



**PHILADELPHIA GAS WORKS**

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March 25, 2013

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

**Re: Lydia Lopez v. PGW, Docket No. F – 2013 – 2351089**

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §5.101, the Philadelphia Gas Works ("PGW") hereby files the original of its Preliminary Objections 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 Leva

Enclosure

cc: Lydia Lopez (Regular Mail)  
Anne Marie Cromley (PGW Mail)  
Linda Pereira (PGW Mail)

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Lydia Lopez

v.

Philadelphia Gas Works

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Docket No. F – 2013 – 2351089

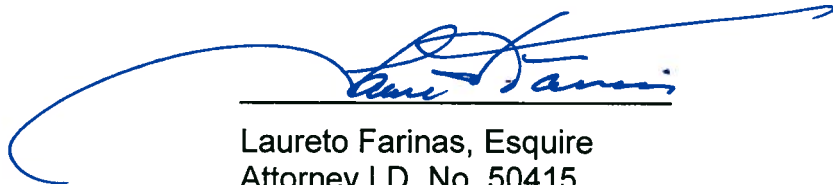
NOTICE TO PLEAD

To: Lydia Lopez, Complainant

Pursuant to 52 Pa. Code §5.101, you are hereby notified to file a written response to the enclosed Preliminary Objection and Motion to Strike, within ten (10) days from service hereof or you may be deemed to be in default and relevant facts stated in these pleadings may be deemed admitted and a judgment may be entered against you.

Respectfully submitted,

March 25, 2013



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

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lydia Lopez

v.

Philadelphia Gas Works

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Docket No. F – 2013 – 2351089

**Philadelphia Gas Works  
Preliminary Objections and Motion to Strike**

Pursuant to 52 Pa. Code §5.101, the Philadelphia Gas Works (“PGW”) hereby files its Preliminary Objection to the Complaint filed in the above captioned matter on the grounds that the Commission is without authorization to grant the Complainant’s request from compensation for damages as the form of relief, and that the Complaint includes impertinent matter in its requested relief and therefore moves to strike the Complainant’s request for compensation.

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

1. On or about February 11, 2013, the Complainant filed a formal complaint against PGW with the Commission under the above captioned matter, regarding damage at 4040 M Street, Philadelphia, Pennsylvania (Service Address).

2. The Complainant avers that a PGW technician broke the water valves off her radiator while servicing her heater on December 6, 2012.

3. The Complainant requests relief in the form of an order to PGW to fix either the broken valves or monetary compensation for the damaged valves.

4. Pursuant to 52 Pa. Code §5.101, PGW objects to the Complaint on the grounds that the Commission is without authorization to grant the Complainant’s request from compensation for damages. PGW therefore moves to strike the Complainant’s request for compensation as “impertinent matter” pursuant to 52 Pa. Code §§5.101(a) (1) and (2).

5. 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. (See: Order Sustaining Preliminary Objection in *Paul W. Fricker v. PECO Energy Company*, Docket No. C-2009-2094757 (May 21, 2009))

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:

...

(2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.

52 Pa. Code §5.101(a) (2)<sup>1</sup>

6. In the instant matter, the Complainant simply wishes the Commission to order PGW to cover the repairs or the expenses she incurred.

7. Pennsylvania appellate courts have repeatedly held that the Commission is without power to award monetary damages to a private litigant. *Feingold v. Bell of Pennsylvania*, 383 A.2d 791 (1977); *West Penn Power Co. v. Pa. Public Utility Commission*, 479 A.2d 548 (1984)

8. A prayer for relief in the form of monetary compensation for damages is not recoverable in the cause of action before this Commission as the Commission is without authorization to award compensation for damages. The request for relief is irrelevant to the instant cause of action and therefore "impertinent matter" within the use and meaning of 52 Pa. Code §5.101(a) (2).

9. The Complainant's request for compensation for damages as a form of relief should be stricken from the Complaint pursuant to Pa. Code §5.101(a) (2).

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

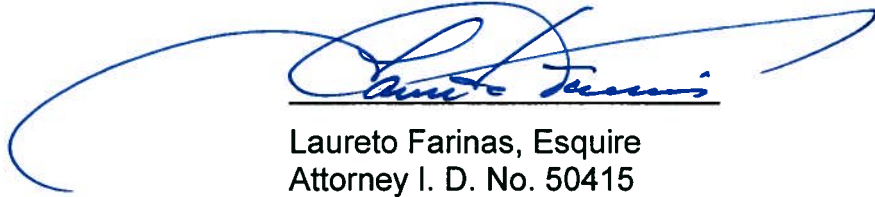
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<sup>1</sup> 52 Pa. Code §5.101(a) (2) emphasis added.

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

Respectfully submitted,

March 25, 2013



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

**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.

March 25, 2013



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:

Ms. Lydia Lopez  
4040 M Street  
Philadelphia, PA 19124

March 25, 2013



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