

COMMONWEALTH OF PENNSYLVANIA



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August 10, 2026

Via Electronic Filing

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

Re: Pennsylvania Public Utility Commission
vs.
UGI Utilities, Inc. – Electric Division

Docket No. R-2025-3059430

Dear Secretary Homsher:

Attached for electronic filing please find the Office of Consumer Advocate's Motion in Limine in this proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Christy M. Appleby
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Enclosures

cc: The Honorable Stephen K. Haas (email only)
The Honorable Chad L. Allensworth (email only)
Certificate of Service

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2025-3059430
	:	
UGI Utilities, Inc. – Electric Division	:	
	:	

I hereby certify that I have this day filed electronically on the Commission’s electronic filing system and served a true copy of the following document, the Office of Consumer Advocate’s Motion in Limine, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 10th day of August, 2026.

SERVICE BY E-MAIL ONLY

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	Docket No. R-2025-3059430
v.	:	
	:	
UGI Utilities, Inc. – Electric Division	:	

MOTION TO STRIKE
IN THE FORM OF A MOTION *IN LIMINE*
OF THE OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 5.103¹ of the regulations of the Pennsylvania Public Utility Commission (Commission), the Office of Consumer Advocate (OCA) files the within Motion to Strike, in the form of a Motion *in Limine*, portions of the Surrebuttal Testimony of Cynthia S. Fang and served by UGI Utilities, Inc. – Electric Division (UGI or Company), UGI St. 11-SR, on August 5, 2026. In violation of Section 5.243(e),² UGI St. 11-SR contains matters which are repetitive and should have been included in a prior testimony and should not be permitted to be entered into the record in this proceeding as evidence. As such, and in advance of evidentiary hearings which will be convened for this proceeding on August 12, 2026, through August 14, 2026, the OCA respectfully requests that Administrative Law Judges (ALJs) Chad L. Allensworth and Steven K. Haas precludes UGI from requesting admission of the repetitive and improper portions of UGI St. 11-SR into the record at hearings. In support thereof, the OCA avers as follows:

I. BACKGROUND

On March 27, 2026, UGI Utilities, Inc. – Electric Division (UGI Electric or the Company) filed Supplement No. 92 to UGI Electric Tariff – PA. P.U.C. No. 6 with the Commission. The

¹ 52 Pa. Code § 5.103.

² 52 Pa. Code § 5.243(e).

Company proposes to increase rates to produce additional overall revenues of \$17.283 million per year, an 11.89% increase in overall distribution revenue requirement. As part of its rate filing, UGI submitted the Direct Testimony of Cynthia S. Fang, UGI St. 11.

On April 16, 2026, the Commission issued an Order that initiated an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase in this filing in addition to the Company's existing rates, rules, and regulations, assigned this matter to the Commission's Office of Administrative Law Judge for further proceedings as appropriate, and suspended the effective date of the tariff until January 1, 2027.

On April 23, 2026, ALJs Allensworth and Haas issued a Prehearing Conference Order. On May 7, 2026, ALJs Allensworth and Haas convened a Prehearing Conference to, among other items, establish a litigation schedule for the instant proceeding. On May 29, 2026, the ALJs issued a Prehearing Order, setting the litigation schedule for this proceeding, including dates for the submission of non-utility parties' direct testimony; all parties' rebuttal and surrebuttal testimony; and UGI's written rejoinder testimony. Further, in-person evidentiary hearings were scheduled for August 11, 2026 through August 13, 2026.

On June 18, 2026, the OCA and other parties to this proceeding, including the Commission's Bureau of Investigation and Enforcement (I&E) and the Office of Small Business Advocate (OSBA), served their direct testimony, including the Direct Testimony of Michael Deupree, OCA St. 1; the Direct Testimony of Ethan H. Cline, I&E St. 3; and the Direct Testimony of Mark D. Ewen, OSBA St. 1.

On July 17, 2026, UGI served the Rebuttal Testimony of Cynthia S. Fang, UGI St. 11-R. Also on July 17, 2026, the OSBA served the Rebuttal Testimony of Mark D. Ewen, OSBA St. 11-R. Both UGI St. 11-R and OSBA St. 11-R, in part, responded to OCA St. 1 and I&E St. 3. The

OCA did not serve rebuttal testimony sponsored by any of its witnesses, and I&E did not serve rebuttal testimony sponsored by I&E witness Cline.

On August 5, 2026, UGI served the Surrebuttal Testimony of Cynthia S. Fang, UGI St. 11-SR. The morning of August 7, 2026, the OCA contacted counsel for UGI to orally communicate its concerns and objections to the potential introduction of the Surrebuttal Testimony of Cynthia S. Fang, UGI St. 11-SR, as evidence in this proceeding. The OCA and UGI were unable to resolve the OCA's concerns and objections informally.

II. LEGAL STANDARDS

Parties before the Commission can make requests in motions for relief desired, and “must set forth the ruling or relief sought, and state the grounds therefor and the statutory or other authority upon which it relies.”³ Section 331(d) of the Public Utility Code and Section 5.483 of the Commission's regulations empower presiding officers to control the receipt of evidence,⁴ “to exclude irrelevant, immaterial or unduly repetitive evidence...and to otherwise regulate the course of the proceeding.”⁵ Presiding officers “have all necessary authority to control the receipt of evidence, including” ruling on the admissibility of evidence and limiting the production of further evidence, where appropriate.⁶ Importantly, “[t]he presiding officer will actively employ these powers to direct and focus the proceedings *consistent with due process*.”⁷

The Commission requires that evidence be excluded from the record “[i]f it is repetitious or cumulative.”⁸ As an administrative agency with quasi-judicial functions, the Commission is not constrained by the strict rules governing admissibility of evidence; however, essential legal

³ 52 Pa. Code § 5.103.

⁴ 66 Pa. C.S. § 331(d).

⁵ 52 Pa. Code § 5.483.

⁶ 52 Pa. Code § 5.403(a).

⁷ 52 Pa. Code § 5.403(b) (emphasis added).

⁸ 52 Pa. Code § 5.401(b)(1).

principles must be observed when ruling on evidentiary issues.⁹ This requirement applies equally to written expert testimony, which “is subject to the same rules of admissibility and cross-examination of the sponsoring witness as if it were presented orally in the usual manner.”¹⁰

Furthermore:

A party will not be permitted to introduce evidence during a rebuttal phase which:

- (1) Is repetitive.
- (2) Should have been included in the party’s case-in-chief .
- (3) Substantially varies from the party’s case-in-chief.¹¹

III. MOTION TO STRIKE *IN LIMINE*

The OCA submits that UGI St. 11-SR contains assertions by UGI witness Fang which are repetitive or cumulative and should have been included in Ms. Fang’s rebuttal testimony, as they are responsive to the Direct Testimony of OCA witness Deupree and the I&E witness Cline. As a result, the portions of UGI St. 11-SR which are repetitive or cumulative and were improperly included in a surrebuttal, instead of rebuttal, statement should be excluded and UGI should not be permitted to move for the admission of the same at hearings in this matter.

UGI witness Fang begins her surrebuttal testimony by stating the purpose is to respond to the testimonies of OCA witness Deupree and I&E witness Cline:

My surrebuttal testimony responds to certain arguments of the rebuttal testimony submitted by the Pennsylvania Office of Small Business Advocate (“OSBA”). Specifically, I respond to OSBA Statement No. 1-R, the rebuttal testimony of Mark D. Ewen (“OSBA Witness Ewen”) addressing the following witnesses and topics:

- Office of Consumer Advocate (“OCA”) Witness Michael Deupree (“Witness Deupree” and Bureau of Investigation and Enforcement (“I&E”) Witness Ethan H. Cline (“Witness Cline”) regarding

⁹ *Pittsburgh and Lake Erie R.R. Co. v. Pa. Pub. Util. Comm’n*, 85 A.2d 646, 653 (Pa Super 1952).

¹⁰ 52 Pa. Code § 5.412(c).

¹¹ 52 Pa. Code § 5.243(e).

allocated cost of service study (“ACOSS”), revenue allocation, and rate design.¹²

UGI witness Fang further includes summaries of the testimony of OCA witness Deupree and I&E witness Cline, to which she responds in the course of her surrebuttal testimony.¹³ Four out of the six questions included in Ms. Fang’s surrebuttal statement specifically mention the OCA or OCA witness Deupree, outside of those questions included in the introduction and conclusion sections.¹⁴ Further, UGI witness Fang cites to OCA St. 1 and I&E St. 3 as frequently as she cites to OSBA St. 1-R.¹⁵ Instead of providing a substantive response to the Rebuttal Testimony of OSBA witness Ewen, Ms. Fang reiterates the positions stated in her rebuttal testimony, UGI St. 11-R.

Specifically, the following portions of Ms. Fang’s surrebuttal testimony engage directly with the Direct Testimony of OCA witness Deupree and I&E witness Cline, and not the Rebuttal Testimony of OSBA witness Ewen:

- Page 4, line 16 through page 5, line 11.
- The sentence beginning on page 5, line 15, and ending on page 5, line 18.
- The word “Residential” on page 6, line 9 and page 6, 17.

Beginning on page 3, line 1, and continuing through page 4, line 2, Ms. Fang’s surrebuttal testimony repeatedly references arguments made in her rebuttal statement.¹⁶

UGI St. 11-SR operates as little more than a collateral attack on OCA St. 1 and I&E St. 3. Instead of offering surrebuttal testimony that is directly responsive to the Rebuttal Testimony of Mr. Ewen, UGI St. 11-SR instead emphasizes its criticisms of the OCA’s recommended cost of service study methodology, gradualism constraints, rate design, and scale back proposals, and

¹² UGI St. 11-SR at 1.

¹³ UGI St. 11-SR at 4-5.

¹⁴ *See* UGI St. 11-SR.

¹⁵ *Id.*

¹⁶ *Compare* UGI St. 11-SR at 3-4 *with* UGI St. 11-R at 16-19.

I&E's recommended rate design and scale back proposals.¹⁷ This is made clear by Ms. Fang's emphasis on her disagreement with the OCA's proposed cost of service study methodology as part of her criticism of Mr. Ewen's discussion of OCA witness Deupree's recommended gradualism constraints.¹⁸ As part of his Rebuttal Testimony, Mr. Ewen did not opine on Mr. Deupree's recommended cost of service study methodology.¹⁹ Yet, UGI St. 11-SR nevertheless discusses Mr. Deupree's recommended cost of service study methodology.

Furthermore, OSBA witness Ewen's rebuttal testimony did not discuss a position on residential customer charges.²⁰ Indeed, Mr. Ewen only discusses residential customer charges in the context of summarizing the recommendations made by I&E witness Cline,²¹ and does not even discuss OCA witness Deupree's recommendations regarding residential charges.²² However, UGI witness Fang's surrebuttal testimony addresses the recommendations of OCA witness Deupree and I&E witness Cline regarding residential customer charges and goes on to restate the Company's position on residential customer charges.²³ UGI witness Fang in her rebuttal testimony extensively discussed her opinions regarding the recommendations of other witnesses, including OCA witness Deupree and I&E witness Cline, with respect to residential customer charges.²⁴

UGI St. 11-SR includes unnecessarily repetitive testimony that should not be permitted to be introduced to the evidentiary record. The Commission's regulations are clear: repetitive evidence is not admissible, and parties may not introduce repetitive evidence in a rebuttal phase of

¹⁷ See UGI St. 11-SR.

¹⁸ UGI St. 11-SR at 3-4; OSBA St. 1-R at 2 ("*Regardless of which ACROSS methodology the Commission accepts, I find OCA's rate gradualism constraints to be reasonable given the size of the proposed rate increases in this proceeding.*") (emphasis added).

¹⁹ OSBA St. 1-R at 1-2.

²⁰ OSBA St. 1-R at 2-3.

²¹ OSBA St. 1-R at 3:1-3.

²² OSBA St. 1-R at 2-3.

²³ UGI St. 11-SR at 5-6.

²⁴ UGI St. 11-R at 24-47.

a Commission proceeding.²⁵ Because it is the role of the presiding officers to exclude unduly repetitive evidence, the OCA respectfully requests that ALJs Allensworth and Haas preclude UGI from moving for the introduction of UGI St. 11-SR to the evidentiary record at hearings scheduled for this proceeding.²⁶

UGI St. 11-SR also represents a complication of the parties' due process rights. The Commission's regulations provide that the party with the burden of proof – UGI, in this proceeding – shall have the opportunity to open and close the record, including the opportunity to present rejoinder testimony at hearings.²⁷ However, the Commission's regulations do not provide for the party with the burden of proof to have two bites at the apple to close the record. The parties that do not bear the burden of proof are not provided the opportunity to submit rejoinder testimony.²⁸

UGI's opportunity to respond to the direct testimony of the OCA and I&E was through the rebuttal testimony that it submitted on July 17, 2026, and it took that opportunity. UGI's use of the parties' surrebuttal phase of testimony to provide further response to and criticism of the direct testimony of the OCA and I&E is beyond the scope of OSBA's rebuttal testimony, and the OCA and I&E will not be able to provide responses to testimony which would appropriately have been included in the rebuttal phase. Ultimately, UGI is permitted to submit multiple rounds of responsive testimony consecutively and without opportunity for written reply, securing its right to close the record twice over. The OCA does not argue that UGI should not be permitted to submit surrebuttal testimony, only that UGI's surrebuttal should be confined to the scope of responding to rebuttal testimony, and not reach back to direct testimony as the Company has done here.

²⁵ 52 Pa. Code §§ 5.243(e), 5.401(b)(1).

²⁶ 52 Pa. Code § 5.483.

²⁷ 52 Pa. Code § 5.242(a).

²⁸ 52 Pa. Code § 5.242(a).

Therefore, UGI St. 11-SR, the Surrebuttal Testimony of UGI witness Fang, should not be permitted to be entered into the record as duplicative evidence, beyond the scope of rebuttal testimony, and improperly deprived the OCA of the opportunity to respond to testimony submitted regarding its statements in its case-in-chief.

IV. CONCLUSION

For the foregoing reasons, the OCA respectfully requests that Administrative Law Judges Chad L. Allensworth and Steven K. Haas strike the Surrebuttal Testimony of Pittsburgh Water's witness Cynthia S. Fang, and that UGI Utilities, Inc. – Electric Division be precluded from moving for the admission of the same at hearings in this proceeding.

Respectfully submitted,

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DATED: August 10, 2026