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August 6, 2009

VIA E-FILING


James J. McNulty, Secretary
Pennsylvania Public Utility Commission
400 North Street – 2nd Floor
Commonwealth Keystone Building
Harrisburg, Pennsylvania 17120

Re: Noland Wenger v. UGI Utilities, Inc. – Gas Division,
Docket No. C-2008-2076768

Dear Secretary McNulty:

Enclosed is an e-file copy of the Noland Wenger Reply Brief in the above-captioned proceeding. Copies of this document have been served in accordance with the attached Certificate of Service.

Very truly yours,



Matthew A. Totino

Enclosures
MAT:ck

- c. Certificate of Service
The Honorable Wayne L. Weismandel

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Noland Wenger :
 :
 v. :
 :
 UGI Utilities, Inc. – Gas Division : Docket No. R-2008-2076768

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the relevant documents in accordance with the requirements of 52 Pa. Code § 1.54 et seq. (relating to service by a participant).

VIA FIRST CLASS and ELECTRONIC MAIL

Noland Wenger
6 North Spruce Street
Lititz, PA 17543

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King of Prussia, PA 19406
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Dated: August 6, 2009

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|------------------------------------|---|---------------------------|
| Noland Wenger | : | |
| | : | |
| v. | : | Docket No. C-2008-2076768 |
| | : | |
| UGI Utilities, Inc. – Gas Division | : | |

REPLY BRIEF OF NOLAND WENGER

Dated: August 6, 2009

Matthew A. Totino
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III. ARGUMENT

A. UGI has not met its burden of proof that the Wengers used the amount of gas in dispute.

In main briefing, UGI cites to the accuracy of meter tests to support that the Wengers' bills were accurate as rendered. However, Commission precedent is clear that meter test results, themselves, are not sufficient to satisfy a utility's burden.¹

In its main brief, UGI attempts to explain that the Wengers did not receive continuously high bills from December 2007 through December 2008 by virtue of the fact that this time period did not encompass a significant portion of the heating season when the old heater would have been running. UGI's explanation fails to consider the record evidence that if UGI's explanation were true, the Wengers' November 2008 should have been four times higher than in prior years but was not. Rather, the November 2008 bill was only slightly higher than prior years, which was due to the colder weather. Tr. 9, 17-18. With UGI's explanation, there also should have been elevated Carbon Monoxide ("CO") levels from December 2007 through December 2008. However, this could not have been the case. As noted by witness Keith Wenger, if the CO exposure were an ongoing problem at the levels claimed by UGI, his parents "wouldn't be here." Tr. 18.

B. UGI's response to the Wengers' high bill complaint was inadequate, unsafe, and unreasonable.

In its main brief, UGI argues that it has refuted the allegation it acted negligently in response to evidence of high gas consumption. According to UGI, it contacted the Wengers promptly to determine the cause of their increased consumption and promptly conducted a test to check for gas leaks. This statement simply does not comport with the

¹ Waldron v. PECO, 1980 Pa. PUC LEXIS 90.

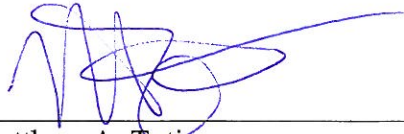
record evidence, which shows that UGI's response to the high bill complaint in January 2008 was, indeed, "negligent."

As stated at hearing and in briefing, a residence with as much unaccounted for gas flowing to it as occurred with the Wenger residence should have been checked immediately for a gas leak. The substantial and credible record evidence shows that it was not. Upon becoming aware that the Wenger's bill for December 2007 was much higher than normal and even after being contacted by Mrs. Wenger in mid-January 2008 about the high bill, UGI did not immediately send personnel to the Wenger residence to check for a gas leak or to check customer appliances/equipment for inefficiencies. And, at no time from February through mid-April 2008 did UGI offer to or actually send personnel to check for a gas leak or to check UGI facilities and/or customer equipment for inefficiencies. Tr. 10-11. Rather, UGI's only action relative to checking for a gas leak was in response to a specific call from the Wengers that there was a gas odor in the street, action that occurred almost two weeks after the Wengers received the initial high bill. This hardly amounts to a prompt response.

II. CONCLUSION

Based upon the record in this case, including briefs, it is respectfully requested that the Presiding Officer sustain the Complaint of Noland Wenger filed at the above-captioned docket and grant the relief requested by Complainant in this matter.

Respectfully submitted,



Dated: August 6, 2009

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