



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Office of Administrative Law Judge
P.O. Box 3265, Harrisburg, PA 17105-3265
Telephone: (717) 787-1399 - Fax: (717) 787-0481
August 24, 2004

IN REPLY PLEASE
REFER TO OUR FILE

In Re: C-20042464

(See attached list)

DOCKETED
SEP 02 2004

The Prince Music Theater c/o Marjorie Samoff
v.
Philadelphia Gas Works

MEDIATION NOTICE

DOCUMENT
FOLDER

The parties have consented to use the mediation process in the above-captioned matter.

A mediation session will be held as follows:

Date: Tuesday, September 28, 2004
Time: 10:00 a. m.
Location: In an available hearing room
1302 Philadelphia State Office Building
1400 West Spring Garden Street
Philadelphia, PA 19130
Telephone: (215) 560-2105
Fax: (215) 560-3133
Mediator: Bruce Bigelow, Mediator
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
Telephone: (717) 783-5413
Fax: (717) 787-0481
Email: bbigelow@puc.state.pa.us

Mediation is an informal, non-adjudicatory process. The mediator does not give advice, represent any party, or make a decision. Instead, the mediator serves as an impartial facilitator who helps the parties resolve their disputes. In other words, mediation is a process which allows the parties to control the outcome of their dispute, as opposed to a hearing where an Administrative Law Judge and the Commission control the outcome.

Moreover, mediation is different from a settlement conference which is based on competitive negotiations. In mediation, the parties agree to work together toward a final resolution of their differences considering how any solution must address the interests of all parties. The focus is not to determine fault, assign blame, or deal with past issues. Rather, the focus is on the future and on a consensual resolution that the parties can live with.

Because mediation is not an on-the-record proceeding, there will be no court reporter. Everything that takes place at the mediation session is, and must remain, confidential, unless otherwise provided for by law. This applies to everyone who is in the room. An agreement reached between or among the parties becomes public upon submission of the mediator's brief procedural report Commission when the agreement is attached to the report. Because the above-captioned case is a complaint case, the complainant could withdraw the complaint if the complaint is satisfied, in which case it would not be necessary to follow the report procedure.

The parties must act in good faith. A page entitled "Good Faith Factors for Mediation Sessions" is enclosed. If you feel that you cannot comply with these factors, please let the mediator know well in advance of the mediation session, because it may be that the case will not be suitable for mediation at the scheduled time.

Additionally, the parties must follow the Pennsylvania Bar Association Working Rules for Professionalism regarding their conduct. A copy of the Rules is also enclosed.

Please note that Mr. Bigelow has been the mediator in other cases where Philadelphia Gas Works was a party and Mr. Farinas participated as counsel. Mr. Bigelow states that this factor will have no effect on his ability to be fair and impartial in this case. However, if you object to having him serve as the mediator, or if you are aware of any other factors which could affect his ability to be impartial, please let him know promptly

In the meantime, please attempt to resolve the issues involved prior to the mediation session.

Any questions regarding the mediation should be directed to the mediator at the telephone number provided above.

If you are a person with a disability, and you wish to attend the mediation session, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission:

- Scheduling Office: (717) 787-1399.
- For persons who are deaf or hearing-impaired, contact the AT&T Relay Service: 1-800-654-5988.

Enclosures

Mediator Bigelow
Ona Lester
Beth Plantz
Docket Section
Calendar File

GOOD FAITH FACTORS FOR MEDIATION SESSIONS

GOOD FAITH INCLUDES, AMONG OTHER THINGS:

1. GIVING THE PARTICIPANTS, PRIOR TO THE FIRST SESSION, ALL THE INFORMATION THEY NEED TO KNOW IN ORDER TO RESOLVE THE CASE. (The Commission believes "that formal discovery procedures are not appropriate in the informal [mediation] process." *Pa. Bul., Vol. 25, No. 20, May 20, 1995, p. 1996.* Therefore, discoverable information should be discovered informally.)

2. BEING FULLY PREPARED WITH FULL KNOWLEDGE OF THE CASE AND WITH POSSIBLE SOLUTIONS FOR RESOLVING THE CASE.

3. BEING WILLING TO CREATE OPTIONS TO RESOLVE A MATTER, CONSIDERING HOW THE SOLUTION MUST ADDRESS THE INTERESTS OF ALL THE PARTIES, AS OPPOSED TO TAKING AN UNYIELDING POSITION.

4. HAVING THE PERSON WITH THE AUTHORITY TO APPROVE THE TERMS FOR RESOLUTION ATTEND THE MEDIATION SESSION, OR, AT LEAST, BE AVAILABLE TO CONFER WITH THE PARTY'S REPRESENTATIVE DURING THE MEDIATION REGARDING APPROVAL OF TERMS.

5. DEMONSTRATING A WILLINGNESS TO LISTEN AND TO UNDERSTAND THE PERSPECTIVES OF THE OTHER PARTIES.

6. BEING WILLING TO SPEND THE ENTIRE DAY, IF NECESSARY, AT THE SESSION.

PBA Working Rules for Professionalism

The practice of law is a profession, a genuine calling inspired with service to the system of justice, not a common business enterprise. The quality of the profession is only as worthy as the character of the people who practice it.

Self-esteem, shared respect for each other, the clients we serve, the judges and the officers with whom we work, are essential to it.

Civility is a virtue, not a shortcoming. Willingness to temper zeal with respect for society's interest in preserving responsible judicial process will help to preserve it.

Unwritten rules of professional courtesy have long sustained us. Since they are sometimes forgotten, or sometimes ignored, we should set them down again and conscientiously observe them.

1 Treat with civility the lawyers, clients, opposing parties, the Court, and all the officials with whom we work. Professional courtesy is compatible with vigorous advocacy and zealous representation.

2 Communications are lifelines. Keep the lines open. Telephone calls and correspondence are a two-way channel; respond to them promptly.

3 Respect other lawyers' schedules as your own. Seek agreement on meetings, depositions, hearings and trial dates. A reasonable request for a scheduling accommodation should never be unreasonably refused.

4 Be punctual in appointments, communications and in honoring scheduled appearances. Neglect and tardiness are demeaning to others and to the judicial system.

5 Procedural rules are necessary to judicial order and decorum. Be mindful that pleadings, discovery processes and motions cost time and money. They should not be heedlessly used. If an adversary is entitled to something, provide it without unnecessary formalities.

6 Grant extensions of time when they are reasonable and when they will not have a material, adverse effect on your client's interest.

7 Resolve differences through negotiation, expeditiously and without needless expense.

8 Enjoy what you are doing and the company you keep. You and the world will be better for it.

Beyond all this, the respect of our peers and the society which we serve is the ultimate measure of responsible professional conduct.