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File #: 215014

March 30, 2026

***VIA ELECTRONIC FILING***

Matthew L. Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17101

**Re: Application of UGI Utilities, Inc. for (1) Certificate of Public Convenience Evidencing Approval Under 66 Pa.C.S. §§1102(a)(3) and 1103(a) for the Transfer of the Auburn City Gate Station, Located in Auburn Township, Susquehanna County, Pennsylvania, to UGI Auburn Gathering, LLC, an Affiliate of UGI Utilities, Inc.; (2) Approval of the Proposed Transfer of the Auburn City Gate Station Pursuant to 66 Pa.C.S. §2102(b); and (3) Approval of a Modification of an Existing Affiliated Interest Agreement Pursuant to 66 Pa.C.S. §2103.**

**Docket No. A-2026-3060375**

**Docket No. G-2026-3060435**

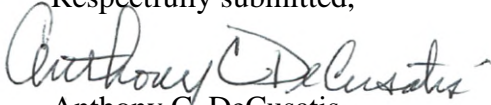
**Docket No. G-2026-3060551**

Dear Secretary Homsher:

Enclosed for filing is the above-captioned Answer and New Matter of UGI Utilities, Inc. – Gas Division to the Petition to Intervene and Protest of BKV Operating Inc. in the above-referenced transactions.

Copies will be provided per the attached Certificate of Service.

Respectfully submitted,

  
Anthony C. DeCusatis

ADC/sll  
Enclosures

Matthew L. Homsher, Secretary  
March 30, 2026  
Page 2

cc: Certificate of Service



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Date: March 30, 2026

  
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Anthony C. DeCusatis



**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of UGI Utilities, Inc. for: :

(1) Certificate of Public Convenience :  
Evidencing Approval Under 66 Pa.C.S. :  
§§1102(a)(3) and 1103(a) for the Transfer of :  
the Auburn City Gate Station, Located in :  
Auburn Township, Susquehanna County, :  
Pennsylvania, to UGI Auburn Gathering, : Docket No. A-2026-3060375  
LLC, an Affiliate of UGI Utilities, Inc.; : Docket No. G-2026-3060435  
: Docket No. G-2026-3060551

(2) Approval of the Proposed Transfer of the :  
Auburn City Gate Station Pursuant to 66 :  
Pa.C.S. §2102(b); and :  
:

(3) Approval of a Modification of an :  
Existing Affiliated Interest Agreement :  
Pursuant to 66 Pa.C.S. §2103. :

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**ANSWER AND NEW MATTER OF UGI UTILITIES, INC. – GAS DIVISION  
TO THE PETITION TO INTERVENE AND PROTEST OF  
BKV OPERATING, INC.**

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**TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

**I. ANSWER OF UGI UTILITIES, INC. – GAS DIVISION**

UGI Utilities, Inc. – Gas Division (“UGI Gas”) files this Answer and New Matter to the Petition to Intervene and Protest of BKV Operating Inc. (“BKV”) (“Petition and Protest”) in the above-captioned proceeding pursuant to the Commission’s regulations at 52 Pa. Code §§ 5.61 and 5.66<sup>1</sup> and answers each of the separately numbered paragraphs as follows:

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<sup>1</sup> BKV chose to file its Petition and Protest as a single document. The averments of the Petition and Protest are inextricably intertwined, with Section V of the Petition and Protest setting forth averments that seek to explain,

1. DENIED. It is denied that there are any “related requests” apart from, or in addition to, the requests for issuance of a certificate of public convenience and approval of affiliated interest agreements set forth in the above-captioned Application (“UGI Gas Application”). If BKV’s reference to “related requests” pertains to approvals sought by UGI Auburn, LLC (“UGI Auburn”) and UGI Auburn Gathering, LLC (“UGI Gathering”) in their *Joint Abbreviated Application of UGI Auburn, LLC and UGI Auburn Gathering, LLC for Certificate of Public Convenience and Necessity, Blanket Certificates and Request for Waivers* filed by those parties at Federal Energy Regulatory Commission (“FERC”) Docket No. CP26-9 (“Abbreviated FERC Application”),<sup>2</sup> it is denied that such “requests” are “related” in any way to the approvals sought from the Pennsylvania Public Utility Commission (“PUC” or the “Commission”) in the UGI Gas Application. To the contrary, the approvals sought by UGI Gathering and UGI Auburn are entirely separate from, and not dependent upon, the certificate of public convenience and affiliated interest approvals requested in the UGI Gas Application. Said differently, either case can proceed to the requested resolution independently and, were there to be a denial of one case, it will not impact the outcome of the other case. Additionally, the approvals sought by UGI Gathering and UGI Auburn in the Abbreviated FERC Application are within the exclusive jurisdiction of the FERC under the federal Natural Gas Act, as more fully explained hereafter in this Answer and New Matter.

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supplement, and expand upon the averments in Section IV thereof. For those reasons, and because UGI Gas believes that answering all the numbered paragraphs of the Petition and Protest will assist the presiding Administrative Law Judge and the Commission in analyzing the averments therein, this Answer responds to all the averments in the Petition and Protest as well as setting forth affirmative defenses in New Matter. However, to allay any doubt about the propriety of answering all the numbered paragraphs of the Petition and Protest, UGI Gas is also concurrently filing a Motion for Leave to file an Answer to the averments in Section V, which appear under the heading “Protest.”

<sup>2</sup> The Abbreviated FERC Application was filed by UGI Gathering and UGI Auburn to obtain, *inter alia*, a certificate of public convenience and necessity under Section 7(c) of the Natural Gas Act for UGI Auburn to operate uncommitted capacity leased to it from UGI Gathering as an interstate pipeline under, and subject to, the jurisdiction of the FERC.

It is further denied that the approvals requested in the UGI Gas Application: (1) would “materially and substantially interfere with the public’s interest in access to and consumption of locally produced, competitively priced natural gas;” (2) would produce “anticompetitive and discriminatory outcomes;” and (3) are “otherwise unreasonable under the circumstances.” As explained in the UGI Gas Application, UGI Gas’s transfer of the Auburn City Gate Station to UGI Gathering will not have any adverse effect on UGI Gas’s ability to continue to furnish safe, reliable, and reasonable service to its retail distribution customers and will provide an affirmative benefit to UGI Gas’s ratepayers by reducing its rate base and, thereby, reducing the revenue requirement charged to retail distribution customers by more than \$600,000 annually.<sup>3</sup> BKV does not have any contractual relationship with UGI Gas. BKV, as a wellhead producer of natural gas, does not compete with UGI Gas. Since the natural gas industry in Pennsylvania was restructured in 1999,<sup>4</sup> UGI Gas, as a local distribution company (“LDC”): (1) has been required to “unbundle natural gas supply services;”<sup>5</sup> (2) allow “retail gas customers . . . to choose” from among duly licensed third-party natural gas suppliers to provide their gas commodity;<sup>6</sup> and (3) restrict itself (like other Pennsylvania LDCs) to providing natural gas commodity only as a default (supplier-of-last-resort) service<sup>7</sup> on a pass-through basis without any margin added to such sales.<sup>8</sup>

It is denied that the Commission should stay any action on the UGI Gas Application pending the FERC’s decision on the Abbreviated FERC Application filed by UGI Gathering and UGI Auburn at the FERC. As previously explained, the approvals requested in the UGI Gas

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<sup>3</sup> See UGI Gas Application ¶ 44 and Appendix E.

<sup>4</sup> 66 Pa.C.S. §§ 2201-2212.

<sup>5</sup> 66 Pa.C.S. § 2203(3).

<sup>6</sup> 66 Pa.C.S. § 2203(2). BKV does not hold a license as a natural gas supplier in Pennsylvania. See <https://www.puc.pa.gov/natural-gas/natural-gas-companies-suppliers/licensed-suppliers/>

<sup>7</sup> 66 Pa.C.S. § 2207(a).

<sup>8</sup> 66 Pa.C.S. § 1307(f) (allowing LDCs to recover their “actual natural gas costs”) and (h) defining “natural gas costs” as the “direct costs paid by a natural gas distribution company for the purchase and the delivery of natural gas to its system in order to supply its customers.”

Application are not dependent upon the certificate of public convenience and necessity and other approvals requested in the Abbreviated FERC Application that was filed with the FERC by UGI Gathering and UGI Auburn. There is no reason to delay the reduction in UGI Gas’s rate base and revenue requirement that will result from the transfer of the Auburn City Gate Station pending a decision of the FERC in a matter separate and independent from this proceeding.<sup>9</sup> Moreover, the UGI Gas Application has already been assigned to the Office of Administrative Law Judge for a Pre-hearing Conference to be held on April 15, 2026. The manner in which this case will proceed will depend on the presiding Administrative Law Judge’s decision and ruling on the Preliminary Objections that UGI Gas filed on March 27, 2026.<sup>10</sup> Additionally, the conduct of this proceeding, including issues as to evidentiary and public input hearings, if necessary, is properly within the discretion of the Administrative Law Judge in applying the procedural statutes and regulations that relate to this proceeding.<sup>11</sup>

2. ADMITTED.

3. DENIED in part and ADMITTED in part. It is admitted that BKV moves gas from its wellheads to unspecified “markets” through an intrastate pipeline system commonly referred to as the Auburn Gathering System. It is admitted that the Auburn Gathering System is not subject to the jurisdiction of the Commission. It is denied that BKV moves its gas “exclusively” through the Auburn Gathering System. Upon information and belief, BKV moves its gas through one or more intervening gathering systems prior to BKV’s gas entering the Auburn Gathering System.

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<sup>9</sup> See UGI Gas Application ¶ 44 and Appendix E.

<sup>10</sup> UGI Gas filed Preliminary Objections on three principal grounds: (1) the Commission does not have subject matter jurisdiction to adjudicate issues pertaining to a private contractual dispute between two parties neither of whom is a public utility and the contract relates to a service the Commission does not regulate; (2) the Commission does not have subject matter jurisdiction to adjudicate a matter within the exclusive jurisdiction of the FERC under the Natural Gas Act; and (3) the Petition and Protest are legally insufficient because they are based on the erroneous legal conclusion that UGI Gas could not seek or obtain the approvals requested in the Abbreviated FERC Application without the transfer of the Auburn City Gate Station. See *New Matter*, *supra*.

<sup>11</sup> 66 Pa.C.S. § 331(d)

4. DENIED in part and ADMITTED in part. It is admitted that the Auburn Gathering System is owned by UGI Energy Services, LLC (“UGIES”). It is admitted that BKV is a party to a Gathering Agreement with UGIES. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV’s averment that “BKV could not move gas from its wellheads to Pennsylvania retail customers without the Auburn facilities and the Gathering Agreement” and, therefore, that averment is denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. By way of further answer, BKV is not a licensed natural gas supplier in Pennsylvania.

5. DENIED in part and ADMITTED in part. It is admitted that BKV is not the only “user” of the Auburn Gathering System. It is admitted that UGI Gas leases capacity on the Auburn City Gate Station. UGI Gas’s lease of capacity was approved as an affiliated interest agreement under 66 Pa.C.S. § 2102.<sup>12</sup> UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV’s averment that “molecules” of natural gas produced by BKV serve UGI Gas’s “retail customers” including “a large industrial facility owned and operated by Procter & Gamble,” and, therefore, that averment is denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. In further answer, upon UGI Gas’s information and belief, the Auburn Gathering System is also used to gather gas produced by Coterra Energy, Inc. (“Coterra”). Coterra has not intervened in, and is not a party to, this proceeding.

6. DENIED. It is denied that UGI Gas filed the UGI Gas Application to “materially and substantially change Auburn’s [the Auburn Gathering System’s] operations.” To the contrary, the transfer of the Auburn City Gate Station is not a legal condition precedent to the approvals requested in the Abbreviated FERC Application, as more fully explained in Paragraph Nos. 22 and

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<sup>12</sup> The original Capacity Lease was approved by the Commission under 66 Pa.C.S. §2102(b) pursuant to Secretarial Letter. *See Affiliated Interest Agreement – UGI Utilities, Inc. (Gas Division) – Capacity Lease Agreement with UGI Energy Services, LLC*, Docket No. G-2021-3028753 (Nov. 22, 2021).

30 of this Answer, Paragraph Nos. 66-69 of the New Matter, and in Paragraph Nos. 44-47 of the Preliminary Objections UGI Gas filed on March 27, 2026. It is also denied that the “instant proceeding is an integral part” of an alleged “broader enterprise” that, according to BKV, is intended to eliminate “gathering capacity that would otherwise be used to deliver locally produced gas to retail customers served on Auburn [the Auburn Gathering System] and in a manner that BKV has argued violated the law and the company’s contractual rights.” In further answer: (1) UGI Gas does not have a “contract” with BKV; (2) BKV has no claim to any “contractual rights” allegedly owed by UGI Gas to BKV; and (3) BKV has not identified the “law” it alleges UGI Gas violated by filing the UGI Gas Application seeking to transfer the Auburn City Gate Station to UGI Gathering. The transfer of the Auburn City Gate Station to UGI Gathering will better align the functionality of the Auburn City Gate Station with the operation of the Auburn Gathering System<sup>13</sup> and reduce the revenue requirement of UGI Gas’s retail distribution customers.<sup>14</sup>

7. DENIED in part and ADMITTED in part. Paragraph No. 6 of the Petition and Protest, which alleges that the transfer of the Auburn City Gate Station is an “integral part” of a “broader enterprise” to eliminate “gathering capacity” on the Auburn Gathering System, is the antecedent for BKV’s averment in Paragraph No. 7 of the Petition and Protest that “[t]o achieve that end on February 6, 2026, UGI Gas filed the instant application requesting permission to divest itself of the Auburn City Gate Station.” That averment is denied. UGI Gas has no contractual relationship with BKV to provide “gathering capacity” on the Auburn Gathering System. The UGI Gas Application was not filed as an “integral part” of any “broader enterprise” to eliminate “gathering capacity” on the Auburn Gathering System. In further answer, the transfer of the Auburn City Gate Station to UGI Gathering will better align the functionality of the Auburn City

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<sup>13</sup> See UGI Gas Preliminary Objections ¶¶ 14-16.

<sup>14</sup> UGI Gas Application ¶ 44 and Appendix E. See also UGI Gas’s Preliminary Objections ¶¶ 39-47.

Gate Station with the operation of the Auburn Gathering System and reduce the revenue requirement of UGI Gas's retail distribution customers.<sup>15</sup> It is admitted that the Auburn City Gate Station contains metering and regulating facilities that interconnect with the Auburn Gathering System and is located in Susquehanna County, Pennsylvania.

8. DENIED in part and ADMITTED in part. It is denied that UGI Gas filed the UGI Gas Application to achieve the "end" of a "broader enterprise" to eliminate "gathering capacity" on the Auburn Gathering System. UGI Gas will maintain its Order 63 rates at the FERC, which allows it to move local production to the interstate market, as explained in Paragraph No. 22 of this Answer, *infra*, and Paragraph No. 67 of the New Matter, *infra*. The balance of the averments of Paragraph No. 8 of the Petition and Protest that describe the approvals requested in the UGI Gas Application are admitted.

9. DENIED in part and ADMITTED in part. The implication that the UGI Gas Application was filed as part of any "broader enterprise" is denied. The reasons for filing the UGI Gas Application are set forth in Paragraph No. 6, above, and in the UGI Gas Application. It is admitted that the Abbreviated FERC Application was filed under Section 7(c) of the Natural Gas Act for UGI Auburn to obtain a certificate of public convenience and necessity and for approval of a capacity lease between UGI Gathering and UGI Auburn. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV's averment that "UGI Auburn has already marketed that capacity to third-party interstate (*sic*) shippers under a proposed FERC-jurisdictional transportation tariff," and, therefore, that averment is denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding.

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<sup>15</sup> See Paragraph No. 6, *supra*.

10. DENIED in part and ADMITTED in part. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of: (1) what UGI Auburn may or may not have intended; (2) whether the lawfulness of UGI Auburn's actions turns upon that company's intent; or (3) whether the FERC will determine that UGI Auburn's decisions and actions are lawful. Therefore, those averments are denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. In further answer, issues pertaining to the Abbreviated FERC Application are not within the subject matter jurisdiction of the Commission but, instead, are within the exclusive jurisdiction of the FERC under the Natural Gas Act.<sup>16</sup>

11. DENIED as stated. The Auburn City Gate Station is currently owned by UGI Gas and, as such, is subject to the jurisdiction of the Commission under the Pennsylvania Public Utility Code. The UGI Gas Application was filed to obtain the Commission's approval to effect the transfer of the Auburn City Gate Station to UGI Gathering to better align the functionality of the Auburn City Gate Station with the operation of the Auburn Gathering System and reduce the revenue requirement of UGI Gas's retail distribution customers.<sup>17</sup> If the FERC grants the relief requested in the Abbreviated FERC Application, the capacity lease by UGI Gathering to UGI Auburn will be under, and subject to, the jurisdiction and regulatory authority of the FERC.

12. DENIED. There is no lawful basis for the Commission to deny the issuance of a certificate of public convenience and other approvals requested in the UGI Gas Application, which satisfies the applicable legal standards. There is no lawful basis for the Commission to "stay" the instant proceeding pending the FERC's decision on the Abbreviated FERC Application because: (1) the transfer of the Auburn City Gate Station, for which approval is sought in this proceeding, is independent from the approvals sought from the FERC by UGI Gathering and UGI Auburn in

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<sup>16</sup> See UGI Gas Preliminary Objections and the New Matter, *infra*.

<sup>17</sup> See Paragraph Nos. 6 and 7, *supra*.

the Abbreviated FERC Application; and (2) there is no reason to delay a reduction in UGI Gas's revenue requirement pending a decision by the FERC in a separate and independent matter.

13. DENIED. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of the averments of Paragraph No. 13 of the Petition and Protest and, therefore, those averments are denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding.

14. DENIED. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of the averments of Paragraph No. 14 of the Petition and Protest and, therefore, those averments are denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. In further answer, UGI Gas is not a party to the Gathering Agreement that BKV refers to in Paragraph No. 14, which, as BKV concedes,<sup>18</sup> is between UGIES and a predecessor in title to BKV.<sup>19</sup>

15. DENIED in part and ADMITTED in part. It is admitted that UGIES "delivers" gas on behalf of BKV pursuant to a Gathering Agreement between those parties and that the flow of gas on the Auburn Gathering System is generally as described in Paragraph No. 15 of the Petition and Protest. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV's averments regarding: (1) whether gas introduced to the Auburn Gathering System has either the hydraulic or contract path alleged by BKV; or (2) whether BKV makes gas sales to "retailers" that serve customers on the Auburn Gathering System and "retailers" that serve customers taking gas from the Tennessee Gas Pipeline Company ("Tennessee") and the Transcontinental Gas Pipeline Company ("Transco"). Therefore, those averments are denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding.

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<sup>18</sup> See Paragraph No. 15 of the Petition and Protest.

<sup>19</sup> See Paragraph No. 18 of the Petition and Protest.

16. DENIED. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV's averment that it "enjoys firm service under the Gathering Agreement and, therefore, that averment is denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. UGI Gas also lacks knowledge or information sufficient to form a belief as to the accuracy of BKV's averments concerning: (1) its anticipated use of capacity on the Auburn Gathering System in 2026; (2) its development of wells on "committed acreage" served by the Auburn Gathering System; (3) the production BKV anticipates from newly drilled wells; (4) when such wells on "committed acreage" came "online;" or (5) the effect, if any, that such wells had on gas prices, mitigation of "local supply constraints," and possible "benefits" to "retail customers." Therefore, those averments are denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. In further answer, UGI Gas is not a party to the Gathering Agreement, which is between UGIES and BKV.

17. DENIED. BKV is a wellhead producer of natural gas and, as such, is not a "competitor" of UGI Gas for the distribution of natural gas.<sup>20</sup> Since the natural gas industry in Pennsylvania was restructured in 1999, UGI Gas, as an LDC: (1) has been required to "unbundle natural gas supply services;" (2) allow "retail gas customers . . . to choose" from among duly licensed third-party natural gas suppliers to provide their gas commodity; and (3) restrict itself (like other Pennsylvania LDCs) to providing the natural gas commodity only as a default (supplier-of-last-resort) service on a pass-through basis without any margin added on such sales.<sup>21</sup> UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV's averments concerning the "configuration" of the Auburn Gathering System and, specifically, whether such "configuration" results in BKV being the "primary source of gas molecules used by P&G [Procter

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<sup>20</sup> 66 Pa.C.S. § 2202 (defining "natural gas distribution service").

<sup>21</sup> See Paragraph No. 1, *supra*, and authorities cited therein.

& Gamble] and, upon information and belief, the other retail customers on the [Auburn Gathering] system.” Therefore, those averments are denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. In further answer, UGI Gas is not a party to the Gathering Agreement, which is between UGIES and BKV. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV’s averments that it “has served as a natural gas supplier to P&G (and may again in the future)” and, therefore, those averments are denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. It is denied that BKV is a “competitively priced source of gas” for UGI Gas’s retail customers located on the Auburn Gathering System if they “elect to shop for their gas.” BKV does not hold a license as a natural gas supplier in Pennsylvania<sup>22</sup> and, therefore, cannot lawfully supply gas to the meters of “UGI Gas’s retail customers.” UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV’s averments that “[e]ven when retail customers do not purchase gas directly from BKV, the gas molecules produced by BKV and delivered to [the] Auburn [Gathering System] are nominated and serve UGI Gas’s retail customers.” Therefore, those averments are denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding.

18. DENIED. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV’s averments that: (1) it is the successor-in-interest to Citrus Energy Corporation; (2) it is an “anchor gatherer on [the] Auburn [Gathering System];” (3) since 2011 BKV “has paid UGIES a minimum monthly charge for gathering service under the Gathering Agreement; (4) BKV’s minimum monthly charge paid under the Gathering Agreement is “independent of the quantity of gas actually delivered by UGIES on BKV’s behalf;” and (5) “revenue from BKV’s minimum monthly charge capitalized UGIES’s development of the Auburn

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<sup>22</sup> See <https://www.puc.pa.gov/natural-gas/natural-gas-companies-suppliers/licensed-suppliers/>

[Gathering] System including . . . a substantial portion of the Auburn Line Extension.” Therefore, those averments are denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. In further answer, the averments of Paragraph No. 18 of the Petition and Protest pertain to the Gathering Agreement between UGIES and BKV. UGI Gas is not a party to that agreement. If BKV has a disagreement with UGIES about the meaning and interpretation of the terms of the Gathering Agreement, the resolution of such a disagreement is not within the subject matter jurisdiction of the Commission.<sup>23</sup>

19. DENIED. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV’s averment that UGIES, under the Gathering Agreement, made “a commitment” of “firm capacity” and created a “contractual expectation” to provide “additional [gathering] capacity” on the Auburn Gathering System. Therefore, those averments are denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. In further answer, UGI Gas is not a party to the Gathering Agreement and, therefore, did not (and could not) create any “commitment” or “contractual expectation” to provide “additional [gathering] capacity” on the Auburn Gathering System. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV’s averments that BKV would not have: (1) “agreed to commit to mandatory minimum billing” under the terms of the Gathering Agreement; nor (2) “accepted the contract risk inherent in the liquidated damages provision of the Gathering Agreement” “but for” the “commitment of firm capacity” and “contractual expectation” of providing “additional [gathering] capacity” under the Gathering Agreement. Therefore, those averments are denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. In further answer, UGI

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<sup>23</sup> See UGI Gas Preliminary Objections. See also *Feingold v. Bell of Pennsylvania*, 383 A.2d 791, 794 (Pa. 1977) (The Commission does not have authority to adjudicate a “breach of contract by a public utility”); *Leveto v. National Fuel Gas Dist. Corp.*, 366 A.2d 270, 275 (Pa. Super. 1976) (The Commission does not have jurisdiction to adjudicate “a private contractual dispute between a citizen and a utility”).

Gas is not a party to the Gathering Agreement and, therefore, did not (and could not) create any “commitment” or “contractual expectation” to provide “additional [gathering] capacity” on the Auburn Gathering System.

20. DENIED. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV’s averments that: (1) under the Gathering Agreement, “BKV enjoys a contractual right of first refusal for any unused [gathering] capacity offered on the Auburn [Gathering System];” (2) “under the Gathering Agreement, if unused capacity offered to third parties results from UGIES’s investment in expansion of the Auburn [Gathering System], UGIES is contractually obligated to offer the unused capacity to BKV on the same terms as offered to such third parties;” and (3) contrary to the terms of the Gathering Agreement, “neither UGIES nor UGI Gathering provided BKV with this right of first refusal for additional Auburn [Gathering System] capacity on the same or similar terms offered by UGI Gathering under the proposed capacity lease or tariff filed with FERC.” Therefore, those averments are denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. In further answer, UGI Gas is not a party to the Gathering Agreement. BKV’s averments in Paragraph No. 20 of the Petition and Protest pertain to rights claimed by BKV and allegedly owed by UGIES or UGI Auburn to BKV under the terms of the Gathering Agreement. If BKV has a disagreement with UGIES about the meaning and interpretation of the terms of the Gathering Agreement, the resolution of such disagreement is not within the subject matter jurisdiction of the Commission.<sup>24</sup>

21. DENIED. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV’s averments that BKV: (1) is a “captive gathering customer” under the terms of the Gathering Agreement; (2) “does not have another means of delivering its gas to market”

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<sup>24</sup> See UGI Gas Preliminary Objections and New Matter, *infra*.

other than under the terms of the Gathering Agreement; (3) if BKV “loses the right to deliver additional capacity” on the Auburn Gathering System under the Gathering Agreement, it “will not develop additional wells on its dedicated acreage;” and (4) BKV’s “dedicated acreage” has “proven productive.” BKV’s averments in Paragraph No. 21 of the Petition and Protest pertain to rights claimed by BKV and allegedly owed by UGIES to BKV under the terms of the Gathering Agreement. If BKV has a disagreement with UGIES about the meaning and interpretation of the terms of the Gathering Agreement, the resolution of such disagreement is not within the subject matter jurisdiction of the Commission.<sup>25</sup>

22. DENIED. BKV does not have a direct, immediate, and substantial interest in the outcome of this proceeding. The proposed transfer of the Auburn City Gate Station will not directly and adversely affect BKV’s “contractual rights under the Gathering Agreement.” To the contrary, the transfer of the Auburn City Gate Station is independent from, and has no effect upon, the terms of the Gathering Agreement between BKV and UGIES. UGI Gas is not a party to the Gathering Agreement, which pertains to a service that is not subject to the Commission’s jurisdiction. The transfer of the Auburn City Gate Station is not a legal condition precedent to UGI Gathering’s lease of uncommitted gathering capacity to UGI Auburn or UGI Auburn’s operation as a FERC-regulated interstate pipeline certificated under the terms of the Natural Gas Act.<sup>26</sup> The transfer of the Auburn City Gate Station to UGI Gathering is being proposed because such a transfer will better align the functionality of the Auburn City Gate Station with the operation of the Auburn Gathering System and reduce the revenue requirement of UGI Gas’s retail distribution customers.

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<sup>25</sup> *Id.*

<sup>26</sup> As explained in the UGI Gas Preliminary Objections (¶¶ 44-47) and New Matter, *infra* ¶¶ 66-69, UGI Gas could retain the Auburn City Gate Station and transport gas through the gate station under its existing “blanket certificate” for intrastate transportation from the FERC. However, that alternative would not provide UGI Gas’s retail distribution customers the benefit of a more than \$600,000 annual reduction in revenue requirement.

For the same reason, the transfer of the Auburn City Gate Station will have no effect on “BKV’s contractual rights under the Gathering Agreement;” BKV’s “access to capacity on [the] Auburn [Gathering System];” or BKV’s “development of existing and future well inventory . . . in northeastern Pennsylvania.” BKV’s averments in Paragraph No. 22 of the Petition and Protest pertain to rights claimed by BKV and allegedly owed by UGIES to BKV under the terms of the Gathering Agreement. If BKV has a disagreement with UGIES about the meaning and interpretation of the terms of the Gathering Agreement, the resolution of such disagreement is not within the subject matter jurisdiction of the Commission.<sup>27</sup> Because the transfer of the Auburn City Gate Station will not have any adverse impact on UGI Gas’s provision of safe, reliable, and reasonable gas distribution service as an LDC and will reduce UGI Gas’s revenue requirement, there is no valid basis for the Commission to find that the proposed transfer is “antithetical to the public interests involved in this proceeding.”

23. DENIED. BKV has no legally cognizable interest in this proceeding. As BKV concedes, its principal – indeed sole – alleged basis for intervening and protesting the UGI Gas Application is fundamentally based on the Gathering Agreement between BKV and UGIES. Neither of those parties is a Pennsylvania public utility nor do they provide a service that is within the jurisdiction of the Commission. BKV is trying to leverage a private contractual dispute over the terms of the Gathering Agreement into a purported basis to delay the approval of the transfer of the Auburn City Gate Station because BKV erroneously believes the transfer to be a legal condition precedent to the approvals UGI Gathering and UGI Auburn are seeking from the FERC in the Abbreviated FERC Application. BKV’s attempt to hold this proceeding hostage because it

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<sup>27</sup> UGI Gas Preliminary Objections (¶¶ 2, 22-30) and New Matter, *infra* ¶ 64.

believes doing so will give it some advantage in BKV's administrative litigation before the FERC should be rejected by the Commission.

24. DENIED. It is denied that BKV has any legally cognizable interest in this proceeding, for the reasons set forth in Paragraph Nos. 22 and 23, above. It is denied that BKV has any interest that could be "directly affected" by this proceeding, for the reasons set forth in Paragraph Nos. 22-23, above. It is denied that BKV's rights under the Gathering Agreement, which form the principal basis for its Petition and Protest, could be adjudicated with binding effect on BKV. In further answer, the Commission does not have subject matter jurisdiction to adjudicate or decide issues pertaining to the rights of BKV or the obligations of UGIES under the Gathering Agreement and, therefore, BKV cannot be "bound by the action of Commission" in this case. It is denied that BKV's has any interest in this proceeding that is "not adequately represented by any other party" because BKV does not have any legally cognizable interest in this proceeding and, therefore, does not have any valid basis for intervening in, or protesting, the UGI Gas Application.

25. DENIED. It is denied that BKV is a "competitor to UGI Gas" for the reasons set forth in Paragraph Nos. 1 and 17, *supra*. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV's averment that it is the "primary provider of the gas molecules on [the] Auburn [Gathering System] used to serve retail customers on the system," and, therefore, that averment is denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. It is denied that BKV's "contractual rights under the Gathering Agreement with UGIES" constitute a legally cognizable interest in this proceeding, for the reasons set forth in Paragraph Nos. 22-23, above. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV's averments concerning the "rights" it claims under the Gathering Agreement, as catalogued in subparts (i) through (v) of Paragraph No. 25 of the Petition and

Protest. Therefore, those averments are denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV's averment that "the Gathering Agreement never expressly or implicitly contemplated FERC service," and, therefore, that averment is denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding.

26. DENIED. The averments of Paragraph No. 26 of the Petition and Protest relate to rights BKV claims under the Gathering Agreement. It is denied that "if UGI Gas's Application is approved:" (1) "all remaining capacity on [the] Auburn [Gathering System] will be . . . excluded from BKV's access and use;" (2) "BKV's enumerated contractual rights" would be impaired; and (3) BKV would be restricted from "the development of existing and future inventory that serves retail customers on [the] Auburn [Gathering System] and other downstream customers." In further answer: (1) UGI Gas is not a party to the Gathering Agreement; (2) the Gathering Agreement pertains to a service that is not subject to the jurisdiction of the Commission; (3) the Commission lacks subject matter jurisdiction to adjudicate any issues pertaining to the Gathering Agreement; (4) the transfer of the Auburn City Gate Station, for which approval is sought in the UGI Gas Application, is not a legal condition precedent to the approvals UGI Gathering and UGI Auburn are seeking from the FERC in the Abbreviated FERC Application; and (5) the Commission lacks subject matter jurisdiction to adjudicate issues pertaining to the Abbreviated FERC Application, which are within the exclusive jurisdiction of the FERC under the Natural Gas Act.

27. DENIED. The averments of Paragraph No. 27 of the Petition and Protest are denied for the reasons set forth in Paragraph Nos. 22-26 of this Answer.

28. The averments of Paragraph No. 28 are conclusions of law to which an answer is not required. Section 1102(a)(3) of the Pennsylvania Public Utility Code is a statute of the Commonwealth of Pennsylvania and, as such, speaks for itself.

29. The averments of Paragraph No. 29 are conclusions of law to which an answer is not required. Section 1103(a) of the Pennsylvania Public Utility Code is a statute of the Commonwealth of Pennsylvania and, as such, speaks for itself. *City of York v. Pa. P.U.C.*<sup>28</sup> is a reported decision of the Pennsylvania Supreme Court and, as such, speaks for itself.

30. DENIED. The transfer of the Auburn City Gate Station, as requested in the UGI Gas Application, will not result in any “substantial and material change to the operation of [the] Auburn [Gathering System].” As it does throughout its Petition and Protest, BKV attempts to tie the transfer of the Auburn City Gate Station to the approvals that UGI Gathering and UGI Auburn are seeking from the FERC in the Abbreviated FERC Application. The transfer of the Auburn City Gate Station is not a legal condition precedent for the approvals sought in the Abbreviated FERC Application. It is not necessary for UGI Gas to transfer the Auburn City Gate Station to enable UGI Gathering or UGI Auburn to seek and obtain the approvals requested in the Abbreviated FERC Application.<sup>29</sup> Thus, even if the Commission denied the transfer of the Auburn City Gate Station, it would have no impact on the issues that are before the FERC in the Abbreviated FERC Application. The transfer of the Auburn City Gate Station to UGI Gathering is being proposed because the transfer will better align the functionality of the Auburn City Gate Station with the operation of the Auburn Gathering System whether or not the approvals requested in the

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<sup>28</sup> 295 A.2d 825 (Pa. 1972).

<sup>29</sup> See Paragraph Nos. 22, *supra*, and 67, *infra*, of this Answer and New Matter, respectively, explaining that UGI Gas could retain the Auburn City Gate Station and transport gas through the gate station under its existing “blanket certificate” for intrastate transportation from the FERC. However, that alternative would not provide UGI Gas’s retail distribution customers the benefit of a more than \$600,000 annual reduction in revenue requirement.

Abbreviated FERC Application are granted and will reduce the revenue requirement of UGI Gas's retail distribution customers.<sup>30</sup>

31. DENIED in part and ADMITTED in part. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV's averment that Citrus Energy Corporation was its "predecessor in interest," and, therefore, that averment is denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. It is admitted that Citrus Energy Corporation filed comments at Docket Nos. A-2010-2213893 and G-2010-2213894 in support of the Application of UGI Penn Natural Gas.<sup>31</sup> It is denied that comments filed by a predecessor of BKV in a proceeding that occurred more than 15 year ago are relevant to the current operating conditions of the Auburn Gathering System or to the proposed transfer of the Auburn City Gate Station under currently prevailing circumstances.

32. ADMITTED.

33. DENIED. It is denied that the "lease," presumably referring to the lease of capacity from UGI Gathering to UGI Auburn for which approval was requested from the FERC in the Abbreviated FERC Application, is "interrelated" to the transfer of the Auburn City Gate Station for which approval is requested in the UGI Gas Application. The transfer of the Auburn City Gate Station by UGI Gas is not related to the approvals requested in the Abbreviated FERC Application for the reasons set forth previously in Paragraph Nos. 22 and 30 of this Answer. It is denied that the transfer of the Auburn City Gate Station "undermines" the "significant public benefits" identified by the Commission in its final order in Application of UGI Penn Natural Gas because

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<sup>30</sup> See Paragraph Nos. 6, 7, 11, and 22 of this Answer, *supra*.

<sup>31</sup> *Application of UGI Penn Natural Gas, Inc. for Approval of the Transfer by Sale of a 9.0 Mile Natural Gas Pipeline Appurtenant Facilities and Right-Of-Way located in Mehoopany, Pennsylvania*, Docket Nos. A-2010-2213893 and G-2010-2213894 (July 25, 2011), 2011 Pa. PUC LEXIS 1521 (hereafter cited as "Application of UGI Penn Natural Gas").

such transfer would allegedly eliminate “contractual rights to increase deliveries of natural gas to [the] Auburn [Gathering System]” under the Gathering Agreement. In further answer: (1) UGI Gas is not a party to the Gathering Agreement; (2) the Gathering Agreement pertains to a service that is not subject to the jurisdiction of the Commission; (3) the Commission lacks subject matter jurisdiction to adjudicate issues pertaining to the Gathering Agreement; (4) the transfer of the Auburn City Gate Station, for which approval is sought in the UGI Gas Application, is not a legal condition precedent to the approvals UGI Gathering and UGI Auburn are seeking from the FERC in the Abbreviated FERC Application; and (5) the Commission lacks subject matter jurisdiction to adjudicate issues pertaining to the Abbreviated FERC Application, which are within the exclusive jurisdiction of the FERC under the Natural Gas Act. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV’s averment that “UGI Auburn will have to dramatically increase operating pressures to operate [the] Auburn [Gathering System] as a certificated interstate pipeline” or that the alleged increase in pressure “threatens to displace existing natural gas being delivered by BKV.” Therefore, those averments are denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. In further answer, issues relating to the operating pressure of capacity that UGI Auburn would own and operate as a certificated interstate pipeline pertain to approvals requested in the Abbreviated FERC Application and, as such, are within the exclusive jurisdiction of the FERC under the Natural Gas Act.

34. DENIED in part and ADMITTED in part. It is admitted that the UGI Gas Application explained, solely for informational purposes, potential benefits that could accrue if UGI Auburn were certificated as an interstate pipeline subject to the FERC’s jurisdiction. It is denied that the approvals requested in the Abbreviated FERC Application are related to the transfer of the Auburn

City Gate Station.<sup>32</sup> UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV's averments that "customers served by Transco and [the] Auburn [Gathering System] who desire access and use of Marcellus and Utica Shale production already have multiple means to obtain such gas without the FERC service." Therefore, those averments are denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. In further answer, the averments of Paragraph No. 34 of the Petition and Protest relate to issues that are within the exclusive jurisdiction of the FERC under the Natural Gas Act and, as such, must be decided by the FERC. It is denied that "the Application," presumably the UGI Gas Application, "fails to demonstrate a public need for the conversion of this capacity to interstate service at the expense of additional capacity that could be used to transport additional supplies of locally produced gas for the benefit of retail customers." The UGI Gas Application does not seek approval of the Commission for "conversion" of any "capacity to interstate service." Once again, BKV is trying to conflate the request for Commission approval to transfer the Auburn City Gate Station with the separate and independent approvals being sought by UGI Gathering and UGI Auburn in the Abbreviated FERC Application. The Commission does not have subject matter jurisdiction to adjudicate whether or not capacity on the Auburn Gathering System should be converted to interstate service. That issue is within the exclusive jurisdiction of the FERC under the Natural Gas Act.

35. DENIED. It is denied that the "proposed transfer would be carried out over the objection" of BKV. BKV does not have a legally cognizable interest in this proceeding that provides any basis for it to intervene or to protest the UGI Gas Application and, therefore, it has no valid basis to "object" to the UGI Gas Application for the reasons set forth in Paragraph Nos.

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<sup>32</sup> See Paragraph Nos. 22 and 30 of this Answer, *supra*.

23-26 of this Answer, *supra*. It is denied that the Commission's granting of the approvals requested in the UGI Gas Application would, or could, result in any "breach of UGIES's obligations under the Gathering Agreement." In further answer; (1) BKV is not a "customer" of UGI Gas; (2) UGI Gas is not a party to the Gathering Agreement; and (3) the approvals sought in the UGI Gas Application cannot result in any breach of the Gathering Agreement. Once again, BKV is trying to conflate UGI Gas's request that Commission approve the transfer of the Auburn City Gate Station with the separate and independent approvals being sought by UGI Gathering and UGI Auburn in the Abbreviated FERC Application. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV's averment that BKV is a "fully captured, anchor gathering customer" and, therefore, that averment is denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. It is denied that the Commission's issuance of a certificate of public convenience and granting the other approvals requested in the UGI Gas Application would "facilitate a breach of an existing contractual obligation owed to a gathering customer." UGI Gas is not a party to the Gathering Agreement, and BKV is not a "gathering customer" of UGI Gas nor could it be because UGI Gas does not offer or furnish gathering service to its customers. In further answer, if BKV has a disagreement with UGIES about the terms of the Gathering Agreement, the resolution of such a disagreement is not within the subject matter jurisdiction of the Commission.

36. DENIED. At the outset, "evidence" is not, nor can it be, "provided" during the pleading stage of a proceeding before the Commission. It is also denied that UGI Gas has not provided a "justification" that paying more than book value for the Auburn City Gate Station "is reasonable and in the public interest."<sup>33</sup> In further answer, the public interest must be viewed

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<sup>33</sup> Notably, in Application of UGI Penn Natural Gas, the Pennsylvania Office of Small Business Advocate ("OSBA") challenged the proposed transfer of what was to become the Auburn Gathering System based on its

through the lens of how the proposed transaction benefits the retail distribution customers of UGI Gas. UGI Gas's receipt of compensation above book value is an affirmative benefit to its retail distribution customers whose retail distribution rates will be reduced as a result. In any event, the reasonableness of the compensation UGI Gas is receiving for the transfer of the Auburn City Gate Station is an issue that can properly be raised and litigated in this proceeding only by a putative intervenor that is granted party status because it asserted a legally cognizable interest in this proceeding. BKV is not a customer of UGI Gas and, therefore, cannot claim it has a customer's interest in reducing the rates UGI Gas might charge if it received additional compensation for the transfer of the Auburn City Gate Station.<sup>34</sup> BKV has no such interest and, therefore, is not entitled to intervene in this case or protest the UGI Application.

37. DENIED. It is denied that the "proposed transaction" (i.e., the transfer of the Auburn City Gate Station) will cause any "quantifiable harm" to BKV. Once again, BKV is trying to conflate the request for Commission approval to transfer the Auburn City Gate Station with the separate and independent approvals being sought by UGI Gathering and UGI Auburn in the Abbreviated FERC Application. It is denied that the transfer of the Auburn City Gate Station will cause BKV the "loss of its contractual rights to additional capacity on the Auburn [Gathering System]". The transfer of the Auburn City Gate Station is independent from, and has no effect upon, the terms of the Gathering Agreement between BKV and UGIES. UGI Gas is not a party to the Gathering Agreement, which pertains to a service that is not subject to the Commission's

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avertment that UGI Gas should have received more than book value for that transfer. See UGI Gas Application ¶ 39 and final order in *Application of UGI Penn Natural Gas*, slip op. at 13-20. For that reason and because UGI Gas's receipt of more than book value provides an affirmative benefit to the retail customers of UGI Gas, there is ample justification for UGI Gas to attempt to remove a potential issue that was encountered in a prior transfer proceeding by negotiating a price above book value for the transfer of the Auburn City Gate Station.

<sup>34</sup> The Commission's Bureau of Investigation and Enforcement, the Pennsylvania Office of Consumer Advocate, and the OSBA, who represent the public interest, the interest principally of residential customers, and the interests of small businesses have not sought to intervene in this case.

jurisdiction. In further answer, if BKV has a disagreement with UGIES about the terms of the Gathering Agreement, the resolution of such a disagreement is not within the subject matter jurisdiction of the Commission. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV's averment that the "proposed capacity lease" between UGI Gathering and UGI Auburn "excludes BKV's receipt point and effectively excludes BKV from contracting for interstate transportation" and, therefore, that averment is denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. In further answer, issues pertaining to proposed "receipt points," whether under UGI Gathering's lease of capacity to UGI Auburn or under UGI Auburn's pro forma tariff filed with FERC, pertain entirely to the Abbreviated FERC Application filed by UGI Gathering and UGI Auburn with the FERC and, therefore, are not within the subject matter jurisdiction of the Commission but, instead, are subject to the exclusive jurisdiction of the FERC under the Natural Gas Act.

38. DENIED. The transfer of the Auburn City Gate Station proposed by UGI Gas will not "directly impair" BKV's "ability to:" (1) "fully utilize its maximum contract capacity under the Gathering Agreement;" (2) "develop" existing "well inventory;" or (3) "discover and develop new well inventory on additional nearby acreage, as contemplated by the Gathering Agreement." The transfer of the Auburn City Gate Station is independent from, and has no effect upon, the terms of the Gathering Agreement between BKV and UGIES. UGI Gas is not a party to the Gathering Agreement, which pertains to a service that is not subject to the Commission's jurisdiction. In further answer, if BKV has a disagreement with UGIES about the terms of the Gathering Agreement, the resolution of such a disagreement is not within the subject matter jurisdiction of the Commission.

39. DENIED. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV's averments: (1) concerning the "system pressures" that would exist if the capacity leased by UGI Gathering to UGI Auburn were operated as "interstate pipeline service;" (2) alleged loss of sales by BKV; or (3) the cost of "compression upgrades required to match" the operating pressures BKV avers would prevail on UGI Auburn if its leased capacity were operated as an interstate pipeline. Therefore, those averments are denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. In further answer, issues pertaining to the operating pressure of an interstate pipeline relate entirely to the Abbreviated FERC Application filed by UGI Gathering and UGI Auburn with the FERC and, therefore, are not within the subject matter jurisdiction of the Commission but, instead, are subject to the exclusive jurisdiction of the FERC under the Natural Gas Act.

40. DENIED. The proposed transfer of the Auburn City Gate Station will affirmatively promote the service, accommodation, convenience, or safety of the public in a substantial way for the reasons set forth in the UGI Gas Application by (1) aligning the functionality of the Auburn City Gate Station with the operation of the Auburn Gathering System; and (2) reducing the revenue requirement of UGI Gas's retail distribution customers.<sup>35</sup>

41. The averments of Paragraph No. 41 are conclusions of law to which an answer is not required. Section 2102(b) of the Pennsylvania Public Utility Code is a statute of the Commonwealth of Pennsylvania and, as such, speaks for itself.

42. DENIED in part and ADMITTED in part. Once again, BKV is trying to conflate the request for Commission approval to transfer the Auburn City Gate Station with the separate and independent approvals being sought by UGI Gathering and UGI Auburn in the Abbreviated FERC

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<sup>35</sup> UGI Gas Application ¶ 44 and Appendix E. *See also* UGI Gas's Preliminary Objections filed in this docket.

Application. The Commission does not have subject matter jurisdiction to adjudicate whether or not capacity on the Auburn Gathering System should be converted to interstate service. That issue is within the exclusive jurisdiction of the FERC under the Natural Gas Act. It is admitted that UGI Gas and UGI Gathering are affiliated entities, which is the reason UGI Gas filed the UGI Gas Application seeking, *inter alia*, approval of affiliated interest agreements for the transfer of the Auburn City Gate Station and the substitution of UGI Gathering for UGIES under the terms of the capacity lease between UGI Gas and UGIES, with all other terms of the capacity lease remaining unchanged.<sup>36</sup>

43. DENIED. The UGI Gas Application does not ask the Commission to “presume that the terms of the transaction are reasonable or consistent with the public interest.” BKV fundamentally misconstrues and mischaracterizes UGI Gas’s averments in Paragraph No. 50 of the UGI Application. Those averments explain: (1) that the transfer of the Auburn City Gate Station will not affect UGI Gas’s fitness to continue to furnish safe, reliable, and reasonable service to its retail distribution customers; and (2) under existing Commission and appellate court precedent cited in Paragraph Nos. 50 and 51 of the UGI Gas Application, UGI Gas, as the holder of an existing certificate of public convenience, is entitled to a “continuing presumption of its fitness to operate” as an LDC.

44. DENIED. It is denied that UGI Gas exercises any “contractual control over BKV.” UGI Gas is not a party to the Gathering Agreement with BKV, which pertains to a service that is not subject to the Commission’s jurisdiction. The Commission does not have subject matter jurisdiction to adjudicate a private contractual dispute between BKV and UGIES that relates to the meaning and interpretation of the Gathering Agreement. The issues identified by BKV in

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<sup>36</sup> See UGI Gas Application ¶ 3.

Paragraph No. 44 concerning the “ownership, gathering, and interstate transportation” by “a single corporate family” are within the exclusive jurisdiction of the FERC under the Natural Gas Act.

45. DENIED. The transfer of the Auburn City Gate Station as proposed in the UGI Application will not have any “direct adverse effects on BKV,” on “local natural gas production,” or the “local economy.” What BKV characterizes as “related transactions” are not related to the transfer of the Auburn City Gate Station, for the reasons set forth previously in Paragraph Nos. 22 and 30 of this Answer. BKV is trying to conflate the request for Commission approval to transfer the Auburn City Gate Station with the separate and independent approvals being sought by UGI Gathering and UGI Auburn in the Abbreviated FERC Application. The Commission does not have subject matter jurisdiction to adjudicate whether or not capacity on the Auburn Gathering System should be converted to interstate service. That issue is within the exclusive jurisdiction of the FERC under the Natural Gas Act.

46. DENIED. It is denied that the transfer of the Auburn City Gate Station would create “a strong potential for anticompetitive abuse” by allegedly combining “gathering and transportation of natural gas.” BKV is trying to conflate the request for Commission approval to transfer the Auburn City Gate Station with the separate and independent approvals being sought by UGI Gathering and UGI Auburn in the Abbreviated FERC Application. The Commission does not have subject matter jurisdiction to adjudicate whether: (1) capacity on the Auburn Gathering System should be converted to FERC-regulated interstate service; (2) such a jurisdictional conversion could give rise to “anticompetitive abuse;” or (3) such a jurisdictional conversion could create “a concentration of market power within a single affiliated group.” Those issues are within the exclusive jurisdiction of the FERC under the Natural Gas Act.

47. DENIED. For the reasons set forth in the UGI Gas Application, the transfer of the Auburn City Gate Station satisfies the requirements of Section 2102(b) of the Pennsylvania Public Utility Code and should be approved by the Commission.

48. The averments of Paragraph No. 48 are conclusions of law to which an answer is not required. Section 2210(a) of the Pennsylvania Public Utility Code is a statute of the Commonwealth of Pennsylvania and, as such, speaks for itself.

49. DENIED. The transfer of the Auburn City Gate Station for which UGI Gas seeks the approvals requested in the UGI Gas Application will not eliminate “BKV’s contractual rights” under the Gathering Agreement or have the other deleterious effects alleged by BKV in Paragraph No. 49 of its Petition and Protest. The transfer of the Auburn City Gate Station is independent from, and has no effect upon, the terms of the Gathering Agreement between BKV and UGIES. UGI Gas is not a party to the Gathering Agreement, which pertains to a service that is not subject to the Commission’s jurisdiction. In further answer, if BKV has a disagreement with UGIES about the terms of the Gathering Agreement, the resolution of such a disagreement is not within the subject matter jurisdiction of the Commission. Additionally, the Commission does not have jurisdiction to decide the issue of “receipt points offered under the proposed tariff” that UGI Auburn filed as part of the Abbreviated FERC Application, which are within the exclusive jurisdiction of the FERC under the Natural Gas Act.

50. DENIED. The averments of Paragraph No. 50 of the Petition and Protest, i.e., whether BKV would be “excluded from using the FERC Service while simultaneously being forced to continue paying a higher legacy gathering rate under the Gathering Agreement” are outside the subject matter jurisdiction of the Commission. Those issues are either: (1) a disagreement over the meaning and interpretation of the Gathering Agreement; or (2) within the

exclusive jurisdiction of the FERC under the Natural Gas Act, which, in either case, the Commission lacks subject matter jurisdiction to adjudicate. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV's averments concerning: (1) the rate BKV is paying under the Gathering Agreement for "firm capacity;" (2) BKV's "contractual expectations" under the Gathering Agreement; and (3) whether the Gathering Agreement "expressly or implicitly contemplated FERC Service." Therefore, those averments are denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. UGI Gas is not a party to the Gathering Agreement, which pertains to a service that is not subject to the Commission's jurisdiction. In further answer, if BKV has a disagreement with UGIES about the terms of the Gathering Agreement, the resolution of such a disagreement is not within the subject matter jurisdiction of the Commission.

51. DENIED. The transfer of the Auburn City Gate Station for which UGI seeks the approvals requested in the UGI Gas Application will not result in "anticompetitive and discriminatory conduct." As evidenced by BKV's averments in Paragraph Nos. 48-50 of the Petition and Protest, BKV's allegations of "anticompetitive and discriminatory conduct" relate to issues that are either: (1) before the FERC in the Abbreviated FERC Application and, therefore, are within the exclusive jurisdiction of the FERC under the Natural Gas Act; or (2) relate to the terms of the Gathering Agreement between BKV and UGIES to which UGI Gas is not a party and the Commission lacks subject matter jurisdiction to adjudicate.

52. The averments of Paragraph No. 52 are conclusions of law to which an answer is not required. Sections 2103 and 2102(b) of the Pennsylvania Public Utility Code are statutes of the Commonwealth of Pennsylvania and, as such, speak for themselves.

53. DENIED in part and ADMITTED in part. It is admitted that the UGI Gas Application “characterizes” the proposed modification of the capacity lease between UGI Gas and UGIES as “a simple substitution of UGI Gathering for UGIES under the existing capacity lease with all other terms remaining unchanged” because that is a true and accurate statement of the change that would occur if the UGI Gas Application were granted and, in fact, it is a “ministerial act.” It is denied that substituting UGI Gathering for UGIES under the capacity lease between those parties “is inextricable from the broader enterprise and restructuring” that allegedly includes “the lease of 281,970 dth per day of (purportedly) uncommitted capacity to UGI Auburn and the conversion of that capacity from non-jurisdictional gathering service to FERC-jurisdictional interstate pipeline service.” As evidenced by that averment and many other averments throughout the Petition and Protest, BKV is trying to conflate the request for Commission approval to transfer the Auburn City Gate Station with the separate and independent approvals being sought by UGI Gathering and UGI Auburn in the Abbreviated FERC Application. That is not correct. The approvals sought by UGI Gathering and UGI Auburn are entirely separate and independent from the certificate of public convenience and affiliated interest approvals requested in the UGI Gas Application. The Commission, in this case, and the FERC, in the proceeding on the Abbreviated FERC Application, are applying different legal requirements to different facts and assessing different kinds of affirmative public benefits in their analysis in each case. Additionally, the approvals sought by UGI Gathering and UGI Auburn in the Abbreviated FERC Application are within the exclusive jurisdiction of the FERC under the federal Natural Gas Act.

54. DENIED. The proposed transfer of the Auburn City Gate Station upon the terms set forth in the UGI Gas Application are reasonable and consistent with the public interest and, therefore, satisfy the applicable requirements of Sections 2103 and 2102(b) of the Pennsylvania

Public Utility Code by: (1) aligning the functionality of the Auburn City Gate Station with the operation of the Auburn Gathering System; and (2) reducing the revenue requirement of UGI Gas's retail distribution customers.

55. DENIED in part and ADMITTED in part. It is admitted that the *Motion to Intervene and Protest of BKV Operating, LLC* ("BKV FERC Filing") was filed at FERC Docket No. CP26-9 on November 13, 2015, and that the BKV FERC Filing raises the same issues that BKV is attempting to interject into this proceeding, notwithstanding the Commission's lack of subject matter jurisdiction to address issues within the exclusive jurisdiction of the FERC under the Natural Gas Act. It is also admitted that the BKV FERC Filing requested the FERC to "deny the FERC Application or, in the alternative, conduct additional evidentiary hearings to determine what adequate mitigation measures should be implemented before the proposed capacity lease can be approved." In further answer, the relief that BKV requested in the BKV FERC Filing mirrors the relief that BKV is requesting from the Commission in its Petition and Protest.<sup>37</sup> UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV's averment that the BKV FERC Filing "raised substantive concerns" before the FERC and, therefore, that averment is denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding.

56. DENIED. It is denied that: (1) the FERC's denial of the Abbreviated FERC Application will render the UGI Gas Application "meaningless;" and (2) the "core objective" of the approvals requested in the UGI Gas Application are "enabling interstate transportation on [the] Auburn [Gathering System]." To the contrary, the approvals sought by UGI Gathering and UGI Auburn are entirely separate and independent from the certificate of public convenience and affiliated interest approvals requested in the UGI Gas Application for the reasons set forth in detail

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<sup>37</sup> See Petition and Protest ¶ 62, requesting that the UGI Gas Application "should be suspended and set for hearings or some other process *where adequate safeguards could be developed and included*" (emphasis added).

in Paragraph Nos. 22 and 30 of this Answer. The transfer of the Auburn City Gate Station to UGI Gathering will better align the functionality of the Auburn City Gate Station with the operation of the Auburn Gathering System and reduce the revenue requirement of UGI Gas's retail distribution customers, as previously explained in Paragraph No. 6 of this Answer. UGI Gas lacks knowledge or information sufficient to form a belief as to the accuracy of BKV's averment that the FERC could "approve the [Abbreviated] FERC Application with conditions" and, therefore, that averment is denied and proof, if relevant, is demanded at the hearing, if any, in this proceeding. In further answer, whether the FERC denies, approves, or approves "with conditions" the Abbreviated FERC Application is a matter within the exclusive jurisdiction of the FERC under the Natural Gas Act that the FERC will decide based on the record developed by that agency in proceedings at FERC Docket No. CP26-9.

57. DENIED. The approvals sought by UGI Gathering and UGI Auburn in the Abbreviated FERC Application are entirely separate and independent from the certificate of public convenience and affiliated interest approvals requested in the UGI Gas Application for the reasons set forth in detail in Paragraph Nos. 22 and 30 of this Answer. The transfer of the Auburn City Gate Station to UGI Gathering will better align the functionality of the Auburn City Gate Station with the operation of the Auburn Gathering System and reduce the revenue requirement of UGI Gas's retail distribution customers, as previously explained in Paragraph No. 6 of this Answer. Therefore, there is no valid basis to delay the reduction in UGI Gas's revenue requirement to await a decision by the FERC in a case that is separate and independent from the approvals requested in the UGI Gas Application.

58. DENIED. The averments of Paragraph No. 58 of the Petition and Protest are denied for the reasons set forth in Paragraph No. 57 of this Answer.

59. ADMITTED.

60. ADMITTED.

61. The averments of Paragraph No. 61 are a prayer for relief to which an answer is not required.

62. The averments of Paragraph No. 62 are a prayer for relief to which an answer is not required.

## II. UGI GAS'S NEW MATTER

63. Section 5.62(b) of the Commission's regulations<sup>38</sup> provides that "[a]n affirmative defense shall be pleaded in an answer or other responsive pleading under the heading of 'New Matter.'" That section also provides that a party may set forth as New Matter other material facts that are not a mere denial of the averments of the pleading to which the New Matter is responding.

64. The principal issue BKV is advancing as the alleged basis for intervening in and protesting the UGI Gas Application is not within the subject matter jurisdiction of the Commission. Long-standing appellate court precedent establishes that the Commission does not have subject matter jurisdiction to adjudicate contract disputes even if one party to that dispute is a Pennsylvania public utility.<sup>39</sup> Here, however, UGI Gas is not even a party to the contract that BKV relies upon to claim an interest in this case. Rather, as BKV concedes, the agreement is between BKV and UGIES,<sup>40</sup> neither of which is a Pennsylvania public utility, and the agreement pertains to gathering service that is not subject to the jurisdiction of the Commission.<sup>41</sup>

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<sup>38</sup> 52 Pa. Code § 5.62(b).

<sup>39</sup> *Feingold v. Bell of Pennsylvania*, 383 A.2d 791, 794 (Pa. 1977) (The Commission does not have authority to adjudicate a "breach of contract by a public utility"); *Leveto v. National Fuel Gas Dist. Corp.*, 366 A.2d 270, 275 (Pa. Super. 1976) (The Commission does not have jurisdiction to adjudicate "a private contractual dispute between a citizen and a utility").

<sup>40</sup> Petition and Protest ¶¶ 4, 20-22.

<sup>41</sup> See *Application of Laser Northeast Gathering Company, LLC for Approval to Begin to Offer, Render, Furnish, or Supply Natural Gas Gathering and Transporting or Conveying Service by Pipeline to the Public in Certain Townships of Susquehanna County, Pennsylvania*, Docket No. A-2010-2153371 (Dec. 5, 2011), slip op. at 6

65. BKV also contends that its intervention and protest are warranted because it intends to raise issues about discrimination it allegedly would experience if uncommitted capacity on the Auburn Gathering System became certificated as an interstate natural gas pipeline and regulated by the FERC. However, BKV's only specific averments of discrimination are allegations that BKV would be denied "receipt points" on the FERC-certificated pipeline<sup>42</sup> and that the FERC could certificate the pipeline to operate at pressures allegedly exceeding those achievable by BKV.<sup>43</sup> However, the Commission also lacks subject matter jurisdiction to address those issues, which are within the exclusive jurisdiction of the FERC under Section 1(b) of the Natural Gas Act,<sup>44</sup> as the U.S. Supreme Court has definitively held.<sup>45</sup> In fact, BKV concedes this point by seeking a "stay" of this proceeding to allow the FERC to decide issues that BKV acknowledges are within the FERC's jurisdiction.<sup>46</sup>

66. BKV's Petition and Protest are based on the erroneous legal premise that the "core objective" of the proposed transfer of the Auburn City Gate Station to UGI Gathering is "enabling interstate transportation on [the Auburn Gathering System]."<sup>47</sup> The transfer of the Auburn City Gate Station to UGI Gathering is not a legal requirement for UGI Gathering to lease uncommitted capacity on the Auburn Gathering System to UGI Auburn or for FERC to certificate such uncommitted capacity as a FERC-regulated interstate pipeline.

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(Gathering service is not subject to the jurisdiction of the Commission unless the putative gatherer "[holds] itself out to all members of the customer group that have a need for its service and, as such, was providing service 'for the public' under Section 102 of the Code, 66 Pa.C.S. § 102.") UGIES does not hold itself out to provide service to or for the public and, therefore, does it not required to obtain a certificate of public convenience.

<sup>42</sup> BKV's gas enters the Auburn Gathering System through intervening gathering companies, as UGI Gas explained in Paragraph No. 24 of the UGI Gas Application.

<sup>43</sup> See Petition and Protest ¶¶ 37, 39, 49.

<sup>44</sup> 15 U.S.C. §717(b).

<sup>45</sup> *Schneiderwind v. ANR Pipeline Co.*, 485 U.S. 293, 300-301 (1988) ("The NGA confers upon FERC exclusive jurisdiction over the transportation and sale of natural gas in interstate commerce for resale.")

<sup>46</sup> See Petition and Protest ¶¶ 55-57.

<sup>47</sup> Petition and Protest ¶ 56.

67. While there are good and valid reasons why the Commission should grant the UGI Gas Application, even without such a transfer, UGI Gas could provide transportation service through the Auburn City Gate Station pursuant to its blanket certificate<sup>48</sup> under FERC Order 63.<sup>49</sup> FERC Order 63 established regulations for natural gas transportation by intrastate pipelines under Section 311 of the Natural Gas Policy Act (“NGPA”),<sup>50</sup> allowing them to transport gas for interstate pipelines or LDCs without becoming subject to the jurisdiction of the FERC under the Natural Gas Act.

68. Although UGI Gas could use its Order 63 blanket certificate to transport gas through the Auburn City Gate Station, that transportation would consist solely of moving gas from the inlet flange of the gate station to the outlet flange of the gate station. There are two significant disadvantages to this approach. First, it would entail an investment of UGI Gas’s time and administrative attention that could be avoided by approving the transfer requested in the UGI Gas Application. Second, and more significantly, if UGI Gas relied on its blanket certificate to transport gas through the Auburn City Gate Station, UGI Gas’s customers would not benefit from a rate base reduction of \$4,453,618 as of September 30, 2026, and the consequent reduction in its retail distribution revenue requirement of \$622,393.<sup>51</sup> Under these circumstances, it is more reasonable to approve the transfer of the Auburn City Gate Station, which provides material attendant benefits to UGI Gas’s retail distribution customers.

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<sup>48</sup> 18 CFR § 284.224. A FERC blanket certificate for the transportation of natural gas under Order 63 is a streamlined authorization granted by the FERC that allows local distribution companies, as “Hinshaw pipelines,” to transport natural gas in interstate commerce without needing a case-specific certificate for every transaction. Hinshaw pipelines are those that receive gas within, or at, a state boundary and deliver it for use entirely within that state. *See* 15 U.S.C. § 717(c). UGI Gas, as a local distribution company in Pennsylvania, is a Hinshaw pipeline and already holds a blanket certificate that would allow it to transport gas through the Auburn City Gate Station.

<sup>49</sup> *Certain Transportation, Sales, and Assignments by Pipeline Companies not Subject to Commission Jurisdiction Under Section 1(c) of the Natural Gas Act*, Order No. 63, FERC Stats & Regs. ¶ 30,118 at 30,824-25 (1980).

<sup>50</sup> 15 U.S.C. § 3371.

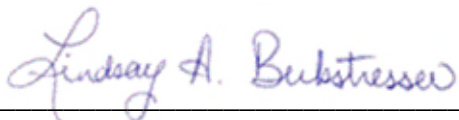
<sup>51</sup> *See* UGI Gas Application ¶ 44 and Appendix E.

69. Additionally, as explained in UGI Gas's Application,<sup>52</sup> it is not necessary for UGI Gas to retain ownership of the Auburn City Gate Station to furnish safe, reliable, and reasonable service to its retail distribution customers.

### III. CONCLUSION

THEREFORE, for all the reasons set forth above and in the Preliminary Objections UGI Gas filed on March 27, 2026, the Petition and Protest should be dismissed because: (1) the Commission does not have subject matter jurisdiction to adjudicate and decide issues pertaining to a contract issue between two non-utilities involving a service that is not regulated by the Commission; (2) issues that BKV seeks to interject in this case are within the exclusive jurisdiction of the FERC under the Natural Gas Act; and (3) the Petition and Protest are legally insufficient because they assume that the transfer of the Auburn City Gate Station is a legally required condition precedent for UGI Gathering and UGI Auburn to file for, and obtain, the approvals sought in the Abbreviated FERC Application, which is not correct.

Respectfully submitted,



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*Attorneys for UGI Utilities, Inc. – Gas Division*

Date: March 30, 2026

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<sup>52</sup> UGI Gas Application ¶ 49.

## VERIFICATION

I, Jessica R. Rogers, certify that I am the Vice President, Rates & Regulatory Affairs, of UGI Utilities, Inc., and that in this capacity I am authorized to, and do make this Verification on behalf of UGI Utilities, Inc., that the facts set forth in the foregoing document are based upon my reasonable investigation thereof and/or were provided to me by other individuals and, as such, are true and correct to the best of my knowledge, information and belief, and that UGI Utilities, Inc. expects to be able to prove the same at any hearing that may be 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: March 30, 2026

Signed by:

*Jessica R. Rogers*

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Jessica R. Rogers

Vice President, Rates & Regulatory Affairs