



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

February 27, 2012

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

Re: Pennsylvania Public Utility Commission, Bureau of Investigation
and Enforcement v. Philadelphia Gas Works
Docket No. C-2011-2278312

Dear Secretary Chiavetta:

Enclosed for filing are an original and three (3) copies of the Reply to New Matter on behalf of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission in the above-referenced case. Copies have been served on the parties of record in accordance with the Certificate of Service.

Should you have any questions, please feel free to contact me.

Sincerely,

Michael L. Swindler
Prosecutor
PA Attorney ID No. 43319

Enclosure

cc: As per Certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :
Bureau of Investigation and Enforcement, :
Complainant, :
: C-2011-2278312
v. :
: :
Philadelphia Gas Works, :
Respondent :

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

REPLY TO NEW MATTER

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

NOW COMES, the Bureau of Investigation and Enforcement ("I&E") of the Pennsylvania Public Utility Commission ("Commission"), Complainant in the above-docketed matter, by and through counsel, and replies to the New Matter of Philadelphia Gas Works ("PGW"), Respondent herein, pursuant to 52 Pa. Code § 5.63(a) as follows:

Background

On or about December 16, 2011, the Commission served a complaint filed against PGW at Docket No. C-2011-2278312, alleging that PGW violated numerous provisions of the Pennsylvania Code, Public Utility Code and Code of Federal Regulations with regard to its response to a gas leak and resulting gas explosion that occurred in the vicinity of 6932 Torresdale Avenue in Philadelphia on January 18, 2011. PGW was advised to file an Answer within twenty (20) days of receipt of the complaint. On December 19, 2011, PGW requested an extension of thirty (30) days, until February 6,

2012, to file an Answer. On December 12, 2011, the Commission issued a Secretarial Letter granting PGW's request. On February 6, 2012, PGW filed its Answer with New Matter, and attached exhibits, in both Public and Proprietary form, at Docket No. C-2011-2278312.

While it appears as though some averments in the body of PGW's Answer could be deemed additional facts intended to dispose of the legal claim or claims asserted in Complainant's complaint, I&E replies herein only to those averments that PGW has specifically set forth under the heading of "New Matter." 52 Pa. Code § 5.62(b); *Coldren v. Peterman*, 763 A.2d 905 (Pa. Super. 2000), *appeal denied* 781 A.2d 137 (Pa. 2001)(citing Pa. Rule of Civil Procedure 1030). To the extent that there are factual and legal discrepancies or differences between I&E's Complaint and PGW's Answer, I&E fully intends to address those matters at hearing and in brief.

REPLY TO NEW MATTER

1. Denied. This averment sets forth a legal conclusion to which no response is required. By way of further reply, the I&E Complaint sets forth 334 counts of violations of the Pennsylvania Code, Public Utility Code and Code of Federal Regulations which, if proven, clearly establish sufficient cause(s) of action against PGW.

2. Denied. Complainant, I&E, is without knowledge sufficient to form a belief as to the truth of the matters asserted and same are therefore denied and proof thereof demanded. By way of further reply, the I&E Complaint does, in fact, set forth applicable statutes and regulations to which PGW is required to comply.

3. Denied. This averment sets forth a legal conclusion to which no response is required. As to the remainder of Respondent's New Matter, Complainant, I&E, is without knowledge sufficient to form a belief as to the truth of the matters asserted and same are therefore denied and proof thereof demanded.

4. Denied. This averment sets forth a legal conclusion to which no response is required. As to the remainder of Respondent's New Matter, Complainant, I&E, is without knowledge sufficient to form a belief as to the truth of the matters asserted and same are therefore denied and proof thereof demanded.

5. Denied. This averment sets forth a legal conclusion to which no response is required. By way of further reply, the I&E Complaint sets forth numerous instances where PGW's actions violated applicable regulations. As to the remainder of Respondent's New Matter, Complainant, I&E, is without knowledge sufficient to form a belief as to the truth of the matters asserted and same are therefore denied and proof thereof demanded.

6. Denied. This averment sets forth a legal conclusion to which no response is required. As to the remainder of Respondent's New Matter, Complainant, I&E, is without knowledge sufficient to form a belief as to the truth of the matters asserted and same are therefore denied and proof thereof demanded.

7. Admitted. By way of further reply, 66 Pa.C.S. § 2212(b) states that "...a city natural gas distribution operation within its municipal limits shall be subject to regulation and control by the commission with the same force as if the service were rendered by a public utility."

8. Denied. Complainant, I&E, is without knowledge sufficient to form a belief as to the truth of the matters asserted and same are therefore denied and proof thereof demanded. By way of further reply, the I&E Complaint specifically seeks that PGW not be permitted to recover any portion of any imposed civil penalty through rates regulated by the Commission.

9. Denied. This averment sets forth a legal conclusion to which no response is required. As to the remainder of Respondent's New Matter, Complainant, I&E, is without knowledge sufficient to form a belief as to the truth of the matters asserted and same are therefore denied and proof thereof demanded.

WHEREFORE, The Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement, for the reasons set forth herein, respectfully requests that the Answer and New Matter of Philadelphia Gas Works be dismissed and the I&E Complaint against PGW be sustained.

Respectfully submitted,



Michael L. Swindler
Prosecutor
PA Attorney ID No. 43319

Carrie B. Wright
Prosecutor
PA Attorney ID No. 208185

Counsel for Complainant,
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement

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Dated: February 27, 2012

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document of Reply to New Matter upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Notification by First Class Mail:

Daniel Clearfield
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
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PA Attorney ID No. 43319

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