

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120**

Public Meeting held March 13, 2025

Commissioners Present:

Stephen M. DeFrank, Chairman  
Kimberly Barrow, Vice Chair  
Kathryn L. Zerfuss  
John F. Coleman, Jr.  
Ralph V. Yanora

Sarah Aed

C-2024-3047793

v.

UGI Utilities, Inc. – Gas Division

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions, filed by Sarah Aed (Ms. Aed or Complainant) on December 2, 2024, to the Initial Decision (I.D.) of Administrative Law Judge (ALJ) F. Joseph Brady, issued on November 27, 2024, in the above-captioned proceeding.<sup>1</sup> The Initial Decision dismissed the Formal Complaint (Complaint) which

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<sup>1</sup> By Secretarial Letter dated December 2, 2024 (*Secretarial Letter*), the Commission's Secretary: (1) issued a notice to the Parties indicating that there was no Certificate of Service or other indication that the Exceptions were served on the Parties; and (2) enclosed the Exceptions to constitute service under 52 Pa. Code § 5.533.

was filed by the Complainant on March 27, 2024, against UGI Utilities, Inc. – Gas Division (UGI or Company). No Reply Exceptions were filed. For the reasons stated below, we will deny the Exceptions and adopt the Initial Decision, which dismisses the Complaint consistent with this Opinion and Order.

## **I. History of Proceeding**

On March 27, 2024, Ms. Aed filed a Complaint against UGI objecting to the Weather Normalization Adjustment (WNA) charge on her bill for the period of February 16, 2024 to March 15, 2024, in the amount of \$18.12. Ms. Aed averred that the WNA is illegal because it allows UGI to bill for a service she is not using when the weather is warmer. For relief, Ms. Aed requested the abolishment of the WNA and refund credits to all customers who paid the charges. Complaint at 2.

On April 16, 2024, UGI filed an Answer with New Matter (Answer) along with a Notice to Plead. In its Answer, UGI admitted, in part, and denied, in part, various material allegations of the Complaint. The Company admitted that it applied a WNA to the Complainant’s bill referenced in the Complaint. In its New Matter, UGI averred, *inter alia*, that its WNA became effective on October 29, 2022, pursuant to the Commission-approved settlement in UGI’s 2022 base rate case and its Commission-approved tariff. Answer at 2-3, 7 (citing *Pa. PUC, et al., v. UGI Utilities, Inc. – Gas Division*, Docket Nos. R-2021-3030218, *et al.* (Final Order entered September 15, 2022) (*September 2022 Order*); Supplement No. 37 to UGI Gas – Pa. P.U.C. No. 7 (UGI Tariff) at Third Revised Page No. 53 and Sixth Revised Page No. 54, effective October 29, 2022. (Rider C at 1-2)). UGI argued that it was complying with its Commission-approved tariff and requested that the Complaint be dismissed. Answer at 9-10.

Also, on April 16, 2024, UGI filed a Preliminary Objection to the Complaint along with a Notice to Plead. In its Preliminary Objection, UGI argued that it

cannot be held liable for complying with its Commission-approved tariff and requested that the Complaint be dismissed. Preliminary Objection at 3-6. The Complainant did not file an Answer to UGI's New Matter or the Preliminary Objection.

On August 12, 2024, the hearing convened as scheduled. The Complainant appeared *pro se*, testified on her own behalf, and offered no exhibits for the record. Counsel appeared on behalf of UGI and presented the testimony of one witness, Ms. Kimberly Bassininsky, who sponsored two exhibits, which were admitted into the record without objection.

The record closed on August 29, 2024, upon the filing of the transcript with the Commission.

In his Initial Decision, issued on November 27, 2024, the ALJ found that UGI had failed to show that the Complaint is legally insufficient and denied the Company's Preliminary Objection. However, the ALJ determined that the Complainant failed to satisfy her burden of proving that UGI violated its tariff, the Public Utility Code (Code), or a Commission regulation or order and, thus, dismissed the Complaint. I.D. at 6, 8.

On December 2, 2024, Ms. Aed filed Exceptions which were served by the *Secretarial Letter* issued on December 2, 2024. No Reply Exceptions were filed.

## **II. Discussion**

### **A. Legal Standards**

As a preliminary matter, any argument or Exception not specifically delineated shall be deemed to have been duly considered and denied without further

discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

## **1. Burden of Proof**

As the proponent of a rule or order, the Complainant in this proceeding bears the burden of proof pursuant to Section 332(a) of the Code. 66 Pa.C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, the Complainant, as the party seeking relief, must show that UGI is responsible or accountable for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 602 A.2d 863 (Pa. 1992). That is, the Complainant's evidence must be more convincing, by even the smallest amount, than that presented by UGI. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950). Additionally, this Commission's decision must be supported by substantial evidence in the record. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980).

Upon the presentation by the Complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence, to rebut the evidence of the Complainant, shifts to the Company. If the evidence presented by UGI is of co-equal weight, the Complainant has not satisfied her burden of proof. The Complainant now has to provide some additional evidence to rebut that of the Company. *Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983).

While the burden of persuasion may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

## **2. Preliminary Objections**

Section 5.101(a) of our Rules of Practice and Procedure states that preliminary objections are available to parties and may be filed in response to a pleading. 52 Pa. Code § 5.101(a). Preliminary objections must be accompanied by a notice to plead, must state specifically the legal and factual grounds relied upon, and be limited to the following:

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 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).

The Commission may not rely upon the factual assertions of the moving party but must accept, as true, for purposes of disposing of the motion, all well-pleaded,

material facts of the non-moving party, as well as every inference from those facts. *County of Allegheny v. Commonwealth of Pennsylvania*, 490 A.2d 402 (Pa. 1985); *Commonwealth of Pennsylvania v. Bell Telephone Company of Pa.*, 551 A.2d 602 (Pa. Cmwlth. 1988). Thus, the Commission must view a complaint only in the light most favorable to the complainant and should dismiss the complaint only if it appears that the complaint would not be entitled to relief under any circumstances as a matter of law. *Jeffrey W. Smiles v. PPL Electric Util. Corp.*, Docket No. C-2021-3026268 (Opinion and Order entered December 19, 2024) at 11.

### **3. Weather Normalization Adjustment Tariff**

The Code requires that “every rate made, demanded or received by any public utility...shall be just and reasonable and in conformity with regulations and orders of the Commission.” 66 Pa.C.S. § 1301. The Code further mandates that no utility shall demand or receive a rate that is greater or less than that specified in its tariffs. 66 Pa.C.S. § 1303. Tariff provisions that have been approved by the Commission are deemed *prima facie* reasonable. *Lynch v. Pa. PUC*, 594 A.2d 816, 819 (Pa. Cmwlth. 1991), *app. denied*, 605 A.2d 335 (Pa. 1992).

Moreover, it is well established that a Commission-approved tariff has the force of law and is binding on the public utility and its customers. *Stiteler v. Bell Telephone Co.*, 379 A.2d 339, 341 (Pa. Cmwlth. 1977), *Brockway Glass Co. v. Pa. PUC*, 437 A.2d 1067 (Pa. Cmwlth. 1981) (*Brockway Glass*), *Pennsylvania Electric Co. v. Pa. PUC*, 663 A.2d 281 (Pa. Cmwlth. 1995). Thus, a utility is required to charge its customers according to its Commission-approved tariff.

It is undisputed that the Commission approved UGI’s WNA Rider C as a five-year pilot program as part of the Company’s most recent base rate case in the *September 2022 Order*.

When a customer is challenging an existing rate, the customer bears the burden of proving that the charge is no longer reasonable. *Brockway Glass*, 437 A.2d at 1070. Since the Complainant is challenging the rates in UGI's tariff, which pertain to the WNA, the Complainant bears the burden of proving by a preponderance of the evidence that the existing rates and charges are unreasonable, unjust or in violation of a Commission regulation or order. 66 Pa.C.S. § 332(a), *Duquesne Light Co. v. Pa. PUC*, 715 A.2d 540, 544 (Pa. Cmwlth. 1998), *Schellhammer v. Pa. PUC*, 629 A.2d 189, 193 (Pa. Cmwlth. 1993).

## **B. ALJ's Initial Decision**

In his Initial Decision, ALJ Brady made four Findings of Fact and reached nine Conclusions of Law. I.D. at 3-4, 8-9. The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

The ALJ first addressed the Preliminary Objection based on the Company's position that the Complaint is legally insufficient because a utility cannot be held liable for complying with its Commission-approved tariff. In his rationale, the ALJ stated that the Commission must view the Complaint in the light most favorable to the Complainant and should dismiss the Complaint, or portions of it, only if it appears that the Complainant would not be entitled to relief under any circumstance as a matter of law. Here, the ALJ explained that Ms. Aed alleged that the WNA provision of UGI's tariff is unreasonable. According to the ALJ, when viewing these averments as true for purposes of the Preliminary Objection, it is clear that recovery or relief would be possible for the Complainant. Thus, the ALJ concluded that UGI has failed to show that the Complaint is legally insufficient and denied the Preliminary Objection. I.D. at 5-6.

In addressing the merits of the Complaint pertaining to the WNA objections, the ALJ found that UGI is applying the WNA charge to Ms. Aed's bills in accordance with its Commission-approved tariff in Rider C. The ALJ stated that Ms. Aed did not present any evidence in support of her Complaint other than her own statement that she disagrees with the WNA being charged. I.D. at 7 (citing Tr. at 9). In contrast, the ALJ determined that UGI, through its witness and exhibits, provided a detailed explanation demonstrating the calculations of the WNA and how they were applied to Ms. Aed's bills in accordance with the formulas set forth in its tariff. I.D. at 7 (citing Tr. at 14-21; UGI Exhs. 2-3).

Explaining that the Complainant's opinion alone is insufficient to overcome the prima facie reasonableness of the Commission-approved tariff, the ALJ found that Ms. Aed failed to satisfy her burden of proof and dismissed the Complaint. I.D. at 7-8 (citing *Richard Kirby v. PPL Elec. Utils. Corp.*, Docket No. C-20066297 (Initial Decision issued October 18, 2006; Final Order entered November 16, 2006)).

## **C. Exceptions and Dispositions**

### **1. Exceptions**

In her Exceptions, Ms. Aed states generally that she is unsatisfied with the outcome of her Complaint.<sup>2</sup> She also alleges that ALJ Brady was biased in this case because he was one of the judges who approved the WNA charges on her bills. Although

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<sup>2</sup> We note that the format of the Exceptions does not comply with Section 5.533(b) of our Regulations, which requires each exception to be numbered, to identify the finding of fact and conclusion of law to which exception is taken, and to cite to the relevant pages of the Initial Decision. 52 Pa. Code § 5.533(b). Nevertheless, particularly because the Complainant is appearing *pro se*, we will accept the Exceptions as filed pursuant to Section 1.2(a) of our Regulations, 52 Pa. Code § 1.2(a), in order to secure a just, speedy, and economical determination.

her arguments are not entirely clear, it appears that Ms. Aed is simply repeating her contention that the Commission is improperly allowing, and UGI is implementing, illegal charges in the form of the WNA. Exc. at 1.<sup>3</sup>

## 2. Disposition

Regarding the allegations of bias, Ms. Aed does not cite to any evidence of bias or improper action by the ALJ or the Commission. In particular, it is unclear as to which proceeding ALJ Brady allegedly approved, or recommended the approval of, the WNA charges on Ms. Aed's bills.<sup>4</sup> Upon review of the record, it is evident that the ALJ properly afforded the Complainant due process throughout the course of this proceeding. Thus, any contention that the presiding officer acted improperly in the conduct of the proceeding lacks merit. Furthermore, to the extent the Complainant's Exceptions include additional commentary alleging bias or improper motivations by the ALJ or the Commission without any foundation, such commentary is deemed to be immaterial, impertinent, and otherwise irrelevant to the disposition of this matter and will not be further considered. *See* 52 Pa. Code § 1.4(e).

As to the merits of the Complaint, Ms. Aed testified that she has no idea how UGI came up with the average temperature in the WNA calculation, where it is taken from, and if the billing is done correctly because it just appears on her bills without any explanation. Tr. at 8-9. Additionally, Ms. Aed stated that she was only able to

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<sup>3</sup> Without any explanation, the Exceptions also copy and insert a portion of the ALJ's disposition pertaining to the denial of UGI's Preliminary Objection in the Initial Decision at pages 5-6. Exc. at 1. As the Company did not file Exceptions to this determination, we decline to address it further here.

<sup>4</sup> We further note that ALJ Brady was not one of the ALJs who prepared the Recommended Decision, wherein the presiding ALJs recommended approval of the WNA pursuant to the Commission-approved settlement in UGI's 2022 base rate case. *See September 2022 Order.*

obtain an explanation of the WNA calculations by filing this Complaint against the Company. *Id.* at 22.

During cross-examination of UGI’s witness, Ms. Bassininsky, the Complainant questioned why the Company does not explain the WNA charges on its bills. In response, Ms. Bassininsky stated: “I do believe that would require extensive programming and additional cost. We do have information available. If customers do call into the call center, we do have supervisors who can provide information, or verification of calculations can be sent out upon request.” Tr. at 22. Upon review, we note that Ms. Aed is correct that UGI’s bills do not contain an explanation of the WNA calculation.<sup>5</sup>

Nonetheless, we find that UGI provided sufficient evidence in this proceeding to demonstrate that it calculated Ms. Aed’s WNA charges in conformity with its Commission-approved tariff provision. Tr. at 17-21; UGI Exh. 2.<sup>6</sup>

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<sup>5</sup> The UGI bills contain an explanation of terms section which references the WNA generally, as follows, but does not explain how the charge is calculated: “Weather Normalization Adjustment (WNA) – is a method of billing distribution charges based on ‘normal’ weather approved by the Pennsylvania Public Utility Commission. Not applicable to Electric or Maryland customers.” UGI Exh. 3 at 2. We note that the Company’s website includes a more detailed discussion of the WNA, including a Frequently Asked Questions section about the charges. [Weather Normalization Adjustment \(WNA\) - UGI Utilities](#). UGI did not submit the website information about the WNA as part of the evidentiary record in this proceeding and we reference it only for the purpose of encouraging the Company to provide additional educational resources to its customers who have questions about the WNA on their bills.

<sup>6</sup> The Company’s Commission-approved WNA formula is set forth in Rider C of UGI’s Commission-approved tariff, as follows:

$$\text{WNBC} = \text{BLMC} + [((\text{NHDD} \pm (\text{NHDD} * 3\%)) / \text{AHDD}) * (\text{AMC} - \text{BLMC})]$$

$$\text{WNAC} = \text{WNBC} - \text{AMC}$$

Here, the record indicates that there were fifteen billing periods to which the WNA was applied. UGI's witness, Ms. Bassininsky, testified that, of those billing periods, one had a WNA credit, two had a WNA of \$0, and twelve had WNA debits or charges applied. In total, UGI charged Ms. Aed \$105.40 over the past two heating seasons for the WNA, which averaged to \$7.03 for each of the fifteen billing periods to which the Company applied the WNA charge. Tr. at 14-15; UGI Exh. 2 at 1.

In support of these calculations, Ms. Bassininsky provided verification worksheets of how the WNA was applied to Ms. Aed's bills for the billing periods of October 2022 through May 2024. Tr. at 14; UGI Exh. 2 at 2-16. Ms. Bassininsky explained the calculations of heating degree days and the 3% monthly deadband and

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$$\text{WNA} = \text{WNAC} \times \text{Distribution Charge}$$

Rider C at 1. The following is summary of the acronyms and factors contained in the WNA formula:

- WNA – Weather Normalization Adjustment;
- WNBC – Weather Normalized Billing calculated as the Base Load Monthly Ccfs (BLMC) added to the product of (1) the NHDD adjusted for a 3% deadband, divided by the AHDD and (2) the Actual Monthly Ccfs (AMC) less the BLMC. The WNA will not apply if the AMC is less than the BLMC for the billing period;
- BLMC – Base Load Monthly Ccfs – established for each customer using the customer's actual average daily consumption history using bills with read dates of June 21<sup>st</sup> through September 20<sup>th</sup> over a thirty-six-month period multiplied by the number of days in the billing period;
- NHDD – Normal Heating Degree Days – “normal” weather based on a 15-year average;
- AHDD – Actual Heating Degree Days;
- 3% Deadband – a threshold governing when the WNA is applied during a particular billing period;
- AMC – Actual Monthly Ccfs;
- WNAC – Weather Normalized Adjustment Ccfs.

*Id.* at 1-2.

showed the application of the deadband to the WNA calculation as required under Rider C. Tr. at 17-18. Additionally, Ms. Bassininsky showed the monthly baseload using the customer's non-temperature sensitive usage and the adjustment of the temperature sensitive usage as applied to the Complainant's bill period for February 16, 2024, through March 15, 2024. *Id.* at 18. For the same billing period, Ms. Bassininsky testified about the Weather Normalized Billing amount, which represents the volume of gas expected under normal weather conditions, and factored in the calculations pertaining to actual consumption. *Id.* at 19-20. Thereafter, Ms. Bassininsky showed how the WNA charge is calculated in relation to the applicable distribution rate. *Id.* at 20-21.

The Complainant provided no evidence to rebut UGI's testimony pertaining to the calculation of the WNA as applied to her bills. Absent from the record is any evidence to show that the application of the WNA, as applied to the Complainant, violated the approved tariff language in Rider C or that UGI otherwise violated the Code or a Commission regulation or order. Thus, we find that the Complainant has failed to satisfy her burden of proving, by a preponderance of the evidence, that the existing rates and charges of the WNA pursuant to UGI's Rider C are no longer reasonable.

Accordingly, we shall deny the Exceptions and adopt the Initial Decision.

### **III. Conclusion**

Based upon our review of the record and the applicable law, we shall deny the Exceptions of the Complainant and adopt the ALJ's Initial Decision, consistent with this Opinion and Order; **THEREFORE,**

**IT IS ORDERED:**

1. That the Exceptions filed by Sarah Aed on December 2, 2024, to the Initial Decision of Administrative Law Judge F. Joseph Brady, issued on November 27, 2024, at Docket No. C-2024-3047793, are denied, consistent with this Opinion and Order.
2. That the Initial Decision of Administrative Law Judge F. Joseph Brady, issued on November 27, 2024, is adopted, consistent with this Opinion and Order.
3. That the Formal Complaint of Sarah Aed, filed on March 27, 2024, against UGI Utilities, Inc. – Gas Division, is denied.
4. That this proceeding at Docket No. C-2024-3047793 be marked closed.

**BY THE COMMISSION**



Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: March 13, 2025

ORDER ENTERED: March 13, 2025