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November 1, 2022

**VIA ELECTRONIC FILING**

Ms. Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor North  
P.O. Box 3265  
Harrisburg, PA 17120

**Re: Investigation into Conservation Service Provider and Other Third Party  
Access to Electric Distribution Company Customer Data  
Docket No. M-2021-3029018**

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Dear Secretary Chiavetta:

Enclosed for filing are the comments of UGI Utilities, Inc. – Electric Division (“UGI Electric” or the “Company”) in the above-referenced docket.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

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Timothy K. McHugh  
Counsel – Energy & Regulation  
UGI Corporation

Enclosure

cc: Certificate of Service  
Jeff McCracken, Bureau of Technical Utility Services (via email)  
Scott Thomas, Law Bureau (via email)  
Christian McDewell, Law Bureau (via email)

**CERTIFICATE OF SERVICE**

**Docket No. M-2021-3029018**

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

**VIA ELECTRONIC MAIL**

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Investigation into Conservation Service :  
Provider and Other Third Party Access to :           Docket No. M-2021-3029018  
Electric Distribution Company Customer :  
Data :

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**UGI UTILITIES, INC. – ELECTRIC DIVISION’S  
COMMENTS TO THE COMMISSION’S  
SEPTEMBER 6, 2022 SECRETARIAL LETTER**

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**I. INTRODUCTION**

UGI Utilities, Inc. – Electric Division (hereinafter referred to as “UGI Electric” or the “Company”) hereby submits Comments in response to the Pennsylvania Public Utility Commission’s (“Commission”) Secretarial Letter issued on September 6, 2022 (“September 6 Secretarial Letter”) in the above-referenced docket. By way of further background, on April 16, 2019, Enerwise Global Technologies, LLC d/b/a CPower (“Enerwise”) filed an Application with the Commission to become a licensed electric generation supplier (“EGS”). While acknowledging that it is not performing and does not intend to perform EGS services, Enerwise applied for EGS status solely to obtain utility data on behalf of its customers.<sup>1</sup> On May 6, 2021, the Commission issued a Tentative Order<sup>2</sup> seeking comments by July 6, 2021 and reply comments by July 21,

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<sup>1</sup> Enerwise is an energy management company, which caters to its customers energy needs through usage management, demand response, and sustainability goals. It also operates as a Conservation Service Provider in Pennsylvania.

<sup>2</sup> See *License Application of Enerwise Global Technologies, LLC d/b/a CPower for Approval to Offer, Render, Furnish, or Supply Electricity or Electric Generation Services*, Docket No. A-2019-3009271 (Tentative Order entered May 24, 2021).

2021.<sup>3</sup> On October 7, 2021, the Commission entered a Final Order in Docket No. A-2019-3009271 denying Enerwise’s Application<sup>4</sup> and directing TUS and the Office of Competitive Market Oversight (“OCMO”) to “initiate a new proceeding to determine if a safe, acceptable path exists for registered CSPs and other third-parties to potentially gain access to customer data electronically from electric distribution companies (“EDCs”) data systems, with customer consent, as permitted under Section 2807(f) of the Code, 66 Pa.C.S. § 2807(f).” Final Order at 15.

Accordingly, on February 8, 2022, the Commission issued a Secretarial Letter initiating its *Investigation into Conservation Service Provider and Other Third Party Access to Electric Distribution Customer Data*, Docket No M-2021-3029018 (“February 8 Secretarial Letter”) in response to the Final Order. Comments were initially due on April 5, 2022; however, in response to the Energy Association of Pennsylvania’s *Petition for an Expedited Order Granting an Extension of Time to File Comments*, the Commission issued a subsequent Secretarial Letter on March 23, 2022 extending the deadline to respond until May 5, 2022. The Company submitted its initial Comments on May 5, 2022 whereby it acknowledged the potential benefits of sharing customer data with CSPs, and expressed its concerns regarding the lack of safeguards to protect private customer information or data.

On September 6, 2022, in response to the initial comments filed at Docket No. P-2021-3030012 and the approval of FirstEnergy’s Default Service Plan filed at Docket No. P-2021-

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<sup>3</sup> Through the Tentative Order, the Commission tentatively granted Enerwise’s application. However, before issuing a final decision, the Commission sought comments on whether Enerwise should be granted a license to access customer data through EDI or web-portal mechanisms. Specifically, the Commission solicited comments regarding whether the Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. § 2801, et seq. permits access of private customer information to CSPs. Additionally, more information was needed before deciding if a safe acceptable path existed for CSPs to receive this information and what safeguards would be needed to protect disclosing it to CSPs. *Id.*

<sup>4</sup> In the Final Order, the Commission determined that an EGS application was not an appropriate vehicle for determining if CSPs should have access to private customer data. Final Order at 14.

3030012<sup>5</sup>, the Commission issued the September 6 Secretarial Letter containing follow-up questions regarding CSPs and other third parties (collectively referred to herein as “Third Party” or “Third Parties”) regarding access to EDCs’ customer data. The Commission invited interested parties to file comments within 45 days after the Secretarial Letter was published in the *Pennsylvania Bulletin*. Accordingly, UGI Electric hereby submits the following comments/responses for the Commission’s consideration.

## II. COMMENTS

UGI Electric is committed to assisting customers to reduce their energy consumption and, consequently, to reduce their energy bills as well. To this end, the Company generally supports safely sharing customer data with Third Parties to potentially provide a customer benefit by identifying and implementing effective and efficient energy conservation measures. However, the Company continues to recognize the potential harm that may occur to customers if safeguards are not enacted to protect private customer information or data. Therefore, echoing its Comments in response to the February 8 Secretarial Letter, the Commission first must determine if it has jurisdiction over Third Parties to enforce violations of customer protections, which are necessary to safeguard the privacy of the data sought by Enerwise. If the Commission determines it has such jurisdiction, the Company recommends it adopt: 1) customer safeguards similar to those required under Section 54.8 of the Commission’s regulations, 52 Pa. Code § 54.8; 2) an opt-in methodology for customers to decide if their information should be shared with Third Parties; and 3) appropriate oversight and monitoring regulations by the Commission that provide the Commission with the means to qualify/disqualify Third Parties utilizing such data. Furthermore, as an EDC with

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<sup>5</sup> As noted in the September 6 Secretarial Letter, on August 4, 2022, the Commission approved a Petition by Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power for approval of their Default Service Plan from June 1, 2023 through May 31, 2027.

100,000 customers or less, UGI Electric should be permitted to maintain its exemption under 66 Pa.C.S. § 2807(f)(6) from any policy or regulations that may be developed regarding EDCs sharing customer data or information via smart meter technology and hereby requests such consideration as part of the Commission's final determination in this matter.

Additionally, UGI Electric hereby offers its responses to the Commission's follow-up questions as set forth in the September 6 Secretarial Letter.

7. **What barriers, if any, prevent EDCs from implementing the components of the third-party data access tariff supplement contained in the FirstEnergy settlement at Docket No. P-2021-3030012, including but not limited to, the following policies?**
  - a. **Implement a standard form of authorization to be used for all new requests from third parties seeking customer data.**

The Company does not anticipate that there will be barriers that would prevent it from implementing a standard opt-in form/letter to allow customers to authorize Third Parties to access customer data. The Company is, however, concerned that there currently is no regulatory structure in place to protect customer privacy and enforce violations by Third Parties regarding misuse and/or abuse of customer data. Before such data can be shared, the Commission must first determine whether it has jurisdiction over the Third Parties in order to be able to enforce violations of customer protections.<sup>6</sup> Neither the Company nor other EDCs are in a position to police the Third Parties with regard to what they do with the customer data. And, private customer information cannot be shared without appropriate regulatory oversight. The Commission, along with its various bureaus and departments, is better situated to: (1) ensure that Third Parties properly acquire and use customer data; and (2) undertake enforcement actions for violations of consumer

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<sup>6</sup> Since CSPs must register with the Commission, the Commission may be able to enforce violations of customer protections through the registration process. However, not all Third Parties that may request customer data will be required to register with the Commission.



safeguards. The result of this proceeding cannot sacrifice customer security. If the Commission determines that it does not have such jurisdiction, then Third Parties should not be permitted at this time to acquire private customer information or data. Allowing access to private customer information or data should only be permitted if and when an enforcement structure is in place to protect customer data. A necessary component for this to occur is that the Commission must have the authority to enforce violations by such Third Parties.

Should the Commission determine that it has the necessary jurisdiction and that customer data sharing with Third Parties is permitted, after receiving appropriate customer authorization, the Company would likely provide customer data either manually (a very limited application) or by providing this information through a secure data portal. However, manually providing such data to Third Parties will be a labor intensive and costly endeavor. Therefore, the Company would prefer to provide such data via a secure data portal.

To the extent the Commission directs EDCs to provide this data in a form or manner which is not currently readily supported, it would likely require a significant IT, labor, or capital investment by the Company in order to satisfactorily respond to all Third Parties' requests. Therefore, the Company would request full and current cost recovery in order to properly respond to such requests. All costs, however, should be borne by Third Parties and not by the Company or its ratepayers.

- b. Conduct periodic, randomized internal audits of participants to ensure that letters of authorization are being properly obtained by third parties. Such audits will occur at least semi-annually and will include at least 10% of active third parties.**

The Company is concerned, in part, with the additional burden and related expenses that it and its ratepayers will likely incur in order to conduct semi-annual internal audits and questions

the appropriateness of placing this oversight role with the EDC. An audit would likely be done manually since the Company does not have an automated system to track letters of authorization, nor should it be required to. The Company is not a party to any agreement, contractual or otherwise, between a Third Party and UGI Electric's customers, and is not bound by any condition or provision of such agreement. The Company believes any such audit is an appropriate function properly undertaken by the Commission's audit staff.

Furthermore, an audit would not prevent the misuse of customer data by Third Parties as it would occur after the customer's data and information had been provided to a Third Party. In the event the customer's information is improperly used, the customer is left with little recourse.

**8. What specific customer electric usage information do the EDCs believe can reasonably be released to 3<sup>rd</sup> parties?**

Currently, the Company would be able to provide a Third Party, manually for each identified account, the following customer specific electric usage information:

- Rate class;
- Load profile;
- Usage for up to 12 consecutive months;
- Estimated peak load contribution; and
- Estimated network transmission service peak load.

The Company would again note that it does not maintain the ability to provide smart meter data information since it is exempt from smart metering requirements as an EDC with 100,000 or less customers. Further, under the technology existing at UGI Electric, there is no automated electronic process to provide individual customer data. Thus, the options for providing the requested data to Third Parties would either involve a burdensome manual process or an additional investment in IT programming. To the extent that the Commission determines EDCs must

accommodate Third Party requests, the Commission should provide for a reasonable timeline for implementation and timely cost recovery as dictated by the needs of individual EDCs.

**9. What specific customer electric usage data do other parties believe EDCs should have available to reasonably be released to 3<sup>rd</sup> parties?**

The Company has no response to this question other than its response to the immediately preceding question. UGI Electric does encourage the Commission to allow individual EDCs to craft EDC specific guidelines surrounding Third Party access to customer data based on the individual EDC's technology, if they so choose.

**III. CONCLUSION**

The Company appreciates the opportunity to provide its comments/responses to the Commission's follow-up questions regarding whether Third Parties should have access to EDCs' customer data. UGI Electric supports the Commission's proceeding to explore these issues and encourages the Commission to form a working group to develop procedures and processes to ensure that adequate and appropriate customer protections are implemented and followed by Third Parties.

Respectfully submitted,



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Dated: November 1, 2022