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November 18, 2024

***VIA ELECTRONIC FILING***

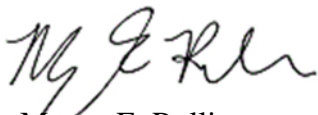
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Jennifer Patora v. UGI Utilities, Inc. – Gas Division**  
**Docket No. C-2024-3050151**

Dear Secretary Chiavetta:

Attached for filing are the Replies of UGI Utilities, Inc. – Gas Divisions to the Complainant's Exceptions in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Megan E. Rulli

MER/dmc  
Attachment

cc: The Honorable John M. Coogan (*via email; w/attachment*)  
Office of Special Assistants (*via email; w/attachment*)  
Certificate of Service

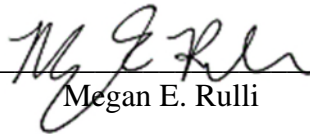
**CERTIFICATE OF SERVICE**

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

**VIA EMAIL AND FIRST-CLASS MAIL**

Jennifer Potora  
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Date: November 18, 2024

  
\_\_\_\_\_  
Megan E. Rulli

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jennifer Potora,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2024-3050151
	:	
UGI Utilities, Inc. – Gas Division,	:	
	:	
Respondent.	:	

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**REPLIES OF UGI UTILITIES, INC. – GAS DIVISION TO THE  
EXCEPTIONS OF JENNIFER POTORA**

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UGI Utilities, Inc. – Gas Division (“UGI Gas” or the “Company”), pursuant to 52 Pa. Code § 5.535, hereby respectfully submits these Replies to the Exceptions of Jennifer Potora (“Complainant”). In her Exceptions, the Complainant disputes Administrative Law Judge John M. Coogan’s (“ALJ”) Initial Decision (“ID”) dismissing the above-captioned Formal Complaint (“**Fifth Complaint**”).<sup>1</sup> As noted by the ALJ, however, the **Fifth Complaint** is the latest in a long line of Formal Complaints filed by the Complainant concerning her arrears with UGI Gas, and the

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<sup>1</sup> The First and Second Complaints were filed at Docket Nos. C-2016-2574107 and C-2018-3000028. The Commission dismissed the First and Second Complaints with prejudice for failure to appear for the hearings and prosecute the complaints, after the Complainant was granted continuances on both dockets. *See Potora v. UGI Penn Natural Gas, Inc.*, Docket No. C-2016-2574107 (Order entered July 7, 2017) (“*Potora I*”); *Potora v. UGI Penn Natural Gas, Inc.*, Docket No. C-2018-3000028 (Order entered August 14, 2018) (“*Potora II*”). The Complainant’s Third Complaint raised the same concerns over termination, usage, and charges, but also alleged her income decreased after she stopped receiving child support payments and so sought a new payment arrangement. *See Potora v. UGI Penn Natural Gas, Inc.*, Docket No. C-2018-3003485 (Order entered Aug. 8, 2019) (“*Potora III*”). The Third Complaint was also dismissed after the Commission found no disputed issues of fact remained because the alleged loss of child support, taken as true, did not constitute a change of income warranting a new payment arrangement. *See id.* at 8-9. Additionally, the Commission found that the Complainant “has a history of abusing the Commission’s process” and “precluded [Complainant] from filing further complaints with the Commission, whether of an informal or formal nature, regarding the arrearages on her account for gas service rendered by UGI Penn Natural Gas, Inc. until all arrearages are paid in full and that the filing of any complaint pertaining to such arrearages shall be dismissed without further proceedings.” *Id.* at 9, 11. The Fourth Complaint was dismissed by the Commission by the Final Order entered on September 21, 2023, which affirmed the Initial Decision issued July 28, 2023, dismissing the Fourth Complaint because it was identical to the first three Complaints and she has been barred by the Commission from filing further identical Complaints. *See Potora v. UGI Utilities, Inc. – Gas Division*, Docket No. C-2022-3036399 (Order entered Sept. 21, 2023) (“*Potora IV*”).

Complainant has been barred from filing further complaints with the Pennsylvania Public Utility Commission (“Commission”), whether of an informal or formal nature, regarding the arrearages on her natural gas service account until all her arrearages with the Company are paid in full. *See Patora v. UGI Penn Nat. Gas, Inc.*, Docket No. C2018-3003485 (Opinion and Order entered Aug. 8, 2019). Therefore, the **Fifth Complaint** is barred by Commission’s Order and should be dismissed with prejudice without further proceedings.

For these reasons and as further explained below, UGI Gas respectfully requests that the Commission deny the Complainant’s Exceptions, adopt the well-reasoned ID without modification, and dismiss the **Fifth Complaint** with prejudice.

## **I. INTRODUCTION**

On July 18, 2024, UGI Gas was served with the above-captioned Formal Complaint filed by the Complainant with the Commission in which the Complainant disputes the arrearages on her natural gas service account and the Company’s issuance of a termination notice due to her failure to pay the amounts owed on that account. This Formal Complaint is the fifth that the Complainant has filed against UGI Gas regarding the outstanding balance for her natural gas service account.

On August 7, 2024, UGI Gas filed its Answer and New Matter to the **Fifth Complaint** along with a Preliminary Objection to the **Fifth Complaint**.

On August 19, 2024, Ms. Patora filed a Motion requesting an extension of time by ten days to respond to UGI Gas’s Preliminary Objections.

On August 23, 2024, UGI Gas filed a letter stating that it did not oppose the Complainant’s request for an extension of time to file a response to its Preliminary Objections.

Also on August 23, 2024, the Complainant filed an Amended Motion requesting an extension of time, clarifying she was not represented by counsel.

On August 29, 2024, the ALJ issued an Interim Order granting the Complainant's Amended Motion for an extension of time to respond to the Company's Preliminary Objections and setting September 3, 2024, as the due date for the Complainant's response.

On September 3, 2024, the Complainant emailed the ALJ reiterating her request for a payment arrangement but did not otherwise file a substantive response to the Company's Preliminary Objections.

On September 26, 2024, the ALJ issued the ID, treating the Company's Preliminary Objections as a Motion for Judgment on the Pleadings, granting the Motion for Judgment on the Pleadings, and dismissing the **Fifth Complaint**.

On or about October 16, 2024, the Complainant filed Exceptions to the ID. UGI Gas was not served with the Complainant's Exceptions.<sup>2</sup>

On November 5, 2024, after UGI Gas became aware that the Complainant had filed Exceptions,<sup>3</sup> the Company filed a letter with the Commission requesting additional time to respond to the Complainant's Exceptions.

On November 8, 2024, the Commission issued a Secretarial Letter granting the Company's request for an extension and setting the deadline for submitting Replies to Exceptions for 10 days from the date of the Secretarial Letter, *i.e.*, until November 18, 2024.

For the reasons explained in more detail below, the Complainant's Exceptions are without merit, and the Commission should adopt the ALJ's well-reasoned ID without modification and dismiss the **Fifth Complaint** with prejudice.

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<sup>2</sup> Although the Complainant's Exceptions contained a Certificate of Service, the email address listed for the Company's counsel was incorrect.

<sup>3</sup> The Company became aware of the Complainant's Exceptions when it checked this docket on the Commission's website.

## II. REPLIES TO EXCEPTIONS

### A. **REPLY TO EXCEPTION NO. 1 – THE ALJ PROPERLY HELD THAT THE FIFTH COMPLAINT IS BARRED BY COMMISSION ORDER**

The Complainant disputes the ALJ’s conclusion that the **Fifth Complaint** is barred by the Commission’s Order in *Potora III*, stating that she “should be allowed to have a hearing with the Judge to discuss my issues” and that “every time I do not get a hearing and just get brushed off with an initial decision without actually having a phone hearing.” (Complainant’s Exceptions at 1.)

The ALJ evaluated the entirety of the **Fifth Complaint** in his ID, noting that the Complainant contends “that UGI Gas is threatening to shut off her service or has already shut off her service; that she would like a payment arrangement; that there are incorrect charges on her bill; and that her meter was never changed.” (ID at 3-4; Complaint ¶ 4.) The ALJ also reviewed the Complainant’s history of filing four nearly identical formal complaints against UGI Gas, each of which were dismissed. (ID at 4-5.) Importantly, the ALJ described that the Commission in *Potora III* found that the Complainant “has a history of abusing the Commission’s process” and “precluded [the Complainant] from filing further complaints with the Commission, whether of an informal or formal nature, regarding the arrearages on her account for gas service rendered by UGI Penn Natural Gas, Inc. until all arrearages are paid in full and that the filing of any complaint pertaining to such arrearages shall be dismissed without further proceedings.”<sup>4</sup> (ID at 5) (quoting *Potora III* at 9, 11.) The ALJ also determined that, “[s]imilar to Ms. Potora’s Formal Complaints in *Potora I, II, III, and IV*, here, Ms. Potora’s allegations again concern her arrears with UGI Gas.” (ID at 10.)

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<sup>4</sup> On October 1, 2018, UGI-CPG and UGI-PNG were merged into UGI Gas, in accordance with the Commission’s order approving the proposed merger. See *Joint Application of UGI Utils., Inc., UGI Penn Natural Gas, Inc., and UGI Central Penn Gas, Inc.*, Docket Nos. A-2018-3000381, et al. (Order entered Sept. 20, 2018).

It was within this procedural backdrop that the ALJ considered the Company's Preliminary Objections to the **Fifth Complaint**, determining that it was appropriate under the circumstances to treat the Preliminary Objections as a Motion for Judgment on the Pleadings. (ID at 8-9) (citing *Mattu v. West Penn Power Co.*, C-2016-2547322 (Opinion and Order entered July 14, 2017); 52 Pa. Code § 1.2.) As explained by the ALJ, "[t]he Commission will grant a motion for judgment on the pleadings only if the pleadings show there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law." (ID at 9) (citing 52 Pa. Code § 5.102(d)(1).) The ALJ also described that "[w]hen there are no disputed questions of fact and the case to be decided is purely one of law or policy, a case may be disposed of without resort to an evidentiary hearing." (ID at 11) (citing *Dee-Dee Cab, Inc. v. Pa. Pub. Util. Comm'n*, 817 A.2d 593 (Pa. Cmwlth. 2003); *Diamond Energy, Inc. v. Pa. Pub. Util. Comm'n*, 653 A.2d 1360 (Pa. Cmwlth. 1995); *Lehigh Valley Power Comm. v. Pa. Pub. Util. Comm'n*, 563 A.2d 557 (Pa. Cmwlth. 1989). Finally, the ALJ observed that "the Commission may dismiss a complaint without a hearing if it is not necessary or in the public interest." (ID at 9) (citing 66 Pa.C.S. § 703(b); 52 Pa. Code § 5.21(d).)

Here, the ALJ properly found that there remain no disputed questions of fact and that the Company's Motion for Judgment on the Pleadings should be granted. (ID at 10-11.) The Company argued in its Preliminary Objections that the Complaint should be dismissed because the Commission's Order in *Potora III* barred the Complainant from filing further complaints against the Company until her existing arrearages are paid in full. (UGI Gas's Preliminary Objections ¶¶ 24-30.) Additionally, through New Matter, the Company alleged that the Complainant has not paid her arrearage with the Company in full. (UGI Gas's New Matter, ¶ 18.) Because the Complainant failed to respond to the Company's New Matter, the ALJ correctly

deemed the Company's position as admitted and accepted "as fact UGI Gas's unopposed allegation that as of August 7, 2024 Ms. Potora has not paid her arrearages in full." (ID at 10; *see also* 52 Pa. Code § 5.63(b).) Thus, the ALJ properly granted the Company's Motion for Judgment on the Pleadings and dismissed the Complaint, considering that: (1) the Complainant conceded through admission that she has not paid the arrearages on her UGI Gas account in full (Finding of Fact No. 16); (2) the instant Complaint concerns her balance in arrears with UGI Gas (ID at 10); (3) the Commission's Order in *Potora III* has not been set aside, which bars the Complainant from filing additional complaints related to her arrearage (ID at 11); and (4) there exists "no reason why allowing Ms. Potora's Formal Complaint to proceed would otherwise be in the public interest" (ID at 11).

Therefore, the ALJ properly determined that the instant Complaint could be resolved without the need for a full evidentiary hearing, granted the Company's Motion for Judgment on the Pleadings, and dismissed the Complaint.

For these reasons, the Complainant's Exception No. 1 should be rejected.

**B. REPLY TO EXCEPTION NO. 2 – THE COMPLAINANT'S OBJECTIONS REGARDING THE COMPANY'S PRELIMINARY OBJECTIONS AND THE ID'S FINDINGS OF FACT LACK MERIT**

The Complainant also generally contends that she "objects to UGI's preliminary objections and Findings of Fact." (Complainant's Exceptions at 1.) The Complainant provides no support for her objections beyond this statement. (*Id.*) For this reason alone, the Complainant's Exception No. 2 should be rejected. Nevertheless, for the reasons explained below, these objections lack merit and should be denied.

Here, the Complainant was granted additional time to respond to the Company's Preliminary Objections but never substantively responded to the claims raised therein. (ID at 3.) To the extent that the Complainant now wishes to object to the Company's Preliminary Objections,

those objections are untimely and have been waived. *See* Order Granting Extension of Time to File Response to UGI Utilities, Inc. – Gas Division Preliminary Objections, Docket No. C-2024-3050151 (Order issued August 30, 2024), at 4; 52 Pa. Code § 5.61 (a)(2). As such, the Complainant’s objections to the Company’s Preliminary Objections have been waived and should be denied.

Further, the Complainant has provided no basis for her objections to the ID’s sixteen Findings of Fact. Findings of Fact Nos. 1 through 7 recount the procedural history of the **Fifth Complaint**. (ID at 3-4.) Findings of Fact Nos. 8 through 15 describe the Complainant’s history of filing formal complaints against the Company. (ID at 4.) The sixteenth Finding of Fact contains the admission that “[a]s of August 7, 2024, Ms. Potora has not paid her arrearages in full and has a balance in arrears with UGI Gas of \$6,218.93.” (ID at 4.) The Company’s allegation regarding the Complainant’s balance in arrears was properly deemed admitted by the ALJ due to the Complainant’s failure to respond to the Company’s New Matter and so is not in dispute. *See* Section II.B, *supra*. The remaining Findings of Fact also are not in dispute as they consist of procedural recitations and citations to the Complainant’s prior formal complaints against UGI Gas. As such, no reasonable basis exists to challenge the ID’s undisputed Findings of Fact and the Complainant’s objections should be denied.

Based on the foregoing, the Complainant’s Exception No. 2 is without merit and should be rejected.

**C. REPLY TO EXCEPTIONS NOS. 3 AND 4 – THE COMPLAINANT’S ISSUES RELATED TO COUNSEL FOR UGI GAS AND METER TESTING ARE IMMATERIAL**

In Exception Nos. 3 and 4, the Complainant alleges that she “has been in contact with opposing counsel [v]ia e-mail and has yet to ever receive an answer” and states that she “objects as the meter has not been tested.” (Complainant’s Exceptions at 1.)

These claims are immaterial to the outcome of the ID and should be rejected. First, the timing of the Complainant's correspondence with Counsel for UGI Gas has no bearing on the outcome of this Complaint and was not relied upon by the ALJ in the ID.<sup>5</sup> In addition, correspondence between UGI Gas and the Complainant is not part of the record in this proceeding. It is well-established that parties cannot introduce new evidence and arguments for the first time at the exceptions stage.<sup>6</sup> As such, the Complainant's attempts to introduce and rely on new facts and extra-record evidence in support of her Exceptions should be rejected.

Second, the ID's dismissal of the Complaint does not bar the Complainant from having her meter tested. Indeed, the Complainant, like all UGI Gas's customers, has the right to request and pay for a meter test at any time in accordance with the Company's Commission-approved tariff. *See* Supp. No. 21 to UGI Gas – Pa. P.U.C. No. 7, First Revised Page No. 41. The Complainant's claim related to meter testing is immaterial to the ID and should be rejected.

For these reasons, the Complainant's Exceptions Nos. 3 and 4 should be denied.

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<sup>5</sup> UGI Gas notes that its Counsel was in contact with Ms. Potora via both phone and email during the course of the proceeding.

<sup>6</sup> *See, e.g., Application of Apollo Gas Co.*, 1994 Pa. PUC LEXIS 45, at \*8-9 (Order entered Feb. 10, 1994) (denying party's attempt to introduce extra-record evidence in its exceptions); *Arthurs v. Pa. Elec. Co.*, 2019 Pa. PUC LEXIS 197, at \*14 (Order entered May 23, 2019) ("This Commission can consider only the evidence in the record before us, and we cannot consider extra record evidence or new arguments presented for the first time in the Exceptions stage of the proceeding.").

**III. CONCLUSION**

WHEREFORE, for all the foregoing reasons, as well as those more fully explained in the well-reasoned Initial Decision of Administrative Law Judge John M. Coogan, UGI Utilities, Inc. – Gas Division respectfully requests that the Pennsylvania Public Utility Commission: (1) deny the Exceptions filed by Jennifer Potora; (2) adopt the Initial Decision without modification; and (3) dismiss the Formal Complaint at Docket No. C-2024-3050151 with prejudice.

Respectfully submitted,

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Dated: November 18, 2024

Counsel for UGI Utilities, Inc. – Gas Division