



**PHILADELPHIA GAS WORKS**

800 West Montgomery Avenue • Philadelphia, PA 19122

---

**Graciela Christlieb, Senior Attorney  
Legal Department**

Direct Dial: 215-684-6164

FAX: 215-684-6798

E-mail: [graciela.christlieb@pgworks.com](mailto:graciela.christlieb@pgworks.com)

June 6, 2022

**VIA ELECTRONIC FILING**

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

Re: Dawn Graham v. Philadelphia Gas Works; Docket No. C-2022-3032494

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Philadelphia Gas Works' Preliminary Objection to Formal Complaint with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

*/s/ Graciela Christlieb*

Graciela Christlieb, Esquire

Enclosure

cc: Cert. of Service w/enc.

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of Philadelphia Gas Works' Preliminary Objection upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

**Via Email Only**

Dawn Graham

[dawn456@msn.com](mailto:dawn456@msn.com)

Date: June 6, 2022

*/s/ Graciela Christlieb*

Graciela Christlieb, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Dawn Graham,	:	
Complainant,	:	
v.	:	Docket No. C-2022-3032494
	:	
Philadelphia Gas Works,	:	
Respondent.	:	

**NOTICE TO PLEAD**

**To:** Dawn Graham  
[dawn456@msn.com](mailto:dawn456@msn.com)

Pursuant to Pa. Code § 5.101, you are hereby notified that any answer to the enclosed Preliminary Objection of Philadelphia Gas Works must be filed within ten (10) days of the date of service of the Preliminary Objection.

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

*/s/ Graciela Christlieb*

Graciela Christlieb, Esquire  
Philadelphia Gas Works  
800 W. Montgomery Avenue  
Philadelphia, PA 19122  
[graciela.christlieb@pgworks.com](mailto:graciela.christlieb@pgworks.com)

Date: June 6, 2022

Counsel for PGW

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Dawn Graham,	:	
Complainant,	:	
v.	:	Docket No. C-2022-3032494
	:	
Philadelphia Gas Works,	:	
Respondent.	:	

**PHILADELPHIA GAS WORKS’  
PRELIMINARY OBJECTIONS TO THE FORMAL COMPLAINT**

Philadelphia Gas Works (“PGW” or “Respondent”) submits the following Preliminary Objections to the Formal Complaint of Dawn Graham (“Complainant”) served by the Secretary of the Pennsylvania Public Utility Commission (“Commission” or “PUC”) on May 17, 2022 (“Complaint”). Pursuant to 52 Pa. Code § 5.61 and 5.101(d) of the Commission’s regulations, PGW also filed an Answer with New Matter to the Complaint on this same date. In support of these Preliminary Objections, PGW avers as follows:

**I. INTRODUCTION**

Complainant is alleging, among other things, that there are incorrect charges on the bill and that PGW has rejected the documentation she provided in order to have the gas service placed in her name. *See* Complaint, ¶ 4. In her prayer for relief, Complainant is requesting, among other things, to have the bill adjusted due to Indra Energy’s “unauthorized rates” and a payment arrangement. *Id.*, ¶ 5. As more fully set forth in PGW’s Answer with New Matter, Complainant obtained natural gas service from PGW under the name of her deceased father by means of deception and is unlawfully occupying the property. As such, PGW avers that Complainant has no standing to bring claims pertaining to the gas service at 315 North 54<sup>th</sup> Street, Philadelphia, PA.

**II. LEGAL STANDARDS FOR PRELIMINARY OBJECTIONS**

1. Preliminary objections to a Complaint are a permissible filing under the

Commission's Rules of Administrative Practice and Procedure.<sup>1</sup>

2. The Commission's procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice.<sup>2</sup>

3. Under Section 5.101(a) of the Commission's regulations, 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.

52 Pa. Code § 5.101(a)(1-7).

4. The moving party may not rely on its own factual assertions but must accept for the purposes of disposition of the preliminary objections, all well-pleaded, material facts of the other party, as well as every inference fairly deducible from those facts.<sup>3</sup> However, the Commission need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations or expressions of opinion.<sup>4</sup>

5. 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.<sup>5</sup>

---

<sup>1</sup> 52 Pa. Code § 5.101(a)(1)-(7). *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. P.U.C. LEXIS 69, Docket No. C-00935435 (July 18, 1994).

<sup>2</sup> *Id.*; *Montague v. Philadelphia Electric Company*, 66 Pa. P.U.C. 24 (1988).

<sup>3</sup> *County of Allegheny v. Cmwlth. of Pa.*, 490 A.2d 402 (Pa. 1985).

<sup>4</sup> *Stanton-Negley Drug Co. v. Dep't of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlth. 2007).

<sup>5</sup> *Department of Auditor General, et al. v. SERS, et al.*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003); *P.J.S. v. Pa. State Ethics Commission*, 669 A.2d 1105 (Pa. Cmwlth. 1996).

### III. PRELIMINARY OBJECTIONS BY PGW

6. PGW incorporates herein, as if the same were set forth at length here, its responses to paragraphs 1 to 7 of the Complaint, as pled in its Answer with New Matter. In addition, PGW also incorporates herein all allegations pled in its New Matter to the Complaint as well as the exhibits attached thereto, as if the same were set forth at length here.

#### A. Dismissal Based on Lack of Standing

7. Section 5.101(a)(7) of the Commission's regulations permits a party to file a preliminary objection based on the lack of standing of a party. 52 Pa. Code § 5.101(a)(7).

8. In general, a complainant must be respondent's customer to have standing to file a complaint about utility service. See, Re: Pennsylvania American Water Company, 85 Pa. PUC 548 (1995); and Pa. Pub. Util. Comm'n v. Marietta Gravity Water Company, 87 Pa. PUC 864 (1997).

9. A complainant which is not a customer of a utility generally does not have the requisite substantial, direct, and immediate interest necessary to confer standing to bring the complaint about the service of that utility. John Lavelly v. West Penn Power Company, Docket No. C-2014-2408502 (Order entered February 12, 2015).

#### 1. The Complainant Lacks Standing to Participate in these Proceedings.

10. The instant Complaint is based on alleged violations of the rights Complainant claims to have as a consumer. *See* Complaint, ¶ 5.

11. However, rather than contact PGW upon the passing of her father to place the gas service in her name, the Complainant continued to obtain utility service under her father's name by means of deceiving PGW.

12. Additionally, the Complainant has been evicted from the property and is currently occupying it unlawfully.

13. Therefore, the Complainant lacks the requisite substantial, direct, and immediate interest necessary to confer standing to bring the complaint about the service

14. For this reason, PGW respectfully requests that the Commission sustain this Preliminary Objection and dismiss the Complaint.

**IV. CONCLUSION**

WHEREFORE, PGW respectfully requests that this Commission grant PGW's Preliminary Objection, Strike the requested relief as impertinent matter, dismiss the Complaint, and enter any other relief to PGW that is deemed to be reasonable and appropriate.

Respectfully submitted,

*/s/ Graciela Christlieb*

Graciela Christlieb, Esquire  
Attorney I.D. 200760  
Philadelphia Gas Works  
800 W. Montgomery Avenue  
Philadelphia, PA 19122  
Telephone: (215) 684-6164  
[graciela.christlieb@pgworks.com](mailto:graciela.christlieb@pgworks.com)

Date: June 6, 2022

Counsel for PGW