



Philadelphia Gas Works

800 West Montgomery Avenue, Philadelphia, PA 19122

Danielle Ross, Paralegal
Legal Department
Direct Dial: (215) 684-6862
Fax: (215) 684-6798
E-mail: Danielle.Ross@pgworks.com

June 1, 2010

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

Re: Roosevelt Taylor v. PGW, Docket No. C – 2009 – 2140196

Dear Secretary McNulty:

Pursuant to 52 Pa. Code §5.61, the Philadelphia Gas Works ("PGW") hereby files the original and nine (9) copies of its Exceptions to the Initial Decision issued April 30, 2010, 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 cursive script that reads "Danielle Ross".

Danielle Ross

cc: Anne Marie Cromley (PGW Mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Roosevelt Taylor

v.

Philadelphia Gas Works

:
:
:
:
:
:

Docket No. C – 2009 – 2140196

**PHILADELPHIA GAS WORKS'
REPLY TO COMPLAINANT'S EXCEPTIONS**

Pursuant to 52 Pa. Code §5.535, the Philadelphia Gas Works, ("PGW") hereby files an original and nine (9) copies of its reply to the Complainant's exceptions to the April 30, 2010 Initial Decision, in the above captioned matter (Initial Decision) filed by Complainant's counsel on May 19, 2010.

I. INTRODUCTION

In this matter, the Complainant disputes the PGW charges of \$23,311.55 for unauthorized usage for the period from March 4, 2005 and March 4, 2009 at the Complainant's residence, the property located at 4511 N. 19th Street, Philadelphia, Pennsylvania (Service Address).¹ On or about November 6, 2006 the Complainant filed a complaint disputing the amount charged for unauthorized usage. PGW filed an answer to the Complaint averring that the Complainant's gas service was terminated for nonpayment in September 2002 and that in March 2009, PGW discovered unauthorized usage that the Service Address accomplished through a tampered meter bypass with the use of a flex connector.²

After the grant of a continuance of a hearing scheduled for January 27, 2010, a hearing was held on March 16, 2010, during which it was disclosed to the Commission and PGW that the Complainant did not prepare the Complaint due to his blindness and that his friend, Mr. Keitt (who testified at the hearing) had ask another friend, Ms. Allie Parks to type the Complaint based upon her understanding of what had occurred. Further, Mr. Keitt testified that he signed the Complainant's name to the Complaint

¹ Initial Decision, p. 1

² Respondent, PGW's Answer, Paragraph 4, PGW Exhibit 4, and N.T. pp. 150 - 166

without reading it or reading it to the Complainant. The Complainant testified that at the time of its filing, he did not know the content of the Complaint.³

At the hearing, the parties provided extensive testimony of several witnesses concerning the use of gas and/or of alternative fuels at the Service Address when the gas service had been terminated for nonpayment and the discovery of the unauthorized usage through meter tampering and the use of a flex connector.

On April 30, 2010, the Commission issued the Initial Decision, dismissing the Complaint for the Complainant's failure to carry his burden of proof in this matter. The Initial Decision also disregarded and struck from the record the Complainant's and Mr. Keitt's testimony, as the Complainant violated the Commission's regulations at 52 Pa. Code §§1.35 and 1.36. The Complainant's failure to sign, read or verify the truthfulness of the facts averred in the Complaint merited the striking of the Complainant's and Mr. Keitt's testimony and the dismissal of the Complaint, pursuant to 52 Pa. Code §1.35(c)(2). The Initial Decision also made several findings of fact, inter alia, that PGW discovered meter tampering and unauthorized usage at the Service Address on March 4, 2009, through the disconnection of the meter and the hookup of a flexible connecting pipe to supply gas appliances with unmeasured natural gas.⁴

On May 19, 2010, the Complainant through his counsel, filed exceptions to the Initial Decision. This reply follows.

II. PGW'S REPLY TO EXCEPTIONS

The Complainant's exceptions fail to point to any error in fact or law contained in the Initial Decision. In its exceptions the Complainant appears to argue that the Administrative Law Judge should not have strictly exercised his authority to strike testimony pursuant to 52 Pa. Code §1.35(c) (2) as the Complainant, at the time of the filing of the Complaint, was unrepresented and that failure to appropriately sign and verify the facts should be considered a technical error. Despite the characterization that the Complainant made a series of technical errors in failing to have the Complaint read to him prior to its filing, the Complainant's violation and the actions of Mr. Keitt go the

³ Initial Decision, p. 5; N.T. 42, 63-71 and 73

⁴ Id., pp. 2-4, Findings of Fact.

central purpose of the Commission's regulations at 52 Pa. Code §§1.35 and 1.36. The Complainant's disregard for bringing truthful allegations before this Commission reflects upon the veracity and credibility of all the alleged facts and testimony in the Complainant's case. The Complainant's disregard for bringing the allegations as contained in the Complaint in a manner which is well grounded in fact and in good faith shows a lack of credibility that would extend to the Complainant's testimony on the merits of the case. Even the Complainant's testimony (as well as that of the witness, Mr. Keitt), in the attempt to explain away the reason that false information was filed with this Commission in the complaint, fails to ring true as the actions of reasonable persons attempting to address grievances in the administrative process. For this reason the Complainant's failure to comply with of the Commission's regulations at 52 Pa. Code §§1.35 and 1.36 is not merely a defect in the execution of a verification document, but rather a reflection of the lack of the Complainant's seriousness for the Commission's process.

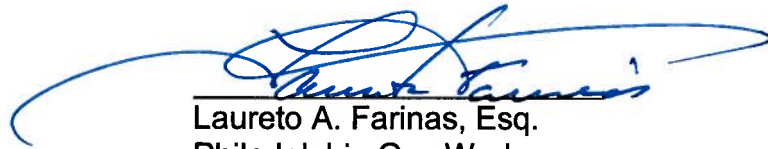
Finally, the Complainant's exceptions include argument over the Complainant's testimony which has been stricken from the record. This argument concerns facts not in evidence and not part of the findings of fact in the Initial Decision. As such, these arguments concerning facts not in evidence should be denied. The record of this proceeding includes evidence on the nature of the bypass. The Initial Decision is supported substantially by record evidence in finding that it is more likely than not, that the Complainant used the gas at the Service Address as a result of the tampering of the meter and the insertion of the flex connector.

III. CONCLUSION

For the reasons stated above, the Commission should deny the Complainant's exceptions to the Initial Decision.

Respectfully submitted,

June 1, 2010



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

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).

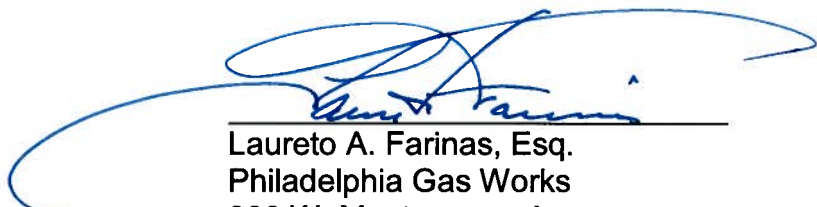
Service List:

For Complainant:

Elizabeth P. Shay, Esq.
Coordinator of the Homeowners Assistance Program
SenorLAW Center
100 South Board Street, Suite 1810
Philadelphia, PA 19110

Mr. Roosevelt Taylor
4511 N. 19th Street
Philadelphia, PA 19140

June 1, 2010



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