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File #: 213335

June 26, 2025

VIA ELECTRONIC FILING

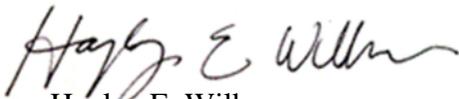
Matthew Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Norris Hammond v. UGI Utilities, Inc. – Gas Division
Docket No. F-2025-3055605**

Dear Secretary Homsher:

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

Respectfully submitted,



Hayley E. Wilburn

HW/dmc
Attachment

cc: Certificate of Service

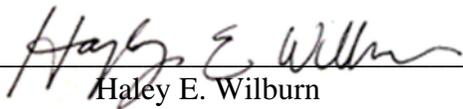
CERTIFICATE OF SERVICE

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 FIRST-CLASS MAIL

Norris Hammond
108 Barney Street
Wilkes Barre, PA 18702

Date: June 26, 2025



Haley E. Wilburn

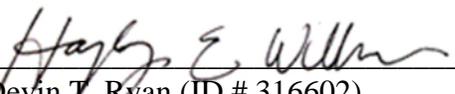
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Norris Hammond,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. F-2025-3055605
	:	
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 OBJECTION 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 FOR UGI UTILITIES, INC. – GAS DIVISION.

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Dated: June 26, 2025

Attorneys for UGI Utilities, Inc. – Gas Division

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Norris Hammond,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. F-2025-3055605
	:	
UGI Utilities, Inc. – Gas Division,	:	
	:	
Respondent.	:	

**PRELIMINARY OBJECTION OF UGI UTILITIES, INC. – GAS DIVISION TO
THE COMPLAINT OF NORRIS HAMMOND**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, comes UGI Utilities, Inc. – Gas Division (“UGI 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 Commission dismiss portions of the above-captioned Formal Complaint (“Complaint”) filed by Norris Hammond (“Complainant”) with prejudice as against UGI Gas because the Commission lacks subject matter jurisdiction.

Specifically, the Complaint concerns, in part, whether UGI Gas must provide “validation under [the Uniform Commercial Code (‘UCC’)] provisions” in response to the Complainant’s “formal notices disputing the debt.” (Complaint ¶ 7.) The Complainant also requests that the Commission determine the “proper application of the previously submitted set-off in accordance with UCC and other applicable rights.” (Complaint ¶ 5.) These issues, which require the interpretation and application of the UCC, are beyond the Commission’s subject matter jurisdiction.

In support thereof, UGI Gas states as follows:

I. BACKGROUND

1. 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.

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

3. On June 6, 2025, UGI Gas was served with the above-captioned Complaint.

4. In the Complaint, the Complainant contends that UGI Gas must honor a “set-off in accordance with the UCC” as payment for the balance on the account. (Complaint ¶ 5.)

5. The Complainant also alleges that the Company failed to provide “validation under [the Uniform Commercial Code (‘UCC’)] provisions” in response to the Complainant’s “formal notices disputing the debt.” (Complaint ¶ 7.)

6. As relief, the Complainant requests, among other things, that that the Commission determine the “proper application of the previously submitted set-off in accordance with UCC and other applicable rights.” (Complaint ¶ 5.)

7. UGI Gas herein files this Preliminary Objection to the Complaint. For the reasons explained below, UGI Gas respectfully requests that portions of the Complaint be dismissed with prejudice as against UGI Gas for lack of subject matter jurisdiction pursuant to Section 5.101(a)(1) of the Commission’s regulations, 52 Pa. Code § 5.101(a)(1).

II. STANDARD OF REVIEW

8. 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).

9. 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. Cmwlth.*, 910 A.2d 775, 781 (Pa. Cmwlth. 2006) (citing *Dep't of Gen. Servs. v. Bd. of Claims*, 881 A.2d 14 (Pa. Cmwlth. 2005)); accord *Complaint of Nat'l Fuel Gas Distrib. Corp. and Petition for an Order to Show Cause*, Docket No. P-00072343 (December 26, 2007). 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). For preliminary objections to be sustained, it must appear with certainty that the law will permit no recovery, and any doubt must be resolved in favor of the non-moving party. *Stilp*, at 781.

10. In addition, the Presiding Officer must determine whether, based on the factual pleadings, recovery is possible. See *Rok v. Flaherty*, 527 A.2d 211, 214 (Pa. Cmwlth. 1987). 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).

11. Where a respondent's right to prevail at a hearing is clear, continuing to an evidentiary hearing would be a fruitless exercise, which warrants granting of a preliminary objection(s). *Blasko v. PECO Energy Co.*, 2014 Pa. PUC LEXIS 558, Docket No. C-2014-2426779 (Order entered Sept. 26, 2014).

III. PRELIMINARY OBJECTION

A. THE COMMISSION LACKS SUBJECT MATTER JURISDICTION OVER MATTERS ARISING UNDER THE UCC

12. UGI Gas incorporates by reference Paragraphs 1 through 11 as if fully set forth herein.

13. The Complaint should be dismissed in part because the Commission lacks subject matter jurisdiction to decide matters arising under the UCC.

14. UGI Gas received three letters from the Complainant, dated November 11, 2024, January 3, 2025, and February 11, 2025. These letters requested that UGI Gas apply a negotiable instrument, which the Complainant termed as a "set-off," to the Complainant's bill each month in order to satisfy the outstanding balance on the Complainant's account.

15. In his Complaint, the Complainant requests that the Commission determine the "proper application of the previously submitted set-off in accordance with UCC and other applicable rights." (Complaint ¶ 5.)

16. The Complainant also avers that UGI Gas failed to respond appropriately to his "notices . . . requesting validation under UCC provisions," including a "demand for full accounting under UCC § 3-501 and § 9-207," and that his "notices . . . may involve UCC violations . . ." (Complaint ¶ 7; Complaint, Attachment, p. 1.)

17. For the Commission to rule on these issues and grant the Complainant's requested relief, the Commission will have to interpret and apply the UCC.

18. However, as a creature of statute, the Commission “has only those powers which are expressly conferred upon it by the Legislature and those powers which arise by necessary implication.” *Feingold v. Bell*, 383 A.2d 791, 794 (Pa. 1977) (citations omitted).

19. The Commission must act within its jurisdiction and may only hear complaints regarding the Public Utility Code, Commission regulations, or Commission orders. *See Alkhatib v. PECO Energy Co.*, 2012 Pa. PUC LEXIS 37, at *13-14 (Order entered Jan. 12, 2012).

20. More specifically, the Commission has held in the past that it lacks subject matter jurisdiction to rule on questions of law arising under the UCC. *See id.*; *Coppedge v. PECO Energy Co.*, Docket No. F-2009-2135893 (Opinion and order entered August 3, 2010) (finding that “in order to determine the reasonableness of [the Complainant’s] instrument, the Commission would be required to determine the instruments negotiability, which is a question of law governed by application of the UCC. 13 Pa. C.S. § 3104” and that the Commission “do[es] not have jurisdiction” over that issue).

21. Therefore, the Commission lacks subject matter jurisdiction over the Complainant’s allegations and requests for relief that are rooted in the UCC.

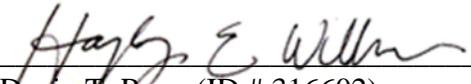
22. Thus, the Commission should dismiss the portions of the Complaint alleging violations of the UCC (*i.e.*, U.C.C. § 3-501 and U.C.C. § 9-207) pursuant to Section 5.101(a)(1) of the Commission’s regulations because the Commission lacks subject matter jurisdiction over those claims. 52 Pa. Code § 5.101(a)(1).

IV. CONCLUSION

WHEREFORE, UGI Utilities, Inc. – Gas Division respectfully requests that the above-captioned Complaint filed by Norris Hammond at Docket No. F-2025-3055605 be dismissed in part with prejudice pursuant 52 Pa. Code § 5.101(a)(1).

Respectfully submitted,

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Dated: June 26, 2025

Attorneys for UGI Utilities, Inc. – Gas Division

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: June 26, 2025

Signed by:



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Amy L. Wynn