



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

July 3, 2025

**Via Electronic Filing**

Matthew L. Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement v.  
UGI Utilities, Inc. – Gas Division  
Docket No. M-2025-3032708  
**I&E Reply Comments**

Dear Secretary Homsher:

Enclosed for electronic filing is the **Reply Comments of the Bureau of Investigation and Enforcement** in the above-referenced matter.

Copies have been served on the parties of record and interested parties in accordance with the Certificate of Service. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'G. Rosul', is written over a light blue circular stamp.

Grant Rosul  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 318204  
(717) 783-5243  
[grosul@pa.gov](mailto:grosul@pa.gov)

GR/ac  
Enclosures

cc: Michael L. Swindler, Deputy Chief Prosecutor, Enforcement (*via email* – [mwindler@pa.gov](mailto:mwindler@pa.gov))  
Office of Special Assistants (*via email only* – [ra-OSA@pa.gov](mailto:ra-OSA@pa.gov) – *Word Version*)  
Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. M-2025-3032708
	:	
UGI Utilities, Inc. – Gas Division	:	

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**REPLY COMMENTS OF THE  
BUREAU OF INVESTIGATION AND ENFORCEMENT**

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**TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

**I. INTRODUCTION**

On March 24, 2025, pursuant to 52 Pa. Code §§ 3.113(b)(3), 5.41 and 5.232, the Pennsylvania Public Utility Commission’s (“Commission” or “PUC”) Bureau of Investigation and Enforcement (“I&E”) and UGI Utilities, Inc. — Gas Division (“UGI” or “Company”) filed a Joint Petition for Approval of Settlement (“Settlement” or “Settlement Agreement”) at the above docket to amicably resolve I&E’s informal investigation regarding improper terminations of gas customers by UGI due to incomplete personal phone contact.

I&E’s investigation was initially based upon information provided by the Commission’s Bureau of Consumer Services (“BCS”), supplemented by I&E’s own investigation which resulted in a Settlement comprised of a substantial monetary civil penalty and numerous remedial measures— both monetary and non-monetary—as set forth therein and as supported by accompanying Statements in Support expressing the

individual views of I&E and UGI.

From its Public Meeting held May 8, 2025, the Commission entered an Order to seek public comment on the Settlement Agreement, consistent with the requirement imposed in 52 Pa. Code § 3.113(b)(3), before issuing its Final Order (“May 8 Order”). Pursuant to the May 8 Order, interested parties had twenty-five (25) days following publication of the May 8 Order in the *Pennsylvania Bulletin* to submit comments. The May 8 Order was published in the *Pennsylvania Bulletin* on May 24, 2025.<sup>1</sup> Accordingly, comments were due on or before June 18, 2025. Two comments were filed by the Pennsylvania Office of the Attorney General’s Office of Consumer Advocate (“OCA”) and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”).

I&E now files the instant Reply Comments consistent with the Commission’s ruling in *I&E v. Great American Power* where it stated:

[T]he Commission has not rejected the filing of reply comments or similar responsive filings if they are filed in a reasonable time and in compliance with our procedural regulations . . . Therefore, we encourage entities, including I&E, if it so chooses, to pursue procedural compliant methods to make appropriate filings, such as replies to comments in settlement proceedings.<sup>2</sup>

I&E deemed it prudent to file the instant Reply Comments to be responsive to the filing of comments by the two interested parties and to further support this Settlement Agreement. Despite the comments of those two parties, it remains I&E’s unwavering

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<sup>1</sup> 55 Pa. B. 3703 (May 24, 2025).

<sup>2</sup> Pa. P.U.C., Bureau of Investigation and Enforcement v. Great American Power, LLC, Docket No. M-2023-3020643 (Order entered September 21, 2023).

position that the Parties have provided the support necessary to warrant a Commission finding that the Settlement Agreement is fair, just, reasonable, and in the public interest, and should be approved in its entirety without modification.

## **II. REPLY COMMENTS**

I&E appreciates that an opportunity was provided to “interested parties” to comment on the Settlement reached between I&E and UGI. The benchmark of successful negotiations is the compromise of competing positions. I&E and UGI invested many hours crafting terms that would result in a successful resolution. While the resulting Settlement does not address every concern of the commenters, it nevertheless achieved the goal of reaching an amicable resolution of the issue at hand while accomplishing this task in an efficient and economical manner. The Settlement is in the public interest.

### **A. Summary of Comments**

Comments were received by two parties — OCA and CAUSE-PA. Each party’s comments will be summarized in turn.

#### **Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)**

In its comment, CAUSE-PA recommended amending the Settlement to increase the amount to be paid by UGI to \$250,000 and to direct the money to be paid into UGI’s own hardship fund, known as “Operation Share,” instead of a civil penalty.<sup>3</sup>

Additionally, CAUSE-PA requested that the Commission order further outreach to any

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<sup>3</sup> Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, June 17, 2025, p.5.

of UGI’s customers or former customers who are still without gas service and inform them of their options for reconnection.<sup>4</sup>

According to CAUSE-PA, the Commission should “prioritize[] the mitigation of harm to impacted consumers.”<sup>5</sup> CAUSE-PA asserts that a UGI’s actions worked “disproportionate harm ...on low and moderate income families...”<sup>6</sup> and therefore requests that the money that would go toward a civil penalty instead be directed to “serve the same households most impacted by UGI’s actions.”<sup>7</sup>

While CAUSE-PA recognizes that UGI did refund reconnection fees and security deposits to the affected customers, it emphasizes what it deemed to be the procrastination of UGI to carry out those refunds.<sup>8</sup> CAUSE-PA also emphasized the number of customers affected and the duration that some of the affected customers were without gas service.<sup>9</sup>

Additionally, CAUSE-PA emphasizes UGI’s large size, noting that it has approximately \$700 million in residential customer revenues every year.<sup>10</sup> The commenter also references I&E’s settlement in a PPL incorrect billing matter, at Docket No. M-2023-3038060.<sup>11</sup>

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<sup>4</sup> Id. p. 6.  
<sup>5</sup> Id. p. 2.  
<sup>6</sup> Id.  
<sup>7</sup> Id.  
<sup>8</sup> Id. p. 6.  
<sup>9</sup> Id. p. 12.  
<sup>10</sup> Id. p. 13.  
<sup>11</sup> Id. p. 14.

### Comments of the Office of Consumer Advocate (OCA)

OCA contends that the Commission should conduct a deeper investigation into the “underlying cause of the violations described in the Settlement...”<sup>12</sup> OCA states that such an inquiry is necessary because of the “lack of any audit or evaluation undertaken by UGI of the potential for more significant management failures related to the alleged behavior.”<sup>13</sup>

OCA expressed particular concern regarding the second auto-dialer issue, which took place in April 2023, and that the ultimate cause of the additional auto-dialer issue “was not identified.”<sup>14</sup> OCA also took umbrage with UGI’s management practices around how it handles customer complaints.<sup>15</sup>

Additionally, OCA questioned why I&E did not investigate the reason “UGI did not find these violations prior to be notified of the investigation in June 2022.”<sup>16</sup> OCA also proposes seven questions related to UGI management and its internal policies in handling customer complaints.<sup>17</sup> Ultimately, OCA requested that the Commission “require I&E to expand the nature of the investigation to consider the potential for broader concerns and determine whether” the violations are part of a “broader management failure to properly monitor and evaluate customer complaints and customer allegations.”<sup>18</sup>

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<sup>12</sup> Comments of the Office of Consumer Advocate, June 18, 2025, p. 2.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> Id. at p. 3.

<sup>18</sup> Id. at p. 4.

**B. The Settlement Should Not be Modified to Impose No Civil Penalty on UGI, as Requested by CAUSE-PA.**

In its comments, CAUSE-PA requested that the Commission modify the Settlement to remove the civil penalty in favor of having UGI donate to its own charity. However, allowing UGI to forgo a civil penalty would contradict the primary purpose of enforcement — deterrence. When determining a civil penalty, “the amount of the penalty should be sufficient to deter future violations.”<sup>19</sup>

Requiring a utility to simply donate money to its own charity which will then be used to pay the utility does nothing to deter the conduct that led to the violations. If anything, it will incentivize utilities to remain lax in its policies and procedures that lead to violations. This is because any violation of the Public Utility Code and Commission regulations that results in a “fine” will end up back in the utility’s coffers. Additionally, the utility can use this payment to itself as a form of good will marketing by telling its customer base about its “generosity” in contributing to paying some of its customers’ bills.

CAUSE-PA would have the Commission set aside the entire point of enforcement — deterrence — in favor of another, new factor — “mitigation of harm to impacted consumers.”<sup>20</sup> Such a request seems specious in light of the fact that UGI **did** already provide refunds to the customers impacted in the instant matter, as CAUSE-PA has already acknowledged. CAUSE-PA does not explain how a donation to UGI’s hardship

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<sup>19</sup> Rosi v. Bell Atlantic-Pennsylvania, Inc., Docket No. 00992409 (order entered March 16, 2000).

<sup>20</sup> CAUSE-PA comment at p. 2.

program benefits the specific individuals who had their service terminated.

CAUSE-PA also requests that the Commission provide “direct relief from the far-ranging consequences of UGI’s actions....”<sup>21</sup> This is essentially a request for damages, which is outside the scope of the Settlement and not within the power of the Commission to bestow.<sup>22</sup> Requesting additional damages that resulted from the second or third order effects of their service termination would be in the nature of a contract or tort claim. To the extent any customer of UGI believes that the improper termination of service caused them additional damages that were not rectified by the refund and restoration of service, they are free to pursue those claims in the common pleas court.

Further, CAUSE-PA claims that the improper terminations fell disproportionately on “low and moderate income families” and requests that the money that would go toward a civil penalty instead be directed to “serve the same households most impacted by UGI’s actions.”<sup>23</sup> There is no evidence before the Commission regarding the income or familial status of those UGI customers whose service was terminated.

It appears that CAUSE-PA reached the conclusion that terminations fell disproportionately on “low and moderate income families” based on a Commission Bureau of Consumer Services report showing that, statistically speaking, “low and moderate income families” are more likely than other households to be subject to service termination.<sup>24</sup> In any event, the particular demographic group that the impacted

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<sup>21</sup> Id. p. 6.

<sup>22</sup> See Blue Pilot Energy, LLC v. Pa. P.U.C., 241 A.3d 1254, 1263 (Pa. Cmwlth. 2020) (holding that 66 Pa.C.S. § 3301 “does not authorize other monetary relief—*i.e.*, damages or refunds.”).

<sup>23</sup> CAUSE-PA Comments at p. 6.

<sup>24</sup> Id. p. 3.

customers belong to has no bearing on whether the Settlement is ultimately in the public interest.

This, again, is indistinguishable from a request for damages, but here CAUSE-PA is requesting that the damages be provided to a class of customers defined only as “low and moderate income families” by way of a payment to an energy assistance fund. As an aside, utilities’ customer assistance programs (“CAPs”) are highly regulated. “[The Commission’s] guidelines on CAPs direct that utilities should file a CAP proposal with the PUC before implementing, revising, or expanding a CAP to allow for staff review, comments, discovery, and revisions prior to PUC approval.”<sup>25</sup> Although assisting those who have difficulty paying their utility bills is a worthy goal, directing a quarter of a million dollars into a CAP program, and thereby sidestepping the usual and customary path of approving a change to a utility’s CAP,<sup>26</sup> should not be an outcome of a negotiated settlement for regulatory violations between I&E and a utility.

Foregoing a civil penalty and allocating funds to UGI’s CAP would nullify any punitive impact of the payment. Additionally, the UGI CAP has certain qualifying requirements, thus limiting the customers that would be able to benefit from this allocation and those limited beneficiaries may have no connection to the customers who had their service terminated.

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<sup>25</sup> Tenant Union Representative Network v. Pa. P.U.C., 318 A.3d 416 (Table), 2024 WL 1395268 \*1 (Pa. Cmwlth. Apr. 2, 2024) (unreported).

<sup>26</sup> See e.g. 52 Pa. Code § 69.263(c) (“Before implementing, revising or expanding a CAP, a utility should file its CAP proposal with the Commission and serve copies on the Bureau of Consumer Services and on stakeholders from the utility’s most recent USECP proceeding. This will allow for staff review, comments, discovery and revisions prior to Commission approval of design elements. This review is not for ratemaking purposes, and the rate consequences of any CAP will be addressed within the context of subsequent Commission rate proceedings as described in § 69.266 (relating to cost recovery).”).

Lastly, it should be noted that I&E views a modification of the Settlement to impose no civil penalty on UGI to be detrimental to the enforcement authority of the bureau and may warrant I&E's withdrawal from the Settlement per the terms of the Settlement permitting a party to withdraw if the Settlement is modified.

**C. The Agreed-Upon Civil Penalty Comports with the Commission's Policy Statement at 52 Pa. Code § 69.1201 and Should Not Be Disturbed**

In its Comments, CAUSE-PA emphasizes what it found to be the seriousness of the violations and the seriousness of the consequences of the violations. As noted in I&E's Statement in Support, the consequences of the improper terminations were serious, and I&E acknowledges that customers who lose their gas service are seriously inconvenienced at best or subjected to a safety hazard at worst.

However, the first factor gauges "seriousness" in terms of intent, with a spectrum of seriousness ranging from "willful fraud or misrepresentation" to errors in an "administrative filing."<sup>27</sup> UGI did not intend to terminate its customers improperly. The improper terminations stemmed from a technical issue with UGI's auto-dialer system. Further, UGI conducted manual audits of the auto-dialer system after the occurrence of the March 2022 personal contact violations and discovered and self-reported the April 2023 violations.<sup>28</sup>

Similarly, OCA requests that the Commission expand the scope of the investigation to cover "the underlying cause of the violations described in the Settlement

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<sup>27</sup> Settlement, Appx. A, p. 5; 52 Pa. Code §69.1201(c)(1).

<sup>28</sup> Settlement at Para. 44.

and Order.”<sup>29</sup> However, as noted in the Settlement, the personal contact violations, which led to the improper terminations, stemmed from a technical issue with the auto-dialer. In its Statement in Support, UGI provided further details of the corrective measures undertaken to improve the programming of the auto-dialer.<sup>30</sup>

OCA also states that “[t]here is no evidence that I&E investigated why UGI did not find these violations prior to [I&E] being notified of the investigation in June 2022.”<sup>31</sup> If OCA is faulting I&E for not investigating this matter before it was referred to I&E in June 2022, this reflects an inaccurate understanding of how I&E works with the Commission’s other bureaus. June 2022 is when I&E was referred the instant matter for investigation and enforcement from the Commission’s Bureau of Consumer Services (“BCS”). BCS handles many consumer complaints which are informally resolved and are never referred to I&E for enforcement. For I&E to bring an enforcement action, it must first be referred information upon which to base an investigation and, if warranted, a resulting enforcement action.

The genesis of the investigation conducted by I&E was discussed in the Settlement at Paragraphs 16 and 17.<sup>32</sup> BCS’s investigation originated with customer complaints arising from the March 2022 terminations. According to the memorandum from BCS referring the matter to I&E, when contacted by BCS, UGI stated that it was aware of the issue and was working to resolve it. The April 2023 violations were self-reported by UGI

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<sup>29</sup> OCA Comments at p. 2.

<sup>30</sup> Settlement, Appx. B, p. 4.

<sup>31</sup> OCA Comments at p. 2.

<sup>32</sup> Settlement, Paragraphs 16-17, p. 4-5.

directly to I&E, as by that point I&E was already in the midst of its investigation of the March 2022 incident.

OCA also contends that “the reason for the additional lapses in April 2023 was not identified.” This is incorrect. It was expressly stated in Paragraph 35 of the Settlement that UGI conducted a manual audit of its auto-dialer and discovered that the software of the machine was erroneously coding unsuccessful customer contacts as successful contacts.

OCA also posed seven questions relating to UGI’s management and “suggests that there are significant underlying concerns not otherwise identified or reflected in the proposed Settlement.”<sup>33</sup> This broad claim is wholly outside the scope of I&E’s investigation. The Settlement before the Commission is limited to the March 2022 and April 2023 improper personal contact and improper termination allegations. The role of I&E within the Commission is to investigate and prosecute alleged violations of the Public Utility Code and attendant regulations — not to micromanage *how* entities under the Commission’s jurisdiction comply. To the extent that there are any deficiencies with UGI’s management, the Commission’s Bureau of Audits is better positioned to address in a separate investigation the questions posed by OCA.

Lastly, OCA requests that the Commission “**require** I&E to expand the nature of the investigation to consider ... broader management failure to properly monitor and evaluate customer complaints and customer allegations.”<sup>34</sup> However, the Pennsylvania

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<sup>33</sup> OCA Comments at p. 3.

<sup>34</sup> OCA Comments at p. 4 (emphasis added).

Supreme Court has commanded that administrative agencies cannot co-mingle their fact-finding and decision-making authority with any prosecutory function.<sup>35</sup>

In any event, all settlements are the product of compromise by both I&E and the utility. By filing the Joint Petition for Approval of Settlement, I&E and UGI have declared that they have in good faith negotiated an amicable resolution that benefits the public, the Parties, and this Commission. The primary purpose of the \$90,000 civil penalty is to serve as an important deterrent from future violations and to serve as a notice to other utilities of the consequences of such violations, in line with the factors and standards enumerated at 52 Pa. Code § 69.1201 (hereinafter, “Rosi factors”).

### **III. Standard for Settlements**

I&E reiterates herein as stated in I&E’s Statement in Support accompanying the Joint Petition for Approval of Settlement that the proposed Settlement Agreement is in the public interest and is consistent with the Commission’s Policy Statement at 52 Pa. Code § 69.1201, *Factors and standards for evaluating litigated and settled proceedings involving violations of the Public Utility Code and Commission regulations—statement of policy*.

The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a “burden of proof” standard, as is utilized for contested matters.<sup>36</sup> Rather, the benchmark for determining the acceptability of the proposed

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<sup>35</sup> Lyness v. Com., State Bd. of Medicine, 605 A.2d. 1204, 1208 (Pa. 1981) (providing that the threat to due process is “not inconsequential” when one entity “wear[s] the hat of the prosecutor” and then “later wears the robe of the judge.”).

<sup>36</sup> Pa. PUC, et al. v. City of Lancaster - Bureau of Water, Docket Nos. R-2010- 2179103, et al. (Order entered July 14, 2011).

Settlement is whether the proposed terms and conditions are in the public interest.<sup>37</sup>

Pursuant to the Commission's Regulations at 52 Pa. Code § 5.231, **it is the Commission's policy to promote settlements**. It is understood that the Commission will undertake a review of the proposed settlement to determine whether the terms of said settlement are in the public interest.<sup>38</sup> As here, where a presiding officer has not been assigned to the proceeding, the terms of the proposed Settlement are to be reviewed by the Commission pursuant to 52 Pa. Code § 5.232(g). That review of the Settlement terms and conditions determines whether the Settlement, as filed, meets the benchmark standard of being in the public interest.

To make that determination, and to implement the Commission's policy to promote settlements, the Commission applies the Rosi factors. These ten (10) factors are used to evaluate whether a civil penalty for violating a Commission Order, Regulation, or statute is appropriate, as well as to determine if a proposed settlement is reasonable and approval of a proposed settlement agreement is in the public interest. The factors to be considered pursuant to 52 Pa. Code § 69.1201(c) are:

- (1) Whether the conduct at issue was of a serious nature. When conduct of a serious nature is involved, such as willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.
- (2) Whether the resulting consequences of the conduct at issue were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty.

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<sup>37</sup> Id. (citing Warner v. GTE North, Inc., Docket No. C-00902815 (Order entered April 1, 1996); Pa. P.U.C. v. C.S. Water and Sewer Associates, 74 Pa. P.U.C. 767 (1991)).

<sup>38</sup> Pa. P.U.C. v. Philadelphia Gas Works, Docket No. M-00031768 (Order entered January 7, 2004).

- (3) Whether the conduct at issue was deemed intentional or negligent. This factor may only be considered in evaluating litigated cases. When conduct has been deemed intentional, the conduct may result in a higher penalty.
- (4) Whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. These modifications may include activities such as training and improving company techniques and supervision. The amount of time it took the utility to correct the conduct once it was discovered and the involvement of top-level management in correcting the conduct may be considered.
- (5) The number of customers affected and the duration of the violation.
- (6) The compliance history of the regulated entity which committed the violation. An isolated incident from an otherwise compliant utility may result in a lower penalty, whereas frequent, recurrent violations by a utility may result in a higher penalty.
- (7) Whether the regulated entity cooperated with the Commission's investigation. Facts establishing bad faith, active concealment of violations, or attempts to interfere with Commission investigations may result in a higher penalty.
- (8) The amount of the civil penalty or fine necessary to deter future violations. The size of the utility may be considered to determine an appropriate penalty amount.
- (9) Past Commission decisions in similar situations.
- (10) Other relevant factors. 52 Pa. Code § 69.1201(c). The Commission will not apply the factors as strictly in settled cases as in litigated cases. 52 Pa. Code § 69.1201(b).

Pursuant to Section 1201(b), while many of the same factors may still be considered, in settled cases, the parties “**will be afforded flexibility in reaching amicable resolutions** to complaints and other matters as long as the settlement is in the public interest.”<sup>39</sup>

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<sup>39</sup> 52 Pa. Code § 69.1201(c) (emphasis added).

Under the terms of the instant Settlement, UGI implemented a number of corrections to its procedures, as detailed in the Settlement at Paragraph 44, subparagraphs A-D. UGI also restored service to and refunded connection fees to its customers who were impacted by the terminations, as detailed in the Settlement at Paragraph 45. Moreover, this Settlement imposes a punitive civil penalty of \$90,000 which is commensurate with the civil penalties imposed on other utilities for similar violations relating to improper termination of service, as detailed in I&E's Statement in Support, as part of the Settlement's Appendix A, pages 6 through 9.<sup>40</sup>

The Settlement reached between I&E and UGI is in the public interest.

**WHEREFORE**, I&E supports the Settlement Agreement as being in the public interest and respectfully requests that the Commission approve the terms as set forth in the Joint Petition in their entirety without modification.

Respectfully submitted,



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Prosecutor  
PA Attorney ID No. 318204

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<sup>40</sup> Settlement Appx. A, p. 6-9.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :  
Bureau of Investigation and Enforcement :  
 :  
v. : Docket No. M-2025-3032708  
 :  
UGI Utilities, Inc. – Gas Division :

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day, July 3, 2025, served a true copy of the foregoing **Reply Comments**, upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**Service by Electronic Mail:**

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