



**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

January 11, 2010

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

**Re: Charles DeRago v. PGW, Docket No. C – 2009 – 2148554**

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,  
  
Kristine Trock

Enclosure

cc: Mr. Charles DeRago (Regular Mail)  
Anne Marie Cromley (PGW Mail)  
Linda Pereira (PGW Mail)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Charles DeRago**

**v.**

**Philadelphia Gas Works**

:  
:  
:  
:  
:

**: Docket No. C – 2009 – 2148554**

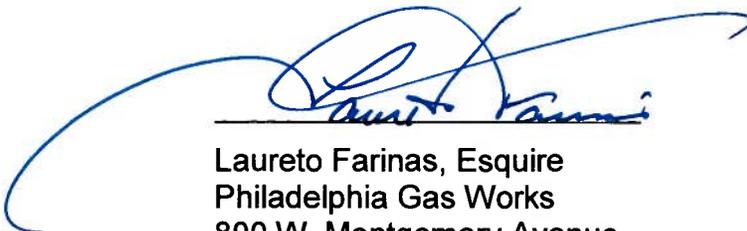
**NOTICE TO PLEAD**

**To: Charles DeRago, Complainant**

Pursuant to 52 Pa. Code §5.101, you are hereby notified to file a written response to the enclosed Preliminary Objection, 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,

January 11, 2010



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.

January 11, 2010



Laureto Farinas, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Charles DeRago</b>	:
	:
<b>v.</b>	:
	:
<b>Philadelphia Gas Works</b>	:
	:
	:
	:

**Docket No. C – 2009 – 2148554**

**Philadelphia Gas Works  
Preliminary Objection  
For Failure to Join a Necessary Party**

Pursuant to 52 Pa. Code §§5.61 and 5.101, the Philadelphia Gas Works (“PGW”) hereby files its Preliminary Objection to the Complaint filed in the above captioned matter on the grounds that the Complaint has failed to join a necessary party to this matter, pursuant to 52 Pa. Code §5.101(a)(5). In support of its preliminary objection, PGW hereby avers the following:

1. On or about December 17, 2009, the Complainant filed a formal complaint against PGW with the Commission under Docket No. C-2009-2148554, regarding gas service to 7721 Langdon Street, 2<sup>nd</sup> Floor, Philadelphia, Pennsylvania (Service Address).
2. The Complaint avers that PGW, by letter in February 2009 informed the Complainant that PGW had found a “foreign load situation” at the Service Address.
3. On January 26, 2009, a PGW representative visited the Service Address pursuant to a billing dispute asserted by Victoria Johnson the tenant and the PGW Customer of Record at the Service Address and found that the all hot water pipes appeared to be attached to the second floor hot water heater.
4. Pursuant to the Public Utility Code (Code), 66 Pa. C.S. §1529.1(b), PGW transferred the entire outstanding balance of Victoria Johnson’s PGW account, (\$2,442.84 as of January 26, 2009) to an account for the Complainant.

5. The Complaint denies the existence of the “foreign load” and avers that the Complainant’s tenant, Victoria Johnson should be responsible for the entire outstanding balance, which is now \$3,370.67.

6. The Complainant’s tenant, Victoria Johnson is not a party to this proceeding.

7. If the Complainant is successful in this matter, the rights of the tenant at the Service Address, Victoria Johnson, will be materially affected.

8. The Commission’s Rules of Administrative Practice and Procedure at 52 Pa. Code §5.101(a)(5) state that Preliminary Objections may be available to parties and be limited to, *inter alia*, “...nonjoinder of a necessary party...”  
52 Pa. Code §5.101(a)(5) (Emphasis added)

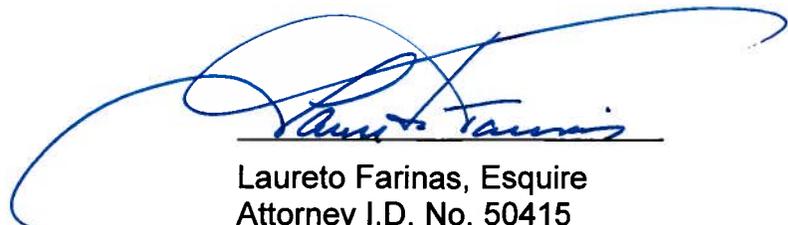
9. Pursuant to the Commission’s decision in *Susan Afshari v. PPL Electric Utilities Corporation and Kim and Mike Fantazier (Indispensable Party)*, C-20055547 (April 9, 2008), the tenant in such foreign load cases will be joined as an indispensable party to the Complaint and (landlord and tenant) together must provide as much information as possible to the presiding Administrative Law Judge (ALJ) so that the ALJ may render a reasonable decision.

10. The Complainant has failed to join the tenant Victoria Johnson as an indispensable party to this matter.

**Wherefore**, PGW respectfully requests that this Commission sustain PGW’s preliminary objection to the Complaint and issue an order to the Complainant to join his tenant, Victoria Johnson, as an indispensable party to this matter.

Respectfully submitted,

January 11, 2010



Laureto Farinas, Esquire  
Attorney I.D. No. 50415  
Philadelphia Gas Works  
800 W. Montgomery Avenue  
Philadelphia, PA 19122  
(215) 684-6982

**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. Charles DeRago  
401 Broadway Suite 409  
New York, New York 10013

January 11, 2010



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