

COMMONWEALTH OF PENNSYLVANIA



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October 25, 2024

Via Electronic Mail

The Honorable Dennis J. Buckley
The Honorable Alphonso Arnold III
Office of Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Petition of UGI Utilities, Inc. – Electric
Division For Approval of its Default Service
Program for the Period from
June 1, 2025 through May 31, 2029
Docket No. P-2024-3049343

Dear Counsel:

Please find enclosed a copy of the Reply Brief being submitted on behalf of the Office of Consumer Advocate in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Sincerely,

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Enclosures

cc: PUC Secretary Rosemary Chiavetta (Letter and Certificate of Service Only)
Certificate of Service

CERTIFICATE OF SERVICE

Petition of UGI Utilities, Inc. – Electric :
Division For Approval of its Default Service : Docket No. P-2024-3049343
Program for the Period from June 1, 2025, :
through May 31, 2029 :

I hereby certify that I have this day served a true copy of the following document: the Office of Consumer Advocate’s Reply Brief upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below. This document was filed electronically on the Commission’s electronic filing system.

Dated this 25th day of October, 2024.

SERVICE BY E-MAIL ONLY

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of UGI Utilities, Inc. – Electric :
Division for Approval of a Default Service :
Plan for the period of June 1, 2025 through : Docket No. P-2024-3049343
May 31, 2029 :
:

REPLY BRIEF
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I. INTRODUCTION

The Office of Consumer Advocate (OCA) submits this Reply Brief in response to the Main Brief filed by Penn Renewables, LLC. (Penn Renewables or PR). The OCA specifically will respond to those matters raised by Penn Renewables that require clarification or that were not addressed in the OCA's Main Brief. The OCA does not waive its opposition on contested issues because it does not repeat arguments here and incorporates by reference the arguments and analysis in its Main Brief and Statement in Support of Settlement.

A. Procedural History

The OCA incorporates the procedural history from its Main Brief. As an update, on October 15, 2024, the OCA submitted a Main Brief. Also on October 15, 2024, UGI and Penn Renewables submitted Main Briefs.

On October 22, 2024, the Joint Petition for Non-Unanimous Settlement (Settlement) was submitted to the ALJs which included the OCA's, OSBA's and UGI's (Settling Parties) Statements in Support of Settlement.

The OCA's Statement in Support of Settlement sets forth a summary and discussion of the terms of the Settlement. The OCA is a signatory and requests Commission approval of the Joint Petition in its entirety, without modification. The Settlement is supported by substantial evidence and is in the public interest for all the reasons set forth in the Settlement, Statements in Support filed by the Settling Parties, and in the OCA's and UGI's Main Briefs.

Penn Renewables did not separately address the issues resolved between the Settling Parties. Instead, Penn Renewables noted in its Main Brief that the Settling Parties "appears to have reached a Settlement" regarding the electricity procurement for the next four years but further states that Penn Renewables "has not participated in any part of that settlement." Penn Renewables

M.B. at 1.¹ Penn Renewables' Main Brief narrowly focuses on its recommendations regarding SPLI and UGI's proposal to apply the GSR-2 PTC as compensation for net metered customers. However, Penn Renewable's Main Brief is silent on the issues of electricity procurement and revenue allocation factors. As such, those matters should be deemed uncontested by Penn Renewables.

B. Legal Standards

The OCA incorporates the Legal Standards section from its Main Brief.

II. SUMMARY OF ARGUMENT

Penn Renewables failed to satisfy its burden of proof as a proponent of an order and failed to provide substantial evidence supporting its argument that UGI's DSP V violates the Alternative Energy Portfolio Standards Act (AEPS) and Commission regulations. Penn Renewables concedes that AEPS does not include a definition of "full retail value" but then proceeds to claim that UGI has violated the AEPS because, according to Penn Renewables, the supply peak load impact (SPLI) methodology used by UGI in classifying GSR customers does not comply with AEPS as it allegedly does not compensate GSR-2 customers at full retail value. However, no restriction against SPLI exists in the AEPS; hence UGI's SPLI methodology does not violate the AEPS. Furthermore, UGI's SPLI methodology does not violate Commission regulations.

Penn Renewables' recommendation to move all customer generators to the GSR-1 rate produces unjust and unreasonable outcomes. Adverse impacts for the GSR-1 class if Penn Renewables' recommendation is adopted are not merely speculative but are instead potentially significant and against the Public Utility Code. The OCA continues to oppose Penn Renewables recommendation to change UGI's proposed methodology of assigning customers to the Generation

¹ The OCA notes that Penn Renewables was included in Settlement negotiations.

Supply Rate (GSR)-1 and GSR-2 procurement groups according to SPLI and opposes Penn Renewables' proposed remedy of assigning all customer generators to the GSR-1 rate.

III. ARGUMENT

A. Penn Renewables Failed to Satisfy Its Burden of Proof When Arguing that UGI's Proposed Default Service Rate Mechanism Violates the AEPS.

In its Main Brief, pages 9-12, Penn Renewables argues that UGI's DSP V violates the AEPS by not compensating net-metered customer-generators the full retail value for excess generation. PR M.B. at 9-11. The AEPS' language regarding full retail value is as follows:

Excess generation from net-metered customer-generators shall receive full retail value for all energy produced on an annual basis. The commission shall develop technical and net metering interconnection rules for customer-generators intending to operate renewable onsite generators in parallel with the electric utility grid, consistent with rules defined in other states within the service region of the regional transmission organization that manages the transmission system in any part of this Commonwealth. The commission shall convene a stakeholder process to develop Statewide technical and net metering rules for customer-generators. The commission shall develop these rules within nine months of the effective date of this act.

73 P.S. § 1648.5.

Penn Renewables concedes that the term "full retail value" is not defined in the AEPS. PR M.B. at 9. As such, Penn Renewables engages in statutory interpretation of Section 5 of the AEPS and argues that the only place "full retail value" is used does not 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 imposes a size limit on net metered projects for residential customers and a different size limit for "other customer service locations." PR M.B. at 10 (internal citations omitted). According to Penn Renewables, "the only conclusion to be drawn is that the [AEPS] did not intend a different measure of retail value based upon size, or it would have imposed one." *Id.*

To the contrary, such a broad and silent restriction should not be assumed to be included in the AEPS. The plain language of the statute contains no such restriction. Moreover, while Penn Renewables states that “[s]uch a broad authorization cannot simply be assumed” (PR M.B. at 10), the AEPS clearly delegates technical and net metering rules to the Commission. *See* 73 P.S. § 1648.5.

The Commission’s net metering regulations state:

An EDC and DSP shall provide net metering at nondiscriminatory rates identical with respect to rate structure, retail rate components and any monthly charges to the rates charged to other customers that are not customer-generators on the same default service rate. An EDC and DSP may use a special load profile for the customer-generator which incorporates the customer-generator’s real time generation if the special load profile is approved by the Commission.

52 Pa. Code § 75.13(j).

Penn Renewables has failed to satisfy their burden of proof in showing that UGI’s DSP V violates AEPS. Simply put, the restriction that Penn Renewables seeks to impose on UGI does not exist in the AEPS.

Penn Renewables also argues that UGI makes a misleading claim that GSR-2 is a retail rate, and therefore, should apply to solar projects sited at small business customers at peak demand less than 25 kW. PR M.B. at 10. However, the GSR-2 rate is a retail rate that is offered to all customers with a peak demand or supply impacts greater than 100kW so there is nothing misleading about UGI’s claim. At the evidentiary hearing, Penn Renewables witness Crist acknowledged that GSR-2 rate (which is the rate that applies to all customers with SPLI of 100kW and greater) is a retail rate as follows:

Q. Yeah, but if I just go back here and it seems like in your testimony throughout, you suggest that the GSR-2 rate can't be retail because it's based on spot market. Is that correct?

A. Can't be retail and can't - doesn't meet the criteria to apply to the small customers because it's a spot market rate. **It very well might be a retail rate that applies to 100kw and greater customers.**

Tr. 110 (emphasis added).

As such, Penn Renewables arguments to the contrary in its Main Brief should be given little weight as they are undercut by Penn Renewables' own witness. Penn Renewables has failed to satisfy their burden of proof as a proponent of an order and has not provided substantial evidence in support of its argument that UGI's GSR-2 is not a retail rate or that UGI is not compensating customer generators at their full retail rate for all energy produced on an annual basis. Indeed, more is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *See Norfolk & Western Ry. Co. v. Pa. PUC*, 49 Pa. 109, 413 A.2d 1037 (1980).

B. UGI's Proposal Does Not Violate the Commission's Regulations.

In its Main Brief, pages 15-18, Penn Renewables argues that UGI's proposal violates the Commission's regulations requiring UGI to show the hourly changing PTC for GSR-2 on UGI's bill. PR M.B. at 15. Penn Renewables notes that while UGI will provide a formula to calculate the PTC in any given hour, customer-generators will not have access to perform the calculation for 30 or more days. *Id.* The Public Utility Code states as follows:

(c) Except for rates available consistent with § 54.190 (relating to universal interest applicable to over collections and under collections resulting from reconciliation of automatic adjustment clauses costs and revenues related to electric default service), a default service customer shall be offered a single rate option, which shall be identified as the PTC and displayed as a separate line item on a customer's monthly bill.

52 Pa. Code § 54.187(c).

UGI, however, is not required to provide an hourly changing PTC on their bill under the Commission's regulations. UGI correctly states that EDCs have been offering hourly default service for over 15 years and the PTC for GSR-2 customers has never been on UGI's bill. UGI

M.B. at 36-37; Tr. 89-90. At the evidentiary hearing, UGI witness Hazenstab testified “[t]here will not be a specific hourly display on the bill. However, there will be a notification to the customers as to how they are priced to compare.” Tr. 80. UGI witness Hazenstab further testified that if a customer-generator asked to have the hourly PTC every month, UGI would automatically be able to send this information to the customer-generator. Tr. 81. Moreover, UGI witness Hazenstab testified that UGI would not be able to inform the customer as to a specific PTC until the end of the month because the PTC is not based on solely the hourly rate. *Id.*

Penn Renewables also argues that the Commission’s Regulations at 52 Pa. Code § 54.187(d) requires 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. PR M.B. at 17. However, as pointed out by OCA witness Serhan Ogur, it is a natural consequence of PJM’s LMP construct that, all else equal, as supply increases, price falls; similarly, as demand increases, price rises. OCA St. 1R at 10. By Penn Renewables’ logic, any generator could claim a higher payment rate than LMP because in the absence of that generator’s output, the market price would be higher. *Id.* This would be a self-conflicting element of the LMP construct because payments from load would not be sufficient to pay the resources. The LMP in any given hour in a specific location (e.g., UGI zone) is determined by the intersection point of supply and demand, and all resources are paid, and all loads pay, that same LMP. *Id.* Therefore, Penn Renewables’ concern is not a flaw of the compensation mechanism design for exports by customer-generators; it merely reflects the fundamental principles and rules of PJM’s LMP construct in which UGI operates. *Id.* In addition, Penn Renewables’ concerns with the GSR-2 customer-generator compensation mechanism has no relationship with the methodology by which customers are classified into the GSR-1 and GSR-2

procurement groups, and Penn Renewables does not establish a relationship between these two concepts. *Id.*

Similarly, what GSR-2 customers pay for electricity and how that may differ from the compensation rate for a customer-generator's exports has no relationship with the criterion according to which customers are classified into the GSR-1 and GSR-2 procurement groups, and Penn Renewables does not establish a relationship between these two concepts. OCA St. 1R at 10-11. If there is a discrepancy between what GSR-2 customers pay for electricity and the compensation rate for a customer-generator's exports, such discrepancy should be addressed on its own merits without deviating from a proper and logical customer classification methodology. OCA St. 1R at 11. Assigning large supply peak load impact customer-generators to the GSR-1 procurement group because Penn Renewables perceives GSR-1 rates to be higher than GSR-2 rates on average, or because GSR-1 customers are offered fixed rates but GSR-2 customers are not, is not a reasonable or proper remedy.

C. Switching All Customer-Generators to GSR-1 Significantly Impacts Rates.

In its Main Brief, pages 18-20, Penn Renewables argues that the impacts UGI seeks to address with its proposed GSR-2 rate are speculative. PR M.B. at 18-20. However, the inclusion of large customer-generators in the GSR-1 procurement group as proposed by Penn Renewables, bundles residential customers and truly small commercial customers (i.e., which have peak demand or supply load impacts less than 100 kW) with more sophisticated, large customer-generators in the same fixed-price, full-requirements (FPFR) contract procurements. OCA M.B. at 11. This would negatively affect residential default service customers. *Id.* As larger customer-generators are more sophisticated and would entail a higher switching risk for the FPFR suppliers, the FPFR suppliers would either build larger risk premiums into their FPFR contract bids or shy

away from participating in the FPFR auctions. *Id.* at 11-12. This would have the likely effect of higher PTCs and/or more volatile rates for residential customers due to the inclusion of large customer-generators in the GSR-1 procurement group. *Id.* at 12.

Adverse impacts on GSR-1 customers if all GSR-2 customer-generators are grouped into GSR-1 are not merely speculative. Under Penn Renewables' recommendation, large customer-generators would receive the higher PTC, which would have been inflated simply by their mere participation and switching risk for their exports, which in turn would be recovered from all GSR-1 default service customers, including those who are not customer generators, most of which are residential customers. OCA M.B. at 11-12. Residential customers constitute 73 percent of the GSR-1 default service load while non-residential GSR-1 customers account for merely 27 percent. *Id.* at 12. Moreover, even the large customer-generators that stay on default service constitute volumetric risk for FPFR suppliers because of the uncertainty surrounding the level and profile of on-site generation (e.g., outages, in-service dates of on-site generators that are in UGI's distribution interconnection queue). *Id.* Similar to switching risk, this volumetric risk would prompt the FPFR suppliers to either build larger risk premiums into their FPFR contract bids or shy away from participating in the FPFR auctions, resulting in higher PTCs and/or more volatile rates for residential customers. *Id.* Penn Renewables' characterization of the rate impact as "speculative at best" (PR M.B. at 18) is contradicted by the substantial evidence.

D. Penn Renewables' Proposal, Not UGI's, Harms Residential Ratepayers.

Act 129 requires that "[a]ll default service rates shall be reviewed by the commission to ensure that the costs of providing service to each customer class are not subsidized by any other class." 66 Pa. C.S. § 2807(e)(7). In its Main Brief, pages 20-22, Penn Renewables argues that UGI's DSP V will harm customer-generators. PR M.B. at 20-22. However, if Penn Renewables'

requested change is adopted, residential customers will be subsidizing customer-generators in violation of the Public Utility Code.

There is no unreasonable cross-subsidization of rates under UGI’s proposed GSR-2 rate. Under UGI’s proposal, both a non-residential customer with a peak demand of 100 kW or above, and a non-residential customer-generator with a peak injection into the Company’s distribution grid of 100 kW or above will be classified as GSR-2 customers because both have respective supply peak load impacts of 100 kW or above. OCA M.B. at 7; OCA St. 1R at 8. UGI’s proposal is intended to separate portfolio risk management and cost impacts to default service procurement activities, and to address potential small versus medium/large cross-subsidy concerns while providing clarity for all customers. OCA St. 1R at 8.

UGI draws a parallel between large commercial and industrial customers and large net metering customers, stating that they have similarly substantial grid impacts, and both have similar sophistication and likelihood of shopping. OCA St. 1R at 8. It thus makes sense to group those customers together under the methodology proposed by UGI. According to UGI, its methodology will appropriately ensure that GSR-1 customers will not be negatively impacted by the market activities of large customer-generators. *Id.* The OCA agrees. As shown in the below table, UGI’s residential customer shopping percentage is negligible, and it has consistently been negligible for the last eight years:

Table 2

Shopping & Switching Trends of Residential and Small Commercial Customers, UGI and PECO				
	UGI		PECO	
	EGS Share of Total Residential Megawatt-Hours	EGS Share of Total Small Commercial Megawatt-Hours	EGS Share of Total Residential Megawatt-Hours	EGS Share of Total Small Commercial Megawatt-Hours

2015	1%	24%	35%	62%
2016	1%	23%	36%	64%
2017	1%	24%	36%	64%
2018	1%	21%	36%	61%
2019	1%	36%	36%	60%
2020	1%	36%	30%	60%
2021	1%	28%	27%	57%
2022	1%	22%	24%	52%
Standard Deviation (SD)	0%	6%	5%	4%
Average	1%	27%	33%	60%
Relative SD	0%	23%	15%	7%
Source: https://www.puc.pa.gov/filing-resources/reports/retail-choice-activity-reports/				

OCA St. 1 at 30-32.

Classifying all customer-generators as GSR-1, as recommended by Penn Renewables, unreasonably ignores the differences between GSR-1 and GSR-2 customers. From a supplier's perspective, UGI's residential default service customers would have a negligible switching risk. OCA St. 1 at 30. Moreover, UGI's non-residential GSR-1 customers have much higher shopping rates than UGI's residential customers. *Id.* at 31. The variability of the EGS shopping rate of UGI's non-residential GSR-1 customers is also high. *Id.* Among the four groups reviewed in the procurement study (UGI residential, UGI small commercial, PECO residential, and PECO small commercial customers), UGI's small commercial customers by far have the highest shopping rate volatility as measured by relative standard deviation. *Id.* The obvious conclusion from these comparisons is that UGI's non-residential GSR-1 customers constitutes a much larger switching risk than UGI's residential customers for a supplier. *Id.*

UGI's residential default service load is 2.7 times as large as the non-residential GSR-1 load as of the most recent 12-month period provided by the Company. OCA St. 1 at 33. Larger tranche sizes and a larger number of tranches attracts more competitors and lower prices because suppliers spread the fixed costs associated with participating in the RFP over a larger volume. *Id.*

at 32-33. Residential customers constitute 73 percent of the GSR-1 default service load while non-residential GSR-1 customers account for merely 27 percent. *Id.* at 33. While combining the non-residential GSR-1 default service load with the residential default service load for procurement purposes benefits both customer classes in terms of making the volume attractive for FPFR suppliers, the non-residential GSR-1 class is clearly the larger beneficiary. *Id.* If the standalone non-residential GSR-1 default service load does not receive any (acceptable) FPFR contract bids, then non-residential GSR-1 default service customers would likely be forced into a spot market pricing or a block-and-spot arrangement, which would entail continuously incurring a large price risk and enduring volatile rates. *Id.*

The OCA disagrees with Penn Renewables' argument that the classification of customers into GSR-1 and GSR-2 procurement groups should be made based exclusively on a customer's peak demand, regardless of a customer-generator's maximum injection into the Company's distribution grid. OCA St. 1R at 9. Each Pennsylvania EDC has a different default service procurement grouping reflecting the criteria which make the most logical sense for that EDC's customer and load characteristics. OCA M.B. at 8. For example, some EDCs procure for residential and small commercial default service customers jointly, while others do so separately. OCA St. 1R at 9. Each EDC also has a different peak demand cutoff for small commercial, medium commercial, and large commercial and industrial procurement group designations. *Id.* at 9-10. If an EDC does not use the same classification methodology proposed by UGI, that is likely because another methodology better fits its needs and customer characteristics. *Id.* at 10. If other EDCs did not propose a procurement group cutoff based on both demand and supply peak cutoff, that is likely because their systems do not have as much pending customer-generator capacity relative to their overall customer loads. *Id.*

As Dr. Ogur testified, otherwise small commercial customers with under 100 kW peak load but with a large onsite generator attached (more than 100 kW of SPLI) can reasonably be expected to behave as medium or large commercial customers in terms of shopping and switching compared to residential customers. OCA St. 1R at 9-12. Customers with higher shopping and sand switching rates increase the FPCR suppliers' load risk and thus raise the price of full-requirements contracts. *Id.* Therefore, it would be inappropriate to include customers with large onsite generators attached to their loads in the same default service procurement and rate group as residential customers because this will lead to indirect cross subsidization of customers with large onsite generators attached to their loads by residential customers. Penn Renewables has failed to show that their recommendation would not result in cross-subsidization and is in violation of Section 2807(e) of the public utility code. *See* 66 Pa. C.S. § 2807(e)(7) (“[a]ll default service rates shall be reviewed by the commission to ensure that the costs of providing service to each customer class are not subsidized by any other class.”).

V. CONCLUSION

In the conclusion of its Main Brief, Penn Renewables takes the extreme position that “[t]he 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.” PR M.B. at 23. This is an unreasonable recommendation that eliminates the GSR-1 and GSR-2 threshold for customer-generators. Indeed, it goes a significant step further than Penn Renewables' alternative recommendation in testimony to increase the GSR-2 threshold from 100 kW to 3 MW. *See* OCA M.B. at 9-12.

For the reasons set forth in its Main and Reply Briefs, the OCA respectfully requests that the Commission reject Penn Renewables' proposal to apply UGI's GSR-1 PTC to all customer-

generators. Penn Renewables has failed to satisfy their burden of proof as proponent of an order and has failed to support its arguments with substantial evidence.

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