



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

August 25, 2009

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

Re: Philippo Deluca v. PGW, Docket No. F – 2008 – 2080381
Philippo Deluca v. PGW, Docket No. F – 2008 – 2081460

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,

A handwritten signature in blue ink that reads "Kristine Trock". The signature is written in a cursive, flowing style.

Kristine Trock

Enclosure

cc: Mr. Filippo Deluca (Regular Mail)
Anne Marie Cromley (PGW Mail)
Linda Pereira (PGW Mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Philippo Deluca,	:	
Complainant	:	
	:	Docket No. F – 2008 – 2080381
v.	:	
	:	
Philadelphia Gas Works,	:	Docket No. F – 2008 – 2081460
Respondent	:	
And	:	
	:	
Melissa A. Corsey,	:	
(Indispensable Party)	:	

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

Pursuant to Pa. Code §5.535, and the Secretary's letter dated August 18, 2009, in the above captioned matter, the Philadelphia Gas Works, ("PGW") hereby files its reply to the exception to the Initial Decision in the above captioned matter issued on August 3, 2009, filed by the Complainant, Filippo Deluca.

I. INTRODUCTION

This matter involves the dispute of a bill to the Complainant after the discovery of "foreign load" associated with gas bill for gas service rendered at 7317 Dungan Road, Apt. 2F, Philadelphia, PA (Service Address). The Complainant's tenant, Melissa Corsey, occupies the Service Address. The Complainant appeals a decision of the Bureau of Consumer Services (BCS) decision dated November 17, 2008 (BCS Case No. 2456810) which found that the Complainant, as the owner of the Service Address, is responsible for the bill of \$512.37.

On December 12, 2008, the Complainant filed a formal complaint. The matter was docketed at Docket No. F – 2008 – 2080381, to which PGW filed a timely answer on January 7, 2009. That appeal states that Complainant/owner should not be responsible for his tenant's monthly gas bill. The Complaint states that the tenant should be held responsible for a portion of that bill. On December 22, 2008, the

Complainant filed a formal complaint appealing of the BCS decision under BCS Case No. 2456810. The matter was docketed at Docket No. F – 2008 – 2081460, to which PGW filed a timely answer on January 7, 2009. That appeal restated the Complainant's position that the Complainant should not be responsible for his tenant's monthly gas bill.

By order dated February 10, 2009, the Commission approved PGW's Motion to Consolidate the matters. The Commission scheduled a hearing for April 6, 2009. By order dated April 13, 2009, the Commission granted PGW's request for a continuance and joined the tenant of the Service Address, Melissa Corsey, as an indispensable party to the matter. By notice, dated April 13, 2009, the Commission scheduled an Initial Hearing for June 15, 2009. On June 4, 2009, Melissa Corsey requested a continuance of the June 15, 2009 hearing as she was scheduled to be on vacation. By order dated June 5, 2009, the Administrative Law Judge denied the requested for a continuance, stating that the June 15, 2009 hearing will be held as rescheduled.

At the hearing of June 15, 2009, the Complainant and Ms. Corsey failed to appear. An Initial Decision was issued on August 3, 2009 ("Initial Decision"). The Initial Decision dismissed the Complaint with prejudice for failure to appear and prosecute.

The Complainant filed an exception to the Initial Decision asserting that he did not receive notice of the June 15, 2009 hearing. This reply follows.

II. REPLY TO EXCEPTION

The Record of This Proceeding Shows That the Commission Sent Two Documents Providing Notice Of the Hearing Date.

The Exception fails to demonstrate that the Complainant did not receive notice of the hearing date. The Complainant's exception states that he did not receive notification to appear on the day of the hearing, June 15, 2009. The record of this proceeding shows that the Commission sent to the Complainant two documents that provided notice of the hearing date, June 15, 2009. On April 13, 2009, the Commission issued to the parties a hearing notice. That notice informed the Complainant, PGW, and Ms. Corsey, that the hearing was to be held on Monday, June 15, 2009, at 10:00 a.m. at the Philadelphia State Office Building at Broad and Spring Garden Streets,

Philadelphia, Pennsylvania before Administrative Law Judge Ky Van Nguyen. By order dated June 5, 2009, the Administrative Law Judge denied Ms. Corsey's request for a continuance, stating that the June 15, 2009 hearing will be held as rescheduled.

Through both of the documents, the Complainant was notified of the date, time, and place of the hearing. The documents were mailed to the Complainant's address as provided in the Complaint, 9212 Verre Road, Philadelphia, Pennsylvania, 19115. The Complainant mailed his exception from this address. The Initial Decision does not indicate that the Hearing Notice dated April 13, 2009 or any other document associated with this matter, sent by the Commission to the Complainant was returned to the Commission as undeliverable. It is unlikely that both the April 13, 2009 hearing notice and June 5, 2009, order denying the request for a continuance, were lost in the mail, and not returned. A notice mailed to a party's last known address and not returned by the post office is presumed to have been received.¹ The Commission should deny this exception.

III. CONCLUSION

For the reasons stated herein, the Complainant's exception should be denied. PGW respectfully requests that the Commission adopt the Initial Decision in this matter.

Respectfully submitted,

August 25, 2009



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

¹ Chartiers Industrial and Commercial Development Authority v. Allegheny County Board of Property Assessment Appeals and Review, 645 A.2d 944 (Pa. Cmwlth. 1994)

CERTIFICATE OF SERVICE

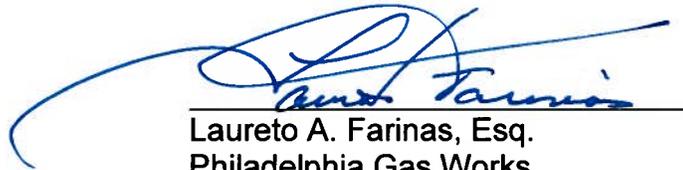
I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A TRUE COPY OF THE FOREGOING DOCUMENT UPON THE PARTICIPANTS LISTED BELOW, IN ACCORDANCE WITH THE REQUIREMENTS OF 52 Pa. Code §1.54 (RELATING TO SERVICE BY A PARTICIPANT).

Service List:

Mr. Filippo DeLuca
9212 Verre Road
Philadelphia, PA 19115

Ms. Melissa Corsey
7317 Dungan Road
Philadelphia, PA 19115

August 25, 2009



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