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November 20, 2019

Via Electronic Filing

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

Re: Dwayne Ackie, Miguel J. Chavarria, Jr., Maurice A. Goodwin and Wayne Rauceo v.
Philadelphia Gas Works, Docket No. C-2019-3013933

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Philadelphia Gas Works' ("PGW") Preliminary Objections with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Kristine E. Marsilio

KEM/lww
Enclosure

cc: Cert. of Service w/enc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Dwayne Ackie, Miguel J. Chavarria, Jr.,	:	
Maurice A. Goodwin and Wayne Rauceo,	:	Docket No. C-2019-3013933
Complainants	:	
	:	
v.	:	
	:	
Philadelphia Gas Works,	:	
Respondent	:	

NOTICE TO PLEAD

**TO: Karin M. Gunter, Esquire
Law Office of Karin M. Gunter
85 Old Cedarbrook Road
Wyncote, PA 1905**

Pursuant to 52 Pa. Code § 5.101, you are hereby notified that an Answer to the enclosed Preliminary Objections of Philadelphia Gas Works ("PGW") must be filed within 10 days of the date of service of the Preliminary Objections.

All pleadings, such as an Answer to Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served to counsel for PGW and the Administrative Law Judge, if any, presiding over this proceeding.


File with:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

With copies to:

Dan Clearfield, Esquire
Kristine E. Marsilio, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101

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



Kristine E. Marsilio, Esquire
Attorneys for
Philadelphia Gas Works

Date: November 20, 2019

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Maurice A. Goodwin and Wayne Rauceo,	:	Docket No. C-2019-3013933
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	:	
v.	:	
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Philadelphia Gas Works,	:	
Respondent	:	

**PRELIMINARY OBJECTIONS
OF PHILADELPHIA GAS WORKS**

Pursuant to 52 Pa. Code § 5.101, Philadelphia Gas Works (“PGW”) submits the following Preliminary Objections to the Complaint of Dwayne Ackie, Miguel J. Chavarria, Jr., Maurice A. Goodwin and Wayne Rauceo, (collectively, “Complainants”), seeking dismissal of the Complaint. Pursuant to 52 Pa. Code § 5.61, PGW is also filing an Answer to the Complaint. In support of these Preliminary Objections, PGW states as follows:

I. INTRODUCTION

1. Complainants filed a Formal Complaint against the PGW with the Pennsylvania Public Utility Commission (“Commission”), which was served on PGW on October 31, 2019. In their Complaint, Complainants allege that PGW has engaged in safety violations and employment discrimination. Complaint at 1.

2. Specifically, Complainants allege several specific instances of safety violations at the Passyunk Gas Processing Plant, including:

- During the past winter vaporization season, PGW employees manipulated the readings of a temperature indicator.
- One of PGW’s liquid natural gas tanks has structural cracks, and PGW decided to weld the cracks instead of providing “structurally sound repairs.”

- A PGW Operation Supervisor left the plant during his shift without telling anyone and took a Company radio with him.
- A PGW employee left the property in a company vehicle without proper notification and was involved in a car accident.
- PGW's Passyunk Plant General Manager entered the Plant without using his employee ID. Once inside, he used a Company vehicle to enter a Central Control room.
- On one particular occasion, the Passyunk plant was left without two vital employees during essential operations.
- On another occasion, PGW employees engaged in "job abandonment, thief [sic] of time and other work related offenses" when one employee left the Plant before the relieving foreman was present and another employee clocked the relieving foreman in as being present on time.
- On one occasion, PGW employees failed to report an automobile accident within the Passyunk Plant.
- On one occasion, a faulty override valve caused the release of natural gas at the Passyunk Plant.

Complaint at ¶¶ 7-14, 16.

3. The Complaint also describes instances where PGW promoted two employees who allegedly did not meet certain job requirements. The Complaint make a general allegation that "more qualified and experienced racially protected class members are not provided equal promotion opportunities." Complaint at ¶ 17.

4. Complainants seek: (a) enforcement of gas safety standards and correction of violations; (b) removal of management personnel and enforcement of fair and unbiased management promotions; and (c) enforcement actions against PGW management for failure to follow protocols. Complaint at ¶ 19.

5. As PGW's Answer attests, the material aspects of these various allegations are either entirely false, or do not constitute instances of unsafe or inadequate service. However, PGW

does not believe that these allegations should be considered by the Commission in the context of this complaint because: (1) the Complainants lack standing to bring the subject Complaint; (2) the Complaint is legally insufficient in that it fails to state a claim upon which relief can be granted; and (5) the Commission lacks jurisdiction over the safety violation and employment discrimination allegations in the Complaint.

6. PGW is filing these Preliminary Objections in an effort to secure the just, speedy and inexpensive dismissal of the Complaint so as not to burden PGW's ratepayers with unnecessary costs of defending what is a completely inappropriate and deficient pleading.

II. ARGUMENT

A. Applicable Legal Standards

7. The Commission's Rules of Administrative Practice and Procedure permit the filing of preliminary objections. 52 Pa. Code § 5.101(a)(1)-(7).

8. Under Section 5.101(a) of the Commission's regulations, 52 Pa. Code § 5.101(a)(1)-(7), preliminary objections must specifically state 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;
- (3) Insufficient specificity of a pleading;
- (4) Legal insufficiency of a pleading;
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action;
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution; and
- (7) Standing of a party to participate in the proceeding.

9. The moving party may not rely on its own factual assertions but must accept for the purposes of disposition of the preliminary objection all well-pleaded, material facts of the other party, as well as every inference fairly deducible from those facts. *County of Allegheny v. Cmwlt. of Pa.*, 490 A.2d 402 (Pa. 1985). However, the Commission need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations or expressions of opinion. *Stanton-Negley Drug Co. v. Dep't of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlt. 2007).

10. In deciding the preliminary objections, the Commission must determine whether, based on the well-pleaded factual averments of the party, recovery or relief is possible. *Department of Auditor General, et al. v. SERS, et al.*, 836 A.2d 1053, 1064 (Pa. Cmwlt. 2003); *P.J.S. v. Pa. State Ethics Commission*, 669 A.2d 1105 (Pa. Cmwlt. 1996).

B. Dismissal Based on Lack of Commission Jurisdiction, 52 Pa. Code § 5.101(a)(1).

11. Section 5.101(a)(1) of the Commission's regulations permits the filing of a preliminary objection based on a lack of Commission jurisdiction. 52 Pa. Code § 5.101(a)(1).

12. To act on the Complaint, the Commission must have jurisdiction. 52 Pa. Code § 5.101(a)(1). The Commission, as a creation of the General Assembly, has only the powers and authority granted to it by the General Assembly contained in the Public Utility Code. *Tod and Lisa Shedlosky v. Pennsylvania Electric Co.*, Docket No. C-20066937, Opinion and Order (May 28, 2008); *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977). The Commission must act within, and cannot exceed, its jurisdiction. *City of Pittsburgh v. PUC*, 43 A.2d 348 (Pa.Super. 1945). Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967). Subject matter jurisdiction is a prerequisite to the exercise of power to decide a controversy. *Hughes v. Pennsylvania State Police*, 619 A.2d 390 (Pa.Cmwlt. 1992), appeal denied, 637 A.2d 293 (Pa. 1993). In determining where jurisdiction properly lies, it is

appropriate to look to the essence of the underlying claims, rather than to magic words. *DeFrancesco v. Western Pennsylvania Water Co.*, 453 A.2d 597, 597 n. 5 (1982).

1. Alleged Employment Discrimination

13. Here, Complainants allege (and PGW denies) that PGW has engaged in “persistent, insidious race, color and/or national origin discrimination of brown/black employees.” Complaint at 1.

14. It is well-settled that the Commission does not have jurisdiction over employment discrimination actions. *N.A.A.C.P. v. PA PUC*, 290 A.2d 704 (1972) (The Public Utility Commission has no power to regulate a public utility's employment practices since such power is conferred upon the Human Relations Commission.); *see also* 43 P.S. §§ 951 *et seq.*¹

15. As such, the Complaint should be dismissed on the grounds that the Commission lacks jurisdiction over employment discrimination actions.

2. Alleged Safety Violations

16. Complainants also make a number of materially false allegations related to “safety” issues at PGW’s Passyunk Plant. Complaint at ¶¶ 7-14, 16. The Commission can only determine whether Complainants’ conduct violated the Public Utility Code or Commission regulations or Orders. *See* 66 Pa.C.S. § 701. To allege a violation of the Public Utility Code, or a Commission regulation or Order, a Complainant must allege an issue with the utility’s rates or public utility services. *See* 66 Pa.C.S. § 1505(a).

17. Here, Complainants have not alleged that they are customers of PGW. Complainants are not alleging an issue with their utility rates or the public utility services being

¹ Pennsylvania’s Human Relations Act makes it unlawful for employers to discriminate on the basis of race, color, religious creed, ancestry, age, sex, national origin or non-job related handicap or disability. 43 P.S. § 955. Pennsylvania’s Human Relations Commission, and not the Commission, has the exclusive authority to enforce the General Safety Laws. 43 P.S. §§ 956, 960.

provided by PGW. Complainants have failed to allege a violation of the Pennsylvania Public Utility Code, the Commission's regulations, or a Commission Order. Rather, the essence of Complainants' safety violation allegations amount, *at best*, to violations of Pennsylvania's General Safety Law, 43 P.S. §§ 25-1 – 25-15.² Pennsylvania's Department of Labor and Industry, and not the Commission, has the exclusive authority to enforce the General Safety Laws.³ 43 P.S. § 25-13.

18. Further, the Commission lacks jurisdiction over the Formal Complaint to the extent it raises allegations that are time-barred by the three-year statute of limitations set forth in the Public Utility Code. *See* 66 Pa.C.S. § 1312. For example, Paragraphs 14 and 16 of the Formal Complaint contain allegations pertaining to actions that allegedly occurred in the summer of and in March of 2016, respectively. These allegations are clearly time-barred by Section 1312 and, consequently, fall outside of the Commission's jurisdiction. *See e.g. Margaret Collins v. Pennsylvania-American Water Company*, Docket No. F-2017-2628770, Opinion and Order (Aug. 29, 2019) ("We agree that the Complainant's allegations fall outside of the statute of limitations period set forth in the Code, and thus are outside the Commission's jurisdiction [...]").

19. As such, the Complaint should be dismissed on the basis that the Commission lacks jurisdiction over Complainants' allegations that PGW engaged in workplace safety violations.⁴

² Pennsylvania's General Safety Law includes provisions pertaining to General safety and health requirements, including, among other things, the requirements for establishments to provide reasonable and adequate protection for all persons employed therein. 43 P.S. § 25-2.

³ Alternatively, it could be argued that, at best, the essence of the underlying claims is that PGW was negligent in its supervision of employees and/or in its failure to provide a safe workplace. It is well-settled that the Commission does not have the authority to make a negligence determination. The Commission can only determine whether Complainants' conduct violated the Public Utility Code or Commission regulations. It is the province of the courts, not the Commission, to determine negligence. *See Elkin v. Bell Tel. Co. of Pa.*, 420 A.2d 371, 375 (Pa. 1980); *see also DeFrancesco v. Western Pennsylvania Water Co.*, 453 A.2d 597 (1982); *see also Poorbaugh v. Pennsylvania Public Utility Com'n*, 666 A.2d 744 (1995).

⁴ As discussed below, even if the Commission determines that the issues raised by Complainants impact the safety and adequacy of PGW's service as defined in the Public Utility Code, it is not appropriate to address these issues in the context of a complaint proceeding. Rather, these issues can be referred to the Commission's Bureau of Investigation and Enforcement for further investigation.

C. Dismissal Based on Lack of Standing, 52 Pa. Code § 5.101(a)(1).

20. Section 5.101(a)(1) of the Commission's regulations permits the filing of a preliminary objection based on a lack of standing.

21. It is well-settled that a party must have standing to pursue a formal complaint before the Commission. In order to have standing, the complainant must have a direct, immediate and substantial interest in the subject matter of the controversy. *Waddington v. Pa. P.U.C.*, 670 A.2d 199, 202 (Pa. Cmwlth. 1995), *appeal denied*, 678 A.2d 368 (1996); *PECO Energy Company Universal Services Three-Year Plan 2007 – 2009 Submitted in Compliance with 52 Pa. Code § 54.74*, Docket No. M-00061945, Order at 3 (April 9, 2008).

22. A "direct" interest requires a causal connection between the harm and the alleged violation. The requirement that an interest be "immediate" means that the causal connection between the alleged violation and purported harm are not remote or speculative. The requirement of a "substantial" interest means that the interest must have substance – *i.e.* "there must be some discernible adverse effect to some interest other than the abstract interest of all citizens in having others comply with the law." *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269, 282-83 (1975); *see also PECO Energy Company Universal Services Three-Year Plan 2007 – 2009 Submitted in Compliance with 52 Pa. Code § 54.74*, Docket No. M-00061945, Order at 3 (April 9, 2008). *Id.* at 282 (emphasis added).

23. As discussed in Sections C(1) and C(2) below, the Complaint should be dismissed because Complainants have failed to establish that they have a direct, immediate, or substantial interest in their allegations related to safety violations and employment discrimination.

24. As such, to the extent the Commission determines that the allegations raised in the Formal Complaint pose issues pertaining to the Public Utility Code and/or Commission regulations and warrant additional consideration, the Commission's Bureau of Investigation and Enforcement

(I&E”) can investigate the allegations raised in the Complaint. I&E was established for the purpose of taking appropriate enforcement actions, which is the relief sought by Complainants in this case. *E.g., PA PUC, Bureau of Investigation and Enforcement v. Burgly Gas & Oil, et. seq.*, Docket No. C-2014-2411284, Opinion and Order (Jan. 17, 2019); *see also* 66 Pa.C.S. § 308.2(a)(11). Further, as alleged by the Complainants in Paragraph 22, I&E has already been notified of these allegations. For the reasons explained herein, however, Complainants do not have standing to adjudicate this matter as a complaint proceeding before the Commission.

1. **Alleged Safety Violations**

25. Here, Complainants have made a number of (materially false) allegations related to purported safety violations that have allegedly occurred at PGW’s Passyunk Gas Processing Plant. *See* Complaint at ¶¶7-16. The Complaint, however, fails to establish that Complainants have a direct, immediate, or substantial interest in these allegations.

26. While the Complaint makes general allegations that PGW’s purported actions are “dangerous,” “pose a potential for future mishaps,” or are otherwise “unacceptable” (Complaint at ¶¶ 8, 11), **the Complaint is devoid of any specific information related to how the alleged safety violations have resulted in direct harm to the Complainants.** Further, the Complaint fails to establish that Complainants were even present at the Passyunk plant during the instances of purported violations. Therefore, even if the Commission, somehow, determines that Complainants were harmed, the Complainants have failed to establish any causal connection between the harm and the alleged safety violations. As such, the Complaint fails to establish that Complainants have a direct interest.

27. The Complainants have also failed to establish an immediate interest. At best, Complainants’ broad and general assertions about potential, future risks are remote and

speculative. The Complaint contains insufficient information related to the precise risks that were/are created as a result of PGW's purported actions.

28. The Complaint also fails to meet the "substantial" interest standard. The Complaint merely implies that PGW's alleged safety violations pose a general risk to PGW's employees, or in one instance, could have "endangered a large part of the City." See Complaint at ¶¶ 11, 15. These general claims related to third-party interests certainly do not meet the "substantial" threshold. As noted, "there must be some discernible adverse effect to some interest other than the abstract interest of all citizens in having others comply with the law." *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269, 282-83 (1975).

29. Moreover, to file a complaint, a complainant must have an "interest" in the subject matter. The "interest" must be "an act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law [or regulation or order] which the Commission has jurisdiction to administer that [or which was promulgated by the Commission]." 66 Pa. C.S. §701. Accordingly such an interest is confined to a person who is a ratepayer of the utility or who received natural gas service from PGW. The Complainants do not even allege they are customers, and, even if they are customers, since all of the allegations set forth by complainants have to do with events that occurred at the Passyunk Plant, none of them could impact directly the Complainants' rates or service. A complaint is improper to the extent that it alleges that certain actions at the Passyunk Plant affected (or potentially affected) the rates or service of other PGW ratepayers. It is well-settled that Complainants may not claim standing to vindicate the rights of a third party who has the opportunity to be heard. See *Mid-Atlantic Power Supply Association v. Pennsylvania Public Utility Commission*, 746 A.2d 1196 (Pa. Cmwlth. 2000); see also *PECO Energy Company Universal Services Three-Year Plan 2007-2009 Submitted in Compliance with*

2. Alleged Employment Discrimination

30. The Complaint also alleges that PGW has engaged in employment discrimination. Complaint at 1 and ¶ 17. PGW categorically denies those allegations. Notwithstanding, the Complaint again fails to establish that Complainants have a direct, immediate, or substantial interest in these allegations.

31. Specifically, the Complaint describes instances in which PGW promoted two employees who allegedly did not meet certain job requirements. The Complaint identifies one of the promoted employees as Caucasian and the other employee as Caucasian Hispanic. Complaint at ¶¶ 9, 12. The Complaint make a general allegation that “more qualified and experienced racially protected class members are not provided equal promotion opportunities.” Complaint at ¶ 17. The Complaint also identifies Complainants as being of African American descent.

32. **The Complaint, however, is completely devoid of any facts establishing a direct harm to Complainants.** The Complaint does not establish that Complainants were the “more qualified and experienced racially protected class members.” For example, the Complaint does not contain any facts demonstrating that: 1) at the time of said promotions, Complainants had the requisite experience, qualifications, and job requirements necessary to be considered for said promotion(s); or 2) that Complainants applied for said promotion(s); or 3) that Complainants were “more qualified” than those who received the promotion, but denied on the basis of racial discrimination.⁵ As such, Complainants have failed to establish that they were harmed by PGW’s

⁵ For these reasons, the employment discrimination allegations should also be dismissed on the basis that they were pled with insufficient specificity. See 52 Pa. Code § 5.101(a)(3). To withstand a preliminary objection alleging insufficient specificity, a pleading must contain averments of all the facts that the complaining party will have to prove in order to prevail and enable the responding party to prepare a defense. *Podolak v. Tobyhanna Tp. Bd. of Supervisors*, 37 A.3d 1283, 1288-89 (Pa. Cmwlth. 2012). Even assuming for the sake of this argument that the Commission had jurisdiction over employment discrimination allegations, the facts, as pled, could not support a finding that PGW engaged in employment discrimination.

alleged promotion of other employees, or that the promotion of those employees *caused* them harm. As such, the Complaint fails to establish that Complainants have a direct interest.

33. The Complainants have also failed to establish an immediate interest. At best, Complainants' broad and general assertions that racially protected class members were impacted by the prior promotion of two allegedly less qualified employees is purely speculative. As discussed in the above paragraph, the Complaint provides insufficient information demonstrating that any harm actually resulted from these promotions.

34. The Complaint also fails to meet the "substantial" interest standard. The abstract interest of all "racially protected class members" and an interest in having PGW comply with the law does not meet the "substantial" interest threshold. *See William Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269, 282-83 (1975).

35. Moreover, and as discussed above, it is well-settled that Complainants may not, through a complaint, claim standing to vindicate the rights of a third party who has the opportunity to be heard. *See Mid-Atlantic Power Supply Association v. Pennsylvania Public Utility Commission*, 746 A.2d 1196 (Pa. Cmwlth. 2000); *see also PECO Energy Company Universal Services Three-Year Plan 2007-2009 Submitted in Compliance with 52 Pa. Code § 54.74*, Docket No. M-00061945, Order at 6 (April 9, 2008).

36. For the reasons explained above, the Complainants lack standing to bring the subject Complaint. For these reasons, the Complaint should be dismissed.

D. Dismissal Based on Legal Insufficiency of Pleading, 52 Pa. Code § 5.101(a)(4).

37. Section 5.101(a)(4) of the Commission's regulations permit the filing of a preliminary objection on the grounds that the complaint lacks legal sufficiency. 52 Pa. Code § 5.101(a)(4).

38. As the party seeking relief, Complainants bear the burden proving: (a) that PWSA is in violation of the Public Utility Code, the Commission's Regulations or the Commission's Order; and (b) they have a right to the requested relief. 66 Pa. C.S. § 332(a). Further, in order to be legally sufficient, a complaint must set forth "an act or thing done or omitted to be done or about to be done or omitted to be done by the respondent in violation, or claimed violation, of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission." 66 Pa. C.S. § 701; 52 Pa.Code § 5.22(a)(4); *Hatfield v. Pittsburgh Water and Sewer Authority*, Docket No. C-2018-3006129, Order on Respondent's Preliminary Objections (Jan. 18, 2019).

39. Here, the Complaint is legally insufficient, in that it fails to state a claim upon which relief can be granted.

40. Complainants have failed to even allege a violation of the Pennsylvania Public Utility Code, the Commission's regulations, or a Commission Order. The Complaint also fails to allege an issue involving public utility rates or services.⁶ Rather, the Complaint makes allegations related to worker safety and employment discrimination, issues of which the Commission lacks jurisdiction, as discussed in more detail below. As such, the Complaint should be dismissed, because it is legally insufficient in that it fails to state a claim upon which relief can be granted.⁷

⁶ These issues are appropriate issues to be adjudicated before the Commission. *See* 66 Pa. C.S. § 1505(a); *see also Elkin v. Bell Tel. Co. of Pa.*, 420 A.2d 371, 375 (Pa. 1980).

⁷ For the same reasons supporting a dismissal based on legal insufficiency, the Complaint can also be dismissed on the basis of its failure to conform to Chapter 5 and for the inclusion of scandalous or impertinent material. *See* 52 Pa.Code § 5.101(a)(2). As discussed, the Complaint fails to conform to the Chapter 5 requirements in that it fails to state a claim of a statute, regulation, or order of which the Commission has jurisdiction. Further, the Complaint fails to conform to Chapter 5 in that Complainants have failed to attach documents that serve as the basis of their allegations, such as copies of the federal lawsuits and the letter to the Commission's Chairwoman, Gladys Brown, which are relied upon in Paragraphs 18 and 22, respectively, of the Formal Complaint. *See* 52 Pa.Code § 5.22.

Further, the Complaint includes scandalous and impertinent material. Scandalous and impertinent material is defined as "allegations [...] immaterial and inappropriate to the proof of the cause of action." *Common Cause/Pennsylvania v. Commonwealth of Pennsylvania*, 710 A.2d 108, 115 (Pa. Cmwlth. 1988). Allegations are immaterial if "whether proven or not, or whether admitted or denied, [they] have no influence in leading to the result

III. CONCLUSION

Philadelphia Gas Works respectfully requests that the Commission: (a) grant these Preliminary Objections so as to dismiss the Complaint; and (b) grant any other relief in favor of PGW that is deemed to be reasonable, appropriate and in the public interest.

Respectfully submitted,



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Graciela Christlieb, Esquire
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Date: November 20, 2019

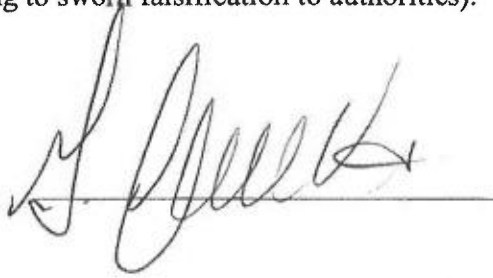
Attorneys for Philadelphia Gas Works

of the judicial inquiry.” *Fromm v. Fromm*, 42 Pa.D. & C.2d 77, 83 (C.C.P. 1967). Every allegation in Paragraphs 7-17 of the Formal Complaint are immaterial and inappropriate to support a finding that PGW violated the Public Utility Code or a Commission regulation or Order. As such, the Complaint could also be dismissed on the basis that it fails to conform to Chapter 5 requirements and includes scandalous and impertinent material.

Verification

I, Graciela Christlieb, am an Attorney for Philadelphia Gas Works ("PGW") and I hereby state that the facts set forth in the foregoing Preliminary Objections are true and correct to the best of my knowledge, information and belief and that I expect PGW to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to sworn falsification to authorities).

Date: November 20, 2019

A handwritten signature in black ink, appearing to read "G. Christlieb", is written over a horizontal line. The signature is cursive and somewhat stylized.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PGW's Preliminary Objections upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via First Class Mail and Email

Karin M. Gunter, Esquire
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Kgunterlaw2@gmail.com

Via First Class Mail

Hon. Charles E. Rainey, Jr.
Office of Administrative Law Judge
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Dated: November 20, 2019



Kristine E. Marsilio, Esq.