



September 19, 2016

Via Electronic Filing

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

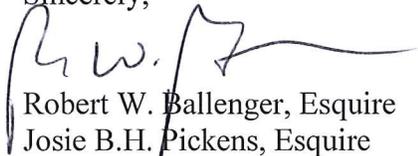
Re: Fredrick Hess v. Philadelphia Gas Works
Docket No: C-2016- 2565499
Motion to Compel

Dear Secretary Chiavetta:

Please find the enclosed for filing the Motion to Compel the Response of Philadelphia Gas Works to Complainant Fredrick Hess's Interrogatories and Requests for Production of Documents, Set I, in the above-captioned matter.

A copy is being served upon counsel for PGW, pursuant to the attached Certificate of Service. Please contact me with any questions or concerns.

Sincerely,



Robert W. Ballenger, Esquire
Josie B.H. Pickens, Esquire

Attorneys for Fredrick Hess

Enclosure

Cc: Service List

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Fredrick Hess,	:	
Complainant	:	
v.	:	Docket No. C-2016- 2565499
Philadelphia Gas Works,	:	
Respondent	:	

NOTICE TO PLEAD

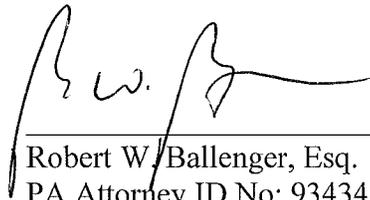
To: Laureto Farinas, Esq. Counsel for Philadelphia Gas Works

You are hereby notified to file a written response to the attached Motion to Compel of Complainant Fredrick Hess within five (5) days from the date of service of this notice. If you do not file a written response denying the enclosed Motion to Compel within five (5) days of service, the presiding officer may rule in favor of Complainant on the attached Motion without a hearing. Failure to respond to this Motion could result in an order directing responses to Complainant's Interrogatories and Requests for Production of Documents.

All pleadings, such as answers to motions, must be filed with the Secretary of the Pennsylvania Public Utility Commission:

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

You must also serve a copy of your response on the undersigned counsel for Complainant.



Robert W. Ballenger, Esq.
PA Attorney ID No: 93434
Josie B. H. Pickens, Esq.
PA Attorney ID No: 309422
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102

Dated: September 19, 2016

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Fredrick Hess,	:	
Complainant	:	
v.	:	Docket No. C-2016- 2565499
Philadelphia Gas Works,	:	
Respondent	:	

**MOTION TO COMPEL THE RESPONSE OF PHILADELPHIA GAS WORKS
TO COMPLAINANT FREDRICK HESS'S
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS, SET I**

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to 52 Pa. Code § 5.342(g), Fredrick Hess, Complainant in the above-docketed matter, by and through his attorneys, hereby requests that the presiding Administrative Law Judge dismiss the objections to discovery by Philadelphia Gas Works (PGW or Respondent) and direct PGW to provide the information requested in Complainant's Interrogatories and Requests for Production of Documents, Set I. In support thereof, Complainant avers as follows:

Background

1. On August 26, 2016, Complainant submitted his Formal Complaint (Complaint) by mail, appealing the Informal Complaint Decision of the Pennsylvania Public Utility Commission, dated July 8, 2016, BCS No. 3447298. A copy of the Complaint was served on PGW by the Commission on September 7, 2016.
2. Complainant avers that he is a tenant at 3831 Poplar Street, pursuant to an oral lease, who has been living without PGW gas service for more than three months. Statement of Facts of Fredrick Hess (Hess St. 1) at ¶¶ 2, 3, 8 20.
3. Complainant avers that, during his tenancy at 3831 Poplar Street, PGW's customer has been Duane Hicks, who resides at 154 W. Sylvania Street. Hess St. 1 at ¶¶ 2, 9.

4. Complainant avers that, during his tenancy at 3831 Poplar Street, Duane Hicks was retained as the property manager for the owner, Alexander Lanchin. Hess St. 1 at ¶¶ 2.
5. Complainant avers that PGW knows or should know that Duane Hicks does not reside at 3831 Poplar Street, and set up the PGW account as the property manager. Hess St. 1 at ¶¶ 12.
6. Complainant avers that he rents a room at 3831 Poplar Street, a boarding home with multiple tenants, and PGW is aware the property is a boarding home with multiple tenants. Hess St. 1 at ¶¶ 3, 4.
7. Complainant avers that, during his tenancy, PGW bills were not delivered to 3831 Poplar Street. Hess St. 1 at ¶ 11.
8. Complainant avers that, through counsel, he provided PGW evidence of his tenancy and that public records confirm the property's ownership (Alexander Lanchin) and status as a rental property. Hess St. 1 at ¶¶ 7, 24.
9. The Complaint alleges that PGW violated the Public Utility Code by, *inter alia*:
 - a. Terminating utility service without delivering notices required by the provisions of Subchapter B of Chapter 15 the Public Utility Code, regarding discontinuance of service to leased premises (hereinafter, Subchapter B);
 - b. Refusing to recognize his statutory rights as a tenant to restore service without payment of a landlord ratepayer's bill;
 - c. Demanding payment of reconnection fees and balances owed by the landlord ratepayer, in violation of Subchapter B; and
 - d. Subjecting him to unsafe and unhealthy living conditions by continuing to deny him utility service as a tenant pursuant to the provisions of Subchapter B.
10. The Complaint requests the Commission enter an order providing the following relief:

- a. PGW to immediately restore service and provide notices required by Subchapter B;
- b. Finding Complainant is a “tenant” protected by Subchapter B;
- c. Finding that Duane Hicks was a “landlord ratepayer” within the meaning of Subchapter B at the time of PGW’s termination of utility service;
- d. Finding that PGW violated Subchapter B by failing to issue required notices in advance of termination;
- e. Finding that PGW provided unreasonable service in violation of 66 Pa. C.S. § 1501 by unreasonably delaying and denying service;
- f. Commencing an investigation into the deficiency of PGW’s compliance with the provisions of Subchapter B;
- g. Imposing civil penalties on PGW; and
- h. Granting such other relief as may be just and appropriate.

11. On September 1, 2016 counsel for Complainant issued the Interrogatories and Requests for Production of Documents, Set I, attached hereto as Exhibit I (Discovery Requests).

12. On September 12, 2016, PGW filed its Objections to Complainant’s Interrogatories and Requests for Production of Documents, Set I. Each of the Discovery Requests numbered 1-15, and PGW’s Objections thereto, are set forth in attached Exhibit II (Objections).

13. As set forth in its Objections, PGW contends that the Discovery Requests numbered 1-15 are objectionable because PGW is obligated to employ reasonable measures to protect customer information, and:

- a. Complainant has not been authorized to review account information (e.g., account numbers, customer information, billing records, customer service and application

records, PGW notices, service calls, etc.) of named customers at his residence, 3831 Poplar Street;¹

- b. Complainant has not been authorized to review account information (e.g., account numbers, customer information, records of contacts) of named customers at Duane Hicks' residence, 154 W. Sylvania Street; and
- c. Complainant has not been authorized to review account information (e.g., applications for service, customer information) of his landlord ratepayer, Duane Hicks.

14. In PGW's Objections, PGW provides the following identical statement as the grounds for its objection to each Discovery Request numbered 1-15:

Pursuant to 52 Pa. Code §56.261(8) [sic], PGW is obligated to employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to customer account records by persons who are not properly authorized to have access. The Complainant seeks account information on accounts for which he is not the Customer of Record and has not been authorized to review.

PGW Has Not Asserted a Valid Basis for Discovery Objections

15. Complainant's right to obtain discovery is governed by the Commission's Regulations concerning Formal Proceedings (52 Pa. Code Chapter 5). PGW does not address the Commission's Regulations concerning Formal Proceedings, and instead relies upon 52 Pa. Code § 56.261(b)(8)² which imposes on certain utilities a requirement to "employ all reasonable measures to protect customer information from unauthorized disclosure and to prevent access to customer account records by persons who are not properly authorized to have such access."

¹ Notably, PGW extends this blanket objection to identifying information of PGW workers who performed a survey of Complainant's residence at the direction of the PUC, records of the survey conducted, and all information provided by PGW to the PUC in connection with *Mr. Hess's* Informal Complaint. None of this information is even arguably protected from disclosure, since it formed part of the basis of the PUC's decision on *Mr. Hess's* Informal Complaint.

² PGW incorrectly cites this provision as 52 Pa. Code § 56.261(8).

16. 52 Pa. Code § 56.261(b)(8), which PGW cites as the basis for its objection, does not apply to PGW. As set forth in 52 Pa. Code § 56.251 (Statement of purpose and policy), the provisions of Subchapters L-V “apply to wastewater, steam heating and natural gas distribution utilities with annual gas operating revenues of less than \$6 million per year.” 52 Pa. Code § 56.261(b)(8) is part of Subchapter M of Chapter 56. Subchapter M of Chapter 56 does not apply to PGW, because PGW has annual gas operating revenues far in excess of \$6 million.

17. Notwithstanding its multiple citations to 52 Pa. Code § 56.261(b)(8), to the extent PGW may desire instead to assert that its objections should be sustained on the basis of language in 52 Pa. Code § 56.11(b)(8) (a provision which does, in fact, apply to PGW), PGW’s assertion would be without merit.

18. As set forth in 52 Pa. Code § 5.321(c) (concerning scope of discovery):

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 appears reasonably calculated to lead to the discovery of admissible evidence.

19. As set forth in 52 Pa. Code § 5.341(a), concerning written interrogatories, a Complainant’s right to seek discovery of relevant information is only limited if the discovery:

- a. Is sought in bad faith;
- b. Would cause unreasonable annoyance, embarrassment, oppression, burden or expense to the deponent, a person or party;
- c. Relates to a matter which is privileged; or

- d. Would require the making of an unreasonable investigation by the deponent, a party or a witness.

20. The information Complainant seeks is directly relevant to his Complaint and is reasonably calculated to lead to the discovery of admissible evidence. Complainant seeks records in PGW's possession confirming that PGW knew or should have known that Complainant was a tenant protected from termination of service due to nonpayment by a landlord ratepayer as set forth in Subchapter B. Complainant alleges that PGW knew or should have known that its customer, Duane Hicks, was the property manager, who did not reside at 3831 Poplar Street, and that tenants such as himself would be deprived of utility service in violation of Subchapter B if PGW failed to deliver legally-required notices. Complainant must be allowed to obtain information from PGW in pursuit of the relief requested in his Formal Complaint.

21. Under 52 Pa. Code § 321(c), whether any information obtained through discovery may be admissible, and potentially placed on a public record, does not constitute grounds for an objection. Complainant cannot be denied access to relevant information on the basis that some of the information may not be admissible, due to privacy concerns. The matter of admissibility is not ripe for consideration at this time. Complainant stands willing to address any such concerns that may arise in the future in consultation with the Administrative Law Judge assigned to this matter.

22. Complainant's right to obtain discovery from PGW is not limited by the reasonableness of PGW's measures to protect customer information from unauthorized disclosure. PGW has not alleged that any of the information responsive to Complainant's Discovery Requests is sought in bad faith, is privileged, would require undue burden, or would cause annoyance, embarrassment, oppression, burden or expense to PGW or anyone else.

23. All of the information requested by Complainant in Discovery Requests 1-15 is relevant, none of it is privileged, and PGW has not asserted a valid ground for objection under the Commission's Regulations concerning Formal Proceedings.

Restricting Complainant's Access to the Information Requested Would Impermissibly Violate his Due Process Rights

24. It is inherent in Subchapter B that the rights of tenants and the rights of landlord ratepayers are at cross purposes. Subchapter B protects tenants from termination due to the actions or inactions of landlord ratepayers. By definition, the existence of information (e.g., account records in the name of a landlord ratepayer) that may demonstrate PGW knew or should have known that Complainant had specific and guaranteed rights under Subchapter B is vital to the ability of a tenant to obtain review of utility termination activities that are alleged to violate Subchapter B.

25. Granting PGW's Objections would prevent Complainant from obtaining PGW records which would lead to admissible evidence concerning PGW's knowledge of its obligations to provide advance notice of termination to tenants at 3831 Poplar Street.

26. Granting PGW's Objections would prevent Complainant from obtaining PGW records demonstrating that PGW knew, or should have known, that Duane Hicks was a "landlord ratepayer" as defined in 66 Pa. C.S. 1521.

27. Granting PGW's Objections would prevent Complainant from obtaining relevant evidence demonstrating that PGW unreasonably delayed and denied providing him service under Subchapter B.

28. The Commission has previously considered the need to balance privacy rights against the Commission's obligation to provide adequate administrative due process. The Commission has observed that "disclosure could be warranted in those cases in which private and state interests

prevail over a...privacy right.” See Riordon v. Bell Telephone Co. of Pa., 1993 WL 855879, Docket No. C-881874 (September 9, 1993). In Riordon, the PUC specifically concluded that a party’s “privacy right must give way to both the Commission’s state interests and...due process rights.” Id.

29. In Riordan, the information sought to be protected by customer privacy rights was included in testimony exhibits, submitted on the hearing record. The issue the PUC confronted in that case was whether customer information should be disclosed *on the public record* of the proceeding, not whether such information was discoverable. The Commission held that such information, *appearing on the public record*, should be as limited and generic as possible. As set forth above, Complainant submits that whether discoverable information may be admitted on the record of this proceeding is not, and cannot be, a bar to obtaining that information in the first place. The Commission’s Regulations specifically acknowledge that admissibility is not grounds for an objection. 52 Pa. Code § 56.321(c) (“It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible information.”).

30. The Commonwealth’s interest in ensuring public utility compliance with Subchapter B of the Public Utility Code, dating to 1978, is exceedingly strong. Not only did the General Assembly mandate that utilities provide uniform explanation of tenants’ rights, to *each dwelling unit reasonably likely to be occupied by an affected tenant*, under Commission oversight (66 Pa. C.S. §§ 1523(a)(3) (emphasis added); 66 Pa. C.S. § 1526(b)), but it enacted a statutory prohibition on any waiver of tenants’ rights (66 Pa. C.S. § 1530). Subchapter B’s clear and specific requirements for utility termination notices have been explicitly preserved in subsequent legislation concerning natural gas competition (66 Pa. C.S. § 2206(f)) and responsible utility

customer protection (66 Pa. C.S. § 1418). There is no doubt that the Commonwealth has recognized a compelling interest in ensuring the vital protections afforded to tenants threatened with a loss of utility service.

31. Equally compelling are Complainant's due process rights. PGW has sought to treat Complainant as a customer, demanding that he pay reconnection fees and assume responsibility for unpaid bills issued to Duane Hicks. But PGW seeks to deny Complainant access to vital information, sought through discovery, to permit him to show that PGW knows or should know that he is protected by Subchapter B, and cannot legally be required to pay reconnection fees or the debts of his landlord. Complainant has a due process right to "obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved" in his Complaint. 52 Pa. Code § 5.321(c).

The Billing Regulations Set Forth in Chapter 56 do Not Limit Complainant's Rights to Discovery in His Complaint Raising Violations of Subchapter B.

32. To the extent PGW may assert that the billing rules set forth in Chapter 56 of the Commissions regulations take precedence over the Complainant's rights to discovery necessary to seek relief under Subchapter B, PGW would be mistaken.

33. The billing rules set forth in Chapter 56 were amended to include language requiring utilities to "employ reasonable measures to protect customer information" in 2011, via a Final Rulemaking Order of the Commission, undertaken with the primary purpose of complying with Chapter 14 of the Public Utility Code (66 Pa. C.S. §§ 1401, et seq.). See Revised Final Rulemaking Order, Re Provisions of 52 Pa. Code, Chapter 56 to Comply with the Provisions of 66 Pa.C.S., Chapter 14, Docket No. L-00060182 (June 9, 2011).

34. The Commission's modifications to regulations to implement Chapter 14 of the Public Utility Code, cannot thwart a tenant's due process rights, including the right to discovery of any

non-privileged information relevant to the subject matter of the complaint, necessary to pursue remedies against a utility which violates the provisions of Subchapter B of Chapter 15 of the Public Utility Code. As explicitly set forth in Section 1418 of the Public Utility Code, “Nothing in this chapter *shall affect any rights or procedure* under the...provisions of Subchapter B of Chapter 15 (relating to discontinuance of service to leased premises).” 66 Pa. C.S. § 1418.

35. Complainant alleges that PGW has violated the provisions of Subchapter B of Chapter 15 (Hess St. 1 at ¶¶ 25, 29, 30), and there is no basis for the Commission’s regulations, which cannot impede any rights or procedure available to Complainant under Subchapter B, to shield from discovery information Complainant requires to pursue remedies from PGW for its flagrant violations of the Public Utility Code.

WHEREFORE, for the reasons set forth above, Complainant respectfully requests that the Objections of PGW be dismissed and PGW be compelled to provide responses to Complainant’s Interrogatories and Requests for Production of Documents, Set I.

Respectfully submitted,


Robert W. Ballenger, Esq.
PA Attorney ID No: 93434
Josie B. H. Pickens, Esq.
PA Attorney ID No: 309422
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102

Dated: September 19, 2016

EXHIBIT I:
Complainant's Interrogatories and Requests
For Production of Documents, Set I

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

FREDRICK HESS	:	
Complainant	:	
v.	:	Docket No. C-2016-_____
	:	
PHILADELPHIA GAS WORKS	:	
Respondent	:	

Fredrick Hess's Interrogatories and Requests for Production of Documents
SET I

Pursuant to 52 Pa. Code §§5.341, 5.349, Complainant Fredrick Hess, through counsel Community Legal Services, Inc., hereby propounds the following Interrogatories and Requests for Production of Documents to Philadelphia Gas Works (hereinafter "PGW") to be answered by those officers, employees or agents as may be cognizant of the requested facts and/or documents and who are authorized to answer on behalf of the Company. The due date for response to the Interrogatories is twenty (20) days from the date of service.

The following instructions apply to these interrogatories:

1. These interrogatories shall be deemed to be continuing. PGW is obliged to change, supplement and correct all answers to interrogatories to conform to available information, including such information as first becomes available to PGW after the answers hereto are served.
2. The answer should first restate the question asked and also identify the name and position of the individual who provided the answer.
3. Each interrogatory and request for production shall be answered fully and completely. All information is to be divulged that is within the knowledge, possession,

control, or custody of PGW or may be reasonably ascertained thereby. The term "PGW" or "Company" as used herein includes PGW, its attorneys, agents, employees, or other representatives.

4. As used in these discovery requests, the following terms shall have the meanings provided below, unless the context clearly requires otherwise:

- a. "Commission" means the Pennsylvania Public Utility Commission, including, without limitation, the Commission's Bureau of Consumer Services and the natural persons providing services as investigators thereto.
- b. "Complainant" means Fredrick Hess.
- c. "Document" or "workpaper" means and includes, but is not limited to, the original and all copies (regardless of origin and whether or not including additional writing thereon or attached thereto) of memoranda, reports, books, manuals, instructions, directives, records, forms, notes, letters, notices, confirmations, telegrams, pamphlets, notations of any sort concerning conversations, telephone calls, meetings or other communications, bulletins, transcripts, diaries, analyses, summaries, correspondence and enclosures, circulars, opinions, studies, investigations, questionnaires, surveys, drawings, graphs, charts and photographs and all drafts, preliminary versions, alterations, modifications, revisions, changes, amendments and written comments concerning the foregoing, in whatever form stored or

contained in or on whatever medium including computerized memory or magnetic media.

- d. "Property" means 3831 Poplar Street, Philadelphia.
- e. "Record" means any and all documents or workpapers in the possession, custody or control of the Company.

Fredrick Hess v. Philadelphia Gas Works

Docket No. C-2016-_____

Fredrick Hess's Interrogatories and Request for Production of Documents
Set I

I-1. Provide a list of each Account Number for PGW service rendered to 3831 Poplar Street from October 26, 2009 through May 31, 2016.

I-2. For each Account Number listed in response to Question I-1, provide:

- a. The customer name(s) listed on or associated with the account;
- b. All contact information supplied to PGW for the customer(s) listed on or associated with the account;
- c. Copies of all documents provided to PGW by the customer(s) listed on or associated with the account; and
- d. A printout of all Records of contacts associated with the account.

I-3. Regarding PGW Account Number 160576408, provide all billing and payment records from October 2013 through May 2016.

I-4. Regarding PGW Account Number 160576408, please provide copies of all bills rendered from October 2013 through May 2016.

I-5. Regarding PGW Account Number 160576408, please identify each mailing address to which PGW bills were delivered during the period October 2013 through present.

I-6. Please provide all Records supplied by PGW to the Commission regarding the Commission's investigation of the informal complaint filed by Complainant in June 2016 regarding which the Commission issued BCS decision # 3447298 on July 8, 2016.

I-7. Please provide all Records regarding the survey of 3831 Poplar Street conducted by PGW on or around June 30, 2016, referenced in paragraph 10 of BCS decision # 3447298 (“Company records show on 6/30/2016 the company completed a survey on the home which found this is a boarding home with 1 room downstairs and 4 upstairs w doors locked and 5 tenants and 1 meter.”)

I-8. Please provide the name(s) of the PGW employee(s) who performed the survey of 3831 Poplar Street on or around June 30, 2016, referenced in Question I-7.

I-9. Please provide all Records of service calls made to 3831 Poplar Street between October 1, 2013 and present.

I-10. Provide a list of each Account Number for PGW service rendered to 154 W. Sylvania Street from August 1, 2013 through present.

I-11. For each Account Number listed in response to Question I-10, provide:

- a. The customer name(s) listed on or associated with the account;
- b. All contact information supplied to PGW for the customer(s) listed on or associated with the account;
- c. Copies of all documents provided to PGW by the customer(s) listed on or associated with the account; and
- d. A printout of all Records of contacts associated with the account.

I-12. Please provide all Records regarding applications for service by Duane Hicks, or Duane J. Hicks, from the period January 1, 2010 through present.

I-13. Please state each address at which Duane Hicks, or Duane J. Hicks, has been listed as a customer or member of a customer’s household during the period January 1, 2010 through the present.

I-14. Please provide a copy of each notice sent or delivered by PGW to 3831 Poplar Street between September 1, 2013 and present.

I-15. Please provide a printout of all Contacts for premises 3831 Poplar Street from January 1, 2013 through the present.

I-16. Please provide copies of PGW's current form notices required by 66 Pa. C.S. § 1523 and 66 Pa. C.S. § 1526.

I-17. Please provide the Company's written policies, procedures, manuals, training materials and other Records describing PGW's practices for identifying dwelling units that are reasonably likely to be occupied by affected tenants pursuant to 66 Pa. C.S. § 1523(a)(3).

I-18. Please provide the Company's written policies, procedures, manuals, training materials and other Records describing PGW's practices for handling contacts from tenants asserting their rights to continued service pursuant to 66 Pa. C.S. § 1527.

Respectfully submitted,



Robert W. Ballenger, Esquire
Josie B.H. Pickens, Esquire
Attorneys for Complainant
COMMUNITY LEGAL SERVICES, INC.
1424 Chestnut Street
215-981-3788

September 1, 2016

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

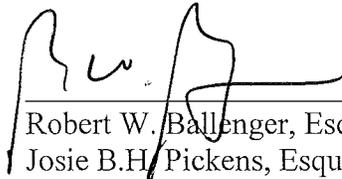
FREDRICK HESS	:	
Complainant	:	
v.	:	Docket No. C-2016-_____
	:	
PHILADELPHIA GAS WORKS	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day, served a copy of Fredrick Hess's Interrogatories and Request for Production of Documents - Set I upon the participant, listed below, in accordance with the requirements of 52 Pa.Code §1.54 (relating to service by a participant).

By e-mail and first-class mail:
Laureto A. Farinas, Esquire
Graciela Christlieb, Esquire
Philadelphia Gas Works
Legal Department
800 West Montgomery Avenue
Philadelphia, PA 19122
Laureto.Farinas@pgworks.com

Dated this 1st day of September, 2016.


Robert W. Ballenger, Esquire
Josie B.H. Pickens, Esquire
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102

**EXHIBIT II:
PGW OBJECTIONS**



PHILADELPHIA GAS WORKS

800 West Montgomery Avenue • Philadelphia, PA 19122

Danielle Leva, Paralegal
Legal Department
Direct Dial: 215-684-6862
FAX: 215-684-6798
E-mail: danielle.leva@pgworks.com

September 12, 2016

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

Re: Frederick Hess v. PGW, Docket No. C – 2016 – 2565499

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §5.421, the Philadelphia Gas Works ("PGW") hereby files its Objections to the Complainant's Interrogatories and Requests for Production of Documents, Set I, 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 that reads "Danielle Leva". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Danielle Leva

Enclosure

cc: Robert Ballenger, Esq
Josie B. H. Pickens, Esq.
Wendy Vacca (PGW Mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Fredrick Hess,	:	
Complainant	:	
v.	:	Docket No. C – 2016 – 2565499
	:	
Philadelphia Gas Works,	:	
Respondent	:	

**Philadelphia Gas Works’ Objections to the Complainant’s
Interrogatories and Requests for Production of Documents, Set I**

Pursuant to 52 Pa. Code §§1.12 and 5.342(d)(1), the Philadelphia Gas Works (“PGW”) hereby objects timely to the Complainant’s Interrogatories and Requests for Production of Documents, Set I, in the above captioned matter, (“Discovery Set I”) addressed to PGW, that the Complainants, through their counsel have propounded upon PGW in the above captioned matter on September 1, 2016. A copy of the Complainant’s Discovery Set I is attached hereto as Appendix “A,” and is incorporated by reference as if fully set forth. PGW objects to the discovery listed below on the following grounds:

PGW’s Objections

Set I, No. 1

PGW objects to the Complainant’s discovery request Set I, No. 1, which states,

1. Please provide a list of each Account Number for PGW service rendered to 3831 Poplar Street from October 26, 2009 through May 31, 2016.

PGW objects on the grounds that Set I, No. 1 requests that PGW disclose account information (“each Account Number...”) for which the Complainant has not been authorized to review. Pursuant to 52 Pa. Code §56.261(8), PGW is obligated to employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to customer account records by persons who are not properly authorized to have access. The Complainant seeks account information on accounts for which he is not the Customer of Record and has not been authorized to review.

Set I, No. 2

PGW objects to the Complainant's discovery request Set I, No. 2, which states,

- 2. For Account Number listed in response to Question I-1, provide:**
 - a. The customer name(s) listed on or associated with the account;**
 - b. All contact information supplied to PGW for the customer(s) listed on or associated with the account;**
 - c. Copies of all documents provided to PGW by the customer(s) listed on or associated with the account; and**
 - d. A printout of all Records of contacts associated with the account.**

PGW objects on the grounds that Set I, No. 2 requests that PGW disclose account information for which the Complainant has not been authorized to review. Pursuant to 52 Pa. Code §56.261(8), PGW is obligated to employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to customer account records by persons who are not properly authorized to have access. The Complainant seeks account information on accounts for which he is not the Customer of Record and has not been authorized to review.

Set I, Nos. 3, 4 and 5

PGW objects to the Complainant's discovery requests Set I, Nos. 3, 4 and 5 which state,

3. Regarding PGW Account Number 160576408, provide all billing and payment records from October 2013 through May 2016.

4. Regarding PGW Account Number 160576408, provide copies of all bills rendered from October 2013 through May 2016.

5. Regarding PGW Account Number 160576408, please identify each mailing address to which PGW bills were delivered during the period from October 2013 through the present.

PGW objects on the grounds that these request that PGW disclose account information for which the Complainant has not been authorized to review. Pursuant to 52 Pa. Code §56.261(8), PGW is obligated to employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to

customer account records by persons who are not properly authorized to have access. The Complainant seeks account information on accounts for which he is not the Customer of Record and has not been authorized to review.

Set I, No. 6

PGW objects to the Complainant's discovery requests Set I, No. 4, 5 and 6 which state,

6. Please provide all Records supplied by PGW to the Commission regarding the Commission's investigation of the informal complaint filed by Complainant in June 2016 regarding which the Commission issued BCS decision #34477298 on July 8, 2016.

PGW objects on the grounds that Set I, No. 6, requests that PGW disclose account information for which the Complainant has not been authorized to review. Pursuant to 52 Pa. Code §56.261(8), PGW is obligated to employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to customer account records by persons who are not properly authorized to have access. The Complainant seeks account information on accounts for which he is not the Customer of Record and has not been authorized to review.

Set I, No. 7

PGW objects to the Complainant's discovery request Set I, No. 7, which states,

7. Please provide all Records regarding the survey of 3831 Poplar Street conducted by PGW on or around June 30, 2016, referenced in paragraph 10 of BCS decision #3447298 ("Company records show on 6/30/2016 the company completed a survey on the home which found this is a boarding home with 1 room downstairs and 4 upstairs w doors locked and 5 tenants and 1 meter.")

PGW objects on the grounds that Set I, No. 7, requests that PGW disclose account information for which the Complainant has not been authorized to review. Pursuant to 52 Pa. Code §56.261(8), PGW is obligated to employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to customer account records by persons who are not properly authorized to

have access. The Complainant seeks account information on accounts for which he is not the Customer of Record and has not been authorized to review.

Set I, No. 8

PGW objects to the Complainant's discovery request Set I, No. 8, which states,

8. Please provide the name(s) of the PGW employee(s) who performed the survey of 3831 Poplar Street on or around June 30, 2016, referenced in Question I-7.

PGW objects on the grounds that Set I, No. 8, requests that PGW disclose account information for which the Complainant has not been authorized to review. Pursuant to 52 Pa. Code §56.261(8), PGW is obligated to employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to customer account records by persons who are not properly authorized to have access. The Complainant seeks account information on accounts for which he is not the Customer of Record and has not been authorized to review.

Set I, No. 9

PGW objects to the Complainant's discovery request Set I, No. 9, which states,

9. Please provide all Records of service calls made to 3831 Poplar Street between October 1, 2013 and present.

PGW objects on the grounds that Set I, No. 9, requests that PGW disclose account records and telephone call information for the Service Address for which the Complainant has not been authorized to review. Pursuant to 52 Pa. Code §56.261(8), PGW is obligated to employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to customer account records by persons who are not properly authorized to have access. The Complainant seeks account information on accounts for which he is not the Customer of Record and has not been authorized to review.

Set I, No. 10

PGW objects to the Complainant's discovery request Set I, No. 10, which states,

10. Provide a list of each Account Number for PGW service rendered to 154 W. Sylvania Street from August 1, 2013 through present.

PGW objects on the grounds that Set I, No. 10, requests that PGW disclose the PGW account numbers for 154 W. Sylvania Street for which the Complainant has not been authorized to review. Pursuant to 52 Pa. Code §56.261(8), PGW is obligated to employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to customer account records by persons who are not properly authorized to have access. The Complainant seeks account information on accounts for which he is not the Customer of Record and has not been authorized to review.

Set I, No. 11

PGW objects to the Complainant's discovery request Set I, No. 11, which states,

11. For each Account Number listed in response to Question I-10, provide:

- a. The customer name(s) listed on or associated with the account;**
- b. All contact information supplied to PGW for the customer(s) listed on or associated with the account;**
- c. Copies of all documents provided to PGW by the customer(s) listed on or associated with the account; and**
- d. A printout of all Records of contacts associated with the account.**

PGW objects on the grounds that Set I, No. 11, requests that PGW disclose account information on various accounts associated with 154 W. Sylvania Street for which the Complainant has not been authorized to review. Pursuant to 52 Pa. Code §56.261(8), PGW is obligated to employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to customer account records by persons who are not properly authorized to have access. The Complainant seeks account information on accounts for which he is not the Customer of Record and has not been authorized to review.

Set I, No. 12

PGW objects to the Complainant's discovery request Set I, No. 12, which states,

12. Please provide all Records regarding applications for service by Duane Hicks or Duane J. Hicks, from the period January 1, 2010 through present.

PGW objects on the grounds that Set I, No. 12, requests that PGW disclose account information on accounts associated with a person who is not a party to the above captioned mater and for which the Complainant has not been authorized to review. Pursuant to 52 Pa. Code §56.261(8), PGW is obligated to employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to customer account records by persons who are not properly authorized to have access. The Complainant seeks account information on accounts for which he is not the Customer of Record and has not been authorized to review.

Set I, No. 13

PGW objects to the Complainant's discovery request Set I, No. 13, which states,

13. Please state each address at which Duane Hicks, or Duane J. Hicks, has been listed as a customer or member of a customer's household during the period January 1, 2010 through the present.

PGW objects on the grounds that Set I, No. 13, requests that PGW disclose account information on accounts associated with a person who is not a party to the above captioned mater and for which the Complainant has not been authorized to review. Pursuant to 52 Pa. Code §56.261(8), PGW is obligated to employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to customer account records by persons who are not properly authorized to have access. The Complainant seeks account information on accounts for which he is not the Customer of Record and has not been authorized to review.

Set I, No. 14

PGW objects to the Complainant's discovery request Set I, No. 14, which states,

14. Please provide a copy of each notice sent or delivered by PGW to 3831 Poplar Street between September 1, 2013 to present.

PGW objects on the grounds that Set I, No. 14, requests that PGW disclose account information, including correspondence, sent to a Customer or Record on an account for which the Complainant has not been authorized to review. Pursuant to 52 Pa. Code §56.261(8), PGW is obligated to employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to customer account records by persons who are not properly authorized to have access. The Complainant seeks account information on accounts for which he is not the Customer of Record and has not been authorized to review.

Set I, No. 15

PGW objects to the Complainant's discovery request Set I, No. 15, which states,

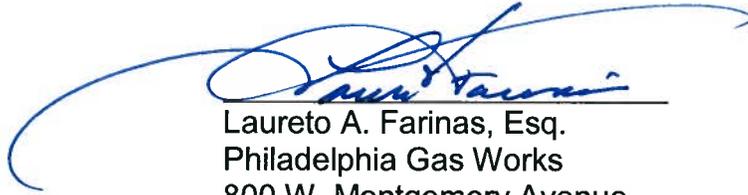
15. Please provide a printout of all Contacts for premises 3831 Poplar Street from January 1, 2013 through the present.

PGW objects on the grounds that Set I, No. 14, requests that PGW disclose account information on accounts for which the Complainant has not been authorized to review. Pursuant to 52 Pa. Code §56.261(8), PGW is obligated to employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to customer account records by persons who are not properly authorized to have access. The Complainant seeks account information on accounts for which he is not the Customer of Record and has not been authorized to review.

WHEREFORE, for the reasons stated above, PGW respectfully requests that the Commission issue an order sustaining PGW's objections to the Complainants' Discovery Set I, Nos. 1 through 15.

Respectfully submitted,

September 12, 2016



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

APPENDIX A



September 1, 2016

By First Class Mail (d email)

Laureto A. Farinas, Esquire
Graciela Christlieb, Esquire
Philadelphia Gas Works
Legal Department
800 West Montgomery Avenue
Philadelphia, PA 19122

Re: Interrogatories Set I (Formal Complaint of Fredrick Hess)

Dear Mr. Farinas and Ms. Christlieb:

Please find the enclosed Interrogatories Set I of Fredrick Hess. The Formal Complaint was filed by mail and a docket number has not yet been assigned. A copy of the letter to the Secretary, submitting the enclosed Certificate of Service, is also included.

Responses to these Interrogatories are due on September 21, 2016.

Please contact me with any questions or concerns.

Sincerely,

Robert W. Ballenger, Esquire
Josie B.H. Pickens, Esquire

Attorneys for Fredrick Hess

Enclosure

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

FREDRICK HESS	:
Complainant	:
v.	: Docket No. C-2016-_____
	:
PHILADELPHIA GAS WORKS	:
Respondent	:

Fredrick Hess’s Interrogatories and Requests for Production of Documents
SET I

Pursuant to 52 Pa. Code §§5.341, 5.349, Complainant Fredrick Hess, through counsel Community Legal Services, Inc., hereby propounds the following Interrogatories and Requests for Production of Documents to Philadelphia Gas Works (hereinafter “PGW”) to be answered by those officers, employees or agents as may be cognizant of the requested facts and/or documents and who are authorized to answer on behalf of the Company. The due date for response to the Interrogatories is twenty (20) days from the date of service.

The following instructions apply to these interrogatories:

1. These interrogatories shall be deemed to be continuing. PGW is obliged to change, supplement and correct all answers to interrogatories to conform to available information, including such information as first becomes available to PGW after the answers hereto are served.
2. The answer should first restate the question asked and also identify the name and position of the individual who provided the answer.
3. Each interrogatory and request for production shall be answered fully and completely. All information is to be divulged that is within the knowledge, possession,

control, or custody of PGW or may be reasonably ascertained thereby. The term “PGW” or “Company” as used herein includes PGW, its attorneys, agents, employees, or other representatives.

4. As used in these discovery requests, the following terms shall have the meanings provided below, unless the context clearly requires otherwise:

- a. “Commission” means the Pennsylvania Public Utility Commission, including, without limitation, the Commission’s Bureau of Consumer Services and the natural persons providing services as investigators thereto.
- b. “Complainant” means Fredrick Hess.
- c. “Document” or “workpaper” means and includes, but is not limited to, the original and all copies (regardless of origin and whether or not including additional writing thereon or attached thereto) of memoranda, reports, books, manuals, instructions, directives, records, forms, notes, letters, notices, confirmations, telegrams, pamphlets, notations of any sort concerning conversations, telephone calls, meetings or other communications, bulletins, transcripts, diaries, analyses, summaries, correspondence and enclosures, circulars, opinions, studies, investigations, questionnaires, surveys, drawings, graphs, charts and photographs and all drafts, preliminary versions, alterations, modifications, revisions, changes, amendments and written comments concerning the foregoing, in whatever form stored or

contained in or on whatever medium including computerized memory or magnetic media.

- d. "Property" means 3831 Poplar Street, Philadelphia.
- e. "Record" means any and all documents or workpapers in the possession, custody or control of the Company.

Fredrick Hess v. Philadelphia Gas Works

Docket No. C-2016-_____

Fredrick Hess's Interrogatories and Request for Production of Documents
Set I

- I-1. Provide a list of each Account Number for PGW service rendered to 3831 Poplar Street from October 26, 2009 through May 31, 2016.
- I-2. For each Account Number listed in response to Question I-1, provide:
- a. The customer name(s) listed on or associated with the account;
 - b. All contact information supplied to PGW for the customer(s) listed on or associated with the account;
 - c. Copies of all documents provided to PGW by the customer(s) listed on or associated with the account; and
 - d. A printout of all Records of contacts associated with the account.
- I-3. Regarding PGW Account Number 160576408, provide all billing and payment records from October 2013 through May 2016.
- I-4. Regarding PGW Account Number 160576408, please provide copies of all bills rendered from October 2013 through May 2016.
- I-5. Regarding PGW Account Number 160576408, please identify each mailing address to which PGW bills were delivered during the period October 2013 through present.
- I-6. Please provide all Records supplied by PGW to the Commission regarding the Commission's investigation of the informal complaint filed by Complainant in June 2016 regarding which the Commission issued BCS decision # 3447298 on July 8, 2016.

I-7. Please provide all Records regarding the survey of 3831 Poplar Street conducted by PGW on or around June 30, 2016, referenced in paragraph 10 of BCS decision # 3447298 (“Company records show on 6/30/2016 the company completed a survey on the home which found this is a boarding home with 1 room downstairs and 4 upstairs w doors locked and 5 tenants and 1 meter.”)

I-8. Please provide the name(s) of the PGW employee(s) who performed the survey of 3831 Poplar Street on or around June 30, 2016, referenced in Question I-7.

I-9. Please provide all Records of service calls made to 3831 Poplar Street between October 1, 2013 and present.

I-10. Provide a list of each Account Number for PGW service rendered to 154 W. Sylvania Street from August 1, 2013 through present.

I-11. For each Account Number listed in response to Question I-10, provide:

- a. The customer name(s) listed on or associated with the account;
- b. All contact information supplied to PGW for the customer(s) listed on or associated with the account;
- c. Copies of all documents provided to PGW by the customer(s) listed on or associated with the account; and
- d. A printout of all Records of contacts associated with the account.

I-12. Please provide all Records regarding applications for service by Duane Hicks, or Duane J. Hicks, from the period January 1, 2010 through present.

I-13. Please state each address at which Duane Hicks, or Duane J. Hicks, has been listed as a customer or member of a customer’s household during the period January 1, 2010 through the present.

I-14. Please provide a copy of each notice sent or delivered by PGW to 3831 Poplar Street between September 1, 2013 and present.

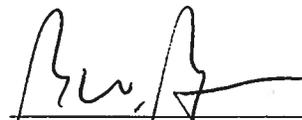
I-15. Please provide a printout of all Contacts for premises 3831 Poplar Street from January 1, 2013 through the present.

I-16. Please provide copies of PGW's current form notices required by 66 Pa. C.S. § 1523 and 66 Pa. C.S. § 1526.

I-17. Please provide the Company's written policies, procedures, manuals, training materials and other Records describing PGW's practices for identifying dwelling units that are reasonably likely to be occupied by affected tenants pursuant to 66 Pa. C.S. § 1523(a)(3).

I-18. Please provide the Company's written policies, procedures, manuals, training materials and other Records describing PGW's practices for handling contacts from tenants asserting their rights to continued service pursuant to 66 Pa. C.S. § 1527.

Respectfully submitted,



Robert W. Ballenger, Esquire
Josie B.H. Pickens, Esquire
Attorneys for Complainant
COMMUNITY LEGAL SERVICES, INC.
1424 Chestnut Street
215-981-3788

September 1, 2016

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

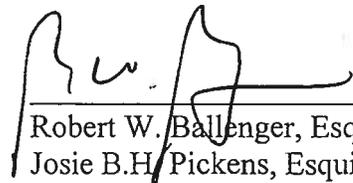
FREDRICK HESS	:	
Complainant	:	
v.	:	Docket No. C-2016-_____
	:	
PHILADELPHIA GAS WORKS	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day, served a copy of Fredrick Hess's Interrogatories and Request for Production of Documents - Set I upon the participant, listed below, in accordance with the requirements of 52 Pa.Code §1.54 (relating to service by a participant).

By e-mail and first-class mail:
Laureto A. Farinas, Esquire
Graciela Christlieb, Esquire
Philadelphia Gas Works
Legal Department
800 West Montgomery Avenue
Philadelphia, PA 19122
Laureto.Farinas@pgworks.com

Dated this 1st day of September, 2016.



Robert W. Ballenger, Esquire
Josie B.H. Pickens, Esquire
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A TRUE COPY OF THE FOREGOING DOCUMENT, PHILADELPHIA GAS WORKS' OBJECTIONS TO THE COMPLAINANTS' INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS, Set I, UPON THE PARTICIPANTS LISTED BELOW, IN ACCORDANCE WITH THE REQUIREMENTS OF 52 PA CODE §§1.54 and 5.342(c) (RELATING TO SERVICE BY A PARTICIPANT).

Service List

For Complainants:

Robert W. Ballenger, Esq.
Josie B.H. Pickens, Esq.
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102 – 2505

& by e-mail: RBallenger@clsphila.org
JPickens@clsphila.org

Mr. Fredrick Hess
3831 Poplar Street
Philadelphia, PA 19104

September 12, 2016



Laureto Farinas, Esquire
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
(215) 684-6982

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Fredrick Hess,	:	
Complainant	:	
v.	:	Docket No. C-2016- 2565499
Philadelphia Gas Works,	:	
Respondent	:	

I hereby certify that I have this day served a copy of the Motion to Compel the Response of Philadelphia Gas Works to Complainant Fredrick Hess’s Interrogatories and Requests for Production of Documents, Set I, in the above-captioned matter upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code §1.54.

Via Electronic Filing, First Class Mail & Email (as indicated)

(Electronic Filing)

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

(First Class Mail & Email)

Laureto Farinas, Esq.
Graciela Christlieb, Esq.
Philadelphia Gas Works
800 W. Montgomery Ave.
Philadelphia, PA 19122
Laureto.farinas@pgworks.com
Graciela.christlieb@pgworks.com



Robert W. Ballenger, Esq.
Pa. Attorney ID: 93434

Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102
Tel: 215-981-3788
rballenger@clsphila.org

September 19, 2016