

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document

Upon this participant, listed below, in accordance with the requirements of 52 Pa. Code 5.553 and 5.535

And shall be attached to the filed Exceptions relating to service by participant.

Larry R. Crayne, Esq.
Attorney for UGI Utilities, Inc.
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Secretary of the Commission
Commonwealth of PA
Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17120

Commission Office of Special Assistants (OSA)
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Dated this _____ day of _____ 2021

Francene Tearpock-Martini
56 South Main Street
Shickshinny, PA 18655

December 04, 2021

Commonwealth of Pennsylvania
Secretary, Public Utilities Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: C-2021-3027093
Francene Tearpock-Martini v. UGI Utilities, Inc.
EXCEPTIONS - INITIAL DECISION - Exceptions

Dear Secretary Rosemary Chiavetta:

INTRODUCTION BY COMPLAINANT.

Complainant, Francene Tearpock-Martini, resides at her property, 56 South Main Street, Shickshinny Borough, PA since October 22, 1977.

My complaint to PUC was predicated upon having the "guy wires" removed from my private property. Somewhere along the line information was misconstrued that I wanted a pole removed. I understand that poles are necessary; however, consideration as to where the "guy wires" are placed needs to be reconsidered so as not to cause me liability and safety issues. There is no ROW to my private property.

What is most important to emphasize is that my many phone calls, emails, and written correspondence to UGI Utilities requesting proof if they had any justification to trespass, were not taken seriously until I filed a Complaint with the Public Utilities Commission. For that let me say Thank You.

I provided the Commission with a (5) page email thread documenting my phone calls to UGI dating from April 03, 2020 through March 20, 2021 along with my Complaint. (Complainant Exhibit (A) G 1; G 2) The Exhibit even provides copy of correspondence to UGI dating as far back to 2005 requesting same, specifically (Complainant's Exhibit G 1). "Guy wires" have been ongoing problem with trespass running from Utility poles by UGI and subsidiaries of UGI who rent space on UGI Utility poles. (Complainant Exhibit (A) G (a) (5).

As an act of good faith, I provided UGI with (3) options/solutions that would rectify the problem with their "guy wires". However, UGI gave these suggestions no attention nor consideration. I am not seeking money but to maintain the Historical significance of the property that I own which is on the National Historic Register, nominated and placed there in 2009.

For your visual conception, it is a unique property that I own surrounded by 3 Streets - SR 11 South Main Street, West Butler Street also a State Road, and Furnace Street a Borough road. (Complainant Exhibits (A) C 1 - 5) My property is separated by the Furnace Borough road of which I own the property both sides of that road. It is at this location where the anchor "guy wires" were placed by UGI Utilities. (Complainant Exhibits (A) C 5; (A) F 1 - 3) The "guy wires" run off the utility pole situated on the

PennDOT ROW off SR 11. The ROW ends at the sidewalk edge of my property and is 60 feet. This ROW will be addressed in detail under "Exceptions - Findings of Fact" to Judge Barnes' Decision following my Introduction.

There are no other poles with "guy wires" on utility poles in my neighborhood except the pole located at the South Main Street/Furnace Street intersection along my property. I continued requesting information over a long period of time through UGI contact person, Walter Grodzki, for proof to access my private property. UGI Utilities and Walter Grodzki provided no proof. In fact, after many months of discussions, Mr. Grodzki finally admitted that he had no proof to provide. (Refer to Complaint filed before the PUC Exhibit (A) G 2 (1).

Further questioning of UGI Walter Grodzki at Hearing why the pole at Complainant's property was chosen for "guy wires", his reply - and it is recorded at Hearing - "because it was near a curve in the road". There are many curves in roads where poles exist with no "guy wires". As a matter of fact, there is the same curve in the road across the same SR 11 highway from Complainant's property with Utility poles, no guy wires. (Complainant Exhibits (A) F 1 -3 with photos). There are Utility poles elsewhere in the community where there are guy wires and no curves whatsoever. I am not being provided with credible or accurate information. Exception. (Refer to Hearing as well as Complaint Exhibit email thread with Mr. Grodzki, (Exhibit (A) G 2 (1).

Following my Complaint to PUC, UGI subsequently created an Option where they would move a completely different pole, a pole not even in the vicinity of their current trespass, which is located on the south side of Furnace Street at the Front of Complainant's Carriage House, move it upward to the Front of Complainant's Arboretum - an area on a straight road - no curves - a pole which would require a ROW from Complainant - at the Front of Complainant's Arboretum. (Complainant Exhibit N 1, N 2, N -3; Exhibit (A) F 1, 2, 3). This Option was very odd presented to me at my property by George Bokrosh, UGI Senior Tech on August 17, 2021.

Further discussion of this so called "Option" will follow in Complainant's Finding of Fact Exceptions, Item 5, page 3, 2nd paragraph, but make no mistake that George Bokrosh made it clear there would be consequences to me and my specimen tree with this Option. George Bokrosh was very specific and told me the electric wire which had been removed on August 5, 2021, would go back "along my specimen tree like years ago when UGI Tim Sutluff chopped at my tree and was penalized by the PUC for trespassing". Yes, he said that to me. I responded directly to Mr. Bokrosh and told him that this Option by UGI was a "threat not an option". This discussion took place at my property on August 17, 2021. Furthermore, Mr. Bokrosh thought this specific Option by UGI was ridiculous and he said so.

Exceptions: Discussion Conclusions of Law.

Exceptions to Honorable Judge Barnes' INITIAL DECISION DISCUSSION, pg. 7, 1st Paragraph' that the Commission F-2008-2022-125 previously ruled on the "same utility pole at issue in this instant case". That would not be correct. They are entirely different poles at different locations along my property which has about 300 feet of Frontage. As previously noted by me, it is a unique property and perhaps complicated to understand from a distance. And although Attorney Crane for UGI made insults at me during the Hearing that I was flaunting my property with 'photography and expanded deeds', the fact of the matter is that I went through a great deal of effort in providing proof of my ownership even

submitting my Deed of Confirmation - Indenture made March 20, 2017, (Exhibit A 1) which was ordered prepared in that manner by the Honorable Judge of the Common Pleas Court, Luzerne County. I provided many photographs both old in my archives and recent of all views in various locations along my property, where Utility poles were moved and relocated over a period time, to be discussed so as to eliminate any misunderstandings. I did not want for the PUC Commission or anyone including Attorney Crane to be inconvenienced with need to travel to see the matters first hand. Pictures can be worth a thousand words.

Exception to Conclusions of Law: UGI Utilities is not "an inadvertent encroachment" (Judge Barnes' Conclusions of Law Item 13, pg. 10.) Complainant avers it is deliberate trespassing on my property by UGI Utilities and their subsidiaries. They were notified repeatedly over that "very long time". UGI Utilities is deliberately trespassing on my property and I have asked them for many years to remove their wires and not trespass or otherwise provide proof of access. They provided nothing and continued to trespass. (Please refer to Complainant's Complaint with attachments Exhibit (A) G, G 2 (1) which includes communication email thread April 5, 2020 through March 20, 2021.

UGI Utilities is violating my property rights which may not be your jurisdiction (Discussion, 3rd Paragraph Judge Barnes pg. 7 Discussion); however, they have no easements nor any other permission to trespass on my property which I have established through Deeds, Surveys, (Exhibits: (A) A 1; H 1,2,3,4,5, 6) and I see it as a trespass violation of PUC regulations and jurisdiction. Their guy wires are trespassing along with their employees and subsidiaries. Before proceeding to other level Courts, I am in agreement with the Honorable Judge Barnes that negotiations should be entertained; however, I have been there done that with UGI Utilities for a good number of years to no avail. I must protect my property.

Complainant provided (3) options which were totally dismissed by Attorney Crane for UGI Utilities. Complainant's Options were discussed at Hearing. Complainant's Options were safe, cost effective and require no trespassing. Complainant's Option 3 would even eliminate a pole which would save UGI Utilities many unnecessary expenses on pole maintenance.

Complainant's Options - # 1. Move the utility pole across the highway where PennDOT has ROW and plenty of space for their guy wires. Complainant's Option # 2. Keep utility pole at its current location on PennDOT ROW. Use a stronger pole to carry their load increase - a pole that won't require "guy wires". Complainant's Option # 3. Continue the electric where poles and wires are already established running from South Main Street to W. Butler Street, to Church Street, to Furnace Street. Correct the minor 'gap' that Walter Grodzki, UGI Engineer testified to at Hearing when questions by Complainant on her Option 3. Complainant's (3) Options are safe, cost effective, require no ROW, easements or trespassing and even eliminate a utility pole thus saving UGI money in pole maintenance costs.

Complainant has outlined the Exceptions more thoroughly under "Exceptions, Finding of Fact" relative to "Exceptions Discussion Conclusion of Law" outlined herein. Therefore, Complainant is filing this appeal in this manner for your review. Thank you.

COMPLAINANT EXCEPTIONS, REPLIES TO EXCEPTIONS - INITIAL DECISION

Finding of Fact Items - Exceptions

Item 1 - pg. 2 - No exception.

Item 2 - pg. 2 - No exception.

Item 3 - pg. 2 - Exception - Complainant Exhibits for Historic Significance should include Complainant's Exhibits (A) D 1, 2, 3, 4, 5; E 1 - 2; as well as K 1.

Item 4 - pg. 3 - No Exception.

Item 5 - pg. 3 - Exception(s) Respondent R - 4 Exhibit is not accurate nor relevant. Respondent R -4 Exhibit represents 1700's before land and streets (265 acres) were even plotted out and developed. Warrior paths of Native Americans existed in 1700's. Borough became incorporated the year, 1861, with plots, lots and streets dedicated.

Pole and single-phase line was changed by UGI August 5, 2019 and transferred to an existing Furnace Street pole following a significant double rig trucking accident that was hauling scrap metal and other contaminants, both corners of South Main and Furnace Streets, damages to claimant's property stone walls, landscaping, including damages to tree lines, curbs, sidewalks and two utility Complainant's Chubb Insurance and Complainant poles on PennDOT ROW - costs absorbed by Complainant's Chubb Insurance and Complainant. PennDOT and Borough do not acknowledge costs of maintenance on their ROW. By some Borough Ordinance, Complainant has that responsibility for any maintenance and repairs regardless of accidents not caused by Complainant. (Reference Mark Yeager, County Supervisor, PennDOT; Sam Galante, County Manager, PennDOT.)

Item 6 - pg. 3 - Exception. Respondent R- 6. Unable to read exhibit illegible small print. Fact of the matter is the Utility pole over time changed various locations, sizes, and loads, since 1951 to include present "guy wires" which were non-existent at a prior time in history but now installed outside of ROW onto Complainant's property. No one, not even PennDOT, has permission nor has the authority to give unbridled ROW permission onto others to trespass. UGI Utilities are trespassing on Complainant's property with their guy wires and their employees. PennDOT ROW ends at sidewalk edge.

(Exception. Respondent Exhibits R 5 through R 8 is a compilation of non-factual and irrelevant data meant to distract and mislead real information. R -5 page 1 portrays a Cover Display dated 1986 from Reilly Associates. R - 6 is not legible. R -7 displays a recent photo at corner of Complainant's South Main/Furnace Street property. Path lights and Cypress trees can be seen on the photo which were installed and planted in 1916 by complainant so it dates the photo after 1916. R -8 is a photo not taken anywhere near or of Complainant's property and is irrelevant.)

Item 7 - pg. 3 - Exception. Property is at located at corner of SR 11/South Main Street and Furnace Street. (PennDOT) SR11 has a 60 feet ROW not a 66 feet ROW; Furnace Street, a Borough road, has a "variable width of ROW". Variations not determined. Although a Utility Pole is located at SR 11 location approximately 12 feet from Furnace Street corner, PennDOT ROW ends at the sidewalk edge to

Complainant's private property. PennDOT's ROW jurisdiction at SR 11 has no jurisdiction on Furnace Street which is a Borough road with Variable width ROW undetermined. Complainant provided current Certified Land Surveys. (Complainant's (A) Exhibits - A, C, G, H, J.) Respondents Exhibit R -4 is obsolete and not relevant as further noted in Complainant's Exceptions Items 5 and 6.

Item 8 - pg. 3 - Exception. Furnace and Church Streets are serviced by poles and lines running from South Main Street, to Butler Street, to Church Street, and Furnace Street with a very minor variation which "gap" was explained at Hearing by Walter Grodzki for UGI (Refer to Hearing) and can be adjusted

and eliminate that pole. (See Complainant's (A) Exhibits B 1, 2, 3, 4; F 1, 2, 3); Complainant's Testimony at Hearing on Complainant's Option One, Two and Three, further delineated in correspondence September 15, 2021, September 21, 2021 and September 27, 2021 with additional Exhibits requested and accepted into record by Honorable Judge Barnes.

Item 9 - pg. 3 - Exception. Respondent's Exhibit R 7 photo does not accurately depict car accident of pole of 1991 accident. Respondent's Exhibit R - 7 is a very current and recent photo. At time of Accident of 1991, there were building structures on the property right adjacent to the corner curb. (Complainant's (A) Exhibits H 1 through 6.) There were no 'guy wires' or they would have been inside someone's home. All of that was removed through efforts of present owner of property, i.e. Complainant. Respondent's Exhibit R - 7 photo portrays Complainant's current "Lands" Landscaped with path lights and shrubbery. R - 7 does not portray 1991. There was no survey provided by a Certified Land Surveyor in Item 9. Respondent's Exhibit R 6, although not clear to read small print, it is clear enough to note the Exhibits are sketch maps not Certified Land Surveys with Official Seal. Complainant is the only participant in this matter to provide current Certified Land Surveys.

Item 10. - pg. 3 - Exception: Respondent's photo in Exhibit R - 8 is not of Complainant's property. It has no relevance to Complainant's property.

- pg. 3 - Exception: M Exhibits by Complainant are also mischaracterized in the Decision. There is no evidence that the item in the photographs is Complainant's property pin. Item characterized by UGI as "Complainant's pin" appeared out of nowhere after all these years and was not on Complainant's property as of 09 08 21. Photograph taken on 09 08 21 of property by Complainant exact location shows no pin. Note also that surface around metal type item found by UGI on 09 10 21 is smooth dirt surface and does not show anything above grade until 09 10 21. On 09 10 21, a phone call to Complainant by UGI George Bokroch that UGI found complainant's "property pin" is mischaracterization. (Complainant's Exhibits M 1, M 2, M 3). Mischaracterizations described in detail September 15, 2021 correspondence and Exhibits M 1, M2, M 3 submitted in accordance with Judge Barnes instructions for submissions post Hearing.)

Item 11 - pg. 3 - Exception. UGI R 1 Exhibit is not a survey from a Certified Land Surveyor. It is a sketch from UGI Utilities engineering department.

Item 12 - pg. 3 - Exception. - Simply because someone trespasses 'for a very long time' does not make it right to encroach or trespass. Attachment of the Aerial guy wires encroaching are at land level - Land of Francene Tearpock-Martini.

Furthermore, UGI Utilities is not "an inadvertent encroachment" (Judge Barnes' Conclusions of Law Item 13, pg. 10.). Complainant avers it is deliberate trespassing on private property by UGI Utilities and their subsidiaries. They were notified repeatedly over that "very long time" to remove the guy wires and cease trespass or provide proof to access. UGI has provided no proof. They are trespassing and in violation. A PennDOT ROW is not beyond limits and does not provide unbridled access to Complainant's private land.

Item 13 - pg. 4 - Exception. Respondent Exhibit R 1 is not a Certified Land Survey. It is a sketch map from UGI Utilities engineering Department. The Utility Pole is located on PennDOT ROW. It is not on

Furnace Street. The guy wires are located on Complainant's private property. There is not any defined ROW on Furnace Street - variable width yet to be established by a Certified Land Surveyor. Complainant has had 3 separate surveys by Certified Land Surveyors with no determined width at the Furnace Street. The guy wires are on the private property of Francene Tearpock-Martini and in trespass. The guy wires are not in a public right of way. (Complainant's (A) Exhibits H 1 through 6).

Item 14 - pg. 4 - No Exception.

Item 15 - pg. 4 - Exception. George Bokrosh is not a Certified Land Surveyor. Mr. Bokrosh has no rights to trespass on private property owned by Francene Tearpock-Martini. Property is posted; no trespassing. Complainant is the taxpayer owner of said property location in trespass.

Item 16 - pg. 4 - Exception. George Bokrosh provided (2) Options not (3) Options.

Item 17 - pg. 4 - Exception. Option 1 by UGI would require trespass on Complainant's private property. (Refer to UGI sample photograph of contraption - Respondent's Exhibit R 8). It would be a safety hazard on PennDOT ROW, a safety hazard to the Public who utilize the Public walks, and to Francene Tearpock-Martini whose responsibility is to maintain the sidewalks, curbs, of ROW. This Option is unreasonable. It would require approval by PennDOT, Borough as well as Complainant who will object to added liability.

Item 18 - pg. 4 - Exception. "Option" continues to be mischaracterized as an "Option" - UGI on August 5, 2021, relocated single phase wire to location of pole in front of Complainant's Carriage House on Furnace Street. So as not to be repetitive, please (refer to Exception by Complainant Item 5, 2nd paragraph, for details on wire transfer.) (Refer to Complainant (A) Exhibit F) Pole in Front of Carriage House.)

Item 19 - pg. 4 - Exception. There were 2 Options, not 3 Options, provided by UGI. Referencing this Item 19, (Respondent's Exhibit R 3) would require construction and maintenance of a contraption that would interfere with the public walkway. They obviously would not be allowed on my private property so they would depend upon their ROW through PennDOT at that location. Complainant is responsible for maintenance at the public sidewalks; complainant is responsible for snow removal at that location, cutting grass at the tree lawn, weeding, trimming, public pedestrians and particularly children walk to the school bus at that location. It would create a safety hazard at that location. (See a photo example

of their contraption Respondent's Exhibit R 8). As anyone can see, the guy wires still run at an angle outward. They would not be allowed to run their guy wires onto Complainant's property and continue to trespass.

Furthermore, UGI subsidiaries utilize that utility pole because UGI rents use of their poles to others who also take liberties and trespass. There would be no one to oversee this activity just as happens presently when utility employees run up and down Complainant's private property. (See Complainant's Exhibit (A) G 2 (1) to Formal Complaint.) There are liability issues. Complainant has recommended they use a bigger stronger utility pole at their PennDOT ROW to support their increased loads (or) move their pole across the highway SR 11 at another PennDOT ROW location. Complainant has enough maintenance responsibility to care for with 300 feet of sidewalks all frontage and public. Complainant can't patrol 24/7 with all that activity and trespass. It would be a liability to Complainant. Complainant is responsible for maintenance of sidewalks and curbs through Borough Ordinance. Complainant is still paying for an accident that occurred there that was not caused by Complainant but by an out of control double rig truck driver carrying scrap metal and other contaminants.

Item 20 - pg. 4 - No Exception.

Conclusions of Law - Exceptions

Item 1. No Exception.

Item 2. No Exception.

Item 3. No Exception.

Item 4. No Exception.

Item 5. No Exception.

Item 6. No Exception.

Item 7. No Exception.

Item 8. No Exception.

Item 9. No Exception.

Item 10. Exception. While property rights and valid ROW agreements may be argued in the Courts of Common Pleas, case at hand with the PUC, Complainant has provided proof of ownership through Deeds and Certified Land Surveys, title searches; (A) Exhibits A, H 1 through 6, whereas violators of trespassing have provided no proof by way of deed, title, or anything even remotely current to present evidence and this case.

Item 11. Exception. While the UGI may have a statutory right to occupy streets, highways and other public ways; they do not have access to private property outside the ROW jurisdiction or perimeters.

Item 12. No Exception.

Item 13. Exception. The Arial encroachment off of Utility Pole is not an "inadvertent encroachment". It is a deliberate violation. UGI Utilities has no right to access private property and is trespassing. UGI Utilities was notified for a "very long time" that they were trespassing. Complainant asked UGI repeatedly for a long period of time to provide proof of access. UGI utilities disregarded requests for proof and in fact admitted that they had no proof. (Complainant's Exhibits made part of Formal Complaint (A) Exhibits G 2, G 2 (1). Additionally, testimony at Hearing admission by UGI representative Grodzki admission of trespass. (Note Complainant's Exception to Finding of Fact Item 12). Exception to Conclusions of Law Item 13 has also been incorporated into Complainant's Exceptions to Findings of Facts (Item 12).

Furthermore, although guy wires are being characterized as Arial, encroachment also exists at ground level where they are significantly attached at surface to Complainant's Land. In addition, UGI utilities and their subsidiaries have continued to run up and down Complainant's private land trespassing even when asked to leave private property; even when repeatedly asked for proof to access, and Complainant requests were ignored. Property is posted as no trespassing.

Item 14. Exception. Public Right of Way does not provide unbridled access to private property. Pole named in this case is not the same pole nor even the same ROW location of case Opinion and Order entered June 19, 2009. There were penalties to UGI Utilities by PUC in 2009 for trespass to Complainant's property. There is permanent damage to Complainant's property as a result of that trespass.

15. Exception. Complainant has satisfied burden and has demonstrated that UGI has violated the Public Utility Code, a Commission order or regulation since issue in Complaint Filed was "guy wires" and not the Utility Pole. (Refer to Complaint filed with PUC by Complainant.)

Respectfully submitted,



Francene Tearpock-Martini

56 South Main Street
Shickshinny PA 18655
(570) 542-2346

Cc: Honorable Judge Elizabeth H. Barnes
Attorney Larry R. Crane for UGI Utilities

CERTIFICATE OF SERVICE

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Dated this 4th day of December 2021


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