



PHILADELPHIA GAS WORKS

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January 28, 2019

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

Re: Loretta M. Ferguson v. PGW, Docket No. C-2017-2591174

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code § 5.572(e) as well as the Secretary's letter dated January 17, 2019, the Philadelphia Gas Works hereby files its Answer to the Complainant's 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: Loretta M. Ferguson

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Loretta M. Ferguson	:	
	:	
v.	:	Docket No. C-2017-2591174
	:	
Philadelphia Gas Works	:	

**ANSWER OF THE PHILADELPHIA GAS WORKS
TO COMPLAINANT’S PETITION FOR RESCISSION**

Pursuant to 52 Pa. Code § 5.572(e) as well as the Secretary’s letter dated January 17, 2019, the Philadelphia Gas Works, (“PGW”) hereby files its Answer to the Complainant’s Petition for Rescission in the above referenced case.

I. INTRODUCTION

On February 21, 2017, the Complainant filed a Complaint with the Pennsylvania Public Utility Commission (“Commission”) against PGW alleging that there are incorrect charges on her bill for the property at 257 S. 60th Street, Philadelphia, PA (“Service Address”).

On March 21, 2017, PGW filed an Answer denying all material allegations in the Complaint and stating that the balance on the Complainant’s bill is the result of a transfer made from a tenant account after PGW’s discovery of foreign load at the Service Address

The evidentiary hearing in this matter convened, as scheduled, on May 9, 2017 before Administrative Law Judge Darlene D. Heep. The Complainant appeared *pro se*; she testified in support of the Complaint and submitted ten (10) exhibits. PGW appeared and was represented by counsel, who proffered the testimony of one witness and submitted five (5) exhibits. All exhibits were made part of the record.

On October 2, 2017, Judge Heep issued her Initial Decision in this matter wherein she found that that there was foreign load for a portion of the time period in question and that Complainant is responsible for the charges through March of 2016.

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

On October 12, 2017, the Complainant filed Exceptions to the Initial Decision and PGW filed Reply Exceptions on November 2, 2017.

On June 14, 2018, the Commission issued its Opinion and Order in this case wherein it denied the Complainant’s Exceptions and modified the Initial Decision to reflect that the

Complainant is responsible for the foreign load charges accrued at the Service Address for the period from October 2015 through and until September 2016.

On January 17, 2019, 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.

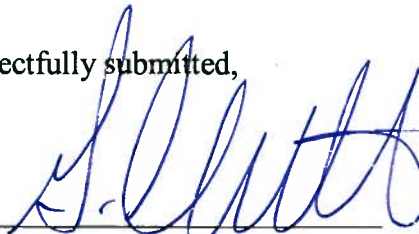
The instant Petition fails to establish a proper basis for rescission. The Complainant has not established the existence of newly discovered evidence, a substantial change in

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 instant Petition is simply a reiteration of the arguments raised by the Complainant at the evidentiary hearing and again in her Exceptions to the Initial Decision. The Complainant has failed to present any circumstances that would support the Commission disturbing its Opinion and Order in this matter.

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,



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

January 28, 2019

CERTIFICATE OF SERVICE

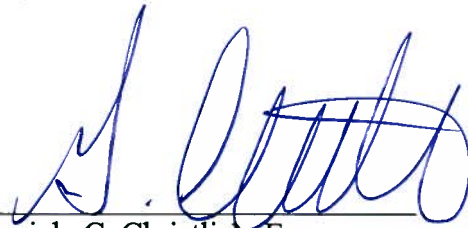
I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A TRUE COPY OF THE FOREGOING DOCUMENT UPON THE PARTICIPANTS LISTED BELOW, IN ACCORDANCE WITH THE REQUIREMENTS OF 52 PA CODE §1.54 (RELATING TO SERVICE BY A PARTICIPANT).

Service List:

For Complainants:

Loretta Ferguson
5240 Irving Street
Philadelphia, PA 19139

January 28, 2019



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