

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Janay Keys	:	
	:	
v.	:	C-2014-2428021
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION ON REMAND
DISMISSING COMPLAINT**

Before
Dennis J. Buckley
Administrative Law Judge

This Initial Decision dismisses a formal Complaint filed by Janay Keys against Philadelphia Gas Works. This matter was remanded by the Commission by Order dated March 22, 2016, over service issues and an apparent outstanding balance on the account in question. At a hearing on June 30, 2016, Complainant failed to appear; however, it was ascertained that no issues remain to be adjudicated, and this case should be dismissed

HISTORY OF THE PROCEEDING

On June 12, 2014, Janay Keys (Complainant) filed a formal Complaint with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW or Respondent). The Complaint asserted that Complainant had been improperly billed by PGW for natural gas service at 2812 S. 73rd Street, Philadelphia, Pennsylvania. Attached to the Complaint was a Notice of Filing of a Lien on the property dated June 3, 2014, sent by PGW to Complainant at the service address.

The Complaint was served on PGW by the Secretary of the Commission on June 23, 2014.

On July 14, 2014, PGW filed Preliminary Objections which contained the requisite Notice to Plead. The Answer admitted that PGW provided natural gas service to the address listed on the Complaint. The Answer admitted that the City of Philadelphia (City) has filed liens against the property for claims for unpaid gas service.¹ The Answer denied that all past due balances have been satisfied and asked that the Commission find against the Complainant and dismiss the Complaint as the Commission lacks jurisdiction to resolve issues related to liens.

Respondent argued that the Commission lacks jurisdiction over the subject matter of the Complaint and that the Complaint includes impertinent matter in its request for relief. According to the Preliminary Objections, the Public Utility Code at 66 Pa. C.S. § 2212(n) states that nothing shall abrogate the power of the Respondent to collect delinquent accounts through the imposition of liens pursuant to the Municipal Claim and Tax Lien Law. Respondent asserted that, under 66 Pa. C.S. § 2212(n), the Commission has no jurisdiction over the filing of such a lien. Respondent pointed out that the Public Utility Code at 66 Pa. C.S. § 1414(a) authorizes the Respondent to file liens for unpaid natural gas service.

No responsive pleading was made by Complainant to the Preliminary Objections.

On December 3, 2015, I issued an Initial Decision finding that this case is beyond the jurisdiction of the Commission. Consequently, I granted PGW's Preliminary Objections and dismissed the Complaint.

¹ "A lien is a charge on property, either real or personal, for the payment or discharge of a particular debt or duty in priority to the general debts or duties of the owner. It encumbers property to secure payment or performance of a debt, duty or other obligation. Liens fall into three categories: common law liens, equitable liens and statutory liens." *London Towne Homeowners Ass'n v. Karr*, 866 A.2d 447, 451 (Pa. Cmwlth. 2004)(citations and internal footnotes omitted).

At its public meeting on February 11, 2016, the Commission considered the Initial Decision and remanded this case due to what it found were ambiguities in the record relative to amounts in dispute that may not have been subject to the lien which might raise the issue of improper billing. The Commission's remand Order was entered on March 22, 2016.

On April 11, 2016, a hearing notice was issued setting May 10, 2016 as the date for a hearing in this case. The notice was served on the parties and not returned to the Secretary of the Commission.

On May 3, 2016, PGW filed a Motion for Continuance due to the unavailability of counsel on the hearing date. Complainant had no objection to the requested continuance.

On May 5, 2016, I issued an Order continuing the hearing set for May 10, 2016.

On May 9, 2016, a new hearing notice was issued setting May 31, 2016, as the date for the rescheduled hearing. The notice was served on the parties and not returned to the Secretary of the Commission; however, due to some confusion with respect to scheduling a court reporting service, the matter was rescheduled.

On May 24, 2016, a further hearing notice was issued setting June 30, 2016, as the date for the rescheduled hearing. The notice was served on the parties and not returned to the Secretary of the Commission.

On June 30, 2016, a telephonic hearing on remand was held originating from the Commission's office in Harrisburg, Pennsylvania. Graciela Christlieb, Esquire, appeared on behalf of PGW. Complainant did not appear; however, her sister, Nya Keys, spoke with me and informed me that Complainant was not available but that from their perspective: this matter had been resolved; that there was no outstanding money owed to PGW; that the liens in question had been satisfied; that the property involved had been sold; and, that neither of the sisters could understand why the proceeding was still going on. Counsel for PGW then stated that she had spoken directly with Complainant who had articulated everything that had just been told me by

Nya Keys. Counsel confirmed that there was and is no money owed to PGW by Complainant, nor is there any matter in controversy. I therefore adjourned the hearing.

The record in this case closed on July 7, 2016, with the filing of the hearing transcript.

This matter is now ready for decision.

FINDINGS OF FACT

1. The Complainant in this case is Janay Keys. Keys was the customer of record at the property at 2812 S. 73rd Street, Philadelphia, Pennsylvania, from December, 2013 to April, 2014.

2. The Respondent in this case is Philadelphia Gas Works, a municipal utility that is wholly owned by the City of Philadelphia. Respondent consists only of the real and personal assets that are used to manufacture and deliver natural gas to entities within the City's borders.

3. Complainant does not owe any money to PGW, and no issues remain to be adjudicated in this case.

DISCUSSION

Section 703 of the Public Utility Code, 66 Pa. C.S. § 703(b), provides that the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary or in the public interest. See also 52 Pa. Code § 5.21(d). A hearing is necessary only to resolve disputed questions of fact, and is not required to resolve questions of law, policy or discretion. *Dee-Dee Cab, Inc. v. Pa. Public Utility Comm.*, 817 A.2d 593, petition for allowance of appeal denied, 836 A.2d 123 (Pa. Commw. 2003); *Lehigh Valley Power Committee v. Pa.*

Public Utility Comm., 563 A.2d 548 (Pa. Commw. 1989); *Edan Transportation Corp. v. Pa. Public Utility Comm.*, 623 A.2d 6 (Pa. Commw. 1993).

Based on the information ascertained at the hearing on June 30, 2016, as confirmed by PGW, there are no disputed facts or issues to be adjudicated in this matter. Therefore, a hearing is not necessary or in the public interest, and the Complaint is dismissed.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction in this matter. 66 Pa. C.S. § 701.
2. Section 703 of the Public Utility Code, 66 Pa. C.S. § 703(b), provides that the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary or in the public interest. See also 52 Pa. Code § 5.21(d).
3. A hearing is necessary only to resolve disputed questions of fact, and is not required to resolve questions of law, policy or discretion. *Dee-Dee Cab, Inc. v. Pa. Public Utility Comm.*, 817 A.2d 593, petition for allowance of appeal denied, 836 A.2d 123 (Pa. Commw. 2003); *Lehigh Valley Power Committee v. Pa. Public Utility Comm.*, 563 A.2d 548 (Pa. Commw. 1989); *Edan Transportation Corp. v. Pa. Public Utility Comm.*, 623 A.2d 6 (Pa. Commw. 1993).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint filed June 12, 2014, by Janay Keys against the Philadelphia Gas Works, at Docket No. C-2014-2428021, is dismissed.

