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September 6, 2018

VIA ELECTRONIC FILING

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

RE: Randy Stewart v. UGI Utilities, Inc. – Gas Division.; Docket No. C-2018-2642778;
COMPLAINANT’S EXCEPTION TO RECOMMENDED DECISION

Dear Secretary Chiavetta:

Enclosed for electronic filing with the Commission is the Complainant’s Exception to Recommended Decision in the above-captioned docket. Copies of the Exception have been served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter. If you have any questions concerning this filing, please do not hesitate to contact my office.

Very truly yours,

Todd S. Stewart
Counsel for Complainant, Randy Stewart

TSS/jld
Enclosure

cc: Administrative Law Judge Conrad A. Johnson (via email and first class mail)
Per Certificate of Service
OSA (via email – ra-OSA@pa.gov)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA ELECTRONIC AND FIRST CLASS MAIL

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DATED: September 6, 2018



Todd S. Stewart

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Randy Stewart	:	
	:	
v.	:	Docket No. C-2018-2642778
	:	
UGI Utilities, Inc.-Gas Division	:	

**COMPLAINANT'S EXCEPTION
TO RECOMMENDED DECISION FINDING
THAT UGI'S TAKING 70 DAYS
TO SWITCH NGSs CONSTITUTES REASONABLE SERVICE**

Now Comes Complainant in the above-captioned matter, Randy Stewart, and hereby Excepts to the Initial Decision (“ID”) of the Presiding Administrative Law Judge, Conrad A. Johnson (“ALJ”). Fundamentally, this case is about UGI Utilities Inc. – Gas Division’s (“UGI”) practices when it comes to switching a customer’s natural gas supplier (“NGS”), and whether in light of all that has happened since UGI’s tariff was approved by the Commission, it is still reasonable service for it to take more than two months to do so. UGI taking 70 days to switch Mr. Stewart’s NGS resulted in him paying a natural gas supply rate much higher than what he had bargained for with his new supplier for more than two months during the highest usage period of the year. That is unreasonable service.

The timing of this case made a remedy for UGI’s obvious failure to diligently change Mr. Stewart’s NGS impractical, because despite his efforts in filing an informal and then formal complaint, the legal procedural process involved necessarily placed any potential remedy far beyond the date of the switch. Moreover, it is fairly obvious that failing to switch a residential

customer's NGS would not likely rise to the level of harm necessary for the emergency order process. The result is that UGI gets to hide behind its anachronistic tariff provision because most residential customers, when faced with the lack of an immediate remedy (that a switch be made sooner than two plus months) and the substantial hurdle of proving a tariff provision unreasonable, simply will not initiate the challenge.

The Initial Decision lamentably found that Mr. Stewart failed to carry his burden of proving that UGI's tariff was unreasonable. Despite the ALJ's recognition of the Commission's ongoing process seeking to shorten the switching period¹, he failed to recognize that a refusal to switch Mr. Stewart's supplier within a reasonable time-period could be unreasonable service, even if arguably it may have complied with the current tariff procedure. In other words, the ALJ erred in failing to find the result in this case to constitute unreasonable service – in spite of the tariff. UGI's witness, Mr. Lahoff's rationalization of the tariff notwithstanding, the tariff is not sacrosanct², and it simply is not reasonable that it should take 70 days for a customer's supplier to be switched especially given the financial harm this causes to customers. Mr. Stewart has no visibility into the why and how of UGI's convoluted switching process, all he can determine is the result in his circumstance: 70 days to switch, which for him equated to paying a natural gas supply rate much higher than what he had bargained for with his new supplier, for more than two months during the highest usage period of the year. The technical explanation of UGI's process provided by Mr. Lahoff in no way proved that the process could not be shortened and still work. Rather, he essentially testified that "this is the way we have always done it."

¹ *Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 59 Regulations Regarding Standards for Changing a Customer's Natural Gas Supplier*, Docket No. L-2016-2577413.

² *Brockway Glass Co. V. Pa. Pub. Util. Comm'n*, 437 A2d 1067 (Pa. Cmwlth. 1981)

The ID cites case law that stands for the proposition that tariff rates are the only legal rates until changed and that any change is prospective only.³ That is the law, as it applies to rates. But here the Commission has a regulation that requires that a switch must occur on the first feasible billing period following the 10 (now 5-day) waiting period. 52 Pa. Code § 59.94. Mr. Lahoff described the process as outlined in UGI's tariff, but he offered no proof that a switch 70-days out was the first feasible switch date. That is where the ID fails. It accepted UGI's testimony as evidence of the reasonableness of the tariff without holding it up to the bright light of the Commission's regulation or a customer's reasonable expectations.

UGI's tariff is unreasonable because it allows UGI to provide unreasonable service. It is that simple. The evidence is clear and on that basis the ID should be reversed.

Respectfully submitted,



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DATED: September 6, 2018

³ *Id.*