

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Anwar Baghdadi

v.

Philadelphia Gas Works

:
:
:
:
:

F-2016-2576632

FIRST INTERIM ORDER

Portion of Testimony Missing
from Transcript of Proceedings
on March 6, 2017

HISTORY OF THE PROCEEDING

On November 15, 2016, Anwar Baghdadi (Mr. Baghdadi or Complainant) filed a complaint with the Public Utility Commission (Commission) against Philadelphia Gas Works (PGW or Respondent) in which he alleged PGW terminated natural gas service to the service address. Complainant requested the Commission order PGW to reconnect natural gas service and provide him with a payment arrangement. On December 12, 2016, PGW filed an answer in which it admitted it terminated service on August 28, 2009 because a bypass at the meter resulted in the theft of natural gas.

On January 26, 2017, the Office of Administrative Law Judge scheduled an initial call-in telephonic hearing in this matter for Monday, March 6, 2017. On January 27, 2017, the presiding officer issued a Prehearing Order.

On March 6, 2017, the presiding officer convened the initial telephonic hearing as scheduled, at which Complainant appeared *pro se* and Respondent appeared represented by Graciela Christlieb, Esquire. Complainant testified on his own behalf, in addition to offering the testimony of his wife, Renee Baghdadi. Complainant offered no exhibits. Attorney Christlieb presented the testimony of one witness and offered six exhibits, which were marked as PGW

Exhibits 1 through 6 and were admitted into evidence. Complainant and Respondent issued final statements on the hearing record in lieu of filing briefs.

On April 13, 2017, the court reporting service contacted the presiding officer and advised that the court reporter, who recorded the proceedings on March 6, 2017, had died on March 26, 2017. While transcribing the recording made by the court reporter, the transcriptionist found a gap existed in the recording. In addition, the court reporter's notes, hand-written by her at the time of the hearing, indicated the tape recorder stopped temporarily. The break in the recorded proceedings occurred on page 40 of the transcript at the start of the cross-examination of Respondent's witness by Complainant. Pages 39 and 40 of the transcript are attached hereto and marked as "Attachment A."

On April 19, 2017, the presiding officer received the transcript of the hearing, containing 48 pages.

Discussion

In formal complaint proceedings held before the Commission, the presiding officer has various powers to preside over the taking of evidence and to regulate the course of proceedings, including the receipt of evidence. Specifically, the presiding officer's authority "includes, but is not limited to, the power to exclude irrelevant, immaterial or unduly repetitive evidence, to prevent excessive examination of witnesses, to schedule and impose reasonable limitations on discovery and to otherwise regulate the course of the proceeding."¹

Each party in the hearing is entitled to present a "case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts."²

¹ 52 Pa.Code § 5.483(a). See also 66 Pa.C.S.A. § 331(d) relating to the authority of presiding officers; and 66 Pa.C.S.A. § 332(d) relating to the inclusion of the transcript of testimony and exhibits as part of the official hearing record.

² 66 Pa.C.S.A. § 332(c).

The Commission's regulations specifically require that Commission hearings must be recorded by the Commission's official reporter and reduced to a written transcript format. The hearing transcript becomes a part of the record and is the sole official transcript from the proceeding. The hearing transcript must include a verbatim reporting of the hearing and nothing must be omitted unless directed by the presiding officer.³

When an error occurs in a transcript, the transcript can be corrected but the correction "may be made only to make it accurately reflect the evidence presented at the hearing and to speak the truth." Any correction must be made prior to the closing of the hearing record.⁴

The transcript from the March 6, 2017 initial telephonic hearing, which was received from the court reporting service on April 19, 2017, omits cross-examination testimony of Respondent's witness, Tiffany Jones. It also appears to omit some discussion between the presiding officer and counsel for PGW. The break in the transcript is of an unknown duration but the transcript resumed before the parties provided their final summation on the record.

THEREFORE,

IT IS ORDERED:

1. That Complainant, Anwar Baghdadi, must notify the presiding officer by Friday, May 12, 2017 if he wants an opportunity to cross-examine Tiffany Jones on a subsequent hearing date.

2. That Respondent, Philadelphia Gas Works, must notify the presiding officer by Friday, May 12, 2017 if it wants an opportunity to question Tiffany Jones as on re-direct on a subsequent hearing date.

³ 52 Pa.Code § 5.251(a)-(c).

⁴ 52 Pa.Code § 5.253.

3. That if either party wishes to have a subsequent day of testimony scheduled, that request must be made in writing to the presiding officer, with a copy of the written request mailed to the other party.

4. That if neither party submits a written request for a subsequent hearing, then the presiding officer will close the hearing record after May 16, 2017 without making any correction or change to the hearing transcript as it was filed by the court reporting service.

Date: April 20, 2017



Katrina L. Dunderdale
Administrative Law Judge

F-2016-2576632 - ANWAR BAGHDADI v. PHILADELPHIA GAS WORKS

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Accepts E-service

Representing Philadelphia Gas Works

1 service restored. Do you remember that testimony?

2 A. Yes.

3 Q. During the course of those conversations, would the
4 various customer service representatives have explained to
5 him that we could not issue payment arrangements based on
6 the fact that it was a theft balance?

7 A. Yes we would have.

8 MS. CHRISTLIEB: Okay. No further
9 questions, Your Honor.

10 JUDGE DUNDERDALE: Okay. Mr. Baghdadi, do
11 you have any questions of Ms. Jones?

12 MR. BAGHDADI: Yes I do.

13 JUDGE DUNDERDALE: Go ahead.

14 CROSS EXAMINATION

15 BY MR. BAGHDADI:

16 Q. I just got one question under you explained to the
17 Court about an exhibit saying that these uses were used.
18 If they were used -- I just got one question. Why wasn't
19 it being recorded?

20 A. I'm sorry. You said what about --

21 Q. You explained to the Court system that you explained
22 to them that it was three things that were being used here
23 as far as for using gas. If that was being used as you say
24 at this facility, why wasn't that being recorded so that it
25 would estimate a bill?

Attachment A
1 of 2

1 A. Because the gas service at the property was supposed
2 to be off and the service was being bypassed or stolen.

3 (At this point there was a break in the tape recording of
4 unknown cause.) (Court reporter's hand-written notes
5 indicated tape had temporarily stopped.)

6 (Tape recording then resumes as follows:)

7 MS. CHRISTLIEB: There are some people who
8 don't contest the theft and they just contest the bill and
9 then we investigate how the billing is performed and
10 whether it's based on this usage or that usage or whether
11 it's based on appliances. And then there are people who
12 say fine; there may have been theft and it may have been on
13 that property but I wasn't living there so it's not my
14 bill. And then we investigate how they're tied to the
15 property; whether they own it, where they were living. In
16 this instance at both the informal and the formal level,
17 all Mr. Baghdadi wanted was a payment arrangement. He did
18 not dispute the bill which would have initiated a bill
19 investigation. He did not dispute the finding of theft
20 which would have prompted a theft investigation. He didn't
21 dispute the liability, meaning that he didn't state that he
22 and his wife were living elsewhere. So we did not conduct
23 that type of investigation.

24 All Mr. Baghdadi is asking for, according to
25 his Complaint on both the informal and formal levels was a

Attachment A
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