



Eckert Seamans Cherin & Mellott, LLC  
213 Market Street  
8<sup>th</sup> Floor  
Harrisburg, PA 17101

TEL 717 237 6000  
FAX 717 237 6019  
www.eckertseamans.com

Sarah C. Stoner  
717.237.6026  
sstoner@eckertseamans.com

March 19, 2021

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission v. UGI Utilities, Inc. – Electric Division;  
Docket No. R-2021-3023618

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Petition to Intervene of the Retail Energy Supply Association (“RESA”) and NRG Energy, Inc. (“NRG”) in the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

*Sarah C. Stoner*

Sarah C. Stoner

SCS/jls  
Enclosure

cc: Honorable Steven K. Haas ([sthaas@pa.gov](mailto:sthaas@pa.gov)) w/ enc.  
Cert. of Service w/enc.

## CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the foregoing **Petition to Intervene** upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

### Via First Class Mail and/or Email

John M. Coogan, Esquire  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120  
[jcoogan@pa.gov](mailto:jcoogan@pa.gov)

Kent Murphy, Esquire  
Michael S. Swerling, Esquire  
Danille Jouenne, Esquire  
UGI Corporation  
460 North Gulph Road  
King of Prussia, PA 19406  
[murphyke@ugicorp.com](mailto:murphyke@ugicorp.com)  
[swerlingm@ugicorp.com](mailto:swerlingm@ugicorp.com)  
[jouenned@ugicorp.com](mailto:jouenned@ugicorp.com)

David B. MacGregor, Esquire  
Post & Schell, P.C.  
Four Penn Center  
1600 John F. Kennedy Boulevard  
Philadelphia, PA 19103-2808  
[dmacgregor@postschell.com](mailto:dmacgregor@postschell.com)

James M. Van Nostrand, Esquire  
Keys & Fox LLP  
320 Fort Duquesne Blvd., #15K  
Pittsburgh, PA 15222  
[jvannostrand@keyesfox.com](mailto:jvannostrand@keyesfox.com)

Darryl A. Lawrence, Esquire  
Luis M. Melendez, Esquire  
Phillip D. Demanchick, Esquire  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
[OCAUGIElectric2021@paoca.org](mailto:OCAUGIElectric2021@paoca.org)

Date: March 19, 2021

Steven C. Gray, Esquire  
Office of Small Business Advocate  
555 Walnut Street  
1<sup>st</sup> Floor, Forum Place  
Harrisburg, PA 17109-1923  
[sgray@pa.gov](mailto:sgray@pa.gov)

Devin T. Ryan, Esquire  
Garrett P. Lent, Esquire  
Post & Schell, P.C.  
17 North Second Street  
12<sup>th</sup> Floor  
Harrisburg, PA 17101-1601  
[glent@postschell.com](mailto:glent@postschell.com)  
[dryan@postschell.com](mailto:dryan@postschell.com)

Joseph L. Vullo, Esquire  
Commission on Economic Opportunity  
1460 Wyoming Avenue  
Forty Fort, PA 18704  
[jlvullo@bvrrlaw.com](mailto:jlvullo@bvrrlaw.com)

Scott F. Dunbar, Esquire  
Keys & Fox LLP  
1580 Lincoln Street, Suite 1105  
Denver, CO 80203  
[sdunbar@keyesfox.com](mailto:sdunbar@keyesfox.com)

Jennifer Mattingly  
1419 Oak Drive  
Shavertown, PA 18708  
[Jcamatt3@aol.com](mailto:Jcamatt3@aol.com)

Brandi Brace  
114 Hartman Road  
Hunlock Creek, PA 18621  
[BrandiBrace@protonmail.com](mailto:BrandiBrace@protonmail.com)

*Sarah C. Stoner*

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Sarah C. Stoner, Esquire

*Attorney for RESA and NRG Energy, Inc.*



power generation including nuclear, coal, gas, oil and solar nationwide. Our retail brands serve more than six million customers across North America, including a significant share in Pennsylvania – so significant, in fact, that NRG’s northeast retail business is headquartered in Philadelphia. We have several licensed retail electricity suppliers that are actively serving residential, commercial, industrial and institutional customers.<sup>2</sup> Our retail companies offer customers a range of products including demand response and energy efficiency, 100% renewable energy, energy plans bundled with energy efficiency technology, such as Nest or Hive thermostats, as well as loyalty rewards and our charitable giving products through our “Choose to Give” plans.

3. RESA and NRG’s attorneys in this matter are:

Deanne M. O’Dell, Esq.  
Sarah C. Stoner, Esq.  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8th Floor  
Harrisburg, PA 17101  
717.237.6000  
717.237.6019 (fax)  
[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)  
[sstoner@eckertseamans.com](mailto:sstoner@eckertseamans.com)

Cody T. Murphey, Esq.  
Eckert Seamans Cherin & Mellott, LLC  
919 E Main St.  
Suite 1300  
Richmond, VA 23219  
804.788.7740  
804.788.7740 (fax)  
[cmurphey@eckertseamans.com](mailto:cmurphey@eckertseamans.com)  
(motion for admission *pro hac vice* to be filed)

4. UGI proposes to install and interconnect a utility-owned, small-scale, energy storage battery (1.25 MWh) into the primary distribution system. The estimated project cost is approximately \$1.5 million and will support the expected peak load of 68 customers for up to 4

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<sup>2</sup> As electric generation suppliers in Pennsylvania, NRG companies hold licenses as follows: Direct Energy Business, LLC – (Docket No. A-110025), Direct Energy Business Marketing, LLC – (Docket No. A-2013-2368464), Direct Energy Services, LLC – (Docket No. A-110164), Energy Plus Holdings LLC – (Docket No. A-2009-2139745), Gateway Energy Services Corporation – (Docket No. A-2009-2137275), Independence Energy Group LLC d/b/a Cirro Energy – (Docket No. A-2011-2262337), Reliant Energy Northeast LLC d/b/a NRG Home/NRG Business/NRG Retail Solutions – (Docket No. A-2010-2192350), Green Mountain Energy Company – (Docket No. A-2009-2139745), Stream Energy Pennsylvania, LLC – (Docket No. A-2010-2181867) and XOOM Energy Pennsylvania, LLC – (Docket No. A-2012-2283821).

hours. UGI's ownership of energy storage ("ES") assets and inclusion in the distribution rates raises significant issues, including the proposed participation in PJM's Frequency Regulation ("FR") Market and the impacts of such participation both in the actual classification of the asset and its useful life.

5. UGI proposes to develop, own and operate three DCFC EV charging stations. UGI seeks to own and maintain make-ready infrastructure needed to serve customer-owned electric vehicle ("EV") charging stations.<sup>3</sup> UGI also proposes to provide customer education regarding EVs and EV charging.<sup>4</sup>

6. Innovative energy solutions such as EV infrastructure and ES systems are best delivered by the competitive marketplace rather than through regulated electric distribution companies. Solution-focused retailers serve an important role in managing grid challenges and are better positioned than utilities to encourage the adoption of EVs. RESA and NRG have concerns regarding equal access to customer data and the ability of third party suppliers and other market participants to provide competitive service to customers that would be served by UGI's proposed EV and ES projects. RESA and NRG should be granted intervention in this proceeding so that they can adequately guard against being placed at a competitive disadvantage relative to the regulated public utility in the provision of products and services to customers.

### **III. INTERVENTION**

7. The Commission's regulations allow intervention where a person has an interest in the proceeding which may be directly affected and which is not adequately represented by

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<sup>3</sup> UGI Electric Statement No. 6, Direct Testimony of John D. Taylor at pp. 38-40.

<sup>4</sup> *Id.* at 41.

existing parties, and as to which the person may be bound by the action of the Commission in the proceeding. 52 Pa. Code § 5.72(a)(2). Intervention is also permitted where participation of the person may be in the public interest. 52 Pa. Code § 5.72(a)(3). A “person” includes a corporation and an association. 52 Pa. Code § 1.8.

8. RESA and NRG meet the standards for intervention set forth in 52 Pa. Code § 5.72(a). RESA members and NRG actively serve consumers in UGI’s service territory. UGI’s planned investment threatens to stymie the investment of private dollars into Pennsylvania to develop new EV/ES technologies. Innovation is largely driven by competitive companies. UGI’s proposal threatens to negatively impact this potential because the ability of a utility to fund projects through ratepayer dollars creates unfair competitive advantages and crowds out the ability of private companies to deploy these technologies.

9. RESA and NRG will be bound by the action of the Commission in this proceeding. The Commission’s decision on UGI’s EV/ES proposals will directly impact competitive market offerings and the products and services offered by RESA members and NRG. UGI’s proposal to own and operate EV charging infrastructure and ES solutions presents legal, technical and economic challenges that directly impact competitive market participants such as RESA and NRG.

10. As market leaders in the competitive retail supply industry, RESA and NRG have a substantial and direct interest in several issues regarding UGI’s proposal to use ratepayer funds to support products and services that are offered in the private market. These issues include, but are not limited to, the impact on private investment in EV/ES technologies, cost recovery, equal access to customer data and the impact to the competitive retail supply market. RESA and NRG

view UGI's EV and ES proposals as inappropriate for utility investment and participation.

While RESA and NRG continue to evaluate UGI's rate case filing, they are concerned that the proposed changes may negatively impact their ability to offer competitive products and services.

11. RESA and NRG's interests in this proceeding are unique from and not adequately represented by other parties that may seek to intervene, including individual EGSs or other organizations interested in electric vehicle or energy storage in Pennsylvania in general and in UGI's service territory in particular. RESA and NRG have unique business models and their interests and perspective are unique.

12. For all these reasons, RESA and NRG possess an "interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding." 52 Pa. Code § 5.72(a)(1).

13. Moreover, RESA and NRG's specific experience in the UGI service territory as well as other service territories in Pennsylvania and across North America, uniquely position them to review and assess its rate case filing. Accordingly, RESA and NRG's participation in this proceeding is clearly in the public interest. *See* 52 Pa. Code § 5.72(a)(3).

#### **IV. CONCLUSION**

On the basis of the foregoing, the Retail Energy Supply Association and NRG Energy, Inc. respectfully request that the Commission grant this Petition to Intervene so that the RESA and NRG may fully participate in this proceeding. RESA and NRG have interests in this proceeding that will be substantially and directly affected by the outcome of this proceeding,

their interests are sufficiently different from that of any party so as to add measurably and constructively to the case.

Respectfully submitted,

*Sarah C. Stoner*

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Deanne M. O'Dell, Esq.  
Attorney I.D. 81064  
Sarah C. Stoner, Esq.  
Attorney I.D. 313793  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8th Floor  
Harrisburg, PA 17101  
717.237.6000; 717.237.6019 (fax)  
[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)  
[sstoner@eckertseamans.com](mailto:sstoner@eckertseamans.com)

Dated: March 19, 2021

*Counsel for RESA and NRG Energy, Inc.*



**VERIFICATION**

I, Anthony Cusati, III, hereby state that: (1) I am the Pennsylvania State Chairperson for the Retail Energy Supply Association (“RESA”); (2) I am authorized to verify the facts in this Petition on behalf of RESA; and, (3) the facts set forth in this Petition are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: March 19, 2021



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Anthony Cusati, III  
Pennsylvania State Chairperson  
Retail Energy Supply Association

**VERIFICATION**

I, Leah Gibbons, hereby state that: (1) I am Director of Regulatory Affairs for NRG Energy, Inc.; (2) I am authorized to verify the facts in this Petition on behalf of NRG Energy, Inc.; and, (3) the facts set forth in this Petition are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: March 19, 2021

A handwritten signature in blue ink that reads "Leah Gibbons". The signature is written in a cursive style and is positioned above a horizontal line.

Leah Gibbons  
Director, Regulatory Affairs  
NRG Energy, Inc.