



PHILADELPHIA GAS WORKS

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June 22, 2012

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

Re: Mary Kingcade v. PGW, Docket No. C- 2009 - 2134662

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §5.535, the Philadelphia Gas Works ("PGW") hereby files the original and nine (9) copies of the Reply to Complainant's Exceptions to 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,

Danielle Ross /dc
Danielle Ross

Enclosure

cc: Mary Kingcade (Regular Mail)
Anne Marie Cromley (PGW Mail)
Linda Pereira (PGW Mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Mary Kingcade

v.

Philadelphia Gas Works

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Docket No. C – 2009 – 2134662

**PHILADELPHIA GAS WORKS'
REPLY TO COMPLAINANT'S EXCEPTIONS**

Pursuant to 52 Pa. Code §5.535, and the Secretary's letter dated May 23, 2012 setting forth the due dates of the Exceptions and Reply Exceptions, in the above captioned matter, the Philadelphia Gas Works, (PGW) hereby files an original and nine (9) copies of its reply to the Complainant's exceptions to the Initial Decision issued May 23, 2012, in the above captioned matter (Initial Decision).

I. INTRODUCTION

On September 28, 2009, the Complainant filed a formal complaint against PGW with the Commission under the above captioned matter, alleging that PGW failed to notify her or call the Pennsylvania "One Call" 811 prior to replacing the Complainant's gas services (pipes) and the meter at her property located at 5538 Warrington Avenue, Philadelphia, Pennsylvania (Service Address).¹ The Complaint further alludes that the old pipe in need of replacement was the cause of high bills, which the Complainant did not pay and eventually led to the termination of service for nonpayment.²

On October 27, 2009, PGW filed an answer denying the material allegations of the complaint and requested that the Commission dismiss the complaint.

After two continuances requested by Complainant at different times, Administrative Law Judge Eranda Vero (ALJ) presided over the Initial Hearing held on August 4, 2011, during which the Complainant presented her case in chief.³ The

¹ Complaint, Paragraph 4

² Initial Decision, p. 1

³ Id., pp. 3 and 4

hearing was recessed at 3:55 p.m. at the request of PGW so that it could present its case in full and without interruption at a further hearing.⁴

After a series of continuances requested by both parties at different times The ALJ convened a further hearing on October 19, 2011 at 2:00 p.m.⁵ PGW presented the testimony of two witnesses, Wendy Vacca, Customer Review Officer, and Steven Lipski, Superintendent of Operations Maintenance, Distribution Department, PGW and sponsored nine (9) exhibits into evidence, including PGW Late Filed Exhibit – 9. The ALJ required that PGW file and serve that exhibit by November 18, 2011, giving the Complainant seven (7) days to object to the admission of the exhibit into the record of the proceeding.

On November 18, 2011, PGW sent Late Filed Exhibit – 9 to the ALJ and served the Complaint by FedEx. By letter dated November 21, 2011, the Complainant objected to Late Filed Exhibit – 9 stating, inter alia, that PGW filed that exhibit untimely and asserted that PGW should be "charged and sanctioned with contempt of court."⁶ By letter dated November 23, 2011, PGW responded to the Complainant's objection stating that as PGW submitted Late Filed Exhibit – 9, to the ALJ and served the Complainant with her copy by FedEx on that same day fulfilling the ALJ's request for information, PGW was in complete compliance the ALJ's order to provide the exhibit.⁷

By order dated April 13, 2012, the Complainant's Exhibits A through G were admitted into the record, whereupon the record was closed.

On May 23, 2012, the Commission issued the Initial Decision, which sustained in part and denied in part the Complaint.

The Complainant filed exceptions to the Initial Decision dated June 11, 2012, essentially comprised of the following:

Exceptions

1. PGW came to my home, placed underground pipes inside of the mainline pipes without a cause.
2. Removed the gas meter without a cause.
3. Broke a main line pipeline and did not report it.

⁴ Id., p. 3

⁵ Id., p. 5

⁶ Id., p. 6

⁷ Id.

4. Turned gas on underground for four (4) to five (5) hours. The gas had been shut off two (2) days earlier.
5. PGW unable to produce a work order.
6. PGW failed to credit multiple payments made by Complainant to her account.
7. PGW failed to call the "Pennsylvania One Call" system (811) three business days prior to excavation with powered machinery on complainant's property.
8. PGW failed to return/submit court order correspondence "Late Filed Exhibit -9" in a timely manner.

Pursuant to the Secretary's letter of May 23, 2012, this timely reply follows.

II. PGW'S REPLY TO EXCEPTIONS

The exceptions fail to demonstrate how the Initial Decision Findings of Fact Nos. 23, 28, 29, 33, 46, and 48; and to Conclusions of Law Nos. 5 and 6 are unsupported by substantial evidence. The Initial Decision is meticulously grounded in the testimony given by the parties. The Exceptions, despite their repetition of the Complainant's unsupported conclusions concerning the reason for the termination of her gas service, the Findings of Fact and Conclusions of Law are well supported by substantial evidence.

Exceptions I through 4

1. PGW came to my home, placed underground pipes inside of the mainline pipes without a cause.
2. Removed the gas meter without a cause.
3. Broke a main line pipeline and did not report it.
4. Turned gas on underground for four (4) to five (5) hours. The gas had been shut off two (2) days earlier.

Reply to Exceptions Relating to Termination of Gas Service

The Initial Decision traces the circumstances occasioned by PGW's termination of the Complainant's gas service. Due to the Complainant's failure to make full and timely payments of her PGW bill, even when enrolled in PGW' Customer Responsibility Program (CRP), the Complainant received notice on June 15, 2009 that her gas service would be terminated for failure to pay the past due amount of CRP payments in the amount of \$1,252.41.⁸ On July 13, 2009, PGW terminated the Complainant's gas

⁸ PGW Exhibit-3, Tr. p. 105

service for nonpayment.⁹ In order to terminate the Complainant's gas service, PGW required a four-person crew to excavate over the gas main lines where it intersected with the service line into the Complainant's property to disconnect the service line from the main and plug up the pipe.¹⁰ PGW's excavation revealed that the Complainant's property was served by steel pipe installed *circa* 1942.¹¹ The Initial Decision found that PGW installed new service pipe and equipment at the Complainant's service address for two reasons. The service line was disconnected to affect a termination of service for nonpayment. The old pipe formerly providing service was steel pipe from 1942 and could not be reconnected for safety reasons due to its age, in the event that the Complainant had her service restored.¹² Thus, PGW had cause to perform the work upon the Complainant's property. Therefore, the Complainant's Exceptions 1 through 4 should be denied.

Exception 5

5. PGW unable to produce a work order.

Reply to Exception Relating to Production of Documents

This Exception refers to a failure of PGW to produce a work order. This exception fails to state specifically which work order was not produced. The record of the proceeding contains PGW Exhibits – 4 and 8, which are the work order screens concerning the work performed at the Complainant's Service Address.

Exception 6

6. PGW failed to credit multiple payments made by Complainant to her account.

Reply to Exception Relating to Credit of Payments to the Complainant's Account

The Initial Decision concludes that the Complainant had failed to meet her burden of proof with respect to the allegation that PGW failed to credit payments to her account.¹³ To each of the Complainant's examples of failure to credit payments, the

⁹ PGW Ex. 8, Tr. pp. 134

¹⁰ PGW Ex. 8, Tr. pp. 134 - 137

¹¹ PGW Ex. 8, Tr. pp.140 - 144

¹² PGW Ex. 1, Tr. pp. 94, 140 and 141

¹³ Initial Decision, pp. 22 - 25

record evidence shows how PGW correctly applied each grant and payment. Furthermore, the record also shows the Complainant's lack of diligence in making payments. For the 53-month period between May 2005 and September 2009, the Complainant only made 19 payments, woefully underpaying bills even when enrolled in PGW's CRP.¹⁴ Therefore, this exception should be denied.

Exception 7

7. PGW failed to call the "Pennsylvania One Call" system (811) three business days prior to excavation with powered machinery on complainant's property.

Reply to Exception Relating to the "Pennsylvania One Call" system

From the outset of this matter, PGW has been forthcoming concerning this issue. The record reflects that PGW provided testimony that disciplinary action had been taken against the PGW employee that did not call the Pennsylvania One Call system before excavating. Further, in compliance with the ALJ's request, PGW provided Late Filed PGW Exhibit – 9, the policy change intended to prevent a failure to call the Pennsylvania One Call system in the future. The Initial Decision shows that the review and treatment of this issue is well supported by evidence of record.¹⁵ The Initial Decision alerts the Commission's Law Bureau to the violation. The Law Bureau is charged with tracking violations of the Public Utility Code at 66 Pa. C.S.A. §101, et seq. Therefore, this exception should be denied.

Exception 8

8. PGW failed to return/submit court order correspondence "Late Filed Exhibit - 9" in a timely manner.

Reply to Exception Regarding Late Filed Exhibit - 9

The Initial Decision finds that PGW timely complied with the ALJ's request to submit PGW Late Filed Exhibit – 9. The Initial Decision supports its finding with a clear explanation of the Commission's regulation on the computation of the date of service

¹⁴ PGW Ex. 2, Tr. pp. 97 - 104

¹⁵ Initial Decision, pp. 25 - 28

and the rights of parties receiving service through the mail.¹⁶ The finding that PGW's submission of Exhibit – 9 was timely is well supported by substantial evidence of record and the Commission's regulations. Therefore, this exception should be denied.

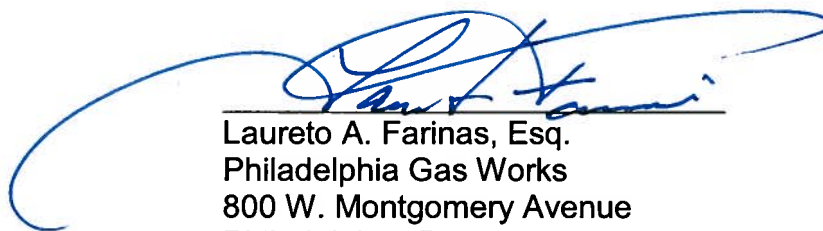
The remainder of the Exceptions document is a combination of additional information and demand for relief including compensation through the itemization of expenses associated with this matter and the clearing of the Complainant's outstanding balance. This request for relief should be denied.

III. CONCLUSION

For the reasons stated above, the PGW requests that the Commission deny the Complainant's exceptions to the Initial Decision and adopt the Initial Decision issued May 23, 2012 in this matter.

Respectfully submitted,

June 22, 2012



Laureto A. Farinas, Esq.
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122

¹⁶ Id., pp. 14 - 16

CERTIFICATE OF SERVICE

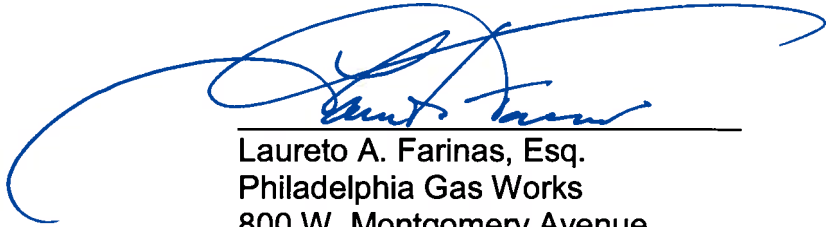
I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A TRUE COPY OF THE FOREGOING DOCUMENT UPON THE PARTICIPANTS LISTED BELOW, IN ACCORDANCE WITH THE REQUIREMENTS OF 52 PA CODE §1.54 (RELATING TO SERVICE BY A PARTICIPANT).

Service List:

For Complainant:

Ms. Mary Kingcade
5538 Warrington Avenue
Philadelphia, PA 19143

June 22, 2012



Laureto A. Farinas, Esq.
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122