
Nicholas A. Stobbe

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File #: 209826

December 10, 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: Jeniqua Bradley v. UGI Utilities, Inc. – Gas Division
Docket No. F-2024-3052211

Dear Secretary Chiavetta:

Attached for filing is the Preliminary Objection of UGI Utilities, Inc. – Gas Division to the Complaint of Jeniqua Bradley in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully,



Nicholas A. Stobbe

NAS/dmc
Attachments

cc: 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

Jeniqua Bradley
650 Cornell Court
Unit 204
Harrisburg, PA 17111
auqinejb@yahoo.com

Date: December 10, 2024



Nicholas A. Stobbe

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jeniqua Bradley,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. F-2024-3052211
	:	
UGI Utilities, Inc. – Gas Division,	:	
	:	
Respondent.	:	

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.101, YOU MAY FILE AN ANSWER TO THE ENCLOSED PRELIMINARY OBJECTION WITHIN TEN (10) DAYS OF THE DATE OF SERVICE HEREOF. YOUR ANSWER TO THE PRELIMINARY OBJECTION MUST BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.

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Dated: December 10, 2024

Counsel for UGI Utilities, Inc. – Gas Division

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jeniqua Bradley,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. F-2024-3052211
	:	
UGI Utilities, Inc. – Gas Division,	:	
	:	
Respondent.	:	

**PRELIMINARY OBJECTION OF
UGI UTILITIES, INC. – GAS DIVISION TO THE COMPLAINT OF
JENIQUA BRADLEY**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, comes UGI Utilities, Inc – Gas Division (“UGI Gas” or the “Company”) and hereby files this Preliminary Objection, pursuant to the regulations of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code § 5.101, and respectfully requests that the portions of the Formal Complaint of Jeniqua Bradley (“Complainant”) alleging violations of the United States Code be dismissed because the Pennsylvania Public Utility Commission (“Commission”) lacks subject matter jurisdiction over those claims.

In support thereof, UGI Gas states as follows:

I. BACKGROUND

1. UGI Utilities, Inc. (“UGI Utilities”) is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania and a wholly owned subsidiary of UGI Corporation.

2. UGI Utilities has two divisions – the Gas Division (UGI Gas) and the Electric Division (“UGI Electric”).

3. On November 20, 2024, UGI Gas was served with the above-captioned Complaint. The issue(s) raised in the Complaint related to claims that UGI Gas is in violation of the United States Code, specifically 15 U.S.C. § 1666 (related to the regulation of credit reports). (Complaint ¶ 5.)

4. The Complainant does not claim that the Company billed her in violation of the Public Utility Code, the Commission’s regulations or orders, or the Company’s Commission-approved tariff. (Complaint ¶¶ 4-5.)

5. As relief, the Complainant requests “credit to the account nun pro tunc” and alleges that UGI Gas has been “unjustly enriched” and breached its “fiduciary duty.” (Complaint ¶ 5.)

6. UGI Gas herein files this Preliminary Objection to the Complaint. For the reasons explained below, UGI Gas respectfully requests that the portions of the Complaint alleging violations of the United States Code be dismissed pursuant to Section 5.101(a)(1) of the Commission’s regulations because the Commission lacks subject matter jurisdiction over those federal claims. 52 Pa. Code § 5.101(a)(1).

II. STANDARD OF REVIEW

7. Pursuant to the Commission’s regulations, preliminary objections in response to a pleading may be filed on several grounds, including:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.

- (4) Legal insufficiency of a pleading.
- (5) Lack of a capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.
- (7) Standing of a party to participate in the proceeding.

52 Pa. Code § 5.101(a) (emphasis added).

8. In ruling on preliminary objections, the Presiding Officer must accept as true all well-pled allegations of material facts as well as all inferences reasonable deducible therefrom. *Stilp v. Commonwealth*, 910 A.2d 775, 781 (Pa. Cmwlth. 2006) (“*Stilp*”) (citing *Dep’t of Gen. Servs. v. Bd. Of Claims*, 881 A.2d 14 (Pa. Cmwlth. 2005)), *affirmed*, 974 A.2d 491 (Pa. 2009). However, the Presiding Officer need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion. *Stanton-Negley Drug Co. v. Dep’t of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlth. 2008), *affirmed*, 963 A.2d 670 (Pa. 2009). Notwithstanding, any doubt must be resolved in favor of the non-moving party. *Stilp* at 781.

9. In addition, the Presiding Officer must determine whether, based on the factual pleadings, if recovery is possible. *See Rok v. Flaherty*, 527 A.2d 211, 214 (Pa. Cmwlth. 1987) (citation omitted). Indeed, for preliminary objections to be sustained, it must appear with certainty that the law will permit no recovery. *See Stilp* at 781; *Milliner v. Enck*, 709 A.2d 417, 418 (Pa. Super. 1998) (quoting *Santiago v. Pa. Nat. Mut. Cas. Ins. Co.*, 613 A.2d 1235, 1238 (Pa. Super. 1992)).

III. PRELIMINARY OBJECTION NO. 1 – PORTIONS OF THE COMPLAINT SHOULD BE DISMISSED BECAUSE THE COMMISSION LACKS SUBJECT MATTER JURISDICTION OVER THE CLAIMS RAISED THEREIN

10. UGI Gas incorporates by reference Paragraphs 1 through 9 as if fully set forth herein.

11. The issues raised in the Complaint relate to claims that UGI Gas is in violation of certain portions of the United States Code, specifically, 15 U.S.C. § 1666 (related to regulation of credit reports). (Complaint ¶ 5.)

12. The Complainant does not allege that the Company billed her in violation of the Public Utility Code, the Commission's regulations or orders, or the Company's Commission-approved tariff. Neither does the Complainant specifically dispute the balance on her account with UGI Gas, or any specific bill rendered by UGI Gas.

13. As a creature of statute, the Commission "has only those powers which are expressly conferred upon it by the Legislature and those powers which arise by necessary implication." *Feingold v. Bell*, 383 A.2d 791, 794 (Pa. 1977) (citations omitted).

14. The Commission must act within its jurisdiction and may only hear complaints regarding the Public Utility Code, Commission regulations, or Commission orders. *See Alkhatib v. PECO Energy Co.*, Docket No. C-2011-2242125, 2012 Pa. PUC LEXIS, at *13-14 (Jan. 12, 2012) *citing* 66 Pa. C.S. § 701.

15. The Commission does not have jurisdiction over claims arising under the United States Code. *Feingold v. Bell*, at 794.

16. Here, the Complaint raises alleged violations of portions of the United States Code related to the United States Postal Service's service to rural areas (39 U.S.C. § 101(A)(b)) and debt collection practices (15 U.S.C. § 1692(e)). (Complaint ¶ 5.)

17. Application and interpretation of federal law are outside of the Commission's express jurisdiction of Pennsylvania Code, Commission regulations, or Commission orders. *See* 66 Pa. C.S. § 701; *Alkhatib v. PECO* at *13-14.

18. Therefore, the Commission lacks jurisdiction over the Complainant's allegations that are rooted in alleged violations of federal law.

19. Thus, the Commission should dismiss the portions of the Complaint alleging violations of the United States Code (*i.e.*, 15 U.S.C. § 1666) pursuant to Section 5.101(a)(1) of the Commission's regulations because the Commission lacks subject matter jurisdiction over those claims. 52 Pa. Code § 5.101(a)(1).

CONCLUSION

WHEREFORE, UGI Utilities, Inc. – Gas Division respectfully requests that the Pennsylvania Public Utility Commission grant this Preliminary Objection.

Respectfully submitted,



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Dated: December 10, 2024

Counsel for UGI Utilities, Inc. – Gas Division

VERIFICATION

I, Amy L. Wynn, Senior Compliance Representative of UGI Utilities, Inc., hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: December 10, 2024

Signed by:

BA59C2C02FAF493...

Amy L. Wynn