

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

**David Kearse and Ronald Walker**  
v.  
**Philadelphia Gas Works**

**Public Meeting held May 22, 2014**  
**2386855-ALJ**  
**Docket Number: C-2013-2386855**

**JOINT MOTION OF COMMISSIONER JAMES H. CAWLEY**  
**AND COMMISSIONER GLADYS M. BROWN**

On September 20, 2013, David Kearse and Ronald Walker filed a Complaint against the Philadelphia Gas Works (PGW) alleging that \$2,621.71 in liens were placed on their rental property for unpaid natural gas service bills incurred by tenants. The Complainants requested that the liens be removed. On October 28, 2013, PGW filed Preliminary Objections averring that the Commission lacks jurisdiction over the subject matter of the Complaint. The ALJ held that the Complainants must obtain relief through the procedures established by the Municipal Claim and Tax Lien Law. The ALJ granted the Preliminary Objection based on lack of Commission jurisdiction and dismissed the Complaint without hearing.

The Complaint shows that in addition to asking that the liens be removed, which we agree is outside of the Commission's jurisdiction, the Complainants alleged that PGW improperly established a gas account in the name of a person who was not on the Complainants' lease and that the Complainants should not be responsible for that unknown person's arrearage.

PGW's tariff indicates that applicants for service must be on a lease, deed, or mortgage.<sup>1</sup> Failure of a public utility to follow the provisions of an approved tariff falls squarely within this Commission's jurisdiction.<sup>2</sup> Because the Commission retains jurisdiction over compliance with tariff provisions, the portion of the Complaint alleging provision of service to a person not on the lease should not have been dismissed on Preliminary Objections, but instead should have proceeded to hearing for fact finding. As such, we will remand this portion of the Complaint to the Office of Administrative Law Judge for such hearings as deemed necessary.

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<sup>1</sup> PGW Supplement No. 21, Gas Service Tariff - Pa. P.U.C. No. 2, pg. 10.

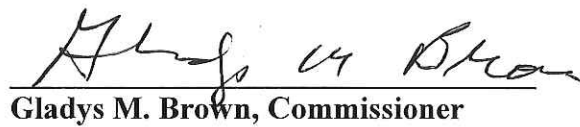
<sup>2</sup> A Commission-approved tariff is *prima facie* reasonable, has the full force of law and is binding on the utility and the customer. *Brockway Glass Co. v. Pa. PUC*, 437 A.2d 1067 (Pa.Cmwlth. 1981); 66 Pa. C.S. § 316; and *Kossman v. Pa. PUC*, 694 A.2d 1147 (Pa.Cmwlth. 1997).

**THEREFORE, WE MOVE THAT:**

1. The Initial Decision be reversed, in part, consistent with this Motion.
2. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

May 22, 2014  
Date

  
James H. Cawley, Commissioner

  
Gladys M. Brown, Commissioner