



PHILADELPHIA GAS WORKS

800 West Montgomery Avenue • Philadelphia, PA 19122

Danielle Ross, Paralegal
Legal Department
Direct Dial: 215-684-6862
FAX: 215-684-6798
E-mail: danielle.ross@pgworks.com

March 19, 2019

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

Re: Petition for Interim Emergency Order, Tomisha Palmer v. Philadelphia Gas Works, Docket No. F – 2018 – 3006197

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §3.6(c), the Philadelphia Gas Works ("PGW") hereby files its Answer to the Petition for Interim Emergency Order 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,


Danielle Leva

Enclosure

cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tomisha Palmer	:	
Complainant	:	
v.	:	Docket No. F-2018-3006197
	:	
Philadelphia Gas Works	:	
Respondent	:	

**PHILADELPHIA GAS WORKS' ANSWER TO
PETITION FOR INTERIM EMERGENCY ORDER**

Philadelphia Gas Works (“PGW”) is the Respondent in the underlying matter at Docket No. F-2018-3006197 as well as the Respondent to the instant Petition and as such has standing to participate in any Commission proceeding resulting from the Petition. PGW hereby responds¹ to the Petition for Interim Emergency Order as follows:

1. To obtain interim emergency relief, a petitioner is required, in the petition, to present “facts which establish[] the existence of the need for interim emergency relief”. 52 Pa. Code § 3.6(b).

2. Petitioner cannot establish that there is an emergency that merits relief. An “emergency” is defined as “a situation which presents a clear and present danger to life or property or which is uncontested and requires action prior to the next scheduled public meeting.” 52 Pa. Code § 3.1.

3. The Petition forsakes any attempt at providing a justification for interim emergency relief by failing to even allege that there is an imminent threat to life or property involved in this request. Instead, the Petition presents what amounts to a collateral attack on PGW’s requirement that the Petitioner pay the portion of her balance attributable to theft as a precondition of providing gas service.

4. Apart from requiring a petition to be supported by a verified statement of facts

¹ PGW notes that it is not required to respond to each and every allegation of the Petition, but instead is required to “advise the parties and the Commission of the parties’ position on the issues raised in the petition.” *Compare* 52 Pa. Code § 5.61(e) (answers to Petitions) *with* 52 Pa. Code § 5.61(b)(3) (answers to Complaints, requiring the answer to “admit or deny specifically all material allegations of the complaint.”).

that establishes the existence of the need for emergency relief, 52 Pa. Code § 3.6 requires that the petition include verified facts to support the following:

- (1) The Petitioner's right to relief is clear;
- (2) The need for relief is immediate;
- (3) The injury would be irreparable if relief is not granted; and
- (4) The relief requested is not injurious to the public interest.

5. The Commission may grant interim emergency relief only when all of the four above cited elements exist. The Petition fails to provide verified facts to support any of the four elements and PGW submits that Petitioner is unable to establish that any of them exist.

6. Petitioner cannot establish that her right to relief is clear, as her underlying claim does not raise substantial legal questions. Rather, the Petitioner raises typical questions that are raised by any individual whose gas service was terminated due to theft.

7. Petitioner cannot establish that the need for relief is immediate. Petitioner has been at her current address without gas service since August of 2018.

8. Petitioner cannot establish that her injury would be irreparable if relief is not granted. The Petition makes only a vague reference to “loses” that Petitioner “will not be able to recover later” without verified facts to support or even explain the allegation.

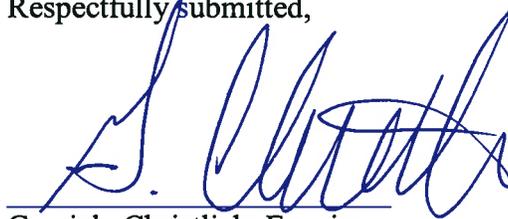
9. Petitioner cannot establish that her requested relief is not injurious to the public interest; mainly because it is injurious to the public interest. The public has a vested interest in being safe and secure in their homes and property, in the avoidance of catastrophic incidents that result in death or serious bodily injury to themselves and others, and in curbing the costs to be borne by all utility ratepayers due to the wrongdoing of others. Granting Petitioner relief would run counter to those interests.

10. Petitioner’s suggestion that PGW would not be harmed if it simply imposed a municipal lien on the property at 4244 N. Hicks Street (which is not owned by the Petitioner), overreaches for several reasons. The Commission has repeatedly recognized its lack of subject jurisdiction in cases involving the imposition and subsequent administration of a municipal lien. While PGW may be able to impose a municipal lien against a property, that in no way acts as a bar, or even as a substitution for, requesting payment of monies owed by a customer. Indeed, it is noteworthy that 66 Pa. C.S. § 1414 expressly grants a city natural gas distribution operation the right to refuse to provide service to an applicant even if the

applicant has a pending lien or civil judgment against property he owns, unless the applicant makes arrangements to pay the amount associated with the lien or judgment that remains outstanding at the time of the application. The fact that PGW has the ability to secure sums outstanding by imposing municipal liens against a property for unpaid gas bills is irrelevant, not a matter within the jurisdiction of the Commission, and cannot form a basis for establishing that emergency relief is merited.²

WHEREFORE, Respondent PGW respectfully requests that Petitioner's Petition for Interim Emergency Relief be denied.

Respectfully submitted,



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

March 19, 2019

² The property at 4244 N. Hicks Street is registered under PGW's Landlord Cooperation Program, which prevents PGW from imposing a municipal lien on the property for outstanding balances accrued by tenants while residing in the property.

**BEFORE THE
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Tomisha Palmer	:	
Complainant	:	
v.	:	Docket No. F-2018-3006197
	:	
Philadelphia Gas Works	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Answer to Complainant's Petition for Interim Emergency Relief in accordance with the requirements of 52 Pa.Code § 1.55 (relating to service on attorneys) as well as 52 Pa.Code § 3.6(a) (relating to service of a petition for interim emergency order), in the manner and upon the persons listed below:

By electronic and first-class mail as indicated:

Chief Administrative Law Judge Charles E. Rainey, Jr.
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

Josie B. H. Pickens, Esq.
Community Legal Services of Philadelphia
1410 West Erie Avenue
Philadelphia, PA 19140
jpickens@clsphila.org

Lydia Gottesfeld, Esq.
Community Legal Services of Philadelphia
1410 West Erie Avenue
Philadelphia, PA 19140
lgottesfeld@clsphila.org

Administrative Law Judge Christopher P. Pell
Pennsylvania Public Utility Commission
801 Market Street
Suite 4063
Philadelphia, PA 19107
cpell@phila.gov

Dated this 19th day of March, 2019,



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