



PHILADELPHIA GAS WORKS

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February 7, 2019

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

Re: Titus Wright v. PGW, Docket No. F – 2019 – 3007120

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §§ 5.61 and 5.101, the Philadelphia Gas Works (“PGW”) hereby files the original Preliminary Objections to the Complaint 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: Titus Wright
Wendy Vacca

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Titus Wright

:

v.

Philadelphia Gas Works

:
:
:
:

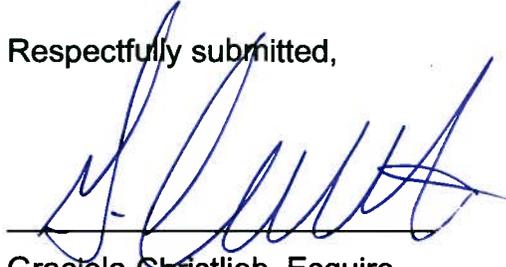
Docket No. F-2019-3007120

NOTICE TO PLEAD

To: Titus Wright, Complainant

Pursuant to 52 Pa. Code §5.101, you are hereby notified to file a written response to the enclosed Preliminary Objections and Motion to Strike, within ten (10) days from service hereof or you may be deemed to be in default and relevant facts stated in these pleadings may be deemed admitted and a judgment may be entered against you.

Respectfully submitted,



February 7, 2019

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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Titus Wright	:		
		⋮	
v.		⋮	Docket No. F-2019-3007120
		⋮	
Philadelphia Gas Works		⋮	

**PRELIMINARY OBJECTIONS
AND MOTION TO STRIKE**

Pursuant to 52 Pa. Code §5.101, the Philadelphia Gas Works (“PGW”) hereby files its Preliminary Objections to the Complaint in the above captioned case on the grounds that the Commission lacks jurisdiction over the subject matter of the Complaint as well as the grounds that the Complaint seeks to litigate issues that have been previously raised and resolved through an unobjected to Certificate of Satisfaction at Docket Nos. F-2010-2192191 and C-2011-2225996.

In support of its Preliminary Objections and Motion to Strike, PGW hereby avers the following:

1. On August 4, 2010, the Complainant filed a Formal Complainant against PGW with the Commission at Docket No. C-2010-2192191 wherein he alleged that there are incorrect charges on his bills for gas service to 1137 Pratt Street, Philadelphia, Pennsylvania.
2. On February 11, 2011, the Complainant filed a Formal Complainant against PGW with the Commission at Docket No. C-2011-2225996 wherein he again alleged that there are incorrect charges on his bills for gas service to 1137 Pratt Street, Philadelphia, Pennsylvania.
3. On June 10, 2011, the Complainant initiated gas service at 907 Bridge Street, Philadelphia, PA (“Service Address”) under his name.

4. On September 29, 2011, PGW filed a Certificate of Satisfaction for Docket Nos. C-2010-2192191 and C-2011-2225996, indicating that both cases were settled.

5. The Complainant did not file an objection to the Certificate of Satisfaction.

6. On June 7, 2013 the Complainant filed a Formal Complainant against PGW with the Commission at Docket No. C-2013-2368462 wherein he again disputed his PGW bills from 2010 and 2011.

7. On October 23, 2014, the Commission issued its Opinion and Order in the case at Docket No. C-2013-2368462 wherein it dismissed his complaint, with prejudice, as the issues raised were previously resolved through an unobjected to Certificate of Satisfaction at Docket Nos. C-2010-2192191 and C-2011-2225996.

8. In October of 2011, PGW completed work inside the basement of the Service Address, which is the basis of the Complainant's damage allegation.

9. Under the Commission's Rules of Administrative Practice and Procedure at 52 Pa. Code §5.101, the treatment of preliminary objections is comparable to that of Pennsylvania civil practice.¹

52 Pa. Code §5.101 provides, in relevant part:

(a) *Grounds.* Preliminary objections are available to parties and may be filed in response to a pleading except motions and prior preliminary objections. Preliminary objections...must state specifically the legal and factual grounds relied upon and be limited to the following:

(1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.

10. The statute of limitations at 66 Pa.C.S. § 3314 provides that no action for recovery of penalties or forfeitures, or any prosecution, may be maintained unless brought within three years from the date the liability arose.

¹ Order Sustaining Preliminary Objection in *Paul W. Fricker v. PECO Energy Company*, Docket No. C-2009-2094757 (2009).

11. The statute of limitations at 66 Pa.C.S. § 3314 divests the Commission of jurisdiction to hear an action brought more than three years from the date the liability arose.

12. The Complainant has lost his right to pursue litigation regarding his bills for gas service from 2010 and 2011 as well as the work PGW completed in the basement of the Service Address in 2011 as any cause of action falls outside the statute of limitations.

13. As the Commission is without jurisdiction to decide on matters falling outside of the statute of limitations or to issue any relief in the form of damages, the Complainant's requested relief is "impertinent matter" within the use and meaning of 52 Pa. Code §5.101(a) (2) and should be stricken from the Complaint.

Wherefore, PGW respectfully requests that this Commission sustain PGW's Preliminary Objections, grant PGW's Motion to Strike, and dismiss the Complaint.

Respectfully submitted,



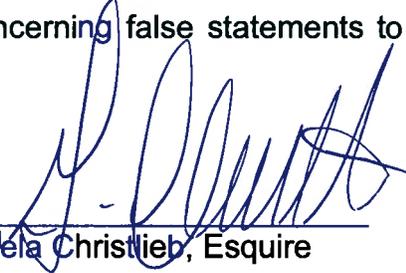
Graciela Christlieb, Esquire
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122

February 7, 2019

VERIFICATION

I, Graciela Christlieb, hereby declare that I am counsel for the Philadelphia Gas Works. I am authorized to make this verification on its behalf. The facts set forth in the foregoing Preliminary Objections and Motion to Strike are true and correct to the best of my knowledge, information, and belief. I expect to be able to prove these facts at a hearing held in this matter. This verification is made subject to the penalties of 18 Pa. C.S. §4904, concerning false statements to authorities.

February 7, 2019



Graciela Christlieb, Esquire

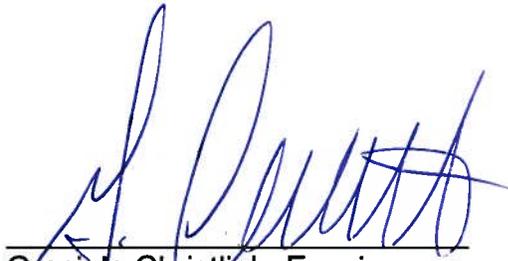
CERTIFICATE OF SERVICE

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).

For Complainant:

Titus Wright
907 Bridge Street
Philadelphia, PA 19124

February 7, 2019



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