

6/2/16 *ALG/TX*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

UGI Utilities – Gas Division

Docket No. R-2015-2518438

DIRECT TESTIMONY

OF

ORLANDO MAGNANI

April 12, 2016

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Orlando (Randy) Magnani. My business address is 19561 Caladesi Drive,
3 Estero, FL, 33967.

4 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND**
5 **PROFESSIONAL EXPERIENCE.**

6 A. I am President of Rand Energy Consultants. As such, I provide consulting services to
7 natural gas suppliers (“NGSs”) primarily related to operational and technical issues. In
8 this proceeding, I am representing the Retail Energy Supply Association (“RESA”).
9 Prior to my current position, I was Director of Natural Gas Operations for the Energy
10 Marketing Division of Hess Corporation from 2001 to 2013. As Director of Operations
11 at Hess, I oversaw all of Hess’ natural gas marketing operations (including forecasting,
12 scheduling and pricing) for the local natural gas natural gas distribution companies
13 (“NGDCs”) located in the Hess Energy Marketing footprint. I was responsible for
14 overseeing Hess’ six regional operations offices, which had the local day-to-day duties
15 for natural gas operations within their specific geographic regions. Hess operated behind
16 over seventy NGDCs.

17 Prior to that, from 1998-2001, I was a Principal with Navigant Consulting
18 performing various consulting services primarily related to NGDC issues. From 1996 to
19 1998, I was President and Chief Operating Officer for KeySpan Energy Services, Inc.
20 (“KeySpan”). At KeySpan, I had general supervisory responsibility for its gas marketing
21 business. From 1971 through 1996, I held several titles at The Brooklyn Union Gas
22 Company (“Brooklyn Union”), the NGDC based in Brooklyn, New York. I served as
23 Manager of Gas Operations where I was responsible for the operation and maintenance of
24 the company’s LNG plant and high-pressure transmission system, as well as all

1 scheduling activities on interstate gas pipelines. Additionally, I served as Brooklyn
2 Union's Manager of Rates and Gas Supply where I was responsible for cost allocation
3 and rate design of utility rates, state and federal regulatory affairs, and gas supply
4 planning and contract negotiation and administration. I also served as Manager Project
5 Development where I set up and managed a wholesale marketing business designed to
6 generate margin from under-utilized supply, capacity and storage assets. Prior to that, I
7 was a Junior Engineer with the New York Public Service Commission. I earned a
8 Bachelor's Degree in Chemical Engineering from Manhattan College in 1970.

9 I have previously submitted testimony before the Pennsylvania Public Utility
10 Commission ("Commission"). I testified in an Equitable Gas Company proceeding as
11 well as a Philadelphia Gas Works proceeding, and presented a statement in the SEARCH
12 proceeding. In addition to testifying in Pennsylvania, I have testified before Public
13 Utility Commissions in eight states: New York, Massachusetts, Maryland, Ohio,
14 Missouri, Virginia, Connecticut and Rhode Island. I have also testified before the
15 District of Columbia Public Service Commission and the Federal Energy Regulatory
16 Commission. I have over 45 years of professional experience working for competitive
17 natural gas suppliers, natural gas consultants, and a gas LDC encompassing a
18 comprehensive array of natural gas related matters.

19 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?**

20 A. I am testifying on behalf of RESA whose members operate in UGI Utilities, Inc. - Gas
21 Division's ("UGI") territory, other gas and electric territories throughout Pennsylvania
22 and other restructured and fully regulated markets. RESA is a broad and diverse group of
23 retail energy suppliers who share the common vision that competitive retail electricity
24 and natural gas markets deliver a more efficient, customer-oriented outcome than does

1 the monopoly, rate-regulated utility structure. RESA is devoted to working with all
2 interested stakeholders to promote vibrant and sustainable competitive retail electric and
3 natural gas markets in the best interests of residential, commercial and industrial
4 consumers. Its website is: <http://www.resausa.org/>.

5 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

6 A. I will address several issues. First, I will recommend that UGI's present requirement that
7 NGSs balance customers in rate schedules by meter reading date or billing cycle date be
8 modified. UGI's present requirement makes managing customer pools on UGI's system
9 unnecessarily difficult, thereby making it more expensive for NGSs, and ultimately
10 customers. The second item I will discuss is the inequitable allocation of Transco
11 pipeline capacity at the UGI city gate. This practice unfairly increases gas costs to larger
12 transportation customers and reduces gas costs to UGI Sales Customers. The increase in
13 gas costs to large customers is inappropriate but this problem is compounded by the fact
14 that the allocation of cheaper gas supply to UGI customers creates an inappropriate price
15 to compare, thus distorting competition. The third item I will discuss is the unnecessarily
16 high penalty payment required for what UGI terms "intentional imbalances" of ten times
17 the Gas Daily Index price for gas. This penalty goes far beyond a level required to meet
18 UGI's objective to "deter arbitrage and preserve system reliability." As to the fourth item
19 in my testimony, I have concerns about what appears to be a significant reduction in the
20 proposed gas procurement charge ("GPC") rate that reflects natural gas procurement
21 costs removed from base rates and is a component of the price to compare ("PTC").
22 Finally, I will discuss UGI's compliance with the Commission's Standards of Conduct.
23

1 ***POOL BALANCING REQUIREMENTS***

2 **Q. PLEASE EXPLAIN UGI'S REQUIREMENT FOR POOLS BASED ON METER**
3 **READING OR BILLING CYCLE DATE**

4 A. This is an operational issue that makes it very difficult for NGSs to serve customers in
5 UGI's service area. UGI requires competitive NGSs to balance customers' deliveries
6 within multiple pools for each rate schedule that are also separated by meter reading date
7 or billing cycle date. A "pool" is a group of customers lumped together by some
8 characteristic – usually rate schedule. There are over twenty billing cycles in a month.
9 Instead of balancing load for one pool, NGSs are required by UGI to balance
10 approximately twenty pools a month for customers on various rate schedules. Ultimately,
11 this results in smaller pool sizes which are inherently more difficult to balance.
12 Balancing is the task of equalizing gas deliveries with anticipated customer load within a
13 given pool. Punitive balancing transfer fees are charged to move scheduled gas between
14 customer pools further increasing the overall cost to serve customers. NGSs must have a
15 large number of customers in order to balance a pool effectively, and yet this required
16 separation by meter reading or billing cycle date means that even NGSs with large
17 numbers of overall customers are forced to balance what become small pools. Although
18 transportation customers are not required to maintain Automated Meter Reading
19 ("AMR") devices, they are subject to the same balancing provisions of customers with
20 AMR devices, furthering the challenges NGSs may have of balancing customers in
21 various pools. This practice deviates from the UGI Central Penn Gas ("CPG") tariff that
22 UGI is attempting to streamline. UGI CPG's tariff requires transport customers to install
23 AMR devices as a character of service and balances all transportation customers on a
24 calendar month meter read cycle. Moreover, this structure makes it difficult to acquire

1 new customers because the cost of balancing small pools of customers, which is more
2 challenging to minimize, needs to be built into the cost to serve the customer. This
3 process increases NGSs' overall costs compared to having larger consolidated pools in
4 place. Further, this procedure creates a high barrier to entry to the market and inhibits the
5 competitive market. To my knowledge, UGI is the only utility to require balancing
6 transportation customers by billing cycle date. UGI's sister utilities as well as every
7 other utility I've dealt with do not impose this system on NGSs.

8 This system is antiquated and unnecessary particularly since many of the
9 customers have AMR. While not a requirement, many of the transportation customers
10 have AMR and UGI has the ability to read the meter for those customers at the end of the
11 month and use those readings for balancing purposes similar to processes currently in
12 place at UGI CPG and UGI Penn Natural Gas. Transportation customers that do not have
13 AMR installed should be required to install AMR to remain on their current rate or
14 moved to an appropriate pool where they would be balanced monthly with delivery
15 requirements forecasted by UGI. If for some reason it is not possible to move the
16 customers in that fashion, UGI could estimate consumption and aggregate the load into a
17 monthly period so that NGSs would only be required to balance one pool a month for
18 each affected rate schedule. Every other utility is able to use this procedure and UGI
19 should be able to do so as well. Accordingly, UGI's current requirement that customers
20 must be grouped for balancing by meter read date or billing cycle is antiquated,
21 unnecessary, unreasonable and raises an entry barrier for NGSs to operate on its system.
22 If it does not voluntarily do so, UGI should be required to move to monthly balancing
23 with consolidated pools consistent with other UGI NGDC affiliates.

1 ***UGI CITY GATE CAPACITY ALLOCATION***

2 **Q. PLEASE EXPLAIN THE SECOND ISSUE YOU WISH TO DISCUSS: THE**
3 **INAPPROPRIATE ALLOCATION OF CAPACITY AT THE UGI CITY GATE.**

4 A. For Choice customers, UGI allocates capacity at each city gate in the form of a slice of
5 the system approach, *i.e.* each NGS gets a *pro rata* share of each city gate. However, for
6 the larger customers, UGI does not allocate the NGS any space at the Transco gate.
7 Transco is a FERC regulated interstate pipeline that is one of the major sources of gas
8 supplies on the UGI system. It delivers some of the lower cost supplies that can access
9 the UGI service territory. As Transco is the cheapest source of gas into UGI's territory,
10 the net effect of this lack of City Gate space is that NGS gas costs to serve large
11 customers are higher than they could be. In addition, a further result of this inequity is
12 that UGI has more Transco capacity gas available to serve its own sales customers
13 effectively lowering the overall price to compare. Essentially, large shopping customers
14 pay more for gas than they should and smaller sales customers pay less than they should.
15 This situation has an anti-competitive effect as NGSs that sell to smaller choice
16 customers are forced to unfairly compete against a lower cost to compare. And, to the
17 extent that competition is impaired, customers will suffer because they will not enjoy the
18 benefits of a fully competitive market. This situation should be corrected and UGI
19 should allocate capacity to all customers on a *pro rata* basis so that all customers pay an
20 appropriate cost and competition is not harmed.

21

22

1 ***EXCESSIVE PENALTIES FOR OFO IMBALANCES***

2 **Q. PLEASE EXPLAIN THE THIRD ISSUE YOU WISH TO DISCUSS: THE**
3 **EXORBITANT PENALTY FOR “INTENTIONAL IMBALANCES” OF TEN**
4 **TIMES GAS DAILY.**

5 A. UGI charges a penalty of ten times the Gas Daily Index (“GDI”) price for imbalances that
6 occur on Operational Flow Order (“OFO”) dates. This penalty is extremely high, above a
7 level that would constitute a deterrent, and should not be allowed. In a response to
8 Interrogatory RESA II-12, Mr. David Lahoff stated that the penalty “is designed to deter
9 arbitrage and preserve system reliability.”¹ That may be UGI’s goal, but the same result
10 could be accomplished with a much lower penalty amount. A penalty should be a
11 deterrent; it should not be punitive. If a penalty was set at 1.5 times the highest Gas
12 Daily Index for the day or even 1.1 times the same index, it would act as an effective
13 deterrent and would still preserve system reliability. Any penalty greater than the highest
14 price of the day ensures that an NGS will do everything it can do to avoid the penalty. So
15 long as a penalty is set above the highest market price, deliberate arbitrage by an NGS is
16 a no-win proposition because in addition to it being wrong, and subject to regulatory
17 scrutiny, there is no net financial gain to the company attempting arbitrage. The only
18 reason that an NGS would not deliver is because it simply couldn’t find gas or, more
19 likely, a scheduler made an honest mistake. Under those conditions, it’s unreasonable to
20 impose an excessive penalty that could bankrupt a company. One could say that a
21 penalty of one thousand times or one million times GDI would act “to deter arbitrage and
22 preserve system reliability” but those penalties would clearly be unduly punitive and

¹ UGI Answer to RESA-II-12 (attached hereto as Exhibit OM-1).

1 would not produce a better result than a penalty of 1.5 or even 1.1 times GDI. The ten
2 times penalty is unreasonably punitive and should be reduced to 1.1 the highest GDI.

3 ***GAS PROCUREMENT CHARGE***

4 **Q. DO YOU HAVE ANY CONCERNS REGARDING UGI'S PROPOSED GPC**
5 **RATE?**

6 A. Yes. Mr. Lahoff sponsors a revised GPC rate that reduces the current rate of \$0.04/Mcf
7 to \$0.0146/Mcf as calculated on UGI Gas Exhibit DEL-11. The existing UGI GPC rate, I
8 believe, is already the lowest GPC rate in Pennsylvania, and this proposal reduces it even
9 further. The GPC rate is an element of the PTC, which is the critical price point of
10 comparison for customers considering NGS products. The purpose of the GPC is to
11 identify gas procurement costs that should be removed from base rates and should be
12 included in the NGDC's PTC. Mr. Lahoff doesn't fully explain why there is such a
13 significant drop in UGI's GPC rate, other than to note that the new lower rate reflects
14 "current labor and information technology costs associated with the procurement
15 function."²

16 **Q. DO YOU HAVE ANY RECOMMENDATIONS CONCERNING THE PROPOSED**
17 **LOWER GPC RATE?**

18 A. I have not performed a cost of service analysis on the proposed GPC rate so I do not have
19 a specific rate recommendation for this important element of the PTC. However, based
20 on my experience with NGDC cost of service, I do question why the cost elements of the
21 proposed GPC rate do not include, for example, a cash working capital cost component
22 given the significant expenditures UGI must make when it procures its gas supply. I
23 recommend that the Commission closely examine whether UGI has met its burden to
24

² UGI Gas Statement No. 6, p. 29.

1 justify its proposed GPC rate and consider whether the evidentiary record supports such a
2 significant reduction in this component of the PTC.

3 ***UGI COMPLIANCE WITH STANDARDS OF CONDUCT***

4 **Q. IS UGI SUBJECT TO ANY RULES OR STANDARDS REGARDING UGI'S**
5 **INTERACTION WITH ITS AFFILIATED NATURAL GAS SUPPLIERS?**

6 A. Yes, as an NGDC, UGI is subject to the Standards of Conduct that are set forth in the
7 Commission's regulations (52 Pa. Code § 62.141-142). These rules are also set forth in
8 UGI's Tariff (UGI Gas Tariff No. 5-S, Rules and Regulations, § 10.1. Generally, the
9 rules prohibit an NGDC like UGI from providing preferences, advantages or special
10 treatment to an affiliated NGS. The Standards of Conduct also contain specific
11 provisions about maintaining logs of transactions and any waivers granted to tariff or
12 other requirements, as well as rules about the allocation of costs to affiliates.

13 **Q. WHY IS IT IMPORTANT FOR THE COMMISSION TO ENSURE THAT UGI**
14 **ADHERES TO THESE STANDARDS OF CONDUCT?**

15 A. From an NGS perspective, it is very important that these standards be scrupulously
16 adhered to in order to assure that UGI not exploit its distribution (i.e., monopoly)
17 function in order to unfairly benefit any affiliated NGSs, to the detriment of unaffiliated
18 NGSs such as RESA members. This is especially important for UGI because UGI has
19 active affiliated NGSs in UGI's service territory that use the name "UGI" in their
20 marketing and communications with customers, thereby raising the concern that the
21 affiliates are able to obtain special knowledge or information about the UGI distribution
22 system or that customers may confuse the affiliated NGSs with the utility or obtain the
23 impression that the affiliate's service is somehow more reliable or better than that of an
24 unaffiliated NGS. If UGI is able to do this, then robust competition in UGI's service

1 territory will be impaired, which, ultimately will be to the detriment of customers and the
2 market.

3 **Q. ARE THERE ANY PROVISIONS DEALING WITH ADVERTISING OR**
4 **MARKETING BY AN NGS AFFILIATE USING THE NAME OF THE NGDC?**

5 A. Yes. Section 62.142(a)(15) of the Commission’s regulations directs that “[w]hen an
6 affiliated NGS communicates to the public using the NGDC name or logo, it shall
7 include a legible disclaimer that states that: (i) the affiliated NGS is not the same
8 company as the NGDC; (ii) the prices of the affiliated NGS are not regulated by the
9 Commission; and (iii) a customer does not have to buy natural gas or other products from
10 the affiliated NGS to receive the same quality of service form the NGDC.”³ Subsection
11 (16) directs that when the affiliated NGS advertises or communicates verbally using the
12 NGDC name (or logo) it must provide a “legible disclaimer” containing all the points
13 listed above.⁴

14 **Q. DOES IT APPEAR THAT ALL OF UGI’S AFFILIATES ARE COMPLYING**
15 **WITH ALL OF THESE REQUIREMENTS?**

16 A. Not from the evidence we have been given. RESA asked UGI in discovery to “[p]lease
17 explain how UGI implements [62.142(a)(15)] with respect to marketing and
18 communications to the public by an affiliated [natural gas supplier] NGS.”⁵ UGI referred
19 in its answer to several PowerPoint presentations that were entitled “PUC Code of
20 Conduct Training.” These were described as materials for training on the Commission
21 Standards of Conduct that UGI and UGI Energy Services (“UGIES”) provided to its

³ 52 Pa. Code § 62.142(a)(15).

⁴ 52 Pa. Code § 62.142(a)(16).

⁵ UGI Answer to RESA-II-8 (attached hereto as Exhibit OM-2).

1 employees. Under the title “Supplier Must Disclose Affiliation,” one of the slides states
 2 that: “UGIES includes [the disclosures required by 62.142(a)(14) and (15)] in its
 3 Pennsylvania advertising.”⁶ However, while the slide specifically references a disclaimer
 4 statement on the website for UGI EnergyLink (“EnergyLink”), it makes no mention of
 5 UGIES’s website.

6 Indeed, when I search UGIES’s website, I cannot find the three required
 7 disclosures detailed above. I have attached a printout of UGIES’s current main webpage,
 8 as well as UGIES’ LinkedIn page.⁷ The necessary disclaimer for an NGS using the UGI
 9 name does not appear to be present. Looking at the webpages I have captured, it seems
 10 that UGIES is holding itself out as an NGS. Having a disclosure posted on one UGI
 11 affiliated NGS’s website (EnergyLink) but not included with every affiliated NGS
 12 marketing, advertising and communications sent to customers is a deficiency that should
 13 be repaired by UGI without delay.

14 **Q. WOULD IT BE SUFFICIENT TO MERELY POST THE REQUIRED**
 15 **DISCLAIMER ON THE WEBSITES OF ENERGYLINK AND UGIES (OR ANY**
 16 **OTHER AFFILIATED NGS)?**

17 **A.** No, it would not. The Standards of Conduct plainly dictate that the required disclaimers
 18 should be placed on all marketing, communications or advertising. Moreover, and
 19 perhaps most importantly, the disclaimer should appear on the UGIES or EnergyLink
 20 page of the UGI consolidated bill and any and all marketing that UGIES or EnergyLink
 21 does.

⁶ UGI Answer to RESA-II-8, Attachment II-1-1a, slides 23,24 (attached hereto as Exhibit OM-3).

⁷ Exhibit OM-4.

1 **Q. ARE THERE OTHER ASPECTS OF UGI'S IMPLEMENTATION OF THE**
2 **STANDARDS OF CONDUCT THAT CONCERN YOU BASED UPON THE**
3 **INTERROGATORY RESPONSE?**

4 A. Yes. In answer to another RESA data request which asked whether UGI had developed
5 rules or guidelines to assure that all distribution service discounts, fee waiver or rebates
6 are not provided only to favored customers of it or its affiliated supplier, and, if not, how
7 UGI assures that no such favored treatment was being provided, it answered simply:
8 "UGI treats all customers in a nondiscriminatory manner and does not favor any
9 customer."⁸ However, merely promising "not to discriminate" isn't specific enough.
10 What if UGIES asks UGI to discount a distribution service in order to create a package in
11 order to win the business of a new or existing customer. Other NGSs might never know
12 that such a distribution discount was available. In this example, it is not clear whether
13 UGI would consider arranging for such a discount only for the UGI affiliated supplier to
14 be "discrimination".

15 **Q. BUT ISN'T "JOINT MARKETING" BARRED BY THE STANDARDS OF**
16 **CONDUCT?**

17 A. Generally yes, but there is one exception: "competitive bid situations."⁹ There is some
18 evidence that UGI would consider the situation that I posit above to be permissible joint
19 marketing. In its "PUC Code of Conduct Training" PowerPoint, it indicates that such a
20 joint marketing attempt is technically permitted if it is in a "competitive bidding
21 situation" (although it also points out that the term "competitive bid situation" is not
22 defined by the regulations, is fact-dependent and "would need to be discussed by the Law

⁸ UGI Answer to RESA-II-4 (attached hereto as Exhibit OM-5).

⁹ 52 Pa. Code § 62.142(a)(17)(iii).

1 Department.”).¹⁰ This is problematic because it appears to permit just the kind of
2 “special treatment” by the NGDC that would result in a joint competitive bid to a
3 customer that included a discounted distribution rate. Non-affiliated NGSs would be at a
4 disadvantage because there is no indication that UGI views it as its responsibility to
5 inform all other NGSs of the availability of this special discounted rate, so that they also
6 could fairly compete for this customer’s business.

7 **Q. ARE THERE OTHER SITUATIONS INVOLVING THE STANDARDS OF**
8 **CONDUCT THAT COULD BE CONCERNING FROM A COMPETITIVE**
9 **FAIRNESS STANDPOINT?**

10 A. Yes. Another concerning interpretation of the Standards involves UGI’s interpretation of
11 the requirement for non-discriminatory release of information, required by 52 Pa. Code §
12 62.142(a)(11). That section clearly states that an NGDC may not give its affiliate a
13 preference or advantage in the provision of goods and services “including processing
14 requests for information.”¹¹ That *should* mean that UGI should not give out valuable
15 information about its operations or its plans solely to its affiliate but it should also not
16 provide such information to its affiliate if asked, unless UGI then provides the same data
17 to all NGSs on its system. Because UGI is a fairly small company, it is just too easy for
18 an UGIES employee, through a prior or existing relationship with NGDC employees, to
19 “know what (and when) to ask” to procure valuable operational or planning data that is
20 not available to other NGSs because they aren’t part of the UGI corporate family. An
21 example would be when some new construction will be completed allowing a supplier to
22 access gas from an interstate pipeline with lower cost supplies.

¹⁰ UGI Answer to RESA-II-8, Attachment II-1-1a, slide 19 (attached hereto as Exhibit OM-6).

¹¹ 52 Pa. Code § 62.142(a)(11).

1 However, UGI's training materials again provide some indication that UGI may
2 not be interpreting the Standards in a non-discriminatory way. Consider the answer
3 provided by the training materials when the following hypothetical was posed: "Q. A
4 UGIU engineer gets a call from a UGIES employee asking for information on utility
5 system infrastructure. Can she provide it? A. It depends."¹²

6 The answer goes on to quote the rule, stating that an NGDC may not give its
7 affiliated NGS preference over a nonaffiliated NGS in ... processing requests for
8 information." It is not clear what part of the quoted rule would lead UGI to think it was
9 acceptable to give only the UGIES employee information about utility system
10 infrastructure. It may be that UGI was thinking that if the UGIES employee was the only
11 NGS that asked, then it was not discriminatory to only provide it to its affiliate.

12 Finally, a "Pop Quiz" included in the PowerPoint poses the following question:
13 "Q. UGIU Marketing has a request for a distribution line extension to a new industrial
14 park. May UGIU recommend UGIES as a natural gas supplier? A. Depends on whether
15 this can be construed as *falsely* representing that the affiliate's services are superior.
16 Safer not to make the recommendation."¹³

17 This is troubling. It is hard to imagine a situation in which UGI's affiliated NGS
18 would be so far superior that a representation to that effect would not be at least debatable
19 as false. At the very least, there will almost always be more than one NGS that would
20 stand on equal footing with UGI's affiliate. Thus, this equivocation is not the kind of
21 admonition that I believe is necessary or appropriate. I am not offering a legal opinion,

¹² UGI Answer to RESA-II-8, Attachment II-1-1(a), slide 12 (attached hereto as Exhibit OM-7).

¹³ UGI Answer to RESA-II-1, Attachment II-1-1(a), slide 16 (attached hereto as Exhibit OM-8).

1 but I question whether UGI's plain reading of the Code of Conduct is correct with respect
2 to "false and misleading" statements. I do not think under the Code that an NGDC may
3 ever represent that its affiliates' services are of a superior quality (an unavoidably
4 subjective opinion to begin with) and it is false and misleading under the Code of
5 Conduct to ever suggest that this "advantage", or any other advantage, accrues from the
6 customer using the NGDC's affiliate as a supplier.

7 **Q. WHAT DO YOU RECOMMEND?**

8 A. In addition to the complete compliance with "use of the utility name" standard discussed
9 above, I recommend the following:

10 a) UGI should be required to provide any operational planning, rate or other
11 material information that it provides upon request to its NGS affiliates to other NGSs.
12 This would be fulfilled by requiring UGI to post that information on a bulletin board so
13 that it is available for review by all NGSs operating in its service territory.

14 b) Similarly, if UGI participates in a joint proposal in a "competitive bid
15 situation" UGI should, again, be required to timely post information about the rates,
16 terms or conditions that it is proposing in its joint bid and agree that it will provide those
17 same rates, etc. to any other supplier that wishes to make such a bid.

18 c) UGI should revise its training and ongoing guidance to NGDC employees
19 to make it clear that they may not represent that an NGS affiliate is superior to other
20 NGSs in the market.

21 In addition, while I don't doubt that UGI is making a good-faith attempt to
22 comply with the Standards of Conduct, too many opportunities exist, such as the one I
23 just discussed, for UGI to extend a competitive advantage to its NGS affiliates to the
24 detriment of non-affiliated NGSs. But this rate case is not a suitable vehicle in which to

1 conduct an investigation of such possible violations (or to fully understand UGI's
2 position and point of view on the issues). I therefore recommend that the Commission
3 initiate a management audit of UGI's Standards of Conduct compliance with
4 recommendations to the Commission within a specified period, say 180 days. Any such
5 audit should be conducted by an independent management audit firm overseen by the
6 Commission, should seek out the input of gas suppliers, large customers and should
7 interview UGIES and EnergyLink employees to determine how the Standards are being
8 applied in practice. Of course, the auditors should thoroughly discuss with UGI and its
9 affiliates the findings and craft recommendations to attempt to develop a truly level
10 playing field that does not permit UGI's affiliates to exploit UGI's monopoly position to
11 the detriment of the rest of the industry.

12 **Q. DOES THIS COMPLETE YOUR DIRECT TESTIMONY?**

13 **A. Yes. It does.**

EXHIBIT OM-1

RESA-II-12 (Prepared by David Lahoff)

Please refer to UGI Gas Tariff No. 6, Rule 20.4, Maximum Daily Excess Balancing Charge (Original Page 63).

- a. Please provide justification for and calculations and work papers that demonstrate the costs associated with exponentially increased multipliers on cashouts outside the 85%/115% tolerance bands.
- b. Regarding the "intentional imbalances" penalty of $GDI \times 10$, please identify the costs that are incurred by UGI to support this level of penalty. Please provide calculations and work papers that demonstrate that UGI incurs such costs when the system is out of balance.
- c. Please explain the system constraints that require UGI to structure its nomination and balancing pools by workday cycle. Please further explain why it would not be possible to allow nomination and balancing pools at the customer rate level only and not further separated by workday cycle.

Response:

a and b. The Maximum Daily Excess Balancing Charge is designed to deter arbitrage and preserve system reliability. Section 20.4 of the Proposed Tariff was included to be made consistent with Section 16.5 of UGI CPG's Gas Service Tariff No. 4, which aligns with UGI's effort to standardize the Gas Tariffs across the three UGI NGDCs to the extent reasonably practicable. The multipliers were not changed, but the index rates were updated to reflect Texas Eastern pricing locations instead of Transco, since Texas Eastern is the predominant interstate pipeline with published index prices delivering gas to UGI's service territory.

c. Not all transportation customers have AMR equipment to provide daily meter reads, so workday cycles are needed to allow these meters to be read throughout the month instead of all on the same day. Since these customers do not have daily meter reads, they cannot be daily balanced, so they cannot be pooled together with daily-metered customers. Therefore, nomination and balancing pools need to be by workday cycle.

No Digital Attachments Found.

EXHIBIT OM-2

RESA-II-8 (Prepared by David Lahoff)

Please refer to UGI Gas Tariff No. 5-S, Rules and Regulations, 10.1(15) (Original Page 146); 52 Pa. Code § 62.142(a)(15). Please explain how UGI implements this provision with respect to marketing and communications to the public by an affiliated NGS.

Response:

Please see Attachment RESA-II-1-1a, slide 23.

No Digital Attachments Found.

EXHIBIT OM-3

Rule No. 5: Supplier Must Disclose Affiliation

- When marketing or communicating to the public using the EDC or NGDC name or logo, the affiliated supplier shall include a legible disclaimer stating:
 - Affiliated supplier is not the same company as the utility;
 - Prices of the affiliated supplier are not regulated by the PUC; and
 - Customer is not required to buy natural gas/electricity or other products from the affiliated supplier to receive the same quality of service from the utility.



Rule No. 5: Supplier Must Disclose Affiliation

Even though the UGIES and UGI Utility logos are distinct and UGIES does not use the full UGI Utility name in its advertising, UGIES includes these disclosures in its Pennsylvania advertising.

From the UGI EnergyLink website:

About UGI EnergyLink

UGI EnergyLink[®] is a part of UGI Energy Services, LLC., which is a wholly owned subsidiary of UGI Corporation. UGI Corporation is a Fortune 500 company that has reliably supplied and delivered natural gas and other liquid fuels locally and globally for over 126 years. ^{*}UGI EnergyLink's prices are not regulated by the Pennsylvania Public Utility Commission. UGI EnergyLink is not UGI Utilities and you are not required to buy from UGI EnergyLink in order to receive the same quality of service from your utility.

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EXHIBIT OM-4

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market information

| | | | |
|-----------------------------------|--------|---|--------|
| Henry Hub Nat Gas May NT | 1.977 | ▲ | 0.065 |
| NY Heating Oil May NT | 1.2752 | ▲ | 0.0605 |
| Crude Oil LT Sweet May | 41.94 | ▲ | 1.58 |
| Pjm Electricity April NT | 32.50 | ▼ | 0.44 |
| Pjm Off-peak Electricity April NT | 25.35 | ▲ | 1.83 |

As of: Tuesday, April 12, 2:43 PM
Data delayed at least 20 minutes (Refresh)

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Originally known as GASMARK, UGI Energy Services (UGIES) was one of the first marketers to sell natural gas to business users in the deregulated marketplace. In 1995, UGI Energy Services was incorporated to market natural gas, electricity and liquid fuels to approximately 30,000 business, commercial, industrial, institutional and government customers in nine eastern states as well as Washington, D.C.

UGIES operates a natural gas liquefaction, storage, and vaporization facility in Temple, PA, propane storage and propane-air mixing stations in Bethlehem, Reading, Hunlock Creek, and White Deer, PA, and propane storage, rail transshipment terminals, and propane-air mixing stations in Steelton and Williamsport, PA.

In Hunlock Creek, PA, UGIES owns a 125-megawatt natural gas-fueled generation station. UGIES owns and operates a landfill gas-fueled electricity generation plant near Hegins, PA with gross generating capacity of 11 megawatts.

UGI Corporation (NYSE:UGI), the parent company, is a global distributor and marketer of energy products and services including propane, butane, natural gas and electricity. UGI Corporation is also the parent company of UGI Utilities, an electric and natural gas utility with more than 500,000 customers, and AmeriGas Propane, the nation's largest marketer of propane gas. UGI Corporation owns three European liquefied petroleum gas companies; Antargaz, Flaga, and AvantiGas.

| | | |
|---|--|-------------------------------|
| Website http://www.ugienergyservices.com | Industry Oil & Energy | Type Public Company |
| Headquarters 1 Meridian Blvd Suite 2C01 Wyomissing, PA 19610 United States | Company Size 201-500 employees | Founded 1985 |

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UGI Energy Services 2015 was a great year of growth for our company. We have made the list for Berks County's top 25 employers!



Berks County's top 25 employers | Reading Eagle - BUSINESSWEEKLY
readingeagle.com Overall, 14 of Berks County's top 25 companies added jobs in 2015, according to numbers compiled by Business Weekly.

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UGI Energy Services In the News: UGI HVAC Enterprises Inc. ("UGI HVAC"), a wholly owned subsidiary of UGI Corporation. Through one of its business units, UGI Performance Solutions, UGI HVAC provides onsite power generation solutions, like this project for the Mohegan Sun Pocono.
<https://lnkd.in/eEVM7>

EXHIBIT OM-5

RESA-II-4 (Prepared by David Lahoff)

Please refer to UGI Gas Tariff No. 5-S, Rules and Regulations, 10.1(7) (Original Page 144); 52 Pa. Code § 62.142(a)(7).

- a. Please indicate whether UGI has developed and implemented any rules, guidelines or procedures to assure that if the Company "provides a distribution service discount, fee waiver or rebate to its favored customers, or to the favored customers" of an affiliated NGS, it also offers "the same distribution service discount, fee waiver or rebate to other similarly situated customers." 52 Pa. Code § 62.142(a)(7).
- b. If UGI has developed such rules, guidelines or procedures referenced in a., please furnish a copy of them.
- c. If UGI has not developed such rules, guidelines or procedures, please explain how the Company assures that the same distribution service discount, fee waiver or rebate is offered to other similarly situation customers.
- d. Please provide a copy of the chronological log maintained by UGI, pursuant to this provision, showing the date, party, time and rationale for the action.

Response:

UGI treats all customers in a nondiscriminatory manner and does not favor any customers.

No Digital Attachments Found.

EXHIBIT OM-6

Rule No. 3: Pop Quiz Question 2

Q. UGIU Marketing has a line extension request from a potential XPD customer in a new industrial park. May UGIES and UGIU jointly market their services to the customer?

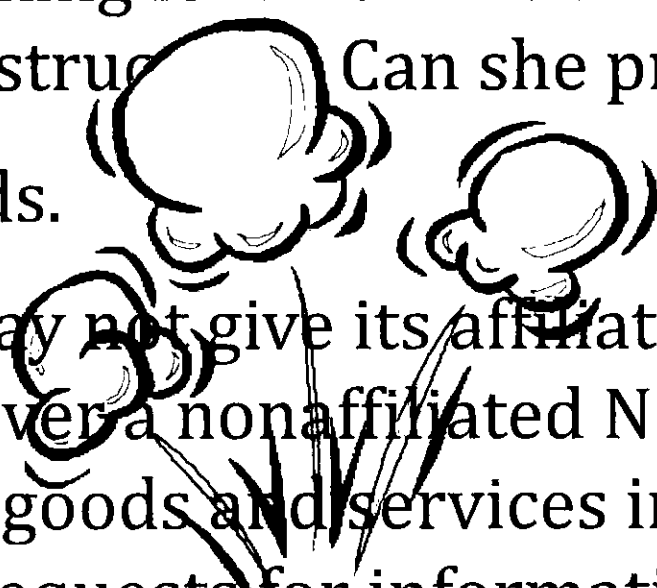
A. If this is a true competitive bid situation (exception to rule 3), then technically yes. BUT, “competitive bid situation” is poorly defined by the regs, fact-dependent, and would need to be discussed with the Law Department.

EXHIBIT OM-7

Rule No. 1: Pop Quiz - Question 1

Q. A UGIU engineer gets a call from a UGIES employee asking for information on utility system infrastructure. Can she provide it?

A. It depends.



“An NGDC may not give its affiliated NGS preference over a nonaffiliated NGS in the provision of goods and services including processing requests for information....”

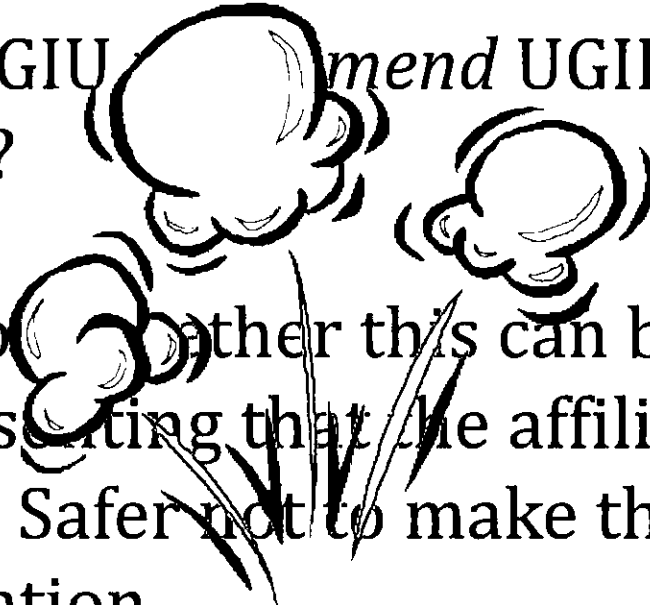
52 Pa. Code §62.142(a)(10)

EXHIBIT OM-8

Rule No. 2: Pop Quiz - Question 2

Q. UGIU Marketing has a request for a distribution line extension to a new industrial park. May UGIU *recommend* UGIES as the natural gas supplier?

A. Depends on whether this can be construed as *falsely* representing that the affiliate's services are superior. Safer not to make the recommendation.



**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 |
| Joseph Sandoski | : | C-2016-2529638 |
| Vicki L. East | : | C-2016-2534010 |
| Tom Harrison | : | C-2016-2518438 |
| | : | |
| v. | : | |
| | : | |
| UGI Utilities, Inc. – Gas Division | : | |

VERIFICATION

I, David E. Lahoff, being the Manager, Tariff & Supplier Administration of UGI Utilities, Inc., hereby state that I am sponsoring the following interrogatory responses used as exhibits in other parties' testimony in this proceeding: I&E-RS-9, I&E-RS-27, I&E-RS-90, I&E-RS-103, OCA-I-33, OCA-III-14, OCA-XIII-1, OSBA-I-2, OSBA-I-19, OSBA-I-20, UGIII-IV-3, UGIII-IV-6, UGIII-IV-7, RESA-II-1, RESA-II-4, RESA-II-8, RESA-II-12, NGS-II-21, NGS-III-6 and NGS-V-3. I hereby state that the aforementioned interrogatory responses are true and correct to the best of my knowledge, information, and belief.

I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 5/31/2016


David E. Lahoff

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC
UTILITY COMMISSION

:
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Docket No. R-2015-2518438


v.

UGI UTILITIES, INC. – GAS DIVISION

VERIFICATION

I, Orlando Magnani, President of Rand Energy Consultants, hereby state that the information set forth in my Direct Testimony, RESA Statement No. 1, is true and correct to the best of my knowledge, information and belief. I understand that the statements here are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to the unsworn falsification to authorities).

May 31, 2016


Orlando Magnani, President
Rand Energy Consultants

6/2/16 *fly dx*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

UGI Utilities – Gas Division

Docket No. R-2015-2518438

SURREBUTTAL TESTIMONY

OF

ORLANDO MAGNANI

May 25, 2016

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Orlando (Randy) Magnani.

3 **Q. HAVE YOUR PREVIOUSLY SUBMITTED TESTIMONY IN THIS**
4 **PROCEEDING?**

5 A. Yes. I submitted testimony which has been pre-marked as RESA St. 1. My direct testimony
6 focused on a recommendation that the present requirement of UGI Utilities, Inc.-Gas
7 Division ("UGI") for natural gas suppliers ("NGSs") to balance customers in rate schedules
8 by meter reading date or billing cycle date be modified. I also testified about the allocation
9 of Transco pipeline capacity at the UGI city gate and the unnecessarily high penalty payment
10 required for what UGI terms "intentional imbalances" of ten times the Gas Daily Index price
11 for gas. Finally, I testified about several improvements in UGI's compliance with the
12 Commission's "Code of Conduct" that in my view needed to be made.

13 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

14 A. I will respond to the testimony submitted by various UGI witnesses in response to my direct
15 testimony. I will respond to Mr. Stoyko's position on my recommendation regarding UGI's
16 present "10 times" penalty levels proposed by UGI's Tariff Rule 20.4. I will also comment on
17 Mr. Lahoff's position on my proposal that all transportation customers should either have
18 automated meter reading ("AMR") devices installed or moved to rate schedules with
19 monthly balanced rate schedules. I will respond to Ms. Borelli's position on the allocation of
20 Transco pipeline capacity at the city gate. I will also respond to the Office of Small Business
21 Advocate ("OSBA") witness Mr. Knecht's comments about the allocation of gas at the
22 Transco receipt point. Finally, I will respond to Mr. Szykman's rebuttal testimony regarding
23 UGI's compliance with PUC Code of Conduct standards.

24 **Q. PLEASE EXPLAIN MR. STOYKO'S POSITION REGARDING YOUR TESTIMONY THAT UGI'S**
25 **PROPOSAL TO IMPOSE A PENALTY OF TEN TIMES THE GAS DAILY INDEX ("GDI")**
26 **PRICE FOR IMBALANCES THAT OCCUR ON OPERATIONAL FLOW ORDER ("OFO")**
27 **DATES IS UNNECESSARY AND UNREASONABLE.**

1 A. Mr. Stoyko disputed my claim that a penalty of 1.1 times the index price is a sufficient
2 deterrent and rejected my observation that there should not be any resulting arbitrage risk.
3 (UGI ST. 7-R at 42). He claims that this is “simply not correct... since gas prices can and do
4 vary substantially between points.”

5 **Q. IS MR. STOYKO CORRECT IN HIS OBSERVATION?**

6 A. No. As I am sure Mr. Stoyko understands, in today’s integrated pipeline system, geographic
7 arbitrage is essentially impossible. If there is a difference in price from one region to
8 another – that is greater than the cost of transportation to get the gas there – it would be
9 attributable to the fact that capacity or other constraints have made it impossible to move
10 gas from other locations into the location with the higher prices. In order to accomplish
11 arbitrage, you must be able to move gas to the capacity constrained location with the higher
12 prices. If this weren’t true then the prices for gas in the two regions would be the same.
13 Accordingly, I reiterate my recommendation that the penalty be established at a small
14 amount above the highest market price on UGI’s system, in order to provide NGSs with the
15 proper incentive to insure that they deliver at the levels necessary to meet their tariff
16 obligations. As I indicated previously, deliberate arbitrage by an NGS is a no-win
17 proposition because in addition to it being wrong, and subject to regulatory scrutiny, there
18 is no net financial gain to the company attempting arbitrage. The only reason that an NGS
19 would not deliver is because it simply couldn’t find gas or, more likely, a scheduler made an
20 honest mistake.

21 **Q. TURNING TO MR. LAHOFF, HE DISAGREED WITH YOUR POSITION THAT CUSTOMERS**
22 **SHOULD EITHER HAVE AMR DEVICES INSTALLED OR UGI SHOULD BE REQUIRED TO**
23 **MOVE TO MONTHLY BALANCING WITH CONSOLIDATED POOLS CONSISTENT WITH**
24 **OTHER UGI NATURAL GAS DISTRIBUTION COMPANY (“NGDC”) AFFILIATES. WHY DID**
25 **HE DISAGREE WITH YOUR POSITION IN THIS REGARD?**

26 A. Mr. Lahoff testified that, unlike UGI Central Penn Gas in which all customers are required to
27 have AMR devices, UGI does not have this rule and thus does not have the infrastructure in

1 place to permit end of month balancing. He suggested that customers may not be willing to
2 pay to have AMRs installed just for the “administrative ease” of suppliers.

3 **Q. DO YOU HAVE A RESPONSE TO THESE VIEWS?**

4 A. Yes, Mr. Lahoff has revised my testimony to say that all customers should be forced to
5 install AMRs at their cost. My actual recommendation was that UGI should find a way to
6 deploy AMRs to all transportation customers or, UGI should be required to move to monthly
7 balancing with consolidated pools consistent with other UGI NGDC affiliates. Most of the
8 customers already have AMRs installed and so could easily be balanced monthly. I am not
9 in favor of forcing customers, especially small loads, to incur the cost of installing an AMR.
10 UGI could institute a plan whereby it provides the equipment and installation of the AMR
11 and recovers the cost via its Distribution System Improvement Charge (“DSIC”). I
12 understand that at least one other natural gas distribution company (Peoples) is installing
13 AMRs and recovering the cost through its DSIC. While I believe that recovering the cost of
14 the AMRs as a system asset is justifiable because of the improvements in reliability and
15 billing accuracy if this approach is not adopted and the customer declines to incur the cost
16 of installation, then the customer should be placed on a monthly balanced rate schedule.
17 The current pooling requirements are increasing costs for both suppliers and customers
18 and reducing billing accuracy and reliability.

19 **Q. TURNING TO THE TESTIMONY OF MS. BORELLI, SHE REJECTED YOUR**
20 **RECOMMENDATION THAT UGI SHOULD ALLOCATE CITY GATE CAPACITY FROM**
21 **TRANSCO ON A PRO RATA BASIS. CAN YOU COMMENT?**

22 A. Yes. Ms. Borelli asserts that such pro rata allocation for Transco is not appropriate because,
23 apart from a non-contiguous segment of UGI Gas’s distribution system, Transco is not a
24 major source of supply into UGI Gas’s distribution system. In that non-contiguous segment,
25 four transportation customers are permitted to schedule delivers at UGI Gas’s Transco city
26 gates. Ms. Borelli states that depriving NGSS’ large customers of Transco gas is necessary

1 because otherwise NGSs would be allocated Transco gas even if their customers were not in
2 an area that is served by Transco gas. I do not accept this argument. Transco gas is
3 delivered to UGI's **system** and used by UGI **customers**. Currently the portion of Transco
4 gas utilized by non-choice customers is delivered entirely by UGI and consumed by
5 customers on the UGI system. If NGSs delivered their pro-rata share of Transco gas to
6 customers, then UGI would deliver less Transco gas to its supply customers. The system as
7 a whole would still receive the maximum amount of Transco gas every day. The fact that
8 NGSs nominate the gas instead of UGI has no bearing on the physical operation of the
9 system.

10 **Q. MR. KNECHT, FOR OSBA, ALSO PRESENTED TESTIMONY OPPOSING YOUR REQUEST**
11 **REGARDING TRANSCO CAPACITY. HE STATED (OSBA ST. 2 AT 18) THAT RESA IS**
12 **ASKING FOR UGI GAS TO "ALLOCATE SOME OF ITS UPSTREAM TRANSCO CAPACITY TO**
13 **NON-CHOICE NGSS." IS HIS CHARACTERIZATION CORRECT?**

14 A. No. My explanation of the problem in my direct testimony must not have been clear. My
15 proposal was not to force UGI to assign to NGSs a portion of Transco capacity that it has
16 obtained to serve supplier of last resort customers. NGSs will purchase their own upstream
17 capacity on Transco. The problem is that UGI will not allocate gate space to get the gas
18 delivered by Transco into the UGI's distribution system. NGSs are looking for the right to
19 deliver Transco gas utilizing *their own* Transco capacity – not UGI's.

20 **Q. FINALLY, IN YOUR DIRECT, YOU PRESENTED SEVERAL AREAS OF CONCERN**
21 **REGARDING UGI GAS'S COMPLIANCE WITH THE COMMISSION'S CODE OF CONDUCT.**
22 **YOU MADE SEVERAL SPECIFIC RECOMMENDATIONS AND ALSO CALLED ON THE**
23 **COMMISSION TO CONDUCT A MORE DETAILED AUDIT OF UGI'S COMPLIANCE AFTER**
24 **THE CONCLUSION OF THIS RATE CASE. HOW DID THE COMPANY RESPOND?**

25 A. Mr. Szykman on behalf of UGI claimed that requesting a management audit of code of
26 conduct issues is not appropriate in a base rate case. He went on to simply characterize my
27 testimony as presenting "merely hypothetical scenarios."
28

1 **Q. DO YOU HAVE A RESPONSE?**

2 A. Yes. I certainly understand that these issues may not seem important to Mr. Szykman in the
3 midst of a large base rate proceeding, but I would respectfully point out that these “rules of
4 the road” are crucial if all participants on the UGI system are going to be able to operate
5 their business fairly. At the end of the day, if UGI is giving NGS affiliates an unfair
6 advantage in competing for customers, the results will be higher prices and reduced levels
7 of service for end user customers. For that reason, it is extremely important that the
8 Commission fully explore UGI’s approach to adhering to these important rules.

9

10 **Q. WHAT ABOUT MR. SZYKMAN’S CLAIM THAT ORDERING A MANAGEMENT AUDIT OF**
11 **UGI’S CODE OF CONDUCT COMPLIANCE IS NOT APPROPRIATE ACTION IN A BASE**
12 **RATE CASE?**

13 A. I disagree. The Code of Conduct is actually part of UGI’s existing Tariff (UGI Gas Utilities, Inc.
14 Gas-Pa.P.U.C. No. 5-S, Original Pages 144-147)). I am informed that when the Commission
15 ordered this investigation into UGI’s proposed rate increase it also ordered an investigation
16 into UGI’s *existing* tariff and rates.¹ Accordingly I believe that investigating how UGI has
17 complied with these tariff requirements is appropriately included in this investigation. My
18 recommendation for a management audit on these issues, in addition to the specific
19 recommendations that I made in my direct testimony, was in recognition that in the short
20 time period available it would be difficult for UGI to fully show that it is indeed in
21 compliance with all of these requirements. I felt that this call for a subsequent in-depth
22 review was more reasonable than simply concluding that UGI had not met its burden of
23 proving that it was fully compliant with these requirements and taking adverse action on
24 that basis.

25

¹ Pa. PUC v. UGI Utilities, Inc., Docket No. R-2015-2518438 (Order entered February 11, 2016).

1 **Q. DOES THIS COMPLETE YOUR SURREBUTTAL TESTIMONY?**

2 **A.** Yes. It does.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC
UTILITY COMMISSION

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Docket No. R-2015-2518438

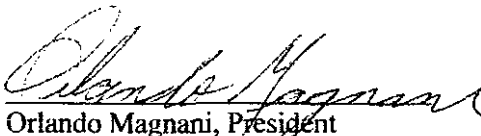
v.

UGI UTILITIES, INC. – GAS DIVISION

VERIFICATION

I, Orlando Magnani, President of Rand Energy Consultants, hereby state that the information set forth in my Surrebuttal Testimony, RESA Statement No. 1-SR, is true and correct to the best of my knowledge, information and belief. I understand that the statements here are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to the unsworn falsification to authorities).

May 31, 2016


Orlando Magnani, President
Rand Energy Consultants