



PHILADELPHIA GAS WORKS

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December 6, 2012

RECEIVED

DEC 03 2012

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

Re: Kimberly A. Szczepanski-Galindez v. PGW, Docket No. F-2011-2279555

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §5.535, the Philadelphia Gas Works ("PGW") hereby files the original and nine (9) copies of its reply to the Complainant's exceptions to the November 6, 2012, Initial Decision 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: Kimberly A. Szczepanski-Galindez (Regular Mail)
Anne Marie Cromley (PGW Mail)
Linda Pereira (PGW Mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Kimberly Szczepanski-Galendez	:	
	:	
v.	:	Docket No. F – 2011 – 2279555
	:	
Philadelphia Gas Works	:	

**PHILADELPHIA GAS WORKS REPLY TO
COMPLAINANT’S EXCEPTIONS TO THE INITIAL DECISION**

Pursuant to 52 Pa. Code §5.535, and the Secretary’s letter dated November 20, 1012, extending the date upon which to file reply exceptions to December 6, 2012, in the above captioned matter, the Philadelphia Gas Works, (“PGW”) hereby files an original of its reply to the Complainant’s exceptions to the Initial Decision issued November 6, 2012, in the above captioned matter (Initial Decision).

I. INTRODUCTION

On December 19, 2011, the Complainant filed a complaint with the Commission against the PGW alleging, *inter alia.*, that there are incorrect charges on the bill exceeding the amount of \$2,000 the result of PGW replacing the gas meter at her residence. The Complainant requests relief in the form of the removal of the outstanding charges on her account as the PGW meter was faulty and that she pays her bills timely.¹

On January 12, 2012, the PGW filed an Answer denying that there are incorrect charges on the Complainant’s account.

A hearing was scheduled for May 9, 2012 and an Initial Decision was issued on November 6, 2012. The Complainant filed exceptions on November 17, 2012, but did not indicate that she had served PGW with a copy of the exceptions.

Pursuant to the Secretary’s letter dated November 20, 1012, the date upon which to file reply exceptions was set to December 6, 2012. This timely reply follows.

II. PGW'S REPLY TO EXCEPTIONS

The Complainants' exceptions fail to address any error in fact or law contained in the Initial Decision refuting the conclusion that the Complainant had failed to meet her burden of proof. Pursuant to Section 332(a) of the Code, 66 Pa.C.S. § 332(a), the burden of proof is on the proponent of a rule or order, the Complainant, in this matter. Therefore, the Complainant bears the burden of proving by a preponderance of the evidence that PGW has violated the Public Utility Code or a regulation or order of the Commission. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). The Complainant must show that PGW is responsible or accountable for the problem described in the complaint. *Feinstein v. Philadelphia Suburban Water Company*, 50 Pa. P.U.C. 300 (1976).

The record in this proceeding must be reviewed to determine whether the Complainant has satisfied his burden of proof. If the burden of proof has been satisfied, then it must be determined whether PGW has submitted evidence of "co-equal" value or weight to refute the Complainant's evidence. If this has occurred, the burden of proof has not been satisfied, unless the Complainant presented additional evidence. *Morrissey v. Pa. Dept. of Highways*, 424 Pa. 87, 225 A.2d 895 (1967).

The exceptions also fail to show that the Initial Decision is not supported by substantial evidence. In addition to determining whether the Complainant has satisfied her burden of proof, care must be exercised to ensure that the Commission's decision is supported by substantial evidence pursuant to 2 Pa.C.S. § 704. The term "substantial evidence" has been defined by various Pennsylvania courts as such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. Substantial evidence is more than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. P.U.C.*, 489 Pa.109, 413 A.2d 1037 (1980); *Murphy v. Dept. of Public Welfare*, 85 Pa. Cmwlth. 23, 480 A.2d 382 (1984).

Reply to Exception Concerning Fairness and the Age of the Meter

In this exception the Complainant restates her argument that based upon age of the meter and fairness, she should not be responsible for the payment for gas used

during the disputed period. The Initial Decision addresses the Complainant's fairness argument by showing the payment amortization remedy provided in 52 Pa. Code §56.14.²

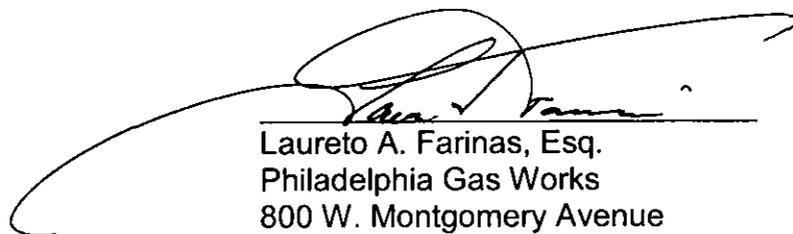
As to the correct amount to be paid, the Initial Decision is supported by substantial evidence and the review and analysis of the usage considering the finding that the meter had been running fast. A public utility is entitled to full payment for service provided to customers and all customers are obligated to pay for the utility service provided to them. Otherwise, a customer's unpaid bills are included in the utility's uncollectible expenses and ultimately paid for by other utility customers.³

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 November 6, 2012 in this matter.

Respectfully submitted,

December 6, 2012



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

¹ Complaint.

² Initial Decision, pp. 11-12

³ Id. citing; Scaccia v. West Penn Power Co., 55 PA PUC 637 (1982); Mill v. Pa. Public Utility Commission, 447 A.2d 1100 (1982) and Bolt v. Duquesne Light Company, Opinion and Order entered April 8, 1988, at Docket No. Z-8712758.

CERTIFICATE OF SERVICE

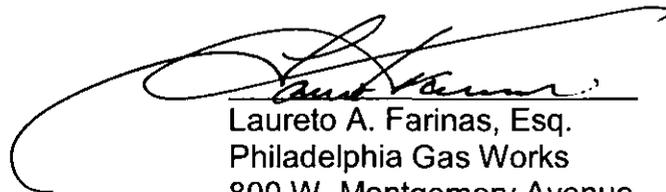
I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A TRUE COPY OF THE FOREGOING DOCUMENT UPON THE PARTICIPANTS LISTED BELOW, IN ACCORDANCE WITH THE REQUIREMENTS OF 52 PA CODE §1.54 (RELATING TO SERVICE BY A PARTICIPANT).

Service List:

For Complainant:

Ms. Kimberly Szczepanski-Galindez
2665 Levick Street
Philadelphia, PA 19149

December 6, 2012


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

FedEx *NEW Package Express* **US Airbill**

FedEx Tracking Number

8996 7489 9746

SPH1

Recipient's Copy

1 From This portion can be removed for Recipient's records.

Date 12-3-12 FedEx Tracking Number 899674899746

Sender's Name Laureate Foundat Phone 215 684-1082

Company PHILADELPHIA GAS WORKS

Address 800 W MONTGOMERY AVE Dept./Floor/Room

City PHILADELPHIA State PA ZIP 19106

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2 Your Internal Billing Reference

3 To Recipient's Name Rosemary Church, Spirit Phone 412 763-1111

Company PA PUC

Address 400 North Street Dept./Floor/Room

Address Keystone Building Use this line for the HOLD location address or for continuation of your shipping address.

City Harrisburg State PA ZIP 17120

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8996 7489 9746

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Earliest next business morning delivery to select locations. Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
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- FedEx Standard Overnight
Next business afternoon.* Saturday Delivery NOT available.

- NEW FedEx 2Day A.M.
Second business morning.* Saturday Delivery NOT available.
- FedEx 2Day
Second business afternoon.* Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
- FedEx Express Saver
Third business day.* Saturday Delivery NOT available.

5 Packaging * Declared value limit \$500.

- FedEx Envelope*
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- FedEx Tube
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- SATURDAY Delivery
NOT available for FedEx Standard Overnight, FedEx 2Day A.M., or FedEx Express Saver.
- No Signature Required
Package may be left without obtaining a signature for delivery.
- Direct Signature
Someone at recipient's address may sign for delivery. Fee applies.
- Indirect Signature
If no one is available at recipient's address, someone at a neighboring address may sign for delivery. Fee applies. For residential deliveries only.

Does this shipment contain dangerous goods? One box must be checked.

- No
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As per attached Shipper's Declaration.
 - Yes
Shipper's Declaration not required.
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Dry Ice, 9 UN 1845 _____ kg
 - Cargo Aircraft Only
- Dangerous goods (including dry ice) cannot be shipped in FedEx packaging or placed in a FedEx Express Drop Box.

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- Sender
Acct. No. in Section 1 will be billed.
- Recipient
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Total Packages Total Weight Credit Card Acct.

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