BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of UGI Utilities, inc. :

Electric Division for Approval : Docket No. M-2010-2210316

Of Its Energy Efficiency and :

Conservation Plan :

**PROTECTIVE ORDER**

 On November 9, 2010, UGI Utilities, Inc. Electric Division (UGI) filed a petition (Petition) seeking approval for its Energy Efficiency and Conservation Plan (EE&C Plan). The cover letter specifies that UGI requests Commission approval on or before September 30, 2011.

 On November 29, 2010, answers to the Petition were filed by the Office of Trial Staff (OTS), the Office of Consumer Advocate (OCA), and the Office of Small Business Advocate (OSBA). On December 1, 2010, the Sustainable Energy Fund of Central Eastern Pennsylvania (SEF) filed a Petition to Intervene.

 On December 13, 2010, a Notice of Prehearing Conference was issued which set the prehearing conference for January 5, 2010. Also on December 13, 2010, a Prehearing Order was issued which directed the filing of a prehearing memo on or before December 30, 2010 and set forth the expectations for the prehearing conference. All entities listed on the service list of the Petition were served with the prehearing order. Included was the direction that any entity wishing to participate in the proceeding must file the appropriate pleading and be eligible for party status in order to become a party. Following the prehearing conference, those who fail to qualify as a party are removed from the service list. The current service list is attached to this Order.

 Prehearing memos were filed by UGI, OCA, OTS, SEF and OSBA.

 The prehearing conference was convened as scheduled, attended by the following counsel: On behalf of UGI, Kevin McKeon, Esq., Tori L. Geisler, Esq., and Melanie J. Tambolas, Esq.; on behalf of OTS, Charles Daniel Shields, Esq.; on behalf of OCA, Christy M. Appleby, Esq. and David Evrard, Esq.; on behalf of OSBA, Stephen Gray, Esq.; on behalf of SEF, Kenneth Mickens, Esq. These are the parties to this proceeding, and all other entities were removed from the official service list.

 UGI indicated that it will be seeking a protective order and will work with the other parties to develop a consensus draft order.

 A Scheduling Order was issued January 12, 2011.

 On January 20, 2011, UGI filed a Motion for Protective Order which states that OTS, OCA, OSBA and SEF do not oppose the Motion and asks that the Protective Order be issued without waiting for the time to file answers. As there is no opposition, there is no need to wait until the answer period runs.

 THEREFORE,

IT IS ORDERED:

 1. That this Protective Order is hereby issued with respect to all materials and information identified in Paragraph 2 of this Protective Order which are filed with the Commission, produced in discovery, or otherwise presented for the record during these proceedings. All persons now and hereafter granted access to the materials and information identified in Paragraph 2 of this Protective Order shall use and disclose such information only in accordance with this Order.

 2. That the materials and information subject to this Order (hereafter, “Proprietary Information”) consist of all information, data, exhibits, schedules identified by the producing party as “Confidential.” Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the disclosing party, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information. One permissible means of designating portions of a statement or exhibit to be Proprietary Information shall be to stamp the words “Proprietary” or “Confidential” thereon.

 3. Proprietary Information may be made available to the Commission and its Advisory Staff for use in this proceeding. For purposes of filing, to the extent that Proprietary Information is placed in the Commission's report folders, such information shall be handled in accordance with routine Commission procedures in as much as the report folders are not subject to public disclosure. To the extent that Proprietary Information is placed in the Commission's testimony or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Order. Public inspection of Proprietary Information shall be permitted only in accordance with this Protective Order.

 4. Proprietary Information shall be made available to counsel of record in this proceeding. And such information shall be used only for purposes of preparing or presenting evidence, cross examination or argument.

 5. Prior to making Proprietary Information available to any employee, agent or contractor of a participant in this proceeding (“Participant”), counsel for Participant shall provide a copy of this Protective Order to the employee, agent or contractor, and, except for employees of the Office of Trial Staff, the employee, agent or contractor shall execute a written acknowledgment in the form attached as Appendix A hereto. Upon request, Participant shall provide UGI Electric with a list of Participant employees, agents or contractors who have signed the above-referenced acknowledgment. The employees of the Office of Trial Staff provided a copy of this Protective Order and bound by its provisions will be those technical staff expert witnesses listed in the OTS Prehearing Memorandum and technical staff supervisor(s).

 6. No other persons may have access to the Proprietary Information except as authorized by order of the Commission or of the presiding Administrative Law Judge. No person who may be entitled to receive, or who is afforded access to any Proprietary Information shall use or disclose such information for the purposes of business or competition, or any purpose other than the preparation for and conduct of this proceeding or any administrative or judicial review thereof.

 7. Any public reference to Proprietary Information by counsel or person afforded access thereto shall be only to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to fully understand the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

 8. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination, argument and responses to discovery, and including reference thereto as mentioned in ordering Paragraph 7 above, shall be sealed for all purposes, including administrative and judicial review, unless and until such Proprietary Information is released from the restrictions of this Order, either through the agreement of the parties or pursuant to order of the Administrative Law Judge or of the Commission. Unresolved challenges arising under Paragraph 9 shall be decided on motion or petition by the presiding officer or the Commission. All such challenges will be resolved in conformity with existing rules, regulations, orders, statutes, precedent, etc., to the extent that such guidance is available.

 9. The parties affected by the terms of this Order shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information; to question or challenge the admissibility of Proprietary Information; to refuse or object to the production of Proprietary Information on any proper ground, to seek an order permitting disclosure of Proprietary Information beyond that allowed in this Order; and to seek additional measures of protection of Proprietary Information beyond those provided in this Order. If a challenge is made to the designation of a document or information as Proprietary, the party claiming that the information is Proprietary retains the burden of demonstrating that the designation is necessary and appropriate.

 10. Upon the conclusion of this proceeding, including any administrative or judicial review, all copies of all documents and other materials, including notes, which contain any Proprietary Information shall be immediately returned upon request to the party furnishing such Proprietary Information. In the alternative, parties may provide an affidavit of counsel affirming that the materials containing or reflecting Proprietary Information have been destroyed.

Dated: January 20, 2011 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Susan D. Colwell

Administrative Law Judge

**APPENDIX A**

BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Of Its Energy Efficiency and :

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TO WHOM IT MAY CONCERN:

 The undersigned is an employee, agent or contractor for the entity participating in the above-captioned proceeding ("Participant"). The undersigned has read and understands the Protective Order issued in the above-captioned proceeding, which Protective Order deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Protective Order.

 NAME

 ADDRESS

 PARTICIPANT

**M-2010-2210316 – PETITION OF UGI UTILITIES INC - FOR APPROVAL OF ITS ENERGY EFFICIENCY AND CONSERVATION PLAN.**

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