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File #: 205959

April 4, 2025

VIA ELECTRONIC FILING

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

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 et al

Dear Secretary Chiavetta:

Attached please find the Answer to Petition for Relief in the Form of a Stay 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
Principal

ADK/sa
Attachments

cc: Honorable Dennis J. Buckley (*via email*)
Honorable Alphonso Arnold, III (*via email*)
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: April 4, 2025



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 | : | |
| | : | |
| Penn Renewables LLC | : | |
| | : | |
| v. | : | C-2024-3049618 |
| | : | |
| UGI Utilities, Inc. – Electric Division | : | |

**UGI UTILITIES, INC. – ELECTRIC DIVISION’S ANSWER
TO PETITION FOR RELIEF IN THE FORM OF A STAY**

UGI Utilities, Inc. – Electric Division (“UGI Electric” or “Company”) hereby answers the Petition for Relief in the Form of a Stay (“Petition for Stay”) filed by Penn Renewables LLC (“Penn Renewables”) on March 25, 2025, in the above-captioned proceeding. The Petition seeks a stay of the Commission’s Order that was entered on February 20, 2025. The Petition for Stay is governed by Section 5.572 of the Pennsylvania Public Utility Commission’s (“Commission”) Regulations and was due within 15 days of the Commission’s Order, or by March 7, 2025. 52 Pa. Code § 5.572(c). Penn Renewables’ Petition for Stay was 18 days late and should be denied on that basis alone. Notably, Penn Renewables does not even mention that its Petition for Stay is untimely and provides no justification for filing it 18 days late.

The Petition for Stay also fails on the merits. As explained below, Penn Renewables has failed to meet the standards set forth by the Supreme Court of Pennsylvania in *Pa. PUC v. Process Gas Consumers Group*, 467 A.2d 805 (1983) (“*Process Gas*”) for issuance of a stay.

I. BACKGROUND

1. On May 31, 2024, UGI Electric filed the above-captioned petition with the Commission requesting approval for a Default Service Plan for the period of June 1, 2025 through May 31, 2029 (“DSP V Plan”).

2. In the DSP V Plan, UGI Electric proposed to: (1) procure a competitive mix of default service supplies through load-following, block and spot market purchases, and related Alternative Energy Portfolio Standards (“AEPS”) credits over the 4-year DSP V Term (i.e., 2025-2029); (2) implement a procurement schedule designed to obtain these supplies at the least cost; (3) issue Requests for Proposals (“RFPs”) seeking default supply in accordance with the agreements and forms included with this Petition; (4) adopt a contingency plan that addresses any procurement target shortfalls; (5) recover all incurred default service costs on a full and current basis through a specified default service rate design; (6) adopt revised tariff rules clarifying the application of GSR-1 and GSR-2 default service rate classifications; and (7) continue the retail enhancement programs adopted in DSP IV.

3. The Office of Consumer Advocate (“OCA”), Office of Small Business Advocate (“OSBA”) and Penn Renewables participated in the proceeding. The parties conducted discovery and submitted several rounds of testimony.

4. UGI Electric entered into a non-unanimous settlement with OCA and OSBA (“Settlement”), which resolved all issues among these parties. Penn Renewables opposed the Settlement, and in particular, opposed the provisions which classified customers between the GSR-1 and GSR-2 default service rates based upon their supply peak load impact (“SPLI”).

5. A hearing was held on October 1, 2024. Several parties conducted cross-examination. In addition, the parties' testimony was admitted into the record.

6. Following the hearing, parties submitted briefs on October 15, 2024 and reply briefs on October 25, 2024.

7. On December 3, 2024, Administrative Law Judges Dennis J. Buckley and Alphonso Arnold III (the "ALJs") issued a Recommended Decision ("RD"). The ALJs recommended that the Commission approve the Non-Unanimous Settlement that was entered into by the Company, OCA and OSBA, which resolved all issues among these parties.

8. The ALJs also declined to recommend adoption of Penn Renewables' requested alterations of DSP V.

9. Penn Renewables filed Exceptions to the RD. The Company and OCA filed Reply Exceptions.

10. On February 20, 2025, the Commission entered its Order which approved the Settlement and rejected Penn Renewables arguments and position regarding assigning customers to the GSR-1 or GSR-2 default service rates based upon their SPLI.

11. On March 17, 2025, Penn Renewables filed an appeal of the Commission's February 20, 2025, Order with the Commonwealth Court and included a request for stay, which asked the Commonwealth Court to stay the Commission's Order.

12. On March 21, 2025, the Commonwealth Court denied Penn Renewables' request for stay.

13. On March 25, 2025, Penn Renewables filed its Petition for Stay with the Commission 18 days after the regulatory required time period and, therefore, the Commission's Order is final.

II. THE COMMISSION SHOULD DISMISS THE LATE FILED PETITION FOR STAY AS UNTIMELY.

14. The Petition for Stay is governed by Section 5.572 of the Commission's regulations. 52 Pa. Code § 5.572. Section 5.572(c) provides as follows with respect to petitions for supersedeas (or stay):

Petitions for reconsideration, rehearing, reargument, clarification, supersedeas or others shall be filed within 15 days after the Commission order involved is entered or otherwise becomes final.

52 Pa. Code § 5.572(c).

15. The Commission's Order in this proceeding became effective on February 20, 2025. Therefore, the Petition for Stay was due by March 7, 2025. Without any explanation or even noting that its Petition was untimely, Penn Renewables filed its Petition for Stay on March 25, 2025, or 18 days late.¹

16. The Commission has previously dismissed petitions for stay for being untimely. In *Pa. PUC v. Pittsburgh Limousine, Inc.*, 94 Pa. P.U.C. 3 (2000), the Commission dismissed as untimely a petition for stay that was filed 21 days late. *See also, Application for Approval of Abandonment of Natural Gas Service by Columbia Gas of PA, Inc., to One (1) Commercial Premises in Fayette County, PA*, Docket Nos. A-2022-3036437, P-2024-3049826, Order entered December 5, 2024 ("*Columbia Order Denying Stay*") (the Commission denied a petition for stay based both on untimeliness and on the merits).

¹ Even though its Petition for Stay was untimely, Penn Renewables still asks the Commission for expedited review of its request. If Penn Renewables sought a quicker review period, it should have at least filed its Petition for Stay on time.

17. Based upon the clear 15-day time period in the regulations, which now dictates that the Commission's Order is final as of March 7, 2025², and based upon the Commission's precedent, Penn Renewables' Petition for Stay should be dismissed as untimely.

III. THE COMMISSION SHOULD ALSO DENY THE PETITION FOR STAY ON THE MERITS.

A. Introduction

18. The merits of a petition for stay are evaluated based upon the *Process Gas* standards. Under these standards a petitioner must:

- a. Make a strong showing of likelihood to prevail on the merits;
- b. Show that the denial of relief will cause irreparable injury;
- c. Show that the issuance of a stay will not substantially harm other parties in the proceedings; and
- d. Show that the issuance of a stay will not adversely affect the public interest.

Process Gas, 467 A.2d at 808-809; *Columbia Order Denying Stay* at 5.

19. Penn Renewables Petition for Stay fails to meet the *Process Gas* standards and should also be denied on the merits.

B. Penn Renewables Has Not Shown A Strong Likelihood Of Prevailing On The Merits.

20. As an initial matter, the Commission has fully evaluated Penn Renewables arguments on the merits in this proceeding. Penn Renewables' issues were fully litigated, with testimony, cross examination, briefs and exceptions and the Commission denied Penn Renewables' arguments in the February 20, 2025, Order. The Commission denied Penn

² See 66 Pa. C.S. § 316, which states in relevant part: [w]henver the commission shall make any rule, regulation, finding, determination or order, the same shall be prima facie evidence of the facts found and shall remain conclusive upon all parties affected thereby, unless set aside, annulled or modified on judicial review.

Renewables requested relief because it was unsupported by applicable Commission statute and regulations.

21. The Commission has held that the first prong the *Process Gas* standard of “prevailing on the merits” is not applicable where the substantive issues have been fully addressed.

See Pa. PUC v. UGI Corp., 57 Pa. P.U.C. 83 (1983); *Columbia Order Denying Stay* at 15.

22. The Commission has also stated as follows:

[I]n deciding whether to stay one of our orders pending appeal, this Commission should not indulge in a further review of the case. Rather this Commission should concentrate solely on the effect our order will have pending appeal.

Columbia Order Denying Stay at 14, citing *Pa. PUC v. Makovsky Brothers, Inc.*, 53 Pa. P.U.C. 510, 511 (1979)

23. Penn Renewables statements regarding why it is “likely to prevail on the merits” simply re-hash arguments that it made in its Briefs and Exceptions that have been denied by the Commission in the February 20, 2025 Order.

24. For the reasons explained in the Company’s Testimony, Briefs and Reply Exceptions in this proceeding, Penn Renewables is not likely to prevail on the merits. Adopting Penn Renewables’ position to allow large customer generators into the GSR-1 default service group will create disparate and discriminatory rate impacts for residential and small commercial GSR-1 default service customers. If large customer generators are included in the GSR-1 group, their excess generation will offset load purchased for GSR-1 customers, reduce tranche size, and create additional volumetric risk. This 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).

25. The Commission has the authority to determine default service rate classes for customers and customer-generators. In addition, the Commission also has a statutory obligation to set default service rates that are least cost over time. 66 Pa. C.S. § 2807(e)(3.4)(ii).

26. Moreover, Penn Renewables' reliance on the AEPS Act and Act 129 are unfounded. The Commission regularly has approved the use of an hourly spot market default service rate as being just and reasonable.

27. The Commission has already addressed Penn Renewables arguments in the context of this fully litigated proceeding, and the Commission should not conduct a further review of the merits. Penn Renewables has not shown that it is likely to prevail in its appeal.

C. DENYING THE PETITION FOR STAY WILL NOT CAUSE PENN RENEWABLES IRREPARABLE INJURY.

28. Penn Renewables first argues that it will suffer irreparable injury absent a stay because the Commission's Order fails to comply with the law and the statutory requirement that customer-generators receive full retail value for their generation. Petition for Stay at 6. These arguments were fully addressed in this litigated proceeding in the Company's Briefs and Reply Exceptions and also fully addressed in the Commission's Order. Penn Renewables is again attempting to re-hash its legal arguments to attempt to show irreparable injury. The Commission entered its Order on balance, weighing the interests of all parties, when considering Penn Renewables' alleged harms. Accordingly, the Commission's Order complies with the law, including all statutes, and arguing that the Commission's Order violates the law is not a basis for Penn Renewables to claim irreparable injury. Similarly, in considering this Petition for Stay, the Commission should weigh the interests of all parties and the impacts to all customers.

29. Penn Renewables also alleges that compensation under the GSR-2 rate will likely cause its projects to be abandoned, resulting in the loss of good will, reputation and contractual

options. Petition for Stay at 6. In support of this, Penn Renewables cites to *John G. Bryant Co. v. Sling Testing and Repair, Inc.*, 369 A.2d 1164 (Pa. 1977) for the proposition that irreparable harm exists where monetary losses endanger a business.

30. There are several flaws with Penn Renewables' arguments. First, there is no record evidence indicating that Penn Renewables projects in UGI Electric's service territory will be abandoned if the Petition for Stay is not granted. Second, Penn Renewables does not allege, and likely could not allege, that a stay in this proceeding will endanger its business. Penn Renewables stated in this proceeding that it has over 300 solar projects in development across the Commonwealth. Only 12 of these projects are in UGI Electric's service territory. Penn Renewables St. No. 1, p. 3. Moreover, here the Commission should consider the impacts/harms to UGI Electric's residential and small business customers on balance with Penn Renewables' claimed harms.

31. More specifically, Penn Renewables' irreparable injury allegations all stem from its argument that it is entitled to its perceived higher compensation under the GSR-1 default service rate even though this would harm residential and small commercial default service customers. Compensating large customer generators under the GSR-2 default service rate does not constitute injury much less irreparable injury. To the contrary, Penn Renewables is being compensated at a market-based retail rate. Additionally, Penn Renewables has not quantified the harm it alleges will result from the GSR-2 rate; it just states that the hourly LMP rate is volatile without providing any supporting rate or market analysis.

32. Penn Renewables has not proven that it will be irreparably injured if its Petition for Stay is denied.

D. GRANTING THE PETITION FOR STAY WILL HARM UGI ELECTRIC AND ITS GSR-1 DEFAULT SERVICE CUSTOMERS.

33. Contrary to Penn Renewables' assertions, granting the stay will harm UGI Electric and, in particular, will harm the Company's GSR-1 default service customers. UGI Electric specifically proposed to classify default service customers according to their SPLI in this proceeding to avoid harms to residential and small commercial GSR-1 customers.

34. UGI Electric has explained throughout this proceeding 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. This will increase prices for GSR-1 supply. UGI Electric MB at 22-23.

35. UGI Electric's DSP V begins on June 1, 2025 and the Company has already started its GSR-1 procurements in accordance with the Commission's Order. Under the DSP V procurement plan, UGI Electric completed its first GSR-1 procurements in March 2025. If the Commission grants the Petition for Stay, it will create additional risk for these procurements due to the possibility of large customer generators enrolling in the GSR-1 default service rate during the stay period. Such enrollments would occur after supplies have been procured with the understanding that large customer generators would be excluded from the GSR-1 rate. The Stay would bring instability to the Company's GSR-1 procurements, thereby reducing the GSR-1 tranche size, increasing its price risk and subsidizing large generators at the expense of residential and small commercial customers. These are all of the harms that UGI Electric was trying to avoid by its proposal to classify default service customers according to their SPLI.

E. GRANTING THE PETITION FOR STAY WILL ADVERSELY AFFECT THE PUBLIC INTEREST.

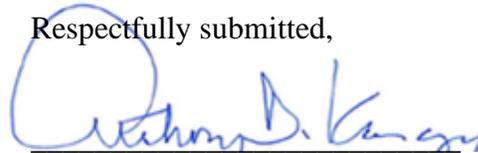
36. As explained above, granting the stay will create additional risk for GSR-1 default service wholesale suppliers, resulting in higher GSR-1 default service rates for residential and

small commercial customers. Increased bidder risk and higher default service rates adversely affect the public interest.

IV. CONCLUSION

WHEREFORE, UGI Utilities, Inc. – Electric Division respectfully requests that the Petition for Stay be dismissed for both procedural and substantive reasons. The Petition for Stay is untimely, and there is no justification for its lateness. Further, the Petition for Stay fails to meet the standards set forth in *Process Gas* and if granted, will cause the same harms that UGI Electric intended to avoid with its proposal to classify default service customers according to their supply peak load impact.

Respectfully submitted,



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