



**National Fuel**

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Christopher M. Trejchel  
*Assistant General Counsel*

October 25, 2010

VIA ELECTRONIC FILING & U.S. MAIL  
Ms. Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

RE: Paul Smith v.  
National Fuel Gas  
Distribution Corporation  
Docket No. C-2010-2203000

Dear Secretary Chiavetta:

Enclosed please find National Fuel Gas Distribution Corporation's Notice to Plead and Preliminary Objections regarding the above-referenced Complaint.

Very truly yours,

Christopher M. Trejchel  
(814) 871-8060

CMT/cjc

Enclosures

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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PAUL SMITH,

Complainant,

v.

NATIONAL FUEL GAS  
DISTRIBUTION CORPORATION,

Respondent.

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**NOTICE TO PLEAD**

DOCKET NO. C-2010-2203000

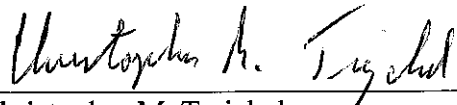
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**NOTICE TO COMPLAINANT TO ANSWER OR RESPOND**

**TO: PAUL SMITH**

**TAKE NOTICE:**

1. Pursuant to 52 Pa. Code § 5.101(f), you have 10 days from the date of service to respond to these Preliminary Objections.
2. Your answer must be in writing and in numbered paragraphs to correspond with the Preliminary Objections, and address the legal and factual grounds relied on.
3. Failure to respond to these Preliminary Objections may constitute an admission on your part of any factual assertions made herein.
4. Your answer should be filed with the **Secretary of the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265** (original and 3 copies).



Christopher M. Trejchel  
Pa. I.D. No. 84513  
Attorney for National Fuel Gas  
Distribution Corporation  
P.O. Box 2081  
Erie, PA 16512

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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PAUL SMITH,	:	
	:	<b>PRELIMINARY OBJECTIONS</b>
Complainant,	:	
	:	
v.	:	
	:	
NATIONAL FUEL GAS	:	
DISTRIBUTION CORPORATION,	:	DOCKET NO. C-2010-2203000
	:	
Respondent.	:	

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**PRELIMINARY OBJECTIONS OF  
NATIONAL FUEL GAS DISTRIBUTION CORPORATION**

AND NOW COMES, National Fuel Gas Distribution Corporation (“Respondent”), by and through its undersigned counsel, and files these Preliminary Objections to the Formal Complaint of Paul Smith (“Complainant”) pursuant to 52 Pa. Code § 5.101 and in support thereof avers as follows:

1) The Formal Complaint fails to conform to Commission regulations, specifically 52 Pa. Code § 56.172.

a) On January 15, 2010, the Complainant filed an informal complaint with the Pa. Public Utility Commission Bureau of Consumer Services (“BCS”) at BCS No. 2638720, in which he alleged: “BILLING DISPUTE CUST STATES CO APPLIED HIS FIANCE ACCT BALANCE OF \$2,184.93 TO HIS ACCT. CUST STATES THEY WERE NOT TOGETHER WHEN THE BILL ACCUMULATED. CUST FEELS HE SHOULDN’T BE RESP FOR HER BILL.” (see Exhibit A attached hereto)

b) Respondent’s stated position to the BCS was that the Complainant was responsible for the bill. (see Exhibit B attached hereto)

c) On June 11, 2010, the BCS issued a decision regarding BCS No. 2638720 in which it concluded that the “OLD BALANCE CAN BE MOVED TO THE CURRENT ACCT.” (see Exhibit C attached hereto) Hence, BCS agreed with Respondent’s position that the Complainant was responsible for the full balance.

d) The Complainant failed to appeal the BCS decision issued at BCS No. 2638720 by filing a formal complaint with the Commission by July 1, 2010, as required under 52 Pa. Code § 56.172, which states: “Within 20 days of notification or mailing of the informal complaint report **and not thereafter except for good cause**, an appeal from the report of the Consumer Service Representative may be initiated by means of a written intention to appeal.” (emphasis added)

e) Rather than filing an appeal (via formal complaint) to the decision in BCS No. 2638720, the Complainant filed another informal complaint on July 16, 2010, at BCS No. 2712919, in which Complainant requested a payment arrangement on his \$3,220.42 in arrears. In this second informal complaint, the Complainant does not question the BCS’s June 2010 decision at BCS No. 2638720 where the BCS held him responsible for the full balance and dismissed Complainant’s arguments that a portion of the bill was solely attributable to his wife.

f) The BCS dismissed Complainant’s informal complaint filed at BCS No. 2712919 on August 14, 2010.

g) No appeal was filed by Complainant within 20 days of the BCS issuing its decision in BCS No. 2712919.

h) On October 2, 2010, Complainant mailed a formal complaint to the Commission which was received by the Commission on October 4, 2010, and assigned the above-referenced docket number.

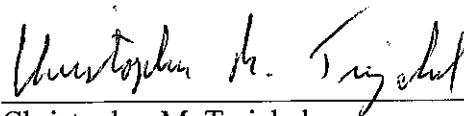
i) The sole issue raised by Complainant in the Complaint is exactly the same issue that he raised in his informal complaint filed at BCS No. 2638720. However, the BCS already held on June 11, 2010, that Complainant was responsible for the \$2,184.93 transferred to his account.

j) A total of 113 days passed from the time the BCS issued its ruling on June 11, 2010, and the time the Complainant filed his Complaint on October 2, 2010, which effectively is an untimely appeal of the June 2010 BCS decision. The Complainant's lengthy delay in appealing the BCS decision is without good cause and is an inexcusable procedural defect that resulted in Complainant's waiver of his right to appeal and warrants dismissal of the present Complaint by the Commission. Complainant and his spouse are obviously experienced when it comes to filing complaints with the Commission as they filed another informal complaint on July 16, 2010, at BCS No. 2712919 in an effort to stay termination of their natural gas service. In fact, Complainant and/or his spouse have filed at least 11 complaints (both informal and formal) with the Commission since 2005.<sup>1</sup> Such a history of filings with the Commission is indicative of their depth of experience and knowledge of Commission rules and procedures.

k) Because Complainant's present Complaint raises the exact same issue as was raised at BCS No. 2638720, it is effectively an attempt to appeal the final ruling of the BCS in favor of Respondent. Because this appeal was untimely filed well after the 20-day time limit for filing an appeal set forth in 52 Pa. Code § 56.172, the Complainant has waived his right to appeal that BCS decision and therefore the present Complaint should be dismissed by the Commission.

WHEREFORE, National Fuel Gas Distribution Corporation requests that the Commission grant these Preliminary Objections and dismiss the Complaint.

Respectfully submitted,



Christopher M. Trejchel  
Pa. I.D. No. 84513  
Attorney for National Fuel Gas  
Distribution Corporation  
P.O. Box 2081  
Erie, PA 16512

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<sup>1</sup> See, BCS Nos. 1759868, 1907393, 2084731, 2310614, 2402182, 2583919, 2615844, 2638720, 2712919; and Formal Complaint Docket Nos. C-20066630 and C-2008-2057803.

**PA PUBLIC UTILITY COMMISSION  
BUREAU OF CONSUMER SERVICES  
CUSTOMER COMPLAINT**

<b>BCS Number:</b>	2638720	<b>Case Opened On:</b>	2010-01-15
<b>Investigator:</b>	BOMGARDNER, HARRY	<b>Service Class:</b>	RESIDENTIAL
<b>Contact Reason:</b>	BILLING DISPUTES (# 18)		
<b>Termination Date:</b>		<b>Case Origin:</b>	TELEPHONE
<b>Account Number:</b>	668072908	0063 - NFG (NATIONAL FUEL GAS DISTRIBUTION CORP)	
<b>Customer Name:</b>	SMITH, PAUL	<b>Interviewer:</b>	ABBOTT, CARLTON
<b>Service Address:</b>	1018 CRANBERRY ST	<b>Mailing Address:</b>	
	ERIE , PA 16502		
<b>Telephone (Hm):</b>		<b>Telephone (Wk):</b>	
<b>Caller Name:</b>		<b>Prior Case:</b>	2615844
<b>Referred to USP?</b>	N	<b>Arrearage on Notice:</b>	
<b>Family Size:</b>	Adults: 0	<b>Children:</b>	0
<b>Gross Income:</b>		<b>Ages:</b>	

**Problem:** BILLING DISPUTE CUST STATES CO APPLIED HIS FIANCE ACCT BALANCE OF \$2184.93 TO HIS ACCT. CUST STATES THEY WERE NOT TOGETHER WHEN THE BILL ACCUMULATED. CUST FEELS HE SHOULDN`T BE RESP FOR HER BILL.

**Company Position:** 01/15/2010 LCC. CUST IS RESP FOR BILL ALSO.

**Misc. Information**

**Other Related Information/Disputes:**

<b>PUC Fax Nbr:</b>	717 7876641	<b>Investigator Phone:</b>	717 7724166
<b>Times Sent:</b>	1	<b>Times Faxed:</b>	0

Exhibit A

## FULL REPORT TO THE RTU

<b>BCS Number:</b>	2638720	<b>Date Received:</b>	2010-01-15
<b>First Name:</b>	paul/wendy	<b>Last Name:</b>	smith
<b>Account Number:</b>	668072908	<b>Universal Service Referral:</b>	Y
<b>Account Balance:</b>	2902.49	<b>Payment Due Date:</b>	2010-02-02
<b>Is Service On?</b>	Y	<b>Termination Date:</b>	
<b>Account Type:</b>	RESIDENTIAL	<b>Heating Account?</b>	Y
<b>Budget Amount:</b>	79	<b>CAP Payment Amount:</b>	
<b>Catch Up Amount:</b>	353.15		
<b>Home Phone:</b>		<b>Work Phone:</b>	
<b>Service Address:</b>	1018 cranberry st. 2fl erie pa 16502	<b>Mailing Address:</b>	
<b>Family Size:</b>	4	<b>Adults:</b>	2
		<b>Children:</b>	2
<b>Total Gross Income:</b>	1212	<b>Date Obtained:</b>	2009-11-04

**Income Sources:**      **Source:** EMPLOYMENT      **Amt:** 1212

<b>Last 6 Payments:</b>	<b>Date:</b> 2010-01-04	<b>Amt:</b> 117	LIHEAP
	<b>Date:</b> 2008-11-19	<b>Amt:</b> 300	Crisis
	<b>Date:</b> 2008-11-05	<b>Amt:</b> 762	LIHEAP
	<b>Date:</b> 2008-04-16	<b>Amt:</b> 500	Crisis

<b>Prior Agreements:</b>	<b>Type:</b> st 2615844	<b>Date:</b> 2009-12-23
	<b>Level:</b> 1	<b>Balance:</b> 2790.79
	<b>Income:</b> 1212	<b>Expenses:</b>
	<b>Begin Date:</b>	
	<b>Terms:</b> Case Dismissed per 1405C - CAP Arrears in balance.	

<b>Type:</b> settlement	<b>Date:</b> 2009-10-13
<b>Level:</b> 1	<b>Balance:</b> 533.41
<b>Income:</b> 991	<b>Expenses:</b> 1635
<b>Begin Date:</b> 2009-11-29	
<b>Terms:</b> \$100 by 11/5/09; then Budget + \$23	

<b>Type:</b> st 2583919	<b>Date:</b> 2009-08-28
<b>Level:</b> 1	<b>Balance:</b> 2663.05
<b>Income:</b>	<b>Expenses:</b>
<b>Begin Date:</b>	
<b>Terms:</b> Verbal Close - Paul Smith needs to provide an updated lease, without Wendy listed. Co will then contact landlord to verify.	

<b>Type:</b> C-2008-2057803	<b>Date:</b> 2009-06-05
<b>Level:</b>	<b>Balance:</b> 2184.93
<b>Income:</b>	<b>Expenses:</b>
<b>Begin Date:</b>	

Formal Complaint - Final Order - Complaint dismissed for the failure to

Exhibit B

**Terms:** satisfy the burden of proof.

**Type:** st 2402182                      **Date:** 2008-06-26  
**Level:** 1                                **Balance:** 1683.63  
**Income:** 12                            **Expenses:**  
**Begin Date:**

**Terms:** LIRA catch-up \$691.99 + \$69 to restore service. \*\* Service restored 7/11/08 with Medical \*\* Canceled from LIRA \*\*

**Type:** st 2310614                      **Date:** 2008-02-25  
**Level:** 1                                **Balance:** 1499.99  
**Income:** 209                           **Expenses:**  
**Begin Date:**

**Terms:** Case Dismissed 1405(C) - CAP Reviewed / Valid / No Decision

**Type:** C-20066630                      **Date:** 2007-10-30  
**Level:**                                   **Balance:** 1329.99  
**Income:**                               **Expenses:**  
**Begin Date:**

**Terms:** Formal Complaint - Final Order - Complaint Dismissed.

**Type:** LIRA                               **Date:** 2006-10-30  
**Level:** 1                                **Balance:** 944.41  
**Income:** 612                           **Expenses:**  
**Begin Date:** 2006-12-07

**Terms:** Accepted back into LIRA to settle Formal Complaint.

**Type:** st 2084731                      **Date:** 2006-06-19  
**Level:** 1                                **Balance:** 651.99  
**Income:**                               **Expenses:**  
**Begin Date:** 2006-08-13

**Terms:** CAP Review - correct discount - dismiss 1405(C). Customer needs \$486.24 by 7/5/06; then LIRA Budget + \$15 per month.

**Date of last customer contact prior to current BCS complaint:** 2010-01-15

**Did the customer accurately state the company position at last contact?** N

**What did the company tell the customer at the time of last contact:**

Wendy (Wilson) Smith had gas service at 1259 E. 28th St., Erie, PA - balance owed \$2184.93. \$757.44 of the balance is LIRA Arrears. \*\*\* see prior case - # 2583919 \*\*\* On 8/31/09, the landlord for current address, stated Paul Smith now only one on lease - crossed off Wendy's name. Service established for Paul Smith on 9/3/09. Wendy listed in household on prior BCS case 11/4/09. \$117 LIHEAP payment - 1/4/10 - approved under Wendy Wilson. On 1/15/10, Paul Smith contacted the company - requesting to be on the LIRA Program. The representative explained prior account, under Wendy Wilson, previously on the LIRA Program.

**Company's final position to the BCS:**

\$757.44 in LIRA Arrears. \$1958.08 (balance accrued since after accepted into LIRA) is needed to be re-considered for the LIRA Program. Wendy (Wilson) Smith

responsible for \$2184.93 of the balance owed. Paul and Wendy Smith jointly responsible for \$717.56. \$350 by 2/2/10; then Budget + \$107.

**Prepared By:**

**Name:** linda watkins  
**Phone#:** 814 8718646  
**Sent:** 1

**Date:** 2010-01-18  
**Fax#:**  
**Faxed:** 0

**Attachments:**

**PA PUBLIC UTILITY COMMISSION  
BUREAU OF CONSUMER SERVICES  
CUSTOMER DECISION**

<b>BCS Number:</b>	2638720	<b>Case Closed On:</b>	2010-06-11
<b>Investigator:</b>	MEURON, PAUL		
<b>Account Number:</b>	668072908	<b>0063 - NFG (NATIONAL FUEL GAS DISTRIBUTION CORP)</b>	
<b>Customer Name:</b>	SMITH, PAUL		
<b>Service Address:</b>	1018 CRANBERRY ST	<b>Total Balance:</b>	2902.49
	ERIE , PA 16502	<b>Date of Account Balance:</b>	2010-01-18
<b>Decision Issued?</b>	Y	<b>Violation:</b>	NO
<b>Oral/Written:</b>	W	<b>Chap. 56/64 Other:</b>	
<b>Heading Date:</b>	2010-06-11	<b>Section/Rule:</b>	

**Resolution:** DECISION ISSUED.....THE OLD BALANCE CAN BE MOVED TO CURRENT ACCT

**Letter Description:** EGW PAR W/COMPLEX DISPUTE/NO PAYMENT AGREEMENT/LEVEL 2-4

**PAR Description:**

<b>No. 2's (OFFS) - To have Service Restored Pay:</b>	0.00	
<b>No. 3's (REMEDI) - To Keep Service on Pay:</b>	0.00	<b>By:</b>
<b>Terms: Beginning:</b>		
<b>Special Budget or Optional Payment Amount:</b>	0.00	
<b>Regular Budget Amount:</b>	79.00	
<b>Plus Payment Toward Arrears:</b>	0.00	
<b>Final Bill Monthly Payment:</b>	0.00	
<b>Current Bill Monthly Payment:</b>	0.00	
<b>End of Month Payment:</b>	0.00	
<b>Billing Date:</b>		
<b>Reconnect Amt:</b>	0	
<b>Payment Amt:</b>	0.00	

<b>PUC Fax Nbr:</b>	717 7876641		
<b>Times Sent:</b>	1	<b>Times Faxed:</b>	0

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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PAUL SMITH,

Complainant,

v.

NATIONAL FUEL GAS  
DISTRIBUTION CORPORATION,

Respondent.

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**PROOF OF SERVICE**

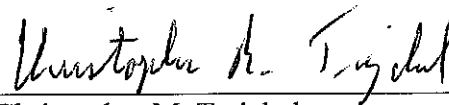
DOCKET NO. C-2010-2203000

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I hereby certify that I have this day served a true copy of the foregoing document upon the participant, listed below, in accordance with the requirements of § 1.54 (relating to service by a participant).

Paul Smith  
1018 Cranberry Street  
Erie, PA 16502

NATIONAL FUEL GAS  
DISTRIBUTION CORPORATION



Christopher M. Trejchel  
Pa. I.D. No. 84513  
Attorney for National Fuel Gas  
Distribution Corporation  
P.O. Box 2081  
Erie, PA 16512

Dated: 10/25/2010