



PHILADELPHIA GAS WORKS

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September 14, 2015

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

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SEP 14 2015

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Lavoris Mintz v. PGW, Docket No. F - 2014 - 2460301

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 23, 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 cursive script that reads "Danielle Leva".
Danielle Leva

Enclosure

cc: Lavoris Mintz (Regular Mail)
Linda Pereira (PGW Mail)

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

LAVORIS MINTZ,	:	
Complainant	:	
	:	
v.	:	F – 2014 – 2460301
	:	
PHILADELPHIA GAS WORKS,	:	
Respondent	:	

**EXCEPTIONS OF
PHILADELPHIA GAS WORKS TO THE INITIAL DECISION**

Pursuant to 52 Pa. Code §5.533, and the Secretary's letter dated August 24, 2015 in the above captioned matter, the Respondent, the Philadelphia Gas Works ("PGW"), hereby files its Exceptions to the Initial Decision issued on July 23, 2015.

I. Introduction

On or about December 31, 2014, Lavoris Mintz ("Complainant") filed a formal Complaint ("Complaint") against Philadelphia Gas Works ("PGW") wherein she alleged that her gas service has been terminated because she missed installment payments on her payment arrangement. She further claimed that payments which she made were not credited to her balance. As relief, she asked that her gas service reinstated and requested a new payment arrangement.

PGW filed an Answer ("Answer") on or about January 20, 2015 wherein it denied the material allegations of the Complaint. PGW also filed Preliminary Objections and a Motion for Summary Judgment. The Complainant did not file a response to the new matter or either of the motions.

PGW's preliminary objections were dismissed by order dated March 9, 2015. PGW's motion for summary judgment was denied by order dated March 10, 2015.

On May 5, 2015, the hearing was held, as scheduled, via telephone, before Administrative Law Judge Mary D. Long. The Complainant was present via telephone and testified on her own behalf. Graciela Christlieb, Esquire, represented PGW and

presented as a witness Linda Pereira, Senior PGW Customer Review Unit Officer. PGW offered PGW Exhibits 1 and 2, which were admitted into the record without objection. PGW also offered Exhibits 3 and 4, but neither of these exhibits was admitted into the record.

Both PGW and the Complainant sought leave to submit late-filed exhibits in support of the testimony offered at the hearing. Leave was granted and by Order dated June 2, 2015, PGW Exhibits 5, 6 and 7 were admitted without objection. Additionally, Complainant's Exhibits 1, 2, and 3 were admitted without objection.

The matter concerns the following facts. In June of 2010, PGW terminated the gas service at the Service Address for non-payment. (Tr. 26 & 30)

On June 9, 2010, the Complainant used a medical certification to have her service restored and, upon restoration of her service, the balance owing for her prior service was transferred to her new account number. (Tr. 27 & 29, PGW Ex. 2 at p. 5).

On June 29, 2010, the Complainant filed an informal complaint under BCS# 2705373 requesting a payment arrangement. (Tr. 30, PGW Ex. 2 at p. 5). On August 4, 2010, the Complainant filed a formal complaint under Docket No. F-2010-2191733. (Tr. 31, PGW Ex. 2 at p. 4). The formal complaint under Docket No. F-2010-2191733 references the Complainant's \$20,000 balance and alleges it is the result of a gas leak. (PGW Motion for Summary Judgment Exhibit A). On August 30, 2010, the Complainant was in the North Philadelphia District Office and requested an account of her usage from 1997 to current; her request was sent to PGW's Dispute Resolution Unit ("DRU"). (Tr. 33 & 32, PGW Ex. 2 at p. 4). On August 31, 2010, DRU received the dispute and noted that "she rec'd a letter with explanation, however she is requesting usage information starting from 1997 questioning how bill." (PGW Ex. 2 at p. 4). On September 22, 2010, DRU sent the Complainant a statement of her account from November 4, 1997 to the current bill date per her request. (Tr. 32, PGW Ex. 2 at p. 4). As of that date, the Complainant was

provided with all of the information about her billing and payment history from 1997 to 2010. (Tr. 33)

On March 17, 2011, the Formal Complaint filed under Docket No. F-2010-2191733 was settled. The Complainant accepted a payment agreement based on her total account balance, including the amount transferred from her previous account number, and agreed to a \$557 monthly payment. (Tr. 33 &34, PGW Ex. 7). In order to settle the formal complaint, the Complainant engaged in a settlement conference with PGW and would have understood her balance and what her financial obligations were at that point. On April 12, 2011, with regard to the settlement conference, the Customer Review Unit "CRU" noted that "Pursuant to settlement conference all parties agreed and acknowledge matter concerns 4918 N 11th st and an outstanding \$20,669.54 bal. That in the interest of good cust relations, cust was entered into a new PAR consisting payments of \$557 a month (\$345 arrears + \$212 BB which is subject to change quarterly based on usage or rate changes. Cust indicated was satisfied with treatment of the acct and no longer wished to pursue the matter. (Tr. 33-36, PGW Ex. 2 at p. 3, PGW Ex. 7)

The Complainant's gas service was terminated in 2011 and she has not received gas service since that time. (Tr. 9-10)

On September 22, 2014, the Complainant contacted DRU, again stating that she did not understand how her bill was so high. DRU went over the billing history and the usage on the account with the Complainant. (Tr. 36-37, PGW Ex. 2 at p. 3) DRU again provided the Complainant with a statement of the financial history of the account as well as a usage analysis for her Service Address. (Tr. 37-38, PGW Ex. 2 at p. 2)

On October 7, 2014, the Complainant visited the Center City District Office with the paperwork that PGW provided to her and had a customer service representative explain the paperwork as well as her options. The customer service representative noted that the Complaint was satisfied. (Tr. 39, PGW Ex. 2 at p. 2)

The instant Complaint was filed on December 31, 2014.

On July 23, 2015, the Commission issued the Initial Decision, which held that PGW's failure to provide the Complainant with an effective explanation of her account activity or to provide her with a comprehensible account statement when she complained that she could not understand why she still owed so much money is not reasonable service pursuant to Section 1501 of the Public Utility Code. The Commission found that a civil penalty in the amount of \$500 is appropriate for this violation.

Pursuant to 52 Pa. Code §5.533, these timely Exceptions follow.

II. Exceptions

1. PGW takes exception to the finding that PGW failed to provide the Complainant with reasonable service pursuant to Section 1501 of the Public Utility Code.

As the proponent of a rule or order, the Complainant in this proceeding bears the burden of proof pursuant to Section 332(a) of the Public Utility Code (Code), 66 Pa. C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, the Complainant must show that PGW is responsible or accountable for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). The problem initially described in the instant Complaint was that the Complainant's gas is off and she could only pay \$300 a month. On page 2 of the Pennsylvania Public Utility Commission's ("PUC") complaint form, the Complainant checked the boxes for wanting a payment agreement and having incorrect charges on her bill. The Complainant never claimed to have a reliability, safety, or quality problem with her service, nor did she check the box for "other." In the letter attached to her complaint, the Complainant asked how [PGW] could let her bill get so high and asked if she was still being charged after she was shut off. She also indicated that she made payments that did not decrease her balance, but did not indicate when those payments were made. She questioned an amount of \$16,979, discussed a gas leak from 2010, and referenced a 500 agreement to pay. At the hearing, when asked by the Court what it was that she wanted the Commission to do for her, the Complainant responded that she wanted the

Commission to find out why her bill was so high. (Tr. 11) When the Court sought clarification as to which bill she was referring to, the Complainant responded that she just has the one. (Tr. 11). The Complainant went on to testify about three payments that were made in 2015 as well as to her financial circumstances. The Complainant filed a Late Filed Exhibit consisting of receipts for two payments made in 2015. The Complainant provided no further evidence.

Black's Law Dictionary defines reasonable as "fair, proper, or moderate under the circumstances." The evidence in this matter shows that the Complainant has been furnished with more than reasonable service with regard to attempting to help her understand her account. Despite never being provided with a straightforward answer as to what it is, exactly, that the Complainant does not understand about her account, PGW has been attempting to help her since at least 2010. As noted in the Initial Decision, the Complainant has a "troubled history" with PGW; her "complicated" account history is the result of multiple terminations and reinstatements. While the Court acknowledged the troubled history of the account, it failed to recognize the difficulties it poses and the efforts that PGW has made in answering the Complainant's questions and responding to her requests for information. PGW Exhibit 2 shows that between 2010 and 2011, the Complainant discussed her account with PGW on at least 7 occasions; she made 3 visits to district offices as well as 4 calls, one of those calls even being a settlement conference where the particulars of her account and balance were explained to her. (PGW Ex. 2 at pp 315, Tr. 34-36) In September of 2010 as well as September of 2014, the Complainant received copies of her account statements. There is no indication from the record that the Complainant contacted PGW for an explanation of these documents and was denied. In fact, the record reflects that on October 7, 2014, the Complainant visited the Center City district office with her paperwork and had it explained to her in person; the customer service representative who worked with her that day noted that she left the office satisfied. (Tr. 39, PGW Ex. 2 at p. 2)

After numerous contacts with the Complainant, two formal complaints and a hearing where the Complainant was questioned by the Court, there is still no indication as to what it is that the complainant does not understand about her bill. Is she unclear about her usage or how it translates into money owed for the service? Does she not understand how the late payment charges accrue? Is the format of the bills themselves confusing? The Initial Decision refers to the Complainant's account as a "scramble of records" and states that they are inscrutable to the average customer. The average customer, however, does not have a scramble of records for their account, nor do they have the "troubled history" that the Complainant has. The evidence shows that, given the Complainant's account history as well as the lack of information from the Complainant regarding what she was having trouble with, PGW has provided reasonable service with respect to responding to the Complaint's inquiries.

2. PGW takes exception to the finding that a civil penalty in the amount of \$500 is appropriate.

Even if the Commission were to deny PGW's Exceptions with regard to whether there was a violation of Section 1501 of the Public Utility Code, a civil penalty is not appropriate in this case.

Section 69.1201(a) of the Commission's regulations states:

The Commission will consider specific factors and standards in evaluating litigated ... cases involving violations of 66 Pa.C.S. (relating to the Public Utility Code) and this title. These factors and standards will be utilized by the Commission in determining if a fine for violating a Commission order, regulation or statute is appropriate.¹

These factors and standards to be considered are enumerated in subsection (c):

- (1) Whether the conduct at issue was of a serious nature. When conduct of a serious nature is involved, such as willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as

¹ 52 Pa.Code § 69.1201(a)

administrative filing, or technical errors, it may warrant a lower penalty.

(2) Whether the resulting consequences of the conduct at issue were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty.

(3) Whether the conduct at issue was deemed intentional or negligent. This factor may only be considered in evaluating litigated cases. When conduct has been deemed intentional, the conduct may result in a higher penalty.

(4) Whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. These modifications may include activities such as training and improving company techniques and supervision. The amount of time it took the utility to correct the conduct once it was discovered and the involvement of top-level management in correcting the conduct may be considered.

(5) The number of customers affected and the duration of the violation.

(6) The compliance history of the regulated entity which committed the violation. An isolated incident from an otherwise compliant utility may result in a lower penalty, whereas frequent, recurrent violations by a utility may result in a higher penalty.

(7) Whether the regulated entity cooperated with the Commission's investigation. Facts establishing bad faith, active concealment of violations or attempts to interfere with Commission investigations may result in a higher penalty.

(8) The amount of the civil penalty or fine necessary to deter future violations. The size of the utility may be considered to determine an appropriate penalty amount.

(9) Past Commission decisions in similar situations.

(10) Other relevant factors.²

² 52 Pa.Code § 69.1201(c)

The Initial Decision found that PGW's conduct was at least negligent and that a civil penalty is important to deter future violations and emphasize the need for better communication between PGW and its customers, noting that the remaining factors set forth in Section 69.1201 are not relevant to the determination of the amount of the penalty.

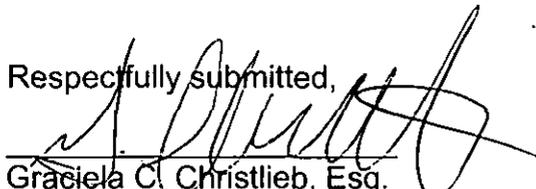
PGW is aware of the need for communication with its customers and is available to them around the clock. The evidence in this case speaks to PGW's commitment to open lines of communication and its desire to ensure that all customers understand their obligations and are satisfied with their service.

III. Conclusion

For the foregoing reasons, PGW respectfully requests that the Commission grant PGW's Exceptions, dismiss the Complaint, and issue a decision finding that PGW is not in violation of any section of the Pennsylvania Public Utility Code in the above referenced matter.

September 14, 2015

Respectfully submitted,


Graciela C. Christlieb, Esq.
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122

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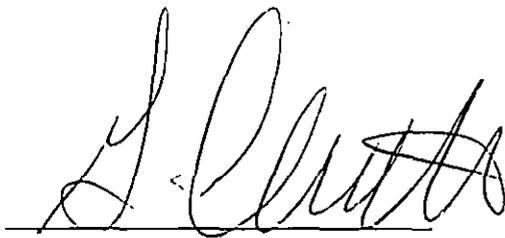
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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

VERIFICATION

I, Graciela Christlieb, 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.

September 14, 2015

A handwritten signature in black ink, appearing to read 'G. Christlieb', written over a horizontal line.

Graciela Christlieb, Esquire

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SECRETARY'S BUREAU**

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).

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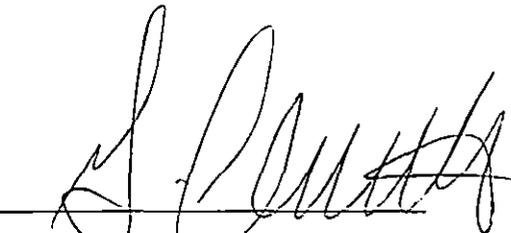
Ms. Lavoris Mintz
4918 N. 11th Street
Philadelphia, PA 19141

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September 14, 2015



Graciela Christlieb, Esquire
Attorney I.D. 200760
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
(215) 684-6164

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City **PHILADELPHIA** State **PA** ZIP **19122-2898**

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3 To Recipient's Name **Rosemary Chavella** Phone **717 772-7777**

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Second business afternoon * Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

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