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Alice A. Wade

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File #: 215148

October 8, 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: Marion Hurst v. UGI Utilities, Inc. – Gas Division**  
**Docket No. C-2025-3057507**

Dear Secretary Homsher:

Attached for filing are the Preliminary Objections of UGI Utilities, Inc. – Gas Division to the Complaint of Marion Hurst in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Alice A. Wade

AAW/bfc  
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 EMAIL AND FIRST-CLASS MAIL**

Marion Hurst  
315 Simon Lane  
Lock Haven, PA 17745  
Ken.ponderosa@gmail.com

Date: October 8, 2025



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Alice A. Wade

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Marion Hurst,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2025-3057507
	:	
UGI Utilities, Inc. – Gas Division,	:	
	:	
Respondent.	:	


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**NOTICE TO PLEAD**

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YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.101, YOU MAY FILE AN ANSWER TO THE ENCLOSED PRELIMINARY OBJECTIONS WITHIN TEN (10) DAYS OF THE DATE OF SERVICE HEREOF. YOUR ANSWER TO THE PRELIMINARY OBJECTIONS 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.

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Lindsay Berkstresser (ID # 318370)  
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Dated: October 8, 2025

Counsel for UGI Utilities, Inc. – Gas Division

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Marion Hurst,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2025-3057507
	:	
UGI Utilities, Inc. – Gas Division,	:	
	:	
Respondent.	:	

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**PRELIMINARY OBJECTIONS OF  
UGI UTILITIES, INC. – GAS DIVISION TO THE  
COMPLAINT OF MARION HURST**

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AND NOW, comes UGI Utilities, Inc. – Gas Division (“UGI Gas” or “Company”) and hereby files these Preliminary Objections, pursuant to the regulations of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code § 5.101, and respectfully requests that the Complaint filed by Marion Hurst (“Complainant”) be dismissed in its entirety as against UGI Gas. 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. By Secretarial Letter dated September 18, 2025, UGI Gas was served with the above-captioned Complaint. In his Complaint, the Complainant alleges that UGI Gas seeks to abandon the gas line serving her community. (*See* Complaint ¶¶ 4-5.)

4. UGI Gas herein files these Preliminary Objections to the Complaint. For the reasons explained below, UGI Gas respectfully requests that the Complaint be dismissed in its entirety and with prejudice as against UGI Gas for lack of standing pursuant to Section 5.101(a)(4), (7) of the Commission’s regulations, 52 Pa. Code § 5.101(a)(4), (7).

## **II. STANDARD OF REVIEW**

5. 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).

6. 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. Cmwltth.*, 910 A.2d 775, 781 (Pa. Cmwltth. 2006) (citing *Dep’t of Gen. Serv. 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.

7. In addition, the Presiding Officer must determine whether, based on the factual pleadings, if 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).

### **III. PRELIMINARY OBJECTIONS**

#### **A. PRELIMINARY OBJECTION NO. 1 – THE COMPLAINT SHOULD BE DISMISSED BECAUSE THE COMPLAINANT’S CLAIMS ARE NOT RIPE FOR REVIEW AND, THEREFORE, THE COMPLAINANT LACKS STANDING (52 PA. CODE § 5.101(A)(4), (7))**

8. UGI Gas incorporates by reference Paragraphs 1 through 7 as if fully set forth herein.

9. The Complaint should be dismissed because the Complainant’s claim, arguing that UGI Gas should not be permitted to abandon the gas line serving the Complainant, is not ripe and, therefore, the Complainant lacks standing.

10. UGI Gas has not yet filed an application to abandon such service.

11. “Ripeness is a prerequisite to judicial review.” *Hovis v. Nat’l Fuel Gas Distrib. Corp.*, 2008 Pa. PUC LEXIS 899, at \*6-11 (Nov. 10, 2008) (Initial Decision) (“Hovis”), adopted without further action, Docket No. C-2008-2035033 (Order entered Feb. 23, 2009).

12. The doctrine of ripeness mandates the presence of an “actual controversy” and requires consideration of whether the issues are adequately developed and the hardships that the parties will suffer if review is delayed. *Bayada Nurses, Inc. v. Dep’t. of Labor and Indus.*, 8 A.3d 866, 874 (Pa. 2010).

13. Relatedly, under Pennsylvania law, “a party must establish as a threshold matter that he has standing to maintain the action” when “seeking judicial resolution of a controversy.” *Stilp v. Commonwealth*, 940 A.2d 1227, 1233 (Pa. 2007).

14. “[T]he core concept of standing is that a person who is not adversely affected in any way by the matter he seeks to challenge is not aggrieved thereby and has no standing to obtain a judicial resolution of his challenge.” *Fumo v. City of Phila.*, 972 A.2d 487, 496 (Pa. 2009) (citing *Wm. Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269, 280-81 (Pa. 1975)).

15. To have standing, a party must establish that its interest is substantial, direct, and immediate. *See Del-Aware Unlimited. v. Commonwealth*, 551 A.2d 1117, 1121 (Pa. Cmwlth. 1988) (citation omitted); *1000 Grandview Ass’n v. Mt. Washington Assocs.*, 434 A.2d 796, 797 (Pa. Super. 1981) (citation omitted).

16. To establish a party’s interest is “substantial,” the interest must exceed the interest “of all citizens in procuring obedience to the law.” *In re Hickson*, 821 A.2d 1238, 1243 (Pa. 2003). Further, the party’s interest is “direct” when “there is a causal connection between the asserted violation and the harm complained of,” and the interest is “immediate” when “that causal

connection is not remote or speculative.” *City of Phila. v. Commonwealth*, 838 A.2d 566, 577 (Pa. 2003).

17. Here, the Complainant’s claims are not ripe, and she lacks standing to pursue the Complaint, because UGI has not yet filed an application to abandon the subject gas service. UGI cannot abandon service to the Complainant without filing an application and receiving approval from the Commission.

18. Unless and until UGI Gas files an Application seeking Commission approval to abandon the gas service, no case or controversy exists concerning the Complainant’s opposition to those approvals.

19. Moreover, unless and until UGI Gas files such an Application, the Complainant’s interest in the matter is not substantial, direct, and immediate. *See Hovis*, 2008 Pa. PUC LEXIS 899, at \*7 (finding that “[s]ince this case is not yet ripe for review, Complainant[’]s interest is not direct, substantial, and immediate”).

20. In fact, the Commission has held that a formal complaint is not ripe, and a complainant lacks standing, when a complainant attempts to challenge a Section 1102(a) application that the public utility has not filed yet. *See Hovis*, 2008 Pa. PUC LEXIS 899, at \*6-11.

21. For these reasons, the Complaint should be dismissed because the Complainant’s claims are not ripe for review and, therefore, the Complainant lacks standing to pursue the Complaint. *See* 52 Pa. Code § 5.101(a)(4), (7).

**IV. CONCLUSION**

WHEREFORE, UGI Utilities, Inc. – Gas Division respectfully requests that the above-captioned Formal Complaint filed by Marion Hurst be dismissed in its entirety pursuant 52 Pa. Code § 5.101(a)(4), (7).

Respectfully submitted,



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hwilburn@postschell.com

Dated: October 8, 2025

Counsel for UGI Utilities, Inc. – Gas Division

## VERIFICATION

I, Michael Lyons, Director, Engineering Design 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: October 8, 2025

DocuSigned by:  
*Michael Lyons*  
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Michael Lyons