

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17120**

**Kimekia Mayo**

v.

**Philadelphia Gas Works**

**Public Meeting February 9, 2017**

**2562263-ALJ**

**Docket No. C-2016-2562263**

**JOINT STATEMENT OF COMMISSIONER JOHN F. COLEMAN, JR. AND  
COMMISSIONER ROBERT F. POWELSON**

We agree with the Initial Decision (ID) to sustain the Preliminary Objection of Philadelphia Gas Works (PGW) and dismiss the above-captioned Formal Complaint. Accepting all facts in the Complaint as true,<sup>1</sup> the charges were incurred more than three years prior to the date the customer filed her Complaint. The Complaint was filed in August 2016, and according to the Complaint, the charges being contested are from 2004-2006. Therefore, the Complaint is time-barred by the applicable statute of limitations<sup>2</sup> and is outside of the Commission's jurisdiction.

The proposed Joint Motion would remand this proceeding to the Office of Administrative Law Judge (OALJ) based on the view that the Complaint appears to request a payment arrangement for arrears which may or may not be subject to the 3-year statute of limitations. However, even under the most liberal construction, the Complaint does not request a payment arrangement.<sup>3</sup> Rather, in accordance with paragraphs 4 and 5, the Complaint seeks removal of PGW charges incurred from 2004-2006. Although the Commission often makes certain allowances for *pro se* complainants, we should not be in the business of using *possible* claims that *may* exist but were not raised in a Complaint to circumvent a valid statute of limitations defense. We are concerned that such a practice has the potential to seriously undermine what is a lawful defense to formal complaints filed at the Commission.

This proceeding involves charges that appear to have been incurred by the Complainant when she was an emancipated minor. Although we are sympathetic to the Complainant's circumstances, the Complainant's status as an emancipated minor does not toll the 3-year statute of limitations applicable to her Complaint.<sup>4</sup>

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<sup>1</sup> In ruling on a preliminary objection, the Commission must assume, for decisional purposes only, that the factual allegations of the Complaint are true. *County of Allegheny v. Commw. of Pa.*, 490 A.2d 402 (Pa. 1985).

<sup>2</sup> The Commission's statute of limitations is found at Section 3314(a) of the Public Utility Code, 66 Pa. C.S. § 3314(a).

<sup>3</sup> Of note, the Complainant did not check the box in paragraph 4 of the Formal Complaint that she was requesting a payment agreement.

<sup>4</sup> Under the Minority Tolling Statute, 42 Pa. Cons. Stat. § 5533, there is a tolling period on the statute of limitations that applies to unemancipated minors in civil actions. However, the Minority Tolling Statute, by its very terms, applies only to unemancipated minors. *See Robinson v. Pennsylvania Hosp.*, 737 A.2d 291 (Pa. Super. 1999). Moreover, the courts have ruled that the Minority Tolling Statute does not apply in matters before administrative

Lastly, the Complainant is not without recourse if we uphold the dismissal of her Complaint. If need be, the Complainant is free to file another Formal Complaint with the Commission requesting a payment arrangement, in accordance with Chapter 14 of the Code.<sup>5</sup>

For these reasons, we agree with the Initial Decision to dismiss the Complaint in its entirety and do not support the Joint Motion to remand the Complaint to the Commission's OALJ for further proceedings.

  
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JOHN F. COLEMAN, JR.  
COMMISSIONER

  
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ROBERT F. POWELSON  
COMMISSIONER

**DATE: February 9, 2017**

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agencies. *East v. Workers' Comp. Appeal Bd.*, 574 Pa. 16 (2003); *V.S. v. Dep't of Pub. Welfare*, 131 A.3d 523 (Pa. Cmwlth. 2015).

<sup>5</sup> 66 Pa. C.S. §§ 1401-1419.