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December 18, 2024

VIA ELECTRONIC FILING

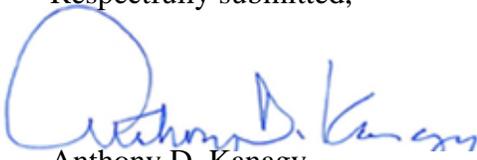
Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
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**Re: Petition of UGI Utilities, Inc. - Electric Division For Approval of a Default Service Plan (DSP V) for the Period of June 1, 2025 through May 31, 2029
Docket Nos. P-2024-3049343 and G-2024-3049351**

Dear Secretary Chiavetta:

Attached please find the Reply Exceptions of UGI Utilities, Inc. – Electric Division for filing 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*)
Office of Special Assistants (*via email; w/attachments – ra-OSA@pa.gov*)
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: December 18, 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 EXCEPTIONS OF UGI UTILITIES, INC. – ELECTRIC DIVISION

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Date: December 18, 2024

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I. INTRODUCTION

On December 3, 2024, Administrative Law Judges Dennis J. Buckley and Alphonso Arnold III (the “ALJs”) issued a Recommended Decision (“RD”) in the above-captioned proceeding. In the RD, the ALJs recommended approval of a Non-Unanimous Settlement that was entered into by UGI Utilities, Inc. – Electric Division (“UGI Electric” or “Company”), the Office of Consumer Advocate (“OCA”) and the Office of Small Business Advocate (“OSBA”), which resolved all issues among these parties. Penn Renewables LLC (“Penn Renewables”) was the only party that opposed the Non-Unanimous Settlement. Penn Renewables opposed the Non-Unanimous Settlement 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”).¹ Penn Renewables did not oppose the other provisions of the settlement which included default supply procurement plans for GSR-1 and GSR-2 customers.

UGI Electric proposes to classify default service customers according to their SPLI to avoid disparate impacts to residential and small commercial customers under the GSR-1 group. If UGI Electric’s proposal is not adopted, large customer generators (up to 3 megawatt (“MW”)) would be grouped with residential and small commercial customers for default supply purposes. The large customer generator supply will offset load that is purchased for small customers, creating smaller tranche sizes and adding more volumetric risk, resulting in higher prices for GSR-1 supply.

As explained in the Company’s Reply Brief, Penn Renewables 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

¹ SPLI considers demand and/or supply impacts to determine default service classification.

rate. If Penn Renewables' position is adopted, 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.

II. SUMMARY OF REPLY EXCEPTIONS

The contested issue in this proceeding is very straightforward. UGI Electric is proposing to design its default service rates to group large customer generators with other large customers for default supply purposes. Doing so will avoid disparate and discriminatory rate impacts for residential and small commercial GSR-1 default service customers. If large customer generators are permitted to be included in the GSR-1 group, their excess generation will offset load purchased for GSR-1 customers, reducing tranche size, and creating additional volumetric risk. Both of these factors will increase prices for GSR-1 wholesale bids, through both higher bid prices from suppliers and through less bidder participation (which also results in higher prices). Penn Renewables opposes the Company's proposal because it seeks to obtain higher default service rates for excess generation produced by its large (1MW – 2MW) generating facilities. The RD correctly recognized that Penn Renewables was seeking to leverage its interpretation of the AEPS Act, 73 P.S. §§ 1648.1 – 1648.9, for higher compensation to the detriment of small customers. *See* RD, at pp. 31, 39-41.

In Exceptions, Penn Renewables argues that the RD erred in assigning the burden of proof. This exception is irrelevant. UGI Electric agrees that it has the burden of proof with respect to its proposal to classify default service customers by SPLI and has fully met its burden. Grouping large customer generators with other large customers for default service purposes will avoid disparate and discriminatory rate impacts and satisfy UGI Electric's statutory obligation to create default service rates that are least cost over time. Penn Renewables bears the burden of proof as to its counterproposal to increase the SPLI threshold from 100 kilowatts ("kW") to 3 MW. Penn

Renewables has failed to carry its burden because adopting Penn Renewables' position will create all of the harms that would be avoided with UGI Electric's rate design proposal.

Penn Renewables also argues that UGI Electric's proposal violates the AEPS Act and the Public Utility Code. Contrary to Penn Renewables' assertions, UGI Electric's proposal complies with all applicable statutes including the AEPS Act, Act 129, and the Public Utility Code in general. Specifically, Penn Renewables argues that the Company's proposal does not provide GSR-2 customer generators with "full retail value" for their excess generation under the AEPS Act. Without any statutory authority, Penn Renewables argues that only the GSR-1 rate can provide "full retail value." This argument is contrary to years of Commission precedent which requires different retail default service rates for different customer groups. All default service rates are retail rates that can provide full retail value. 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. Act 129 does not define "small business customer" or categorize "small business customers" by any kW threshold. Therefore, Penn Renewables relies on the Commission's regulations which define small business customers as those with peak load less than 25 kW to argue that its facilities, which are 1MW – 2MW in size, are "small business" customers because they are projected to have less than 25 kW of peak load. There are many problems with Penn Renewables' argument, including the fact that the Commission has defined customer generators of this size as large customer generators and not small business customers. Large utility scale customer generators are not small business customers, and they are not entitled to quarterly default service rates.

Penn Renewables argues that UGI Electric's proposal discriminates against large customer generators. To the contrary, UGI Electric's proposal 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.

Despite multiple rounds of Company expert testimony demonstrating the harms of including large customer generators in the GSR-1 group, Penn Renewables continues to argue that there is no substantial evidence to support the Company's proposal and that harms to residential and small commercial customers are speculative. Penn Renewables' substantial evidence argument fails. It is undisputed that including large customer generators in the GSR-1 group will reduce load and tranche size and create additional volumetric risk. Mr. Faryniarz testified, based upon his 30 plus years of professional experience, that adopting Penn Renewables' position will increase risk for the GSR-1 group, increase bidder premiums and increase GSR-1 default service rates. Accordingly, 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. The RD succinctly addressed this issue, noting that UGI Electric is not required to design rates so that market participants receive optimum economic outcomes. RD, at p. 31. Under the Company's proposal, large customer generators will receive full retail value for their excess generation under the GSR-2 rate, and residential and small commercial GSR-1 customers will be protected from disparate and discriminatory rates that would result if large customer generators were included in the GSR-1 group.

III. REPLIES TO SPECIFIC EXCEPTIONS

1. **Reply Exception No. 1 – Penn Renewables’ Focus on the Burden of Proof is Irrelevant - UGI Electric Has Demonstrated That Its Proposal To Classify Default Service Customers By SPLI Is Just, Reasonable and In The Public Interest.**

In this Exception, Penn Renewables argues that the RD erred in determining that Penn Renewables has the burden of proof in this proceeding. Penn Renewables Exc., at pp. 5-7. Penn Renewables’ focus on the burden of proof is irrelevant because UGI Electric demonstrated that its proposal to classify default service customers by their supply impacts is just, reasonable and in the public interest. 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. UGI Electric St. No. 2, at p. 24; UGI Electric St. No. 2-R, at p. 16; UGI Electric St. No. 2-RJ, at pp. 10-12; UGI Electric Exhibit No. SCF-5-RJ; UGI Electric Exhibit No. SCF-4-RJ; *See also* OCA St. 1R, at p. 11.

As to the burden of proof issue itself, UGI Electric believes that both parties bear the burden of proof as to certain issues in this proceeding. Pursuant to Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), UGI Electric, as the Petitioner, has the burden of proof with respect to its proposals in this proceeding:

Except as may be otherwise provided in Section 315 (relating to burden of proof) or other provisions of this part or other relevant statute, the proponent of a rule or order has the burden of proof.

It is to be emphasized, however, that the burden of proof, also known as the burden of persuasion, means a duty to establish a fact by a preponderance of the evidence. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). If the Company presents evidence found to be of greater weight than the other parties, then the Company will have carried its burden of proof.

Morrissey v. Commonwealth of Pennsylvania, 424 Pa. 87, 225 A.2d 895 (1986); *Burleson v. Pa. P.U.C.*, 501 Pa. 433, 436, 641 A.2d 1234, 1236 (1983); *V.J.R. Bar Corp. v. P.L.C.B.*, 480 Pa. 322, 390 A.2d 163 (1978); *Milkie v. Pa. P.U.C.*, 768 A.2d 1217, 1220 (Pa. Cmwlth. 2001).

UGI Electric has proposed to classify default service customers by their SPLI, and therefore, has the burden of proof with respect to this proposal. UGI Electric has met its burden of proof as to this issue by presenting evidence of the harms to residential and small commercial customers of including large customer generators in the GSR-1 procurement group and demonstrated that its proposal results in default service rates that are least cost over time. UGI Electric St. No. 2-R, at pp. 16-18; UGI Electric St. No. 2-RJ, at p. 10; UGI Electric Main Brief, Section VI(C). The harms to residential and small commercial customers that will result if large customer generators are included in the GSR-1 group will far outweigh any harms to large customer generators from being placed in the GSR-2 group. As the Company explained in its Reply Brief, UGI Electric has a statutory default service 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 has a small level of load as compared to other Electric Distribution Companies ("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 GSR-1 customers. It is not reasonable for them to pay higher default service rates so that large, utility scale customer generators can receive higher rates for their excess generation. UGI Electric St. No. 2-RJ, at p. 10, line 4 – p. 12, line 9; UGI Electric Exhibit No. SCF-5-RJ; UGI Electric Exhibit No. SCF-4-RJ. As also explained in this proceeding, if UGI Electric's proposal is adopted,

large customer generators will receive “full retail value” for their excess generation under the GSR-2 rate. UGI Electric St. No. 3-R, at p. 11, line 21 – p. 12, line 6; Tr. at 83, lines 6 – 12.

Penn Renewables argues that the Company only provided the opinions of its witnesses and did not provide any evidence to support its claims in this proceeding. Penn Renewables Exc. at 7. Penn Renewables’ argument is not correct and should not be accepted. UGI Electric addressed this argument on pages 18 – 21 of its Reply Brief. As noted therein, it is an undisputed fact that if large customer generators are included in the GSR-1 procurement group, the GSR-1 tranche sizes will decrease and volumetric risk will increase. These are facts - not opinions. Further, UGI Electric’s expert witness, who has over 30 years of experience in the energy procurement and rates field, testified that the decreased tranche sizes would increase risk for wholesale suppliers and increase prices for GSR-1 supply. Mr. Faryniarz’s testimony is not lay opinion testimony, but expert testimony that is unrebutted by any other expert. Mr. Faryniarz’s expert testimony is not mere speculation, but along with the unrebutted demonstration of reduced tranche size and UGI Electric’s experience in obtaining default supplies for GSR-1 customers, constitutes substantial evidence, that the ALJs considered, in this proceeding supporting UGI Electric’s proposal. UGI Electric St. No. 2-R, at p. 16; UGI Electric St. No. 2-RJ, at p. 10, line 24 – p. 12, line 4; Tr. at 114, line 23 – 115, line 3; UGI Electric Exhibit No. SCF-4-RJ.

OCA also explained in its Reply Brief that the adverse impacts to small customers of adopting Penn Renewables proposal were not speculative. OCA RB at 8. Therein, OCA further explained:

Moreover, even the large customer-generators that stay on default service constitute volumetric risk for FPFRR suppliers because of the uncertainty surrounding the level and profile of on-site generation (e.g., outages, in-service dates of on-site generators that are in UGI’s distribution interconnection queue). *Id.* Similar to switching risk, this volumetric risk would prompt the FPFRR suppliers to build larger risk premiums into their FPFRR contract bids or shy away from participating in the FPFRR auctions,

resulting in higher PTCs and/or more volatile rates for residential customers. *Id.* Penn Renewables' characterization of the rate impacts as "speculative at best" (PR M.B. at 18) is contradicted by substantial evidence.

OCA RB at 8.

While UGI Electric bears the burden of proof as to its proposals in this proceeding, Penn Renewables bears the burden of proof with respect to its proposal to increase the GSR-2 threshold to 3 MW. A party that raises an issue that is not included in a public utility's filing bears the burden of proof as to that issue. For example, in *Pa. PUC v. Metropolitan Edison Co., et al.*, Docket Nos. R-00061366, *et al.*, 2007 Pa. PUC LEXIS 5 (Order entered Jan. 11, 2007), a party offered proposals to have the companies incur expenses not included in their filings. The ALJ held that, as the proponent of a Commission order with respect to its proposals, the party bears the burden of proof as to proposals that are not included in the companies' filings. The Commission agreed and adopted the ALJ's conclusion that Section 315(a) of the Public Utility Code cannot reasonably be read to place the burden of proof on the utility with respect to an issue the utility did not include in its general rate case filing and which, frequently, the utility would oppose. *Id.*, at *111-12.

In this proceeding, Penn Renewables argued that if the Company's proposal to classify default service customers according to their SPLI is adopted, the threshold should be increased from 100 kW to 3 MW. Penn Renewables St. No. 1-SR, at p. 34. Penn Renewables has not met its burden of proof as to this proposal. As explained in the Company's testimony and Briefs and by the OCA, adopting Penn Renewables proposal would cause all of the disparate impacts to GSR-1 customers that are avoided by adopting UGI Electric's proposal. UGI Electric RB, at p. 5; UGI Electric St. No. 2, at p. 24, lines 11-19; UGI Electric St. No. 2-R, at p. 18, line 14 – p. 19, line 12; UGI Electric Exhibit SCF-4-RJ. Penn Renewables is simply trying an end run

around the Company’s proposal to attempt to allow Penn Renewables 1 MW – 2 MW facilities to receive higher compensation for excess generation under the GSR-1 rate to the detriment of residential and small commercial GSR-1 customers.

2. Reply Exception No. 2 – The RD Properly Addressed the Litigated Issue in This Proceeding.

This Exception by Penn Renewables argues that the RD improperly characterized the litigated issue in this proceeding. In this Exception, Penn Renewables states “The RD erroneously states that the only litigated issue to be resolved is UGI’s proposed methodology for assigning customers to either the GSR-1 or GSR-2 procurement classes.” Penn Renewables Exc. No. 2, p. 7. The RD is not erroneous. The method for classifying customers between the GSR-1 and GSR-2 default service rates is the only litigated issue in the proceeding. All of the other “issues” cited by Penn Renewables are simply arguments related to whether UGI’s proposed methodology is just, reasonable and lawful.

Penn Renewables argues that the RD does not address “whether UGI’s proposed default service rate for GSR-2 customers complies with the statutory requirement that Customer-Generators be paid at the full retail value for excess generation....” Penn Renewables Exc. at 8. Contrary to the Penn Renewables’ assertions, the RD addresses this argument on pages 28 – 29. Therein, the RD quotes Penn Renewables argument that UGI’s proposal does not provide full retail value under the AEPS Act. See RD, top of page 29. Later on page 29, the RD states: “[t]he undersigned do not agree with Penn Renewables’ interpretation of the AEPSA.” The RD clearly considered and rejected Penn Renewables’ argument that large customer generators would not receive “full retail value” under the GSR-2 default service rate. As the Company has explained in

this proceeding, the GSR-2 rate is a retail default service rate. Large customer generators will receive the full GSR-2 retail value for their excess generation under the GSR-2 rate.²

Penn Renewables further states in this Exception that UGI Electric's "concerns" about the impact of large customer generators on the GSR-1 group are unproven. Penn Renewables Exc. at 8. This argument repeats Penn Renewables claims that UGI Electric did not provide substantial evidence supporting its claims. This argument is addressed above, on pages 21 – 24 of the Company's Main Brief and on pages 18 – 22 of the Company's Reply Brief. As noted therein, allowing large customer generators to participate in the GSR-1 group will reduce tranche sizes, increase wholesale supplier risk and increase GSR-1 prices. This violates the Company's statutory obligation to provide least cost default service rates over time. 66 Pa. C.S. § 2807(e)(3.4)(ii); UGI Electric St. No. 3-R, at p. 14; UGI Electric St. No. 2-R, at p. 16, lines 6-10; UGI Electric St. No. 2-R, at pp. 18-10. The Company's proposal to classify default service customers by their SPLI avoids this issue because large customer generators will be placed on hourly default service with other large customers, and their excess generation will not adversely impact supply purchases for other customers.

Under this Exception, Penn Renewables implies that it is entitled to the GSR-1 PTC rather than the GSR-2 PTC because there are currently no GSR-2 customer generators on the Company's system. Penn Renewables Exc. at 8. There is no statutory or regulatory basis to support this argument. Penn Renewables has no statutory right to the GSR-1 default service rate. To the contrary, UGI Electric has a statutory obligation to design rates to avoid disparate impacts to customers. 66 Pa. C.S. § 1304; 66 Pa.C.S. § 2807(e)(3.4)(ii).

² On page 4 of its Exceptions, Penn Renewables argues that the Commission's regulations themselves do not comply with the AEPS Act because the Commission's regulations do not include distribution charges for excess energy. This issue is outside the scope of the proceeding and also incorrect. Moreover, UGI Electric's proposal compensates large customer generators for distribution charges consistent with the Commission's regulations.

Penn Renewables also argues that the Company's rate design proposal discriminates against large customer generators. Penn Renewables Exc. at 9. Contrary to Penn Renewables' assertions, the Company's proposal avoids rate discrimination against residential and small commercial customers because if the Company's proposal is not adopted these customers will pay higher default service rates that will be caused by and for the benefit of large customer generators. As explained in the Company's Reply Brief, 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. UGI Electric RB, pp. 14 – 15.

3. Reply Exception No. 3 – Customer Generators Will Receive Full Retail Value For Excess Generation Under The Company's Proposal.

In this Exception, Penn Renewables argues that the Company's proposal to include large customer generators in the GSR-2 default service group will not provide "full retail value" for excess generation. Penn Renewables Exc. at 10. UGI Electric has addressed this argument on pages 24 – 37 of its Main Brief and pages 6 – 9 of its Reply Brief. The evidence is clear in this case that if UGI Electric's proposal is adopted, large customer generators will receive the full retail GSR-2 rate (and value) for their excess generation.

Penn Renewables position on this issue has evolved over the course of this proceeding. First, Penn Renewables attempted to argue that the GSR-2 rate was a "wholesale rate" and not a "retail rate." Penn Renewables St. No. 1-SR, at p. 27, lines 21-23. When UGI Electric demonstrated that the GSR-2 rate was in fact a retail default service rate that has been offered to retail default service customers for over 15 years, Penn Renewables attempted to side-step the issue and argue that the GSR-2 rate was only a retail rate for certain customers. Tr. at 108, lines 5 – 25; Tr. at 109, lines 2 – 4; Tr. at 110, lines 13 – 15.

Now in its Exceptions, Penn Renewables again suggests that the GSR-2 is not a retail rate, arguing that it is “more or less a ‘proxy’ wholesale rate” and further argues that only the GSR-1 rate provides “full retail value.” Penn Renewables Exc. at 10. Penn Renewables is wrong on both counts. First, the GSR-2 rate is the retail rate for large customers in the Company’s service territory and always has been a retail rate. Penn Renewables admitted that the GSR-2 rate was a retail rate at the hearing.³ 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.

Penn Renewables also argues that the GSR-1 default service rate is the only default service rate that provides “full retail value.” Penn Renewables Exc. at 11. Penn Renewables goes so far as to argue that its position is supported by the AEPS Act because the AEPS Act does not authorize separate rates for customer generators. This argument is severely flawed and should not be accepted. Penn Renewables admits that the AEPS Act does not define “full retail value.” Therefore, Penn Renewables is attempting to read language into the AEPS Act that does not exist.

By not defining “full retail value” in the AEPS Act, the clear legislative intent is to allow the Commission to define “full retail value” under its traditional ratemaking authority. *See* UGI Electric RB at 6 – 9. 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, the Commission has directed and authorized EDCs to develop different retail default service rates for different groups of customers. These rates include different

³ 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.

products, different types of procurements, and different terms for customers of different sizes. This ensures that one group of customers is not subsidizing another group of customers and helps to ensure that default service rates are “least cost over time.” The one thing that all default service rates have in common is that they are “retail rates.” All of the different default service rates are retail rates and all constitute the “retail value” for the customers that are classified under each specific rate.

In this Exception, Penn Renewables also argues that its facilities are “small business customers” that are entitled to quarterly default service rates under the Public Utility Code and that the Public Utility Code cannot be waived. Penn Renewables Exc. at 10. UGI Electric addressed this argument on pages 18-21 of its Main Brief and pages 10-12 of its Reply Brief. As noted therein Act 129 does not define “small business customers” and does not provide any kW classification for what constitutes a “small business customer.” Therefore, the Commission has the power to determine whether large customer generator facilities are “small business customers” and has determined that they are not. 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.

Penn Renewables also restates its argument that UGI Electric did not provide conclusive evidence of harm to residential and small customers if large customer generating facilities are classified as GSR-1 customers. This argument is addressed above and in the Company's Briefs. Penn Renewables also states that there is no evidence in the record that UGI Electric considered other means to address its concerns regarding large customer generators negatively impacting the GSR-1 procurements. Penn Renewables Exc. at 11. This argument is flawed because UGI Electric was not required to provide Penn Renewables with other alternatives. Further, UGI Electric is not aware of any alternative that would allow large customer generators to be included in the GSR-1 group without harming residential and small commercial GSR-1 customers.

4. Reply Exception No. 4 – UGI Electric's Proposal Does Not Violate The Public Utility Code or The Commission's Regulations.

In this Exception, Penn Renewables makes several arguments regarding the Company's proposal and that it allegedly violates the Public Utility Code and the Commission's regulations. UGI Electric addressed these arguments on pages 17-21 of its Main Brief and pages 6-15 of its Reply Brief. Penn Renewables arguments are flawed and should not be accepted.

First, Penn Renewables argues that UGI Electric has proposed to "move the threshold for classification to 100 kW instead of the current 25 kW." Penn Renewables Exc. at 12. This argument is incorrect. UGI Electric's classification between the GSR-1 and GSR-2 groups has been 100 kW since the conclusion of UGI Electric's DSP II proceeding in September of 2013.⁴

⁴ 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 GSR2 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*

UGI Electric is not moving the classification threshold from 25 kW to 100 kW. UGI Electric is expanding the 100 kW threshold to include both supply and demand impacts in order to ensure that large customer generators are grouped with other large customers for default supply purposes.

In this Exception, Penn Renewables also argues that the Commission's regulations require that customers with less than 25 kW of demand receive quarterly default service rates. Penn Renewables Exc. at 12, *citing* 52 Pa. Code § 54.187(h). UGI Electric addressed this argument on pages 20-21 of its Main Brief and page 16 of its Reply Brief. *See also* UGI Electric St. No. 2-R, at pp. 3-4. The Company explained in 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. Moreover, 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.

5. Reply Exception No. 5 – The RD Appropriately Rejected Penn Renewables' Counterproposal To Increase The GSR-1 SPLI To 3,000 kW.

Penn Renewables argues that the RD should have accepted its counterproposal to increase the GSR-1 SPLI to 3 MW for customer generators. Penn Renewables Exc. at 13. Penn

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”).

Renewables argues that this would align with the AEPS Act general net metering limit of 3 MW. UGI Electric addressed this argument on page 38 of its Main Brief. *See also* OCA MB, at pp. 9-12.

Penn Renewables proposal should be denied because it would create all of the discriminatory impacts that UGI Electric is trying to avoid for residential and small commercial GSR-1 customers. The effect of Penn Renewables “counterproposal” would be the same as if UGI Electric’s proposal was denied.

In this Section, Penn Renewables repeats its claim that UGI Electric is proposing to “change from 25 kW to 100 kW.” Penn Renewables Exc. at 13. As explained above, UGI Electric is not proposing to change the GSR-1 threshold from 25 kW to 100 kW. The threshold is currently 100 kW and is not changing.⁵

6. Reply Exception No. 6 – Residential and Small Commercial Customers Will Experience Significant Harm If UGI Electric’s Proposal Is Not Adopted.

In this Exception, Penn Renewables argues that large customer generators will be harmed if UGI Electric’s proposal is adopted because they will receive service on the GSR-2 rate as opposed to the GSR-1 rate. Penn Renewables Exc. at 15. Penn Renewables argument should not be accepted. Penn Renewables’ alleged harms are potentially lower rates for excess power under the GSR-2 rate. Penn Renewables further states that UGI did not evaluate the harms to large customers of its proposal. This argument should also be denied. As noted in the RD,

UGI is not required to prove that market participants receive optimum economic outcomes.

⁵ Penn Renewables also incorrectly claims that UGI Electric’s requested waivers were not made in its case in chief. This is clearly and demonstrably false as UGI Electric made its waiver requests in its Petition. Petition ¶¶ 93-99.

RD at 31.⁶

As explained in the Company's Reply Brief, the harms to residential and small commercial GSR-1 customers of adopting Penn Renewables' position far outweigh harms to large customer generators. As noted therein, UGI Electric is statutorily obligated to ensure that its default service 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 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 GSR-1 costs. It is unreasonable for residential and small commercial GSR-1 customers to pay higher default service rates so large utility scale customer generators will receive higher rates for their excess generation.

Further, UGI Electric has had a GSR-2 default service rate for large customers for many years. The GSR-2 rate does not present "harms" for large default service customers and will not "harm" large customer generators. To the contrary, UGI Electric does not believe that it is reasonable for 20 – 30 large customer generators, all producing 1 MW – 2MW or more, to have such a detrimental effect on the default service rates for 60,000 residential and small commercial GSR-1 customers.

7. Reply Exception No. 7 – Penn Renewables Admitted That The GSR-2 Rate Is A Default Service Rate.

In this Exception, Penn Renewables argues that the RD mistakenly concludes that Penn Renewables "admitted that the GSR-2 as proposed is a default service rate." Penn Renewables

⁶ On page 9 of its Exceptions, Penn Renewables argues that UGI Electric "is certainly aware that such compensation would make any proposed net metering project nonviable." UGI Electric is not aware of this allegation by Penn Renewables and there is no evidence in the record to support it.

Exc. 7, p. 15. Penn Renewables then directly contradicts itself and admits that the GSR-2 rate is a default service rate in the first sentence of this Exception. Penn Renewables Exc. at 15.

Like it did at the hearing, Penn Renewables attempts to twist clear and unequivocal facts into something that they are not. Penn Renewables argues that it did not admit the GSR-2 rate was a default service rate, then admits that it is, but argues that it does not reflect “full retail value because its underpinnings are not based on retail sales, but rather a pass-through of a wholesale rate and associated components.” Penn Renewables Exc. at 16. Penn Renewables’ attempts to twist the facts should not be accepted. All retail rates consist of wholesale purchases and associated components. UGI Electric St. No. 3-RJ, at p. 8, line 12 – p. 9, line 4; *See also* 66 Pa. C.S. § 2803 which defines “end-use customers” as retail customers. The GSR-2 default service rate is a retail rate, and large customer generators will receive full retail value under the GSR-2 retail rate for their excess generation.

Penn Renewables also argues that the GSR-1 rate applies to all but 100 of UGI’s approximate 60,000 customers. Penn Renewables Exc. at 16. This fact is irrelevant. Default service customers are grouped together by size, and large customer generators are appropriately grouped with other large customers for default service purposes to avoid disparate and discriminatory impacts to residential and small commercial customers.

8. Reply Exception No. 8 – UGI Electric’s Proposal Complies With The Public Utility Code And The Commission’s Regulations.

In this Exception, Penn Renewables repeats its arguments that it’s facilities are small business customers with less than 25 kW of demand that are entitled to quarterly default service rates. Penn Renewables Exc. at 17. UGI Electric addressed this argument in Reply Exception No. 4 above and in pages 20-21 of its Main Brief and page 16 of its Reply Brief.

In this Exception, Penn Renewables repeats its argued that until its proposal in this case, the “GSR-2 had a threshold of 25 kW of load.” Penn Renewables Exc. at 17. This statement is incorrect. The GSR-2 threshold has been at 100 kW since conclusion of the Company’s DSP II proceeding. *See* fn 4, *supra*.

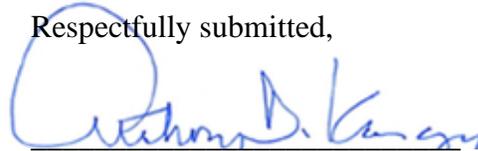
As noted throughout this case, UGI Electric is not attempting to skirt any laws or scheme against large customer generators. UGI Electric is simply attempting to develop just, reasonable and non-discriminatory default service rates for all customers that comply with the Company’s least cost obligations. UGI Electric’s proposal to classify default service customers according to their SPLI does that.

IV. 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 Commission reject Penn Renewables’ positions on the litigated issues, as delineated in detail in the Company’s Briefs and in these Reply Exceptions. 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 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.

Respectfully submitted,



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