



PHILADELPHIA GAS WORKS

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January 25, 2021

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

Re: Helen Leung v. PGW, Docket No. F-2020-3020041

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §5.535, the Philadelphia Gas Works (“PGW”) hereby files its Exceptions to the January 13, 2021 Initial Decision 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: Helen Leung (hleung@DCHUSA.com and 705WKL@gmail.com)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Helen Leung,	:
Complaint	:
v.	: Docket No. F-2020-3020041
	:
Philadelphia Gas Works,	:
Respondent	:

**PHILADELPHIA GAS WORKS’
REPLY TO COMPLAINANT’S EXCEPTIONS**

Pursuant to 52 Pa. Code §5.535, and the Secretary’s letter dated January 13, 2021 in the above captioned matter serving the Complainant’s exceptions upon the Philadelphia Gas Works, (“PGW”), PGW hereby files its reply to the Complainant’s exceptions dated January 10, 2021 (“Exceptions”), to the Initial Decision issued December 23, 2020 in the above captioned matter (“Initial Decision”).

I. History of the Proceeding

The Complainant, Helen Leung (the “Complainant”) has filed Exceptions with the Commission to the Initial Decision in the above captioned matter that dismisses the Complainant’s formal Complaint as the Complainant failed to carry her burden of proof with respect to the averments in her complaint.

On April 7, 2020, the Complainant filed a formal complaint against PGW alleging that PGW opened an account in her name for her rental property at 6346 Sylvester Street in Philadelphia, PA (“Service Address”) without her knowledge and three years later, asked her to pay \$2,012.40. The Complainant requested that the charges be removed from her account. The Complaint is an appeal of the decision issued by the Commission’s Bureau of Consumer Services at BCS Case No. 3729836.

PGW filed a timely Answer to the Complaint denying all material allegations of fact and conclusions of law in the Complaint.

By notice dated July 8, 2020, the Commission scheduled an Initial Telephonic Hearing of the matter for August 13, 2020 before Administrative Law Judge Eranda Vero (“ALJ”). The hearing convened on August 13, 2020 as scheduled.

On January 10, 2021, the Commission issued the Initial Decision dismissing the Complaint.

On January 10, 2021, the Complainant filed Exceptions pursuant to 52 Pa. Code §5.535 but failed to serve PGW with a copy of the Exceptions.

Pursuant to the Secretary's letter dated January 13, 2021, PGW was served a copy of the Complainant's exceptions. PGW replies timely as follows.

II. **PGW'S Reply to Exceptions**

The Complainants' exceptions essentially state that the Complainant:

[1] Did not call PGW to open an account in her name and,

[2] Did not know that she had an obligation to call to terminate gas service.

The exceptions fail to point to evidence of record to support the further order of relief. The Public Utility Code, 66 Pa.C.S.A. § 332(a), places the burden of proof upon the proponent of a rule or order. As the proponent of a rule or order, Complainant has the burden of proof in this matter pursuant to 66 Pa.C.S.A. § 332(a).

To establish a sufficient case and satisfy the burden of proof, complainant must show that the respondent public utility is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Telephone Co. of Pa.*, 72 Pa.P.U.C. 196 (1990), *Feinstein v. Philadelphia Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600, 602 (Pa.Cmwlt. 1990), alloc. den., 602 A.2d 863 (Pa. 1992). That is, by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950).

First, the Initial Decision finds that on October 17, 2016 the Complainant called PGW by telephone to request that gas service at the Service Address be placed in her

name.¹ Further, PGW verified the identity of the Complainant on that telephone call by taking and looking up the last four digits of the Complainant's Social Security Number.²

The Exception fails to point to any error in fact or law in the Initial Decision that would support the Commission's reversal or modification of the Initial Decision.

Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa.Cmwlt. 1982); *Edan Transportation Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa.Cmwlt. 1993); 2 Pa.C.S. § 704. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk and Western Ry. v. Pa. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 194 Pa.Super. 278, 166 A.2d 96 (1960); *Murphy v. Commonwealth, Dep't of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa.Cmwlt. 1984).

Finally, the Complainant's lack of knowledge as to the requirement to give advance notice to terminate service does not excuse the Complainant's failure to call to terminate gas service.

III. CONCLUSION

For the reasons stated above, PGW request that the Commission deny the Complainant's Exceptions in this matter and issue a Final Order adopting the Initial Decision as written.

Respectfully submitted,

January 25, 2021

/s/ Laureto Farinas
Laureto A. Farinas, Esq.
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122

¹ Initial Decision, Finding of Fact Paragraph 5, PGW Exhibit 1, Tr. p. 37)

² Initial Decision, Finding of Fact Paragraph 7, Tr. p. 38 , 46)

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).

Service List:

For Complainant:

**Ms. Helen Leung
P.O. Box 163
Demarest, NJ 07627**

Email: hleung@DCHUSA.com

705WKL@gmail.com

January 25, 2021

/s/ Laureto Farinas
Laureto A. Farinas, Esq.
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