

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Cynthia M. Pepper	:	
	:	
v.	:	C-2025-3054966
	:	
UGI Utilities, Inc. – Gas Division	:	

ORDER DENYING PRELIMINARY OBJECTION

HISTORY OF THE PROCEEDING

On April 24, 2025, Cynthia M. Pepper (“Complainant”) filed a Formal Complaint (“complaint”) with the Pennsylvania Public Utility Commission (“Commission”) against UGI Utilities, Inc. – Gas Division (“UGI” or “Respondent”). The complaint alleges that Respondent had incorrect charges on Complainant’s bill. Complaint ¶ 4. Specifically, the complaint challenges UGI’s failure to credit an alleged payment to Respondent on May 21, 2017 in the amount of \$3,888.21 for a “GET GAS” surcharge alleging that Respondent “double billed” Complainant for this amount monthly over seven years. Complaint ¶ 5 and Addendum.

Complainant attached a letter from the Commission’s Bureau of Consumer Services (“BCS”) dated January 13, 2025 that informed Complainant that her Informal Complaint submitted to BCS on November 19, 2024, which raised the same issues as the complaint at issue, was closed without a decision. BCS explained its decision was based on its conclusion that her Informal Complaint was outside the Commission’s statute of limitations. *See* Complaint Addendum. As relief, the complaint requested a refund of \$3,888.21. Complaint ¶ 5 and Addendum. The complaint was served on May 5, 2025.

On May 27 2025, Respondent filed an Answer and New Matter along with Preliminary Objections. In its Answer, Respondent denied “double billing” Complainant for the gas service extension under the UGI’s Growth Extension Tariff Gas Rider pilot program (“Get Gas Pilot”). Answer ¶ 4. By way of further response, Respondent asserted that under its “Get

Gas Pilot,” customers had the option to pay a one-time fee up front or to spread the cost over ten years as a monthly surcharge. Answer ¶ 4. Respondent further responded that, on May 21, 2017, Complainant opted to pay the one-time fee, but Complainant failed to include any payment. Answer ¶ 4.

In its New Matter, Respondent asserts that Complainant is alleging that Complainant is seeking a refund in the amount of \$3,888.21 related to a payment allegedly made on May 21, 2017 and that the instant complaint was filed on April 25, 2025. New Matter ¶¶ 13-14.

The New Matter avers that the complaint is barred by the statute of limitations at 66 Pa.C.S. § 3314 because the complaint was filed more than three years after the events alleged in the complaint occurred. New Matter ¶ 15. The New Matter also contends that the refund claim is barred by the statute of limitations at 66 Pa.C.S. § 1312 because the complaint was filed more than four years after the events alleged in the complaint occurred. New Matter ¶ 16. The Answer and New Matter was endorsed with a Notice to Plead that advised Complainant she had 20 days to reply.

In its Preliminary Objection, Respondent argues that Complainant’s claim and request for relief stem from events that allegedly occurred on May 21, 2017 and are thereby barred by the Commission’s statute of limitations set forth at 66 Pa.C.S. §§ 3314, 1312.

Complainant did not reply or otherwise plead to the New Matter.

Complainant did not file an answer or otherwise plead to the Preliminary Objection.

On July 2, 2025, the Commission issued a Motion Judge Assignment Notice assigning me as the presiding officer.

Respondent’s Preliminary Objection is now ready for consideration. For the reasons discussed below, the Preliminary Objection will be denied.

DISCUSSION

Commission regulations permit the filing of preliminary objections. 52 Pa. Code § 5.101(a). Preliminary objection practice before the Commission is similar to Pennsylvania civil practice respecting preliminary objections. *Equitable Small Transp. Intervenors v. Equitable Gas Co.*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994) (“*Equitable*”). Commission regulations provide:

§ 5.101. Preliminary objections.

(a) *Grounds.* Preliminary objections are available to parties and may be filed in response to a pleading except motions and prior preliminary objections. Preliminary objections must be accompanied by a notice to plead, must state specifically the legal and factual grounds relied upon and be limited to the following:

- (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).

For purposes of disposing of Preliminary Objections, the Commission must accept as true all well-pleaded, material facts of the nonmoving party, as well as every reasonable inference from those facts. *County of Allegheny v. Commonwealth of Pa.*, 490 A.2d

402 (Pa. 1985); *Commonwealth of Pennsylvania v. Bell Tel. Co. of Pa.*, 551 A.2d 602 (Pa. Cmwlth. 1988). As such, the Commission must view the complaint in this case in the light most favorable to Complainant and should dismiss the complaint only if it appears that Complainant would not be entitled to relief under any circumstances as a matter of law. *Equitable, supra; see also, Interstate Traveler Servs., Inc. v. Pa. Dept. of Env't Res.*, 406 A.2d 1020 (Pa. 1979). The Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest. 66 Pa. C.S. § 703(b).

In this case, Complainant argued that UGI failed to credit her account with a one-time payment she made on May 21, 2017 in the amount of \$3,888.21 for converting to gas service with UGI. Complaint Addendum. Complainant avers that she made this one-time payment in lieu of a monthly surcharge for the same act, but she was double billed for the service via monthly surcharge fees up to November 2024. Complaint Addendum.

The sole Preliminary Objection raised by Respondent is that the complaint is legally insufficient under 52 Pa. Code § 5.101(a)(4). Specifically, Respondent argues that the complaint is legally insufficient because both the claim and the relief requested are barred by the Commission's statute of limitations.

Section 3314(a) of the Public Utility Code provides as follows:

(a) **General rule.** – No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and 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, except as otherwise provided in this part.

66 Pa.C.S. § 3314(a).

Section 1312(a) of the Public Utility Code provides as follows:

(a) General rule. – If, in any proceeding involving rates, the commission shall determine that any rate received by a public utility was unjust or unreasonable, or was in violation of any regulation or order of the commission, or was in excess of the applicable rate contained in an existing and effective tariff of such public utility, the commission shall have the power and authority to make an order requiring the public utility 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 the filing of the complaint, together with interest at the legal rate from the date of each such excessive payment. In making a determination under this section, the commission need not find that the rate complained of was extortionate or oppressive. Any order of the commission awarding a refund shall be made for and on behalf of all patrons subject to the same rate of the public utility. The commission shall state in any refund order the exact amount to be paid, the reasonable time within which payment shall be made, and shall make findings upon pertinent questions of fact.

66 Pa.C.S. § 1312(a).

Thus, Respondent's Preliminary Objection argues that the complaint's allegations that Complainant made a payment of \$3,888.21 to UGI on May 21, 2017 and that Complainant is entitled to a refund in the amount of \$3,888.21 are barred by both 66 Pa.C.S. §§ 3314(a) and 1312(a), respectively.

Accepting as true Complainant's claim that she made a one-time payment to UGI on May 21, 2017 that was not credited to her account and that she was double billed for the "Get Gas Pilot" every month up to November 2024, it appears that at least part of Complainant's claim and her request for a refund are based on actions and payments made within the three-year and four-year time limitations set forth in 66 Pa.C.S. §§ 3314(a) and 1312(a), respectively. Given these assertions, I must conclude that Complainant has stated claims upon which relief could be granted, and that dismissal of the case at this preliminary stage must be denied. I will therefore enter an appropriate ruling below.

Although Respondent's Preliminary Objection is denied, I note that the standard of proof at a hearing is different than the standard used to dispose of preliminary motions such as the motion in this case. Complainant must prove, by a preponderance of the evidence, that she is entitled to relief because Respondent has violated the Public Utility Code, a Commission order or regulation, or a Commission-approved tariff of the company concerning the service provided to her. This is a higher legal standard than that which was used to judge UGI's Preliminary Objection.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objection filed by UGI Utilities, Inc. – Gas Division on May 27, 2025 at Docket No. C-2025-3054966 is hereby denied.
2. That the matter of Cynthia M. Pepper v. UGI Utilities, Inc. – Gas Division at Docket No. C-2025-3054966 shall be scheduled for an initial telephonic hearing through the Office of Administrative Law Judge scheduling unit.

Date: July 21, 2025

/s/
Chad L. Allensworth
Administrative Law Judge

C-2025-3054966 - CYNTHIA PEPPER v. UGI UTILITIES, INC (GAS DIVISION)

CYNTHIA PEPPER
1382 COLLINS AVENUE
BETHLEHEM PA 18015
484.239.9190

cyndi.pepper@yahoo.com

Served via USPS First-class mail July 21, 2025

MICHAEL SWERLING SENIOR COUNSEL
UGIGAS
460 NORTH GULPH ROAD
PO BOX 858
VALLEY FORGE PA 19482-0858
215.629.6776
610.992.3763

swerlingm@oneugi.com

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