



Eagleview Corporate Center  
747 Constitution Drive, Suite 100  
P.O. Box 673  
Exton, PA 19341  
☎ 610.458.7500 📠 610.458.7337

SAMUEL W. CORTES  
Direct No: 610.458.4966  
Email: [scortes@foxrothschild.com](mailto:scortes@foxrothschild.com)

April 10, 2026

**VIA ELECTRONIC FILING**

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

**Re: Application for UGI Utilities, Inc.  
BKV's Verified Answer to UGI's Preliminary Objections  
PA PUC - Docket Numbers: A-2026-3060375, G-2026-3060435 and G-2026-3060551**

Dear Secretary Homsher:

Please be advised that this office represents BKV Operating, LLC ("BKV"), in the above-referenced action. Enclosed for electronic filing is Verified BKV's Answer to UGI's Preliminary Objections.

A Pennsylvania Limited Liability Partnership

California Nevada Colorado New Jersey Delaware New York District of Columbia North Carolina Florida Oklahoma Georgia **Pennsylvania** Illinois Massachusetts South Carolina Minnesota Texas Missouri Washington



April 10, 2026

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If you have any questions with regard to this filing, please do not hesitate to contact me. Thank you.

Respectfully,

A handwritten signature in black ink, appearing to read "Samuel W Cortes".

Samuel W Cortes

SWC/tla

Enclosure

cc: Anthony C. DeCusatis, Esquire; Lindsay A. Berkstresser, Esq (w/encl. – via email: [adecusatis@postschell.com](mailto:adecusatis@postschell.com); [lberkstresser@postschell.com](mailto:lberkstresser@postschell.com))  
Michael S. Swerling, Esq. (w/encl. – via email: [swerlingm@ugicorp.com](mailto:swerlingm@ugicorp.com))  
Susan E. Bruce, Esq.; Charis Mincavage, Esq.; Victoria Geddis, Esq.  
(w/encl. - via email: [sbruce@mcneeslaw.com](mailto:sbruce@mcneeslaw.com); [cmincavage@mcneeslaw.com](mailto:cmincavage@mcneeslaw.com);  
[vgeddis@mcneeslaw.com](mailto:vgeddis@mcneeslaw.com))  
Administrative Law Judge Alphonso Arnold III (w/encl. – via email: [alphonarno@pa.gov](mailto:alphonarno@pa.gov))

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, LLC, : Docket Number: A-2026-3060375  
an Affiliate of UGI Utilities, Inc.; :  
: Docket Number: G-2026-3060435  
(2) Approval of the Proposed Transfer of the :  
Auburn City Gate Station Pursuant to 66 Pa. : Docket Number: G-2026-3060551  
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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**BKV’S VERIFIED ANSWER TO UGI’S PRELIMINARY OBJECTIONS**

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Pursuant to 52 Pa. Code § 5.101(f) and the order granting an extension of time,<sup>1</sup> BKV Operation, LLC (*BKV* or *company*) answers the preliminary objections filed by UGI Utilities, Inc. – Gas Division (*Applicant*, *UGI* or *utility*) on March 27, 2026 and directed at the petition to intervene and protest filed by BKV on March 9, 2026 (as amended on March 27, 2026)<sup>2</sup> as follows (*Protest*).

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<sup>1</sup> BKV filed a motion for extension of time to answer the preliminary objections on March 30, 2026. The Honorable Alphonso Arnold III granted the motion by an order issued on March 31, 2026, making the new deadline to answer noon on April 10, 2026.

<sup>2</sup> As discussed in the amended filing, the exclusive revisions were adding an address for BKV and identifying the additional docket numbers with a ‘G’ prefix.

## INTRODUCTION

The Pennsylvania Public Utility Commission (*Commission*) should overrule Applicant's preliminary objections because Applicant failed to meet the high bar for dismissal of BKV's Protest.

This Commission has subject matter jurisdiction to adjudicate the Protest. Notwithstanding Applicant's wrong claims to the contrary, that properly exercised jurisdiction: arises under state law; does *not* depend exclusively on the existence or terms of BKV's gathering agreement with Applicant's affiliate; is *not* affected by the jurisdiction of the Federal Energy Regulatory Commission (*FERC*) to regulate interstate pipelines under the Natural Gas Act (because the instant pipeline system does not provide interstate service); is *not* affected by gathering activities on the pipeline (because, in addition to gathering services, retail customers also take gas services on the pipeline); is being called upon, by BKV, only against parties that are present before this Commission; and, finally, is *not* exclusively reliant upon the fact that this Commission's approval of the Application is a condition precedent to the relief sought by Applicant's affiliates at FERC.

For these reasons, the Protest is legally and amply sufficient to proceed to hearing, and Applicant's objections are nowhere near "clearly warranted and free from doubt," as required by the standard.<sup>3</sup>

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<sup>3</sup> *Piekara*, C-2012-2323880, 2012 WL 5836037, at \*2 (Pa. PUC Oct. 25, 2012) (citing *Interstate Traveller Services, Inc. v. Pa. Dept. of Environmental Resources*, 406 A.2d 1020 (Pa. 1979)).

## ANSWER

BKV answers the numbered paragraphs of Applicant's objections as follows.<sup>4</sup>

### I. SUMMARY AND OVERVIEW

1. Denied. BKV specifically denies the allegations of ¶ 1 because they refer to writings which speak for themselves, because they are legal conclusions not requiring a response; and because they are antithetical to the record, which includes but is not limited to the Protest, BKV's discussion and admissions in this answer, and Applicant's admissions (*Record*).

2. Admitted, in part, and denied, in part. BKV admits only the following.

By way of background, the Protest alleged that BKV is a Pennsylvania natural gas producer that owns and operates Marcellus Shale wellheads in Pennsylvania. And that BKV moves gas from its wellheads to market exclusively through an intrastate gathering pipeline system referred to as the Auburn Gathering System (*Auburn*).<sup>5</sup>

In its application pending before this Commission (*Application*), UGI admits that Auburn is owned and operated by UGI Energy Services, LLC (*UGIES*).<sup>6</sup> Naturally then, BKV maintains an agreement for gathering services on Auburn with the pipeline's owner, UGIES, not Applicant. But this does not affect BKV's right to intervene and protest these proceedings. That is because,

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<sup>4</sup> Each numbered paragraph below answers the corresponding numbered paragraph of Applicant's objections.

Unless otherwise indicated, capitalized words and phrases in this answer shall have the same meaning as they do in UGI's objections.

Citations in this answer follow the convention to clean up legal citations for clarity, brevity, and continuity, using the parenthetical "(citation modified)." See Bluebook, p. 9, Rule B5.3. When used, the citation is modified non-substantively and in a way that does not change the literal or implied meaning of the cited content.

<sup>5</sup> Protest ¶¶ 2-3.

<sup>6</sup> UGI's application was filed on February 6, 2026. It is hereinafter cited as "*App. [x]*." App. ¶ 15.

in part, BKV does not seek to enforce a contract or seek an award of damages. And Applicant hasn't alleged this (it cannot). A deeper discussion of this issue follows.

UGI further admits in the Application that the utility maintains a lease agreement with UGIES for capacity on the Auburn system;<sup>7</sup> admits that this Applicant-UGIES capacity lease is necessary for Applicant to serve retail gas customers including another intervenor in this proceeding, Procter & Gamble Paper Products Company (P&G);<sup>8</sup> and admits that Applicant and UGIES are so intertwined and affiliated that the Applicant-UGIES capacity lease must be approved by this Commission under state law, 66 Pa.C.S.A. § 2102 (Approval of contracts with affiliated interests).<sup>9</sup> In fact, in these proceedings, Applicant seeks another approval for Auburn under 66 Pa.C.S.A. § 2102 so that Applicant's newly formed affiliate, UGI Auburn Gathering, LLC, is authorized to replace UGIES as Applicant's counterparty to the capacity lease.

BKV specifically denies all the remaining allegations including that BKV's intervention and protest are not within the subject matter jurisdiction of the Commission; that BKV's "principal issue" is for breach of contract; and that this Commission has no jurisdiction to adjudicate any claims whatsoever related to gathering services, which is not true.<sup>10</sup> These issues are legal conclusions not requiring a response, are antithetical to the Record, and further refer to writings which speak for themselves.

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<sup>7</sup> App. ¶¶ 2, 25.

<sup>8</sup> *Id.* Procter & Gamble was made an intervenor by this Commission's order, issued March 31, 2026.

<sup>9</sup> See App. ¶ 2; App. fn. 5. The Commission approved the capacity lease as an affiliated transaction by an order in 2021. *Id.*

<sup>10</sup> See *infra*.

3. Denied. BKV specifically denies the allegations of ¶ 3 because they are legal conclusions not requiring a response and because they are antithetical to the Record. BKV further answers as follows.

This Commission has subject matter jurisdiction over the Protest under state law. The statutes conferring that authority include but are not limited to: 66 Pa. C.S. §§ 1101 *et seq.* (requiring, e.g., natural gas certificates of public convenience), 2101 *et seq.* (requiring, e.g., approval of agreements between affiliated interests), and 2201 *et seq.* (the Natural Gas Choice and Competition Act, including 2210 (prohibiting anticompetitive or discriminatory conduct)). In these proceedings, BKV asserts only those substantial interests properly before the Commission under state law, as interpreted by the courts of Pennsylvania and this Commission. The latter includes a prior order of this Commission allowing a transfer of Auburn between other affiliates of Applicant.

As alleged by BKV, Applicant's request for a certificate does not comply with state law because it fails to meet the standard set forth in *City of York v. Pa. Pub. Util. Comm'n*, 295 A.2d 825, 828 (Pa. 1972).<sup>11</sup> Applicant failed to demonstrate that the proposed transaction will "affirmatively promote the service, accommodation, convenience or safety of the public in some substantial way." That is because, as alleged by BKV and discussed in this answer, if approved, the Application will materially and substantially: change Auburn's operations, interfere with BKV's access to Auburn, interfere with BKV's ability to deliver Marcellus Shale gas molecules to Auburn (for the benefit of retail customers served by Applicant), interfere with BKV's development of existing and future well inventory on its dedicated acreage in northeastern Pennsylvania, undermine the public benefits of Auburn by reducing the corresponding benefits to

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<sup>11</sup> Protest ¶ 29.

retail customers and the local economy, and interfere with BKV's contractual expectations, among other things.<sup>12</sup> Each one of these enumerated harms is derived from public interests that this Commission lawfully regulates. So, contrary to Applicant's claims, both the Natural Gas Act and precedent relating to this Commission's authority to adjudicate contract disputes are irrelevant. They have nothing to do with these proceedings nor BKV's alleged material and substantial interest. Applicant's attempts to convince the Commission otherwise are textbook strawmanning that this Commission should ignore.

Contrary to Applicant's arguments, the Commission has the jurisdictional authority to remedy these harms—and it should—by issuing an order denying Applicant a certificate (or otherwise conditioning it) and rejecting the requested modifications to both Applicant's capacity lease on Auburn and Applicant's related Affiliated Interest Agreement.

**4.** Denied. BKV specifically denies the allegations of ¶ 4 because they are legal conclusions not requiring a response and because they are antithetical to the Record. BKV further answers as follows.

Here, again, Applicant reveals the weakness of its arguments, as it is forced to improperly strawman the Protest by claiming that BKV's opposition is based, exclusively, on the interdependency of the FERC certificate application made by Applicant's affiliates and the instant certificate application. As discussed above, BKV's properly asserted interests in this proceeding arise from state law. They do *not* rise and fall exclusively with this Commission's agreement with BKV that FERC's approval of the related certificate application is *dependent* upon this Commission's approval of the instant Application. However, that fact is true. As discussed below, Applicant has made admissions demonstrating the truth of the matter, the lease agreement pending

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<sup>12</sup> *E.g., infra* ¶¶ 7, 8, 10, 14.

approval before FERC is *expressly conditioned* upon *this Commission's* approval of the requested certificate, and Applicant's affiliate made written statements to BKV that, consistent with the condition precedent of the lease, it will not begin interstate service on Auburn without this Commission's approval.

## **II. FACTUAL BACKGROUND**

**5.** Denied. BKV specifically denies ¶ 5 to the extent it characterizes a written document, the content of which speaks for itself. BKV further specifically denies the remaining allegations of ¶ 5, including that Applicant is entitled to relief in these proceedings, because they are legal conclusions not requiring a response and because they are antithetical to the Record.

**6.** Admitted, in part, and denied, in part. BKV admits only the allegations of ¶ 6 insofar as they are consistent with the public record and the public record is accurate.

BKV specifically denies the remaining allegations of ¶ 6 because they characterize a written document, which speaks for itself; are legal conclusions not requiring a response; and because they are antithetical to the Record. BKV further specifically denies them because Auburn's genesis precedes both BKV's gathering activity in Pennsylvania and BKV's use of Auburn, so BKV is without knowledge or information sufficient to form a belief regarding the allegations despite a reasonable investigation. These events began in 2016, when BKV acquired the wellheads at issue in these proceedings.

BKV also specifically denies that, today, Auburn I is or represents a different gathering pipeline system from Auburn generally. The character of Auburn has not substantively changed since the Commission issued an order, on July 25, 2011, approving the transfer of Auburn I from

UGI Penn Natural Gas, Inc. (*UGI PNG*) to UGIES (sometimes, *Auburn Transfer Order*).<sup>13</sup> Exhibit D to the Application is the one-line diagrams prepared by Applicant that bears this out. However, as alleged by BKV, the Application before the Commission in these proceedings and the application before FERC by Applicant's affiliates will "materially and substantially change Auburn's operations."<sup>14</sup> Incidentally, Exhibit D to the Application is the same document that is filed as an exhibit to the FERC application (notwithstanding the daylight that Applicant wrongly attempts to thrust between the FERC and these state proceedings).

7. Admitted, in part, and denied, in part. BKV admits only the allegations of ¶ 7 insofar as they are consistent with the public record and the public record is accurate. BKV further admits only the following.

The Auburn Transfer Order was based upon the application made by Applicant's predecessor in interest, UGI PNG, to the Commission for a certificate under 66 Pa. C.S. §§ 1102, 1103, and 2102 (*Auburn Transfer Application*).<sup>15</sup> Of course, this is the same relief sought by Applicant in the instant proceedings, under the same laws.<sup>16</sup> According to the order, UGI PNG's position was that "the essential nature of the transaction was to facilitate the development of and access to Marcellus Shale natural gas."<sup>17</sup> It will be difficult for Applicant to evade the effect of this admission for the remainder of these proceedings.

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<sup>13</sup> *Application of UGI Penn Nat. Gas, Inc. for Approval of the Transfer by Sale of A 9.0 Mile Nat. Gas Pipeline ... Affiliated Interest Filing of Ugi Penn Nat. Gas, Inc.*, A-2010-2213893, 2011 WL 3550481 (July 14, 2011). This is hereinafter cited to as the "*Auburn Transfer Order*."

<sup>14</sup> Protest ¶ 6.

<sup>15</sup> *Id.* at 5.

<sup>16</sup> App. ¶ 1 (emphasis added).

<sup>17</sup> Auburn Transfer Order \*10.

In the order, the Commission “agreed with the ALJ that, in addition to other benefits, **the proposed transaction will promote the development of Marcellus Shale natural gas resources, along with related benefits to the local economy.**”<sup>18</sup> This was due, in part, to UGI PNG’s statements that:

- (1) P&G’s plant will benefit from a lower cost source of supply, thus making the plant more competitive;
- (2) a more competitive P&G plant will benefit P&G employees and local businesses that supply the plant and the plant’s employees;
- (3) local landowners leasing their land for natural gas production will benefit from royalty revenue for gas produced on their land; and
- (4) Citrus’<sup>19</sup> production and related gathering services will be a source of income for production and gathering field workers that otherwise would not be employed in the area.

Further, the proposed transaction provides an important environmental benefit because use of the existing Auburn line as a gathering line will avoid the environmental impact of building a second pipeline to bypass the Auburn Line.<sup>20</sup>

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<sup>18</sup> *Id.* at \*14 (citation modified).

<sup>19</sup> Here, “Citrus” refers to Citrus Energy Corporation (*Citrus*). The Protest correctly alleged that Citrus is a predecessor in interest to the gas wellheads currently owned by BKV and a predecessor in interest to BKV’s gathering agreement with UGIES. Protest ¶¶ 18, 31.

<sup>20</sup> Auburn Transfer Order \*14.

The Commission elaborated in the order:

UGI PNG has presented us with an overall transaction which is acceptable to UGI PNG, UGIES, P&G, and Citrus Energy<sup>21</sup> and is also beneficial to UGI PNG's customers. **We see the promotion of Marcellus Shale development and enhanced access to Marcellus Shale natural gas as one significant public benefit of the proposed transaction, among the other significant benefits addressed by the Parties in this proceeding.**<sup>22</sup>

**In other words, according to the Commission, both the development of Marcellus Shale wellheads and access to that supply by retail customers is: first, a part of this Commission's jurisdiction, and second, a part of the public interest that is imbued in Auburn.**

So it is equally imbued in these proceedings. In the Protest, BKV alleged that the relief sought by Applicant in these proceedings will interfere with the company's ability to deliver Marcellus gas to Auburn, among other things.<sup>23</sup> BKV said: "The city gate transfer and the interrelated lease of all purportedly uncommitted capacity on Auburn undermines significant public benefits by eliminating BKV's contractual rights to increase deliveries of natural gas to Auburn."<sup>24</sup> BKV also said: "UGI Auburn will have to dramatically increase operating pressure to operate Auburn as a certificated interstate pipeline, which threatens to displace existing natural gas being delivered by BKV and ultimately consumed by retail customers on Auburn."<sup>25</sup> Applicant

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<sup>21</sup> *Supra* fn. 19.

<sup>22</sup> Auburn Transfer Order \*14 (citation modified) (emphasis added).

<sup>23</sup> Protest ¶ 6 ("The instant proceeding is an integral part of that broader enterprise, which eliminates gathering capacity that would otherwise be used to deliver locally produced gas to retail customers served on Auburn ... .") The Application is also likely to interfere with the other Marcellus Shale producer making deliveries to Auburn, i.e., Coterra Energy, Inc. (*Coterra*). The Application admits that only BKV and Coterra are gatherer-producers on Auburn. App. ¶ 23.

<sup>24</sup> Protest ¶ 33.

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

incorrectly characterizes this as an attempt by BKV to enforce a contractual right in a proceeding before this Commission. That is wrong. BKV's purposes here include preventing the undermining of public benefits that are realized, in part, *through* those contractual rights.

Further, because the gas molecules delivered to Auburn by BKV are the primary (if not exclusive) source of Marcellus Shale gas consumed by P&G and other retail customers on Auburn,<sup>26</sup> then the relief sought in the Application will also interfere with the retail gas service that Applicant provides from Auburn. On this point, BKV said:

The proposed transfer and associated transactions will directly and adversely affect ... BKV's access to capacity on Auburn, BKV's ability to transport gas on Auburn for the benefit of retail customers like P&G, and BKV's development of existing and future well inventory on its dedicated acreage in northeastern Pennsylvania. These adverse impacts are antithetical to the public interests involved in this proceeding because they will reduce the corresponding benefits to retail customers and the local economy.<sup>27</sup>

Notwithstanding Applicant's wrong argument to the contrary, it is *these* well-pled interests—that the Commission has already determined are properly before it and substantially tied to and affecting the public interest<sup>28</sup>—that BKV seeks to protect and prevent and that the Commission must accept as true.<sup>29</sup>

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<sup>26</sup> Protest ¶ 17.

<sup>27</sup> Protest ¶ 22.

<sup>28</sup> See *supra* fn. 22 (citing Auburn Transfer Order \*14).

<sup>29</sup> See *Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 4, 383 A.2d 791, 792 (1977) (“In considering whether the lower court properly sustained appellee’s preliminary objections, this Court must assume the truth of the factual averments in appellant’s complaint[.]”); *Cohen v. City of Philadelphia*, 806 A.2d 905, 912 (Pa.Cmwlt. 2002), as amended (Aug. 22, 2002) (“[I]n reviewing preliminary objections in the nature of a demurrer, we must accept as true all well-pled facts, which are material and relevant, as well as all inferences reasonably deducible therefrom.”)

BKV specifically denies the remaining allegations of ¶ 7 because they are legal conclusions not requiring a response; because they refer to writings which speak for themselves; and because they are antithetical to the Record.

**8.** Admitted, in part, and denied, in part. BKV admits only that Applicant serves distribution customers from Auburn and that a distribution customer, P&G, receives service from Auburn’s Manning Regulator Station. BKV further answers that molecules from Marcellus Shale natural gas produced from BKV’s wellheads supplies P&G.<sup>30</sup> This supply—that is made available by BKV’s molecules—fuels P&G’s operations. P&G has a royalty ownership interest in BKV’s wellheads, which was discussed (generally) in the Auburn Transfer Order.<sup>31</sup>

BKV specifically denies the remaining allegations in ¶ 8 because they are legal conclusions not requiring a response and because they are antithetical to the Record. Further, upon reasonable investigation, BKV is without knowledge or information sufficient to form a belief regarding the allegations. Therefore, it specifically denies other temporal allegations because Auburn I preceded BKV’s gathering activity in Pennsylvania.<sup>32</sup>

**9.** Admitted, in part, and denied, in part. BKV admits only the allegations of ¶ 9 insofar as they are consistent with the public record and the public record is accurate. Otherwise, BKV specifically denies the allegations of ¶ 9 because they are legal conclusions not requiring a response and because, upon reasonable investigation, BKV is without knowledge or information to form a belief regarding the truth of these allegations.

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<sup>30</sup> Protest ¶ 17.

<sup>31</sup> See *supra* fn. 20 (Auburn Transfer Order \*14.)

<sup>32</sup> See ¶ 2 *supra*.

**10.** Admitted, in part, and denied, in part. BKV admits only the allegations of ¶ 10 insofar as they are consistent with the public record and the public record is accurate. BKV further admits only the following.

The Auburn Transfer Order stated that, under the Affiliated Interest Agreement between Applicant and UGIES,<sup>33</sup> “**UGIES is obligated to deliver locally produced natural gas from the Auburn Line to UGI PNG on a firm, first priority basis**, and, in case of an emergency shortage of locally produced natural gas, to accept natural gas delivered from the Tennessee line through UGI PNG’s Auburn Line.”<sup>34</sup> This fact was among the reasons that the Commission found that the parties’ settlement in the Auburn Transfer Application proceeding was in the public interest.<sup>35</sup> On this point the Commission said:

The public interest aspects of the instant settlement include:

1) the assurance of continued safe and reliable distribution service at reduced distribution rates;

...

3) the promotion of the development of Marcellus Shale gas;

**4) the stipulation that current and any future customers along the Auburn Line will receive gas on a firm, first priority basis from UGI PNG;**

5) the fact that the addition of another delivery point to receive Marcellus Shale gas will elevate UGI PNG’s gas supply reliability; and

...

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<sup>33</sup> The Affiliated Interest Agreement was originally entered between UGI PNG and UGIES. Auburn Transfer Order \*4. But as Applicant admits, UGI PNG merged into Applicant, and Applicant is successor in interest to the related agreements. App. ¶¶ 7, 9, 11.

<sup>34</sup> Auburn Transfer Order \*4 (citation modified).

<sup>35</sup> Auburn Transfer Order \*17 (emphasis added) (citation modified).

7) the obligation that UGIES operate and maintain the Auburn Line to ensure the safety, integrity, and continuous operation of the Line ...<sup>36</sup>

**In other words, according to the Commission, safe, reliable, firm, and first priority distribution service supplied by Marcellus Shale gas is: first, a part of this Commission’s jurisdiction, and second, a part of the public interest that is imbued in Auburn.**

This is exactly the public interest that BKV seeks to enforce through its intervention and Protest. As discussed, BKV is *the* Marcellus Shale gas supplier to P&G and other distribution customers on Auburn because these customers use BKV-produced molecules.<sup>37</sup> Yet, as alleged in the Protest, “BKV’s analysis shows that the operation of interstate pipeline service ... could pressure BKV’s production out of Auburn entirely.”<sup>38</sup> In sum, on this point, BKV said:

If UGI Gas’s Application is approved, all remaining capacity on Auburn will be intentionally and, as argued, excluded from BKV’s access and use, thereby directly impairing BKV’s enumerated contractual rights and restricting the development of existing and future well inventory that serves retail customers on Auburn and other downstream customers.<sup>39</sup>

Again, notwithstanding Applicant’s wrong argument to the contrary, it is *these* well-pled facts—that the Commission has already determined are properly before it and substantially tied to and affecting the public interest<sup>40</sup>—that underpin BKV’s Protest and that the Commission must accept as true.<sup>41</sup>

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<sup>36</sup> *Id.*

<sup>37</sup> *See supra* fn. 26 (citing Protest ¶ 17).

<sup>38</sup> Protest ¶ 39.

<sup>39</sup> Protest ¶ 26.

<sup>40</sup> *See supra* ¶ 7.

<sup>41</sup> *See Cohen v. City of Philadelphia*, 806 A.2d 905, 912 (Pa.Cmwlth. 2002), as amended (Aug. 22, 2002) (“ in reviewing preliminary objections in the nature of a demurrer, we must accept as true all well-pled facts, which are material and relevant, as well as all inferences reasonably deducible therefrom.”)

Moreover, and importantly, Applicant is wrong that the Commission does not have subject matter jurisdiction to address the issues raised by BKV. Regardless of any condition or character of Auburn and regardless of any change thereof, by state law, this Commission retains jurisdiction and regulatory authority over the Affiliated Interest Agreement that is at issue in the instant proceedings.<sup>42</sup> Of course, that is one of the very purposes of Applicant initiating the instant proceedings—i.e., to modify the existing Affiliated Interest Agreement under color of this Commission’s existing and continuing jurisdiction over that agreement, which governs operating conditions on Auburn.

BKV specifically denies the remaining allegations of ¶ 10 because they are legal conclusions not requiring a response and because they are antithetical to the Record.

**11.** Admitted, in part, and denied, in part. BKV admits only the allegations of ¶ 11 insofar as they are consistent with the public record and the public record is accurate. BKV specifically denies the remaining allegations of ¶ 11 because they are legal conclusions not requiring a response; because they refer to writings which speak for themselves; and because they are antithetical to the Record. BKV further specifically denies them because Auburn’s genesis precedes both BKV’s gathering activity in Pennsylvania and BKV’s use of Auburn. These events began in 2016, when BKV acquired the wellheads discussed in ¶ 2 *supra*.

**12.** Admitted, in part, and denied, in part. BKV admits only the allegations of ¶ 12 insofar as they are consistent with the public record and the public record is accurate. BKV specifically denies the remaining allegations of ¶ 12 because they are legal conclusions not requiring a response, because they refer to writings which speak for themselves, and because they are antithetical to the Record.

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<sup>42</sup> 66 Pa.C.S.A. § 2103.

**13.** Denied. BKV specifically denies that approval of the Application will have no adverse effect on the continued safe, reliable, and reasonable service furnished by Applicant—because this allegation is antithetical to the Record. BKV specifically denies the remaining allegations in ¶ 13 because they are legal conclusions not requiring a response and, upon reasonable investigation, BKV is without knowledge or information sufficient to form a belief regarding the allegations.

**14.** Denied. BKV specifically denies all allegations in ¶ 14 because they are legal conclusions not requiring a response, because they refer to writings which speak for themselves, and because they are antithetical to the Record. BKV further answers as follows.

Paragraph ¶ 14 states that the “principal reason presented” by Applicant, for the Commission to grant a certificate in this proceeding, is the reduction in Applicant’s rate base. And that the details of the interrelated proceeding before FERC were provided merely to give the Commission a “complete picture ... for informational purposes.” None of this is true. The application before FERC that was initiated by Applicant’s newly formed affiliates is *dependent* upon this Commission’s approval of the Application.

In its Application, UGI admits that its newly formed affiliate (i.e., UGI Auburn Gathering, LLC) will lease 281,970 dth/day of capacity on Auburn to its other newly formed affiliate (i.e., UGI Auburn, LLC), provided that a certificate is issued by FERC under the Natural Gas Act (*FERC Capacity Lease*).<sup>43</sup> For its part, BKV alleged that this FERC Capacity Lease is the primary purpose of these proceedings (*not* the reduction in Applicant’s rate base). BKV stated that Applicant initiated these proceedings “because it and its affiliates desire to materially and substantially change Auburn’s operations[, specifically,] to make all remaining and purportedly uncommitted

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<sup>43</sup> E.g. App. ¶¶ 3, 4, fn. 4, 26.

capacity on Auburn ... subject to the Natural Gas Act and the jurisdiction of FERC” so that Auburn can be operated as an “*intrastate* gathering pipeline and a FERC-jurisdictional *interstate* pipeline.”<sup>44</sup> For that reason, BKV correctly alleged that the Application “is an integral part of” a “broader enterprise ... [t]o achieve that end[.]”<sup>45</sup>

BKV’s allegations on this issue are *not* conjecture. In its Application, UGI admits that the FERC Capacity Lease will only occur “*following* the transfer and modification” that is requested of the Commission in these proceedings.<sup>46</sup> That is true for at least three reasons. First, Applicant admits that the transfer of the Auburn City Gate Station will “align” the asset with “the future operation of a portion of that capacity *as a FERC-regulated interstate pipeline.*”<sup>47</sup> Second, Exhibit I to the application pending before FERC reveals the heart of the matter. That document is the ‘Operating Lease Agreement’ between UGI Auburn Gathering, LLC and UGI Auburn, LLC (*Affiliated Joint Applicants*). It memorializes the terms of the proposed FERC Capacity Lease. **This document provides that *this Commission’s approval of the instant Application is a condition precedent to the FERC Capacity Lease.*** This and other conditions precedent are discussed in at least five terms in the FERC Capacity Lease. Specifically, the lease states:

7.2 The Parties hereto expressly agree that each Party's obligations under this Lease are contingent upon the satisfaction of the following conditions precedent:

(d) Issuance of a final order of the Pennsylvania Public Utility Commission approving the transfer of certain assets from UGI Gas to Auburn.

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<sup>44</sup> Protest ¶ 6.

<sup>45</sup> *Id.* ¶¶ 6-7.

<sup>46</sup> App. ¶ 4 (emphasis added).

<sup>47</sup> Objection ¶ 16 (emphasis added).

Third, in a letter dated March 27, 2026, UGIES represented to BKV that it, unequivocally, will *not* utilize the FERC Capacity Lease until all the conditions precedent in the ‘Operating Agreement’ are met, including that this Commission approve the transfer of the assets that are the corpus of these proceedings. The evidence presented at the hearing scheduled in this matter will bear this out.

So Applicant was deeply confused when it told this Commission both that “the transfer of the Auburn City Gate Station is *not* a condition precedent to the FERC granting th[e] approvals” and that “the transfer of the Auburn City Gate Station” merely “‘supports’ the change to FERC jurisdictional status of [Auburn].”<sup>48</sup> None of this is true. By its own terms, the FERC Capacity Lease is *dependent* upon this Commission issuing the relief requested in these proceedings by Applicant.

**15.** Denied. BKV specifically denies all allegations in ¶ 15 for the reasons stated in BKV’s answer to ¶ 14, which answer is incorporated into BKV’s answer to ¶ 15.

**16.** Denied. BKV specifically denies all allegations in ¶ 16 for the reasons stated in BKV’s answer to ¶ 14, which answer is incorporated into BKV’s answer to ¶ 16.

**17.** Admitted, in part, and denied, in part. BKV admits only the allegations of ¶ 17 insofar as they are consistent with the public record and the public record is accurate. BKV specifically denies the remaining allegations because, upon reasonable investigation, BKV is without knowledge or information sufficient to form a belief regarding the allegations.

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<sup>48</sup> *E.g.*, Objections ¶¶ 15-16 (emphasis added) (citing App. ¶¶ 4 and 41).

**18.** Admitted, in part, and denied, in part. BKV admits only the allegations of ¶ 18 insofar as they are consistent with the public record and the public record is accurate. BKV specifically denies the remaining allegations because, upon reasonable investigation, BKV is without knowledge or information sufficient to form a belief regarding the allegations.

**19.** Admitted, in part, and denied, in part. BKV admits only that Applicant does not own Auburn (it is owned by UGIES<sup>49</sup>), admits that Applicant leases capacity on Auburn, and admits other allegations in ¶ 19 insofar as they are consistent with the public record and the public record is accurate. However, BKV specifically denies the remaining allegations of ¶ 19 because they are misleading or untrue for at least two reasons.

First, the “principal purpose” of the Auburn City Gate Station is to serve P&G with retail gas distribution service, not to merely move gas to unidentified “downstream delivery points,” as Applicant alleged. This is evidenced by the Auburn Transfer Order. It stated that Applicant’s now-merged predecessor in interest, UGI PNG, “will retain ownership in the Auburn City Gate Station ... to serve Procter & Gamble.”<sup>50</sup> It also stated that, pursuant to the Affiliated Interest Agreement (the one that Applicant attempts to modify here), UGIES is *contractually obligated* “to accept natural gas delivered from the Tennessee line through UGI PNG’s Auburn Line” for the purpose of “serving customers from the Auburn Line, including P&G, the farm tap distribution customers, and other customers who elect from time to time to take service from UGI PNG that requires use of the Auburn Line.”<sup>51</sup>

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<sup>49</sup> See *supra* fn. 6.

<sup>50</sup> Auburn Transfer Order \*2 (emphasis added). The assets for servicing P&G also included the Manning Station and all pipeline and appurtenant facilities downstream of Manning. *Id.*

<sup>51</sup> *Id.* \*4 (citation modified).

Second, and for this reason, it is untrue that the “the Auburn City Gate Station aligns more closely with the functionality of the Auburn Gathering System than [a] retail distribution service.” On the contrary, this Commission clearly found that the entire purpose of the Auburn City Gate Station is to serve retail gas customers like P&G. And that is consistent with the impetus for the Auburn Transfer Application that UGI PNG submitted to this Commission. The purpose of the application was to supply P&G with Marcellus Shale gas (produced by BKV’s predecessor in interest, Citrus).<sup>52</sup> So Auburn has *everything* to do with “the retail distribution service furnished by [Applicant.]” But *nothing* to do with the interstate, FERC jurisdictional service that Applicant and its affiliates so desire, and that depends on this Commission’s ruling in these proceedings.

BKV further specifically denies all remaining allegations in ¶ 19 because they are legal conclusions not requiring a response and because they are antithetical to the Record.

**20.** Denied. BKV specifically denies the allegations in ¶ 20 because they are legal conclusions not requiring a response and because they are antithetical to the Record. BKV admits, however, that the Protest discusses that BKV also protested the joint certificate application of the Affiliated Joint Applicants. The grounds for BKV’s protest included that the application before FERC did not meet the regulator’s standards for approving jurisdictional capacity leases on non-jurisdictional pipelines. As of the date of this filing, FERC has not issued a decision (and continues to issue data requests to the Affiliated Joint Applicants).<sup>53</sup>

**21.** Denied. BKV specifically denies the allegations in ¶ 21 because they are legal conclusions not requiring a response and because they are antithetical to the Record. They are

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<sup>52</sup> *Id.* \*2 (“UGI PNG’s largest distribution service customer, P&G, plans to fully replace its gas supply with Marcellus Shale natural gas, which it will deliver via the Auburn Line.”) (citation modified).

<sup>53</sup> Protest ¶ 10.

further entirely irrelevant to the question presented by Applicant in the objections, which is: whether this Commission has subject matter jurisdiction to adjudicate contract disputes, whether this Commission has subject matter jurisdiction to adjudicate issues within the exclusive jurisdiction of FERC, and whether BKV's protest is legally sufficient.<sup>54</sup> Instead, the allegations in ¶ 21 go to whether Applicant is entitled to relief in these proceedings, which BKV already denied.

### **III. PRELIMINARY OBJECTION NO. 1**

**22.** Admitted, in part, and denied, in part. BKV admits only that Applicant is not a party to BKV's gathering agreement with Applicant's affiliate, UGIES. BKV admits that its gathering agreement was not attached to, or provided with, the Protest. BKV specifically denies the remaining allegations in ¶ 22 because they are legal conclusions not requiring a response, because they refer to writings which speak for themselves, and because they are antithetical to the Record, and because they are Applicant's improper attempt to strawman BKV's allegations in the Protest. BKV further specifically denies the allegations on the following grounds.

First, BKV's interests in these proceedings are not limited to the rights and obligations flowing to BKV from the gathering agreement made with Applicant's affiliate, UGIES, as wrongly alleged by Applicant. BKV has been express about its legally justified interest in the Protest and in this answer. Specifically BKV alleged that its purpose, here, is to ensure continued access to capacity on Auburn, ensure the continued ability to transport Marcellus Shale gas on Auburn, ensure the continued ability to make deliveries of Marcellus Shale gas on Auburn for the benefit of retail customers like P&G, and ensure the continued ability to develop existing and future well inventory on its dedicated acreage in northeastern Pennsylvania.<sup>55</sup>

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<sup>54</sup> Objections ¶¶ 2-4.

<sup>55</sup> *See supra* ¶ 7.

Second, the objections demonstrate, again, that Applicant is deeply confused—this time regarding Applicant’s access to a copy of BKV’s gathering agreement with UGIES. The gathering agreement was attached to BKV’s FERC protest, and attorney Lindsay A. Berkstresser represents Applicant in these proceedings and represents the Affiliated Joint Applicants before FERC. Moreover, Applicant and its affiliate, UGIES, have contractual privity vis-à-vis various agreements, including the Affiliated Interest Agreement and the Pipeline Interconnection, Operating and Emergency Services Agreement that Applicant admits exist.<sup>56</sup> So it is untrue that Applicant does not have access to a copy of the gathering agreement.

**23.** Admitted, in part, and denied, in part. BKV admits only that it is a producer of Marcellus Shale natural gas and that it is not a public utility. But BKV specifically denies the remaining allegations of ¶ 23 because they are legal conclusions not requiring a response.

**24.** Denied. BKV specifically denies the allegations in ¶ 24 because they refer to writings which speak for themselves; they are intentionally misleading; they unjustly cherry-pick and intentionally present BKV’s allegations in an incomplete fashion; and they are antithetical to the Record. BKV has already discussed, at length in this answer, its legally justified interests in these proceedings.<sup>57</sup> Paragraph 24 is exemplary of the weakness of Applicant’s preliminary objections, which must resort to improperly strawmanning BKV’s Protest.

**25.** Denied. BKV specifically denies the allegations in ¶ 25 because they refer to writings which speak for themselves; they are intentionally misleading; they unjustly cherry-pick and intentionally present BKV’s allegations in an incomplete fashion; and they are antithetical to the Record. BKV has already discussed, at length in this answer, its legally justified interests in

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<sup>56</sup> App. ¶ 52 (Affiliated Interest Agreement); Objections fn. 22 (Pipeline Interconnection, Operating and Emergency Services Agreement).

<sup>57</sup> See, e.g., *supra* ¶ 7.

these proceedings.<sup>58</sup> Paragraph 25 is exemplary of the weakness of Applicant’s preliminary objections, which must resort to improperly strawmanning BKV’s Protest.

**26.** Denied. BKV specifically denies the allegations in ¶ 26 because they are legal conclusions not requiring a response and because they are antithetical to the Record.

**27.** Denied. BKV specifically denies the allegations in ¶ 27 because they are legal conclusions not requiring a response. BKV further specifically denies the allegations because *Feingold v. Bell of Pennsylvania*, 383 A.2d 791 (Pa. 1977) is not applicable to BKV’s Protest. In *Feingold*, the plaintiff sought injunctive relief and compensatory and punitive damages.<sup>59</sup> So the Pennsylvania Supreme Court held that the plaintiff wasn’t required to exhaust its remedies in a proceeding before this Commission—because this Commission’s enforcement powers do not include the power to award damages for breach of contract.<sup>60</sup> BKV does not seek an award of damages from Applicant in these proceedings. So the case is inapposite.

**28.** Denied. BKV specifically denies the allegations in ¶ 28 because they are legal conclusions not requiring a response. BKV further specifically denies the allegations because *Leveto v. Nat’l Fuel Gas Distribution Corp.*, 366 A.2d 270 (Pa. Super. 1976) is not applicable to BKV’s Protest. In *Leveto*, the Pennsylvania Superior Court held that trial court had jurisdiction to issue two contempt orders against a public utility.<sup>61</sup> The Court found that the dispute between the parties was based on a private agreement because, at the time the related agreements were made, the Commission did not “provide regulations which affected the power of the utility to enter

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<sup>58</sup> *Id.*

<sup>59</sup> 383 A.2d at 792.

<sup>60</sup> *Id.* at 795 (“a complaint by appellant to the PUC seeking damages could not have resulted in an award by the PUC even if that agency had determined the complaint to be meritorious.”).

<sup>61</sup> 366 A.2d at 272, 275.

contracts[.]”<sup>62</sup> That is certainly not the case, here, where this Commission is being asked to modify the Affiliated Interest Agreement under 66 Pa.C.S.A. § 2102 and where the Commission has suggested that it will retain jurisdiction to adjudicate the Affiliated Interest Agreement at issue in these proceedings between Applicant and UGIES.<sup>63</sup>

**29.** Denied. BKV specifically denies the allegations in ¶ 29 because they are legal conclusions not requiring a response. BKV further specifically denies the allegations because they are antithetical to the Record, and, specifically, the discussion *supra* ¶¶ 27-28.

**30.** Admitted, in part, and denied, in part. BKV admits only that neither party to the gathering agreement is a public utility and that, generally, the Commission does not regulate gathering service. However, BKV specifically denies the remaining allegations in ¶ 30 because they are legal conclusions not requiring a response and because they are antithetical to the Record.

Since the Protest does not ask the Commission to adjudicate a contract claim but rather asks the Commission to adjudicate BKV’s legally justified interests in these proceedings—that this Commission has already decided are properly within its jurisdiction—the objections are merely Applicant’s improper attempt at strawmanning the Protest. Thus, the Commission should overrule Applicant’s preliminary objection number one.

#### **IV. PRELIMINARY OBJECTION NO. 2**

**31.** Denied. BKV states that the Protest speaks for itself and specifically denies any allegations in ¶ 31 that are inconsistent therewith. BKV further specifically denies these allegations because they are intentionally misleading; they unjustly cherry-pick and intentionally present the Protest in an incomplete fashion; and they are antithetical to the Record.

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<sup>62</sup> *Id.* at 274 (citation modified).

<sup>63</sup> *See, generally*, Auburn Transfer Order \*6 (citing 66 Pa.C.S.A. § 2103 [Continuing supervision and jurisdiction over contracts]).

To the contrary, the Protest alleges that the transfer of the Auburn City Gate from Applicant to Applicant’s newly formed affiliate (UGI Auburn Gathering, LLC), “is likely to result in anticompetitive and discriminatory conduct” in violation of state law, 66 Pa.C.S.A. § 2210, “and should not be approved without conditions that ensure nondiscriminatory access for existing gathering customers.”<sup>64</sup> In further support, the Protest alleged that:

if the UGI companies prevail, the Auburn City Gate will be transferred to an affiliated entity that this Commission does not regulate and that has entered a capacity lease with another affiliated company that this Commission doesn’t regulate, which will materially and substantially alter the operations of Auburn by offering FERC Service to third parties that this Commission doesn’t regulate.<sup>65</sup>

In other words, the transfer will consolidate market power into entities that this Commission does not regulate, and this may undermine the public interest benefits enumerated in the Auburn Transfer Order. Further, that power will be used to evade regulatory review, at BKV’s expense, since the FERC jurisdictional service proposed by the Affiliated Joint Applicants, as alleged, “preclude[s] BKV’s use and access by not providing the company with a receipt point on the FERC Service.”<sup>66</sup> Given these allegations, under state law, 66 Pa.C.S.A. § 2210(b), it is incumbent upon this Commission to examine these facts and prevent anticompetitive or discriminatory conduct for the benefit of retail gas customers.<sup>67</sup>

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<sup>64</sup> Protest ¶ 51.

<sup>65</sup> *Id.* ¶ 11.

<sup>66</sup> *Id.* ¶ 10.

<sup>67</sup> 66 Pa.C.S.A. § 2210 provides that this Commission “shall consider,” among other things, whether anticompetitive or discriminatory conduct will “prevent retail gas customers from obtaining the benefits of a properly functioning and effectively competitive retail natural gas market” and “shall provide notice and an opportunity for open, public evidentiary hearings.”

**32.** Denied. BKV specifically denies the allegations in ¶ 32 because they refer to writings which speak for themselves, are legal conclusions not requiring a response, and because they are antithetical to the Record including the discussion *supra* ¶ 31. BKV further specifically denies these allegations because they are intentionally misleading and they unjustly cherry-pick and intentionally present BKV’s allegations in an incomplete fashion. BKV further specifically denies these allegations for the following three reasons.

First, BKV’s argument of discrimination to FERC arises under federal law—i.e., 18 C.F.R. §§ 284.7(b)(1), 358.2(a), and 358.4(c) and FERC’s related interpretations.<sup>68</sup> Yet the allegations raised in the Protest by BKV to this Commission arise under state law—i.e., 66 Pa.C.S.A. § 2210.69. The Commission has express statutory authorization to consider those issues, notwithstanding Applicant’s incorrect claims to the contrary.

Second, this Commission has every right and jurisdictional authority to adjudicate BKV’s allegations with respect to pressures on Auburn because they directly bear on the public benefit interests enumerated in the Auburn Transfer Order—specifically, the development of Marcellus Shale wellheads and access to that supply by retail customers.<sup>70</sup> Recall, if BKV’s gas is pressured off of Auburn because of the FERC service, then P&G is not supplied by BKV’s Marcellus Shale gas molecules. Instead, it will be supplied by Tennessee gas pursuant to the Pipeline Interconnection, Operating and Emergency Services Agreement. This is in direct dereliction of the Auburn Transfer Order.

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<sup>68</sup> See *Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, Order No. 436, 50 FR 42408, 42430 (Oct. 18, 1985).

<sup>69</sup> Protest ¶ 48.

<sup>70</sup> See *supra* ¶ 7.

Third, and for the same reason, this Commission has every right and jurisdictional authority to adjudicate BKV's allegations with respect to pressures under the Natural Gas Choice and Competition Act, 66 Pa.C.S. § 2201 *et seq.*, including 66 Pa.C.S. § 2210 (prohibiting anticompetitive or discriminatory conduct)). This is not merely an argument of convenience but of substance. On January 3, 2011, P&G filed a letter with this Commission in the Auburn Transfer Application proceeding discussing the importance of supplying "competitively priced natural gas" from BKV's predecessor in interest. And that is consistent with the Auburn Transfer Order, which stated that part of the public interest imbued in the settlement agreement was to "help constrain the rise of wholesale market natural gas prices."<sup>71</sup>

**33.** Denied. BKV specifically denies the allegations in ¶ 33 because they refer to writings which speak for themselves, are legal conclusions not requiring a response, and because they are antithetical to the Record including the discussion *supra* ¶¶ 31-32, which are hereby incorporated into this answer. BKV further specifically denies these allegations because they are intentionally misleading and they unjustly cherry-pick and intentionally present BKV's allegations in an incomplete fashion.

**34.** Denied. BKV specifically denies the allegations in ¶ 34 because they are legal conclusions not requiring a response and because they are antithetical to BKV's admissions and discussion in this answer including the discussion *supra* ¶¶ 31-33, which are hereby incorporated into this answer.

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<sup>71</sup> Auburn Transfer Order \*17.

BKV further specifically denies that the Natural Gas Act, *et seq.* 15 U.S.C.A. § 717 (sometimes, *act*),<sup>72</sup> affects or otherwise preempts the Protest, and it denies that either of the act and *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988) applies to these proceedings. This is yet another attempt of Applicant to improperly strawman the Protest.

By its terms, the act applies *only* to: “*the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale ... to natural-gas companies engaged in such transportation or sale ...*.”<sup>73</sup> Further, by its terms, the act does *not* apply “to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas.”<sup>74</sup> Try as it might, Applicant cannot square its incorrect argument with the act. BKV does *not* move gas in interstate commerce, and, upon information and belief, UGIES and the Affiliated Joint Applicants also do not move gas in interstate commerce. Therefore, they are not a natural-gas company under the act.<sup>75</sup> Further, Auburn is not used for transporting gas in interstate commerce. Instead, the parties and Auburn fit squarely within the conditions that exclude the Natural Gas Act’s application, here, because Auburn is used for the *local* distribution of gas and gathering, and because BKV is a producer of natural gas.

Finally, in *Schneidewind*, the U.S. Supreme Court held that the Michigan Public Service Commission’s regulation of natural-gas companies under the act, pursuant to authority of state law, was preempted by the Natural Gas Act.<sup>76</sup> There are no allegations in this proceeding of preemption—i.e., where a federal law supersedes or supplants conflicting state or local laws.

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<sup>72</sup> 15 U.S.C.A. § 717w (providing short title of the Natural Gas Act).

<sup>73</sup> 15 U.S.C.A. § 717(b).

<sup>74</sup> *Id.*

<sup>75</sup> 15 U.S.C.A. § 717a(6).

<sup>76</sup> *Schneidewind*, 485 U.S. at 311.

**35.** Denied. BKV specifically denies the allegations in ¶ 35 because they are legal conclusions not requiring a response.

**36.** Denied. BKV specifically denies the allegations in ¶ 36 because they refer to writings which speak for themselves, are legal conclusions not requiring a response, and because they are antithetical to the Record including the discussion *supra* ¶¶ 31-35, which are hereby incorporated into this answer. BKV further specifically denies these allegations because they are intentionally misleading and because they unjustly cherry-pick and intentionally present BKV's allegations in an incomplete fashion.

And, finally, BKV specifically denies requesting a stay pending resolution of the issue before FERC “concedes” that “FERC has both subject matter jurisdiction and adequate authority to address the issues that BKV is improperly attempting to interject in this proceeding.” There is nothing improper or unlawful about BKV alleging concerns and problems with FERC under federal law,<sup>77</sup> on the one hand, and with this Commission under state law,<sup>78</sup> on the other.

**37.** Denied. BKV specifically denies the allegations in ¶ 37 because they are legal conclusions not requiring a response and because they are antithetical to the Record including the discussion *supra* ¶¶ 31-35, which are hereby incorporated into this answer. BKV further specifically denies these allegations because they are intentionally misleading and they unjustly cherry-pick and intentionally present BKV's allegations in an incomplete fashion.

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<sup>77</sup> See 15 U.S.C. § 717f(c) and 18 C.F.R. Parts 157 and 284.

<sup>78</sup> See 66 Pa.C.S. §§ 1102(a)(3), 1103(a), and 2102(b).

**38.** Denied. BKV specifically denies the allegations in ¶ 38 because they are legal conclusions not requiring a response and because they are antithetical to the Record. BKV further specifically denies these allegations because they are intentionally misleading and they unjustly cherry-pick and intentionally present BKV’s allegations in an incomplete fashion.

**V. PRELIMINARY OBJECTION NO. 3**

**39.** Denied. BKV specifically denies the allegations in ¶ 39 because they refer to writings which speak for themselves.

**40.** Denied. BKV specifically denies the allegations in ¶ 40 because they are legal conclusions not requiring a response and because they are antithetical to the Record including the discussion *supra* ¶ 14, the content of which is incorporated into this answer to ¶ 40. That answer discusses, among other things, that FERC’s approval of the application initiated by the Affiliated Joint Applicants is *dependent* upon this Commission’s approval of the instant Application; that Applicant admits that the FERC Capacity Lease will only occur “*following* the transfer and modification” that is requested of the Commission in these proceedings; that this Commission’s issuance of a certificate is a condition precedent to the FERC Capacity Lease; and that Applicant has reiterated that fact in writing to BKV.<sup>79</sup>

Despite Applicant’s allegations to the contrary, the transfer of the Auburn City Gate Station *is* a legal condition precedent to the Affiliated Joint Applicants certification sought at FERC.

**41.** BKV answers ¶ 41 of the objections by incorporating its answers to ¶¶ 5-21.

**42.** Denied. BKV specifically denies the allegations in ¶ 42 because they are legal conclusions not requiring a response and because they are antithetical to the Record. Specifically:

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<sup>79</sup> See *supra* ¶ 14.

BKV has already discussed, at length in this answer, that the purpose of the Auburn City Gate Station is to serve a retail customer—i.e., P&G.<sup>80</sup> So it is untrue that the station “more closely aligns with ... an interstate pipeline under authority conferred by the FERC[,]” as alleged by Applicant. BKV has already discussed that Applicant’s allegation related to the reasonableness of Applicant’s retail service on Auburn in the absence of the Auburn City Gate Station goes to the merits of Applicant’s case and is not relevant to the objections.<sup>81</sup> BKV has already discussed that it is without knowledge of Applicant’s reduction of rate base if the proposed transfer of the Auburn City Gate Station is approved.<sup>82</sup>

**43.** Denied. BKV specifically denies the allegations in ¶ 43 because they are legal conclusions not requiring a response.

**44.** Denied. BKV specifically denies the allegations in ¶ 44 because they are legal conclusions not requiring a response and because they are intentionally misleading, they unjustly cherry-pick and intentionally present BKV’s allegations in an incomplete fashion, and they are antithetical to the Record. Paragraph 44 is exemplary of the weakness of Applicant’s preliminary objections, which must resort to improperly strawmanning BKV’s Protest. More specifically, BKV answers as follows.

First, *one* of the premises (not *the* premise) underlying the Protest is that: “The instant proceeding is an integral part of that broader enterprise [i.e., the FERC Capacity Lease], which eliminates gathering capacity that would otherwise be used to deliver locally produced gas to retail customers served on Auburn, and in a manner that BKV has argued violates the law and the

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<sup>80</sup> See *supra* ¶ 19.

<sup>81</sup> See *supra* ¶ 21.

<sup>82</sup> See *supra* ¶ 13.

company's contractual rights.”<sup>83</sup> Relatedly, BKV alleges that “[The Affiliated Joint Applicants] were formed for the relief sought in this proceeding and to effectuate the broader enterprise.”<sup>84</sup> None of these allegations indicate or suggest that this Commission's jurisdiction or the sufficiency of BKV's pleading *depends* upon “the transfer of the Auburn City Gate Station [being] a legal condition precedent” to the FERC application, as Applicant wrongly argues. And Applicant has not cited this Commission to a case requiring that allegation. However, as discussed at length in this answer, the application before FERC *is dependent* upon this Commission's approval of the Application. UGI's claims to the contrary belie the terms of the utility's admissions in this proceeding, the terms of the FERC Capacity Lease itself, and the utility's written statements made to BKV.<sup>85</sup>

Second, regarding the timing of the Application before this proceeding, Applicant's claims are again refuted by the Record. As discussed, Applicant admits that the FERC Capacity Lease will only occur “*following* the transfer and modification” that is requested of the Commission in these proceedings.<sup>86</sup> If the Commission's ruling in these proceedings had no bearing on the Affiliated Joint Applicant's eligibility for a certificate issued by FERC, then there would be no reason for Applicant to wait for this Commission's approval before proceeding with the FERC Capacity Lease. But it has. And that is because the transfer sought in these proceedings is, in fact, a precondition to the FERC Capacity Lease.

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<sup>83</sup> Protest ¶ 6.

<sup>84</sup> Protest ¶ 9.

<sup>85</sup> *See supra* ¶ 14.

<sup>86</sup> *See supra* fn. 46 (citing App. ¶ 4).

Third, neither BKV nor this Commission control *when* Applicant makes its filings. Here, there is no substantive effect of UGI's *choice* to file its Application after the Affiliated Joint Applicants applied for a FERC certificate.

**45.** Denied. BKV specifically denies the allegations in ¶ 45 because they refer to writings which speak for themselves, are legal conclusions not requiring a response, and because they are antithetical to the Record. That denial is particularly appropriate, here, where Applicant's allegations present a bizarre Hail Mary.

Applicant is so desperate to keep this Commission from hearing the Protest that it is raising issues out of thin air with no relation to these proceedings, claiming that it could operate the Auburn City Gate Station as Hinshaw Pipeline. First, it is unclear whether Applicant could lawfully operate the Auburn City Gate Station as a Hinshaw Pipeline given that the purpose of the FERC Capacity Lease is to move natural gas from Tennessee (in the north) for *wholesale* transactions on the Transcontinental Gas Pipe Line (in the south). So a key element for Hinshaw Pipeline eligibility appears missing—i.e., that all the natural gas received is consumed within Pennsylvania.<sup>87</sup> But, second, even assuming that Applicant could lawfully engage in that activity, it is wholly irrelevant to these proceedings given that Applicant has *not* elected to do so; instead, has elected to pursue a FERC-jurisdictional capacity lease; and has made contradictory admissions in its agreements, statements before this Commission, and written statements to BKV (i.e., that the requested transfer *is* a condition precedent to the FERC Capacity Lease).

**46.** Denied. BKV specifically denies the allegations in ¶ 46 because they are legal conclusions not requiring a response.

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<sup>87</sup> See 15 U.S.C.A. § 717(c).

**47.** Denied. BKV specifically denies the allegations in ¶ 47 because they are legal conclusions not requiring a response and because they are antithetical to the Record including the discussion *supra* ¶ 45, which are hereby incorporated into this answer.

**48.** Denied. BKV specifically denies the allegations in ¶ 48 because they are legal conclusions not requiring a response.

**49.** Denied. BKV specifically denies the allegations in ¶ 49 because they are legal conclusions not requiring a response. BKV further answers that “a demurrer will not be sustained unless the Court finds that on the face of the complaint the law will not allow recovery; furthermore, any doubts are to be resolved against sustaining the demurrer.”<sup>88</sup>

**50.** Denied. BKV specifically denies the allegations in ¶ 50 because they are legal conclusions not requiring a response and because they are antithetical to the Record.

**51.** Denied. BKV specifically denies the allegations in ¶ 51 because they are legal conclusions not requiring a response and because they are antithetical to the Record.

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<sup>88</sup> *Cohen v. City of Philadelphia*, 806 A.2d 905, 912 (Pa.Cmwlt. 2002), as amended (Aug. 22, 2002).

**CONCLUSION**

For the foregoing reasons, the Commission should overrule Applicant's objections and proceed to hearing these proceedings.

Dated: FOX ROTHSCHILD LLP  
April 10, 2026



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Samuel W. Cortes  
PA Attorney I.D. No. 91494  
Telephone: 610-458-4966  
E-Mail: scortes@foxrothschild.com

Ashley L. Beach  
PA Attorney I.D. No. 306942  
Telephone: 610-458-2997  
E-Mail: abeach@foxrothschild.com

747 Constitution Drive, Suite 100  
Exton, PA 19341

R. Taylor Speer  
(Application for admission pro hac  
vice pending)  
Telephone: 864-751-7665  
E-Mail: tspeer@foxrothschild.com

Cordon A. Smart  
Application for admission pro hac  
vice pending)  
Telephone: 336-217-1903  
E-Mail: smart@foxrothschild.com

*Counsel for BKV Operating, LLC*

**VERIFICATION**

I, Simon Bowman, Senior Director, Midstream Commercial, hereby state that I am duly authorized to and do make this Verification on behalf of BKV Operating, LLC; that the facts set forth in the foregoing BKV's Answer to UGI's Preliminary Objections are true and correct to the best of my knowledge, information, and belief; and that I expect to be able to prove the same at a hearing held in this matter. I understand that my statements made herein are subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

Dated: April 9, 2026

Signed by:  
*Simon Bowman*  
C808F5B87F37482...

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Simon Bowman  
Senior Director, Midstream Commercial  
BKV Operating, LLC

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, LLC, an Affiliate of UGI Utilities, Inc.; | : | Docket Number: A-2026-3060375 |
|   | : |                               |
|   | : | Docket Number: G-2026-3060435 |
| (2) Approval of the Proposed Transfer of the Auburn City Gate Station Pursuant to 66 Pa. C.S. §2102(b); and   | : | Docket Number: G-2026-3060551 |
|   | : |                               |
| (3) Approval of a Modification of an Existing Affiliated Interest Agreement Pursuant to 66 Pa. C.S. §2103.  | : |                               |
|   | : |                               |
|   | : |                               |

**CERTIFICATE OF SERVICE**


I hereby certify that a true and correct copy of the foregoing document has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant) on April 10, 2026.

*Via Electronic Mail*

|   |   |
|---|---|
| Anthony C. DeCusatis, Esq.<br>Lindsay A. Berkstresser, Esq.<br>Post & Schell, P.C.<br>17 North Second Street, 12th Floor<br>Harrisburg, PA 17101-1601<br>adecusatis@postschell.com<br>lberkstresser@postschell.com<br><br><i>Counsel for UGI Utilities, Inc. – Gas Division</i> | Susan E. Bruce, Esq.<br>Charis Mincavage, Esq.<br>Victoria Geddis, Esq.<br>McNeese Wallace & Nurick LLC<br>100 Pine Street, P.O. Box 1166<br>Harrisburg, PA 17101-1166<br>sbruce@mcneese.com<br>cmincavage@mcneese.com<br>vgeddis@mcneese.com<br><br><i>Counsel for Procter &amp; Gamble Paper Products Company</i> |
|---|---|

|  |   |
|--|---|
| <p>Michael S. Swerling, Esq.<br/>UGI Corporation<br/>500 North Gulph Road<br/>King of Prussia, PA 19406<br/>swerlingm@ugicorp.com</p> <p><i>Counsel for UGI Utilities, Inc. – Gas Division</i></p> | <p>Administrative Law Judge<br/>Alphonso Arnold III alphonarno@pa.gov</p> |
|--|---|

Dated: April 10, 2026



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Samuel W. Cortes