



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 26, 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 §§1.12 and 5.342(g)(1), the Philadelphia Gas Works (“PGW”) hereby files its answer to the Complainants’ Motion to Compel Responses to Interrogatories and Requests for Production of Documents, Set I, Nos. 1 through 15.

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

Sincerely,


Danielle Leva

Enclosure

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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Fredrick Hess,
Complainant

v.

Philadelphia Gas Works,
Respondent

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Docket No. C – 2016 – 2565499

**Philadelphia Gas Works' Answer to the
Complainant's Motion to Compel Responses to
Interrogatories and Requests for Production of Documents, Set I – Nos. 1-15**

Pursuant to 52 Pa. Code §§1.12 and 5.342(g)(1), the Philadelphia Gas Works ("PGW") hereby files its Answer to the Complainant's Motion to Compel Responses to Interrogatories and Requests for Production of Documents, Set I, Nos. 1 through 15, in the above captioned matter, ("Discovery Set I") dated September 19, 2016. PGW requests that this Commission sustain its objections to the Complainant's Discovery Set I, Nos. 1 through 15. PGW answers, the Complainant's motion as follows:

Background

1. The Complainant appeals a decision of the Commission's Bureau of Consumer Services ("BCS") that found, *inter alia*, that the Complainant had failed to provide a valid lease with the Landlord of the Service Address located at 3831 Poplar Street, Philadelphia, Pennsylvania and that, to restore gas service to the Service Address, the Complainant should pay the PGW reconnection fee and the amount to be determined as appropriate representing the amount of the outstanding balance that accrued during the Complainant's tenancy, pursuant to 52 Pa. Code §56.191(d).
2. The Complainant supports the averment of the alleged oral lease as a tenant at 3831 Poplar Street, with documentation that have yet to be authenticated and their relevance shown to the instant mater.
3. PGW records reflect that during the Complainant's alleged tenancy at the Service Address, there was one occupant of the Service Address for much of that period. That occupant was the Customer of Record and not the Complainant. It cannot be determined where Duane Hicks actually resides.

4. The Complainant offers no proof of the relationship between Duane Hicks and property owner, Alexander Lanchin. PGW records do not indicate that it was provided with information in compliance with 66 Pa. C.S.A. §1529.1(a) giving notice to the utility of the status, use and classification of the Service Address so as to cause PGW to provide notice of termination to any resident of the Service Address other than the Customer of Record. Subsequent investigation resulted in PGW's conclusion that the Complainant failed to demonstrate that he is entitled to rights under 66 Pa. C.S.A. §1527, as the Service Address and the nature of his alleged occupancy does not fit within the definitions associated with 66 Pa. C.S.A. §1527.

5. PGW has denied the averment in Paragraph 12 of the Statement of Facts of Fredrick Hess regarding what PGW knew or should have known concerning the status (as Property Manager) by which Duane Hicks established service at the Service Address is a conclusion to which not response is required. PGW records do not indicate that the Customer of Record of the Service Address, in establishing service, complied with 66 Pa. C.S.A. §1529.1(a) giving notice to the utility of the status, use and classification of the Service Address. Subsequent investigation resulted in PGW's conclusion that the Complainant failed to demonstrate that he is entitled to rights under 66 Pa. C.S.A. §1527, as the Service Address and the nature of his alleged occupancy does not fit within the definitions associated with 66 Pa. C.S.A. §1527.

6. PGW has been made aware of the alleged tenancy of the Complainant at the Service Address with the filing of the Complainant's informal complaint. PGW records do not indicate that the Customer of Record of the Service Address, in establishing service, complied with 66 Pa. C.S.A. §1529.1(a) giving notice to the utility of the status, use and classification of the Service Address. Subsequent investigation resulted in PGW's conclusion that the Complainant failed to demonstrate that he is entitled to rights under 66 Pa. C.S.A. §1527, as the Service Address and the nature of his alleged occupancy does not fit within the definitions associated with 66 Pa. C.S.A. §1527.

7. PGW denies that during the Complainant's tenancy PGW bills were not delivered to the Serviced Address as PGW lacks sufficient information regarding the Complainant's alleged tenancy to determine the truth of the averment.

8. PGW denies that the Complainant through its counsel has provided documentation of the Complainant's tenancy as PGW lacks sufficient information to determine the documents' authenticity and relevance to the instant matter.

9. Throughout the course of this matter PGW has denied that it has violated any part of the Pennsylvania Public Utility Code. PGW denies that it has refused to recognize the Complainant's rights as subsequent investigation resulted in PGW's conclusion that the nature of the Complainant's alleged occupancy does not fit within the definitions associated with 66 Pa. C.S.A. §1527. Therefore, the Complainant is not entitled to rights under 66 Pa. C.S.A. §1527.

10. The Complainant is not entitled to the relief requested as PGW records do not indicate that the Customer of Record of the Service Address, in establishing service, complied with 66 Pa. C.S.A. §1529.1(a) giving notice to the utility of the status, use and classification of the Service Address. Subsequent investigation resulted in PGW's conclusion that the Complainant failed to demonstrate that he is entitled to rights under 66 Pa. C.S.A. §1527, as the Service Address and the nature of his alleged occupancy does not fit within the definitions associated with 66 Pa. C.S.A. §1527.

Discovery Matters

11. On September 1, 2016 the Complainant's counsel propounded the Complainant's Interrogatories and Requests for Production of Documents, Set I, Nos. 1 through 18, in the above captioned matter, ("Discovery Set I").

12. On September 12, 2016, PGW timely filed Objections to Discovery Set I, Nos. 1 through 15.

13. PGW objects on the grounds that Set I, Nos. 1 through 15 requests that PGW disclose account information for which the Complainant has not been authorized to review. Pursuant to 52 Pa. Code §56.11(b)(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. These include accounts held by customers at the Service Address and 154 Sylvania

Street, Philadelphia, Pennsylvania. These customers are not a party to the instant proceeding.

14. PGW relies upon 52 Pa. Code §56.11(b)(8) as a basis for objection as 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. This section poses a real obligation to maintain the confidentiality of customer information. Neither the Complainant, nor his counsel, has provided PGW with any authorization to review the accounts sought in the Complainant's Discovery Set I, Nos. 1 through 15. The Complainant has not indicated that he has even attempted to obtain authorization to review the accounts and related information. PGW lacks authority to grant the Complainant or his counsel the requisite authorization to review the material. To this extent, the information sought by the Complainant in his Discovery Set I, Nos. 1 through 15 is confidential and should not be shared in discovery without regard to the rights of that customer about whom the account information is sought to object to the disclosure. Absent authorization from the customer, the Commission may authorize the review of the material.

The Complainant Seeks Private Customer Information in a Manner

15. In the Complainant's Discovery Set I, Nos. 1 through 15, the Complainant seeks private and confidential customer information, the release of which, without appropriate authorization would deprive that customer of his right to notice that information is released and the opportunity to object to it. Ironically, counsel for the Complainant fails to recognize that 52 Pa. Code §5.421 provides the method to acquire the requested information that protects privacy in the interest of all utility customers. As that customer is not a party to this proceeding, the processes prescribed in 52 Pa. Code §5.421(a) and (b) provide notice to the customer and a higher scrutiny for the protection of the customer's information. In 52 Pa. Code §5.421(b)(5) the customer who is not a party to the proceeding is given the opportunity to review and object to the disclosure.

Furthermore, as the Complainant avers that the actions of the customer whose information is the subject of his Discovery Set I, Nos. 1 through 15 have placed the

Complainant in need of relief, the customers whose information is sought are very likely to be considered as indispensable parties to this proceeding. Under separate cover, PGW will file a Motion to Join the Customer of Record and the owner of the Service Address as their actions or omissions are in violation of the PGW Tariff and the Public Utility Code including 66 Pa. C.S.A. §1529.1(a).

16. PGW regrets that it has made the incorrect citation of its obligation 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. As applied to PGW, 52 Pa. Code §56.11(b)(8) is the correct citation.

17. PGW's obligation under 52 Pa. Code §56.11(b)(8), 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 is controlling with regard to the release of information in discovery. PGW is not relieved of this obligation simply because the information has been request in discovery. As stated above, 52 Pa. Code §5.421 provides the method to acquire the requested information that protects privacy in the interest of all utility customers. As that customer is not a party to this proceeding, the processes prescribed in 52 Pa. Code §5.421(a) and (b) provide notice to the customer and a higher scrutiny for the protection of the customers information. In 52 Pa. Code §5.421(b)(5) the customer who is not a party to the proceeding is given the opportunity to review and object to the disclosure.

18. Irrespective of the scope of discovery set forth in 52 Pa. Code §5.321(c), PGW is not relieved of this obligation simply because the information has been request in discovery. The process contained in 52 Pa. Code §5.421 provides the method to acquire the requested information that protects privacy in the interest of all utility customers and a higher scrutiny for that protection.

19. Irrespective of the limits of discovery set forth in 52 Pa. Code §5.341, PGW is not relieved of this obligation to protect customer information from unauthorized disclosure simply because the information has been request in discovery. While the disclosure of the request information may cause unreasonable annoyance or embarrassment to that customer, if it is disclosed without providing an opportunity to object to the disclosure,

that disclosure would work to oppress that customer's rights. Thus, the subpoena process contained in 52 Pa. Code §5.421 provides the method to acquire the requested information that protects privacy in the interest of all utility customers and a higher scrutiny for that protection.

20. While the information sought may be relevant to the Complainant's case, the basis of PGW's objection is not relevance at this time. The subpoena process contained in 52 Pa. Code §5.421 provides the method to acquire the requested information that protects privacy in the interest of all utility customers and a higher scrutiny for that protection through the determination of relevance by the presiding officer. Furthermore, as the Complainant avers that the actions (or omissions) of Duane Hicks have placed the Complainant in need of relief, the customers whose information is sought are very likely to be considered as indispensable parties to this proceeding.

21. While the information sought may or may not be admissible during the presentation of the Complainant's case, the basis of PGW's objection is not admissibility at this time. The subpoena process contained in 52 Pa. Code §5.421 provides the method to acquire the requested information that protects privacy in the interest of all utility customers and a higher scrutiny for that protection through the determination by the presiding officer.

22. While the disclosure of the request information may cause unreasonable annoyance or embarrassment to that customer. If it is disclosed without providing an opportunity to object to the disclosure, that disclosure would work to oppress that customer's rights. Thus, the subpoena process contained in 52 Pa. Code §5.421 provides the method to acquire the requested information that protects privacy in the interest of all utility customers and a higher scrutiny for that protection.

23. PGW is not relieved of this obligation to protect customer information from unauthorized disclosure simply because the information has been request in discovery. While the disclosure of the request information may cause unreasonable annoyance or embarrassment to that customer, if it is disclosed without providing an opportunity to object to the disclosure, that disclosure would work to oppress that customer's rights. Thus, the subpoena process contained in 52 Pa. Code §5.421 provides the method to

acquire the requested information that protects privacy in the interest of all utility customers and a higher scrutiny for that protection.

PGW Seeks to Protect Information from the Review of Unauthorized Parties.

24. PGW does not seek to restrict the Complainant's access to the requested information, PGW seeks only to protect its interests and that of its customers by compliance with 52 Pa. Code §56.11(b)(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. Proper authorization for access and review of the requested information through the subpoena process contained in 52 Pa. Code §5.421 provides the method to acquire the requested information that protects privacy in the interest of all utility customers and a higher scrutiny for that protection. This scrutiny of this process would impermissibly violate the Complainant's due process rights but rather, affords that customer, who is not a party to this proceeding, his due process rights to object to the disclosure of his private customer information.

25. As stated above, PGW does not seek to restrict the Complainant's access to the requested information, PGW seeks only to protect its interests and that of its customers by compliance with 52 Pa. Code §56.11(b)(8). Proper authorization for access and review of the requested information through the subpoena process contained in 52 Pa. Code §5.421 provides the method to acquire the requested information that protects privacy in the interest of all utility customers.

26. As stated above, PGW does not seek to restrict the Complainant's access to the requested information, PGW seeks only to protect its interests and that of its customers by compliance with 52 Pa. Code §56.11(b)(8). Proper authorization for access and review of the requested information through the subpoena process contained in 52 Pa. Code §5.421 provides the method to acquire the requested information that protects privacy in the interest of all utility customers.

27. As stated above, PGW does not seek to restrict the Complainant's access to the requested information, PGW seeks only to protect its interests and that of its customers

by compliance with 52 Pa. Code §56.11(b)(8). Proper authorization for access and review of the requested information through the subpoena process contained in 52 Pa. Code §5.421 provides the method to acquire the requested information that protects privacy in the interest of all utility customers.

28. As stated above, PGW does not seek to restrict the Complainant's access to the requested information, PGW seeks only to protect its interests and that of its customers by compliance with 52 Pa. Code §56.11(b)(8). Proper authorization for access and review of the requested information through the subpoena process contained in 52 Pa. Code §5.421 provides the method for the "balance" of privacy rights with the Commission's obligation to provide adequate administrative due process.

29. As stated above, PGW does not seek to restrict the Complainant's access to the requested information, PGW seeks only to protect its interests and that of its customers by compliance with 52 Pa. Code §56.11(b)(8). Proper authorization for access and review of the requested information through the subpoena process contained in 52 Pa. Code §5.421 provides the method for the "balance" of privacy rights with the Commission's obligation to provide adequate administrative due process.

30. As stated above, PGW does not seek to restrict the Complainant's access to the requested information, PGW seeks only to protect its interests and that of its customers by compliance with 52 Pa. Code §56.11(b)(8). Proper authorization for access and review of the requested information through the subpoena process contained in 52 Pa. Code §5.421 provides the method for the "balance" of privacy rights with the Commission's obligation to provide adequate administrative due process. As the Complainant avers that the actions of the customer whose information is the subject of his Discovery Set I, Nos. 1 through 15 have placed the Complainant in need of relief, the customers whose information is sought are very likely to be considered as indispensable parties to this proceeding and should be joined.

31. As stated above, PGW does not seek to restrict the Complainant's access to the requested information, PGW seeks only to protect its interests and that of its customers by compliance with 52 Pa. Code §56.11(b)(8). Proper authorization for access and review of the requested information through the subpoena process allows the Complainant to prosecute this matter fully. As the Complainant avers that the actions of

the customer whose information is the subject of his Discovery Set I, Nos. 1 through 15 have placed the Complainant in need of relief, the customers whose information is sought are very likely to be considered as indispensable parties to this proceeding and should be joined.

32. PGW does not seek to restrict the Complainant's access to the requested information. PGW seeks only the proper authorization for access and review of the requested information through the subpoena process.

33. The Complainant's use of the subpoena process contained in 52 Pa. Code §5.421 provides the method for the "balance" of privacy rights with the Commission's obligation to provide adequate administrative due process and the protection of customers' private information.

34. As stated above, PGW does not seek to restrict the Complainant's access to the requested information, PGW seeks only to protect its interests and that of its customers by compliance with 52 Pa. Code §56.11(b)(8). Proper authorization for access and review of the requested information through the subpoena process allows the Complainant to prosecute this matter fully, even though PGW's subsequent investigation concludes that the Complainant failed to demonstrate that he is entitled to rights under 66 Pa. C.S.A. §1527, as the Service Address and the nature of his alleged occupancy does not fit within the definitions associated with 66 Pa. C.S.A. §1527.

35. As stated above, PGW does not seek to restrict the Complainant's access to the requested information, PGW seeks only to protect its interests and that of its customers by compliance with 52 Pa. Code §56.11(b)(8). Proper authorization for access and review of the requested information through the subpoena process allows the Complainant to prosecute this matter fully, even though PGW's subsequent investigation concludes that the Complainant failed to demonstrate that he is entitled to rights under 66 Pa. C.S.A. §1527, as the Service Address and the nature of his alleged occupancy does not fit within the definitions associated with 66 Pa. C.S.A. §1527.

WHEREFORE, for the reasons stated above, PGW respectfully requests that the Commission issue an order, denying the Complainant's Motion to Compel Responses to the Complainant's Interrogatories and Requests for Production of Documents Set I, Nos. 1-15 and sustaining PGW's objections to the Complainants' Interrogatories and Requests for Production of Documents Set I, Nos. 1-15.

Respectfully submitted,

September 26, 2016



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, PHILADELPHIA GAS WORKS' ANSWER TO THE COMPLAINANTS' MOTON TO COMPEL RESPONSES INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS, Set I, NOS. 1 THROUGH 15, 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

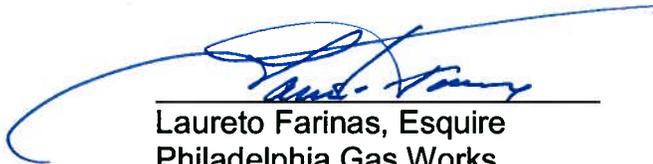
For Complainants:

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

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