

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Harrisburg, Pennsylvania 17105-3265**

**Marcia Shapiro**

**v.**

**Philadelphia Gas Works**

**Public Meeting held August 15, 2013**

**2318535-ALJ**

**Docket No. F-2012-2318535**

**MOTION OF COMMISSIONER GARDNER**

On July 30, 2012, Marcia Shapiro filed a formal Complaint against Philadelphia Gas Works (PGW) alleging that she should not be responsible for paying for gas from January 2, 2012 to January 22, 2012.<sup>1</sup> Ms. Shapiro reported a gas smell to PGW on January 2, 2012, but the PGW investigator failed to tag her water heater until January 22, 2012. Ms. Shapiro stated that she did not turn on her heat during that time period because she was worried about the gas smell.

By Initial Decision (ID) issued on April 30, 2013, ALJ Colwell sustained the Complaint insofar as it sought to have \$181.58 removed from the account. The ID determined that in addition to incorrect billing during the disputed time period, the bills issued during the latter half of 2011 were inaccurate due to what PGW described as a "system problem." When prompted at hearing to explain the system problem, PGW could not. ALJ Colwell noted that under the civil penalty analysis historically used for all Pennsylvania utilities except PGW, the result would be the assessment of a \$1,000 civil penalty.<sup>2</sup> Based on a line of caselaw reflecting the Commission's policy of not assessing monetary fines against PGW, ALJ Colwell did not assess the civil penalty.

Beginning in 2008, due to PGW's unique position as a City owned utility that has no shareholders, combined with PGW's precarious financial position at that time, the Commission chose to handle violations in a manner that would preserve PGW's financial viability. By not levying penalties against PGW, the Commission also shielded PGW's ratepayers/Philadelphia's taxpayers from an additional financial obligation on top of those they already faced (*e.g.*, a mandatory \$18 million annual payment to the City, high customer assistance program (CAP) cost burden, frequent base rate cases, etc.).

PGW is no longer in the crisis mode that it was in back in 2008. Accordingly, the Commission will no longer abstain from levying civil penalties against PGW. I agree with the ALJ's analysis that a civil penalty of \$1,000 is the appropriate sanction for the unexplained billing errors in this proceeding.

**THEREFORE, I MOVE THAT:**

1. The Initial Decision be modified to levy a \$1,000.00 civil penalty against PGW, consistent with this Motion.

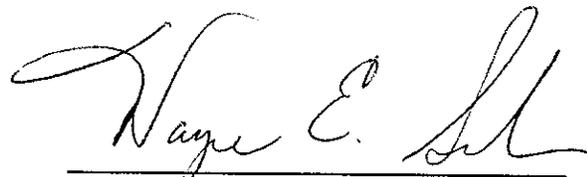
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<sup>1</sup> PGW billed Ms. Shapiro \$181.58 for gas usage during January 2, 2012 – January 22, 2012. (ID at 6, 10).

<sup>2</sup> See the Commission's Policy Statement on Civil Penalties at 52 Pa. Code § 69.1201.

2. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

August 15, 2013  
Date

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Wayne E. Gardner, Commissioner