

**LARRY R. CRAYNE, PC**  
**Attorney at Law**

238 Johnston Road  
Pittsburgh, PA 15241

[lrcrayne@comcast.net](mailto:lrcrayne@comcast.net)

(412) 831-5462  
(412) 425-4029

---

ELECTRONICALLY FILED

February 27, 2017

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

**Re: Magna Cleaners, Inc. v. UGI Utilities, Inc.**  
**Complaint Docket No. C-2017-2587519**

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: Chad M. DiFelice  
Goudsouzian & Associates  
2925 William Penn Highway  
Suite 301  
Easton, PA 18045

**Commonwealth of Pennsylvania**

**Before the Pennsylvania Public Utility Commission**

In the Matter of:

Magna Cleaners, Inc.,  
Complainant,

Complaint Docket  
No. C-2017-2587519

VS.

UGI Utilities, Inc.,  
Respondent.

**Preliminary Objections to Formal Complaint**

**AND NOW** comes Respondent, UGI Utilities, Inc. (UGI), pursuant to 52 *Pa. Code*, Section 5.101 (a) (1) (2) and (4), and files the following Preliminary Objections:

**A. Lack of Commission Jurisdiction**

1. Complainant in this proceeding is requesting a payment agreement. Complainant is a commercial customer and is not entitled to a payment agreement. See, Initial Decision in *David E. Moore v PECO*, C-2009-2111161, at page 9: “With respect to Complainant’s request for a payment arrangement, the Commission has repeatedly held that a customer with a commercial account for public utility service does not fall within the Commission regulations at 52 Pa. Code Chapter 56 and is not entitled to a payment arrangement or other protections applicable to residential accounts under the Commission regulations at 52 Pa. Code Chapter 56.” Initial Decision adopted by Opinion & Order entered May 3, 2011.

2. Further, Complainant has not shown a good faith effort in the payment of utility bills, having failed to pay monthly bills in full and on a timely basis on multiple occasions and tendered bad checks for payment on at least six occasions.

3. There are no provisions in the Public Utility Code or the Commission regulations providing any right for a payment agreement for commercial customers. Therefore, Complainant is asking for something that the Commission does not have the jurisdiction to provide.

**B. Legal Insufficiency**

4. Complainant is simply asking the Commission to provide a benefit to which it is not entitled. Since Complainant has been provided with monthly bills for accurately

measured consumption in accordance with duly filed and approved tariff rates, the matter of incorrect charges was apparently raised to avoid lawful termination of service. The Complaint was not served on UGI until February 8, 2017 after service was terminated on February 7, 2017.

5. Therefore, the averments of this Complaint fail to allege a violation of the Public Utility Code, Commission regulations or the UGI filed and approved tariff. Since no factual issue pertinent to the resolution of this Complaint exists which the Commission has jurisdiction to consider, a hearing is unnecessary. UGI is entitled to judgment as a matter of law. Granting the UGI motion for dismissal of this Complaint is appropriate in these circumstances.

### **C. Incorrect Verification of Complaint**

6. The Commission regulations at *52 Pa. Code*, Section 1.36 provide in relevant part that: "...formal complaints ...containing an averment of fact ...must be personally verified by a party thereto or by an authorized officer or other authorized employee if a corporation or association."

7. Chad M. DiFelice, Esq., apparently one of the attorneys for Magna Cleaners, Inc., signed the Verification and Signature for this Complaint. There is no indication that Mr. DiFelice is an authorized officer or employee of Magna Cleaners, Inc.

8. Consequently, this Formal Complaint has not been properly verified and signed by Magna Cleaners, Inc. in accordance with the Commission regulations. The failure to properly sign and verify this Complaint is further evidence of the attempt to avoid lawful termination of service.

**Wherefore**, UGI is filing Preliminary Objections requesting that this Complaint against UGI be dismissed for the reason that the relief requested by Complainant is inconsistent with the Public Utility Code and beyond the Commission's jurisdiction, that the Complaint fails to allege a violation of the Public Utility Code, Commission regulations or the UGI filed and approved tariff and that the Complaint has not been properly signed and verified.

## Notice to Plead

To: Magna Cleaners, Inc.:

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

### Request for Telephonic Hearing

UGI hereby requests that any hearings to be scheduled in this proceeding be conducted telephonically.


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).

Feb 27, 2017  
Date

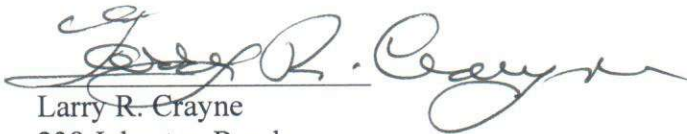
  
Rose Williams

## Certificate of Service

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

Chad M. DiFelice  
Goudsouzian & Associates  
2925 William Penn Highway  
Suite 301  
Easton, PA 18045

Dated this 27<sup>th</sup> day of Feb, 2017



Larry R. Crayne  
238 Johnston Road  
Pittsburgh, PA 15241

Counsel for  
UGI Utilities, Inc.