



**Philadelphia Gas Works**

800 West Montgomery Avenue, Philadelphia, PA 19122

Danielle Ross, Paralegal

**Legal Department**

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March 8, 2011

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

**Re: Elena Sklyar v. PGW, Docket No. C – 2011 – 2225872**

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". The signature is written in a cursive, flowing style.

Danielle Ross

Enclosure

cc: Ms. Elena Sklyar  
Anne Marie Cromley (PGW Mail)  
Linda Pereira (PGW Mail)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Elena Sklyar**

**v.**

**Philadelphia Gas Works**

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**Docket No. C – 2011– 2225872**

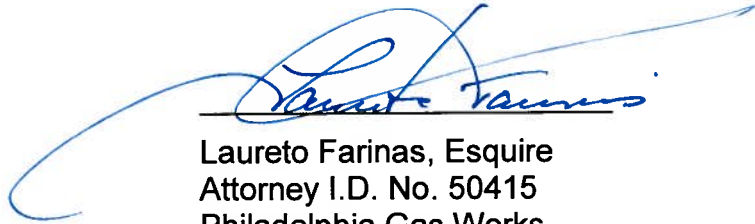
**NOTICE TO PLEAD**

**To: Elena Sklyar, Complainant**

Pursuant to 52 Pa. Code §5.101, you are hereby notified to file a written response to the enclosed Preliminary Objections 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 8, 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**

**Elena Sklyar**

**v.**

**Philadelphia Gas Works**

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**Docket No. C – 2011 – 2225872**

**Philadelphia Gas Works’  
Preliminary Objections and  
Motion to Strike Impertinent Matter**

Pursuant to 52 Pa. Code §5.101, the Philadelphia Gas Works (“PGW”) hereby files its Preliminary Objections to the Complaint filed in the above captioned matter on the grounds that the Commission lacks jurisdiction over the subject matter of the Complaint, and that the Complaint includes impertinent matter in its requested relief to remove (or forbear collection of) the lien, and moves to strike the requested relief as “impertinent matter” pursuant to 52 Pa. Code §§5.101(a)(1) and (2).

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

1. On or about February 9, 2010, the Complainants filed a formal complaint against PGW with the Commission under the above captioned matter, regarding unpaid debt for gas service to 3231 N. Marston Street, Philadelphia, Pennsylvania (Subject Property).

2. For the period January 2005 through May 2009, the Complainant’s tenant owed \$4,749.75 for unpaid gas service to the Subject Property under an account where the Complainant’s tenant was the Customer of Record.

3. The Complaint requests relief in the form of a Commission order to assign the debt of \$4,749.75 to her tenant.

4. The debt of \$4,749.75 was paid at the time of settlement, and was collected as an unpaid municipal claim under the Municipal Claim and Tax Lien Law, Act 153 of 1923, P.:. 207 53 P.S. §7101. The City of Philadelphia has the

right to collect on debt owed to PGW for gas service to the Service Address as a municipal claim.

5. Pursuant to Pa. Code §5.101, PGW objects to the Complaint on the grounds that the Commission is without jurisdiction over the collection of Municipal claims. PGW therefore moves to strike the Complainant's request as "impertinent matter" pursuant to Pa. Code §§5.101(a) (1) and (2).

6. The Municipal Claim and Tax Lien Law, Act 153 of 1923, P.:. 207 53 P.S. §7101, the City of Philadelphia has the right to collect on debt owed to PGW for gas service to the Service Address.

7. 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:

(1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.

(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>

8. In this case, as the Complainant states that the bills that are the subject of the debt were from gas service under the account of her tenant. The Complainant opines that under circumstances, she should not be held responsible.

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

9. The Complainants dispute the collection of the debt at settlement because they did not incur the debt for gas service.

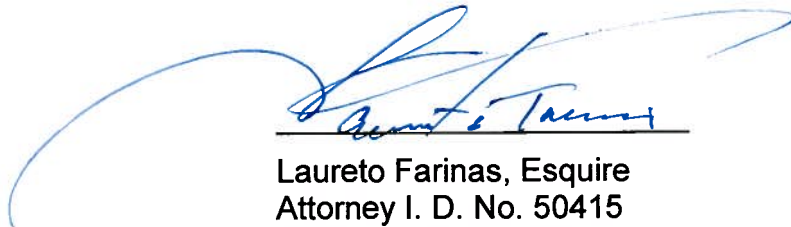
10. In the instant matter, the Complainants simply wishes to not be held responsible for the gas the Complainant did not use.

11. As the Commission is without jurisdiction to decide on matters involving settlements and claims, the Complainant's request for relief is "impertinent matter" within the use and meaning of 52 Pa. Code §5.101(a) (2) and, 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 objections to the Complaint and dismiss the Complaint for lack of jurisdiction and strike off the requested relief as impertinent matter.

Respectfully submitted,

March 8, 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 8, 2011



Laureto Farinas  
Laureto Farinas, Esquire

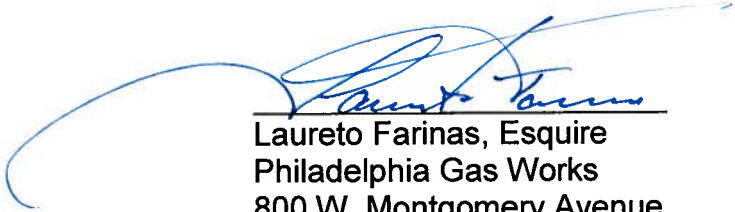
**CERTIFICATE OF SERVICE**

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).

For Complainant:

Elena Sklyar  
19 Carmelita Drive  
Richboro, PA 18954

March 8, 2011



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