COMMONWEALTH OF PENNSYLVANIA

September 18, 2026

E-FILED

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

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

Dear Secretary Homsher:

Enclosed please find the Reply Brief, on behalf of the Office of Small Business Advocate ("OSBA"), in the above-referenced proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Steven C. Gray

Steven C. Gray
Senior Attorney
Assistant Small Business Advocate
Attorney ID No. 77538

Enclosures
cc: Mark D. Ewen
Parties of Record

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

REPLY BRIEF
ON BEHALF OF
THE OFFICE OF SMALL BUSINESS ADVOCATE

Steven C. Gray
Senior Attorney
Assistant Small Business Advocate
Attorney I.D. No. 77538

For:
NazAarah Sabree
Small Business Advocate

Commonwealth of Pennsylvania
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101

Date: September 18, 2026

TABLE OF CONTENTS

I. **Introduction** 1

A. Description of the Office of Small Business Advocate 1

B. History of the Proceeding 1

C. Legal Standards 2

II. **Summary Of Argument** 3

III. **Overall Position On Rate Increase** 4

IV. **Rate Base** 4

V. **Revenues** 4

A. Overall Revenue Requirement 4

B. Adjustment Due to Potential Sale of UGI Electric to Argo 5

VI. **Expenses** 6

VII. **Taxes** 7

VIII. **Rate Of Return** 7

IX. **Rate Structure And Rate Design** 7

X. **Customer Service and Quality of Service** 7

XI. **Customer Assistance Programs and Low-Income Issues** 7

E. Allocation of Universal Service Costs 7

XII. **Other Issues** 11

XIII. **Conclusion** 12

TABLE OF AUTHORITIES

CASES

Lower Frederick Township. v. Pa. PUC, 409 A.2d 505, 507 (Pa. Commw. Ct. 1980).....2

Pa. PUC v. Pennsylvania Gas & Water Co., 61 Pa. PUC 409 (1986), at 415-16 3

Gulnac v. South Butler School District, 587 A.2d 699, 701 (Pa. 1991), ...6

Philadelphia Entertainment & Development Partners, L.P. v. City of Philadelphia, 937 A.2d 385, 392 (Pa. 2007)..... 6

Met-Ed Indus. Users Group v. Pa. PUC, 960 A.2d 189, 202 (Pa. Commw. Ct. 2008).. 10

ORDERS

Pa. PUC v. Aqua Pennsylvania, Inc., Docket No. R-00072711 (Order entered July 17, 2008). 2

Pa. PUC v. Philadelphia Gas Works, Docket No. R-00061931 (Order entered September 28, 2007), at 12., ...3

STATUTES

73 P.S. §§ 399.41 – 399.50. 1

66 Pa. C.S. § 1301.....2

66 Pa. C.S. § 1501.....3

66 Pa. C.S. § 315(a). 2

66 Pa. C.S. § 523.....3

66 Pa. C.S. § 526(a) 3

I. Introduction

A. Description of the Office of Small Business Advocate

The Office of Small Business Advocate ("OSBA") is authorized to represent the interests of small business customers of utility services before the Pennsylvania Public Utility Commission ("Commission") pursuant to the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 – 399.50.

B. Procedural History

On March 27, 2026, UGI Utilities – Electric Division ("UGI Electric" or the "Company"), filed Supplement No. 92 to UGI Electric Tariff – Pa. P.U.C. No. 6 with the Commission. UGI Electric's proposed Supplement No. 92 would increase the Company's total annual distribution revenues by approximately $17.283 million, or 11.89%.

On April 7, 2026, the OSBA filed a Complaint in opposition to Supplement No. 92.

On May 7, 2026, a prehearing conference was held before Administrative Law Judge ("ALJ") Steven K. Haas and ALJ Chad L. Allensworth.

On May 29, 2026, ALJ Haas and ALJ Allensworth issued their Prehearing Order.

On June 18, 2026, the OSBA served the direct testimony of Mark D. Ewen.

On July 17, 2026, the OSBA served the rebuttal testimony of Mr. Ewen.

On August 12 and 13, 2026, evidentiary hearings were held before ALJ Haas and ALJ Allensworth.

On August 19, 2026, ALJ Haas and ALJ Allensworth issued their Interim Order Setting Requirements for Briefs and Settlement Documents.

On September 8, 2026, the Office of Consumer Advocate ("OCA") filed a Main Brief. Also on September 8, 2026, the Bureau of Investigation and Enforcement ("I&E") filed a Main Brief.

On September 10, 2026, UGI Electric and the OSBA filed their *Joint Petition for Approval of Non-Unanimous Settlement of All Issues*. Also on September 10, 2026, the OSBA filed a Statement in Support of the *Non-Unanimous Settlement*.

The OSBA submits this Reply Brief in response to the OCA's and I&E's Main Briefs.

C. Legal Standards

Section 1301 of the Public Utility Code[1] provides that "every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission."

The burden of proof to establish the justness and reasonableness of every element of the utility's rate increase rests solely upon the public utility.[2] "It is well-established that the evidence adduced by a utility to meet this burden must be substantial."[3]

Although the burden of proof remains with the public utility throughout the rate proceeding, when a party proposes an adjustment to a ratemaking claim of a utility, the proposing party bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment.[4] "Section 315(a) of the Code, 66 Pa. C.S. § 315(a), applies since this is a proceeding on Commission Motion. However, after the utility establishes a prima

[1] 66 Pa. C.S. § 1301.
[2] 66 Pa. C.S. § 315(a).
[3] *Lower Frederick Township. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Commw. Ct. 1980).
[4] *Pa. PUC v. Aqua Pennsylvania, Inc.*, Docket No. R-00072711 (Order entered July 17, 2008).

facie case, the burden of going forward or the burden of persuasion shifts to the other parties to rebut the prima facie case."[5]

Furthermore, Section 523 of the Public Utility Code[6] requires the Commission to "consider . . . the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates." In exchange for customers paying rates for service, which include the cost of utility plant in service and a rate of return, a public utility is obligated to provide safe, adequate, and reasonable service. "[I]n exchange for the utility's provision of safe, adequate and reasonable service, the ratepayers are obligated to pay rates which cover the cost of service which includes reasonable operation and maintenance expenses, depreciation, taxes and a fair rate of return for the utility's investors . . . In return for providing safe and adequate service, the utility is entitled to recover, through rates, these enumerated costs."[7] As a result, the legislature has given the Commission discretionary authority to deny a proposed rate increase, in whole or in part, if the Commission finds "that the service rendered by the public utility is inadequate."[8]

II. Summary of Argument

The *Joint Petition for Approval of Non-Unanimous Settlement of All Issues* proposes an annual distribution revenue increase for UGI Electric of $10.7 million. This is a just and reasonable increase, based upon the record evidence, and provides a fair resolution to a highly contested issue.

The I&E inclusion of a hypothetical future result in the Argo Infrastructure acquisition of UGI Electric case should be rejected as unlawful.

---

[5] *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-00061931 (Order entered September 28, 2007), at 12.
[6] 66 Pa. C.S. § 523.
[7] *Pa. PUC v. Pennsylvania Gas & Water Co.*, 61 Pa. PUC 409 (1986), at 415-16. *See also* 66 Pa. C.S. § 1501.
[8] 66 Pa. C.S. § 526(a).

The OCA proposal to deny UGI Electric's request for rate relief in its entirety should be rejected.

The OCA alternative proposal to increase UGI Electric's annual distribution revenue by $5,127,616 on a ROE of 8.7% should also be rejected.

The OCA proposal that Universal Service Costs should be charged to all rate classes should be rejected.

III. Overall Position on Rate Increase

The OSBA respectfully submits that the *Joint Petition for Approval of Non-Unanimous Settlement of All Issues* that was filed on September 10, 2026, presents a just and reasonable resolution to all issues presented by this case. The OSBA is a signatory to that *Non-Unanimous Settlement*.

The OSBA respectfully submits that the distribution rate increase of $10.7 million, as set forth in the *Non-Unanimous Settlement*, is a just and reasonable outcome of this contentious issue.

IV. Rate Base

The OSBA is not briefing this issue.

V. Revenues

A. Overall Revenue Requirement

I&E, in its Main Brief, concluded that UGI Electric should be awarded an annual distribution revenue increase of $12,164,000.[9]

The OCA, in its Main Brief, argued for two, alternative annual distribution revenue increases. For the first alternative, the OCA argues that UGI Electric did not meet its burden of

[9] I&E Main Brief, at 14.

proof on issues of "rate base, revenues and expenses, rate of return, revenue allocations, cost of service allocation and rate design."[10] In this alternative, the OCA advocates for the Commission to grant no distribution rate increase. UGI Electric projects an effective rate of return of 3.426% and a Return on Equity ("ROE") of 1.95% if no rate increase is granted.[11]

The OCA's second alternative, which it proposed if "the Commission determines UGI Electric requires some level of increased revenue requirement and return on equity,"[12] would award UGI Electric an annual distribution revenue increase of $5,127,616.[13] This revenue increase is based upon the OCA's proposed capital structure and a different ROE, which will be addressed below.

The *Non-Unanimous Settlement* proposes a $10.7 million annual increase to UGI Electric's distribution revenues.

B. Adjustment Due to Potential Sale of UGI Electric to Argo

In its Main Brief, I&E makes the novel argument that while UGI Electric *should* receive an annual distribution revenue increase of $12,164,000, that amount should be cut in half.[14] Specifically, I&E's recommendation to only allow 50% of the $12,164,000 increase ($6,082,000) is based upon the proposed sale of UGI Electric to Argo Infrastructure Partners LLC ("Argo").[15] I&E reasons that since the proposed sale may be completed by April 2027, this is halfway through UGI Electric's FPFTY.[16] Thus, a potential mid-FPFTY acquisition means that only 50% of the revenue requirement increase should be allowed.

[10] OCA Main Brief, at 144.
[11] OCA Main Brief, at 11, 16-17.
[12] OCA Main Brief, at 11.
[13] OCA Main Brief, at 11.
[14] I&E Main Brief, at 14.
[15] I&E Main Brief, at 14.
[16] I&E Main Brief, at 14.

However, I&E's use of the possible sale of UGI Electric to Argo is legally irrelevant to this proceeding. Not only is there no decision in the UGI Electric / Argo case, but the *prehearing conference* in that case is also scheduled to take place on September 18, 2026.[17] Simply put, any decision in the UGI Electric / Argo case will be decided at a future date, and that decision is totally unknown and unknowable. Thus, in accordance with legal precedent, the UGI Electric / Argo case cannot be considered in this proceeding and can have no legal impact on this case.

The Pennsylvania Supreme Court has repeatedly addressed this legal issue. Specifically, that Court has ruled as follows:

> A declaratory judgment must not be employed to determine rights ***in anticipation of events which may never occur*** or for consideration of moot cases or as a medium for the rendition of an advisory opinion which may prove to be purely academic.[18]

The Pennsylvania Supreme Court reiterated this conclusion, as follows:

> Our rulings in this regard have been premised on policies of sound jurisprudence, namely, that the courts should not give answers to academic questions or render advisory opinions ***or make decisions based on assertions as to hypothetical events that might occur in the future***.[19]

Consequently, the I&E recommendation to cut its calculated distribution revenue increase in half, based upon a hypothetical future Commission decision in the Argo case, must be rejected by the ALJs and the Commission.

VI. Expenses

The OSBA is not briefing this issue.

[17] The same date that this Reply Brief is to be filed.
[18] *Gulnac v. South Butler School District*, 587 A.2d 699, 701 (Pa. 1991) (emphasis added).
[19] *Philadelphia Entertainment & Development Partners, L.P. v. City of Philadelphia*, 937 A.2d 385, 392 (Pa. 2007) (emphasis added).

VII. Taxes

The OSBA is not briefing this issue.

VIII. Rate of Return

The OCA bases its distribution revenue increase of $5,127,616 on a ROE of 8.7% and a capital structure of 42% common equity and 58% debt.[20] This is in stark contrast to UGI Electric's requested capital structure of 54.25% equity and 45.75% debt.[21]

While the OSBA notes that UGI Electric's capital structure isn't the Commission's ideal split of 50%/50%, the OCA's proposed capital structure is an extreme change.

Furthermore, the OCA's proposed ROE of 8.7% is significantly lower than the ROE awarded by the Commission in recent rate cases. In contrast, I&E's recommended ROE is 9.69%, which is in line with recent Commission decisions on this issue.

IX. Rate Structure and Rate Design

The OSBA is not briefing this issue.

X. Customer Service and Quality of Service

The OSBA is not briefing this issue.

XI. Customer Assistance Programs and Low-Income Issues

E. Allocation of Universal Service Costs

The OSBA respectfully submits that Universal Service Costs ("USCs") should not be recovered from all customer classes.

In its Main Brief, the OCA quotes Governor Shapiro's April 26, 2026, letter.[22] The OCA quoted Governor Shapiro that the Commission needs to "balance consumer affordability

[20] OCA Main Brief, at 57.
[21] OCA Main Brief, at 57.
[22] OCA Main Brief, at 24.

concerns with the financial interests of utilities when determining just and reasonable rates." The Governor referred to "consumers" of utility services, not just low-income residential customers. Further, the Governor was referring to rising utility bills and affordability constraints for *all* customers, including small businesses, that result from utilities' inflated costs of capital and imprudent spending. The Governor's statement has no bearing on whether small business customers should subsidize low-income programs in which they cannot participate.

The OCA also cites to the Commission's *2019 Amendments to CAP Policy Statement* and the *Interconnection and Tariffs for Large Load Customers* ("*Large Load Final Order*").[23] Both documents, as the OCA points out, state that the Commission believes it has the authority to require non-residential classes to pay USCs.

However, nowhere in its 144-page Main Brief does the OCA acknowledge that the Commission has already done so. Specifically, in its *Large Load Final Order*, the Commission set forth the following tariff requirements for large load customers:

> (a) Universal Service Fund Contributions
>
> Large Load Customers are to make an annual contribution to the Company's universal service program based on the following peak demand schedule:
>
> (1) At least 25 megawatts but less than 75 megawatts: $250,000.
> (2) At least 75 megawatts but less than 100 megawatts: $400,000.
> (3) At least 100 megawatts but less than 500 megawatts: $500,000.
> (4) 500 megawatts or more: $1,000,000.[24]

Consequently, the Commission has, in fact, required non-residential utility customers to pay for USCs. That payment is made annually, and ranges from $250,000 to $1 million.

[23] OCA Main Brief, at 120. The OCA mistakenly stated that the Order was entered on April 30, 2026. The Order was entered May 12, 2026.
[24] *Large Load Final Order*, Model Tariff, final page.

One current example of a large load customer is a data center. On August 18, 2026, Governor Shapiro issued Executive Order 2026-05. In that Executive Order, he provided the following numbers:

- "[T]here are reports of over 100 data center facilities having been proposed in Pennsylvania."
- "[T]he Department of Environmental Protection has received permit applications related to 20 proposed data center facilities."
- "[T]here are 14 existing or in-development data center locations with an active certificate of exemption from the Department of Revenue."[25]

In addition to failing to mention the model tariff in the *Large Loads Final Order*, the OCA also failed to observe that the *only* non-residential class required to pay for USCs in that Order is the Large Loads class. The Commission did not require small businesses to pay for USCs, a fact significant in the determination of this issue in this proceeding.

While the future USC revenue looks significant, today's concerns must be addressed. The OCA admits, in testimony, that the most recent data demonstrates that only 37.6% of eligible low-income customers participate in UGI Electric's customer assistance programs.[26] Simply put, the 37.6% figure demonstrates that UGI Electric's customer assistance programs are fully funded, only partially used, and are not in need of expansion or additional funding. The OCA offers arguments about how UGI Electric is to blame for this supposed lack of participation, but as a decades-long advocate for low-income customers, the OCA doesn't assign any of the blame to itself.

[25] Executive Order 2026-05 – Protecting Pennsylvania Consumers from Data Center Impacts, at 1.
[26] OCA Statement No. 6, at 57, citing UGI Electric response to OCA-IV-4.

The OCA repeats an argument that it lost in Commonwealth Court – the meaning of the word "nonbypassable."[27] The Commonwealth Court invalidated this argument by ruling that the term "nonbypassable" "reasonably means that residential customers cannot by-pass their prior funding of universal service costs by choice, or non-choice, of an electric generation supplier."[28]

The OCA states, in its main brief, "it is incorrect to say that businesses … have nothing to do with the need for universal service programs. One major reason people need these programs is that some workers are not paid enough to afford basic living expenses."[29] Neither OCA counsel, nor OCA's expert witness, provide evidence for this claim. As the burden of proof for this claim is upon the OCA, the ALJ and Commission should reject this statement in its entirety.

The OCA further argues that USCs should be recovered from all customer classes because the costs are "caused by factors endemic to society as a whole," including poverty, poor housing stock, and low-wage jobs.[30] The flaw in the OCA argument is that the OCA does not provide a citation to a statute or caselaw that enables the Public Utility Commission to solve endemic societal problems, poverty, poor housing stock, or low-wage jobs. Nor is it by any means clear that allocating USCs to small businesses would result in *any* progress toward addressing these "factors endemic to society"[31] Small businesses already face unaffordable utility bills.

There is no need for USCs to be recovered from all customer classes. If the Commission believes it should pursue this issue, it should follow UGI Electric Witness Rogers's suggestion: address this issue on a state-wide basis, rather than a utility-specific basis.[32] This has three

[27] OCA Main Brief, at 120.
[28] *Met-Ed Indus. Users Group v. Pa. PUC*, 960 A.2d 189, 202 (Pa. Commw. Ct. 2008).
[29] OCA Main Brief, at 122.
[30]OCA Main Brief, at 119, 123.
[31] OCA Main Brief, at 123.
[32] OCA Main Brief, at 123.

benefits. First, it will allow multiple parties affected by this proposal a chance to comment. Second, it will require OCA to provide actual evidence for its claims, rather than repeating the same unsubstantiated claims in each rate case. Third, it will prevent the Commission from contradicting Governor Shapiro's current re-election campaign where he promotes his overwhelming support for Pennsylvania small businesses.

Finally, the OCA does not provide any analysis of the impact of charging UGI Electric's small business customers the residential-only USCs. Although the OCA provides revenue allocations to UGI Electric's small business customers, the OCA does not provide any evidence of the impacts of those allocations.[33]

XII. Other Issues

The OSBA is not briefing this issue.

[33]OCA Main Brief, at 121.

XIII. Conclusion

The OSBA respectfully requests that the ALJ and the Commission:

Adopt the *Non-Unanimous Settlement* in its entirety; and

Reject the proposal that Universal Service Costs be charged to all rate classes.

Respectfully submitted,

/s/ Steven C. Gray
Steven C. Gray
Senior Attorney
Assistant Small Business Advocate
Attorney ID No. 77538

For:
NazAarah Sabree
Small Business Advocate

Commonwealth of Pennsylvania
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101

Dated: September 18, 2026

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email (*unless otherwise noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

The Honorable Steven Haas
Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
sthaas@pa.gov

The Honorable Chad Allensworth
Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
callenswor@pa.gov

Adam J. Williams, Esquire
Pennsylvania Public Utility Commission
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
adawilliam@pa.gov

Joseph L. Vullo, Esquire
Burke Vullo Reilly Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
jlvullo@bvrrlaw.com

Christy M. Appleby, Esquire
Jacob D. Guthrie, Esquire
Katherine M. Kennedy, Esquire
Johnathan M. Longhurst, Esquire
Crystal M. Zook, Esquire
Office of Consumer Advocate
Forum Place
555 Walnut Street, 5th Floor
Harrisburg, PA 17101
OCAUGIElec26BRC@paoca.org

Michael S. Swerling, Esquire
UGI Corporation
500 North Gulph Road
King of Prussia, PA 19406
swerlingM@ugicorp.com

Candis A. Tunilo, Esquire
UGI Corporation
1 UGI Drive
Denver, PA 17517
tuniloc@oneugi.com

David B. MacGregor, Esquire
Lindsay A. Berkstresser, Esquire
Thomas Connolly
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101
dmacgregor@postschell.com
lberkstresser@postschell.com
TConnolly@PostSchell.com

Devin T. Ryan, Esquire
Emily S. Grecu, Esquire
Post & Schell, P.C.
One Oxford Centre
301 Grant Street, Suite 3010
Pittsburgh, PA 15219
dryan@postschell.com
egrecu@postschell.com

Date: September 18, 2026

/s/ Steven C. Gray
Steven C. Gray
Senior Attorney
Assistant Small Business Advocate
Attorney ID No. 77538