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ELECTRONICALLY FILED

August 21, 2018

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


**Re: Janet Cole v. UGI Utilities, Inc.**  
**Complaint Docket No. C-2018-3003061**

Dear Ms. Chiavetta:

Enclosed is an electronically filed copy of a Motion for Judgment on the Pleadings of UGI Utilities, Inc. to Formal Complaint.

A copy of the document has been served on the Complainant.

Sincerely,

  
Larry R. Crayne

cc: Janet Cole  
630 Euclid Avenue  
Temple, PA 19560

**Commonwealth of Pennsylvania**

**Before the Pennsylvania Public Utility Commission**

In the Matter of:

Janet Cole,  
Complainant,

Complaint Docket  
No. C-2018-3003061

VS.

UGI Utilities, Inc.,  
Respondent.

**Motion for Judgment on the Pleadings**

**AND NOW** comes Respondent, UGI Utilities, Inc. (UGI), pursuant to *52 Pa. Code*, Sections 5.101 (a) (4) and 5.102 (a), and files the following Motion for Judgment on the Pleadings:

**A. Legal Insufficiency of Pleading**

1. Complainant in this proceeding has filed a Complaint objecting to the installation of a “Smart Meter” on her property. Nowhere in the letter attached to the Complaint is UGI referenced by Complainant as intending to install a “Smart Meter” on her property. Therefore, UGI believes that this Complaint has neither logical relevance nor materiality in regard to UGI providing natural gas service to Complainant.

2. On July 18, 2018 UGI filed an Answer and New Matter to the Complaint. The Answer and New Matter contained a Notice to Plead. To date, Complainant has not filed a response to the New Matter. Therefore, the averments by UGI regarding Smart Meters may be deemed to be admitted.

3. UGI is a natural gas distribution company and neither installs nor employs Smart Meters. Presumably the Complainant is referring to meters installed pursuant to the Commission’s regulations at *52 Pa. Code*, Section 57.251, *et. seq.* UGI does not employ Smart Meters for the delivery of natural gas service. Therefore, UGI has no intent to install a Smart Meter on Complainant’s property. Further, the directives by the Commission regarding Smart Meter installations do not apply to natural gas distribution companies but apply to electric distribution and electric generation supply companies. *52 Pa. Code*, Section 57.252.

4. To the best of UGI's knowledge and belief, Metropolitan Edison Company (Met-Ed) provides electric distribution service to Complainant and has indicated an intent to install an electric Smart Meter on Complainant's property. Apparently, the action by Met-Ed prompted the filing of this Complaint.

5. Complainant has not shown that UGI is responsible for her concern regarding a Smart Meter. To the contrary, based on the regulations of the Commission regarding Smart Meters, this Complaint is obviously not directed toward UGI. A complainant must show that the named utility is responsible or accountable for the problem described in the Complaint in order to prevail. *Patterson v. Bell Telephone Company of Pennsylvania*, 72 Pa. Pub. Util. Comm'n 196 (1990); *Feinstein v. Philadelphia Suburban Water Company*, 50 Pa. Pub. Util. Comm'n 300 (1976). This must be shown by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (1990), *alloc. den.*, 602 A.2d 863 (1992).

6. Section 703 of the Public Utility Code, 66 Pa. C.S.A., Section 703 (b), provides that the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest. A hearing is required only when there is a disputed question of fact, and is not required to resolve questions of law. There is no disputed question of fact involved in this Complaint because UGI does not employ smart meters for the delivery of natural gas. A hearing is clearly not required in this Complaint.

7. 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. Consequently, there are no genuine issues of material fact and UGI is entitled to judgment as a matter of law.

**Wherefore,** UGI is filing this Motion for Judgment on the Pleadings requesting this Complaint be dismissed for the reason that the subject of this Complaint does not apply to UGI. Since no factual issue pertinent to the resolution of this case exists, a hearing is unnecessary. The 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: Janet Cole:

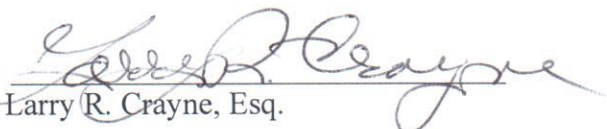
You are hereby notified to file a written response to the above motion for Judgment on the Pleadings within twenty (20) days from service hereof or a judgment may be entered against you. The response must be mailed to the Secretary of the Public Utility Commission:

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 the undersigned.

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

Respectfully submitted,  
UGI Utilities, 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).

Janet Cole  
630 Euclid Avenue  
Temple, PA 19560

Dated this 21<sup>st</sup> day of Aug, 2018



Larry R. Crayne  
238 Johnston Road  
Pittsburgh, PA 15241

Counsel for  
UGI Utilities, Inc.