**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :

:

v. : R-2015-2518438

:

UGI Utilities, Inc. – Gas Division :

Office of Consumer Advocate : C-2016-2527150

Office of Small Business Advocate : C-2016-2528559

UGI Industrial Intervenors : C-2016-2529436

:

v. :

:

UGI Utilities, Inc. – Gas Division :

**SCHEDULING ORDER**

**SECOND PREHEARING ORDER**

On January 19, 2016, UGI Utilities, Inc. (UGI or Company) filed Tariff Gas – PA. P.U.C. Nos. 6 and 6-S to become effective March 19, 2016, seeking a general rate increase calculated to produce $58.6 million (17.5%) in additional annualrevenues. Notice of the filing was published in nine newspapers of general circulation.[[1]](#footnote-1)

On February 1, 2016, the Commission's Bureau of Investigation and Enforcement (I&E) filed its notice of appearance. On February 2, 2016, the Office of Consumer Advocate (OCA) filed a formal complaint and public statement.

Pursuant to 66 Pa. C.S. §1308(d), the filing was suspended by operation of law on February 11, 2016, until October 19, 2016, unless permitted by Commission Order to become effective at an earlier date.

Notice of prehearing conference was issued and posted to the Commission's website on February 2, 2016, which scheduled the prehearing conference for Wednesday, February 17, 2016 and assigned the case to Administrative Law Judges Steven Haas[[2]](#footnote-2) and to me (the ALJS). The ALJs issued a prehearing order on February 3, 2016, which was posted to the Commission's website and set forth some of the requirements for participating in a formal rate proceeding before the Commission.

On February 9, 2016, the Commission on Economic Opportunity filed a Petition to Intervene.

On February 11, 2016, the Office of Small Business Advocate filed its Complaint and Public Statement.

On February 12, 2016, a group of natural gas suppliers comprised of Dominion Retail, Inc., d/b/a Dominion Energy Solutions, Shipley Choice, LLC d/b/a Shipley Energy, Interstate Gas Supply, Inc. d/b/a IGS Energy, AMERIGreen Energy, and Rhoads Energy (collectively NGS Parties) filed a petition to intervene. On February 15, 2016, the Retail Energy Supply Association (RESA) filed a petition to intervene.

On February 16, 2016, the UGI Industrial Intervenors (UGIII) filed a formal Complaint at Docket No. C-2016-2529436.

Prehearing memoranda were filed by the Company, OCA, OSBA, I&E, CEO, CAUSE – PA, the NGS Parties, RESA, and UGIII.

The prehearing conference was held as scheduled, and the following counsel attended: David B. MacGregor, Esq., Christopher T. Wright, Esq., Garrett Lent, Esq., and Mark Morrow, Esq., for UGI; Amy E. Hirakis, Esq., and Lauren M. Burge, Esq., for OCA; Scott B. Granger, Esq., for I&E; Sharon Webb, Esq., for OSBA; Elizabeth Marx, Esq., for CAUSE-PA;

Todd S. Stewart, Esq., for the NGS Parties; John Povilaitis, Esq., and Karen O. Moury, Esq., for RESA; and Alessandra L. Hylander, Esq., for UGIII.

**Interventions**

The petitions to intervene of CEO and CAUSE-PA were unopposed and are granted in this Order.

The Company opposed the petitions to intervene of the NGS Parties and RESA for several reasons. First, the lack of a membership list for RESA makes it unclear whether the NGS Parties are members and are, therefore, already represented under the RESA petition. Without the list, the Company states that RESA has not proven standing. Following discussion, counsel for RESA agreed to provide a membership list, and counsel for NGS Parties was cautioned that his clients could not appear on behalf of RESA even if they are members of RESA as they are already appearing in their own names under the auspices of the NGS Parties. Accordingly, both RESA and the NGS Parties' petitions to intervene are granted in this Order.

**Schedule**

The parties discussed and agreed upon a litigation schedule which is adopted in the ordering paragraphs of this Order. The schedule is adopted as agreed upon with one change: the agreed-upon reply brief due date is moved up a day in order to ensure that I receive the reply briefs prior to the July 4th holiday weekend. The due date is now June 30th, but I will accept them as timely as long as they have been transmitted by email to my email address before 7:00 am July 1st.

In addition, the proposed date of the public input hearings was changed after consultation with the parties as they requested that the public input hearings be telephonic and live-streamed from Commission offices rather than held on multiple dates in multiple locations throughout the UGI service territory. The room necessary for the live-streaming, Hearing Room 1, was not available on the proposed date and therefore, the date was changed to March 31st based upon agreement of the parties obtained by email exchange following the prehearing conference as well as upon room availability.

**Hearings and participation**

In addition to the formal evidentiary hearings to be held in Harrisburg in June, two public input hearings are being scheduled to hear testimony of those persons who wish to provide evidence. They are scheduled in Harrisburg in Hearing Room 1 of the Commonwealth Keystone Building and will accommodate both in-person and telephonic witnesses. Advertising will encompass the entire utility service territory by appearing in the same newspapers in which the Company advertised the filing of this case. The proceedings will be live-streamed through the Commission's website to promote transparency in public proceedings.

Anyone can testify at a public input hearing. Formal pro se (unrepresented) complainants[[3]](#footnote-3) are informed of the following options:

**(1) Participate in a public input hearing**. The purpose of a public input hearing is to give citizens who do not wish to participate in the formal litigation an opportunity to express their opinions regarding the Company’s proposal. You need only show up and sign in, or, if you wish to testify by telephone, you must provide your name and telephone number to the OCA prior to the hearing. If you wish to testify in person, no advance registration is required.

You may remain a party of record and receive the filings and orders, but if attending a public input hearing satisfies your desire to participate, and you do *not* wish to remain on the service list for pleadings, filings, discovery requests or orders and decisions in this matter, you must inform me in writing. You can either remain a party of record for purposes of receiving orders or decisions issued by the presiding officer and Commission but have the parties of record remove you from their service list, or you may withdraw your formal complaint, which will remove you from the service list for every purpose and end your involvement in the litigation.

**(3) Participate in the formal evidentiary hearing as a party of record**. As a party of record, you will be served with all of the pleadings, filings, discovery requests, written testimony and orders and decisions served and issued in this proceeding. These documents will be voluminous. Your *rights* as a party of record include the ability to present your own testimony and to cross-examine other witnesses at the formal hearings, and to file exceptions to the presiding officer’s recommended decision. Your *duties* as a party of record are that you must answer all discovery requests served upon you in accordance with the rules. You will be required to serve a copy of anything that you *file* upon the presiding officer and each party appearing on the service list, as it appears attached to this Scheduling Order and as modified as the case progresses, regardless of the cost of postage (service may be electronic to those parties who have agreed to accept electronic service).

Note that your participation as a party of record may be limited to appearing at a public input hearing, which requires no special preparation. However, if you intend to present evidence at the formal evidentiary hearings, you will be required to submit your testimony in writing in advance, in accordance with the schedule set by this Scheduling Order, and to provide a copy of your written prepared testimony to each party on the service list and the presiding officer by the designated date. Although service of the prepared testimony may be electronic to those parties who agree to accept electronic service, you must provide two hard copies to the court reporter at the evidentiary hearing to have your testimony accepted into the official record.

You will be expected to participate in accordance with the rules of Commission practice appearing in Title 52 of the Pennsylvania Code Chapters 1, 3 and 5. **The Pennsylvania Code is available on-line** at [www.pacode.com](http://www.pacode.com). Although a natural person or a sole proprietor may appear on his or her own behalf, if you are any entity other than a natural person or a sole proprietor, (e.g., a corporation, partnership, municipality, etc.), you will be required to have an attorney represent you in accordance with the laws of Pennsylvania. *See Ordering Paragraph 8, below.*

**Discovery**

Standard discovery modifications were agreed to by the parties, along with several additions. The parties agreed to the modifications, effective on the date of the prehearing conference, which are adopted in the ordering paragraphs below.

**Additional issues**

**Petitions to Intervene filed after the prehearing conference.** The parties were informed that their response time for any petitions to intervene filed after the prehearing conference is reduced to three days in order to allow sufficient time for any new parties to participate in a meaningful way in a case with a short statutory deadline.

**Protective Order.** The Company represented that they will be requesting a protective order, which will be addressed separately. The Company proposed and the parties agreed that interrogatory responses would be posted to a password-protected website and notice electronically served upon parties when available.

**Informal comment folder.** The parties were informed that the informal comment folder in the Secretary's Bureau would be reviewed during the course of this proceeding in order to determine the number of informal comments and whether there are misfiled formal complaints or service complaints which should receive attention. In addition, those which may indicate eligibility for customer assistance programs will be referred to the Company for evaluation. A copy of those referred to the Company will also be provided to the OCA and any party which requests it.

**Electronic Contact Information**

Upon occasion, the presiding officer may need to contact the litigating parties quickly and may use email to effect this communication. Interim orders such as this one may be sent by email in addition to first class mail. Any pro se complainant who wishes to be included in this list must provide an email address to the presiding officer. The following list of e-mails will be used to contact the litigating parties electronically during the proceeding:

**COUNSEL EMAIL ADDRESS**

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ORDER

THEREFORE,

IT IS ORDERED:

1. That the following petitions to intervene are granted: the Commission on Economic Opportunity, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, the Retail Energy Supply Association, and the NGS Parties consisting of Dominion Retail, Inc., d/b/a Dominion Energy Solutions, Shipley Choice, LLC d/b/a Shipley Energy, Interstate Gas Supply, Inc. d/b/a IGS Energy, AMERIGreen Energy, and Rhoads Energy.

2. That the following litigation schedule is adopted:

Public input hearings March 31, 2016

Other parties' direct April 12, 2016

OSBA direct April 15, 2016

First Settlement conference\* April 18, 2016

Rebuttal May 10, 2016 (noon)

Second Settlement conf.\* May 13, 2016

Surrebuttal May 25, 2016 (noon)

Hearings and oral rejoinder June 1-3, 2016

Main briefs June 21, 2016

Reply briefs June 30, 2016

Public meeting October 6, 2016

\*The Company shall notify the presiding officer that the settlement conferences have been held within a day after each one. Failure to so notify the presiding officer may result in the parties being summoned to appear on short notice in order to ensure that settlement conferences occur.

3. That UGI Utilities, Inc. – Gas Division shall publish notice of both public input hearings at least once per week for two consecutive weeks prior to the scheduled date of the public input hearing in the same newspapers of general circulation in their service territory where notice of the rate case filing was published, and shall file proof of publication with the Commission's Secretary, copy to the presiding officer, promptly. The correct address for the March 31, 2016 public input hearings is:

Commonwealth Keystone Building

400 North Street

Hearing Room 1

Harrisburg PA 17120

1:00 pm and 6:00 pm

4. That the Commission's regulations regarding discovery at 52 Pa. Code

§ 5.342 are modified as follows:

a. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service. Discovery and discovery-related pleadings propounded after 12:00 noon on a Friday or after 12:00 noon on any business day immediately preceding a state holiday will be deemed served on the next business day for purposes of determining the due date of the responses and responsive pleadings.

b. Objections to interrogatories shall be communicated orally within three (3) calendar days of service of the interrogatories, provided that, if receipt of the interrogatories occurs after 12:00 noon on a Friday or the day preceding a holiday, service shall be deemed to have occurred on the next business day. Unresolved objections shall be served in writing on the propounding party within five (5) calendar days of service of the interrogatories, as defined above.

c. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of the written objections.

d. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.

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

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

5. That parties providing direct and rebuttal testimony, either include with such testimony electronic workpapers, cited studies and other documents relied on, or, provide same in workable electronic format within two (2) business days of the testimony submission date to all parties.

6. That a document, except for briefs and prepared testimony and accompanying exhibits, filed after 12:00 noon on a Friday or the day before a holiday is considered to have been filed the next business day for purposes of determining the due date of a response.

7. Service is considered to be timely if served electronically before 4:30 pm on the due date if followed by a hard copy delivered by first class mail.

8. That the response time for responding to petitions to intervene filed after the date of this Order is reduced to three (3) business days.

9. Prepared written testimony shall be premarked with numerical, sequential statement numbers, consistent with the requirements appearing at 52 Pa.Code §§ 5.412 and 5.412a. All statements must list on the cover sheet the issues addressed in the statement.

10. Testimony shall be served but not filed in accordance with the schedule.

11. For formal complainants appearing without attorney representation, written prepared testimony shall be substantially in compliance with the Commission’s regulations, located at 52 Pa. Code Chapters 1, 3 and 5, available at [www.pacode.com](http://www.pacode.com), in particular 52 Pa. Code §§ 5.412(e), 5.412a. This means that the first statement of Complainant shall have a cover sheet which contains the following: “Direct Testimony of J. Q. Complainant (use your name), R-2015-2518438 Statement No. 1.” The document shall contain the direct testimony of the formal Complainant in double-spaced text with numbered lines on the left side of each numbered page. Exhibits, if any, shall be attached and shall be labeled as “J.Q. Complainant Exhibit 1,” “J.Q. Complainant Exhibit 2,” etc. This document must be served on the presiding officer as well as the litigating parties of record in accordance with the schedule set forth in Ordering Paragraph 2.

12. One week prior to the start of the evidentiary hearings, the Company shall provide a completed daily witness listing and cross-examination grid to the presiding officer. Parties shall complete the daily witness listing and cross-examination grid as developed by the Company in a cooperative and timely fashion.

13. All parties are directed to comply with the provisions of 52 Pa.Code

§ 5.243(e) which prohibits the introduction of evidence during rebuttal or surrebuttal which should have been included in the case-in-chief or which substantially varies from the case-in-chief, unless the evidence is introduced in support of a proposed settlement.

14. Briefs must comply with 52 Pa.Code §§ 5.501 and 5.502, and shall comply with the standard directions attached to this Order as Appendix A.

Dated: February 19, 2016 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Susan D. Colwell

Administrative Law Judge

**R-2015-2518438 - PA PUBLIC UTILITY COMMISSION v. UGI UTILITIES INC**

***Revised 2/17/16***

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**C-2016-2529436**

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**APPENDIX A**

**INSTRUCTIONS FOR BRIEFS**

Each brief shall follow the general organization shown herein.

Adjustments contained in each brief shall:

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

b. be complete and self-contained;

c. include accurate reference to the appropriate record sources;

d. be on a before-income-tax basis;

e. be detailed to demonstrate the step-by-step calculation of that adjustment together with appropriate accurate record references;

f. include concomitant rate base, revenue, expense, depreciation, expense, and tax adjustments set forth, together with the details of their calculation;

g. include with the brief those calculations which are the basis for proposed adjustments but which are incomplete on the record.

Tables showing all proposed rate base and income adjustments shall be submitted with each brief which includes such adjustment.

**STANDARD FORMAT**

I. Introduction

II. Summary of Argument

III. Rate Base

A. Fair Value

B. Plant in Service

C. Depreciation Reserve

D. Additions to Rate Base

E. Deductions from Rate Base

F. Conclusion

IV. Revenues

V. Expenses

VI. Taxes

VII. Rate of Return

VIII. Miscellaneous Issues(s)

IX. Rate Structure

A. Cost of Service

B. Revenue Allocation

C. Tariff Structure

D. Summary and Alternatives

X. Conclusion

1. Proof of publication was filed on February 16, 2016. [↑](#footnote-ref-1)
2. ALJ Haas recused himself on February 15, 2016. [↑](#footnote-ref-2)
3. This information is included for those who may file formal complaints after this date. [↑](#footnote-ref-3)