

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Habana Holding Corp.
v.
Philadelphia Gas Works

Public Meeting held July 25, 2014
2413775-ALJ
Docket Number: C-2014-2413775

JOINT STATEMENT OF COMMISSIONER GLADYS M. BROWN
AND COMMISSIONER JAMES H. CAWLEY

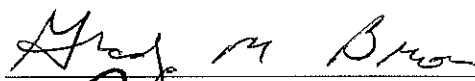
On March 24, 2014, Habana Holding Corp. filed a Complaint alleging that all past due balances for its natural gas service at its rental property had been paid in full, that liens placed against the property should be removed, and, that it was told that a PGW supervisor would call to discuss the account but never did.

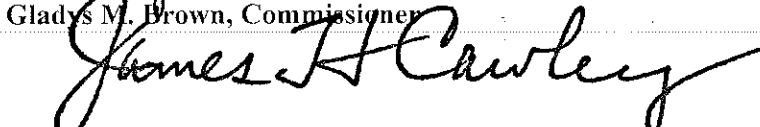
On April 23, 2013, PGW filed Preliminary Objections averring that the Commission lacks jurisdiction over the subject matter of the Complaint. The ALJ held that the Complainant must obtain relief through the procedures established by the Municipal Claim and Tax Lien Law. The ALJ granted the Preliminary Objection based on lack of Commission jurisdiction and dismissed the Complaint without hearing.

For purposes of disposing of a Preliminary Objection, the Commission must accept as true all well-pleaded, material facts of the nonmoving party, as well as every reasonable inference from those facts. *Douglas and Diane P. Evans v. PECO Energy Co.*, 2013 Pa. PUC LEXIS 785 *4, C-2013-2368477 (December 19, 2013); *County of Allegheny v. Commonwealth of Pennsylvania*, 490 A.2d 402 (Pa. 1985); *Commonwealth of Pennsylvania v. Bell Telephone Co. of Pa.*, 551 A.2d 602 (Pa. Cmwlth. 1988).

The Complaint in this case shows that in addition to asking that the liens be removed, which we agree is outside of our jurisdiction, Habana's alleged incorrect billing and that PGW's customer service was not satisfactory. Both of those issues fall within the Commission's jurisdiction under Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501. Accepting these allegations as true, the Complaint here does raise violations which we have the jurisdiction to hear under the Public Utility Code. As such, the matter did not meet the standard for granting a Preliminary Objection and should have proceeded to evidentiary hearing. Accordingly, we respectfully dissent from the initial decision of the ALJ.

July 24, 2014
Date


Gladys M. Brown, Commissioner


James H. Cawley, Commissioner