

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement v.
UGI Utilities, Inc.

Public Meeting January 24, 2013
2308997-OSA
Docket No. C-2012-2308997

**JOINT MOTION OF
CHAIRMAN ROBERT F. POWELSON
AND VICE CHAIRMAN JOHN F. COLEMAN, JR.**

Before the Commission today for disposition is a Formal Complaint filed by the Commission's Bureau of Investigation and Enforcement (I&E) against UGI Utilities, Inc. – Gas Division (UGI or Company) related to the tragic natural gas explosion that occurred February 9, 2011 in Allentown. Also pending before the Commission in this matter are the Exceptions, Petition for Remand and Request for Oral Argument filed by Manuel Cruz, an Intervenor.

By way of background, I&E filed a Complaint with the Commission on June 11, 2012, following an extensive investigation into the causes of the February 9, 2011 explosion. I&E and UGI subsequently entered into settlement discussions, which culminated in a Settlement being filed with the Commission on October 3, 2012. According to the terms of the Settlement, the parties agree that:

- A. UGI¹ shall retire or replace all in-service cast iron mains over a 14-year period²;
- B. UGI shall retire or replace all in-service bare steel mains over a 30-year period;
- C. UGI shall enhance its odorant testing program;
- D. UGI shall install, over a 24-month period, fixed odorant level monitoring equipment at all third-party points of delivery into the UGI pipeline system;
- E. UGI shall install, over a 24-month period, fixed odorizers at gate stations serving Allentown, Lancaster, Reading, Harrisburg and certain other major population centers throughout its service territory;
- F. UGI shall pay a civil penalty in the amount of \$386,000, which it will not recover through Commission-regulated rates;
- G. UGI shall be prohibited from seeking recovery of any costs through a distribution system improvement charge for a period of 24 months.

As an initial matter, we want to emphasize that UGI's compliance history related to gas safety issues is patently unacceptable. This is the eighth time in slightly more than four years

¹ It should be noted that two UGI-affiliated natural gas distribution utilities, UGI Central Penn Gas, Inc. and UGI Penn Natural Gas, Inc., agreed to be bound by the terms of the settlement. For purposes of the description of the settlement, the term "UGI" refers to all three UGI distribution companies.

² This represents a 36-year, or 72%, increase over the current pace of replacement of cast iron mains.

that this Commission has adjudicated a matter containing allegations of gas safety violations by a UGI-owned gas distribution utility. This goes beyond cause for concern; it is downright alarming. This history leads to one inescapable conclusion: that UGI's management has failed to adequately focus on gas safety issues. These failures include not allocating an appropriate amount of capital to maintain its distribution systems in a safe and reliable manner and not providing an appropriate amount of training for, and oversight over, its employees and contractors. To be blunt, this cannot and shall not continue. Absent sweeping changes, the Commission will be forced to consider taking drastic steps if there is another catastrophic incident attributable to some failure on UGI's part. We acknowledge, however, that UGI has already made key management changes, and our expectation is that the corporate culture will be reformed with an emphasis on safety.

After reviewing the terms and conditions of the Settlement in the context of this compliance history, we grudgingly agree that the agreement struck by the parties is in the public interest, with the following modifications:

First, the \$386,000 civil penalty agreed to is not sufficient given the catastrophic losses caused by the explosion. While no amount of money could ever atone for the lives lost or property destroyed, UGI must pay the maximum penalty this Commission is allowed to levy under the Public Utility Code,³ \$500,000.⁴ Just as with the civil penalty amount included in the Settlement, UGI shall not recover this increased penalty through Commission-regulated rates.

Second, while UGI has agreed to undertake extensive steps to improve the physical integrity of its distribution system, these measures should be supplemented by enhanced leak detection processes to further minimize the risk of another catastrophic event. To that end, UGI shall explore enhanced leak detection measures and file a pilot program to utilize one or more of those enhanced leak detection measures throughout the City of Allentown. This filing shall be made within 45 days of a Final Order, after which interested parties shall be given the opportunity to provide comments. The Commission shall consider any comments and approve, modify or reject the pilot program within 60 days of its filing.

Third, UGI is directed to file an appropriate Distribution Integrity Management Program (DIMP) plan to account for any replacement reprioritization that needs to occur as a result of the accelerated replacement schedules approved today. This filing must be made within 30 days of a Final Order and will be subject to an audit by the Commission's Pipeline Safety Division.⁵

Fourth, we note that the staff recommendation imposed various reporting requirements to allow the Commission to effectively track UGI's progress in meeting the conditions agreed to in the Settlement. One of these reporting requirements includes the filing of a biennial report notifying the Commission of the Company's progress in meeting its main-replacement commitments. To allow for increased benchmarking, and as a supplement to this reporting

³ 66 Pa. C.S. § 3301(c).

⁴ We note that the Legislature recently increased the allowable civil penalties the Commission can impose under Section 3301(c), to \$2,000,000. However, the Commission is bound by the maximum allowed civil penalty in place at the time of the explosion, which is \$500,000. *See Costa v. Lair*, 363 A.2d 1313 (Pa. Super Ct. 1976).

⁵ This requirement shall also be applied to UGI Central Penn Gas, Inc. and UGI Penn Natural Gas, Inc.

requirement, UGI is directed to file a plan with the Commission within 60 days of a Final Order establishing an initial time schedule for meeting the main replacement requirements agreed to in the Settlement.⁶ Understanding that UGI needs to retain some measure of flexibility, the Company shall be permitted to amend this schedule for good cause but is cautioned that it should employ a reasonably continuous and steady construction schedule to meet its obligations.

Lastly, UGI is reminded that the Settlement approved today does not absolve it from compliance with any independent state or Federal pipeline safety requirements, such as those contained in its DIMP plan. Simply put, the replacement schedules approved today are the floor, not the ceiling.

THEREFORE, WE MOVE THAT:

1. UGI Utilities, Inc. – Gas Division pay a civil penalty of \$500,000;
2. UGI Utilities, Inc. – Gas Division file a pilot program designed to test enhanced leak detection measures in the City of Allentown within 45 days of entry of a Final Order, or of the Tentative Order becoming final by operation of law;
3. Interested parties file comments on the pilot leak detection program within 20 days of its filing and the Commission approve, modify or reject this pilot program within 60 days of its filing;
4. UGI Utilities, Inc. – Gas Division, UGI Central Penn Gas, Inc. and UGI Penn Natural Gas, Inc. file updated Distribution Integrity Management Program plans within 30 days of the entry of a Final Order, or of the Tentative Order becoming final by operation of law;
5. UGI Utilities, Inc. – Gas Division, UGI Central Penn Gas, Inc. and UGI Penn Natural Gas, Inc. file a plan establishing an initial time schedule for meeting the main replacement requirements agreed to in the settlement within 60 days of entry of a Final Order, or of the Tentative Order becoming final by operation of law;
6. The Parties to the Settlement notify the Commission within five business days whether they accept the additional terms imposed by this Motion;
7. The Tentative Order be considered a Final Order in the event that neither of the settling Parties objects to these modifications;
8. If either settling Party objects to the additional terms imposed herein, the Initial Decision be reversed and this matter be remanded to the Office of Administrative Law Judge for such further proceedings as may be necessary; and
9. The Office of Special Assistants prepare a Tentative Order consistent with this Motion.


ROBERT F. POWELSON
CHAIRMAN


JOHN F. COLEMAN, JR.
VICE CHAIRMAN

DATE: January 24, 2013

⁶ This requirement shall also be applied to UGI Central Penn Gas, Inc. and UGI Penn Natural Gas, Inc.