

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Debbie Hughey	:	
	:	
v.	:	C-2016-2567445
	:	
Philadelphia Gas Works	:	

ORDER SUSTAINING PRELIMINARY OBJECTIONS IN PART

On September 21, 2016, Debbie Hughey (Complainant) filed a complaint with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (Respondent). The complaint generally alleges that the Respondent is threatening to shut off the Complainant’s natural gas utility service, that there are incorrect charges on the Complainant’s bills, that the Complainant has reliability, safety or quality problems with her utility service and that the Respondent engages in illegal and fraudulent business practices.

Specifically, the complaint asserts that the Respondent placed liens against the Complainant’s property. According to the complaint, the amounts of the liens are the result of fraudulent, inflated bills and bad faith.

The complaint further explains that the meter installed in the Complainant’s residence is not providing accurate readings of the Complainant’s natural gas usage. The complaint further alleges that the Respondent fraudulently obtained funds from the Complainant. Attached to the complaint is a document with further allegations.

The document indicates that the Respondent installed a meter at the Complainant’s residence that is “bogus”. The document further alleges that the Respondent falsely claimed that an agreement was made for services, never gave the Complainant a copy of the alleged agreement and violated the Complainant’s rights to be informed of the agreement.

The document also contends that the Respondent placed false and fraudulent liens on her property. The document contends that the Respondent never informed the Complainant that it placed a lien on her property in 2006.

According to the document, the Respondent placed false and fraudulent charges on her bills in 2006 when she was no longer receiving gas service due to service termination.

The document also alleges that the Respondent tampered with the gas line at her residence after the Respondent terminated service on April 27, 2016. The document requests that the Commission direct the Respondent to remove the liens placed on her property from 2006 forward, remove the amounts the Respondent claims she owes from her account from 2006 forward and restore her credit bureau rating.

The Respondent filed an answer with new matter as well as preliminary objections on October 11, 2016. The answer admits that the Respondent terminated service to the Complainant.

The answer denies that there are incorrect charges on the Complainant's account. The answer further denies that there are reliability, safety or quality problems with her natural gas utility service.

The answer asserts that the Complainant most recently established service at her residence on November 10, 2014. The account is listed as a residential heating account.

The Complainant's residence has an Automatic Meter Reading (AMR) device. According to the answer, the Respondent obtains actual meter readings every month.

The answer states that on March 24, 2016 the Respondent issued a ten day shut off notice to the Complainant and on April 27, 2016 terminated service to the Complainant.

The new matter asserts that from May 1964 through July 2006 service at the Complainant's residence was in the name of James Hughey. From December 2007 through May 2008 service was in the name of the Complainant. Between May 2008 and November 2014 neither the Complainant nor James Hughey were customers of the Respondent. The new matter argues that both the periods from 1964 through 2006 and from 2007 through 2008 are outside the statute of limitations.

The new matter states that there are outstanding liens on the Complainant's property reflecting amounts owed to the Respondent. The new matter contends that the Commission lacks jurisdiction over these liens. The answer with new matter requests that the Commission dismiss the Complainant's complaint.

The preliminary objections allege that the Commission lacks jurisdiction over the subject matter of the complaint and that the complaint includes impertinent matter in its request for relief. The preliminary objections allege that the Complainant's complaint raises claims barred by the statute of limitations. The preliminary objections point out that the Complainant's complaint refers to liens and bills from 2006. According to the preliminary objections, the statute of limitations divests the Commission jurisdiction to hear an action brought more than three years from the date the liability arose.

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. The preliminary objections assert that, under 66 Pa.C.S. § 2212(n), the Commission has no jurisdiction over the filing of such a lien. The preliminary objections point out that the Public Utility Code at 66 Pa.C.S. § 1414(a) authorizes the Respondent to file liens for unpaid natural gas service.

The preliminary objections also allege that the prayer for relief in the complaint is beyond the Commission's authority. The prayer for relief is irrelevant and therefore impertinent

matter that the Commission should strike. The preliminary objections request that the Commission dismiss the complaint and strike off the requested relief as impertinent matter.

On November 23, 2016, Complainant filed a request for additional time to fully respond to the Respondent's pleading. According to the request, the Complainant had been attending to a critically ill family member at the hospital. Apparently, the Commission did not act on the Complainant's request. As of the date of this order, the Complainant has not filed a response to the Respondent's pleadings.

By notice dated December 30, 2016, the Commission notified the parties that it had assigned the case to me as motion judge. As of the date of this order, the Complainant has not filed a response to the Respondent's preliminary objections. The preliminary objections are ready for decision. For the reasons set forth below, I will sustain the preliminary objections in part.

The Commission's Rules of Practice and Procedure permit parties to file preliminary objections. The grounds for preliminary objections are limited to those set forth in 52 Pa.Code § 5.101(a) as follows:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.
- (7) Standing of a party to participate in the proceeding.

Here, the Respondent's preliminary objections assert lack of Commission jurisdiction, pursuant to 52 Pa.Code § 5.101(a)(1) and the inclusion of impertinent matter in the complaint, pursuant to 52 Pa.Code § 5.101(a)(2). I will first address the preliminary objection alleging the Commission lacks jurisdiction over the complaint because the claims in the complaint are barred by the statute of limitations.

Commission preliminary objection practice is analogous to Pennsylvania civil practice regarding preliminary objections. Equitable Small Transportation Intervenors v. Equitable Gas Company, 1994 Pa PUC LEXIS 69, Docket No. C-00935435 (Order entered July 18, 1994). A preliminary objection asserting lack of Commission jurisdiction, pursuant to the Commission's Rules of Practice and Procedure, is therefore analogous to preliminary objections allowed by Rule 1028 of the Pennsylvania Rules of Civil Procedure.

Preliminary objections in civil practice requesting dismissal of a pleading will be granted only where the right to relief is clearly warranted and free from doubt. Interstate Traveller Services, Inc. v. Pa. Dept. of Environment Resources, 406 A.2d 1020 (Pa. 1979); Rivera v. Philadelphia Theological Seminary of St. Charles Borromeo, Inc., 595 A.2d 172 (Pa. Super. 1991). The Commission follows this standard. Montague v. Philadelphia Electric Company, 66 Pa. PUC 24 (1988).

The Commission may not rely upon the factual assertions of the moving party but must accept as true, for purposes of disposing of the motion, all well pleaded, material facts of the nonmoving party, as well as every reasonable inference from those facts. County of Allegheny v. Commonwealth of Pennsylvania, 490 A.2d 402 (Pa. 1985); Commonwealth of Pennsylvania v. Bell Telephone Co. of Pa., 551 A.2d 602 (Pa. Cmwlth. 1988). The Commission must view the complaint in this case in the light most favorable to the Complainant and should dismiss the complaint only if it appears that the Complainant would not be entitled to relief under any circumstances as a matter of law. Equitable Small Transportation Intervenors v. Equitable Gas Company, 1994 Pa PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

The Commission regulation at 52 Pa.Code § 5.21(a) states that a person may file a formal complaint claiming violation of a statute that the Commission has jurisdiction to administer. The regulation at 52 Pa.Code § 5.21(d) authorizes the Commission to dismiss a complaint if a hearing is not necessary and authorizes preliminary objections to be filed in response to a complaint.

The regulation at 52 Pa.Code § 5.101(a)(1) permits the filing of a preliminary objection to dismiss a pleading for lack of Commission jurisdiction. The provision at 52 Pa.Code § 5.101(a)(1) serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of a case exists, a hearing is unnecessary. 66 Pa.C.S. § 703(a); Lehigh Valley Power Committee v. Pa. Pub. Util. Comm'n, 563 A.2d 557 (Pa.Cmwlth. 1989); S.M.E. Bessemer Cement, Inc. v. Pa. Pub. Util. Comm'n, 540 A.2d 1006 (Pa.Cmwlth. 1988); White Oak Borough Authority v. Pa. Pub. Util. Comm'n, 103 A.2d 502 (Pa.Super. 1954).

The Commission, as a creation of the General Assembly, has only the powers and authority granted to it by the General Assembly contained in the Public Utility Code. Tod and Lisa Shedlosky v. Pennsylvania Electric Co., Docket No. C-20066937 (Order entered May 28, 2008); Feingold v. Bell Tel. Co. of Pa., 383 A.2d 791 (Pa. 1977). The Commission must act within, and cannot exceed, its jurisdiction. City of Pittsburgh v. Pa. Pub. Util. Comm'n, 43 A.2d 348 (Pa.Super. 1945). Jurisdiction may not be conferred by the parties where none exists. Roberts v. Martorano, 235 A.2d 602 (Pa. 1967). Subject matter jurisdiction is a prerequisite to the exercise of power to decide a controversy. Hughes v. Pennsylvania State Police, 619 A.2d 390 (Pa.Cmwlth. 1992) alloc. denied 637 A.2d 293 (Pa. 1993).

Viewing the complaint in this case in the light most favorable to the Complainant, the Respondent has terminated service to the Complainant. In addition, the Respondent billed the Complainant for natural gas usage and placed liens on the Complainant's property starting in 2006.

Accepting the facts alleged in the complaint as true for purposes of disposing of its preliminary objection, the Respondent alleges that the complaint raises issues that are outside the subject matter jurisdiction of the Commission. I agree. As set forth below, the statute of limitations at 66 Pa.C.S. § 3314 divests the Commission of subject matter jurisdiction over portions of the Complainant's complaint.

Preliminarily, I will address whether it is appropriate for the Respondent to raise a statute of limitations defense by preliminary objection. As stated above, 52 Pa.Code § 5.101(a)(1)-(7) limits the grounds upon which preliminary objection may be filed. The statute of limitations at 66 Pa.C.S. § 3314 must concern one of these grounds in order to be raised through preliminary objections.

The Commission has previously determined that the statute of limitations at 66 Pa.C.S. § 3314 may be raised through preliminary objections, pursuant to 52 Pa.Code § 5.101(a)(1). Speeler v. Peoples Natural Gas Company, LLC, Docket No. C-2016-2526110 (Final Order entered April 18, 2016). Commission preliminary objections, pursuant to 52 Pa.Code § 5.101, are analogous to preliminary objections pursuant to Rule 1028 of the Pennsylvania Rules of Civil Procedure in civil practice. Pennsylvania appellate court have determined that some statutes of limitations may be raised through preliminary objections, pursuant to Pa. R.C.P. 1028.

Pennsylvania appellate courts have set forth very clear standards as to when a statute of limitations may be raised by preliminary objections, pursuant to Pa. R.C.P. 1028. If the statute of limitations is a non-waivable defense, it may be raised as a preliminary objection, pursuant to Pa. R.C.P. 1028. However, if the statute of limitations is waivable, it must be raised by new matter in a responsive pleading. Reuben v. O'Brien, 445 A.2d 801 (Pa.Super 1982) (Reuben). A statute of limitations is non-waivable if the time limitation contained in it terminates not just the remedy but the actual right to bring the action. A statute of limitations is waivable if the time limitation contained in it terminates just the remedy, but not the right to bring the action. Reuben.

The statute of limitation at 66 Pa.C.S. § 3314 is non-waivable. The statute at 66 Pa.C.S. § 3314 provides that no action for recovery of penalties or forfeitures, or any prosecution may be maintained unless brought within three years from the date the liability arose. This is a non-waivable statute of limitations since it terminates the right to bring an action before the Commission as well as any remedy the Commission may order. The statute of limitations at 66 Pa.C.S. § 3314 divests the Commission of jurisdiction to hear an action brought more than three years from the date the liability arose and is properly raised through preliminary objections, pursuant to 52 Pa.Code § 5.101(a)(1).

Since the statute at 66 Pa.C.S. § 3314 divests the Commission of jurisdiction to hear an action brought more than three years from the date the liability arose, it is appropriate for me to apply the statute of limitations to this proceeding. Applying the three year statute of limitations at 66 Pa.C.S. § 3314 to this case, the Complainant filed her complaint on September 21, 2016, alleging that the Respondent improperly billed the Complainant for natural gas usage and placed a lien on the Complainant's property starting in 2006. Since the three year statute of limitations at 66 Pa.C.S. § 3314 bars the Complainants from continuing any prosecution against the Respondent for events that occurred prior to September 21, 2013, the claims in the Complainants' complaint that occurred before that date are barred.

Accepting as true all the facts alleged in the complaint, the Complainant is not entitled to relief as a matter of law for any claims that arose prior to September 21, 2013. Those claims in the Complainant's complaint are therefore barred by the three year statute of limitations at 66 Pa.C.S. § 3314. Counsel v Philadelphia Gas Works, Docket No. C-2014-243 (Opinion and Order entered November 19, 2015); Pearson v Duquesne Light Company, Docket No.C-2015-2465168 (Final Order entered July 7, 2015).

Having addressed the statute of limitations, I will now address the Commission's jurisdiction over the liens filed against the Complainant's property.

Accepting the facts alleged in the complaint as true for purposes of disposing of its preliminary objection, the Respondent contends that the Commission has no jurisdiction over

the filing of the lien, any challenges to the validity of the lien or the enforcement of the lien. The preliminary objection contends that the filing of the lien, any challenges to the validity of the lien and the enforcement of the lien are all solely within the jurisdiction of the Court of Common Pleas pursuant to the Municipal Claim and Tax Lien Law. I agree.

The Public Utility Code at 66 Pa.C.S. § 2212(n) limits the authority of the Commission regarding the imposition of liens. The statute at 66 Pa.C.S. § 2212(n) states:

(n) Collections.--Nothing contained in this title shall abrogate the power of a city natural gas distribution operation to collect delinquent receivables through the imposition of liens pursuant to section 3 of the act of May 16, 1923 (P.L. 207, No. 153), referred to as the Municipal Claim and Tax Lien Law, or otherwise.

The definition of “city natural gas distribution operation” found at 66 Pa.C.S. § 102 states that a “city natural gas distribution operation” is a collection of real and personal assets used for distributing natural gas that is owned by a city. This definition includes the Respondent. Pursuant to this statute, no provision in the Public Utility Code can abrogate the power of the Respondent to collect delinquent receivables through the imposition of liens pursuant to the Municipal Claim and Tax Lien Law. In order to provide the reader with an understanding of the extent of this statutory limitation, I will provide a brief explanation of the lien process set forth in the Municipal Claim and Tax Lien Law.

As a preliminary matter, only a municipality can file a lien pursuant to the provisions of the Municipal Claim and Tax Lien Law found at 53 P.S. § 7101 *et seq.* A “city natural gas distribution operation” is not a municipality as defined by the Municipal Claim and Tax Lien Law. Rather, the Respondent, as a “city natural gas distribution operation”, is a municipal utility that is wholly owned by the City and consists only of the real and personal assets that are used to manufacture and deliver natural gas to entities within the City’s borders. Public Advocate v. Philadelphia Gas Comm’n, 674 A.2d 1056 (Pa. 1996).

Since the Respondent is not a municipality as defined by the Municipal Claim and Tax Lien Law but is owned by the City, the City, which is a municipality as defined by the

Municipal Claim and Tax Lien Law, files a lien on behalf of the Respondent, pursuant to the Municipal Claim and Tax Lien Law, when the Respondent provides natural gas service to an entity within the City and is not paid. The City has a municipal claim that it can enforce by filing a lien against the property to which the Respondent provided natural gas service. The lien obtained for the enforcement of the City's municipal claim is an in rem proceeding.

“Accordingly, the lien is either valid or invalid as to the property in question rather than as to the respective property interests involved.” Borough of Towanda v. Brannaka, 434 A.2d 889; 891 (Pa. Cmwlth. 1981).

The procedure which the City must follow to establish a lien on a specific property is set forth in the Municipal Claim and Tax Lien Law. 53 P.S. §§ 7106(b), (c), 7143. The lien is docketed with the prothonotary or clerk of the court and maintained in an in rem index by property identification rather than by party name. 53 P.S. § 7106(b). The Court of Common Pleas enforces the lien with due process safeguards provided to protect the rights of interested parties. Newberry Twp. v. Stambaugh, 848 A.2d 173 (Pa.Cmwlth. 2004), alloc. denied, 860 A.2d 491 (Pa. 2004), 53 P.S. §§ 7106(c), 7283. The City can recover the amount of the municipal claim resulting in the lien through a court-ordered sheriff's sale. 53 P.S. § 7283. Having provided this brief explanation of the lien process set forth in the Municipal Claim and Tax Lien Law, I will now address the Commission's jurisdiction over municipal liens.

As set forth above, the filing of a lien, any challenges to the validity of a lien and the enforcement of a lien are all within the jurisdiction of the Court of Common Pleas, pursuant to the Municipal Claim and Tax Lien Law. No provision of the Municipal Claim and Tax Lien Law grants the Commission jurisdiction over any aspect of a municipal lien proceeding. Municipal lien proceedings, pursuant to the Municipal Claim and Tax Lien Law, are exclusively within the jurisdiction of the Court of Common Pleas, not the Commission. The Commission simply lacks jurisdiction over any aspect of a municipal lien proceeding, pursuant to either the Public Utility Code or the Municipal Claim and Tax Lien Law.

In 2004, the General Assembly reaffirmed the Respondent's and the City's ability to impose liens on property in order to collect claims for unpaid natural gas distribution service by enacting 66 Pa.C.S. § 1414(a) which states:

(a) General rule.--A city natural gas distribution operation furnishing gas service to a property is entitled to impose or assess a municipal claim against the property and file as liens of record claims for unpaid natural gas distribution service and other related costs, including natural gas supply, in the court of common pleas of the county in which the property is situated or, if the claim for the unpaid natural gas distribution service does not exceed the maximum amount over which the Municipal Court of Philadelphia has jurisdiction, in the Municipal Court of Philadelphia, pursuant to sections 3 and 9 of the act of May 16, 1923 (P.L. 207, No. 153), referred to as the Municipal Claim and Tax Lien Law, and chapter 22 (relating to natural gas competition).

This statute reiterates the General Assembly's determination that the previously existing right of the City to enforce payment for natural gas service rendered by the Respondent through the municipal claim and lien procedure of the Municipal Claim and Tax Lien Law remains unabated. The reference to "chapter 22" in the statute refers to the provision at 66 Pa.C.S. § 2212(n), previously cited.

The Commission has recognized its lack of subject matter jurisdiction in cases involving a dispute over a municipal lien placed upon a property. Cornelia Strowder v. Philadelphia Gas Works, Docket No. C-20028036, (Order entered December 30, 2002) (Strowder); Debra Williams Lawrence v. Philadelphia Gas Works, Docket No. C-20066672, (Order entered January 22, 2007) (Lawrence); Tina L. Francis-Young v. Philadelphia Gas Works, Docket No. C-2008-2029672, (Order entered February 23, 2009) (Young). In Strowder, the Commission determined that it had no jurisdiction to rule on the validity of a lien. In Lawrence, the Commission adopted an initial decision citing the Municipal Claim and Tax Lien Law and 66 Pa.C.S. § 2212(n) and holding that the Commission lacked jurisdiction and authority to contravene the statute or take action contrary to its mandate. In Young, the Commission adopted an initial decision citing 66 Pa.C.S. § 1414(a) and concluding that the Commission lacked jurisdiction over a lien imposed by the Respondent. These decisions affirm that the

Commission lacks jurisdiction over any aspect of a municipal lien proceeding pursuant to either the Public Utility Code or the Municipal Claim and Tax Lien Law.

After the decision in Strowder but before the decisions in Lawrence and Young, the Commission issued a statement in Chapter 14 Implementation, Second Implementation Order, Docket No. M-00041802F0002, (Order entered September 12, 2005) (Second Implementation Order) that appears to contradict its holdings in those cases. A review of the Second Implementation Order indicates that it is not applicable to this case.

In the Second Implementation Order, the Commission discussed the authority, under Chapter 14 of the Public Utility Code, of the Respondent to refuse to provide service to an applicant for service who has a pending lien or judgment unless the applicant enters into a payment arrangement covering the amount of the lien or judgment. The Commission stated:

Even more significant, it appears, is that the General Assembly placing this authority under the Public Utility Code puts the full power and authority of Commission jurisdiction over the lien process, 66 Pa.C.S. § 501, and the accessibility of the Commission's formal complaint procedures to PGW customers who have a dispute with the lien process. 66 Pa.C.S. § 701; 52 Pa.Code §§ 56.140-181.
Second Implementation Order, 69.

The quoted statement in the Second Implementation Order refers to 66 Pa.C.S. § 1414(c), which states:

(c) Refusal of service.--The commission shall permit a city natural gas distribution operation to refuse to provide service to an applicant if the applicant has a pending lien or civil judgment by the city natural gas distribution operation outstanding against the applicant or against property owned in whole or in part by the applicant unless the applicant enters into a payment arrangement for the payment of the amount associated with the lien or judgment that remains outstanding at the time of the application.

The statute at 66 Pa.C.S. § 1414(c) does not confer jurisdiction on the

Commission to adjudicate the validity of the City's lien, empower the Commission to remove the City's lien or direct the Respondent to remove the City's lien. Such a reading of the statute would be contrary to the clear language contained in 66 Pa.C.S. §§ 2212(n) and 1414(a), authorizing the City to file liens in order to collect amounts for unpaid natural gas service. Such a reading would also be contrary to the Municipal Claim and Tax Lien Law which grants exclusive jurisdiction over the entire municipal lien process to the Court of Common Pleas.

The statute at 66 Pa.C.S. § 1414(c) should be read narrowly to apply only to applicants and payment arrangements. The language in the Second Implementation Order addresses only applicants and payment arrangements. Neither the statute at 66 Pa.C.S. § 1414(c) nor the Second Implementation Order are relevant to this case since the Complainant is not an applicant nor does the complaint request a payment arrangement. The complaint here contests the validity of the lien and requests that the Commission order the Respondent to remove the lien. The decisions in Strowder, Lawrence, and Young all held the Commission lacks subject matter jurisdiction in similar circumstances. The Commission has continually reiterated that it lacks jurisdiction to adjudicate disputes over the validity and enforceability of liens. William Petravich v. Philadelphia Gas Works, Docket No. C-2010-2188984 (Order entered February 10, 2011) (Petravich); Faye Payne v. Philadelphia Gas Works, Docket No. C-2011-2247124 (Order entered February 16, 2012) (Payne); Larry and Gail Newman v. Philadelphia Gas Works, Docket No. C-2011-2273565 (Order entered March 29, 2012) (Newman).

The Commission's holdings in Strowder, Lawrence, Young, Petravich, Payne and Newman are controlling on the outcome of this case. The Commission lacks the jurisdiction to entertain an action that challenges the validity of the lien on the Complainant's property or requests that the Commission order the Respondent to remove that lien. The Complainant must obtain the relief she seeks through the procedures established by the Municipal Claim and Tax Lien Law.

Accepting as true all of the facts concerning the liens placed on her property alleged in the Complainant's complaint, she is not entitled to relief as a matter of law. As set forth above, the Commission lacks jurisdiction to determine the validity of the liens placed on

her property and lacks jurisdiction to order the Respondent to remove that lien. Granting the Respondent's motion to dismiss the portion of the complaint contesting the validity of the liens is appropriate under the circumstances.

Since I have determined that the Commission lacks subject matter jurisdiction over the portion of the complaint contesting the validity of the liens, it is unnecessary for me to discuss the Respondent's preliminary objection requesting that the Commission strike the prayer for relief.

Some of the facts alleged in the Complainants' complaint, if proven true, could constitute unreasonable service in violation of the Public Utility Code or Commission regulations. The Commission has jurisdiction over service disputes between public utilities operating in Pennsylvania and their customers. Behrend v. Bell Telephone Co. of Pennsylvania, 431 Pa. 63, 243 A.2d 346 (1968), Gasparro v. Pa. Pub. Util. Comm'n, 814 A.2d 1282 (Pa.Cmwlt. 2003), Bell Telephone Co. of Pennsylvania v. Sanner, 375 A.2d 93 (Pa.Super. 1977). In the event that the Respondent's actions in this case constitute unreasonable service, pursuant to 66 Pa. Code § 1501, a civil penalty, payable to the Commonwealth of Pennsylvania, may be appropriate, pursuant to 66 Pa. C.S. §3301.

The Respondent contests the portions of the complaint alleging unreasonable service. There is therefore a dispute of facts regarding these allegations. A hearing will be necessary to resolve the dispute of facts regarding the complaint's allegations of unreasonable service.

As set forth above, the Commission lacks subject matter jurisdiction over any claims that arose prior to September 21, 2013 and lacks subject matter jurisdiction over the portion of the complaint contesting the validity of the liens placed on the Complainant's property. Sustaining the Respondent's preliminary objections concerning these issues and dismissing the portion of the complaint concerning claims that arose prior to September 21, 2013 and any claim concerning the liens placed on the Complainant's property is appropriate under the circumstances.

I will dismiss the portions of the complaint concerning claims that arose prior to September 21, 2013 and any claim concerning the liens placed on the Complainant's property. The remaining issues raised in the complaint will be heard at the hearing scheduled in this matter.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the preliminary objections filed by Philadelphia Gas Works at Docket No. C-2016-2567445 are sustained in part.
2. That the portions of the complaint filed by Debbie Hughey at Docket No. C-2016-2567445 concerning claims that arose prior to September 21, 2013 and any claim concerning the liens placed on her property are dismissed.
3. That the remaining issues set forth in the complaint of Debbie Hughey at Docket C-2016-2567445 shall be scheduled for hearing before an administrative law judge.

Dated: January 18, 2107


David A. Salapa
Administrative Law Judge

C-2016-2567445 - DEBBIE HUGHEY v. PHILADELPHIA GAS WORKS

DEBBIE HUGHEY
PO BOX 41842
PHILADELPHIA PA 19101
215.617.8047

GRACIELA CHRISTLIEB ESQUIRE
PHILADELPHIA GAS WORKS
800 WEST MONTGOMERY AVENUE
PHILADELPHIA PA 19122
215.684.6164
Accepts E-Service