

SBG Management Services, Inc.

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July 10, 2014

ALJ Eranda Vero
Pennsylvania Public Utility Commission
BY EMAIL: evero@pa.gov
and
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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JUL 10 2014

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU


RE: SBG Management Services, Inc. (and related entities) v. PGW, Docket Nos. C-2012-2304167; C-2012-2304183; C-2012-2304215; C-2012-2304303; C-2012-2304324; C-2012-2308454; C-2012-2308462; C-2012-2308465; and C-2012-2334253: "Complainants' Prehearing Memorandum—Discovery and Discovery Plan"

Dear ALJ Vero and Secretary Chiavetta:

On behalf of the Complainants in the above-referenced matters, enclosed for filing is the original "Complainants' Prehearing Memorandum—Discovery and Discovery Plan", and a Certificate of Service, which are being sent by email to ALJ Vero, with the mailing of a "hard-copy" by overnight mail to the Commission, Respondent's counsel, Laureto Farinas and to ALJ Vero.

If you have questions or require additional information, please do not hesitate to contact me at 215-260-4562 or as described in the contact information, below. Your assistance in this matter is appreciated.

Sincerely,


Francine Thornton Boone, Esquire
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General Counsel, SBG Management Services, Inc.
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Enclosure

cc:

Laureto Farinas, Esquire, Philadelphia Gas Works (by overnight mail)
Phil Pulley, SBG Management Services, Inc. (by email)
Kathy Treadwell, SBG Management Services, Inc. (by email)

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Attorney for Complainants

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JUL 10 2014

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SBG MANAGEMENT SERVICES, INC./ COLONIAL GARDEN REALTY, LP <i>Complainant</i>	: DOCKET NO. C-2012-2304183
V.	:
PHILADELPHIA GAS WORKS <i>Respondent</i>	:
	:
SBG MANAGEMENT SERVICES, INC./ FAIRMOUNT REALTY <i>Complainant</i>	: DOCKET NO. C-2012-2304215
V.	:
PHILADELPHIA GAS WORKS <i>Respondent</i>	:
	:
SBG MANAGEMENT SERVICES, INC./ SIMON GARDENS REALTY, LP <i>Complainant</i>	: DOCKET NO. C-2012-2304324
V.	:
PHILADELPHIA GAS WORKS <i>Respondent</i>	:
	:
SBG MANAGEMENT SERVICES, INC./ ELRAE GARDEN REALTY, LP <i>Complainant</i>	: DOCKET NO. C-2012-2304167
V.	:
PHILADELPHIA GAS WORKS <i>Respondent</i>	:
	:
SBG MANAGEMENT SERVICES, INC./ MARSHALL SQUARE REALTY, LP <i>Complainant</i>	: DOCKET NO. C-2012-2304303
V.	:
PHILADELPHIA GAS WORKS <i>Respondent</i>	:
	:
SBG MANAGEMENT SERVICES, INC./ MARCHWOOD REALTY <i>Complainant</i>	: DOCKET NO. C-2012-2308454
V.	:
PHILADELPHIA GAS WORKS <i>Respondent</i>	:
	:
SBG MANAGEMENT SERVICES, INC./	:

OAK LANE REALTY CO., LP	: DOCKET NO. C-2012-2308462
<i>Complainant</i>	:
V.	:
PHILADELPHIA GAS WORKS	:
<i>Respondent</i>	:
	:
SBG MANAGEMENT SERVICES, INC./	:
FERN ROCK REALTY	: DOCKET NO. C-2012-2308465
<i>Complainant</i>	:
V.	:
PHILADELPHIA GAS WORKS	:
<i>Respondent</i>	:
	:
SBG MANAGEMENT SERVICES, INC./	:
COLONIAL GARDEN REALTY, LP	: DOCKET NO. C-2012-2334253
<i>Complainant</i>	:
V.	:
PHILADELPHIA GAS WORKS	:
<i>Respondent</i>	:

COMPLAINANTS', SBG MANAGEMENT SERVICES, INC., COLONIAL GARDEN REALTY CO. (I and II), FAIRMOUNT REALTY CO., SIMON GARDENS, ELRAE GARDEN REALTY, MARCHWOOD REALTY, FERNROCK REALTY, OAK LANE REALTY CO., L.P., AND MARSHALL SQUARE REALTY ("COMPLAINANTS"),

PREHEARING MEMORANDUM—DISCOVERY AND DISCOVERY PLAN

In accordance with the July 3, 2014 Order of ALJ Vero, Complainants hereby submits this Prehearing Memorandum, that includes a Discovery Plan, on the above-referenced matter to the Pennsylvania Public Utility Commission ("Commission"). A copy is also being served on Respondent Philadelphia Gas Works ("Respondent" or "PGW").

I. Discovery Plan Dates. A summary of the relevant dates is set forth on the Discovery Plan, which is attached hereto as Exhibit "A".

##1, 2, 3, and 4: Date When Complainants' and Respondent's written discovery and depositions and will be completed and answers served on the other party:

December 1, 2014.

#5: Last Date of Filing Pre-Hearing Motions: **January 3 or 17, 2015.**

#6: Date for a Prehearing Conference: **[after 3/3/2015 or 3/17/2015].**

#7: No limit on the number of written interrogatories and requests for admissions due to need to file motions to compel to obtain discoverable information: **None.**

II. List of Outstanding Discovery Issues and Sub-Issues.

A. SUMMARY

Interrogatories are governed by 52 Pa. Code Section 5.321(c), which states:

(c) Scope. Subject to this subchapter, a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be inadmissible at hearing if the information sought is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code Section 5.321 (c).

52 Pa. Code Section 5.342 states the form and manner of Answers to

Interrogatories:

- (a) **Form. Answers to Interrogatories must:**
- (1) Be in writing.
 - (2) Identify the name and position of the individual who provided the answer.
 - (3) *Be submitted as an answer and may not be submitted as an exhibit or in another form.*
 - (4) *Answer each interrogatory fully and completely unless an objection is made.*
 - (5) Restate the interrogatory which is being answered or be inserted in the spaces provided in the interrogatories.
 - (6) *Be verified in accordance with Section 1.36 (relating to verification).*

Here, Complainants served Interrogatories, including Sets II (“Set II”) and III (“Set III”) (collectively, “Interrogatories”) on Respondent. Respondent failed to fully comply with Section 5.342, above, and Respondent provided partial or no responsive information to Complainants, as discussed herein. Section 5.342 and no other law,

regulation, or statute, support these incomplete and inadequate discovery responses. (It is noteworthy that in PGW's Objections filed on June 9, 2014 ("PGW's Objections"), no case or statutory law is provided in support of these objections).

Here, the Interrogatories seek detailed information, relevant to this proceeding and that are further defined as discoverable at Section 5.321(c), above.

B. Specific Discovery Issues and Sub-Issues.

1. Complainants seek specific information embedded in the Statement of Accounts and/or in the other records of PGW, rather than the general billing and payment policies and practices.

In ALJ's April 9, 2014 Order ("4/9/2014 Order"), at pages 24-30, the Commission discusses Interrogatories for Set II, ##17-21, and some of the detailed information on actions actually taken by PGW, in addition to policies and even arguably principals that PGW is obligated to follow, related to the Disputed Transactions. In responding to the Motion to Compel for Set II, ##17-21, the 4/9/2014 Order notes Complainants' argument that certain information is "embedded" and not explicitly stated in the Statement of Accounts. See page pages 29-30. But the 4/9/2014 Order refers the parties to consider Response #36 that the 4/9/2014 Order states provides information responsive to the Interrogatories. See page 30 of the 4/9/2014 Order. At pages 47-48 of the 4/9/2014 Order, the Order goes on to state that the Respondent must provide supplemental responses on all the Disputed Transactions (not just on a few transactions) and that the Respondent has respond to certain (as set forth in the 4/9/2014 Order as further discussed below) Interrogatories "as written".

Therefore, Complainants served Set III to further detail the needed information, so that the Respondent will provide the “embedded” information—separately and distinctly. Respondent continues to argue that it has provided the information or that Complainants can “figure it out” or that Complainants seek a particular format of previously provided information, etc. (See pages 19-20, 26 and 40 of the 4/9/2014 Order and PGW’s Objections to Set III, ##2-11.) To the contrary, Complainants seek certain information embedded in the Statement of Accounts and other PGW records. The 4/9/2014 Order restates that Respondent expects Complainants to “figure out” its factual answers, while Respondent only provides certain information, but the undetailed and vague nature of the responses and refusal to provide explanations is hurtful to the discovery process. In the interests of bringing this matter to resolution, if Respondent failed to understand what constitutes embedded information or that the embedded information was not provided, Complainants Set III clarifies this issue by breaking down the requests into more detailed interrogatories and should be timely answered without any objections.

This information is important because Late Payment Charges (“LPC”s) become embedded and part of the running balance, but there is no explanation of whether a payment is being applied to a disputed or undisputed transaction or account, to a liened or unliened debt nor the dates each debt is “liened” and the periods of gas usage covered by that lien to avoid “double billing”, nor whether a payment is being treated as a partial payment and subject to different treatment than a “full payment” under the Tariff. Respondent failed to provide and explain how payments were applied on Complainants’

Customer Accounts, SAs, and Disputed Transactions. The Statement of Accounts lack this detail, yet PGW just keeps sending this same, incomplete document to Complainants.

At a certain point, one might conclude that either PGW will not or cannot explain the basis of its bills and the resulting “claims of debts due” from Complainants. The applicable laws, statutes, and tariffs provide clear guidance, yet PGW does not provide the evidence in its business records of following those guidelines in billing and applying payments of the customers, here.

2. Complainants seek and request relevant and important information underlying the Statement of Accounts document and now detailed in Set III.

The 4/9/2014 Order, at pages 36-49, Set II, ##28, 31, and 33-39, denied the Complainants’ Motion to Compel, in part or completely, for reasons set forth below:

“I agree...that this discovery request [#28] does not require PGW to provide ‘documentary proof or evidence’ how each payment is applied to each account. Instead it requires PGW to identify and state the method and describe the manner in which PGW determined how payments are applied and reflected on Customer Accounts; how payments are received and credited; and how PGW determines that a Customer Account should be subjected to a collection action of any kind....” See p. 37, 4/9/2014 Order.

For Set II, ##31, 33, and 34, the 4/9/2014 Order provides:

“I find that [with respect to ##31, 33, and 34], [the related responses] adequately ‘identif[ied], describe[d], and explain[ed] the manner and methodology used [for accounting, bookkeeping, etc. for #31], [for calculating charges for ‘makeup bills for #33], and [to ‘calculate and apply charges for ‘makeup bills’ related to disputed transaction[s] in these matters’ for #34]”

Thereafter, for ##31, 33, and 34, the 4/9/2014 Order states:

“Because in its response PGW did not identify any documentation, it did not fail to comply with Complainants Set II-3” (or sic “Set II-31, 33, and 34”).

Further, for ##34, 35, 36, 37, 38, and 39, the 4/9/2014 Order concludes that:

“I do not find that the language of Complainants Set II-34, as written by the Complainants and modified by my Order...requires the Respondent to state what portion of the outstanding balance is comprised of LPCs or to provide detailed

information on whether, when and what portion of the outstanding balance constitutes disputed and undisputed payments, accounts and bills.... to provide 'data on the application of Complainants' payments, including the gas usage periods covered in the municipal liens, the date of filing each lien, the dates of satisfaction of the liens, when each account is determined to be inactive or active and for what period of time, the specific application of partial payments to an outstanding balance to undisputed and disputed Customer Accounts, [or a] reconciliation of payments to charges.'...

Similarly, for Set II, ##35, 36, 37, 38, and 39, the 4/9/2014 Order provides that "I [ALJ Vero] do not find that the language of Complainants Set II-[35, 36, 37, 38 and 39], as written by Complainants and modified by my [ALJ Vero's] Order of November 14, 2013, requires the Respondent to" essentially provide the following information:

“ ‘data on the application of Complainants’ payments including gas usage periods covered in the municipal liens, the date of filing each lien, the dates of satisfaction of the liens, when each account is determined to be inactive or active and for what period of time, the specific application of partial payments to an outstanding balance to undisputed and disputed Customer Account, [or a] reconciliation of payments to charges.’”[For #34] See pages 45-46 of the 4/9/2014 Order.

“...to state what portion of the outstanding balance is comprised of LPCs or to provide detailed information on whether, when and what portion of the outstanding balance constitutes disputed and undisputed payments, accounts, and bills....to provided ‘data on the application of Complainants’ payments, including the gas usage periods covered in the municipal liens, the date of filing each lien, the dates of satisfaction of the liens, the specific application of partial payments to an outstanding balance to undisputed and disputed Customer Accounts, [or a] reconciliation of payments to charges.’” [For #35. See page 46]

“to provide detailed information on whether, when and what portion of the outstanding balance constitutes disputed and undisputed payments, accounts, and bills. ...to provide ‘data on the application of Complainants’ payments, including the gas usage periods covered in the municipal liens, the date of filing each lien, the dates of satisfaction of the liens, when each account is determined to be inactive or active and for what period of time, the specific application of partial payments to an outstanding balance to undisputed and disputed Customer Accounts, [or a] reconciliation of payments to charges.’” [For #36. See page 47]

“to provide detailed information on whether, when and what portion of the outstanding balance constitutes disputed and undisputed payments, accounts, and bills...to provide ‘data on the application of Complainants’ payments, including the gas usage periods covered in the municipal liens, the date of filing each lien, the dates of satisfaction of the liens, when each account is determined to be inactive or active and for what period of time, the specific application of parital payments to an outstanding

balance to undisputed and disputed Customer Accounts, [or a] reconciliation of payments to charges.” [For #37. See page 48.]

“to state what portion of the outstanding balance constitutes disputed and undisputed payments, accounts, and bills... to provide ‘data on the application of Complainants’ payments... [and] the specific application of partial payments to an outstanding balance to undisputed and disputed Customer Accounts, [or a] reconciliation of payments to charges.’” [For #38. See page 48.]

“to attach or provide for inspection, the details of each Customer Account from the initiation of the Customer Accounts in the Complainants’ name(s) to date, to state what portion of the outstanding balance constitutes disputed and undisputed payments, accounts, and bills...to provide ‘data on the application of Complainants’ payments, the specific application of partial payments to an outstanding balance to undisputed and disputed Customer Accounts, [or a] reconciliation of payments to charges.’” [For #39. See page 49]

The above statements go to how the requests or interrogatories were “stated” or “explained”. Accordingly, additional (and in some cases, “rephrased”) interrogatories, Set III, were sent to Respondent, who thereafter filed objections to providing much of the requested response/information on June 9, 2014.

Respondent failed to fully provide and now objects to providing the information and documents on the bills, charges, application of payments on the Customer Accounts, SAs, and Disputed Transactions, and documents containing or referring to the internal memoranda/documentation on Respondent’s calculation of the debt, imposition of liens (including gas usage period covered by the lien and date of filing/satisfying all liens, if applicable), application of payments, charges, LPCs, and interest charges—and to provide this information on each Customer Account, SA, and Disputed Transaction that are part of this litigation.

Without this detailed information, Respondent is withholding critical facts that permit customers/Complainants adequate notice of all data comprising PGW’s bills, charges, and application of payments. Further, Respondent is preventing the customer from fully reviewing its bills/transactions and to and effectively appeal a high or

incorrect bill. No tariff or law gives PGW the power to ignore a request for such data and no discovery rule defeats or discourages such a request as part of discovery in this kind of matter. Further, it is difficult to conclude that without this detailed data, the Commission will have sufficient evidence and information to rule on the accuracy and appropriateness of the “service” and billing by PGW.

Respondent claims in its objections that: 1) the information was previously provided or provided in Responses to Interrogatory #36; 2) Complainant only seeks a particular format of information previously provided; and 3) Complainant can figure out the answers and responses that Respondent is requested to provide without Respondent providing embedded information and can essentially answer fact questions for Respondent without Respondent’s verification. Respondent does not show where and how the embedded and detailed information was previously provided “during the hearings” or in any discovery responses to date. Cursory answers and generalizations do not meet the requirements for answers to interrogatories under the applicable discovery rules and laws.

For example, Respondent continues to state the requested information is in its Exhibits and its Statement of Accounts. The Statement of Accounts, as stated repeatedly, does not provide kinds of details on calculation of the debt and the application of the payments as discussed in greater detail above. Also, Respondent will recite what the tariff requires without showing facts of how Respondent actually acted with respect to each Disputed Transaction.

The importance of receiving this detailed, complete, specific, and full discovery response is best shown in the case of Campos v. PGW, where the Administrative Law

Judge for the Commission stated that Linda Pereira, a senior customer review officer for PGW testified and noted:

“...the credit that the Complainant had established on his account was absorbed through the make-up bill and that the current undisputed charges after the issuance of the make-up bill have not been paid....PGW also assess a late payment fee...because Complainant had not paid undisputed charges for gas services rendered.” (See Campos, p. 28)”

Thereafter, the Commission, by its ALJ, held at page 28:

“I disagree with the account of billed charges by PGW toward Complainant’s account. The amount of \$2,028.80 is under dispute. PGW does not dispute that \$781.01 is credit accrued by the Complainant for early payments made. PGW cannot place the credit established by the Complainant toward the disputed amount owed. Rather, PGW must continue to place the credit toward undisputed amounts owed. (See Campos, at p. 30)...

As shown in the Campos case, one can not assume that because PGW claims it is calculating the bills and payments in accordance with the statutes, rules, and tariffs, that a full examination of the critical underlying pieces of the bills and charges is a waste of time or unnecessarily burdensome; to the contrary, how can the Complainants and the Commission rule on whether PGW’s issued correct bills without PGW releasing the detailed and embedded information and providing a clear and readily understandable explanation for the bills, charges, and payments underlying this litigation and the related Customer Accounts, SAs, and Disputed Transactions.

As noted in prior pleadings, discovery is encouraged so that the parties may dispose of any or as many issues as possible, prior to trial or hearing. Through discovery, the parties may discover that certain issues are “resolvable” or not in dispute and avoid wasting precious judicial time and resources. Here, Respondent is acting in contradiction to the rules governing discovery. Respondent must provide full and complete discovery responses in a proper manner as required by Section 5.342. The methodology and manner

in which PGW's applies payments to a customer's account and bill will lead to a significantly increased or reduced bill, balance, and claim for outstanding debt, on liened and unliened "debt", allegedly due to PGW from that customer.

As discussed above with regard to requested information and as referred to in the 4/9/2014 Order regarding Interrogatory ## 34, 35, 36, 37, 38, and 39, Respondent failed to attach or provide for inspection, the details of each Customer Account from the initiation of the Customer Account in the Complainants' name(s) to date. Respondent provides "LPCs", but fails to state what portion of the outstanding balance is comprised of LPCs. This information is important because it would confirm whether PGW is actually applying Complainants' payments, each and every time (not just in two "examples") to undisputed accounts as required by the applicable statute and Tariff (which is cited by PGW).

Respondent fails to provided detailed information on whether, when and what portion of the outstanding balance constitutes disputed and undisputed payments, accounts, and bills.

Complainants raised arguments that bills were in dispute for years as PGW "worked on" a mutual and amicable resolution. PGW may not agree, but PGW should state when PGW's records changed or were adjusted to reflect each of these disputed (in whole or in part) bills/transactions, and when PGW determined to treat each such bills (if ever) as undisputed bills/accounts and transactions.

This information is vital to determine whether PGW properly applied subsequent payments by Complainants. For example, if no LPCs were assessed to a Customer Account because the whole account was in dispute, then certain large payments to PGW

may have put the Customer Account in a “credit position” with a surplus. If the Statement of Accounts only shows LPCs without this detailed information, then it fails to prove or show PGW’s methodology, calculation, and accounting for each of Complainants’ disputed transactions, bills and payments to PGW; it fails to confirm whether a surplus could exist.

This critical underlying data on the application of Complainants’ payments, including the gas usage periods covered in the municipal liens, the date of filing each lien, the dates of satisfaction of the liens, when each account is determined to be inactive or active and for what period of time, the specific application of partial payments to an outstanding balance to undisputed and disputed Customer Accounts, reconciliation of payments to charges, a running tabulation of Late Payment Charges, separate from the other charges, provide the kind of full, complete and specific responses requested by these Interrogatories, which Respondent failed to provide, here.

Respondent needs to answer the Interrogatories, specifically, fully and completely as required by law.

3. PGW argues in lieu of providing the requested information, SBG can assume or guess what PGW would provide as a response.

Many accountants use GAAP, Generally Accepted Accounting Principals, in auditing, examining and completing financial documents and records. But other parties may use other accounting methods. The underlying data allows one to confirm whether GAAP is being used or not. Simply providing pieces of data is not the same as PGW showing how it actually uses the data per transaction and calculates a bill or performs accounting functions related to these matters. The customer needs the underlying

information that is embedded to fully understand the bill and PGW's accounting methods. Therefore, PGW must state specifically how and what it did in calculating the bill—and do so under oath. No discovery rule, statute or regulation states that in lieu of a specific answer to a specific interrogatory that the party seeking information can simply assume the answer from previously provided information: how can SBG assume PGW's unstated and unverified answer(s) to an interrogatory? Each party must state their own answers. Contrary to PGW's position, the discovery rules and laws require **“full and complete responses”** to interrogatories **by the person signing the verification**. See 52 Pa.Code Section 5.342(a).

4. SBG requested that PGW identify and state how and when PGW applied SBG payments to undisputed and disputed portions of the bill from the initiation of each Customer Account/SA/Meter until May 1, 2014.

PGW claims this information was provided and then refers SBG to the “Statement of Accounts”. Yet the statement of accounts does not reveal the information used by the ALJ in the case of Campos v. PGW, 2013 Pa. PUC LEXIS 344 (May 22, 2013). In Campos, this Commission determined that PGW failed to properly and correctly apply an undisputed credit to the customer's undisputed portion of the Customer's outstanding balance or debt in accordance with 52 Pa. C.S. Section 56.22 (c); as a result, PGW created a bill that eventually charged LPCs, which were not due if the bill was properly calculated. The undisputed credit was applied to disputed amounts owed. Disputed amounts are not subject to the imposition of LPCs. But undisputed amounts can be charged LPCS where no payment is made. A customer in a credit position does not need to make such a payment, if the credit is properly applied to the undisputed portion of

the bill. In Campos, as here, PGW claimed its original calculations of the bill and application of the payments to the outstanding balance was/is correct. PGW's improper billing and calculations were only revealed when the Commission examined the background and detail on the disputed and undisputed portions of the bill, the LPCs (origination and effect), the amount of the credit and application of the credit (payment) to undisputed vs. disputed charges.

PGW must provide the background details of its bills, charges, interest, LPCs, imposition of liens and details on the liens, and application of payments, credits, and the other sums on the Customer's Account, here, to avoid the kind of billing errors suffered by the customer in the Campos case.

5. Respondent provides limited municipal lien information and Respondent provides no internal documentation on when, how, where, and why specific debts were moved from active, to inactive, to liened, or non-liened debt. The general explanation evades the responsibility to provide specific information, such as documents on specific accounts, SAs, and Disputed Transactions. Complainants raised the issue that PGW should not impose the LPCs at the rate of 18% per annum once a lien is filed. Based on 42 Pa. Code Section 8101, PGW may only charge 6% in post-judgment interest on the outstanding balance from the date of judgment until the date of payment. SBG cannot calculate the total amount due without PGW identifying the date when a lien was filed on a particular customer account, meter, or SA account, what period of gas usage is covered by each lien, and the outstanding balance at the time of filing the lien. Unlike many other municipal liens that state the account, period of delinquency, and other detailed information, gas liens provide very few details. Only PGW knows this information. To

withhold these requested information and pieces of data, PGW is permitted to charge for LPCs and to increase any customer's outstanding balance without any clear and open review by the affected customer or the Commission. Such action also violates the discovery rules: this information is relevant to the question of the total amount due and whether the amount due is reasonable and in compliance with the applicable rules, laws, tariffs, and statutes.

6. Instead of PGW providing factual statements of how each disputed transaction was assessed and/or treated by the utility, PGW simply provides conclusions of law.

PGW's responses that: 1) "PGW applies the payment or calculates the outstanding debt and bills "in accordance with the applicable rate as defined in the ...PGW Tariff"; and 2) "Collections follow a scheduled series of events that are controlled by PGW's Gas Service Tariff..." are also non-responsive because they constitute conclusions of law, which are within the authority of the Commission to determine. The Interrogatories request factual information on the events, parties, and information affecting this litigation. Once that "factual" information is obtained and presented to the Commission, the Commission, and not PGW, will determine whether ***PGW complied with the PGW Tariff*** and whether ***[c]ollections [actually] follow ... events...controlled by PGW's Gas Service Tariff***. Unless PGW provides the documentation of its internal memoranda and billing documents on how each particular payments was applied, when applied as paid in part or in full, or to disputed and undisputed accounts, in full, complete and specific responses, Respondent is avoiding its obligation to explain the basis for

PGW's claims and bills, as well as for certain late payment charges, which should not be assessed on disputed accounts by statute.

By way of further example, Interrogatory #28 (c-e) requests the following:

"28. Identify, describe and explain Respondent's system of accounts, its policies and practices pertaining to maintaining and ensuring accuracy of customer financial accounts and collection accounts, identify and state the following:

c. The method for determining how payments are applied and reflected or stated on Customer Accounts.

d. State the manner in which all usage and billed charges applied to Customer Accounts as payments are received and credited.

e. Describe the manner in which Respondent determines that a Customer Account should be subject to a collection action of any kind, including a collection action to file and/or impose a municipal lien.

The Response #28, however, fails to provide the requested information for each Customer Account. A general explanation is provided on "how it can be done" or "should be done", but no documentary proof or evidence or factual support is provided that shows, with respect, to EACH Customer Account, here, PGW ACTUALLY determined how a payment is applied, how all usage and billed charges are applied and payments received and credited, nor the manner in which a particular Customer Account was determined to be and should be subject to a collection action to file and/or impose a municipal lien. The general explanation, alone, fails to meet and satisfy the discovery request, here.

7. Other discovery issues included prior non-responsive answers.

PGW discovery responses are due tomorrow, 7/11/2014, as so we must reserve the right to augment this section of the memorandum based on documents, which PGW may produce by tomorrow. For example, the parties discussed PGW's responses to #36 and PGW agreed to provide the additional, required information. This issue and other issues may be resolved based on PGW's responses tomorrow.

C. The above discovery issues are important due to issues in the case of whether PGW is violating applicable laws, statutes, regulations, and/or tariffs as discussed below.

1. PGW violated 52 Pa. Code Section 56.15, which provides:

§ 56.15. Billing information.

A bill rendered by a public utility for metered residential public utility service must state clearly the following information:

(4) The amount due for service rendered during the current billing period, specifying the charge for basic service, the energy or fuel adjustment charge, State tax adjustment surcharge if other than zero, State sales tax if applicable and other similar charges. The bills should also indicate that a State gross receipts tax is being charged and a reasonable estimate of the charge. A Class A utility shall include a statement of the dollar amount of total State taxes included in the current billing period charge. For the purpose of this paragraph, a Class A utility shall also include a Class A telephone utility as defined under § 63.31 (relating to classification of public utilities).

(7) The total amount of payments and other credits made to the account during the current billing period.

(8) The amount of late payment charges, designated as such, which have accrued to the account of the customer for failure to pay bills by the due date of the bill and which are authorized under §56.22 (relating to accrual of late payment charges).

(9) The total amount due.

(11) A statement directing the customer to “register any question or complaint about the bill prior to the due date,” with the address and telephone number where the customer may initiate the inquiry or complaint with the public utility.

(12) A statement that a rate schedule, an explanation of how to verify the accuracy of a bill and an explanation, in plain language of the various charges, if applicable, is available for inspection in the local business office of the public utility and on the public utility’s web site.

(14) Electric distribution utilities and natural gas distribution utilities shall incorporate the requirements in § § 54.4 and 62.74 (relating to bill format for residential and small business customers). (Emphasis added.)

Accordingly, the applicable laws and tariffs require that the utility provide specific information on its bills and billing statements. Arguably, despite the discovery requests and the above statutory provisions, PGW continues to refuse to provide details on the bills and payments, including a separate statement of the “accrued late payment charges” and an explanation on how to verify the accuracy of the bills, i.e. provide the

details and accounting for the application of payments, including those involving disputed vs. undisputed debt, lien information, payment information, and LPC detailed information.

2. PGW violated 52 Pa. Code Section 56.21, which provides:

§ 56.21. Payment.

(2) *Date of payment by mail.* For a remittance by mail, one or more of the following applies:

(i) Payment shall be deemed to have been made on the date of the postmark.

(ii) The public utility may not impose a late payment charge unless payment is received more than 5 days after the due date.

(4) *Electronic transmission.* The effective date of a payment electronically transmitted to a public utility is the date of actual receipt of payment.

(6) *Multiple notifications.* When a public utility advises a customer of a balance owed by multiple notices or contacts which contain different due dates, the date on or before which payment is due shall be the latest due date contained in any of the notices.

3. PGW violated 42 Pa.C.S. § 8101, by misapplying 52 Pa. Code Section 56.22, which provides:

§ 56.22. Accrual of late payment charges.

a) Every public utility subject to this chapter is prohibited from levying or assessing a late charge or penalty on any overdue public utility bill, as defined in § 56.21 (relating to payment), in an amount which exceeds 1.5% interest per month on the overdue balance of the bill. These charges are to be calculated on the overdue portions of the bill only. The interest rate, when annualized, may not exceed 18% simple interest per annum.

(b) An additional charge or fixed fee designed to recover the cost of a subsequent rebilling may not be charged by a regulated public utility.

(c) Late payment charges may not be imposed on disputed estimated bills, unless the estimated bill was required because public utility personnel were willfully denied access to the affected premises to obtain an actual meter reading.

In addition to the above, the Courts of this Commonwealth have limited how and when the 1.5% interest rate may be imposed in the face of a judgment or lien. Despite PGW's claims, if the interest rate must change to 6% from 18%, upon postjudgment, then the filing date of the judgment or lien is needed to calculate the interest on the liened debt; further, only PGW files the liens and knows the details of the debts and charges

underlying these debts and charges. Some of the liens have no account numbers or information on the gas usage periods covered by the liens—all of this information is part of verifying the underlying debt. Since 42 Pa.C.S. § 8101 (relating to interest on judgments) limits post-judgment interest to 6% per year unless otherwise provided by another statute, it supersedes the regulation that provides for 18% interest per year on amounts owed to a public utility. Equitable Gas Co. v. Wade, 812 A.2d 715 (Pa. Super. 2002). We cannot assume, as PGW might, that it does not matter when the lien was filed on each and every Subject Property; this information creates a 12% difference in interest due on the debt.

Further, statutes and the Commission have set requirements on providing information to customers on bills and charges. The Complainants seek information that will easily and readily explain how PGW created its bills and claims against Complainants. By providing the requested detailed information on the bills and payments for the Customer Accounts, PGW will be complying with the discovery requests, as well as with the spirit and goals of the “plain language” guidelines set forth in 52 Pa. Code §69.251, that permit a customer to obtain billing information in a clear and easily and readily understood manner.

4. PGW violated 52 Pa. Code Sections 56.23 and 56.24, which provide as follows:

§ 56.23. Application of partial payments between public utility and other service.

Payments received by a public utility without written instructions that they be applied to merchandise, appliances, special services, meter testing fees or other nonbasic charges and which are insufficient to pay the balance due for the items plus amounts billed for basic utility service shall first be applied to the basic charges for residential public utility service; and

§ 56.24. Application of partial payments among several bills for public utility service.

In the absence of written instructions, a disputed bill or a payment agreement, payments received by a public utility which are insufficient to pay a balance due both for prior service and for service billed during the current billing period shall first be applied to the balance due for prior service.

The Statement of Accounts, clearly, show partial payments or payments that do not pay the full balance on bills that include basic and nonbasic charges and bills that are for prior service and service billed during the current period. Yet, the Statement of Accounts, do not designate how these partial payments are applied. Without this detailed information, the parties and the Commission cannot verify whether PGW has fully, completely, specifically, and properly complied with the tariffs, statutes, rules, and laws governing good service and billing by a utility in this Commonwealth.

5. PGW violated 52 Pa. Code Section 56.151, which provides:

§ 56.151. General rule.

Upon initiation of a dispute covered by this section, the public utility shall:...

(2) Investigate the matter using methods reasonable under the circumstances, which may include telephone or personal conferences, or both, with the customer or occupant.

(3) Make a diligent attempt to negotiate a reasonable payment agreement if the customer or occupant is eligible for a payment agreement and claims a temporary inability to pay an undisputed bill. Factors which shall be considered in the negotiation of a payment agreement include, but are not limited to:

- (i) The size of the unpaid balance.**
- (ii) The ability of the customer to pay.**
- (iii) The payment history of the customer.**
- (iv) The length of time over which the bill accumulated.**

(4) Provide the customer or occupant with the information necessary for an informed judgment, including, but not limited to, relevant portions of tariffs, statements of account and results of meter tests.

(5) Within 30 days of the initiation of the dispute, issue its report to the complaining party. The public utility shall inform the complaining party that the report is available upon request.

(i) If the complainant is not satisfied with the dispute resolution, the utility company report must be in writing and conform to § 56.152 (relating to contents of the public utility company report). Further, in these instances, the written report shall be sent to the complaining party if requested or if the public utility deems it necessary.

(ii) If the complaining party is satisfied with the orally conveyed dispute resolution, the written utility company report may be limited to the information in § 56.152(1), (2) and, when applicable, § 56.152(7)(ii) or (8)(ii).

(iii) The information and documents required under this subsection may be electronically provided to the complaining party as long as the complaining party has the ability to accept electronic documents and consents to receiving them electronically.

Clearly, the above shows that Section 56.151 provides the criteria for actions required by the utility in the face of a dispute with a customer. The Interrogatories seek specific and detailed information, which would permit an understanding and a determination of whether PGW satisfied the dictates of Section 56.151 and other statutes with respect to the disputes at the heart of this litigation.

III. Conclusion.

PGW's refusal to specifically, fully, and completely provide the above information can potentially impede the discovery process and prevent a full and thorough hearing on the bills and PGW's actions in providing "good service" in these consolidated cases.

Date: July 10, 2014

Respectfully submitted,

S/FRANCINE THORNTON BOONE, ESQUIRE

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E: Booneft@aol.com; T: 215-260-4562

Attorney for Complainants

(ii) If the complaining party is satisfied with the orally conveyed dispute resolution, the written utility company report may be limited to the information in § 56.152(1), (2) and, when applicable, § 56.152(7)(ii) or (8)(ii).

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Date: July 10, 2014

Respectfully submitted,

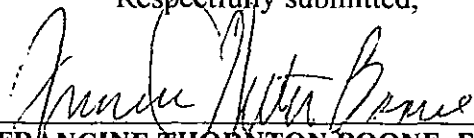

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EXHIBIT "A"

COMPLAINANTS' PROPOSED DISCOVERY SCHEDULE

As of July 10, 2014

1. The parties have mutually agreed upon a discovery plan which has been incorporated into this Case Management Order.
2. Complainant(s) written discovery shall be completed and **ANSWERS** served upon all other parties not later than **December 1, 2014**.
3. Defendant(s) written discovery shall be completed and **ANSWERS** served not later than **December 1, 2014**.
4. Complainant's and Defendant's deposition of parties and witnesses shall be completed not later than **December 1, 2014**.
5. All discovery on the above matter shall be completed not later than **December 1, 2014**.
6. All pre-hearing motions shall be filed not later than **January 3 or 17, 2015**.
7. A settlement conference may be scheduled at any time after **January 3 or 17, 2015**.
8. A pre-hearing conference will be scheduled any time after **March 3 or 17, 2015** (30 days prior to hearing date).

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

COMMONWEALTH OF PENNSYLVANIA
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In the Matter of:

Docket No. C-2012-2304167--SBG Management Services, Inc. (Elrac) v. Philadelphia Gas Works
Docket No. C-2012-2304183--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2304215--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2304303--SBG Management Services, Inc. (v. Philadelphia Gas Works
Docket No. C-2012-2304324--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2308454--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2308462--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2308465--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2334253--SBG Management Services, Inc./Colonial Garden Realty Co., L.P. v.
Philadelphia Gas Works

CERTIFICATE OF SERVICE

I hereby certify that on July 10, 2014, I have served the foregoing "Complainants' Prehearing Memorandum—Discovery and Discovery Plan", upon ALJ Eranda Vero, by email and First Class overnight mail at the address below, the Secretary for the Pennsylvania Public Utility, by First Class Mail overnight mail, and a copy of the same upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54:


VIA Email and/or First Class Mail only:

For the PA Public Utility Commission:
Administrative Law Judge Eranda Vero
PA Public Utility Commission
Suite 4063--801 Market Street
Philadelphia, PA 19107
By: First Class Overnight Mail and Email: evero@pa.gov

For Respondent:
Laureto Farinas, Esquire, Philadelphia Gas Works
Attorney for PGW and Respondents
800 W. Montgomery Avenue, 4th Floor, Philadelphia, PA 19122
By First Class Overnight Mail

Phil Pulley and Kathy Treadwell, SBG Management Services, Inc.:
P.O. Box 549, Abington, PA 19001
By Email: phil@sbgmanagement.com
By Email: ktreadwell@sbgmanagement.com

Date: July 10, 2014

BY: 
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Pennsylvania Attorney I.D. No.—45118
ATTORNEY FOR COMPLAINANTS

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FROM: (PLEASE PRINT)

PHONE (215) 260-4562

Frankie Beano, Esq.
Self-Management Services, Inc.
P.O. Box 541
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Mr. Rosemary Chiavetta, Secretary
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Harrisburg, PA 17105-3265

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