



**PHILADELPHIA GAS WORKS**

800 West Montgomery Avenue • Philadelphia, PA 19122

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February 22, 2018

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

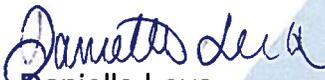
**Re: Kimberly Chambers v. PGW, Docket No. C-2016-2538724**

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §5.535, the Philadelphia Gas Works ("PGW") hereby files its reply to the Complainant's Exceptions to the October 19, 2017 Initial Decision 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: Kimberly Chambers (Regular Mail)  
Wendy Vacca (PGW Mail)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Kimberly Chambers</b>	:	
Complainant	:	
<b>v.</b>	:	<b>Docket No. C-2016-2538724</b>
	:	
<b>Philadelphia Gas Works,</b>	:	
Respondent	:	

**PHILADELPHIA GAS WORKS’  
REPLY TO COMPLAINANT’S EXCEPTIONS**

Pursuant to 52 Pa. Code §5.535, and the Secretary’s letter dated February 13, 2018 in the above captioned matter, the Philadelphia Gas Works, (“PGW”) hereby files its reply to the Complainant’s exception received by the Commission November 15, 2017 (“Exception document”), to the Initial Decision issued November 2, 2017, in the above captioned matter (“Initial Decision”).

**I. INTRODUCTION**

This matter involves a formal complaint filed by the Complainant on April 7, 2016, with the Pennsylvania Public Utility Commission (“Commission”) against PGW, in which the Complainant stated that PGW was threatening to terminate her utility service and that she requests a payment arrangement.

On April 27, 2016, PGW filed an Answer indicating that the Complainant is not entitled to a payment arrangement because, *inter alia*, she defaulted on a prior Commission payment arrangement.

By Hearing Notice dated May 17, 2016, a hearing was scheduled for June 9, 2016. The hearing was rescheduled after the Complainant requested a telephonic hearing. The telephonic hearing was scheduled and convened on July 20, 2016. The Complainant appeared *pro se* and testified. PGW, represented by counsel, presented the testimony of one witness. PGW offered eight exhibits which were all admitted into evidence. The record in this case closed on August 8, 2016 and consists of a 32-page transcript and eight exhibits.

The Initial Decision dismissed the complaint because the Complainant failed to sustain her burden of proof to establish that Philadelphia Gas Works violated any Commission orders or regulations related to the termination notice issued and concluded that the Complainant is ineligible for a Commission issued payment arrangement.

On November 15, 2017 the Commission received the Complainant's exception, but the Complainant had not served PGW. By letter dated February 13, 2018, the Commission provided the exception to PGW and provided PGW until February 23, 2018 to file a response. PGW's response follows.

## II. PGW'S REPLY TO EXCEPTION

The Exception simply states that the Complainant needs help with paying her gas bill. The Exception states that the Complainant has been paying her current bill, provides some income information (\$755/month) and states that she had a mastectomy on July 20, 2017, one year after the hearing. There is no evidence of record to support the further order of relief. The Public Utility Code, 66 Pa.C.S.A. § 332(a), places the burden of proof upon the proponent of a rule or order. As the proponent of a rule or order, Complainant has the burden of proof in this matter pursuant to 66 Pa.C.S.A. § 332(a).

To establish a sufficient case and satisfy the burden of proof, complainant must show that the respondent public utility is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Telephone Co. of Pa.*, 72 Pa.P.U.C. 196 (1990), *Feinstein v. Philadelphia Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600, 602 (Pa.Cmwth. 1990), alloc. den., 602 A.2d 863 (Pa. 1992). That is, by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950).

The Exception fails to point to any error in fact or law in the Initial Decision that would support the Commission's reversal or modification of the Initial Decision. Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa.Cmwth. 1982); *Edan Transportation Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6

(Pa.Cmwth. 1993); 2 Pa.C.S. § 704. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk and Western Ry. v. Pa. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 194 Pa.Super. 278, 166 A.2d 96 (1960); *Murphy v. Commonwealth, Dep't of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa.Cmwth. 1984).

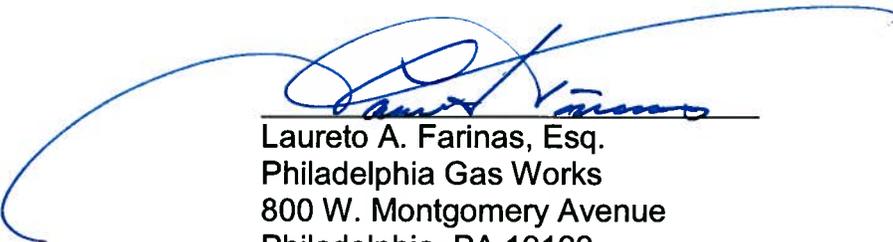
The Exception contains information of events that occurred after the close of the record. The new information, even if taken as true, it appears that it would not lead to the conclusion that the Complainant merits a new payment arrangement. The Complainant's household income seems to have been unaffected by the Complainant's medical procedure. The Complainant's income information from all sources has not been verified to be less than the amount found in the Initial Decision. The Exception document should be denied.

### **III. CONCLUSION**

For the reasons stated above, PGW requests that the Commission deny Complainant's exception.

Respectfully submitted,

February 22, 2018



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

**CERTIFICATE OF SERVICE**

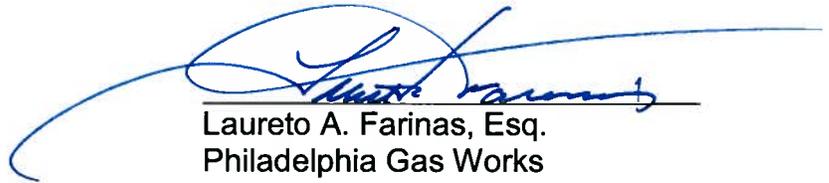
I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A TRUE COPY OF THE FOREGOING DOCUMENT UPON THE PARTICIPANTS LISTED BELOW, IN ACCORDANCE WITH THE REQUIREMENTS OF 52 PA CODE §1.54 (RELATING TO SERVICE BY A PARTICIPANT).

Service List:

For Complainant:

Ms. Kimberly Chambers  
7254 Mansfield Avenue, 1<sup>st</sup> Floor  
Philadelphia, PA 19138

February 22, 2018



Laureto A. Farinas, Esq.  
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