

Act 294

RECEIVED
2006 MAY 18 AM 10:26
E.P.A. BUREAU
SECRETARY'S BUREAU

Case Identification:

F-01560780; Floyd Smith v. Philadelphia Gas Works

DOCKETED
MAY 22 2006

Initial Decision By:

ALJ Charles E. Rainey, Jr.

Deadline for Return to OSA:

May 17, 2006

This decision has not been reviewed by OSA.

**DOCUMENT
FOLDER**

* * * * *

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2006 MAY 16 PM 2:57
OFFICE OF SPECIAL
ASSISTANTS

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

Donald J. Holland
Commissioner

MAY 16 2006
Date

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RECEIVED
2006 MAY 18 AM 8:05
OFFICE OF SPECIAL ASSISTANTS

* * * * *

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

1 James H. Cawley

Commissioner

5/17/06

Date

Shane

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2006 MAY 17 PM 1:26
OFFICE OF SPECIAL ASSISTANTS

* * * * *

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

Bill Shane SB
Commissioner

5/17/06
Date

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RECEIVED
2006 MAY 17 PM 3:32
OFFICE OF SPECIAL ASSISTANTS

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

Kim Fitzgerald

Commissioner

5-17-06

Date

Act 294

Case Identification:

F-01560780; Floyd Smith v. Philadelphia Gas Works

Initial Decision By:

ALJ Charles E. Rainey, Jr.

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May 17, 2006

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RECEIVED
2006 MAY 17 PM 1:07
OFFICE OF SPECIAL ASSISTANTS

* * * * *

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

Thomas J. Fitzpatrick

Commissioner

5/8/06

Date



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

May 26, 2006

Laureto A. Farinas Esquire
Philadelphia Gas Works
800 W Montgomery Avenue
Philadelphia Pa 19122

DOCUMENT
FOLDER

Re: Floyd Smith v. Philadelphia Gas Works
F-01560780

Dear Mr. Farinas:

On May 23, 2006, Floyd Smith filed Exceptions to the Initial Decision of Administrative Law Judge Charles E. Rainey in the above captioned matter. Our review of the Exceptions revealed that no certificate of service or other indications of service accompanied that filing. Accordingly, we have enclosed a copy of the Exceptions for your use. This shall constitute service of the Exceptions for purposes of 52 Pa. Code §5.533.

Pursuant to 52 Pa. Code §5.535, you shall have ten (10) days from the date of service of the enclosed Exceptions to reply. The Exceptions were filed May 23, 2006. Although the Exceptions were timely filed, due to the failure of Floyd Smith to note service on Philadelphia Gas Works, and in order to avoid prejudice to either party, we shall deem the filing date to be the date of this letter for purposes of Section 332(h) of the Public Utility Code, 66 Pa. C.S. §332(h), relating to the time for Commission consideration of Exceptions.

Sincerely,

James J. McNulty
Secretary

Enclosure

nvl

cc: Floyd Smith
827 Wildwood Blvd
Williamsport Pa 17077
Office of Special Assistants
Document Folder

DOCKETED
JUN 06 2006

Philadelphia Gas Works



800 West Montgomery Avenue, Philadelphia, PA 19122

Laureto A. Farinas, Senior Attorney
Legal Department
Direct Dial: 215-684-6982
FAX: 215-684-6798
E-mail: laureto.farinas@pgworks.com

ORIGINAL

June 5, 2006

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JUN 05 2006

James McNulty, Secretary
Pennsylvania Public Utility Commission
Room B-20, North Office Building
Harrisburg, PA 17105-3265

PA PUBLIC UTILITY COMMISSION
REGULATORY BUREAU

RE: Floyd Smith v. PGW, Docket No. F - 01560780

Dear Secretary McNulty:

Pursuant to 52 Pa. Code §5.535, and your letter dated May 26, 2006, in the above captioned matter, the Philadelphia Gas Works ("PGW") hereby files the original and nine (9) copies of its Reply to the Exception of the Complainant.

If additional information is needed about this matter, please contact me at my direct-dial number above. Thank you for your assistance.

Sincerely,

DOCUMENT
FOLDER

A handwritten signature in black ink, appearing to read "Laureto Farinas", is written over a large, stylized black scribble or flourish that extends across the signature line and slightly below it.

Laureto Farinas

Enclosures

cc: Service List
Orlando Rosano
Anne Marie Cromley
Linda Pereira

133

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JUN 05 2006

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION PA PUBLIC UTILITY COMMISSION REGULATORY BUREAU

Floyd Smith :
v. : Docket No. F - 01560780
Philadelphia Gas Works :

REPLY OF PHILADELPHIA GAS WORKS TO COMPLAINANT'S EXCEPTION

DOCUMENT FOLDER

INTRODUCTION

In this matter, the Complainant challenges the accuracy of the billing of his account. The Complainant alleged that moved from his service address, but PGW was unable to turn of the gas service. Two years later he received an additional bill.

An Initial Hearing was held on March 15, 2006. The Complainant failed to appear at the hearing. The Complainant contacted the presiding Administrative Law Judge (ALJ) on the day of the hearing to stated that he could not afford gasoline to come to the hear, but would send a letter explaining. PGW moved to dismiss for lack of prosecution. The ALJ held the record of the matter open until May 31, 2006 for the Complainant's letter. No letter came. An Initial Decision was issued on March 31, 2006, ("Initial Decision") granting PGW's motion to dismiss the Complaint for lack of prosecution. The Initial Decision found, inter alia, that the Complainant had waived his opportunity to participate at the hearing due to his unexcused failure to attend.

The Complainant filed an exception in which he restates that he could not afford to attend the hearing. The Complainant takes exception, by requested a new hearing date.

Reply to Exception

On the day of the hearing March 15, 2006, the Complainant failed to attend or request a postponement until he could attend. The Complainant only informed the ALJ that he would send a letter. The Complainant failed to send a letter as he indicated to

1 Initial Decision, p 1
2 Id.
3 Initial Decision, p.3

DOCKETED JUN 07 2006

the ALJ. The Complainant declined to participate in any way at the hearing, even to his own failure to send a letter to the ALJ.

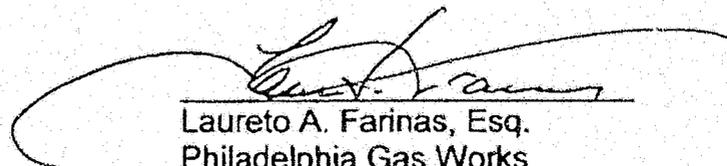
Over the course of the instant dispute, the Complainant had a review of the matter by the Bureau of Consumer Services ("BCS"). It is the Complainant's responsibility and burden to participate and show how further relief, beyond the BCS decision should be granted by the Commission. The burden of proof as to whether the BCS decision was reasonable lies with the Complainant. His failure to appear means that he has not met his burden of proof. Andre Turner v. PECO Energy, Docket No. C -00956999 (Order entered March 14, 1996). Tiffany Bryant v. Bell Atlantic - Pa., Docket No. F - 00270958 (Order entered April 11, 1996)

III. CONCLUSION

For the foregoing reasons, PGW respectfully requests that the Commission's final order in this matter adopt the Initial Decision to dismiss the instant Complaint with prejudice where the Complainant fails to appear at the hearing.

Respectfully submitted,

June 5, 2006



Laureto A. Farinas, Esq.
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122

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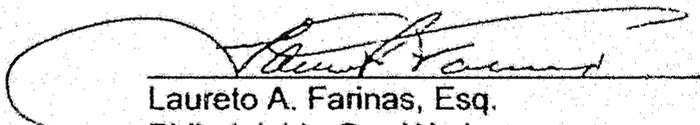
CERTIFICATE OF SERVICE

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 § 1.54 (RELATING TO SERVICE BY A PARTICIPANT).

Service List

Mr. Floyd Smith
827 Wildwood Blvd.
Williamsport, PA 17701

June 5, 2006



Laureto A. Farinas, Esq.
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122

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JUN 05 2006

PA PUBLIC UTILITY CC DIVISION
SERVING THE PUBLIC

ORIGINAL

DATE: June 8, 2006

SUBJECT: F-01560780

TO: Cheryl W. Davis, Director
Office of Special Assistants

FROM: James J. McNulty
Secretary
nvl

DOCKETED

JUN 07 2006

FLOYD SMITH
v.
PHILADELPHIA GAS WORKS

**DOCUMENT
FOLDER**

Copies of the Initial Decision have been served upon all parties of interest.

Exceptions have been filed by:

FLOYD SMITH

Reply Exceptions have been received from:

PHILADELPHIA GAS WORKS

cc: Susan Hoffner

EXCEPTION of FLOYD SMITH

6-23-06

COMMONWEALTH of PA.
P.A. P.U.C.
P.O. BOX 3265
HARRISBERG, PA, 17105-3265

FLOYD SMITH
827 Wildwood BLVD.
Williamsport, PA 17701

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DOCUMENT
FOLDER

DEAR SIR

SINCE Oct 2000 I'VE BEEN
that to RESOLVE this gas bill situation
by CALLING the GAS COMPANY REPEATLY.
WE CAME to NO AGREEMENT.

ON March 15 2006, I WAS UNABLE
to report to my schedule hearing. UNFORSEEN
CIRCUMSTANCES CAUSE ME to BE FINANCIALLY
UNABLE to MAKE the trip. PLEASE RESCHEDULE
ME for ANOTHER HEARING. THE GAS COMPANY
IS TRUELY OVERBILLING ME. I wish to RESOLVE
to pay my bill. (A BILL THAT WE CAN agree
ON)

RECEIVED

MAY 23 2006

THANK YOU
Floyd Smith

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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JUN 16 2006