

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Connie Darlene Mullins
v.
Philadelphia Gas Works

Public Meeting held August 30, 2012
2266040-ALJ

Docket No. C-2011-2266040

MOTION OF COMMISSIONER WAYNE E. GARDNER

In this complaint filed against Pennsylvania Gas Works (PGW), Ms. Mullins alleged that she should not be held responsible for charges from PGW for the time that she did not reside in the house she owns on 25th Street in Philadelphia. PGW had billed Miss Mullins for \$6,257.90 in "theft charges" for the period from January 22, 2009, to September 10, 2010.

At the hearing, PGW's records showed that the gas service at the property was terminated on September 10, 2008. PGW's records also revealed that, on September 3, 2010, after receiving anonymous reports of a gas leak and theft of service, PGW visited the service address, found a tampered meter bypass inlet, removed the meter and shut off service. PGW then entered the property, calculated unauthorized usage based on the appliances present in the house. Ms. Mullins filed an Incident Report with the Police on October 28, 2010, that indicated that the 25th Street property was vandalized and that there were five broken windows and damage to the gas meter. She then pursued ejection procedures in order to get a squatter to leave her property. PGW added the theft-related charges to Ms. Mullins' account at a different address in January 2011.

The ALJ found that Ms. Mullins met her burden of proof that she should not have been charged for gas service at the service address after September 2008. The ALJ concluded that the gas should have been turned off in September 2008 and that PGW was aware of that fact.

Ms. Mullins asked that PGW be fined because of the false statements made against her. The ALJ properly denied this relief. Then, in Conclusion of Law No. 5, the ALJ stated as follows:

No fine is appropriate or allowed. *Thea Jones v. Philadelphia Gas Works*, Docket No. F-2009-2138367 (Order entered December 16, 2010); 52 Pa. Code § 69.1201(c).

While I agree with the ALJ's conclusion that a fine is not appropriate in this instance, I object to the ALJ's conclusion that a fine for PGW is *not allowed*. PGW's status as a municipally-owned utility does not negate the Commission's authority to impose a penalty on PGW when appropriate. 66 Pa. C.S. § 3301(a). PGW should recall this Commission's cautionary remarks in *Malisa Alexander v Philadelphia Gas Works*, Docket No. C-20077289, (Order entered November 6, 2008):

As an alternative treatment for a municipally owned utility, we hereby place PGW on notice that, from this time forward, the Commission will track PGW's violations of the Public Utility Code, regulations and orders, in cumulative fashion. These violations will be considered by the Commission in matters PGW files for our regulatory approval.

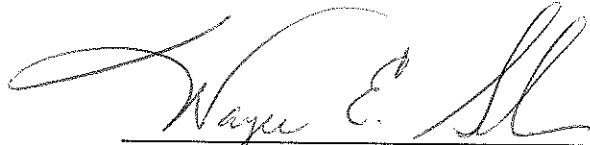
Malisa Alexander v Philadelphia Gas Works at 11.

THEREFORE, I MOVE THAT:

1. The Initial Decision in this proceeding issued May 30, 2012, be modified consistent with this Motion.
2. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

August 30, 2012

Date



Wayne E. Gardner, Commissioner