



PHILADELPHIA GAS WORKS

800 West Montgomery Avenue • Philadelphia, PA 19122

Danielle Leva, Paralegal
Legal Department
Direct Dial: 215-684-6862
FAX: 215-684-6798
E-mail: danielle.leva@pgworks.com

December 19, 2017

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

Re: Samantha Moses v. PGW, Docket No. C – 2017 – 2635927

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §§ 5.61 and 5.101, the Philadelphia Gas Works ("PGW") hereby files the original Preliminary Objections to the Complaint in the above captioned matter.

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: Samantha Moses
Wendy Vacca

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Samantha Moses

:

v.

:
:
:
:

Docket No. C – 2017 – 2635927

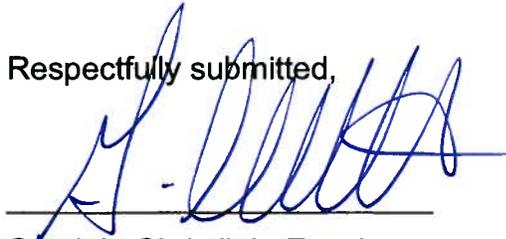
Philadelphia Gas Works

NOTICE TO PLEAD

To: Samantha Moses, Complainant

Pursuant to 52 Pa. Code § 5.101, you are hereby notified to file a written response to the enclosed Preliminary Objection and Motion to Strike, within ten (10) days from service hereof or you may be deemed to be in default and relevant facts stated in these pleadings may be deemed admitted and a judgment may be entered against you.

Respectfully submitted,



December 19, 2017

Graciela Christlieb, Esquire
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
(215) 684-6164

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|-------------------------------|---|--------------------------------------|
| Samantha Moses | : | |
| | ⋮ | |
| v. | ⋮ | Docket No. C – 2017 – 2635927 |
| | ⋮ | |
| Philadelphia Gas Works | ⋮ | |

**Philadelphia Gas Works
Preliminary Objections and Motion to Strike**

Pursuant to 52 Pa. Code § 5.101, the Philadelphia Gas Works (PGW) hereby files its Preliminary Objections to the Complaint filed in the above captioned matter on the grounds that the Commission lacks jurisdiction over the subject matter of the Complaint with regard to the issues raised in the complaint that are beyond the statute of limitations at 66 Pa.C.S. § 3314 and that the Complaint includes impertinent matter in its requested relief to remove (or forbear collection of) the monies owed, and moves to strike the requested relief as “impertinent matter” pursuant to 52 Pa. Code §§ 5.101(a)(1) and (2).

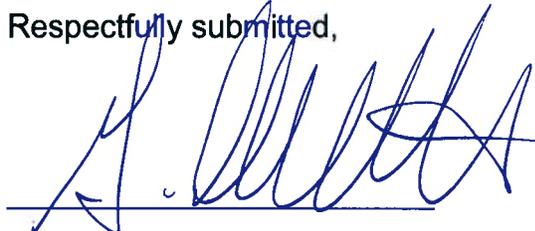
In support of its preliminary objection and motion to strike, PGW hereby avers the following:

1. In April of 2011, the Complainant contacted PGW to dispute charges that were incurred on her account in 2007.
2. On May 23, 2011, PGW closed the dispute and issued a letter to the Complainant, attached hereto as Exhibit A, which explained that the charges were due to a corrected billing issue.
3. The letter from PGW advised the Complainant that she had the right to appeal PGW's determination to the Bureau of Consumer Services (BCS) and gave her BCS's mailing address, office address, and email address.
4. On December 28, 2012, the Complainant filed an informal complaint with the BCS disputing the charges that were incurred on her account in 2007.

5. On March 15, 2013, the BCS issues a decision, which is attached hereto as Exhibit B, wherein it concluded, *inter alia*, that PGW is within their rights to issue a makeup bill due to a billing error.
6. The BCS decision stated that “[t]he law does not allow the PUC to investigate a billing dispute over 4 years.”
7. The BCS decision included comprehensive instructions for the Complainant on how to appeal the matter by way of a formal complaint.
8. On or about November 22, 2017, the Complainant filed the instant Complaint, wherein she seeks to dispute the charges incurred on her account in 2007.
9. The statute of limitations at 66 Pa.C.S. § 3314 provides that no action for recovery of penalties or forfeitures, or any prosecution, may be maintained unless brought within three years from the date the liability arose.
10. The statute of limitations at 66 Pa.C.S. § 3314 divests the Commission of jurisdiction to hear an action brought more than three years from the date the liability arose.
11. The Complainant has lost her right to pursue litigation regarding her bills for gas service in 2007, as any cause of action arising from those bills falls outside the statute of limitations.
12. As the Commission is without jurisdiction to decide on matters falling outside of the statute of limitations, the Complainant’s request for relief is “impertinent matter” within the use and meaning of 52 Pa. Code §5.101(a) (2) and should be stricken from the Complaint.

Wherefore, PGW respectfully requests that this Commission sustain PGW's preliminary objections to the Complaint and dismiss the issues in the Complaint for lack of jurisdiction and strike off the requested relief as impertinent matter.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'G. Christlieb', written over a horizontal line.

December 19, 2017

Graciela Christlieb, Esquire
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
(215) 684-6164

EXHIBIT A

Philadelphia Gas Works



800 W. Montgomery Ave., Philadelphia, PA 19122
Telephone: 215-787-1288

Telephone 215-787-1288
Fax 215-684-6996

May 23, 2011

SAMANTHA MOSES
6917 OAKLAND ST, 2F
Philadelphia, PA 19149

Re: Account Number 549728855
1323 E UPSAL ST BSE

Dear Ms. Moses:

On 4/26/2011 you contacted us and questioned your bill. In your inquiry you stated: Dispute balance owed from previous address 1323 E Upsal St, Bse.

We have reviewed our records and have found the following:

On 5/17/2007, a PGW service person visited the property to investigate which meter at the property was supplying gas to your apartment. It has been determined that your gas account has been billed for gas used on meter #1884689 in error. The correct meter supplying gas to your apartment is meter #2642010. The necessary corrections have been made and your account has been re-billed from 8/1/2006 index 4 to 5/6/2007 index 786. If you have any question on this matter or need to make payment arrangements on the balance, please contact our office at the above phone number. PGW apologizes for any inconvenience you may have incurred

Pursuant to regulations approved for the Philadelphia Gas Works, you have the right to appeal PGW's findings concerning your inquiry within 10 days to the PUC, Bureau of Consumer Services. You may contact them in writing, via telephone, via e-mail or you may visit the PA office.

In Writing

Bureau of Consumer Services
Informal Complaint Unit
P.O. Box 3265
Harrisburg, Pa 17105-3265

Visit PA Office

PUC, Bureau of Consumer Services
Room 1310 State Office Building
1400 W. Spring Garden Street
Philadelphia, PA 19130

E-Mail Address: puc.paonline.com

Toll Free #: 800-692-7380

To assist you in your review of our findings we are including the following documents:

1. A statement of account
2. A history of your bills over the last 9 months
3. Sections of PGW Tariff or PUC regulations
4. Dispute options

Philadelphia Gas Works



800 W. Montgomery Ave., Philadelphia, PA 19122
Telephone: 215-787-1288

As of 6/15/2011 this account will become delinquent and subject to collection action. To avoid collection action you can contact us and if eligible, enter into a payment agreement or you can file an informal complaint (see attached). While your dispute is pending we will not take any collection action on the disputed balance nor will we terminate service for the disputed portion of your bill. However, you must pay all bills not part of this dispute.

Please contact us at 215-978-5951 to discuss this matter further or to make payment arrangements. We thank you for this opportunity to serve you. PGW remains committed to providing the best possible service at the best possible price.

Sincerely,

William Byrne
Dispute Resolution Unit

EXHIBIT B



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

3/18/2013

BCS No: 3053872

SAMANTHA MOSES
6917 OAKLAND STREET
PHILADELPHIA PA 19149

The Public Utility Commission has completed its investigation into your informal complaint. Our decision is attached. We sent a copy of this decision to your utility company. You and the company must both follow this decision. Both parties may appeal this decision. If no one appeals, the decision will become final 20 days after the date of this letter.

If you do not agree with this decision you can appeal it by filing a formal complaint. Complete and return the attached Notification of Intent to Appeal within 20 days of the date on the form. The Commission will mail you formal complaint forms. When you complete and return the formal complaint forms, your appeal begins. The Commission will assign your complaint to the Office of Administrative Law Judge. They will contact you about your formal complaint.

You do not need a lawyer to file an appeal.

You must make all of the payments required by this decision. If you do not make these payments the utility company can shut off your utility service.

Do not mail your payments to the Public Utility Commission. Mail your payments directly to your company.

If you have any questions, please call 1-800-692-7380.

Sincerely,

ROWENA MARJAN
Investigator

**INFORMAL COMPLAINT DECISION
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SAMANTHA MOSES
6917 OAKLAND STREET
PHILADELPHIA PA 19149

Date: 3/18/2013

V.

BCS: 3053872

Acct. No: 549728855

PHILADELPHIA GAS WORKS

DECISION ON INFORMAL COMPLAINT BY THE PUBLIC UTILITY COMMISSION:

STATEMENT OF COMPLAINT:

We received your informal complaint on 12/28/2012. In the complaint, you state that:

The company wants you to pay \$1,200.00 from your prior address of 1323 East Upsal Street, Philadelphia but you paid the balance down to zero. However, they told you that the meter was not working correctly and that you still owe the money. You do not understand why the company is now informing you that you owe this money when you moved from the previous address in 2007. You would like the PUC to correct the billing.

INVESTIGATION BY STAFF OF THE PUBLIC UTILITY COMMISSION FOUND THAT:

- 1) Company records show that Aline Samantha Moses established service at 1323 E Upsal Street, Bsmt on 8/1/2006 to 5/16/2007 and then at 6917 Oakland Street, 2F from 4/30/2011 to current.
- 2) Company records show that on 8/1/2007, the bills was cancelled and rebilled from 8/1/2006 index 4 to 5/16/2007 index 786. You disputed the \$1,253.93 bill at that time. The amount of \$1,253.93 was placed in Write-Off on 1/8/2008 and reactivated on 4/26/2011 when you requested service at 6917 Oakland Street, 2F.
- 3) Company records show that on 5/23/2011, the company investigated your dispute and they determined that your gas account has been billed for gas used on another meter in error. The necessary corrections have been made and your account has been re-billed.
- 4) Company records show that on 6/3/2011, you requested a payment agreement and you were advised that \$250.00 is due within 7 days and you stated that you are unable to make this payment. You were also given information about CRP.
- 5) Company records show that on 9/14/2012, you made a payment agreement for \$124.00 per month, which was broken on 11/28/2012 due to non-payment.
- 6) Based on 52 Pa. Code § 56.24, payments received by a public utility shall first be applied to the balance due for prior service.

BASED ON THESE FINDINGS, WE CONCLUDE THAT:

- 1) The company is within their rights to issue a make-up bill due to billing error.

- 2) The company is within their rights to transfer an unpaid balance to a new residential service account of the same customer.
- 3) The Law does not allow the PUC to investigate a billing dispute over 4 years.
- 4) Due to CRP, The Law does not allow us to make a payment agreement for you.
- 5) The bill is correct as rendered.

THEREFORE, IT IS DECIDED THAT:

- 1) This informal complaint is dismissed.
- 2) Your total amount due as of 3/2/2013 is \$2,108.01. You must contact the company to discuss the CRP cure and the amount you must pay to prevent the termination of your service.

We will send a copy of this decision to the utility company. If you have questions about the terms of this decision or how to appeal this decision, please call us at 1-800-692-7380.

ROWENA MARJAN
Investigator

**Request for Formal Complaint Forms
(Notification of Intent to Appeal)**

Notice to Customer:

If you sign and return this form, you are telling the Public Utility Commission that you want to appeal this decision. Do not return this form unless you want to appeal this decision.

If you want to appeal, you must return this form within 20 days of 3/18/2013. The Commission will send you formal complaint forms if you return this form.

You must comply with this decision until the Public Utility Commission completes the formal complaint process. You must make all of the required payments or the utility company may shut off your service.

Sincerely,
Pennsylvania Public Utility Commission

Yes, I want to appeal this decision. Please send formal complaint forms to me at the following address:

Customer name and address:
(Please correct any mistakes.)

SAMANTHA MOSES
6917 OAKLAND STREET
PHILADELPHIA PA 19149

(Area Code) Telephone Number
BCS: 3053872
Company: PHILADELPHIA GAS
WORKS

Signature
Date of Mailing: 3/18/2013

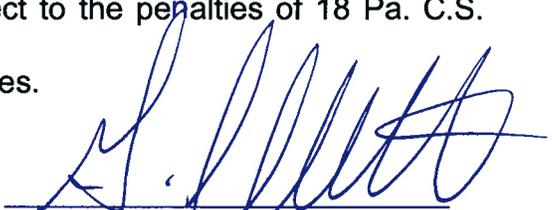
Mail this completed form to:

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

VERIFICATION

I, Graciela Christlieb, hereby declare that I am counsel for the Philadelphia Gas Works. I am authorized to make this verification on its behalf. The facts set forth in the foregoing Motion are true and correct to the best of my knowledge, information, and belief. I expect to be able to prove these facts at a hearing held in this matter. This verification is made subject to the penalties of 18 Pa. C.S. §4904, concerning false statements to authorities.

December 19, 2017



Graciela Christlieb, Esquire

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).

For Complainant:

Ms. Samantha Moses
1236 Robbins Street
Philadelphia, PA 19111

December 19, 2017



Graciela Christlieb, Esquire
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
(215) 684-6164