
Peter J. Kramer

pkramer@postschell.com
215-587-1075 Direct
215-587-1444 Direct Fax
File #: 205592

April 8, 2024

VIA ELECTRONIC FILING

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Doug Wilson v. UGI Utilities, Inc. – Gas Division
Docket No. C-2024-3047554**

Dear Secretary Chiavetta:

Attached for filing is the Preliminary Objection of UGI Utilities, Inc. – Gas Division to the Complaint of Doug Wilson in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Peter J. Kramer

PJK/dmc
Attachments

cc: Certificate of Service

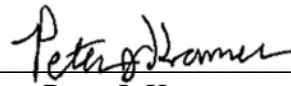
CERTIFICATE OF SERVICE

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 EMAIL AND FIRST-CLASS MAIL

Doug Wilson
3817 Conestoga Rd
Camp Hill, PA 17011
doug@looscanons.com

Date: April 8, 2024



Peter J. Kramer

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Doug Wilson,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. F-2023-3042510
	:	
UGI Utilities, Inc. - Gas Division	:	
	:	
Respondent.	:	

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.101, YOU MAY FILE AN ANSWER TO THE ENCLOSED PRELIMINARY OBJECTION WITHIN TEN (10) DAYS OF THE DATE OF SERVICE HEREOF. YOUR ANSWER TO THE PRELIMINARY OBJECTION MUST BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.

Michael Swerling (ID # 94748)
UGI Corporation
500 North Gulph Road
King of Prussia, PA 19406
Phone: 610-992-3763
Fax: 610-992-3763
E-mail: SwerlingM@ugicorp.com



Devin T. Ryan (ID # 316602)
Megan E. Rulli (ID # 331981)
Peter J. Kramer (ID # 331797)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101
Phone: 717-731-1970
E-mail: dryan@postschell.com
E-mail: mrulli@postschell.com
E-mail: pkramer@postschell.com

Dated: April 8, 2024

Counsel for UGI Utilities, Inc. – Gas Division

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Doug Wilson,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. F-2023-3042510
	:	
UGI Utilities, Inc. - Gas Division	:	
	:	
Respondent.	:	

**PRELIMINARY OBJECTION OF
UGI UTILITIES, INC. - GAS DIVISION TO THE
COMPLAINT OF DOUG WILSON**

AND NOW, comes UGI Utilities, Inc. - Gas Division (“UGI Gas”) and hereby files this Preliminary Objection, pursuant to the regulations of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code § 5.101, and respectfully requests that the Commission strike the portions of the Formal Complaint of Doug Wilson (“Complainant”) requesting damages. In support thereof, UGI Gas states as follows:

I. BACKGROUND

1. UGI Utilities, Inc. (“UGI Utilities”) is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania and a wholly owned subsidiary of UGI Corporation.

2. UGI Utilities has two divisions – the Gas Division (“UGI Gas”) and the Electric Division (“UGI Electric”).

3. UGI Gas is a “public utility” and a “natural gas distribution company” as those terms are defined under the Public Utility Code, 66 Pa. C.S. §§ 102 and 2202, subject to the regulatory jurisdiction of the Commission.

4. UGI Gas provides natural gas distribution service to approximately 650,000 customers, located primarily in south, central, and northeastern Pennsylvania.

5. By Secretarial Letter dated March 19, 2024, UGI Gas was served with the above-captioned Complaint.

6. In the Complaint, the Complainant names Frontier as the name of the utility or company about which he is complaining, and asks for relief related to allegations that NGS Frontier failed to cancel his contract with NGS Frontier per a request made on December 23, 2023. As relief, the Complainant requests to “receive compensation of \$200 for the four hours (so far) [he’s] wasted trying to accomplish something that should have taken no more than five minutes.” (Complaint ¶¶ 2, 5.)

7. UGI Gas herein files this Preliminary Objection to the Complaint. For the reasons explained below, UGI Gas respectfully requests that the portion of the Complaint pertaining to a request for monetary damages be dismissed pursuant to Section 5.101(a)(2) of the Commission’s regulations because a request for damages constitutes impertinent matter. 52 Pa. Code § 5.101(a)(2).

II. STANDARD OF REVIEW

8. Pursuant to the Commission’s regulations, preliminary objections in response to a pleading may be filed on several grounds, including:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.

- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.
- (7) Standing of a party to participate in the proceeding.

52 Pa. Code § 5.101(a) (emphasis added).

9. In ruling on preliminary objections, the Presiding Officer must accept as true all well-pled allegations of material facts as well as all inferences reasonably deducible therefrom. *Stilp v. Cmwlth.*, 910 A.2d 775, 781 (Pa. Cmwlth. 2006) (citing *Dep't of Gen. Serv. v. Bd. of Claims*, 881 A.2d 14 (Pa. Cmwlth. 2005)); accord *Complaint of Nat'l Fuel Gas Distrib. Corp. and Petition for an Order to Show Cause*, Docket No. P-00072343 (December 26, 2007). However, the Presiding Officer need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion. *Stanton-Negley Drug Co. v. Dep't of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlth. 2007). For preliminary objections to be sustained, it must appear with certainty that the law will permit no recovery, and any doubt must be resolved in favor of the non-moving party. *Stilp*, at 781.

10. In addition, the Presiding Officer must determine whether, based on the factual pleadings, if recovery is possible. See *Rok v. Flaherty*, 527 A.2d 211, 214 (Pa. Cmwlth. 1987). Indeed, for preliminary objections to be sustained, it must appear with certainty that the law will permit no recovery. See *Stilp*, at 781; *Milliner v. Enck*, 709 A.2d 417, 418 (Pa. Super. 1998).

II. PRELIMINARY OBJECTION NO. 1 - THE COMPLAINANT'S REQUEST FOR DAMAGES SHOULD BE DISMISSED BECAUSE THE COMMISSION HAS NO POWER TO AWARD DAMAGES

11. UGI Gas incorporates by reference Paragraphs 1 through 10 as if fully set forth herein.

12. The portion of the Complaint requesting damages should be dismissed because the Commission cannot award damages.

13. In the Complaint, the Complainant requests to “receive compensation of \$200 for the four hours (so far) [he’s] wasted trying to accomplish something that should have taken no more than five minutes.” (Complaint ¶ 5.)

14. It is well-established that the Commission does not have authority to order a public utility to pay damages, as requested by the Complainant. *See DeFrancesco v. W. Pa. Water Co.*, 453 A.2d 595, 596-97 (Pa. 1982); *Elkin v. Bell of Pa.*, 420 A.2d 371, 375 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791, 794-95 (Pa. 1977).

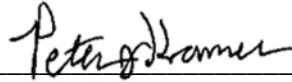
15. Here, the Complainant’s request for damages is impertinent matter “in the sense that it is irrelevant to [the] cause of action” because the Commission lacks authority to award damages. *See Stoner v. PPL Elec. Utils. Corp.*, Docket No. C-2013-2385588, p. 3 (Nov. 14, 2013 (order sustaining preliminary objections). Indeed, requests for damages are regularly stricken from complaints as being impertinent matter. *See, e.g., id.* at pp. 3, 5; *Powell v. Verizon Pa., Inc.*, Docket No C-2011-226876, 2011 Pa. PUC LEXIS 652, at *8-9, 16-17 (Dec. 21, 2011), *adopted by Comm’n*, 2012 PA. PUC LEXIS 374 (Order Entered Mar. 1, 2012); *J.E. Culbertson Co. v. Pa. Elec. Co.*, Docket No. C-2010-2204947, 2011 Pa. PUC LEXIS 781, at *8-9, 12 (Feb. 4, 2011), *adopted by Comm’n*, Docket No. C-2010-2204947 (Order Entered Apr. 8, 2011).

16. Therefore, consistent with longstanding Commission precedent, the Complainant's request for damages is impertinent matter and should be stricken from his Complaint pursuant to 52 Pa. Code § 5.101(a)(2).

III. CONCLUSION

WHEREFORE, UGI Utilities, Inc. - Gas Division respectfully requests that the Public Utility Commission grant this Preliminary Objection.

Respectfully submitted,



Michael Swerling (ID # 94748)
UGI Corporation
500 North Gulph Road
King of Prussia, PA 19406
Phone: 610-992-3763
Fax: 610-992-3763
E-mail: SwerlingM@ugicorp.com

Devin T. Ryan (ID # 316602)
Megan E. Rulli (ID # 331981)
Peter J. Kramer (ID # 331797)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101
Phone: 717-731-1970
E-mail: dryan@postschell.com
E-mail: mrulli@postschell.com
E-mail: pkramer@postschell.com

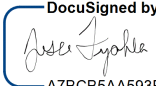
Dated: April 8, 2024

Counsel for UGI Utilities, Inc. – Gas Division

VERIFICATION

I, Jesse R. Tyahla, Director – Energy Supply and Planning of UGI Utilities, Inc., hereby states that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: April 8, 2024

DocuSigned by:

A7BCB5AA593F449

Jesse R. Tyahla