



Philadelphia Gas Works

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September 13, 2010

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

Re: Nitin Desai v. PGW, Docket No. F – 2010 – 2195246

Dear Secretary Chiavetta:

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 that reads "Danielle Ross".

Danielle Ross

Enclosure

cc: Mr. Nitin Desai
Anne Marie Cromley (PGW Mail)
Linda Pereira (PGW Mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Nitin Desai

v.

Philadelphia Gas Works

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:
:
:
:

Docket No. F – 2010 – 2195246

NOTICE TO PLEAD

To: Nitin Desai,

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

September 13, 2010



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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Nitin Desai	:	
	:	
v.	:	Docket No. F – 2010 – 2195246
	:	
Philadelphia Gas Works	:	

**Philadelphia Gas Works’
Preliminary Objections and
Motion to Strike Impertinent Matter**

Pursuant to 52 Pa. Code §5.101, the Philadelphia Gas Works (“PGW”) hereby files its Preliminary Objections to the Complaint filed in the above captioned matter on the grounds that the Commission lacks jurisdiction over the subject matter of the Complaint, PGW’s Parts and Labor Plan (PLP) pursuant to 52 Pa. Code §§5.101(a)(1).

In support of its preliminary objection and motion to strike, PGW hereby avers the following:

1. On or about August 20, 2010, the Complainant filed a formal complaint against PGW with the Commission under the above captioned matter, regarding the Parts and Labor Plan for 10861 Academy Road, Philadelphia, Pennsylvania (Subject Property).
2. The Complainant purchased one Parts and Labor Plan on November 03, 2009. This plan covered the house heater, water, and central air conditions system for the second floor of the Subject Property.
3. The Complaint requests relief in the form of a Commission order to have PGW service both sets of appliances at the Subject Property under one Parts and Labor Plan.
4. The Commission lacks jurisdiction over PGW’s PLP as it is considered an unregulated activity.
5. Under the Commission’s Rules of Administrative Practice and Procedure at 52 Pa. Code §5.101, the treatment of preliminary objections is

comparable to that of Pennsylvania civil practice. (See: Order Sustaining Preliminary Objection in *Paul W. Fricker v. PECO Energy Company*, Docket No. C-2009-2094757 (May 21, 2009))

The Commission's regulations provide, in relevant part:

(a) *Grounds.* Preliminary objections are available to parties and may be filed in response to a pleading except motions and prior preliminary objections. Preliminary objections...must state specifically the legal and factual grounds relied upon and be limited to the following:

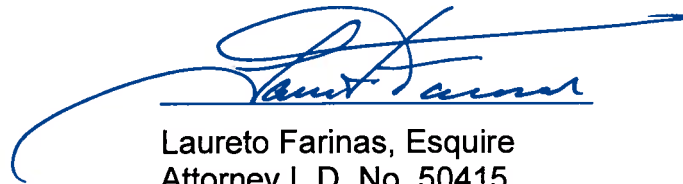
(1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.

6. The Complainant disputes PGW not servicing both the first and second floor under one Parts and Labor Plan because he owns the entire Subject Property and neither floor is rented to a tenant.

Wherefore, PGW respectfully requests that this Commission sustain PGW's preliminary objections to the Complaint and dismiss the Complaint for lack of jurisdiction.

Respectfully submitted,

September 13, 2010



Laureto Farinas, Esquire
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800 W. Montgomery Avenue
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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.

September 13, 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. Nitin Desai
10861 Academy Road
Philadelphia, PA 19154

September 13, 2010



Laureto Farinas, Esquire
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Philadelphia, PA 19122
(215) 684-6982