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ELECTRONICALLY FILED

January 28, 2016

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

Re: Diana Roemig v. UGI Utilities, Inc.
Complaint Docket No. C-2016-2522685

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: Kendra Mohr
Pannebaker & Mohr, PC
4000 Vine St., Suite 101
Middletown, PA 17057

Commonwealth of Pennsylvania

Before the Pennsylvania Public Utility Commission

In the Matter of:

Diana Roemig,
Complainant,

Complaint Docket
No. C-2016-2522685

VS.

UGI Utilities, Inc.,
Respondent.

Preliminary Objections

AND NOW comes Respondent, UGI Utilities, Inc., (UGI), pursuant to *52 Pa. Code*, Section 5.101 (a) (1) and (4), and files the following Preliminary Objections

A. Lack of Commission Jurisdiction and Improper Service

1. 52 Pa. Code § 5.101(a)(1) provides that a party to a proceeding may preliminarily object for lack of Commission jurisdiction.

2. Diana Roemig (Complainant) requests the Commission decide a dispute regarding payment for a “new furnace” that is alleged to have been installed in 2008. Complainant seeks relief in the form of a declaratory judgment that Complainant paid for the furnace and, therefore, has no current responsibility for payment.

3. UGI Corporation, which is not a certificated public utility, is named on the Complaint as the Respondent.

4. The Complaint was served on UGI, a certificated natural gas distribution company, a subsidiary of UGI Corporation, which does not engage in the business of installing furnaces.

5. Upon information and belief, the furnace was installed by UGI HVAC Enterprises, Inc., a Delaware Corporation, d/b/a UGI Heating, Cooling & Plumbing (UGI HVAC) which is a wholly-owned subsidiary of UGI Corporation. UGI HVAC offers services that are not subject to Commission jurisdiction.

6. The Commission does not have the statutory jurisdiction to adjudicate and determine the relative responsibility of Complainant, UGI, and/or UGI HVAC for the installation of the furnace. The Commission does not regulate activities regarding the alleged installation of Complainant’s furnace. The sale of appliances or equipment, repair contracts and parts and labor

plans are not within the regulatory jurisdiction of the Commission. The Commission's authority is limited to regulation of public service as opposed to private service. *Felix v. Pa. P.U.C.*, 146 A.2d 347 (Pa. Super. Ct. 1958). Also see *Nitin Desai v Philadelphia Gas Works*, F-2010-2195246 (Final Order entered November 8, 2011)(sustaining preliminary objections on basis that private services that merely supplement the public services provided by a utility do not fall within the Commission's jurisdiction). This Complaint should be brought against the proper party in a court of general jurisdiction.

B. Legal Insufficiency of Pleading

7. Paragraphs 1- 6 are incorporated herein by reference.

8. 52 Pa. Code § 5.101(a)(4) provides that a party to a proceeding may preliminarily object for legal insufficiency of a pleading.

9. The Complaint was served on UGI, though the Complaint names UGI Corporation as the Respondent. Upon information and belief, neither UGI Corporation nor UGI is the correct party to this proceeding.

10. The Complaint seeks adjudication of a matter involving the contractual responsibility of Complainant to UGI HVAC. Because UGI HVAC is not a party to this proceeding, and because UGI HVAC is not subject to the jurisdiction of the Commission, the Complaint is legally insufficient.

11. The averments of this Complaint fail to allege a violation of the Public Utility Code, Commission regulations or the UGI filed and approved tariff as a matter of law. A repair contract or warranty dispute does not involve a law, regulation or order that the Commission has jurisdiction to administer. *Nicholla Anderson v. Philadelphia Gas Works*, Docket No. F-00825712 (Final Order entered August 30, 2002); also see, *Sophia Ottaviano v. Philadelphia Gas Works*, Docket No. C-20066357 (Final Order entered September 22, 2006); *Shirley Surrec v Columbia Gas of Pennsylvania, Inc.* (I.D. April 7, 2014) (remanded for consideration of whether Columbia provided adequate service under a Commission-approved weatherization program).

Wherefore, UGI requests that the Complaint be dismissed as a matter of law. Complainant has sued the wrong party in the wrong forum. Since no factual issue pertinent to the resolution of this complaint exists which the Commission has jurisdiction to consider, a hearing is unnecessary and 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: Diana Roemig:

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:

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

Respectfully submitted,

UGI Utilities, Inc.


By:


Larry R. Crayne, Esq.

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).

1-28-2016
Date


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 in accordance with the requirements of Sec. 1.54 (b)

(1) (relating to service by a participant).

Kendra Mohr
Pannebaker & Mohr, PC
4000 Vine St., Suite 101
Middletown, PA 17057

Dated this 28th day of JAN, 2016


Larry R. Crayne
238 Johnston Road
Pittsburgh, PA 15241

Counsel for
UGI Utilities, Inc.