



PHILADELPHIA GAS WORKS

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January 19, 2017

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

Re: Stephanie Sawyer v. PGW, Docket No. C-2015-2504851

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §5.535, the Philadelphia Gas Works ("PGW") hereby files its reply to the Complainant's Reply Exceptions to the Initial Decision 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,


Danielle Leva

Enclosure

cc: Stephanie Sawyer (Regular Mail)
Wendy Vacca (PGW Mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Stephanie Sawyer	:
	:
v.	:
	:
Philadelphia Gas Works	:
	:

Docket No. C – 2015 – 2504851

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

Pursuant to 52 Pa. Code §5.535, the Philadelphia Gas Works, (PGW) hereby files its Reply to the Complainant's Exceptions to the Initial Decision in the above captioned matter (Initial Decision).

I. INTRODUCTION

On September 21, 2015, the Complainant filed the instant Complaint against PGW, alleging that PGW failed to comply with the Opinion and Order entered by the Commission in the matter of *Stephanie M. Sawyer v Philadelphia Gas Works*, Docket No. F-2013-2392770. On October 13, 2015, PGW filed an Answer denying the material allegations of the Complaint.

At the hearing held on March 7, 2016, the Complainant testified on her own behalf and submitted exhibits, which were entered into evidence. During the course of the hearing, the Complainant clarified her claims as follows: (1) PGW failed to comply with the Commission's March 19, 2015 Order by refusing to forgive the remainder of her pre-CRP balance; (2) PGW failed to comply with the Commission's March 19, 2015 Order by refusing to reinstate her in the CRP program as of the day she was removed; (3) PGW erred assessing late payment charges after she disputed the rebilling; (4) PGW improperly calculated her CRP amount for the period April 2013 to June 2014; (5) PGW improperly rebilled her for the period July 2014 to June 2015; and (6) PGW failed to comply with the Commission's March 19, 2015 Order in a timely manner.

In her Initial Decision, Judge Eranda Vero addressed each of the issues raised by the Complainant in the order they were presented, providing clear, well-reasoned,

and legally supported findings, which are as follows:

1. CRP Forgiveness

Judge Vero found that the Complainant failed to carry her burden of proving that PGW violated a Commission statute, regulation or order when it failed to grant her the forgiveness of \$1,976.28 in pre-program arrearages, noting her payment history does not support the conclusion that had she been allowed to remain in CRP in April of 2013, she would have earned the forgiveness of \$1,976.28 in pre-program arrearages by July 2014 when she became ineligible for CRP participation due to her income as a Municipal Court judge.

2. Uninterrupted Reinstatement in the CRP Program

Judge Vero found that the Complainant carried her burden of proving that PGW failed to comply with the Commission's March 19, 2015 Order when it refused to rebill the bill issued on April 16, 2013.

3. Late Payment Charges

Judge Vero held that PGW properly assessed late payment charges in July, August and September of 2015 and found that the Complainant failed to carry her burden of proving by a preponderance of the evidence that PGW violated a Commission statute, regulation or order by assessing late payment charges against her account on those three instances.

4. Calculation of the CRP Amount

Judge Vero held that the Commission's March 19, 2015 Order established that the Complainant's gross annual household income was \$28,119 in the year 2013; she further held that there was no logical reason for PGW to ignore this finding and calculate the Complainant's CRP amount (for the period May 14, 2013, to June 14, 2014) based on her 2012 gross annual income. Judge Vero found that PGW's calculations of the Complainant's CRP amount were correct and proper, and the Complainant failed to carry her

burden of proving that they were otherwise.

5. Rebilling for the Period of July 2014 to June 2015

The Complainant argued that the rebilling performed on June 25, 2015, included bills issued during the period of July 2014 to June 2015, a period of time for which PGW had already issued regular actual bills in the amount of \$6,388.52. However, as part of the rebilling, PGW rebilled the Complainant in the amount of \$6,586.02 for the same period, which prompted the Complainant to demand a \$197.50 refund for the difference between the two amounts. Judge Vero agreed that PGW had improperly and incorrectly rebilled the Complainant for the period from July 16, 2014 to June 13, 2015 and held that she should receive the requested refund.

6. Untimely Compliance

The Complainant argued that PGW did not comply with the Commission's March 19, 2015 Order in a timely manner as the rebilling was not done until June 25, 2015. Judge Vero agreed and found PGW's delay in complying with the Commission's March 19, 2015 Order to be tantamount to unreasonable service, noting that PGW's time for taking any action to appeal or challenge the Commission's decision on the Complainant's 2013 Complaint expired by April 19, 2015.

The Complainant filed untimely Exceptions to the Initial Decision on January 9, 2016, five days after they were due. Pursuant to 52 Pa. Code §5.535, this timely reply follows.

II. PGW'S REPLY TO EXCEPTIONS

The Exceptions fail to identify any error in fact or law contained in the Initial Decision that would refute the conclusion that the Complainant failed to meet her burden of proof with respect to issues 1, 3, & 4. Instead, the Exceptions take issue with

what the Complainant calls a “mischaracterization” of her payment history, contend that the Complainant shouldn’t have to pay late payment charges, and argue that Judge Vero should never have presided over this matter in the first place.

Exceptions

The Complainant’s filing fails to list any enumerated Exceptions, instead consisting of inconsistently numbered paragraphs.

PGW’s Reply

Paragraphs 2 – 7 purport to present reasons for the Complainant’s failure to file her Exceptions in a timely manner. The Secretary’s letter dated December 15, 2016 (Letter), which accompanied the Initial Decision, outlined the instructions regarding Exceptions to both parties stating “If you do not agree with any part of this decision, you may send written comments (called Exceptions) to the Commission. Your signed Exceptions to the decision, if any, must be: 1) **filed** with the Secretary of the Commission, **and** 2) mailed or hand-delivered to each party of record, **within twenty (20) days** of the date of this letter.” The Letter also provided instructions regarding how to electronically file Exceptions. In total, the Complainant was given 20 days and 3 distinct options for ensuring that her Exceptions were filed in a timely manner. Having failed to adhere to the time frame and filing options provided, the Complainant is now asking the Commission to accept these Exceptions “Nunc Pro Tunc.” PGW objects and asks the Commission to dismiss the Exceptions as untimely. The Complainant has offered no good reason her Exceptions were not filed according to the instructions outlined by the Secretary (instructions that are routinely followed by Complainants who do not have the benefits of Complainant’s legal experience).

Paragraph 8 focuses on the Complainant’s perceived “mischaracterization” of her payment history. What the Complainant labels a “mischaracterization” is, in actuality, an accurate description of why and how the Complainant failed to carry her burden of proof regarding her demand that her balance be forgiven; “[t]he terms of PGW’s CRP

program dictate that CRP participants make monthly payments timely and in full in order to receive the forgiveness of 1/36th of their pre-program balance. See PGW's Universal Service and Energy Conservation Plan - 2008-2010 (the Plan), Docket No. M-00072021 (Order entered August 31, 2007). Forgiveness is not granted when the customer carries forward a CRP balance. Ms. Sawyer did not dispute PGW's testimony that she was granted pre-program forgiveness 27 times in 48 billing cycles. This means that Ms. Sawyer carried a CRP balance in 21 of those billing cycles." (Initial Decision, p.12) Now, the Complainant argues that, despite not having made the payments necessary to have her balance forgiven while she was on CRP (though she had every opportunity to do so as she had not yet been removed from the program), her balance should be forgiven anyway. Complainant's own Exceptions admit that her payments were "sporadic" after her removal from CRP, citing 3 payments she made in 2013. The Complainant's payment history, both on and off CRP, not only undercuts her argument that she should have her balance forgiven as if she had made all her CRP payments in full and on time, but willfully defies of the Commissions instructions to Complainants at both the informal and formal levels that they continue to pay their utility bills until their complaints are resolved. The Complainant offers no explanation why, if she believed she was wrongfully removed from CRP and had filed a complaint to that effect, she did not continue to make her monthly CRP payment pending the outcome of her case. Her additional argument regarding "PGW accountability" for her not paying her bills is specious and ignores the facts in evidence.

Paragraph 9 claims that the Court erred in finding that PGW appropriately charged late fees. The Court held that PGW properly assessed late payment charges in July, August and September of 2015 and found that the Complainant failed to carry her burden of proving by a preponderance of the evidence that PGW violated a Commission statute, regulation or order by assessing late payment charges against her account. The Complainant fails to proffer any intelligible argument regarding the holding on this issue, opting instead to attempt to obfuscate the plain reasoning of the holding by attacking it without even once addressing the almost three pages of factual and legal reasoning provided by the Court.

Paragraph 10 addresses the Complainant's Motion for Disqualification and in no way address any error in fact or law contained in the Initial Decision refuting the conclusion that the Complainant failed to meet her burden of proof with respect to the issues raised in her Complaint. It does, however attack the integrity of the Court by suggesting a lack of fairness and impartiality.

This filing also includes three documents that the Complainant wishes the Commission to consider regarding the Complaint, but which were not presented during the hearing or entered into evidence. The record for the evidentiary portion of this proceeding is now closed and PGW asks the court to dismiss the Complainant's proposed exhibits without consideration as they are not part of the record and fail to provide any information that demonstrates that the Initial Decision is unsupported by substantial evidence.

III. CONCLUSION

For the reasons stated above, PGW requests that the Commission deny these Exceptions to the Initial Decision and adopt the Initial Decision issued December 15, 2016 in this matter as written.

January 19, 2017

Respectfully submitted,



Graciela C. Christlieb, Esq.
Philadelphia Gas Works
800 W. Montgomery Avenue
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CERTIFICATE OF SERVICE

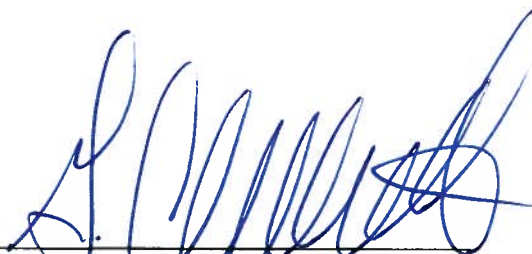
I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A TRUE COPY OF THE FOREGOING DOCUMENT UPON THE PARTICIPANTS LISTED BELOW, IN ACCORDANCE WITH THE REQUIREMENTS OF 52 PA CODE §1.54 (RELATING TO SERVICE BY A PARTICIPANT).

Service List:

For Complainant:

Stephanie Sawyer
6802 Lawnton Avenue
Philadelphia PA 19126

January 19, 2017



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