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December 30, 2010

*Via Hand Delivery*

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17105-3265

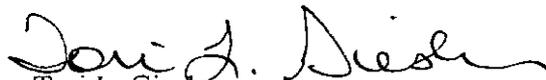
RE: Petition of UGI Utilities, Inc. – Electric Division for Approval of its  
Energy Efficiency and Conservation Plan; Docket No. M-2010-2210316;  
**PREHEARING MEMORANDUM**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission are an original and three (3) copies of the Prehearing Memorandum of UGI Utilities, Inc. – Electric Division (“UGI Electric”) in the above-captioned proceeding. UGI Electric has served this Prehearing Memorandum in accordance with the attached Certificate of Service.

Please do not hesitate to contact me if you have any questions related to this filing.

Very truly yours,

  
Tori L. Giesler

TLG/das

Enclosures

cc: Per Certificate of Service  
Honorable Susan D. Colwell

MAILING ADDRESS: P.O. BOX 1778 HARRISBURG, PA 17105

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF UGI UTILITIES, INC. :  
ELECTRIC DIVISION FOR APPROVAL :  
OF ITS ENERGY EFFICIENCY AND :  
CONSERVATION PLAN : Docket No. M-2010-2210316  
:

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**PREHEARING MEMORANDUM  
OF UGI UTILITIES, INC. – ELECTRIC DIVISION**

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TO THE HONORABLE SUSAN D. COLWELL:

UGI Utilities, Inc. – Electric Division (“UGI Electric”), by and through its counsel, files this Prehearing Memorandum in the above-captioned matter pursuant to Your Honor’s December 13, 2010 Order and 52 Pa. Code § 5.222. In support thereof, UGI Electric represents as follows:

**I. COUNSEL OF RECORD FOR SERVICE LISTS**

1. UGI Electric is represented in the above-captioned matter by the following counsel:

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Please include the above-listed counsel on the service lists for all documents in this matter.

## **II. OVERVIEW OF UGI ELECTRIC'S FILING**

In this proceeding UGI Electric seeks approval of its Energy Efficiency and Conservation Plan ("EE&C Plan") and related Energy Efficiency and Conservation Rider ("EEC Rider") and Conservation Development Rider ("CD Rider") (the EEC Rider and the CD Rider are collectively referred to herein as the "Riders"). The EEC Rider is designed to fully recover all applicable design, development, and implementation costs related to UGI Electric's Plan. The EEC Rider is fully reconcilable and will be applied to all customers who receive distribution service. UGI Electric's CD Rider is designed to maintain revenue stability necessitated by projected reduced energy consumption as a result of EE&C Plan implementation. The CD Rider is also a reconcilable charge applicable to all UGI Electric customers. UGI Electric filed the EE&C Plan and related Riders on November 9, 2010.

## **III. ISSUES PRESENTED**

The issue in this case is whether UGI Electric's voluntary EE&C Plan and related Riders are in the public interest. Act 129's<sup>1</sup> mandatory provisions concerning energy conservation do not apply to UGI Electric, but the Commission's December 23, 2009 Secretarial Letter

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<sup>1</sup> Act 129 of 2008, P.L. 1592, 66 Pa.C.S §§ 2806.1 and 2806.2 ("Act 129").

encouraging voluntary EE&C plans indicated “certain elements of the Act 129 EE&C Program are instructional and applicable to any prudent and cost-effective EE&C program.” Given this framework, UGI Electric believes that the following issues may be raised in this proceeding:

a. Whether UGI Electric’s proposed Plan programs are cost-effective under the Total Resource Cost (“TRC”) Test, as defined in Act 129 and applied by the Commission pursuant to order at Docket No. M-2009-2108601;

b. Whether UGI Electric’s proposed Plan programs meet the definition of an “energy efficiency and conservation measure” as defined in Act 129;

c. Whether UGI Electric’s proposed EEC Rider accurately reflects the recovery of justifiably reasonable and prudent costs incurred related to the implementation and management of its proposed Plan;

d. Whether the recovery of those costs are properly allocated to the appropriate rate classes; and

e. Whether UGI Electric’s proposed CD Rider should be approved in order to allow UGI Electric to implement its Plan as proposed without disincentives caused by lost revenue.

UGI Electric maintains that the answer to each of these questions is in the affirmative.

#### **IV. WITNESSES**

UGI Electric served its direct testimony on November 9, 2010 as follows:

1. **Brian J. Fitzpatrick**, who serves as Manager – Energy Efficiency and Conservation for UGI Utilities, Inc. Mr. Fitzpatrick’s business address is 2525 N. 12<sup>th</sup> Street, Suite 360, Reading PA 19612, and his telephone number is 610-796-3504. Mr. Fitzpatrick’s prepared direct testimony was submitted as **UGI Electric Statement No. 1**,

in which he has described: (a) the goals, approach, and process that UGI Electric applied to the preparation of its EE&C Plan; and (b) UGI Electric's proposal for Plan implementation, program verification, and reporting, including administrative requirements.

2. **Paul H. Raab**, who is a Consultant and Partner at energytools, llc. Mr. Raab's business address is 5313 Portsmouth Road, Bethesda, MD 20816, and his telephone number is 800-719-5735. Mr. Raab's prepared direct testimony was submitted as **UGI Electric Statement No. 2**, in which he has addressed: (a) UGI Electric's Plan standards as set forth in the Secretarial Letter issued by the Commission to smaller EDCs regarding the submission of voluntary EE&C plans and how UGI Electric's EE&C Plan will meet those requirements; (b) how the EE&C Plan was developed; and (c) an explanation of the Plan's compliance with the Commission's guidelines for smaller EDCs.

3. **William J. McAllister**, who serves as Senior Rates Analyst for UGI Electric. Mr. McAllister's business address is 2525 N. 12<sup>th</sup> Street, Suite 360, Reading PA 19612, and his telephone number is 610-796-3471. Mr. McAllister's prepared direct testimony was submitted as **UGI Electric Statement No. 3**, in which he has addressed: (a) UGI Electric's proposal to recover the costs for developing and implementing its three-year EE&C Plan; and (b) UGI Electric's proposal to maintain revenue stability as a result of customers taking advantage of the various EE&C Plan programs and measures.

## V. PROCEDURAL SCHEDULE

UGI Electric suggests one additional milestone date and two minor modifications (for dates that fall on weekends) to the schedule contained in the Prehearing Order, as follows:

- Company rejoinder April 29, 2011

- Response brief

June 13, 2011

In the event the prehearing memos of other parties indicate lack of unanimity on the procedural schedule contained in the Prehearing Order, UGI Electric will attempt to confer with the parties in advance of the prehearing conference to achieve a mutually agreeable schedule.

UGI Electric proposes that the dates for submission of discovery, testimony and briefs are for “in-hand” delivery, which may be satisfied by electronic mail service no later than 5:00 p.m., followed by hard copy via first class mail. UGI Electric also proposes that, should any of these deadlines fall on a Friday, the submitted materials be served no later than noon on the date due.

## **VI. DISCOVERY**

UGI Electric has already received and responded to one set of discovery, and stands ready to respond to formal discovery requests and to respond to informal discovery as requested.

Assuming adoption of the Prehearing Order’s procedural schedule, there does not appear to be a need for accelerated discovery deadlines in the first phase of the case leading up to the filing of other parties’ direct testimony on March 17, 2011. After March 17, however, the litigation schedule is more compressed and accelerated deadlines appear necessary if discovery is directed to parties in preparation for Company rebuttal and rejoinder and other parties’ rebuttal. Accordingly, UGI Electric proposes the following modifications to the Commission’s regulations at 52 Pa. Code § 5.342 regarding discovery to take effect beginning on March 17, 2011:

- a. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service. Interrogatories served after 12 p.m. on a Friday will be deemed served on the next business day.

- b. Objections to interrogatories shall be communicated orally within three (3) calendar days of service of the interrogatories; unresolved objections shall be served to the ALJ in writing within five (5) days of service of the interrogatories.
- c. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of the written objections.
- d. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
- e. Ruling over such motions shall be issued, if possible, within seven (7) calendar days of the filing of the motion.
- f. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within ten (10) calendar days.
- g. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
- h. If a document subject to a three-day turn-around is due on a Monday, the due date shall be deemed to be Tuesday.
- i. The Commission's regulations regarding discovery at 52 Pa. Code § 5.342(d) are modified to provide that objections to discovery are in lieu of answers, and not in addition to answers.
- j. Discovery disputes may be resolved via telephone conference with the presiding officer without need of a motion to compel, although the propounding party may choose to file a formal motion to compel.

## **VII. PROTECTIVE ORDER**

UGI Electric anticipates the need for a protective order and will work with the parties to arrive at a consensus Draft Protective Order for submission to Your Honor.

## **VIII. INTERVENTIONS**

As of the date of filing of this Prehearing Memorandum, the only intervention of which UGI Electric is aware filed by a non-statutory party is that of the Sustainable Energy Fund of Central Eastern Pennsylvania (“SEF”). UGI Electric has no objection to SEF’s intervention.

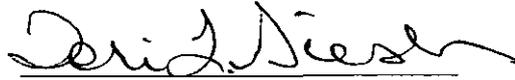
## **IX. SERVICE LIST**

UGI Electric proposes that the official service list in the case contain the statutory advocates and parties that have applied for and been granted intervention.

X. SETTLEMENT

UGI Electric stands ready to engage in settlement discussions with any party.

Respectfully submitted,



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*Counsel for UGI Utilities, Inc. – Electric Division*

Dated: December 30, 2010

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**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving the foregoing document upon the persons named and in the manner indicated below which service satisfies the requirements of 52 Pa.Code § 1.54 (relating to service by a party).

**VIA ELECTRONIC AND FIRST CLASS MAIL**

The Honorable Susan D. Colwell  
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Tori L. Giesler

Dated this 30<sup>th</sup> day of December, 2010.

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