

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michael A. Aed	:	
	:	
v.	:	C-2025-3053205
	:	
UGI Utilities, Inc. – Gas Division	:	

INITIAL DECISION

Before
Chad L. Allensworth
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Motion for Summary Judgment made by the gas utility company on the record at the hearing held on May 22, 2025, finding that there are no factual issues in dispute in this proceeding and that the utility is entitled to summary judgment as a matter of law.

HISTORY OF THE PROCEEDING

On January 28, 2025, Michael A. Aed (“Complainant”) filed a Formal Complaint (“complaint”) against UGI Utilities, Inc. – Gas Division (“UGI” or “Respondent”) with the Pennsylvania Public Utility Commission (“Commission”), objecting to the Weather Normalization Adjustment (“WNA”) charges on his gas bills. Complaint ¶ 4. For relief, Complainant argued that UGI should be investigated. Complaint ¶ 5. The complaint was served on February 3, 2025.

On February 24, 2025, Respondent filed an Answer to the complaint along with New Matter. In its Answer, Respondent asserted that it applied the WNA to Complainant's bill in accordance with the Commission-approved tariff. Answer ¶ 4.

In its New Matter, Respondent asserted that the WNA became effective October 29, 2022, that the WNA was applied to Complainant for the months of October through May for the years of 2022 to 2025 and that the WNA was accurately calculated. New Matter ¶¶ 2-16. The New Matter was properly endorsed with a Notice to Plead that advised Complainant he had 20 days to file an answer.

Complainant did not file an answer or otherwise plead to the New Matter.

On March 26, 2025, the Commission issued a Hearing Notice scheduling this matter for an evidentiary hearing on May 22, 2025, and assigned me as the Presiding Officer.

On March 27, 2025, the Commission issued a Prehearing Order setting forth the procedural rules that would govern the hearing.

On May 22, 2025, the evidentiary hearing was held as scheduled. Complainant appeared and represented himself. Complainant testified on his own behalf and did not offer any exhibits for the record. Alice Wade, Esq., appeared on behalf of UGI with one potential witness and several potential exhibits. Following the presentation of Complainant's evidence, Attorney Wade made a verbal Motion for Summary Judgment ("motion") on the record and requested that the Complaint be dismissed with prejudice. Tr. 18-19. Complainant asserted that his argument was based on moral grounds. Tr. 18. I stated that UGI's motion would be granted and formalized in a written

decision once I received a copy of the hearing transcript. Tr. 23. UGI did not present any witness or any exhibits for the record.

The record closed on June 3, 2025 when the 25-page transcript was filed with the Commission.

This decision formally grants Respondent's motion for summary judgment and dismisses the complaint.

FINDINGS OF FACT

1. Complainant is Michael A. Aed, who resides at 22 Seneca Place, Forty Fort, Pennsylvania, 18704 ("the property"). Tr. 9.

2. Respondent is UGI Utilities, Inc. – Gas Division.

3. On January 28, 2025, Complainant filed a complaint against Respondent.

4. On February 24, 2025, Respondent filed an Answer and New Matter, which included a notice to plead.

5. Complainant did not answer or otherwise plead to the New Matter.

6. Complainant receives gas service at the property and has resided at the property for approximately 48 years. Tr. 9, 16.

7. Complainant's sole objection in this matter is to the WNA charges on his bills. Tr. 10.

8. The WNA was authorized by the Commission in its approved tariff that became effective October 29, 2022 at *Pennsylvania Public Utility Commission v. UGI Utilities, Inc. – Gas Division*, Docket Nos. R-2021-3030218 (Order entered Sept. 15, 2022), Rider C, Supp. No. 37 to UGI Gas – Pa. P.U.C. No. 7, Third Revised Page No. 53. Tr. 10, 13-14; New Matter ¶ 2.

9. The WNA is a billing adjustment that applies to customer bills issued from October through May each year. New Matter ¶ 3.

10. The WNA adjusts UGI’s distribution charges on customer bills during variations from normal weather in order to have the bill reflect normal weather conditions for each billing period and to make bills more predictable during periods of warmer or colder than normal temperatures. New Matter ¶ 6.

11. The Company accurately calculated and applied a WNA charge or credit to the Complainant’s account during the following billing periods in 2022-2025:

- October 12, 2022 – November 9, 2022 (\$1.86 charge)
- November 11, 2022 – December 12, 2022 (\$2.50 charge)
- December 13, 2022 – January 12, 2023 (\$6.50 charge)
- January 13, 2023 – February 10, 2023 (\$13.51 charge)
- February 11, 2023 – March 14, 2023 (\$13.51 charge)
- March 15, 2023 – April 13, 2023 (\$7.00 charge)
- October 12, 2023 – November 9, 2023 (\$1.04 charge)
- November 10, 2023 – December 12, 2023 (\$1.04 charge)
- December 13, 2023 – January 12, 2024 (\$15.01 charge)
- January 13, 2024 – February 12, 2024 (\$13.46 charge)
- February 13, 2024 – March 13, 2024 (\$14.49 charge)

March 14, 2024 – April 12, 2024 (\$7.25 charge)
April 13, 2024 – May 13, 2024 (\$2.59 charge)
September 12, 2024 – October 10, 2024 (\$2.07 charge)
October 11, 2024 – November 8, 2024 (\$5.70 charge)
December 12, 2024 – January 13, 2025 (\$3.62 credit)
January 14, 2025 – February 10, 2025 (\$2.59 credit)

New Matter ¶ 14.

12. Complainant does not object to paying for gas that he used. Tr. 11.

13. Complainant objects to the portion of the tariff whereby he is charged for service he did not use under the WNA. Tr. 14-15.

14. Complainant acknowledges that he was billed in accordance with the Commission-approved tariff. Tr. 13-14.

DISCUSSION

Motion for Summary Judgment

The Commission's regulations permit a party to move for summary judgment after the pleadings are closed, but within such time as to not delay a hearing. 52 Pa. Code § 5.102(a). The presiding officer will grant the motion if the pleadings, depositions, answers to interrogatories, admissions and affidavits show that there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law. 52 Pa. Code § 5.102(d)(1).

After Complainant completed presentation of his evidence at the hearing

held on May 22, 2025, Respondent made a verbal Motion for Summary Judgment, arguing that Complainant was not disputing that he was charged in accordance with the Commission-approved tariff, and was instead challenging the tariff itself. Tr. 18-19. Complainant did not offer any legal arguments in opposition to the motion and instead asserted that his argument was based on morals. Tr. 18-19.

The Commission's regulations contemplate that a party moving for summary judgement should do so in writing. 52 Pa. Code § 5.102. Here, Respondent made the motion verbally on the record and Complainant had an opportunity to respond. The regulation at 52 Pa. Code § 1.2(a) provides that the presiding officer or Commission may disregard an error or defect of procedure which does not affect the substantive rights of the parties. As such, I will treat the verbal on-the-record motion as if it had been made in writing in order to secure a just, speedy and inexpensive determination of this proceeding. *See* 52 Pa. Code § 1.2(a) (providing for a liberal construction of the Commission's administrative rules to secure the just, speedy and inexpensive determination of a proceeding).

Summary judgment should be granted only when the right to relief is clear and free from doubt. In determining the absence of a genuine issue of material fact, the Commission must view the record in the light most favorable to the non-moving party and resolve any doubts against the entry of the judgment. *Day v. Volkswagenwerk Aktiengesellschaft*, 464 A.2d 1313 (Pa. Super. 1983). In this proceeding, UGI bears the burden of clearly demonstrating that there is no genuine issue of a material fact; however, as the non-moving party Complainant must allege sufficient facts showing that a genuine issue of fact exists for the hearing. *First Mortgage Co. of Pa. v. McCall*, 459 A.2d 406 (Pa. Super. 1983); *Commonwealth v. Diamond Shamrock Chemical Co.*, 391 A.2d 1333 (Pa. Cmwlth. 1978).

The sole factual averment in the complaint is that Respondent included

WNA charges on Complainant's gas bills. Complaint ¶ 4. At the hearing, Complainant testified that the WNA charges on his bills were the sole issue, and he was objecting to existence of the WNA in the approved tariff. Tr. 10, 14-15. Complainant also acknowledged that Respondent billed him in accordance with the Commission-approved tariff. Tr. 13-14. Because Complainant is the non-moving party, these facts may be considered in deciding the motion.

Additionally, 52 Pa. Code § 5.63(b) states, “[f]ailure to file a timely reply to new matter may be deemed in default, and relevant facts stated in the new matter may be deemed to be admitted.” In this matter, Complainant failed to respond to the New Matter. *See* FOF 5.

The pertinent facts alleged in the New Matter are: (a) the WNA was authorized by the Commission in its approved tariff that became effective October 29, 2022, (b) the WNA is a billing adjustment that applies to customer bills issued from October through May each year, (c) the WNA adjusts UGI's distribution charges on customer bills during variations from normal weather in order to have the bill reflect normal weather conditions for each billing period and to make bills more predictable during periods of warmer or colder than normal temperatures and (d) UGI accurately calculated and applied a WNA charge or credit to Complainant's account between October 2022 and February 2025. New Matter ¶¶ 2-3, 6, 14. Pursuant to 52 Pa. Code § 5.63(b), the allegations in the New Matter are deemed to be admitted.

Analysis

In its motion, UGI argued that there is no genuine issue of material fact and Complainant failed to establish that UGI violated a statute which the Commission has jurisdiction to administer, a Commission regulation or order of the Commission.” 66 Pa.C.S. § 701. Considering the factual averment in the complaint, the facts attested to by

the Complainant at the May 22, 2025 hearing and the facts deemed admitted in the New Matter of the Respondent, there is no genuine issue as to a material fact.

The Commission approved UGI's tariff effective October 29, 2022 to include application of WNA charges to its customers. A tariff is a set of operating rules imposed by the Commission that each public utility must follow in order to provide service to its customers. *PPL Elec. Utils. Corp. v. Pa. Pub. Util. Comm'n*, 912 A.2d 386 (Pa. Cmwlth. 2006). Each public utility must file a copy of its tariff with the Commission setting forth its rates, services, rules, regulations and practices so that the public may inspect its contents. 66 Pa.C.S. § 1302; 52 Pa. Code § 53.25; *Phila. Suburban Water Co. v. Pa. Pub. Util. Comm'n*, 808 A.2d 1044 (Pa. Cmwlth. 2002). Public utility tariffs must be applied consistent with their language. Public utility tariffs have the force and effect of law and are binding on the public utility and its customers. *Pa. Elec. Co. v. Pa. Pub. Util. Comm'n*, 663 A.2d 281 (Pa. Cmwlth. 1995). The Commission has no authority to allow a public utility to deviate from its tariff even where the Commission concludes it is in the public interest. *Phila. Suburban Water Co. v. Pa. Pub. Util. Comm'n*, 808 A.2d 1044 (Pa. Cmwlth. 2002). A public utility may not charge a rate other than the rates set forth in its tariff. 66 Pa.C.S. § 1303.

Moreover, tariff provisions previously approved by the Commission are *prima facie* reasonable. *Zucker v. Pa. Pub. Util. Comm'n*, 431 A.2d 1067 (Pa. Cmwlth. 1981). A complainant seeking to evade the effect of an existing tariff provision carries a very heavy burden of proving that the facts and circumstances leading to the creation of the tariff provision have changed so drastically as to render the application of the tariff provision unreasonable. *Shenango Twp. v. Pa. Pub. Util. Comm'n*, 686 A.2d 910 (Pa. Cmwlth. 1996).

The only basis for challenging the tariff asserted by Complainant is that the tariff is morally wrong based on the fact that he is paying a charge for gas he is not using.

Tr. 14-15. This argument is insufficient to establish that UGI violated the Public Utility Code, a Commission regulation or a Commission order.

Conclusion

As there are no material facts in dispute and UGI is entitled to summary judgment as a matter of law, the Motion of UGI will be granted, and the Formal Complaint will be dismissed in the Ordering paragraphs below.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this dispute. 66 Pa.C.S. § 701.
2. The Commission's regulations permit parties to file motions for summary judgment. 52 Pa. Code § 5.102(a).
3. The presiding officer will grant a motion for summary judgment if there is no genuine issue as to a material fact and that the moving party is entitled to a judgment as a matter of law. 52 Pa. Code § 5.102(d)(1).
4. A tariff is a set of operating rules imposed by the Commission that each public utility must follow in order to provide service to its customers. *PPL Elec. Utils. Corp. v. Pa. Pub. Util. Comm'n*, 912 A.2d 386 (Pa. Cmwlth. 2006).
5. Public utility tariffs have the force and effect of law and are binding on the public utility and its customers. *Pa. Elec. Co. v. Pa. Pub. Util. Comm'n*, 663 A.2d 281 (Pa. Cmwlth. 1995).

6. Tariff provisions previously approved by the Commission are *prima facie* reasonable. *Zucker v. Pa. Pub. Util. Comm'n*, 431 A.2d 1067 (Pa. Cmwlth. 1981).

7. There are no material facts in dispute in this proceeding and UGI is entitled to summary judgment as a matter of law. 52 Pa. Code § 5.102(d)(1).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion for Summary Judgment made on the record at the May 22, 2025 hearing by UGI Utilities, Inc. – Gas Division in the matter of Michael A. Aed v. UGI Utilities, Inc. – Gas Division, Docket No. C-2025-3053205, is granted.

2. That the Formal Complaint filed in the matter of Michael A. Aed v. UGI Utilities, Inc. – Gas Division, Docket No. C-2025-3053205, is dismissed.

3. That the Secretary shall mark Docket No. C-2025-3053205 as closed.

Date: July 17, 2025

/s/
Chad L. Allensworth
Administrative Law Judge