



PHILADELPHIA GAS WORKS

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October 18, 2018

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

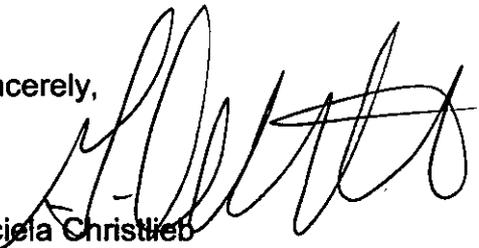
Re: Elchanan and Esther Abergel v. PGW, Docket No. C-2018-3003563

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §5.535, the Philadelphia Gas Works hereby files its Reply to the Complainant's Exceptions to the Initial Decision issued September 25, 2018.

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: Elchanan and Esther Abergel

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OCT 18 2018

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Elchanan and Esther Abergel :
 :
 v. : **Docket No. C-2018-3003563**
 :
 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 Complainants' exceptions to the initial decision issued September 25, 2018, in the above referenced matter.

I. INTRODUCTION

On July 6, 2018, the Complainants, Elchanan and Esther Abergel, filed a complaint with the Pennsylvania Public Utility Commission ("Commission" or "PUC") against PGW. The complaint alleges that there are incorrect charges on their bill. The complaint goes on to state that "There was already a hearing, but after the decision was made by the ALJ, PGW filed an exception but never informed us in mail or phone call so we could not respond." The complaint includes a document prepared by the Complainants. This document outlines the basis of the complaint and asserts that PGW filed exceptions to the decision referenced in the complaint, but had not informed the Complainants that it had done so. The complaint also includes a copy of the Commission's Opinion and Order dated May 22, 2018 at F-2016-2547528.

The Opinion and Order indicates that the Respondent filed exceptions to the initial decision but that no reply exceptions had been filed. The Opinion and Order reversed the initial decision and dismissed the Complainants' complaint at F-2016-2547528.

On August 7, 2018, Graciela Christlieb, Esquire, counsel for PGW, filed an answer to the instant complaint wherein PGW denies that there are incorrect charges on the Complainants' bill and asserts that the Complainants are attempting to relitigate issues and claims that were previously raised and fully resolved in the proceeding at F-2016-2547528.

The answer goes on to state that PGW served a copy of its exceptions to the initial decision at F-2016-2547528 on the Complainants via Federal Express. The Federal Express receipts and tracking information indicate that the exceptions were delivered to the

Complainants. PGW attached copies of the Federal Express receipts and tracking information to the answer. The answer asks the Commission to dismiss the complaint.

Additionally, on August 7, 2018, PGW filed a motion for judgment on the pleadings. The motion for judgment on the pleadings contends that the Commission should dismiss the complaint because it raises the same issues and claims raised in the complaint at F-2016-2547528. The motion for judgment on the pleadings asks the Commission to dismiss the complaint.

The instant case was assigned to Judge David A. Salapa as motion judge. The Complainants did not file an answer to the motion for judgement on the pleadings.

On September 25, 2018, Judge Salapa issued his initial decision in the above captioned matter. The initial decision grants PGW's motion for judgement on the pleadings under the doctrine of res judicata and dismisses the complaint with prejudice.

The Complainants filed exceptions to the initial decision on October 14, 2018. This timely reply follows.

II. PGW'S REPLY

The Complainants' exceptions fail to address any error in fact or law contained in the initial decision refuting the conclusion that the complaint in this case is barred by res judicata because there is identity of issues, identity of causes of action, identity of persons and parties to the action, and identity of the quality and capacity of the parties suing or sued between the proceeding docketed at F-2016-2547528 and the instant complaint.

Exceptions

The Complainant's exceptions are simply a reiteration of the arguments raised in the complaint with the addition of the argument that, while PGW has proof that it sent them a package (on the same day as it filed its exceptions) and that they received it, there is no proof that the package they received from PGW contained a copy of the exceptions.

PGW's Reply

The exceptions fail to demonstrate that the initial decision is unsupported by substantial evidence. The record of this matter clearly indicates that the Complainants received the exceptions filed by PGW at F-2016-2547528, but failed to file reply exceptions just as it shows that they failed to file an answer to PGW's motion for judgement on the pleadings in the instant matter.

In their exceptions, the Complainants acknowledge that they received a package from PGW. The Complainants' argument that PGW sent them a package, which they received, but that did not contain a copy of the exceptions is on par with the specious arguments they made during the proceedings at F-2016-2547528, which ultimately led to the Commission reversing the initial decision on the basis of credibility.

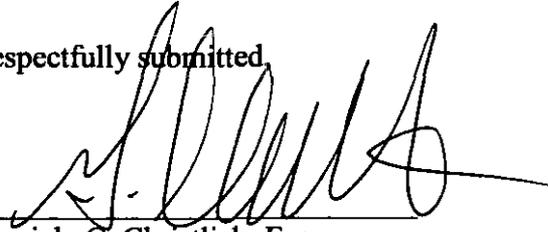
The exceptions rely solely on illogical assertions without any reasoned explanation. The Complainants argue that the package they received from PGW did not contain a copy of the exceptions without saying anything about what the package *did* contain. The Complainants further argue that they are diligent and so invested in the outcome of their case that "it only makes sense" that, had they received a copy of PGW's exceptions, they would have filed a reply. However, the Federal Express packaging slip on the package the Complainants received from PGW lists the sender as Graciela Christlieb; an individual known to the Complainants as the attorney representing PGW in the matter at F-2016-2547528; Ms. Christlieb filed the answer to the complaint and represented PGW at two evidentiary hearings where Elchanan Abergel was present. Also, Ms. Christlieb's name appears as the attorney of record on every Hearing Notice issued by the PUC and every order issued by the presiding officer in that case. Yet, the Complainants fail to explain why, if they received a package from PGW bearing the name and telephone number of the PGW attorney that they know is handling the case and that was mailed to them during the period of time outlined by the Secretarial Letter as the window for filing exceptions, they did not call PGW if there was an issue with the contents of the package.

III. CONCLUSION

For the reasons stated above, the PGW requests that the Commission deny the Complainants' exceptions and adopt the initial decision issued September 25, 2018 as written.

October 18, 2018

Respectfully submitted,

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

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

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OCT 18 2018

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SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

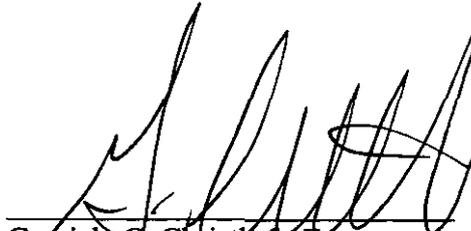
I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A TRUE COPY OF THE FOREGOING DOCUMENT UPON THE PARTICIPANTS LISTED BELOW, IN ACCORDANCE WITH THE REQUIREMENTS OF 52 PA CODE §1.54 (RELATING TO SERVICE BY A PARTICIPANT).

Service List:

For Complainants:

Elchanan and Esther Abergel
1828 Griffith Street.
Philadelphia, PA 19111

October 18, 2018



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

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OCT 18 2018

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

FedEx Package
Express US Airbill

FedEx
Tracking
Number

8137 0801 9353

Form
ID No. 0215

Reshipment's Copy

1 From
Date 10/18/18

Sender's Name
Glucela Christlies Phone 215 684-1104

Company
PHILADELPHIA GAS WORKS

Address
800 W MONTGOMERY AVE

City PHILADELPHIA State PA ZIP 19122-2898

2 Your Internal Billing Reference

3 To
Recipient's Name Rosemary Chavetta Phone 717 787-1399

Company
PUC

Address
400 North Street
We cannot deliver to P.O. boxes or P.O. ZIP codes.

Address
Use this line for the HOLD location address or for combination of your shipping address.

City Harrisburg State PA ZIP 17120

0131658958



8137 0801 9353

4 Express Package Service

* To most locations.

Packages up to 150 lbs.
For packages over 70 lbs., see the
FedEx Express Freight US Airbill.

Next Business Day

FedEx First Overnight
Earliest next business morning delivery to select locations. Friday shipments will be delivered on Monday unless Saturday Delivery is selected.

FedEx Priority Overnight
Next business morning.* Friday shipments will be delivered on Monday unless Saturday Delivery is selected.

FedEx Standard Overnight
Next business afternoon.* Saturday Delivery NOT available.

2 or 3 Business Days

FedEx 2Day A.M.
Second business morning.* Saturday Delivery NOT available.

FedEx 2Day
Second business afternoon.* Thursday shipments will be delivered on Monday unless Saturday Delivery is selected.

FedEx Express Saver
Third business day.* Saturday Delivery NOT available.

5 Packaging * Declared value limit \$200.

FedEx Envelope* FedEx Pak* FedEx Box FedEx Tube Other

6 Special Handling and Delivery Signature Options Fees may apply. See the FedEx Service Guide.

Saturday Delivery
NOT available for FedEx Standard Overnight, FedEx 2Day A.M., or FedEx Express Saver.

No Signature Required
Package may be left without obtaining a signature for delivery.

Direct Signature
Someone at recipient's address may sign for delivery.

Indirect Signature
If no one is available at recipient's address, someone at a neighboring address may sign for delivery. For residential deliveries only.

Does this shipment contain dangerous goods?

One box must be checked.

No Yes As per attached Shipper's Declaration. Yes Shipper's Declaration not required.

Dry Ice Dry Ice, UN 1845 x kg

Restrictions apply for dangerous goods — see the current FedEx Service Guide.

Cargo Aircraft Only

7 Payment Bill to:

Enter FedEx Acct. No. or Credit Card No. below.

Obtain recip. Acct. No.

Sender Acct. No. in Section 1 will be billed. Recipient Third Party Credit Card Cash/Check

Total Packages Total Weight

Credit Card Auth.

Your liability is limited to US\$100 unless you declare a higher value. See the current FedEx Service Guide for details.



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