

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Marion Hurst	:	
	:	
v.	:	C-2025-3057507
	:	
UGI Utilities, Inc. – Gas Division	:	

**INITIAL DECISION**

Before  
Erin L. Gannon  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision grants UGI Utilities, Inc. – Gas Division’s motion for judgment on the pleadings and dismisses the formal complaint on the basis that the issues raised are premature and not yet ripe for review.

**HISTORY OF THE PROCEEDING**

On August 19, 2025, the Complainant, Marion Hurst (Complainant), filed a Formal Complaint against UGI Utilities, Inc. – Gas Division (UGI Gas or Respondent) with the Pennsylvania Public Utility Commission (Commission), in which she alleges that UGI Gas wants to permanently shut down the gas line that serves the residents in her area. She states that gas is her only form of heating and cooking. As relief, she would like the Commission to order UGI Gas to continue providing gas service.

On October 8, 2025, UGI Gas filed an answer with new matter and preliminary objections to the complaint, both attached with notices to plead within twenty and ten days respectively. In its answer, UGI Gas admits that it sent the Complainant a letter indicating that it intends to file an application with the Commission requesting approval to abandon service to the Complainant's service address. The Respondent avers that it has not yet filed an abandonment application with the Commission.

UGI Gas argues that, because an application to the Commission has not yet been filed, the matter is not ripe for review and, accordingly, Complainant lacks standing to bring her complaint.

In its preliminary objections, UGI Gas again argues that, because it has not yet filed an application, the matter is not ripe for review and, consequently, Ms. Hurst lacks standing to bring a complaint at this time. UGI Gas requests that the Commission dismiss the complaint preliminarily.

The Complainant did not file a response to UGI Gas's new matter or its preliminary objections.

By Motion Judge Assignment Notice dated November 10, 2025, the preliminary objections were assigned to me. The preliminary objections are ripe for disposition. For the reasons discussed below, I am granting UGI Gas's preliminary objections as a motion for judgment on the pleadings.

#### FINDINGS OF FACT

1. Complainant is Marion Hurst.
2. Respondent is UGI Utilities, Inc. – Gas Division.

3. UGI Gas sent the Complainant a letter stating its intent to file an application with the Commission requesting approval to abandon service to the Complainant's service address. New Matter ¶ 1 (incorporating by reference Answer ¶ 4).

4. UGI Gas has not filed an application with the Commission for approval to abandon service to the Complainant. New Matter ¶ 3.

5. On August 19, 2025, Marion Hurst filed a formal complaint against UGI Gas in which she opposes abandonment of gas service to her community. Complaint ¶ 4.

6. On October 8, 2025, UGI Gas filed an answer, new matter and preliminary objections in response to Marion Hurst's formal complaint.

7. The Complainant did not file a response to either the new matter or preliminary objections.

### DISCUSSION

UGI Gas sent the Complainant a letter stating that it intends to file an application with the Commission requesting approval to abandon service to the Complainant's service address. New Matter ¶ 1 (incorporating by reference Answer ¶ 4). UGI Gas has not yet filed an abandonment application with the Commission. *Id.* ¶ 3. The Complainant is opposed to UGI Gas abandoning gas service to her community. Complaint ¶ 4.

Commission approval is required for UGI Gas to abandon service. 66 Pa.C.S. § 1102(a). UGI Gas argues that, since it has not filed an abandonment application with the Commission, the matter is not ripe for review and, consequently, the

Complainant lacks standing to bring the complaint. On that basis, UGI Gas filed preliminary objections seeking dismissal of the complaint pursuant to 52 Pa. Code § 5.101(a)(4), (7).

Although UGI Gas filed preliminary objections against the Complaint, it would be more appropriate to treat the preliminary objections as a motion for judgment on the pleadings. The Commission treats pleadings by what is reflected in their content instead of what they are labelled, including treating preliminary objections as a motion for judgment on the pleadings. *Mattu v. W. Penn Power Co.*, Docket No. C-2016-2547322 (Order entered June 14, 2017). As long as the parties' rights are not negatively affected and due process has been provided, there is no bar to changing the designation of a document to more accurately reflect its content and purpose. *Id.* (citing 52 Pa. Code § 1.2).

In this instance, I find it more appropriate to treat UGI Gas's preliminary objections as a motion for judgment on the pleadings. UGI Gas raises unopposed factual allegations in its new matter that bear on the ripeness of the Complaint and the Complainant's standing to bring the Complaint at this time. UGI Gas's new matter included a notice to plead, and the Complainant did not respond to the new matter. Failure 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. 52 Pa. Code § 5.63(b). Although the response period for a motion for judgment on the pleadings is 20 days, rather than 10 days for preliminary objections, a 20-day response period was provided for a reply to the new matter – filed on the same date – and none was filed. Therefore, I find that the Complainant was provided a full and fair opportunity to respond to UGI Gas's pleadings.

The Commission will grant a motion for judgment on the pleadings only if the pleadings show 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). Section 5.102 of the Commission's Rules provides in relevant part:

**§ 5.102. Motions for summary judgment and judgment on the pleadings.**

(a) *Generally.* After the pleadings are closed, but within a time so that the hearing is not delayed, a party may move for judgment on the pleadings or summary judgment. A motion must contain a notice which states that an answer or other responsive pleading shall be filed within 20 days of service of the motion.

(b) *Answers.* An answer to a motion for judgment on the pleadings or summary judgment, including an opposing affidavit or verification to a motion for summary judgment, may be filed within 20 days of the date of service of the motion. The answer to a motion for summary judgment may be supplemented by depositions, answers to interrogatories or further affidavits and admissions.

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(d) *Decisions on motions.*

(1) *Standard for grant or denial on all counts.* The presiding officer will grant or deny a motion for judgment on the pleadings or a motion for summary judgment, as appropriate. The judgment sought will be rendered if the applicable pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that 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.

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(3) *Form of decision.* The presiding officer will grant, in whole or in part, the motion in the form of an initial or recommended decision which shall be subject to exceptions as set forth in § 5.533 (relating to exceptions). Denial of a motion will be in the form of a written order.

52 Pa. Code § 5.102(a), (b), (d)(1), (d)(3). All of the non-moving party's well-pleaded allegations must be viewed as true for purposes of deciding the motion, and only those facts specifically admitted may be considered against the non-moving party. *Simon v. Commonwealth*, 659 A.2d 631 (Pa. Cmwlth. 1995). Only in a case where the moving party's right to prevail is so clear that a trial would be a fruitless exercise should judgment on the pleadings be granted. *Id.* Any doubt must be resolved in favor of the non-moving party by refusing to sustain the motion. *Reuben v. O'Brien*, 496 A.2d 913 (Pa. Super. 1985).

In order for Complainant to prevail ultimately, there must be a statute, regulation or order which the Commission is authorized to enforce. The Complaint must set forth anything done or omitted to be done by the Respondent in violation of any law which the Commission has jurisdiction to administer. 66 Pa.C.S. § 701; 52 Pa. Code § 5.21(a). The Commission may dismiss a complaint without hearing if a hearing is not necessary in the public interest. 66 Pa.C.S. § 703(b); *see also* 52 Pa. Code § 5.21(d).

Here, the Complainant objects to the Respondent's proposed abandonment of the gas line servicing the Complainant's residence. Pursuant to 52 Pa. Code § 5.63(b), I accept as fact UGI Gas's unopposed allegation in its new matter that it has not yet filed an application to abandon the subject gas line. UGI claims that, unless and until it files an abandonment application, the issues in the complaint are not ripe and, consequently, the Complainant lacks the requisite standing to bring the complaint.

An alleged controversy or issue must be "ripe" for review in order to be considered and addressed by a court or tribunal. *Hovis v. Nat'l Fuel Gas Dist. Corp.*, Docket No. C-2008-2035033 (Initial Decision issued Nov. 10, 2008; Final Order entered Feb. 23, 2009) (*Hovis*). The concept of "ripeness" requires the presence of an actual controversy at the time the matter is raised. *Bayada Nurses, Inc. v. Dept. of Labor and Indus.*, 8 A.3d 866 (Pa. 2010).

I agree with UGI Gas that this matter is not ripe for review. Even if the material facts averred in the complaint are true, there is currently no dispute or controversy before the Commission for it to decide, or for which it could order the relief sought by the Complainant. UGI Gas cannot abandon service to the Complainant until it first applies for and obtains a Certificate of Public Convenience from the Commission authorizing the abandonment. 66 Pa.C.S. § 1102(a)(2). UGI Gas has not filed an abandonment application, and there is no guarantee that it will. An application is not yet before the Commission, so there is no action the Commission may now take relative to the contemplated transaction. The Complaint is premature and must be dismissed.

This disposition is consistent with *Hovis* where, as here, the complainant challenged the abandonment of a gas line serving their residence before the gas utility filed an abandonment application with the Commission. *Hovis* at 4-5. While the complaint was dismissed for lack of standing, the presiding officer noted that the complainant might have an interest adequate to confer standing once the Respondent filed its abandonment application. *Id.* at 5.

In that regard, I note that, if UGI Gas does file an application to abandon gas service to the Complainant in the future, notice of the application must be published in the Pennsylvania Bulletin and in a newspaper of general circulation serving the geographical territory affected by the application. 52 Pa. Code §§ 5.14(a), (d). Further, the notice will provide a deadline for filing protests to the application. 52 Pa. Code §§ 5.14(c), (d), 5.51, 5.53. To ensure that the Complainant receives notice when UGI Gas files an application to abandon her gas service, UGI Gas is directed to notify the Complainant by mail and email. The Complainant may file a protest to the application at that time.

As noted above, the Commission is granted discretion to dismiss a complaint without a hearing, if a hearing is not necessary or in the public interest. 66

Pa.C.S. §703(b); 52 Pa. Code §5.21(d). Having determined that the Complaint is not ripe and the Complainant does not have standing to pursue the instant Complaint, a hearing is not necessary or in the public interest.

For the reasons set forth above, UGI Gas's motion for judgment on the pleadings is granted, and the Complaint is dismissed. The dismissal is without prejudice to Complainant's right to file a protest to UGI Gas's proposed abandonment of the subject gas line once an application for abandonment is filed.

### CONCLUSIONS OF LAW

1. Commission preliminary objection practice is similar to Pennsylvania civil practice. *Equitable Small Transp. Intervenors v. Equitable Gas Co.*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994).
2. The Commission will grant a motion for judgment on the pleadings only if the pleadings show 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).
3. Failure 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. 52 Pa. Code § 5.63(b).
4. In order for Complainant to prevail ultimately, there must be a statute, regulation or order which the Commission is authorized to enforce. The complaint must set forth anything done or omitted to be done by the Respondent in violation of any law which the Commission has jurisdiction to administer. 66 Pa.C.S. § 701; 52 Pa. Code § 5.21(a).

5. UGI Gas cannot abandon gas service to the Complainant, unless and until and unless it applies for and obtains a Certificate of Convenience from the Commission authorizing the abandonment. 66 Pa.C.S. § 1102(a).

6. An alleged controversy or issue must be “ripe” for review in order to be considered and addressed by a court or tribunal. *Hovis v. Nat’l, Fuel Gas Dist. Corp.*, Docket No. C-2008-2035033 (Initial Decision issued Nov. 10, 2008, Final Order entered Feb. 23, 2009).

7. The concept of “ripeness” requires the presence of an actual controversy at the time the matter is raised. *Bayada Nurses, Inc. v. Dept. of Labor and Indus.*, 8 A.3d 866 (Pa. 2010).

8. The complaint is not ripe for review. *Bayada Nurses, Inc. v. Dept. of Labor and Indus.*, 8 A.3d 866 (Pa. 2010).

9. 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).

10. A hearing in this matter is not necessary or in the public interest.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the motion for judgment on the pleadings filed by UGI Utilities, Inc. – Gas Division in Marion Hurst v. UGI Utilities, Inc. – Gas Division, at Docket No. C-2025-3057507, is granted.
2. That the Formal Complaint filed in Marion Hurst v. UGI Utilities, Inc. – Gas Division, at Docket No. C-2025-3057507, is dismissed without prejudice.
3. That UGI Utilities, Inc. – Gas Division provide Marion Hurst with written notice, by email and mail, if it files an application with the Public Utility Commission for approval to abandon gas service to her service address.
4. That the Secretary mark Docket No. C-2025-3057507 closed.

Date: December 8, 2025

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/s/  
Erin L. Gannon  
Administrative Law Judge