



May 31, 2012

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Implementation of Act 11; Docket No. M-2012-2293611

Dear Secretary Chiavetta:

Enclosed for e-filing in the above-captioned docket are the written comments of the UGI Utilities, Inc., UGI Central Penn Gas, Inc. and UGI Penn Natural Gas, Inc (collectively the "UGI Distribution Companies"). A paper copy of this filing, along with the e-filing confirmation, will be provided to the Secretary's Bureau via first-class mail.

Should you have any questions concerning this filing, please feel free to contact me at (610) 992-3750 or ElatiehM@ugicorp.com.

Very truly yours,

Melanie J. Elatieh

Attorney for UGI Distribution Companies

Enclosure

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Act 11

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Docket No. M-2012-2293611

**COMMENTS OF THE
UGI DISTRIBUTION COMPANIES**

UGI Utilities, Inc., UGI Central Penn Gas, Inc. and UGI Penn Natural Gas, Inc. (collectively, the “UGI Distribution Companies” or “UGI Distribution”) appreciate the opportunity to submit comments in response to the Commission’s Tentative Implementation Order entered May 11, 2012 at the above-captioned docket. UGI Distribution participated in the preparation of the comments submitted by the Energy Association of Pennsylvania (“EAP”) at this docket, and the following comments are intended to supplement EAP’s comments.

UGI Distribution applauds the adoption of Act 11, and believes it will, among other things, provide an important source of funding for infrastructure improvement projects for those natural gas distribution companies (“NGDCs”) and electric Distribution Companies (“EDCs”) that qualify for and establish distribution system improvement charge (“DSIC”) mechanisms. Consistent with the terms of Act 11 and the Tentative Implementation Order, NGDCs and EDCs that are DSIC-eligible will be required to (1) file and obtain approval of long-term infrastructure plans, and (2) periodically report on their progress in meeting goals under these plans through the filing of asset optimization plans. In review of the Tentative Implementation Order, UGI Distribution offers the following comments for the Commission’s consideration in an effort to

finalize Act 11 implementation in a form and manner that will be the most effective and efficient.

I. Customer Notice

UGI Distribution understands the Commission's discussion of this issue on page 13 of the Tentative Implementation Order, along with the language in the model tariff of Appendix A, to mean that the explanatory bill insert with the first billing will be a one-time bill insert following the initial DSIC rate mechanism implementation, and any subsequent quarterly adjustments of the DSIC charge shall be noticed to customers by inclusion of clear information on the bill following each change. UGI Distribution asks the Commission to confirm or clarify this understanding and provide any additional guidance concerning its expectations, if any, for providing these customer notices.

II. Cost of Equity

Section 1357(b)(2) of Act 11 states: "The cost of equity shall be the equity return rate approved in the utility's most recent *fully litigated base rate proceeding* for which a final order was entered not more than two years prior to the effective date of the distribution system improvement charge" (emphasis added). Section 1357(b)(3), in turn, provides that if more than two years has elapsed then the applicable equity rate shall be the rate "calculated by the Commission in the most recent Quarterly Report on the Earnings of Jurisdictional Utilities released by the Commission."

In the Tentative Implementation Order, the Commission explained that a *fully litigated base rate case* is one in which all revenue requirement issues were addressed and adjudicated by the Commission in a final rate order. As such, the Commission stated that a full or partial settlement of a base rate case would not qualify. However, the Commission invited comments on

whether a stipulated cost of equity from a settled rate case, agreed to or unopposed by all parties, can be used consistent with Section 1357 (b)(2).

The UGI Distribution Companies believe that the obvious intent of Act is to make sure that the equity rate used in DSIC rate calculations was recently reviewed and approved by Commission. UGI Distribution believes this can occur in the context of a full settlement of a base rate proceeding (*i.e.*, where all parties either agree or do not oppose) where the equity rate is specified in the Commission-approved settlement. In such a circumstance, UGI Distribution believes the Commission should consider the equity rate specified in the full settlement agreement to have been “fully litigated,” and thus permissible for purposes of the DISC calculations.

Furthermore, to continue the Commission’s long-standing policy of encouraging settlements, in instances where a full settlement is reached among the parties but does not specify the cost of equity, UGI Distribution believes the Commission should clarify that the equity rate calculated by the Commission in the most recent Quarterly Report on the Earnings of Jurisdictional Utilities will apply in such situations.

III. Equal Percentage Allocation

In the traditional rate-making process, cost and investment responsibility is determined by rate class and is used in designing class rates. However, the Commission has recognized that certain customers with competitive options (e.g. large commercial and industrial customers) may bypass distribution system assets all together and thus not contribute to the recovery of system costs unless their rates can be flexed down (pursuant to tariff flex rates) to reflect the market prices of their competitive energy alternatives, which prices can vary over time. To account for such variable and unpredictable loads, utility revenue requirements may be reduced by a

specified amount and the utility placed at risk for the recovery of this revenue reduction. In such instances, any attempt to place a surcharge or rider on competitively-determined rates will likely not be effective in raising additional revenue, since the utility is essentially powerless to charge more than the customer's competitive energy alternative costs.

Section 1358(d)(1) of Act 11 states, in pertinent part, that: "the distribution system improvement charge shall be applied equally to all customer classes as a percentage of each customer's billed revenue..." UGI Distribution believes that the obvious intent of this section is to specify a simple method for determining how DSIC costs are to be recovered among classes, thereby avoiding the complications of trying to determine class-responsibility for each investment. However, this public policy call on how DISC recovery is to be performed among all classes should not distract the Commission from the fundamental fact that the DISC mechanism is intended to be a cost recovery mechanism for incremental investments made between base rate cases, and that incremental revenue recovery likely will not be obtained by imposing a surcharge or rider on competitively-determined rates.

Thus, UGI Distribution believes, at a minimum, that DSIC surcharges or riders should not be applied to customers with competitively-determined rates, thereby limiting recovery to those customers in each rate class which are able to provide incremental revenues to fund DSIC-eligible investments made between base rate cases. UGI Distribution also believes that the language in Section 1358(d)(1) is sufficiently broad to enable the Commission, if it is so inclined, to permit variations in the DSIC percentage rate between rate classes to account for variations in the percentage of class loads that are served under competitive rate arrangements. In other words, a utility may be able to recover a slightly higher percentage from certain customers within a rate class, in recognition of other customers within that same rate class as competitively-

sensitive, thereby creating a total class recovery amount that is equal in overall percent to all other customer classes.

Alternatively, or in addition, UGI Distribution believes that the Commission should consider allowing utilities to establish a regulatory asset between rate cases where amounts that would otherwise be charged to competitively-sensitive customers could be accumulated and, in the next rate case, appropriately allocated for recovery.

IV. Specifying FERC Account Numbers in the DSIC Tariff

Under the definition of “Eligible property” in Section 1351 of Act 11, the General Assembly identified by name the specific types of property that NGDCs and EDCs may install and seek cost recovery for through a DSIC mechanism. In the proposed *model* DSIC tariff attached to the Tentative Implementation Order, the Commission proposed to require the additional step of identifying the categories of property names by FERC account numbers.

The problem with this approach is that many of the categories of property identified by name in Section 1351 may fall into more than one category of FERC accounts or the account which has been identified is incorrect. For example, with regard to Natural Gas Distribution Company Eligible Plant:

- Piping (defined in the model tariff as account 376, however, transmission piping is in account 367 and related piping may be found in accounts 378, 379 and 369);
- Couplings (defined in the model tariff as account 376, however, couplings may also be in accounts 367, 378, 379 and 369);
- Gas services lines (defined in the model tariff as account 378, however, services are generally found in account 380 and not account 378) and insulated and non-insulated fittings (defined in the model tariff as account 378, however, fittings will be found in many accounts, including: account 367, 376, 380, 378, 379, 382, and 384);
- Valves (defined in the model tariff as account 376, however, valves will also be found in accounts 367, 369, 378, 379 and 380);

- Excess flow valves (defined in the model tariff as account 376, however, these are typically found in accounts 378, 379, 369, and 380);
- Risers (defined in the model tariff as account 376, however, risers are not typically found in account 376 but rather account 380, 383 and 384);
- Meter bars (defined in the model tariff as account 382, but these can also be in accounts 381, 383 and 384); and
- Meters (defined in the model tariff as account 381, but may also be in 382).

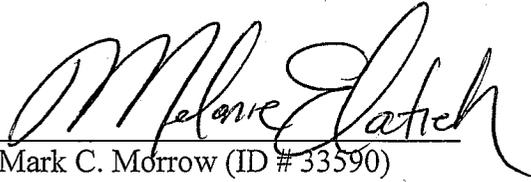
Moreover, it is difficult for UGI Distribution to reasonably foresee and predict which FERC accounts each type of investment might fall into at some future point in time. For example, the use of pre-fab service risers and regulator/meter assemblies have, over time, changed the location of specific riser/regulator/meter/meter bar investments across FERC accounts. Of particular note, as outlined above, it appears that the *model* tariff is only using FERC accounts applicable to distribution facilities, although NGDCs may also have transmission lines on their systems that contain assets defined as Eligible property under Act 11.

Accordingly, UGI Distribution believes the appropriate identification of Eligible property can be made as part of each respective utility's Act 11 DSIC tariff filing and does not need to be specified in the model tariff by FERC account numbers.

V. Conclusion

The UGI Distribution Companies look forward to working with the Commission in its efforts to implement Act 11 and in otherwise cooperating in the development of infrastructure improvement goals.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Melanie Elatieh". The signature is written in a cursive style and is positioned above a horizontal line.

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Dated: May 31, 2012