

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2021-3023618
Office of Consumer Advocate	:	C-2021-3024213
Office of Small Business Advocate	:	C-2021-3024200
Jennifer Mattingly	:	C-2021-3024500
Brandi Brace	:	C-2021-3024613
Kim Kotyk	:	C-2021-3024833
Barbara Brennan	:	C-2021-3024846
Lindsey Yeider Wosik	:	C-2021-3024927
Roger and Maria Hogue	:	C-2021-3025072
Lisa Infantino	:	C-2021-3025090
Mark Lazo	:	C-2021-3025091
Bridgett Brosius	:	C-2021-3025436

v.

UGI Utilities, Inc. – Electric Division

**RECOMMENDED DECISION**

Before  
Steven K. Haas  
Administrative Law Judge

**INTRODUCTION**

UGI Utilities, Inc. – Electric Division (“UGI Electric” or “Company”) filed a request with the Pennsylvania Public Utility Commission (“Commission”) for an increase in the distribution rates it charges its customers. Because it is in the public interest and supported by substantial evidence, this decision recommends approval of the Joint Petition for Approval of Settlement of All Issues (“Joint Petition”) signed by UGI Electric, the Commission’s Bureau of Investigation and Enforcement (“I&E”), the Pennsylvania Office of Consumer Advocate (“OCA”), the Pennsylvania Office of Small Business Advocate (“OSBA”), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), the

Commission on Economic Opportunity (“CEO”), ChargePoint, Inc. (“ChargePoint”), and the Retail Energy Supply Association and NRG Energy, Inc. (together, “RESA/NRG”) (collectively, “the Joint Petitioners”).

In its original filing, UGI Electric proposed rates designed to result in an increase in annual distribution operating revenues of approximately \$8.7 million, an increase of approximately 10% over existing rates. If approved, the total average monthly bill of a residential customer using 1,000 kWh per month would have increased from \$110.18 to \$123.83. Under the settlement, the increase in UGI Electric’s rates will result in additional annual distribution operating revenues of approximately \$6.15 million, an increase of approximately 7.1% over existing rates. If the Commission approves the settlement without modification, the total average monthly bill of a residential customer using 1,000 kWh per month would increase from \$110.18 to \$119.69.

The settlement includes agreement as to the \$6.15 million increase in annual distribution operating revenues on a “black box” basis, meaning that the parties do not specifically identify or resolve individual rate base, revenue, expenses, and rate of return issues. In addition, the settlement includes agreement on a number of other specific issues addressed by the parties. I will discuss the revenue requirement and additional specific issues below.

The last reasonable Commission Public Meeting before the end of the suspension period (November 9, 2021) is on October 19, 2021.

### HISTORY OF THE PROCEEDING

This proceeding was initiated on February 8, 2021, when UGI Electric filed Supplement No. 26 to Electric Pa. P.U.C. No. 6 (“Tariff No. 6”) and Supplement No. 2 to UGI Electric Tariff – Pa. P.U.C. No. 2S (“Tariff No. 2S”) with the Commission to be effective for service rendered on or after April 9, 2021. The Company proposed changes to UGI Electric’s base retail distribution rates designed to produce an increase in annual revenues of approximately

\$8.7 million, based upon data for a fully projected future test year (“FPFTY”) ending September 30, 2022 (“2021 Base Rate Case”).

On February 9, 2021, I&E filed a Notice of Appearance.

On February 17, 2021, OSBA filed a Notice of Appearance, Public Statement, and Formal Complaint, which was docketed at Docket No. C-2021-3024200. Also on February 17, 2021, CEO filed a Petition to Intervene.

On February 18, 2021, OCA filed a Notice of Appearance, Public Statement, and Formal Complaint, which was docketed at Docket No. C-2021-3024213.

In addition to the formal complaints filed by OSBA and OCA, nine formal complaints were also filed pro se by UGI Electric customers: Jennifer Mattingly (C-2021-3024500), Brandi Brace (C-2021-3024613), Kim Kotyk (C-2021-3024833), Barbara Brennan (C-2021-3024846), Lindsey Yeider Wosik (C-2021-3024927), Roger and Maria Hogue (C-2021-3025072), Lisa Infantino (C-2021-3025090), Mark Lazo (C-2021-3025091) and Bridgett Brosius (C-2021-3025436).

On March 11, 2021, the Commission issued an Order suspending Tariff No. 6 and Tariff No. 2S until November 9, 2021, unless permitted by Commission Order to become effective at an earlier date. Also on March 11, 2021, the Commission issued a Notice scheduling a telephonic Prehearing Conference for March 22, 2021, at 10:00 a.m. and assigning me as the presiding officer.

On March 12, 2021, I issued a Prehearing Conference Order. The Prehearing Conference Order directed, among other things, that the parties submit Prehearing Conference Memoranda on or before 4:00 p.m. on March 18, 2021.

On March 19, 2021, RESA/NRG filed a Petition to Intervene.

A telephonic prehearing conference was held as scheduled on March 22, 2021, at which time a litigation schedule was established. I granted RESA/NRG's Petition to Intervene during the March 22, 2021 prehearing conference.

A Scheduling Order was issued on March 25, 2021. Also on March 25, 2021, CAUSE-PA filed a Petition to Intervene. By Order dated April 14, 2021, I granted CAUSE-PA's Petition to intervene.

On April 5, 2021, a Motion for Protective Order was filed by the parties. On April 7, 2021, I issued a Protective Order consistent with the Motion for Protective Order.

On April 28, 2021, two telephonic public input hearings were held, one at 1:00 p.m. and a second at 6:00 p.m. A total of eight witnesses testified at the public input hearings.

In accordance with the procedural schedule, I&E, OCA, OSBA, CEO, ChargePoint, RESA/NRG, and Ms. Brace submitted written direct testimony and exhibits on May 3, 2021.

On May 27, 2021, UGI Electric, I&E, OCA, OSBA, ChargePoint, and RESA/NRG submitted written rebuttal testimony and exhibits.

On June 10, 2021, UGI Electric, I&E, OCA, OSBA, and RESA/NRG submitted written surrebuttal testimony and exhibits.

On June 11, 2021, as a result of settlement discussions, UGI Electric requested that the June 14, 2021 hearing date be cancelled and that the Company be permitted to submit written rejoinder testimony and exhibits by 4:30 p.m. on June 14, 2021, in advance of the remaining June 15-16, 2021 hearing dates. I granted these requests.

On June 14, 2021, UGI Electric submitted written rejoinder testimony and exhibits.

Following further settlement discussions, UGI Electric notified me on June 14, 2021, that a settlement in principle was achieved with respect to all issues except for revenue allocation. The Company requested that the remaining hearing dates be cancelled, all evidence be admitted by a written stipulation to be filed by June 18, 2021, and the Parties provide me with a Joint Petition for Settlement and Statements in Support on or before July 19, 2021. By electronic mail dated June 14, 2021, I granted the Company's requests and advised the Parties that the remaining hearing dates would be canceled. On June 15, 2021, a Notice was issued canceling the hearings scheduled for June 15 and 16, 2021.

On June 18, 2021, the Joint Petitioners filed a Joint Stipulation for Admission of Evidence. In the Joint Stipulation, the Joint Petitioners agreed to the admission into the record of all of the statements and exhibits submitted by the various parties during the course of the proceeding. On June 29, 2021, I issued an Order granting the Joint Stipulation for Admission of Evidence. The various statements and exhibits admitted into the record in this proceeding are identified in my June 29, 2021 Order.

On July 19, 2021, the Joint Petitioners submitted their Joint Petition. Attached to the Joint Petition are Appendices A-M, which contain the following information: Appendix A – Pro Forma Tariff; Appendix B – Proof of Revenue; Appendix C – Proposed Findings of Fact; Appendix D – Proposed Conclusions of Law; Appendix E – Proposed Ordering Paragraphs; Appendix F – UGI Electric Statement in Support; Appendix G – I&E Statement in Support; Appendix H – OCA Statement in Support; Appendix I – OSBA Statement in Support; Appendix J – CAUSE-PA Statement in Support; Appendix K – CEO Statement in Support; Appendix L - ChargePoint Statement in Support; and Appendix M – RESA & NRG Statement in Support. The Joint Petition was served on all parties to this proceeding, including the UGI Electric customers identified above who filed formal complaints. A deadline of July 26, 2021 was established for the filing of comments to the Joint Petition. Comments opposing the Joint Petition were submitted by Lisa Infantino, Brandi Brace and Lindsey Yeider Wosik. As Complainants to this proceeding, I will admit their comments into the evidentiary record. The record in this proceeding was closed on July 27, 2021, upon expiration of the deadline for the filing of comments to the Joint Petition.

## LEGAL STANDARDS

The Commission applies certain principles in deciding any general rate increase case brought pursuant to 66 Pa.C.S. § 1308(d). A public utility seeking a general rate increase is entitled to an opportunity to earn a fair rate of return on the value of its property dedicated to public service. *Pa. Gas & Water Co. v. Pa. Pub. Util. Comm'n*, 341 A.2d 239 (Pa.Cmwlth. 1975). In determining what constitutes a fair rate of return, the Commission is guided by the criteria set forth in *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679 (1923) and *Fed. Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591 (1944). In *Bluefield* the United States Supreme Court stated:

A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.

*Bluefield* at 692-93.

The public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request, pursuant to 66 Pa.C.S. § 1308(d). The statute at 66 Pa.C.S. § 315(a) sets forth the standard to be met by the public utility:

**Reasonableness of rates.** –In any proceeding upon the motion of the Commission, involving any proposed or existing rate of any public utility, or in any proceeding upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.

In a general rate increase proceeding, the burden of proof does not shift to parties challenging a requested rate increase. The utility has the burden of establishing the justness and reasonableness of every component of its rate request throughout the rate proceeding. Other parties to the proceeding do not have the burden of proof to justify an adjustment to the public utility's filing. In this regard, the Pennsylvania Supreme Court in *Berner v. Pa. Pub. Util. Comm'n*, 116 A.2d 738, 744 (Pa. 1955) stated:

[T]he appellants did not have the burden of proving that the plant additions were improper, unnecessary or too costly; on the contrary, that burden is, by statute, on the utility to demonstrate the reasonable necessity and cost of the installations.

However, a public utility, in proving that its proposed rates are just and reasonable, does not have the burden to affirmatively defend claims it has made in its filing that no other party has questioned. In *Allegheny Ctr. Assocs. v. Pa. Pub. Util. Comm'n*, 570 A.2d 149 (Pa. Cmwlth. 1990), the Pennsylvania Commonwealth Court stated:

While it is axiomatic that a utility has the burden of proving the justness and reasonableness of its proposed rates, it cannot be called upon to account for every action absent prior notice that such action is to be challenged.

In analyzing a proposed general rate increase, the Commission also determines a rate of return to be applied to a rate base, measured by the aggregate value of all the utility's property used, and useful, in the public service. In determining a proper rate of return, the Commission calculates the utility's capital structure and the cost of the different types of capital during the period in issue. The Commission has wide discretion, because of its administrative expertise, in

determining the cost of capital. *Equitable Gas Co. v. Pa. Pub. Util. Comm'n*, 405 A.2d 1055 (Pa.Cmwlth. 1979).

In this general rate increase case, UGI Electric, OCA, OSBA, I&E, CEO, ChargePoint, Cause-PA and RESA/NRG have reached a full settlement. Commission policy promotes settlements. 52 Pa.Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve precious administrative hearing resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa.Code § 69.401

In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165, (Order entered October 4, 2004); *Pa. Pub. Util. Comm'n v. C S Water & Sewer Assoc.*, 74 Pa. P.U.C. 767 (1991).

In this case, the parties have reached what is referred to as a “black box” settlement where the settlement provides for an increase in the utility’s revenues but does not indicate how the parties calculated the increase. The Commission has permitted “black box” settlements as a means of promoting settlements in contentious base rate proceedings. *Pa. Pub. Util. Comm'n v. Wellsboro Elec. Co.*, Docket No. R-2010-2172662 (Order entered January 13, 2011); *Pa. Pub. Util. Comm'n v. Citizens' Elec. Co. of Lewisburg*, Docket No. R-2010-2172665 (Order entered January 13, 2011). The Commission has observed that determining a utility’s revenue requirement is a calculation that involves many complex and interrelated adjustments affecting expenses, depreciation, rate base, taxes and the utility’s cost of capital. Reaching an agreement among the parties on each component can be difficult and impractical. As a result of this complexity, the Commission supports the use of “black box” settlements. *Pa. Pub. Util. Comm'n v. Peoples TWP LLC*, Docket No. R-2013-2355886 (Opinion and Order entered December 19, 2013); *Pa. Pub. Util. Comm'n v. Columbia Water Co.*, Docket No. R-2017-2598203 (Opinion and Order entered March 1, 2018).



Copies of the settlement documents were provided to all parties to this proceeding, including the UGI Electric customers who filed formal complaints. Three formal complainants filed comments in opposition to the settlement. For the following reasons, I find that the settlement is in the public interest and is supported by substantial evidence; consequently, I recommend that it be approved by the Commission.

### TERMS OF THE SETTLEMENT

The settlement terms are set forth in Section III of the Joint Petition and are re-stated in verbatim below using the paragraph numbers in the Joint Petition for ease of reference.

#### **A. GENERAL**

42. The following terms of this Settlement reflect a carefully balanced compromise of the Joint Petitioners' positions on various issues. The Joint Petitioners agree that the Settlement is in the public interest.

43. The Joint Petitioners agree that UGI Electric's distribution base rate increase filing should be approved, including those tariff changes included in and specifically identified in **Appendix A** attached hereto, subject to the terms and conditions of this Settlement that are specified below.

#### **B. REVENUE REQUIREMENT**

44. UGI Electric will be permitted to submit a revised tariff supplement consistent with **Appendix A** that is designed to produce an annual distribution revenue increase of \$6.15 million, to become effective on or before November 9, 2021, for service rendered thereafter. The increase in annual distribution rate revenue is in lieu of the as filed increase of approximately \$8.7 million. The settlement as to revenue requirement shall be a "black box" settlement, except for the items set forth below.

**C. REVENUE ALLOCATION AND RATE DESIGN**

45. Billing Determinants: Billing determinants will be based on the Company’s UGI Electric Exhibit E, Proof of Revenue.

46. Revenue Allocation: Class revenue allocation will be based on the following table:

Rate	Customers	Fixtures	Sales (kWh)	Total Present Revenue	Proposed Revenue	Revenue Change	Percent Change from Present Revenue	Percent of Total Rate Increase
R	55,038		568,717,339	\$ 63,035,939	\$ 68,479,988	\$ 5,444,049	8.6%	88.5%
GS-1	5,505		28,887,813	\$ 3,682,960	\$ 4,064,084	\$ 381,124	10.3%	6.2%
GS-4	2,267		118,790,076	\$ 10,097,017	\$ 10,224,476	\$ 127,459	1.3%	2.1%
GS-5	59		1,109,050	\$ 88,046	\$ 98,791	\$ 10,745	12.2%	0.2%
FCP	7		739,452	\$ 17,598	\$ 17,577	\$ (21)	-0.1%	0.0%
Lighting		9,112	7,421,188	\$ 1,430,978	\$ 1,430,949	\$ (29)	0.0%	0.0%
LP	197		267,219,118	\$ 7,681,646	\$ 7,868,396	\$ 186,749	2.4%	3.0%
<b>Total - Rate Class</b>	<b>63,072</b>		<b>992,884,035</b>	<b>\$ 86,034,185</b>	<b>\$ 92,184,260</b>	<b>\$ 6,150,075</b>	<b>7.1%</b>	
Other Operating Revenue				\$ 1,029,976	\$ 1,029,976	\$ -		
<b>Total Revenue</b>				<b>\$ 87,064,161</b>	<b>\$ 93,214,236</b>	<b>\$ 6,150,075</b>	<b>7.1%</b>	

47. Monthly Customer Charges: The customer charges shall be those proposed by the Company, except as set forth below:

Rate R: \$9.50 per month (\$13.00 proposed)

Rate GS-1: \$13.00 per month (\$14.00 proposed)

48. Rate Flood Control Power (“FCP”): The Company will include a proposal to eliminate, consolidate, or otherwise support Rate FCP as a separately identified class in the cost of service presented in the Company’s next rate case.

**D. PROGRAMS/PROPOSALS**

49. Battery Storage: The battery storage proposal is approved, except that the Company will not use the battery storage system to participate in the PJM Interconnection LLC

(“PJM”) Frequency Regulation Market. The inclusion of the battery storage project shall be considered a pilot for purposes of this Settlement. The Commission’s approval of UGI Electric’s battery storage proposal in this proceeding shall not serve as precedent for any future UGI Electric battery storage proposal or any other electric utility’s battery storage proposal. This Settlement reflects a carefully-crafted compromise of the parties’ positions and is based on the small size of the battery and the unique circumstances of the Ruckle Hill Road distribution circuit, including its voltage, its status as a worst performing circuit, the surrounding terrain, the nearby vegetation, and the load served by this circuit.

50. As part of the battery storage pilot, UGI Electric will maintain and provide information concerning the duration, extent, cause, and times for each outage, the duration and times the battery storage system was used to maintain service during the outage, and loads on the facilities served by the battery storage system just prior to and during the outage. Such information will be provided in annual reports filed with the Commission by January 1st of each year that the battery storage system remains in service, with the first annual report to be filed by January 1, 2023.

51. The Joint Petitioners’ agreement to this Settlement is without prejudice to future challenges to any other distribution system upgrades on the Ruckle Hill Road distribution circuit that may occur in the future including, but not limited to, a proposal to remove the battery from rate base.

52. Electric Vehicle Charging: The EV make-ready charging infrastructure tariff provisions are accepted as filed, except that the Company will revise Rule 5-1 and Rule 5-m of its proposed electric service tariff to state the following:

- a. Rule 5-1: Service to Electric Vehicle Supply Equipment. For Qualified Electric Vehicle Charging Stations (“Qualified EV Charging Stations”) which will be accessible to the public for charging access, the Company shall provide all required investment without contribution and will design and install the required infrastructure facilities necessary for operation of

such Qualified EV Charging Stations (including any new conductor replacement, transformers, overhead service wire, and meters; inclusive of any make ready work located in front of the meter). Such facilities shall be provided at no required contribution to the customer as part of an EV infrastructure pilot, which will end September 30, 2026. Qualified EV Charging Stations may be supplied electricity by an EGS.

- b. Rule 5-m: Qualified EV Charging Stations shall be defined as one (1) to four (4) DC Fast Charge (“DCFC”) stations of 50 kW or greater, or at least four (4) Level 2 charging stations, which are compatible with the Company’s distribution system and are located within 400 feet of a Company 3-phase primary distribution circuit line, or in another location where the Company, in its sole discretion, anticipates that adequate public availability and access is being provided. DCFC installation locations may also be inclusive of one or more adjacent Level 2 charging stations. All qualifying chargers must have smart or network capabilities and be tested for safety by a national testing laboratory such as Underwriters Laboratories (“UL”). Qualifying Level 2 chargers must be ENERGY STAR certified.

53. Beginning with the operation of the second Qualified EV Charging Station in the Company’s service territory, the Company shall post aggregated metered usage data for Qualified EV Charging Stations on a monthly and anonymized basis to its Energy Management Website (kWh and kW billing determinant use data) for interested parties to review. This requirement shall end on September 30, 2026.

54. Make-ready infrastructure for purposes of this Settlement does not include any behind-the-meter costs associated with the installation of EV charging stations.

55. UGI Electric withdraws, without prejudice, its proposals to: (1) recover the capital and operating costs associated with the Company's installation and ownership of EV charging stations on its distribution system; and (2) establish Rate EV-C.

#### **E. DSIC/REPORTING**

56. Test Year Plant Reporting: The Company shall submit an update to UGI Electric Exhibit A, Schedule C-2 no later than January 1, 2022, which will include actual capital expenditures, plant additions, and retirements by month from October 1, 2020 through September 30, 2021. An additional update for actuals from October 1, 2021 through September 30, 2022 shall be filed no later than January 2, 2023.

57. DSIC Eligible Plant: As of the effective date of rates in this proceeding, UGI Electric will be eligible to include plant additions in the Distribution System Improvement Charge ("DSIC") once the Company's total net plant balances exceed \$152,150,000. The foregoing provision is included solely for purposes of calculating the DSIC and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in a FPFTY filing.

58. DSIC Equity Return: For purposes of calculating its DSIC, UGI Electric shall use the equity return rate for electric utilities contained in the Commission's most recent Quarterly Report on the Earnings of Jurisdictional Utilities and shall update the equity return rate each quarter consistent with any changes to the equity return rate for electric utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa. C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa. C.S. § 1358(b)(1).

#### **F. ACCOUNTING**

59. Depreciation Rates: For purposes of this Settlement, UGI Electric's as-filed depreciation rates are accepted.

60. ADIT/EDFIT: The Company's Accumulated Deferred Income Tax ("ADIT") and pro-ratoning methodology as required by Treasury Regulation 1.167(l)-1(h)(6)(ii) is accepted. *See* 26 C.F.R. § 1.167(l). Further, the Company's method to amortize Excess Accumulated Deferred Federal Income Taxes ("EDFIT") according to the Average Rate Assumption Method ("ARAM") is accepted. Absent a change in federal or state law, regulation, judicial precedent or policy, the remaining unamortized EDFIT balance will continue as a reduction to rate base in all future proceedings until the full amount is returned to ratepayers.

61. Repairs Allowance: For purposes of determining the revenue requirement in this case, all capitalized repairs deductions claimed on a tax return have been normalized for ratemaking purposes, and the appropriate related amount of tax effect of those deductions has been treated similarly to Accumulated Deferred Income Taxes as a reduction to UGI Electric's rate base.

62. IT Cost Capital Treatment: For purposes of this Settlement, UGI Electric's as-filed capital treatment of certain IT costs is accepted. UGI Electric will capitalize IT costs that include preliminary-stage project work, business and technology reengineering activities, current state assessments, reengineering business processes to adapt to new systems, data conversion, data cleansing and migration, pre-implementation training practices, cloud computing software implementation, and Hypercare. (*See* UGI Electric St. No. 4, pp. 14-16.)

63. COVID-19 Cost Deferral: The Company's revenue increase provided in this Settlement is reflective of a three-year amortization of the Company's COVID-19 regulatory asset related to incremental uncollectible accounts expense, or \$337,666 per year, which includes all incremental uncollectible expense through September 30, 2020.

64. Rate Case Expense: The Company's revenue increase provided in this Settlement is reflective of a three-year normalization for ratemaking purposes and a three-year amortization for accounting purposes. The Company will not claim any unamortized amount in a future rate case and agrees that normalization of rate case expense (as opposed to amortization) is the proper treatment for ratemaking purposes.

65. Company Owned Service Expenditures (“COS-E”): Effective October 1, 2021, the Company will be permitted, for book accounting purposes, to record the costs associated with its Company-Owned Services (“COS”) Transition Program as capital investment. The capital investment recorded for recovery from ratepayers will be capped at \$5,000,000. To the extent that the costs exceed the \$5,000,000 capitalization cap subsequent to October 1, 2021, the Company will expense the excess and may seek recovery in a future rate case with all parties reserving their rights to challenge any claimed expense (above the \$5,000,000).

#### **G. COMPANY’S COVID-19 RELIEF EFFORTS**

66. The Company will continue to assist customers impacted by COVID-19 through various efforts and initiatives to promote existing Company assistance programs and to facilitate customer access to COVID-19 pandemic-related public utility assistance sources, including the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) and the American Rescue Plan. The Company’s ongoing pandemic relief efforts include the following measures:

- a. Mass media campaign promoting UGI Utilities, Inc. assistance programs and CARES Act funding.
- b. Direct mail and email campaign(s) targeting customers with arrearages whom UGI Electric determines may benefit from Company assistance programs and/or CARES Act programs.
- c. Bill inserts to all customers alerting them about Company assistance programs and CARES Act programs.
- d. Coordination with CARES Act program providers in the Company’s service territory to facilitate and enable direct communication with the Company on CARES Act application requests. This work will include a direct hotline

number for provider use, an ability for benefit payments to be made on multiple accounts with one check, an option to make payments via credit card, as well as Company Call Center staff training to promote CARES Act Programs for qualifying customers, in addition to Company programs and available Commission COVID-19 payment arrangement options.

- e. Modification of the above efforts, as appropriate, once American Rescue Plan funding becomes available via defined program(s).
- f. Solicitation of customers who received LIHEAP in the prior 12 months for enrollment in the Company's CAP two times a year.
- g. Solicitation of customers who self-reported Level 1 income in the prior 12 months for enrollment in the Company's CAP two times a year.

## **H. UNIVERSAL SERVICES**

67. Rider C – Universal Service Plan Rider: Throughout Rider C, the as-filed updated participant number of “the number of CAP enrollees as September 30, 2021” shall be replaced with “3,231”.

68. WARM Initiative: The Company agrees to include the following provisions in its WARM Initiative:

- a. Perform a solicitation of customers who received LIHEAP in the prior 12 months for enrollment in the Company's CAP 2 times a year.
- b. Perform a solicitation of customers who self-reported Level 1 income in the prior 12 months for enrollment in the Company's CAP 2 times a year.



- c. Accept verbal self-reported income eligibility for customers at or below 250% of the Federal Poverty Level during the Winter Moratorium for purposes of winter shutoff protections, requests for deferred payment arrangements, or any other customer contact with the call center for an unpaid bill. Normal income verification requirements maintained by the Company shall apply upon the end of the Winter Moratorium period.
- d. Accept verification of income eligibility by any community-based organization (“CBO”) in the Company’s service territory delivering public or private assistance.
- e. Contact of administrators of applicable PA DHS [Department of Human Services] public assistance programs, requesting that they ask DHS applicants enrolling in their public assistance programs to designate whether the DHS applicants want UGI Electric to be informed of their income eligibility for various customer service protections propounded by the Commission. Each household who the program administrators identify to UGI Electric as answering in the affirmative shall be deemed by UGI Electric as a Confirmed Low-Income customer and/or a customer eligible for winter shutoff protections. Normal income verification requirements maintained by the Company shall apply thereafter (for enrollment/participation in UGI Electric Universal Service programs).
- f. Provide written materials, which solicit participation in UGI Electric’s CAP and/or identification of customers eligible for winter shutoff protections, to:
  - i. Public school districts in the Company’s service territory, so that they can distribute the materials to school households with students eligible for the federal free and reduced school meals program; and/or Head Start programs; and

- ii. Community and faith-based food pantries, soup kitchens, and emergency shelters.
- g. Provide written CAP solicitation materials to be delivered by local and/or county offices delivering benefits through the federal Supplemental Nutrition Assistance Program (“SNAP”) (Food Stamps), as well as through local Public Housing Authorities.
- h. Only include earned income from household occupants aged 18 years and older when verifying household income.
- i. Any incremental costs incurred by the Company in the administration of items (e)-(h) will be deferred for recovery, without interest, in the Company’s next base rate case.

69. Refund of Security Deposits after Enrollment in LIURP or Low-Income EE&C Programs: Upon a customer being enrolled in the Company’s Low-Income Usage Reduction Program (“LIURP”) or any low-income usage reduction program in the Company’s Energy Efficiency and Conservation Plan, and after weatherization services are completed, any and all remaining security deposits on the customers’ accounts will be refunded.

70. LIURP:

- a. LIURP spending will be increased commensurate with the percentage rate increase to the residential class resulting from this case;
- b. The Company will continue to use the CBOs [Community Based Organizations] it has traditionally utilized in the administration and implementation of its universal service programs; and

- c. In regards to the large carryover of LIURP funding from 2020, the Company will increase the LIURP budgets of the CBOs that have the demonstrated capacity to do the additional work, i.e., CBOs that have fulfilled their past LIURP budgets and have the capacity for increased budgets.

71. Operation Share: The Company's contribution to Operation Share will be increased commensurate with the percentage rate increase to the residential class resulting from this case.

72. Release of Previously Collected Security Deposits: On a monthly basis, UGI Electric will review currently held security deposits and will issue a bill credit or refund for any deposit previously collected from a confirmed low-income customer.

Joint Petition pp.7-17

### PUBLIC INTEREST

As more fully explained below, the settlement terms recited above are reasonable and in the public interest and balance the interests of UGI Electric's customers and the interests of UGI Electric.

### **REVENUE REQUIREMENT**

The total increase in annual revenues of \$6.15 million that the Joint Petitioners have agreed to in the Joint Petition is approximately \$2.55 million less than UGI Electric's original request of \$8.7 million. The agreed upon increase is approximately 70.6% of UGI Electric's original request. The parties agree that the revenue increase represents a "black box" settlement, whereby the parties do not specifically identify or resolve individual rate base, revenue, expenses, and rate of return issues.

In supporting the agreed-upon revenue requirement, UGI Electric states, “[t]hrough extensive negotiations, the Joint Petitioners were able to reach a compromise within a range of their competing litigation positions. The \$6.15 million settlement increase, which falls within the range of the parties’ overall revenue requirement proposals, is just and reasonable, in the public interest, and supported by substantial evidence.” UGI Electric Stmt. in Support, p. 6.

OCA notes that the increase represents an overall increase of approximately 7.1% over present rates and is approximately \$2.55 million less than the original amount sought by UGI Electric. OCA Stmt. in Support, p. 5. OCA agrees that the increase is within the range of likely outcomes had the case been fully litigated, and that the settlement increase is in the public interest as well as in the interest of the Company’s ratepayers.

I&E fully supports the negotiated increase, stating, “[while] the overall revenue requirement is a “black box” compromise, the overall revenue levels are within the levels advanced on the evidentiary record and reflect a full compromise of all revenue-related issues raised by the parties.” I&E Stmt. in Support, p. 7.

As noted above, the Commission permits “black box” settlements as a means of promoting settlements in base rate proceedings. Here, UGI Electric originally sought an increase in its annual distribution operating revenue of approximately \$8.7 million, or an increase of approximately 10%. UGI Electric St. 1, p. 6. The OCA originally recommended an increase of no more than \$4.986 million. OCA Stmt. in Support, p. 5. I&E originally recommended an increase of \$3.153 million. I&E St. 1, p. 3. I&E later revised its recommended revenue requirement to an increase of \$5.115 million.

After extensive negotiations, the Joint Petitioners agreed on an overall increase of \$6.15 million, or an increase of an increase of approximately 7.1%. While the agreed upon increase in revenues is less than it originally requested, UGI Electric acknowledges that the increase is essential to its ability to attract capital on reasonable terms and will allow it to earn a fair rate of return and provide safe, reasonable, and adequate service to its customers. UGI Electric Stmt. in Support, p. 5. Additionally, all parties agree that the agreed-upon increase falls

within the range of likely outcomes that would result from a fully litigated proceeding. Further, the compromise allows the parties and the Commission to avoid the expenditure of potentially substantial additional time and expense that would be involved in fully litigating this case to its conclusion, a result that is fully encouraged and supported by the Commission. I find that the agreed upon increase in annual revenues is in the public interest and recommend that it be approved.

## **REVENUE ALLOCATION/RATE DESIGN**

Under the settlement, the parties agree that billing determinants will be based on the Company's UGI Electric Exhibit E, Proof of Revenue, which is attached to the Joint Petition as Appendix B.

All parties agreed that the majority of the revenue increase should properly be allocated to the residential customer class. *See, e.g.*, UGI Electric St. 6, p. 22; OCA St. 3, pp. 20-22; OSBA St. 1, pp. 18-19. Under UGI Electric's original revenue request of \$8.7 million, it proposed to allocate \$8.12 million to the residential class. UGI Electric St. 6, p. 23. The Company also proposed to increase its monthly customer charge for the residential class (Rate R) from \$8.74 to \$13.00 and for Rate GS-1 from \$10.50 to \$14.00.

Under the settlement, \$5.44 million of the \$6.15 revenue increase will be allocated to the residential class. The customer charge for residential customers will increase to \$9.50, and the customer charge for Rate GS-1 will increase to \$13.00. Joint Petition, ¶ 47. OCA and CEO, in advocating for lower monthly customer charges, argued that a higher fixed monthly customer charge would discourage energy conservation and adversely affect low-income customers. OCA St. 3, pp. 23-24; CEO St. 1, pp. 5-7.

Additionally, there had been disagreement about the Company's Rate FCP, which is its flood control service for emergency pumping operations, serving seven municipalities. In particular, OSBA challenged the Company's Rate FCP on the basis that the Company did not provide a cost analysis supporting the rate. OSBA recommended that UGI Electric either

eliminate the rate or apply a distribution rate increase equal to 1.5 times the system average. OSBA St. 1, p. 23. In the settlement, UGI Electric agrees that, in its next rate case, it will include a proposal to eliminate or consolidate the rate, or otherwise support Rate FCP as a separately identified class in its cost of service analysis. Joint Petition, ¶48.

UGI Electric states, “the overall rate design reflects a gradual increase in rates over the course of the FPFTY, moves all customer classes toward the overall cost of service, and strikes a reasonable balance between the interests of customers and the company.” UGI Electric Stmt. in Support, p. 10. OCA states, “[T]he Settlement reduces the impact of this rate increase on residential customers. Moreover, reducing the amount of the increase allocated to the fixed monthly customer charge will ensure that customers have greater control over lowering their monthly bills through conservation and usage reduction efforts.” OCA Stmt. in Support, pp. 7-8. OSBA agreed to the revenue allocation/rate design provisions in the settlement, noting, “OSBA concludes that the revenue allocation proposal in the *Joint Petition* is not unreasonable, recognizing the overall rate increase agreed to by the parties.” OSBA Stmt. in Support, p. 5.

I find that the revenue allocation and rate design provisions in the Joint Petition are reasonable and in the public interest. First, as noted, the majority of the increase has been allocated to the residential customer class. UGI Electric Stmt. in Support, p. 6. Under the settlement, the amount of rate increase allocated to residential customers is reduced from \$8.12 million to \$5.44 million, thereby allowing the Company to more gradually move rates toward the true cost of service. As UGI Electric correctly notes, the Pennsylvania Commonwealth Court has declared that “cost of service” is the “polestar” of public utility ratemaking. *Lloyd v. Pa. Pub. Util. Comm’n*, 904 A.2d 1010 (Pa. Cmwlth. 2006). The settlement moves rates toward cost of service while reducing rate shock to customers.

Further, I agree with OCA that a lower fixed monthly customer charge will provide an incentive to customers to assert greater control over lowering their bills through conservation and consumption reduction efforts. If more of the increase is attributed to consumption charges rather than fixed charges, customers will have the opportunity to realize

greater control over their usage and, consequently, the amount of the monthly bills. I believe the settlement terms will encourage such goals.

Finally, the provision whereby the Company will include a proposal to eliminate, consolidate, or otherwise support Rate FCP as a separately identified class in the cost of service presented in the Company's next rate case addresses OSBA's concern that the rate has not been supported by a cost analysis. In its next rate case, UGI Electric must support the rate in a cost of service analysis or it must eliminate or consolidate the rate.

I find that the settlement provisions with respect to revenue allocation and rate design are reasonable and in the public interest, and I recommend that they be approved.

## **BATTERY STORAGE**

UGI Electric proposed in this proceeding to install, own and interconnect a small scale (1.25 MWh) battery storage system as a means to improve reliability on a worst performing distribution circuit, the Ruckle Hill Road distribution circuit. As described by UGI Electric, the circuit serves 67 customers and is located near the end of a feeder line, six miles from the substation. The terrain through which the line runs is primarily mountainous with heavy vegetation, making accessibility difficult and exposing the circuit and line to outage risks. The battery storage project was designed to support the expected peak load of the circuit's 67 customers for up to four hours. UGI Electric Stmt. in Support, p. 10. The project cost was \$1.5 million and represents, in the Company's view, the most cost-effective solution. UGI Electric St. 3-R, pp. 17-18. UGI Electric proposed, in order to help defray the costs of the project, to use the battery storage system to participate in PJM Interconnection LLC's ("PJM") frequency Regulation Market, which would generate income for the Company. UGI St. 3-R, pp. 18, 25.

Several parties challenged the Company's proposal, arguing that it should be classified as a generation asset, rather than a distribution asset, since the Company proposed to have the battery participate in the PJM Frequency Regulatory Market, with the ability to generate a profit. In particular, RESA/NRG "questioned the appropriateness of UGI Electric owning the

proposed battery as RESA and NRG believed that the proposed battery would be acting as a generation resource due to UGI Electric's proposal to have the battery participate in the PJM Interconnection LLC Frequency Regulatory Market." RESA/NRG Stmt. in Support, p. 3.

Likewise, I&E argued:

UGI Electric's Battery Storage Project should be denied because the battery storage project is more appropriately considered a generation asset rather than a distribution asset due to the ability for UGI Electric to profit from the battery storage's ability to store and release power to either UGI Electric's own customers or to the PJM Market D. This would allow the Company to profit from the battery storage by purchasing electricity at a lower base load price and then sell it at a higher price on the PJM market, thus earning a profit off of an asset being paid for by distribution customers.

I&E Stmt. in Support, pp. 11-12.

In the settlement, the parties agreed that the Company's battery storage proposal will be approved, except that UGI Electric will not use the battery storage system to participate in the PJM Frequency Regulation Market. Further, inclusion of the battery storage project will be considered a pilot program and its approval by the Commission shall not serve as precedent for any future battery storage project proposals of either UGI Electric or any other electric utility. Additionally, UGI Electric agrees to certain data tracking and reporting obligations whereby it will provide to the Commission information concerning the duration, extent, cause, and times of outages, the duration and times the battery system was used to maintain service and loads on the facilities served by the battery system prior to and during the outage. Finally, the parties agree that the settlement on this issue is without prejudice to future challenges to any other future distribution system upgrades on the Ruckle Hill Road distribution circuit. Joint Petition, ¶¶49-51.

In supporting the settlement terms, I&E stated,



[a]fter lengthy negotiations where all parties argued the pros and cons of the proposed battery storage project . . . I&E supports the settled upon terms as stated in the Joint Petition as a full and fair compromise that provides UGI, the Joint Petitioners, affected ratepayers, and the Commission with regulatory certainty and with a resolution regarding the battery storage proposal, all of which is in the public interest.

I&E Stmt. in Support, p. 13.

I find that the settlement terms are reasonable and in the public interest and recommend that they be approved. First, UGI Electric’s agreement not to use the battery storage project to participate in the PJM Frequency Regulation Market resolves the concern about the Company owning a distribution asset, paid for by the Company’s distribution customers, from which the Company could earn a profit, while still allowing the Ruckle Hill Road Customers to realize the benefits of the backup battery storage project to maintain service during outages. Second, the data tracking and reporting requirements of the settlement will allow the Company and the Commission to track and monitor the performance of the battery storage system in order to assess its effectiveness and better develop and fine tune future projects. I find these settlement terms to be reasonable and in the public interest.

## **ELECTRIC VEHICLE CHARGING**

UGI Electric summarized its original Electric Vehicle (EV) charging station proposals as follows:

In response to the increasing usage and ownership of electric vehicles (“EVs”) across the country and in Pennsylvania, and the lack of any publicly-available EV charging station in UGI Electric’s service territory, the Company proposed an EV program consisting of three components: (1) installing and owning three publicly-available EV charging stations, to which the Company’s proposed Rate EV-C would apply; (2) a make-ready infrastructure proposal that would allow parties installing and interconnecting EV charging stations with UGI Electric’s distribution system to avoid the cost of make-

ready infrastructure; and (3) EV education. (UGI Electric St. No. 1, p. 13; UGI Electric St. No. 6, pp. 38-41.)

Under the first component, the Company proposed installing and owning three EV charging stations in an effort to support EV development directly within its service territory and gain additional first-hand metrics regarding EV charging utilization demands and usage patterns. (UGI Electric St. No. 3, p. 29.) Each station location would consist of one DC Fast Charge (“DCFC”), which is capable of charging a vehicle to approximately 80% of full charge within 30 minutes. (UGI Electric St. No. 3, p. 29.) Pending space and cost limitations, locations also would be evaluated for additional Level 2 charging installations, which are generally capable of providing 20 miles of range per hour of charging time. (UGI Electric St. No. 3, p. 29.) The project’s estimated cost of \$300,000 was included in the FPFTY capital budget and included the cost of all equipment, site preparation, installation costs, and UGI Electric supply and service make-ready work. (UGI Electric St. No. 3, p. 31.)

The EV program’s second component would modify the service extension provisions in the Company’s tariff and provide for a Company investment allowance related to the installation of make-ready EV infrastructure. (UGI Electric St. No. 6, p. 40.) Such allowance would be associated with Level 2 or DCFC charging stations installed within UGI Electric’s service territory that would be open for public use. (UGI Electric St. No. 6, p. 40.) Under this proposal, the Company would invest, own, and maintain the supporting “make-ready” infrastructure needed to serve the charging stations that the customer would purchase, install, and operate/maintain. (UGI Electric St. No. 6, p. 40.)

The third and final component of the EV program would support the success of the program by providing customers with education and information regarding EVs (e.g., how to connect EV charging equipment, cost of EV charging from the grid, and differences in EV charging levels). (UGI Electric St. No. 6, p. 41.) Such education could include website sources, communication with customers through non-website channels (e.g., bill inserts, television campaigns), and collaboration with government and non-governmental organizations on sharing details of

the EV program and general EV education for communities across UGI Electric's service territory. (UGI Electric St. No. 6, p. 41.)

These EV initiatives were designed to support the expanded growth of EVs within the Company's service territory by promoting EV charging infrastructure build-out and expanded access to EV charging infrastructure. (UGI Electric St. No. 1, p. 13.)

UGI Electric Stmt. in Support, pp. 15-16.

Several parties challenged certain portions of UGI Electric's EV proposals. Generally, the concerns involved (1) whether it is appropriate for UGI electric to own and operate the public EV charging stations, and (2) whether the costs associated with the charging stations should be recovered from the Company's ratepayers. *See, e.g.* OCA St. 1, pp. 13-14; OSBA St. 1, pp. 25-28; RESA and NRG St. 2, pp. 15-21; Brace St. 1, pp. 22-23. I&E recommended that, beginning one year after the first EV charging station is deployed, the Company annually provide an update on the status of the EV charging project, the corresponding plant, operating expenses, revenue, and the progress that has been made toward the stated goals of the project and any other information determined to be useful. I&E Stmt. in Support, p. 15. RESA and NRG summarized in their Statement in Support their primary concerns. "Primarily, RESA and NRG's concerns were related to the impact of UGI Electric's proposals on the ability of market participants to offer competitive options for their products and services to retail customers." RESA/NRG Stmt. in Support, p. 4.

The specific settlement terms agreed to by the Joint Petitioners are set forth in paragraphs 52-55 of the Joint Petition. UGI Electric summarizes the settlement terms in its Statement in Support as follows:

Under the Settlement, the Joint Petitioners were able to reach a reasonable compromise of their competing positions on the Company's EV proposal. (Settlement ¶¶ 52-55.) The Settlement permits the Company to implement its make-ready infrastructure proposal, subject to certain modifications of Rules 5-l and 5-m of its proposed electric service tariff. (Settlement ¶ 52.) Also,

the Company will post aggregated metered usage data for Qualified EV Charging Stations on a monthly and anonymized basis to its Energy Management Website (kWh and kW billing determinant use data) for interested parties to review. (Settlement ¶ 53.) The Settlement also clarifies that “make-ready infrastructure” does not include any behind-the-meter costs associated with the installation of EV charging stations. (Settlement ¶ 54.) Lastly, as part of the Settlement, UGI Electric withdraws without prejudice its proposals to: (1) recover the capital and operating costs associated with the Company’s installation and ownership of EV charging stations on its distribution system; and (2) establish Rate EV-C. (Settlement ¶ 55.) Therefore, the Settlement incorporates some but not all of the Company’s EV proposal and modifies certain aspects of the proposal as well. Even as modified, the Company’s EV program will help incent [sic] investments in EV charging stations and purchases of EVs. Thus, these provisions of the Settlement are just, reasonable, and in the public interest and should be approved without modification.

UGI Electric Stmt. in Support, pp. 19-20.

OCA summarizes its support of the settlement proposals as follows:

The settlement states that the Company will withdraw, without prejudice, its proposals to (1) recover the capital and operating costs associated with the Company’s installation and ownership of EV charging stations on its distribution system; and (2) its proposal to establish Rate EV-C. Settlement ¶55. Moreover, the Company revised its proposed service line modifications to address the OCA’s concern that such “make-ready infrastructure” provided by the Company does not extend behind the meter. Settlement ¶54. Accordingly, the OCA submits that this provision of the Settlement is in the public interest.

OCA Stmt. in Support, p. 9.

I&E supports the EV settlement provisions, stating, “[a]fter extensive negotiations . . . I&E supports the settled upon terms as stated in the Joint Petition as a full and fair compromise that provides UGI, the Joint Petitioners, affected ratepayers, and the

Commission with regulatory certainty . . . all of which is in the public interest.” I&E Stmt. in Support, p. 16.

I find the settlement terms relative to UGI Electric’s EV charging station proposals are reasonable and in the public interest and I recommend that they be approved. First, the settlement allows UGI Electric to proceed with its EV charging station project, which will facilitate and encourage the use of electric vehicles in the Company’s service territory. Currently, there are no publicly available EV charging stations in the Company’s service territory. While some of the witnesses who testified at the public input hearings (discussed below) expressed the opinion that there are very few electric vehicles in the Company’s service territory, thereby calling into question the need for EV charging stations in the first place, I find that, as a general policy consideration, and given significant concerns about global warming and issues surrounding the current reliance on fossil fuels, it is important to encourage and facilitate the development and use of alternative energy sources. I believe the EV charging station settlement provisions will help accomplish these goals.

Second, the settlement also requires that UGI Electric post aggregate metered usage data for Qualified EV charging stations on a monthly and anonymized basis to the Company’s website, thereby making it available for interested parties to review. This information will be useful to the Company, the Commission and interested parties, including potential competitors, to assess the demand for EV charging services over time, which will help in planning and developing appropriate future additional EV charging station resources as demand increases.

Additionally, the settlement terms whereby UGI Electric has withdrawn, without prejudice, its proposals to recover the capital and operating costs associated with the installation and ownership of EV charging stations and establish Rate EV-C will minimize the financial burden on the Company’s existing distribution customers during this “introductory” rollout phase of EV charging capability in the company’s service territory. The Company will retain the ability to seek to recover such costs in future rate proceedings as appropriate.

For these reasons, I recommend that the electric vehicle charging provisions set forth in the Joint Petition be approved as reasonable and in the public interest.

## **DSIC/REPORTING**

As described in paragraphs 56-58 of the Joint Petition, the settlement contains provisions that address test year plant reporting requirements, when eligible plant may be included in the Company's Distribution System Improvement Charge ("DSIC"), and how the equity rate of return shall be calculated for the Company's DSIC.

First, the Company is required to update its UGI Electric Exhibit A, Schedule C-2 no later than January 1, 2022, to include actual capital expenditures, plant additions, and retirements by month from October 1, 2020, through September 30, 2021, as well as provide updates for actuals from October 1, 2021, through September 30, 2022, by no later than January 2, 2023. UGI Electric explains, "[t]his will enable the parties and interested stakeholders to track the Company's actual capital expenditures, plant additions, and retirements for the FPFTY, and evaluate to what extent the actual figures match the Company's projections in this case." UGI Electric Stmt. in Support, p. 21. As explained by I&E, ". . . [t]hrough use of the FPFTY, a utility is allowed to require ratepayers . . . to pre-pay a return on a utility's projected investment in future facilities. . . . While the FPFTY provides for such projections, there should be some timely verification of the projections." I&E Stmt. in Support, p. 17. I agree with I&E that this provision merely requires UGI Electric to update and verify its projections of plant additions made in this case upon which the rates ultimately approved are in part based. I find this provision to be in the public interest and recommend that it be approved.

Next, the settlement provides that the Company will be eligible to include plant additions in its DSIC once total net plant balances exceed \$152,150,000. The parties agree that this provision is solely for purposes of calculating the DSIC and is not determinative for rate making purposes of the projected plant that may be included in rate base in future FPFTY filings. The Company notes that "this provision fully complies with the requirements of 66 Pa. Code § 1358, as well as the Commission's Model Tariff that the DSIC be set to zero as of the effective

date of new base rates that include DSIC-eligible plant.” UGI Electric Stmt. in Support, p. 20. As further noted by UGI Electric, this provision is similar to other settlement provisions the Commission has adopted in recent proceedings. *See, e.g., Pa. Pub. Util. Comm’n v. Columbia Gas of Pa., Inc.*, Docket No. R-2014-2406274 (Order entered Dec. 10, 2014); *Pa. Pub. Util. Comm’n v. UGI Utils., Inc. – Gas Div.*, Docket No. R-2015-2518438 (Order entered Oct. 14, 2016); *Pa. Pub. Util. Comm’n v. UGI Utils., Inc. – Gas Div.*, Docket No. R-2018-3006814 (Order entered Oct. 4, 2019). I agree that this provision has been adopted by the Commission as acceptable in a number of other proceedings and see no evidence in this proceeding as to why a different result should be ordered.

Finally, the settlement requires the Company to use, for purposes of calculating its DSIC, the equity return rate for electric utilities contained in the Commission’s most recent Quarterly Report on the Earnings of Jurisdictional Utilities. The Company states, “[t]his Settlement provision is in the public interest because it satisfies the Commission’s expectation that parties to a rate case settlement identify a return on equity for DSIC computation purposes.” UGI Electric Stmt. in Support, p. 21. I&E does not oppose this settlement term and states that it is in the public interest. I&E Stmt. in Support, p. 19. I agree with the parties that this provision is reasonable and in the public interest and recommend that it be approved. The Company’s customers will benefit from these DSIC provisions in that they will realize improvements to distribution system through improved service and reliability.

## **ACCOUNTING**

### **1. Depreciation Rates**

UGI Electric provided comprehensive depreciation studies on its electric plant for the Historic Test Year, Future Test Year and FPFTY. UGI Electric Exhibit C. These studies were sponsored and supported by Company witness Mr. Wiedmayer in his direct testimony. UGI Electric St. 7. No party disputed or otherwise challenged UGI Electric’s depreciation rates. The Company states that this settlement term “is in the public interest because it properly accounts for [UGI Electric’s] outlook and is consistent with the depreciation procedure used by

most other Pennsylvania utilities.” UGI Electric Stmt. in Support, p. 22. The Company’s as-filed depreciation rates are not opposed by any party and there is no record evidence challenging or otherwise providing a valid reason for ordering different rates. I therefore recommend that the Company’s as-filed depreciation rates be approved as being in the public interest.

## 2. **ADIT/EDFIT**

In the settlement, the Company’s FPFTY Accumulated Deferred Income Tax (“ADIT”) calculation was accepted by the Joint Petitioners. The Company’s calculation is based on a pro-rationing method required under Treasury Regulation 1.167(1)-(h)(6)(ii) that is necessary to be in compliance with Internal Revenue Service (“IRS”) normalization requirements. *See*, UGI Electric St. 9, pp. 6-8. In addition, the Company’s methodology for amortizing Excess Accumulated Deferred Federal Income Taxes (“EDFIT”) according to the Average Rate Assumption Method has also been accepted by the Joint Petitioners. I find that these settlement provisions are in the public interest in that they reflect that UGI Electric’s claims are based on a FPFTY and ensure compliance with IRS normalization requirements.

## 3. **Repairs Allowance**

UGI Electric summarized this settlement provision in its Stmt. in Support as follows:

In its tax return for the year ended September 30, 2009, UGI Electric adopted a tax accounting method to expense as repairs certain items capitalized for book purposes in accordance with federal tax regulations. (UGI Electric St. No. 9, p. 8.) As it did in the Company’s previous base rate case at Docket No. R-2017-2640058, UGI Electric chose to normalize its federal income tax expense claim, inclusive of the repairs tax deduction. (UGI Electric St. No. 9, p. 8.) This difference between accelerated tax depreciation versus book depreciation in the calculation of federal tax expense creates ADIT. (UGI Electric St. No. 9, p. 8.) Therefore, the Company reduced its rate base by the sum of the federal ADIT balance and



the state repair regulatory liability. (UGI Electric St. No. 9, p. 8.) No party opposed the Company's proposal.

The Settlement states that, for purposes of determining the revenue requirement in this case, all capitalized repairs deductions claimed on a tax return have been normalized for ratemaking purposes, and the appropriate related amount of tax effect of those deductions has been treated similarly to ADIT as a reduction to UGI Electric's rate base. (Settlement ¶ 61.) The Settlement continues the practice that UGI Electric has followed since its adoption of the current methodology used for calculating the repairs allowance.

UGI Electric Stmt. in Support, pp. 23-24.

As explained by the Company in its Statement in Support, normalization benefits customers by ensuring that they receive a fair portion of the benefit of the repairs allowance deduction through rate base, over the life of the plant giving rise to the deductions, regardless of when the utility files a rate case. Moreover, normalizing the repairs allowance deduction provides an important source of cash flow to the utility that can be used to support the Company's capital spending program and to reduce outside borrowing. No party opposes this provision. I find that it is reasonable and in the public interest and recommend that it be approved.

#### **4. IT Cost Capital Treatment**

The Joint Petition provides that, for purposes of the settlement, UGI Electric's as-filed capital treatment of certain IT costs is accepted. Joint Petition ¶ 62. Under this settlement provision, UGI Electric will capitalize IT costs that include preliminary-stage project work, business and technology reengineering activities, current state assessments, reengineering business processes to adapt to new systems, data conversion, data cleansing and migration, pre-implementation training practices, cloud computing software implementation, and Hypercare.

UGI Electric summarized this settlement provision in its Statement in Support as follows:

Since 2016, the Company has capitalized certain information technology (“IT”) costs associated with software implementation projects, including preliminary-stage project and business and technology reengineering expenses. (UGI Electric St. No. 4, p. 14.) These IT costs consist of internal labor, external consulting expense, and other expenses related to the preparation of the vendor and system integrator requests for proposals. (UGI Electric St. No. 4, p. 14.) IT costs also include current-state assessments, reengineering business processes to adapt to the new system, data conversion, cleansing and migration (including field verification and digitization of asset attributes required for accurate data and facility capture), and pre-implementation training costs. (UGI Electric St. No. 4, p. 14.) Additionally, the Company capitalizes the above-mentioned cost items for cloud computing software implementation projects. (UGI Electric St. No. 4, p. 14.) Further, beginning in 2019, the Company began capitalizing Hypercare costs associated with large software implementation projects. (UGI Electric St. No. 4, p. 14.) Hypercare is a term for post-implementation support following the deployment of an IT project to ensure that the newly implemented system operates as planned. (UGI Electric St. No. 4, p. 15.) Importantly, the Commission previously approved capital treatment for the Company’s IT costs in UGI Electric’s 2018 base rate case at Docket No. R-2017-2640058. (UGI Electric St. No. 4, p. 15.) No party disputed the Company’s capital treatment of these IT costs.

UGI Stmt. in Support, pp. 24-25.

Capital treatment of these IT costs is consistent with the Commission’s approval of such treatment in UGI Electric’s 2018 base rate case. Moreover, under the Federal Energy Regulatory Commission (“FERC”) Uniform System of Accounts, IT costs fit the definition of costs that should be capitalized once placed in service. UGI Electric St. No. 4, p. 15. No party opposes this provision. I find that it is reasonable and in the public interest and recommend that it be approved.

## 5. COVID-19 Cost Deferral

Under this settlement provision, the Joint Petitioners agree that UGI Electric's revenue increase reflects a three-year amortization of the Company's COVID-19 regulatory asset related to incremental uncollectible accounts expense, or \$337,666 per year. This amount includes all incremental uncollectible expense through September 30, 2020.

The background of this provision was explained by UGI Electric in its Statement in Support as follows:

On March 6, 2020, Governor Wolf issued a Proclamation of Disaster Emergency ("Emergency Proclamation"), which declared an emergency throughout the Commonwealth as a result of the COVID-19 pandemic. (UGI Electric St. No. 4, p. 16.) On May 13, 2020, the Commission issued a Secretarial Letter ("Secretarial Letter") responding to the Emergency Proclamation and directing public utilities to "account for prudently incurred incremental extraordinary, nonrecurring expenses related to COVID-19, which result from compliance with the Commission's moratorium suspension." (UGI Electric St. No. 4, pp. 16-17.) More specifically, the Secretarial Letter directed utilities to track extraordinary, nonrecurring incremental COVID-19 expenses. (UGI Electric St. No. 4, p. 17.) Utilities also were authorized to create regulatory assets for incremental uncollectible expenses (related to COVID-19) above those embedded in base rates (since the Commission's March 26, 2020 Emergency Order entered at Docket No. M-2020-3019244). (UGI Electric St. No. 4, p. 17.) Therefore, the Secretarial Letter laid the foundation for utilities to seek recovery of extraordinary, nonrecurring incremental costs related to COVID-19. (UGI Electric St. No. 4, p. 17.) Finally, the Secretarial Letter directed utilities to claim deferred COVID-19 costs, at the first available opportunity. (UGI Electric St. No. 4, p. 17.)

As this is the Company's first base rate case since the Commission's May 13, 2020 Secretarial Letter and the March 26, 2020 Emergency Order, this proceeding was the first available opportunity for the Company to seek recovery of deferred COVID-19 costs. (UGI Electric St. No. 4, p. 17.) UGI Electric has experienced both increased

uncollectible accounts expenses and increased costs in other areas due to COVID-19. (UGI Electric St. No. 4, pp. 17-18.) Therefore, the Company created a regulatory asset for its incremental COVID-19 expenses related to uncollectible accounts expense above the \$1,015,000 amount embedded in its current rates. (UGI Electric St. No. 4, p. 19.) The amount of the regulatory asset, which represents the uncollectible expense in excess of the amount included in rates for the twelve months ended September 30, 2020, is \$1,013,000. (UGI Electric St. No. 4, p. 19.)

UGI Electric Stmt. in Support, pp. 25-26.

The OCA recommended that these incremental uncollectible accounts expenses be recovered through a regulatory asset over five years, while I&E recommended the use of a three-year recovery period. OCA St. No. 1, p. 24; I&E St. No. 1, p. 12. UGI Electric originally proposed a two-year recovery period, arguing that (1) the Company currently estimates that it will file its next base rate case within two years after the rates in this case become effective; and (2) a two-year amortization period aligns with the same two-year period that the Company uses to normalize other expenses.

As noted, the settlement reflects a three-year amortization of the Company's COVID-19 regulatory asset related to incremental uncollectible accounts expense, or \$337,666 per year (i.e.,  $\$1,013,000 \div 3$ ), which includes all incremental uncollectible expense through September 30, 2020. Joint Petition ¶ 63. This constitutes a reasonable compromise of the parties' positions, which ranged from a two-year amortization period proposed by UGI Electric to the five-year amortization period recommended by OCA. I find that this settlement provision is reasonable and in the public interest and recommend that it be approved.

## **6. Rate Case Expense**

Under the settlement, the parties have agreed that UGI Electric's rate case expense should be normalized over three years for ratemaking purposes and amortized over three years for accounting purposes. UGI Electric originally proposed to recover rate case expense

over two years. UGI Electric St. 2-R, p. 10. I&E and OCA recommended that rate case expense be normalized over three years. I&E St. 1, p. 6; OCA St. 1, p. 23. Although the Company presented testimony suggesting that it was likely to file its next base rate case within two years, it agreed, as a compromise, to a three-year recovery period. It further agreed to not claim any unamortized amount in a future rate case.

UGI Electric acknowledged in its testimony that three years have passed since its last base rate case. UGI Electric St. 2-R, p. 10. While rate case frequency is not the sole determinate of an appropriate rate case expense recovery period, the three-year period agreed upon in the settlement more accurately matches the Company's recent rate case filing frequency and represents a reasonable compromise of the parties' respective positions. I find, therefore, that this settlement provision is reasonable and in the public interest and recommend that it be approved.

#### **7. Company Owned Service Expenditures (COS-E)**

In its 2018 base rate case (R-2017-2640058), UGI Electric indicated it owned and maintained approximately 5,000 primarily residential facilities, including service entrance cables, meter sockets, panel boxes, main breakers and 240-volt breakers, some of which were located inside customers' homes. The Company proposed at that time a 10-year plan to transition ownership of these facilities to the homeowners. As part of its plan, the Company projected 500 service transfers annually, as outlined in the 2018 case for both the Future Test Year 2021 and the FPFTY 2022. I&E summarized UGI Electric's commitments from the 2018 proceeding as follows:

In the Company's 2018 base rate case, UGI Electric proposed its Company-Owned Services ("COS") Transition Program, under which the Company would transfer to customers certain Company-owned facilities located inside customers' homes. *Pa. PUC v. UGI Utilities, Inc. – Electric Division*, Docket Nos. R-2017-2640058, p. 45 (Order entered Oct. 25, 2018). These facilities include "service entrance cables, meter sockets, panel boxes, main breakers and 240-volt breakers." *Id.* Ultimately, the

Commission approved UGI Electric's COS Transition Program and associated annual implementation expense claim of \$454,418 on the conditions that the Company be: (1) "prohibited from earning a profit from the program"; (2) "prohibited from terminating service in conjunction with the program"; and (3) "required to coordinate with [the Bureau of Consumer Services] and the OCA in implementing and executing the program." *Id.*, p. 49. Accordingly, on October 25, 2018, UGI Electric began its COS Transition Program. (UGI Electric St. No. 3-R, p. 8.)

UGI Electric Stmt. in Support, pp. 28-29.

I&E challenged the Company's claim in this proceeding. It argued that the annual expense claim should be reduced by \$367,463 to match the \$90,537 amount the Company actually incurred in the HTY under its COS Transition Program. I&E St. 1. Pp. 25-26.

As a settlement of this issue, UGI Electric will be permitted, effective October 1, 2021, to record, for book accounting purposes, the costs associated with its COS Transition program as capital investment, with the capital investment recorded for recovery from ratepayers capped at \$5,000,000. Further, if costs exceed the \$5,000,000 capitalization cap after October 1, 2021, the Company will expense the excess costs and may seek to recover the costs in a future rate case, with all parties retaining their rights to challenge any such claims. Joint Petition, ¶ 65.

I&E accepts the settlement provision "as a full and fair compromise that provides UGI, the Joint Petitioners, affected ratepayers, and the Commission with regulatory certainty as a resolution of the company-owned service transition expenditures issue, all of which is in the public interest." I&E Stmt. in Support, pp. 25-26.

The settlement provision provides a level of certainty to the Company and its customers about the amount of COS transition program costs approved in this case while retaining the rights of all parties to challenge and litigate, in future rate proceedings, the recovery of any costs over the \$5,000,000 cap. I also agree, as noted by UGI Electric on page 31 of its Statement in Support, that this approach has been considered and approved by the Commission in other proceedings involving the capitalization of costs associated with the replacement of

customer-owned service lines.<sup>1</sup> For these reasons, I find that this settlement provision is reasonable and in the public interest and recommend that it be approved.

## **COMPANY’S COVID-19 RELIEF EFFORTS**

UGI Electric has committed under the settlement to continue existing activities to assist customers impacted by COVID-19 through various efforts and initiatives to promote existing Company assistance programs and to facilitate customer access to COVID-19 pandemic-related public utility assistance resources, including the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) and the American Rescue Plan. More specifically, the Company’s ongoing pandemic relief efforts include the following measures:

- a. Mass media campaign promoting UGI Utilities, Inc. assistance programs and CARES Act funding.
- b. Direct mail and email campaign(s) targeting customers with arrearages whom UGI Electric determines may benefit from Company assistance programs and/or CARES Act programs.
- c. Bill inserts to all customers alerting them about Company assistance programs and CARES Act programs.
- d. Coordination with CARES Act program providers in the Company’s service territory to facilitate and enable direct communication with the Company on CARES Act application requests. This work will include a direct hotline number for provider use, an ability for benefit payments to be made on multiple accounts with one check, an option to make payments via credit card, as well as Company Call Center staff training to promote CARES Act Programs for qualifying customers, in addition to Company programs and available Commission COVID-19 payment arrangement options.

---

<sup>1</sup> See *Petition of The York Water Co. for an Expedited Order Authorizing Limited Waivers of Certain Tariff Provisions and Granting Accounting Approval to Record Costs of Certain Customer-Owned Service Line Replacements to the Company’s Service Account*, Docket No. P-2016-2577404 (Order entered Mar. 8, 2017); *Petition of Peoples Natural Gas Co. LLC for Approval of Limited Waivers of Certain Tariff Rules Related to Customer Service Line Replacement*, 2013 Pa. PUC LEXIS 543, at \*13-15, 31-34 (Order entered May 23, 2013); *Petition of Columbia Gas of Pennsylvania, Inc. for Limited Waivers of Certain Tariff Rules Related to Customer Service Line Replacement*, 2008 Pa. PUC LEXIS 344, at \*2-9 (Order entered May 19, 2008).

- e. Modification of the above efforts, as appropriate, once American Rescue Plan funding becomes available via defined program(s).
- f. Solicitation of customers who received LIHEAP in the prior 12 months for enrollment in the Company's CAP two times a year.
- g. Solicitation of customers who self-reported Level 1 income in the prior 12 months for enrollment in the Company's CAP two times a year.

Joint Petition, ¶66.

All parties support these settlement commitments. I agree that these provisions are important measures to help assure that the Company's customers are aware of and are best able to take advantage of the various assistance programs and initiatives that exist and may be available to them during the pandemic. I find, therefore, that they are reasonable and in the public interest and I recommend that they be approved.

#### **UNIVERSAL SERVICES**

UGI Electric has agreed under the settlement to the following commitments related to universal services:

Rider C – Universal Service Plan Rider: Throughout Rider C, the as-filed updated participant number of “the number of CAP enrollees as September 30, 2021” shall be replaced with “3,231”.

WARM Initiative: The Company agrees to include the following provisions in its WARM Initiative:

- a. Perform a solicitation of customers who received LIHEAP in the prior 12 months for enrollment in the Company's CAP 2 times a year.
- b. Perform a solicitation of customers who self-reported Level 1 income in the prior 12 months for enrollment in the Company's CAP 2 times a year.
- c. Accept verbal self-reported income eligibility for customers at or below 250% of the Federal Poverty Level during the Winter Moratorium for purposes of winter shutoff protections, requests for



deferred payment arrangements, or any other customer contact with the call center for an unpaid bill. Normal income verification requirements maintained by the Company shall apply upon the end of the Winter Moratorium period.

- d. Accept verification of income eligibility by any community-based organization (“CBO”) in the Company’s service territory delivering public or private assistance.
- e. Contact of administrators of applicable PA DHS public assistance programs, requesting that they ask DHS applicants enrolling in their public assistance programs to designate whether the DHS applicants want UGI Electric to be informed of their income eligibility for various customer service protections propounded by the Commission. Each household who the program administrators identify to UGI Electric as answering in the affirmative shall be deemed by UGI Electric as a Confirmed Low-Income customer and/or a customer eligible for winter shutoff protections. Normal income verification requirements maintained by the Company shall apply thereafter (for enrollment/participation in UGI Electric Universal Service programs).
- f. Provide written materials, which solicit participation in UGI Electric’s CAP and/or identification of customers eligible for winter shutoff protections, to:
  - i. Public school districts in the Company’s service territory, so that they can distribute the materials to school households with students eligible for the federal free and reduced school meals program; and/or Head Start programs; and
  - ii. Community and faith-based food pantries, soup kitchens, and emergency shelters.
- g. Provide written CAP solicitation materials to be delivered by local and/or county offices delivering benefits through the federal Supplemental Nutrition Assistance Program (“SNAP”) (Food Stamps), as well as through local Public Housing Authorities.
- h. Only include earned income from household occupants aged 18 years and older when verifying household income.
- i. Any incremental costs incurred by the Company in the administration of items (e)-(h) will be deferred for recovery, without interest, in the Company’s next base rate case.

Refund of Security Deposits after Enrollment in LIURP or Low-Income EE&C Programs: Upon a customer being enrolled in the Company's Low-Income Usage Reduction Program ("LIURP") or any low-income usage reduction program in the Company's Energy Efficiency and Conservation Plan, and after weatherization services are completed, any and all remaining security deposits on the customers' accounts will be refunded.

LIURP:

- a. LIURP spending will be increased commensurate with the percentage rate increase to the residential class resulting from this case;
- b. The Company will continue to use the CBOs it has traditionally utilized in the administration and implementation of its universal service programs; and
- c. In regards to the large carryover of LIURP funding from 2020, the Company will increase the LIURP budgets of the CBOs that have the demonstrated capacity to do the additional work, i.e., CBOs that have fulfilled their past LIURP budgets and have the capacity for increased budgets.

Operation Share: The Company's contribution to Operation Share will be increased commensurate with the percentage rate increase to the residential class resulting from this case.

Release of Previously Collected Security Deposits: On a monthly basis, UGI Electric will review currently held security deposits and will issue a bill credit or refund for any deposit previously collected from a confirmed low-income customer.

Joint Petition, ¶¶ 67-72.

These Universal Services-related settlement provisions are primarily the result of negotiations between the Company and OCA, which generally sought enhanced universal service programs and outreach to the Company's customers. OCA summarizes these settlement provisions in its Statement in Support as follows:

[T]he Company agrees to make concerted efforts to promote assistance programs and Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") funding through mass media campaigns, bill inserts, and through co-

ordination with program providers. Settlement ¶ 66. In addition, the Company has agreed to modify its WARM [Winter Assistance Relief Mobilization] initiative to, among other things: (1) solicit customers who received LIHEAP [Low Income Home Energy Assistance Program] in the prior 12 months for enrollment in the Company's CAP two times a year, (2) solicit customers who self-reported Level 1 income in the prior 12 months for enrollment in the Company's CAP two times a year, (3) accept verbal self-reported income eligibility for customers at or below 250% of the Federal Poverty Level during the Winter Moratorium for purposes of winter shutoff protections, requests for deferred payment arrangements, or any other customer contact with the call center for an unpaid bill, (4) contact administrators of applicable PA DHS public assistance programs, requesting that they ask DHS applicants enrolling in their public assistance programs to designate whether the DHS applicants want UGI Electric to be informed of their income eligibility for various customer service protections propounded by the Pennsylvania PUC, and (5) provide written materials regarding UGI Electric's CAP to public school districts in the Company's service and community and faith-based food pantries, soup kitchens, and emergency shelters to solicit participation and identify eligible customers for winter shutoff protections. Settlement ¶ 68.

As part of Settlement, the Company also will increase spending in its Low-Income Usage Reduction Program (LIURP) commensurate with the increase to the residential class resulting from this case. Settlement ¶ 70. The Company will also increase its contribution to its Operation Share program commensurate with the percentage rate increase to the residential class resulting from this case. Settlement ¶ 71.

OCA Stmt. in Support, pp. 11-12.

Additionally, the Company has agreed to the following provisions associated with customer security deposits:

[U]pon a customer being enrolled in the Company's LIURP program or any low-income usage reduction program in the Company's energy Efficiency and Conservation Plan, and after weatherization services are completed, any and all

remaining security deposits on the customers' accounts will be refunded. (Settlement ¶69) . . . Relatedly, the Settlement states that on a monthly basis, UGI Electric will review currently held security deposits and will issue a bill credit or refund for any deposit previously collected from a confirmed low-income customer.

UGI Electric Stmt. in Support, pp. 37-38.

Taken as a whole, these settlement provisions result in enhancements to the Company's customer assistance programs, as well as the Company's outreach efforts to educate and solicit potential eligible customers for participation in the various programs, all in an attempt to increase participation in these programs by eligible customers. OCA states, "[t]he above provisions, taken together, provide outreach to customers to ensure that they have access to the Company's assistance programs when they may need it most." OCA Stmt. in Support, p. 12.

I find that these settlement provisions are reasonable and in the public interest and recommend that they be approved.

#### CONDITIONS OF SETTLEMENT

The settlement is conditioned upon the Commission's approval of the terms and conditions contained in the Joint Petition without modification. If the Commission modifies the Settlement, any Joint Petitioner may elect to withdraw from the Settlement and may proceed with litigation and, in such event, the Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all Joint Petitioners within five business days after the entry of an Order modifying the Settlement.

If the Commission approves the Settlement without modification, the Joint Petitioners acknowledge and agree that the rates, rules, and proposals set forth in the 2021 Base Rate Case filing, as modified by the Settlement, shall be Commission-made rates.

This Settlement is proposed by the Joint Petitioners to settle all issues in the instant proceeding. If the Commission does not approve the Settlement without modification and the proceeding continues, the Joint Petitioners reserve their respective procedural rights to evidentiary hearings, submission of additional testimony and exhibits, cross-examination of witnesses, briefing, and argument of their respective positions. The Settlement is made without any admission against, or prejudice to, any position that any Joint Petitioner may adopt in the event of any subsequent litigation of these proceedings, or in any other proceeding.

The Joint Petitioners acknowledge that the Settlement reflects a compromise of competing positions and does not necessarily reflect any Joint Petitioner's position with respect to any issues raised in this proceeding. The terms and conditions of the Settlement are limited to the facts of this specific case and are the product of compromise for the sole purpose of settling this case. This Settlement is presented without prejudice to any position which any of the Joint Petitioners may have advanced and without prejudice to the position any of the Parties may advance on the merits of the issues in future proceedings. This Settlement does not preclude the Joint Petitioners from taking other positions in proceedings of other public utilities under Section 1308 of the Public Utility Code, 66 Pa. C.S. § 1308, or any other proceeding.

The Joint Petitioners have agreed that, if the ALJ recommends adopting the Settlement without modification, the Joint Petitioners waive their right to file Exceptions.

#### PUBLIC INPUT HEARING WITNESS TESTIMONY

As noted above, eight witnesses testified during the April 28, 2021 public input hearings in this proceeding. These witnesses raised two main issues during their testimony. First, most witnesses testified that the rate increase was too high and would cause financial hardship on top of the economic hardship caused by the pandemic. By way of example, Pamela Stuart testified that a 12.4% rate increase is too high for customers to afford, especially during the COVID-19 pandemic. Tr. p. 84. She testified that many people have lost their jobs, and that the cost of everything else continues to go up. Tr. p. 84. She stated that her pay is not keeping up with all the increases and she can't afford this increase. Tr. p. 84. Likewise, Paul Sweet testified that he is on permanent disability and his wife makes very little money. Tr. p. 88. He

noted that, as other prices continue to increase, he is unable to afford the rate increase proposed by UGI Electric. Tr. p. 88.

Several public input witnesses challenged the fairness of having to pay the costs associated with the development and installation of EV charging station infrastructure. By way of example, Jacob Beach argued that it is unfair for customers to be burdened with these costs when the facilities would benefit so few of the people in the Company's service territory. Tr. p. 93. He argued that these costs should not have to be borne by the Company's residential customers. Tr. p. 93. Lindsey Wosik also challenged these costs, arguing, as did Mr. Beach, that they should not be charged to all customers where the infrastructure would benefit such a minimal portion of the population. Tr. p. 97.

With respect to the issue of the affordability of the increase, I note, as addressed above, that the parties, after extensive negotiations, have agreed on an overall increase of \$6.15 million, which is \$2.55 million less than the Company's original proposal. UGI Electric acknowledged that the reduced increase will still enable it to continue to provide safe, reasonable, and adequate service to its customers. UGI Electric Stmt. in Support, p. 5. Additionally, all parties agree that the agreed-upon increase falls within the range of likely outcomes that would have resulted from a fully litigated proceeding and allows the parties and the Commission to avoid the expenditure of potentially substantial additional time and expense that would be involved in fully litigating this case. The concerns raised by the public input hearing witnesses on this issue have been considered by the parties in arriving at the settlement increase.

With respect to the issue of costs associated with EV charging infrastructure, I note that, as part of the settlement, UGI Electric has agreed to withdraw, without prejudice, its proposals to recover the capital and operating costs associated with the installation and ownership of the EV charging stations on its distribution system. Joint Petition, ¶¶52-55. While recovery of these costs may ultimately be sought by the Company in a future rate proceeding, such recovery is not an element of the settlement increase in this proceeding. Accordingly, the concerns on this issue raised by the public input hearing witnesses have been fully addressed.

## COMMENTS TO JOINT PETITION

Three formal complainants submitted comments to the Joint Petition. Two people challenged the increase on the basis that the settlement rates will create added financial hardship to the Company's customers. Both argued that the typical annual increase in their incomes is much less than the increase approved in the settlement and that they will be unable to afford the increase.

As explained above, the increase approved by the parties in the settlement was achieved through careful analysis and consideration by the parties of their respective positions and represents a fair compromise of the initial positions of the various parties. The Joint Petitioners agree that the approved increase falls within the range of likely outcomes that would have resulted from a fully litigated proceeding, while saving the significant added time and expense that would have been expended in such a proceeding.

The third customer who submitted comments to the Joint Petition challenged the process by which the settlement was reached. The gravamen of her challenge is that "black box" settlements allow parties to rate increase proceedings to arrive at settlement amounts without fully addressing all of the individual revenue and expense components of the rate. She argues, in essence, that the Commission is the "last line of defense" in fully examining the Company's claims and in assuring fair rates to customers.

As noted above, the Commission allows "black box" agreements as a means of promoting settlements in contentious base rate proceedings. Determining a utility's revenue requirement is a calculation that involves many complex and interrelated adjustments affecting expenses, depreciation, rate base, taxes and the utility's cost of capital. Accordingly, reaching an agreement among the parties on each component can be difficult and impractical. Black box settlements can often break the log jam faced by parties in resolving complex rate proceedings.

Here, the parties engaged in extensive discovery in this proceeding. UGI Electric responded to comprehensive discovery requests from the other Joint Petitioners wherein it provided a great deal of detailed financial information on the various revenue and expense

elements that are determinative of the Company's rate structure. Each of the Joint Petitioners used financial and economic experts to assist in reviewing and analyzing the many claims made by the Company in its rate proposals. It was only after this review and analysis by the various experts that the agreed upon settlement numbers were established. Accordingly, although the many individual revenue and expense items may not be revealed and determined in the Joint Petition, these items were nonetheless considered by the parties in arriving at their respective settlement positions and, ultimately, in the agreed upon settlement provisions.

### CONCLUSION

After considering the terms and conditions of the settlement, I find that it produces rates that are just and reasonable. The active parties presented expert testimony in support of the various elements of the rate filing. The active parties engaged in discovery and reviewed and evaluated the filing. The active parties also engaged in extensive settlement negotiations and made compromises, which the Commission has stated "fosters and promotes the public interest."<sup>2</sup> The unanimous agreement of the Company and other Joint Petitioners resulted in a lower rate increase than originally proposed by UGI Electric.

I find that the settlement is supported by substantial evidence, is in the public interest, and is consistent with the requirements of 66 Pa. C.S. § 1308. Accordingly, I recommend that the Commission approve the proposed settlement and that UGI Electric file a tariff supplement reflecting the rates set forth in its proposed compliance tariff attached to the Joint Petition as Appendix "A" to become effective no earlier than November 9, 2021.

### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of and the parties to this proceeding. 66 Pa. C.S. §§ 1301, 1308(d).

---

<sup>2</sup> *Pa. Pub. Util. Comm'n v. C S Water & Sewer Assocs.*, 74 Pa. PUC 767, 771 (1991).



2. Under Section 1301 of the Public Utility Code, a public utility's rates must be just and reasonable. 66 Pa. C.S. § 1301.

3. The Commission possesses a great deal of flexibility in its ratemaking function. *See Popowsky v. Pa. Pub. Util. Comm'n*, 665 A.2d 808, 812 (Pa. 1995). "In determining just and reasonable rates, the [Commission] has discretion to determine the proper balance between the interests of ratepayers and utilities." *Id.*

4. The term "just and reasonable" is not intended to confine the ambit of regulatory discretion to an absolute or mathematical formula; rather, the Commission is granted the power to balance the prices charged to utility customers and returns on capital to utility investors. *Pa. Pub. Util. Comm'n v. Pa. Gas & Water Co.*, 424 A.2d 1213, 1219 (Pa. 1980), *cert. denied*, 454 U.S. 824, 102 S. Ct. 112, 70 L. Ed. 2d 97 (1981).

5. Commission policy promotes settlements. 52 Pa. Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative resources.

6. Settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401.

7. The Commission encourages black box settlements. *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.*, Docket No. R-2011-2267958, pp. 26-27 (Order entered June 7, 2012); *Pa. Pub. Util. Comm'n v. Peoples TWP LLC*, Docket No. R-2013-2355886, p. 27 (Order entered Dec. 19, 2013); Statement of Chairman Robert F. Powelson, *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611, Public Meeting, August 2, 2012.

8. In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. UGI Utils., Inc. – Gas Div.*, Docket No. R-2015-2518438 (Order entered Oct. 14, 2016); *Pa. Pub. Util. Comm'n v. Phila. Gas Works*, Docket No. M-00031768 (Order entered Jan. 7, 2004).

9. The Joint Petitioners have the burden to prove that the Settlement is in the public interest. *Pa. Pub. Util. Comm'n v. Pike Cnty. Light & Power (Elec.)*, Docket No. R-2013-2397237 (Order entered Sept. 11, 2014).

10. The decision of the Commission must be supported by substantial evidence. 2 Pa. C.S. § 704.

11. “Substantial evidence” is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1961); *Murphy v. Pa. Dept. of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

12. The rates and terms of service set forth in the Joint Petition are supported by substantial evidence and are in the public interest.

### ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That UGI Utilities, Inc. – Electric Division shall not place into effect the rates contained in Supplement No. 26 to Tariff Electric-Pa. P.U.C. No. 6 and Supplement No. 2 to UGI Tariff Electric-Pa. P.U.C. No. 2S.

2. That the Joint Petition for Approval of Settlement of All Issues filed on July 19, 2021 among UGI Utilities, Inc. – Electric Division, the Commission’s Bureau of Investigation and Enforcement, the Pennsylvania Office of Consumer Advocate, the Pennsylvania Office of Small Business Advocate, the Coalition for Affordable Utility Services

and Energy Efficiency in Pennsylvania, the Commission on Economic Opportunity, ChargePoint, Inc., the Retail Energy Supply Association and NRG Energy, Inc. is approved and adopted.

3. That UGI Utilities, Inc. – Electric Division shall file tariff supplements reflecting the rates set forth in its proposed compliance tariff attached to the Joint Petition for Settlement of All Issues as Appendix “A,” to become effective on at least one day’s notice after entry of the Commission’s Order approving the settlement, for service rendered on and after November 9, 2021, which tariff supplement increases rates so as to produce an increase in annual operating revenues of not more than \$6.15 million.

4. That two copies of each filing statement and exhibit listed in the stipulation for admission of evidence be filed with the Secretary of the Pennsylvania Public Utility Commission, unless previously filed.

5. That all filings designated as “confidential” be placed in the non-public folders by the Secretary of the Pennsylvania Public Utility Commission.

6. That the investigation at Docket No. R-2021-3023618 be terminated and marked closed.

7. That the complaint filed by the Office of Consumer Advocate in this proceeding at Docket No. C-2021-3024213 be terminated and marked closed.

8. That the complaint filed by the Office of Small Business Advocate in this proceeding at Docket No. C-2021-3024200 be terminated and marked closed.

9. That the complaint filed by Jennifer Mattingly in this proceeding at Docket No. C-2021-3024500 be terminated and marked closed.

10. That the complaint filed by Brandi Brace in this proceeding at Docket No. C-2021-3024613 be terminated and marked closed.

