



Philadelphia Gas Works

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October 8, 2009

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

Re: Frank Pina v. PGW, Docket No. C – 2009 – 2131071

Dear Secretary McNulty:

Pursuant to 52 Pa. Code §5.61, the Philadelphia Gas Works ("PGW") hereby files the original of its Preliminary Objections to the Complaint 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 black ink, appearing to read "Kristine Trock". The signature is written in a cursive, flowing style. Below the signature, the name "Kristine Trock" is printed in a standard, sans-serif font.

Kristine Trock

Enclosure

cc: Mr. Frank Pina (Regular Mail)
Anne Marie Cromley (PGW Mail)
Linda Pereira (PGW Mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Frank Pina

v.

Philadelphia Gas Works

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:
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: Docket No. C – 2009 – 2131071

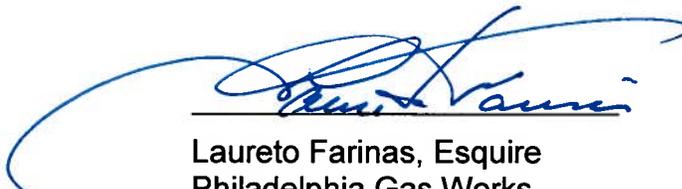
NOTICE TO PLEAD

To: Frank Pina, Complainant

Pursuant to 52 Pa. Code §5.101, you are hereby notified to file a written response to the enclosed Preliminary Objection and Motion to Strike, within ten (10) days from service hereof or you may be deemed to be in default and relevant facts stated in these pleadings may be deemed admitted and a judgment may be entered against you.

Respectfully submitted,

October 8, 2009



Laureto Farinas, Esquire
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
(215) 684-6982

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|-------------------------------|---|--------------------------------------|
| Frank Pina | : | |
| | : | |
| v. | : | Docket No. C – 2009 – 2131071 |
| | : | |
| Philadelphia Gas Works | : | |

**Philadelphia Gas Works’
Preliminary Objections and
Motion to Strike Impertinent Matter**

Pursuant to 52 Pa. Code §5.101, the Philadelphia Gas Works (“PGW”) hereby files its Preliminary Objections to the Complaint filed in the above captioned matter on the grounds that the Commission lacks jurisdiction over the subject matter of the Complaint, and that the Complaint includes impertinent matter in its requested relief to remove (or forbear collection of) the lien, and moves to strike the requested relief as “impertinent matter” pursuant to 52 Pa. Code §§5.101(a)(1) and (2).

In support of its preliminary objection and motion to strike, PGW hereby avers the following:

1. On or about September 18, 2009, the Complainant filed a formal complaint against PGW with the Commission under Docket No. C-2009-2131071, regarding gas service to 12733 Hollins Road, Philadelphia, Pennsylvania (Service Address).

2. The Complaint avers that PGW filed a lien against the Complainant’s Service Address because of past due gas bills incurred by Complainant’s mother at a time when she was the Customer of Record at the Service Address.

3. The Complainant maintains that the unpaid bills of his mother should not be his responsibility.

4. The Complaint requests that the Commission order PGW refrain from holding by having the lien at the Service Address removed.

5. The Commission's Rules of Administrative Practice and Procedure at 52 Pa. Code §5.101(a)(2) state that Preliminary Objections may be available to parties and be limited to, *inter alia*, "Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter."

52 Pa. Code §5.101(a) (2) (Emphasis added)

6. In this case, as the Complaint states that the bills that are the subject of the lien were from gas service to his mother's PGW account and not his PGW account. The Complainant opines that under circumstances, the lien should not have been filed.

7. Pursuant to the Natural Gas Choice and Competition Act, 66 Pa. C.S.A Section 2201 et seq., section 2212(n), which specifically provides, "Nothing 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." Thus, under 66 Pa. C.S.A Section 2212(n), the Commission has not jurisdiction over the filing of such a lien.

8. Pursuant to the Responsible Utility Customer Protection Act at 66 Pa. Cons. Stat. § 1414, which 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 ...," clarifies and confirms such rights to impose a lien.

9. The Commission lacks the jurisdiction to consider the Complainant's argument on the imposition of the lien.

10. In this case, as the Complainant seeks to have the lien at the Service Address removed which the Commission is without power to order.

11. The Complainant's request for relief, an order to remove the lien at the Service Address cannot be granted by the Commission, is impertinent matter, and, should be stricken from the Complaint pursuant to Pa. Code §5.101(a)(2).

Wherefore, PGW respectfully requests that this Commission sustain PGW's preliminary objections to the Complaint and dismiss the Complaint for lack of jurisdiction and/or strike off the requested relief for monetary damages as impertinent matter.

Respectfully submitted,

October 8, 2009



Laureto Farinas, Esquire
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
(215) 684-6982

VERIFICATION

I, Laureto Farinas, hereby declare that I am counsel for the Philadelphia Gas Works. I am authorized to make this verification on its behalf. The facts set forth in the foregoing Answer are true and correct to the best of my knowledge, information and belief. I expect to be able to prove these facts at a hearing held in this matter. This verification is made subject to the penalties of 18 Pa. C.S. §4904, concerning false statements to authorities.

October 8, 2009



Laureto Farinas, Esquire

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).

For Complainant:

Mr. Frank Pina
12733 Hollins Road
Philadelphia, PA 19154

October 8, 2009



Laureto Farinas, Esquire
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
(215) 684-6982