

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**SBG Management Services, Inc. /  
Colonial Garden Realty, LP,  
Complainant**

**v.**

**Philadelphia Gas Works,  
Respondent**

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**Docket No. C – 2012 – 2304183**

**SBG Management Services, Inc. /  
Fairmount Realty,  
Complainant**

**v.**

**Philadelphia Gas Works,  
Respondent**

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**Docket No. C – 2012 – 2304215**

**SBG Management Services, Inc. /  
Simon Gardens Realty, LP,  
Complainant**

**v.**

**Philadelphia Gas Works,  
Respondent**

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**Docket No. C – 2012 – 2304324**

**SBG Management Services, Inc. /  
EIRae Garden Realty, LP,  
Complainant**

**v.**

**Philadelphia Gas Works,  
Respondent**

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**Docket No. C – 2012 – 2304167**

**SBG Management Services, Inc. /  
Marshall Square Realty, LP,  
Complainant**

**v.**

**Philadelphia Gas Works,  
Respondent**

**Docket No. C – 2012 – 2304303**

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

<u>SBG Management Services, Inc. /</u>	:	
<b>Marchwood Realty,</b>	:	
Complainant	:	
v.	:	<b>Docket No. C – 2012 – 2308454</b>
	:	
<b>Philadelphia Gas Works,</b>	:	
Respondent	:	
<u>SBG Management Services, Inc. /</u>	:	
<b>Oak Lane Realty Co., LP,</b>	:	
Complainant	:	
v.	:	<b>Docket No. C – 2012 – 2308462</b>
	:	
<b>Philadelphia Gas Works,</b>	:	
Respondent	:	
<u>SBG Management Services, Inc. /</u>	:	
<b>Fern Rock Realty,</b>	:	
Complainant	:	
v.	:	<b>Docket No. C – 2012 – 2308465</b>
	:	
<b>Philadelphia Gas Works,</b>	:	
Respondent	:	
<u>SBG Management Services, Inc. /</u>	:	
<b>Colonial Garden Realty, LP,</b>	:	
Complainant	:	
v.	:	<b>Docket No. C – 2012 – 2334253</b>
	:	
<b>Philadelphia Gas Works,</b>	:	
Respondent	:	

**Philadelphia Gas Works’ Objections to the Complainants’  
Application for the Subpoena of the Honorable Daniel D. McCaffery**

Pursuant to 52 Pa. Code §5.421, which sets forth the requirements of an application for a subpoena before the Commission, the Philadelphia Gas Works (“PGW”) files its Objections to the Complainants’ (“SBG” or Complainants) Application for a subpoena ordering the Honorable Daniel D. McCaffery, Philadelphia County Court of Common Pleas to appear at hearings to be scheduled in the above captioned consolidated matters (“subpoena application document”).

In support of its objections, PGW hereby avers the following:

1. By letter dated September 29, 2014, the Complainants served upon PGW, a copy of a letter to the Commission requesting a signature of the Administrative Law Judge on the above mentioned subpoena application document ordering, among others, the Honorable Daniel D. McCaffery, Philadelphia County Court of Common Pleas to appear at hearings to be scheduled in these matters, which is attached hereto as Appendix "A."

2. The Complainant's subpoena application document was submitted to comply with the Administrative Law Judge Vero's October 6, 2014 deadline for all discovery motions, prehearing, motions and applications for subpoena.

3. At Paragraph 2, the subpoena states:

And bring with you and produce the following: Any and all documents, writing, reports, correspondence, materials, data/information, financial accounting records, recordings and other verified proofs and information that have not already been provided, upon which you relied in support of your responses provided to Complainants' discovery requests and actions taken by you pertaining to the above-captioned matters.

4. The subpoena application document for the subpoena of Judge McCaffery fails to conform with the prescribed form and content of an application for a subpoena under the Commission's Rules of Administrative Practice and Procedure at 52 Pa. Code §§5.421(b)(1), (2), (3) and 5.421(c).

5. The subpoena application document fails to specify the general relevance, materiality and scope of the testimony to be provided by Judge McCaffery and of the information that he is ordered to bring, pursuant to 52 Pa. Code §5.421(b)(1).

6. The subpoena application document fails to list the facts to be proved by the information that he is ordered to bring to the hearing pursuant to 52 Pa. Code §5.421(b)(2).

7. The subpoena application document fails to contain a notice that a response or objection to the application document shall be filed with the Commission and presiding officer within 10 days of service of the application (October 9, 2014) pursuant to 52 Pa. Code §5.421(c). ). With the absence of a Certificate of Service of Judge McCaffery, it appears that he was not served with the Complainants' application for a subpoena, thus depriving him of the right to respond or object to it pursuant to 52 Pa. Code §5.421(c). Further, as Judge McCaffery is now member of the bench of the

Philadelphia County Court of Common Pleas, there may be additional obstacles to, or permissions required for his providing testimony this case.

8. The subpoena application document does not constitute an application for a subpoena as defined in 52 Pa. Code §5.421, which is the controlling statute in obtaining a subpoena in these matters, as that document fails to list the facts to be proved in sufficient detail to indicate the necessity of the testimony and of the necessity of information requested as well as the requisite notice to the subject of the subpoena to respond or object within 10 days.

9. For the reasons stated above, the Complainants' subpoena application document for the Honorable Daniel D. McCaffery should be denied.

10. The absence of any specificity in the Complainants' subpoena application document raises a larger concern about the use of time and resources that have already been used in these matters. On August 26, 2013, Mr. McCaffery testified concerning his recollection of matters between PGW and the Complainants as their counsel. His testimony with direct, cross, redirect and re-cross examination was narrow in scope but thorough and includes pages 53 through 175 of the transcript (122 pages). PGW is hard pressed to see any additional need for his further testimony.

11. There has been yet another change in counsel for the Complainants (third counsel of record). The Complainants' recalling of all of the witnesses, Mr. McCaffery particularly, to be subpoenaed to provide testimony in the upcoming hearings without specificity might lead one to conclude that the Complainants seek to rehash and repeat testimony in areas already covered during the hearings held on August 26, 27, 28, 29 and 30, 2013 and introduce testimony on matters that are not within the scope of this proceeding.

12. The resumption of hearings in these matters must not become a "do-over" of the Complainants' case, ignoring the 5 days spent in giving testimony. The Complainants must not be permitted to use the hiring of new counsel to necessitate new hearings of matters already covered in August 2013. Yet the lack of compliance with 52 Pa. Code §5.421 without specific identification of issues, foreshadows, at best, an inefficient use of time and resources.

13. Just prior to the hiatus of the hearings for these matters, the Complainants were at or near the completion of its case in chief in the consolidated matters docketed at C-2012-2304215 (Fairmount Manor), C-2012-2304167 (Elrae Garden) and C-2012-2304303 (Marshall Square). The parties were to discuss hearing dates for the presentation of PGW's case in chief.

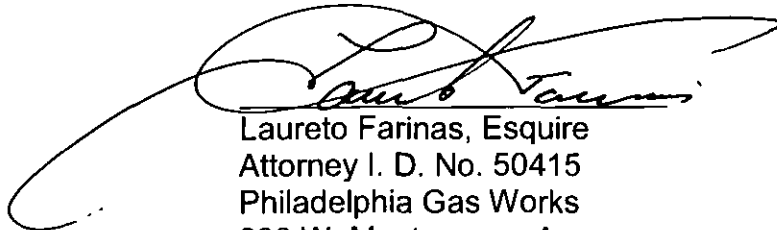
14. According to the order of witnesses described by SBG counsel at the hearing adjourned on August 30, 2013, all SBG witnesses, save Ms. K. Treadwell, have completed their testimony in the consolidated matters docketed at C-2012-2304183, C-2012-2334253 (Colonial Garden) and C-2012-2304324 (Simon Garden). In these matters, the parties will need to address the scheduling for the completion of Ms. Treadwell's direct testimony, cross examination and the presentation of PGW's case in chief for these matters.

15. According to the presiding officer's directive concerning the matters docketed at C-2012-2308465 (Fern Rock), C-2012-2308462 (Oak Lane) and C-2012-2308462 (Marchwood) the parties will be scheduled to file pre-filed direct and rebuttal testimony with hearings for cross examination to follow.

**Wherefore**, PGW respectfully requests that this Commission deny the Complaints' subpoena application document for the above stated reasons.


Respectfully submitted,

October 8, 2014



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

# **APPENDIX “A”**

 **SBG Management Services, Inc.**  
P.O. Box 549 Abington, PA 19001  
Phone 215.938.6665 Fax 215.935.6987

September 29, 2014

**VIA U.S. MAIL, Overnight Delivery**

The Honorable ALJ Eranda Vero  
For Pennsylvania Public Utility Commission  
Pennsylvania Public Utility Commission, Suite 4063,  
801 Market Street  
Philadelphia, PA 19107

**In the Matters of: SBG Management Services, Inc./Colonial Garden Realty, LP v. Philadelphia Gas Works, Docket No. C-2012-2304183; SBG Management Services, Inc./Fairmount Realty, v. Philadelphia Gas Works, Docket No. C-2012-2304215 ; SBG Management Services, Inc./Simon Gardens Realty, LP v. Philadelphia Gas Works, Docket No. C-2012-2304324; SBG Management Services, Inc./Elrae Garden Realty, LP v. Philadelphia Gas Works, Docket No. C-2012-2304167 ; SBG Management Services, Inc./Marshall Square Realty, LP v. Philadelphia Gas Works, Docket No. C-2012-2304303; SBG Management Services, Inc./Marchwood Realty v. Philadelphia Gas Works, Docket No. C-2012-2308454; SBG Management Services, Inc./Simon Gardens Realty, LP v. Philadelphia Gas Works, Docket No. C-2012-2308460; SBG Management Services, Inc./Oak Lane Realty Co., LP v. Philadelphia Gas Works, Docket No. C-2012-2308462; SBG Management Services, Inc./Fern Rock Realty v. Philadelphia Gas Works, Docket No. C-2012-2308465; and SBG Management Services, Inc./Colonial Garden Realty, LP v. Philadelphia Gas Works, Docket No. C-2012-2308469**

**RE: Application for Subpoenas to Attend and Testify at Trial**

Dear Judge Vero:

Pursuant to 1 Pa. Code §35.142(a) [*Issuance of Subpoenas*], I am seeking your signature on the applications of the enclosed Subpoenas in order for said Subpoenas to be issued for Trial purposes with regard to the above-referenced matters, in order to comply with the court's deadline for such requests of October 6, 2014. At this time, I respectfully request that you sign the enclosed Subpoenas as well as provide me with a hearing date, time and location/place so that I may insert this information on the subpoenas prior to the service of same; then, kindly return the signed Subpoenas to me in the self-addressed, stamped envelope provided herein for service. Motions before the court regarding discovery in these matters are still pending. To the extent that Complainants' may be entitled to receive additional discovery after the Court rules on the pending discovery motions, I respectfully request the opportunity to submit supplemental applications for subpoenas to other persons not mentioned in these requests should the need arise.

The subpoenas will be served to the following individuals, who are Respondent's current and/or former employees whom we are requesting to attend and testify at the hearings to be scheduled by the Commission because these individuals' names and titles were provided by PGW in response to Complainants' discovery requests and, they were further noted by Respondent as PGW employees with knowledge and information pertinent to the instant matter:

1. Bernard L. Cummings, V.P. Customer Service & Collections;
2. Ralph T. Savage, III, Director of the Customer Resource Center (a/k/a Ted Savage);
3. Tyra Jackson, Director of Regulatory Compliance;
4. Tiffany Higgins, Manager of the Customer Review Unit;
5. Linda Pereira, Senior Customer Review Officer;
6. Ramya Rajan, Manager of the Customer Resource Center;
7. Randy Hollman, (formerly of) Customer Resource Center;
8. Anne Marie Cromley (retired) \_\_\_\_\_
9. John Dunn, III
10. The Honorable Daniel D. McCafferty, Philadelphia County Court of Common Pleas \_\_\_\_\_
11. Phred Jones, PGW \_\_\_\_\_

Thank you for your kind consideration.

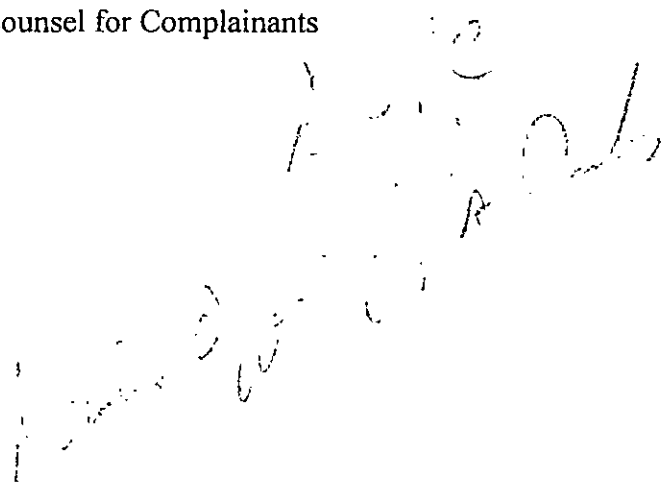
Respectfully yours,



Donna S. Ross  
Counsel for Complainants

DSR/jb  
Enclosures

cc: Mr. Laureto Farinas, Esquire (w/enc.)  
Secretary Madam Rosemary Chiavetta (w/enc.)







COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In the Matter of:  
SBG Management Services, Inc., et al.

Docket Nos.: C-2012-2304183; C-2012-2304215;  
C-2012-2304324; C-2012-2304167;  
C-2012-2304303; C-2012-2308454;  
C-2012-2308460; C-2012-2308462;  
C-2012-2308465; C-2012-2308469

vs.

Philadelphia Gas Works

SUBPOENA

To: Honorable Daniel McCaffery – Court of Common Pleas of Philadelphia County,  
Trial Division-Criminal, City Hall-Room 534, Philadelphia, PA 19107  
(Name and Address)

Pursuant to the authority of this Commission under §§309, 331(d)(2) and 333(j) of the Public Utility Code:

1. YOU ARE ORDERED by the Commission to come to \_\_\_\_\_  
(place)

\_\_\_\_\_, at \_\_\_\_\_

Pennsylvania, on \_\_\_\_\_, at \_\_\_\_\_ o'clock, in the above case, to testify  
(date)  
on behalf of the Complainants and to remain until excused;

2. And bring with you and produce the following: Any and all documents, writings,  
reports, correspondence, materials, data/information, financial accounting records, recordings  
and other verified proofs and information that have not already been provided, upon which you  
relied in support of your responses provided to Complainants' discovery requests and actions  
taken by you pertaining to the above-captioned matters.

This subpoena is issued subject to the provisions of 52 Pa. Code §5.421 (with regard to issuance, notice, service and witness fees).

BY THE COMMISSION

Date \_\_\_\_\_

\_\_\_\_\_  
Administrative Law Judge

Commonwealth of Pennsylvania

)

) SS:

County of

)

**AFFIDAVIT OF SERVICE**

Before me, the undersigned authority, personally appeared \_\_\_\_\_  
who, being duly sworn according to law, deposes and says that he/she served a true and correct  
copy of the within SUBPOENA upon \_\_\_\_\_  
by handing the same to him/her at \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2014 at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
(Signature)


Sworn to and subscribed before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
*Notary Public*

**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.

October 8, 2014



Laureto Farinas, Esquire

**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).

**Service List**

For Complainants:

Donna S. Ross, Esq.  
General Counsel  
SBG Management Services, Inc.  
P.O. Box 549  
Abington, PA 19001

& by e-mail: [dsross@sbgmanagement.com](mailto:dsross@sbgmanagement.com)

Mr. Philip Pulley  
Ms. Kathy Treadwell  
Francine Thornton Boone, Esq.  
SBG Management Services, Inc.  
P.O. Box 459  
Abington, PA 19001

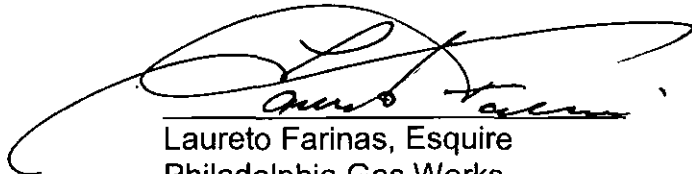
& by e-mail: [phil@sbgmanagement.com](mailto:phil@sbgmanagement.com)  
[ktreadwell@sbgmanagement.com](mailto:ktreadwell@sbgmanagement.com)

October 8, 2014

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SECRETARY'S BUREAU



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