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17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Main Fax
www.postschell.com

Devin Ryan

dryan@postschell.com
717-612-6052 Direct
717-731-1985 Direct Fax
File #: 165082

August 9, 2017

VIA HAND DELIVERY

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Centre Park Historic District v. UGI Utilities, Inc.
Docket No. C-2015-2516051**

**City of Reading v. UGI Utilities, Inc.
Docket No. C-2016-2530475**

Dear Secretary Chiavetta:

Enclosed for filing is the Answer of UGI Utilities, Inc. to the Complainants' Application for Leave to File Reply to UGI's Answer to the Complainants' Motion for Partial Summary Judgment in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service. Due to the size of the enclosed Answer, copies also are being provided on a CD.

Respectfully submitted,

Devin Ryan

DTR/jl
Enclosures

cc: Honorable Mary D. Long
Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Centre Park Historic District	PA PUC SECRETARY'S BUREAU FRONT DESK	:	
v.		:	Docket No. C-2015-2516051
		:	
UGI Utilities, Inc.		:	
		:	
City of Reading		:	
		:	
v.		:	Docket No. C-2016-2530475
		:	
UGI Utilities, Inc.		:	

**ANSWER OF UGI UTILITIES, INC.
TO THE COMPLAINANTS'
APPLICATION FOR LEAVE TO FILE REPLY**

TO ADMINISTRATIVE LAW JUDGE MARY D. LONG:

Pursuant to 52 Pa. Code § 5.61, UGI Utilities, Inc. (“UGI” or the “Company”) hereby files this Answer to the “Application for Leave to File Reply to UGI’s Answer to the Motion for Summary Judgment” filed by Centre Park Historic District (“CPHD”) and the City of Reading (“City”) (collectively, “Complainants”), in which the Complainants request leave to submit a “Reply” to UGI’s Answer to the Complainants’ Motion for Partial Summary Judgment. The Complainants’ Application is essentially a request to file an “answer to an answer.” The fundamental flaw with the Complainants’ request, however, is that filing replies to an answer is not permitted by the Commission’s regulations. Moreover, the Complainants’ Application improperly attempts to respond to substantive arguments made in UGI’s Answer and erroneously states that the hard copy of the Complainants’ Motion for Partial Summary Judgment served on

UGI contained all of the missing pictures. Therefore, UGI respectfully requests that Administrative Law Judge Mary D. Long (the “ALJ”) deny the Complainants’ Application.

In support of its Answer, UGI states as follows:

1. The above-captioned proceeding was initiated by Formal Complaints filed CPHD on November 25, 2015, at Docket No. C-2015-2516051, and by the City on February 23, 2016, at Docket No. C-2016-2530475, regarding UGI’s meter location practices in Reading, Pennsylvania.¹

2. On July 6, 2017, UGI filed a Motion for Summary Judgment, and the Complainants filed a Motion for Partial Summary Judgment.

3. On July 26, 2017, UGI filed an Answer to the Complainants’ Motion for Summary Judgment, and the Complainants filed an Answer to UGI’s Motion for Summary Judgment.

4. In UGI’s Answer, the Company identified several errors and inconsistencies in the Complainants’ Motion regarding the specific meter locations subject to the Complainants’ Motion as well as photographs of the meter locations that were missing. To the extent that the Complainants failed to identify or provide photographs for any meter locations, the Company argued the Complainants are not entitled to summary judgment with respect to those meters. (UGI Answer to Complainants’ Motion for Partial Summary Judgment, pp. 4-5)

5. On July 31, 2017, the Complainants filed an “Application for Leave to File Reply to UGI’s Answer to the Motion for Summary Judgment.”

¹ A detailed procedural history can be found in UGI’s Motion for Summary Judgment and is incorporated herein by reference.

6. In the Application, the Complainants concede their Motion inconsistently identified the number of meter locations at issue and that photographs of the meter locations were missing. However, the Complainants contend that UGI was not prejudiced by these errors, the photographs were only missing from the electronic version due to a technological error, and the hard copies received by the parties were complete. (Application ¶¶ 3-4, 7) Accordingly, the Complainants “request an opportunity to file the Proposed Reply with the Commission” that corrects these inconsistencies, provides the missing photographs, and responds to other aspects of UGI’s Answer. (Application ¶¶ 8-10)

7. The Complainants’ Application should be denied for several reasons.

8. First, the Commission’s regulations do not permit a party to file a responsive pleading to an Answer. *See* 52 Pa. Code § 5.1, *et seq.*; *Buffaloe v. PECO Energy Co.*, Docket No. F-2009-2142003, 2010 Pa. PUC LEXIS 117, at *2 n.1 (Apr. 5, 2010) (Initial Decision) (“There is no regulatory provision for filing an answer to an answer.”), *adopted without modification* (Order Entered May 27, 2010).

9. The Complainants essentially want a second bite at the proverbial apple by requesting an opportunity to file an answer to respond to the arguments made in UGI’s Answer to the Complainants’ Motion for Partial Summary Judgment. Such a request is clearly not permitted by the Commission’s regulations, and the Complainants have failed to cite any Commission authority permitting such a pleading. Indeed, if answers to answers were permitted, as suggested by the Complainants’ request, which they are not, there potentially would be no end to the answers (*i.e.*, to avoid any prejudice, UGI should then be permitted to file an “answer to the Complainants’ answer to UGI’s answer to Complainants’ motion,” and so on and so forth).

10. Second, even assuming, *arguendo*, that it is appropriate for the Complainants to correct and clarify the errors and inconsistencies in their Motion, which it is not, the proposed “Reply” goes far beyond correcting those mistakes and, instead, improperly attempts to raise arguments in response to substantive arguments in UGI’s Answer and in further support of the Complainants’ Motion for Partial Summary Judgment.

11. Specifically, the Complainants’ Reply addresses UGI’s arguments that: (1) the Complainants stipulated to meters being installed before September 13, 2014, which, therefore, could not have violated 52 Pa. Code § 59.18; (2) the Complainants admitted that many of the meters allegedly beneath or in front of windows were not under openings that could be used as fire exits; and (3) there are disputes of material fact with respect to the meters. (Application Exhibit “A”, pp. 2-3, 6-7) These are not “misstatements” as alleged by the Complaints, but rather substantive arguments made by UGI in its Answer.

12. Moreover, the Complainants already had an opportunity to submit their legal and factual theories in support of their Motion for Partial Summary Judgment through their Motion and supporting brief submitted with their Motion. It would be procedurally improper and prejudicial to UGI if the Complainants are now allowed to file their proposed “Reply” to raise additional arguments and theories in support of their Motion without then giving UGI the opportunity to respond. This further demonstrates why “answers to answers” are not procedurally proper Commission practice.

13. Third, the Complainants incorrectly state that all parties received hard copies of the Motion with all missing photographs. To be clear, counsel for UGI did not receive a hard copy of the Complainants’ Motion that contained all of the missing photographs. The hard copy sent by the Complainants to UGI omitted all of the photographs identified in the Company’s

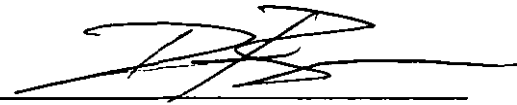
Answer. A true and correct copy of the hard copy sent by the Complainants to UGI is attached hereto as **Exhibit A**.

14. Finally, contrary to the Complainants' claim that the Company was not prejudiced by their mistakes, UGI's counsel was forced to devote substantial time and effort to identify and sort through all of the errors and inconsistencies in the Complainants' Motion. This task was made even more difficult and time-consuming due to the Motion's Exhibits 1 through 3 (list of the meters), Motion's Exhibits A-1 through A-3 (photographs of the meters), and the Complainants' meter matrices all having different orders of presentation.

15. For these reasons, UGI respectfully requests that the Complainants' "Application for Leave" be denied.

WHEREFORE, for the reasons set forth above, UGI Utilities, Inc. respectfully requests that Administrative Law Judge Mary D. Long deny the "Application for Leave" filed by the City of Reading and Centre Park Historic District.

Respectfully submitted,



Mark C. Morrow (ID # 33590)
Chief Regulatory Counsel
Danielle Jouenne (ID # 306829)
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406
Phone: 610-768-3628
E-mail: morrowm@ugicorp.com
jouenned@ugicorp.com

David B. MacGregor (ID # 28804)
Post & Schell, P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2808
Phone: 215-587-1197
Fax: 215-587-1444
E-mail: dmacgregor@postschell.com

Christopher T. Wright (ID # 203412)
Devin T. Ryan (ID # 316602)
17 North Second Street
12th Floor
Harrisburg PA 17101-1601
Phone: 717-731-1970
Fax 717-731-1985
E-mail: cwright@postschell.com
dryan@postschell.com

Date: August 9, 2017

Attorneys for UGI Utilities, Inc.

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CERTIFICATE OF SERVICE
(Docket Nos. C-2015-2516051 and C-2016-2530475)

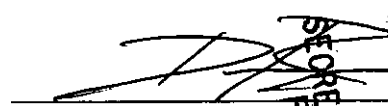
I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL & FIRST CLASS MAIL

Michael J. Savona, Esquire
Michael E. Peters, Esquire
Zachary A. Sivertsen, Esquire
Michael T. Pidgeon, Esquire
Eastburn and Gray, P.C.
PO Box 1389
Doylestown, PA 18901

Michael Swindler, Esquire
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
PO Box 3265
Harrisburg, PA 17105-3265

Date: August 9, 2017


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ATTORNEYS AT LAW

Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601

To: Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265