



PHILADELPHIA GAS WORKS

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August 5, 2015

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Sandra C. Laws v. PGW, Docket No. F - 2014 - 2426789

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §5.535, the Philadelphia Gas Works ("PGW") hereby files the original of its exceptions to the July 16, 2015, Initial Decision in the above captioned matter.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Danielle Leva".

Danielle Leva

Enclosure

cc: Sandra C. Laws (Regular Mail)
Linda Pereira (PGW Mail)
Wendy Vacca (PGW Mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Sandra C. Laws,	:	
Complainant	:	
	:	Docket No. F – 2014 – 2426789
v.	:	
	:	
Philadelphia Gas Works,	:	
Respondent	:	

**Exceptions of The
Philadelphia Gas Works
To The Initial Decision of July 16, 2015**

Pursuant to 52 Pa. Code §5.533, the Philadelphia Gas Works, (“PGW”) hereby files its Exceptions to the Initial Decision issued July 16, 2015, in the above captioned matter (“Initial Decision”).

I. Introduction

Originally, this matter began with the Complainant’s allegation that PGW’s bills exceed the 5% cap that the Complainant also alleged was a limit upon PGW’s Distribution Charge as shown on the PGW bill.¹ As a result of testimony given by the PGW and the Complainant (the “Parties”) at the Initial Hearing held September 17, 2014, presided over by Administrative Law Judge Angela T. Jones (“ALJ”) the Parties had clarified that the 5% cap originally raised as applicable to the Distribution Charge in the complaint actually applied to PGW’s Distribution System Improvement Charge (“Dsic”) pursuant to PGW Gas Service Tariff, Supplement No. 70, page 151 and authorized by 66 Pa. C.S. §§1350, *et seq.*

Pursuant to the Order dated January 23, 2015 in this matter, PGW prepared to explain conceptually the distribution charge as described in the PGW Tariff compared to the distribution charge on the Complainant’s bill issued February 19, 2014.² The Complainant acknowledged at the further Hearing in the matter held February 27, 2015, that she understands that the 5% cap is applicable to the Dsic charge and not the PGW Distribution Charge.

¹ PGW Exhibit – 2, p. 4 of 7 and Complainant’s Exhibit – 1, p. 3 of 3

² *Id.*

The Complainant further stated that the remaining issue of the case is the ability to understand her bill. To that end, the ALJ instructed PGW to address by brief the issue of whether the PGW bill format as shown in the Complainant's bill dated February 19, 2014, p. 3³ conforms with the PGW Tariff with respect to the presentation of the Rates and Charges as presented in PGW Exhibit – 3, p. 3 of 5.

Pursuant to Order #3 Late Filed Exhibit and Briefs, dated March 3, 2015, on March 6, 2015, PGW submitted as a late filed exhibit, PGW Exhibit – 5 Revised, which provided the rates and effective dates of each of the component Surcharges of PGW's Distribution Charge that were in effect at the issuance of the bill on February 19, 2014 and found on the PGW website.⁴

Pursuant to the Administrative Law Judge's Order #3 Late Filed Exhibit and Briefs, dated March 3, 2015 PGW filed its Main Brief on March 27, 2015 addressing the issue of whether the PGW bill format as shown in the Complainant's bill dated February 19, 2014, p. 3⁵ conforms with the PGW Tariff with respect to the presentation of the Rates and Charges as presented in PGW Exhibit – 3, p. 3 of 5. The Complainant filed a reply brief on April 6, 2015.

On July 16, 2015 the Commission issued the Initial Decision which found *inter alia.*, that the Complainant failed to sustain her burden of proof in showing that PGW overcharged her for the Distribution Charge in the bill issued February 19, 2014, as the amount billed for the Distribution Charge did not include the DSIC and that the PGW billing format should match the Commission-approved tariff but does not. For this reason the Initial Decision concluded that the PGW billing format violates Section 1301 of the Public Utility Code as it is not in conformity with the Commission order that approved the tariff.

PGW's exceptions to the Initial Decision follow.

³ Id.

⁴ PGW Late Filed Exhibit – 5, Revised.

⁵ Id.

II. PGW Exception

1. PGW takes exception to the Initial Decision concluding that the PGW billing format violates Section 1301 of the Public Utility Code ("Code") as it is not in conformity with the Commission order that approved the tariff.

The evidence of record fails to show that PGW has acted unreasonably or provided unreasonable service in violation of the Public Utility Code §1501, concerning the PGW Billing Format. Pursuant to the Public Utility Code, 66 Pa. C.S. §332(a), the party seeking relief from the Commission, the Complainant, bears the burden of proof. To establish a sufficient case and satisfy its burden of proof, the Complainant must show that the PGW is responsible or accountable for the problem described in the complaint. Patterson v. Bell Telephone Company of Pennsylvania, 72 Pa. P.U.C. 196 (1990), Feinstein v. Philadelphia Suburban Water Company, 50 Pa. P.U.C. 300 (1976). Such a showing must be made by a preponderance of the evidence. Samuel J. Lansberry, Inc. v. Pa. P.U.C., 134 Pa. Cmwth. 218, 578 A.2d 600 (1990). A finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. Mill v. Pa. P.U.C., 67 Pa. Cmwth. 597, 447 A.2d 1100 (1982). More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Norfolk and Western Ry. V. Pa. P.U.C., 489 Pa. 109, 419 A.2d 1037 (1980). The evidence of record fails to support a finding that PGW provided unreasonable service in its billing format.

The Initial Decision concluded that the PGW billing format violates Section 1301 of the Public Utility Code as it is not in conformity with the Commission order that approved the tariff. Section 1301 of the Public Utility Code states, "Every rate made, demanded, or received by any public utility,...shall be just and reasonable, and in conformity with regulations or order of the commission."¹

The Initial Decision relies upon the "conformity" idea to find PGW in violation of the Code. As explained herein, the PGW bill format is in compliance with the PGW Tariff and all applicable the statutes and Commission regulations governing the form, substance and presentation of the bill and provides information to rate payers in a plan language

manner. The billing format difference is merely one of presentation of the categories of charges in order to explain more clearly the components of the PGW bill. A mere difference in presentation to educate ratepayers is not a violation but rather adherence to the utility's obligation to present information in plain language.

- a. The PGW bill format shows all of the applicable charges in a presentation that lends clarity to the distinction between the supply and distribution functions of PGW, a Natural Gas Distribution Center.

The Initial Decision recognized that the PGW bill format which groups of the various component charges in a way different from the manner presented in the Tariff does not result in a different billed amount for the customer than if presented in "lock step" order to the menu of charges presented in the PGW Tariff. The billing format complies with the Tariff in that it charges the correct amount. Changing the order of the presentation of the rate components does not violate 66 Pa. C.S. §1301, as it is the rates that are demanded must be just, reasonable and in conformity with the regulations or orders of the Commission. In PGW's billing format, the rates are correct and conform to the Tariff approved rates. The Initial Decision found that the Complainant was not overcharged and the bill was correct.² The Code in 66 Pa. C.S. §1301 does not mandate that the presentation of the rates on the bill must be presented precisely as they appear in the Tariff, but rather that the rates conform with regulations or orders of the commission.³

Pursuant to the Pennsylvania Public Utility Code at 52 Pa. Code §§56.15 and 62.74, and the PGW Tariff, the PGW bill format contains all the required elements and categories of charges. The PGW bill format provides for charges including the Customer charge, the Gas adjustment charges, the Commodity charges and Distribution charges as well as the other requisite customer and measurement information. In addressing the PGW billing format, the question of conformity with the Tariff arises only with the order of presentation of the materials. The PGW bill format separates the presentation of charges between those charges associated with purchase of the Supply of gas as a commodity and those associated with the Delivery of gas, the distribution function.

¹ 66 Pa.C.S. §1301 (emphasis added)

² Initial Decision, p. 12

³ 66 Pa.C.S. §1301

In the PGW bill format as seen on Complainant Exhibit – 1, p. 3 of 3, the charges are presented in a manner which covers the Supply Charges first, which include the calculation of the Complainant’s Commodity Charges with the amount of metered usage at the Commodity (supply rate) for the rendering of the “Total Supply Charges” for the Complainant’s review. Thereafter, the PGW bill format covers the charges associated with the delivery of gas to the customer.

On the bill format, the general heading of the distribution function charges are grouped together and indented under the general heading “Delivery Charges” (not “Delivery Charge”) In the PGW Tariff, the charges are presented in the following order: Customer Charge, DSIC (surcharge), the Gas Cost Rate, the Distribution Charges (which includes the Delivery Charge and the named Surcharges.⁴

Any difference between the billing format and the Tariff is merely one of presentation of the categories of charges. The Distribution Charge is comprised of the Delivery Charge and the various authorized Surcharges and that the Customer Charge is grouped under the “Delivery Charges” heading. As stated above, the grouping of the various component charges in this way does not result in a different billed amount for the customer than if presented in “lock step” order to the menu of charges presented in the PGW Tariff. The PGW bill format groups together the various components of the Distribution Charge Surcharges of the Tariff and presents them as the “Delivery Charges” in a way that preserves the basic separation of the supply and the distribution functions.

- b. The PGW bill format is not inconsistent with the Tariff approved section but rather as presented, attempts to make the distinction between the “supply” and “distribution” utility functions on the bills in order to present the information in plain language for the ratepayer education.

The Initial Decision finds that PGW presentation in the billing Among the other statutes that provide guidance in the formatting of PGW bills is 52 Pa. Code §69.251 Plain Language – statement of policy, which recommends that public utilities adopt guidelines for written material provided to residential customers. These include the use of, “...commonly understood words, clear section headings which accurately describe the

⁴ PGW Exhibit – 3 p. 3 of 5

information that follows and the avoidance of the use of technical, legal or utility terms not commonly understood...”⁵

In this regard, the PGW bill format which divides all charges between the two basic utility functions (supply and distribution) educates the customer to this basic distinction and supports the modern utility trends of the unbundling of utility service. As customers begins to think of the PGW bill in terms of the supply and distribution functions of utility service, customers will be more apt to participate in Natural Gas Choice as it becomes available in PGW service territory. Moreover, PGW’s use of the plainly understood headings of “Supply Charges” and “Delivery Charges” in the PGW bill format serve the Commission’s stated policy interests in providing residential customers with plain language materials.

In this way PGW serves the regulatory goal of providing customer education on the monthly bill. The PGW billing format conforms with the Commission’s regulation in 52 Pa. Code §69.251 Plain Language – statement of policy. The Initial Decision suggests that the solution might be to amend to PGW Tariff to conform with the type of presentation appearing in the PGW bill is to suggest that the format for the Tariff does not lend itself to customer education. To require that the bill format be “lock step” with the current approved Tariff is to sacrifice understanding the substance of the charges in order to conform to the form presented in the Tariff. This is truly “form over substance” and defeats the Commission’s intended purpose of 52 Pa. Code §69.251 Plain Language – statement of policy.

Finally, the Initial Decision recognized that the PGW bill format that is the subject of this proceeding was part of the materials that were included in the Settlement of PGW’s Restructuring at R-2012-2333993, although the Commission amended the elements of that settlement, it did not comment or disapprove of the PGW bill format.

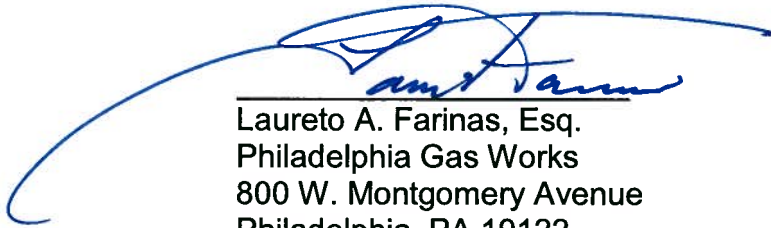
⁵ 52 Pa.Code §69.251

IV. CONCLUSION

For the foregoing reasons, PGW respectfully requests that the Commission find that the PGW bill format is in compliance with the PGW Tariff and all applicable the statutes and Commission regulations governing the form, substance and the presentation of the bill and provides information to rate payers in a plan language manner. PGW further requests that this Commission dismiss the Complaint and issue a decision finding that PGW was neither in violation of any section of the Pennsylvania Public Utility Code nor its Tariff in connection the above referenced matter.

Respectfully submitted,

August 5, 2015



Laureto A. Farinas, Esq.
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122

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).

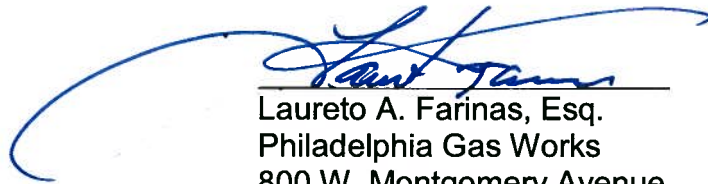
Service List:

For Complainant:

Ms. Sandra C. Laws
5214 Webster Street, 1st Floor
Philadelphia, PA 19143

(By express mail)

August 5, 2015



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