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December 5, 2024

**VIA ELECTRONIC FILING**

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

Re: Edward Fryberger v. Community Utilities of Pennsylvania, Inc.; Docket No. C-2024-3051875; **COMMUNITY UTILITIES OF PENNSYLVANIA, INC.'S MOTION FOR LEAVE TO RESPOND TO FORMAL COMPLAINT *NUNC PRO TUNC***

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Community Utilities of Pennsylvania, Inc.'s Motion for Leave to Respond to Formal Complaint *Nunc Pro Tunc* in the above-referenced matter.

If you have any questions regarding this filing, please contact me.

Very truly yours,

/s/ Whitney E. Snyder

Whitney E. Snyder  
Erich W. Struble

*Counsel for Community Utilities of Pennsylvania,  
Inc.*

WES/das

Enclosures

cc: Teri Lee Rhoades, Mediator ([terhoades@pa.gov](mailto:terhoades@pa.gov))

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

EDWARD FRYBERGER

Complainant,

v.

Docket No. C-2024-3051875

COMMUNITY UTILITIES OF  
PENNSYLVANIA, INC.,

Respondent.

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**NOTICE TO PLEAD**

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TO: Edward Fryberger  
Park View Lane  
Downingtown, Pa 19335  
[nornieej@verizon.net](mailto:nornieej@verizon.net)

Pursuant to 52 Pa. Code §§ 5.62 and 5.63, you are hereby notified that Community Utilities of Pennsylvania, Inc. has filed a Motion for Leave to Respond to Formal Complaint *Nunc Pro Tunc*. You may submit a response to the Motion within **twenty (20) days**. If no response is filed, the motion can be granted, without requiring other proof. All pleadings, such as a response to the attached Motion for Leave to Respond to Formal Complaint *Nunc Pro Tunc*, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served on the undersigned counsel for Community Utilities of Pennsylvania, Inc.

Respectfully submitted,

/s/ Whitney E. Snyder

Whitney E. Snyder, Attorney ID No. 316625

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*Counsel for Community Utilities of Pennsylvania,  
Inc.*

Dated: December 5, 2024

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

EDWARD FRYBERGER	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2024-3051875
	:	
COMMUNITY UTILITIES OF	:	
PENNSYLVANIA, INC.,	:	
	:	
Respondent.	:	

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**COMMUNITY UTILITIES OF PENNSYLVANIA,  
INC.’S MOTION FOR LEAVE TO RESPOND TO  
FORMAL COMPLAINT *NUNC PRO TUNC***

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Pursuant to 52 Pa. Code § 5.103, Community Utilities of Pennsylvania, Inc. (“CUPA”) files this Motion for Leave to Respond to Formal Complaint *Nunc Pro Tunc* (“Motion”). CUPA respectfully requests the Commission allow CUPA to file responsive pleadings to the Formal Complaint filed by Edward Fryberger (“Complainant”) within 10-days of grant of this Motion because there are reasonable grounds for CUPA’s failure to timely respond and granting this Motion will not prejudice Complainant’s substantive rights. In support of this motion, CUPA avers as follows:

**I. BACKGROUND**

1. On or about October 30, 2024, Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) against CUPA.

2. The Commission's Secretary's Bureau served the Complaint on CUPA on October 30, 2024 with notice to respond within 20 days.

3. The contact information used for service of the Formal Complaint was for a former employee that is no longer with the Company. CUPA did not in fact receive notice of the Complaint until November 27, 2024.

4. Upon learning of the existence of the Complaint, CUPA took steps to resolve this administrative error. CUPA rectified the service issue by updating its contact information with the Secretary's Bureau. CUPA's counsel also obtained a copy of the Complaint on December 3, 2024. CUPA now seeks to move forward with this proceeding by filing responsive pleadings.

## **II. MOTION FOR LEAVE TO FILE ANSWER *NUNC PRO TUNC***

5. The Commission has granted leave for a party to file an answer several months after the answer deadline. *See Pennsylvania Public Utility Commission, Bureau of Transportation and safety v. Yellow Cab Company of Pittsburgh*, Docket Nos. A-00049926, and C-2010-2177857 (Opinion and Order entered Apr. 14, 2011), 2011 WL 2113380.

6. Pursuant to Section 1.15(a)(1) of the Commission's regulations, "[e]xtensions of time shall be governed by the following: (1) . . . Upon motion made after expiration of the specified period, the act may be permitted to be done where reasonable grounds are shown for the failure to act." 52 Pa. Code § 1.15(a)(1).

7. The Commission's regulations also permit the liberal construction of rules of procedure to secure the just, speedy, and inexpensive determination of matters before it. *See* 52 Pa. Code § 1.2(a) ("The Commission or presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties").

8. When ruling on a motion, the Commission “must also consider whether *substantial prejudice* will inure to the non-moving party if a [m]otion is granted.” *Application of Columbia Gas of Pennsylvania, Inc. for Approval to Alter the Public Crossing (DOT 472 787 C) by the Installation of an Underground 20-Inch Steel Gas Main Where Valley Drive Crosses, Below Grade, One (1) Track of Wheeling and Lake Erie Railway Company Located in Bethel Park Borough, Allegheny County*, Docket No. A-2023-3040722 (Opinion and Order entered Dec. 7, 2023), 2023 WL 8714876 at \*3 (emphasis added).

9. The Commission should exercise its discretion afforded to it under Sections 1.15(a) and 1.2(a) and allow CUPA to file an answer to the Formal Complaint because there are reasonable grounds for CUPA’s failure to act and no prejudice will inure to Complainant.

10. Due to an administrative error, CUPA did not receive notice of the Complaint until November 27, 2024, well after the response period concluded. This lack of actual notice of the Complaint provides reasonable ground for CUPA’s failure to timely provide responsive pleadings.

11. Substantial prejudice will not inure to the Complainant’s substantive rights if the Motion is granted and CUPA is permitted to file responsive pleadings. Permitting responsive pleadings will inform the Commission of CUPA’s position regarding the Complaint and allow for this proceeding to move forward to decision.

12. Accordingly, CUPA respectfully requests that the Commission grant this Motion and allow it to file responsive pleadings to the Complaint within 10 days of issuance of an order granting this Motion.

### III. CONCLUSION

WHEREFORE, for the reasons stated above, Community Utilities of Pennsylvania, Inc. respectfully requests that the Commission grant this Motion and allow CUPA to file responsive pleadings to the Complaint.

Respectfully submitted,

/s/ Whitney E. Snyder

Whitney E. Snyder, Attorney ID No. 316625

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[wesnyder@hmslegal.com](mailto:wesnyder@hmslegal.com)

*Counsel for Community Utilities of Pennsylvania,  
Inc.*

Dated: December 5, 2024

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**VIA E-MAIL**

Edward Fryberger  
Park View Lane  
Downingtown, Pa 19335  
[nornieej@verizon.net](mailto:nornieej@verizon.net)

*/s/ Whitney E. Snyder*  
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Whitney E. Snyder

Dated this 5<sup>th</sup> day of December, 2024