

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105-3265**

James Brown (Complainant/Appellee)
v.
Philadelphia Gas Works (Respondent/Appellant)

**PUBLIC MEETING
January 22, 2009
1203677-OSA-0004
Docket No. C-20077298**

**DISSENTING STATEMENT
OF COMMISSIONER KIM PIZZINGRILLI**

Before us for consideration is the Initial Decision of an Administrative Law Judge (ALJ) that granted, in part Philadelphia Gas Works' (PGW) Motion for Judgment on the Pleadings; sustained the complaint-appeal filed by the company and vacated a Bureau of Consumer Services determination establishing a reconnection payment agreement for the Complainant. I support the ALJ's decision.

However, the majority remands this case to the Office of ALJ for further proceedings to develop a record relating to the Complainant's income and payment history relying on the rationale established in *Crawford v. National Fuel Gas Distribution Corporation* (Crawford), Order entered December 6, 2007 at Docket No. C-20066348.

I respectfully dissent from the majority and concur with the ALJ's conclusion that the complaint-appeal presented no issues of genuine fact and that PGW was entitled to judgment as a matter of law. My position, as set forth in other similar cases, is that Chapter 14 does not provide the Commission with the authority to set the terms pursuant to which service can be reconnected once a utility invokes § 1407 and has required restoration payments consistent with the provisions set forth therein.

The Initial Decision in this case was issued 20 months ago and I question the effectiveness of a remand given the length of time that has passed. The facts relevant at the time the complaint was filed, such as income and household size, may have changed significantly. From a procedural standpoint, the complaint allegations relate to events occurring in 2006. The passage of time will likely make it difficult for the parties to provide accurate testimony regarding the events that precipitated the filing of the complaint nearly three years ago. To require a further hearing is contrary to the public interest and an inefficient use of administrative resources. For these reasons, I respectfully dissent.

January 22, 2009
Date

KIM PIZZINGRILLI, COMMISSIONER