

COMMONWEALTH OF PENNSYLVANIA



DARRYL A. LAWRENCE
Consumer Advocate

OFFICE OF CONSUMER ADVOCATE
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
(800) 684-6560

 @pa_oca
 /pennoca
FAX (717) 783-7152
consumer@paoca.org
www.oca.pa.gov

July 28, 2025

Via Electronic Filing

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

Re: Application of UGI Utilities, Inc. – Gas
Division for Approval to Begin to Offer,
Render, Furnish or Supply Natural Gas
Distribution Service to the Public in Frailey
Township, Schuylkill County
Docket No. A-2025-3056020

Dear Secretary Homsher:

Attached for electronic filing, please find the Office of Consumer Advocate's Protest and Public Statement in this proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Melanie Joy El Atieh
Melanie Joy El Atieh, Esq.
Deputy Consumer Advocate
PA Attorney I.D. # 209323
Email: ME1Atieh@paoca.org

Enclosures

cc: The Honorable Charles E. Rainey, Jr. (Email Only: crainey@pa.gov)
Paul Diskin, TUS (Email Only: pdiskin@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

Application of UGI Utilities, Inc. – Gas :
Division for Approval to Begin to Offer, :
Render, Furnish or Supply Natural Gas : Docket No. A-2025-3056020
Distribution Service to the Public in Frailey :
Township, Schuylkill County :
:
:

I hereby certify that I have this day filed electronically on the Commission’s electronic filing system and served a true copy of the following document, the Office of Consumer Advocate’s Protest and Public Statement, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 28th day of July 2025.

SERVICE BY E-MAIL ONLY

Michael S. Swerling, Esq.
Lindsay A. Berkstresser, Esq.
500 North Gulph Road
King of Prussia, PA 19406
swerlingm@ugicorp.com
berkstresserl@ugicorp.com
Counsel for UGI Gas

Allison Kaster, Esq.
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
P.O. Box 3265
Harrisburg, PA 17105
akaster@pa.gov
Counsel for I&E

NazArah Sabree
Office of Small Business Advocate
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
ra-sba@pa.gov
Small Business Advocate

SERVICE BY FIRST CLASS MAIL ONLY

Frailey Township Board of Supervisors
23 Maryland Street
Donaldson, PA 17981

Schuylkill County Commissioners
401 North 2nd Street, 3rd Floor
Pottsville, PA 17901

/s/ Melanie Joy El Atieh
Melanie Joy El Atieh, Esq.
Deputy Consumer Advocate
PA Attorney I.D. # 209323
Email: MELAtieh@paoca.org

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: 717-783-5048
Fax: 717-783-7152

Dated: July 28, 2025

Katie Kennedy, Esq.
Assistant Consumer Advocate
PA Attorney I.D. # 317237
Email: KKennedy@paoca.org

Counsel for:
Darryl A. Lawrence
Consumer Advocate

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of UGI Utilities, Inc. – Gas :
Division for Approval to Begin to Offer, : Docket No. A-2025-3056020
Render, Furnish or Supply Natural Gas :
Distribution Service to the Public in Frailey :
Township, Schuylkill County :
:

PROTEST OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to 52 Pa. Code Sections 5.51, *et seq.*, the Office of Consumer Advocate (OCA) files with the Pennsylvania Public Utility Commission (Commission) this Protest to the Application (Application) of UGI Utilities, Inc. – Gas Division (UGI Gas) for a Certificate of Public Convenience filed on June 30, 2025, in the captioned proceeding. In support of this Protest, the OCA provides the following information:

1. The Application was published in the Pennsylvania Bulletin on Saturday, July 12, 2025, in accordance with 52 Pa. Code Section 5.14, and the deadline for protests was established as July 28, 2025.

2. The Protestant is:

Darryl Lawrence
Consumer Advocate
Pennsylvania Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
717-783-5048

Throughout this Protest, the Protestant will be referred to as the Office of Consumer Advocate or OCA.

3. The OCA's attorneys are:

Melanie Joy El Atieh
Deputy Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
717-783-5048
Email: MEIAtieh@paoca.org

4. The OCA is authorized by law to represent the interests of Pennsylvania's utility consumers in all matters properly before the Commission. 71 Pa. Stat. Ann. §§ 309-1 *et seq.*.

5. Sections 1101 and 1102 of the Public Utility Code requires that the Commission issue a Certificate of Public Convenience as a legal prerequisite for a public utility to begin offering service to consumers in a different service territory than that previously authorized by the Commission. 66 Pa. C.S. §§ 1101, 1102(a)(1).

6. Section 1103(a) establishes that the granting of a certificate of public convenience must be by order of the Commission and “only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public...” 66 Pa.C.S. § 1103.

7. The Commission can impose just and reasonable conditions upon the issuance of a Certificate of Public Convenience. 66 Pa. C.S. § 1103(a). Section 1103(a) of the Code provides: “The Commission, in granting such a certificate, may impose such conditions as it may deem to be just and reasonable.” The OCA submits that consideration of the imposition of conditions may be required in this case to ensure that the public interest standard is met.

8. The Public Utility Code requires that any rate and terms and conditions of tariffs be just and reasonable and not unduly discriminatory. 66 Pa. C.S. §§ 1301, 1304.

9. In dealing with any proposed action which may substantially affect the interest of consumers, the Commission must take such action with due consideration to the interest of consumers consistent with its other statutory responsibilities. 71 P.S. § 309-5.

10. When a utility company extends its service to a new area or upgrades its infrastructure, it can be costly. The upfront payment of contributions in aid of construction (CIACs) by customers helps to ensure that the uneconomic costs of the facilities extension is primarily borne by those who caused the costs and directly benefit from the new service, rather than such costs being spread across all existing customers.

11. The Commission's regulations at 52 Pa. Code Section 59.27 require a gas public utility to file with the Commission tariff rules setting forth the conditions under which facilities will be extended to supply service to an applicant within all, or designated portions, of its service area. The gas utility may, upon proper cause shown, refuse or condition the acceptance of a particular application of extension of facilities. 52 Pa. Code § 59.27.

12. Under UGI's extension rules in its effective tariff, CIACs are permitted and/or required when certain conditions are met. See UGI Gas – Pa. P.U.C. No. 7, Rule 5 Extension Regulation, Page Nos. 35, 35(a), and 36.¹

13. Tariff Rule 5.1 of the UGI's tariff states, in relevant part, that the Company will extend or expand its facilities within its service territory, provided that (a) the requested extension or expansion will not adversely affect the availability or deliverability of gas supply to existing customers and (b) the Company's investment in facilities is warranted by the Annual Base Revenue to be derived from the extension. The costs of extending or expanding facilities beyond the Company's Allowable Investment Amount shall be paid by the Extension Applicant as a CIAC.

¹ Available at https://ugi.outsystemsenterprise.com/UGITariff_FO/Tariffs?Division=Gas (last visited July 28, 2025).

UGI Gas – Pa. P.U.C. No. 7, Rule 5 – Extension Regulation, Rule 5.1 Obligation to Extend or Expand, Fifth Revised Page No. 35 (Effective November 4, 2024).

14. Tariff Rule 5.4 of UGI’s tariff applies to commercial and industrial customers, and states:

(a) For commercial and industrial Gas Service costing up to \$10,000 from which the Company in its sole judgment anticipates long-term, continuous usage at projected volumes, the Company will install, required service facilities, including, as applicable, a meter, regulator, service-supply pipe and supply-main, provided that the costs in excess of the Allowable Investment amount shall be paid by the Extension Applicant.

(b) The Company may condition its agreement to extend or expand its facilities upon satisfactory long-term and short-term usage commitments and any other terms and conditions of service as are mutually agreeable to the Company and the Extension Applicant. A contribution may be required up to the amount of the Company's total investment in the extension.

UGI Gas – Pa. P.U.C. No. 7, Rule 5 Extension Regulation, Rule 5.4 Commercial and Industrial Gas Service, Original Page No. 36, (Effective October 11, 2019).

15. Rule 5.2 contains definitions of relevant terms, as follows:

(a) Annual Base Revenue. As used in this Section 5, the Annual Base Revenue is the anticipated annual base rate revenue from the extension or expansion, as determined by the Company, less the cost of fuel included in base rates. Where gas is used as a supplemental source of fuel for peak heating purposes, anticipated base revenues from such use shall be excluded from Annual Base Revenue.

(b) Allowable Investment Amount. The Company’s Allowable Investment Amount shall be the Annual Base Revenue divided by a predetermined rate of return.

(c) Estimates and non-standard costs. Cost estimates used by the Company may be based on construction and installation conditions anticipated for the extension, including, but not limited to, the cost of installation and construction: nonstreet surface restoration, such as replacement or repair of sidewalks, driveways, landscaping or sod; street opening and restoration terms and fees; and any other local government fees required for the installation. The Company may determine cost estimates based on average experienced unit costs.

(d) Surface Restoration. The Company will restore the street surface in accordance with applicable local government regulations and provide rough backfilling of the installation trench from the curb to the meter. The Extension Applicant will be required to perform or pay the Company’s cost of non-street surface restoration.

(e) Standard conditions of construction in a residential development, commercial park and industrial park include trenching provided by the developer.

UGI Gas – Pa. P.U.C. No. 7, Rule 5 – Extension Regulation, Rule 5.2 General, First Revised

Page No. 35(a), (Effective October 10, 2020).

16. Preliminarily, the OCA has identified the following issues that require further consideration by the Commission and must be resolved prior to Commission approval of this Application.

- a. Whether it is reasonable for UGI to charge CIACs to the subject customers in order to warrant the Company's investment in facilities as based on the annual base revenue to be derived from the extension.
- b. Whether the utility's tariff provisions are just and reasonable and not unduly discriminatory if the provisions give the utility discretion to negotiate with certain customers and not require a CIAC if certain conditions are met in the subjective determination of the utility company.

17. The OCA reserves the right to raise additional issues as the case proceeds and further information is obtained from the Applicant.

18. The OCA and UGI Gas have previously engaged in limited informal discovery regarding the Application.

19. WHEREFORE, the OCA respectfully requests that the Application not be granted at this time due to the issues raised above and the need for additional information. The Office of Consumer Advocate further requests that the Pennsylvania Public Utility Commission investigate and hold full hearings in this matter.

Respectfully submitted,

/s/ Melanie Joy El Atieh
Melanie Joy El Atieh
Deputy Consumer Advocate
PA Attorney I.D. # 209323
Email: MEIAtieh@paoca.org

Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
717-783-5048

Dated: July 28, 2025

Counsel for:
Darryl A. Lawrence
Consumer Advocate

PUBLIC STATEMENT OF THE
OFFICE OF CONSUMER ADVOCATE
PURSUANT TO 71 P.S. SECTION 309-4(e)

Act 161 of the Pennsylvania General Assembly, 71 P.S. Section 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interests of consumers before the Pennsylvania Public Utility Commission (Commission). In accordance with Act 161, and for the following reasons, the Consumer Advocate determined to file a Protest and participate in proceedings before the Commission involving the proposed natural gas distribution service to Frailey Township, Schuylkill County, by UGI Utilities, Inc. – Gas Division (UGI Gas).

On June 30, 2025, under Section 1102(a)(1) of the Public Utility Code, UGI Gas filed an Application for a Certificate of Public Convenience for approval from the Pennsylvania Public Utility Commission to begin to offer, render, furnish or supply natural gas distribution services to the public in Frailey Township, Schuylkill County, Pennsylvania.

The objective of the Consumer Advocate in filing a Protest in this matter is to protect the interests of UGI Gas customers. Through its participation in this proceeding, the Consumer Advocate seeks to prevent ratepayers from paying costs that are unreasonable or otherwise violative of the Public Utility Code. The Consumer Advocate will investigate the proposed Application and request the Commission order all necessary and proper customer protections which are justified, reasonable, and in accordance with sound ratemaking principles.