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ELECTRONICALLY FILED

July 16, 2018

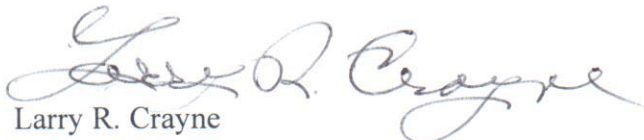
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Phillip Geanacopoulos. v. UGI Utilities, Inc.
Complaint Docket No. C-2018-3002953

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: Phillip Geanacopoulos
1385 Devon Circle
Allentown, PA 18104

Commonwealth of Pennsylvania

Before the Pennsylvania Public Utility Commission

In the Matter of:

Philip Geanacopoulos,
Complainant,

Complaint Docket
No. C-2018-3002953

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 has filed a formal complaint with the Commission and is requesting that the GET Gas Fixed Charge in the UGI filed and approved tariff be removed from his monthly account billings.

2. The GET Gas Fixed Charge referenced by Complainant is a charge that has been approved by the Commission and is a part of the duly filed and approved UGI Tariff Rate R. The charge was considered and approved at Commission Docket No. P-2013-2356232. A copy of the currently filed GET Gas Tariff Rider is attached as **Exhibit A**.

3. The GET Gas Fixed Charge is a tariff rate that applies to a class of customers whose costs are determined on a class, and not an individual basis. The GET Gas Fixed Charge is the tariff rate applicable to the property. If Complainant prefers not to take natural gas service under this rate class with this incorporated GET Gas Fixed Charge, he is in the same position as any other customer and may elect to switch to a different energy source without liability for the GET Gas Fixed Charge. Complainant also has the option to pay the liability in a lump sum at a discounted rate.

4. Complainant cannot separate the GET Gas Fixed Charge from the other applicable charges that comprise UGI Tariff Rate R. Complainant cannot pick and choose what part of the applicable rate schedule he wishes to pay. Complainant could have inspected the UGI publicly filed tariff and determined his liability for the Get Gas Fixed Charge

5. The language of the tariff is clear. A tariff is a set of operating rules imposed by the Commission that each public utility must follow in order to provide service to its customers. PPL Electric Utilities Corp. v. Pennsylvania Pub. Util. Comm'n, 912 A.2d 386 (Pa. Cmwlt. 2006) Each public utility must file a copy of its tariff with the Commission setting forth its rates, services, rules, regulations and practices so that the public may inspect its contents. 66 Pa. C.S. §1302; 52 Pa. Code §53.25; Philadelphia Suburban Water Co. v. Pennsylvania Pub. Util. Comm'n, 808 A.2d 1044 (Pa. Cmwlt. 2002). Additionally, UGI's tariff is available for public inspection at the Company's website at <http://gasmngmt.ugi.com/UGIU/tariff.shtml> and at the Commission's website. Public utility tariffs must be applied consistent with their language. Public utility tariffs have the force and effect of law and are binding on the public utility and its customers. Pennsylvania Electric Co. v. Pennsylvania Pub. Util. Comm'n, 663 A.2d 281 (Pa. Cmwlt. 1995).

6. The Commission has no authority to allow a public utility to deviate from its tariff even where the Commission concludes it is in the public interest. Philadelphia Suburban Water Co. v. Pennsylvania Pub. Util. Comm'n, 808 A.2d 1044 (Pa. Cmwlt. 2002). A public utility may not charge a rate other than the rates set forth in its tariff. 66 Pa. C.S. §1303. Since the filed and approved GET Gas Fixed Charge is a tariff provision, having the force and effect of law, the language of GET Gas Fixed Charge requiring Complainant to pay the charges does not violate any provision of the Public Utility Code and does not constitute unreasonable service.

7. The Commission's regulation at 52 *Pa.Code*, Section 5.101(a)(4) permits the filing of a preliminary objection to dismiss a pleading for legal insufficiency. The provision at 52 *Pa.Code* § 5.101(a)(4) serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of a case exists, a hearing is unnecessary. 66 *Pa.C.S.*, Section 703(a); Lehigh Valley Power Committee v. Pennsylvania Pub. Util. Comm'n, 563 A.2d 557 (*Pa.Cmwlt.* 1989); Lehigh Valley Power Committee v. Pennsylvania Pub. Util. Comm'n, 563 A.2d 548 (*Pa.Cmwlt.* 1989); S.M.E. Bessemer Cement, Inc. v. Pennsylvania Pub. Util. Comm'n, 540 A.2d 1006 (*Pa.Cmwlt.* 1988); White Oak Borough Authority v. Pennsylvania Pub. Util. Comm'n, 103 A.2d 502 (*Pa.Super.* 1954)

8. Therefore, Complainant fails to set forth any violation by UGI of the Public Utility Code, any order or regulation of the Commission or the UGI tariff. Accordingly, the Formal Complaint has failed to state a claim within the Commission's statutory authority granted in Section 5.21(a) of the Commission's Rules and Section 701 of the Public Utility Code. Consequently, there are no genuine issues of material fact and UGI is entitled to judgment as a matter of law.

Wherefore, UGI moves that this Complaint be dismissed for legal insufficiency.

B. Lack of Jurisdiction to Award Damages

9. Complainant in this proceeding is in effect pleading surprise and requesting the Commission to award Complainant compensation for his apparent failure to perform due diligence and determine that the property he purchased was subject to the GET Gas Fixed Charge for which he is now responsible. While Complainant may have an action against the seller of the property, the Commission is not the appropriate forum to pursue such an action.

10. The Commission may not exceed its jurisdiction and must act within it. City of Pittsburgh v. Pa. Pub. Util. Comm'n., 43 A.2d 348 (Pa. Super 1945). Jurisdiction may not be conferred by the parties where none exists. Roberts v. Martorano, 235 A.2d 602 (Pa. 1967). Subject matter jurisdiction is a prerequisite to the exercise of the power to decide a controversy. Hughes v. Pa. State Police, 619 A.2d 390 (Pa. Cmwlth 1992). As a creation of the legislature, the Commission possesses only the authority that the state legislature has specifically granted to it in the Public Utility Code. 66 Pa.C.S. §§ 101, *et seq.* Its jurisdiction must arise from the express language of the pertinent enabling legislation or by strong and necessary implication therefrom. Feingold v. Bell, 383 A.2d 791 (Pa. 1977).

11. Complainant alleges no violation of any Statute, regulation or order which UGI has violated and which the Commission has jurisdiction to administer. Instead, Complaint requests that UGI remove the "GET Gas Fixed Charge from his account, which order would violate the UGI filed and approved Tariff Rate R and amount to an award of damages to Complainant.

12. The Commission does not have the statutory jurisdiction to adjudicate and determine the relative responsibilities of Complainant and the seller of the property for any possible damages. If the Commission should conclude that UGI was responsible for damages, the Commission does not have the power to enter a judgment for Complainant, but only has the power to allow Complainant to avoid paying the GET Gas Fixed Charge, which determination would amount to a violation of the UGI filed and approved tariff.

Wherefore, UGI moves that this Complaint be dismissed to the extent this Complaint involves the determination of responsibility under tort and/or contract law for any possible damages that Complainant may have suffered by reason of the purchase of the property, matters which should be adjudicated in a civil court which has the power to make a determination of the parties' rights and responsibilities and award damages if appropriate.

RULES AND REGULATION**5. EXTENSION REGULATION - Continued**

5.8 - Pilot Growth Extension Tariff ("GET Gas") Rider

5.8.1 Availability and Purpose. In lieu of the extension rules set forth in Rules 5.1-5.7, the following GET Gas tariff rules may apply. These GET Gas tariff rules will be applied to eligible customers as part of a 5 year pilot program, unless suspended or terminated earlier pursuant to Rule 5.8.4 or Commission order.

The GET Gas pilot program is designed to test new tariff rules to facilitate the extension of natural gas service to the general class of residential homes and non-residential buildings, not currently receiving natural gas distribution service, which:

- (a) are in an Unserved Area (a small group or pocket of customers in a neighborhood location in close proximity to an existing main) or an Underserved Area (a significant portion of a general community or town location or municipality where the Company has identified significant potential for natural gas service demand and existing natural gas facilities are located within a reasonable distance);
- (b) are reasonably expected over time to reach target customer saturation levels which will produce revenues, including GET Gas Rider charges, that will support required investments and not unduly burden existing customers; and
- (c) otherwise meet the applicable requirement conditions of the GET Gas program.

Under the GET Gas Program, the Company may designate Company facilities extended to an applicant or applicants, as "GET Gas Facilities" and will assess an incremental GET Gas Rider charge amount related to the recovery of GET Gas amounts, as determined on a general class basis, from the class of customers who may connect to these GET Gas facilities during an initial twelve year period.

5.8.2 Designation. Subject to the funding limitations set forth in Rule 5.8.5, Company may apply the GET Gas program tariff rules to service extension requests which exceed a cost of \$15,000 from an Underserved Area or an Unserved Area reasonably designated by Company, where:

- (a) there is, in the Company's sole discretion, a reasonable prospect that (i) fifty percent (50%) or more of existing residential homes along the GET Gas project facility extension route or area will convert their primary heating source to natural gas and directly connect to the GET Gas facilities within 12 years ("GET Gas Customers"); and
- (b) the estimated total investment for each GET Gas Customer to be connected does not exceed \$10,000 (inclusive of any projected commercial customers).

Notice to Plead

To: Philip Geanacopoulos:

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:

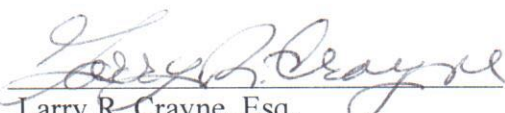
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

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, Amy Wynn, Senior Compliance Representative for UGI Utilities, Inc., hereby state that the facts set forth above 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 any hearing held in this matter. I understand that the statements made herein are made subject to the penalties of 18 Pa. C. S., Section 4904 (relating to unsworn falsification to authorities).

Date:

July 16, 2018

Amy K. Wynn

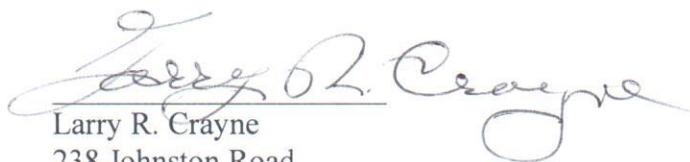
Amy Wynn
Senior Compliance Representative
UGI Utilities, Inc.

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).

Phillip Geanacopoulos
1385 Devon Circle
Allentown, PA 18104

Dated this 16th day of July, 2018



Larry R. Crayne
238 Johnston Road
Pittsburgh, PA 15241

Counsel for
UGI Utilities, Inc.