

Philadelphia Gas Works



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November 9, 2010

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Thea Jones v. Philadelphia Gas Works, Docket No. F – 2009 – 2138367

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 October 20, 2010, in above captioned matter.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Laureto Fariñas", is written over a large, sweeping blue circular flourish that extends to the left and then curves back under the signature.

Laureto Fariñas

cc: Service List
Anne Marie Cromley

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Thea Jones

v.

Philadelphia Gas Works

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Docket No. F – 2009 – 2138367

**EXCEPTIONS OF THE
PHILADELPHIA GAS WORKS TO THE INITIAL DECISION**

Pursuant to 52 Pa. Code §5.535, PGW hereby files its Exceptions to the Initial Decision in the above captioned matter, dated October 20, 2010.

I. Introduction

This matter involves gas service to the Complainant's address, 6417 Clearview Street, Philadelphia, Pennsylvania (Service Address). The Complainant maintains, *inter alia*, that her gas bill of January 25, 2008, which is for usage for the period from December 27, 2007 through January 24, 2008, for \$337.96, is incorrect and excessive.¹ The Complainant states that she was not home for part of that billing period and, that a gas leak on the Complainant's block may have been the reason for the higher amount on the Complainant's gas bill.²

On January 4, 2008, in the evening, a resident at 6419 Clearview Street (the Complainant's neighbor) called PGW to report the order of gas PGW arrived on the 6400 block of Clearview Street. In response to that leak call, PGW arrived at the 6400 block of Clearview Street at 12:30 a.m. on January 5, 2008.³ After testing the houses on the block, PGW found a leak in the front foundation wall at 6319 Clearview Street and the presence of gas outside of the front foundation walls of the 6417 Clearview Street (the Complainant's Service Address) and 6415 Clearview Street.⁴ PGW terminated gas service to the Service Address, pursuant to PGW Gas Tariff §6.1 only a few hours after the initial leak call and the extensive testing procedure to locate and stop the gas leak.

¹ Complaint, Paragraph 4

² Complaint, Paragraph 4

³ PGW Exhibit – 5 (September 22, 2010) Response to Question 1

⁴ PGW Exhibit – 5 (September 22, 2010) Response to Question 1

After PGW made the block secure, several PGW crews remained at the Clearview site, closing repair operations until 3:40 a.m. on January 6, 2008.⁵

The Commission scheduled and held an Initial Hearing on August 17, 2010, during which the Complainant presented testimony and introduced no exhibits. PGW presented one witness, Anne Marie Cromley, Senior Customer Review Officer with four (4) exhibits. By letter to PGW dated September 1, 2010, the Administrative Law Judge (ALJ) requested clarification of Ms. Cromley's testimony of pages 44 and 45 of the transcript concerning the leak call. PGW responded with PGW Exhibit – 5, providing direct responses that reflected the care and processes with which PGW workers methodically addressed and made safe, the gas leak called in by the Complainant's neighbor at 6419 Clearview Street.⁶

The Commission's Office of Administrative Law Judge issued the Initial Decision on October 20, 2010, dismissing/denying the relief requested in the Complaint against PGW, as the Complainant failed to carry her burden of proof, showing part of the above captioned Complaint against PGW.⁷ The Initial Decision also found that in responding to the leak call on the 6400 block of Clearview Street, PGW "waited until the next day to shut off the gas."⁸ Finding in this way the Initial Decision found that PGW's inaction deserved a Civil Penalty of \$500 as PGW's response to a gas leak call was in violation of the Public Utility Code.⁹ These exceptions follow.

II. Exception

PGW takes exception to Conclusion of Law, Paragraph 3 as PGW did take immediate action to shut off gas service when the leak occurred.

The Initial Decision misinterprets the time sequence of PGW's addressing of the gas leak call. In PGW Exhibit – 5, PGW attempted to illustrate the methodology by which PGW workers addressed and made safe, the gas leak. Because the ALJ's questions in the letter dated September 1, 2010, seemed to be concerned with the

⁵ PGW Exhibit – 5 (September 22, 2010) Response to Question 1

⁶ PGW Exhibit – 5 (September 22, 2010) Response to Question 1

⁷ Initial Decision, p. 11

⁸ Initial Decision, p. 7

⁹ 66 Pa. C.S. §§2404 and 3301

function of the PGW crews, PGW's responses did not emphasize the timing of the arrival of the PGW crews relative to the time of the leak call.

In PGW Exhibit – 5, Response to No. 1, PGW mentions that in response to the leak call, PGW assigned two Field Service Department (FSD) Technicians to investigate the leak call. These technicians investigated the presence of gas on the block. PGW Exhibit – 5 also states that PGW dispatched four PGW Distribution Crews, the first of which arrived on the 6400 block of Clearview at 12:30 a.m. only ½ hour into the next day. Additional PGW records would show that the leak call was in the mid-evening of January 4, 2008, and that the FSD Technicians were present within an hour after the call. As the ALJ's questions seemed concern the actual finding and fixing of the gas leak, PGW's response focused upon the PGW Distribution Department crew's arrival and completion of the shutting off the gas service, which occurred after midnight (January 5, 2008).¹⁰

Despite the finding of the Initial Decision, PGW was not inactive from its arrival on the block. PGW Field Service technicians shut the gas off inside the properties at the meter after the presence of gas was discovered. These shut offs at the meters occurred at night between January 4 and January 5 2008, between the hours of 10:30 pm and 12:30 am. PGW followed its leak response procedures properly and quickly, providing adequate service. When asked the question concerning the time that PGW temporarily turned off gas service, the response reflects the completion of that process. PGW provided adequate, safe, and reasonable service.¹¹

The Initial Decision finds guidance in the application of Rosi v. Bell-Atlantic Pennsylvania, Inc. and Sprint Communications Company, L.P.¹² Applying the guidelines in that case, the Initial Decision states that PGW had not been prompt in shutting off the gas even though it know that a gas leak is dangerous. PGW's motivation for safety in this regard is a relevant factor in PGW's responses contained in PGW Exhibit - 5. As stated above PGW Exhibit – 5 indicates that PGW dispatched four PGW Distribution Crews, the first of which arrived on the 6400 block of Clearview at

¹⁰ PGW Exhibit – 5 (September 22, 2010) Response to Question 1

¹¹ Tr. Pp. 44-45

12:30 a.m. only ½ hour into the next day. Consequently, PGW's actions do not merit a fine.

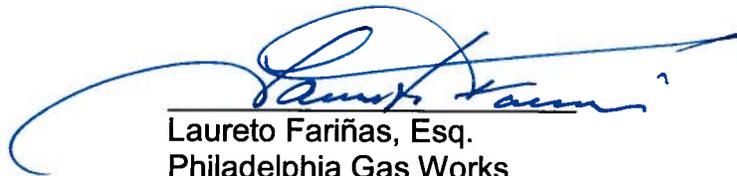
Finally, as PGW is a municipally owned gas utility, all of its operating costs are included in the rates charged to ratepayers. As such, PGW ratepayers would shoulder the cost of the fine.

III. Conclusion

For the foregoing reasons, the Commission should reverse the finding No. 3 in the Initial Decision that PGW's actions in addressing the gas leak were unreasonable and created danger to the public. PGW respectfully requests that the Commission find that PGW acted reasonably and provided adequate, safe, and reasonable service to the 6400 block of Clearview Street in investigating and securing the leak that occurred on January 4, 2008.

Respectfully submitted,

November 9, 2010

A handwritten signature in blue ink, appearing to read "Laureto Fariñas", with a large, sweeping flourish extending to the left.

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

¹² Rosi v. Bell-Atlantic Pennsylvania, Inc. and Sprint Communications Company, L.P, Docket NO. C-0099409 (Pa.PUC March 16, 2000)

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:

Ms. Thea Jones
6417 Clearview Street
Philadelphia, PA 19119

November 9, 2010


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