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File #: 212975

May 27, 2025

VIA ELECTRONIC FILING

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

**Re: Cynthia M. Pepper v. UGI Utilities, Inc. – Gas Division
Docket No. C-2025-3054966**

Dear Secretary Homsher:

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

Respectfully submitted,



Megan E. Rulli

MER/dmc
Attachment

cc: Certificate of Service

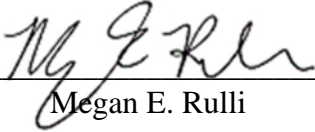
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA EMAIL AND FIRST-CLASS MAIL

Cynthia M. Pepper
1382 Collins Ave
Bethlehem, PA 18015
Cyndi.pepper@yahoo.com

Date: May 27, 2025



Megan E. Rulli

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Cynthia M. Pepper,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2025-3054966
	:	
UGI Utilities, Inc. – Gas Division,	:	
	:	
Respondent.	:	

NOTICE TO PLEAD

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

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Counsel for UGI Utilities, Inc. – Gas Division

Dated: May 27, 2025

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Cynthia M. Pepper,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2025-3054966
	:	
UGI Utilities, Inc. – Gas Division,	:	
	:	
Respondent.	:	

**PRELIMINARY OBJECTION OF
UGI UTILITIES, INC. – GAS DIVISION TO THE
COMPLAINT OF CYNTHIA M. PEPPER**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, comes UGI Utilities, Inc. – Gas Division (“UI Gas” or the “Company”) and hereby files this Preliminary Objection, pursuant to the regulations of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code § 5.101, and respectfully requests that the Formal Complaint filed by Cynthia M. Pepper (“Complainant”) be summarily dismissed in its entirety and with prejudice because the claims raised therein are barred by the three-year statute of limitations set forth in Section 3314(a) of the Public Utility Code and the four-year limitation on the issuance of refunds set forth in Section 1312(a) of the Public Utility Code.

I. BACKGROUND

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

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

3. UGI Gas is a “public utility” and a “natural gas distribution company” as those terms are defined under the Public Utility Code, 66 Pa. C.S. §§ 102 and 2202, subject to the regulatory jurisdiction of the Commission.

4. UGI Gas provides natural gas distribution service to approximately 650,000 customers, located primarily in south, central, and northeastern Pennsylvania.

5. By Secretarial Letter dated May 5, 2025, UGI Gas was served with the above-captioned Complaint. In the Complaint, the Complainant alleges that she is entitled to a refund in the amount of \$3,888.21, related to a payment allegedly made on May 21, 2017. (Complaint ¶¶ 4, 5.)

6. UGI Gas herein files this Preliminary Objection to the Complaint. For the reasons explained below, the Company respectfully requests that the Complaint be dismissed in its entirety pursuant to Section 5.101(a)(4) because the statute of limitations has expired with respect to the issues and claims raised therein.

II. STANDARD OF REVIEW

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

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

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

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

8. In ruling on preliminary objections, the Presiding Officer must accept as true all well-pled allegations of material facts as well as all inferences reasonably deducible therefrom. *Stilp v. Commonwealth*, 910 A.2d 775, 781 (Pa. Cmwlth. 2006) (“*Stilp*”) (citing *Dep’t of Gen. Servs. v. Bd. of Claims*, 881 A.2d 14 (Pa. Cmwlth. 2005)), *affirmed* 974 A.2d 491 (Pa. 2009). However, the Presiding Officer need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion. *Stanton-Negley Drug Co. v. Dep’t of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlth. 2007), *affirmed*, 962 A.2d 670 (Pa. 2009). Notwithstanding, any doubt must be resolved in favor of the non-moving party. *Stilp* at 781.

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

III. PRELIMINARY OBJECTION NO. 1 – THE COMPLAINT SHOULD BE DISMISSED BECAUSE IT IS BARRED BY THE STATUTE OF LIMITATIONS

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

11. The Complaint should be dismissed because it is barred by the three-year statute of limitations. *See* 66 Pa. C.S. § 3314(a).

12. Section 3314(a) of the Public Utility Code states, in pertinent part, that “no prosecutions on account of any matter or thing mentioned in this part . . . shall be maintained unless brought within three years from the date at which the liability therefor arose.” *Id.* In other words, the complaint must be brought within three years of when the alleged wrongful conduct occurred. *See Suburban E. Tires, Inc. v. Pa. PUC*, 582 A.2d 727, 729 (Pa. Cmwlth. 1990).

13. In the Complaint, the Complainant alleges that she is entitled to a refund in the amount of \$3,888.21, related to a payment allegedly made on May 21, 2017. (Complaint ¶¶ 4, 5.)

14. The Complaint was filed on or about April 25, 2025.

15. Pursuant to Section 3314(a) of the Public Utility Code, any claims based on alleged violations occurring before April 25, 2022 (*i.e.*, three years before the Complaint was filed on April 25, 2025) are barred by Section 3314(a) of the Public Utility Code and should be summarily dismissed. *See* 66 Pa. C.S. § 3314(a).

16. Therefore, the allegations in the Complaint, which solely relate to claims that the Company failed to properly credit the Complainant for a payment allegedly made more than eight years ago on May 21, 2017, are barred by the three-year statute of limitations.

17. The Complaint is also barred by the Public Utility Code’s four-year limitation on the issuance of refunds.

18. Section 1312(a) of the Public Utility Code authorizes the Commission to require public utilities to “. . . refund the amount of any excess paid by any patron, in consequence of such unlawful collection, within four years prior to the date of filing the complaint, together with interest

at the legal rate from the date of each such excessive payment . . .” 66 Pa. C.S. § 1312(a) (emphasis added).

19. Pursuant to Section 1312(a), UGI Gas cannot be ordered to provide any refund for amounts that were billed to the Complainant before April 25, 2021 (*i.e.*, four years before the instant Complaint was filed on April 25, 2025). *See id.* § 1312(a).

20. Section 1312(a) bars the Commission from granting the Complainant’s sole requested relief; *i.e.*, the request to be refunded \$3,888.21 for a payment allegedly made more than eight years ago on May 21, 2017.

21. Based on the foregoing, the instant Complaint should be dismissed because the statute of limitations for the claims raised therein has expired and the requested refund is barred by the Public Utility Code.

22. UGI Gas respectfully requests that the above-captioned Complaint be summarily dismissed in its entirety and with prejudice pursuant to 52 Pa. Code § 5.101(a)(4).

IV. CONCLUSION

WHEREFORE, UGI Utilities, Inc. – Gas Division respectfully requests that the Complaint filed by Cynthia M. Pepper be dismissed in its entirety and with prejudice for the reasons set forth above.

Respectfully submitted,

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Lindsay Berkstresser (ID # 318370)
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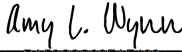
Counsel for UGI Utilities, Inc. – Gas Division

Dated: May 27, 2025

VERIFICATION

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

Date: May 27, 2025

Signed by:

BA59C2C02FAF493...

Amy L. Wynn