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File #: 199975

November 18, 2024

***VIA ELECTRONIC FILING***

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

**Re: Bhavin Patel v. UGI Utilities, Inc. - Gas Division  
Docket No. C-2023-3038563**

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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 Marta Guhl (*via email; w/attachment*)  
Office of Special Assistants (*via email; w/attachment*)  
Certificate of Service

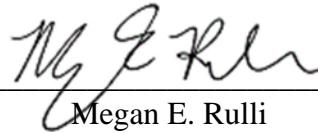
**CERTIFICATE OF SERVICE**

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**

Bhavin Patel  
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Breiningsville, PA 18031  
[BhavinTheGR8One@gmail.com](mailto:BhavinTheGR8One@gmail.com)

Date: November 18, 2024



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Megan E. Rulli

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bhavin Patel,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2023-3038563
	:	
UGI Utilities, Inc. – Gas Division,	:	
	:	
Respondent.	:	
	:	

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**REPLIES OF UGI UTILITIES, INC. – GAS DIVISION TO THE  
EXCEPTIONS OF BHAVIN PATEL**

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UGI Utilities, Inc. – Gas Division (“UGI Gas” or the “Company”), pursuant to 52 Pa. Code § 5.535, hereby files its Replies to the Exceptions of Bhavin Patel (“Complainant”). The Complainant filed Exceptions to the October 17, 2024, Initial Decision (“ID”) rendered by Administrative Law Judge Marta Guhl (“ALJ”). The ID held that the Complainant failed to meet his burden of proof to demonstrate that the Company’s Weather Normalization Adjustment (“WNA”) is unjust or unreasonable.

As a threshold matter, the Complainant’s Exceptions do not conform with the Commission’s regulations because they are unnumbered and do not cite to any of the ID’s Findings of Fact, Conclusions of Law, or specific pages of the ID.<sup>1</sup> That being said, to aid in the Public Utility Commission’s (“Commission”) review of the Complainant’s Exceptions, UGI Gas has grouped and numbered the arguments made in the Complainant’s Exceptions and will respond in kind here.

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<sup>1</sup> Section 5.533(b) of the Commission’s regulations provides that “[e]ach exception must be numbered and identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision. Supporting reasons for the exceptions shall follow each specific exception.” 52 Pa. Code § 5.533(b).

For the reasons explained below, UGI Gas respectfully requests that the Commission deny the Complainant's Exceptions, adopt the well-reasoned Initial Decision without modification, and dismiss the Complaint with prejudice.

**I. INTRODUCTION**

On February 28, 2023, UGI Gas was served with the above-captioned Formal Complaint filed by the Complainant with the Commission.

On March 20, 2023, UGI Gas filed an Answer with New Matter to the Complaint.

On March 23, 2023, the Complainant filed a Response to UGI Gas's Answer and New Matter.

On March 29, 2023, the Commission issued an Initial Call-In Telephonic Hearing Notice scheduling an evidentiary hearing between the parties on Thursday, May 11, 2023, at 10:00 a.m.

On April 12, 2023, UGI Gas filed a letter requesting that the evidentiary hearing be converted into a Prehearing Conference.

On April 24, 2023, the ALJ issued a Prehearing Order for Telephone Hearing confirming the date and time of the scheduled evidentiary hearing.

On May 4, 2023, the ALJ granted UGI Gas's request that the scheduled evidentiary hearing be converted to a Prehearing Conference and requiring the parties to file Prehearing Conference Memoranda by May 10, 2023, at 12:00 p.m.

On May 9, 2023, the Commission issued a Hearing Type Change Notice confirming that the scheduled evidentiary hearing was converted to a Telephonic Prehearing Conference and scheduling the Telephonic Prehearing Conference for May 11, 2023, at 10:00 a.m. before the ALJ.

Also on May 9, 2023, the ALJ issued an Interim Order confirming the details of the Telephonic Prehearing Conference Notice.

On May 10, 2023, UGI Gas filed its Prehearing Memorandum. The Complainant did not file a Prehearing Memorandum.

On May 11, 2023, a prehearing conference was held as scheduled. The parties discussed the Complaint, discovery deadlines, and the litigation schedule. The parties also agreed to participate in a formal mediation session with the Commission's Mediation Unit.

On May 18, 2023, the Commission issued a Mediation Session Notice scheduling an initial telephonic mediation session for Tuesday, June 20, 2023, at 10:00 a.m.

Also on May 18, 2023, UGI Gas requested the litigation schedule be modified to allow time for the parties to participate in the formal mediation session scheduled for June 20, 2023. Specifically, under the new schedule the Complainant was required to submit his Direct Statement by August 10, 2023, UGI Gas was required to submit its written Rebuttal Testimony by September 25, 2023, and the hearing was scheduled for October 17, 2023.

On May 22, 2023, the Complainant requested a stay in litigation until the mediation session was held.

On May 23, 2023, the ALJ granted UGI Gas's proposed changes to the litigation schedule in light of scheduled formal mediation session. The ALJ also granted a partial stay of the proceedings while the parties attempted mediation, in response to the Complainant's request. However, the ALJ ordered the parties to continue with discovery in order to avoid further delays to the litigation schedule. The ALJ additionally granted the Complainant until May 25, 2023, to object to the revised litigation schedule. The Complainant never objected to the revised litigation schedule.

On June 20, 2023, the formal mediation session was held as scheduled, with both UGI Gas and the Complainant in attendance. Although the parties participated in mediation, the Complaint remained unresolved following the mediation session.

The Complainant failed to submit his Direct Statement by the August 10, 2023 deadline adopted by the ALJ on May 23, 2023.

On August 17, 2023, the ALJ extended the Complainant's deadline to submit his written Direct Statement until August 21, 2023.

Also on August 17, 2023, the Complainant served his Direct Statement on the ALJ and UGI Gas.

On August 31, 2023, UGI Gas filed a Motion for Summary Judgment.

On September 25, 2023, UGI Gas served its written Rebuttal Testimony.

On October 6, 2023, UGI Gas filed a Motion to Stay the proceedings pending a ruling on the Company's Motion for Summary Judgment.

On January 4, 2024, the ALJ issued an Interim Order granting in part and denying in part the Company's Motion for Summary Judgment.

On February 15, 2024, the Commission issued an Initial Telephonic Hearing Notice scheduling an evidentiary hearing for April 17, 2024.

On February 16, 2024, the Complainant requested a continuance, which was granted.

Also on February 16, 2024, a Cancelled/Rescheduled Initial Hearing Notice was issued, rescheduling the evidentiary hearing for May 29, 2024.

On May 29, 2024, the evidentiary hearing was held as scheduled.

On October 17, 2024, the ALJ issued the ID dismissing the Complaint, finding the Complainant failed to meet his burden of proof to demonstrate that the Company's WNA is unjust or unreasonable.

Also on October 17, 2024, the Complainant filed a one page letter containing exceptions to the ID.<sup>2</sup> Specifically, the Complainant objects to the finding in the ID that he failed to meet his burden of proof with respect to the allegation that UGI Gas's WNA is unjust or unreasonable. For reasons discussed below, the ID correctly determined based on the record evidence that the Complainant failed to meet his burden of proof. The Complainant also raises various claims that the proceeding was biased against him. These claims of bias are without merit and should be dismissed. Thus, the Commission should deny the Complainant's Exceptions and adopt the well-reasoned ID without modification.

## **II. REPLIES TO EXCEPTIONS**

### **A. REPLY TO EXCEPTION NO. 1 – THE ALJ PROPERLY FOUND THAT THE COMPLAINANT FAILED TO ESTABLISH THAT THE WNA IS UNJUST OR UNREASONABLE**

The Complainant disputes the ALJ's finding that he failed to meet his burden of proof that the WNA is unjust or unreasonable. (Complainant's Exceptions, p. 1.) According to the Complainant, the Company's WNA is akin to "gambling" because it requires "weather prediction" and was designed to let UGI Gas "make profits." (Complainant's Exceptions, p. 1.) The Complainant claims that the ID failed to properly credit the "facts and proof's [sic]" that he presented and that the ID rests "upon speculations instead of clear trend [sic] of data." (Complainant Exceptions, p. 1.) Regarding the Company's witnesses, the Complainant argues

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<sup>2</sup> Exceptions were due within 20 days of the service of the ID on October 17, 2024. Accordingly, the Complainant's Exceptions were due by November 6, 2024. The Company's Replies to Exceptions were due within 10 days of the Exceptions due date, *i.e.*, by November 16, 2024. *See* 52 Pa. Code § 1.12(a). However, because the due date fell on a Saturday, the Company's Exceptions were due on the "next day which is neither a Saturday, Sunday, or holiday," *i.e.*, November 18, 2024. *See id.* Therefore, the Company's Replies to Exceptions are timely filed.

that the rebuttal testimony of UGI Gas witnesses John Taylor and Kimberly Bassininsky should be disregarded as “speculations.” (Complainant’s Exceptions, p. 1.)

None of the Complainant’s claims have merit. As explained by the ALJ, “to the extent that customers challenge a utility’s Commission-approved, tariffed rates for service, customers have the burden of proving by a preponderance of the evidence that the rates are unjust, unreasonable or in violation of a Commission regulation or order.” (ID at 6) (citing *Schellhammer v. Pa. Pub. Util. Comm’n*, 629 A.2d 189 (Pa. Cmwlth. 1993); 66 Pa.C.S. §§315(a), 332(a), 1301.) The ALJ also described the Complainant’s heavy burden in this case, explaining that “UGI’s WNA charge has been approved by the Commission and is included in UGI’s tariff filed with the Commission. A strong presumption exists that rates in a utility’s Commission-approved tariff are just and reasonable.” (ID at 9) (citing *Popowsky v. Pa. Pub. Util. Comm’n*, 669 A.2d 1029 (Pa. Cmwlth. 1995).

Here, the Complainant failed to sustain his burden of proof that the Commission-approved WNA is now unjust and unreasonable. The Complainant has merely alleged that the WNA is unreasonable, based upon unsupported statements that the WNA is akin to gambling, is more likely to result in a charge than a credit for customers, and leads to less predictable customer bills. (ID at 7.) The Complainant failed to put forth any credible evidence in support of his claims, instead largely relying upon his own personal belief that the WNA should be abolished. *See* Tr. 17-23; Complainant’s Exhibit Nos. 1 and 2. As the ALJ correctly explained, “[t]o satisfy the burden of proving that the utility’s Commission-approved rates for the WNA are unjust and unreasonable, the Complainant cannot merely state personal beliefs or pose questions without offering concrete proof. ‘Mere bald assertions, personal opinions or perceptions do not constitute evidence.’” (ID at 9-10) (citing *Pa. Bur. of Corr. v. City of Pittsburgh*, 532 A.2d 12

(Pa. 1987); *Mid-Atl. Power Sup. Assn. v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196 (Pa. Cmwlth. 2000); *Steffy's Pattern Shop v. Frontier Comm. of Pa., Inc.*, Docket No. R-00994808C0001 (Order Entered Mar. 3, 2000)). Thus, the ID correctly found that Complainant failed to sustain his burden of proving that the Company's Commission-approved WNA is unjust or unreasonable.

By contrast, the ALJ properly found that the Company fully rebutted the Complainant's claims regarding the WNA. First, the ID credited the testimony of Company witness John Taylor, who thoroughly explained the rationale behind the WNA and described in detail the design of the charge from a ratemaking perspective. (ID at 8-9; *see also* UGI Gas St. No. 1R.) Importantly, Mr. Taylor explained that the WNA allows the Company "to adjust customer bill calculations to better align the cost recovery the Commission allows with the distribution revenues the utility receives" and avoid the over-recovery or under-recovery of distribution rates when the "actual weather deviates from the normal weather used to design the volumetric distribution rates." (ID at 8) (citing UGI Gas St. No. 1R at 4-5.) Company witness Taylor also described the benefits of the WNA, including reducing bill variability due to weather, stabilizing annual customer bill totals, and better aligning the charges to serve customers with the cost to serve customers. (ID at 8-9.)

The ALJ further credited the testimony of Company witness Kimberly Bassininsky, who credibly testified that Mr. Patel's actual natural gas usage was used to calculate the WNA charge applied to his bills. (ID at 9.) Ms. Bassininsky also personally verified the accuracy of each WNA charge applied to the Complainant's natural gas service bills and demonstrated the calculations used to compute those charges. *See* UGI Gas Exhibit 2. Finally, Ms. Bassininsky thoroughly rebutted the Complainant's calculations set forth in Complainant's Exhibits C and D,

demonstrating that the methodologies used by the Complainant were flawed and could not result in the accurate calculation of a WNA charge. *See* Tr. 43-47. Thus, the ALJ properly relied on the testimony offered by Company witnesses Taylor and Bassininsky in rendering her ID. (ID at 8-9.)

For these reasons, the ALJ correctly held that the Complainant failed to sustain his burden of proof that the WNA is unjust or unreasonable. Accordingly, the Commission should deny the Complainant's Exception No. 1.

**B. REPLY TO EXCEPTION NO. 2 – NOTHING PRESENTED BY THE COMPLAINANT DEMONSTRATES THAT THE PROCEEDING WAS BIASED AGAINST HIM OR THAT HE WAS NOT AFFORDED DUE PROCESS**

The Complainant erroneously claims that the “initial decision and order has been ruled in bias to protect PUC’s incorrect decision to allow implementation of [the] WNA as well as UGI’s wrong practices to makes profits on the grounds of gambling called WNA with weather prediction as it’s dice.” (Complainant’s Exceptions, p. 1.) He also baldly asserts that the “proceeding, the initial decision, and order in itself prove to be pre-planned events to dismiss any complaint from being entered or taken seriously.” (*Id.*) Finally, he claims that his own “proof [was] not allowed to be entered in it’s [sic] 100% form, and the complainant wasn’t given the fair chance to show (nor explain) their proof in the proceeding.” (*Id.*)

These claims completely lack merit. Initially, nothing in the record demonstrates that the ALJ or the Commission were biased against the Complainant and in favor of UGI Gas. Neither has the Complainant cited to any procedure or instance throughout the course of this proceeding for support for this bold claim. For this reason alone, the Complainant’s claims of bias should be dismissed.

Furthermore, the ALJ properly afforded the Complainant due process throughout the course of this proceeding. “The Commission, as an administrative body, is bound by the due

process provisions of constitutional law and by the principles of common fairness.” *Hess v. Pa. PUC*, 107 A.3d 246, 266 (Pa. Cmwlth. 2014) (citations omitted). “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.” *Id.* (citations omitted). To the extent the Complainant claims he was not afforded due process in this proceeding, his claims should be denied.

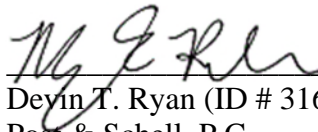
Here, the Complainant was provided with notice and an opportunity to be heard on his issues at the May 29, 2024 hearing. Indeed, he served extensive discovery on the Company related to the WNA prior to the hearing (Tr. 8-9), served his own written Direct Statement in support of his case on August 17, 2023 (Complainant’s Exhibit No. 1), and had an opportunity to review the written rebuttal testimony and exhibits served by the Company on September 25, 2023 (well before the evidentiary hearing on May 29, 2024), cross-examine the Company’s witnesses, and offer his own evidence in rebuttal at the hearing. Additionally, as demonstrated in the ID, the ALJ reviewed the Complainant’s evidence and arguments presented. (ID at 7-8.) During the hearing, the ALJ sustained the Company’s objection and excluded the Complainant’s Exhibit A from the record on relevance grounds, properly finding that the contents of the exhibit, which purported to contain roulette gambling odds, were not relevant to a case dealing with the reasonableness of the WNA. Tr. 64. However, each of the Complainant’s other five exhibits were admitted into the records over the objections of the Company. *See* Tr. 98-101; Complainant’s Exhibit Nos. 1, 2, B, C, D. Ultimately, the ALJ weighed all of the evidence before her and correctly found that the Complainant failed to meet his burden of proof. (ID at 10.) Although the Complainant may disagree with the ALJ’s decision, the Complainant unquestionably was afforded a full and fair opportunity to present his case.

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

**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 Marta Guhl, UGI Utilities, Inc. – Gas Division respectfully requests that the Pennsylvania Public Utility Commission: (1) deny the Exceptions filed by Bhavin Patel; (2) adopt the Initial Decision without modification; and (3) dismiss the Formal Complaint at Docket No. C-2023-3038563 with prejudice.

Respectfully submitted,



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Dated: November 18, 2024

Counsel for UGI Utilities, Inc. – Gas Division