



PHILADELPHIA GAS WORKS

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June 25, 2012

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

Re: SBG Management Services v. PGW, Docket No. C – 2012 – 2304215

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §5.101, the Philadelphia Gas Works ("PGW") hereby files the original of its Supplemental Information regarding Preliminary Objections and Motion to Strike 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,


Danielle Ross

Enclosure

cc: SBG Management Services (Regular Mail)
Daniel D. McCaffery, Esq. (Regular Mail)
Anne Marie Cromley (PGW Mail)
Linda Pereira (PGW Mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SBG Management Services Inc	:	
	:	
v.	:	Docket No. C – 2012 – 2304215
	:	
Philadelphia Gas Works	:	

**Supplemental Information Regarding
Philadelphia Gas Works
Preliminary Objections and Motion to Strike**

On June 4, 2012, pursuant to 52 Pa. Code §5.101, the Philadelphia Gas Works (“PGW”) filed Preliminary Objection to the Complaint filed in the above captioned matter on the grounds that the Commission is without jurisdiction to the subject matter of the complaint to the extent that complaint concerns acts performed under the Municipal Claim and Tax Lien Law, Act 153 of 1923, P.L. 207 53 P.S. §7101, et seq., and that the Complaint includes impertinent matter in its requested relief and therefore moves to strike the Complainant’s request for relief.

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

1. On or about May 14, 2012, the Complainant filed a formal complaint against PGW with the Commission under the above captioned matter, regarding liens filed associated with properties managed by Fairmount Manor Realty, LP, for gas usage at 650 Fairmount Avenue and 700 N. Marshal Street, Philadelphia, Pennsylvania (Subject Properties).
2. The Complaint disputed billed amounts associated with several docketed liens (123) filed with the Court of Common Pleas, Philadelphia County. These involved unpaid bills for gas services associated with several PGW Accounts, as shown on the listing of accounts/liens, which are the subject of this Complaint under the above captioned matter, which is attached hereto as Appendix 1.

3. The City of Philadelphia, as owner of PGW, has filed municipal liens upon the Subject Properties for the unpaid debt for gas service on the account of the customer or record, pursuant to the Municipal Claim and Tax Lien Law, Act 153 of 1923, P.L. 207 53 P.S. §7101, et seq. (Municipal Lien Act).

4. Under the Municipal Lien Act, the City of Philadelphia as owner of PGW has the right to collect on municipal claims owed to PGW for gas service to a Service Address.

5. The Complainant requests relief in the form of a refund and or credit for all overpayments made to PGW and adjustments for excessive penalties and interest erroneously assessed on the disputed accounts.

6. The Complainant is the customer of record only on those PGW Accounts disputed in the Complainant that are highlighted in yellow (26 accounts). (See Appendix 1)

7. The remaining accounts, which are the subject of this dispute, are PGW Accounts where the Complainant's tenants, were customers of records at the Subject Properties.

8. The Complaint seeks to dispute the accuracy of bills and account balances associated with the remaining 38 PGW Accounts, where the Complainant was not the customer of record on those accounts.

9. PGW has not transferred the amounts that are associated with the accounts of tenants to any accounts for which the Complainant is the customer of record.

10. Pursuant to the Natural Gas Choice and Competition Act, 66 Pa. C.S.A Section 2201 et seq., section 2212(n), which specifically provides, "Nothing contained in this title shall abrogate the power of a city natural gas distribution operation to collect delinquent receivables through the imposition of liens pursuant to section 3 of the act of May 16, 1923 (P.L. 207, No. 153), referred to as the Municipal Claim and Tax Lien Law, or otherwise. Thus, under 66 Pa. C.S.A Section 2212(n), the Commission has no jurisdiction over the filing of such a lien.¹

¹ 52 Pa. Code §5.101(a)

11. The Commission has repeatedly recognized its lack of subject matter jurisdiction in cases involving a dispute over a municipal lien placed upon a property. *Cornelia Strowder v. Philadelphia Gas Works*, 2002 WL 32069511 (2002), *Debra Williams Lawrence v. Philadelphia Gas Works*, Docket Number C-20066672 (Final Order entered January 22, 2007), *Tina L. Francis-Young v. Philadelphia Gas Works*, Docket Number C-2008-2029672, (Final Order entered February 23, 2009), *Dung Phat, LLC v. Philadelphia Gas Works*, Docket Number C-2009-2135667, (Final Order entered January 13, 2010), *Nathaniel Lewis Mooney v. PGW*, Docket No. C-2009-2134673, (Final Opinion and Order entered January 13, 2010), *David Golan v. Philadelphia Gas Works*, Docket Number C-2009-2138115, (Final Order entered February 4, 2010), *2020 West Passyunk Avenue Inc. v. Philadelphia Gas Works*, Docket Number C-2009-2138727, (Final Order entered February 4, 2010), *Jean Charles v. Philadelphia Gas Works*, Docket Number C-2009-2138638, (Final Order entered February 5, 2010), *Agron Vata v. Philadelphia Gas Works*, Docket No. C-2009-2149960 (Final Order entered August 24, 2010), *William Petravich v. Philadelphia Gas Works*, Docket No. C-2010-2188984, (Final Opinion and Order entered February 10, 2011), *Avner and Gail Yamin v. Philadelphia Gas Works*, Docket No. C-2011-2221883, (Final Order entered June 29, 2011), *Ardelle Jackson v. Philadelphia Gas Works*, Docket No. C-2009-2119940 (Final Opinion and Order entered July 1, 2011) *Faye Payne v. Philadelphia Gas Works*, Docket No. C-2011-2247124 (Order entered February 16, 2012) *Larry and Gail Newman v. Philadelphia Gas Works*, C-2011-2273565 (Final Opinion and Order issued March 29, 2012)

12. Pursuant to the Responsible Utility Customer Protection Act at 66 Pa. Cons. Stat. § 1414, which states: “[a] city natural gas distribution operation furnishing gas service to a property is entitled to impose or assess a municipal claim against the property and file as liens of record claims for unpaid natural gas distribution service and other related costs, including natural gas supply ...,” clarifies and confirms such rights to impose a lien.

13. 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.

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....
 - (5) Lack of capacity to sue...
- 52 Pa. Code §5.101(a)²

14. In February 2012, in the context of a refinance of the Complainant's in order to satisfy outstanding real estate tax debt with the City of Philadelphia, PGW was paid to satisfy most of the outstanding liens for unpaid gas service on the Subject Properties. Although delinquent in payments on many of its accounts, the Complainant had not filed a complaint disputing accuracy of bills until payment was made in the satisfaction of municipal liens.

15. Every account, which is the subject of this complaint, is associated with a municipal lien. To the extent that the Complainant seeks to fight the satisfaction of the municipal lines, the disputes of all accounts of this matter are merely collateral attacks on the authority to lien under the Municipal Lien Act. *Faye Payne v. Philadelphia Gas Works, Docket No. C-2011-2247124 (Order entered February 16, 2012) and Larry and Gail Newman v. Philadelphia Gas Works, C-2011-2273565 (Final Opinion and Order issued March 29, 2012)*

16. The Complainant lacks the ability to prosecute disputes of the accuracy of bills under the accounts of its tenants, as it has no knowledge of the

² 52 Pa. Code §5.101(a).

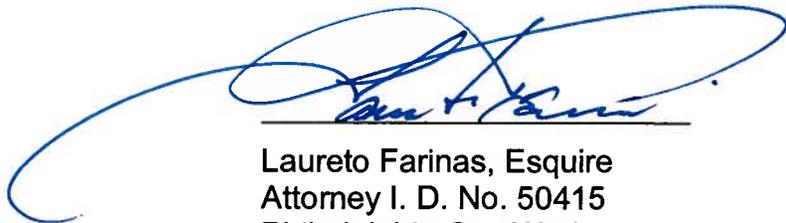
trends of gas use for that tenant, the amount and timeliness of payments made on the account, and the assessment of late payment charges for unpaid balances. To the extent that the Complainant was not (and is not) the customer or record for the accounts which underlie the municipal liens that are the subject of this Complaint, the Complainant lacks standing to bring the dispute on the accuracy of the PGW bills and billing practices for which the Service. *Faye Payne v. Philadelphia Gas Works, Docket No. C-2011-2247124 (Order entered February 16, 2012); Larry and Gail Newman v. Philadelphia Gas Works, C-2011-2273565 (Final Opinion and Order issued March 29, 2012)*

17. As the Commission is without jurisdiction to decide on matters involving the imposition of the municipal lien, and that the Complaint is merely a collateral attack on the authority of the City of Philadelphia to collect unpaid gas bills by filing liens, 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.³

Wherefore, PGW respectfully requests that this Commission sustain PGW's preliminary objections to the Complaint, strike off the requested relief as impertinent matter, and dismiss the Complaint.

Respectfully submitted,

June 25, 2012



Laureto Farinas, Esquire
Attorney I. D. No. 50415
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
(215) 684-6982

³ 52 Pa. Code §5.101(a) (2)

Appendix 1

**SBG - FAIRMOUNT MANOR REALTY
C-2012-2304215**

PGW ACCOUNT #	CCP. DOCKET #	Customer of Record NAME	Disputed Lien Amount	DATES OF SERVICE	Bills Based Upon Actual Meter Read		Disputed period more than 4 years
					Yes/No	Lien Status	
1	0000-1069-7864	120130200 Sirrenia Hoggard	\$222.55				V
2	0000-1069-7864	120130201 Sirrenia Hoggard	\$352.22				V
3	0000-1069-7864	120130202 Sirrenia Hoggard	\$706.39				V
4	0000-2508-8422	100130299 SBG	\$25,140.32	6/1/04 thru 12/30/11	Yes		S
5	0000-2508-8422	111231597 SBG	\$11,479.95				V
6	0000-7571-0860	100130262 SBG	\$23,536.31	6/30/04 thru 12/30/11	Yes		S
7	0000-7571-0860	120130172 SBG	\$1,174.67	6/30/04 thru 12/30/11	Yes		S
8	0000-8953-3358	100130296 SBG	\$30,113.35	5/15/01 thru 12/1/09	Yes		S
9	0000-8953-3358	111230985 SBG	\$12,538.01	12/01/09 thru 3/31/11	Yes		S
10	0000-8953-3358	111231337 SBG	\$5,298.08	3/31/11 thru 11/30/11	Yes		S
11	0001-0236-8402	120130174 Fairmount Manor	\$94.99				V
12	0001-3638-8914	120130163 Robert Swinton	\$59.85				V
13	0001-5603-0558	111231346 SBG	\$9,721.35	4/3/07 thru 12/17/09	Yes		U
14	0001-6601-6680	120130143 David Sheehan	\$198.64				V
15	0002-1565-9749	111231345 SBG	\$429.63	6/3/11 thru 11/30/11	Yes		S
16	0002-8494-4651	120130151 Latosha Mickey	\$58.96				V
17	0003-0205-9064	120130150 Fairmount Manor	\$47.67				V
18	0003-3387-0431	100130297 SBG	\$3,271.01	3/5/07 thru 12/30/11	Yes		S
19	0003-3387-0431	100130298 SBG	\$11,326.43	3/5/07 thru 12/30/11	Yes		S
20	0003-3387-0431	111231600 SBG	\$8,991.65				V
21	0003-5513-9832	100130264 SBG	\$26,154.21	6/1/2004 thru 12/30/11	Yes		S
22	0003-5513-9832	111231587 SBG	\$15,562.98	12/3/09 thru 12/30/11	Yes		S
23	0003-6067-0793	120130160 Tommie Blocker	\$183.39				V
24	0003-7113-5833	120130180 Fairmount Manor	\$68.61				V
25	0003-7765-2414	120130194 Fairmount Manor	\$61.65				V
26	0004-3697-3205	111231341 Shavonne Gardner	\$1,874.05				V
27	0004-3697-3205	111231340 Shavonne Gardner	\$88.48	10/24/11 thru 11/30/11	Yes		S
28	0004-4059-1799	120130166 Ebony Johnson	\$184.53				V
29	0004-6738-9137	120130162 Joseph Wilmer	\$876.93				V
30	0004-9883-7292	120130196 Lelar Berry	\$419.88				V
31	0005-6071-6053	120130216 Clarissa Taylor	\$295.55				V
32	0005-6071-6053	120130215 Clarissa Taylor	\$823.51				V
33	0005-6182-4675	120130148 Latanya J Mcneil	\$328.18				V
34	0005-9330-3927	120130175 SBG	\$845.63	1/9/08 thru 7/24/08	Yes		S

CCP.- Common Pleas Court of Philadelphia County Docket Number for Lien filing
Lien Status- S- Satisfied, V- Vacted- U- Unsatisfied

35	0005-9330-3927	120130161	SBG		\$302.26	1/9/08 thru 7/1/08	Yes	S
36	0005-9330-3927	120130173	SBG		\$373.06	1/9/08 thru 7/23/08	Yes	S
37	0006-1216-7092	100130300	SBG		\$53,548.81	7/3/04 thru 12/30/11	Yes	S
38	0006-2729-7262	120130208	Blake Edwards		\$382.05			V
39	0006-5654-1265	120130209	SBG		\$181.68	11/15/07 thru 12/12/08	Yes	S
40	0006-6471-9425	111231575	SBG		\$3,188.25	12/2/09 thru 11/30/11	Yes	S
41	0006-7354-6755	111231349	Abdoul K Diedhiou		\$649.02			V
42	0006-7718-0766	100130263	SBG		\$29,173.30	1/31/05 thru 12/1/09	Yes	S
43	0006-7718-0766	111231338	SBG		\$14,342.58	12/1/09 thru 11/30/11	Yes	S
44	06-8054-5751	111230807	SBG		1,200.70			V
45	0007-0408-2623	120130218	Fairmount Manor		\$258.03	8/26/08 thru 7/1/09	Yes	U
46	0007-1092-3687	120130171	Desiree McCoy		\$526.14			V
47	0007-2657-0180	120130170	RPU		\$800.59			V
48	0007-3553-5372	120130193	RPU		\$216.42			V
49	0007-3658-6029	100130266	SBG		\$28,990.64	4/9/01 thru 1/4/10	Yes	S
50	0007-3658-6029	100130267	SBG		\$328.52	4/22/08 thru 12/1/09	Yes	S
51	0007-3658-6029	100130268	SBG		\$1,413.69	4/23/08 thru 12/1/09	Yes	S
52	0007-3658-6029	100130269	SBG		\$376.18	4/22/08 thru 12/31/09	Yes	S
53	0007-3658-6029	100130270	SBG		\$268.39	4/23/08 thru 12/1/09	Yes	S
54	0007-3658-6029	100130271	SBG		\$131.01	12/7/07 thru 1/3/08	Yes	S
55	0007-3658-6029	100130272	SBG		\$188.63	12/7/07 thru 1/3/08	Yes	S
56	0007-3658-6029	100130273	SBG		\$2.29	1/8/08 thru 1/9/08	Yes	S
57	0007-3658-6029	100130274	SBG		\$46.83	1/8/08 thru 1/19/08	Yes	S
58	0007-3658-6029	100130275	SBG		\$3.88	4/25/08 thru 4/28/08	Yes	S
59	0007-3658-6029	100130276	SBG		\$3.88	4/25/08 thru 4/28/08	Yes	S
60	0007-3658-6029	100130277	SBG		\$22.58	4/25/08 thru 5/27/08	Yes	S
61	0007-3658-6029	100130278	SBG		\$628.98	12/7/07 thru 5/27/08	Yes	S
62	0007-3658-6029	100130279	SBG		\$176.15	3/2/08 thru 6/2/08	Yes	S
63	0007-3658-6029	100130280	SBG		\$82.60	3/20/08 thru 6/2/08	Yes	S
64	0007-3657-6029	100130281	SBG		\$126.39	03/20/08 thru 6/30/08	Yes	S
65	0007-3657-6029	100130282	SBG		\$102.70	3/25/08 thru 6/10/08	Yes	S
66	0007-3657-6029	100130283	SBG		\$784.91	1/8/08 thru 6/13/08	Yes	S
67	0007-3657-6029	100130284	SBG		\$72.74	3/20/08 thru 6/30/08	Yes	S
68	0007-3657-6029	100130285	SBG		\$762.02	12/17/07 thru 6/25/08	Yes	S
69	0007-3657-6029	100130286	SBG		\$51.36	3/25/08 thru 7/21/08	Yes	S
70	0007-3657-6029	100130287	SBG		\$902.31	1/9/08 thru 7/21/08	Yes	S
71	0007-3657-6029	100130288	SBG		\$178.62	12/24/07 thru 7/21/08	Yes	S
72	0007-3657-6029	100130289	SBG		\$58.50	4/25/08 thru 8/8/08	Yes	S
73	0007-3657-6029	100130290	SBG		\$199.80	3/25/08 thru 8/14/08	Yes	S
74	0007-3657-6029	100130291	SBG		\$713.22	1/8/08 thru 10/3/08	Yes	S

CCP.- Common Pleas Court of Philadelphia County Docket Number for Lien filing

Lien Status- S- Satisfied, V- Vacted- U- Unsatisfied

75	0007-3657-6029	100130292	SBG	\$264.74	4/22/08 thru 11/30/09	Yes	S
76	0007-3657-6029	100130293	SBG	\$102.70	1/8/08 thru 7/21/08	Yes	S
77	0007-3657-6029	100130857	SBG	\$129.31	11/30/10 thru 12/31/10	Yes	S
78	0007-3657-6029	100130858	SBG	\$17.92	12/31/09 thru 1/4/10	Yes	S
79	0007-3657-6029	100130860	SBG	\$15.61	10/31/10 thru 12/31/10	Yes	S
80	0007-3657-6029	111231301	SBG	\$336.01	12/31/10 thru 11/30/11	Yes	S
81	0007-3657-6029	111231342	SBG	\$313.77	6/30/10 thru 11/30/11	Yes	S
82	0007-3657-6029	111231302	SBG	\$449.26	1/4/10 thru 11/30/11	Yes	S
83	0007-3657-6029	111231299	SBG	\$1,627.77	12/31/10 thru 11/30/11	Yes	S
84	0007-3657-6029	120130182	SBG	\$16,154.03	4/9/01 thru 1/4/12	Yes	S
85	0007-3657-6029	120130153	SBG	\$232.75	1/8/08 thru 10/3/08	Yes	S
86	0007-3657-6029	120130149	SBG	\$255.75	1/8/08 thru 6/13/08	Yes	S
87	0007-4064-7420	120130144	Suzanne Daniels	\$608.08			V
88	0007-4716-3884	111230877	Janine R Holye	\$1,517.01			V
89	0007-8710-3954	120130183	Deborah J Coleman	\$237.49			V
90	0007-9492-6376	111231339	SBG	\$203.28			V
91	0008-4240-5523	120130159	Kimberly Hatcher	\$46.36			V
92	0008-9519-6409	120130217	Dorothea Deveauz	\$433.47			V
93	0009-1981-5863	111231340		\$88.48	Incorrect account number for lien		
94	0004-3697-3205	111231340	Gardner Shavonne	\$88.48	10/24/11 thru 11/30/11	Yes	S
95	0009-3884-8436	120130154	Geraldine Holley	\$571.66			V
96	0009-5414-1080	120130198	Corynna Martin	\$1,416.47			V
97	0009-5414-1080	120130197	Corynna Martin	\$878.98			V
98	0009-5414-1080	120130199	Corynna Martin	\$417.02			V
99	0009-7312-2001	100130301	SBG	\$20,554.12	6/1/04 thru 12/30/11	Yes	S
100	0009-7312-2001	111230992	SBG	\$10,416.37	1/4/10 thru 11/1/11	Yes	S
101	0007-3658-6029	100830694	SBG	\$102.49	12/1/09 thru 6/30/10	Yes	S
102	0006-6471-9425	100130295	SBG	\$27,295.35	12/1/05 thru 11/30/11	Yes	S
103	0091-1124-5939	110630494	Joel H Jaffe	\$2,743.96			V
104	0006-5654-1265	120332039	SBG	\$157.20	11/1/07 thru 11/01/07		S
105	0003-3387-0431	120332035	SBG	\$9,383.68	12/1/09 thru 12/30/11	Yes	S
106	0006-1216-7092	120332037	SBG	\$22,792.87	12/30/11 thru 1/4/12	Yes	S
107	0002-1265-9749	120332041	SBG	\$245.92	11/30/11 thru 1/5/12	Yes	S
108	0006-6471-9425	120332033	SBG	\$606.96	11/30/11 thru 3/24/11	Yes	S
109	0000-2508-8422	120332036	SBG	\$12,026.33	12/30/11 thru 1/4/12	Yes	S
110	0006-7718-0766	120332032	SBG	\$660.03	11/30/11 thru 1/4/12	Yes	S
111	0000-8953-3358	120332034	SBG	\$800.45	11/30/11 thru 1/4/12	Yes	S
112	0000-8953-3358	120332038	SBG	\$1,013.43	1/4/12 thru 3/24/12	Yes	S
113	0003-7300-7503	71235052	SBG	\$1,417.89	11/1/07 thru 12/7/07	Yes	S
114	0007-3658-6029	111230808	SBG	\$345.33	12/1/09 thru 11/30/10	Yes	S

CCP - Common Pleas Court of Philadelphia County Docket Number for Lien filing

Lien Status- S- Satisfied, V- Vacted- U- Unsatisfied

115	0007-3658-6029	111230809	SBG	\$440.59	12/1/09 thru 10/31/10	Yes	S
116	0000-8953-3358	111230983	SBG	\$12,538.01	08/03/10 thru 12/16/11	Yes	S
117	0001-5603-0558	111231346	SBG	\$9,271.35	DUPLICATE		V
118	0004-3549-3253	111231305	RPU	\$79.68			V
119	0001-7254-4224	111231306	RPU	\$650.68			V
120	0031-1124-5962	111231307	Joel H Jaffe	\$437.18			V
121	0091-1124-5939	111231308	Joel H Jaffe	\$62.90			V
122	0011-1124-5946	111231309	Joel H Jaffe	\$344.49			V
123	0081-1948-5273	111231353	Kang S Hae	\$1,903.95			V
124	Unknown	Unknown	Unknown	\$11,408.93	Unknown		V

CCP - Common Pleas Court of Philadelphia County Docket Number for Lien filing

Lien Status- S- Satisfied, V- Vacted- U- Unsatisfied

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.

June 25, 2012



Laureto Farinas, Esquire

CERTIFICATE OF SERVICE

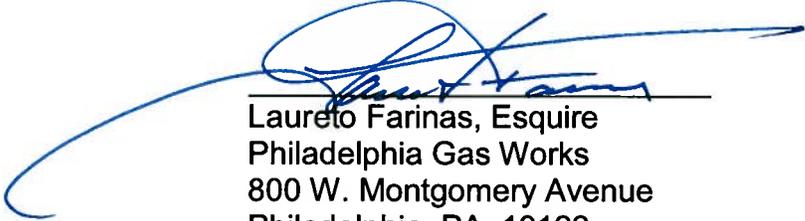
I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A TRUE COPY OF THE FOREGOING DOCUMENT UPON THE PARTICIPANTS LISTED BELOW, IN ACCORDANCE WITH THE REQUIREMENTS OF 52 PA CODE §1.54 (RELATING TO SERVICE BY A PARTICIPANT).

For Complainant:

SBG Management Services, Inc.
P.O. Box 549
Abington, PA 19001

Daniel D. McCaffery, Esq.
101 Greenwood Avenue, 5th Floor
Jenkintown, PA 19046

June 25, 2012



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