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January 28, 2011

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

RE: Stephen Hymowitz v. PGW  
Docket No.: C-2010-2217354

Dear Secretary Chiavetta:

The Plaintiff hereby respectfully requests that the Preliminary Objections filed by Philadelphia Gas Works be dismissed as being untimely.

The Plaintiff attaches an Answer to Preliminary Objections and New Matter for filing in the event that the request to strike the Preliminary Objections is not granted.

Furthermore, the Philadelphia Gas Works has filed an Answer to the Complaint and therefore is barred from also filing Preliminary Objections.

Sincerely,

BEGLEY, CARLIN & MANDIO, LLP



By: Scott A. Petri

SAP/bb

Enclosure

Cc: Danielle Rose, Esquire (w/enclosure)  
Stephen L. Hymowitz (w/o enclosure)

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**BEGLEY, CARLIN & MANDIO, LLP**

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

STEPHEN L. HYMOWITZ

v.

PHILADELPHIA GAS WORKS

Docket No.: C-2010-2217354

**NOTICE**

<b><u>NOTICE</u></b>	<b><u>AVISO</u></b>
<p>You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice of any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other right important to you.</p> <p>YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.</p> <p>PHILADELPHIA BAR ASSOCIATION Lawyer Referral and Information Service One Reading Center Philadelphia, PA 19107 (215) 238-1701</p>	<p>Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. sea avisabdo que si usted no se defiende, la corte toara medidas y puede continuar la demanda en contra suya sin previo aviso o notidicacion. Ademas, la corte puede decidir a favor dei demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.</p> <p>LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERCICO. VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.</p> <p>ASOCIACION DE LICENCIADOS DE FILADELFIA Servicio De Referencia E. Informacion Legal One Reading Center Filadelfia, Pennsylvania 19107 (215) 238-1701</p>

By:   
Scott A. Petri, Esquire  
Attorneys for Plaintiff

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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**PLAINTIFF'S ANSWER TO DEFENDANT'S  
PRELIMINARY OBJECTIONS AND NEW MATTER**

AND NOW, comes Stephen L. Hymowitz by and through his attorneys, Begley, Carlin & Mandio, LLP and files this Answer to Preliminary Objections in the nature of Motion to Strike and avers the following:

1. Admitted in part; denied in part. It is admitted that complainant filed a formal Complaint regarding unpaid gas service and a lien imposed by Philadelphia Gas Works on 1233 Bainbridge Street, Philadelphia, Pennsylvania. It is denied that any debt is owed to PGW.

2. Admitted in part; denied part. It is admitted that Complainant was not aware that payments were not being made with respect to gas service for the property. By way of further answer, the Complaint is also based upon the lack of authority by Philadelphia Gas Works to install gas to the property in any of them. By way of further answer, Complainant never authorized the connection of service to a property that it owned and was never aware that there was service until the account allegedly became delinquent. Philadelphia Gas Works have produced no documentation to indicate that the owners consented to the installation of service to the property. By way of further answer, it is denied that Complainant's tenant owes PGW any amount. Specific proof thereof is demanded.

3. Admitted in part; denied in part. It is admitted that there is an obligation to Philadelphia Gas Works by Complainant's tenant. Specific proof thereof is demanded. By way of further answer, Philadelphia Gas Works had no authority to install service to the property and did so at its own power.

4. Admitted in part; denied in part. It is admitted only that PGW has filed a municipal lien. It is denied that the Municipal Claim and Tax Lien Law allows a municipal lien where the owner has not consented to the installation of service to the property. Specific proof thereof is demanded. It is denied that the lien was properly authorized or filed.

5. Admitted.

6. Denied as a conclusion of law.

7. Admitted in part; denied in part. It is admitted that Complainant does not believe that it should be held reasonable for the account of its tenants since it never authorized the installation of service to the property. It is denied that Complainant's tenant owes PGW any sum of money.

8. Denied as a conclusion of law.

9. Denied as a conclusion of law.

10. Denied. It is denied that the Complainant disputes the imposition of a lien solely because it did not incur the debt for gas service. By way of further answer, the Complainant contests imposition of the lien because there was no authority granted to PGW to install gas service to the subject property by the owner. By way of further answer, PGW installed service without the authority of the owner of the property the Complainant. By way of further answer, it is denied that any sum is due PGW for unpaid gas. The lien is barred by the Statute of Frauds and the Statute of Limitations.

11. Denied. It is denied that a municipal claim by PGW is appropriate where service for the subject property was not consented to by the owner. It is denied that the *Newberry Township* case is on point.

12. Admitted in part; denied in part. It is denied that this is the sole basis for the request of removal of lien. By way of further answer, Complainant did not authorize service to the property and requests that the lien be removed.

13. Denied. It is denied that the Commission is without jurisdiction to resolve this Complaint and/or that it should be stricken.

**NEW MATTER**

14. PGW's lien claim is barred by the Statute of Frauds.

15. PGW's lien claim is barred by the Statute of Limitations.

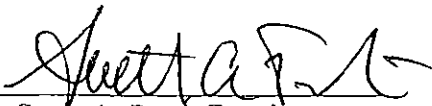
16. PGW never obtained authority from the property owner to install gas service and its lien claim is barred.

WHEREFORE, Complainant respectfully request that the PGW's Preliminary Objections be dismissed.

Respectfully submitted,

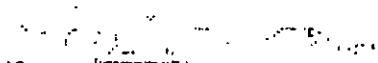
Begley, Carlin & Mandio, LLP

Date: 1-29-2011

By:   
Scott A. Petri, Esquire  
*Attorney for Complainant*  
*Stephen L. Hymowitz*

VERIFICATION

I, Stephen L. Hymowitz, verify that the statements made in the foregoing Answer to Defendant's Preliminary Objections are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 P.S. § 4904 relating to unsworn falsification to authorities.

  
STEPHEN L. HYMOWITZ

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

STEPHEN L. HYMOWITZ

v.

PHILADELPHIA GAS WORKS

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Docket No.: C-2010-2217354

**CERTIFICATE OF SERVICE**

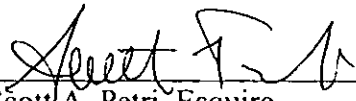
I, Scott A. Petri, Esquire, hereby certify that he did cause a true and correct copy of the foregoing Answer to Preliminary Objections and New Matter via first class U.S. mail directed to:

Danielle Ross, Esquire  
Philadelphia Gas Works  
800 West Montgomery Avenue  
Philadelphia, PA 19122

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

BEGLEY, CARLIN & MANDIO, LLP

Date: 1-29-2011

By:   
Scott A. Petri, Esquire  
*Attorney for Plaintiff*

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