



**Philadelphia Gas Works**

800 West Montgomery Avenue, Philadelphia, PA 19122

Kristine Trock, Paralegal

**Legal Department**

Direct Dial: (215) 684-6862

Fax: (215) 684-6798

E-mail: [kristine.trock@pgworks.com](mailto:kristine.trock@pgworks.com)

March 16, 2009

James McNulty, Secretary  
Pennsylvania Public Utility Commission  
Room B-20, North Office Building  
Harrisburg, PA 17105-3265

**Re: Delphine Matthews v. PGW, Docket No. C – 2009 – 2029557**

Dear Secretary McNulty:

Pursuant to 52 Pa. Code §5.553(d), the Philadelphia Gas Works ("PGW") hereby files the original and nine (9) copies of its Reply to Complainant's Exceptions in the above captioned matter.

If additional information is required, please do not hesitate to contact the undersigned. Thank you for your assistance in the matter.

Sincerely,

  
Kristine Trock

Enclosure

cc: Ms. Delphine Matthews (Regular Mail)  
Anne Marie Cromley (PGW Mail)  
Linda Pereira (PGW Mail)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Delphine Matthews**

**v.**

**Philadelphia Gas Works**

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**Docket No. C – 2008 – 2029557**

**PHILADELPHIA GAS WORKS'  
REPLY TO COMPLAINANT'S EXCEPTIONS**

Pursuant to Pa. Code §5.535, and the Secretary's letter dated March 6, 2009, in the above captioned matter, the Philadelphia Gas Works, ("PGW") hereby files an original and nine (9) copies of its reply to the exceptions filed by the Complainant, Delphine Matthews.

**I. INTRODUCTION**

In this matter, the Complainant disputes and seeks the refund of \$1,531.74 that was withheld by a title insurance company and ultimately paid to PGW for unpaid gas service to 2232 N. Chadwick Street, Philadelphia, Pennsylvania, pursuant to the Municipal Claim Lien Law, 53 P.S. §7107, et seq. and the Natural Gas Choice and Competition Act, 66 Pa. C.S.A. §2201 et seq.

An Initial Hearing was held on October 15, 2008. An Initial Decision was issued on December 30, 2008 ("Initial Decision"). The Initial Decision dismissed the Complaint and found, *inter alia*, that: the Commission lacks jurisdiction and authority to contravene the provisions of the Municipal Claim Lien Law, 53 P.S. §7107, et seq. and/or the Natural Gas Choice and Competition Act, 66 Pa. C.S.A. §2201 et seq.

The Complaint filed a document in the nature of an exception to the Initial Decision and a request to review the matter. This reply follows.

## II. REPLY TO EXCEPTION

### **A. The Exception Fails To Show That The Commission Has Jurisdiction And May Contravene The Provisions of the Municipal Claim Lien Law.**

The Complainant's exception fails to point to any error in fact or law contained in the Initial Decision. The Exception merely requests that Commission review the matter and reconsider the evidence of record. The Exception fails to address the issue of the Commission's jurisdiction concerning the collection under the Municipal Claim Lien Law, 53 P.S. §7107, et seq.

This question is well settled. PGW may file and collect for liens for unpaid gas service under the authority of the Municipal Claims and Tax Liens Act, which provides the jurisdiction and process for challenging a lien. 53 Pa. Stat. Ann. §§ 7101, et seq.; See Debra Williams Lawrence v. Philadelphia Gas Works, No. C-20066672 (January 22, 2007) (concluding that the Commission lacks jurisdiction and authority to contravene the provisions of the Municipal Claim Lien Law and/or the Natural Gas Choice and Competition Act); Tina L. Francis-Young v. Philadelphia Gas Works, No. C-2029672 (February 23, 2009) (concluding that the Commission does not have jurisdiction to adjudicate a lien imposed by PGW on complainant's property for unpaid gas service); See also Alvin H. Smith v. Peoples Natural Gas Company, et al., No. F-02079805, Motion of Commissioner Gardner (February 26, 2009) (recognizing that the Commission lacks subject matter jurisdiction to make a determination involving substantive property rights and that real property issues are within the exclusive jurisdiction of the Courts of Common Pleas).

PGW's ability to collect for unpaid gas service is confirmed under the Natural Gas Choice and Competition Act. 66 Pa. Cons. Stat. §§ 2201, et seq. The Gas Choice Act states: "[n]othing contained in this title shall abrogate the power of a city natural gas distribution operation to collect delinquent receivables through the imposition of liens pursuant to section 3 of the act of May 16, 1923 (P.L. 207, No. 153), referred to as the Municipal Claim and Tax Lien Law, or otherwise." 66 Pa. Cons. Stat. § 2212(n).

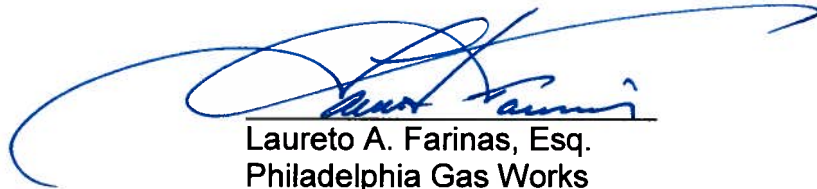
Finally, the Responsible Utility Customer Protection Act again clarifies and confirms such lien rights. 66 Pa. Cons. Stat. §§ 1401, et seq. This Act states: “[a] city natural gas distribution operation furnishing gas service to a property is entitled to impose or assess a municipal claim against the property and file as liens of record claims for unpaid natural gas distribution service and other related costs, including natural gas supply ...” 66 Pa. Cons. Stat. § 1414.

### III. CONCLUSION

For the reasons stated above, the Commission should deny the Complainant’s exception to the Initial Decision.

Respectfully submitted,

March 16, 2009



Laureto A. Farinas, Esq.  
Philadelphia Gas Works  
800 W. Montgomery Avenue  
Philadelphia, PA 19122

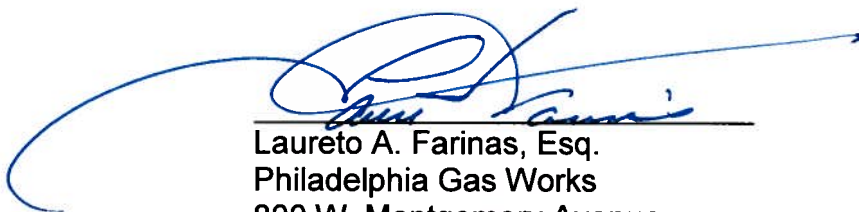
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A TRUE COPY OF THE FOREGOING DOCUMENT UPON THE PARTICIPANTS LISTED BELOW, IN ACCORDANCE WITH THE REQUIREMENTS OF 52 PA CODE §1.54 (RELATING TO SERVICE BY A PARTICIPANT).

Service List:

**Ms. Delphine Matthews  
2121 N. 17<sup>th</sup> Street  
Philadelphia, PA 19121**

March 16, 2009



**Laureto A. Farinas, Esq.  
Philadelphia Gas Works  
800 W. Montgomery Avenue  
Philadelphia, PA 19122**