

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Ruth Mathieu-Alce	:	
Complainant	:	
v.	:	Docket No. F-2015-2473661
	:	
Philadelphia Gas Works,	:	
Respondent	:	

**PHILADELPHIA GAS WORKS'
REPLY TO COMPLAINANT'S EXCEPTIONS**

Pursuant to 52 Pa. Code §5.535, and the Secretary's letter dated November 18, 2015 in the above captioned matter, the Philadelphia Gas Works, ("PGW") hereby files its reply to the Complainant's exception letter dated November 9, 2015, Post Marked November 14, 2015 and received by the Commission November 17, 2015 ("Exception document"), to the Initial Decision issued October 22, 2015, in the above captioned matter ("Initial Decision").

I. INTRODUCTION

This matter involves a formal complaint filed by the Complainant on March 16, 2015, with the Pennsylvania Public Utility Commission ("Commission") against PGW, in which the Complainant placed a check-mark in the box marked "other" and wrote in "I would like a review of the charges."

On April 14, 2015, PGW filed an Answer indicating that, while responding to complainant's call regarding a gas odor at the service address on January 21, 2015, it found a magnet attached to Meter No. 1806935 at the Complainant's residence, 5114 Mebus Street, Philadelphia ("Service Address").¹ While investigating the reported gas odor, the PGW technician discovered that a Precision Regulated DC Power Supply box had been placed directly on top of the complainant's gas meter.² PGW Exh. 6.

Upon this discovery the PGW technician shut the gas off with multiple locking devices, and that the complainant was billed \$6,928.81 for Unauthorized Usage.

¹ Tr. 10, 36; PGW Exh. 1.

² PGW Exh. 6.

By Hearing Notice dated May 1, 2015, a hearing was scheduled for June 23, 2015. The hearing convened as scheduled on June 23, 2015. The Complainant appeared *pro se* and testified. The Complainant also presented the testimony of her husband, Jean Daniel Alce. PGW, represented by counsel, presented the testimony of Wendy Vacca, a Senior Customer Review Officer, and Timothy P. Sullivan, PGW's Superintendent of Revenue Protection. PGW offered six exhibits which were all admitted into evidence. The record in this case consists of a 55-page transcript and six exhibits.

On October 22, 2015, the Commission issued the Initial Decision which, *inter alia*, found that:

- Complainant resides at 5114 Mebus St., Philadelphia, PA (service address).³
- Complainant lives at the service address with her husband.⁴
- The service address is a two-story home with four bedrooms and one bathroom.⁵
- The only gas appliance at the service address is a gas heater.⁶
- The complainant uses her house heater during the winter months and sets her thermostat within a range of 65 degrees to 80 degrees.⁷
- On January 21, 2015, the complainant contacted PGW to report a gas odor at the service address.⁸
- On January 21, 2015, a PGW Technician went to the service address to inspect the reported gas odor.⁹

³ Tr. 7

⁴ Tr. 17, 19-20

⁵ Tr. 13

⁶ Tr. 12.

⁷ Tr. 13.

⁸ Tr. 10, 36; PGW Exh. 1

⁹ Tr. 10, 36; PGW Exh. 1

- While investigating the reported gas odor, the PGW technician discovered that a Precision Regulated DC Power Supply box had been placed directly on top of the complainant's gas meter.¹⁰
- The complainant's husband was responsible for placing the Precision Regulated DC Power Supply box on top of her gas meter.¹¹
- Prior to January 21, 2015, the last index reading on the Automated Meter Reading (AMR) device on the complainant's meter was from December 18, 2014 at index level 1640.¹²
- On January 21, 2015, the PGW Technician noted that the complainant's meter had a manual gas usage read of 6551 ccfs.¹³
- The PGW Technician shut off the complainant's gas service and removed the complainant's meter and locked off the gas line with locking plugs.¹⁴
- On January 22, 2015, PGW billed the complainant \$6,928.81 for 4911 ccfs of previously unbilled usage based upon actual meter readings.¹⁵
- PGW also advised the complainant that, in order to have her gas service restored, she must pay the previously unbilled balance in full, a reconnection fee of \$123.23 and a security deposit of \$380.¹⁶
- On June 9, 2015, PGW completed a test of the complainant's gas meter and determined that the manual meter was providing accurate readings.¹⁷

¹⁰ PGW Exh. 6

¹¹ Tr. 18, 20

¹² PGW Exh. 2

¹³ PGW Exh. 1

¹⁴ PGW Exh. 1

¹⁵ Tr. 11-12, 39; PGW Exhs. 1 & 2

¹⁶ Tr. 43; PGW Exh. 1

- As of the date of the hearing, the Complainant's gas service was still off.
- Although a public utility may immediately terminate service when a customer tampers with meters or other public utility equipment pursuant to 52 Pa.Code § 56.98(a)(3), the Complainant sustained her burden of demonstrating that she is entitled to have her gas service restored because there is insufficient evidence in the record to show that she tampered with her meter.

The Initial Decision Orders that Philadelphia Gas Works must restore the complainant's gas service at the service address within one day of a final Commission order in this matter and that Philadelphia Gas works must remove the reconnection fees and security deposit from the Complainant's account.¹⁸

On November 17, 2015 the Commission received the Complainant's exception letter dated November 9, 2015 and Post Marked November 14, 2015.

II. PGW'S REPLY TO EXCEPTION

The Exception document has been filed passed the twenty (20) day period in which to file exceptions. Counting from the day of the Initial Decision, October 22, 2015, any exceptions were due for filing on November 11, 2015. The Complainant had not placed the Exception document in the mail until November 14, 2015. For this reason along the Exception should be denied.

The Exception document raises an entirely new issued not covered in the hearing. The Exception document asks for the repair of radiators at the Service Address. There is no evidence of record to support the further order of relief in this regard. The Public Utility Code, 66 Pa.C.S.A. § 332(a), places the burden of proof upon the proponent of a rule or order. As the proponent of a rule or order, Complainant has the burden of proof in this matter pursuant to 66 Pa.C.S.A. § 332(a).

To establish a sufficient case and satisfy the burden of proof, complainant must show that the respondent public utility is responsible or accountable for the problem described in

¹⁷ Tr. 42; PGW Exh. 4

¹⁸ Initial Decision, Ordering Paragraphs 2 and 3

the Complaint. *Patterson v. Bell Telephone Co. of Pa.*, 72 Pa.P.U.C. 196 (1990), *Feinstein v. Philadelphia Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600, 602 (Pa.Cmwth. 1990), alloc. den., 602 A.2d 863 (Pa. 1992). That is, by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa.Cmwth. 1982); *Edan Transportation Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa.Cmwth. 1993); 2 Pa.C.S. § 704. 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. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 194 Pa.Super. 278, 166 A.2d 96 (1960); *Murphy v. Commonwealth, Dep't of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa.Cmwth. 1984).

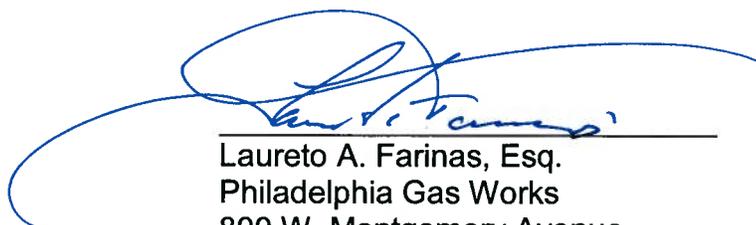
During the hearing, the Complainant failed to offer any evidence with regard to damage to a radiator. The Exceptions document should be denied.

III. CONCLUSION

For the reasons stated above, PGW requests that the Commission deny Complainant's exceptions.

Respectfully submitted,

November 30, 2015



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

CERTIFICATE OF SERVICE

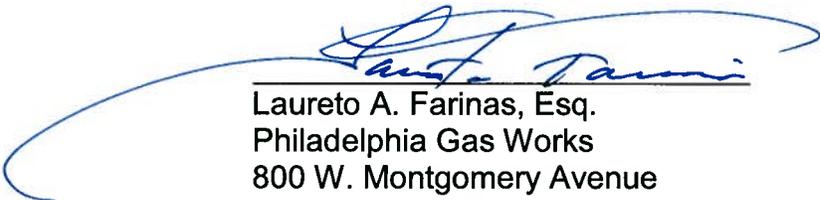
I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A TRUE COPY OF THE FOREGOING DOCUMENT UPON THE PARTICIPANTS LISTED BELOW, IN ACCORDANCE WITH THE REQUIREMENTS OF 52 PA CODE §1.54 (RELATING TO SERVICE BY A PARTICIPANT).

Service List:

For Complainant:

Ms. Ruth Mathieu-Alce
5114 Mebus Street
Philadelphia, PA 19124

November 30, 2015



Laureto A. Farinas, Esq.
Philadelphia Gas Works
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