



**PHILADELPHIA GAS WORKS**

800 West Montgomery Avenue • Philadelphia, PA 19122

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September 5, 2017

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

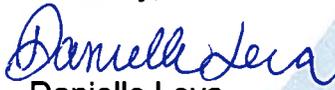
**Re: Liberty Towers Philly, LP v. PGW, Docket No. C - 2017 - 2582869**

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §5.102, the Philadelphia Gas Works ("PGW") hereby files its Answer to the Petition for Rehearing of Liberty Towers Philly, LP.

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: Liberty Towers Philly, LP (Regular Mail)  
Wendy Vacca (PGW Mail)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Liberty Towers Philly, LP,</b>	:	
Petitioner	:	
	:	
v.	:	<b>Docket No. C – 2017 – 2582869</b>
	:	
<b>Philadelphia Gas Works</b>	:	
Respondent	:	

**Answer of Philadelphia Gas Works To  
The Petition for Rehearing of Liberty Towers Philly, LP**

Pursuant to 52 Pa. Code § 5.102, the Philadelphia Gas Works (“PGW”) hereby files its Answer to the Petition for Rehearing of Liberty Towers Philly, LP (“Petition”) and requests that this Commission deny the petition as the Petitioner has failed to show that it merits reopening and rehearing of this matter pursuant to 52 Pa. Code § 5.572.

In answer to the Petition, PGW hereby avers the following:

1. Admitted.
2. Admitted.
3. Admitted. By way of further answer, the Hearing Notice dated March 6, 2017 indicated that the Initial Hearing of the matter was scheduled for April 11, 2017 before Administrative Law Judge Marta Guhl at the Commission’s Philadelphia Offices, a copy of which is attached hereto as Appendix “A.” The notice contained a paragraph which stated with bold emphasis,

**Individuals representing themselves do not need to be represented by an attorney. All others (corporation, partnership, association, trust or governmental agency or subdivision) must be represented by an attorney. An attorney representing you should file a Notice of Appearance before the scheduled hearing date. (See Appendix “A”)**

4. Admitted. By way of further answer, the March 17, 2017 Prehearing Order, which is attached hereto as Appendix “B” provided to the parties, contained a notice at

Paragraph 7 of the requirement to be represented by an attorney. That notice is substantially identical to the notice provided in the Hearing Notice discussed in Paragraph 3 above. The Prehearing Order also contained in Paragraph 8, an order specifically addressed to the Petitioner to retain counsel for this matter. Paragraph 8 of the Prehearing Order stated with bold emphasis,

**LIBERTY TOWERS PHILLY, LP: Have an attorney licensed to practice in the Commonwealth of Pennsylvania enter an appearance to represent you prior to April 5, 2017.**  
(See Appendix "B")

5. Admitted. By way of further answer, the Petitioner failed to retain counsel who entered an appearance by the date imposed by the Prehearing Order despite the provision of information concerning representation and the order to retain counsel and enter an appearance by April 5, 2017. (See Appendices "A" and "B.")

6. Admitted. By way of further answer, the Initial Decision issued on July 11, 2017, which is attached hereto as Appendix "C" explained that the reason for the dismissal of the matter was that the Petitioner failed to retain counsel for the hearing of the matter. The Initial Decision was transmitted to the parties with a cover letter providing instructions on filing exceptions with the Commission to reverse or modify the Initial Decision. The Petitioner did not file exceptions to the Initial Decision which by July 31, 2017 pursuant to the instructions on the cover letter of the Initial Decision. (See Appendix "C.")

7. Admitted.

8. Denied. The averment in Paragraph 8 of the Petition is a request for relief to which no response is required. Therefore, PGW denies the averment in Paragraph 8 of the Petition.

9. Admitted.

10. Admitted. By way of further answer, the matter was dismissed and hearing canceled due to the Petitioner's failure to retain counsel by April 5, 2017, despite the fact that the Petitioner received two plainly worded notices (Hearing Notice and Prehearing Order) of the requirement to retain counsel and an Order for the Petitioner to retain and have its counsel file an entry of appearance by April 5, 2017.

11. Denied. PGW denies that the Petitioner's failure to retain counsel and to enter an appearance is cured by the filing of an entry of appearance with the instant Petition. The hearing date has passed, and the Initial Decision and Final decision has been issued by the Commission.

12. Denied. PGW denies that the Petitioner has valid reasons for failing to retain counsel by April 5, 2017.

13. Denied. PGW does not possess sufficient information on the whereabouts of the Petitioner's manager, Mr. Sylk, on or about March 17, 2017, the issue date of the Hearing Notice. PGW cannot admit to the truth of the averment on the location of the Petitioner's manager on or about March 17, 2017. Therefore, PGW denies this averment. By way of further answer, the Petitioner, even if it did not receive the hearing notice, received the Prehearing order which provided a specific instruction to the Petitioner to retain counsel. Further the Petitioner failed to file exceptions that might have alerted the Commission to its reason for failing to retain counsel prior to the issue of the Final Decision. The averment in Paragraph 13 of the Petition is not valid reason for failing to retain counsel by April 5, 2017.

14. Denied. PGW does not possess sufficient information on the beliefs of the Petitioner in reaching a settlement PGW. PGW cannot admit to the truth of the averment in Paragraph 14 of the Petition. Therefore, PGW denies this averment. The averment in Paragraph 14 of the Petition is not valid reason for failing to retain counsel by April 5, 2017.

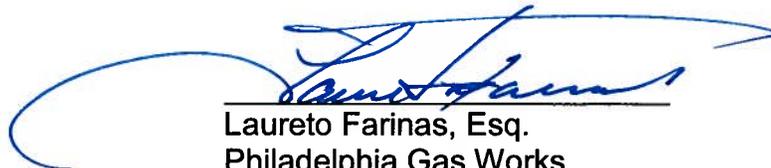
15. Denied. PGW denies that the Petitioner's Manager was unfamiliar with the processes of the Commission. The Commission provided the Petitioner and its manager with several notices of the requirement to have counsel as averred in Paragraphs 3 and 4 herein. The Commission further provided the Petitioner with the opportunity through exceptions to bring this issue to the Commission's attention. The Petitioner chose to ignore the notices, requirements and orders that are designed to make the Petitioner familiar with the Commission's processes. The Petitioner was given notice and opportunity to be heard but chose to ignore the Commission's requirements. Therefore, PGW denies this averment. The averment in Paragraph 15 of the Petition is not valid reason for failing to retain counsel by April 5, 2017.

16. Denied. The averment contained in Paragraph 16, of the Petition that the substance of the complaint is meritorious is a conclusion to which no response is required. Therefore, PGW denies this averment. The averment in Paragraph 16 of the Petition is not valid reason for failing to retain counsel by April 5, 2017.

17. Denied. The averment contained in Paragraph 17, of the Petition goes to the substance of the complaint and that it is meritorious. This is a conclusion to which no response is required. Therefore, PGW denies this averment. The averment in Paragraph 17 of the Petition is not valid reason for failing to retain counsel by April 5, 2017.

**WHEREFORE**, PGW respectfully requests that the Commission deny the instant Petition. The Petitioner has failed to show that it merits reopening and rehearing of this matter pursuant to 52 Pa. Code § 5.572. The Petitioner was given notice and opportunity to be heard, but chose to ignore the Commission's requirements. The Commission should not set aside its Final Order of August 11, 2017 dismissing the complaint.

Respectfully submitted,



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

# **APPENDIX**

## **“A”**



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Office of Administrative Law Judge  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

March 6, 2017

In Re: **C-2017-2582869**

(SEE ATTACHED LIST)

**LIBERTY TOWERS PHILLY, LP  
v.  
PHILADELPHIA GAS WORKS**

Billing Dispute

**Hearing Notice**

This is to inform you that a hearing on the above-captioned case will be held as follows:

**Type: Initial Hearing**

**Date: Tuesday, April 11, 2017**

**Time: 10:00 a.m.**

**Location: In an available hearing room on the 4<sup>th</sup> floor  
(Take one of the last four elevators at the far end of the lobby)  
801 Market Street (enter on 8<sup>th</sup> Street)  
Philadelphia, PA 19107**

**Presiding: Administrative Law Judge Marta Guhl  
801 Market Street  
Suite 4063  
Philadelphia, PA 19107  
Telephone: (215) 560-2105  
Fax: (215) 560-3133**

***Attention: You may lose the case if you do not come to this hearing and present facts on the issues raised.***

**You must serve the Presiding Officer with a copy of ANY document you file in this case.**

If you intend to file exhibits, 2 copies of all hearing exhibits to be presented into evidence must be submitted to the reporter. An additional copy must be furnished to the Presiding Officer. A copy must also be provided to each party of record.

**Individuals representing themselves do not need to be represented by an attorney. All others (corporation, partnership, association, trust or governmental agency or subdivision) must be represented by an attorney. An attorney representing you should file a Notice of Appearance before the scheduled hearing date.**

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission at least five (5) business days prior to your hearing.

If you require an interpreter to participate in the hearings, we will make every reasonable effort to have an interpreter present. Please call the scheduling office at the Public Utility Commission at least ten (10) business days prior to your hearing to submit your request.

- Scheduling Office: (717) 787-1399
- AT&T Relay Service number for persons who are deaf or hearing-impaired: 1(800) 654-5988

c: ALJ Guhl  
Linda Salome  
File Room  
Calendar File

**C-2017-2582869 LIBERTY TOWERS PHILLY, LP v. PHILADELPHIA GAS WORKS**

LIBERTY TOWERS PHILLY LP  
TRISTAN SYLK OWNER  
PO BOX 9  
HAINESPORT NJ 08036  
**(215) 313-2111**

LAURETO A FARINAS ESQUIRE  
PHILADELPHIA GAS WORKS  
800 W MONTGOMERY AVENUE  
PHILADELPHIA PA 19122  
**(215) 684-6982**  
**E-SERVICE**

# **APPENDIX**

# **“B”**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Liberty Towers Philly, LP

v.

Philadelphia Gas Works

:  
:  
:  
:  
:

C-2017-2582869

**PREHEARING ORDER**

An Initial Hearing in this case is scheduled for Tuesday, April 11, 2017 at 10:00 a.m. in an available hearing room on the 4<sup>th</sup> Floor at 801 Market Street.<sup>1</sup> **You must be available in the hearing room when your case is called by the presiding Administrative Law Judge.** You should arrive at the hearing room no later than 9:45 a.m. and wait in the hearing room until the Administrative Law Judge calls your case. **If the customer is not present and prepared to go forward with the case when it is called, the case will be dismissed by the Administrative Law Judge.** When you arrive on the 4<sup>th</sup> Floor, please use the house telephone located at the front desk and call 215-560-2105 to be admitted into the hearing room.

The parties are hereby directed to comply with the following requirements:

1. **YOU MUST BRING WITH YOU TO THE HEARING ANY WITNESSES OR DOCUMENTS THAT SUPPORT YOUR POSITION.**
  
2. **YOU MUST SERVE ME DIRECTLY WITH ANY DOCUMENTS THAT YOU FILE IN THIS PROCEEDING. IF YOU SEND ME ANY DOCUMENT OR CORRESPONDENCE, YOU MUST SEND A COPY TO ALL OTHER PARTIES IN THE CASE. THE CURRENT SERVICE LIST IS ATTACHED TO THIS ORDER.**

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<sup>1</sup> The entrance to the building is on 8<sup>th</sup> Street.

3. A request for a change of the scheduled hearing date must state the agreement or opposition of other parties, and shall be submitted in writing no later than five (5) business days prior to the hearing. 52 Pa.Code § 1.15(b). Requests for changes of hearing dates must be sent to me and all parties of record. My correct address is:

Commonwealth of Pennsylvania  
Pennsylvania Public Utility Commission  
801 Market Street, Suite 4063  
Philadelphia, PA 19107  
Telephone: 215-560-2105  
Fax: 215-560-3133

Changes are granted only in rare situations where good cause exists.

4. Commission policy promotes settlements. 52 Pa.Code § 5.231(a). The utility will contact the customer at least one week before the scheduled hearing to talk over a possible settlement of this case. Even if you are unable to settle this case, you may still resolve many questions or issues during your talks. If an agreement is reached, a formal hearing will not be necessary and the scheduled hearing will be cancelled.

5. If you intend to present any documents or exhibits for my consideration, **you must bring at least four (4) copies to the hearing.** These are the original and one copy for the Commission's records, one copy for me and one copy for every other party. Proposed exhibits should be properly pre-marked for identification.

6. This hearing is a formal proceeding and will be conducted in accordance with the Commission's Rules of Practice and Procedure.

7. Pursuant to 52 Pa.Code §§ 1.21 & 1.22, you may represent yourself, if you are an individual, or you may have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *Pro Hac Vice*, represent you. However, if you are a partnership, limited liability company, corporation, trust, association, or governmental agency or subdivision, you must have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *Pro*

*Hac Vice*, represent you in this proceeding. Unless you are an attorney, you may not represent someone else. Attorneys shall insure that their appearance is entered in accordance with the provisions of 52 Pa.Code § 1.24(b).

8. **LIBERTY TOWERS PHILLY, LP: Have an attorney licensed to practice in the Commonwealth of Pennsylvania enter an appearance to represent you prior to April 5, 2017.**

9. If you intend to subpoena witnesses for the hearing, you should review the procedures established in 52 Pa.Code § 5.421. You must submit your written application to the Administrative Law Judge sufficiently in advance of the hearing date so that the other parties will have the required ten (10) days' notice to answer or object, and so that you will have enough time to receive the subpoena and serve it.

10. If you, or anyone you plan to call as a witness on your behalf, have a limited ability to speak or understand English or are deaf or hearing-impaired, a qualified interpreter can be provided upon your request. If you want an interpreter, please contact the Scheduling Office at least ten (10) days before the scheduled Prehearing Conference or Hearing to make your request. Scheduling Office: (717) 787-1399. AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

11. The complainant is responsible for payment of current undisputed bills for service pending the resolution of this complaint. 52 Pa.Code § 56.181. Failure to make payments may result in the termination of utility service.

12. **THE COMPLAINT WILL BE DISMISSED IF THE CUSTOMER FAILS TO PARTICIPATE IN THE HEARING AND PRESENT EVIDENCE IN SUPPORT OF THE COMPLAINT.**

13. The complainant bears the burden of proof and must demonstrate by a preponderance of the evidence that respondent violated its tariff, the Public Utility Code or a Commission order or regulation, and that he/she is entitled to the relief requested in the Complaint.

Date: March 17, 2017

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Marta Guhl  
Administrative Law Judge

Liberty Towers Philly, LP v. Philadelphia Gas Works  
Docket Number C-2017-2582869

SERVICE LIST

Liberty Towers, LP  
Tristan Sylk, Owner  
P.O. Box 9  
Hainesport, NJ 08036

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

# APPENDIX “C”



**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Liberty Towers Philly LP

v.

Philadelphia Gas Works

:  
:  
:  
:  
:

C-2017-2582869

**INITIAL DECISION**

Before  
Marta Guhl  
Administrative Law Judge

This Initial Decision dismisses the Complaint of Liberty Towers Philly LP at Docket No. C-2017-2582869 due to the Complainant's failure to comply with the presiding officer's Order to have an attorney, licensed to practice within the Commonwealth of Pennsylvania, enter an appearance on its behalf.

**HISTORY OF THE PROCEEDING**

On December 30, 2016, Liberty Towers Philly LP (Complainant or Liberty) filed a formal Complaint with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW or Respondent) alleging that there were incorrect charges on its bills and requesting that PGW readjust its bill.

On January 25, 2017, PGW filed its Answer, denying the material allegations of the Complaint.

By Hearing Notice dated March 6, 2017, the matter was scheduled for an initial hearing on Tuesday, April 11, 2017 at 10:00 a.m. and was assigned to me.

On March 17, 2017, I issued a Prehearing Order outlining the procedures for the parties. I also indicated that the Complainant needed to have an attorney licensed to practice law in Pennsylvania enter an appearance on its behalf on or before April 5, 2017.

To date, there is no record of an attorney filing a notice of appearance on behalf of Liberty Towers Philly LP. As the Complainant did not comply with my March 17, 2017 Prehearing Order, the Complaint will be dismissed as discussed below.

A Hearing Cancellation Notice was issued on April 10, 2017. The record closed on April 10, 2017.

The record in this case consists of the pleadings and my Prehearing Order.

#### FINDINGS OF FACT

1. The Complainant is Liberty Towers Philly LP.
2. The Respondent in this matter is Philadelphia Gas Works.
3. The Complainant is a Limited Partnership.
4. By Hearing Notice dated March 6, 2017, the matter was scheduled for an initial hearing on Tuesday, April 11, 2017 at 10:00 a.m. and was assigned to me.
5. A Prehearing Order dated March 17, 2017, indicated that the Complainant needed to have an attorney licensed in Pennsylvania enter an appearance on its behalf on or before April 5, 2017.
6. As of the date of this initial decision, the Complainant has not had an attorney enter an appearance on its behalf.

## DISCUSSION

By Prehearing Order dated March 17, 2017, I instructed the Complainant, a limited partnership, to have counsel enter an appearance on its behalf on or before April 5, 2017. To date, no notice of appearance has been filed.

The Complainant in this case is a limited partnership that is not represented by counsel. The Commission's regulations concerning representation and notice of appearance are set forth in 52 Pa.Code §§ 1.21-1.24. The Commission's regulations require partnerships, corporations, other business organizations including limited liability companies, trusts, associations, agencies, political subdivisions and government entities to be represented by attorneys in adversarial proceedings before the Commission. 52 Pa.Code §§ 1.21-1.23.

In 52 Pa.Code § 1.8, the term "adversarial proceeding" is defined as "[a] proceeding initiated by a person to seek authority, approvals, tariff changes, enforcement, fines, remedies or other relief from the Commission which is contested by one or more other persons and which will be decided on the basis of a formal record." Additionally, the term "person" is defined as "individuals, corporations, partnerships, associations, joint ventures, other business organizations, trusts, trustees, legal representatives, receivers, agencies, governmental entities, municipalities or other political subdivisions." *Id.*

This matter is an adversarial proceeding. Accordingly, the Complainant, a limited partnership, is required to be represented by counsel. No attorney is listed on the Complaint, nor has one entered an appearance to represent the Complainant.

Additionally, the Complainant failed to comply with my March 17, 2017 Prehearing Order directing it to be represented by counsel since it is a limited partnership. Failure to comply with an order issued by a presiding officer warrants dismissal of the application or complaint. See, e.g., *Application of And Ex Cor*, A-2012-2337848 (Final Order entered June 19, 2013); *New Fizon Catering, Inc. v. PECO Energy Co.*, Docket Nos. C-2008-2065498 and C-2008-2079076 (Opinion and Order entered June 24, 2009); *Snyderville Community Development Corp. v. Philadelphia Gas Works*, Docket No. C-20055032 (Opinion

and Order entered July 31, 2006) (citing, *Treffinger v. PPL Electric Utilities Corp.*, Docket No. C-20027978, 2003 Pa. PUC LEXIS 3 (Opinion and Order entered March 3, 2003)); *Franconia Mennonite Conference v. Verizon Pennsylvania Inc.*, Docket No. C-2010-2193709 (Final Order entered June 6, 2003).

The Complainant was informed of the requirement that it must have counsel by the Hearing Notice dated March 6, 2017 and my Prehearing Order dated March 17, 2017. Neither the Hearing Notice nor the Prehearing Order was returned to the Commission by the U.S. Postal Service as undeliverable, and therefore are deemed to have been received. *Berkowitz v. Mayflower Securities*, 455 Pa. 531, 317 A. 2d 584 (1974), *Chartiers Industrial and Commercial Development Authority v. Allegheny County Board of Property Assessment Appeals and Review*, 645 A.2d 944 (Pa. Cmwlth. 1994).

I instructed the Complainant to have an attorney licensed to practice in the Commonwealth of Pennsylvania enter an appearance to represent it prior to April 5, 2017. The Complainant has not contacted me regarding such representation, nor has an attorney filed a notice of appearance on behalf of the Complainant. Therefore, the Complainant failed to comply with my Order. Consequently, the Complaint is dismissed.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter in this proceeding. 66 Pa.C.S. § 1101.
2. Mail sent to a party's last known address and not returned by the post office is presumed to have been received. *Berkowitz v. Mayflower Securities*, 455 Pa. 531, 317 A. 2d 584 (1974), *Chartiers Industrial and Commercial Development Authority v. Allegheny County Board of Property Assessment Appeals and Review*, 645 A.2d 944 (Pa. Cmwlth. 1994).
3. The Commission's regulations require partnerships, corporations, other business organizations, trusts, associations, agencies, political subdivisions and government



**VERIFICATION**

I, Laureto Farinas, hereby declare that I am counsel to the Philadelphia Gas Works; and that as such, I am authorized to make this verification on its behalf, that the facts set forth in the foregoing Answer are true to the best of my knowledge, information and belief, and that I expect to be able to prove these at a hearing held in this matter. I make this verification subject to the penalties of 18. Pa. C.S. §4904, pertaining to false statements to authorities.

September 5, 2017

  
\_\_\_\_\_  
Laureto Farinas, Esq.

**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**

Jonathan E. Mayer, Esq.  
Cohen, Wilwerth & Marraccini, LLC  
660 2<sup>nd</sup> Street Pike  
Southampton, PA 18966

Via: FedEx

September 5, 2017



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Philadelphia Gas Works  
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