

The Public Utility Commission  
For the  
Commonwealth of Pennsylvania

No.: C-2013-2356586

Francis Edward Veasey

v.

Philadelphia Gas Works

Exceptions to the Judgment of the Administrative Law Court Presiding in  
Philadelphia Pennsylvania

Pursuant to the Policy of the Secretary for the Public Utility Commission please find enclosed Exceptions to the Judgment of the Public Utility Commission on a formal complaint heard July 11, 2013.

Plaintiff in the matter seeks relief subsequent to a termination of services at 1306 S. Broad St Apt. 1 Philadelphia, Pa 19146 provided by the Respondent commencing on or about the 24<sup>th</sup> day of August, 2012. Plaintiff has filed an informal complaint in the matter in October, 2012 and was denied in the filing as of December, 2012. The Plaintiff contacted the Public Utility Commission for filing of a formal complaint at that time and a formal complaint was placed before the Commission in March, 2013. The matter was docketed and captioned as of May, 2013 for hearing on July 11, 2013. A copy of the Judgment from which these exceptions are filed is contained herein.

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The Plaintiff is seeking the following reliefs:

- i. The Restoration of Services in the form of supply and delivery of natural gas for heating and hot water as explicitly stated as condition of the lease for the apartment at the referenced address.
- ii. Eligibility for payment plans not be prevented or denied should Budget Payment plan be needed in the subsequent conduct of business.
- iii. Compensation to other parties in the repeated attempts to comply with, or prove non-existent, the respondents claim that a safety hazard developed after the termination of services.
- iv. Waiver of any and all security deposits and restoration fees on the basis of the unlawful conduct of the Respondent PGW in the said termination of services and refusal to honor an Emergency Restoration Order issued, per PGW policy and instructions conveyed to the Plaintiff beginning in late August, 2012 , by qualified Medical Doctor in mid-September, 2012.
- v. Medical treatment, if necessary and compensatory damages for any health problems attributed to PGW's actions, not the result of any alleged safety hazard, and the statutory violations inherent in the Respondent's actions that breached the property owner's leasing agreement with the Plaintiff under Pennsylvania Real Estate Law and Public Health Department codes. The said breach of lease contract is currently the subject of a separate matter in the Court of Common Pleas.

The respondent alleges in defense that a financial default occurred giving the respondent the right to terminate service pending recovery of funds owed for the purchase and delivery of natural gas for Heating and Hot Water to the Plaintiff pending the recovery of an alleged amount owed the respondent. Plaintiff contends that there was not a default and that the termination of services was unfair and unlawful and instituted the Complaint process within 60 days of the respondent's actions.

Subsequent to the actions by the respondent instigated by the referenced alleged default, the Respondent further refused to restore services after being served with an Emergency Restoration Order within twenty one days of the termination of service, claiming a previously not occurring safety hazard. The respondent maintained that the safety hazard made it impossible for PGW to supply and deliver natural gas safely. PGW may contend that this is the case to the present day, now fifteen months later. During this time PGW has not supplied or delivered natural gas for heat and hot water to the customer, a tenant, at the address referenced in account history materials.

*Respondent, in defense, further makes reference to an alleged debt incurred by the Plaintiff subsequent to the termination actions and has lodged this contention as defense to the Complaint.*

The Administrative Law Court entered a judgment on October 29, 2013 denying the Plaintiff's reliefs in a procedure in which the ruling ALJ did not hear the case and has entered judgment based on evidence gathered by a colleague also an Administrative Law Judge at the referenced hearing of July 11, 2013.

### Exceptions

The hearing of July 11, 2013 was prefaced by a verbal motion for default judgment by the Plaintiff in that the Respondent failed to provide any process of service for Answer allegedly filed April 29, 2013. In that answer the respondent claims that jurisdiction does not exist within the powers of the Commission to issue any award for monetary damages. At the preliminary telephone call of May

31, 2013 from the Office of the Administrative Law Judge advising of the President of Record's scheduled absence for the hearing docketed for July 11, 2013 the hearing ALJ stated, sua sponte, that the Commission lacked the authority to award monetary damages and tentatively denying the reliefs for monetary damages contained in reliefs III. And V., asking if the Plaintiff intended to pursue the matter absent these reliefs. Plaintiff responded that the matter would be pursued and the matter was docketed for July 11, 2013. It was also mentioned that the Respondent had not provided process of service on the matter at all as of the telephone conversation and was advised that that issue would heard on July 11, 2013. It is within this exception that the Plaintiff reiterates a motion for default judgment on the basis of failure to provide process of service. The respondent's actions prevented any good faith attempt at settlement prior to hearing in the lack of response. The appearance at hearing was the only opportunity for the Plaintiff to receive response from the respondent.

The opportunity to enter into good faith attempts at settlement in the few minutes prior to the hearing were thwarted by the respondent's lack of proper service and the withholding of any response until the introduction of evidence when the matter was commenced. This exception requires a reiteration of the Motion for Default Judgment against the respondent and is excepted here.

Further, the Plaintiff's answer to Preliminary Objections could not have occurred in the absence of Respondent's Process of Service. The Plaintiff excepts that the dismissal of reliefs for monetary damages was unopposed and reiterates reliefs III. and V. at this time.

It is acknowledged that the plaintiff and the respondent have conducted business without interruption or problem beginning in April, 2009 and ending in August, 2012. The Plaintiff, as per procedure described by the respondent in 2009, 2010, 2011, and 2012, sought disenrollment from the easy way Budget Plan as soon as

the invoices for peak energy consumption months were satisfied. With a zero Balance Due in January, 2012, the Plaintiff requested reinstatement of the Easy Way Budget Plan for the tenant account. It is from this date that the respondent claims that an alleged financial default occurred with the Plaintiff that resulted in the Respondent's actions of late July and late August of 2012.

The Plaintiff excepts the alleged debt claimed by the respondent for the time period following the filing of the informal complaint in October, 2012, denied in December, 2012 should be included in the litigation of the formal Complaint. It serves to unduly influence any finder of fact in the matter concerning events and activities occurring from January, 2012 until September, 2012 and the issuance of the Emergency Restoration Order. It is asked that the Commission except the allegations of the Respondent in reconsidering the termination of service occurring August 24, 2012 and consider only the prior payment history detailed from January, 2012.

The Plaintiff excepts that the alleged default on purchase of natural gas and the attendant delivery charges were valid in the actual purchase and delivery of natural gas. The Respondent has admitted that the Easy Way Budget Plan was in effect and the Plaintiff alleges that the payment demanded in August, 2012 was for satisfaction of an Easy way Budget Plan Payment and not for actual purchases and deliveries of natural gas product. The Plaintiff excepts the claim on the basis that the alleged default, if paid, would have resulted in, at least, a credit on account and was not for payment for actual purchase.

The Plaintiff excepts that the respondent did not receive monetary payment within ten days of the Ten Day Notice of Termination sent to the Plaintiff in July, 2012. The Administrative Court acknowledges testimony, by the Plaintiff, that a telephone conversation with PGW occurred in late July, 2012 and that PGW instructed to "send some money" and that the Ten Day Notice would no longer be in effect. PGW did receive money in response to the telephone call and the

Plaintiff considered the Ten Day Notice to be lifted. Should the funds received by PGW not have been enough it would have required them to issue another Ten Day Notice of Termination in mid-August. No further notice was received and no further contact between the Respondent and the Plaintiff occurred until the services were terminated on August 24, 2012. The Plaintiff excepts that the actions of the Respondent were procedurally proper and duly notified. The Plaintiff reiterates that the respondent's actions were unlawful under Real Estate Law and Health Department code and did not conform to proper notice prior to termination of services.

The Plaintiff excepts that the allegations of safety hazards were valid. The property owner and his contractor have repeatedly assured the Plaintiff that no safety hazard existed or exists that would be a bar to the supply and delivery of services. It is reiterated that these parties should be compensated for their attention to the matter in that the contractor warranted his work and sent employees to the building to correct the problem and that the property owner is currently a party to the matter currently docketed in Common Pleas Court. The Plaintiff excepts the validity of the allegations of safety hazards as a bar to services restoration. It is reiterated that compensation be awarded to the property owner and the contractor warranting the installation of furnace and hot water systems.

The Plaintiff excepts that, given the contentions of the property owner and contractor in the safety hazard, that the Emergency Restoration Order be disregarded by the respondent.

The Plaintiff excepts that, given the indulgence shown to the Respondent in the entry into the proceeding of alleged debt incurred by the Plaintiff ex post facto to the filing of informal complaint of October, 2012, of formal complaint of March, 2013, and the hearing of July, 2013, any allegations of after the fact debt be

included as a matter of defense in the proceeding. The previously referenced exception that requests that Easy Way Budget Plan eligibility not be precluded by the filing of the Complaint would be supported by the proper documentation and invoicing of purchases and deliveries of natural gas by the Respondent to the Plaintiff after restoration. Should the debt be proven to be valid under the described business practices of invoicing and billing on a month by month basis then the Easy Way Budget Plan payments would satisfy the debt without retaliation in response to the filing of the referenced complaints. The alleged debt was not incurred prior to August 24, 2012, was not part of any Ten Day Notice of July, 2012 and would not have been possible if the termination of services did not occur.

The Plaintiff excepts that the entry of ex post facto allegations of debt are unduly prejudicial to the matter and should not be factored into any determination of fact regarding the Formal Complaint being reconsidered by the Public Utility Commission for the Commonwealth of Pennsylvania.

It is with respect that the Plaintiff asks that the Commission reconsider the ruling issued October 29, 2013 and grant these exceptions according to law and procedure.

Respectfully,



Francis Edward Veasey

POB 54603

Philadelphia, PA 19148

Service list:

Secretary

PA Public Utility Commission

POB 3265

Harrisburg, PA 17105-3265

Philadelphia Gas Works

Laureto A. Farinas esq.

Legal Department

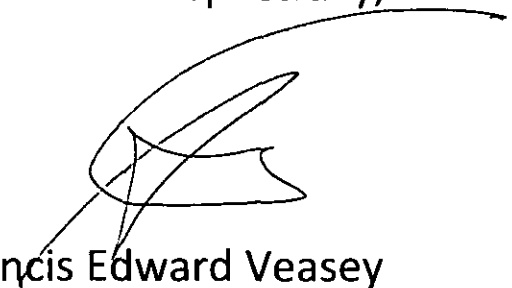
800 W. Montgomery Ave.

Philadelphia, Pa 19122

## Process of Service

I, Francis Edward Veasey, Plaintiff in the foregoing matter, do certify that I have provided copies of this filing to the affected parties by delivery to the United States Postal Service on November 15, 2013.

Respectfully,




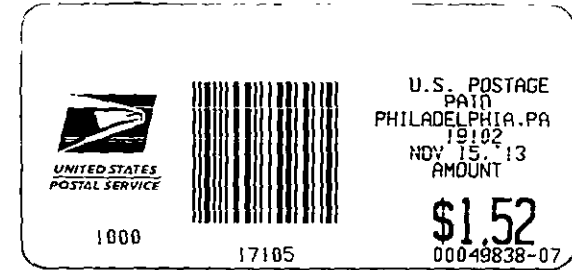
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