

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Harrisburg, Pennsylvania 17105-3265**

**Pennsylvania Public Utility Commission,  
Law Bureau Prosecutory Staff**  
v.  
**UGI Utilities, Inc.**

**Public Meeting held May 24, 2012  
2141712-OSA  
Docket No. M-2012-2141712**

**MOTION OF COMMISSIONER WAYNE E. GARDNER**

Before us today for consideration is a Settlement Agreement between the Commission's Law Bureau Prosecutory Staff (Prosecutory Staff) and UGI Utilities (UGI). This Settlement is the result of an informal investigation<sup>1</sup> conducted by Prosecutory Staff into an incident which damaged UGI's natural gas facilities.

On August 6, 2009, the Commission's Gas Safety personnel and UGI were investigating whether UGI had a tapping tee safety issue. During the course of this investigation, a Commission Gas Safety engineer observed a UGI backhoe strike a tapping tee causing the failure of a distribution main and a release of natural gas. The engineer then witnessed two UGI crew members enter the excavation pit without using proper safety procedures. The crew members failed to properly ground themselves, wear breathing apparatuses, or use fire retardant gloves, goggles, or hoods. The UGI crew continued to excavate to expose the tee and to squeeze off the distribution main but stopped when the gas flow began to slow and they became concerned about customer outages due to reduced flow. The crew then inserted a wooden plug where the tee had failed as a make-shift repair. After conducting an informal investigation, the Commission's Prosecutory Staff determined that UGI had violated several state and federal regulations.<sup>2</sup>

Pursuant to the Settlement Agreement, UGI agrees to: (1) pay a \$25,000 civil penalty; (2) cease and desist from committing further violations; (3) retrain work crews regarding emergency procedures; (4) modify its procedures to include a section related to blowing gas; (5) implement a crew job plan process as part of its revised excavation safety program; and (6) include instructions in its procedures to notify dispatch and call 911 when gas is escaping. UGI has also agreed to hold two educational sessions for small system operators identified by the Commission.

It bears emphasizing that this is the eighth settlement agreement entered into between UGI and the Commission's Prosecutory staff over a time period of less than five years. The seven prior settlements also resulted from allegations of gas safety violations.<sup>3</sup> In each of those

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<sup>1</sup> An informal investigation is a matter initiated by the Commission which may result in a formal complaint, settlement or other resolution. A formal investigation is matter initiated by the Commission that results in a formal record. 52 Pa. Code § 1.8(a).

<sup>2</sup> Based on my review of the incident and alleged violations, if proven, the Commission would be well within its discretion to impose a substantial civil penalty up to \$500,000. 66 Pa.C.S. § 3301(c).

<sup>3</sup> These allegations have included: improperly marked lines, inadequate training, failure to provide safe equipment to its employees, failure to document procedures for emergency response; failure to turn off the gas supply following an incident before allowing emergency responders, inspectors, utility workers, and residents to access the site.

settlements, UGI agreed to pay a civil penalty and to undertake remedial measures. Many of the remedial measures involved retraining its work crews and modifying various aspects of its procedures. UGI has agreed, yet again, to pay a civil penalty, retrain its crews, and modify its procedures. It is clear that UGI is still experiencing lapses in safety protocol as evidenced by the incident under review. These recurring allegations are troubling. It has become apparent that the imposition of small to moderate civil penalties and remedial measures has not persuaded UGI to improve the safety practices within its companies.

Due to the seriousness of the alleged violations and the number of reoccurring allegations, I believe that this Settlement should be rejected. UGI's work crew entered a pit with the blowing gas without basic safety gear. Since only the Settlement agreement is before the Commission, we do not know if this happened because the crew members were under-trained or because they were not provided with necessary safety gear. Either way, the result is the endangerment of the lives of the crew and the public. Additionally, the crew made a makeshift repair by using some type of wooden plug to stop the flow of gas thereby placing the public at further risk.

The Legislature has entrusted this Commission with the important task of ensuring that our public utilities operate safely. It is clear that previous penalties and conditions imposed on UGI have not had the intended effect of curbing gas safety violations. Accordingly, I recommend that the Settlement be rejected and the matter returned to the Bureau of Investigation and Enforcement for further action as deemed appropriate.

I strongly caution UGI and our other jurisdictional utilities that I will continue to monitor safety violations carefully and to track any trends in unsafe operational practices. I fully intend to utilize the authority given to this Commission by the Public Utility Code and our Regulations to deter unsafe practices.

**Therefore, I move that:**

The Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

**May 24, 2012**  
**Date**

  
**Wayne E. Gardner, Commissioner**