



**PHILADELPHIA GAS WORKS**

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March 7, 2011

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

**Re: Anatoly Vinokurov v. PGW, Docket No. F – 2011 – 2225278**

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: Ms. Anatoly Vinokurov (Regular Mail)  
Anne Marie Cromley (PGW Mail)  
Linda Pereira (PGW Mail)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Anatoly Vinokurov**

**v.**

**Philadelphia Gas Works**

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**Docket No. F – 2011 – 2225278**

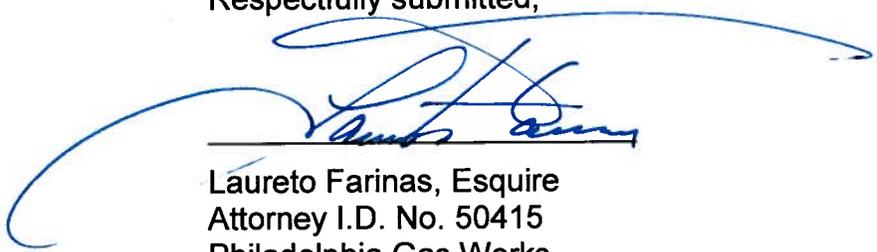
**NOTICE TO PLEAD**

**To: Anatoly Vinokurov, Complainant**

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

March 7, 2011



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**

**Anatoly Vinokurov**

**v.**

**Philadelphia Gas Works**

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**Docket No. F – 2011 – 2225278**

**Philadelphia Gas Works  
Preliminary Objections and Motion to Strike**

Pursuant to 52 Pa. Code §5.101, the Philadelphia Gas Works (“PGW”) hereby files its Preliminary Objection to the Complaint filed in the above captioned matter on the grounds that the Commission is without authorization to grant the Complainant’s request from compensation for damages, and that the Complaint includes impertinent matter in its requested relief and therefore moves to strike the Complainant’s request for compensation for consequential damages.

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

1. On or about February 7, 2011, the Complainant filed a formal complaint against PGW with the Commission under the above captioned matter, concerning the discovery of meter tampering at 102 E. Walnut Lane, Philadelphia, Pennsylvania (Service Address).
2. The Complaint alleges that PGW requires that the Complainant pay charges unrelated to the Complainant’s gas use at the Service Address, and requests relief in the form of a reimburse of a deposit, for costs expended in the hiring of a plumber and costs associated with the Complainant’s lost time from work.
3. PGW was at the Service Address on December 8, 2010 for a cold weather survey and found a tamper meter bypass with meter on the floor.
4. PGW removed Meter No. 1743789 at index 2054. PGW found that the house heater was the only appliance on the line.

5. PGW required the Complainant to pay \$815.23 to restore the service. The payment reflects a security deposit \$692 and a reconnection fee of \$123.23, which the Complainant paid on December 9, 2010.

6. PGW rescheduled the turn on appointment for December 10, 2010. By way of further answer, upon arrival at the Service Address, the PGW technician noted that there was no water in the house heating system; therefore, the PGW technician left the heater off.

7. Pursuant to 52 Pa. Code §5.101, PGW objects to the Complaint on the grounds that the Commission is without authorization to grant the Complainant's request from compensation for damages, which is the sole form of relief requested. PGW therefore moves to strike the Complainant's request for compensation as "impertinent matter" pursuant to 52 Pa. Code §§5.101(a) (1) and (2).

8. 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:

...  
(2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.  
52 Pa. Code §5.101(a) (2)<sup>1</sup>

9. In this case, as the Complaint states that PGW is the cause of the damage to her property and the Complainant opines that under these circumstances, she should not have to pay for the damage.

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<sup>1</sup> 52 Pa. Code §5.101(a) (2) emphasis added.

10. In the instant matter, the Complainant simply wishes the Commission to order PGW to compensate her for damages to the Subject Property and lost time from work, for which she alleges that PGW is responsible.

11. Pennsylvania appellate courts have repeatedly held that the Commission is without power to award monetary damages to a private litigant. *Feingold v. Bell of Pennsylvania*, 383 A.2d 791 (1977); *West Penn Power Co. v. Pa. Public Utility Commission*, 479 A.2d 548 (1984)

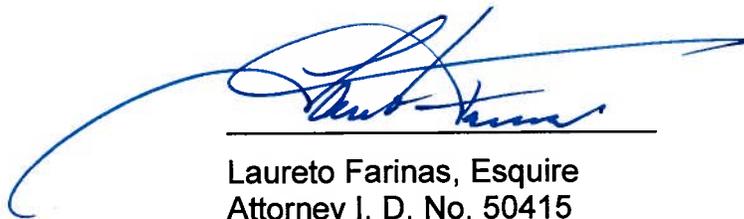
12. A prayer for relief in the form of monetary compensation for damages is not recoverable in the cause of action before this Commission as the Commission is without authorization to award compensation for damages. The request for relief is irrelevant to the instant cause of action and therefore "impertinent matter" within the use and meaning of 52 Pa. Code §5.101(a) (2).

13. The Complainant's request for compensation for consequential damages should be stricken from the Complaint pursuant to Pa. Code §5.101(a) (2).

**Wherefore**, PGW respectfully requests that this Commission sustain PGW's preliminary objection to the Complaint and strike off the requested relief as impertinent matter.

Respectfully submitted,

March 7, 2011



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

**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.

March 7, 2011

  
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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).

Service List:

For Complainant:

Ms. Anatoly Vinokurov  
137 Woodland Road  
Huntingdon Valley, PA 19006

March 7, 2011



Laureto Farinas, Esquire  
Attorney I.D. 50415  
Philadelphia Gas Works  
800 W. Montgomery Avenue  
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