



PHILADELPHIA GAS WORKS

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May 11, 2018

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

Re: Otis Johnson v. PGW, Docket No. F-2017-2605672

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §5.535, the Philadelphia Gas Works (PGW) hereby files its Reply Exceptions 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,


Graciela Christlieb

cc: Otis Johnson (First Class Mail)
Jessica Glace (PGW Mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Otis Johnson	:	
	:	
v.	:	Docket No. F – 2017 – 2605672
	:	
Philadelphia Gas Works	:	

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

Pursuant to 52 Pa. Code §5.535, the Philadelphia Gas Works, (PGW) hereby files its Reply to the Complainant’s Exceptions to the Initial Decision issued April 12, 2018, in the above captioned matter (Initial Decision).

I. INTRODUCTION

On May 12, 2017, the Complainant, Otis Johnson (Complainant) filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against PGW wherein he alleged that his PGW bill for the month of January was abnormally high. As relief, he requested that his gas bill be reviewed and corrected. The Complaint is an appeal of the Commission’s Bureau of Consumer Services (BCS) decision at BCS Case No. 3503210.

On June 12, 2017, PGW filed its Answer wherein it denied the material allegations in the Complaint. As part of its Answer, PGW included, as Exhibit “A,” the BCS decision at BCS Case No. 3503210 wherein the BCS determined that there is no compelling factual evidence to indicate that the billing is incorrect. In its decision, the BCS informed the Complainant that his bills are based on actual meter reads, that his average monthly usage has decreased by approximately 33% from December 29, 2016 through January 30, 2017 when comparing usage to the same time period during previous years, and that, if he believes the meter in his home is faulty, he can request that PGW test the meter for accuracy.

A Hearing Notice dated June 19, 2017, notified the parties that an initial hearing was scheduled as part of the afternoon session of Call of the Docket on Tuesday,

August 8, 2017. When it was determined that the Complaint was not a good candidate for Call of the Docket, the case was rescheduled for Wednesday, September 6, 2017, so it could be heard separately. Due to a conflict with the Court's schedule, the initial hearing was rescheduled for Wednesday, October 11, 2017. On October 4, 2017, the Complainant submitted a written request for a continuance; his request also included several procedural questions with regard to the hearing. On October 5, 2017, the Court sent a copy of the Complainant's request to PGW's attorney, Graciela Christlieb, Esq., who informed the Court that PGW had no objections to the Complainant's request. On October 17, 2017, the Court issued an Order granting the Complainant's request for a continuance and answering the procedural questions he had posed in his October 4, 2017 request. On October 27, 2017, the Complainant e-mailed the Court with questions regarding the possibility of talking directly with the Court prior to the hearing in the absence of PGW. The Court forwarded a copy of the Complainant's e-mail to Ms. Christlieb and informed the Complainant that ex-parte communications between a party and the presiding officer were prohibited. A Hearing Cancellation/Reschedule Notice dated November 16, 2017, notified the parties that an initial hearing was scheduled for Friday, December 8, 2017, at 10:00 a.m.

The hearing in this matter was convened as scheduled. Prior to going forward with the hearing, the parties agreed to engage in settlement discussions with the participation of the presiding officer. Tr. 8-10. The discussions lasted approximately an hour and were successful; the parties were able to resolve/explain the issues raised in the Complaint. Ultimately, the Complainant conceded that the disputed bill was correct as rendered and stated that he no longer wished to file a Complaint against PGW. Tr. 11, 14- 15.

On April 12, 2018, Judge Eranda Vero, the presiding officer, issued her Initial Decision wherein she granted the Complainant's request to withdraw the Complaint.

The Complainant filed exceptions to the Initial Decision on April 19, 2018, but did not serve PGW. On April 19, 2018, the Commission served PGW and stated, in an accompanying letter, that PGW's reply exceptions are due on or before May 19, 2018.

II. PGW'S REPLY

While the Complainant's April 19, 2018 filing is styled as "Exceptions to the Initial Decision," he is not arguing that the Court erred in its Initial Decision. Rather, the Complainant is stating that he is "not satisfied with the outcome or the manner in which 'it' was conducted." The nature of the Complainant's filing determines the analysis and arguments that must be used in crafting a response; because it is unclear whether the instant filing is an Exception to the Initial Decision or a Petition to Reopen, this filing will serve both as PGW's Reply Exception and PGW's Answer to the Petition.

Reply Exception:

The Complainant's exceptions fail to address any error in fact or law contained in the Initial Decision refuting the determination that the Complainant's statement that he no longer wished to prosecute his Complaint against PGW is tantamount to a Petition for Leave to Withdraw his Complaint or that such Petition should have been granted.

The record shows that, after a detailed explanation of the options for proceeding and almost an hour of off-the-record discussions involving both parties and the presiding officer, it was the Complainant's intent to withdraw his Complaint:

THE COURT: Am I clear in understanding that you no longer wish to continue with complaint?

THE WITNESS: Yes, you're clear. I no longer wish to file a complaint.

Tr. 14, Ln. 8-12.

Answer to the Petition:

While 52 Pa. Code § 5.57(a) allows a party to petition to reopen the proceeding any time after the record is closed but before a final decision is issued, the burden is on the petitioner to show grounds for reopening the proceeding, including any changes of fact or law that have occurred since the conclusion of the hearing. Here, the Complainant offers no changes of fact or law, nothing except his feelings of dissatisfaction with the outcome or the manner in which "it" was conducted and, even in this respect, the Petition is lacking. The Complainant gives no indication as to what it is

about the outcome that he finds dissatisfying. At the time of the hearing, the Complainant had a credit on his account, not a past due balance, and he had already made it clear that he did not want PGW to test his meter, which practically eliminated anything the Commission could order as relief. Tr. 8. By the end of the proceedings, the Complainant was satisfied enough with the information he received regarding the accuracy of his billing that he decided he was not going to ask PGW for a replacement meter. Tr. 14, Ln. 6-7.

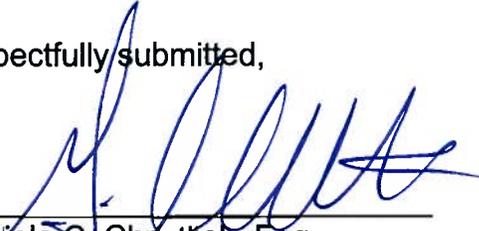
The Complaint is similarly silent on the source of his dissatisfaction with respect to any aspect of the proceedings. Since the outset of this case, the actions taken by the Court as well as PGW have been taken in an effort to resolve the matter to the Complainant's satisfaction; his hearing was moved to a date where his Complaint could be given individualized attention, his request for a continuance was granted without objection, PGW offered to test his equipment, the procedural questions he submitted by e-mail were answered by the Court, and the Court and PGW spent nearly an hour listening to the Complainant's concerns, answering his questions, and explaining how his bill reflects his usage.

The Commission may also reopen the record if there is reason to believe that the public interest requires the reopening of the proceeding. Here, there is no public interest that is served by reopening this record. Everything relating to the accuracy of the Complainant's January 2017 bill is the same as it was on December 8, 2017 when it was explained to him and, if at any time, the Complainant wants his meter tested or replaced, he knows that all he has to do is contact PGW; the company performs these actions for customers at their request without any need for an open matter before the PUC.

III. CONCLUSION

For the reasons stated above, the PGW requests that the Commission deny the Complainant's Exceptions or Deny his Petition and adopt the Initial Decision in this matter as written.

Respectfully submitted,

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

Graciela G. Christlieb, Esq.
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122

May 11, 2018

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:

Mr. Otis Johnson
2530 West Somerset Street
Philadelphia, PA 19132

May 11, 2018


Graciela C. Christlieb, Esq.
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122