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ELECTRONICALLY FILED

November 25, 2013

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

Re: Shymar McBride v. UGI Utilities, Inc.
Complaint Docket No. C-2013-2391525

Dear Ms. Chiavetta:

Enclosed is an electronically filed copy of UGI Utilities, Inc.'s Preliminary Objections to Formal Complaint. A copy of the document has been served on the Complainant.

Sincerely,


Larry R. Crayne

cc: Shymar McBride
125 Royal Terrace
Harrisburg, PA 17104

Commonwealth of Pennsylvania

Before the Pennsylvania Public Utility Commission

In the Matter of:

Shymar McBride,
Complainant,

Complaint Docket
No. C-2013-2391525

VS.

UGI Utilities, Inc.,
Respondent.

Preliminary Objections

AND NOW comes Respondent, UGI Utilities, Inc. (UGI), pursuant to 52 *Pa. Code*, Section 5.101 (a) (4), and files the following Preliminary Objections:

A. Legal Insufficiency of Pleading

1. Complainant in this proceeding has filed another complaint that is a substantively identical complaint when compared to an earlier complaint filed on or about January 29, 2013. A copy of the earlier complaint is attached hereto as **Exhibit A**.

2. The prior complaint was dismissed pursuant to Initial Decision of Administrative Law Judge Elizabeth H. Barnes dated April 24, 2013 after Complainant failed to appear for the scheduled hearing. Thereafter, Complainant filed Exceptions and UGI filed Reply Exceptions. Judge Barnes Initial Decision was affirmed by Opinion and Order of the Commission dated September 26, 2013, which Opinion and Order also dismissed Complainant's Exceptions.

3. Respondent UGI respectfully petitions this Honorable Commission to dismiss this action as legally insufficient. Complainant's allegations have already been adjudicated and are bared by *Res Judicata*. Therefore, Complainant fails to state a claim upon which relief can be granted. 52 *Pa. Code*, Section 5.101(a)(4).

4. For *Res Judicata* to be applicable, a party must demonstrate that the actions have four common elements: 1) identity of issues; 2) identity of the cause of action; 3) identity of the parties; and 4) identity of the capacity of the parties. *Day v. Volkswagenwerk Aktiengesellschaft*, 318 Pa. Superior Ct. 255, 474 A.2d 1313, 1316,1317 (1983)

5. All four elements are met in this Complaint; (1) The issues are the same. The Complainant in this proceeding and the prior complaint was contesting the imposition of charges for unauthorized use of service at 125 Royal Terrace, Harrisburg, PA and charges for a prior account balance at 218 S. 20th Street, Harrisburg, PA. (2) The cause of action is the same.

Complainant in the earlier complaint contested the denial of service based on charges for unauthorized use of the service and based on charges for service at a prior location. He contests the same charges in this Complaint. (3) The parties are the same; Complainant and UGI Utilities. (4) Finally, the parties are acting in the same capacity in both complaints. Complainant is currently and was an applicant for service. UGI is a public utility.

6. As stated on page 5 of the Initial Decision for Complainant's prior complaint; "By not appearing for the scheduled Telephone Hearing, complainant failed to bear the burden of proof. Consequently, the Complaint must be dismissed. Due to the waste of both the Commission's and the respondent's time, money, and energy occasioned by complainant's failure to appear at a hearing of which Shymar McBride had notice, the dismissal will be with prejudice. *Martin W. Jefferson v. UGI Utilities, Inc.*, Docket Number Z-00269892, (Opinion and Order adopted October 26, 1995, entered December 26, 1995); *Maurice Jones v. The Peoples Natural Gas Company d/b/a Dominion Peoples*, Docket Number C-20054885, (Opinion and Order adopted January 12, 2006, entered February 14, 2006)."

Wherefore, UGI is filing these Preliminary Objections requesting this Complaint be dismissed for the reason that the subject of this present Complaint has already been adjudicated and is barred by *Res Judicata*. 52 Pa. Code § 5.101(a)(4); *James S. Smith, Jr. v. PECO Energy Company* at Docket No. C-2010-2209072 (Commission Order entered September 22, 2011). Therefore, this Complaint should be summarily dismissed for legal insufficiency. Since no factual issue pertinent to the resolution of this case exists, a hearing is unnecessary. The Respondent is entitled to judgment as a matter of law. Granting the UGI motion for dismissal of this Complaint is appropriate in these circumstances.

Notice to Plead

To: Shymar McBride:

You are hereby notified to file a written response to the above Preliminary Objections within ten (10) days from service hereof or a judgment may be entered against you. The response must be mailed to the Secretary of the Public Utility Commission:

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

A copy of your response must also be mailed to the undersigned.

Larry R. Crayne, PC
Attorney at Law
238 Johnston Road
Pittsburgh, PA 15241

Respectfully submitted
UGI Utilities, Inc.

By: 
Larry R. Crayne, Esq.

Must be returned by January 28, 2013

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint F-2013-2345438

Filing this form begins a legal proceeding and you will be a party to the case.
If you do not wish to be a party to the case, consider filing an informal complaint.

To complete this form, please type or print legibly in ink.

COPY

1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number:

Name Shymar McBride
Street/P.O. Box 125 Royal terrace Apt # n/a
City Harrisburg State Pa Zip 17103
County Dauphin

Telephone Number(s) Where We Can Contact You During the Day:

(717) 686-6859 (home) () _____

E-mail Address (optional): n/a

Utility Account Number (from your bill) _____

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name _____

Street/P.O. Box _____

City _____ State _____ Zip _____

2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

UGI Gas

RECEIVED
2013 JAN 22 PM 1:49
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

7931

EX-A
P9107

3. Type of Utility Service

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- | | |
|---|---|
| <input type="checkbox"/> ELECTRIC | <input type="checkbox"/> WASTEWATER/SEWER |
| <input checked="" type="checkbox"/> GAS | <input type="checkbox"/> TELEPHONE/TELECOMMUNICATIONS (local, long distance) |
| <input type="checkbox"/> WATER | <input type="checkbox"/> MOTOR CARRIER (e.g. taxi, moving company, limousine) |
| <input type="checkbox"/> STEAM HEAT | |

4. Reason for Complaint

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. Your complaint may be dismissed without a hearing if you do not provide specific information.

- The utility is threatening to shut off my service or has already shut off my service.

- I would like a payment agreement.

- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.

- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.

Ex. A
Pg 2 of 7

- Other (explain). They is not cutting my gas on. its been off for about a year or so. they wont put the meter back. I had nothing to do with the tenant who rent the house before me. Its cold in my house. I have medical problems. Im running up my light bill behind this. My light bill is in jeopardy. I need my Gas on. now →

Its freezing in my house, they said someone
stole gas. I have nothing to do with that. Im trying
to be patient, last year I went threw the same
thing, thats not fair they told me to pay 106.00. which
I was. then I talk to some one at U.G.T. And they
said they are investigating, this been like 10-months or
so. And they wasnt gone to put the meter back, investigation
been a long gone ~~on~~ on process. my light bill is
almost 3,000 Dollars. I cant afford that. And its gone up
I need help. thank you! Im on S.S.I. I have a disability.
I need help. please

EX. A
Pg 347

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

5. Requested Relief

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

My Gas has been cut off for a while - UGI took the meter from the house. I didn't know they took it. Until I looked out side in Aug. to notice it was gone, I called them. they said 106.00 to cut on. it was no meter out side for them to cut it on. Another Cohen Lived Here. Now I Live Here. I dont have nothing to do with the previous Tenant. I have a medical problem. its not Right for them not to Give me Heat.

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

EX. A
Pg 4 of 7

6. Protection from Abuse

Has a court granted a "Protection from Abuse" order that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection from Abuse" order for your personal safety or welfare?

YES
NO

If your answer to the above question is "yes," attach a copy of the current Protection for Abuse order to this Formal Complaint form.

7. Prior Utility Contact

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

YES
NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES
NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

Ex. A.
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- c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. Legal Representation

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

If you are represented by a lawyer in this matter, provide your lawyer's name, address, telephone number, and e-mail address, if known. Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name _____

Street/P.O. Box _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address (if known) _____

Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

9. Verification and Signature

You must sign your complaint. Individuals filing a Formal Complaint must print or type their name on the line provided in the verification paragraph below and must sign and date this form in ink. If you do not sign the Formal Complaint, the PUC will not accept it.

Ex. A
Pg 6 of 7

Verification:

I Shymar McBride, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Shymar McBride _____ Jan 12, 2013
(Signature of Complainant) (Date)

Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification must be signed by an authorized officer or authorized employee. If the Formal Complaint is not signed by one of these individuals, the PUC will not accept it.

10. Filing

You may electronically file your Formal Complaint with the PUC. To do so, you need to establish an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

If you do not electronically file your Formal Complaint, mail the completed form (along with any attachments) to one of the addresses listed below:

If using U.S. Postal Service:

If using overnight delivery service:

Secretary Pennsylvania Public Utility Commission P.O. Box 3265 Harrisburg, PA 17105-3265	Secretary Pennsylvania Public Utility Commission 400 North Street Commonwealth Keystone Building, 2 nd Floor Harrisburg, Pennsylvania 17120
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Note: Formal Complaints sent by fax or e-mail will not be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

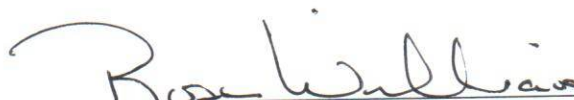
Keep a copy of your Formal Complaint for your records.

Ex. A
Pg 7 of 7

VERIFICATION

I, Rose Williams, Regulatory Compliance Supervisor UGI Utilities, Inc., hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).

11-25-2013

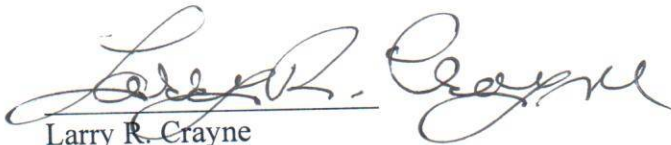

Rose Williams
Rose Williams

Certificate of Service

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the participant, listed below, in accordance with the requirements of Sec. 1.54 (b) (1) (relating to service by a participant).

Shymar McBride
125 Royal Terrace
Harrisburg, PA 17104

Dated this 25th day of Nov, 2013



Larry R. Crayne
238 Johnston Road
Pittsburgh, PA 15241

Counsel for
UGI Utilities, Inc.