

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

Public Meeting held May 8, 2025

Commissioners Present:

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

Petition of UGI Utilities, Inc. – Electric
Division for Approval of a Default Service
Plan for the period of June 1, 2025 through
May 31, 2029

P-2024-3049343
G-2024-3049351

Penn Renewables, LLC

C-2024-3049618

v.

UGI Utilities, Inc. – Electric Division

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition for Relief in the Form of a Stay (Petition) filed by Penn Renewables, LLC (Penn Renewables or Petitioner) on March 25, 2025, seeking a stay of the Opinion and Order entered on February 20, 2025 (*February 2025 Order*), relative to the above-captioned proceeding. UGI Utilities, Inc. –

Electric Division (UGI or the Company) filed an Answer to the Petition (Answer) on April 4, 2025. For the reasons stated below, we shall deny Penn Renewables' Petition, consistent with this Opinion and Order.

I. History of Proceeding¹

On May 31, 2024, UGI filed a petition seeking approval of its fifth Default Service Program (DSP V), pursuant to Section 2807 of the Public Utility Code (Code), 66 Pa.C.S. § 2807, and Sections 54.181-54.190 of the Commission's Regulations, 52 Pa. Code §§ 54.181-54.190. UGI's DSP V established the terms and conditions under which the Company will acquire default service supplies, including Alternative Energy Portfolio Standards (AEPS) credits, from June 1, 2025, through May 31, 2029. UGI also requested approval of potential affiliated interest transactions associated with its DSP V pursuant to Section 2102 of the Code, 66 Pa.C.S. § 2102. *February 2025 Order* at 1-2; R.D. at 3.

On June 18, 2024, Penn Renewables filed a Formal Complaint (Complaint) at Docket No. C-2024-3049618. *February 2025 Order* at 5; R.D. at 3.

Following an evidentiary hearing on October 1, 2024, a Joint Petition for Non-Unanimous Settlement (Settlement) was filed by UGI, the Office of Consumer Advocate, and the Office of Small Business Advocate (OCA), on October 22, 2024. On October 25, 2024, Penn Renewables filed a Statement in Opposition to the Joint Petition for Non-Unanimous Settlement. *February 2025 Order* at 5-6; R.D. at 5-6.

¹ See *February 2025 Order* at 4-6 for a comprehensive summary describing the procedural history of this proceeding, which is incorporated herein.

On December 3, 2024, the Recommended Decision of Administrative Law Judges (ALJs) Dennis J. Buckley and Alphonso Arnold III was issued. Therein, the ALJs recommended that the Commission approve, without modification, the Settlement, dismiss the Complaint of Penn Renewables, and approve the potential affiliated interest transactions associated with UGI's DSP V. *February 2025 Order* at 6.

Penn Renewables filed Exceptions to the Recommended Decision on December 13, 2024. On December 18, 2024, Replies to Exceptions were filed by UGI and the OCA. *February 2025 Order* at 6.

In the *February 2025 Order*, the Commission: (1) denied the Exceptions filed by Penn Renewables; (2) adopted the ALJs' Recommended Decision, without modification; and (3) approved the Settlement, without modification. *February 2025 Order* at 2, 69-70.

On March 18, 2025, Penn Renewables filed a Petition for Review in the Nature of an Appeal (Petition for Review) with the Commonwealth Court of Pennsylvania at Docket No. 337 CD 2025. Penn Renewables also filed an Application for Stay of the *February 2025 Order* until the Commonwealth Court had adjudicated the Petition for Review. Petition at 3; UGI Answer at 3.²

On March 21, 2025, the Commonwealth Court denied Penn Renewables' Application for Stay, without prejudice, on the grounds that Penn Renewables had not

² Penn Renewables stated that it did not seek a stay or supersedeas from the Commission because the Commission only meets periodically; therefore, Penn Renewables reasoned, the Commission would not be in a position to rule on the stay request until after the *February 2025 Order* went into effect, rendering a stay from the Commission impracticable. Petition at 3 (citing Pa. R.A.P. 1781(b)).

first requested a stay or supersedeas from the Commission. Petition at 3; UGI Answer at 3.

As noted, *supra*, on March 25, 2025, Penn Renewables filed the instant Petition. An Answer to the Petition was filed by UGI on April 4, 2025.

On April 8, 2025, UGI filed its Tariff Supplement No. 80 to UGI Gas -- Pa. P.U.C. No. 7, effective June 1, 2025, in compliance with the *February 2025 Order*.

II. Discussion

A. Legal Standards

Initially, we note that any argument or Exception that we do not specifically address 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. Petitions for Relief Generally

A request for relief from a final decision of the Commission must be brought as a Petition for relief consistent with Section 5.572 of the Commission's Regulations. 52 Pa. Code § 5.572 (relating to petitions for relief). Section 5.572 of the Commission's Regulations provides for petitions for rehearing, reargument, reconsideration, clarification, rescission, amendment, supersedeas or the like. Specifically, 52 Pa. Code § 5.572 provides, as follows:

§ 5.572. Petitions for relief.

- (a) Petitions for rehearing, reargument, reconsideration, clarification, rescission, amendment, supersedeas or the like must be in writing and specify, in numbered paragraphs, the findings or orders involved, and the points relied upon by petitioner, with appropriate record references and specific requests for the findings or orders desired.
- (b) A copy of every petition covered by subsection (a) shall be served upon each party to the proceeding.
- (c) 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.
- (d) Petitions for rescission or amendment may be filed at any time according to the requirements of section 703(g) of the act (relating to fixing of hearings).
- (e) Answers to a petition covered by subsection (a) shall be filed and served within 10 days after service of a petition.
- (f) Subsections (a)—(e) supersede 1 Pa. Code § 35.241 (relating to application for rehearing or reconsideration).

52 Pa. Code § 5.572.

Petitions for relief brought under Section 5.572(c) of the Commission's Regulations as a petition for reconsideration, rehearing, reargument, clarification, supersedeas, or others within fifteen days of the service of a Commission order, or under Section 5.572(d) as a petition for rescission or amendment filed at any time following service of a Commission order, are reviewed by the Commission as matters seeking relief falling within the agency's discretion.

2. Petitions for Stay

It is well-settled that the propriety of issuing a stay or supersedeas will be governed by the standards pronounced in the holding of *Pa. PUC v. Process Gas Consumers Group*, 467 A.2d 805 (Pa. 1983) (*Process Gas*). Pursuant to the standards of *Process Gas*, for issuance of a stay and/or supersedeas, a petitioner must establish the following:

1. Make a strong showing of likelihood to prevail on the merits;
2. Show that denial of relief will cause irreparable injury;
3. Show that the issuance of a stay will not substantially harm other interested parties in the proceedings; and
4. Show that the issuance of a stay will not adversely affect the public interest.

Process Gas, 467 A.2d at 808-09. The Supreme Court further stated: “[I]t is essential that the unsuccessful party, who seeks a stay of a final order pending appellate review, make a strong showing under the[se] criteria in order to justify the issuance of a stay.” *Id.*

B. The February 2025 Order

As discussed, *supra*, in our *February 2025 Order*, we: (1) denied the Exceptions filed by Penn Renewables; (2) adopted the ALJs’ Recommended Decision, without modification; and (3) approved the Settlement, without modification. *February 2025 Order* at 2, 69-70. Specifically, in the *February 2025 Order*, the Commission approved UGI’s DSP V, for the period of June 1, 2025, through May 31, 2029, as modified by the Settlement. The Commission also approved UGI’s

request for approval of certain affiliated interest agreements and transactions with a UGI affiliate, in the event such an affiliate submits a winning bid under the Request for Proposal process set forth in UGI's DSP V. *Id.* at 68-70. Furthermore, the Commission dismissed the Complaint filed by Penn Renewables with respect to the lone contested issue in this proceeding: UGI's proposed methodology for assigning customers to UGI's Generation Supply Rate (GSR) 1/GSR-2 rate groupings based upon their supply peak load impact (SPLI). *Id.* at 71.³

C. Penn Renewables' Petition and UGI's Answer

1. Penn Renewables' Petition

In its Petition, Penn Renewables requests that the Commission order a stay of the *February 2025 Order*, and, specifically, the implementation of the changes to the GSR-2 Procurement Class, which included: (1) changes to the parameters for qualification for GSR-2; and (2) application of the revised price-to-compare (PTC) for GSR-2. Penn Renewables requests that these changes be stayed until the Commonwealth Court of Pennsylvania adjudicates Penn Renewable's Petition for Review of the *February 2025 Order*, which it filed with the Commonwealth Court on March 18, 2025, at Docket No. 337 CD 2025.⁴ In addition, Penn Renewables requests that the Commission address the Petition at the next scheduled Public Meeting after it filed its Petition, *i.e.* on April 24, 2025. Petition at 1-2.

³ See Section V of the *February 2025 Order* at 22-68 for a detailed discussion of the issues associated with Penn Renewables' Complaint.

⁴ We note that on Page 1 of its Petition, Penn Renewables inadvertently identifies the filing date of its Petition for Review of the *February 2025 Order* as March 25, 2025.

Penn Renewables argues that a stay of the *February 2025 Order* is warranted and appropriate because Penn Renewables meets each of the elements in support of a stay, as set forth in *Process Gas*. First, Penn Renewables avers that it is likely to prevail on the merits because, it contends, the Commission's approval, of UGI's request to change the classification methodologies for its GSR-1 and GSR-2 procurement groups, in the *February 2025 Order*, was arbitrary and capricious, unsupported by substantial evidence, and contrary to Pennsylvania law. In this regard, Penn Renewables contends that UGI's change in the classification methodologies for the GSR-1/GSR-2 rate: (1) results in the use of a mechanism to compensate net metering customer generators for excess generation that is contrary to the AEPS Act, 73 P.S. §1648.3; (2) violates the Code's requirement that small business customers with less than 25 kW of maximum registered peak load be provided a rate that changes no more frequently than quarterly, when the proposed rate changes every hour, and is not supported by substantial evidence; and (3) sanctions a proposed classification and rate mechanism that discriminates against customer generators to the benefit of GSR-1 customers, which would violate the anti-discrimination provisions of the Code and the Commission's Regulations. Petition at 5-6.

Second, Penn Renewables avers that it will suffer irreparable injury without a stay because the methodology for calculating the proposed hourly default service rate in UGI's DSP V would be devastating to Penn Renewables' net metering solar projects, since it fails to comply with the statutory requirement that customer generators be compensated at full retail value for all energy produced, which will likely result in projects being abandoned and the loss of good will, reputation, and contractual options that cannot be compensated by monetary damages. Third, Penn Renewables contends that no other interested parties would be substantially harmed by a stay in this matter because the requested stay is limited to the implementation of the changes to the GSR-2 Procurement Class, not the other unrelated provisions of the *February 2025 Order*, and the proposed changes would only impact customer generators. Fourth, Penn Renewables

argues that the issuance of a stay will not negatively affect the public interest because requiring UGI to comply with the laws as the General Assembly intended would cause no harm to the public interest. Petition at 6-7.

2. UGI's Answer

In response to Penn Renewables' Petition, UGI contends that the Petition should be denied for procedural and substantive reasons. UGI argues that the Petition should be denied because it was filed eighteen (18) days late, in violation of the Commission's Regulations at 52 Pa. Code § 5.572, resulting in the Commission's order being final. UGI further avers that the Petition should be denied because Penn Renewables fails to mention that the Petition is untimely and provides no justification for filing it late. UGI Answer at 1, 3.

UGI explains that Section 5.572(c) of the Commission's Regulations provides that petitions for supersedeas or stay are required to be filed within 15 days after the Commission order involved is entered or otherwise becomes final. UGI Answer at 4 (citing 52 Pa. Code § 5.572(c)). UGI states that the *February 2025 Order* became effective on February 20, 2025; therefore, the Petition was due by March 7, 2025. UGI further notes that Penn Renewables filed its Petition eighteen (18) days late on March 25, 2025, without any explanation and without even noting that the Petition was untimely. UGI Answer at 4. UGI avers that the Commission has previously dismissed petitions for stay for being untimely. *Id.* (citing *Pa. PUC v. Pittsburgh Limousine, Inc.*, 94 Pa. P.U.C. 3 (2000); *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*)).

Moreover, UGI contends that the Petition fails on the merits, and should be denied, because it fails to meet the standards for the issuance of a stay, as set forth in *Process Gas*. Petition at 2, 5. First, UGI avers that Penn Renewables has not shown a likelihood of prevailing on the merits because the Commission has already fully evaluated and denied Penn Renewables' arguments in this case, and the first prong of the *Process Gas* standard of prevailing on the merits is not applicable where the substantive issues have been fully addressed. UGI opines that Penn Renewables' arguments on why it is likely to prevail on the merits simply re-hash arguments that were previously considered and denied by the Commission in the *February 2025 Order*, and the Commission should not conduct a further review of these issues. *Id.* at 5-6 (citing *Pa. PUC v. UGI Corp.*, 57 Pa. P.U.C. 83 (1983); *Columbia Order Denying Stay* at 15).

Second, UGI avers that denying the Petition will not cause Penn Renewables irreparable injury. More specifically, UGI submits that Penn Renewables' arguments that the *February 2025 Order* fails to comply with the law that customer generators shall receive full retail value for their generation were fully addressed in this proceeding and in the *February 2025 Order*. Regarding Penn Renewables' allegation 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, UGI rebuts that there is no record evidence indicating that Penn Renewables' projects in UGI's service territory will be abandoned if the Petition is not granted. UGI further contends that Penn Renewables does not allege that a stay in this proceeding will endanger its business. Namely, UGI highlights that only twelve (12) out of Penn Renewables' 300 solar projects in development across the Commonwealth are in UGI's service territory. UGI also states that Penn Renewables has not quantified any harm that it alleges will result from the GSR-2 rate. UGI Answer at 7-8.

Third, UGI avers that, contrary to Penn Renewables' assertions, granting the Petition will harm UGI and its GSR-1 default service customers because including

large customer generators in the GSR-1 procurement group will result in the GSR-1 tranche sizes decreasing and volumetric risk and prices for GSR-1 supply increasing. UGI contends that a stay would also bring instability to the GSR-1 procurements. UGI Answer at 9.

Fourth, UGI states that granting a stay will adversely affect the public interest because it 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. UGI asserts that increased risk for bidders and higher default service rates adversely affect the public interest. UGI Answer at 9-10.

D. Disposition

Upon review, we will deny the Petition on both procedural and substantive grounds. Initially, Section 5.572(c) of our Regulations provides that petitions for supersedeas or stay must be filed within fifteen (15) days after entry of the Commission Order in question. 52 Pa. Code § 5.572(c). Since the *February 2025 Order* was entered on February 20, 2025, Penn Renewables' request for stay should have been filed on or before March 7, 2025. However, Penn Renewables did not file its Petition until March 25, 2025, which was thirty-three (33) days after entry of the *February 2025 Order*, and, therefore, eighteen (18) days late. Consequently, the Petition is unquestionably untimely. Furthermore, Penn Renewables, in its Petition, neither mentions its untimeliness nor provides any justification for filing it late.

The Commission has previously dismissed late-filed petitions for supersedeas or stay pursuant to 52 Pa. Code § 5.572(c). *See Pa. PUC v. Pittsburgh Limousine, Inc.*, 94 Pa. P.U.C. 3 (2000) (Commission denied petition for supersedeas or stay because it was filed twenty-one (21) days late and on its merits); *Application of Artesian Water Pennsylvania, Inc. Pursuant to Chapter 21 of the*

Public Utility Code, for Approval of Affiliated Interest Agreement, Docket Nos. G-2019-3013770, G-2016-2544455, and A-2017-2639994 (Opinion and Order entered May 21, 2020) (Commission denied petition for supersedeas because it was filed more than four (4) months after entry of the Commission Order in question and on its merits); *Columbia Order Denying Stay* (Commission denied petition for stay because it was filed almost four (4) months after entry of the Commission Order in question and on its merits). Accordingly, we shall deny the Petition because it is untimely.⁵ However, we will not deny the Petition on this basis alone.

In addition to our above ruling that Penn Renewables' Petition should be denied as untimely, we also find that the Petition fails to satisfy the criteria for a grant of a supersedeas or stay, and is without merit, under the test set forth by the Pennsylvania Supreme Court in *Process Gas, supra*. As previously discussed, the four criteria for staying a Commission Order under *Process Gas* require a petitioner to:

1. Make a strong showing of likelihood to prevail on the merits;
2. Show that denial of relief will cause irreparable injury;
3. Show that the issuance of a stay will not substantially harm other interested parties in the proceedings; and
4. Show that the issuance of a stay will not adversely affect the public interest.

Process Gas at 808-09.

⁵ We note that the *February 2025 Order's* finality, given that it went into effect and Penn Renewables did not seek timely relief from the Commission pursuant to 52 Pa. Code § 5.572, also renders a stay from the Commission impracticable.

Upon review, we find that the first criterion of *Process Gas* weighs against the issuance of a stay in this instance because Penn Renewables has not shown that it is likely to prevail on the merits. The Commission has previously concluded that this factor is not applicable to a request for a stay directed to the Commission where the Commission has already ruled on the facts at issue, and such ruling is pending appeal or reconsideration, *See Pa. PUC v. UGI Corp.*, 57 Pa. P.U.C. 83 (1983); *Implementation of Act 40 of 2017, Petition of Cypress Creek Renewables, LLC for a Stay or Supersedeas of the Commission's Final Implementation Order Entered May 3, 2018*, Docket No. M-2017-2631527 (Opinion and Order entered August 2, 2018), and the Commission should not indulge in a further review of the case. *Columbia Order Denying Stay* at 14 (citing *Pa. PUC v. Makovsky Brothers, Inc.*, 53 Pa. P.U.C. 510, 511 (1979)). Therefore, we will not engage in a further review of the evidence and arguments regarding this matter at this time.

Furthermore, Penn Renewables, in its Petition, restates arguments that were fully litigated by Penn Renewables in the underlying proceeding and which were previously evaluated and denied by the Commission in the *February 2025 Order*. We find Penn Renewables' claims of Commission error and its likelihood of success on the merits with respect to its Petition for Review to be unpersuasive. Accordingly, the Petition does not satisfy the first prong of the *Process Gas* test.

With respect to the second factor of *Process Gas*, we find that Penn Renewables fails to prove that it will suffer irreparable harm if a stay is not granted. Again, we find Penn Renewables' restatement of prior arguments previously considered by the Commission in its *February 2025 Order* to be unpersuasive in attempting to show irreparable injury. Moreover, Penn Renewables' assertion that it will be irreparably injured due to the compensation under the GSR-2 rate in UGI's DSP V, and likely causing Penn Renewables' projects to be abandoned, is purely speculative in nature. As a result, Penn Renewables fails to quantify any alleged harm or demonstrate any tangible

irreparable injury. A more substantial affirmative demonstration of irreparable injury than that presented by Penn Renewables is required here. Therefore, we conclude that Penn Renewables has not proven that it will be irreparably injured if its Petition is denied.

Next, regarding the third factor of *Process Gas*, we conclude that Penn Renewables has failed to show that other parties will not experience substantial harm if a stay is issued. In contrast, UGI contends that a stay would harm residential and small commercial GSR-1 default service customers due to greater instability, additional risk, and higher prices, by including large customer generators in the GSR-1 procurement group. Penn Renewables' general averments that other interested parties would not be substantially harmed by the stay fail to demonstrate otherwise. Therefore, we cannot conclude that Penn Renewables has proven that other interested parties would not be substantially harmed by the issuance of a stay of the *February 2025 Order*.

Finally, turning to the fourth factor of *Process Gas*, we find that Penn Renewables did not demonstrate that the issuance of a stay will not adversely affect the public interest. We agree with UGI that the additional instability and risk for GSR-1 default service suppliers, resulting in higher default service rates for residential and small commercial customers rates, discussed, *supra*, would negatively impact the public interest. Penn Renewables has not persuaded us otherwise.

For these reasons, we conclude that Penn Renewables has failed to meet the standards of *Process Gas*. Penn Renewables has not shown that: (1) it is likely to prevail on the merits; (2) it will suffer irreparable injury if the Petition is not granted; (3) other interested parties will not be substantially harmed; and (4) the stay will not adversely affect the public interest. As a result, we find the Petition to be without merit and that a stay should not be granted. Accordingly, we shall deny the Petition.

III. Conclusion

For the reasons set forth above, we shall deny Penn Renewables LLC's Petition for Relief in the Form of a Stay, consistent with this Opinion and Order;
THEREFORE,

IT IS ORDERED:

1. That the Petition for Relief in the Form of a Stay, filed by Penn Renewables LLC on March 25, 2025, at Docket Nos. P-2024-3049343, G-2024-3049351, and C-2024-3049618, is denied, consistent with this Opinion and Order.
2. That this proceeding shall be marked closed.

BY THE COMMISSION,



Matthew L. Homsher
Secretary

(SEAL)

ORDER ADOPTED: May 8, 2025

ORDER ENTERED: May 8, 2025