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October 15, 2024

**VIA ELECTRONIC FILING**

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

RE: Petition of UGI Utilities, Inc. – Electric Division for Approval of Default Service Plan (DSP V) for the Period of June 1, 2025 through May 31, 2029; Docket No. P-2024-3049343; C-2024-3049618; **MAIN BRIEF**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is the Main Brief of Penn Renewables LLC in the above-captioned dockets. Copies of the Brief have been served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter. If you have any questions, please feel free to contact me.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Todd S. Stewart", is written over a horizontal line.

Todd S. Stewart  
*Counsel for Penn Renewables LLC*

TSS//jld/das

Enclosure

cc: Administrative Law Judge Dennis J. Buckley (via electronic mail - [debuckley@pa.gov](mailto:debuckley@pa.gov))  
Administrative Law Judge Alphonso Arnold III (via electronic mail - [alphonarno@pa.gov](mailto:alphonarno@pa.gov))  
Per Certificate of Service

**BEFORE  
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of UGI Utilities, Inc. – Electric :  
Division for Approval of a Default Service : Docket No. P-2024-3049343  
Plan (DSP V) for the Period of June 1, 2025 : C-2024-3049618  
through May 31, 2029 :

**MAIN BRIEF  
OF  
PENN RENEWABLES LLC**

Respectfully submitted,



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DATED: October 15, 2024

**TABLE OF CONTENTS**

I. Introduction and Statement of the Case ..... 1

II. Procedural History ..... 4

III. Legal Standard ..... 5

IV. Summary of the Argument..... 7

V. Argument ..... 9

    1. UGI’s Proposed Default Service Rate Mechanism Violates The Alternative  
    Energy Portfolio Standards Act ..... 9

    2. UGI’s Proposal Violates Act 129 ..... 12

    3. UGI’s Proposal Violates the Commission’s Regulations ..... 15

    4. The alleged impacts that UGI seeks to address with its Illegal proposal are  
    speculative at best ..... 18

    5. UGI’s proposal will harm Customer-Generators ..... 20

VI. Conclusion ..... 22

- Appendix A – Proposed Findings of Facts
- Appendix B – Proposed Conclusion of Law
- Appendix C – Proposed Ordering Paragraphs

## TABLE OF AUTHORITIES

### Cases

<i>Homrigh v. Pennsylvania Public Utility Commission</i> , 231 A.3d 1027 (Pa. Cmwlth. 2020, affirmed 664 Pa. 567 (Pa. 2021) .....	8, 12
<i>Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n</i> , 578 A.2d 600 (Pa. Cmwlth. 1990) .....	5

### Statutes

66 Pa.C.S. § 332(a) .....	5
66 Pa. C.S. § 1304.....	8, 9, 12, 16
66 Pa. C.S. § 2807(e)(7).....	2, 13, 14
66 Pa.C.S. § 2807(e) .....	5, 6
66 Pa.C.S. §§ 2807(e)(3.1) and (3.2) .....	6
66 Pa.C.S. §§ 2807(e)(3.1)-(3.7).....	6, 15
66 Pa.C.S. § 2807(e)(3.7).....	7
73 P.S. § 1648.1, et seq. (Preamble).....	1, 4
73 P.S. § 1648.2.....	3
73 P.S. § 1648.5.....	3, 8, 9, 11

### Other Authorities

52 Pa. Code §§ 54.181-54.189.....	7
52 Pa. Code 54.187(c).....	15
52 Pa. Code § 54.187(d) .....	17
52 Pa Code § 54.187(h) .....	16, 17
52 Pa. Code § 54.187(i) .....	13, 16
52 Pa. Code § 54.2 (small business customer).....	2, 13
52 Pa. Code §§ 69.1802-69.1816.....	7
52 Pa. Code §§ 75.13(d-f).....	12
52 Pa. Code § 75.17 .....	20
Preamble to Act 129, 2008 Pa. Legis. Serv. Act 2008-129 (H.B. 2200).....	6
<i>Websters New World Dictionary</i> , 3rd edition (1991). .....	9

## **I. Introduction and Statement of the Case**

There are two parts of this UGI Utilities, Inc – Electric Division (“UGI”) Default Service Plan (“DSP”) matter that are loosely related. First is UGI’s default service matter, DSP V, that concerns the procurement of electricity for UGI customers for the next four years, beginning June 1, 2025. UGI appears to have reached a Settlement with the Office of Consumer Advocate (“OCA”) and the Office of Small Business Advocate (“OSBA”) that resolves that part of the case, and Penn Renewables, LLP (“Penn”) has not participated in any part of that settlement. The second part of this matter is UGI’s effort to deliberately change the classification of customer-generators that wish to participate in the net metering provisions and associated benefits provided by the Alternative Energy Portfolio Standards Act (“AEPSA”), 73 P.S. § 1648.1, et seq. Regardless of UGI’s intent, the ultimate outcome of UGI’s redefining the groups of customers for whom it procures electricity will be to discourage and thwart the introduction of net metered solar energy projects into its distribution system. It is for this second reason that Penn filed a complaint in this matter, and it is these changes in UGI’s DSP V plan that Penn has addressed in this case and in this Brief.

In the months leading up to its DSP V filing, UGI received net metering customer-generator applications for 12 net metered solar installations in the 1,000 to 2,000 kW size range from Penn. Concerned about the impact of such projects, UGI radically modified the default service model that it had used for all of its prior DSP filings in a manner that appears to have been calculated to discourage Penn Renewables’ projects from ever being built. If Penn and other developers persist, UGI’s classification of such projects will impose a payment scheme for excess generation that would compensate those projects at rates far below what is statutorily required and would treat those projects as though they were wholesale sellers rather than distribution level producers

entitled to full retail value. Succinctly, UGI's rate does not comply with the AEPS statute or the Public Utility Code and the Regulations promulgated thereunder.

UGI's scheme is multifaceted and involves inventing a new measurement to classify customers in its existing GSR-2 procurement class – System Peak Load Impact (“SPLI”) – and then trying to convince the Commission that this new measure is the same as Registered Peak Load, which it is not. Then, UGI proposed to classify customer-generators, whose registered peak load is typically less than 25kW, as GSR-2 customers due to their output, which again, no Commission Regulation authorizes. Finally, UGI now seeks to impose a new threshold for inclusion in the GSR-2 procurement class, of 100 kW SPLI, not registered peak load as had been the standard for over 20 years. UGI's plan, however, overlooks the fact that its proposal violates both the AEPSA and Act 129<sup>1</sup>, which requires that small business customers (defined as a customer with less than 25 kW of registered peak load)<sup>2</sup> must have a rate available to them that changes no more frequently than quarterly, among other requirements.<sup>3</sup>

After re-classifying customers by its newly invented measure (SPLI) into GSR-1 customers - who are charged a default service rate based on actual costs of providing default service - and GSR-2 customers, who would receive a rate that changes hourly. UGI admits, by claiming that most GSR-2 customer shop anyway, that it was intended to incentivize those large consuming customers to shop for energy.<sup>4</sup> UGI then applied a rate mechanism to the one hundred plus customers in GSR-2 and the few customer-generators on its system, or which will be on its system – who cannot shop. Tr. 47:17-48:16. This GSR-2 rate mechanism produces a default service

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<sup>1</sup> 66 Pa. C.S. § 2807(e)(7).

<sup>2</sup> 52 Pa. Code § 54.2.

<sup>3</sup> UGI also appears to have allowed its approval process for interconnection to stop and allowed projects that should have been ready to construct, languish. as part of its plan to keep customer-generators off its system. Penn St. 1, 13:6-14; Penn St. 1-SR, 22:1-23; Exhibit JC-12.

<sup>4</sup> On cross examination, Mr. Faryniarz admitted that he did not know how customer-generators would shop or what rates they would receive. Tr. 64.

rate, also known as the “Price to Compare” or “PTC”, for those customers who only consume energy, that mimics the PJM locational marginal price (“LMP”). But for customer-generators<sup>5</sup> who consume very little energy, and instead produce excess energy, the compensation for the excess energy is significantly diminished, and is far less than what 99.9 % of UGI’s a customers who may be consuming the same quantity of energy on the same power lines at the same time would be required to pay. To make things worse, the compensation for excess energy produced by customer-generators would sink below zero at certain times and will sink below the wholesale LMP on a daily basis, which means that customer-generators would be penalized for producing energy. The same is not true for the GSR-2 customers who are only consuming energy, whose rate will never go below zero. UGI’s witness characterizes a less than zero price as a market signal to encourage customer-generators to not produce – as happens with wholesale generators and characterizes customer-generators as having market savvy and the ability to move between the wholesale and retail markets, even though he admitted that he did not know what was required to move between wholesale and retail markets or how long it would take. (Tr. 49-50).

Penn’s wholly owned subsidiaries, the twelve solar projects, are such customer-generators sited at small business customers that have peak loads less than 25 kW. UGI has proposed to reclassify and move these projects to GSR-2, and subject them to a less than compensatory rate, and certainly less than full retail value. The AEPSA requires that Customer-generators receive “full retail value” for every excess kilowatt, not just a few.<sup>6</sup> It is clear also that 99.9% of UGI’s customers (GSR-1) will pay a retail rate that for the vast majority of the time will

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<sup>5</sup> “Customer-generator” is an entity defined by the Alternative Energy Portfolio Standards Act (“AEPSA”) as “a non-utility owner or operator of a net metered distributed generation system with a nameplate capacity of not greater than 50 kilowatts if installed at a residential service or not larger than 3,000 kilowatts at other customer service locations . . .” 73 P.S. § 1648.2.

<sup>6</sup> 73 P.S. § 1648.5.

be substantially greater than the rate proposed for customer-generators and even the customers in the GSR-2 procurement class who only consume energy, will regularly pay higher rates than those paid to customer-generators who would match their consumption with production. Under no regularly occurring scenario are customer-generators receiving full retail value for the energy they produce, i.e., the same rate that retail customers pay for electricity under UGI's proposed scheme. See Exhibit JC-12. Rather, on the day of the hearing, October 1, UGI made an alteration in its filing through rejoinder testimony, yet even with UGI's last minute "change" to credit NSLP and PLC charges, the rate remains far short of full retail value, and UGI's last minute change does not bring the rate into compliance with the AEPSA.

The General Assembly enacted AEPSA because of the benefits it provides to Pennsylvania through the "acquisition of electric energy generated from renewable and environmentally friendly sources."<sup>7</sup> Penn's business plan is to develop and construct distributed generation systems that will produce excess energy and to be compensated for doing so, at full retail value. UGI has decided that the law should not apply in its territory and has done everything in its power to make sure no renewable energy is provided or procured from customer-generators larger than 100 kW. UGI's position is contrary to law, wholly lacking in merit and must be rejected.

## **II. Procedural History**

On May 31, 2024, UGI Utilities, Inc. – Electric Division ("UGI"), filed the Petition of UGI Utilities, Inc. – Electric Division for Approval of a Default Service Plan for the Period June 1, 2025 through May 31, 2029 ("Petition"), along with direct testimony of prospective witnesses and related documents. UGI also requested approval of Associated Potential Transactions with Affiliated Entities. The Petition was published in the June 22, 2024, version of the Pennsylvania

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<sup>7</sup> 73 P.S. § 1648.1, et seq. (Preamble).

Bulletin with a Protest, Intervention, and Answer deadline of July 12, 2024. Answers were filed against the Petition by the Office of Consumer Advocate and the Office of Small Business Advocate, and a Formal Complaint against the Petition was filed by Penn Renewables, LLC.

A prehearing conference was held on June 28, 2024, at which time the parties agreed to a schedule for the service of testimony and dates for evidentiary hearings. On August 2, 2024, the OCA, OSBA and Penn Renewables, LLC submitted direct testimony and on August 30, 2024, UGI, the OCA and OSBA submitted rebuttal testimony. Finally, on September 25, 2024, all parties submitted surrebuttal testimony.

On October 1, 2024, UGI submitted the written rejoinder of two witnesses and a hearing was held before the presiding officers at which evidence was entered into the record and three witnesses were cross-examined. Main Briefs are due to be filed on October 15, 2024.

### **III. Legal Standard**

UGI has the burden of proof in this proceeding to establish that it is entitled to the relief it is seeking. 66 Pa.C.S. § 332(a). UGI must establish its case by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990). In this case, UGI requests that the Commission approve its default service filing, including its changes to the manner in which customer-generators are compensated under the requirements of the AEPSA and, therefore, has the burden of proving that the plan satisfies all applicable legal requirements for it to be approved, including changes to its tariff and changes to procurement classes, among other items.

UGI's default service implementation plan was filed pursuant to Section 2807(e) of the Public Utility Code, 66 Pa.C.S. § 2807(e). Default service is the basic service that Pennsylvania's electric customers are entitled by law to receive if they do not switch to an alternative retail electric

generation supplier (EGS), or if their alternative EGS fails to provide them with service. UGI is the default service provider in its service territory and, therefore, must offer default service that meets specific legal requirements, which includes providing rates and conditions for customer-generators that comply with the AEPSA. In general, Act 129 of 2008, 66 Pa.C.S. §§ 2807(e)(3.1)-(3.7), seeks to ensure the availability to all Pennsylvanians of “adequate, reliable, affordable, efficient and environmentally sustainable electric service at the least cost, taking into account any benefits of price stability over time.” See, Preamble to Act 129, 2008 Pa. Legis. Serv. Act 2008-129 (H.B. 2200). Further, Act 129 declares that it is in the public interest to adopt “energy procurement requirements designed to ensure that electricity obtained reduces the possibility of electric price instability, promotes economic growth and ensures affordable and available electric service to all residents.” Id.

Furthermore, Section 2807(e) requires that the default service provider follow a Commission-approved competitive procurement plan, that the competitive procurement plan include auctions, requests for proposal, and/or bilateral agreements, and that the plan include a prudent mix of spot market purchases, short-term contracts, and long-term purchase contracts designed to ensure adequate and reliable service at the least cost to customers over time. 66 Pa.C.S. §§ 2807(e)(3.1) and (3.2). UGI’s GSR-2 procurement plan includes no long term or short term contracts, no bilateral agreements, no RFP’s and only spot market purchases – but none of those purchases will be directly from the market. Act 129 also requires that the Commission consider whether the default service provider’s plan includes prudent steps necessary to negotiate favorable generation supply contracts and prudent steps necessary to obtain least cost generation supply contracts on a long-term, short-term and spot market basis, and that neither the default service provider nor its affiliated interest has withheld from the market any generation supply in a manner

that violates federal law. See, 66 Pa.C.S. § 2807(e)(3.7); see also, 52 Pa. Code §§ 54.181-54.189,69.1802-69.1816.

Finally, as a default service provider, UGI must also comply with the requirements of the Alternative Energy Portfolio Standards Act, and it must compensate customer-generators at full retail value.

#### **IV. Summary of the Argument**

UGI's DSP V plan to reconfigure the rate structure for default service customers, particularly those in the GSR-2 procurement class, is intended specifically to address UGI's unfounded and unsupported contention that customer-generators, in this case, solar energy projects, will cause harm to its procurement for residential and small commercial customers in the GSR-1 classification. UGI St. 2, 22:19-23:2. Penn Renewable's projects are, by the Commission's definition, also small commercial customers. In this case, however, UGI has failed to introduce any evidence that supports its contention of harm. No actual evidence of harm, no evidence of the alleged cross subsidies, no evidence, other than conjecture that procurement would be impacted if it paid customer-generators full retail value, has been provided.

The evidence of harm to customer-generators, however, is present. Mr. Crist provided numerous examples of how UGI's GSR-2 mechanism will not fairly compensate customer-generators, most strikingly, that the GSR-2 PTC is so volatile that it will regularly go below the wholesale LMP as well as negative price territory so that customer-generators will not be paid full retail value, but rather be forced to pay some non-transparent wholesale price for the energy a customer-generator is producing and which its neighbors are consuming at the full retail value. It is not possible to reconcile a negative price that charges the generator for producing with the

express statutory requirement that customer-generators *receive* full retail value for “*all energy produced on an annual basis*”. 73 P.S. § 1648.5 (emphasis added).

The issue to be resolved is the requirement of the AEPSA that customer-generators be paid full retail value for all excess generation, and the mere allegation that doing so would impact UGI’s procurement for its default service customers. The AEPSA is clear, and nothing in the Public Utility Code contradicts its mandate for how customer-generators are compensated.<sup>8</sup> Considering the Commission Regulations that are violated by UGI’s proposal, it would appear that the opposite is true, that even if paying customer-generators full retail value did increase costs to customers, and there is no evidence in the record that it will, the Public Utility Code would not be in conflict. The Code does not suggest or authorize violating the AEPSA in the name of providing service to small customers.

Contrary to UGI’s lack of proof, there is ample evidence of the harm that UGI would impose upon customer-generators in the name of protecting its procurement process. Harm of charging customer-generators to produce power, harm of non-transparent rates that will change hourly, but will only be knowable weeks after-the-fact. Harm of reducing the reliability of its distribution system by not adding distributed generation and free upgrades to the local grid and harm of discriminating against legal projects that the AEPSA specifically encourages to provide that generation. UGI’s witness even admitted on the stand that they invented new terminology, not authorized in the regulations, but to be included in UGI’s tariff in the effort to keep customer-generators off the UGI system. Tr. 53:13-54:8.

Section 1304 of the Public Utility Code prohibits unreasonable discrimination or disadvantage in rates as between localities or classes of service. 66 Pa. C.S. § 1304. Here, UGI has

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<sup>8</sup> See *Hommrich v. Pennsylvania Public Utility Commission*, 231 A.3d 1027 (Pa. Cmwlth. 2020, *affirmed* 664 Pa. 567 (Pa. 2021) (“*Hommrich*”).

created a structure whose sole purpose is to discriminate as between GSR-2 and GSR-1, by providing a stable transparent, full retail value rate to GSR-1 customers, and a wholesale market based, ever fluctuating rate to GSR-2. The UGI proposal also discriminates within GSR-2, by charging different rates to different customers, one consuming energy and one producing it, with the rate the producer is being paid being far less than the rate the consumer is paying,

In short, UGI has proposed, without evidence, that it be permitted to openly discriminate between customers, in violation of Section 1304 and the Commission's Regulations and in violation of the AEPSA. The Commission should not go along with UGI's plan.

## **V. Argument**

### **1. UGI's Proposed Default Service Rate Mechanism Violates The Alternative Energy Portfolio Standards Act**

Section 5 of the AEPSA, 73 P.S. § 1648.5, requires that net metered customer-generators such as Penn Renewables be compensated for excess generation at *full retail value*. UGI already compensates GSR-1 customer-generators at full retail value, but UGI's proposed GSR-2 rate mechanism will not produce full retail value and is instead a wholesale proxy, a wholesale proxy dressed-up to resemble full a retail rate, but it is not the same. For starters, it does not include the distribution rate for all kilowatt hours of excess production. Tr. 87:21-22. While the term "full retail value" is not defined in the AEPSA. The dictionary definition of "full" is: "having in it all there is space for; Holding or containing as much as possible." "Retail" is defined as "the sale of goods or articles individually or in small quantities directly to the consumer," while "value" is defined as "fair or proper equivalent in money, commodities, etcetera, especially for something sold or exchanged; fair price or return."<sup>9</sup> Therefore, full retail value is the cost of every part of providing retail service. The only rate mechanism that fits the definition of Full Retail Value is the

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<sup>9</sup> *Websters New World Dictionary*, 3rd edition (1991).

GSR-1 rate. Full retail value should recover all of the costs of providing electricity (including distribution charges) for default service customers, including net metered customer-generators, and UGI offers no good explanation of how full retail value can differ as between two customer groups providing the same service, with the only significant difference being size. Section 5 of the AEPSA, the only place where the term “full retail value” is used, does not authorize or even discuss that there could be two separate levels for full retail value based on customer-generator size, even though Section 2’s definition of customer-generator clearly imposes a size limit on net metered projects for residential customers and a different size limit for “other customer service locations”. The only conclusion to be drawn is that the AEPSA did not intend a different measure of retail value based upon size, or it would have imposed one. Such a broad authorization cannot simply be assumed.

UGI’s claim that GSR-2 is a retail rate and therefore should apply to small solar projects sited at small business customers with peak demand less than 25 kW is misleading. The solar projects under consideration are structured to participate in the net metering program, yet large projects that participate in the wholesale market are not net metered facilities. UGI’s contention that the GSR-2 rate applies was clearly refuted by Mr. Crist under cross examination:

Q. Okay. I understand your position on that, but I just want to just clarify, do you - is it a default service rate that's been approved by the PUC?

A. For, yes. For larger customers.

Q. Okay.

A. Greater than 100 kilowatt customers of demand. (Tr. At 103)

When pressed a second time on the same issue, Mr. Crist was clear and consistent in his explanation:

Q. Okay. Right. If, and you talk about locational marginal price there. Is it your position that the LMP is a wholesale rate?

A. Yes, the LMP is a wholesale rate.

Q. Okay. And is it your position, you state in your testimony that the GSR-2 rate is not a retail rate because it's based on the LMP. Is that correct?

A. Yes, it's not a retail rate. Again, for- for our customers, when I say our customers, I'm talking about these small customer-generators. It may very well be a retail rate for customers that have greater than 100kw of peak load, but those are not our customers.

Q. So you agree then that the LMP can be the basis of a retail rate?

A. Yes, for customers that are larger than 100kw.

Q. Okay.

A. Peak load.

Q. So you're saying it can't be a retail rate? It can't be formed to basis of a retail rate for smaller customers?

A. Well this, this of course gets to one of the cruxes of my testimony, Mr. Kanagy. The companies come up with this manipulation which they call the system peak load impact, and that's totally something fictitious that they came up with. So I'm sticking to the Act, the legislation, the regulations. Twenty-five (25) kilowatts is the max capacity of our customer-generators. So, the LMP is not a retail rate for those people.

Q. So, but it can be a retail rate for other people is what you're saying?

A. For greater than 100kw customers, the LMP can be part of the basis of a retail rate. (Tr. at 106-107)

UGI has argued that the Commission's Regulations allow customer-generators to be compensated at a contrived GSR-2 PTC for excess energy, after usage is netted, suggesting that any price to compare can be created so long the class includes consumers and customer-generators. What UGI fails to acknowledge is that full retail value is not the same as the PTC and that the Commission is not granted authority by the AEPSA to modify the payment standard for excess energy.<sup>10</sup> Clearly there is no contemplation in the AEPSA that the value of default service for any customer would be less than zero, and yet that is what UGI proposes.<sup>11</sup> That is, the Statute does not provide the Commission with the authority to promulgate regulations that reduce or adjust the requirement. The Commonwealth Court has held that the Commission's rulemaking authority is limited to technical and net metering interconnection rules, not the broad authority that would be

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<sup>10</sup> 73 P.S. § 1648.5.

<sup>11</sup> Penn St. 1, 21:13-22:9.

required to alter the meaning and intent of the statute.<sup>12</sup> What this means is that to the extent that UGI contends that 52 Pa. Code §§ 75.13(d-f), permits customer-generators to be compensated at anything other than full retail value for every kWh of excess generation, it runs afoul of the plain interpretation of Section 5 of the AEPSA.

In UGI's Rejoinder Testimony it introduces the definitions of wholesale and retail, purportedly from the Energy Information Administration, which supports the dictionary definition – wholesale sales are sales for resale and retail sales are sales made to the consumer; but that is not the issue. Rather, the issue is that the AEPSA requirement is for full retail value and alternating between the words “value” and “rate” as though they were interchangeable, as UGI does, defies the exact wording of the statute. The word “rate” cannot be substituted for “value” as they have very different definitions. UGI has already established full retail value in the manner in which it compensates its existing net-metering customer-generators, the GSR-1 PTC.

It is disturbing that UGI plans to continue to compensate residential customer-generators at the GSR-1 PTC for their excess energy, which it has always done, but in this default service case decided that full retail value means something different for customer-generators with larger generating capacity. It does not. The term is full retail *value*, not retail *rate* and the extent of full retail value does not change based on the customer who is receiving it. The AEPSA makes no distinction based on the size of the customer-generator and UGI's doing so is a blatant violation of the AEPSA and Section 1304.

## **2. UGI's Proposal Violates Act 129**

UGI has provided default service through its two procurement classes since the beginning of its default service program, but always using the registered peak demand threshold. In UGI's

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<sup>12</sup> *Hommrich*.

DSP V it proposes to use a new term to determine which customers are GSR-1 or GSR-2, a term that it created for the task - supply peak load impact (SPLI). The “new” threshold is 100 kW either of peak demand if the customer is only a consumer, or nameplate capacity if one is a customer-generator. Tr. at 51.

This new terminology runs afoul of the very specific requirements of 66 Pa. C.S. § 2807(e)(7), which requires default service providers to offer a rate that changes no more frequently than quarterly for residential and small business customers. Mr. Crist testified that based upon its characteristics, Penn’s projects would be Rate Class GS-4 customers with a registered peak load of less than 25 kW, which means they clearly meet the definition of small business customer.<sup>13</sup> Penn’s peak load for any particular project, each of which is a separate corporate entity with a separate interconnection application, separate meter and separate billing, will be less than 25 kW. UGI’s bald retort is simply that Penn is not a small business customer, is overcome by the facts that say Penn’s small solar projects are each sited at the premises of small business customers and thus are entitled to the protections of Act 129, which cannot be waived. UGI St. 3-R, 13:22-14:2. Ms. Hazenstab’s recitation of the regulations for larger customers, those with maximum registered peak load of greater than 25 kW is merely an attempt at misdirection. It is true that the Commission may permit utilities to adjust default service rates more frequently than quarterly for customers with maximum registered peak demand greater than 25 kW , but only to ensure recovery of costs reasonably incurred in acquiring electricity for customers at least cost over time.<sup>14</sup> UGI presented no actual evidence that its change to the proposed classification mechanism – switching from maximum registered peak load to SPLI -- will have any impact on its ability to ensure recovery of the costs of default service at least cost. The same is true for its belated request for a “waiver of

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<sup>13</sup> 52 Pa. Code § 54.2 (small business customer); Penn St. 1, 22:11-23:11.

<sup>14</sup> 52 Pa. Code § 187(i).

the 25 kW peak load threshold, in order for large customer-generators to be classified as GSR-2 default service customers”. UGI St. 3-R, 14:13-15. The waiver request must be denied for a variety of reasons. First, it is procedurally improper, as the Commission’s regulations clearly state that the party with the burden of proof may not raise matter in rebuttal or later stages of testimony that should have been included in its case in chief, or that varies “substantially” from its case in chief. 52 Pa. Code § 5.243(e)(2). UGI’s request in rebuttal for a waiver is exactly what that rule is intended to prevent – it should have been included in UGI’s case-in-chief as UGI should have been aware that its proposal violates the law. Second, the request is not at all clear about what waiver UGI seeks. First, Ms. Hazenstab uses the words “large customer-generators” where the statute never uses that terminology, making it unclear what she intends. Also, she requests a waiver of the 25 kW peak load threshold, but never says what threshold or what measure of that threshold should apply. Penn reads it as seeking a waiver to extend the small business customer class, at least as to customer-generators that otherwise meet the criteria for the small business designation, to be included in the GSR-2 procurement class despite the regulation stating clearly that small business customers with registered peak load of less than 25 kW are required to be offered a rate that changes no more frequently than quarterly. It also would appear that Ms. Hazenstab has abandoned the use of SPLI in this waiver request by asking for the waiver of the 25 kW limit. Finally, Ms. Hazenstab cites, as the basis for the waiver request, all of the reasons UGI set forth in the proceeding. UGI presented no reasons why a waiver is needed, other than that the current threshold of 25 kW inconveniently prevents UGI from doing what it wants to do. For these reasons, UGI’s waiver request must be denied.

The Public Utility Code, 66 Pa. C.S. § 2807(e)(7), is plain, small business customers’ default service rates cannot be changed more frequently than quarterly. UGI seeks to bypass that

specific requirement by classifying customers not by registered peak load as the regulations require, but rather by SPLI, and by increasing the threshold to 100 kW of either load or supply. While the regulation allows the Commission to be flexible, the conditions under which that flexibility may be invoked are not met here and cannot be used to subvert the intent or letter of Act 129, which guarantees Penn a default service rate that does not change more frequently than quarterly.

### **3. UGI's Proposal Violates the Commission's Regulations**

Based upon the manner by which UGI proposes to calculate the GSR-2 PTC for customer-generators, there will be no default service rate listed on customer bills, rather, customers will be provided with a formula for calculating the PTC in any given hour. Customer-generators will not, however, have access to all the information needed to perform that calculation until 30 days or more later.<sup>15</sup> In other words, the rate, because it will change every hour, and will not be known or transparent so that customer-generators will have no opportunity to adjust output based upon the payment they will receive or make – negative or positive. UGI's failure to provide a single rate option, its failure provide that hourly changing PTC to customer-generators on their bills, and not in time for customers to know in any hour how they will be compensated, and UGI's failure to record the PTC on the customer bill at all, all violate the Commission's Regulations. 52 Pa. Code 54.187(c). That same regulation requires that each customer be offered a single rate option that is displayed on the customer's monthly bill. Neither of these will occur under UGI's proposed half-baked GSR-2 PTC.

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<sup>15</sup> Under cross examination, Mr. Faryniarz admitted that the PJM data needed for the calculation might also be unavailable. Tr. 66:6-67:8. Ms. Hazenstab also admitted that the information needed to perform the calculation would be provided monthly, after the fact, by request. Tr. 81-82.

UGI's proposal also is discriminatory in violation of the Public Utility Code, 66 Pa C.S. § 1304 in that it proports to treat customer-generators differently based upon UGI's unfounded assumption that customer-generators will have the ability to enter and exit the market freely. When questioned about this, Mr. Faryniarz admitted that he had no knowledge of the level of sophistication of any customer-generator. Tr. 58:10-60:14. This "confidence" is also belied by the fact that there are no solar projects under 3000 kW in size that have chosen to enter the PJM wholesale market. Penn St. 1-SR, 14:1-12.

Another blatant diversion in this case is UGI's attempt to substitute the term SPLI for the term Registered Peak Load. The former was invented by UGI for this proceeding, the latter has been the constant standard in the Commission's Regulations for classifying customers for time immemorial. The Commission's Regulations at 52 Pa. Code § 54.187(h) require that for customers up to 25 kW Registered Peak Load, the rate should change no more frequently than quarterly – mirroring Act 129's command that residential and small customers with the same Registered Peak Load, be offered the same option. However, rather than address the fact that its proposal violates the regulations, UGI's Ms. Hazenstab belatedly, in her Rebuttal Testimony, asks for a waiver of Section 54.187(h) (to apply only to customer-generators) while, in an effort to mis-direct, recites the requirement of Section 54.187(i) which addresses customers in the 25 kW to 500 kW *load* size range, which does not apply to Penn Renewables' projects. Ms. Hazenstab offers no basis for this blatant discrimination against customer-generators, to change the standard to include only them, to their great disadvantage, without any explanation why the limitation is needed. This is an obvious and unapologetic display of discrimination in violation of Section 1304 of the Public Utility Code. 66 Pa. C.S. § 1304.

In seeking a belated waiver, Ms. Hazenstab provides no logical reason for granting such a waiver, Ms. Hazenstab suggests that the regulation itself allows for different classifications, which is true, but those classifications must be based on Peak Load not SPLI, and UGI's proposal does nothing to preserve existing customer classes as required by the plain text of the regulation. 52 Pa Code § 187(h). UGI's reason is that it must ensure that it can "procure supply for default service customers at the least cost over time" but offers nothing to support that bald statement. In fact central to UGI's plans to harm customer-generators by forcing them into an illegal rate structure, is the premise that the impact of customer-generators will be to produce rates that are not "least cost over time", yet UGI fails to produce any evidence to substantiate the central premise of its illegal action. Nonetheless, there clearly is no evidence to support UGI's request for a waiver, and none should be given.

The Commission's Regulations at 52 Pa. Code § 54.187(d) require that rates charged for default service may not decline with the increase in kilowatt hours of electricity used by a default service customer in a billing period. It is clear from UGI's own evidence, included with Mr. Crist's testimony, Exhibit JC-6, that non-customer-generator rates will decline under UGI's proposed pricing structure, as consumption increases. Penn St. 1, 25:19-26:3. In particular, with regard to UGI's last minute change to credit customer-generators for the NSLP and PLC charges, it appears in UGI's newly revised response to Penn Renewables Set III No. 8, that crediting these factors will cause even greater volatility in the PTC. UGI deliberately revised the exhibit in a fashion not requested by the on-the-record data request, by setting all PLC values in line 12 and MSPL values in line 13 to custom values, except for the output of the non-customer-generator. The original request was for a single example, holding all of these values constant. This customization appears to have been done in order to mask two facts: 1) that the rates decline as output increases; and, 2)

that the rate for that particular customer-generator would have been lower than that of the other customers during supply, but higher in consumption. The revised version is therefore tainted and cannot be relied upon for any conclusion.

**4. The alleged impacts that UGI seeks to address with its Illegal proposal are speculative at best**

UGI's premise for placing customers into a rate class that would compensate them at a volatile and sometimes negative PTC, in other words, a non-retail rate, is that including customer-generators in the classification to which they otherwise would belong (those with load of less than 25 kW), would impact the rates the other customers in that classification (GSR-1) would pay. There simply is no evidence in this record to support that contention. UGI has failed utterly to produce any credible evidence that including the output of Penn's planned arrays into its bid offerings would cause higher costs. UGI uses the phrase "grid impacts," a term that Mr. Faryniarz admitted under cross examination means procurement impacts, to address its unfounded and more importantly, unproven basis for its illegal rate proposal. Tr. 54:10-17.

Mr. Crist discussed these alleged impacts in his testimony. (Penn St. 1-SR, 24-26). It is true that solar production is variable, but it also is true that it varies in a predictable way, with the rising and setting of the sun, and to some degree with weather, but again, the output of a solar facility is limited by its capacity, so variability is capable of being modeled and accounted for. UGI admits that its procurement plans are flexible and that it can remove certain types of purchases as circumstances change. But UGI never discusses how Penn's clean solar production will make prices for customers higher or quantities of electricity available to serve them lower. UGI St. 2, 15-16. Rather, UGI relies on speculation and innuendo. In Mr. Faryniarz's Rebuttal Testimony he claims that Penn's output would have grid impacts and were likely to have an impact on default service solicitations but offers nothing to substantiate that claim other than to suggest that

customer-generators are generally sophisticated which he could not support under cross examination, and large, which they are not. Tr. 58-59; UGI St. 2-R, 18:5-13.

A review of Mr. Faryniarz' rebuttal testimony yields nothing but speculation regarding the alleged impacts of customer-generators. The best he can say is that these undefined alleged and negative impacts are "likely" and states virtually nothing about the nature of these alleged impacts. He likewise cites no example to show that negative impacts have occurred elsewhere with similarly sized facilities, no evidence of failed procurements, no evidence period; just speculation. UGI's presentation also ignores the fact that customer-generators pay for the system upgrades that are needed for them to interconnect with the distribution system and provide additional reliability by providing more energy locally. Penn St. 1-SR, 25-26. This includes Mr. Faryniarz' subsidy allegation, which under cross-examination proved to be supported only with conjecture and speculation and not by any evidence. UGI St. No. 2-R, 18:14-20:2; Tr. 51:20-52:11.

Attempting to vilify customer-generators by characterizing them as greedy, large, sophisticated entities as a basis for imposing an illegal and unwarranted wholesale rate is not proof, neither is it an evidentiary basis for the illegal discrimination UGI seeks. 66 Pa. C.S. § 1304. UGI has not alleged or supported any basis, nor can it, for discriminating in its application of the AEPSA requirement that customer-generators, regardless of size, be compensated at full retail value for excess generation. UGI provided no evidence that doing so would have any rate impact, nor would it matter. The AEPSA say full retail value and there is no exception in the Public Utility Code that would allow that to be altered. Likewise here is no evidence that customer-generators are large or sophisticated entities with the ability to move between wholesale and retail markets on a regular basis to reap mega-profits at the expense of other ratepayers, as Mr. Faryniarz suggests. Under cross examination, he could cite no evidence whatsoever to support such claims. Tr. 58-59.

UGI has provided no evidence to support its allegations. While customer-generators of Penn's size may be new to the UGI system, UGI cannot use speculative allegations in an effort to keep out the unfamiliar. UGI has failed to carry its heavy burden of proving why it should not have to comply with the AEPSA, the Public Utility Code and Commission's regulations.

#### **5. UGI's proposal will harm Customer-Generators**

As discussed above, the AEPSA mandates that customer-generators receive "full retail value" for all excess generation. Under UGI's proposal, that will not be the case. As Mr. Crist demonstrated in his surrebuttal testimony, and Exhibits JC-10 and JC-11, the reality of UGI's GSR-2 PTC is far from full retail value. JC-10 shows that using actual historic data, the compensation to Penn Renewables under the UGI proposal would be less than full retail value – as embodied in the GSR-1 Rate, which Mr. Crist has agreed is full retail value on the UGI system – for all but one month of the three and a half years represented on the graph. Likewise, Exhibit JC-11 demonstrates on an intra-day basis that the GSR-2 PTC in effect during the actual production hours would be well below the GSR-1 PTC, and in some cases, below zero, but that during non-production hours, would exceed the GSR-1 PTC. What that means is that customer-generators would receive a rate far below the GSR-1 rate when producing the energy that its neighbors are consuming and would pay a rate far above what its neighbors were paying in the non-production hours. Penn St. 1-SR 31-32. Customer-generators will not receive full retail value for excess generation and are being charged more than full retail value when they are "load", i.e., consuming electricity. This violates the Commission regulations at 52 Pa. Code § 75.17, which require kilowatts to be netted against kilowatts and instead nets dollars against dollars, which violates the AEPSA's requirement that they receive full retail value for all excess energy, not just a portion of it, which is what UGI has proposed. UGI's hourly fluctuating PTC means that some kWh are far

more valuable than others and that at the end of the year one kWh worth \$0.50/kWh could net out 10 kWh worth \$0.05/kWh. Such a scheme violates the law and will harm customer-generators. The AEPSA explicitly requires that “excess generation from net-metered customer-generators shall receive full retail value for all energy produced on an annual basis.” UGI’s compensation scheme not only fails to meet the standard of full retail value, it also fails to provide that value for all energy produced on an annual basis, which is belied by UGI’s scheme that values some kWh’s below zero, which clearly is far less than UGI will be paying as full retail value to smaller net metering customer-generators on its system.

Ms. Hazenstab contends that UGI’s proposal will calculate compensation for customer-generators on a kWh for kWh basis (UGI St, 3-RJ, 9:6-18), but “as a function of the hour in which the excess generation occurs.” This contention is pure sophistry. The only way that UGI’s netting methodology can work is if UGI offsets kWh of less hourly value against those hours with greater value, meaning that some kWh do not receive the same retail value as others so that each kWh does not receive full retail value on an annual basis. That is because at its base, UGI’s methodology nets dollars against dollars – because it is a function of the hour, and the wholesale price, in which the energy was generated. In fact it is possible that it could take multiple hours of low cost production to offset one high cost hour of consumption. UGI’s attempt to confuse this issue betrays its purpose to make net metering untenable.

Mr. Crist explained clearly at the hearing that UGI’s proposed rate is non-compliant with the statute:

Q. And what is your position on the - on the status of the rate that UGI proposes to charge - to charge and or compensate net metering customer-generators?

A. UGI's proposal is inappropriate and does not comply with the statute. The statute is very specific and says that excess generation from net metered customer-generators shall receive full

retail value.

Q. And how would you - how would you determine what that value is?

A. I'd look at what UGI sells to their customers. They sell to 99 percent of their customers, 69,000 customers get charged the GSR-1 rate. One hundred (100) customers or so get charged the GSR-2 rate. Full value would be the GSR-1 rate. And those are the categories that our projects, which are less than 25kw demand, peak demand, small business customers. That would be the rate that they would fall under is GSR-1. (Tr. at 16-117)

## **VI. Conclusion**

Penn Renewables is a solar developer that seeks to respond to the opportunity provided in the AEPSA that encourages the development of alternative and renewable energy projects, in Pennsylvania, by compensating net metering customer-generators at full retail value for all excess generation. Penn sized its projects within the limitations in the statute and will be required to pay for all distribution system upgrades to enable it to interconnect. UGI's reaction, unlike any other PA EDC, was to raise as many barriers as it could to keep all net metered projects, including Penn's 12, off of its system. Rather than process Penn's interconnection applications, UGI has stalled them for many months with no explanation and more egregiously, has sought to undercut the economic value of the projects by changing the statutorily required compensation methodology. UGI proposes to change that system from compensating excess energy at full retail value, which it has done and proposes to continue for residential projects, to a proxy wholesale rate. The AEPSA uses the term full retail value, not retail rate. The two are different, and that difference is the primary reason UGI's proposal must fail. Retail value does not change, as rates do, as between the customer classes, and the AEPSA requires it -- not as full retail value per customer-generator, but as a value, one that UGI agrees should apply to customers who don't net meter. As Mr. Crist stated under cross examination, the GSR-2 PTC may be a rate that UGI can charge GSR-2 customers, but it is not full retail value and is not legally applied to customer-generators' excess generation,

especially those with low Registered Peak Demand. The AEPSA is intended to create conditions to promote net metering. It would be the antithesis of encouragement to allow utilities such as UGI to create a non-compensatory, punitive and volatile default service rate that applied only to certain customer-generators. The only way that the statutory mandate is satisfied is if all excess generation, from all customer-generators, are compensated at full retail value, i.e. the GSR-1 PTC that UGI pays other net-metered customer-generators. For this and all of the other reasons stated herein and in Penn's testimony, UGI's proposal to apply the GSR-2 PTC as compensation for net metered customer-generators such as Penn, must be rejected.

Respectfully submitted,



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DATED: October 15, 2024

## **Appendix A – Proposed Findings of Fact**

## **Proposed Findings of Fact**

1. UGI's plan for DSP V is to group customers into two separate procurement classes GSR-1 and GSR-2 as they have done in previous DSP's, except these procurement classes will now be segmented based on the customer's supply peak load impact ("SPLI") which is a term created by UGI for the purposes of this proceeding and which does not appear in the Commission's regulations. UGI previously segmented its customers based on their registered peak demand. UGI St. 2, 9:1-10.

2. UGI's default service procurement plan has UGI acquiring energy in the real time market to serve customers in the GSR-2 procurement class. UGI St. 2, 21: 22-22:5.

3. Most of UGI's GSR-2 customers participate in the retail supply market and do not buy default service from UGI's GSR 2 real time procurement plan, implying that they would rather secure a fixed price rather than participate in a spot market purchase. UGI St. 2, 22:7-17.

4. Mr. Faryniarz admitted under cross examination that "grid impacts" really means "procurement impact", Tr. at 54:10-13, and that by customer subsidies he means impacts on the prices for procurement. Tr. at 52: 7-11.

5. Mr. Faryniarz admitted that customer generators could not quickly or easily move between wholesale or retail markets. Tr at 59:12-14.

6. UGI admits that it could adjust its supply purchases to accommodate the prospect of decreased load caused by increased customer generation. UGI St. 2, 30:15-31:2.

7. The cost elements included in GSR-1 rates are well beyond what is included in GSR-2 and include items, such as costs for energy purchased by contract, that are only in GSR-1 rates. UGI St. 3, 5:16-6:16.

8. In its original filing, UGI did not propose to credit customer generators for PJM capacity, in the form of PLC and NSLP, but on the day of the hearing, UGI did a reversal and decided to include these two elements into the refund rate suppliers will receive. However, this abrupt reversal did not impact UGI's admission that GSR-2 rates regularly will go negative, i.e., that generators will be charged for generating, not be paid for it. UGI St. 3-RJ 12:11-20.

9. Ms. Hazenstab's direct testimony claims that the GSR-2 rate will be transparent (UGI St. No. 3, 17:1-4), but she admitted under cross examination that there will be no price to compare shown on GSR-2 customer bills, nor will the data needed to calculate the hourly PTC be available in anything close to real time, rather it would be available a month later and only upon request. Tr. at 80:21-82:9.

10. Penn Renewables (Penn) has 12 solar arrays under development in UGI's service territory that have been approved by the Commission. Each array is approximately 1,000 to 2,000 kW in generating capacity. Penn St. No. 1, 4:3-12.

11. The Commission's Regulations require that all cost elements used in serving the "average member of a customer class" shall be used to establish the PTC, and yet UGI is proposing a customer specific, hourly PTC for GSR-2 customers that does not include distribution charges. Penn St. No. 1, 5:1-8.

12. Mr. Crist testified that the AEPSA requires that energy produced by a customer generator be netted on a kwh per kwh basis. Penn St. 1, 6:15-23.

13. Mr. Crist testified that net metering provides many benefits to utility customers, but that it is critical when designing incentive programs to ensure that the incentivized system can be built and run profitably. That is one reason renewables developers have focused on net metering,

because the PJM queue has been and continues to be non-functional so that wholesale projects are not possible. Penn St. No. 1, 8:10-16.

14. Net metered projects reduce the need for UGI to purchase energy and by reducing the UGI system load during PLC and NSPL hours will lower transmission costs to UGI customers as well. Penn St. No.1, 8:20-23.

15. During the billing period the customer-generator will consume electricity they generate, offsetting purchases from the utility. Any excess generation is credited on a kWh for kWh basis on their utility bill. At the end of the billing period credits for each kWh of excess generation are carried forward to the next billing period within the same year. At the annual reconciliation, any remaining kWh at the end of the year are compensated for at the utility's periodic PTC. Penn St. 1, 14:6-11.

16. The Commission's regulations do not require that customer generators be compensated at the full retail rate for all generation, which is different from the AEPSA that requires that customer generators be compensated at "Full Retail Value for all energy produced on an annual basis." UGI's proposal does not comply with the AEPSA requirement. (Penn St. No. 1, 14:21-23.

17. The rate formula that UGI proposes for GSR-2 customers almost always results in significantly lower prices than the GSR-1 rate. Exhibit JC-3; Penn St. 1, 15:5-10.

18. "The Locational Marginal Price ("LMP") is a pricing method used in the electricity markets to reflect the cost of supplying the next increment of electricity at a specific location, considering the demand and the transmission constraints. LMPs vary by location and time and are determined by the cost of producing the next megawatt-hour (MWh) of electricity by the most economical generator available. Physical limitations on the transmission network can lead to

congestion, which affects the ability to deliver electricity from cheaper sources to where it is needed. Also included in the LMP are the real power losses that occur as electricity travels over transmission lines.” Penn St. 1, 17:13-20.

19. UGI is proposing to net energy consumed versus energy produced in a manner that does not comply with the AEPSA or the Commission’s regulations. According to Ms. Hazenstab’s testimony on cross, UGI will net consumption against production each month, including some distribution charges, but each such kwh will have a different price, what that means is that what is being carried forward is not simple kWh, but kWh per hour times the price per hour. In other words, dollars. What that means is that at the end of the year, UGI is multiplying the hourly price applicable to each kwh of excess generation and then adding them together. The result will be excess dollars are carried forward, not excess kWh. Penn St. 1, 18:1-19:8.

20. There will be many hours throughout any given month or year where the Price to Compare being used to calculate what Penn gets paid for excess generation, will be a negative number. Penn St. 1, 19:1-8.

21. The Commission’s Regulations, which provide that excess generation be compensated for at the PTC, do not comply with the AEPSA which requires that all excess generation receive full retail value on an annual basis. Penn St. No. 1, 19:12-16.

22. UGI has created a “procurement class” based on peak system impact – not peak demand. The two are not the same; peak demand is the maximum energy flow to a customer in the last 12 months. Registered Peak Demand is what the regulations require. Supply Peak Load Impact (SPLI) is a measure of either load or production and is not even mentioned in the Commission’s Regulations or the Public Utility Code. Penn St. 1, 20:13-17.

23. Mr. Crist expressed a number of concerns with UGI's proposed compensation method. First, the rate is structured if a customer-generator produces excess generation, which reduces the amount of generation UGI must purchase from PJM to satisfy other customers' needs, UGI lowers the compensation for that generation. Exhibit JC-4.

24. UGI's proposed pricing formula for the net-metered compensation is based on the PJM nodal price and that price reduces when there is increased self-generation on the system and if the generator has any NSPL based demand allocations. Therefore, when producing power for export, the price received by the GSR-2 customer-generator will decrease and they will earn less. The UGI customer-generators that are GSR-1 customers will be charged a much higher rate for their power needs that are not met by their own generation. Exhibit JC-4; Penn St. 1, 20:20-21:10.

25. When the customer-generators are net exporters of energy, other customers will also benefit, because as the nodal LMP falls, their effective electricity rate also decreases. Customers classified as GSR-2 will pay more than the amount that net metered customer-generators will be paid for excess generation, for the same hour. Exhibit JC-4; Exhibit JC-11; Penn St. 1, 20:20-21:10.

26. UGI's proposal does not comply with AEPSA because it fails to compensate net metered customer-generators at the full retail value of the energy they produce. Penn St. 1, 21:13-22:9

27. UGI's proposed pricing structure is not based on UGI's cost to provide retail service, it is based on the sales price for the excess energy in the wholesale market. UGI has admitted that there may be times that the wholesale price of the energy is zero or less, that in effect during some periods the customer-generators could be paying to generate electricity that is being

used to serve their neighbors who will not be paying zero or less for that energy. Exhibit JC-4. See also Exhibit JC-5, (which is UGI Response to Set II-1); Penn St. 1, 21:13-22:9.

28. There is no provision in the purchase plan for GSR-2 customers that includes auctions, RFPs or bilateral contracts. Rather, the rate will be a modified version of PJM hourly wholesale price and it will not be a voluntary contract on the part of customer generators. Penn St. 1, 22:16-19.

29. Act 129 (66 Pa. C.S 2807(e)(7) requires that small business customers be provided a rate that changes no more frequently than quarterly. A small business is a person, sole proprietorship, partnership, corporation, association or other business entity that receives electric service under a small commercial, small industrial or small business rate classification and whose maximum registered peak load is less than 25 kW within the last 12 months.” 52 Pa. Code § 54.2.

30. Penn’s projects will have less than 25 kW peak load, is a business and by its pertinent information will be in Rate GS-4 on UGI’s system. Penn St. 1, 22:13-23:11.

31. The benefits of locating generation on the distribution system include providing generation that supports reliability, particularly in isolated geographic areas, that can reduce the need to purchase energy from other sellers, which in turn can help to reduce costs for all customers. Instead of compensating these nascent resources for the benefits they provide, UGI appears instead try to keep them from developing on its system. Penn St. 1, 23:15-23.

32. UGI will not be reconciling the rates charged to or paid by Customer Generators, nor is the rate a single rate option – rather the “rate” that UGI will charge will be hundreds of hourly rates per month Penn St. 1, 25:10-26:3.

33. The rate charged to non-generator customers will decline with an increase in consumption. Penn St. 1-SR, 20:4-13.

34. The GSR-2 PTC will be different for each customer on the rate and for each hour the customer is on that rate. The rate will be based on the PJM locational marginal price (LMP) and also will vary by other characteristics such as demand/supply at the five PJM determined PLC hours and five PJM determined NSPL hours. Higher allocations of these types of allocated charges can push the GSR-2 rate to significantly below the LMP price at lower levels of generation produced by the customer-generator. Exhibit JC-4.

35. A customer consuming energy will pay a different rate, in the same hour, than a customer generating energy will receive. There is no average customer, they are all unique under UGI's plan. Penn St. 1, 26:9-17.

36. UGI promotes its DSP V plan in testimony, claiming that the "Company's product changes move away from spot market settlements and, therefore, aid in the reduction of rate volatility while also reducing the number of products comprising the GSR-1 supply mix," (UGI St. 2-R, 4:1-3) and yet has no problem sending GSR-2 customer generators to that same spot market, which it also admitted, was developed as a temporary rate for large customers before they shopped for electricity.

## **Appendix B – Proposed Conclusions of Law**

## Proposed Conclusions of Law

1. The Alternative Energy Portfolio Standards Act (“AEPSA”), 73 P.S. § 1649.2 defines a customer generator as:

A nonutility owner or operator of a net metered distributed generation system with a nameplate capacity of not greater than 50 kilowatts if installed at a residential service or not larger than 3,000 kilowatts at other customer service locations . . .
2. The AEPSA defines “Net Metering” as:

The means of measuring the difference between the electricity supplied by an electric utility and the electricity generated by a customer-generator when any portion of the electricity generated by the alternative energy generating system is used to offset part or all of the customer-generator's requirements for electricity. 73 P.S. § 1648.2.
3. The AEPSA requires that “Excess generation from net-metered customer-generators shall receive full retail value for all energy produced on an annual basis.” 73 P.S. § 1648.5. The AEPSA does not authorize the Commission to promulgate regulations that alter the compensation mechanism for net-metered customer-generators.
4. UGI’s proposal violates the requirement that net metered customer generators be compensated at full retail value on an annual basis.
5. The Public Utility Code prohibits a utility from granting, as to rates, an unreasonable preference or advantage to any person corporation or municipal corporation, or to subject any person, corporation or municipal corporation to any unreasonable prejudice or disadvantage. 66 Pa. C.S. § 1304. The same prohibition, as to service, is contained in Section 1502, 66 Pa. C.S. § 1502.
6. UGI’s proposal to segregate customers into the GSR-1 and GSR-2 procurement classes based upon the conjecture that customer generators are more “sophisticated” is discrimination in violation of Sections 1304 and 1502 of the Code.
7. The Public Utility Code requires that small business customers be provided with a rate that does not change more frequently than quarterly. 66 Pa. C.S. 2807(e)(7). Per the Commission’s regulations at 52 Pa. Code § 54.2, Penn is a small business customer as its peak load will be less than 25 kW. Accordingly, it must be provided with a rate that changes no more than quarterly, and UGI’s proposal does not comply. UGI’s proposal also violates the Commission’s Regulations at 52 Pa. Code § 187(h) which requires that customers with peak demand up to 25 kW must be offered a rate that changes no more frequently than quarterly.
8. UGI does not propose to provide a single rate or including that single rate for customer generators on their monthly bill in violation of 52 Pa. Code § 187(c).

9. UGI Has failed to carry its burden of proof that its proposed rate mechanism for GSR-2 customers and customer generators in particular is just or reasonable.
10. UGI's failure to complete the interconnection process for Penn's projects in a timely manner constitutes unreasonable service in violation of the Public Utility Code. 66 Pa. C.S. § 1501.

## **Appendix C – Proposed Ordering Paragraphs**

### Proposed Ordering Paragraphs

1. UGI's proposal use any factor other than registered peak load, and UGI's request for a waiver, to divide customers into procurement classifications based on some factor other than Registered Peak Load, and the measurement variable that UGI proposed of system peak load impact ("SPLI") or the limitations of the Commission's Regulations is denied as not being in the public interest and not being just or reasonable.
2. UGI's proposal to employ its GSR-2 Price to Compare mechanism as a means to compensate customer generators is rejected as being contrary to law.
3. UGI must compensate all customer generators for all excess generation at the GSR-1 PTC.
4. UGI shall be required to submit a revised tariff reflecting these changes.
5. UGI shall complete its interconnection evaluation of Penn Renewables, LLC's 12 projects within 30 days of this order.

**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 MAIL ONLY**

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DATED: October 15, 2024



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Todd S. Stewart