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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

July 6, 2017

**VIA FEDERAL EXPRESS**

PA Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

**Re: Centre Park Historic District, Inc. v. UGI Utilities, Inc.**  
**Docket No. C-2015-2516051**  
**City of Reading v. UGI Utilities, Inc.**  
**Docket No. C-2016-2530475**

Dear Sir/Madam:

Enclosed for filing with your office please find a Motion for Partial Summary Judgment, supporting affidavit and exhibits, and brief in connection with the above-referenced matters. Also enclosed is a CD of the materials.

I have enclosed an additional copy of the documents for time-stamping and return of same to me in the self-addressed, stamped envelope provided.

Thank you for your courtesies in this matter.

Very truly yours,

  
Michael E. Peters

MEP/al

Enclosures

cc: The Honorable Mary D. Long  
Christopher Wright, Esquire  
Devin Ryan, Esquire  
Danielle Jouenne, Esquire  
Mark Morrow, Esquire  
David MacGregor, Esquire  
Michael Swindler, Esquire

Michael J. Savona, Esquire  
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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

*Attorneys for Centre Park Historic  
District, Inc. and City of Reading*

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

CENTRE PARK HISTORIC DISTRICT, :  
INC. :

vs. :

Docket No. C-2015-2516051

UGI UTILITIES, INC. :

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CITY OF READING, :

v. :

Docket No. C-2016-2530475

UGI UTILITIES, INC. :

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**NOTICE TO PLEAD**

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.102(b) AND 5.103(c), YOU MAY ANSWER THE ENCLOSED MOTION WITHIN TWENTY (20) DAYS AFTER THE DATE OF SERVICE. YOUR ANSWER SHOULD BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.

**EASTBURN AND GRAY, P.C.**



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Dated: July 6, 2017

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**BEFORE THE  
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CENTRE PARK HISTORIC DISTRICT, :  
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vs. :

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UGI UTILITIES, INC. :

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CITY OF READING, :

v. :

Docket No. C-2016-2530475

UGI UTILITIES, INC. :

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**MOTION FOR PARTIAL SUMMARY JUDGMENT OF THE  
CENTRE PARK HISTORIC DISTRICT, INC. AND CITY OF READING**

**TO ADMINISTRATIVE LAW JUDGE MARY D. LONG:**

AND NOW, comes Centre Park Historic District, Inc. ("CPHD") and the City of Reading (the "City"), by and through their attorneys, Eastburn and Gray, P.C. and Michael J. Savona, Esquire, Michael E. Peters, Esquire, and Michael T. Pidgeon, Esquire, and file this Motion for Summary Judgment pursuant to Section 5.102 of the Pennsylvania Public Utility Commission's

("Commission") regulations, 52 Pa. Code § 5.102, and respectfully requests summary judgment in their favor as follows:

**I. BACKGROUND AND PROCEDURAL HISTORY**

1. On November 25, 2015, CPHD filed a formal complaint which alleged that UGI Utilities, Inc. ("UGI") violated Section 59.18 of the Commission's regulations, 52 Pa. Code § 59.18, regarding the placement of meters in the historic districts of the City of Reading.

2. UGI filed an answer to CPHD's formal complaint on December 15, 2015.

3. On February 17, 2016, the City filed a formal complaint against UGI, also challenging UGI's meter relocation program within the City's historic districts on the basis that UGI violated Section 59.18. The City also challenged UGI's outside meter placements on the basis that UGI had placed meters in dangerous locations/conditions, in violation of Section 59.18 and 49 CFR § 192.353, in locations throughout the City.

4. More specifically, in its formal complaint the City, *inter alia*:

a. Challenged UGI's meter relocation program on the basis that UGI has placed meters in dangerous locations/conditions in violation of Section 59.18 and 49 CFR § 192.353.

b. Sought a determination regarding the breadth of Section 59.18's requirements regarding exterior meter placement in light of the City's powers to regulate and protect historic resources.

5. UGI filed an answer to the City's formal complaint on March 14, 2016, as well as preliminary objections which were denied by interim order dated March 29, 2016.

6. The formal complaints of CPHD and the City were consolidated by order dated March 30, 2016.

7. By her Sixth Prehearing Order dated March 21, 2017, the Honorable Mary D. Long ordered the City and CPHD to prepare a spreadsheet listing the meters contested by the City, and indicating (1) the date a permit was issued, if any, by the City and (2) the date the meter was relocated. The prehearing order directed UGI to respond and either stipulate or object to the data provided.

8. The City and CPHD were excused from providing “the date the meter was relocated” by the Eighth Prehearing Order in this matter, on the basis that they did not have sufficient information to provide the date. The Eighth Prehearing Order directed UGI to provide the date of service line installation for each of the contested meters.

9. The City and CPHD served their spreadsheet containing the contested meters on April 27, 2017 (the “Matrix”).

10. UGI filed its objections/stipulations to the City’s data on May 15, 2017 and provided additional data reflecting (1) the date service was installed and (2) providing additional permit data, if available.

11. The City filed its objections/stipulations to UGI’s response on May 24, 2017.

12. Discovery in this matter has closed, and certain issues are ready for disposition, there being no genuine issue of material fact in dispute, as set forth in paragraph 15, *infra*.

## **II. STANDARD OF REVIEW FOR SUMMARY JUDGMENT**

13. Section 5.102 of the Commission’s regulations, 52 Pa. Code §§ 5.102(d)(1), (2), provides the standard of review for summary judgment motions:

- (1) *Standard for grant or denial on all counts.* The presiding officer will grant or deny a motion for judgment on the pleadings or a motion for summary judgment, as appropriate. The judgment sought will be rendered if the applicable pleadings, depositions, answers to

interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving party is entitled to a judgment as a matter of law.

- (2) *Standard for grant or denial in part.* The presiding officer may grant a partial summary judgment if the pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law on one or more but not all outstanding issues.

52 Pa. Code §§ 5.102(d)(1), (2).

14. A hearing is necessary only to resolve disputed questions of fact, and when the question is one of law, the Commission need not hold a hearing. *Lehigh Valley Power Comm'n. v. Pa. Pub. Util. Comm'n.*, 563 A.2d 5448 (Pa. Commw. Ct. 1989); *Edan Transp. Corp. v. Pa. Public Utility Comm'n.*, 623 A.2d 6 (Pa. Commw. Ct. 1993).

15. For the reasons set forth more fully below, certain issues do not involve disputed questions of fact and can be disposed of at this stage of the proceedings by summary judgment. Specifically, the City is entitled to partial summary judgment that UGI violated Section 59.18 by locating meters in dangerous locations:

- (i) For the purposes of this motion, a total of 289 properties contain gas meters violation Section 59.18(a)(8)(i) because they are located “beneath or in front of windows or other building openings that may directly obstruct emergency fire exits.”
- (ii) For the purposes of this motion, a total of 10 properties contain gas meters violating Section 59.18(a)(8)(v) because they are located “[n]ear building air intakes under local or State building codes.”

- (iii) For the purposes of this motion, a total of 14 properties contain gas meters violating Section 59.18(a)(8)(vi) because they are located “[i]n contact with soil or other potentially corrosive materials.”

### **III. THE CITY AND CPHD ARE ENTITLED TO PARTIAL SUMMARY JUDGMENT**

**A. At least 289 properties contain gas meters violating Section 59.18(a)(8)(i) because they are located “beneath or in front of windows or other building openings that may directly obstruct emergency fire exits.”**

16. The City and CPHD incorporate paragraphs 1 through 15, *supra*, as if fully set forth.

17. Section 59.18(a)(8)(i) plainly prohibits utilities from locating meters and service regulators “beneath or in front of windows or other building openings that may directly obstruct emergency fire exits.” 52 Pa. Code § 59.18(a)(8)(i).

18. The properties set forth above are catalogued in Exhibit “A” to the Affidavit of John Slifko (hereinafter “Slifko Exhibit ‘A’”) and accompanied by photographs documenting each specific violation. The relevant photographs are in section A-1 of Slifko Exhibit A and highlighted in the matrices in green.

19. The photographs speak for themselves. There are no material facts in dispute with respect to the location of the gas meters beneath or in front of windows or other building openings that may directly obstruct emergency fire exits in violation of Section 59.18(a)(8)(i).

20. The City and CPHD are entitled to judgment in their favor as a matter of law, since the location of the meters on the properties identified in Slifko Exhibit “A” and as further attached as Exhibit 1 violate the placement requirements clearly set forth under Section 59.18(a)(8)(i).



WHEREFORE, CPHD and the City respectfully request that the Honorable Administrative Law Judge enter an order granting the instant Motion for Partial Summary Judgment and entering judgment in their favor as set forth above and in the attached proposed order and as follows:

1) The Commission finds that UGI has relocated the gas meters located at properties identified in Exhibit 1 to this Motion in violation of the safety provisions of 52 Pa. Code § 59.18(a)(8)(i) and that the current placement of such meters amounts to a violation of § 59.18.

2) UGI is hereby ORDERED and DIRECTED to relocate all gas meters located at the properties identified in Exhibit 1 to this Motion from their current locations to an alternate location that does not violate 52 Pa. Code § 59.18 within 60 days of this Order. In relocating said meters, UGI shall ensure that the relocated meters are placed in locations which comply, in all respects, with the requirements of § 59.18. In regard to the relocation of meters within any historic district of the City, UGI shall relocate such meters to the interior of structures unless such placement amounts to a specific further safety violation.

**B. At least 10 properties contain gas meters violating Section 59.18(a)(8)(v) because they are located “[n]ear building air intakes under local or State building codes.”**

21. The City incorporates paragraphs 1 through 20, *supra*, as if fully set forth.

22. Section 59.18(a)(8)(v) prohibits utilities from locating meters and service regulators “[n]ear building air intakes under local or State building codes.” 52 Pa. Code § 59.18(a)(8)(v).

23. At least 17 properties contain gas meters located near building air intakes under local or State building codes. These properties are identified in Slifko Exhibit “A” and the accompanying photographs, which show each meter and its location.

24. The photographs speak for themselves. There are no material facts in dispute with respect to the location of the gas meters near building air intakes, in violation of Section

59.18(a)(8)(v). The relevant photographs are in section A-2 of Slifko Exhibit A and highlighted in the matrices in blue.

25. The City and CPHD are entitled to judgment in their favor as a matter of law, on since the location of the meters on the properties identified in Slifko Exhibit "A" and further attached hereto as Exhibit 2 violate the placement requirements clearly set forth under Section 59.18(a)(8)(v).

WHEREFORE, CPHD and the City respectfully request that the Honorable Administrative Law Judge enter an order granting the instant Motion for Partial Summary Judgment and entering judgment in their favor as set forth above and in the attached proposed order and as follows:

1) The Commission finds that UGI has relocated the gas meters located at properties identified in Exhibit 2 to this Motion in violation of the safety provisions of 52 Pa. Code § 59.18(a)(8)(v) and that the current placement of such meters amounts to a violation of § 59.18.

2) UGI is hereby ORDERED and DIRECTED to relocate all gas meters located at the properties identified in Exhibit 2 to this Motion from their current locations to an alternate location that does not violate 52 Pa. Code § 59.18 within 60 days of this Order. In relocating said meters, UGI shall ensure that the relocated meters are placed in locations which comply, in all respects, with the requirements of § 59.18. In regard to the relocation of meters within any historic district of the City, UGI shall relocate such meters to the interior of structures unless such placement amounts to a specific further safety violation.

C. **At least 14 properties contain gas meters violating Section 59.18(a)(8)(vi) because they are located "[i]n contact with soil or other potentially corrosive materials."**

26. The City and CPHD incorporate paragraphs 1 through 25, *supra*, as if fully set forth.

27. Section 59.18(a)(8)(vi) prohibits utilities from locating meters and service regulators “[i]n contact with soil or other potentially corrosive materials.” 52 Pa. Code § 59.18(a)(8)(vi).

28. Of the properties surveyed by the City, 14 properties are identified as having verifiable gas meters located in contact with soil or other potentially corrosive materials. These properties are identified Slifko Exhibit “A,” along with a photograph of each meter showing its location. A list of the addresses of these properties is attached to this Motion as Exhibit 3.

29. The photographs speak for themselves. There are no material facts in dispute with respect to the location of the gas meters in contact with soil or other potentially corrosive materials. The relevant photographs are in section A-3 of Slifko Exhibit A and highlighted in the matrices in beige.

30. The City and CPHD are entitled to judgment in their favor as a matter of law since the location of the meters on the properties identified in Slifko Exhibit “A” violate the placement requirements clearly set forth under Section 59.18(a)(8)(vi) and further attached hereto as Exhibit 3.

WHEREFORE, CPHD and the City respectfully request that the Honorable Administrative Law Judge enter an order granting the instant Motion for Partial Summary Judgment and entering judgment in their favor as set forth above and in the attached proposed order and as follows:

- 1) The Commission finds that UGI has relocated the gas meters located at properties identified in Exhibit 3 to this Motion in violation of the safety provisions of 52 Pa. Code § 59.18(a)(8)(vi) and that the current placement of such meters amounts to a violation of § 59.18.

2) UGI is hereby ORDERED and DIRECTED to relocate all gas meters located at the properties identified in Exhibit 3 to this Motion from their current locations to an alternate location that does not violate 52 Pa. Code § 59.18 within 60 days of this Order. In relocating said meters, UGI shall ensure that the relocated meters are placed in locations which comply, in all respects, with the requirements of § 59.18. In regard to the relocation of meters within any historic district of the City, UGI shall relocate such meters to the interior of structures unless such placement amounts to a specific further safety violation.

**EASTBURN AND GRAY, P.C.**



---

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[mpidgeon@eastburngray.com](mailto:mpidgeon@eastburngray.com)

Dated: July 6, 2017

**VERIFICATION**

I, John Slifko, verify that the facts set forth in the foregoing Motion are true and correct to the best of my knowledge, information, and belief.

I further understand that this Verification is made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

Date: July 6, 2017

John Slifko  
John Slifko

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**Exhibit 3: Gas Meters in Violation of 52 Pa. Code § 59.18(a)(8)(vi)**

1. 454 Douglass St, Reading, PA
2. 746 Gordon St, Reading, PA
3. 1102 Hampden Blvd, Reading, PA
4. 1316 N 14th St, Reading, PA
5. 1516 N 15th St, Reading, PA
6. 726 N 2nd St, Reading, PA
7. 947 N 5th St, Reading, PA
8. 1034 N 5th St, Reading, PA
9. 1037 N 5th St, Reading, PA
10. 1041 N 5th St, Reading, PA
11. 1421 Palm St, Reading, PA
12. 1503 Palm St, Reading, PA
13. 1020 Weiser St, Reading, PA
14. 1040 Weiser St, Reading, PA

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**Exhibit 1: Gas Meters in Violation of 52 Pa. Code § 59.18(a)(8)(i)**

- |                                 |                                    |
|---------------------------------|------------------------------------|
| 1. 1617 Bern St, Reading, PA    | 26. 1359 Cotton St, Reading, PA    |
| 2. 647 Bingaman St, Reading, PA | 27. 1408 Cotton St, Reading, PA    |
| 3. 633 Clinton St, Reading, PA  | 28. 1547 Cotton St, Reading, PA    |
| 4. 657 Clinton St, Reading, PA  | 29. 1600 Cotton St, Reading, PA    |
| 5. 671 Clinton St, Reading, PA  | 30. 1733 Cotton St, Reading, PA    |
| 6. 514 Chestnut St, Reading, PA | 31. 1753 Cotton St, Reading, PA    |
| 7. 911 Cotton St, Reading, PA   | 32. 1754 Cotton St, Reading, PA    |
| 8. 927 Cotton St, Reading, PA   | 33. 1761 Cotton St, Reading, PA    |
| 9. 939 Cotton St, Reading, PA   | 34. 1817 Cotton St, Reading, PA    |
| 10. 945 Cotton St, Reading, PA  | 35. 1825 Cotton St, Reading, PA    |
| 11. 953 Cotton St, Reading, PA  | 36. 603 Eisenbrown St, Reading, PA |
| 12. 955 Cotton St, Reading, PA  | 37. 609 Eisenbrown St, Reading, PA |
| 13. 1032 Cotton St, Reading, PA | 38. 613 Eisenbrown St, Reading, PA |
| 14. 1047 Cotton St, Reading, PA | 39. 652 Eisenbrown St, Reading, PA |
| 15. 1121 Cotton St, Reading, PA | 40. 656 Eisenbrown St, Reading, PA |
| 16. 1125 Cotton St, Reading, PA | 41. 658 Eisenbrown St, Reading, PA |
| 17. 1135 Cotton St, Reading, PA | 42. 664 Eisenbrown St, Reading, PA |
| 18. 1136 Cotton St, Reading, PA | 43. 666 Eisenbrown St, Reading, PA |
| 19. 1205 Cotton St, Reading, PA | 44. 809 Gordon St, Reading, PA     |
| 20. 1221 Cotton St, Reading, PA | 45. 818 Gordon St, Reading, PA     |
| 21. 1259 Cotton St, Reading, PA | 46. 819 Gordon St, Reading, PA     |
| 22. 1317 Cotton St, Reading, PA | 47. 1200 Hampden Blvd, Reading, PA |
| 23. 1333 Cotton St, Reading, PA | 48. 135 Hudson St, Reading, PA     |
| 24. 1341 Cotton St, Reading, PA | 49. 517 Laurel St, Reading, PA     |
| 25. 1343 Cotton St, Reading, PA | 50. 527 Laurel St, Reading, PA     |

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- |     |                              |      |                             |
|-----|------------------------------|------|-----------------------------|
| 51. | 1320 Linden St, Reading, PA  | 77.  | 1159 N 10th St, Reading, PA |
| 52. | 517 Minor St, Reading, PA    | 78.  | 1202 N 10th St, Reading, PA |
| 53. | 107 Mulberry St, Reading, PA | 79.  | 1204 N 10th St, Reading, PA |
| 54. | 805 N 10th St, Reading, PA   | 80.  | 1205 N 10th St, Reading, PA |
| 55. | 813 N 10th St, Reading, PA   | 81.  | 1206 N 10th St, Reading, PA |
| 56. | 820 N 10th St, Reading, PA   | 82.  | 1207 N 10th St, Reading, PA |
| 57. | 830 N 10th St, Reading, PA   | 83.  | 1208 N 10th St, Reading, PA |
| 58. | 832 N 10th St, Reading, PA   | 84.  | 1216 N 10th St, Reading, PA |
| 59. | 848 N 10th St, Reading, PA   | 85.  | 1240 N 10th St, Reading, PA |
| 60. | 900 N 10th St, Reading, PA   | 86.  | 1242 N 10th St, Reading, PA |
| 61. | 908 N 10th St, Reading, PA   | 87.  | 1257 N 10th St, Reading, PA |
| 62. | 916 N 10th St, Reading, PA   | 88.  | 1332 N 10th St, Reading, PA |
| 63. | 1001 N 10th St, Reading, PA  | 89.  | 1338 N 10th St, Reading, PA |
| 64. | 1002 N 10th St, Reading, PA  | 90.  | 1346 N 10th St, Reading, PA |
| 65. | 1007 N 10th St, Reading, PA  | 91.  | 1354 N 10th St, Reading, PA |
| 66. | 1011 N 10th St, Reading, PA  | 92.  | 1357 N 10th St, Reading, PA |
| 67. | 1012 N 10th St, Reading, PA  | 93.  | 1406 N 10th St, Reading, PA |
| 68. | 1018 N 10th St, Reading, PA  | 94.  | 1408 N 10th St, Reading, PA |
| 69. | 1040 N 10th St, Reading, PA  | 95.  | 1412 N 10th St, Reading, PA |
| 70. | 1050 N 10th St, Reading, PA  | 96.  | 1420 N 10th St, Reading, PA |
| 71. | 1056 N 10th St, Reading, PA  | 97.  | 1437 N 10th St, Reading, PA |
| 72. | 1058 N 10th St, Reading, PA  | 98.  | 1441 N 10th St, Reading, PA |
| 73. | 1113 N 10th St, Reading, PA  | 99.  | 1445 N 10th St, Reading, PA |
| 74. | 1126 N 10th St, Reading, PA  | 100. | 1450 N 10th St, Reading, PA |
| 75. | 1128 N 10th St, Reading, PA  | 101. | 1453 N 10th St, Reading, PA |
| 76. | 1155 N 10th St, Reading, PA  | 102. | 1456 N 10th St, Reading, PA |

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103. 1462 N 10th St, Reading, PA
104. 1500 N 10th St, Reading, PA
105. 1504 N 10th St, Reading, PA
106. 1506 N 10th St, Reading, PA
107. 1510 N 10th St, Reading, PA
108. 1512 N 10th St, Reading, PA
109. 1561 N 10th St, Reading, PA
110. 1568 N 10th St, Reading, PA
111. 1644 N 10th St, Reading, PA
112. 1646 N 10th St, Reading, PA
113. 1648 N 10th St, Reading, PA
114. 1649 N 10th St, Reading, PA
115. 1657 N 10th St, Reading, PA
116. 1664 N 10th St, Reading, PA
117. 1666 N 10th St, Reading, PA
118. 1649 N 10th St, Reading, PA
119. 516 N 10th St, Reading, PA
120. 525 N 10th St, Reading, PA
121. 646 N 10th St, Reading, PA
122. 729 N 10th St, Reading, PA
123. 732 N 10th St, Reading, PA
124. 1663 N 10th St, Reading, PA
125. 1139 N 13th St, Reading, PA
126. 1164 N 13th St, Reading, PA
127. 1307 N 13th St, Reading, PA
128. 1400 N 13th St, Reading, PA
129. 419 Oley St, Reading, PA
130. 1816 Olive St, Reading, PA
131. 1931 Olive St, Reading, PA
132. 107 S 4th St, Reading, PA
133. 108 S 4th St, Reading, PA
134. 110 S 4th St, Reading, PA
135. 116 S 4th St, Reading, PA
136. 136 S 4th St, Reading, PA
137. 200 S 4th St, Reading, PA
138. 202 S 4th St, Reading, PA
139. 204 S 4th St, Reading, PA
140. 207 S 4th St, Reading, PA
141. 209 S 4th St, Reading, PA
142. 215 S 4th St, Reading, PA
143. 219 S 4th St, Reading, PA
144. 225 S 4th St, Reading, PA
145. 232 S 4th St, Reading, PA
146. 252 S 4th St, Reading, PA
147. 303 S 4th St, Reading, PA
148. 339 S 4th St, Reading, PA
149. 343 S 4th St, Reading, PA
150. 409 S 4th St, Reading, PA
151. 310 N 5th St, Reading, PA
152. 319 N 5th St, Reading, PA
153. 321 N 5th St, Reading, PA
154. 323 N 5th St, Reading, PA

155. 331 N 5th St, Reading, PA
156. 336 N 5th St, Reading, PA
157. 417 S 5th St, Reading, PA
158. 614 S 7th St, Reading, PA
159. 508 Schuylkill Ave, Reading, PA
160. 540 Schuylkill Ave, Reading, PA
161. 546 Schuylkill Ave, Reading, PA
162. 631 Schuylkill Ave, Reading, PA
163. 633 Schuylkill Ave, Reading, PA
164. 634 Schuylkill Ave, Reading, PA
165. 637 Schuylkill Ave, Reading, PA
166. 639 Schuylkill Ave, Reading, PA
167. 718 Schuylkill Ave, Reading, PA
168. 724 Schuylkill Ave, Reading, PA
169. 728 Schuylkill Ave, Reading, PA
170. 742 Schuylkill Ave, Reading, PA
171. 808 Schuylkill Ave, Reading, PA
172. 434 Spring St, Reading, PA
173. 630 Thorn St, Reading, PA
174. 534 Tulpehocken St, Reading, PA
175. 552 Tulpehocken St, Reading, PA
176. 146 W Green St, Reading, PA
177. 158 W Green St, Reading, PA
178. 178 W Green St, Reading, PA
179. 182 W Green St, Reading, PA
180. 186 W Green St, Reading, PA
181. 188 W Green St, Reading, PA
182. 194 W Green St, Reading, PA
183. 260 W Oley St, Reading, PA
184. 478 W Oley St, Reading, PA
185. 127 W Windsor St, Reading, PA
186. 148 W Windsor St, Reading, PA
187. 150 W Windsor St, Reading, PA
188. 154 W Windsor St, Reading, PA
189. 163 W Windsor St, Reading, PA

**Exhibit 2: Gas Meters in Violation of 52 Pa. Code § 59.18(a)(8)(v)**

1. 1234 Alsace Rd, Reading, PA
2. 1034 N 10th St, Reading, PA
3. 638 N 10th St, Reading, PA
4. 1708 Olive St, Reading, PA
5. 1710 Olive St, Reading, PA
6. 823 Schuylkill Ave, Reading, PA
7. 731 Thorn St, Reading, PA
8. 523 Tulpehocken St, Reading, PA
9. 527 Tulpehocken St, Reading, PA
10. 1032 Weiser St, Reading, PA

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Michael J. Savona, Esquire  
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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

*Attorneys for Centre Park Historic  
District, Inc. and City of Reading*

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

CENTRE PARK HISTORIC DISTRICT, :  
INC. :

vs. :

Docket No. C-2015-2516051

UGI UTILITIES, INC. :

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CITY OF READING, :

v. :

Docket No. C-2016-2530475

UGI UTILITIES, INC. :

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**BRIEF IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT  
OF THE CENTRE PARK HISTORIC DISTRICT, INC. AND CITY OF READING**

The Centre Park Historic District (“CPHD”) and the City of Reading (the “City”), by and through its attorneys, Eastburn and Gray, P.C., and Michael J. Savona, Esquire, Michael E. Peters, Esquire, and Michael T. Pidgeon, Esquire, files this Brief in Support of their Motion for Partial Summary Judgment pursuant to 52 Pa. Code § 5.102 and 5.501.

**I. CONCISE STATEMENT OF THE CASE**

The City and CPHD file this Motion for Partial Summary Judgment to correct obvious and indisputable violations of the gas meter safety standards required under 52 Pa. Code § 59.18 by UGI Utilities, Inc. (“UGI”), relating to the relocation and installation of residential gas meters in historic districts in the City of Reading as well as generally throughout the City. In filing the instant Motion, the City seeks specific relief for meter placements which clearly and unambiguously violate pertinent regulatory requirements, and to which there is no dispute regarding the facts or law entitling the City and CPHD to the requested relief. The PUC should immediately Order UGI to correct these violations.

**II. PROCEDURAL HISTORY**

On November 25, 2015, CPHD filed a formal complaint which alleged that UGI violated Section 59.18 of the Commission’s regulations, 52 Pa. Code § 59.18, regarding the placement of meters in the historic districts of the City of Reading. UGI filed an answer to CPHD’s formal complaint on December 15, 2015.

On February 17, 2016, the City filed a formal complaint against UGI, also challenging UGI’s meter relocation program within the City’s historic districts on the basis that UGI violated Section 59.18. The City also challenged UGI’s outside meter placements on the basis that UGI placed meters in dangerous locations/conditions, in violation of Section 59.18 and 49 CFR § 192.353. More specifically, in its formal complaint the City:

- a. Challenged UGI’s meter relocation program on the basis that UGI has placed meters in dangerous locations/conditions in violation of Section 59.18 and 49 CFR § 192.353.

- b. Sought a determination regarding the breadth of Section 59.18's requirements regarding exterior meter placement in light of the City's powers to regulate and protect historic resources.

UGI filed an answer to the City's formal complaint on March 14, 2016, as well as preliminary objections which were denied by interim order dated March 29, 2016. The formal complaints of CPHD and the City were consolidated by order dated March 30, 2016. UGI then filed a Petition for Interlocutory Review, and by Opinion and Order dated February 9, 2017, the PUC denied that application.

By her Sixth Prehearing Order dated March 21, 2017, the Honorable Mary D. Long ordered the City and CPHD to prepare a spreadsheet listing the meters contested by the City, and indicating (1) the date a permit was issued, if any, by the City and (2) the date the meter was relocated. The prehearing order directed UGI to respond and either stipulate or object to the data provided. The City and CPHD were excused from providing "the date the meter was relocated" by the Eighth Prehearing Order in this matter, on the basis that they did not have sufficient information to provide the date. The Eighth Prehearing Order directed UGI to provide the date of service line installation for each of the contested meters.

The City and CPHD served their spreadsheet containing the contested meters on April 27, 2017 (the "Matrix"). UGI filed its objections/stipulations to the City's data on May 15, 2017 and provided additional data reflecting (1) the date service was installed and (2) providing additional permit data, if available. The City filed its objections/stipulations to UGI's response on May 24, 2017. The City has now identified a specific number of meters drawn from that Matrix as being appropriate for summary judgment and has attached a highlighted version of the Matrix to the Affidavit of Councilman John Slifko, submitted in support of the instant Motion..

Discovery in this matter has closed, and certain issues are ready for disposition, there being no genuine issue of material fact in dispute with regard to the questions presented in this motion.

### **III. STATEMENT OF FACTS**

After the Commission issued its Final Rulemaking Order and amended Section 59.18, UGI began to undertake certain “betterment” projects within the City in order to comply with the new PUC regulation. (Slifko Aff., ¶ 2). UGI has replaced gas mains and laterals and moved meters outside of buildings both within and outside of historic districts. (Slifko Aff., ¶ 3). In its rush to relocate meters to the outside of properties, UGI has failed to consider inside meter placement (a fact not at issue in this motion), but has also relocated meters to locations which violate safety regulations contained within Section 59.18, to wit:

1. UGI located meters on at least 289 properties beneath or in front of windows or other building openings that may directly obstruct emergency fire exits. *See* Section 59.18(a)(8)(i). (Slifko Aff., Ex. A and A-1).
2. UGI located meters on at least 10 properties near building air intakes under local or State building codes. *See* Section 59.18(a)(8)(v). (Slifko Aff., Ex. A and A-2)
4. UGI by located gas meters on at least 14 properties in contact with soil or other potentially corrosive materials. *See* Section 59.18(a)(8)(vi). (Slifko Aff., Ex. A and A-3).

The Matrix compiled in this matter documents, *inter alia*, all of the foregoing violations. While the City’s Formal Complaint identifies additional violations and issues, the City and CPHD have limited this Motion to the properties and meters specifically identified herein, as the photographs and evidence produced to date clearly establish that UGI violated Section 59.18 in the placement of the foregoing 313 meters and the obvious violations merit summary judgment

in favor of the City and CPHD. The photographs documenting the violations are attached to the Affidavit of Councilman John Slifko as Exhibit “A.”

**IV. QUESTIONS PRESENTED**

A. Whether UGI violated Section 59.18 by locating meters in dangerous locations, and specifically:

1. Whether UGI violated Section 59.18(a)(8)(i) by locating meters on 289 properties beneath or in front of windows or other building openings that may directly obstruct emergency fire exits?
2. Whether UGI violated Section 59.18(a)(8)(v) by locating meters on 10 properties near building air intakes under local or State building codes?
3. Whether UGI violated Section 59.18(a)(8)(vi) by locating gas meters on 14 properties in contact with soil or other potentially corrosive materials?

[Suggested Answer: **Yes.**]

**V. ARGUMENT**

**A. Summary of Argument**

The argument presented in this motion is straightforward and simple. In sum, City and CPHD contend that UGI violated Section 59.18(a)(8) by installing meters: 1) under windows; 2) near building air intakes; and 3) in contact with soil or other corrosive material. The City and CPHD request that the Commission grant summary relief regarding the contested meters and order UGI to remedy these obvious violations, which are based on undisputable facts and a clear legal obligation.



**B. Summary Judgment Standard**

Section 5.102 of the Commission's regulations, 52 Pa. Code §§ 5.102(d)(1), (2), provide the standard of review for summary judgment motions, as follows:

- (1) *Standard for grant or denial on all counts.* The presiding officer will grant or deny a motion for judgment on the pleadings or a motion for summary judgment, as appropriate. The judgment sought will be rendered if the applicable pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving party is entitled to a judgment as a matter of law.
- (2) *Standard for grant or denial in part.* The presiding officer may grant a partial summary judgment if the pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law on one or more but not all outstanding issues.

52 Pa. Code §§ 5.102(d)(1), (2).

A hearing is necessary only to resolve disputed questions of fact, and when the question is one of law, the Commission need not hold a hearing. *Lehigh Valley Power Comm'n. v. Pa. Pub. Util. Comm'n.*, 563 A.2d 5448 (Pa. Commw. Ct. 1989); *Edan Transp. Corp. v. Pa. Public Utility Comm'n.*, 623 A.2d 6 (Pa. Commw. Ct. 1993). Based upon the foregoing, the City and CPHD have a clear right to partial summary judgment.

**C. UGI violated Section 59.18 by locating meters in dangerous locations prohibited by Section 59.18(a)(8).**

UGI violated the terms of Section 59.18 by locating meters in dangerous locations. The Affidavit of John Slifko, which incorporates a chart of the violations of Section 59.18 as outlined above along with corresponding pictures of the violations, clearly establishes the violations

detailed in the City and CPHD Motion for Partial Summary Judgment. This evidence clearly establishes the violations alleged by the City and CPHD, and provides the Commission with sufficient basis to conclude that the City and CPHD are entitled to judgment as a matter of law. No hearing is required to establish the violations attendant to the placement of the contested meters where, as here, there is clear photographic evidence of the respective violations of Section 59.18 which exist as a result of UGI's meter installation at the subject properties. The photographs speak for themselves, and clearly establish the violations referenced.

**VI. CONCLUSION**

In consideration of the foregoing, the City and CPHD respectfully request summary judgment in their favor as set forth in the Motion for Partial Summary Judgment and proposed form of Order.

Respectfully submitted,

EASTBURN & GRAY, PC

BY: 

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Dated: July 6, 2017

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: UGI UTILITIES, INC. :

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City of Reading, :  
: v. : Docket No. C-2016-2530475  
: UGI Utilities, Inc. :

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**CERTIFICATE OF SERVICE**

It is hereby certified that on July 6, 2017, Michael T. Pidgeon, Esquire served, by electronic mail and first class mail, postage prepaid, a true and correct copy of the foregoing Motion for Partial Summary Judgment and a supporting brief on the following:

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Package US Airbill

FedEx Tracking Number 8117 4824 9672

1 From  
 Date 7/6/17  
 Sender's Name Michael E. Peters  
 Company EASTBURN & GRAY  
 Address 60 E COURT ST  
 City EASTBURN State PA ZIP 18901-4337

2 Your Internal Billing Reference 75-08

3 To Recipient's Name  
 Company PA Public Utility Commission  
 Address 400 North Street 2nd Fl.  
 Address Commonwealth Keystone Build  
 City Harrisburg State PA ZIP 17120



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Form No. 0215

4 Express Package Service

- Next Business Day
- FedEx First Overnight
- FedEx Priority Overnight
- FedEx Standard Overnight
- 2 of 3 Business Days
- FedEx 2Day A.M.
- FedEx 2Day
- FedEx Express Saver

- 5 Packaging
- FedEx Envelope
  - FedEx Pak
  - FedEx Box
  - FedEx Tube
  - Other

- 6 Special Handling and Delivery Signature Options
- Saturday Delivery
  - No Signature Required
  - Direct Signature
  - Indirect Signature
  - Signature Required
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  - Signature Required - Shipper's Declaration for Dangerous Goods
  - Signature Required - Shipper's Declaration for Dry Ice
  - Signature Required - Shipper's Declaration for Cargo Aircraft Only

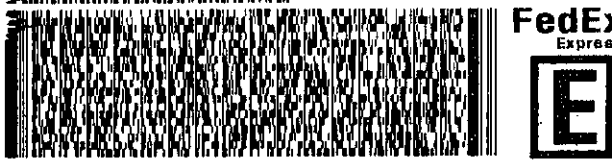
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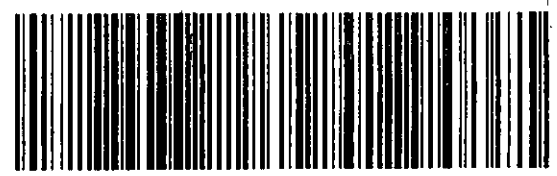
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