



**PHILADELPHIA GAS WORKS**

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December 5, 2019

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

**Re: Patricia Sanford v. PGW, Docket No. C-2019-3009831**

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code § 5.571(c), the Philadelphia Gas Works hereby files its Answer to the Complainant's Petition to Reopen the Record 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: Patricia Sanford c/o Eric A. George, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Patricia Sanford</b>	:	
<i>Complainant</i>	:	
	:	
v.	:	<b>Docket No. C-2019-3009831</b>
	:	
<b>Philadelphia Gas Works</b>	:	
<i>Respondent</i>	:	

**ANSWER OF PHILADELPHIA GAS WORKS TO  
COMPLAINANT’S PETITION TO REOPEN THE RECORD**

Pursuant to 52 Pa. Code § 5.571(c), the Philadelphia Gas Works (“PGW”) hereby files its Answer to the Complainant’s Petition to Reopen the Record filed on November 25, 2019.

**I. HISTORY OF PROCEEDINGS**

On May 13, 2019, the Complainant filed the instant Formal Complaint with the Pennsylvania Public Utility Commission (“Commission” or “PUC”) against PGW wherein she alleged that PGW is threatening to shut off her service or has already shut off her service. Under “Requested Relief,” the Complainant requested a payment arrangement, stating that she wanted to “[a]rrange to make payment on the entire amount of \$21, 187.86.”

On June 3, 2019, PGW filed an Answer with New Matter wherein PGW admitted that, on May 2, 2019, PGW issued a 10 Day Shut-Off notice for the service at 6425 Drexel Road, Philadelphia, PA (“service address”) and outlined the Complainant’s abuse of the PUC’s complaint process to evade collection activity. PGW requested that the Commission dismiss the Complaint and order that the Complainant not be permitted to further abuse the PUC’s complaint process.

By Hearing Notice issued June 25, 2019, the Commission set the evidentiary hearing in this case for August 13, 2019 at 10:00 AM.

On August 6, 2019, after speaking with the Complainant via telephone and determining that she had no objection, PGW filed a Motion for Continuance of Hearing with the Commission.

By Order dated August 12, 2019, the Administrative Law Judge (“ALJ”) assigned to preside over this matter granted PGW’s motion and stated that the hearing would be rescheduled.

By Hearing Cancellation/Reschedule Notice issued August 15, 2019, the Commission set the evidentiary hearing in this case for October 9, 2019. The Hearing Cancellation/Reschedule Notice was sent to the same address for the Complainant as the original Hearing Notice.

On October 9, 2019, the evidentiary hearing convened as scheduled. The Complainant failed to appear at the hearing. PGW made a motion to dismiss the Complaint with prejudice as well as a motion reiterating PGW's request for an order prohibiting further abuse of the PUC's complaint process by the Complainant. PGW presented evidence in support of its motion regarding the Complainant's abuse of process.

On November 25, 2019, the Complainant filed this "Emergency" Petition to Reopen the Record.

## **II. PGW'S ANSWER**

While Commission Regulations allow a party to petition to reopen the proceeding any time after the record is closed but before a final decision is issued for the purpose of taking additional evidence (52 Pa. Code § 5.571(a)), the burden is on the petitioner to show grounds for reopening the proceeding, including changes of fact or law that have occurred since the conclusion of the hearing. 52 Pa. Code § 5.571(b). *See Application of Kris Eckerl t/b/a Michael's Moving and Storage*, Docket No. A-2014-2429336 (Order entered November 19, 2015). Additionally, to reopen the record pursuant to 52 Pa. Code § 5.571, a party must demonstrate that the evidence could not have been discovered in the exercise of due diligence prior to the hearing. *See Douglass Bedell v. Verizon Pennsylvania Inc.*, Docket No. C-20016189 (Order entered June 27, 2002).

The Complainant's Petition fails to demonstrate either that any changes of fact or law have occurred since the conclusion of the hearing, or that there is evidence that she could not have discovered, prior to the hearing through the exercise of due diligence. Rather, the Complainant's Petition is attempting to reopen the record based on the parties' inability to reach a settlement. The fact that PGW was attempting to work with the Complainant to reach a settlement in this matter given her history is a hallmark of the lengths PGW is willing to go to in

an effort to serve its customers and should in no way be admitted as evidence against PGW in support of this Petition or otherwise.<sup>1</sup>

Additionally, the Complainant's assertion that she was "denied" the opportunity to present her case in this matter is disingenuous. The sole reason provided by the Complainant for her failure to appear at the October 9, 2019 hearing is that she did not receive notification of the hearing. However, prior to adjourning the hearing, the ALJ stated for the record that the notice of the hearing was sent to the Complainant and was not returned as undelivered. The law is well settled that service on interested persons is sufficient to provide notice. 52 Pa. Code § 5.201(a). Also, that notice mailed to a party's last known address and not returned by the post office is presumed to have been received. See *Berkowitz v. Mayflower Securities, Inc.*, 455 Pa. 531, 317 A.2d 584 (Pa. 1974); *Chartiers Industrial and Commercial Development Authority v. Allegheny County Board of Property Assessment Appeals and Review*, 645 A.2d 944, 946 (Pa. Cmwlth. 1994), *appeal denied*, 539 Pa. 696, 653 A.2d 1234 (1994); *Geary v. Verizon Pennsylvania Inc.*, Docket No. C-2009-2118625 (Order entered September 16, 2010). Once a hearing is scheduled and the parties are duly notified by the Commission, it is the responsibility of the parties to appear and participate in the hearing. *Mumma v. PPL Electric Utilities Corporation*, Docket No. C-00014869 (Order entered January 24, 2002); *Sentner v. Bell Tel. Co. of PA*, Docket No. F-00161106 (Order entered October 25, 1993).

The law is also clear that if a party fails to appear at a scheduled hearing of which the party has been duly notified, the party will be deemed to have waived the opportunity to participate in a hearing in the matter. 66 Pa. C.S. § 332(f); 52 Pa. Code § 5.245(a)-(b). This result is not applied to the party, however, if the presiding officer determines that the party's failure to appear was "unavoidable" and the interests of the other party (or parties) and the public will not be "prejudiced" by permitting the reopening or further examination. 66 Pa. C.S. § 332(f); 52 Pa. Code § 5.245(a)-(b). Also, this result may not be applied if the presiding officer of Commission determines that the complainant demonstrated a good faith attempt to attend the hearing. See, e.g., *Yomari Then v. Philadelphia Gas Works*, Docket No. F-2012-2318264 (Order entered June 13, 2013); see also *Windell C. Wiggins v. PECO Energy Company*, Docket No. C-2010-2190335 (Order entered October 27, 2011).

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<sup>1</sup> 52 Pa. Code § 5.231(d) "Offers of settlement, of adjustment, or of procedure to be followed, and proposed stipulations not agreed to by every party, including proposals intended to resolve discovery disputes, will not be admissible in evidence against a counsel or party claiming the privilege." PGW is claiming that privilege.

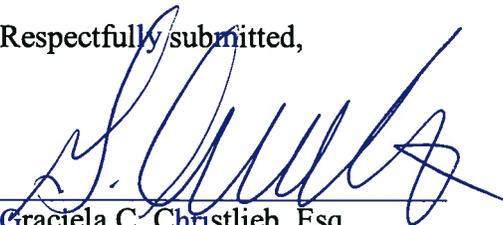
The Complainant has provided nothing to show that her failure to appear at the October 9, 2019 hearing was unavoidable or that she made a good faith attempt to attend the hearing. There is nothing in the record to indicate that the Complainant contacted the Commission at all regarding the rescheduling of her hearing, something she should have done if she was never notified of her new court date. The instant petition was only filed once it became clear that this matter could not be settled between the parties and that an initial decision would be issued.

The Commission has already determined that public interest is prejudiced by the wasteful use of the agency's and the respondent's time and resources in addressing a complaint when the complainant's failure to appear is due to their own lack of diligence in pursuing their complaint. *See Jefferson v. UGI Utilities, Inc.*, Docket No. Z-00269892 (Order entered December 26, 1995), *see also, e.g., Charles Nichols III v. Bell-Atlantic-Pennsylvania*, Docket No. C-00956667 (Opinion and Order entered August 4, 1995). PGW submits that this entire matter has been a wasteful use of the Commission's and PGW's time and resources; it has been wholly in keeping with the Complainant's pattern of abuse of the Commission's complaint process that has brought the parties to this point. PGW further submits that the Complainant is not entitled to any further consideration from the Commission.

**Wherefore**, PGW respectfully requests that this Commission deny the Petition.

December 5, 2019

Respectfully submitted,



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

**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 Answer 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.

December 5, 2019

  
Graciela Christlieb, Esquire

**CERTIFICATE OF SERVICE**

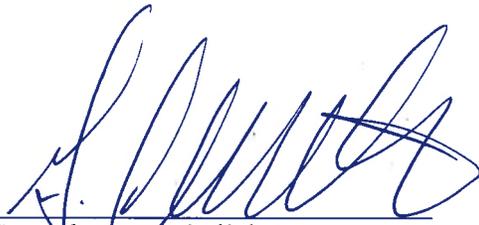
I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A TRUE COPY OF THE FOREGOING DOCUMENT UPON THE PARTICIPANTS LISTED BELOW, IN ACCORDANCE WITH THE REQUIREMENTS OF 52 PA CODE §1.55 (RELATING TO SERVICE ON ATTORNEYS).

Service List:

For Complainant:

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*Attorney for Petitioner*

December 5, 2019

  
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*Attorney for Respondent*