



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

IN REPLY PLEASE
REFER TO OUR FILE

Bp8# 2246921

March 14, 2012

Rosemary Chiavetta
Pa. Public Utility Commission
2nd Floor, 400 North Street
P.O. Box 3265
Harrisburg, PA 17105

Re: Pennsylvania Public Utility Commission v. Kelly Fink, Joe Fink, Jr.,
Claude J. Fink, and Lois A. Fink, individually and jointly,
t/d/b/a Fink Gas Company; C-2011-2246921

Dear Secretary Chiavetta:

In accordance with 52 Pa. Code § 5.103, the Pennsylvania Public Utility Commission hereby submits its motion to convert the hearing scheduled for April 12, 2012, into a prehearing conference.

This is the first such motion sought by the Commission in this matter. Claude J. Fink, Lois A. Fink, and Kelly Fink do not oppose this motion. Claude Joseph Fink, Jr. (Joe Fink, Jr.) could not be reached.

Very truly yours,

Heidi L. Wushinske
Counsel for Pennsylvania Public Utility Commission

cc: ALJ Katrina L. Dunderdale
As per certificate of service

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BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION

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Pennsylvania Public Utility Commission :
v. :
: **Docket No. C-2011-2246921**
:
Kelly Fink, Joe Fink, Jr., Claude J. Fink, :
and Lois A. Fink, individually and jointly, :
t/d/b/a Fink Gas Company :

**COMPLAINANT PENNSYLVANIA PUBLIC UTILITY COMMISSION'S
MOTION TO REQUEST A PREHEARING CONFERENCE**

TO THE HONORABLE KATRINA L. DUNDERDALE:

AND NOW, this 14th day of March 2012, comes the Pennsylvania Public Utility Commission's (Commission) Prosecutory Staff (Prosecutory Staff) by its counsel, and pursuant to Rules 5.103 and 5.222 of the Commission's regulations requests that the initial hearing scheduled for April 12, 2012, be changed to a prehearing conference for the following reasons:

- Prosecutory Staff asserts that a prehearing conference will aid in simplifying the issues.
- Prosecutory Staff believes that a prehearing conference is necessary to establish the amount of hearing time that will be required and to establish a hearing schedule.
- Lead counsel for the Commission has been out of the office on approved medical leave since February 17, 2012, and is not expected to return to the office until April 2, 2012.

1. The parties to this proceeding are Law Bureau Prosecutory Staff, P.O. Box 3265, Harrisburg, PA 17105-3265, and Respondent, Kelly Fink, Claude Joseph Fink, Jr.,¹ Claude J. Fink, and Lois A. Fink, individually and jointly, t/d/b/a Fink Gas Company (Respondents). Fink Gas maintains its principle place of business at 153 Camp Road, Cowansville, PA 16218.

2. On the date of the violations alleged in this complaint, Respondents did not hold a certificate of public convenience issued by this Commission.

3. Pursuant to its enforcement responsibilities, Prosecutory Staff initiated the above-captioned complaint against Respondent on June 15, 2011.

4. On July 22, 2011, Claude J. Fink and Lois A. Fink, filed an answer and new matter in which they denied the allegations and challenged the Commission's jurisdiction.

5. On July 22, 2011, Claude Joseph Fink, Jr. also filed an answer and new matter in which he denied the allegations and challenged the Commission's jurisdiction.

6. On July 22, 2011, Kelly Fink filed preliminary objections to the complaint in which she denied the allegations and challenged the Commission's jurisdiction

7. On August 4, 2011, Prosecutory Staff filed an answer to the preliminary objections filed by Kelly Fink.

8. On August 12, 2011, Prosecutory Staff filed answers to new matter.

9. A hearing in this case is currently scheduled before Administrative Law Judge Katrina L. Dunderdale on April 12, 2012.

¹ Claude Joseph Fink, Jr. is incorrectly listed as Joe Fink in the original complaint.

10. Due to the complexity of the issues involved in this case and the lack of progress made during informal negotiations, Prosecutory Staff requests that the hearing scheduled for April 12, 2012, be converted into a prehearing conference pursuant to the provisions of 52 Pa. Code § 5.222.

11. Prosecutory Staff believes that a prehearing conference is necessary to establish the amount of hearing time that will be required and to establish a hearing schedule. 52 Pa. Code § 5.222(c)(2).

12. Prosecutory Staff further asserts that a prehearing conference will facilitate simplifying the issues. 52 Pa. Code § 5.222(c)(4)(i).

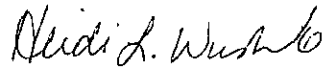
13. In addition, until recently, the parties were engaged in settlement negotiations and expected this matter to be resolved without the need for the formal hearing process.

14. Finally, lead counsel for the Commission has been out of the office on approved medical leave since February 17, 2012, and is not expected to return to the office until April 2, 2012.

15. Prosecutory Staff has attempted to contact the parties involved in this case. Counsel for Claude J. Fink and Lois A. Fink and counsel for Kelly Fink do not object to converting the hearing scheduled for April 12, 2012, to a prehearing conference. Prosecutory Staff made efforts to contact Claude Joseph Fink, Jr., but was unsuccessful.

WHEREFORE, Prosecutory Staff urges this Honorable Administrative Law Judge to convert the hearing scheduled for April 12, 2012, into a prehearing conference.

Respectfully submitted,



Heidi L. Wushinske
Assistant Counsel
Attorney ID No. 93792

Terrence J. Buda
Assistant Counsel

P.O. Box 3265
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Date: March 14, 2012

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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing documents in accordance with the requirements of 52 Pa. Code § 1.54 *et seq.* (relating to service by a participant).

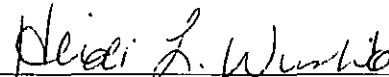
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Dated: March 14, 2012

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