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December 16, 2021

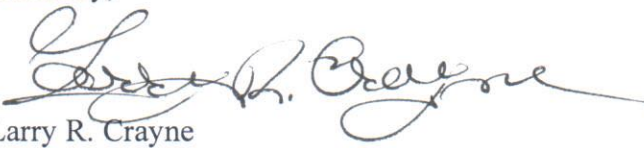
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**Re: Francene Tearpock-Martini v. UGI Utilities, Inc.**  
**Complaint Docket No. C-2021-3027093**

Dear Ms. Chiavetta:

Enclosed is an electronically filed copy of UGI Utilities, Inc's Reply to Exceptions to Initial Decision in the referenced Formal Complaint. A copy of the document has been served on the Complainant.

Sincerely,

  
Larry R. Crayne

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

Office of Special Assistants  
[ra-OSA@pa.gov](mailto:ra-OSA@pa.gov)

**Commonwealth of Pennsylvania**

**Before the Pennsylvania Public Utility Commission**

In the Matter of:

Francene Tearpock-Martini,  
Complainant,

Complaint Docket  
No. C-2021-3027093

VS.

UGI Utilities, Inc.,  
Respondent.

**Reply to Exceptions to Initial Decision**

**AND NOW** comes Respondent, UGI Utilities, Inc., (UGI or Respondent), and replies to Exceptions filed by Complainant in the above proceeding. Complainant has filed exceptions to the Initial Decision of Administrative Law Elizabeth H. Barnes (“ALJ Barnes”) dated November 16, 2021 denying her complaint. The Exceptions are dated December 4, 2021 and were received by email on December 7, 2021.

Complainant raises no new relevant or material issues in her Exceptions to the Initial Decision. Complainant continues to argue that the electric utility facilities are not properly located in public rights-of-ways, and that they somehow present a safety hazard to Complainant and the public. Apparently of most concern to Complainant, is a detriment to the esthetics of her property. Complainant’s belief that the decision of ALJ Barnes is incorrect is based on no substantive point of law. Complainant’s Exceptions are merely based on her subjective beliefs and unfounded assertions, which were rejected by ALJ Barnes in the Initial Decision after careful review and consideration of the facts, evidence and testimony.

Complainant's Exceptions begin with a three-page unnumbered "Introduction" regarding her interactions with UGI regarding the electric facilities in the vicinity of her property. The Introduction consists of testimonial allegations and arguments regarding the electric facilities and her property, most of which were made or should have been made on the record at the September 14, 2021 hearing of her complaint. Additionally, Ms. Tearpock-Martini details three options that she believes are superior to the Options, or Alternatives, proposed by UGI at hearing. Her proposed options are 1) move the subject pole across the street; 2) install a stronger pole; and 3) reconfigure the electric facilities in the vicinity of her residence. These options were discussed by UGI's witness Mr. Grodzki and were appropriately rejected by ALJ Barnes.

At hearing, UGI presented three Options, or Alternatives, for reconfiguring the facilities. I.D., Findings of Fact Nos. 16, 17 and 18. Please note that UGI’s Alternative 1 has two subparts, Subpart A and Subpart B. UGI's Alternative 1, (Subpart A) would leave Pole #44024/36283 in

its current location. UGI would remove the anchor guy from Furnace Street and install a sidewalk anchor guy adjacent to Pole #44024/36283. UGI's Alternative 1, (Subpart B), actually a second Alternative 2, would involve disconnecting the single-phase primary line from Pole #44024/36283 and connecting the line to Pole #44016/36274. All facilities would be in the public road right-of-way with the implementation of both Subparts for Alternative 1, Subpart A and Alternative 2, Subpart B.

UGI's Alternative 3 involves the relocation of Pole #44009/36281 approximately 12 feet to the northwest and to the rear of Complainant's property on Furnace Street. The single-phase primary on Furnace Street would then run from Pole #44024/36283 to the relocated Pole #44009/36281. A line guy would be run from Pole #44024/36283 to Pole #44009/36281. This configuration would require a right-of-way for a sidewalk anchor guy near the back of Complainant's property and behind a stone wall. UGI Exhibit R-3.

Because the Introduction in Complainant's Exceptions is unnumbered, Respondent cannot respond *seriatim* to the Introduction. Therefore, UGI will respond *seriatim* to Complainant's numbered Findings of Fact and Conclusions of Law and Exceptions beginning on page four of the Exceptions.

### **Response to Complainant's Findings of Fact Exceptions**

Item 5 - pg. 3 - Complainant argues that Respondent's Exhibit R-4 is not "accurate or relevant" and represents a depiction of the land from the "1700's before land and streets ...were even plotted out and developed." To the contrary, Respondent's Exhibit R-4 is a three-page copy of the Commonwealth of Pennsylvania's Department of Highways ("PennDOT") visual record, which shows the relevant 66-foot-wide right-of-way for what is now SR Route 11 in the vicinity of the Complainant's residence. Complainant simply refuses to recognize the legitimacy of the Commonwealth of Pennsylvania's established public road rights-of-way, which have been established and have, by necessity, changed over time. Complainant's reference to a 2019 accident on Highway SR Route 11 and damage to the electric facilities are neither relevant nor material to the existence of the public roadway and the right of UGI to maintain its electric facilities in the public roadway. The exception should be denied.

Item 6 - pg. 3 - Respondent's Exhibit R-4 is not unreadable. The document was taken from PennDOT microfiche. UGI enhanced page three of the document for Complainant's convenience to show that under General Notes the legal width of the right-of-way for the highway is 66 feet. Respondent's Exhibits R-1, R-2 and R-3 also illustrate that the width of Highway Route 11 is 66 feet. Respondent's Exhibits R-5 through R-8 were offered by UGI to provide perspective for Complainant and the record. Exhibit R-5 is an historical document for the Borough of Shickshinny, which shows a 40-foot right-of-way for Furnace Street. Exhibit R-6 is a UGI document that shows the location of Pole #44024/36238, which is the pole with the guy wires that are objectionable to Complainant. Exhibit R-7 is a photograph of the corner of Route 11 and Furnace Street, which shows the pole and the guy wires. Exhibit R-8 is a copy of a pole with a sidewalk anchor guy similar to the guy that UGI has proposed in its Alternative #1, (Subpart A),

to install to eliminate the guy wires Complainant finds objectionable. I.D., Finding of Fact #17. The appropriate foundations were established for these exhibits and ALJ Barnes appropriately weighed and considered their relevance and legitimacy. This exception should be denied.

Item 7 - pg. 3 - Without documentary proof, Complainant asserts that PennDOT does not have a 66-foot right-of-way on SR Route 11 and that the right-of-way on Furnace Street is a variable right-of way. Complainant's argument ignores UGI Exhibits R-1 through R-5, which illustrate the width of the relevant public rights-of ways on SR Route 11 and Furnace Street. Complainant presents no credible documentation of right-of-way widths to the contrary. Complainant references that she provided "Certified Land Surveys" seemingly to support her challenge to PennDOT's easement and authority. Complainant's Exhibit A is a deed and does not support her claims or conclusions regarding the public right-of-way. Complainant's Exhibit C contains photographs, which similarly do not support her claims or conclusions regarding the legitimacy of the public right-of-way. Complainant's Exhibit G consists of a letter by Complainant to UGI and photographs and is not evidence of the existing right-of-way. Complainant's Exhibit H are historical documents that neither illustrate nor represent the current right-of-way width of SR Route 11 and Furnace Street. Complainant's Exhibit J is a July 2, 2008 letter, apparently from PennDOT, that references the location of "signs" for an undefined location on SR 11 and Furnace Street. The letter does reference a 60-foot right-of-way, "in the subject location", wherever that is. A casual reference in a letter is not credible evidence of the widths of the SR Route 11 and Furnace Street rights-of-way. In any event, UGI has shown that the electric facilities are located in public rights-of ways. I.D., Findings of Fact #'s 6, 7 and 13. This exception should be denied.

Item 8 - pg. 3 – Complainant attempts to describe UGI's electric facilities on Furnace and Church Streets and claim that the facilities can be adjusted to her specification. However, Respondent's witness Mr. Grodzki testified at length regarding the necessity of the facilities serving the public in the vicinity of Complainant's residence and explained the appropriate options to reconfigure the facilities in a safe and reliable manner. This exception has no factual basis and is simply further argument by Complainant that the electric facilities should be located anywhere other than in the vicinity of Complainant's property. This exception should be denied.

Item 9 - pg. 3 - The occurrence of a car accident in 1991 and historical building structures on Complainant's property is neither relevant nor material to the current configuration of the rights-of ways for SR Route 11 and Furnace Street. The current configuration and location of the rights-of-ways and the location of current utility facilities is what is important today. Complainant's continuing references to "Certified Land Surveys" is also neither relevant nor material. Complainant has cited no authority that certified land surveys are required for the establishment of public road rights-of-ways. This exception should be denied.

Item 10 - pg. 3 - Respondent never asserted that Exhibit R-8 was on Complainant's property. Exhibit R-8 was only offered to illustrate to Complainant and to illustrate for the record that the subject guy wires, which are located on the public right-of-way, can be reconfigured from their present location to a location adjacent to Pole #44024/36238 by the use of a sidewalk anchor guy. Exhibit R-8 was offered to help Complainant understand UGI's Alternative #1 (Subpart A)

to install a sidewalk anchor guy on Pole #44024/36238 and eliminate the guy wires about which she has complained. Complainant has made much about the property pin. The property pin is what it is. Complainant has tried to argue that the property pin discovered by UGI was apparently placed there by UGI. Complainant's argument about the property pin is superfluous. The property pin and Exhibit M are not determinative of the location of the public road rights-of-ways. This exception should be denied.

Item 11- pg. 3 - As stated previously, certified land surveys from a Certified Land Surveyor are not required for determination of the location of public road rights-of-ways. UGI notes that UGI Exhibits R-1 through R-5, which illustrate the width of the relevant public rights-of-ways on SR Route 11 and Furnace Street, were prepared from relevant PennDOT and Borough documents. This exception should be denied.

Item 12 - pg. 3 - UGI has stated on the record that the aerial line conductors attached to Pole #44024/36283 constitute an aerial encroachment across the corner of Complainant's property. The guy wires anchor located in the Furnace Street public right-of way does not encroach on Complainant's property. Respondent has offered three Proposals/Alternatives to resolve this inadvertent aerial encroachment and at the same time remove the guy wire anchor. I.D., Findings of Fact 17, 18 and 19. Complainant has rejected all three Proposals/Alternatives. This exception should be denied.

Item 13 - pg. 4 - This exception constitutes argument. Certified land surveys are not required for the location of public utility facilities. Therefore, this exception should be denied.

Item 15 - pg. 4 - This exception constitutes argument by Complainant. See UGI's responses to Complainant's Items 5 and 6. The defined width of the rights-of ways for SR Route 11 and Furnace Street are shown on UGI Exhibits R-1 through R-5. Complainant's surveys cannot reasonably dispute the PennDOT and Borough documents or make them ineffective. This exception should be denied.

Item 15 and 16 - Mr. Bokrosh was never presented as a "Certified Land Surveyor". The record will reflect that UGI provided three Options/Alternatives to Complainant. This exception should be denied.

Item 17, pg. 4 - This exception constitutes argument. Mr. Grodzki testified that sidewalk anchor guys are used at other locations. UGI presented Exhibit R-8 which illustrates the use of a sidewalk anchor guy at another location. The sidewalk guy as proposed in Alternative 1 would not be on Complainant's property and would not be a safety hazard. This exception should be denied.

Item 18 - pg. 4 - Complainant in this exception is apparently referring to Complainant's alternative for the relocation of Pole #44009/36281. This alternative would involve the relocation of Pole No.44009/36281 approximately 12 feet to the northwest and to the rear of Complainant' property on Furnace Street. The single-phase primary on Furnace Street would then run from Pole #44024/36283 to the relocated Pole #44009/36281. A line guy would be run

from Pole #44024/36283 to Pole #44009/36281. This configuration would require a right-of-way for a sidewalk anchor guy near the back of Complainant's property and behind a stone wall. UGI Exhibit R-3.

Because this Alternative places the electric facilities to the rear of Complainant's property, UGI proposed this option as potentially being the less objectionable option for Complainant. Complainant has rejected all proposals. Since this matter does not appear to be able to be amicably resolved, UGI will ultimately be forced to elect an option to relocate the guy wires and the aerial conductors to a location available in the public rights-of-ways. This exception should be denied.

Item 19 - pg. 4 – See UGI's responses to Complainant's Items 17 and 18 regarding safety of a sidewalk anchor guy. Also, Complainant again complains about possible trespass and the use of the utility poles for other utility services. Complainant has presented no credible proof of trespass by UGI and others, other than the acknowledged inadvertent trespass of the aerial conductors attached to Pole #44024/36238, which aerial encroachment UGI has attempted to resolve with Complainant. This aerial encroachment presents no safety hazard. "Complainant has failed to prove that the 2.5-foot aerial encroachment over the corner of her property is a safety hazard or safety concern". I.D., Page 6. Complainant simply refuses to recognize that public rights-of-way are by necessity available to be used for the provision of multiple kinds of utility services. This exception should be denied.

#### **Response to Complainant's Conclusions of Law Exceptions**

Items 10 and 11 - Complainant's proof of ownership is not at issue. These Exceptions constitute argument.

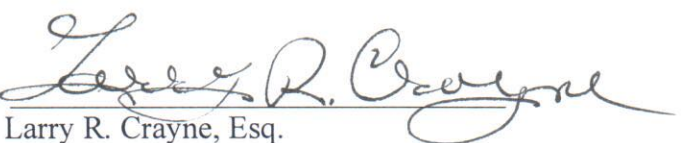
Item 13 - This exception constitutes argument.

Item 14 and 15 - This Exception constitutes argument.

**Wherefore**, UGI requests that Complainant's Exceptions be denied and that the Commission adopt without modification the Initial Decision of Administrative Law Judge Elizabeth H. Barnes.

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).

Francene Tearpock-Martini  
56 South Main Street  
Shickshinny, PA 18655  
ftm@epix.net

Dated this 16<sup>th</sup> day of Dec, 2021



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238 Johnston Road  
Pittsburgh, PA 15241

Counsel for  
UGI Utilities, Inc.