

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105**

Kenneth McLean

v.

Philadelphia Gas Works

Public Meeting: October 26, 2017

2539492-OSA

Docket No. C-2016-2539492

STATEMENT OF VICE CHAIRMAN ANDREW G. PLACE

Before the Commission today are the Exceptions of Philadelphia Gas Works (PGW) to the Initial Decision issued on September 29, 2016 which partially sustained the Complaint of Mr. McLean. In his Complaint, Mr. McLean alleged that he did not reside at the service address from 2012 until December 2014 and therefore was not responsible for the service charges that accrued during that time-period. PGW filed Exceptions to the Initial Decision claiming that the Company established the Complainant's association with the service address through a credit report as is permitted by the Commission's regulations at Section 56.35(b)(2) of Title 52. 52 Pa. Code §56.35(b)(2).

Although I agree that PGW used the proper vehicle to establish residency resulting in the Complainant's responsibility for service rendered at the address, I am troubled by some of the events that transpired during the hearing. Mr. McLean was provided a telephonic hearing which I believe is customary to assist Complainants, Respondents and the Commission in providing efficient and effective due process. However, it became obvious from the outset of the hearing that there were significant concerns regarding the Complainant's ability to participate telephonically as he could not be heard by the Administrative Law Judge and the court reporter. Tr. 6,7, 17, 18, 20, 21, 25, and 33. When the Complainant was presenting his evidence, the ALJ had to stop the hearing numerous times to remind Mr. McLean to speak in a manner that was conducive for the Company, the ALJ and the court reporter to hear. *Id.* The transcript reflects several instances where the Complainant was simply inaudible. *Id.*

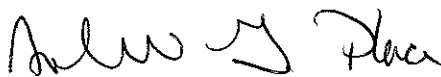
In addition, it appears that the Complainant had not received some of the Company's exhibits in a timely manner. Tr. 58-61. Because of this, PGW suggested that an additional hearing be convened for the additional exhibits to be reviewed and entered into the record and for the Complainant to have appropriate time to review the materials sent to him. Tr. 60-61. The ALJ determined that an additional hearing was not necessary. Tr. 61-62.

I believe that the circumstances presented during the June 2016 hearing should have caused the ALJ to recess the hearing to determine whether this case was appropriate for an in-person hearing in Philadelphia where the Complainant resides. During the recess, the ALJ could have determined if Mr. McLean wanted

to continue the hearing telephonically or present his case in person. In addition, a hearing recess could have been used to determine when the Company's exhibits were sent and whether the Complainant had enough time to review them.

Because of my concerns with the hearing held in this proceeding, I respectfully dissent in part.

DATED: October 26, 2017



Andrew G. Place, Vice Chairman