

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Farmer’s Pride, Inc.	:	
	:	
v.	:	C-2025-3057769
	:	
UGI Utilities, Inc. – Gas Division	:	

**ORDER
DENYING FARMER’S PRIDE MOTION FOR LEAVE
TO FILE REPLY TO NEW MATTER AND
REFERRING TO MEDIATION**

On October 1, 2025, Farmer’s Pride, Inc. (Farmer’s Pride or Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission), against UGI Utilities, Inc. – Gas Division (UGI Gas or Respondent). The Complaint was served on UGI Gas on October 2, 2025. In its Complaint, Farmer’s Pride alleges that UGI Gas failed to adequately notify Farmer’s Pride of the need to reduce its usage of gas in advance of January 21 and 22, 2025, and, as a result, application of the Penalty Rate to Farmer’s Pride’s gas usage during the Critical Days on January 21 and 22, 2025, resulted in a penalty totaling \$391,282.75. Farmer’s Pride also alleges UGI Gas’s penalty is excessive and unreasonable. As relief, Farmer’s Pride requests that the Commission (1) find that UGI Gas's penalty charges on Critical Days are unjust or unreasonable given the much lower cap on penalties that UGI Gas can be charged by its pipeline, (2) find that UGI Gas's collection and retention of the penalty rate is not in compliance with the Commission’s regulations requiring UGI Gas to take reasonable steps to notify customers of supply disruptions, and (3) order UGI Gas refund the excessive penalty charges paid by Farmer's Pride together with interest at the legal rate from the date of the excessive payment.

On October 22, 2025, UGI Gas filed an Answer and New Matter. In its Answer, UGI Gas denies that it failed to adequately notify Farmer’s Pride of the need to reduce its usage of gas in advance of the Critical Days on January 21 and 22, 2025. UGI Gas asserts it has

adhered to its Commission-approved Tariff and a Rate XD – Extended Large Volume Delivery Service Agreement with Complainant (XD Agreement). In its New Matter, UGI Gas provided further detail on the XD Agreement and circumstances leading to the penalty charge in the amount of \$391,282.75. The Answer and New Matter contained a Notice to Plead, directing Complainant to file a response to the New Matter within 20 days of service.

On November 24, 2025, Farmer's Pride filed a Motion for Leave to File Reply to New Matter (Motion). Complainant avers that on November 14, 2025, it sought an agreement to extend the time to file the Reply to New Matter until November 24, 2025, but Respondent was not agreeable. Complainant argues that, to the extent Respondent's New Matter contains any factual assertions that are extrinsic to the Complaint, Respondent will suffer no prejudice from the minor delay in filing the Reply to New Matter; principles of equity and justice weight in favor of adjudicating this dispute on the merits rather than precluding Complainant's development of certain factual issues on a mere technicality and minor delay; and Complainant's proposed filing is non-jurisdictional, i.e., it is not related to an appeal and does not affect the court's jurisdiction. Also on November 24, 2025, Farmer's Pride filed a Brief in Support of its Motion.

On November 26, 2025, Farmer's Pride filed a Notice to Plead.

On December 15, 2025, UGI Gas filed an Answer in Opposition to Farmer's Pride's Motion. In its Answer to the Motion, UGI Gas argues that Complainant failed to satisfy the Commission's standard for granting leave to late-file a reply; the Complainant cannot definitively say that UGI Gas would not be prejudiced by its filing of a reply; and that Complainant misrepresented communications with UGI Gas.

On January 6, 2026, a Motion Judge Assignment Notice was issued, assigning me as the presiding officer. For the reasons detailed below, the Motion will be denied.

Discussion

UGI Gas's New Matter was filed on October 22, 2025. Therefore, Complainant's reply to UGI Gas's New Matter was due for filing on or before November 12, 2025.¹ On November 24, 2025, the Complainant filed the Motion, which included its proposed Reply to New Matter as an exhibit.

Commission regulations at 52 Pa. Code § 1.1 *et seq.* govern rules of administrative practice and procedure before the Public Utility Commission. Commission regulations allow motions, and motions may make a request for relief. 52 Pa. Code §§ 5.1(a)(6), 5.103(a). Requests for an extension of time after expiration of the specified period may be permitted upon motion where reasonable grounds are shown for the failure to act. 52 Pa. Code § 1.15(a)(1). Additionally, a motion requesting an extension of time must, *inter alia*, state the facts on which the applications rests. 52 Pa. Code § 1.15(b). The Commission has summarized its standards for allowing filings after their due dates, i.e., *nunc pro tunc* relief, as follows:

Generally, *nunc pro tunc* relief is granted when a delay in filing a document is caused by extraordinary circumstances involving fraud or a breakdown in the operations of the court or administrative agency involved. See *Gloria Scarnati v. Pennsylvania-American Water Company*, Docket No. C-00015273 (Order entered January 10, 2002); 2002 WL 963419 (Pa. P.U.C.), citing *Cook v. Unemployment Comp. Bd. of Review*, 543 Pa. 381, 671 A.2d 1130 (1996) – addressing untimely filing of administrative appeal. Additionally, such relief may be granted when a delay in filing a document is caused by an unforeseeable and unavoidable event, but only if the document is, thereafter, filed as soon as possible and the opposing party is not thereby prejudiced. *Id. also, White Haven Borough v. Reading, Blue Mountain and Northern Railroad Company*, Docket No. C-00004204 (Order entered February 8, 2002); 2002 WL 34560328 (Pa. P.U.C.).

¹ 52 Pa. Code § 5.63(a). Twenty days from October 22, 2025 was November 11, 2025. However, November 11, 2025 was Veterans Day, and therefore the reply was due November 12, 2025. 52 Pa. Code § 1.12(a).

Knox Township v. Buffalo & Pittsburgh Railroad, Inc., Docket No. C-2019-3009358 (Order entered April 20, 2023).

Commission regulations and precedent clearly instruct that *nunc pro tunc* relief should only be provided when the request for relief is accompanied by adequate justification. Here, Farmer's Pride's Motion provides no explanation why it failed to file a reply to UGI Gas's New Matter by November 12, 2025. Therefore, there are no grounds to grant Complainant's Motion and it must be denied. Relatedly, it is unclear why Farmer's Pride did not file its Motion until November 24, 2025, 12 days after the due date for filing of a reply to new matter. Although Farmer's Pride cites to non-Commission authority for support of its Motion, I find it is more appropriate to rely on Commission regulations and precedent in evaluating this Motion. *See* 52 Pa. Code § 1.1.

UGI Gas's Answer to the Motion states that whether the averments are deemed admitted is very important for UGI Gas's case and its preparation. Although I will deny the Motion, it is premature to state that the relevant facts stated in UGI Gas's New Matter are to be deemed admitted. 52 Pa. Code § 5.63(b). Commission rules regarding new matter are discretionary and do not mandate that a party's failure to reply to new matter must result in default, or that the facts in the new matter must be deemed admitted. *See Elena Fauerbach v. Pa.-Am. Water Co.*, Docket No. F-02181926 (Order entered Nov. 19, 2008). I intend to discuss this issue further at a prehearing conference if this matter is to proceed to an evidentiary hearing.

However, before proceeding to a hearing or a prehearing conference, both parties agreed to engage in the Commission's mediation review process with the OALJ Mediation Unit. The Commission's mediation process is a flexible program designed to informally help parties resolve disputes. *See* 52 Pa. Code §§ 69.391-69.397. In the event the parties are unable to resolve this matter with the assistance of a mediator, the Complaint will proceed to the hearing process.

Additionally, the parties are reminded that Commission policy promotes settlements. 52 Pa. Code §5.231(a). The parties are encouraged to commence settlement discussions amongst themselves for this proceeding as early as possible. Even if the parties are

unable to settle this case, they may still resolve some of the questions or issues during their discussions. If the parties reach an agreement on all issues, a formal hearing will not be necessary.

THEREFORE,

IT IS ORDERED:

1. That the Motion for Leave to File Reply to New Matter filed by Farmer's Pride, Inc. on November 25, 2025 at C-2025-3057769 is denied;
2. That this proceeding is referred to the Commission's Mediation Unit for the Commission's mediation review process; and
3. That, in the event the parties are unable to resolve this matter with the assistance of a mediator, the Formal Complaint at C-2025-3057769 will proceed to a hearing.

Date: January 13, 2026

/s/
John M. Coogan
Administrative Law Judge

C-2025-3057769 - FARMER'S PRIDE INC v. UGI UTILITIES, INC - GAS DIVISION

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