



**PHILADELPHIA GAS WORKS**

800 West Montgomery Avenue • Philadelphia, PA 19122

Danielle Leva, Paralegal  
Legal Department  
Direct Dial: 215-684-6862  
FAX: 215-684-6798  
E-mail: danielle.leva@pgworks.com

May 13, 2013

**RECEIVED**

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

**MAY 13 2013**

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**Re: 1305 Walnut Street Corp. d/b/a/ Holiday Inn Express v. PGW,  
Docket No. C-2012-2337290**

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §5.371, the Philadelphia Gas Works ("PGW") hereby files its answer to the Complainant's motion to compel.

If additional information is required, please do not hesitate to contact the undersigned. Thank you for your assistance in the matter.

Sincerely,

*Danielle Leva*  
Danielle Leva

Enclosure

cc: Joshua Grimes, Esq. (FedEx)  
Mr. William McNamara (FedEx)  
Administrative Law Judge Cynthia W. Fordham (email)  
Anne Marie Cromley (PGW Mail)  
Linda Pereira (PGW Mail)

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

MAY 13 2013

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

1305 Walnut Street Corp. :  
d/b/a/ Holiday Inn Express, :  
Complainant :  
v. : Docket No. C – 2012 – 2337290  
Philadelphia Gas Works, :  
Respondent :

**Answer of Philadelphia Gas Works to  
Complainant's Motion to Compel Discovery & for Sanctions**

Pursuant to 52 Pa. Code §5.371, Philadelphia Gas Works, the Respondent (PGW) hereby answers the Complainant's above referenced motion to compel, which is dated May 7, 2013, served imperfectly by e-mail on May 8, 2013 (cover letter only) and not completely served upon PGW until May 10, 2013. Where under 52 Pa. Code §5.371, this response is not due until May 15, 2013, PGW nevertheless response this day May 13, 2013 (See Exhibit "A," e-mails) In support of its answer, PGW states as follows:

1. Admitted. By way of further answer, the Complainant's filing of the complaint came after many months of discussions between the parties that provided the opportunity for the exchange of much information from PGW to the Complainant.
2. Admitted.
3. Admitted. By way of further answer, PGW had been preparing the responses to the Complainant's informal requests for discovery when the Complainant filed its formal discovery requests.
4. Admitted. By way of further answer, PGW had been preparing the responses to the Complainant's informal discovery when the Complainant filed its formal discovery requests. With the filing of the formal discovery the response to the informal requests was redundant.
5. Admitted. By way of further answer, PGW had been preparing the responses to the Complainant's informal requests for discovery when the Complainant filed its formal discovery requests.

6. Admitted in part. Emphatically denied in part. On April 25, 2013, PGW served responses to each and every interrogatory and request for production of documents. These represented approximately 114 pages of account information, PGW records and photographs responsive to the discovery requests. PGW emphatically denies that the responses were materially deficient. By way of further answer, PGW provided all of the information that it has in response to the discovery requests. PGW further recognized the continuing nature of the discovery and to provide further information as it becomes available.

7. Admitted. PGW admits that on April 26, 2013, the Complainant sent to PGW an e-mail outlining the Complainant's view of the way in which the responses were deficient. By way of further answer, PGW responded to the Complainant's listing with the e-mail that is attached hereto as Exhibit "B," stating that although PGW provided documentation of visits by PGW personnel to the Complainant's service address, PGW is not obligated to provide additional detailed narrative on the information that the PGW personnel possesses. PGW further advises that PGW's answer represents a summary of the information possessed by PGW witnesses. With regard to the documentation provided about visits to the Service Address, all of the information about the visit appears on the face of the document, dates, personnel, reason for visit. PGW has offered a technical conference to explain the data on the documentation where it is not apparent, dates, reason for visit, etc. In this way, the Complainant has information and clarity more swiftly than with additional written responses, which may be potentially subject of additional accusations of inadequacy.

8. Admitted in part. Denied in part. PGW admits that on April 26, 2013, the Complainant sent to PGW an e-mail outlining the Complainant's view of the way in which the responses were deficient. By way of further answer, PGW responded to the Complainant's listing with the e-mail that is attached hereto as Exhibit "B." PGW further explained that the records produced on field visits only dates back to 2007 and that PGW would continue to search for additional records. As of this date, PGW personnel who performed the search of records, Emil Oetinger, states that he has provided all known records of PGW's visitation to the Complainant's Service Address. Further, PGW's record retention policy is four (4) years. PGW cannot provide records that are

not in our possession. PGW denies that the responses are deficient.

9. Denied. The Complainant has had ample time to prepare for the hearing of this matter, as it possess all the discoverable materials that PGW has in its possession that is responsive to the discovery requests. Prior to the filing of the formal complaint, the Complainant had many months to request and analyze information about its account and any operational issues regarding PGW service. PGW opposes any request for a continuance on the grounds that the Complainant has incomplete discovery as such a request attempts to further delay the final disposition of this matter.

10. Admitted. By way of further answer, PGW's responses are not deficient.

11. Denied, PGW denies that the responses are deficient. By way of further answer, the Complainant has failed to show good cause for the grant of the relief requested in its motion.

**WHEREFORE**, PGW requests that the Commission deny the Complainant's request for an order requesting further information in discovery, deny the Complainant's request to prohibit identified PGW witnesses from testifying at the hearing of this matter, and deny the Complainant's request for a continuance of the Initial Hearing scheduled for May 22, 2013.

Respectfully submitted,

May 13, 2013



Laureto Farinas

# **EXHIBIT A**

**RECEIVED**

**MAY 13 2013**

**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

Leva, Danielle

A

**From:** Farinas, Laureto A  
**Sent:** Monday, May 13, 2013 2:43 PM  
**To:** Leva, Danielle  
**Subject:** FW: 1305 Walnut St. Corp v. PGW  
**Attachments:** Letter to ALJ Fordham re Motion to Compel - 5-8-13.pdf

Please print this email with the attachment.

Thanks,

Laureto

**From:** Joshua Grimes, [mailto:grimeslaw@att.net]  
**Sent:** Wednesday, May 08, 2013 6:44 PM  
**To:** Farinas, Laureto A  
**Subject:** 1305 Walnut St. Corp v. PGW

Please see the attached letter, which was sent to ALJ Fordham today along with a copy of the Motion.

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Joshua L. Grimes, Esquire  
GRIMES LAW OFFICES, LLC  
E-Mail: [GrimesJ@GrimesLaw.org](mailto:GrimesJ@GrimesLaw.org)

123 South Broad Street  
28th Floor  
Philadelphia, PA 19109  
215-772-5070 Tel  
215-772-5072 Fax

RECEIVED

MAY 13 2013

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

# GRIMES LAW OFFICES, LLC

www.GrimesLaw.org

123 SOUTH BROAD STREET  
28<sup>TH</sup> FLOOR  
PHILADELPHIA, PA 19109 USA

Tel: (215) 772-5070  
Fax: (215) 772-5072

**JOSHUA L. GRIMES**  
Admitted in DC, NJ, PA  
E-Mail: [GrimesJ@GrimesLaw.org](mailto:GrimesJ@GrimesLaw.org)

May 8, 2013

VIA FAX (215-560-3133)  
Administrative Law Judge Cynthia Williams Fordham  
Pennsylvania Public Utility Commission  
801 Market Street, Suite 4063  
Philadelphia, PA 19107

**RECEIVED**

**MAY 13 2013**

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**Re: 1305 Walnut St. Corp. v. Philadelphia Gas Works  
PUC Matter # C-2012-2337290 /  
Motion to Compel Discovery & For Sanctions**

Dear Judge Fordham:

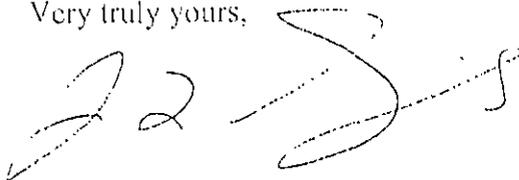
I am counsel for 1305 Walnut St. Corp. in the above-referenced matter.

Attached is a Motion to Compel Discovery & For Sanctions, and related documents that were filed with the Commission yesterday.

The Hearing in this matter is scheduled for May 22, 2013 at 10:00 am. Given the short time frame, and my client's need to complete discovery prior to the Hearing, we request expedited consideration of this Motion.

Thank you for your consideration.

Very truly yours,



**JOSHUA L. GRIMES**

cc: Laureto Farinas, Esq., Counsel for PGW (via Email)  
Mr. Bill McNamara, 1305 Walnut St. Corp.  
Ms. Jo Ann Bongart, General Manager, Holiday Inn Express - Midtown

Leva, Danielle

---

**From:** Farinas, Laureto A  
**Sent:** Monday, May 13, 2013 2:46 PM  
**To:** Leva, Danielle  
**Subject:** FW: 1305 Walnut St. Corp v. PGW

Danielle:

Please print this e-mail.

Thank you.

Laureto

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MAY 13 2013

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

---

**From:** Farinas, Laureto A  
**Sent:** Monday, May 13, 2013 9:35 AM  
**To:** 'Joshua Grimes'  
**Subject:** RE: 1305 Walnut St. Corp v. PGW

Josh,

Please acknowledge that you have first served PGW with the Motion to Compel on Friday, May 10<sup>th</sup> by e-mail and not May 7<sup>th</sup> as indicated on your cover letter (that being the only document you provided on May 7<sup>th</sup>)

Thanks,

Laureto

---

**From:** Farinas, Laureto A  
**Sent:** Friday, May 10, 2013 11:01 AM  
**To:** 'Joshua Grimes'  
**Subject:** RE: 1305 Walnut St. Corp v. PGW

Josh,

Yes, that is the point that I was bringing up to you. You did not send me the motion by e-mail even though I have signed up for service by e-mail. I consider that your motion is served upon PGW today. After you have reviewed by responses to your earlier e-mail questions, please give me a call so that we may attempt to work our any further discovery issues by agreement.

Thanks,

Laureto

---

**From:** Joshua Grimes [<mailto:grimeslaw@att.net>]  
**Sent:** Friday, May 10, 2013 10:31 AM  
**To:** Farinas, Laureto A  
**Subject:** Re: 1305 Walnut St. Corp v. PGW

Laureto: You are signed up for email receipt of motions, so I was not aware you need a hard copy as well. However, I am attaching the motion to this message.

I am reviewing your responses and will get back to further to the extent necessary.

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**To:** Joshua Grimes <[GrimesJ@GrimesLaw.org](mailto:GrimesJ@GrimesLaw.org)>  
**Sent:** Fri, May 10, 2013 9:36:25 AM  
**Subject:** RE: 1305 Walnut St. Corp v. PGW

Hello Josh:

I apologize for getting back to you only in one week, as I have a heavy hearing schedule before the Commission that often includes both morning and afternoon hearings. In your e-mail you included the cover letter of your motion, but not the motion. Therefore, I cannot respond. As of this writing (Friday morning, May 10, 2013) I have not received the motion in the mail.

I have reviewed your questions to me after you quickly reviewed our responses to the Interrogatories and Request for Production of Documents. I have replied to each question below.

Interrogatories:

Your Question 1: You did not provide a "detailed description of the facts possessed by each person identified", as requested. Without this information my client cannot determine if any of the listed individuals has information worth pursuing further. Please provide the requested information.

PGW's Response: I do not believe that we are obligated to summarize or provide detailed information for you concerning the knowledge that is possessed by PGW employees. However, the facts as possessed by the several employees concerning this matter are summarized in PGW's answer to the Complaint. Also, the Commission's procedural rules provide for the taking of depositions. See 52 Pa. Code §5.306, et seq.

Your Question 3: This Interrogatory asked PGW to provide, inter alia, the date of each inspection/review of the gas lines, and the results of the inspection/review. None of that information was supplied even for inspections since 2007. While that information may be contained in certain of the documents, it is not presented in a way that could be clearly understood by someone not familiar with PGW's procedures. Also, for the listed individuals who are retired, you need to supply their job title and last known address and phone. Those persons need not be contacted through PGW.

PGW's Response: PGW has provided information screens on each visit to the Holiday Inn Express. You have the information requested. PGW offers a technical conference (either in person or by telephone) to have these explained to you. The Commission's procedural rules of discovery also encourage parties to exchange information informally, where possible. See 52 Pa. Code §5.322

Question 4: PGW's response refers to documents produced in response to Request for Production #7. However, the documents in #7 do not contain information on each person's job title, and the information on the hotel's gas pipes or facilities is not noted in a way that could be understood by someone unfamiliar with PGW's procedures. Please provide a proper response to this Interrogatory.

PGW's Response: PGW has provided the information requested. Each of the employees would be part of the Field Services Department of PGW. PGW offers a technical conference (either in person or by telephone) to have these explained to you. The Commission's procedural rules of discovery also encourage parties to exchange information informally, where possible. See 52 Pa. Code §5.322.

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Request #8: PGW's response to this Request refers to documents contained in your response to Request #1. Response #1 includes (just before the photos) a computer screen capture page entitled "Meter Read Query: MTR 1734821". The meter readings on this page date back only to 8/28/2007. Please provide this document with readings back to 1999 if the data is in PGW's records. If not, please confirm that you do not have it.

Also, I note PGW's documents indicate that a meter or meters was removed from the hotel premises in November 1999. Please provide any documentation PGW may have with meter readings for this meter and any other meters on the premises at the same time, as requested in Request #8, for the years 1998 and 1999.

Your Request #9: In response to this Request, PGW produced only a 1 1/2 page memo. I would like the entire manual or other publication in which the produced document appeared, as requested, as well as any other responsive document.

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Please contact me if you would like to set up a technical conference. These are held frequently in the public utility setting to follow up on the exchange of documents not easily understood by non-utility people.

Thank you.

Laureto

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Sent: Wednesday, May 08, 2013 6:44 PM

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Subject: 1305 Walnut St. Corp v. PGW

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Leva, Danielle

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**Sent:** Monday, May 13, 2013 2:42 PM  
**To:** Leva, Danielle  
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**Attachments:** Motion to Compel Discovery & For Sanctions.pdf; Exhibits A B & C - Motion to Compel Discovery.pdf; Proposed Order - Motion to Compel Discovery.pdf; Certificate of Service - Motion to Compel Discovery.pdf

Danielle: Please print the e-mail only.

Thanks,

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# **EXHIBIT B**

**RECEIVED**

**MAY 13 2013**

**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

## Farinas, Laureto A

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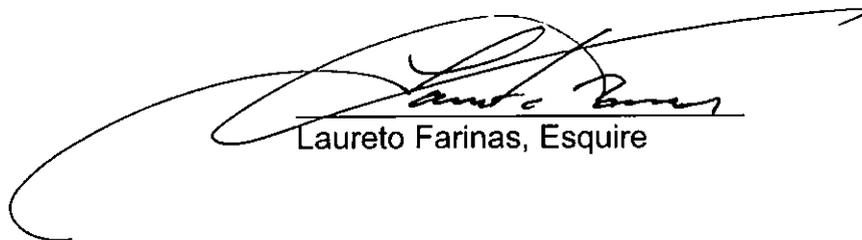
123 South Broad Street  
28th Floor  
Philadelphia, PA 19109



## 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.

Dated: May 13, 2013



Laureto Farinas, Esquire

RECEIVED

MAY 13 2013

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**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:

**RECEIVED**

**MAY 13 2013**

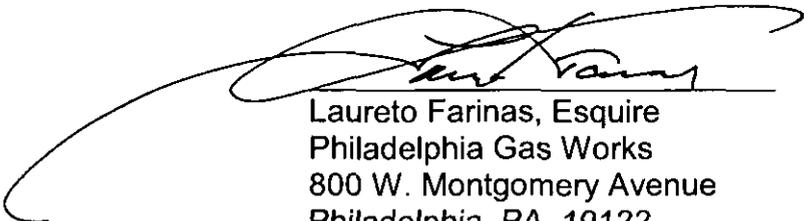
PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

For Complainant:

Joshua Grimes, Esq.  
Grimes Law Offices, LLC  
123 South Broad Street  
Philadelphia, PA 19109

Mr. William McNamara  
1305 Walnut Street Corp. D/B/A Holiday Inn Express  
1305 Walnut Street  
Philadelphia, PA 19107

May 13, 2013



Laureto Farinas, Esquire  
Philadelphia Gas Works  
800 W. Montgomery Avenue  
Philadelphia, PA 19122  
(215) 684-6982

**1 From**  
Date 5-13-13

Sender's Name Lawreto Farinas, Esq Phone 215 684-6982

Company PHILADELPHIA GAS WORKS

Address 900 W MONTGOMERY AVE

Dept./Floor/Suite/Room

City PHILADELPHIA State PA ZIP 19122-2898

**2 Your Internal Billing Reference**

**3 To**  
Recipient's Name Secretary Rosemary Chiavetta Phone

Company PA PUC

Address 4077 North St  
We cannot deliver to P.O. boxes or P.O. ZIP codes. Dept./Floor/Suite/Room

**HOLD Weekday**  
FedEx location address  
REQUIRED NOT available for  
FedEx First Overnight.

**HOLD Saturday**  
FedEx location address  
REQUIRED Available ONLY for  
FedEx Priority Overnight and  
FedEx 2Day to select locations.

Address Commerce at the Keystone  
Use this line for the HOLD location address or for continuation of your shipping address

City Harrisburg State PA ZIP 17120

0104714559



8026 9840 5117

**4 Express Package Service** \* To most locations.  
NOTE: Service order has changed. Please select carefully.

**Packages up to 150 lbs.**  
For packages over 150 lbs., use the  
FedEx Express Freight US Airbill.

**Next Business Day**

**2 or 3 Business Days**

**FedEx First Overnight**  
Earliest next business morning delivery to select locations. Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

**FedEx 2Day A.M.**  
Second business morning.\* Saturday Delivery NOT available.

**FedEx Priority Overnight**  
Next business morning.\* Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

**FedEx 2Day**  
Second business afternoon.\* Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

**FedEx Standard Overnight**  
Next business afternoon.\* Saturday Delivery NOT available.

**FedEx Express Saver**  
Third business day.\* Saturday Delivery NOT available.

**5 Packaging** \*Declared value limit \$500.

**FedEx Envelope\***  **FedEx Pak\***  **FedEx Box**  **FedEx Tube**  **Other**

**6 Special Handling and Delivery Signature Options**

**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. For residential deliveries only. Fee applies.

**Does this shipment contain dangerous goods?**

**No**  **Yes** As per attached Shipper's Declaration.  **Yes** Shipper's Declaration not required.

**Dry Ice** Dry Ice, 9, UN 1845 \_\_\_\_\_ x \_\_\_\_\_ kg

Dangerous goods (including dry ice) cannot be shipped in FedEx packaging or placed in a FedEx Express Drop Box.

**Cargo Aircraft Only**

**7 Payment Bill to:**

Enter FedEx Acct. No. or Credit Card No. below. Obtain recip. Acct. No.

**Sender** Acct. No. in Section 1 will be billed.  **Recipient**  **Third Party**  **Credit Card**  **Cash/Check**

Total Packages

Total Weight

Credit Card Auth

\*Our liability is limited to US\$100 unless you declare a higher value. See the current FedEx Service Guide for details.

**611**

fedex.com 1.800.GoFedEx 1.800.463.3339

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