



**PHILADELPHIA GAS WORKS**

800 West Montgomery Avenue • Philadelphia, PA 19122

Danielle Leva, Paralegal  
Legal Department  
Direct Dial: 215-684-6862  
FAX: 215-684-6798  
E-mail: [danielle.leva@pgworks.com](mailto:danielle.leva@pgworks.com)

October 9, 2019

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

**Re: Debra Lindler v. PGW, Docket No. C – 2019 – 3012938**

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: Debra Lindler  
Wendy Vacca

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Debra Lindler

:

v.

:  
:  
:  
:

Docket No. C-2019-3012938

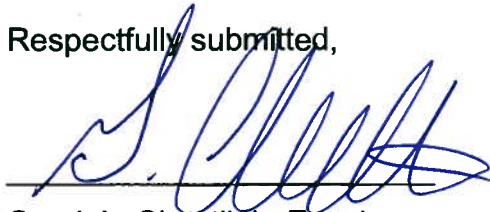
Philadelphia Gas Works

NOTICE TO PLEAD

To: Debra Lindler, Complainant

Pursuant to 52 Pa. Code §5.101, you are hereby notified to file a written response to the enclosed Preliminary Objection 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,



October 9, 2019

Graciela Christlieb, Esquire  
Philadelphia Gas Works  
800 W. Montgomery Avenue  
Philadelphia, PA 19122  
(215) 684-6164

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Debra Lindler**

**v.**

**Philadelphia Gas Works**

:  
:  
:  
:  
:

**Docket No. C-2019-3012938**

**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 filed in the above captioned matter on the grounds that the Commission is without jurisdiction to grant the Complainant's request for compensation for damages as the form of relief. The Complaint includes impertinent matter in its requested relief and PGW moves to strike such matter pursuant to 52 Pa. Code §§ 5.101(a)(1) & (2).

In support of its preliminary objections and motion to strike, PGW hereby avers the following:

1. On or about September 9, 2019, the Complainant filed the instant Formal Complaint against PGW with the Commission, regarding flooding at the Complainant's home located at 1344 S. Newkirk Street, Philadelphia, PA (Service Address).

2. The Complainant avers that work done by PGW to the gas main in the area of the Service Address caused flooding.

3. The Complaint asks that PGW pay for damages.

4. Pursuant to 52 Pa. Code §5.101, PGW objects to the Complaint on the grounds that the Commission is without authorization to grant the Complainant's request for compensation for damages. PGW therefore moves to strike the Complainant's request for compensation as "impertinent matter" pursuant to 52 Pa. Code §§5.101(a)(1) & (2).

5. 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. (See: Order Sustaining

Preliminary Objection in *Paul W. Fricker v. PECO Energy Company*, Docket No. C-2009-2094757 (May 21, 2009).)

6. The Commission's regulations provide, 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.

(2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.

52 Pa. Code §5.101(a)(1) & (2).

7. In the instant matter, the Complainant is asking that the Commission order PGW to pay for damages.

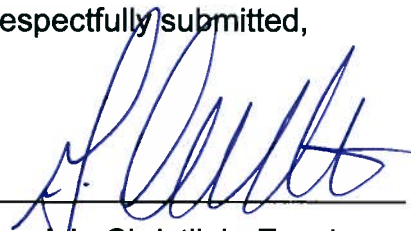
8. Pennsylvania appellate courts have repeatedly held that the Commission is without power to award monetary damages to a private litigant. *Feingold v. Bell of Pennsylvania*, 383 A.2d 791 (1977); *West Penn Power Co. v. Pa. Public Utility Commission*, 479 A.2d 548 (1984).

9. A prayer for relief in the form of monetary compensation for damages is not recoverable in the cause of action before this Commission as the Commission is without jurisdiction to award compensation for damages.

10. The request for relief is irrelevant to the instant cause of action and therefore "impertinent matter" within the use and meaning of 52 Pa. Code §5.101(a)(2).

**Wherefore**, PGW respectfully requests that this Commission sustain PGW's Preliminary Objections and strike the Complainant's request for compensation for damages from the Complaint.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'G. Christlieb', is written over a horizontal line.


October 9, 2019

Graciela Christlieb, Esquire  
Philadelphia Gas Works  
800 W. Montgomery Avenue  
Philadelphia, PA 19122  
(215) 684-6164

**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.

October 9, 2019

  
\_\_\_\_\_  
Graciela Christlieb, Esquire

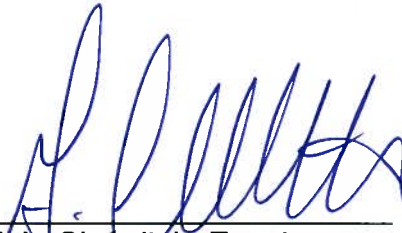
**CERTIFICATE OF SERVICE**

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:

Mr. Debra Lindler  
1344 South Newkirk Street  
Philadelphia, PA 19146

October 9, 2019

  
\_\_\_\_\_  
Graciela Christlieb, Esquire  
Philadelphia Gas Works  
800 W. Montgomery Avenue  
Philadelphia, PA 19122  
(215) 684-6164