



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

IN REPLY
PLEASE REFER
TO OUR FILE
C-2018-3005151

September 1, 2020

Via Electronic Filing

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

Re: Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement v.
UGI Utilities, Inc.
Docket No. C-2018-3005151
Joint Petition for Approval of Settlement

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Joint Petition for Approval of Settlement in the above-referenced proceeding as well as the following Appendices: (1) Appendix A – Proposed Ordering Paragraphs; (2) Appendix B - the Bureau of Investigation and Enforcement's Statement in Support; and (2) Appendix C - the Statement in Support of UGI Utilities, Inc.

Copies have been served on the parties of record in accordance with the Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Steph M. Wimer", is written over a horizontal line.

Stephanie M. Wimer
Senior Prosecutor
PA Attorney ID No. 207522
(717) 772-8839
stwimer@pa.gov

SMW/jfm
Enclosure

cc: Kathryn G. Sophy, Director, OSA (*via email only - Word Version*)
Kimberly A. Hafner, Deputy Director - Legal, OSA (*via email only - Word Version*)
Michael L. Swindler, Deputy Chief Prosecutor, I&E (*via email only*)
As per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
v.	:	Docket No. C-2018-3005151
	:	
UGI Utilities, Inc.,	:	
Respondent	:	

JOINT PETITION FOR APPROVAL OF SETTLEMENT

Pursuant to 52 Pa. Code §§ 5.41 and 5.232, the Pennsylvania Public Utility Commission’s (“Commission” or “PUC”) Bureau of Investigation and Enforcement (“I&E” or “Complainant”) and UGI Utilities, Inc. – Gas Division (“UGI,” “Company” or “Respondent”) hereby submit this Joint Petition for Approval of Settlement (“Settlement” or “Settlement Agreement”) to resolve all issues related to the above-docketed I&E Formal Complaint (“Complaint”) proceeding alleging violations of the Code of Federal Regulations and Pennsylvania Public Utility Code, which were raised in connection with a fatal natural gas explosion that occurred on July 2, 2017, in the Springdale Farms residential development in Millersville, Lancaster County, Pennsylvania. As part of this Settlement Agreement, I&E and UGI (hereinafter referred to collectively as the “Parties” or “Joint Petitioners”) respectfully request that the Commission approve the Settlement without modification for the compelling public interest reasons stated below. Proposed Ordering Paragraphs are attached hereto as **Appendix A**. Statements in Support of the Settlement expressing the individual views of I&E and UGI are attached hereto as **Appendix B** and **Appendix C**, respectively.

I. INTRODUCTION

The Parties to this Settlement Agreement are the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, by its prosecuting attorneys, 400 North Street, Harrisburg, PA 17120, and UGI Utilities, Inc. with its principal place of business at 1 UGI Drive, Denver, PA 17517.

I&E is the entity established to prosecute complaints against public utilities. *See Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011) (delegating authority to initiate proceedings that are prosecutory in nature to I&E); *See also* 66 Pa.C.S. § 308.2(a)(11).

Respondent UGI is a "public utility" as that term is defined at 66 Pa.C.S. § 102 as it is engaged in providing public utility service as a natural gas distribution company ("NGDC") to the public for compensation.

Pursuant to Section 59.33(b) of the Commission's regulations, 52 Pa. Code § 59.33(b), I&E's Safety Division has the authority to enforce Federal pipeline safety laws and regulations set forth in 49 U.S.C.A. §§ 60101-60503 and as implemented at 49 CFR Parts 191-193, 195 and 199.

A public utility distributing natural gas may be subject to the civil penalties set forth in 66 Pa.C.S. § 3301(c) and Federal pipeline safety laws at 49 U.S.C.A. § 60122(a)(1), as adjusted annually for inflation.

II. BACKGROUND

On July 2, 2017, at 12:31 PM, a natural gas explosion occurred at 206 Springdale Lane, Millersville, PA 17551, at a residence in the Springdale Farms development. Three UGI employees were on site at the time of the incident. One UGI employee was fatally injured and the other two UGI employees sustained non-life threatening injuries, with one requiring in-patient hospitalization. A Lancaster Area Sewer Authority ("LASA") employee was also on-site, injured in the blast and hospitalized.

The explosion demolished the residential structure at 206 Springdale Lane and severely damaged two neighboring homes. Pursuant to the incident report submitted by UGI to the Pipeline and Hazardous Materials Safety Administration (“PHMSA”) on June 29, 2020, the Company determined that property damage amounted to \$2,232,000.

Pipeline safety inspectors from I&E’s Safety Division responded to the scene and conducted an in-depth investigation, the results of which culminated in the filing of proprietary and non-proprietary versions of a Formal Complaint (“Complaint”) on October 4, 2018.¹

On October 18, 2018, UGI filed an unopposed motion seeking an extension of time to answer I&E’s Complaint.

By Secretarial Letter dated October 19, 2018, UGI’s request for an extension of time to answer I&E’s Complaint was granted and the deadline for UGI to file an Answer was established as November 19, 2018.

On November 16, 2018, UGI filed proprietary and non-proprietary versions of the Answer to I&E’s Complaint. UGI’s Answer also raised a New Matter.

On December 6, 2018, I&E filed a Reply to the New Matter of UGI.

The Parties then engaged in extensive negotiations regarding the complex and technical issues raised by the Complaint and UGI’s responsive pleadings thereto.

On June 12, 2020, the Parties achieved a Settlement in Principle that both sides agree promotes the public interest and adequately addresses I&E’s concerns regarding UGI’s emergency procedures and execution of those procedures in response to the natural gas leak that resulted in the July 2, 2017 explosion.

¹ The National Transportation Safety Board (“NTSB”) also conducted an investigation of this incident pursuant to its authority set forth in 49 U.S.C.A. § 1131(D).

III. SETTLEMENT TERMS

Pursuant to the Commission's policy of encouraging settlements that are reasonable and in the public interest,² the Parties held a series of extensive and comprehensive technical discussions that culminated in this Settlement. The purpose of this Joint Petition for Approval of Settlement is to resolve this matter in a fair and reasonable manner without further litigation.

The Settlement is without admission and it is understood that this Settlement is a compromise of the allegations in the Complaint, which I&E intended to prove, and that UGI intended to disprove.

The Parties recognize that their positions and claims are disputed and, given that the outcome of a contested proceeding is uncertain, the parties further recognize the significant and more immediate benefits of amicably resolving the disputed issues through settlement as opposed to time-consuming and expensive litigation.

I&E and UGI, intending to be legally bound and for consideration given, desire to fully and finally conclude this litigation and agree that a Commission Order approving the Settlement without modification shall create the following rights and obligations:

A. Civil Penalty:

UGI will pay a civil penalty in the amount of One Million, One Hundred Thousand Dollars (\$1,100,000.00) pursuant to 66 Pa.C.S. § 3301(c). Said payment shall be made within thirty (30) days of the date of the Commission's Final Order approving the Settlement Agreement and shall be made by certified check or money order payable to the "Commonwealth of Pennsylvania." The docket number of this proceeding, C-2018-3005151, shall be indicated with the certified check or money order and the payment shall be sent to:

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

The civil penalty shall not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f).

² See 52 Pa. Code § 5.231(a).

B. Training Center:

UGI has committed to the construction of a training center with a forecasted total project investment of \$37.9 million and an estimated completion date in 2021. The training center is intended to enhance Company training and qualification of new and existing employees and contractors for the various tasks they are required to perform in the field. The facility will include a “leak city,” welding and excavation safety areas as well as classrooms. Emergency responders will be invited to attend emergency response training offered by the Company and to hold emergency response training using their own curriculum.

C. Mechanical Tees:

As part of its Distribution Integrity Management Program, UGI has an established program to identify and remediate Perfection Permalock Flat-Top Mechanical Tapping Tees (“Perfection Tapping Tees”) that were installed on the UGI system. Over the past 10 years, UGI has reported the results of its Perfection Tapping Tee remediation activities to I&E in an annual report. Post incident, UGI has accelerated the pace of this remediation work, spending \$3.1 million in 2018 in the first full year after the incident. UGI currently conducts a semi-annual leak survey of all plastic mains that are likely to contain Perfection Tapping Tees (“Semiannual Leak Survey”).

Within six (6) months of entry of a final Commission Order, UGI agrees to: (1) provide I&E with a confidential study performed by an independent consultant to assess the effectiveness of UGI’s remediation procedures for Perfection Tapping Tees; (2) provide I&E with a high level map or list of addresses showing the likely locations of Perfection Tapping Tees that will be marked as “Confidential Security Information;” (3) UGI agrees to provide periodic reporting on a quarterly basis to I&E concerning its progress with respect to the remediation or replacement of Perfection Tapping Tees from the present time through December 31, 2024 ; and (4) in connection with the aforementioned reports, UGI agrees to provide information to I&E to evaluate the ongoing effectiveness of the Semiannual Leak Survey.

To the extent that Perfection Tapping Tees are discovered or otherwise remain a part of UGI’s facilities beyond December 31, 2024, UGI agrees to provide I&E with reports concerning UGI’s progress with respect to the remediation or replacement of these mechanical tapping tees on an annual basis. The reports should contain the same information that UGI is presently providing to I&E in the annual remediation activities report

UGI further agrees to continue to budget mechanical tee remediation activities at no less than 2018 fiscal year levels for the 2020-2024 fiscal years. Prior to the end of the 2024 fiscal year, UGI will submit a study as part of a Long Term Infrastructure Improvement Plan or Annual Asset

Optimization Plan proceeding proposing a future course for its mechanical tee remediation program.

D. Emergency Response Training/Incident Command Structure:

Post incident, UGI implemented the following improvements to its emergency response training and outreach: (1) UGI developed a new emergency response training module entitled “A Shared View” to provide emergency responders with instruction and guidance on topics such as responding to natural gas and carbon monoxide emergencies, incident case studies, controlling ignition sources and gas valve operation; (2) UGI developed web-based training for emergency responders entitled “Energy Emergencies,” which provides emergency management personnel the ability to train, test and certify response to natural gas and electrical utility emergencies at no cost to emergency responders. “Energy Emergencies” is accredited by the Pennsylvania Fire Academy and used by local fire departments to train responders; (3) UGI increased advertising to a monthly basis in the Pennsylvania Fireman’s Magazine to promote “Energy Emergencies” and related information; and (4) UGI enhanced meetings with pipeline stakeholders to include Coordinated Response Exercise (“CORE”), where operators, emergency responders and public officials work through a series of emergency response/incident command decisions similar to a table top exercise.

Post incident, UGI implemented the following changes to emergency response training for its own personnel: (1) UGI developed a new annual training for its response personnel to include incident command structure (“ICS”) content for natural gas emergencies, which discusses key aspects of UGI’s first responder actions and decisions, ICS and role assignments and the priorities of emergency response; (2) UGI modified its Emergency Plan (“EP”) to incorporate principles of ICS for establishing priorities, levels of incidents based on severity and personnel required for each type of incident; (3) UGI implemented the Everbridge mass notification system for use during emergency situations to enhance coordination of emergency events; and (4) UGI required its field supervisors to complete Federal Emergency Management Agency (“FEMA”) 100 & 200 course work and certification to enhance knowledge and understanding of key ICS principles.

UGI agrees to: (1) continue training its own employees and contractors in accordance with certification requirements; (2) offer and advertise training (both online and in-person) to each fire department located in its service territory on natural gas emergencies and other first responder responsibilities; (3) track and record metrics around the specific fire departments who are invited and those who participate in UGI-sponsored training; and (4) collaborate with I&E to develop innovative ways to increase emergency responder participation in ICS training and UGI’s

Public Awareness outreach and education programs, consistent with American Petroleum Institute Recommended Procedure 1162.

E. Emergency Plan:

Post incident, UGI implemented the following enhancements to its General Operations Manual (“GOM”) and EP: (1) UGI separated the EP from its GOM; (2) UGI revised former GOM 60.50.30 (pertaining to Gas Leak Investigation and Management) and incorporated it into its EP; (3) the EP was revised to include checklists for emergency responders to help guide their efforts during the first hour of an emergency, during inside leak responses and during outside leak responses; (4) the EP redefines the responsibility of Central Dispatchers to help alleviate the burden of emergency responders around electricity shutdown, system isolation and communications; (5) UGI hired a consultant to study and make recommendations concerning the specific situations when local emergency responders should be called during a gas leak investigation; and (6) UGI revised its procedures to include safety perimeter criteria to provide additional guidance for removing the general public from a natural gas emergency.

UGI agrees to periodically re-evaluate its procedures and standards on an ongoing basis, but no less frequently than on an annual basis, and train and qualify personnel to the applicable standards. UGI agrees that the communication systems used in its dispatch and call center capture recordings of emergency communications.

F. Electric Curtailment/Use of Valves to Shut Down Mains during Gas Emergencies:

Post incident, UGI revised its EP to enhance procedures concerning electric curtailment and the use of valves to shut down gas flow during an emergency leak situation. The changes reinforce the first responder’s authority to shut valves and curtail electricity in appropriate circumstances during an emergency.

UGI agrees to: (1) evaluate its procedures on an on-going basis and train and qualify personnel to the applicable standards; (2) sponsor working meetings with electric utility providers in its service territory designed to improve coordination of electric shutdown during a gas emergency; (3) review valve shutdown criteria and implement procedural changes as appropriate and on a situational basis, *i.e.* mains serving cul-de-sacs or underground blowing gas situations; and (4) modify Duty Supervisor expectations to assess situations and preemptively prompt immediate response including the closing of valves and shutting down electricity. I&E agrees to review and recommend revisions to UGI’s procedures, as deemed appropriate by I&E, concerning electric curtailment and the use of valves to shut down gas flow during an emergency leak situation.

G. Managing Atmospheric Gas Found in a Structure:

Post incident, UGI developed and implemented revisions to its EP to enhance procedures around managing natural gas leaks inside structures. The procedures specify different levels of action depending on the level of gas concentration found inside a structure.

UGI agrees to continue to monitor industry trends to assess practices for electric shutdown and evacuation when gas is found inside a structure and will revise its EP if warranted. UGI agrees to revise its EP and/or GOM to evacuate buildings when a combination of gas in atmosphere is detected inside a structure and localized hazardous “C” leak readings are present outside the structure, indicating a leaking subsurface facility as the likely leak source. UGI will train and qualify personnel, as applicable, to any revised standard. I&E agrees to review and recommend revisions to UGI’s procedures, as deemed appropriate by I&E, concerning the management of atmospheric gas found inside of a structure.

H. Removing Meters when Atmospheric Gas is Detected:

UGI’s EP does not currently address the question of when, if ever, a gas meter may be removed in a gas emergency. UGI agrees to assess practices for removing a gas meter during an emergency and modify its procedures to situationally define when meter removal may specifically reduce risk, if appropriate. UGI will train and qualify personnel, as applicable, to any revised standard. I&E agrees to review and recommend revisions to UGI’s procedures, as deemed appropriate by I&E, concerning the removal of meters in gas emergencies.

I. “Make-Safe” Requirements Prior to Placing an Emergency One Call Ticket:

Post incident, UGI modified its GOM Excavation Procedures and EP to place the responsibility of making the call to the Pennsylvania One Call System on Central Dispatch to create an emergency one call ticket upon the direction of the first responder or other personnel responding to an emergency with the intention of alleviating burdens during emergency response activity. UGI agrees to train its employees in the “Make Safe” and emergency Pennsylvania One Call requirements incorporated into the GOM.

J. Availability of “On Call” Operations and Engineering Personnel for Emergency Response:

UGI has revised its EP procedures to establish requirements that the assigned “on call” engineering and operations personnel must be available 24 hours a day/7 days per week for each of its operating areas, including being accessible by telephone, having reasonable access to Company records and able to respond in a reasonably expeditious fashion. UGI agrees to clarify the dispatch procedures to provide that it is the

responsibility of Central Dispatch to make necessary calls to the on call duty crew, engineer and other necessary personnel upon receipt of request from the first responder or other personnel located at the response site to dispatch such personnel.

K. Identification of Valves Needed to Isolate Gas Flow during Hazardous Leak Events:

UGI revised its EP to further clarify the types of grade “C” leaks that require the identification of the valve needed to isolate gas flow, including, but not limited to, underground blowing gas situations and rapidly migrating suspected mechanical tee failure. Additionally, UGI revised its EP to formally establish and outline the specific roles and responsibilities of the On Call Engineering Leader. I&E agrees to review and recommend revisions to UGI’s procedures, as deemed appropriate by I&E, concerning the identification of valves to isolate gas flow during hazardous leaks.

L. Safety Perimeter during Abnormal Operating Conditions:

UGI revised its EP to include a 330-foot zone of safety, or safety perimeter, for inside and outside leaks. UGI agrees to develop and insert into its EP a matrix of safety perimeters based on best practices using operating pressure and size of pipe to determine the size of the perimeter. I&E agrees to review and recommend revisions to UGI’s procedures, as deemed appropriate by I&E, concerning the safety perimeter matrix.

M. Training:

UGI agrees to train and qualify its personnel in the changes to the GOM and any additional changes that UGI implements.

19. Upon Commission approval of the Settlement in its entirety without modification, I&E shall be deemed to have released UGI from all past claims that were made or could have been made for monetary and/or other relief based on allegations associated with the July 2, 2017 incident.

20. I&E and UGI jointly acknowledge that approval of this Settlement Agreement is in the public interest and fully consistent with the Commission’s Policy Statement regarding Factors and Standards for Evaluating Litigated and Settled Proceedings, 52 Pa. Code § 69.1201. The Parties submit that the Settlement Agreement is in the public interest because it effectively addresses I&E’s allegations that are the subject of the I&E Complaint proceeding, promotes public safety, and avoids the time and expense of litigation, which entails hearings, travel for

UGI's witnesses, and the preparation and filing of briefs, exceptions, reply exceptions, as well as possible appeals. Attached as **Appendix B** and **Appendix C** are Statements in Support submitted by I&E and UGI, respectively, setting forth the bases upon which they believe the Settlement Agreement is in the public interest.

IV. CONDITIONS OF SETTLEMENT

21. This document represents the Settlement Agreement in its entirety. No changes to obligations set forth herein may be made unless they are in writing and are expressly accepted by the Parties. This Settlement Agreement shall be construed and interpreted under Pennsylvania law.

22. The Settlement is conditioned upon the Commission's approval of the terms and conditions contained in this Joint Petition for Approval of Settlement without modification. If the Commission modifies this Settlement Agreement, any party may elect to withdraw from the Settlement and may proceed with litigation and, in such event, this Settlement Agreement 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 the other party within twenty (20) days after entry of an Order modifying the Settlement.

23. The Parties agree that the underlying allegations were not the subject of any hearing and that there has been no order, findings of fact or conclusions of law rendered in this Complaint proceeding. It is the intent of the parties that this Joint Settlement Petition not be admitted as evidence in any potential civil proceeding involving this matter. It is further understood that, by entering into this Settlement Agreement, UGI has made no concession or admission of fact or law and may dispute all issues of fact and law for all purposes in any other proceeding, including but not limited to any civil proceedings, that may arise as a result of the circumstances described in this Joint Settlement Petition. Nor may this settlement be used by any other person or entity as a concession or admission of fact or law.

24. The Parties acknowledge that this Settlement Agreement reflects a compromise of competing positions and does not necessarily reflect any party's position with respect to any issues raised in this proceeding.

25. This Settlement Agreement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner that is fair and reasonable. This Settlement is presented without prejudice to any position that any of the Parties may have advanced and without prejudice to the position any of the Parties may advance in the future on the merits of the issues in any other proceedings, except to the extent necessary to effectuate or enforce the terms and conditions of this Settlement Agreement. This Settlement does not preclude the parties from taking other positions in any other proceeding but is conclusive in this proceeding and may not be reasserted in any other proceeding or forum except for the limited purpose of enforcing the Settlement by a Party.

26. The terms and conditions of this Settlement Agreement constitute a carefully crafted package representing reasonably negotiated compromises on the issues addressed herein. Thus, the Settlement Agreement is consistent with the Commission's rules and practices encouraging negotiated settlements set forth in 52 Pa. Code §§ 5.231 and 69.1201.

WHEREFORE, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement and UGI Utilities, Inc. respectfully request that the Commission approve the terms of the Joint Petition for Approval of Settlement without modification and in their entirety as being in the public interest.

Respectfully submitted and filed by:

**Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement**


UGI Utilities, Inc.

By:

By:



Stephanie M. Wimer, Senior Prosecutor,
PA Attorney ID No. 207522
Michael L. Swindler, Deputy Chief Prosecutor
PA Attorney ID No. 43319
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Date: September 1, 2020

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
v.	:	Docket No. C-2018-3005151
	:	
UGI Utilities, Inc.,	:	
Respondent	:	

PROPOSED ORDERING PARAGRAPHS

1. That the Joint Settlement Petition filed on September 1, 2020 between the Commission’s Bureau of Investigation and Enforcement and UGI Utilities, Inc. is approved in its entirety without modification.

2. That, in accordance with Section 3301(c) of the Public Utility Code, 66 Pa.C.S. § 3301(c), within thirty (30) days of the date this Order becomes final, UGI Utilities, Inc. shall pay a civil penalty of One Million, One Hundred Thousand Dollars (\$1,100,000). Said payment shall be made by certified check or money order payable to “Commonwealth of Pennsylvania” and shall be sent to:

Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

3. Within six (6) months of entry of a final Commission Order, UGI Utilities, Inc. agrees to: (1) provide the Bureau of Investigation and Enforcement with a confidential study performed by an independent consultant to assess the effectiveness of the Company’s remediation procedures for Perfection Tapping Tees; (2) provide the Bureau of Investigation and Enforcement with a high level map or list of addresses showing the likely locations of Perfection

Tapping Tees that will be marked as “Confidential Security Information;” (3) UGI Utilities, Inc. agrees to provide periodic reporting on a quarterly basis to the Bureau of Investigation and Enforcement concerning its progress with respect to the remediation or replacement of Perfection Tapping Tees from the present time through December 31, 2024; and (4) in connection with the aforementioned reports, UGI Utilities, Inc. agrees to provide information to the Bureau of Investigation and Enforcement to evaluate the ongoing effectiveness of the Semiannual Leak Survey. To the extent that Perfection Tapping Tees are discovered or otherwise remain a part of the Company’s facilities beyond December 31, 2024, UGI Utilities, Inc. agrees to provide the Bureau of Investigation and Enforcement with reports concerning the Company’s progress with respect to the remediation or replacement of these mechanical tapping tees on an annual basis.

4. A copy of this Opinion and Order shall be served upon the Financial and Assessment Chief, Bureau of Administration.

5. That the above-captioned matter shall be marked closed upon receipt of the civil penalty.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
v.	:	Docket No. C-2018-3005151
	:	
UGI Utilities, Inc.,	:	
Respondent	:	

**THE BUREAU OF INVESTIGATION AND ENFORCEMENT’S
STATEMENT IN SUPPORT OF THE
JOINT PETITION FOR APPROVAL OF SETTLEMENT**

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to 52 Pa. Code §§ 5.231, 5.232 and 69.1201, the Pennsylvania Public Utility Commission’s (“Commission” or “PUC”) Bureau of Investigation and Enforcement (“I&E”), a signatory party to the Joint Petition for Approval of Settlement (“Settlement” or “Settlement Agreement”) filed in the matter docketed above, submits this Statement in Support of the Settlement Agreement between I&E and UGI Utilities, Inc. (“UGI,” “Respondent” or “Company”).¹ I&E avers that the terms and conditions of the Settlement are just and reasonable and in the public interest for the reasons set forth herein.

¹ I&E and UGI are collectively referred to herein as the “Parties.”

I. BACKGROUND

I&E's Safety Division conducted an in-depth investigation of a natural gas explosion that occurred on July 2, 2017, at 12:31 PM, at 206 Springdale Lane, Millersville, PA 17551, which resulted in one fatal injury to an employee of UGI, non-life threatening injuries to three other individuals and approximately \$2.3 million in property damage. The results of the investigation formed the basis for the allegations set forth in the proprietary and non-proprietary versions of I&E's Formal Complaint ("Complaint"), which was filed on October 4, 2018.

The crux of I&E's Complaint alleged that UGI failed to follow its written, internal procedures on July 2, 2017 in that the actions taken by the UGI employees in response to the reported natural gas leak were not prioritized to protect life and property and eliminate hazards. I&E further alleged that UGI's procedures that were in place at the time of the explosion were deficient, especially in recognizing and managing an underground blowing gas situation. I&E alleged numerous violations of the Pennsylvania Code and Code of Federal Regulations in connection with the incident including 49 CFR § 192.605(a) (requiring adherence to an operations, maintenance and emergency manual), 49 CFR § 192.615 (pertaining to the contents of an emergency plan, requiring adherence to that plan and mandating that actions must be directed toward protecting people first and then property), 49 CFR § 192.13(c) (requiring maintenance of plans, procedures and programs that must be established under Federal pipeline safety regulations), 49 CFR § 191.5 (pertaining to immediate notice of certain incidents) and 52 Pa. Code § 59.33(b) (adopting the Federal pipeline safety laws and regulations as the minimum safety standards).

I&E's Complaint sought relief in the form of the maximum civil penalty permissible by law, \$2,090,022, as well as a number of corrective measures designed to address emergency response, training, revisions of UGI's procedures and the remediation or replacement of certain mechanical tapping tees.

On November 16, 2018, after receiving an extension of time to respond, UGI filed proprietary and non-proprietary versions of its Answer to I&E's Complaint. UGI's Answer also raised New Matter. On December 6, 2018, I&E filed a Reply denying the averments raised in UGI's New Matter.

I&E and UGI then engaged in extensive negotiations regarding the complex and technical issues raised by the Complaint and UGI's responsive pleadings thereto. On September 1, 2020, I&E and UGI (collectively, the "Parties") filed a Joint Petition for Approval of Settlement resolving all issues between I&E and UGI in the instant matter. This Statement in Support is submitted in conjunction with the Settlement Agreement.

II. THE PUBLIC INTEREST

Pursuant to the Commission's policy of encouraging settlements that are reasonable and in the public interest, the Parties held a series of settlement discussions. These discussions culminated in this Settlement Agreement, which, once approved, will resolve all issues related to the instant I&E Complaint proceeding. UGI has been cooperative and proactive with I&E related to identifying policies and procedures, facilities and training that can be further improved to assist UGI in enhancing the safety and reliability of service and to satisfy the commitments that I&E has required in the settlement process. Moreover, UGI has made substantial economic concessions to I&E's demands, most notably, the construction of a training center that is estimated to cost \$37.9 million.

The Settlement, if approved, will provide substantial public benefits including the acceleration of remediation work related to Perfection Permalock Flat-Top Mechanical Tapping Tees (“Perfection Tapping Tees”), increased coordination with and training of emergency responders regarding natural gas emergencies, enhanced training of UGI employees, as well as numerous improvements to UGI’s operations, maintenance and emergency procedures related to, *inter alia*, a commitment to staff on-call engineering on a 24/7 basis, placing certain job duties on Central Dispatch to alleviate the burden on first responders, and authorizing first responders to shut valves on gas mains.

I&E intended to prove the factual allegations set forth in its Complaint at hearing, to which the Company would have disputed. This Settlement Agreement results from the compromises of the Parties. Although I&E and UGI may disagree with respect to I&E’s factual allegations, the Company recognizes the need to prevent a similar incident from reoccurring. Further, I&E recognizes that, given the inherent unpredictability of the outcome of a contested proceeding, the benefits of amicably resolving the disputed issues through settlement outweigh the risks and expenditures of litigation. I&E submits that the Settlement constitutes a reasonable compromise of the issues presented and is in the public interest as it provides for a number of relevant corrective measures as well as a civil penalty. As such, I&E respectfully requests that the Commission approve the Settlement without modification so that these important public benefits may be realized expeditiously.

III. TERMS OF SETTLEMENT

Under the terms of the Settlement, I&E and UGI have agreed as follows:

B. Civil Penalty:

Respondent will pay a civil penalty in the amount of One Million, One Hundred Thousand Dollars (\$1,100,000.00) pursuant to 66 Pa.C.S. § 3301(c). Said payment shall be made within thirty (30) days of the date of the Commission’s Final Order approving the Settlement Agreement and shall be made by certified

check or money order payable to the “Commonwealth of Pennsylvania.” The docket number of this proceeding, C-2018-3005151, shall be indicated with the certified check or money order and the payment shall be sent to:

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 Pennsylvania Public Utility Commission
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 400 North Street
 Harrisburg, PA 17120

The civil penalty shall not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f).

N. Training Center:

UGI has committed to the construction of a training center with a forecasted total project investment of \$37.9 million and an estimated completion date in 2021. The training center is intended to enhance Company training and qualification of new and existing employees and contractors for the various tasks they are required to perform in the field. The facility will include a “leak city,” welding and excavation safety areas as well as classrooms. Emergency responders will be invited to attend emergency response training offered by the Company and to hold emergency response training using their own curriculum.

O. Mechanical Tees:

As part of its Distribution Integrity Management Program, UGI has an established program to identify and remediate Perfection Permalock Flat-Top Mechanical Tapping Tees (“Perfection Tapping Tees”) that were installed on the UGI system. Over the past 10 years, UGI has reported the results of its Perfection Tapping Tee remediation activities to I&E in an annual report. Post incident, UGI has accelerated the pace of this remediation work, spending \$3.1 million in 2018 in the first full year after the incident. UGI currently conducts a semi-annual leak survey of all plastic mains that are likely to contain Perfection Tapping Tees (“Semiannual Leak Survey”).

Within six (6) months of entry of a final Commission Order, UGI agrees to: (1) provide I&E with a confidential study performed by an independent consultant to assess the effectiveness of UGI’s remediation procedures for Perfection Tapping Tees; (2) provide I&E with a high level map or list of addresses showing the likely locations of Perfection Tapping Tees that will be marked as “Confidential Security Information;” (3) UGI agrees to provide periodic reporting on a quarterly basis to I&E concerning its progress with respect to the remediation or replacement of Perfection Tapping Tees from the present time through December 31, 2024 ; and (4) in connection with the aforementioned reports, UGI agrees to provide information to I&E to evaluate the ongoing effectiveness of the Semiannual Leak Survey.

To the extent that Perfection Tapping Tees are discovered or otherwise remain a part of UGI's facilities beyond December 31, 2024, UGI agrees to provide I&E with reports concerning UGI's progress with respect to the remediation or replacement of these mechanical tapping tees on an annual basis. The reports should contain the same information that UGI is presently providing to I&E in the annual remediation activities report

UGI further agrees to continue to budget mechanical tee remediation activities at no less than 2018 fiscal year levels for the 2020-2024 fiscal years. Prior to the end of the 2024 fiscal year, UGI will submit a study as part of a Long Term Infrastructure Improvement Plan or Annual Asset Optimization Plan proceeding proposing a future course for its mechanical tee remediation program.

P. Emergency Response Training/Incident Command Structure:

Post incident, UGI implemented the following improvements to its emergency response training and outreach: (1) UGI developed a new emergency response training module entitled "A Shared View" to provide emergency responders with instruction and guidance on topics such as responding to natural gas and carbon monoxide emergencies, incident case studies, controlling ignition sources and gas valve operation; (2) UGI developed web-based training for emergency responders entitled "Energy Emergencies," which provides emergency management personnel the ability to train, test and certify response to natural gas and electrical utility emergencies at no cost to emergency responders. "Energy Emergencies" is accredited by the Pennsylvania Fire Academy and used by local fire departments to train responders; (3) UGI increased advertising to a monthly basis in the Pennsylvania Fireman's Magazine to promote "Energy Emergencies" and related information; and (4) UGI enhanced meetings with pipeline stakeholders to include Coordinated Response Exercise ("CORE"), where operators, emergency responders and public officials work through a series of emergency response/incident command decisions similar to a table top exercise.

Post incident, UGI implemented the following changes to emergency response training for its own personnel: (1) UGI developed a new annual training for its response personnel to include incident command structure ("ICS") content for natural gas emergencies, which discusses key aspects of UGI's first responder actions and decisions, ICS and role assignments and the priorities of emergency response; (2) UGI modified its Emergency Plan ("EP") to incorporate principles of ICS for establishing priorities, levels of incidents based on severity and personnel required for each type of incident; (3) UGI implemented the Everbridge mass notification system for use during emergency situations to enhance coordination of emergency events; and (4) UGI required its field supervisors to complete Federal Emergency Management Agency ("FEMA") 100 & 200 course work and certification to enhance knowledge and understanding of key ICS principles.

UGI agrees to: (1) continue training its own employees and contractors in accordance with certification requirements; (2) offer and advertise training (both online and in-person) to each fire department located in its service territory on natural gas emergencies and other first responder responsibilities; (3) track and record metrics around the specific fire departments who are invited and those who participate in UGI-sponsored training; and (4) collaborate with I&E to develop innovative ways to increase emergency responder participation in ICS training and UGI's Public Awareness outreach and education programs, consistent with American Petroleum Institute Recommended Procedure 1162.

Q. Emergency Plan:

Post incident, UGI implemented the following enhancements to its General Operations Manual ("GOM") and EP: (1) UGI separated the EP from its GOM; (2) UGI revised former GOM 60.50.30 (pertaining to Gas Leak Investigation and Management) and incorporated it into its EP; (3) the EP was revised to include checklists for emergency responders to help guide their efforts during the first hour of an emergency, during inside leak responses and during outside leak responses; (4) the EP redefines the responsibility of Central Dispatchers to help alleviate the burden of emergency responders around electricity shutdown, system isolation and communications; (5) UGI hired a consultant to study and make recommendations concerning the specific situations when local emergency responders should be called during a gas leak investigation; and (6) UGI revised its procedures to include safety perimeter criteria to provide additional guidance for removing the general public from a natural gas emergency.

UGI agrees to periodically re-evaluate its procedures and standards on an ongoing basis, but no less frequently than on an annual basis, and train and qualify personnel to the applicable standards. UGI agrees that the communication systems used in its dispatch and call center capture recordings of emergency communications.

R. Electric Curtailment/Use of Valves to Shut Down Mains during Gas Emergencies:

Post incident, UGI revised its EP to enhance procedures concerning electric curtailment and the use of valves to shut down gas flow during an emergency leak situation. The changes reinforce the first responder's authority to shut valves and curtail electricity in appropriate circumstances during an emergency.

UGI agrees to: (1) evaluate its procedures on an on-going basis and train and qualify personnel to the applicable standards; (2) sponsor working meetings with electric utility providers in its service territory designed to improve coordination of electric shutdown during a gas emergency; (3) review valve shutdown criteria and implement procedural changes as appropriate and on a situational basis, *i.e.* mains serving cul-de-sacs or underground blowing gas situations; and (4) modify Duty Supervisor expectations to assess situations and preemptively prompt immediate response including the closing of valves and shutting down electricity. I&E agrees to review and recommend revisions to UGI's procedures, as deemed

appropriate by I&E, concerning electric curtailment and the use of valves to shut down gas flow during an emergency leak situation.

S. Managing Atmospheric Gas Found in a Structure:

Post incident, UGI developed and implemented revisions to its EP to enhance procedures around managing natural gas leaks inside structures. The procedures specify different levels of action depending on the level of gas concentration found inside a structure.

UGI agrees to continue to monitor industry trends to assess practices for electric shutdown and evacuation when gas is found inside a structure and will revise its EP if warranted. UGI agrees to revise its EP and/or GOM to evacuate buildings when a combination of gas in atmosphere is detected inside a structure and localized hazardous “C” leak readings are present outside the structure, indicating a leaking subsurface facility as the likely leak source. UGI will train and qualify personnel, as applicable, to any revised standard. I&E agrees to review and recommend revisions to UGI’s procedures, as deemed appropriate by I&E, concerning the management of atmospheric gas found inside of a structure.

T. Removing Meters when Atmospheric Gas is Detected:

UGI’s EP does not currently address the question of when, if ever, a gas meter may be removed in a gas emergency. UGI agrees to assess practices for removing a gas meter during an emergency and modify its procedures to situationally define when meter removal may specifically reduce risk, if appropriate. UGI will train and qualify personnel, as applicable, to any revised standard. I&E agrees to review and recommend revisions to UGI’s procedures, as deemed appropriate by I&E, concerning the removal of meters in gas emergencies.

U. “Make-Safe” Requirements Prior to Placing an Emergency One Call Ticket:

Post incident, UGI modified its GOM Excavation Procedures and EP to place the responsibility of making the call to the Pennsylvania One Call System on Central Dispatch to create an emergency one call ticket upon the direction of the first responder or other personnel responding to an emergency with the intention of alleviating burdens during emergency response activity. UGI agrees to train its employees in the “Make Safe” and emergency Pennsylvania One Call requirements incorporated into the GOM.

V. Availability of “On-Call” Operations and Engineering Personnel for Emergency Response:

UGI has revised its EP procedures to establish requirements that the assigned “on call” engineering and operations personnel must be available 24 hours a day/7 days per week for each of its operating areas, including being accessible by telephone, having reasonable access to Company records and able to respond in a reasonably expeditious fashion. UGI agrees to clarify the dispatch procedures to provide that it is the responsibility of Central Dispatch to make necessary calls to the on call duty crew, engineer and other necessary personnel upon receipt of

request from the first responder or other personnel located at the response site to dispatch such personnel.

W. Identification of Valves Needed to Isolate Gas Flow during Hazardous Leak Events:

UGI revised its EP to further clarify the types of grade “C” leaks that require the identification of the valve needed to isolate gas flow, including, but not limited to, underground blowing gas situations and rapidly migrating suspected mechanical tee failure. Additionally, UGI revised its EP to formally establish and outline the specific roles and responsibilities of the On-Call Engineering Leader. I&E agrees to review and recommend revisions to UGI’s procedures, as deemed appropriate by I&E, concerning the identification of valves to isolate gas flow during hazardous leaks.

X. Safety Perimeter during Abnormal Operating Conditions:

UGI revised its EP to include a 330-foot zone of safety, or safety perimeter, for inside and outside leaks. UGI agrees to develop and insert into its EP a matrix of safety perimeters based on best practices using operating pressure and size of pipe to determine the size of the perimeter. I&E agrees to review and recommend revisions to UGI’s procedures, as deemed appropriate by I&E, concerning the safety perimeter matrix.

Y. Training:

UGI agrees to train and qualify its personnel in the changes to the GOM and any additional changes that UGI implements.

In consideration of UGI’s payment of a monetary civil penalty and performance of the above-described terms, I&E agrees that it has released UGI from all past claims that were or could have been made for monetary and/or other relief based on allegations associated with the July 2, 2017 incident.

IV. LEGAL STANDARD FOR SETTLEMENT AGREEMENTS

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense that the parties must expend litigating a case and, at the same time, conserve precious administrative resources. Settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. “The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a ‘burden of proof’

standard, as is utilized for contested matters.” *Pa. Pub. Util. Comm’n, et al. v. City of Lancaster – Bureau of Water*, Docket Nos. R-2010-2179103, *et al.* (Order entered July 14, 2011) at p. 11. Instead, the benchmark for determining the acceptability of a settlement is whether the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n v. Philadelphia Gas Works*, Docket No. M-00031768 (Order entered January 7, 2004).

I&E submits that approval of the Settlement Agreement in the above-captioned matter is consistent with the Commission’s Policy Statement regarding *Factors and Standards for Evaluating Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations* (“Policy Statement”), 52 Pa. Code § 69.1201; *See also Joseph A. Rosi v. Bell-Atlantic-Pennsylvania, Inc.*, Docket No. C-00992409 (Order entered March 16, 2000). The Commission’s Policy Statement sets forth ten factors that the Commission may consider in evaluating whether a civil penalty for violating a Commission order, regulation, or statute is appropriate, as well as whether a proposed settlement for a violation is reasonable and in the public interest. 52 Pa. Code § 69.1201.

The Commission will not apply the factors as strictly in settled cases as in litigated cases. 52 Pa. Code § 69.1201(b). While many of the same factors may still be considered, in settled cases, the parties “will be afforded flexibility in reaching amicable resolutions to complaints and other matters as long as the settlement is in the public interest.” *Id.*

The first factor considers whether the conduct at issue was of a serious nature, such as willful fraud or misrepresentation, or if the conduct was less egregious, such as an administrative or technical error. Conduct of a more serious nature may warrant a higher penalty. 52 Pa. Code § 69.1201(c)(1). I&E alleges that the conduct in this matter involves a flawed response to a reported hazardous natural gas leak that was inconsistent with UGI’s written internal procedures in that the responsive actions that were taken were not prioritized to protect life and property and

eliminate hazards. I&E further alleges that the UGI procedures that were in place prior to the incident were deficient in recognizing and managing an underground blowing gas situation. I&E submits that the alleged violations averred in I&E's Complaint are of a serious nature and were considered in arriving at the civil penalty and remedial relief set forth in the terms of the Settlement.

The second factor considered is whether the resulting consequences of UGI's alleged conduct were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty. 52 Pa. Code § 69.1201(c)(2). In this case, the natural gas explosion resulted in one fatal injury and injuries to three other nearby individuals who were responding to the natural gas leak. The explosion either destroyed or significantly damaged surrounding residences on the Springdale Lane cul-de-sac, resulting in an estimated \$2.3 million in property damage. The terms and conditions of the Settlement acknowledge that serious consequences occurred and are designed to further enhance the safety of UGI's service and facilities.

The third factor to be considered under the Policy Statement is whether the alleged conduct was intentional or negligent. 52 Pa. Code § 69.1201(c)(3). "This factor may only be considered in evaluating litigated cases." *Id.* This factor does not apply to the present case since this matter is being resolved through a settlement of the Parties.

The fourth factor to be considered is whether the Company has made efforts to change its practices and procedures to prevent similar conduct in the future. 52 Pa. Code § 69.1201(c)(4). In response to the July 2, 2017 incident, UGI moved forward to adopt several changes to its policies and procedures to further enhance emergency response. A comprehensive list of these changes is outlined in the Settlement Agreement. Some of the more significant changes include as follows: (1) UGI implemented new training for emergency responders and increased

advertising for emergency responder training; (2) UGI enhanced meetings to coordinate emergency response with stakeholders such as operators, emergency responders and public officials; (3) UGI implemented an Everbridge mass notification system to use during emergency situations in order to enhance the coordination of emergency events; (4) UGI developed new annual emergency response training for its personnel; (5) UGI revised its Emergency Plan and such revisions include the following: (a) redefining the responsibility of Central Dispatchers to help alleviate the burden of emergency responders around electricity shutdown, system isolation and communications; (b) reinforcing the first responder's authority to shut valves and curtail electricity in appropriate circumstances during an emergency; and (c) implementing new procedures pertaining to managing natural gas leaks inside structures; (6) UGI established a robust safety perimeter zone for inside and outside leaks to remove the general public from a natural gas emergency; and (7) UGI revised its procedures to establish 24/7 availability of engineering and operations personnel throughout its service territory. Additionally, in response to the incident, UGI committed to the construction of a training center to enhance Company training and qualification of new and existing employees and contractors for the various tasks they are required to perform in the field. Further, UGI accelerated the pace of the remediation work related to Perfection Tapping Tees and anticipates completing the remediation work by December 31, 2024. Each of these modifications to UGI's internal procedures and commitments address the alleged conduct at issue and are designed to prevent a similar incident from occurring again. Moreover, the improvements provide a significant benefit to public safety.

The fifth factor to be considered relates to the number of customers affected by the Company's actions and the duration of the violations. 52 Pa. Code § 69.1201(c)(5). In this case, at approximately 12:31 PM on July 2, 2017, a natural gas explosion occurred that resulted

in one fatal injury and non-life threatening injuries to three other individuals. The explosion demolished the entire residential structure at 206 Springdale Lane and caused severe damage to neighboring homes on the Springdale Lane cul-de-sac. Residents on Springdale Lane experienced a temporary gas outage.

The sixth factor to be considered relates to the compliance history of UGI. 52 Pa. Code § 69.1201(c)(6). An isolated incident from an otherwise compliant company may result in a lower penalty, whereas frequent, recurrent violations by a company may result in a higher penalty. *Id.* UGI and/or its former subsidiary companies have been the subject of at least seven proceedings over the past ten years where the Commission imposed civil penalties arising from alleged gas safety violations or rejected proposed civil penalties as being inadequate.

In *Pa. Pub. Util. Comm'n v. UGI Penn Natural Gas, Inc.*, Docket No. M-2013-2338981 (Order entered September 26, 2013), the Commission approved a settlement agreement wherein UGI agreed to pay a civil penalty of \$1,000,000 in connection with an improper repair of a gas main in which UGI exceeded the main's maximum allowable operating pressure by placing a clamp over the leak that was rated at a lower operating pressure. The civil penalty was also paid in response to allegations that UGI's leak classification, survey and management system were not in compliance with state and federal regulations.

In *Pa. Pub. Util. Comm'n, Bureau of Investigation and Enforcement v. UGI Utilities, Inc.*, Docket No. C-2012-2308997 (Order entered February 19, 2013), a natural gas explosion occurred in Allentown on February 9, 2011, and resulted in the deaths of five individuals in two residences, an injury to another individual, and destruction and significant damage to six other residences. The explosion was caused by a circumferential crack in a twelve-inch cast iron main owned and operated by UGI. I&E's investigation determined that UGI's conduct included the following: (1) a failure to timely replace cast iron piping systems in the Allentown area; (2) a

failure to maintain an odorant sampling program to demonstrate that adequate odorant concentrations were consistently present throughout its distribution system; (3) a failure to properly perform post-incident odorant testing; (4) a failure to monitor and react to forces that may have detrimentally affected the integrity of the cast iron main; (5) a failure to promptly close the curb valves to the residences that were located in the same row as the homes destroyed by the explosion; and (6) a failure to promptly and effectively respond to the explosion in that it took five hours to diminish the flow of gas. The Commission imposed a \$500,000 civil penalty in connection with UGI's alleged misconduct, which was the statutory maximum civil penalty at the time.²

Similarly, in *Pa. Pub. Util. Comm'n. v. UGI Utilities, Inc.*, Docket No. M-2009-2031571 (Order entered January 14, 2010), a settlement arose from a natural gas explosion in Allentown that occurred on December 9, 2006, resulting in a minor injury and destroying one residence and three adjacent row homes. The explosion occurred when a contractor attempted to remove a gas meter. The allegations of gas safety violations involved inadequate training and improper documentation of procedures regarding removal of inactive gas meters. The Commission imposed an \$80,000 civil penalty and an \$80,000 payment to the Low-Income Usage Reduction Program.

In *Pa. Pub. Util. Comm'n v. UGI Central Penn Gas, Inc.*, Docket No. M-2011-2155312 (Order entered June 13, 2012), the Commission rejected a proposed civil penalty of \$5,000 pertaining to alleged gas safety violations related to a mismarked UGI facility, which resulted in a line hit and a natural gas leak.

² Effective April 16, 2012, the Public Utility Code was amended to increase civil penalties for gas pipeline safety violations to the current standard of \$200,000 per violation for each day that the violation persists subject to a maximum civil penalty of \$2,000,000 for any related series of violations, as adjusted annually for inflation. 66 Pa.C.S. § 3301(c).

Likewise, in *Pa. Pub. Util. Comm'n v. UGI Utilities, Inc.*, Docket No. M-2012-2141712 (Order entered June 13, 2012), the Commission also rejected a proposed civil penalty of \$25,000 pertaining to alleged gas safety violations that occurred in connection with the excavation of a tapping tee.

In *Pa. Pub. Util. Comm'n v. UGI Utilities, Inc.*, Docket No. M-2010-2037411 (Order entered May 10, 2010), the Commission imposed a civil penalty of \$15,000 on UGI related to an alleged failure to properly mark facilities, which resulted in a line hit and fire.

In *Pa. Pub. Util. Comm'n v. UGI Utilities Inc.*, Docket No. C-2009-2120601 (Order entered November 19, 2010) the Commission imposed a civil penalty of \$10,000 regarding UGI's failure to use shoring at a pipeline excavation site.

In summary, given UGI's compliance history as it relates to allegations of gas safety violations over the past decade, the substantial civil penalty of \$1,100,000 in this proceeding is warranted and, if approved, would constitute the largest civil penalty ever imposed on UGI by the Commission.

The seventh factor to be considered relates to whether the Company cooperated with the Commission's investigation. 52 Pa. Code § 69.1201(c)(7). I&E submits that UGI cooperated in the investigation, Complaint and settlement process in this matter and that such cooperation demonstrates a commitment consistent with public safety goals and objectives.

The eighth factor to be considered is the appropriate settlement amount necessary to deter future violations. 52 Pa. Code § 69.1201(c)(8). I&E submits that a civil penalty amount of \$1,100,000, which is not tax deductible, in combination with the monetary cost of UGI's performance of all of the remedial measures, especially considering the cost of the accelerated remediation of Perfection Tapping Tees and the construction of the training facility, is sufficient to deter UGI from committing future violations and, when viewed altogether, represents a

pecuniary concession that is well above the maximum civil penalty that could have been imposed in this matter. If approved, a civil penalty of \$1,100,000 would be the largest civil penalty to be imposed upon UGI by this Commission.

The ninth factor to be considered relates to past Commission decisions in similar situations. 52 Pa. Code § 69.1201(c)(9). I&E submits that the instant Settlement provides comparable relief, and even greater relief, to the sole other enforcement matter involving a fatal injury resulting from pipeline safety violations that was decided by the Commission since civil penalties were increased for pipeline safety violations in 2012. In *Pa. Pub. Util. Comm'n, Bureau of Investigation and Enforcement v. Continental Communities, LLC and Hickory Hills MHC, LLC*, Docket No. C-2015-2468131 (Order entered August 11, 2016), the Commission approved a settlement agreement that imposed a \$1,000,000 civil penalty upon Continental Communities, LLC and Hickory Hills MHC, LLC (“Hickory Hills”) in connection with a propane explosion in a mobile home community that resulted in one fatality, injury to another person and substantial property damage. I&E had alleged that the results of the ensuing investigation revealed that the cause of the propane leak was localized corrosion on a steel pipe riser. I&E further alleged, *inter alia*, that Hickory Hills failed to have a manual that included procedures for controlling corrosion.

I&E submits that the instant Settlement Agreement should be viewed on its own merits and is fair and reasonable. However, in looking at the relevant factors that are comparable to other pipeline matters involving violations of pipeline safety violations that resulted in very serious consequences, the instant Settlement is consistent with past Commission actions in that a substantial civil penalty will be paid and numerous, costly corrective actions to address the alleged violations will be performed.

The tenth factor considers “other relevant factors.” 52 Pa. Code § 69.1201(c)(10). I&E submits that an additional relevant factor – whether the case was settled or litigated – is of pivotal importance to this Settlement Agreement. A settlement avoids the necessity for the governmental agency to prove elements of each allegation. In return, the opposing party in a settlement agrees to a lesser fine or penalty, or other remedial action. Both parties negotiate from their initial litigation positions. The fines and penalties, and other remedial actions resulting from a fully litigated proceeding are difficult to predict and can differ from those that result from a settlement. Reasonable settlement terms can represent economic and programmatic compromise while allowing the parties to move forward and to focus on implementing the agreed upon remedial actions.

In conclusion, I&E fully supports the terms and conditions of the Settlement Agreement. The terms of the Settlement Agreement reflect a carefully balanced compromise of the interests of the Parties in this proceeding. The Parties believe that approval of this Settlement Agreement is in the public interest. Acceptance of this Settlement Agreement avoids the necessity of further administrative and potential appellate proceedings at what would have been a substantial cost to the Parties.

WHEREFORE, I&E supports the Settlement Agreement as being in the public interest and respectfully requests that the Commission approve the Settlement in its entirety without modification.

Respectfully submitted,



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Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
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Dated: September 1, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
	:	
Complainant,	:	
	:	
V.	:	Docket No. C-2018-3005151
	:	
UGI Utilities, Inc.,	:	
	:	
Respondent.	:	

**STATEMENT IN SUPPORT OF
UGI UTILITIES, INC. – GAS DIVISION**

Honorable Commissioners:

UGI Utilities, Inc. – Gas Division (“UGI Gas”) hereby files this Statement in Support of the Joint Settlement Resolving All Issues (“Settlement” or “Joint Settlement”) entered into by UGI Gas and the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) (hereinafter, collectively “Joint Petitioners”) in the above-captioned proceeding. The Settlement, if approved, will fully resolve all issues related to I&E’s formal complaint involving an explosion and fire on July 2, 2017, in Millersville, Pennsylvania (“July 2 Incident”). UGI Gas respectfully requests that the Commission approve the Settlement, including the terms and conditions thereof, without modification.

UGI Gas undertook an extensive investigation of the events related to the July 2 Incident and fully cooperated with and assisted I&E and the National Transportation Safety Board (“NTSB”) with their respective investigations of the events surrounding the incident.

Following the incident, the NTSB issued a Safety Recommendation Report, issued in June 2018, pertaining to the installation of PermaLock mechanical tapping tee assemblies¹. The NTSB made the following four safety recommendations:

To the Pipeline and Hazardous Materials Safety Administration:

- 1) Work with the state pipeline regulators to incorporate into their inspection programs, a review to ensure that gas distribution pipeline operators are using best practices recommended by the manufacturer in their distribution integrity management programs, including using the specified tools and methods, to correctly install PermaLock mechanical tapping tee assemblies (P-18-1)
- 2) Reference the use of external sources of information for threat identification in your frequently asked questions for preparation of distribution integrity management programs. (P-18-2)

To Honeywell:

- 1) Update your PermaLock mechanical tapping tee assembly installation instructions to specify the exact tools that should be used during installation and explain what an installer should sense while using those tools throughout the installation process. (P-18-3)
- 2) Specify in your PermaLock mechanical tapping tee assembly installation instructions a not-to-exceed torque limit for Nylon bolts and have that value checked and adjusted with a torque wrench immediately after installation. (P-18-4)

No additional recommendations were issued in the NTSB's final report regarding the incident.²

While commercially available, UGI no longer installs Perfection PermaLock Flat-Top mechanical tapping tees ("Perfection Tapping Tees"). UGI is actively remediating Perfection Tapping Tees from the UGI Gas system, with the purpose of enhancing the safety of gas service in the areas where they are presently located.

¹ National Transportation Safety Board, Washington, DC 20594, Safety Recommendation Report Installation of PermaLock Mechanical Tapping Tee Assemblies, issued June 18, 2018.

² National Transportation Safety Board Pipeline Accident Brief, UGI Utilities Natural Gas-Fueled Explosion Millersville, Pennsylvania July 2, 2017, issued February 25, 2019

The Settlement reflects a carefully balanced compromise of the interests of the Joint Petitioners to this proceeding. As discussed in the settlement, UGI Gas has been cooperative and proactive with I&E related to identifying and modifying facilities, practices, and procedures that can be further improved to enhance the safety and reliability of service. The Settlement, if approved, will provide substantial public benefits with the acceleration and ultimate remediation of Perfection Tapping Tees on the UGI gas distribution system. For these reasons and the reasons set forth below, the Settlement is fair, just and reasonable and, therefore, the Settlement should be approved without modification.

I. INTRODUCTION

A. PARTIES

I&E is the entity established by statute to prosecute complaints against public utilities pursuant to 66 Pa.C.S. § 308(b). The Commission has delegated its authority to initiate proceedings that are prosecutory in nature to I&E and other bureaus with enforcement responsibilities. *Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Aug. 11, 2011).

UGI Gas is a division of UGI Utilities, Inc. UGI Gas is a “public utility” and a “natural gas distribution company” (“NGDC”) as those terms are defined in Sections 102 and 2202 of the Code, 66 Pa.C.S. §§ 102, 2202. UGI Gas provides natural gas transmission, distribution, and supplier of last resort services to approximately 660,000 customers throughout its certificated service territory subject to the regulatory jurisdiction of the Commission.

B. BACKGROUND

The background of this matter is adequately set forth in Paragraphs 6-14 of the Joint Settlement and is incorporated herein by reference.

II. COMMISSION POLICY FAVORS SETTLEMENT

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense that the parties must expend litigating a case and, at the same time, conserve precious administrative resources. Settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.*, Docket No. C-2010-2071433, 2012 Pa. PUC LEXIS 1377 at *6 (August 31, 2012).

The Commission has promulgated a Policy Statement that sets forth ten factors that the Commission may consider in evaluating whether a civil penalty for violating a Commission order, regulation, or statute is appropriate, as well as whether a proposed settlement for a violation is reasonable and in the public interest. 52 Pa. Code § 69.1201. These factors are: (i) Whether the conduct at issue was of a serious nature; (ii) Whether the resulting consequences of the conduct at issue were of a serious nature; (iii) Whether the conduct at issue was deemed intentional or negligent; (iv) Whether the regulated entity made efforts to modify internal policies and procedures to address the conduct at issue and prevent similar conduct in the future; (v) The number of customers affected and the duration of the violation; (vi) The compliance history of the regulated entity that committed the violation; (vii) Whether the regulated entity cooperated with the Commission's investigation; (viii) The amount of the civil penalty or fine necessary to deter future violations; (ix) Past Commission decisions in similar situations; and (x) Other relevant factors. 52 Pa. Code § 69.1201(c). The Commission will not apply the standards as strictly in settled cases as in litigated cases. 52 Pa. Code § 69.1201(b). While many of the same factors may still be considered, in settled cases the parties "will be afforded flexibility in

reaching amicable resolutions to complaints and other matters so long as the settlement is in the public interest.” 52 Pa. Code § 69.1201(b).

The substantial public benefits of the Settlement, as well as the ten factors that the Commission considers in reviewing a settlement of an alleged violation, are addressed in the section that follows. For the reasons explained below, the Settlement is in the public interest and should be approved.

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST

A. SUMMARY

The Settlement, once approved, will resolve all issues related to the I&E complaint related to the July 2 Incident. The Complaint alleges that, in connection with the incident, UGI Gas committed several violations of the Public Utility Code and federal pipeline safety standards. Based on these allegations, the Complaint requested that the Commission order UGI Gas to pay a civil penalty, and to make a variety of changes, including modifications to its mechanical tee remediation program, its Emergency Plan procedures and its Gas Operating Manual standard practices and procedures.

Throughout the investigative and settlement processes in this proceeding, UGI Gas has been cooperative and proactive with I&E by identifying and modifying practices and procedures, policies, and training that could be further improved to help UGI Gas enhance the safety and reliability of its service. Many of the agreed upon changes have been implemented by UGI already, in accordance with detailed technical discussions with I&E, in the interest of continuous improvement to UGI Gas’s safety performance.

Further, UGI Gas has made a substantial economic concession to I&E in the form of a substantial civil penalty. Finally, the terms and conditions of the Settlement favorably align with

the ten factors that may be considered under the Commission's Policy Statement. Accordingly, the Settlement should be approved.

B. DESCRIPTION OF THE SETTLEMENT

Among the terms of the Settlement, UGI Gas has agreed to the following measures to be implemented upon approval of the Settlement:

1. Civil Penalty. UGI will make payment of a civil penalty in the amount of \$1.1 million.

See Joint Petition, para. 18. A.

2. Mechanical Tees.

Within six (6) months of entry of a final Commission Order, UGI agrees to: (1) provide I&E with a confidential study performed by an independent consultant to assess the effectiveness of UGI's remediation procedures for Perfection Tapping Tees; (2) provide I&E with a high level map or list of addresses showing the likely locations of Perfection Tapping Tees that will be marked as "Confidential Security Information;" (3) UGI agrees to provide periodic reporting on a quarterly basis to I&E concerning its progress with respect to the remediation or replacement of Perfection Tapping Tees from the present time through December 31, 2024 ; and (4) in connection with the aforementioned reports, UGI agrees to provide information to I&E to evaluate the ongoing effectiveness of the Semiannual Leak Survey.

To the extent that Perfection Tapping Tees are discovered or otherwise remain a part of UGI's facilities beyond December 31, 2024, UGI agrees to provide I&E with reports concerning UGI's progress with respect to the remediation or replacement of these mechanical tapping tees on an annual basis. The reports should contain the same information that UGI is presently providing to I&E in the annual remediation activities report

UGI further agrees to continue to budget mechanical tee remediation activities at no less than 2018 fiscal year levels for the 2020-2024 fiscal years.³ Prior to the end of the 2024 fiscal year, UGI will submit a study as part of a Long Term Infrastructure Improvement Plan or Annual Asset Optimization Plan proceeding proposing a future course for its mechanical tee remediation program.

See Joint Petition, subpara.18.C.

³ In fiscal year 2018, UGI spent \$3.1 million.

Notably, many additional terms included in the Settlement have already been implemented by the Company as part of its continuous improvement efforts. These actions include:

1. Construction of a centralized training center to be completed in fiscal 2021 (currently being constructed in Berks County);
2. Implementation of Incident Command Structure principles in responding to gas emergencies;
3. Implementation of enhanced emergency response training,
4. Various improvements to its Gas Operations Manual (“GOM”) and Emergency Plan procedures (“EP”);
5. Enhancements to modify EP procedures to define situations when electricity should be curtailed and when to turn valves to shut down gas flow;
6. EP modifications designed to enhance procedures around managing gas leaks inside structures;
7. Modifications to its GOM excavation procedures that alleviate workload on the first responder during a gas emergency;
8. Implementation of EP modifications that establish additional requirements for “on call” staffing;
9. EP modifications that further clarify the types of Grade “C” rated leaks that require the identification of the valve needed to isolate gas flow, including but not limited to underground blowing gas situations and rapidly migrating leaking gas from a suspected mechanical tee failure.
10. EP modifications that include a 330-foot zone of safety, or safety perimeter for related inside and outside leaks.
11. Training and qualifying of its personnel in the changes to the GOM and any additional changes that UGI implements.

See Joint Petition, subparas. 18. B, D-M.

Importantly, as discussed in paragraph 23 to the Joint Settlement, the Parties agree that it is their intent that the Joint Settlement not be admitted as evidence in any potential civil

proceeding involving this matter. It is further understood that, by entering into the Joint Settlement, UGI Gas have made no concession or admission of fact or law and may dispute all issues of fact and law for all purposes in all proceedings, including but not limited to any civil proceedings, that may arise as a result of the circumstances described in the Joint Settlement.

The terms of the Settlement fully resolve all of the issues raised in and relief requested by I&E's Complaint, including the payment of civil penalties. As explained below, UGI Gas believes that approval of the Settlement is in the public interest. Further, acceptance of the Settlement will avoid the necessity of further administrative and potential appellate proceedings at what would have been a substantial cost to the parties.

C. PUBLIC BENEFITS

If approved, the Settlement will provide substantial and important benefits to the customers and communities served by UGI Gas, including significant acceleration of UGI Gas' Perfection Tapping Tee remediation program and substantial improvements to its emergency response training, protocols and procedures. These public benefits are further explained below.

As outlined in its Answer in this proceeding, in response to the July 2, 2017 incident, and prior to I&E's Complaint being filed, UGI Gas moved forward to adopt several changes to its policies and practices to further enhance the safety and reliability of its service.

D. FACTORS UNDER COMMISSION'S POLICY STATEMENT

Under the Policy Statement, the Commission may consider ten specific factors when evaluating settlements of alleged violations of the Public Utility Code and the Commission's Regulations. 52 Pa. Code § 69.1201(c).

The first factor considers whether the conduct at issue was of a serious nature and, if so, whether the conduct may warrant a higher penalty. The alleged conduct in this case involves UGI Gas' response to a gas leak that resulted in an explosion that caused the death of one UGI

Gas employee, injuries to two other UGI Gas employees and an employee of the local sewer authority (LASA), and the destruction or serious damage to several homes in the neighborhood, and the adequacy of practices and procedures found within UGI's Gas Operations Manual and Emergency Plan. UGI Gas acknowledges that gas safety is a significant issue, and one that UGI Gas values. The terms and conditions of the Settlement adequately take the alleged conduct into account, as well as UGI Gas' response under the circumstances.

The second factor considers the seriousness of the consequences of the incident at issue. UGI Gas believes that it promptly responded to the incident and took actions to locate and shut off the source of the suspected gas. Unfortunately, those actions did not avoid the serious consequences of the incident. The terms and conditions of the Settlement recognize the seriousness of the incident and are designed to enhance UGI Gas system safety and service reliability and minimize the likelihood that a similar incident occur in the future.

The third factor to be considered in this case, namely, whether UGI Gas' alleged conduct was intentional or negligent, does not apply to the present case because this proceeding is a settled matter. To the extent this factor is to be considered, there has been no finding that UGI Gas' conduct was either intentional or negligent in nature as is typical in a matter that is being fully resolved through a negotiated settlement.

The fourth factor to be considered is whether UGI Gas made efforts to modify internal policies and procedures to address the alleged conduct at issue and to prevent similar conduct in the future. UGI Gas undertook an extensive investigation of the events related to the July 2 Incident and fully cooperated with and assisted I&E and the NTSB with their respective investigations of the incident. As outlined above, UGI Gas proactively adopted several changes to its policies and practices to further enhance the safety and reliability of its service and already

has substantially accelerated the pace of its mechanical tee remediation program through 2024. The terms and conditions of the Settlement adequately take into account UGI Gas' efforts to modify and adopt internal policies and procedures to address the alleged conduct.

The fifth factor to be considered deals with the number of customers affected and the duration of the violation. In this case, a natural gas explosion occurred. The explosion took the life of one UGI Gas employee, injured two additional UGI responders and a LASA employee. Others in the community sustained damaged or lost property, service interruption, and other heightened concerns. As explained above, UGI Gas believes that it promptly responded to the incident and took actions to locate and expeditiously shut off the source of the suspected gas. The terms and conditions of the Settlement adequately consider the serious nature of the incident, the number of customers affected, as well as UGI Gas' response under the circumstances.

The sixth factor considered is the compliance history of UGI Gas. UGI Gas has operated a mechanical tee remediation program for more than a decade. Its commitment in this Settlement to accelerate that program evidences a resolve to eliminate mechanical tee-related risk within a reasonably accelerated period of time, with a substantial related investment of resources. Continued compliance with this program and the cooperation of, and coordination with all affected stakeholders will be essential to achieving that end. The Settlement further evidences UGI Gas' good faith efforts to enhance the safety and reliability of its gas system, consistent with the purposes of the Code and the Commission's regulations.

The seventh factor considered is whether the regulated entity cooperated with the Commission's investigation. UGI Gas supported and cooperated fully with both the NTSB and the Commission and its staff throughout their investigations, as well as the Commission

complaint and settlement process. UGI Gas demonstrated a commitment consistent with the Commission's public safety goals and objectives by implementing many of the changes set forth in the settlement prior to the filing of the Settlement.

The eighth factor is whether the amount of the civil penalty or fine will deter future violations. UGI Gas submit that a civil penalty in the amount of \$1.1 million is quite substantial with substantial deterrent weight. UGI Gas believes that the civil penalty set forth in the Settlement appropriately recognizes the seriousness of the matter but also reflects a negotiated compromise by the parties that considers the efforts of the Company since the Incident occurred.

The ninth factor examines past Commission decisions in similar situations. When all relevant factors are taken into account, the Settlement is not inconsistent with past Commission actions. Moreover, since this is a settled matter, it should be considered on its own merits.

Relative to the tenth factor, UGI Gas submits that additional relevant factors are of pivotal importance to the Settlement. First, a settlement avoids the necessity for the prosecuting agency to prove elements of each allegation. In return, the opposing party in a settlement agrees to a lesser fine or penalty, or other remedial action. Both parties negotiate from their initial litigation positions. The fines, penalties, and other remedial actions resulting from a fully litigated proceeding are difficult to predict and can differ from those that result from a settlement. Reasonable settlement terms can represent economic and programmatic compromise but allow the parties to move forward and to focus on implementing the agreed upon remedial actions. UGI Gas has demonstrated a commitment consistent with the Commission's public safety goals and objectives and broadly expanded the scope of the general public that will benefit from the commitments made in this Settlement.

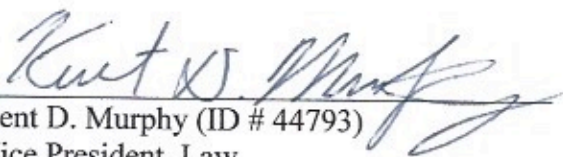
Based on the foregoing, the Settlement should be considered fair, equitable and reasonable under the Commission's Policy Statement.

IV. CONCLUSION

Through cooperative efforts and the open exchange of information, the Joint Petitioners have arrived at a settlement that resolves all issues in the proceeding in a fair, equitable, and reasonable manner. The Settlement resolves all issues related to the I&E complaint related to the July 2 Incident. Further, and perhaps more importantly, the Settlement provides significant public benefits to all customers and communities within the UGI Gas service territory, including significant acceleration of UGI Gas' mechanical tee replacement program. Finally, the terms and conditions of the Settlement should be viewed as satisfying the ten factors set forth in the Commission's Policy Statement, 52 Pa. Code § 69.1201(c).

A fair, equitable and reasonable compromise has been achieved in this case. UGI Gas fully supports the Settlement and respectfully requests that the Honorable Commission approve the Settlement in its entirety, without modification.

Respectfully submitted,



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Date: September 1, 2020

Attorneys for UGI Utilities, Inc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2018-3005151
	:	
UGI Utilities, Inc.,	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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Dated: September 1, 2020