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Attorneys at Law

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NOV 20 2017

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

November 10, 2017

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
PO Box 3265
Harrisburg, PA 17105-3265

RE: **Centre Park Historic District v. UGI Utilities, Inc.**
Docket No. C-2015-2516051

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

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PA PUC
SECRETARY'S BUREAU~~

Secretary Chiavetta:

On behalf of Centre Park Historic District and the City of Reading (the "City Parties") this letter will respond to the October 31, 2017, correspondence regarding the above matters directed to your attention by Devin T. Ryan, Esquire on behalf of UGI Utilities, Inc.

In his correspondence, Mr. Ryan requests that the Public Utility Commission ("PUC") permit UGI to withdraw its Exceptions to the Initial Decision issued by Administrative Law Judge Mary D. Long "provided that UGI retains the right to raise these issues and arguments in briefing and, if necessary, in exceptions from an Initial Decision issued after the conclusion of evidentiary hearings." As justification, Mr. Ryan reiterates that UGI is not seeking to "prolong or otherwise delay the final resolution" of this case but that UGI was "constrained" to file Exceptions to the Initial Decision by PUC regulations. He then posits that the PUC could permit proceedings in this case to proceed more expediently by permitting UGI to withdraw its pending Exceptions while permitting UGI to raise the issues presently raised in the Exceptions in future briefing or arguments, notwithstanding the withdrawal. The City Parties object to this request.

UGI is free to withdraw its Exceptions pursuant to 52 Pa.Code § 5.539, "at any time" prior to disposition of the merits of the Exceptions. However, upon withdrawal of its Exceptions, the Initial Decision "becomes final and effective," 52 Pa.Code § 5.539(b), as if no exceptions had been filed in the first instance. There is no provision of the Code governing the filing and disposition of exceptions to an initial decision that provides the remedy sought by UGI here – namely the simultaneous withdrawal and preservation of issues raised in its Exceptions.

Rosemary Chiavetta
November 10, 2017
Page 2

Accordingly, UGI is seeking relief which no other utility or party is entitled to receive under the Code – in effect a special rule – to allow UGI the benefit of withdrawing its Exceptions with no procedural consequence.

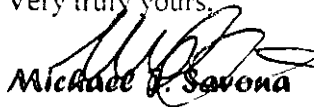
The PUC should not permit UGI to withdraw its Exceptions and retain the ability to raise the arguments raised therein at a later date. Such practice would be in direct conflict with 52 Pa.Code. § 5.539(b) and UGI has identified no authority to support its request for special treatment of its request in contravention of the Commission's regulations.

While UGI asserts that this approach to withdrawing their Exceptions serves the public interest of judicial economy, such argument is misplaced. City Parties already incurred legal fees (necessitating the expenditure of public funds) when they filed their required Reply to the Exceptions. To the extent that drafting the Reply required the expenditure of public funds, the expenditure has already occurred.

Further, the public interest is best served by moving forward with final disposition of the issues raised in the Exceptions. The parties have a distinct benefit in reaching finality regarding the issues raised in UGI's Exceptions and, to the extent that the issues raised in the Exceptions are dispositive of the relief sought by City Parties, to reach closure with respect to those issues without the need for extended hearings. Since UGI's proposed withdrawal of the Exceptions does nothing to reach finality on any of the issues raised therein, any "efficient and expedient" benefit to be derived by the PUC granting Mr. Ryan's request would be short-lived at best, as the issues will persist unresolved throughout the course of the litigation on the merits.

For all of the foregoing reasons, City Parties respectfully submit that the PUC must deny UGI's October 31, 2017, request to preserve the issues raised in its Exceptions in the event it withdraws the Exceptions. The PUC should proceed to decide the merits of the issues raised in the Exceptions in the normal order, without regard to UGI's request for special treatment which contravenes PUC regulations.

Very truly yours,


Michael J. Savona 11/20/17

Michael J. Savona, Esquire

MJS/slf
cc: Honorable Mary D. Long
Certificate of Service

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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*Attorneys for Centre Park
Historic District, Inc.*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

CENTRE PARK HISTORIC DISTRICT, INC. :
vs. : Docket No. C-2015-2516051
UGI UTILITIES, INC. :

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

**COMPLAINANTS', CENTRE PARK HISTORIC DISTRICT, INC. AND CITY OF
READING, RESPONSE TO THE MOTION OF UGI UTILITIES, INC TO VACATE
THE OCTOBER 5, 2017 INTERIM ORDER SUSPENDING LITIGATION**

TO THE HONORABLE MARY D. LONG:

Centre Park Historic District, Inc. and the City of Reading (collectively, the "City Parties") hereby respond to the Motion of UGI Utilities, Inc. ("UGI") to Vacate the October 5, 2017 Interim Order Suspending Litigation as follows:

1. Nearly two months after filing, UGI now seeks to withdraw its exceptions to the ALJ's decision on the parties' cross-motions for summary judgment (the "Exceptions").

2. UGI's attempt to effect this withdrawal comes *after* both the delay and the expenditure of resources on this issue has taken place. To add insult to injury, UGI is also asking the PUC to not only permit the withdrawal of the Exceptions, but to create special rules for UGI to permit them to reserve their right to make the arguments therein at a later date. The PUC's rules simply do not allow such action.

3. Additionally, UGI's proposed litigation schedule is grossly unreasonable and unworkable. The proposed schedule would require the City Parties to expend significant time and public resources to prepare written testimony on issues which may ultimately be rendered moot by the PUC's ruling on the Exceptions. Such a result is wasteful and antithetical to the judicial economy that UGI claims to promote.

4. By way of background, by Order dated September 7, 2017, Administrative Law Judge Mary D. Long issued an Initial Decision denying UGI's Motion for Summary Judgment (filed July 6, 2017) in part.

5. On September 27, 2017, UGI filed Exceptions to the Initial Decision.

6. By Interim Order dated October 5, 2017, Administrative Law Judge Long suspended the litigation schedule in this matter, pending disposition of UGI's Exceptions.

7. City Parties filed their reply to UGI's Exceptions on October 6, 2017.

8. On October 31, 2017, UGI filed the within Motion to Vacate the Interim Order and for permission to withdraw the Exceptions.

9. In its Motion to Vacate, UGI argues that the PUC should vacate the October 5, 2017 Order due to UGI's proposed withdrawal of its Exceptions.

10. UGI further requests the right to raise the issues and arguments advanced in its Exceptions in an "Initial Decision issued after the conclusion of the evidentiary hearings." UGI may withdraw its Exceptions pursuant to 52 Pa.Code § 5.539, "at any time."

11. However, upon withdraw of its Exceptions, the Initial Decision "becomes final and effective", 52 Pa.Code § 5.539(b), as if no exceptions had been filed.

12. Accordingly, UGI is seeking relief which no other utility or party is entitled to receive under the Code – in effect a special rule – to allow UGI the benefit of withdrawing its Exceptions with no procedural consequence.

13. The PUC should not permit UGI to withdraw its Exceptions *and* retain the ability to raise the arguments raised therein at a later date. Such practice would be in direct conflict with 52 Pa.Code. § 5.539(b) and UGI has identified no authority to support its request for special treatment of its request in contravention of the Commission's rules.

14. While UGI asserts that withdrawing their Exceptions serves the public interest of judicial economy such argument is misplaced. City Parties already incurred legal fees (necessitating the expenditure of public funds) when they filed their required Reply to the Exceptions. At this point, public interest is served by moving forward with disposition of the Exceptions.

15. Simultaneous with the filing of this Reply, City Parties are filing a letter in opposition to UGI's October 31, 2017, letter to the PUC requesting that the Commission grant them special authorization to preserve their Exceptions, even if withdrawn.

16. To the extent that UGI has predicated the instant Motion to Vacate the October 5, 2017, Order suspending the litigation schedule in this matter on affirmative action by the Commission relating to its October 31, 2017, request to preserve its Exceptions, it is unclear that

UGI's proposed Motion is timely or appropriate. UGI only appears willing to withdraw its Exceptions if the Commission grants UGI approval to operate outside the Code and Rules governing the effect of such a withdrawal.

17. Additionally, should the Administrative Law Judge grant the Motion to Vacate, UGI's proposed litigation schedule is unreasonable.

18. City Parties should not be required to expend additional public funds to prepare direct testimony and arguments to address legal issues that the PUC may resolve by disposition of the Exceptions.

19. And even assuming the Administrative Law Judge disposes of UGI's Motion to Vacate immediately, UGI proposes submission of direct testimony in just over a month, in the middle of the holiday season, which is also the City's budget season. This schedule is not remotely reasonable.

20. To the extent the Administrative Law Judge grants the Motion to Vacate, City Parties propose the following litigation schedule:

Direct Testimony and Exhibits:	February 28, 2018
Hearings:	week of March 26, 2018
Main Briefs:	within 30 days of last hearing
Reply Briefs:	within 30 days of Main Briefs

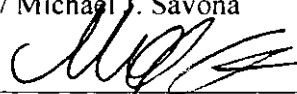
WHEREFORE, City Parties respectfully request that the Administrative Law Judge DENY UGI's Motion to Vacate, or in the alternative, enter an Order adopting the litigation schedule proposed herein.

Respectfully submitted,

EASTBURN & GRAY, PC

/s/ Michael J. Savona

BY:



11/20/17

Michael J. Savona, Esquire

Pa ID# 78076

Michael E. Peters, Esquire

Pa ID# 314266

Michael T. Pidgeon, Esquire

Pa ID# 315147

60 E. Court Street

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Dated: November 10, 2017

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vs. :

UGI UTILITIES, INC. :

Docket No. C-2015-2516051

City of Reading, :

v. :

UGI Utilities, Inc. :

Docket No. C-2016-2530475

CERTIFICATE OF SERVICE

It is hereby certified that on November 10, 2017, Michael E. Peters, Esquire served, by electronic and regular mail, a true and correct copy of the foregoing letter response to UGI's request to withdraw its Exceptions upon the following:

Mark C. Morrow, Esquire
Danielle Jouenne, Esquire
UGI Utilities, Inc.
460 North Gulph Road
King of Prussia, PA 19406
morrowm@ugicorp.com
jouenned@ugicorp.com

The Honorable Mary D. Long
Administrative Law Judge
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105
malong@pa.gov

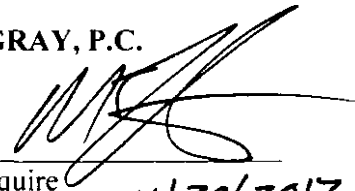
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EASTBURN AND GRAY, P.C.

/s/ Michael E. Peters
By: _____
Michael E. Peters, Esquire



11/20/2017

Michael J. Savona, Esquire
Attorney I.D. # 78076
Michael E. Peters, Esquire
Attorney I.D. # 314266
Michael T. Pidgeon, Esquire
Attorney I.D. # 315147
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460 North Gulph Road
King of Prussia, PA 19406
morrowm@ugicorp.com
jouenned@ugicorp.com

The Honorable Mary D. Long
Administrative Law Judge
Pennsylvania Public Utility Commission
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EASTBURN AND GRAY, P.C.

Michael J. Savona

for /s/ Michael E. Peters

By:

Michael E. Peters, Esquire

11/20/17



Eastburn and Gray, PC

Attorneys at Law

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November 20, 2017

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**Re: Centre Park Historic District v. UGI Utilities, Inc.
and City of Reading v. UGI Utilities, Inc.
Docket Nos. C-2015-2516051 and C-2016-2530475**

Dear Secretary Chiavetta:

With regard to your correspondence dated November 15, 2017 addressed to Michael J. Savona, Esquire, enclosed please find Complainants', Centre Park Historic District, Inc. and City of Reading, Response to the Motion of UGI Utilities, Inc. to Vacate the October 5, 2017 Interim Order Suspending Litigation which now contains original signatures as requested.

Please let us know if you need anything further. Thank you.

Very truly yours,

Michael E. Peters

Enclosures



Package
US Airbill

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Form
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0215

Recipient's Copy

1 From

Date 11/20/17

Sender's Name Michael Peters Phone 215 345-7000

Company EASTBURN & GRAY

Address 60 E COURT ST Dept./Floor/Suite/Room

City DOYLESTOWN State PA ZIP 18901-4337

2 Your Internal Billing Reference

15-18

3 To

Recipient's Name Rosemary Chavella Phone

Company PA Public Utility Commission

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FedEx First Overnight.

Address 1211 N. Kishore Building Hold Saturday
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City Harrisburg State PA ZIP 171120

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FedEx Priority Overnight
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is selected.

FedEx Standard Overnight
Next business afternoon.*
Saturday Delivery NOT available.

2 or 3 Business Days

FedEx 2Day A.M.
Second business morning.*
Saturday Delivery NOT available.

FedEx 2Day
Second business afternoon.* Thursday shipments
will be delivered on Monday unless Saturday
Delivery is selected.

FedEx Express Saver
Third business day.*
Saturday Delivery NOT available.

5 Packaging

*Declared value limit \$500.

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6 Special Handling and Delivery Signature Options

Fees may apply. See the FedEx Service Guide.

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NOT available for FedEx Standard Overnight, FedEx 2Day A.M., or FedEx Express Saver.

No Signature Required
Package may be left without
obtaining a signature for delivery.

Direct Signature
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may sign for delivery.

Indirect Signature
If no one is available at recipient's
address, someone at a neighboring
address may sign for delivery. For
residential deliveries only.

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Cargo Aircraft Only

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Obtain recip. Acct. No.

Sender Acct. No. in Section 1 will be billed Recipient Third Party Credit Card Cash/Check

Total Packages Total Weight Credit Card Auth. lbs.

*Our liability is limited to US\$100 unless you declare a higher value. See the current FedEx Service Guide for details.



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