

April 7, 2006

VIA EXPRESS MAIL

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**Re: Implementation of the Alternative Energy Portfolio Standards
Act of 2004, Docket No. M-00051865**

**Rulemaking Re Electric Distribution Companies' Obligation to
Serve Retail Customers at the Conclusion of the Transition Period
Pursuant to 66 Pa. C.S. § 2807(e)(2), Docket No. L-00040169**

Dear Secretary McNulty:

Enclosed for filing please find an and original and fifteen copies of the reply
comments of UGI Utilities, Inc. – Electric Division. A copy of these comments has also
been sent electronically to Carrie Beale at cbeale@state.pa.us.

Should you have any questions concerning this filing, please feel free to contact
me.

Very truly yours,

Mark C. Morrow

Counsel for UGI Utilities, Inc. –
Electric Division

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Implementation of the Alternative Energy Portfolio Standards Act of 2004	:	Docket No. M-00051865
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Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa. C.S. § 2807(e)(2)	:	Docket No. L-00040169
	:	
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**REPLY
COMMENTS OF UGI UTILITIES, INC. -
ELECTRIC DIVISION**

UGI Utilities, Inc. – Electric Division (“UGI”) appreciates this opportunity to submit this reply to the comments filed in the above-captioned proceeding.

**THE COMMISSION SHOULD NOT HEED CALLS
TO ADOPT DEFAULT SERVICE REGULATIONS IN AN
EXPEDITED FASHION OR, ALTERNATIVELY,
SHOULD DEFER THE EFFECTIVE DATE OF ANY
REGULATIONS UNTIL 2011**

Some of the parties submitting comments at this docket have argued for the rapid adoption of default service regulations to provide guidance in interim POLR proceedings, to provide comfort to investors in electric distribution companies or to provide time to prepare for post-statutory rate cap default service obligations. UGI believes, however, these objectives would either not be advanced by the immediate adoption of default service regulations, or are outweighed by the compelling reasons for deferring immediate action. Accordingly, UGI urges the Commission to defer the adoption of final default service regulations until shortly before 2010 or 2011, when the vast majority of electric

consumers in the Pennsylvania will no longer be subject to statutory rate caps, or to defer the effective date of default regulations until 2010 or 2011.

UGI has consistently argued in both the Commission's Roundtable proceeding and at this docket that the Commission should defer the adoption of default service rules until near the end of the period when most statutory rate caps expire to consider the effects of further developments in wholesale markets, changes in regulatory policies and the outcomes of retail choice programs both in Pennsylvania and other jurisdictions. Based on its long experience in procuring both electric power and gas in wholesale energy markets, UGI has also urged the Commission to not precipitously adopt an auction model for the procurement of wholesale power, and the Commission has wisely left room for differing competitive procurement approaches in its current draft regulations.

Evolving events and conditions during the course of the Commission's evaluation of default service rules have confirmed the wisdom of deferring final action on default service rules and of maintaining the flexibility to adapt to changing conditions and events.

For example, issues associated with the adoption and implementation of the Alternative Energy Portfolio Standards Act have resulted in the reopening of this docket for further public comments, and could lead to changes in the default service regulations that would have been more difficult to implement if the proposed default service regulations had been finalized.

The Commission's investigation of the results of the Pike County Light & Power Company competitive procurement process¹, its consideration of the retail aggregation proposal submitted by Direct Energy, and the recent lack of bidders in the most recent competitive solicitation of the Duquesne Light Company, also show that there may still be much to be learned about how best to procure default service supplies in evolving wholesale power markets, and that flexible and creative approaches may need to be taken to meet local conditions and needs.

Also, the results of the recent competitive procurement processes in Maryland and Delaware have triggered further reviews of competitive procurement policies, and the New Jersey Board of Public Utilities has announced a further review of its auction process for procuring default service supplies.² By deferring immediate action, the Commission can have the benefit of reviewing the developing experiences and policies of other jurisdictions in crafting final rules.

UGI believes that the lack of final regulations will not impede the crafting of any further interim default service plans for the few electric distribution companies that are currently out from under the statutory rate cap, and that these interim default service proceedings can provide the Commission with valuable lessons that can be considered in adopting final default service rules and regulatory policies. For example, UGI has been able to operate under interim default service plans using a portfolio and risk management approach that is market-based (UGI procures all of its power in the wholesale markets

¹ In this investigation a coalition of industrial customers filed comments asserting that the locational marginal pricing model used within certain RTOs, including the PJM Interconnection LLC, may not producing appropriate results.

² <http://www.pcs.state.md.us/pcs/aboutus/Press/MitigationPlanBGE03062006.pdf>;
http://www.state.de.us/governor/publications/Governors_Energy_Report.pdf;
<http://bpu.state.nj.us/wwwroot/energy/BGSProceednotice.pdf>.

from unaffiliated suppliers), but has produced rates that are significantly below those established through auction processes. UGI has also been able to offer multiple year price protection plans guaranteeing rates over an extended period that have selected by approximately one third of the load and one third of the customers in each customer class that has both provided considerable savings and price certainty. Important experience and lessons have also undoubtedly resulted from the experience gained under other interim default service plans. Moreover, the Commission's proposed default service regulations wisely provide for flexibility in approach, and the immediate adoption of such regulations would not definitively resolve all default service procurement issues as some commenters apparently assume.

UGI would also urge the Commission to cast a skeptical eye on assertions that the immediate adoption of default service regulations is required to assure investors or would facilitate advance preparation. The rapid adoption of default service regulations well in advance of the date such regulations would have applicability to the vast majority of Pennsylvania electric consumers would not mean that the regulations could not be further revised to reflect new regulatory or market developments and, as noted above, the proposed regulations wisely do not prescribe rigid default service procurement rules, but instead permit a variety of competitive procurement policies to be proposed. If an individual electric distribution company needs some regulatory guidance in advance of the date statutory rate caps expire to make necessary preparations, it can always make a filing at the Commission to receive such guidance even if default service regulations are not yet effective. There is also no evidence that investors are clamoring for the adoption of final regulations.

Accordingly, UGI would strongly urge the Commission to defer the adoption of default service regulations until sometime shortly before 2010 or 2011 so that it can evaluate and consider the implications of the still evolving wholesale and retail electric markets, and the results of interim default service plans and approaches within Pennsylvania, and the results of retail choice programs and regulatory approaches in other jurisdictions. Alternatively, should the Commission decide to proceed with the rapid adoption of default service regulations, it should defer the effective date of such regulations until 2010 or 2011 so that it will have the flexibility to make necessary corrections if future events suggest that revisions are necessary to protect the public interest or meet evolving regulatory requirements.

Respectfully submitted,

Mark C. Morrow
460 North Gulph Road
King of Prussia, PA 19406
Tel.: (610) 768-3628
Fax.: (610) 992-3258
morrowm@ugicorp.com

Counsel for UGI Utilities, Inc. –
Electric Division

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