses associated with joint and common headquarters costs which are currently charged to the utility operations. The adjustment reflects an allocation between Minnegasco's regulated and unregulated activities for headquarters rent, property taxes and maintenance, including utilities, as well as depreciation on shared furniture and fixtures, personal computers and office equipment. The expense adjustment is based on an average for each floor of the allocated payroll and other expenses for shared divisions. The weighted average factor of \*\*\* Begin Proprietary\*\*\* Proprietary \*\*\* and the Minnesota jurisdictional factor are applied to total company expenses for these items to derive the adjustment. See Exhibit A, Proprietary Schedule 29, for the calculation of the allocated expense adjustments and the allocation factor.

### *c. Rate of Return*

(1) Capital Structure. Minnegasco proposed the following capital structure:

- a. debt of 48.34%;
- b. common equity of 51.66%;
- c. total of 100.00%.

The Department agreed with Minnegasco's proposed capital structure. Thompson Direct, p. 31. None of the other parties took issue with the filed capital structure. The parties agreed to use the capital structure proposed by Minnegasco.

(2) Cost of Capital. Minnegasco proposed that the cost of its long-term debt is 4.47%. No party disagreed. Minnegasco proposed a return on equity of 13% using both the constant growth and general forms of the DCF model on a group of sixteen comparable companies. The Department recommended a return on equity of 11.5% based on its application of the DCF model. MEC recommended a return on equity of 9.75% based on its DCF analysis. The parties agree to use the Department's recommended return on equity of 11.5% and the cost of debt-proposed by Minnegasco. Along with the agreed upon capital structure, this results in an overall rate of return of 10.41%. Thompson Direct, p. 31.

### *d. Weather Normalization Adjustment (WNA)*

**\*50** The parties agree to remove the issue of a weather normalization adjustment from this proceeding. The parties further agree that Minnegasco may not file to implement a WNA until its next rate case.

### *e. Rate Design and Other*



(1) Residential Sales Service. Minnegasco proposed several changes in the prices and services offered to residential customers presently receiving Small Volume Firm Gas Service. Bridge Direct pp. 7-8; Chavez Direct, pp. 9, Morrisette Direct pp 3-4. The parties agree only on the following changes:

- (a) To adopt Minnegasco's proposal to create a new Residential Sales Service customer class.
- (b) To increase revenues 7.3% for the new customer class. However, the parties also agree to reduce this increase proportionately based upon reductions in the final revenue deficiency, in order for Minnegasco to realize only the total revenue increase authorized by the Commission.
- (c) To eliminate the three Ccfs of usage allowance included in the monthly customer charge.

Minnegasco's other proposed changes regarding rate design for residential customers remain contested and the parties will litigate those issues.

(2) Commercial and Industrial Sales Service. Minnegasco proposed several changes in the prices of services offered to commercial and industrial customers presently receiving Small Volume Firm Gas Service. The parties have reached agreement on several of these issues, as follows:

(a) Minnegasco proposed to divide the current Small Volume Firm Gas Service customer class into two groups: a Residential class and a Commercial and Industrial class. The Department recommended that Minnegasco further divide its proposed Commercial and Industrial class into two separate classes: (1) Commercial and Industrial Sales Service for commercial and industrial customers with daily usage less than 200 Mcf; (2) Large Volume Commercial and Industrial Sales Service for commercial and industrial customers with daily usage greater than or equal to 200 Mcf. Chavez Direct, p. 17-19. The parties agree to adopt Minnegasco's proposal, together with the Department's recommendation to further divide the Commercial and Industrial Sales Service customer class.

(b) Minnegasco proposed a 4.0% increase in class revenue for the Commercial and Industrial Sales Service class. The Department proposed a 2.63% increase in class revenue for its Commercial and Industrial class and no increase in class revenue for its Large Volume Commercial and Industrial class. Chavez Direct, pp. 19-20. The parties agree to adopt the Department's proposed revenue responsibility for the two commercial and industrial classes. The parties further agree to reduce the 2.63% increase in class revenue for the Commercial and Industrial class proportionately based upon reductions in the final revenue deficiency, in order for Minnegasco to realize only the total revenue increase authorized by the Commission.

(c) The Department proposed increasing the monthly customer charge for the Commercial and Industrial customer segments as follows: (1) Commercial and Industrial customers with annual usage of less than 150 Mcf would have a \$10 monthly customer charge; (2) Commercial and Industrial customers annual usage equal to or greater than 150 Mcf (with daily usage less than 200 Mcf) would have a \$30 monthly customer charge; (3) Commercial and Industrial customers with *daily* usage equal or greater than 200 Mcf would have a \$100 monthly customer charge. Chavez Direct pp. 20-22. The OAG raised concern over the total revenue responsibility allocated to the smallest Commercial & Industrial customers. Morrisette Rebuttal, pp. 3-4. The parties agree to a \$9 customer charge for Commercial & Industrial customers with annual usage of less than 150 Mcf and the Department's recommended customer charges for all other Commercial & Industrial customers.

**\*51** (d) The parties agree to eliminate the three Ccfs of usage allowance from the monthly customer charge, as proposed by Minnegasco.

The parties will litigate the remaining Commercial & Industrial Sales Service issues.

(3) Small Volume Dual Fuel Service. Minnegasco proposed several changes in the prices and service offered to dual fuel customers presently receiving Small Volume Interruptible Service. The parties agreed as follows:

(a) The Department recommended a modification to Minnegasco's proposed name changes. The Department agreed with Minnegasco's change from interruptible services to Dual Fuel Services, however recommended that Minnegasco retain the Small Volume designation to avoid customer confusion with Large Volume Dual Fuel Services. The parties agreed to change the name of these services to Small Volume Dual Fuel Service.

(b) The Department agreed that an increase in class revenues is reasonable, but recommended a 7.9% increase. The parties agree with the Department's recommended 7.9% increase in class revenues. The parties also agree that the 7.9% increase in class revenues will be adjusted further to recognize the proportionate decrease in revenue responsibility necessary to allow Minnegasco to recover only the total revenue increase authorized by the Commission.

(c) The parties agree to adopt the Department's recommendations for monthly customer charges of \$75 for Small Volume Dual Fuel Sales Services and \$175 for Small Volume Dual Fuel Transportation services. Chavez Direct pp. 26-27.

(d) The Department recommended a single unit margin for Small Volume Dual Fuel services. The parties agree to adopt the Department's recommendation for a single unit margin for all Small Volume Dual Fuel services, calculated as described on page 15 of Mr. Chavez's Direct Testimony.

(e) The Department recommended that Minnegasco maintain the ability to negotiate the flexible unit margin up, by the same increment as it has authority to flex the unit margin down. The parties agree to establish Minnegasco's maximum flexible unit margin accordingly. For example, if the standard unit margin is \$0.60, the increment Minnegasco is authorized to flex the unit margin down is \$0.55 (\$0.60 - \$0.05 minimum = \$0.55). Therefore, the maximum flexible unit margin would be \$1.15 (\$0.60 + \$0.55 flexible margin increment).

(f) The parties agree to adopt Minnegasco's proposals for modification of transportation tariffs to incorporate a number of balancing provisions. Chavez Direct, p. 32.

(4) Large Volume Dual Fuel Services. Minnegasco proposed several changes in the prices and services offered to large dual fuel customers presently receiving Large Volume Interruptible Gas Service. The parties agree to the following:

(a) The parties agree to adopt Minnegasco's recommendations for name changes from Large Volume Interruptible to Large Volume Dual Fuel services.

(b) The parties agree that the imputed margin that the Company will receive from its Market Rate Transportation customers is \*\*\* Begin Proprietary \*\*\* A, p. 9 and Proprietary Schedule 27. The difference between the Company's proposed imputed margin of \*\*\* Begin Proprietary \*\*\* Proprietary \*\*\* will decrease the standard unit margin for Large Volume Dual Fuel Sales and Transportation customers.

**\*52** (c) The parties agree to adopt Minnegasco's proposed monthly customer charges of \$200 for sales services and \$300 for transportation services.

(d) The Department recommended that Minnegasco maintain a single unit margin rate, decreased from the present unit rate to offset the revenue increase derived from the increases in the monthly customer charges. The parties agree to adopt the Department's recommendation.

(e) The Department agreed that Minnegasco should maintain its ability to flex its unit margin up by the same increment Minnegasco has authority to flex its unit rate down. The parties agree to adjust Minnegasco's maximum unit rate to the same

increment above the standard unit rate as Minnegasco has authority to reduce its standard unit rate. For example, if Minnegasco has authority to reduce its standard rate by \$.45 (\$.50 standard rate - \$.05 minimum), the maximum rate would equal \$.95 (\$.50 standard rate + \$.45 flexible increment).

(f) The parties agree to adopt Minnegasco's proposed modifications to the transportation service tariffs to incorporate a number of balancing provisions. Bridge Direct, p. 33.

(5) Developmental Services. Minnegasco proposed six new Developmental Services. The parties agreed to the following items with respect to these proposed services:

(a) Standby Peaking Sales Service. The parties agree to adopt Minnegasco's proposals for this new service. Chavez Direct, pp. 41-42.

(b) Firm Transportation Service. The Department recommended that Minnegasco offer two different rates for firm transportation customers, consistent with the agreed-upon rates established for the Commercial and Industrial Sales Service customer classes. In addition, the Department proposed that \$100 be added to the monthly Sales Service customer charges for the Transportation Service customers. Chavez Direct, p. 39. The parties agree to adopt the Department's recommendations for two separate Firm Transportation services and to adopt the Department's proposed customer charges.

(6) Class Cost of Service Study (CCOSS). The Department and Minnegasco provided different CCOSSs. The Department's CCOSS did not provide significantly different results as compared to Minnegasco's CCOSS. The parties agree to the Department's CCOSS. Ahrens Rebuttal.

## ***2. IMPLEMENTATION.***

The parties intend that this Settlement resolve only those issues expressly addressed in this Settlement.

## ***3. PROPOSED PROCEDURAL SCHEDULE.***

This Settlement contemplates that hearings will begin on December 8, 1992, on all issues not settled by this Settlement. The parties will also make their witnesses available to Commission staff to answer any questions concerning the components to this Settlement. The parties will request the ALJ to separately advise the Commission on the reasonableness of this Settlement, so that the Commission has the opportunity to rule on this Settlement at the earliest possible time.

## ***4. SETTLEMENT AS A COMPROMISE.***

**\*53** The parties agree that this Settlement has been entered into as an overall compromise and resolution of the issues presented in this Settlement in order to minimize litigation and controversy. The parties further agree and stipulate that this Settlement does not represent the position, in *total* or on any individual issue, that the parties would have taken had the issues in this proceeding been fully litigated, and this Settlement, whether or not adopted by the Commission, shall not be cited or otherwise used to imply the contrary.

## ***5. ACCEPTANCE OF SETTLEMENT.***

The agreement in this Settlement is expressly conditioned on its acceptance by the Commission in its entirety without modification. Pursuant to [Minn. Stat. § 216B.16, subd. 1\(a\)](#), if the Commission modifies this Settlement, the parties shall have ten (10) days in which to reject this modification. If any party rejects the modification, the parties agree that this Settlement

shall be null and void and shall not constitute any part of the record in this proceeding. In such event, the parties agree that any rebuttal testimony and cross-examination which was exchanged but not filed due to the pendency of this Settlement shall be filed and hearings should go forward promptly upon all matters raised in the testimony of the parties to the proceeding and that all parties be permitted to argue their positions with respect to such issues to the Commission in post-hearing briefs and, if requested or permitted by the Commission, oral argument.

### **SETTLEMENT BENEFITS.**

This Settlement is in the public interest. It reduces Minnegasco's requested revenue requirements by approximately \$11,000,000 based on an overall rate of return of 10.41%. The parties believe that this Settlement, along with the Commission's resolution of the remaining disputed issues, can result in just and reasonable final rates.

The parties agree that there is ample evidentiary basis for this Settlement in the prefiled testimony and in the attached Stipulation of Facts to resolve all possible contested issues, as encouraged by [Minnesota Statutes § 216B.16, \(1\)\(a\)\(1992\)](#) and the Prehearing Order in this case.

### **CONCLUSION.**

This Settlement is a negotiated agreement, arrived at between the parties for the purpose of resolving the contested revenue requirement and rate design matters in this proceeding in an equitable fashion, consistent with the public interest. As a result, the parties agree that the resolution of the contested issues made in this Settlement established no precedent for resolution of these issues in the future.

While the parties have different positions on the numerous issues raised in this case, they have worked together to arrive at a just and reasonable resolution of this proceeding on terms that treat all parties fairly, and that protect the public interest. The parties respectfully request that the ALJ recommend that the Commission adopt findings and conclusions in its entirety in accord with this Stipulation.

### Footnotes

- 1 This transaction is being reviewed separately in Docket No. G-008, 010/PA-93-92, *In the Matter of a Joint Petition From Minnegasco and Midwest Gas for Authority to Exchange Assets, Utility Operations and Business*.
- 2 Minnesota Energy Consumers (MEC), a party to this proceeding but a non-signatory of the Settlement, challenged the reasonableness of the Settlement's revenue apportionment. As discussed in greater detail in the Rate Design section of this Order (page 25, *infra*), the Commission rejected MEC's challenge and found that the revenue apportionment proposed in the Settlement was fair and reasonable.
- 3 *In the Matter of the Accounting and Ratemaking Effects of the Statement of Financial Accounting Standards No. 106*, Docket No. U-999/CI-92-96, ORDER ADOPTING ACCOUNTING STANDARD AND ALLOWING DEFERRED ACCOUNTING (September 22, 1992).
- 4 *In the Matter of the Petition of Minnesota Power & Light Company, d/b/a Minnesota Power, for Authority to Change Its Schedule of Rates for Retail Electric Service in the State of Minnesota*, Docket No. E-015/GR-87-223 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER (March 1, 1988).
- 5 *In the Matter of the Petition of Northern States Power Company for Authority to Change its Schedule of Rates for Gas Utility Service Within the State of Minnesota*, Docket No. G-002/GR-86-160, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER (January 27, 1987).
- 6 *Re Coal Tar Cleanup Expenditures*, Docket No. 91-0080 *et al*, Order dated September 30, 1992.



- 7 See, for example, *In the Matter of a Petition from Northern States Power Company for a Variance to the Purchase Gas Charges, Automatic Adjustment Rule for Recovery of Carrying Costs Associated with Gas Storage Service*, Docket No. G-002/M-90-630, ORDER GRANTING VARIANCE FOR ONE YEAR, April 4, 1991 and ORDER EXTENDING VARIANCE AND SETTING FILING REQUIREMENTS, December 10, 1991.
- 8 *In the Matter of the Accounting for and Recovery of Conservation Expenses by Minnegasco, Inc.*, Docket No. G-008/CI-88-460, ORDER MODIFYING AND APPROVING COST RECOVERY PROPOSAL AND REQUIRING FILING, September 1, 1989.
- 9 See, for example, *In the Matter of the Proposal of Northern States Power Company's Gas Utility for a Demand-Side Management Incentive Mechanism*, Docket No. G-002/M-92-516, ORDER APPROVING DEMAND-SIDE MANAGEMENT FINANCIAL INCENTIVE PLAN WITH MODIFICATIONS AND REQUIRING FURTHER FILINGS, January 7, 1993.
- 10 See, *In the Matter of the Proposal of Otter Tail Power Company for a Demand-Side Management Financial Incentive*, Docket No. E-017/M-91-457, ORDER ESTABLISHING DEMAND SIDE MANAGEMENT INCENTIVE PILOT PROJECT AND REQUIRING FURTHER FILINGS, March 12, 1992.
- 11 *In the Matter of the Application of Interstate Power Company for Authority to Increase Its Rates for Electric Service in the State of Minnesota*, Docket No. E-011/GR-91-605, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER (June 12, 1992).
- 12 Staff notes that NSP-Electric's tariff on Continuity of Service was a part of NSP's tariffs prior to electric and gas utilities becoming rate regulated in Minnesota in 1974. The propriety of this kind of language has not come before the Commission for deliberation prior to it becoming an issue in this docket.
- 13 *In the Matter of a Request by Northern Minnesota Utilities for Approval of a New Town Rate*, Docket No. G-007/M-92-212, ORDER APPROVING TARIFF WITH MODIFICATIONS AND REQUIRING FURTHER FILING (May 6, 1992).
- 14 *In the Matter of the Application of Northern States Power Company for Authority to Increase its Rates for Electric Service in the State of Minnesota*, Docket No. E-002/GR-91-1, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER (November 27, 1991).