



PHILADELPHIA GAS WORKS

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December 14, 2018

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

Re: Janette Lee Curry v. PGW, Docket No. C-2018-3000610

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code § 5.572(e) as well as the Secretary's letter dated December 4, 2018, the Philadelphia Gas Works, (PGW) hereby files its Answer to the Complainants' Petition for Rescission in the above referenced case.

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: Janette Lee Curry

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Janette Lee Curry	:	
	:	
v.	:	Docket No. C-2018-3000610
	:	
Philadelphia Gas Works	:	

**PHILADELPHIA GAS WORKS' ANSWER
TO COMPLAINANT'S PETITION FOR RESCISSION**

Pursuant to 52 Pa. Code § 5.572(e) as well as the Secretary's letter dated December 4, 2018, the Philadelphia Gas Works, (PGW) hereby files its Answer to the Complainants' Petition for Rescission in the above referenced case.

I. INTRODUCTION

On March 20, 2018, the Complainant filed a Complaint with the Pennsylvania Public Utility Commission (Commission) against PGW alleging the following:

- (1) That PGW has threatened to terminate gas service;
- (2) That there are incorrect charges on her bill;
- (3) That she has not received copies of her bill for eight months and does not know the accounting for her gas service;
- (4) That she requests a payment arrangement and acknowledged that PGW offered a payment arrangement, but she was unable to keep the terms;
- (5) That she believes there is an agreement concerning her gas service account that she was not made aware of.

On April 11, 2018, Counsel for PGW filed an Answer admitting that PGW had sent a termination notice to 5906 Old York Road, Philadelphia, PA, (Service Address) and denying the rest of the material allegations in the Complaint. Also in its Answer, PGW averred it had no record that the Complainant disputed receiving her bill for the last eight months and stated that the Commission's Bureau of Consumer Services (BCS) concluded in an informal complaint at Case No. 3578171 that the Complainant was in default of a Commission-issued payment arrangement.

The Complainant was present and participated in an initial evidentiary hearing before Judge Angela T. Jones on May 22, 2018 as well as a subsequent evidentiary hearing before Judge Jones on July 11, 2018.

On September 28, 2018, Judge Jones issued her Initial Decision in this matter wherein she found that the Complainant had failed to sustain her burden of proving that PGW had billed her incorrectly or that she was unaware of the payment arrangement she had entered into with PGW. Judge Jones further found that the Complainant is not eligible for a Commission-issued payment arrangement. The Initial Decision denied the Complaint in its entirety.

The Commission issued its Final Order in this matter on November 6, 2018.

On December 4, 2018, the Secretary of the Commission served PGW with the instant Petition for Rescission. This timely Answer follows.

II. ANSWER

A petition to amend or rescind a final Commission order is wholly within the Commission's discretion. Because the granting of such a petition results in the disturbance of final orders, they should be granted judiciously and only under appropriate circumstances, such as where special relief is warranted. *City of Pittsburgh v. Pennsylvania Department of Transportation*, 490 Pa. 264, 416 A.2d 461 (1980); *West Penn Power Co. v. Pa. P.U.C.*, 659 A.2d 1055 (Pa. Cmwlth. 1995) (*West Penn Power*); *Feleccia v. PPL Electric Utilities Corp.*, Docket No. C-20016210 (Order entered March 7, 2003) (*Feleccia*). Additionally, the Commission has long recognized that “[p]arties ..., cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them[.]” *Duick v. Pennsylvania Gas and Water Company*, 56 Pa. P.U.C. 553, 559 (Order entered December 17, 1982) (*Duick*), quoting *Pennsylvania Railroad Co. v. Pennsylvania Public Service Commission*, 179 A. 850, 854 (Pa. Super. 1935).

“To establish a proper basis for rescission, a petitioner must first establish the existence of newly discovered evidence, a substantial change in circumstances, or an error of fact or law.” (*Feleccia*) at 2, citing *Duick* at 559. Upon the filing of a petition for rescission, the Commission must review the petition to determine whether “under the totality of the circumstances, we

should exercise our discretionary authority to rescind.” *Feleccia* at 2. As a matter soundly within the Commission’s discretion, a decision to deny such a petition will only be overturned where a reviewing court finds an abuse of discretion “where the agency’s decision demonstrates evidence of bad faith, fraud, capricious action or abuse of power.” *West Penn Power*, 659 A. 2d at 1065.

The instant Petition fails to establish a proper basis for rescission. The Complainant has not established the existence of newly discovered evidence, a substantial change in circumstances, or an error of fact or law. Instead, the Complainant is attempting to raise the same questions which were specifically considered and decided against her. The Complainant’s eligibility for a Commission-issued payment arrangement was addressed in the Initial Decision and her income does not factor into the analysis. That the Complainant sold the property she used as a mailing address (5906 Old York Road, Philadelphia, PA) for her account at the Service Address between 2015 and 2016 is already part of the record.¹ Moreover the date that the Complainant sold the property at 5906 Old York Road is irrelevant as she forwarded her mail to her new address (a post office box) through the United States Post Office,² failed to inform PGW of her new address until April of 2018,³ and only stopped receiving her PGW bills eight (8) months before filing her Complaint in this case. Also, the Complainant testified under oath that she had received the letter contained in PGW Exhibit 4 in 2016, which is in direct contravention to her assertion in the instant Petition.⁴ Not only do the Complainant’s assertions fail to establish a proper basis for rescission, they fail as Exceptions to the Initial Decision (how the Complainant refers to her filing) as they fail to address any error in fact or law contained in the Initial Decision refuting the conclusions that she failed to sustain his burden of proving that she was entitled to a payment arrangement from the commission or that she was unaware of a payment arrangement between her and PGW.

¹ Tr. 18 & 31.

² Tr. 18-19 & 50.

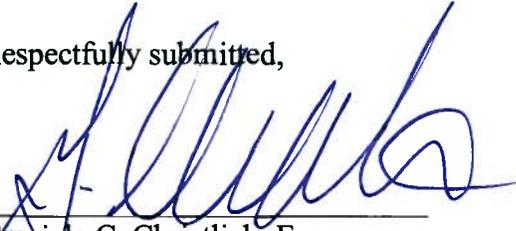
³ Tr. 24-25 & 34.

⁴ Tr. 48-49.

III. CONCLUSION

For the reasons stated above, the PGW requests that the Commission deny the Complainants' Petition for Rescission and leave the Final Order in this matter undisturbed.

Respectfully submitted,

A handwritten signature in blue 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

December 14, 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 Complainants:

Janette Lee Curry
P.O. Box 12364
Philadelphia, PA 19119

December 14, 2018



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