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LEHIGH AND NORTHAMPTON COUNTIES
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April 26, 2012

Honorable Eranda Vero
Pennsylvania Public Utility Commission
801 Market Street---Suite 4063
Philadelphia, PA 19107

Laureto A. Farinas, Esquire
Philadelphia Gas Works
800 West Montgomery Avenue
Philadelphia, PA 19122

Secretary
Pennsylvania Public Utility Commission
Post Office Box 3265
Harrisburg, PA 17105-3265

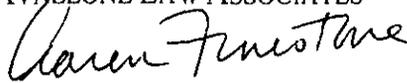
Re: In the matter of Cheryl Fisher v. Philadelphia Gas Works
F-2010-2215047---Correction to Memorandum of Law

Dear Judge Vero, Mr. Farinas and Secretary:

Enclosed is my Memorandum of Law (Corrected) in behalf of Cheryl Fisher. Secretary,
enclosed are two copies.

Very truly yours,

AVALLONE LAW ASSOCIATES


Aaron Finestone
Attorney at Law

AF:dh
Enclosure

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Cheryl Fisher : F-2010-2215047
 :
 v. :
 :
 Philadelphia Gas Works :

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PETITIONER'S MEMORANDUM OF LAW (CORRECTED)

I. Matter before the Court

Petitioner challenges the action of the Philadelphia Gas Works in removing her from the Landlord Cooperation Program?

II. Statement of question presented

Does the PUC have jurisdiction over the Landlord Cooperation Program?

It is suggested that the PUC has jurisdiction.

III. Facts

Cheryl Fisher, who lives in California, owns a residential property in Philadelphia. The property was rented to a tenant who had an account with PGW for gas service.

In 2006, PGW instituted the Landlord Cooperation Program (LCP).

LCP provides that landlords who fully comply with the program will not be subject to liens on their properties for the unpaid PGW bills of their tenants. As a condition of participation, landlords are required to maintain Philadelphia rental licenses.

Fisher enrolled in LCP and maintained her Philadelphia rental license. However, in 2010, she failed to receive a notice for license renewal and her license expired. PGW removed Fisher from LCP and imposed a municipal lien against the property for the tenant's unpaid gas bill. Fisher acted promptly in getting a new rental license. She requested PGW to remove the lien and reinstate her into LCP. PGW refused to remove the lien but allowed her to apply as new member of LCP. She was admitted as a new participant in LCP.

Fisher appealed to the PUC seeking relief from the lien and raising quality of service issues related to the LCP. PGW filed preliminary objections. The Honorable Eranda Vero sustained preliminary objections as to the lien but overruled preliminary objections as to quality of service issues related to the

LCP. After a hearing, Judge Vero requested briefs as to whether the PUC had jurisdiction over the LCP.

IV. Argument

This case is a matter of first impression. LCP is not a contract for gas service. Fisher is not a customer of PGW. Rather, LCP is a contract between PGW and landlord to protect landlords from having to pay the gas bills for their irresponsible tenants. Though LCP protects landlords from liens, it does not impose liens and does not remove liens. LCP is not governed by 66 Pa.C.S.A. Section 2212(n) which exempts municipal liens from the jurisdiction of the PUC.

LCP falls within the "service" definition of the Public Utility Code at 66

Pa.C.S.A. Section 102:

"Service." Used in its broadest and most inclusive sense, includes any and all acts done, rendered, or performed, and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by public utilities, or contract carriers by motor vehicle, in the performance of their duties under this part to their patrons, employees, other public utilities, and the public, as well as the interchange of facilities between two or more of them, but shall not include any acts done, rendered or performed, or any thing furnished or supplied, or any facility used, furnished or supplied by public utilities or contract carriers by motor vehicle in the transportation of voting machines to and from polling places for or on behalf of any political subdivision of this Commonwealth for use in any primary, general or special election, or in the transportation of any injured, ill or dead person, or in the transportation by towing of

wrecked or disabled motor vehicles, or in the transportation of pulpwood or chemical wood from woodlots.

Under the "broadest and most inclusive sense," LCP is a program done in the performance of PGW's duties. Even if Fisher is not a customer of PGW, she is a member of the "public." Therefore, Fisher and the LCP are under the jurisdiction of the PUC.

This interpretation is consistent with the Statutory Construction Act, 1 Pa.C.S.A. Section 1928, which provides for "liberal" construction of statutes which do not relate to taxation, eminent domain, penal provisions, provisions reducing the jurisdiction of a court of record, retroactive provisions, or provisions enacted prior to 1937 which are in derogation of the common law.

Moreover, it cannot be argued that the General Assembly intended to exclude the LCP was from the Public Utilities Code. By Act 21 of 1999, the Philadelphia Gas Works was placed under the jurisdiction of the PUC. LCP was not instituted until 2006. Accordingly, LCP is under the jurisdiction of the PUC.

V. Relief

It is requested that this Court find that the PUC has jurisdiction over the LCP. Furthermore, it is requested that Fisher's membership in the LCP be reinstated and restored as if her City rental license had not lapsed and had she not been removed from the program.

Respectfully submitted,

AVALLONE LAW ASSOCIATES

A handwritten signature in cursive script that reads "Aaron Finestone". The signature is written in black ink and is positioned above the typed name.

BY: Aaron Finestone

CERTIFICATION OF SERVICE

I certify that on the date indicated below, copies of the foregoing Memorandum of Law were served on the following parties by first class mail:

1. Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265.(two copies)
2. Honorable Eranda Vero, Pennsylvania Public Utility Commission, 801 Market Street, Suite 4063, Philadelphia, PA 19107
3. Laureeto A. Farinas, Esquire, Philadelphia Gas Works, 800 West Montgomery Avenue, Philadelphia, PA 19122.

April 26, 2012

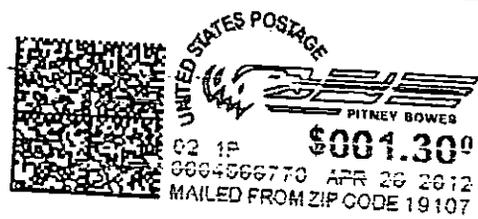


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