



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

April 21, 2014

Administrative Law Judge Angela T. Jones
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
Suite 4063
801 Market Street
Philadelphia, PA 19107

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APR 21 2014

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Ron Migman c/o Willow Management Corp.v. PGW,
Docket No. C-2011-2273241

Dear Judge Jones:

Please find enclosed PGW's Objections to the Complainant's application for expedited discovery for issuance of subpoenas and notices of depositions by oral examination, which have been filed with the Secretary.

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

Sincerely,


Danielle Leva

cc: Service List
Ted Savage (PGW Mail)
Ray Welte
Fran Oetinger
Tyra Jackson
Tiffany Higgins
Linda Pereira
Wendy Vacca

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

APR 21 2014

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**Ron Migman c/o
Willow Management Corporation,
Complainant** :

Docket No. C – 2011 – 2273241

v. :

**Philadelphia Gas Works,
Respondent** :

**Objections of Philadelphia Gas Works To
The Expedited Discovery Application For
Issuance of Subpoenas And Notice Of Deposition By Oral Examination**

Pursuant to 52 Pa. Code §5.343(f), the Philadelphia Gas Works ("PGW") hereby objects to the Complainant's expedited discovery application for issuance of Subpoenas and Notices of Deposition by oral examination in the above captioned matter on the grounds that the application fails to comply with the requirements of 52 Pa. Code §5.343 and fails to present good cause for the expedited issuance of subpoenas and notices of deposition. In support of its objection, PGW hereby answers as follows.

1. Admitted in part. By way of further answer, during the week of February 24, 2014, the parties had a telephone conference with Administrative Law Judge Angela T. Jones ("ALJ Jones") to discuss the matter including the issue of a settlement conference through the Commission's mediation process. PGW's counsel expressed its reservations concerning the use of mediation in the resolution of this case as mediation does not result in a recommended outcome for the parties. PGW's counsel stated that he would inform his client that use of mediation has been proposed.

2. Admitted. By way of further answer, the Commission mediation process is completely voluntary. The utility need not participate even though the request is made by the Complainant.

3. Admitted. PGW admits that on March 6, 2014, it confirmed PGW's rejection of the use of the mediation process for this matter. PGW admits further that March 6, 2014 was the first time that Complainant's counsel was notified of PGW's rejected as mediation was requested that same day. By way of further answer, PGW reminded Complainant's counsel of its reservations with the use of mediation in this case.

4. Admitted. The Parties had an unsuccessful settlement conference on or about March 20, 2014. By way of further answer, at the conclusion of every attempt at settlement, both parties assured the other that each was willing to proceed to a hearing of the matter. PGW, believing the willingness of the Complainant to proceed to a hearing, awaited the Complainant's identification of other PGW employees who would be the subject of depositions in addition to the PGW employee who had been deposed several months earlier. No list such list came from Complainant's counsel until much later on April 15, 2014. It should be noted that PGW had offered to have Complainant's counsel speak with Mr. Raymond Welte and Mr. Fran Oetinger who have superior knowledge of PGW systems and this matter. They also have supervisory authority over PGW Field Service employees that are among those that could be deposed. Conspicuously, Complainant's counsel had refused to speak with Welte and Oetinger, regardless of their knowledge, as she wanted to depose those PGW employees of Complainant's designation. It should be noted further, on March 25, 2014, the Parties had a telephonic conference with ALJ Jones on the status of the proceeding, including, discovery. The Complainant had taken the deposition of one PGW management employee, Mr. Savage, but the Complainant's counsel was interested in deposing more employees. With ALJ Jones' assistance, the parties agreed that April 21, 22, and 23, 2014 would be the date for depositions. At that conference, PGW's counsel alerted ALJ Jones and Complainant's counsel of the necessity of making application to the Commission for deposing PGW union covered employees as governed by 52 Pa. Code §5.343.

5. Denied, emphatically. PGW denies that the Complainant's counsel received a letter on April 14, 2014 indicating that PGW now seeks to move

employees. The Complainant's counsel has caused the delay in the identification of PGW employees and has neglected to consider the timing requirements of 52 Pa. Code §5.343. By way of further answer, the instant application fails to conform to the Commission's Rules of Administrative Practice and Procedure at 52 Pa. Code §5.343(a) and (c), in that the application has not given the presiding officer and PGW the requisite notice, time to object and time to consider the merits of the application for each proposed deponent. Further, the application lacks specificity as to the matter of inquiry for each of the PGW union employees. Since the Complainant obtained the employees' names from documentation provided by PGW in discovery, there should be articulated a more specific reason to depose the PGW union employees chosen. As PGW has received the list on April 16, 2014, PGW confirms that all are current employees and that service of process related to these matters can be made upon PGW. Finally, on April 16, 2014, Complainant's counsel has informed PGW that she requires the use substitute counsel for the taking of the depositions proposed by the instant application as she is the spouse of a PGW employee who works directly with/for some or all of those to be deposed. Despite Complainant's counsel's assurances that the use of substitute counsel will not delay the matter, PGW questions the ability of any substitute counsel to prepare for and conduct depositions on this matter by April 21, 2014.

All of the above stated averments, notwithstanding, the Parties have agreed to have a "Technical" conference with Complainant's counsel on Monday, April 21, 2014 with Mr. Welte and Oetinger at 9:00 a.m. This will not be a transcribed deposition but rather an attempt to avoid the time-consuming process of a formal deposition while the utility educates the opposing party on the technical aspects of the matter to facilitate more informed (and perhaps less voluminous) requests for formal discovery. With a technical conference the Parties may agree to several aspects of the case, informally exchanging additional informal and perhaps reducing hearing time as envisioned by 52 Pa. Code §5.322, which Complainant's counsel has resisted.

forward with a hearing of the matter. To the contrary, by letter mailed and Faxed to the Complainant's counsel on April 7, 2014, which is attached hereto as Appendix "A," PGW confirms that Mr. Welte and Mr. Oetinger would be available to speak with Complainant's counsel for all three days. In that letter, PGW repeats its reminder to the Complainant's counsel of the necessity of using 52 Pa. Code §5.343 to depose additional employees. PGW further emphatically denies that, "At no time prior to April 14, 2014 did Defendant's Counsel provide notice that settlement negotiations were off the table." At every failed attempted at settlement, PGW assured the Complainant's counsel that PGW is willing to proceed to hearing. This being the posture of both parties, the Complainant's counsel is not excused from completing the discovery that she indicates is necessary to prepare her case. At no time did PGW indicate that this matter would settle and that the completion of discovery was unnecessary. PGW awaited a listing of PGW employees that the Complainant's counsel sought to designate.

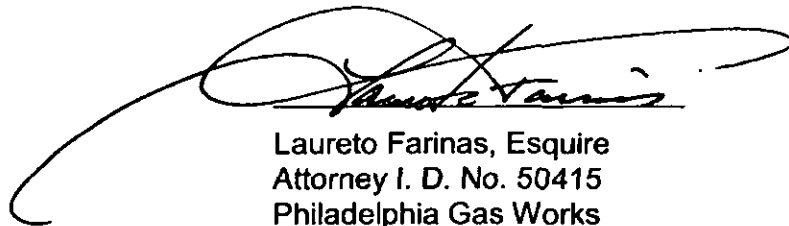
6. Admitted. By way of further answer, the Complainant's April 15, 2014 correspondence, which is attached hereto as Appendix "B," containing the list of those to be deposed, excludes Welte and Oetinger but includes seven (7) PGW union employees. With the receipt that that letter, the parties spoke by telephone on April 16, 2014. PGW once again raised 52 Pa. Code §5.343 requirements to the Complainant's counsel who seemed unfamiliar with the substantive and timing requirements of that regulation, unaware of the nearness of the approaching date of Monday April 21, 2014. Clearly, the Complainant has procrastinated in the completion of discovery and now seeks to shift the blame to PGW.

7. Admitted. By way of further answer, the Complainant's counsel had not identified which PGW employees she sought to depose until April 16, 2014, but was aware of the great likelihood that those would be union employees. The work schedules of those employees have been set for the week during which the deposition is proposed. The Complainant's counsel late request for expedited treatment is an unnecessary burden to PGW and to the PGW union

Wherefore, by the facts stated in the application and in the objections above, the Complainant has failed to show that it merits an expedited discovery for the attendance of witnesses and notices of deposition. PGW respectfully requests that this Commission sustain its objections and deny the Complainant's application.

Respectfully submitted,

April 18, 2014

A handwritten signature in black ink, appearing to read "Laureto Farinas", is written over a horizontal line. The signature is stylized with a large, sweeping flourish that extends to the left and loops back under the line.

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

Appendix A

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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PHILADELPHIA GAS WORKS

800 West Montgomery Avenue • Philadelphia, PA 19122

Laureto A. Farinas, Senior Attorney
Legal Department
Direct Dial: 215-684-6982
FAX: 215-684-6798
E-mail: laureto.farinas@pgworks.com

April 7, 2014

Sandra W. Morris, Esq.
Law Office of
Sandra W. Morris, LLC
Head House Square
130 Naudain Street, 2nd Floor
Philadelphia, PA 19147

RE: Willow Management Corporation v. PGW, Docket No. C-2011-2273241

Dear Sandi:

This is to confirm that I have received your faxed letter dated April 3, 2014 requesting that I confirm that PGW will make employees available for deposition on April 21, 22, and 23, 2014. Mr. Raymond Welte, Dir. Field Ops & Planning and Mr. Fran Oetinger, Manager Field Service Operation, will be available for all three days.

As we discussed during our telephonic conference with Administrative Law Judge Angela T. Jones, however, depending upon who else you may wish to depose, there may be concerns that require you to avail yourself of the process for taking oral depositions as described in 52 Pa. Code §5.343. If you have additional PGW employees to depose, please sent me a listing as soon as possible.

If you need additional information about this matter, please contact me at my direct-dial number above. Thank you.

Sincerely,



Laureto Farinas

cc: Sandra W. Morris, Esq. (FAX: 215-322-8090)
Ted Savage (PGW Mail)
Ray Welte
Fran Oetinger
Tyra Jackson
Tiffany Higgins
Linda Pereira

LAW OFFICE
OF
SANDRA W. MORRIS, LLC

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www.sandramorrislaw.com

Sandra W. Morris, Esq.

PHILADELPHIA LOCATION:
HEAD HOUSE SQUARE
130 Naudain Street, 2nd Floor
(2nd & Lombard Streets)
Philadelphia, PA 19147

April 3, 2014

Via Fax Only: 215-684-6798

Laureto Farinas, Esquire
Philadelphia Gas Works, 4th Floor
800 W. Montgomery Avenue
Philadelphia, PA 19122

**RE: Willow Management Corporation v. Philadelphia Gas Works
No. C-2011-2273241**

Dear Mr. Farinas:

Following up our telephone conference with Judge Jones, you have agreed to make PGW employees available for deposition on April 21, 22 and 23. I have blocked these days on my calendar. Please confirm in writing that these days are also reserved on your calendar and that you will make the PGW employees available for deposition.

Further, my client has

Very truly yours,



SANDRA W. MORRIS

SWM/len

cc: Ron Higman

Appendix B

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**LAW OFFICE
OF
SANDRA W. MORRIS, LLC**

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Sandra W. Morris, Esq.

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130 Naudain Street, 2nd Floor
(2nd & Lombard Streets)
Philadelphia, PA 19147

April 15, 2014

Via Fax Only: 215-684-6798
Laureto Farinas, Esquire
Philadelphia Gas Works, 4th Floor
800 W. Montgomery Avenue
Philadelphia, PA 19122

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

RE: Willow Management Corporation v. Philadelphia Gas Works
No. C-2011-2273241

Dear Mr. Farinas:

It seems as we are not off to a bad start going into the hearing of this case. At no time did you indicate to me that PGW withdrew its \$20,000 offer to settle. In fact, it was just the opposite. You advised me that you discussed with PGW of increasing its offer at the time I requested the mediation. You also advised me that you were not a fan of mediation as it has no "teeth." You never got back to me. I then discussed increasing our offer. You never responded to my increased offer of \$18,000. Yesterday during our telephone conference is the first time you stated to me that PGW removed its offer of \$20,000. With that being said, we will now resume depositions. The following is the list of PGW employees whose depositions will be taken in addition to the employees/managers who you listed in your previous letter. The depositions are confirmed for April 21, 22 and 23:

1. Richard Jackson
2. William Jennings
2. Joseph McGarrity
3. Angelo Monaco
4. Patrick Cunningham
5. Thomas Sullivan

Laureto Farinas, Esquire
April 15, 2014
Page 2

6. Richard Jackson
7. Joseph Gunkel

Please let us know if you will make these employees available. Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Sandra W. Morris". The signature is written in black ink and is positioned above the printed name.

SANDRA W. MORRIS

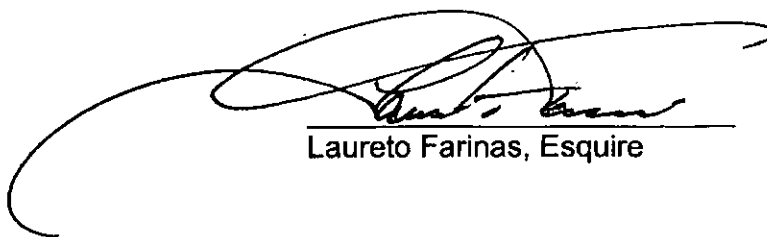
SWM/len

cc: Ron Higman

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.

April 18, 2014



Laureto Farinas, Esquire

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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).

For Complainant:

Ron Migman, Vice President
Willow Management Corporation
430 N. 4th Street
Philadelphia, PA 19123

Sandra W. Morris, Esq.
Sandra W. Morris, LLC
Trevoise Corporate Center
4600 E. Street Road
Trevoise, PA 19052

Sandra W. Morris, Esq.
Sandra W. Morris, LLC
Head House Square
130 Naudain Street, 2nd Floor
Philadelphia, PA 19147

by e-mail: KHennesy@sandramorrislaw.com
sandra@sandramorrislaw.com

April 18, 2014



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

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PA PUBLIC UTILITY COMMISSION
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Form ID No **0215**

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Recipient's Copy

1 From
Date 4-21-14

Sender's Name Laurito Farnas, Esq Phone 215 684-6982

Company PHILADELPHIA GAS WORKS

Address 800 W MONTGOMERY AVE

City PHILADELPHIA State PA ZIP 19122-2898

2 Your Internal Billing Reference

3 To
Recipient's Name See Rosemary Charetta Phone _____

Company PA P.I.C.

Address 1100 North St
We cannot deliver to PO, boxes or PO, ZIP codes. Dept./Floor/Suite/Room _____

Address 2nd fl
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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8053 1592 7532

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<input type="checkbox"/> FedEx First Overnight Earliest next business morning delivery to select locations. Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.	<input type="checkbox"/> FedEx 2Day A.M. Second business morning * Sunday Delivery NOT available
<input type="checkbox"/> FedEx Priority Overnight Next business morning * Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.	<input type="checkbox"/> FedEx 2Day Second business afternoon * Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
<input type="checkbox"/> FedEx Standard Overnight Next business afternoon * Saturday Delivery NOT available	<input type="checkbox"/> FedEx Express Saver Third business day * Saturday Delivery NOT available

5 Packaging * Declared value limit \$500.

FedEx Envelope*
 FedEx Pak*
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 FedEx Tube*
 Other

6 Special Handling and Delivery Signature Options

SATURDAY Delivery
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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.

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

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
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Total Packages _____ Total Weight _____ Credit Card Auth. _____

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