

**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

---

June 29, 2017

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

**Re: Sherry Trocki v. UGI Penn Natural Gas, Inc.**  
**Complaint Docket No. F-2016-2574307 and C-2016-2578856**

Dear Ms. Chiavetta:

Enclosed is UGI Penn Natural Gas, Inc.'s electronically filed Exceptions to Initial Decision in the above-referenced Formal Complaint. A copy of the document has been served on the Complainant.

Sincerely,



Larry R. Crayne

cc: Sherry Trocki  
185 Roosevelt Street  
Edwardsville, PA 18704

Office of Special Assistants  
[ra-OSA@pa.gov](mailto:ra-OSA@pa.gov)

**Commonwealth of Pennsylvania**

**Before the Pennsylvania Public Utility Commission**

In the Matter of:

Sherry and Lenny Trocki,  
Complainants,

Complaint Docket  
Nos. F-2016-2574307  
and C-2016-2578856

VS.

UGI Penn Natural Gas, Inc.  
Respondent.

**Exceptions to Initial Decision**

**AND NOW** comes Respondent, UGI Penn Natural Gas, Inc., (PNG), and files Exceptions pursuant to 52 *Pa. Code*, Section 5.533 to the Initial Decision of Special Agent Rebecca Waldemar dated March 30, 2017 sustaining the Formal Complaint filed by Sherry and Lenny Trocki against UGI Penn Natural Gas, Inc. (PNG).<sup>1</sup> Because the facts of record and applicable law do not support the Initial Decision, PNG believes the following exceptions are warranted:

**Exception No. 1 – Finding Of Fact No. 5 - “Although Complainants did not make all payments on time for the 2013 Commission issued payment arrangement, they did satisfy the balance that was subject to the original payment arrangement.”**

Finding of Fact No. 6 is incorrect. The Complainants did not satisfy the original March 21, 2013 payment arrangement No. 3073204. Payment arrangements consist of two components, current average monthly bills and an amount to be credited to the arrearage. When the March 21, 2013 payment arrangement was granted Complainants owed a total of \$1947.89. The payment arrangement provided for monthly payments of \$108.00, consisting at that time of a \$76.00 average monthly bill plus an additional \$32.00 to be credited to Complainants’ arrearage. Twenty-nine months has expired since the March 21 2013 payment arrangement and when the service was terminated Twenty-nine months times \$32.00 per month to be credited to Complainants’ arrearage equals \$928.00. Complainants’ owed an arrearage of \$1947.89 at the time of the March 21 2013 payment arrangement. Therefore, Complainants’ have failed to satisfy the original payment arrangement by the amount of \$1019.89.

---

<sup>1</sup> PNG notes that the current complaint and the prior complaint were both filed and signed by Sherry Trocki, even though the Initial Decision is labeled as Sherry and Lenny Trocki. Therefore, references throughout these Exceptions will be to Complainants, even though Sherry Trocki is the only person who filed and signed the formal complaints.

PNG does not disagree with the conclusion that the Commission has the power to grant a new payment arrangement when a previous payment arrangement has been completed. I.D., Page 6. Although Complainants have made significant payments, PNG is aware of no methodology or payment arrangement that relieves Complainants of the duty to pay current monthly bills and requires the utility to credit all monthly payments to an arrearage. The Initial Decision ignores the duty to pay current bills in full by incorrectly crediting a disproportionate share of payments to the arrearage. Such a methodology ignores and negates the duty of Complainants to pay current bills that are not the subject of the dispute.

Therefore, the statement on page 6 of the Initial Decision is incorrect that "... Complainants now seek a payment arrangement on a balance which has never been the subject of a Commission issued payment agreement." Because Complainants continuously carried an arrearage on their account, when current bills are considered the March 21, 2013 payment arrangement was never satisfied.

**Exception No. 2 - The Initial Decision ignores the fact that Complainant's are applicants for natural gas service.**

Complainant's service has been inactive since August 31, 2015. Complainants are applicants for service in accordance with the definition of applicant in the PNG Tariff and 52 Pa. Code, Section 56.2. The Initial Decision fails to consider the requirements of Section 56.35.

Section 56.35 - Payment of outstanding balance – provides as follows: "(a) A public utility may require, as a condition of the furnishing of residential service to an applicant, the payment of any outstanding residential account with the public utility which accrued within the past 4 years for which the applicant is legally responsible and for which the applicant was billed properly."

Clearly all of the Complainant's arrearages accrued within the past four years. Because the Initial Decision incorrectly concludes that Complainants were entitled to a new Commission agreement, the Initial Decision failed to consider the application of Section 56.35. Consequently the Initial Decision fails to properly consider the requirements of Section 56.35 that requires applicants for service to pay the arrearage on their outstanding account prior to the reconnection of service.

Also, the Initial Decision ignores the provisions of 56 Pa. Code, Section 191 (c) (2) (i). Section 191 (c) (2) (i) provides in relevant part as follows: "A public utility may require: (i) Full payment of any outstanding balance incurred together with any reconnection fees by the customer or applicant prior to the reconnection of service if the customer or applicant ... has defaulted on two or more payment agreements." Complainants have failed to comply with BCS payment arrangement No. 3073204, adjusted on June 30, 2017 to reflect the average monthly bills, and two subsequent company payment payments agreements, the October 10, 2014 payment agreement being the result of a Certificate of Satisfaction filed at Docket No. C-2014-2446696 in response

to a prior formal complaint. See PNG Exhibit R-2. Consequently, Complainants under Section 191 (c) (2) (i) are required to pay the prior arrearage. As noted previously, the Initial Decision erroneously credits all payments by Complainants to their arrearage and ignores current bills. Therefore, Complainants cannot be considered to have complied with their earlier Commission payment arrangement and at least two company payment arrangements.

**Exception No. 3 - Conclusion of Law No. 7 - “The Complainants have met their burden of proving that the Commission may grant them a payment arrangement allowing twelve months to pay their past due balance.”**

Page 6 of the Initial Decision concludes that: “...Complainants have demonstrated a good faith effort to pay their bills by paying off the balance subject to a previous payment arrangement.” I.D., page 6. After ignoring that Complainants are applicants for service, the Initial Decision incorrectly applies 66 Pa.C.S., Section 1405 (b) (3) based on the incorrect perception that the Complainants have demonstrated a good faith effort to pay their bills. While Complainants have over the period of four years made a number of payments, Complainants have accumulated substantial arrearages and for almost two years paid nothing. Instead Complainants utilized the informal and formal Commission complaint process by the filing of numerous informal and formal complaints. After putting the Commission and PNG to the burden of processing and preparing for hearing of their previous formal complaint at Docket No. F-2015-2505539 (PNG Exhibit R-3), Complainants failed to appear for the hearing. Instead, Complainants filed the instant formal complaint. This is not the sort of payment history and conduct that justifies discretionary treatment under *Crawford v. National Fuel Gas Distribution Corporation*, Docket No. C-20066348 (Opinion and Order entered December 6, 20017. Thus Complainants should not have been awarded another Commission-sponsored payment arrangement under 66 Pa.C.S., Section 1405 (b)(3).

**Exception No. 4 – The Initial Decision does not take into account Complainants’ earlier formal complaint that was dismissed by reason of Complainants failure to appear for a scheduled hearing.**

On September 25, 2015, Sherry Trocki filed a formal complaint at Docket No. F-2015-2505539 against UGI Penn Natural Gas, Inc. stating that Respondent had already turned off her service and requesting restoration of service. After notice of the scheduling of a formal hearing for December 4, 2016, Complainant failed to appear for the hearing. An Initial Decision dated January 5, 2016 dismissed the formal complainant with prejudice for failure to appear. By Final Order entered March 25, 2016, the Initial Decision became final without further Commission action. See PNG Exhibit R-3.

Public Utility Code Section 316 provides in relevant part as follows: “Whenever the Commission shall make any ... order, the same shall be prima facie evidence of the facts found and shall remain conclusive upon all parties... unless set aside, annulled or modified on judicial review.” Also, Public Utility Code 332 (f) provides in relevant part that: “Any party who shall fail to be represented at a scheduled conference or hearing

after being duly notified shall not be permitted thereafter to reopen the conference or hearing....”

Recently the Commission had occasion to consider the failure of a complainant to appear for a scheduled hearing. In the case of *Hattie Beatrice Howell v. Philadelphia Gas Works*, C-2016-2568426, an Opinion and Order entered May 2, 2017, the Commission concluded that the latter complaint should be dismissed for judicial efficiency under Section 316 of the Code. Ms. Howell had filed an earlier complaint that was dismissed with prejudice for failure to appear for a telephonic hearing.

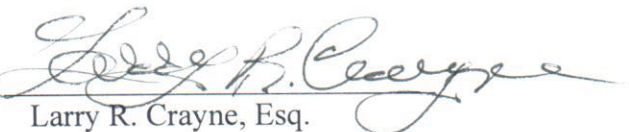
Previous Commission decisions have also dismissed subsequent complaints for failure to appear. In the case of *Brittany Vohrer v PECO Energy Company*, C-2102-2303471, an Opinion and Order entered February 14, 2013, the Commission concluded that the complaint should be dismissed because the Complainant after notice had failed to appear for a scheduled telephonic hearing. The Commission on page 12 of the Opinion and Order referenced Section 332 (f) of the Code that states a party shall not be permitted to reopen a matter unless the presiding officer has determined that failure to appear was unavoidable.

There has been no determination in this proceeding that Complainants had a valid reason not to appear for the hearing of their prior formal complaint. Therefore, in the absence of such a finding, the Complainants have waived their opportunity to again appear before the Commission and be heard regarding the reconnection of their service. The Initial Decision should have dismissed the current complaint.

Wherefore, UGI Penn Natural Gas, Inc., requests that Exceptions Nos. 1, 2, 3 and 4 be granted, that the payment arrangement granted by the Initial Decision be denied, that Complainant's be directed to pay the full amount of their current arrearage prior to the reconnection of service and that this Complaint be dismissed.

Respectfully submitted,

UGI Penn Natural Gas, Inc.

By:   
Larry R. Crayne, Esq.

## 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).

Sherry and Lenny Trocki  
185 Roosevelt Street  
Edwardsville, PA 18704

Dated this 29<sup>th</sup> day of JUNE, 2017



Larry R. Crayne  
238 Johnston Road  
Pittsburgh, PA 15241

Counsel for  
UGI Penn Natural Gas, Inc.