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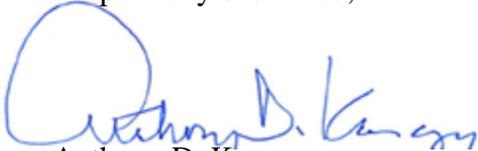
Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
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Harrisburg, PA 17105-3265

**Re: Petition of UGI Utilities, Inc. - Electric Division For Approval of a Default Service Plan (DSP V) for the Period of June 1, 2025 through May 31, 2029
Docket Nos. P-2024-3049343 and G-2024-3049351**

Dear Secretary Chiavetta:

Attached for filing, please find the Reply Brief of UGI Utilities, Inc. – Electric Division in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Anthony D. Kanagy

ADK/dmc
Attachments

cc: Honorable Dennis J. Buckley (*via email; w/attachments*)
Honorable Alphonso Arnold III (*via email; w/attachments*)
Certificate of Service

CERTIFICATE OF SERVICE

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

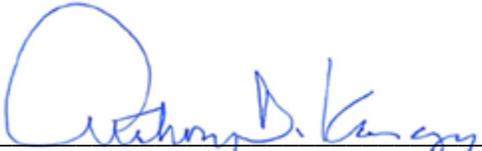
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Date: October 25, 2024



Anthony D. Kanagy

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of UGI Utilities, Inc. – Electric :
Division For Approval of a Default : Docket Nos. P-2024-3049343
Service Plan (DSP V) for the Period of : G-2024-3049351
June 1, 2025 through May 31, 2029 :

REPLY BRIEF OF UGI UTILITIES, INC. – ELECTRIC DIVISION

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Date: October 25, 2024

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I. INTRODUCTION

On October 22, 2024, UGI Utilities, Inc. – Electric Division (“UGI Electric” or “Company”), the Office of Consumer Advocate (“OCA”) and the Office of Small Business Advocate (“OSBA”) filed a Non-Unanimous Settlement (“Non-Unanimous Settlement”) resolving all issues among them in this proceeding. Penn Renewables, LLC (“Penn Renewables”) opposes the Non-Unanimous Settlement and in particular the provisions related to UGI Electric’s proposal to classify default supply customers between the GSR-1 and GSR-2 groups based on customers’ Supply Peak Load Impact (“SPLI”).

Penn Renewables opposes the Company’s proposal because Penn Renewables fundamentally seeks to leverage its interpretation of the Alternative Energy Portfolio Standards (“AEPS”) Act in order to achieve higher default service rates (i.e., higher compensation for excess generation) under GSR-1 for its large, utility scale customer generator facilities than it may receive under the GSR-2 default service rate. The primary problem with Penn Renewables’ position is that residential and small commercial GSR-1 customers will be forced to pay higher default service rates and cross subsidize payments to large utility scale customer generators if Penn Renewables’ position is adopted.

For the reasons explained herein, in the Company’s Main Brief and in the Company’s testimony in this proceeding, the Company’s proposal to classify default service customers by their SPLI is just, reasonable, in the public interest and lawful, and it should be approved.

II. HISTORY OF THE PROCEEDING

A history of the proceeding is set forth in the Company’s Main Brief that was filed on October 15, 2024.

Also on October 15, 2024, OCA and Penn Renewables filed Main Briefs.

On October 22, 2024, the Company, OCA and OSBA filed the Joint Petition for Non-Unanimous Settlement along with Statements in Support.

UGI Electric hereby files its Reply Brief pursuant to the schedule adopted in this proceeding.

III. SUMMARY OF ARGUMENT

UGI Electric’s default service classification proposal in this proceeding is straightforward – default service customers are classified for default *supply* purposes based upon *supply* impacts. If a customer or customer generator has supply impacts less than 100 kW, they will be classified as GSR-1 customers. If a customer or customer generator has supply impacts of 100 kW or greater, they will be classified as GSR-2 customers. As explained herein, classifying default service customers based on SPLI avoids the situation where large utility scale customer generators are grouped with GSR-1 residential and small commercial customers. Such classification avoids disparate impacts for residential and small business customers by eliminating the risk associated with reduced load and tranche size for the GSR-1 group, avoiding higher rates and avoiding subsidization of large customer generators by small retail customers.

UGI Electric’s proposal complies with all applicable statutes including the AEPS Act, Act 129 and the Public Utility Code in general. Penn Renewables argues that the Company’s proposal violates the AEPS Act because it does not provide GSR-2 customer generators with “full retail value” for their excess generation. Despite the fact that the AEPS Act does not define “full retail value,” and without any statutory or regulatory authority, Penn Renewables argues that only the GSR-1 rate can provide “full retail value.” This argument fails because the Commission’s regulations do not require that customer generators be placed upon any specific default service rate

and instead contemplate that customer generators can be placed on different default service rates.¹ UGI Electric demonstrated that the GSR-2 rate is a retail default service rate and that customer generators will be compensated for the “full retail value” of their excess generation based upon the GSR-2 retail value.

Penn Renewables also argues that the Company’s proposal violates Act 129 which requires that “small business” customers receive quarterly default service rates. Penn Renewables’ facilities are 1MW – 2MW in size and are not “small business” customers. They are large utility scale customer generators, and they are not entitled to quarterly default service rates.

UGI Electric’s proposal also avoids unreasonable rate discrimination under Section 1304 of the Public Utility Code, 66 Pa. C.S. § 1304. If UGI Electric’s proposal is not adopted, residential and small commercial GSR-1 customers will be paying higher default service rates to the benefit of large utility scale customer generators. This subsidization results in unreasonable rate discrimination.

Penn Renewables further argues that the Company’s proposal violates several Commission regulations, including that customers with registered peak load less than 25 kW are entitled to quarterly default service rates, that the GSR-2 rate is not a “single rate option,” that default service rates may not decline with usage and that customer generators’ excess kWh each month are not carried forward on a kWh basis. UGI Electric has addressed the failures of these arguments in its Main Brief and in this Reply Brief. In sum, Penn Renewables should not be permitted to rely on regulations that are intended to protect residential and small commercial customers to reach a result that will end up harming residential and small commercial customers. The most important aspects of UGI Electric’s proposal are to comply with its statutory obligation to provide least cost default

¹ See 52 Pa. Code § 75.13(j).

service rates to retail customers over time, while also ensuring that customer generators receive “full retail value” for their excess generation. UGI Electric’s proposal very effectively accomplishes these goals.

Despite multiple rounds of Company expert testimony demonstrating the harms of including large customer generators in the GSR-1 group, Penn Renewables throws a “hail mary” and argues that there is no substantial evidence to support the Company’s proposal. This “hail mary” should be quickly batted down, as the Company’s witness Mr. Faryniarz is an expert with over 30 years of experience in supply procurement and rates. It is undisputed that including large customer generators in the GSR-1 group will reduce load and tranche size. Mr. Faryniarz testified that adopting Penn Renewables position will increase risk for the GSR-1 group, increase bidder premiums and increase GSR-1 default service rates. There is substantial evidence in the record supporting the Company’s claim.

Penn Renewables also argues that its 1MW – 2MW customer generators will be harmed under UGI Electric’s proposal because they will receive lower rates for excess generation under the GSR-2 rate than they would under the GSR-1 rate. Contrary to this position, it is not reasonable for residential and small commercial GSR-1 customer to pay higher default service rates for the benefit of large customer generators. The harms that would afflict small customers by adopting Penn Renewables’ position far outweigh any harms to large customer generators.

Finally, Penn Renewables Brief contains many mischaracterizations and misrepresentations, including attempts to introduce evidence that is not in the record. The mischaracterizations and misrepresentations are too numerous to address in this Summary, but they are addressed in Section VI(F) below. Penn Renewables’ mischaracterizations and misrepresentations should not be relied upon as the basis for any decision in this proceeding.

For the reasons explained herein, in the Company’s Main Brief and in its testimony, the Company’s proposal to classify default service customers according to their SPLI should be approved to protect the interests of residential and small commercial customers and to create reasonable default service rates under which large utility scale customer generators receive full GSR-2 retail value for their excess power generation.

IV. BURDEN OF PROOF

UGI Electric’s position on the burden of proof is set forth in its Main Brief.

V. APPLICABLE LEGAL STANDARDS

UGI Electric’s position on the applicable legal standards is set forth in its Main Brief. However, UGI Electric is responding to several issues raised by Penn Renewables in the legal standards section of its Brief.

Penn Renewables argues that UGI Electric is requesting “changes to the manner in which customer-generators are compensated.” Penn Renewables MB at 5. To be clear, UGI Electric is proposing, consistent with its statutory default service obligations, to classify customers according to their SPLI to ensure that large customer generators are grouped with large load customers for default service purposes to avoid disparate and uneconomic impacts to residential and small commercial GSR-1 customers.

On page 6 of its Brief, Penn Renewables argues that UGI Electric must offer default service rates that meet the legal requirements of the Public Utility Code, 66 Pa. C.S. §§ 101 – 3316, Act 129 of 2008, Oct. 15, P.L. 1592, No. 129 (“Act 129”) and the AEPS Act, 73 P.S. §§ 1648.1 – 1648.9. To be clear, UGI Electric’s default service plan and proposal to classify default *supply* customers based on their *supply* impacts for default service purposes meets all applicable statutory requirements. These issues are discussed in detail in the Company’s Main Brief and in Section VI(A) below.

VI. ARGUMENT

A. UGI ELECTRIC'S PROPOSAL TO CLASSIFY GSR-1 AND GSR-2 CUSTOMERS BY SPLI FULLY COMPLIES WITH ALL STATUTES.

Penn Renewables argues that UGI Electric's proposal to classify default service customers by their SPLI violates the AEPS Act, Act 129 and the provisions of Section 1304 of the Public Utility Code, 66 Pa. C.S. § 1304, against unreasonably discriminatory rates. Penn Renewables MB at 8-14. Penn Renewables' arguments are incorrect and are addressed below.

1. UGI Electric's Proposal To Classify Customers By Their SPLI Fully Complies With The AEPS Act.

Penn Renewables argues that UGI Electric's proposal violates the AEPS Act because GSR-2 large customer generators will not receive "full retail value" for their excess generation. Penn Renewables MB at 9. Penn Renewables then admits that the AEPS Act does not define "full retail value." However, without any statutory or regulatory support, Penn Renewables argues that the only rate mechanism that meets the "full retail value" requirement of the AEPS Act is the GSR-1 rate. Penn Renewables MB at 9-10. Penn Renewables then goes so far as to state that even though the AEPS Act does not define "full retail value" one must draw the conclusion that the AEPS Act did not intend a different measure of retail value based on size. Penn Renewables MB at 10. Penn Renewables arguments are not supported by law, are in error and should be denied.

First, as admitted by Penn Renewables, the AEPS Act does not define "full retail value." By not defining "full retail value" the clear legislative intent is to allow the Commission to define "full retail value" which the Commission has done to some extent in its regulations. Under the rules of statutory construction, statutes are to be read in "*pari materia*" when they relate to the same persons or things. Statutes in "*pari materia*" are to be constructed together, if possible, as one statute. 1 Pa. C.S. § 1932. In this context, it means that the AEPS Act, Act 129 and the rest of the Public Utility Code are to be read together. The Commission has broad authority over rates

under the Public Utility Code and has the authority to determine what constitutes “full retail value.”
See e.g. 66 Pa. C.S. § 1301.

Over the past 20 plus years since restructuring, the Commission has exercised its ratemaking authority to direct electric distribution companies (“EDCs”) to develop different retail default service rates for different groups of customers. These rates include different products, different types of procurements, and different terms. The one thing that they all have in common is that they are “retail rates.”

The Commission also has authority to and has grouped customers according to different classifications to develop reasonable rates for each group of customers and each EDC based upon their specific circumstances. There is no single retail default service that meets the “full retail value” requirement. All of the different default service rates are retail rates and all can provide “full retail value” for the customers that are classified under each specific rate.

There is no basis in law for Penn Renewables’ assertion that only the GSR-1 rate can provide “full retail value.” Penn Renewables’ argument that the AEPS Act did not intend a different measure of retail value by size is not supported by statute and, in fact, when the AEPS Act is read in “*pari materia*” with the Public Utility Code, Penn Renewables’ argument fails. Under the Public Utility Code, the Commission has exclusive authority over utility rates and the ability to determine if rates are just and reasonable. 66 Pa. C.S. § 1301. Likewise, under the Public Utility Code, the Commission has the authority to determine what constitutes “full retail value.” The Commission has always adopted different default service rates for different customer groups over the past 20 plus years, and these different default service rates have different retail values. If Penn Renewables’ argument was correct, the Commission would have required all EDCs across

the Commonwealth to offer the same “retail rate” to all “customer generators” and the Commission has not done this.

The GSR-2 default service rate is a retail rate. Penn Renewables admitted this at the hearing.² If the Commission adopts UGI Electric’s proposal to classify customers based on their SPLI, large customer generators will receive full retail value for their excess generation under the GSR-2 retail default service rate. The GSR-2 default service rate is the retail rate for large customers in the Company’s service territory.

Penn Renewables also argues that “the Commission is not granted authority by the AEPSA to modify the payment standard for excess energy.” Penn Renewables cites to 73 P.S. § 1648.5 as the basis for this statement. *See* Penn Renewables MB at 10. It appears that Penn Renewables is referring to the “full retail value” reference in this section of the AEPS Act. The Commission is not modifying the “full retail value” standard, nor would they if UGI Electric’s proposal is adopted. The statute does not define “full retail value” and leaves it to the Commission to determine. The Commission has approved different default service rates for different customer groups and all provide retail value. Moreover, in each instance the Commission has met its legislative charge to ensure that electric supplies are procured by EDCs at the least cost to default customers.

Penn Renewables also tries to distinguish between retail “value” and a retail “rate” at the end of this section of its Brief. Penn Renewables MB at 12. This argument appears to suggest that being compensated at the GSR-2 retail rate is not being compensated at retail “value.” This argument is not logical. The GSR-2 retail rate is the GSR-2 retail value for GSR-2 customers. UGI Electric has not had a GSR-2 customer generator that it had to compensate at the Price-To-

² Penn Renewables admitted that the GSR-2 rate was a “retail rate” but attempted to qualify that this applicability should only be for customers with 100 kW of demand. Tr. at 106-107. Mr. Crist’s attempts to side-step the specifics of the question should be disregarded. The GSR-2 rate is a retail default service rate.

Compare (“PTC”) to date. If there were such a customer generator, it would not have been compensated at a GSR-1 PTC but rather a GSR-2 PTC. There is no single retail “value” across all EDCs in the Commonwealth or for different default service groups for the same EDC.

This is further supported by the Commission’s net metering regulations which do not mandate a specific default service rate for customer generators, but rather provide that customer generators are to be provided with the same rate components as other customers that are not customer generators “on the same default service rate.” 52 Pa. Code §75.13(j). UGI Electric’s proposal complies with this regulation. UGI Electric St. No. 3-R, pp. 9-10. The regulation does not require that customer generators be placed on a specific default service rate.

On page 9 of its Brief, Penn Renewables argues that the Company’s proposal does not provide “full retail value” because it does not include the distribution rate for all kwh of excess production. Penn Renewables appears to suggest that it should receive credit for distribution rates for its excess production at the end of the year. Penn Renewables fails to acknowledge that UGI Electric’s proposal complies with the Commission’s regulations for pricing excess generation. The regulations provide that excess energy at the end of the year be priced at the PTC. 52 Pa. Code § 75.13(e). The Commission’s regulations do not provide for a credit for distribution charges at the end of the year for excess generation. GSR-2 customer generators will receive credit for variable distribution charges throughout the year in full compliance with the Commission’s regulations. UGI Electric St. No. 3-R, p.12, lines 19-21.

Penn Renewables boldly asserts that it and only its definition of “full retail value” is correct. Penn Renewables’ argument is not supported by statute, regulation or Commission practice for over 20 years.

2. UGI Electric’s Proposal To Classify Default Service Customers By Their SPLI Fully Complies With ACT 129.

Penn Renewables argues that UGI Electric’s proposal to classify customers by their SPLI violates Act 129 because Act 129 provides that default service providers must offer residential and small business customers a default service rate that changes no more frequently than quarterly. Penn Renewables MB at 13, citing 66 Pa. C.S. § 2807(e)(7). Like the AEPS Act does not define “full retail value,” Act 129 does not define “small business customer.” Therefore, Penn Renewables relies on the Commission’s definition of “small business customer” under 52 Pa. Code § 54.2 to argue that its facilities are “small business customers” requiring quarterly default service rates. Penn Renewables MB at 13. There are many flaws with Penn Renewables’ argument, and it should be denied.

First, the Commission’s policy statement defines “large-scale solar projects” as solar alternative energy generating systems with a nameplate capacity of 200 kW or more. 52 Pa. Code § 69.2902. Penn Renewables’ solar facilities are 1MW – 2MW in size. Penn Renewables St. No. 1, p. 12. This is 5-10 times higher than the Commission’s definition of large-scale solar projects or large solar customer generators. Penn Renewables’ facilities are clearly large customer generators, not small customer generators and, thus, not small business customers.

The Commission is not the only entity to classify Penn Renewables’ facilities as large customer generators. As explained in the Company’s Main Brief, large customer generators with 1 MW or more of capacity are defined as “utility scale” generators by the Federal Energy Information Administration, the Environmental Protection Agency and the Solar Energy Industries Association. UGI Electric MB at 19.

The Company further explained in its Main Brief and in its testimony how Penn Renewables’ 1MW – 2MW facilities are nothing like small business customers, including the fact

that they produce 67 to 134 times the electricity that an average small business customer uses each year. UGI Electric St. No. 2-R, p. 22. Moreover, Penn Renewables has approximately 300 projects in the Commonwealth with between 300MW – 600MW of total customer generator generation. Tr. at 101, lines 11 – 16. Penn Renewables is a sophisticated, large business entity.

Penn Renewables further argues that its generating facilities are entitled to the protection of Act 129, which cannot be waived. Penn Renewables MB at 13. This argument misconstrues Act 129. As noted above, Act 129 does not define “small business customer.” It is defined by the Commission’s regulations, which can be waived. UGI Electric has explained why Penn Renewable’s large generating facilities are not small business customers. However, if the Commission determines that Penn Renewables’ utility scale, large customer generating facilities meet the definition of a “small business customer” under the regulations, the Commission has the authority to waive this regulation to allow large customer generators, who were never intended to fall under the definition, to be excluded and classified as GSR-2 customers for default service purposes.³ In its Petition in this proceeding, UGI Electric requested a waiver of all necessary regulations to implement its default service plan. Petition ¶¶ 93 – 99. UGI Electric does not believe that a waiver of this regulation is necessary because large customer generators are not small business customers. However, if it is necessary, UGI Electric requests a waiver of the regulation to avoid disparate and uneconomic rate impacts to residential and actual small business customers and to ensure that GSR-1 default service rates are least cost over time.

In Section V(2) of its Brief, Penn Renewables makes an incorrect statement that is not supported by any testimony. Therein, Penn Renewables states that “Penn’s small solar projects are each sited at the premise of small business customers.” Penn Renewables MB at 13. This

³ These facilities will still be classified based upon their peak demand for distribution rate purposes. UGI Electric St. No. 3-RJ, p. 11.

statement is not in the record, and in fact, appears to be contrary to Penn Renewables' witness testimony. In his Direct Testimony, Mr. Crist stated that the facilities do not use much energy, up to 20 kW, and that this demand is related to station power; i.e., demand when the systems are not in operation, and comes from running the power supply of the invertors, monitoring and data acquisition systems, metering systems, and security systems of the solar facilities. Penn Renewables St. No. 1, p. 27, line 20 – p. 28, line 2. Mr. Crist never mentions that these facilities are sited at the premise of a “small business customer.” There is simply no evidence to support this claim. Penn Renewables' attempts to introduce new evidence in its Main Brief are a violation of the Company's due process rights and should not be accepted.⁴

3. UGI Electric's Spot Market Procurement Plan For GSR-2 Customers Complies with ACT 129.

Penn Renewables notes that Act 129 requires that default service plans 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. Penn Renewables MB at 6, citing 66 Pa, C.S. §§ 2807(e)(3.1) and (3.2). Penn Renewables then argues that UGI Electric's GSR-2 procurement plan violates the statute because it does not include long term or short term contracts, bilateral agreements or RFPs but only includes spot purchases. Penn Renewables is incorrect as both to the facts and the law. As to the facts, spot purchases are made in accordance with bilateral agreements with PJM Interconnection, LLC as the counterparty. UGI

⁴ The Commission, as an administrative body, is bound by the due process provisions of constitutional law and by the principles of common fairness. *See Hess v. Pa. Pub. Util. Comm'n*, 107 A.3d 246, 265-266 (Pa. Cmwlth. 2014), *appeal denied*, 117 A.3d 1282 (Pa. 2015); *Bridgewater Borough v. Pa. Public Utility Commission*, 124 A.2d 165 (Pa. Super. 1956); *McCormick v. Pa. Public Utility Commission*, 30 A.2d 327 (Pa. Super. 1943). Among the requirements of due process are notice and an opportunity to be heard on the issues, to be apprised of the evidence submitted, to cross-examine witnesses, to inspect documents, and to offer evidence in explanation or rebuttal. *Davidson Unemployment Compensation Case*, 151 A.2d 870 (Pa. Super. 1959); *Shenandoah Suburban Bus Lines, Inc.*, 46 A.2d 26 (Pa. Super. 1946).

Electric St. No. 2-R, p. 32, lines 13-14. As to the law, the Commission often views the prudent mix standard as to the entire default service plan, not as to each individual rate offering. Moreover, both the Commission and the Commonwealth Court have determined that spot market purchases alone can meet the “prudent mix” standard. *Popowsky v. Pa. PUC*, 71 A.3d 1112, 1117 (Pa. Cmwlth. 2013). In *Popowsky*, the Commonwealth Court upheld the Commission’s decision authorizing spot market default supplies for all of Pike’s customers (not just the large customers).⁵ Further, the Commission has approved hourly spot market default service rates for large customers of other EDCs, including UGI Electric, for over 10 years. As explained in the Company’s Main Brief, in DSP I, UGI Electric had 3 procurement groups – GSR-1, GSR-2 and GSR-3. The GSR-3 rate provided hourly default service for customers with over 500 kW of demand. *Petition of UGI Utilities, Inc. – Electric Division For Expedited Approval of a Default Service Procurement, Implementation and Contingency Plan*, Docket No. P-2008-2022931, Order entered July 17, 2008. (“*DSP I Order*”). The procurement groups changed to GSR-1 and GSR-2 under the DSP II Plan, and the GSR-2 rate was modified to provide hourly default service for customers with 100 kW of demand or greater. *Petition of UGI Utilities, Inc. – Electric Division for Approval of a Default Service Plan and Retail Market Enhancement Programs for the Period of June 1, 2014 Through May 31, 2017, and Potential Associated Affiliated Interest Transactions*, Docket Nos. P-2013-2357013 and G-2013-2357003, Order entered September 12, 2013 (“*DSP II Order*”). The Commission required EDCs to offer hourly default service to large default service customers in the *End State Order*. *Investigation of Pennsylvania’s Retail Electricity Market: End State of Default Service*, Docket No. I-2011-2237952, Order entered February 15, 2013 (“*End State*

⁵ This also demonstrates that spot market pricing can reflect “full retail value.”

Order”). All large EDCs in the Commonwealth offer hourly spot market default service to large customers. UGI Electric St. No. 3-RJ, p. 10.

Penn Renewables’ argument that a spot market default service rate violates Act 129 is directly contrary to over 10 years of Commission practice and precedent.

4. UGI Electric’s Proposal To Classify Default Service Customers By Their SPLI Avoids Unreasonable Rate Discrimination Under 66 PA. C.S. § 1304.

Penn Renewables argues that UGI Electric’s proposal to classify customers by their SPLI “is discriminatory in violation of the Public Utility Code, 66 Pa. C.S. § 1304 in that it purports to treat customer-generators differently upon UGI’s unfounded assumption that customer-generators will have the ability to enter and exit the market freely.” Penn Renewables MB at 16. This argument is incorrect and should be rejected because UGI Electric’s proposal actually avoids unreasonable rate discrimination.

First, UGI Electric’s proposal is not discriminatory because it classifies all customers on the same basis for default service supply purposes. All customers and customer generators get classified into GSR-1 or GSR-2 based on their respective SPLI. There is no discrimination.

Second, UGI Electric’s proposal is not based solely on the ability of large customer generators to leave the system at any time. No doubt they do have this ability, and it creates risk to the GSR-1 procurements which increases bid premiums and costs. Tr. at 70; UGI Electric St. No. 2-R, pp. 18-19. Just as, or even more important, is the undisputed fact that large customer generators will reduce load and tranche size for the GSR-1 procurements. UGI Electric’s load and tranche sizes are already low, and UGI Electric must procure default supplies for residential and small commercial GSR-1 customers on a combined basis in order to obtain reasonable bids and bidder interest. In Rebuttal Testimony, Mr. Faryniarz stated:

Q. Does a combined procurement approach benefit both subsets of GSR-1 customers?

A. Yes, it does. UGI Electric's supply is already small which led the Company to combining these customers together to grow the MW-measure. Reverting to a split solicitation is only set to harm both customer segments.

UGI Electric St. No. 2-R, p. 17, lines 19-22.

Reductions to GSR-1 load and tranche size from large utility scale customer generators would reduce load and tranche size for wholesale bidders, causing less competitive procurements and higher prices which will be borne by residential and small commercial GSR-1 default service customers. This is undue and unreasonable rate discrimination under 66 Pa. C.S. § 1304 because residential and small commercial default service customers will be paying higher rates because of and for the benefit of large utility scale customer generators.

UGI Electric's proposal to classify default service customers, for default *supply* purposes, based on their *supply* impacts avoids improper rate subsidization and discrimination and should be approved.

B. UGI ELECTRIC'S PROPOSAL TO CLASSIFY DEFAULT SERVICE CUSTOMERS BY THEIR SPLI COMPLIES WITH THE COMMISSION'S REGULATIONS.

Penn Renewables makes several arguments that the Company's GSR-2 hourly default service rate violates the Commission's regulations. Penn Renewables MB at 15. Penn Renewables' arguments should be denied because the Company's GSR-2 rate fully complies with Commission precedent and practice for hourly default service rates.

Penn Renewables argues that the GSR-2 rate changes every hour and therefore is not a "single rate option." Penn Renewables also argues that the GSR-2 PTC will not be on the bill and that customers will have no ability to adjust their output based on the payment they may receive or make. Penn Renewables MB at 15.

UGI Electric addressed these arguments on pages 35-36 of its Main Brief. The Commission has required that EDCs offer hourly priced default service to large customers for over 10 years. If Penn Renewables' arguments were accepted, no EDC could offer hourly priced default service because it would not be a "single rate option." Likewise, UGI Electric is not aware of any EDC that puts the hourly PTC on the bill or of any such requirement. Finally, the largest and most significant part of the GSR-2 bill rate development is the spot market price. Penn Renewables and other large generators can view the hourly spot market price for free on a PJM application. UGI Electric St. No. 2-RJ, p. 15. In other words, the hourly spot market price is public and readily obtainable in real time.

Penn Renewables' arguments with respect to these issues should be denied. However, if the Commission deems it to be necessary, UGI Electric has requested a waiver of all necessary regulations to implement its DSP V plan in its Petition. Petition ¶¶ 93 – 99. The Commission can and should grant all necessary waivers, if any, to ensure GSR-1 default services rates are non-discriminatory and least cost over time.

Penn Renewables also argues that the Commission's regulations require quarterly default service for customers with up to 25 kW of peak load. Penn Renewables MB at 16. UGI Electric also addressed this issue in its Main Brief and in testimony. See UGI Electric MB at 20-21. Ms. Hazenstab explained in her testimony that the Commission's regulations provide flexibility for EDCs to classify customers into default service groups. See UGI Electric St. No. 2-R, pp. 3-4. Penn Renewables' large utility scale generators have a nameplate capacity of 1 MW – 2 MW – or 40-80 times more than 25 kW. They should not be grouped with small customers.

Additionally, Penn Renewables argues that rates may not decline with usage, and that UGI Electric's proposal violates 52 Pa. Code § 54.187(d). Penn Renewables MB at 17. This regulation

does not apply to the GSR-2 rates. The regulation appears to be intended to disallow declining block rates which discourage conservation. The GSR-2 rate formula is the same for all customers, and the formula does not adopt a declining block structure. The base price for energy is the same regardless of how many kWh are used or produced during each hour. The overall hourly rate can vary slightly due to the recovery of certain fixed costs, such as administrative costs, over more kWh usage. *See* UGI Electric St. No. 3-RJ, p. 10, lines 1-3. UGI Electric addressed this issue on pages 31-32 of its Main Brief.

Further, Penn Renewables argues that UGI Electric's proposal to convert kWh to a dollar value each hour does not comply with the regulatory requirement to carry forward kWh to the end of the year. *See* Penn Renewables MB at 21. UGI Electric addressed this issue on pages 28 – 29 of its Main Brief. As noted therein, if the Commission decides that the Company's plan to convert kWh to an actual dollar value each hour is not appropriate, the Company will agree to carry forward excess kWh each month and price all excess kWh at the hourly PTC that is applicable to the single last hour of the PJM planning year. However, pricing 8,760 hours in a year at one single hour price when specific hourly data is known and measurable would not appear to be as just and reasonable as the Company's initial proposal.

UGI Electric does not believe that any waivers of the Commission's regulations are necessary to implement its proposal because the cited regulations were intended to apply to small retail customers and not large customer generators. However, UGI Electric requested a waiver of all necessary regulations in its Petition in order to implement its DSP V Plan. UGI Electric respectfully requests a waiver of any regulation necessary to implement its plan to avoid disparate and uneconomic rate impacts for small customers for the benefit of large customer generators.

C. UGI ELECTRIC PROVIDED SUBSTANTIAL EVIDENCE DEMONSTRATING HARM TO RESIDENTIAL AND SMALL COMMERCIAL GSR-2 CUSTOMERS IF LARGE CUSTOMER GENERATORS ARE INCLUDED IN THE GSR-1 GROUP.

Penn Renewables argues that UGI Electric has only provided “speculation” regarding the impacts of including 1 MW – 2 MW customer generators in the GSR-1 group, with no evidence. Penn Renewables MB at 18-20. Penn Renewables’ arguments are incorrect and should be denied.

The Company’s witness Mr. Faryniarz is a Principal Consultant for Daymark Energy Advisors and leads its Procurement & Portfolios and Rates & Pricing practice areas. Mr. Faryniarz’ job is to advise clients on matters regarding power procurement, power supply planning, regulated cost recovery and rates. UGI Electric Exhibit SCF-1, p. 1. He is a Certified Energy Procurement (“CEP”) Professional. He has advised many different clients at Daymark since 1999. Before that he worked for other employers in the field, including the Vermont Department of Public Service. He has a B.A. in Economics from the University of Vermont, he completed the NARUC Graduate Studies Program in Regulatory Economics from Michigan State University and has a Masters in Public Administration from the University of Vermont. Mr. Faryniarz is an expert in the procurement field and is well qualified to testify as to what factors will negatively impact default supply procurement and price.⁶

Mr. Faryniarz extensively offered his expert testimony in this proceeding regarding the substantial detrimental impacts of including large utility scale customer generators in the GSR-1 procurement group. In rebuttal testimony, Mr. Faryniarz testified:

In summary, large customer-generator exports result in less aggregate supply available for wholesale suppliers to bid on and add additional volatility and variability to the supply mix – otherwise defined as risk. I expanded upon this notion in my direct testimony, highlighting two prominent risks the UGI Electric DSP V Plan attempts to mitigate – impact of retail choice participation and the

⁶ Notably, Penn Renewables never attempted to challenge Mr. Faryniarz’ expert qualifications in this proceeding.

impact of net metering customer-generation. Based upon the 30 new large customer-generator applications received, including those 12 systems highlighted in Mr. Crist's testimony, amounting to 22 MWs The Company estimated the total generation would represent approximately 6% of UGI Electric's GSR-1 load. This estimated supply amount is substantive and is likely to result in higher bid prices and/or lower supplier participation for a GSR-1 program that is already challenged with both issues and meant to be resolved in DSP V through UGI Electric's proposed plan. In short, the inclusion of large customer-generators in the GSR-1 rate group negatively impacts small customers – residential, commercial, and industrial. While the Company does not currently serve any large customer-generators through default service today, by establishing appropriate criteria whereby large customer-generators are provided service under the GSR-2 rate group, energy requirements will be settled through the spot market instead of through fixed price product offerings from wholesale suppliers, which reduces GSR-1 supplier risk, reduces customer risks, and improves the solicitations and associated pricing. This will also appropriately safeguard against potential subsidy impacts for GSR-1 customers related to large customer-generators.

UGI Electric St. No. 2-R, p. 18, line 17 – p. 19, line 13.

In Rejoinder, Mr. Faryniarz testimony as follows:

Q. Effectively, what is the impact of potential GSR-1 load erosion from this much large customer generation on UGI Electric's DSP V portfolio?

A. It could materially eat into the generation procured under DSP V. For instance, one supply resource, the proposed 20 MW of around the clock (ATC) block is expected to provide 175,200 MWh of generation annually.⁷ If all anticipated solar projects were exporting between 35,000 to 45,000 MWh annually, this would require real-time spot market liquidation of the ATC blocks to the tune of 20% - 26%. If liquidation of the block product is done at lower LMPs than the energy forward purchase price, that would result in GSR-1 customers paying significantly more for default service than planned.

These risks are compounded by the fact that if the planned DSP V blocks are liquidated, or if not, FPFRR contract suppliers are left to supply more or less, respectively, of load following supply to GSR-1 customers.

In both of these scenarios, FPFRR contract suppliers could either decide not to bid at all to supply such a small but risky load profile, potentially resulting in an auction failure, or embed significantly higher risk premia into their bids.

⁷ 20 MW X 8,760 hours annually = 175,200 MWh.

This potential for solar exports disrupting GSR-1 load settlement with PJM is another related risk. If a certain amount of exported solar from the up to 22 MW of potential solar in the UGI Electric service territory is expected and bid into UGI Electric's PJM settlement account day-ahead, but it doesn't show up the following day due to cloudy conditions or solar project output disruptions, and the load following suppliers will bear the risk of procuring additional supplies.

Finally adding 22 MW of supply to the GSR-1 procurements would significantly impact tranche size. UGI Electric carefully designed its GSR-1 procurement plan to both provide large enough tranches to encourage bidders while at the same time allowing for rate stability. Reducing tranche sizes will likely discourage bid participation and/or increase bid premiums. In addition, reducing the number of tranches will negatively impact rate stability and/or disrupt the procurement approach. See also the response to Penn Renewables Set IV, number 7 which is provided as Exhibit SCF-4-RJ and to Penn Renewables Set III, question 30, which is provided as Exhibit SCF-5-RJ.

Foisting this kind of risk from large customer-generators onto the shoulders of small residential and commercial customers with loads of less than 100 kW is unfair, bad policy, and is inconsistent with the rigorous and necessary role the PA PUC plays in reviewing and approving on behalf of customers the Pennsylvania EDC default service plans as it is doing so in this proceeding.

UGI Electric St. No. 2-RJ, p. 10, line 24 – p. 12, line 9.

Likewise UGI Electric Exhibit SCF-4-RJ provides:

Beyond price, the quantifiable impacts to the GSR-1 products are to tranche sizing and supply. In UGI Electric Direct Statement No. 2, p 15 lines 12-15, the Company's GSR-1 PLC ranged from 138-142 MW or an average of 140 MW. Following the removal of the 20 MW ATC Block, 120 MW of FPFR supply remains, divided over two contracts or tranches – 60 MW each. It is this FPFR supply that is directly impacted by large customer generator export. Penn Renewables has communicated they currently have 12 project in queue with UGI Electric, each between 1-2 MW nameplate or with an expected operating capacity of approx.. 0.9 MW per MW nameplate. These 12 projects collectively amount to approximately 12.6 MW of operating capacity, or equating to 10.5% of total tranche size. Stated more clearly, Penn Renewable projects alone are projected to reduce the tranche size for wholesale FPFR suppliers by approximately 10.5%.

Further, as explained in UGI Electric Direct Statement No. 2, p 27 lines 13-24 and p. 28 lines 1-4, Penn Renewables is not the only developer seeking to interconnect large customer generators to UGI Electric's system. The potential impact from large customer generators could be substantially larger, with 30 project applications

received at the time of the Company's filing totaling 22 MW nameplate or 19.8 MW operating capacity. This reduces tranche size by approximately 16.5%. These values are not insignificant. Adding additional supply risk from large customer generators to the GSR-1 customer pool only increases supplier risk, likely impacting supplier participation and increases bid price. This subsequently translates to higher costs for customers and an even higher subsidy paid to these same large customer generators.

At the hearing, Mr. Faryniarz testified as follows with respect to residential and small commercial customers cross subsidizing large customer generators if Penn Renewables' proposal is adopted:

Q. I'm asking, what you mean by customer cross subsidization?

A. Well, if the project, if a customer generator that was a large customer generator was in GSR-1, they are essentially trying to take advantage of a, potentially a higher PTC rate that adds risk and volatility to that pool and ultimately would lead to suppliers pricing in that risk to the GSR-1 rate.

Q. I understand – I understand that, but you say that there's a potential for customer cross subsidization, and I – and I don't believe you've addressed that issue in your answer. What do you mean by cross subsidization?

A. Well, that the GSR-1 customer who is forced to accept a higher PTC rate by virtue of the fact that the GSR large customer generators in that pool is cross subsidizing that GSR-2 large customer generator.

Tr. at 51, line 18 – 52, line 11.

UGI Electric has provided substantial expert testimony demonstrating that including large customer generators in the GSR-1 group will reduce load and tranche size, increase risk, increase bidder premiums and increase rates for residential and small commercial customers all for the benefit of large utility scale customer generators. Penn Renewables' arguments that this is all speculation are incorrect. Penn Renewables statements are not supported by expert testimony and should be denied.

D. THE HARMS TO RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS OF ADOPTING PENN RENEWABLES POSITION FAR OUTWEIGH ANY HARMS TO LARGE CUSTOMER GENERATORS.

Penn Renewables argues that large customer generators will be harmed if UGI Electric's proposal is adopted because they will receive a lower GSR-2 rate than they would as GSR-1 customer generators. Penn Renewables MB at 20. This argument should be denied.

UGI Electric's statutory default service obligations are clear and include the obligation to ensure that its rates are least cost over time and non-discriminatory and to ensure that one group of customers is not subsidizing another group. 66 Pa. C.S. §§ 2807(e)(3.3) and (7). UGI Electric's GSR-1 group of residential and small commercial customers already has a small level of load as compared to other EDCs, and UGI Electric has had historical problems obtaining a reasonable number of competitive bidders. UGI Electric St. No. 2-R, p. 12, line 20 – p. 13, line 3. Further reducing load and tranche size will increase bid premiums and result in higher costs for residential and small commercial customers. It is not reasonable for them to pay higher default service rates just so large, utility scale customer generators will receive higher rates for their excess generation.

As also explained in Section VI(A) above and in the Company's Main Brief, large customer generators will receive "full retail value" for their excess generation under the GSR-2 rate.

Penn Renewables' attempts to obtain higher default service rates for its large generating facilities should not be accepted because it will harm residential and small commercial customers.

E. PENN RENEWABLES' OTHER CRITICISMS SHOULD BE DENIED.

Penn Renewables argues that large customer generators should receive the GSR-1 rate because 99 percent of UGI Electric's customers are charged the GSR-1 rate. Penn Renewables MB at 21-22. This is irrelevant and no reason to provide large utility scale customer generators with the same rate as small customers. All of the Company's large default service customers (at 100 kW or more) are on the GSR-2 rate. GSR-2 customers represent approximately 13.5% of total

default supply requirements. UGI Electric St. No. 2-RJ, p. 4, line 1. Penn Renewables' attempts to rely on customer count to determine default service classification are not reasonable and should be denied. The relevant factor is supply impacts as determined by SPLI.

F. PENN RENEWABLES' MAIN BRIEF IS REplete WITH MISCHARACTERIZATIONS AND MISREPRESENTATIONS.

Penn Renewables' Main Brief contains multiple mischaracterizations and misrepresentations which are addressed below. These mischaracterizations and misrepresentations should not be considered in reaching a decision in this proceeding.

On page 2, Penn Renewables states that UGI Electric is "trying to convince the Commission that this new measure [SPLI] is the same as Registered Peak Load...." This statement is not correct. At no time in this proceeding did UGI Electric argue that SPLI is the same as Registered Peak Load. SPLI is broader than Registered Peak Load because it includes supply. It is reasonable to classify default *supply* customers based upon *supply* impacts.

Also on page 2 Penn Renewables argues that customer generators cannot "shop." This is a mischaracterization as customer generators have the ability to leave the GSR-2 group at any time to enter into a bilateral contract or participate in the wholesale market. UGI Electric St. No. 2-RJ, pp. 4-5; Tr. at 70, lines 1-10.

On page 3, Penn Renewables argues that compensation for excess energy "will sink below the wholesale LMP on a daily basis." There is no record evidence to support the statement, and it is incorrect.

On page 7, Penn Renewables argues "that the GSR-2 PTC is so volatile it will regularly go below the wholesale LMP as well as negative price territory...." This statement is incorrect, and Penn Renewables presented no evidence to support it. The evidence presented by UGI Electric

demonstrated that since 2020, the LMP has only gone negative during daytime solar irradiance 8 out of every 1000 hours or 0.08%. UGI Electric St. No. 2-RJ, p. 6, lines 14-15.

On page 8, Penn Renewables states “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.” Penn Renewables cites to the Transcript on page 53, line 13 – page 54, line 8 for this statement. UGI Electric’s witness said nothing like this in the Transcript or in testimony during this proceeding. Penn Renewables completely misrepresents UGI Electric’s testimony, and this should not be accepted.

On page 13, Penn Renewables states that “the facts that say Penn’s small solar projects are each sited at the premises of small business customers...” There is no record support for this statement, and in fact, Penn Renewables witness stated that the only supply needed from UGI Electric at the sites were station power needs. Penn Renewables St. No. 1, p. 27, line 19 – p. 28, line 2.

On page 14, Penn Renewables argues that requests for waivers should be first made in the Company’s initial case and not in rebuttal. Penn Renewables fails to acknowledge that UGI Electric made its waiver requests in its original Petition. See Petition ¶¶ 93- 99.

On page 19, Penn Renewables argues that UGI Electric attempts to “vilify customer-generators by characterizing them as greedy....” UGI Electric has never characterized large customer generators as “greedy” in this proceeding. UGI Electric understands Penn Renewables’ desire to obtain higher rates for excess output from its large generating facilities. However, it is not reasonable to acquiesce to Penn Renewables’ request because, if granted, residential and small commercial GSR-1 customers will pay higher rates to compensate large customer generators.

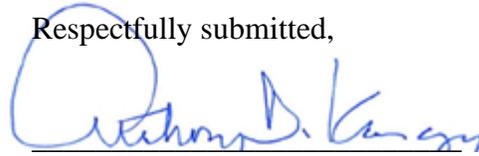
On page 22, Penn Renewables states that UGI Electric is raising “barriers” to keep net metered projects off of its system. This is also incorrect as UGI Electric’s system is open and will remain open to customer generators. UGI Electric is simply seeking to comply with its statutory obligations to offer least cost default service rates to retail customers.

VII. CONCLUSION

The Non-Unanimous Settlement achieved by UGI Electric, OCA and OSBA in this proceeding is the result of a detailed examination of the Company's and the other parties' proposals, multiple rounds of discovery, direct, rebuttal, surrebuttal, and rejoinder testimony, and compromise by the Settlement Parties to the Non-Unanimous Settlement. UGI Electric believes that fair and reasonable compromises have been achieved in the Non-Unanimous Settlement, including UGI Electric's proposal to classify default service customers by their supply peak load impact. This will allow GSR-1 default service rates to be "least cost over time" and avoid residential and small commercial customers unreasonably subsidizing large customer generators. UGI Electric further requests that the ALJs and Commission reject Penn Renewables positions on the litigated issues, as delineated in detail in the Company's Briefs. UGI Electric has met its burden of proving that its default service rate classification proposal is just, reasonable, lawful and in the public interest. UGI Electric's proposal will maintain least cost rates for residential and small commercial customers and avoid improper subsidization of large utility scale generators by residential and small commercial customers while at the same time providing these large utility scale generators with the full retail value of their excess generation under the GSR-2 default service rate. UGI Electric fully supports the Non-Unanimous Settlement and respectfully requests that the ALJs and the Commission review and approve the Non-Unanimous Settlement in its entirety without modification and grant any necessary waivers of the Commission's regulations, if any, for UGI Electric to implement its default service plan as modified by the Non-Unanimous Settlement.

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