



**Philadelphia Gas Works**

800 West Montgomery Avenue, Philadelphia, PA 19122

Kristine Trock, Paralegal  
**Legal Department**  
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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: Ellena Irby v. PGW, Docket No. C – 2009 – 2117933**

Dear Secretary McNulty:

Pursuant to 52 Pa. Code §5.61, the Philadelphia Gas Works ("PGW") hereby files the original and three (3) copies of its Objections to the Interrogatory and Request for Production of Documents Set II 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: Thu B. Tran, Esq. (Regular Mail)  
Philip A. Bertocci, Esq. (Regular Mail)  
Ms. Ellena Irby (Regular Mail)  
Administrative Law Judge Ky Van Nguyen (Regular Mail)  
Anne Marie Cromley (PGW Mail)  
Linda Pereira (PGW Mail)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Ellena Irby,</b>	:	
<b>Complainant</b>	:	
<b>v.</b>	:	<b>Docket No. C – 2009 – 2117933</b>
	:	
<b>Philadelphia Gas Works,</b>	:	
<b>Respondent</b>	:	

**Philadelphia Gas Works’ Objections to the  
Interrogatory and Request for Production of Documents Set II**

Pursuant to 52 Pa. Code §5.342(d)(1), the Philadelphia Gas Works (“PGW”) hereby objects to Interrogatory and Request for Production of Documents (Interrogatory) Nos. 30 and, 32, that are contained in the Second Set of written interrogatories dated March 17, 2010 and a supplemental request by e-mail dated March 23, 2010, which are attached hereto as Exhibit “A,” that the Complainant has propounded upon PGW in the above captioned matter.

**Objection to Interrogatory No. 30**

PGW hereby objects to Interrogatory No. 30, and to the supplemental request dated March 23, 2010, which state:

30. Please provide photo quality copies of the photo identification badges of all PGW workers or contactors who were assigned to work on the 900 block of 6th Street during the month of December 2008.

And Supplemental Request<sup>1</sup>

Please provide a photo of PGW employee John Colbert. Thank you.

PGW objects to this Interrogatory and its Supplemental Request, as it is overbroad and vexatious. By requesting photographic information in this manner it aids in establishing a biased, suggestive and unreliable photo identification process to be conducted with one or more of the Complainant’s witnesses.

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<sup>1</sup> Complainant’s Supplemental request by e-mail dated March 23, 2010

The instant matter concerns a dispute of liability for discovery of meter tampering and a bill for the unauthorized usage for gas consumed at the Complainant's Service Address. In the Complaint, the Complainant states that she neither tampered with the meter at her service address nor authorized anyone else to tamper with the meter at the Service Address. The Complainant alleges that on an unspecified date in December 2008, the Complainant's daughter provided an unidentified PGW employee access to the gas meter at the Service Address and mistakenly restored the Complainant's gas service. PGW records concerning the Complainant's Service Address show no visit to the Service Address to restore the Complainant's gas service in December 2008.

In response to Interrogatory No. 24, PGW provided information on all other visitations to the block of the Service Address for the entire month of December 2008. PGW identified its employees who conducted visitations to the block of the Service Address for the entire month of December 2008. In Interrogatory No. 30, the Complainant now seeks to obtain the photograph of each of the PGW service persons mentioned in PGW's Response to Interrogatory No. 24.

PGW anticipates that, if obtained, these photographs will be shown to one or more of the Complainant's witnesses so that the witness can identify a PGW employee who purportedly turned the gas on at the Service Address by mistake. The use of the photographs in the manner suggests that the observer pick any person in order to link that PGW employee to the Service Address. The use of the photographs in this manner is inherently bias, as whatever photograph is chosen is immediately linked to the Service Address. The observer need only to pick the photograph that looks vaguely familiar to enable a connection to the Service Address.

Rather than submit all of the photographs of PGW employees who were on the block of the Service Address on any day of December 2008, PGW offers a less suggestive and less bias and consequently fairer identification process that Interrogatory No. 30. PGW will assemble an array of PGW employee photos that include those who were on the block of the Service Address on any day of December 2008. In this way, the observer will be required to recall and select the PGW employee who mistakenly restored service in December 2008 rather than the "shooting fish in a barrel" method implied by Interrogatory No. 30.

**Objection to Interrogatory No. 32**

PGW hereby objects to Interrogatory No. 32, which states:

32. For each of the software programs named in response to 30.c. above, provided for each program a narrative of how information can be changed to entries, including:
- a. How entries can be changed within PGW;
  - b. Who is authorized to make changes within PGW;
  - c. From what locations changes can be made;
  - d. When and within what time parameters changes can be made; and
  - e. The names and titles of persons who can answer in depth questions about the changing of account information within the software programs listed in 30.c. above.

PGW objects to this Interrogatory, as it is overbroad, burdensome, vexatious and beyond the scope of this proceeding, requiring the creation of documents instructing the reader on how to change data in a PGW database.

The instant matter concerns a dispute of liability for discovery of meter tampering and a bill for the unauthorized usage for gas consumed at the Complainant's service address. The Complainant alleges that on an unspecified date in December 2008, the Complainant's daughter provided access to the PGW meter at the service address and restored her gas service. According to PGW's answer, PGW records concerning the Complainant's Service Address show no visit to the Service Address to restore the Complainant's gas service in December 2008.

In the Complaint, the Complainant states that she neither tampered with the meter at her service address nor authorized anyone else to tamper with the meter at the service her address. Her family, including her husband who struggled with drug addiction (now ex-husband, Complaint, Verified Statement of Facts, Paragraph 4) had immediate access to the meter during the period of unauthorized usage.

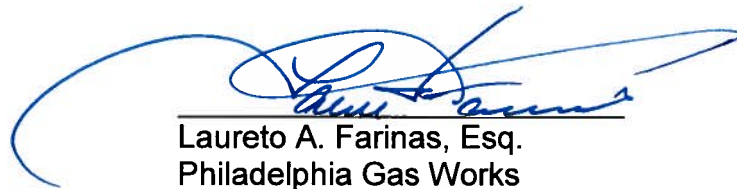
Assuming first that a PGW employee mistakenly restored the Complainant's gas service in December 2008 and then assuming that PGW set about covering up the mistaken restoration of the Complainant's gas service thereafter, Interrogatory No. 32 now seeks for PGW to write a narrative explaining how such a "cover-up" might have

been accomplished in order to facilitate the speculation that a PGW service person turned on her service in error. This information sought has little to no probative value and does not outweigh the highly speculative prejudicial inference that may be made of such information. The Commission should sustain PGW's objection to Interrogatory No. 32.

**WHEREFORE**, for the reasons stated above, PGW respectfully requests that the Commission issue an order sustaining the objections to Interrogatory and Request for Production of Documents Set II, No. 30 and, 32 on the grounds stated herein.

Respectfully submitted,

March 29, 2010



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

# EXHIBIT A



March 17, 2010

Laureto A. Farinas, Esquire  
Philadelphia Gas Works  
Legal Department  
800 West Montgomery Avenue  
Philadelphia, PA 19122

**Re: Ellena Irby v. Philadelphia Gas Works, Docket No. C-2009-2117933**

Dear Mr. Farinas:

Enclosed please find Ellena Irby's Interrogatories and Request for Production of Documents - Set II. Please forward the responses as they become available instead of waiting to forward all responses at the same time. Please provide all responses in writing within the 20 days from the date of service, pursuant to 52 Pa. Code § 5.342. The Certificate of Service is being filed with the Secretary, pursuant to 52 Pa. Code § 5.341(b).

If you have any questions, please call me at 215-981-3777.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thu B. Tran', with a long horizontal flourish extending to the right.

Thu B. Tran, Esq.  
Philip A. Bertocci, Esq.

Energy Unit

Enclosures  
cc: Ellena Irby

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ELLENA IRBY	:	
Complainant	:	
v.	:	Docket No. C-2009-2117933
	:	
PHILADELPHIA GAS WORKS	:	
Respondent	:	

Ellena Irby's Interrogatories and Requests for Production of Documents  
SET II

Pursuant to 52 Pa. Code §§5.341, 5.349, Complainant Ellena Irby, through counsel Community Legal Services, Inc., hereby propounds the following Interrogatories and Requests for Production of Documents to Philadelphia Gas Works (hereinafter "PGW") to be answered by those officers, employees or agents as may be cognizant of the requested facts and/or documents and who are authorized to answer on behalf of the Company. The due date for response to the Interrogatories is twenty (20) days from the date of service.

The following instructions apply to these interrogatories:

1. These interrogatories shall be deemed to be continuing. PGW is obliged to change, supplement and correct all answers to interrogatories to conform to available information, including such information as first becomes available to PGW after the answers hereto are served.
2. The answer period should first restate the question asked and also identify the name and position of the individual who provided the answer.
3. Each interrogatory and request for production shall be answered fully and completely. All information is to be divulged that is within the knowledge, possession,

control, or custody of PGW or may be reasonably ascertained thereby. The term "PGW" or "Company" as used herein includes PGW, its attorneys, agents, employees, or other representatives.

4. As used in these discovery requests, the word "document" or "workpaper" includes, but is not limited to, the original and all copies (regardless of origin and whether or not including additional writing thereon or attached thereto) of memoranda, reports, books, manuals, instructions, directives, records, forms, notes, letters, notice, confirmations, telegrams, pamphlets, notations of any sort concerning conversations, telephone calls, meetings or other communications, bulletins, transcripts, diaries, analyses, summaries, correspondence and enclosures, circulars, opinions, studies, investigations, questionnaires and surveys, and all drafts, preliminary versions, alterations, modifications, revisions, changes, amendments and written comments concerning the foregoing, in whatever form stored or contained in or on whatever medium including computerized memory or magnetic media.

5. As used in these discovery requests, the word "Account" means the Gas Account of Ellena Irby, for gas service provided to 955 S. 6<sup>th</sup> Street.

6. As used in these discovery requests, the word "Complainant" means Ellena Irby.

Ellena Irby v. Philadelphia Gas Works

Docket No. C-2009-2117933

Ellena Irby's Interrogatories and Request for Production of Documents  
Set II

30. Please provide photo quality copies of the photo identification badges of all PGW workers or contactors who were assigned to work on the 900 block of 6<sup>th</sup> Street during the month of December 2008.

31. In reference to PGW's Response to Ellena Irby's Interrogatories and Request for Production of Documents, Set I, No. 25, provide the following regarding how "[t]his error was corrected":

- a. Screen shots of all computer entries that were made to correct this error;
- b. Printouts of screens that are updated resulting from the entries made to correct this error;
- c. The names of all of the software programs involved in the response to 30.a. and b. above;
- d. The names and titles of all persons authorized to correct errors of the nature discussed in PGW's Response to Irby Set I, No. 25; and
- e. Whether a password or other security measure is in place to prevent unauthorized personnel from making changes to computer entries within the software programs listed in 30.c. above; if yes, describe the specific security measure.

32. For each of the software programs named in response to 30.c. above, provide for each program a narrative of how information can be changed to entries, including:

- a. How entries can be changed within PGW;

- b. Who is authorized to make changes within PGW;
- c. From what locations changes can be made;
- d. When and within what time parameters changes can be made; and
- e. The names and titles of persons who can answer in depth questions about the changing of account information within the software programs listed in 30.c. above.

33. In reference to PGW's Response to Ellena Irby's Interrogatories and Request for Production of Documents, Set I, No. 1, Contacts for Account entry on 11/13/2008 stating "11/13/2008, SERV, Anonymous caller called to say that the gas service was on illegally," provide the following:

- a. Explain the meaning of "SERV" and why it is listed under the "type" column;
- b. Full screens for this entry, including entries in columns to the right of those appearing in the printout provided in Response to Irby Set I, No. 1;
- c. The name and job title of the person who made this 11/13/2008 entry;
- d. Any memoranda, policies, manuals, directives or other document providing instructions to PGW personnel regarding the taking of anonymous callers, recording of anonymous calls, data entry of information provided by the caller, and dispatching of PGW personnel in response to such calls; and
- e. Any phone log page or other document recording the caller ID number of this anonymous caller.

34. Explain what, if anything, was the response of PGW to the 11/13/2008 anonymous call. Why were no PGW personnel dispatched to Complainant's address until March 2009?

35. Regarding PGW's Theft Tipline 215-684-6383 listed on PGW's website at webpage <https://www.pgworks.com/index.aspx?NID=314>, provide the following:

- a. How long this Theft Tipline has been in existence; and
- b. Any memoranda, policies, manuals, directives or other document providing instructions to PGW personnel regarding the taking of anonymous calls from the Theft Tipline, recording of these anonymous calls, data entry of information provided by these callers, and dispatching of PGW personnel in response to such calls.

36. In reference to PGW's Response to Ellena Irby's Interrogatories and Request for Production of Documents, Set I, No. 1, Contacts for Account entry on 12/15/2008 stating "12/15/2008, GRT1, acct flagged for crisis grant of \$800 plus city grant of \$403, okay for T/ON," please provide the following:

- a. Explain the meaning of "GRT1" and why it is listed under the "type" column;
- b. Explain the meaning of "T/ON;"
- c. Full screens for this entry, including entries in columns to the right of those appearing in the printout provided in Response to Irby Set I, No. 1;
- d. The name and job title of the person who made this 12/15/2008 entry;
- e. Explain and provide documentation of where and how the \$800 crisis grant is accounted for within PGW records at the present time and whether

PGW has plans to refund those funds to the Department of Public Welfare;  
and

- f. Explain and provide documentation of where and how the \$403 city grant is accounted for within PGW records at the present time and whether PGW has plans to refund those funds to the City of Philadelphia.

37. Provide a key to the abbreviations and acronyms used in the Contacts for Account entries (PGW Response to Irby, Set I, No. 1), including but limited to terms used under the "Type" and "Comments" columns;

Respectfully submitted,



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Thu B. Tran, Esquire  
Philip A. Bertocci, Esquire

Attorneys for Complainant

COMMUNITY LEGAL SERVICES, INC.  
1424 Chestnut Street  
Philadelphia, PA 19102  
215-981-3777

March 17, 2010

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ELLENA IRBY

Petitioner

vs.

PHILADELPHIA GAS WORKS

Respondent

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:  
:  
:  
:  
: Docket No. C-2009-2117933  
:

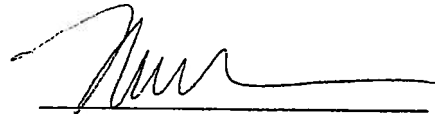
**CERTIFICATE OF SERVICE**

I hereby certify that I have this day, served a copy of Ellena Irby's Interrogatories and Request for Production of Documents - Set II upon the participant, listed below, in accordance with the requirements of 52 Pa.Code §1.54 (relating to service by a participant).

By e-mail and first-class mail:

Laureto A. Farinas, Esquire  
Philadelphia Gas Works  
Legal Department  
800 West Montgomery Avenue  
Philadelphia, PA 19122  
Laureto.Farninas@pgworks.com

Dated this 17<sup>th</sup> day of March, 2010.



Thu B. Tran, Esquire  
Community Legal Services, Inc.  
1424 Chestnut Street  
Philadelphia, PA 19102

**Farinas, Laureto A**

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**From:** Thu Tran [TTran@clsphila.org]  
**Sent:** Tuesday, March 23, 2010 11:13 AM  
**To:** Farinas, Laureto A; Cromley, Anne Marie T  
**Subject:** Irby v. PGW

Dear Laureto and Anne:

Please provide a photo of PGW employee John Colbert. Thank you.

Thu B. Tran, Esq.  
Community Legal Services, Inc.  
1424 Chestnut Street  
Philadelphia, PA 19102  
(215) 981-3777

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You can support CLS through your workplace campaign with the United Way of Southeast Pennsylvania. CLS Donor Choice Number is 2419. Details at <http://www.clsphila.org/Content.aspx?id=604> .

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A TRUE COPY OF THE FOREGOING DOCUMENT, **PHILADELPHIA GAS WORKS' OBJECTION TO THE INTERROGATORY AND REQUEST FOR PRODUCTION OF DOCUMENTS NOS. 30, 31 AND, 32**, UPON THE PARTICIPANTS LISTED BELOW, IN ACCORDANCE WITH THE REQUIREMENTS OF 52 PA CODE §1.54 (RELATING TO SERVICE BY A PARTICIPANT).

Service List:

For Complainant:

Thu B. Tran, Esq.  
Phillip A. Bertocci, Esq.  
1424 Chestnut Street  
Philadelphia, PA 19102

Ms. Ellena Irby  
955 N. 6<sup>th</sup> Street  
Philadelphia, PA 19123

March 29, 2010



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