



Philadelphia Gas Works

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March 29, 2010

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

Re: Michael Metsikas v. PGW, Docket No. C – 2010 – 2163370

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 blue ink, appearing to read "Kristine Trock", is written over the typed name. The signature is fluid and cursive in style.

Kristine Trock

Enclosure

cc: Mr. Michael Metsikas (Regular Mail)
Kenneth G. Harrison, Esq. (Regular Mail)
Anne Marie Cromley (PGW Mail)
Linda Pereira (PGW Mail)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Michael Metsikas

v.

Philadelphia Gas Works

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: Docket No. C – 2010 – 2163370

NOTICE TO PLEAD

To: Michael Metskias, 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,

March 29, 2010



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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michael Metsikas

v.

Philadelphia Gas Works

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Docket No. C – 2010 – 2163370

**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 March 11, 2010, the Complainant filed a formal complaint against PGW with the Commission under Docket No. C-2010-2163370, regarding gas service to 6709 Torresdale Ave, 2nd Floor, Philadelphia, Pennsylvania (Service Address).
2. The Complaint avers that PGW did not inform the Complainant that PGW had found a “foreign load situation” at the Service Address.
3. On April 2, 2008, a PGW representative visited the Service Address pursuant to a billing dispute asserted by Maria Borschell, the tenant, and the PGW Customer of Record at the Service Address and found that the water heater supplied water to the basement basin and the 1st Floor rear apartment.
4. Pursuant to the Public Utility Code (Code), 66 Pa. C.S. §1529.1(b), PGW transferred the entire outstanding balance of Maria Borschell’s PGW account, (\$1,694.86 as of April 2, 2008) to a gas account for the Complainant.
5. The Complaint denies the existence of the “foreign load” and avers that the Complainant’s tenant, Maria Borschell, should be responsible for the entire outstanding balance, which is now \$5,074.88.

6. The Complainant's tenant, Maria Borschell, 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, Maria Borschell, 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,

March 29, 2010



Laureto Farinas, Esquire
Attorney I.D. No. 50415
Philadelphia Gas Works
800 W. Montgomery Avenue
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(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.

March 29, 2010



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. Michael Metsikas
2325 Borbeck Ave
Philadelphia, PA 19152

Kenneth G. Harrison, Esq.
17 Bellevue Ave.
Pennel, PA 19047

March 29, 2010



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