



**Philadelphia Gas Works**

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December 2, 2009


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

**Re: Candace Koerber v. PGW, Docket No. C – 2009 – 2140527**

Dear Secretary McNulty:

Pursuant to 52 Pa. Code §5.61, the Philadelphia Gas Works ("PGW") hereby files the original of page four correcting/amending its Preliminary Objection in the above captioned matter. Please use the enclosed to replace page two of PGW's Answer that was filed on November 30, 2009.

If you need additional information, please do not hesitate to contact me. Thank you for your assistance in the matter.

Sincerely,  
  
Kristine Trock

Enclosure

cc: Ms. Candace Koerber (Regular Mail)  
Anne Marie Cromley (PGW Mail)  
Linda Pereira (PGW Mail)

8. In this case, as the Complaint states that the bills that are the subject of the lien were from gas service from a tenant's gas account and not her PGW account. The Complainant opines that under circumstances, she should not be held responsible and the lien should be removed. This Commission is without the authority to grant this relief.

9. 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 no jurisdiction over the filing of such a lien.<sup>2</sup> Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 427 Pa. 581, 235 A.2d 602 (1967)

10. 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.

11. The Complainant disputes the imposition of the lien because she did not incur the debt for gas service.

12. The nature of a lien is such that it encumbers the real estate, regardless who caused the event, which results in the imposition of a municipal claim. PGW may collect as a municipal claim, unpaid debt for gas service rendered, even when the gas service was not rendered to the owner of the property. *Newberry Township v. Ray Stambaugh*, 848 A.2d 173; (Pa. Cmwlth. 2000)

13. In the instant matter, the Complainant simply wishes not to be responsible for the payment of the gas that she did not use. As PGW has not

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<sup>2</sup> 52 Pa. Code §5.101(a) (1)