



Philadelphia Gas Works

800 West Montgomery Avenue, Philadelphia, PA 19122

Danielle Ross, Paralegal

Legal Department

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October 8, 2010

Administrative Law Judge Angela T. Jones
Pennsylvania Public Utility Commission
Suite 4063
801 Market Street
Philadelphia, PA 19107

RE: Gregory Berry v. PGW, Docket No. F-2010-2163390

Dear Administrative Law Judge:

Pursuant to 52 Pa. Code §5.342 (g), the Philadelphia Gas Works ("PGW") hereby files its Motion to compel the Complaint to answer PGW's discovery requests to which the Complainant filed objections on October 4, 2010.

If additional information is needed about this matter, please contact me at my direct-dial number above. Thank you for your assistance.

Sincerely,

A handwritten signature in blue ink that reads "Danielle Ross". The signature is written in a cursive, flowing style.

Danielle Ross

cc: Secretary Rosemary Chiavetta
Mr. Gregory Berry
Anne Marie Cromley

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Gregory Berry

v.

Philadelphia Gas Works

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Docket No. F – 2010 – 2163390

**Philadelphia Gas Works
Motion To Compel the Complainant To Answer Discovery Requests**

Pursuant to 52 Pa. Code §5.342(g), the Philadelphia Gas Works (“PGW”) hereby files its Motion to compel the Complainant to answer PGW’s discovery requests to which the Complainant filed objections on October 4, 2010. PGW respectfully requests that the Administrative Law Judge dismiss each of the Complainant’s objections and order that the Complainant answer each and every discovery request strictly in accordance with 52 Pa. Code §5.342. For ease of review, the PGW Interrogatories and Requests for Production of Documents – Set I, are attached hereto as Exhibit “A.” In support of its motion, PGW avers the following:

Response to the Complainant’s “General Objections”

1. None of PGW’s discovery seeks the production of documents or demands any information that is subject to any applicable privileges.
2. PGW only requests documents and information that is within the Complainant’s possession or may come into the Complainant’s possession in the future.
3. All of PGW’s discovery requests are relevant to the Complainant’s use of PGW’s gas services supplied to at 2326 Reed Street, Philadelphia, Pennsylvania (Service Address) without making a completed application for service.
4. All of PGW’s discovery requests are clear, unambiguous, specifically tailored to specific information, and not burdensome.
5. All of PGW’s discovery requests are within the scope of this proceeding and relevant to the Complainant’s use of gas services at

2326 Reed Street, Philadelphia, Pennsylvania (Service Address)
without making a completed application for service.

6. PGW requests documents and information that are within the Complainant's possession or may come into the Complainant's possession in the future.
7. PGW requests documents and information that are within the Complainant's possession. The continuing nature of the discovery request is necessary and appropriate during the pendency of this proceeding.
8. Pursuant to 52 Pa. Code §5.342 an objection to discovery must be filed within 10 days of the date of service of the discovery. Without such a rule, parties would be able to subvert the discovery process and interfere with the fair disposition of the matter. Furthermore, "relevance" and "admissibility" at a hearing of the matter with respect to obtaining information in discovery is not a bar to the discovery of the information.

Response to the Complainant's "Specific Objections and Responses"

The Objected to discovery request reads,

1. Please provide the following information concerning the Complainant's acquisition of 2326 Reed Street, Philadelphia, Pennsylvania 19146.
 - a. The date Gregory Berry purchased and acquired title,
 - b. The date Gregory Berry took possession,
 - c. The date Gregory Berry made the Service Address his residence.

The Complainant's objection to this discovery request has no basis. The request is relevant to this matter as it seeks information that will confirm dates that address the Complainant's possession and control over the Service Address that will enable the finder of fact to determine when the Complainant's gas use began. The multiple parts to this one question serve to make it specific and not vague. The objection should be dismissed.

The Objected to discovery request reads,

2. Please provide the address of the Complainant, Gregory Berry that was his residence immediately prior to his taking the Service Address, 2326 Reed Street, Philadelphia, Pennsylvania 19146 as his residence.

The Complainant's objection to this discovery request has no basis. The request is relevant to this matter as it seeks information that will confirm dates that address the Complainant's possession and control over the Service Address that will enable the finder of fact to determine when the Complainant's gas use began. The request seeks to establish whether there is any gap in residence. Furthermore, the Complainant's partial answer, "a boarding house in Bryn Mawr" is not responsive to the request, which seek the address of the Complainant's residence immediately prior to the Service Address.

The Objected to discovery request reads,

3. Please provide the following information concerning the configuration and gas usage at the Service Address, 2326 Reed Street, Philadelphia, Pennsylvania 19146
 - a. The total square footage,
 - b. The number of stories/floors (excluding basement)
 - c. The number and description of rooms (living room, bedroom, etc.) on each floor,
 - d. The number and description of gas appliances contained therein,
 - e. The size and/or BTU value of each gas-using appliance.

The Complainant's objection to this discovery request has no basis. The request is relevant to this matter as it seeks information that will provide a basis from which to judge the accuracy of the disputed bills for gas usage. Such information is standard information to be placed in the record of Commission billing disputes. The multiple parts to this one question serve to make it specific as the reader may use the parts to explain the terms "configuration and "gas usage." The objection should be dismissed.

The Objected to discovery request reads,

4. Please provide a listing of utility, utilities-like, subscription or continuing contract services that are or were used at the Service Address from the time Gregory Berry purchased the Service Address to the present. Such services include but are not limited to: [1] natural gas, [2] electricity, [3] telephone (landline), [4] water, [5] cable or satellite television, or radio, or [6] internet service.

The Complainant's objection to this discovery request has no basis. The request is relevant to this matter as it seeks information that will provide a basis from which to judge whether the Complainant knew or should have known of his obligation to apply and pay for gas services he uses. The Complainant's subscription to other continuing contract services (utility or otherwise) reflect on the Complainant's knowledge about paying for gas service. The request is not unduly burdensome. The objection should be dismissed.

The Objected to discovery request reads,

5. For each of the utility, utilities-like, subscription or continuing contract services listed in the response to Interrogatory Set I, No. 3, please provide the date Gregory Berry began each service. If the exact date of the beginning of service is not known, then list the month and year.

The Complainant's objection to this discovery request has no basis. The request is relevant to this matter as it seeks information that will provide a basis from which to judge whether the Complainant knew or should have known of his obligation to apply and pay for gas services he uses. The Complainant's subscription to other continuing contract services (utility or otherwise) reflect on the Complainant's knowledge about paying for gas service while he may have been paying for other services. The request is not unduly burdensome. The objection should be dismissed.

The Objected to discovery request reads,

6. Please provide the following information about the total gross monthly income of Gregory Berry's household at the Service Address. (A household includes all adults and children living at the Service Address and benefitting for utility service.) The "total gross monthly household income" includes but is not limited to the following:
 - a. income from salaries, wages, tips or other compensation,
 - b. pension, retirement or social security benefits,
 - c. Supplemental Security Income (SSI)
 - d. Unemployment compensation benefits,
 - e. Workers' compensation benefits,
 - f. Alimony,
 - g. Support,
 - h. Pubic Assistance, and
 - i. Any other source(s) of income.

The Complainant's objection to this discovery request has no basis. The request is relevant to this matter as it seeks information that will provide a basis from which to provide the Complainant with a payment agreement on any outstanding balance of his account for gas services at the end of this proceeding. The request is not sought in "bad faith." This information is typically requested by the Administrative Law Judge in a billing dispute to enable to the Complainant to pay a large outstanding account balance in installments or to enroll in a low-income program. The multiple parts to this one question serve to make it specific, as the reader may be sure to supply all types of income. The request is not unduly burdensome. The objection should be dismissed.

The Objected to discovery request reads,

7. Please list each of the specific State Statues (section and subsection) that you allege that PGW has violated with respect to your Complaint.

The Complainant's objection to this discovery request has no basis. The request is relevant to this matter as it seeks information that will provide a basis from which PGW may further form its defense and prepare cross-examination of the Complainant at a hearing of this matter. PGW must be able to determine whether any of the facts violate the statutes that the Complainant has in mind.

Without discovery of these, the Complaint is an assemblage of mere bald assertions. This request does not violate 52 Pa. Code §5.321. The objection should be dismissed.

The Objected to discovery request reads,

8. Please list each of the specific Federal Statutes (section and subsection) that you allege that PGW has violated with respect to your Complaint.

The Complainant's objection to this discovery request has no basis. The request is relevant to this matter as it seeks information that will provide a basis from which PGW may further form its defense and prepare cross-examination of the Complainant at a hearing of this matter. PGW must be able to determine whether any of the facts violate the statutes that the Complainant has in mind. Without discovery of these, the Complaint is an assemblage of mere bald assertions. This request does not violate 52 Pa. Code §5.321. The objection should be dismissed.

The Objected to discovery request reads,

9. Please state the specific source of the duty of good faith, honesty, and fair dealing, from which you allege that PGW has violated with respect of your Complaint.

The Complainant's objection to this discovery request has no basis. The request is relevant to this matter as it seeks information that will provide a basis from which PGW may further form its defense and prepare cross-examination of the Complainant at a hearing of this matter. PGW must be able to determine whether any of the facts violate the statutes that the Complainant has in mind. Without discovery of these, the Complaint is an assemblage of mere bald assertions. This request does not violate 52 Pa. Code §5.321. The objection should be dismissed.

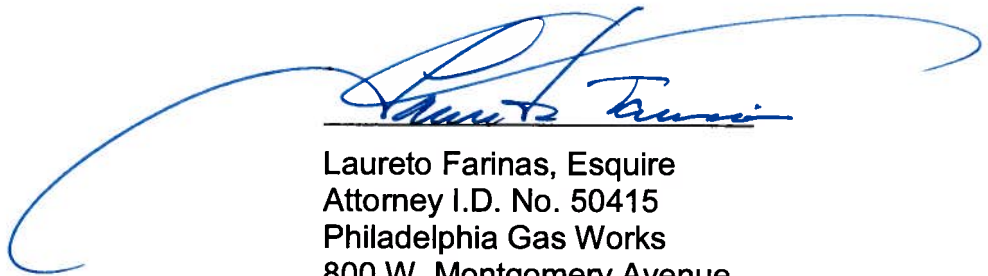
Response to Interrogatory Set – 1, No. 10

In its response to Interrogatory Set – 1, No. 10, PGW assumes that what is meant is that only the Complainant will give testimony on his own behalf.

Whereas, PGW, therefore respectfully requests that the Administrative Law Judge dismiss each of the Complainant's objections and order the Complainant to answer each and every discovery request strictly in accordance with 52 Pa. Code §5.342.

Respectfully submitted,

October 8, 2010



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

EXHIBIT A

Philadelphia Gas Works



800 West Montgomery Avenue, Philadelphia, PA 19122
Laureto A. Farinas, Senior Attorney
Legal Department
Direct Dial: 215-684-6982
FAX: 215-684-6798
E-mail: laureto.farinas@pgworks.com

September 27, 2010

Mr. Gregory Berry
P.O. Box 13291
Philadelphia, PA 19101

RE: Gregory Berry v. PGW, Docket No. F – 2010 – 2163390

Dear Mr. Berry:

Pursuant to 52 Pa. Code §§5.341, 5.349, the Philadelphia Gas Works (PGW), through its counsel, hereby propounds the following Interrogatories and Requests for Production of Documents (generally, "Interrogatories") to Gregory Berry, Complainant in the above captioned matter to which you are to answer or produce copies of documents. The due date for responses to these Interrogatories is twenty (20) days from the date of service.

If you need additional information about this matter, please contact me at my direct-dial number above. Thank you.

Sincerely,


Laureto Farinas

cc: Service List

Linda Pereira (Via e-mail)
Anne Marie Cromley (Via e-mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Gregory Berry

v.

Philadelphia Gas Works

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Docket No. F – 2010 – 2163390

**Philadelphia Gas Works
Interrogatories and Requests for Production of Documents
Set I**

Pursuant to 52 Pa. Code §§5.341, 5.349, the Philadelphia Gas Works (PGW), through its counsel, hereby propounds the following Interrogatories and Requests for Production of Documents (generally, "Interrogatories") to Gregory Berry, Complainant in the above captioned matter (hereinafter "Berry") to which you are to answer or produce copies of documents. The due date for responses to these Interrogatories is twenty (20) days from the date of service.

The following instructions apply to these Interrogatories:

1. These interrogatories shall be deemed continuing. That is, Berry is obliged to change, supplement, and correct all answers to the Interrogatories to conform to available information; including such information as first becomes available to Berry after the answers hereto are served.
2. The answer should first restate the question asked and also identify the name of the person who provided and/or prepared the answer.
3. Place the answer to each numbered question on separate sheet of paper. Produced documents should be listed and clearly identified.
4. Each of the Interrogatories shall be answered fully and completely. All information is to be divulged that is within your/Berry's knowledge, possession, control or custody or may be reasonably ascertained by you. The Berry as used herein includes you, your attorneys, agents, employees, or other representative.
5. As used in these Interrogatories, the following terms shall have the meanings provided below, unless the context clearly requires otherwise:

- a. **"PGW Account"** means the PGW gas account of Gregory Berry, and all charges attributed to such PGW Account, at the property located at 2326 Reed Street, Philadelphia, Pennsylvania 19146.
- b. **"Service Address"** means the property located at 2326 Reed Street, Philadelphia, Pennsylvania 19146.
- c. **"Complainant"** means Gregory Berry who owns the Service Address.
- d. **"Document"** or **"work paper"** means and 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, notices 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, surveys, drawings, graphs, charts, and photographs and all drafts, preliminary versions, alterations, modifications revisions, changes, amendments and written comments concerning the foregoing in whatever form stored or contained in or whatever medium including computerized memory or magnetic media.
- e. **"Record"** means all documents or wok papers in the possession, custody, or control of, or which may be reasonably ascertained or acquired by Berry.

**BEFORE THE
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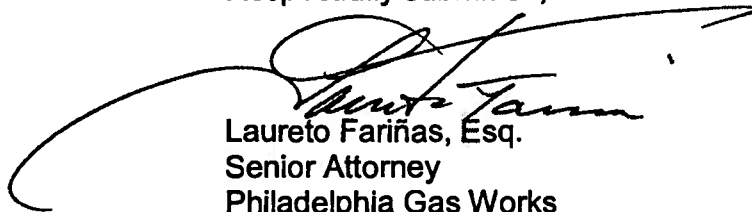
Docket No. F – 2010 – 2163390

Philadelphia Gas Works
Interrogatories and Requests for Production of Documents
Set I

1. Please provide the following information with confirming documentation concerning the Complainant's acquisition of 2326 Reed Street, Philadelphia, Pennsylvania 19146.
 - a. The date Gregory Berry purchased and acquired title,
 - b. The date Gregory Berry took possession,
 - c. The date Gregory Berry made the Service Address his residence.
2. Please provide the address of Complainant, Gregory Berry with confirming documentation that was his residence immediately prior to his taking the Service Address, 2326 Reed Street, Philadelphia, Pennsylvania 19146 as his residence.
3. Please provide the following information concerning the configuration and gas usage at the Service Address, 2326 Reed Street, Philadelphia, Pennsylvania 19146
 - a. The total square footage,
 - b. The number of stories/floors (excluding basement)
 - c. The number and description of rooms (living room, bedroom, etc.) on each floor,
 - d. The number and description of gas appliances contained therein,
 - e. The size and/or BTU value of each gas-using appliance.
4. Please provide a listing of utility, subscription, or continuing contract services that are or were used at the Service Address from the time Gregory Berry purchased the Service Address to the present. Such services include but are not limited to: [1] natural gas, [2] electricity, [3] telephone (landline), [4] water, [5] cable or satellite television, or radio, or [6] internet service.
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6. Please provide the following information about the total gross monthly income of Gregory Berry's household at the Service Address. (A household includes all adults and children living at the Service Address and benefitting for utility service.) The "total gross monthly household income" includes but is not limited to the following:
 - a. income from salaries, wages, tips or other compensation,
 - b. pension, retirement or social security benefits,
 - c. Supplemental Security Income (SSI)
 - d. Unemployment compensation benefits,
 - e. Workers' compensation benefits,
 - f. Alimony,
 - g. Support,
 - h. Public Assistance, and
 - i. Any other source(s) of income.
7. Please list each of the specific State (section and subsection) that you allege that PGW has violated with respect to your Complaint.
8. Please list each of the specific Federal Statutes (section and subsection) that you allege that PGW has violated with respect to your Complaint.
9. Please state the specific source of the duty of good faith, honesty, and fair dealing, from which you allege that PGW has violated with respect of your Complaint.
10. Please list the name, address, and title of each person you intend to call as a witness at the hearing of your complaint (including yourself). Please summarize the purpose and general content of the testimony of each person who will appear as a witness in the presentation of your case.

Respectfully submitted,



Laureto Fariñas, Esq.
Senior Attorney
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
(215) 684-6982

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Gregory Berry

v.

Philadelphia Gas Works

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Docket No. F – 2010 – 2163390

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A TRUE COPY OF THE FOREGOING DOCUMENT, PHILADELPHIA GAS WORKS INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS, Set I (Questions 1 through 10) IN THE ABOVE REFERENCED MATTER UPON THE PARTICIPANTS LISTED BELOW, IN ACCORDANCE WITH THE REQUIREMENTS OF 52 PA CODE §1.54 (RELATING TO SERVICE BY A PARTICIPANT) AND 52 PA CODE §§5.341, 5.349.

Service List:

For Complainant:

Mr. Gregory Berry
P.O. Box 13291
Philadelphia, PA 19101

(By Regular Mail)

Mr. Gregory Berry
2326 Reed Street
Philadelphia, PA 19146

(By FedEx)

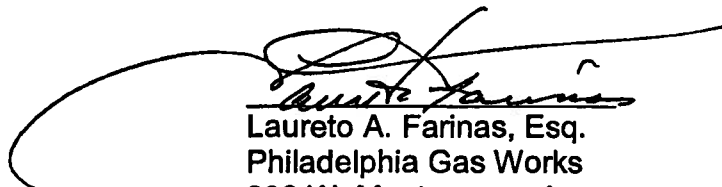
gregoryberry@gmail.com

(by e-mail)

CERTIFICATE OF SERVICE (only)

(Filed with Commission and with a copy to Administrative Law Judge Angela T. Jones)

September 27, 2010


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



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

September 28, 2010

Mr. Gregory Berry
P.O. Box 13291
Philadelphia, Pa 19101

VIA E-MAIL AND REGULAR MAIL

Re: Gregory Berry vs. PGW, Docket No. F – 2010 – 2163390

Dear Mr. Berry:

Enclosed is the correction page containing interrogatory number seven.

If additional information is required, please do not hesitate to contact the undersigned. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Danielle Ross', written in a cursive style.

Danielle Ross

Enclosure

cc: Linda Pereira
Anne Cromley

6. Please provide the following information about the total gross monthly income of Gregory Berry's household at the Service Address. (A household includes all adults and children living at the Service Address and benefitting for utility service.) The "total gross monthly household income" includes but is not limited to the following:
 - a. income from salaries, wages, tips or other compensation,
 - b. pension, retirement or social security benefits,
 - c. Supplemental Security Income (SSI)
 - d. Unemployment compensation benefits,
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 - f. Alimony,
 - g. Support,
 - h. Public Assistance, and
 - i. Any other source(s) of income.
7. Please list each of the specific State Statutes (section and subsection) that you allege that PGW has violated with respect to your Complaint.
8. Please list each of the specific Federal Statutes (section and subsection) that you allege that PGW has violated with respect to your Complaint.
9. Please state the specific source of the duty of good faith, honesty, and fair dealing, from which you allege that PGW has violated with respect of your Complaint.
10. Please list the name, address, and title of each person you intend to call as a witness at the hearing of your complaint (including yourself). Please summarize the purpose and general content of the testimony of each person who will appear as a witness in the presentation of your case.

Respectfully submitted,

Laureto Fariñas, Esq.
Senior Attorney
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
(215) 684-6982

CERTIFICATE OF SERVICE

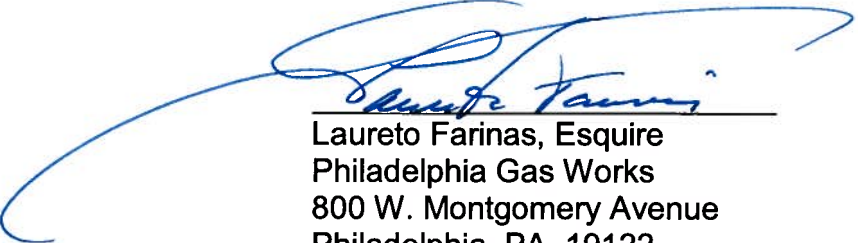
I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A TRUE COPY OF THE FOREGOING DOCUMENT UPON THE PARTICIPANTS LISTED BELOW, IN ACCORDANCE WITH THE REQUIREMENTS OF 52 PA CODE §1.54 (RELATING TO SERVICE BY A PARTICIPANT).

Service List:

For Complainant:

Mr. Gregory Berry
P.O. Box 13291
Philadelphia, PA 19101

October 8, 2010



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