**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2016-2580030

Office of Consumer Advocate : C-2017-2585510

Office of Small Business Advocate : C-2017-2589092 :

:

v. :

:

UGI Penn Natural Gas, Inc. :

**PREHEARING ORDER**

On January 19, 2017, UGI Penn Natural Gas, Inc. (UGI PNG) filed Tariff Gas – Pa. PUC Nos. 9 and 9-S to become effective March 20, 2017, seeking a general rate increase calculated to produce $21.7 million (10.4%) in additional annual revenues. UGI PNG is also proposing to cancel the UGI PNG Tariff Gas – Pa. PUC Proctor and Gamble Tariff No. 1 as part of this filing.

By order entered February 9, 2017, the Commission suspended the filings pursuant to Section 1308(d) of the Public Utility Code, until October 20, 2017, unless permitted by Commission Order to become effective at an earlier date.

To date, the Commission’s Bureau of Investigation and Enforcement (BIE) entered its appearance in these proceedings, while the Office of Consumer Advocate (OCA) and the Office of Small Business Advocate (OSBA) filed complaints. Petitions to intervene were filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) and the Commission on Economic Opportunity (CEO).

A prehearing conference was held on Friday, February 17, 2017. Counsel for the Company, the statutory parties, and the interveners attended the conference. This Order memorializes the matters decided and agreed upon by the parties attending the conference.

**Consolidation**

The formal complaints of the Office of Consumer Advocate, C-2017-2585510 and the Office of Small Business Advocate, C-2017-2589092, were consolidated at Docket R‑2016-2580030.

**Petitions to Intervene**

No party objected to the intervention of CAUSE-PA or CEO. Therefore, both petitions to intervene were granted.

**Parties**

As of the date of this Order, the entities named above are the only parties involved in this case. The parties are directed to monitor filings with the Commission’s Secretary’s Bureau and advise the undersigned of any additional formal complaints filed after the date of this Order. A Service List of these parties is appended to this Order.

**Litigation Schedule**

The parties agree upon the following litigation schedule:

|  |  |
| --- | --- |
| Date | Event |
| January 19, 2017 | Company Submission of Filing & Testimony |
| February 17, 2017 | Prehearing Conference |
| March 2, 2017 | Written Supplemental Direct Testimony of the Company Due In-Hand. |
| April 13, 2017 | Written Direct Testimony of All Other Parties Due In-Hand |
| May 12, 2017, by noon | Written Rebuttal Testimony Due In-Hand |
| May 26, 2017 | Written Surrebuttal Testimony Due In-Hand |
| June 5, 2017, by noon | Witness Schedule Due In-Hand |
| June 6-8, 2017 | Technical Evidentiary Hearings and oral rejoinder in Harrisburg |
| June 23, 2017 | Main Briefs Due In-Hand |
| July 3, 2017 | Reply Briefs Due In-Hand or Submission of Joint Settlement Petition Executed By Representatives of All Parties, Together With All Parties’ Statements In Support of Settlement |

The parties are reminded of the Commission’s requirements for the preparation and filing of written testimony. 52 Pa.Code § 5.412. Written testimony must be accompanied by all exhibits to which it relates. Technical terms and concepts are to be clearly defined and explained in the testimonies and briefs. **The parties are to agree on a list of common acronyms and use them consistently in all written testimony and briefs.**

No written testimony will be admitted into evidence unless accompanied by a verification of affidavit of the witness.

Parties serving prepared testimony in proceedings pending before the Commission pursuant to 52 Pa.Code § 5.412(f) shall be required, within thirty (30) days after the final hearing in an adjudicatory proceeding to either eFile with or provide to the Secretary’s Bureau a Compact Disc (CD) containing all testimony furnished to the court reporter during the proceeding.

The above-stated dates are in-hand dates for service on the parties and the Presiding Administrative Law Judge (ALJ). The parties and the Presiding ALJ agree to accept email transmission of such material, so long as the subject email is received by 4:30 p.m. on the date due and provided the email is followed the next business day by sending a hard copy of the same material via first-class mail postage prepaid to the parties designated on the Full Service List. The email address of the Presiding ALJ is: [malong@pa.gov](mailto:malong@pa.gov). The Presiding ALJ will not accept facsimile transmissions greater than ten pages in length without prior authorization. If in doubt, please call the office (412‑565-3550).

Hearings will begin promptly at **10:00 a.m**. each day. The parties must confer before commencement of the hearings to schedule their witnesses so as to avoid “holes” or “dead time” during the hearings. In the event that a partial settlement is achieved, the parties should be prepared to proceed on the first scheduled day of hearing to present evidence on the non-resolved issues.

**Public Input Hearings**

At present, no party has identified substantial public interest in conducting a public input hearing in the Company’s service territory. If consumer interest arises, however, the parties are hereby directed to give this matter their prompt attention and notify the Presiding ALJ immediately of the change in circumstances.

**Issues**

In their respective prehearing memoranda, the parties identified various issues they may wish to pursue. The reader is directed to these documents to review a recitation of these issues. Additional issues may arise as the discovery process unfolds.

**Discovery**

The parties shall engage in informal discovery whenever and wherever possible in an attempt to resolve any discovery disputes amicably. 52 Pa.Code § 5.322. If this process fails, the parties have recourse to the Commission’s procedures for formal discovery, as herein modified. 52 Pa.Code §§ 5.321, *et* *seq*. The parties must not send the Presiding ALJ discovery material or cover letters, unless attached to a motion to compel. **All motions to compel must contain a certification of counsel of the informal discovery undertaken and their efforts to resolve their discovery disputes informally.** If a motion to compel fails to contain such certification, the Presiding ALJ will contact the parties and direct them to pursue informal discovery.

The parties agreed to the following modifications to the Commission’s procedures for formal discovery:

(a) Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service.

(b) Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within ten (10) calendar days.

(c) Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

(d) 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. Objections to interrogatories served on a Friday shall be communicated orally within four (4) calendar days, and unresolved objections shall be served to the ALJ in writing within six (6) days of service of the interrogatories.

(e) 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.

(f) 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.

(g) Discovery and discovery-related pleadings propounded after 12:00 noon on a Friday or after 12:00 noon on any business day immediately preceding a state holiday will be deemed served on the next business day for purposes of determining the due date of the responses and responsive pleadings.

**Settlement and Stipulations**

The parties are reminded it is the Commission’s policy to encourage settlements. 52 Pa.Code § 5.231(a). The parties are strongly urged to seriously explore this possibility. The parties shall notify the presiding ALJ on or before **4:00 p.m. on June 2, 2017,** if they have resolved their dispute. The first day of hearing will convene even if there is a partial settlement. The parties should be prepared to arrange the presentation of their witnesses accordingly.

Submission of a Joint Settlement Petition executed by representatives of all parties, together with all parties’ Statements In Support of Settlement, must be filed with the Secretary for the Commission and received in-hand by the Presiding ALJ no later than the close of business on **July 3, 2017.**

If settlement is not feasible, the parties are encouraged to stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all parties and conserve precious administrative hearing resources. 52 Pa.Code §§ 5.232 and 5.234. All stipulations entered into by the parties must be reduced to writing, signed by the parties to be bound thereby, and moved into the record during the hearings in this case. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing as herein directed.

**Cross-Examination**

Friendly cross-examination or cumulative cross-examination during hearings will not be permitted. 52 Pa.Code §§ 5.76 & 5.243.

**Briefs**

The parties must comply with 52 Pa.Code §§ 5.501, *et* *seq*., regarding the preparation and filing of briefs. Page limitations on briefs will be discussed on or before the last day of hearings. Where possible, the parties shall submit to the Presiding ALJ **one** hard copy of their briefs and one copy by email. If a party cannot provide a copy by email or on computer disk, it must submit two hard copies of briefs. The electronic version of a brief must be prepared on an IBM compatible system in *Microsoft Office Word 2010* format or in an earlier version of this software application. If in doubt, please call the office of the Presiding ALJ for clarification.

**IMPORTANT NOTICE**: All briefs **must** conform to the “Special Instructions for Briefs and Exceptions in Major General Rate Increase Proceedings,” which are attached hereto as Appendix A and incorporated herein by reference as fully as though they were set forth herein in detail. A party’s failure to follow these instructions in the smallest detail will result in non‑consideration of that party’s position, regardless of where the record may support it or the position of any other party to this proceeding. Your anticipated cooperation will be appreciated.

**Modification**

Any of the provisions of this Prehearing Order may be modified upon motion and good cause shown by any party in interest.

Date: February 22, 2017 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mary D. Long

Administrative Law Judge

**APPENDIX A**

Special Instructions for Briefs and Exceptions

in Major General Rate Increase Proceedings

1. Each brief shall follow the general organization shown in the attached standardized format.

2. Each brief shall contain a table of contents with page references to a summary of argument and to each topic addressed in the argument.

3. Adjustments contained in each brief shall:

a. be based on a specific test year, to be selected before the close of the record;

b. be complete and self-contained, include accurate reference to the appropriate record sources, be on a before-income-tax basis (never on a net income or revenue requirement basis) and be on a consistent jurisdictional basis (if record support cannot be located, the adjustment may/will be rejected);

c. be detailed to demonstrate the step-by-step calculation of that adjustment together with appropriate accurate record references (once again, if the record support cannot be located for the necessary steps, the adjustment may/will be rejected);

d. include concomitant rate base, revenue, expense, depreciation expense, and tax (i.e., taxes other, State Income, and federal Income) adjustments set forth, together with the details of their calculation;

e. include within the brief calculations which are the basis for proposed adjustments, but which are incomplete in the record.

4. Tables showing all proposed rate base and income adjustments, organized as shown in the attached Table I and Table II, shall be submitted with each brief which includes such adjustments.

a. The starting point of Table I “Income Summary” shall be the utility’s final pro forma showing at present rates. The ALJ shall specify the starting point to be the most recent update admitted into evidence. The update, admission, and ALJ ruling shall be cited on the table.

b. The effect of deferred or accrued taxes on the various tax adjustments presented in Table II “Summary of Adjustments” shall be indicated by a footnote.

5. The following schedules shall be submitted with each brief.

a. A schedule showing the precise derivation of any adjustment to proposed cash working capital allowance.

i. The schedule describing an adjustment to a Utility’s claim for Cash Working Capital shall separately list (1) adjustments originating from Table II “Summary of Adjustments” and (2) adjustments resulting from the proposed revenue increase. Any effect on deferred and/or accrued taxes shall be shown in a separate column or footnote.

ii. Net Revenue and Expense Lag Days for all Cash Working Capital Adjustments shall be calculated to at least one decimal place.

b. A schedule showing all tax and jurisdictional allocation factors utilized (any deviations from standard or obvious factors should be explained on the schedule on in the brief).

c. A schedule listing, for the party or parties filing the brief, each exhibit or other document admitted into the record, along with the date the document was identified and the date the document was admitted.

6. Rate structure proposals shall be reasonably specific and explicit, shall, as appropriate, refer accurately to record support and shall be summarized at the end of the “Rate Structure” topic heading of each brief.

7. Parties shall, as feasible and appropriate, discuss alternative rate design proposals for overall rate increases at and below the requested increase.

8. The Commission requires, in all electric utility rate proceedings, subsequent to its Order at Docket No. I-900005, entered December 1, 1993, that issues of demand-side management and integrated resource planning be addressed.

9. Regarding the filing of exceptions, the following instructions are provided:

a. Each exception shall be separately identified and, as necessary, discussed.

b. Each exception shall include, before any discussion is provided, the following elements (see examples attached):

i. a reference to the relevant part of the Recommended Decision, at least to the relevant pages;

ii. a reference to related discussions in the excepting party’s brief and, as appropriate, to other briefs; and

iii. a concise statement of the exception.

c. The exceptions shall follow the order of presentation provided in the table of contents to the Recommended Decision.

d. If a party takes exception concerning a topic not included within the Recommended Decision or the table of contents thereto, the appropriate exception shall be included at the end of the appropriate major topic heading (such as “Rate Base” or “Expenses”).

e. If a party seeks to correct computations associated with the Recommended Decision, replacement computations, with source references to briefs or the record, shall be provided.

Standardized Brief Format for General Rate Increase Proceedings

I. Introduction

II. Summary of Argument

III. Rate Base

A. Fair Value

B. Plant in Service

C. Depreciation Reserve

D. Additions to Rate Base

E. Deductions from Rate Base

F. Conclusion

IV. Revenues

V. Expenses

VI. Taxes

VII. Rate of Return

VIII. Miscellaneous Issue

IX. Rate Structure

A. Cost of Service

B. Revenue Allocation

C. Tariff Structure

D. Summary and Alternatives

X. Conclusion

Note: Appropriate modifications may be made. For instance, a party might add “Affiliated Interest Expenses” as a major topic heading or might brief only rate structure and not use other topic headings. A summary and alternatives should be provided under “Rate Structure” but the “Rate Base” and “Rate Structure” formats shown may be modified, as appropriate. Additional subheadings should be used, as appropriate.

TABLE I

Income Summary

($000)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | Pro Forma  Present  Rates | Recommended  Adjustments | Adjusted  Present  Rates | Revenue  Adjustment | Total  Allowable  Revenues |
|  | $ | $ | $ | $ | $ |

Operating Revenues

Deductions:

O&M Expenses

Depreciation

Taxes:

State

Federal

Other

Total Deductions

Net Income Available for Return

Rate Base

Recommended Rate of Return

TABLE II

Summary of Adjustments

($000)

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Recommended  Adjustments | Exhibit  Reference | Rate  Base  Effect | Revenue  Effect | Expense  Effect | Depreciation  Effect | Effect  Upon  Taxes -  Other | State  Tax  Effect | Federal  Tax  Effect |
|  |  | $ | $ | $ | $ | $ | $ | $ |

Total Adjustments

Company Rate Base

Recommended Rate Base

Examples of Specific Exceptions

1. Staff excepts to the ALJ’s rejection of the Staff (and OCA) rate case expense adjustment. See R.D., pp. 31-2; Staff brief, pp. 54-5; OCA brief, pp. 98-9. The $128,000 adjustment, based on a filing once every four years and on disallowance of certain expenses, should be accepted.

2. The Company excepts to the adoption of the OCA revenue adjustment. See R.D., pp. 28-30; Company brief, pp. 56-9; Company reply brief, p. 12. This adjustment was based on unreasonable projections of industrial consumption (see OCA brief, p. 84). The Company projection, as modified at Company St. 14, pp. 11-12, should be used.

3. OCA excepts to the ALJ’s failure to address, and accept, its weather adjustment to revenues. See OCA brief, pp. 21-4; OCA reply brief, p. 12.

4. Corrections to calculations underlying salary increases (R.D., p. 41), force reductions (R.D., pp. 48-9) and tax normalization (R.D., pp. 81-2) are offered and explained at Appendix B.

**R-2016-2580030 – PENNSYLVANIA PUBLIC UTILITY COMMISSION V UGI PENN NATURAL GAS INC**

*Revised 2/22/17*

KENT MURPHY ESQUIRE

MARK C MORROW ESQUIRE

DANIELLE JOUENNE ESQUIRE

UGI CORPORATION

460 NORTH GULPH ROAD

KING OF PRUSSIA PA 19406

***Accepts e-Service***

DAVID B MACGREGOR ESQUIRE

**\***CHRISTOPHER T WRIGHT ESQUIRE

\*GARRETT P LENT ESQUIRE

POST & SCHELL PC

17 N SECOND STREET 12TH FLOOR

HARRISBURG PA 17101-1601

*\*****Accepts e-Service***

**\***HARRISON W BREITMAN ESQUIRE

CANDIS A TUNILO ESQUIRE

DAVID T EVRARD ESQUIRE

OFFICE OF CONSUMER ADVOCATE

555 WALNUT STREET

5TH FLOOR FORUM PLACE

HARRISBURG PA 17101

**C-2016-2585510**

**\**Accepts e-Service***

STEVEN C GRAY ESQUIRE

OFFICE OF SMALL BUSINESS ADVOCATE

300 N SECOND STREET SUITE 202

HARRISBURG PA 17101

PHILLIP C KIRCHNER ESQUIRE

SCOTT B GRANGER ESQUIRE

PA PUBLIC UTILITY COMMISSION

BUREAU OF INVESTIGATION & ENFORCEMENT

PO BOX 3265

HARRISBURG PA 17105-3265

***Accepts e-Service***

ELIZABETH R MARX ESQUIRE

PATRICK M CICERO ESQUIRE

JOLINE PRICE ESQUIRE

PENNSYLVANIA UTILITY LAW PROJECT

118 LOCUST STREET

HARRISBURG PA 17101

***Accepts e-Service***

JOSEPH L VULLO ESQUIRE

COMMISSION ON ECONOMIC OPPORTUNITY

1460 WYOMING AVENUE

FORTY FORT PA 18704

***Accepts e-Service***