

Testimony of Dan McAffery

Date 8/20/13

Pages 177 - 221

Exhibit # SBG CG/SG 8

COMMONWEALTH OF PENNSYLVANIA

PUBLIC UTILITY COMMISSION

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SBG Management Services, Inc. : Docket Nos.
v. Philadelphia Gas Works. : C-2012-2304167
: C-2012-2304215
Initial Hearing. : C-2012-2304303
:
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Pages 1 through 270 Fourth Floor Hearing Room
State Office Building
801 Market Street
Philadelphia, Pennsylvania

Monday, August 26, 2013

Met, pursuant to notice, at 10:08 a.m.

BEFORE:
ERANDA VERO, Administrative Law Judge

APPEARANCES:

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(For SBG Management Services)

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COMMONWEALTH REPORTING COMPANY, INC.

By: William J. Horst
William J. Horst

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FORM 2

AFTERNOON SESSION

(2:40 p.m.)

JUDGE VERO: I have the individuals that I need in the hearing room, and the rest may trickle in.

Ms. Boone, you do have your next witness; right?

MS. BOONE: Yes, I do.

JUDGE VERO: All right. Please call your next witness.

MS. BOONE: I call Dan McCaffery, Esquire.

JUDGE VERO: Good afternoon, Mr. McCaffery.

MR. McCAFFERY: Good afternoon.

JUDGE VERO: Please raise your right hand.

Whereupon,

DANIEL D. McCAFFERY

having been duly sworn, testified as follows:

JUDGE VERO: Mr. McCaffery, please state your name, and spell your last name for the record.

THE WITNESS: My name is Daniel D. McCaffery,
M-C-C-A-F-F-E-R-Y.

JUDGE VERO: You may proceed, Ms. Boone.

MS. BOONE: Thank you, Your Honor.

DIRECT EXAMINATION

BY MS. BOONE:

Q. Mr. McCaffery, state your name, date of birth and address for the record, please.

1 A. Daniel McCaffery, M-C-C-A-F-F-E-R-Y. My date of
2 birth is 20 July, 1964. My office address is 101 Greenwood,
3 that is G-R-E-E-N-W-O-O-D, Avenue, Fifth Floor. And that is
4 Jenkintown, Pennsylvania 19046.

5 Q. Will you please state for the record where you're
6 employed?

7 A. Currently I'm employed as a shareholder at a law
8 firm called Friedman, Shuman, Nemeroff, Applebaum &
9 McCaffery, PC. We are a regional law firm based in Eastern
10 Montgomery County, with approximately 25 attorneys.

11 Q. How long have you worked there?

12 A. I graduated law school in 1991. I served as an
13 assistant district attorney in the City of Philadelphia
14 through 1996. I joined the firm as an associate in 1990-,
15 end of 1996, early 1997; became a shareholder in 2000.

16 Q. Okay. Do you have an area of specialty?

17 A. Yes. Well, obviously, the first half of my
18 career I was a prosecutor. The second half I've been a
19 commercial litigator. I specialize in complex commercial
20 litigation.

21 Q. Was SBG a client of yours at some point?

22 A. SBG was a client of my law firm's, yes.

23 Q. Yes. Does it continue to be a client of your law
24 firm today?

25 A. Yes.

1 Q. Approximately when did SBG first engage your law
2 firm and you?

3 A. I believe -- well, in one form or another,
4 Mr. Pulley first engaged our law firm when I first came in
5 contact with Mr. Pulley and various entities, I guess in the
6 late 1990's.

7 Upon first joining the law firm, I represented
8 Mr. Pulley in dispute. There had been a development company
9 that Mr. Pulley had started with two or three other
10 partners.

11 It was a longstanding dispute. We ended up settling
12 that matter for an exchange of income producing properties,
13 which are basically strip malls.

14 Mr. Pulley took several strip malls and two of his
15 other partners took the strip malls. And then throughout
16 the years we've represented Mr. Pulley, SBG Management
17 Company, and many of his single-purpose entities.

18 During the late 1990's, early 2000's, Your Honor,
19 Mr. Pulley kind of got out of the commercial business, and
20 he started acquiring multi-unit residential complexes in the
21 City of Philadelphia when PHDC and HUD basically started
22 decentralizing their operations.

23 Q. Were you the attorney, or your firm the attorney,
24 to handle some of those transactions for the multi-family
25 units?

1 A. Yes. We handled extensively the acquisition from
2 PHDC and HUD.

3 Q. Did the law firm handle Fairmount, Elray,
4 Marshall, the acquisitions?

5 A. I believe we did.

6 Q. As well as the other properties that are the
7 subject of this complaint?

8 A. I think we handled just about all of them in one
9 form or another.

10 Q. Okay. So in providing real estate transactions
11 service, legal services, to Mr. Pulley, as well as some
12 litigation services, did you at some point get involved with
13 PGW issues that were confronting SBG properties?

14 A. Yeah. Just understand, Your Honor, I don't do
15 utilities work. This is why -- and I can kind of get to
16 that later. But Mr. Pulley first came to, you know, need my
17 assistance. My partner, Kerry Shuman, usually handles the
18 acquisition, the financing, the refinancing of the
19 properties from nonprofit PHDC owned properties to a profit.

20 I got involved in, I believe, 2003 or 2002 when the
21 City of Philadelphia and PGW first filed actions against
22 Fern Rock. And I believe it was Simon Garden, another
23 property Mr. Pulley owned.

24 They sell properties to -- they filed petitions to
25 sell the properties free and clear of any liens. Which was,

1 I guess, the final step in the process. They just liened
2 the properties and moved to sell them to satisfy the debt.

3 Q. In the documents listed as Dan McCaffery
4 correspondence, the documents you can refer to that go to
5 the heart of some of the issues in this matter.

6 JUDGE VERO: Just a moment, Ms. Boone. Are these the
7 documents that I received over the weekend?

8 MS. BOONE: Yes.

9 JUDGE VERO: Okay, it's that same package of
10 documents.

11 MS. BOONE: Yes.

12 JUDGE VERO: You may proceed.

13 MS. BOONE: Thank you.

14 THE WITNESS: Yes, in various forms or another. What
15 those documents comprise are documents that I pulled through
16 our system that had something or other to do with the PGW
17 disputes. Specifically, these had to do with the original
18 Fern Rock and Simon Gardens disputes.

19 BY MS. BOONE:

20 Q. Okay. And what was the nature, and why were you
21 engaged? How did you get involved with these PGW disputes?

22 A. Just as I mentioned, PGW filed petition to sell
23 the property free and clear of any liens. When I got --

24 Q. Excuse me. Do you mean SBG?

25 A. No. PGW had filed motions in the Philadelphia

1 Court of Common Pleas to sell off both the Simon Garden and
2 the Fern Rock properties to satisfy the PGW liens.

3 These were issues that the client, SBG Management,
4 had difficulty obtaining information. Because either Fern
5 Rock or Simon Garden had been acquired over the, I guess, 24
6 or 36 months preceding that.

7 And instantly there had been problems with PGW,
8 because PGW had liened the property. And Mr. Pulley at SBG
9 was working out some kind of -- was trying to get
10 information from PGW as far as how payments had been applied
11 on the property.

12 Q. And how payment was calculated, was that one of
13 the issues?

14 A. If I recall -- and understand, Your Honor, I'm
15 not what I once was.

16 MR. FARINAS: Your Honor, I really understand very
17 well, but that was a leading question, and I object.

18 JUDGE VERC: Okay.

19 MR. FARINAS: And also, if I may object on the
20 grounds that I understand that we're discussing, again,
21 properties that are not within the three dockets we're
22 discussing Monday, Tuesday and Wednesday. However, they do
23 have some bearing on the estoppel issue.

24 However, these are older, and they're matters that
25 are not related to the estoppel issue, and they're actually

1 liens. They're in the context of liens. The Commission
2 doesn't have jurisdiction over liens.

3 JUDGE VERO: I understand. But I was under the
4 impression that Mr. McCaffery was in the process of
5 establishing foundation for his testimony in terms of how he
6 was involved with SBG.

7 MR. FARINAS: All right.

8 JUDGE VERO: Is that correct, Ms. Boone?

9 MS. BOONE: Yes, it is. And also, there were
10 questions on cross examination to Mr. Pulley about whether
11 actions had been taken earlier, and what action was taken,
12 and what was the history of Mr. McCaffery's -- his name was
13 mentioned several times in cross examination.

14 JUDGE VERO: Okay. You may proceed. But keep in
15 mind the focus here is these three complaints, and that's
16 all. Estoppel.

17 MS. BOONE: Okay.

18 THE WITNESS: Sure.

19 BY MS. BOONE:

20 Q. With the extent of in terms of filing PUC
21 complaints for SBG --

22 A. Well, I didn't file PUC complaints. As a matter
23 of fact, I knew nothing about the PUC or the PUC processes.
24 This particular case dealt with payment applications on the
25 properties.

1 Essentially, this matter was resolved.

2 Judge Gene Cohen had the matters consolidated, and ordered
3 PGW to provide an accounting of and detail all the payments
4 received.

5 Rather than do that, PGW settled the case, and
6 basically wiped off over \$60,000, if I -- it's on the
7 payment which I provided as well. They wiped off that
8 \$60,000 in late fees.

9 The litigation attorney from PGW was Maryanne
10 Mandabi, which is how we established a relationship with
11 somebody at PGW. That was Ms. Mandabi.

12 MR. FARINAS: Your Honor, again, is this a settlement
13 about which Mr. McCaffery's speaking offered to show some
14 wrongdoing as evidence on PGW's part rather than proceed
15 with the matter, they settled and forgave late payment fees?

16 If so, I object to the testimony, because it's being
17 offered to show that there's a problem at PGW because it
18 settled a matter in court.

19 MS. BOONE: And if I could just speak to that,
20 address that point?

21 JUDGE VERO: Yes.

22 MS. BOONE: We received several questions about the
23 involvement of attorneys early on in SBG managed properties,
24 and what happened and why.

25 And we also pursued a line of questioning as to the

1 properties across the board having issues that were not
2 answered by PGW, and what actions SBG took and what happened
3 with those cases.

4 And so his testimony is pertinent in terms of showing
5 even receiving a payment plan, even writing it off, there
6 still wasn't an explanation of the late payment charges and
7 the applications of some of the payments.

8 So even with a judge ordering, or suggesting that it
9 to go the PUC, and then the case ultimately settling, PGW
10 still refused to give the calculation information.

11 That's his testimony. And I think that's relevant.

12 JUDGE VERO: Are you stating, Ms. Boone, that
13 somewhere a judge from the court of common pleas, I
14 understand, ordered SBG to take the matter to PUC?

15 THE WITNESS: That actually did happen, Your Honor,
16 in 2011. To answer the question you made to Mr. Pulley.
17 This was actually 2005.

18 Judge Cohen had these petitions, and ordered PGW to
19 provide an accounting, detailing where the payments were
20 made and how they were applied.

21 JUDGE VERO: And this was in what year?

22 THE WITNESS: This was 2005. PGW settled these
23 particular cases in 2005 by wiping off the late penalties
24 and the late charges. I think it was the late fees. Not
25 interest. Rather than provide the detailed accounting

1 information that we were referring to and asking for.

2 MR. FARINAS: Your Honor, again I would object, that
3 supposed to know why PGW settled and know for a fact that
4 the settlement was made rather than supplying, rather than
5 supply the information, or just settling it in the normal
6 course of settling a lawsuit.

7 MS. BOONE: I can rephrase the question.

8 JUDGE VERO: Please do.

9 MS. BOONE: Okay.

10 BY MS. BOONE:

11 Q. What did the judge order?

12 A. Just what I said. He ordered -- we had a
13 pretrial conference that we talked about what the issues
14 were.

15 Judge Cohen ordered PGW to produce a detailed
16 accounting showing where the payments -- because we had a
17 list, a binder, of all of the payments. And the payments
18 aren't reflected on the bills.

19 So Judge Cohen ordered PGW to produce a list of all
20 of, a detailed accounting of where the payments were
21 applied.

22 Q. What detailed accounting was provided before the
23 judge's order by PGW?

24 A. None.

25 Q. And after the judge's order?

1 A. None.

2 Q. Why not?

3 A. I don't know why not.

4 Q. Instead of providing accounting, your testimony
5 is that detailed accounting wasn't provided before the
6 judge's order, wasn't provided after the judge's order.
7 Instead, what happened with the case?

8 A. Well, SBG never disputed the bills. They
9 disputed the late fees, and how they were calculated. So
10 what PGW did, they wiped away the late fees. And we settled
11 the case by paying what amounts were due. And that's
12 reflected on -- I think there's a settlement agreement I
13 have in there.

14 Q. Okay.

15 A. I don't know why they did it. But they just
16 didn't produce anything.

17 Q. But your testimony today is, in terms of
18 calculations, what have you --

19 MR. FARINAS: Excuse me, Your Honor. She's asking
20 what testimony --

21 JUDGE VERO: This matter was essentially settled in a
22 different court. Okay?

23 MS. BOONE: Okay.

24 JUDGE VERO: And once it was settled, it was to
25 everyone's satisfaction, I understand it. Okay?

1 THE WITNESS: I was satisfied.

2 JUDGE VERO: Right?

3 THE WITNESS: I was satisfied.

4 JUDGE VERO: Yes.

5 MS. BOONE: We were satisfied, because --

6 JUDGE VERO: Well, it was an agreement. So that's
7 what I'm saying. It was settled to everyone's satisfaction.
8 So let's move on. I understand there was a case brought in
9 front of the court of common pleas involving SBG and PGW
10 liens. And that particular case was settled in 2005.
11 Moving along.

12 BY MS. BOONE:

13 Q. Thereafter, what happened, and how are you
14 involved with PGW and SBG issues?

15 A. Literally almost upon the conclusion of that
16 particular matter, there was another matter. And I don't
17 know if it's before you today. Colonial Gardens. There was
18 a dispute regarding Colonial Gardens. And since I had just
19 resolved the PGW Fern Rock dispute in 2005, I was kind of
20 involved in that.

21 The settlement that we just referred to, Your Honor,
22 in 2005 required two initial payments of \$33,000. PGW -- I
23 got reinvolved, because five or six months later PGW had
24 contacted me to find out where the payments were. And I had
25 to track down the actual payments themselves.

1 Turned out they were written on February 3, 2005,
2 from Elkins Park Abstract Company, and cashed on
3 February 10, 2005, by PGW.

4 However, PGW had no record of the roughly \$66,000 in
5 payments that were made pursuant to this settlement
6 agreement. So I had to kind of get involved for the next
7 six months trying to track that down.

8 Simultaneously there was an issue with Colonial
9 Gardens. And that's when I first met Mr. Dunn.

10 Q. What were the dates of the checks? Are they in
11 the documents that you provided?

12 A. Yes. If I can, Your Honor, these are -- I can
13 hand these to you, if you want. They are Elkins Park
14 Abstract Company charge no. 4282 and 4283, both dated
15 February 3, 2005.

16 JUDGE VERO: I have copies in the binder, I believe.

17 THE WITNESS: And they're both in the amount of
18 \$33,111.16 made payable to PGW. There are checks. And then
19 there's another set of checks which indicate the date of
20 deposit of, I think it's February 10, Your Honor. And I
21 can't really make the stamp out.

22 Which are later in here, because Ms. Mandabi had
23 contacted me about asking for the payments. So I had to
24 track these down.

25

1 BY MS. BOONE:

2 Q. Were there cover letters that went with the
3 payments to explain the issue?

4 A. I believe there were. I can't put my hands on
5 them right now. But Ms. Mandabi had contacted me, and I
6 then contacted Elkins Park Abstract Company to find out
7 where the checks were.

8 And I received copies of the check, and the front and
9 back, which I then produced to Ms. Mandabi and Mr. Dunn to
10 show that we had complied with the settlement agreement and
11 paid the first two payments of \$66,000 which were due. I
12 think one was due January 31 and the other was due
13 February 15.

14 Q. As an experienced commercial litigator, when
15 there is a conflict or a problem between two parties, is
16 litigation the only way to seek a resolution?

17 A. Usually litigation's a last resort.

18 Q. What are the various means that parties can
19 pursue to solve a dispute?

20 A. Reconciliation, mediation, telephone call,
21 letters, meetings.

22 Q. In commercial litigation, when one party doesn't
23 understand a bill, how can that be resolved without
24 litigation?

25 A. Usually through a meeting, and to explain the

1 nature of the bill, I would imagine. In this particular
2 case, what happened with Colonial was very simple. It was
3 the same type of issue. Which payments were made; and the
4 bills that were received usually have the amount of the
5 usage, the rate charged, and then a credit for the last
6 payment made. And then to the extent that I think Mr., was
7 it Cummings, testified, if late charges are applicable,
8 they'll be added on to the actual principal.

9 The problem that Mr. Pulley had, dating back to these
10 first two cases and the Colonial Gardens case, was that he
11 would make a payment. The payment wouldn't be reflected on
12 the bill. So we had no way of knowing.

13 And more importantly -- and this is just, Your Honor,
14 if I may, indicative of the problem --

15 MR. FARINAS: Your Honor, I object. He's testifying
16 for Mr. Pulley. We're looking at two checks that were lost
17 and found and then cashed, and then everything was okay.
18 And now Mr. McCaffery's talking about --

19 JUDGE VERO: Instruct, Ms. Boone, your witness that
20 we're trying to focus on these three properties, Fairmount,
21 Marshall and Elray.

22 And also, while I wanted to learn more with regard to
23 SBC's attempts to address these issues in a timely manner, I
24 don't need the details of a case that was settled in
25 different court.

1 MS. BOONE: Okay.

2 JUDGE VERO: I don't need the minutia, all the
3 details. It's settled.

4 MS. BOONE: I guess what we were trying to -- I won't
5 talk about the 2005 case anymore.

6 JUDGE VERO: Okay.

7 MS. BOONE: I guess what we are trying to do is, once
8 again, we may ask the Commission to impose a penalty on FGW
9 based on the fact that they have not delivered good service
10 under the statute and in line with other cases where they
11 have not responded to customer complaints, they have not
12 answered properly, they have not shown good service.

13 And one of the things that we want to do is to look
14 at what is the extent of this. Is this something that just
15 happened a month ago? Anyone can have one mistake. Or is
16 this a series of many, many, many mistakes over many, many
17 years?

18 And so the Commission really has to take action.
19 Otherwise lots of other people will be involved, or will be
20 harmed.

21 So this is really a case, it's relevant to understand
22 the history and the extent of these kinds of violations.

23 JUDGE VERO: I understand. But you have the hurdle
24 of the statute of limitations that hasn't been overcome yet.

25 And my issue is you are going into a lot of detail.

1 If you are just trying to establish a pattern of behavior,
2 you are going into a lot more detail than that's necessary.

3 By statute of limitation, I'm limited to look at the
4 last three years from the date the complaint was filed,
5 which is May of 2012. So I can only look back until May of
6 2009.

7 There might be some leeway. But first of all,
8 estoppel, I still am not convinced that you have overcome
9 the burden of establishing that the doctrine applies.

10 And the other thing is, I understand what you're
11 saying, I understand that this behavior has been ongoing.
12 That's sufficient. We can move on with what's pertinent.

13 MS. BOONE: Okay.

14 BY MS. BOONE:

15 Q. If you can talk about the more recent matters
16 that are within the statute, the 2011?

17 A. Sure. I think answering the Judge's questions
18 about Fairmount and Marshall and Elray, my involvement with
19 Fairmount, Elray and Marshall has been over the years I've
20 set up multiple meetings with PGW representatives,
21 Mr. Pulley, Mr. Lampert, Ms. Treadwell, myself.

22 As a matter of fact, on two separate occasions I met
23 with members of city council because we weren't getting
24 anywhere with PGW officials, just to find -- as a
25 constituent service matter. Just can you please have

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1 somebody from PGW who can answer these particular questions,
2 get us in there.

3 My involvement most recently had been on July 10,
4 2010, the city filed a petition against Fern Rock again to
5 sell, free and sell the property.

6 They followed up with a petition to sell against
7 Marchwood on January 7, 2011. And then on February 7, 2012,
8 they filed one against Oak Lane.

9 All three of these matters had been consolidated in
10 front of Judge Idie Fox (phonetic). Mr. Clark and I
11 represented -- Jerry Clark represents PGW in that matter.

12 And it was the same type of issues. Which is
13 requesting information regarding payment applications.

14 Getting to the Judge's question specifically, I don't
15 do utilities law. And I don't know anything about utilities
16 law. And as far back as 2008, I told Mr. Pulley and SBG
17 that to seek out counsel.

18 I think someone from Mr. Feinman's firm, was that the
19 other fellow, who I don't know.

20 In 2011 we're in front of Judge Idie Fox on a
21 consolidated status conference. And Judge Fox was the one
22 who actually suggested filing a PUC complaint.

23 I had no experience in that whatsoever. I came out
24 into the hallway. Still remember it, 4-26. And I told
25 Mr. Pulley, Judge Fox recommended the filing of a PUC

1 complaint.

2 Mr. Pulley then, and I, we interviewed at least three
3 or four different attorneys who were represented to us to be
4 utilities attorneys with experience in this. One was
5 actually Rhoads & Sinon out in Harrisburg. There was a
6 fellow downtown named Mr. Denenberg (phonetic).

7 And again, Your Honor, I don't know this area of law,
8 so I can't vouch for any of them. But I can tell you that I
9 had multiple meetings with multiple attorneys to kind of
10 fill them in on the background. And that was it.

11 That's why this thing was not filed until 2011.
12 Because, frankly, I didn't know about the utility process.
13 Judge Fox was the one who told me about it, and I
14 recommended it to Mr. Pulley.

15 JUDGE VERO: When did the judge instruct you about
16 filing with PUC?

17 THE WITNESS: It would have been either late 2010 or
18 early 2011. Jerry Clark could probably tell you better than
19 I could.

20 JUDGE VERO: And you're aware that Mr. Pulley did not
21 file until May of 2012?

22 THE WITNESS: I don't know with Mr. Pulley filed it.
23 Well, I can tell you right now, it would have been after --
24 it would have been sometime in 2011. Because it was, there
25 was a consolidated matter between Fern Rock and Marchwood.

1 BY MS. BOONE:

2 Q. What was the date of that meeting, of the hearing
3 before --

4 A. The filing on Marchwood was January 7, 2011,
5 according to the docket entries in the Philadelphia Court of
6 Common Pleas.

7 Looking back on my records, we had multiple hearings
8 in front of Judge Fox with Mr. Clark, trying to get
9 information again.

10 And then Judge Fox was the one who made the
11 recommendation. Which would have been either late 2011 or
12 early 2012.

13 Q. Thank you.

14 A. I'm just looking at that. And the only reason I
15 say early 2012 is because Oak Lane was filed on February 7,
16 2012. And I know all three matters were consolidated at the
17 same time.

18 Q. Okay. Throughout your experience in handling or
19 working on some of the PGW and SBG matters, did SBG stop
20 asking questions? What was your experience about their
21 vigilance?

22 A. Oh, SBG was consistently raising questions.
23 Because -- I mean, I didn't meet the lovely lady sitting to
24 your right, because they specifically hired someone to
25 address these issues. It was a constant source of questions

1 from 2000 -- and I'm not exaggerating, Your Honor -- 2005
2 until 2012.

3 Q. Why did you get city council and other
4 Philadelphia government officials involved, or employees
5 involved?

6 A. Well, usually I find city -- PGW's kind of a body
7 politic. And they answer to city council. And some of
8 these properties are located in city council managed
9 districts and had been servicing PHDC and former HUD
10 residents.

11 Specifically, I think I reached out to Daryl Clark,
12 because I think Fairmount was in his district. Elray
13 Garden, Bering, another property, was in City Councilwoman
14 Tasco's (phonetic) district.

15 No other reason than to see if they could supply me
16 with somebody from a constituent service standpoint to
17 interface with PGW, somebody higher up the food chain, to
18 kind of get an answer was far as what was going on as far as
19 the payment applications are concerned.

20 Because frankly, all I was getting every time I asked
21 were the printouts. And I don't know how to read the
22 printouts.

23 Q. In terms of --

24 A. They weren't supplying information. But all I
25 was getting from Jerry Clark, and even Mary Mandabi before

1 that, was a printout. And I had no idea how they were being
2 applied or why they were being applied.

3 The one constant source of problems, Your Honor, was
4 the check would be written from SBG on a particular bill.
5 That wasn't cashed for six months later. And then we -- or
6 three months later, or four months later.

7 And in that time, the late charges were continuously
8 applied month after month after month.

9 JUDGE VERO: But that was issue was resolved.

10 THE WITNESS: The issue was never resolved.

11 JUDGE VERO: Through settlement.

12 THE WITNESS: No, no, no. I'm not talking -- the
13 settlement issue was late --

14 JUDGE VERO: You're talking after 2000 and --

15 THE WITNESS: I'm talking after that. That's why I
16 kept on this.

17 JUDGE VERO: All right.

18 THE WITNESS: Believe me, Judge, the last thing I
19 want to do is deal with, you know, PGW late charges for the
20 rest of my career.

21 JUDGE VERO: All right.

22 THE WITNESS: Until December. Which I'm done.

23 BY MS. BOONE:

24 Q. When the government officials got involved, what
25 explanations were --

1 A. Well, let me -- the government official didn't
2 get involved. What they would do is they would appoint
3 somebody from their staff usually as a constituent services
4 rep.

5 I mean, the Councilwoman Tasco and Councilman Clark
6 never personally got involved. They did set up meetings
7 with PGW reps. And in fact, that's how I met Mr. Dunn.

8 As a matter of fact, at one point we got as far up as
9 Craig White, I think who's, he's the big boss --

10 Q. The CEO.

11 A. -- at PGW. And he wrote a letter one time saying
12 that we would, you know, get a meeting together.

13 Q. The CEO promised a meeting? Is that your
14 testimony?

15 A. I don't know if he's a CEO or not. I know
16 he's -- he does the commercials for PGW. He's a pretty
17 high-up guy.

18 Q. Right. So throughout the years, over and over
19 again, PGW is making more kinds of representations for this?

20 A. That we'll provide you with the information or
21 we'll get you the explanation. And then they would follow
22 up usually with a spreadsheet that, frankly, I didn't know
23 how to read.

24 And the real issue was, I was trying to get somebody
25 from PGW who could explain it to me. Which is why I think

1 at one point Mr. Dunn did, in fact, come out to Phil's
2 office at 1241 Welsh Road.

3 We had a meeting out there. We had a meeting at
4 Eleventh and Cecil B. Moore. I think you have offices down
5 there near Temple's campus.

6 Q. Okay.

7 A. Several meetings down there, both before
8 Ms. Mandabi and after Ms. Mandabi.

9 JUDGE VERO: When did this occur?

10 THE WITNESS: They've occurred literally almost
11 yearly from 2004 until I guess Phil got PUC counsel.

12 My involvement was primarily because when PGW would
13 file the petitions to sell the properties that Mr. Pulley
14 owns, I would get involved at that point, because they were
15 in the court of common pleas of Philadelphia County.

16 Since I don't do utilities work, I would from time to
17 time recommend Mr. Pulley to get utilities counsel.

18 But the actual interfacing with PGW officials
19 occurred, I want to say -- I mean after we settled the case,
20 probably started up again in 2007 through 2012.

21 BY MS. BOONE:

22 Q. At any point in the recent cases, did you receive
23 a written explanation -- what explanation did you receive on
24 the calculations? You said that you couldn't read it. How
25 did you handle that?

1 A. The last time we were in front of Judge Fox,
2 Mr. Clark and I, Jerry gave me a copy of their printout.
3 And again, it was just that, it was a printout with usage,
4 rate charge and, I think, late fees for the total bill owed
5 with a running tally.

6 But it didn't provide any explanation as far as when
7 payments were received, when they were applied, anything
8 like that.

9 Q. Why do you need to know when the payments are
10 received to understand the bill?

11 A. I don't. The client does.

12 Q. Do you know why the client needed to know that?

13 A. Well, I would assume because of the late fees.
14 The late fees are, I mean -- and I don't want to speak for
15 PGW. But my understanding is the late fees are applied
16 against the outstanding balance.

17 And unless you know when the actual payment was
18 received and applied, you don't know to what the late fee
19 was applied against.

20 That's the way it was explained to me from Mr. Pulley
21 and Mr. Lampert. I'm not an accountant.

22 Q. Was this information, this particular question,
23 put to PGW or to Gerald Clark as one attorney to another,
24 the problem of the explanation?

25 A. I can't tell you if I mentioned that to Jerry or

1 not.

2 Q. Okay. Was any written explanation of that
3 provided?

4 A. No, never.

5 Q. Okay, thank you. Are there any other documents
6 you could provide that you would like to share with us?

7 (Witness shaking head negatively.)

8 Q. Okay. Thank you.

9 A. Everything I have I produced and sent you this
10 week.

11 Q. Oh, I did have one other question. Why do we
12 need to get the late payment charges right in terms of what
13 happens later on to the property? If you don't have the
14 late payment charges right, if you don't have the usage
15 right, what happens?

16 A. Well, from a litigation perspective, there's no
17 way to zero out the account.

18 Q. Why do you need the account zeroed out?

19 A. Well, I'll give you the for instance. On Fern
20 Rock, when they couldn't, when they didn't pick up the
21 \$33,000 payments, I got involved again because six months
22 later they had another huge balance after we had just
23 settled the case.

24 Because then they -- the settlement agreement was
25 January 19, 2005. They mis -- I don't want to say they

1 misapplied. The checks were sent to them, received and
2 cashed. But they didn't apply them to the settlement.

3 And then six months later, eight months later,
4 towards the end of the year, I think it was in August,
5 according to my records, they had another huge account
6 balance applying a whole bunch of late fees from January on,
7 when they had received the checks in February.

8 Q. Now, as a commercial litigator, how often do you
9 get involved with matters will bills are contested or debts
10 are contested?

11 A. I do very little of that. This is probably one
12 of the few cases that I've ever been involved in, because
13 it's Phil.

14 Q. Okay.

15 A. I stay away from those kind of collection cases.

16 MS. BOONE: Okay.

17 JUDGE VERO: Mr. Farinas, any cross examination?

18 MR. FARINAS: Yes, Your Honor, I do.

19 JUDGE VERO: Proceed.

20 MR. FARINAS: Thank you. Your Honor, may I approach?

21 JUDGE VERO: Yes.

22 **CROSS EXAMINATION**

23 BY MR. FARINAS:

24 Q. Mr. McCaffery, you made reference to printouts
25 that, I guess, Jerry Clark provided to Mr. Pulley and

1 yourself and in the cases with Judge Fox; is that correct?

2 A. Yes.

3 Q. Do these look like the printouts?

4 (Documents handed to witness.)

5 Q. Are these the type of document that was shared?

6 A. Similar. It could be. I don't remember the -- I
7 don't remember this, the headings on it. I remember like
8 the line items.

9 Q. I see. Okay.

10 A. And also, it looks a little bit different from
11 the ones I -- I don't want to go through your binder. But
12 it could be.

13 Q. Okay. And you'll agree with me that this
14 printout here shows -- if I could just show you the second
15 column, bills and late payment charges, and it says L-P-C.

16 A. Late payment charges.

17 Q. Right. And L-P-C W-V-E. Various -- do you see
18 anything -- if I told you that the symbol for a payment
19 would be P-A-Y, would that seem logical to you if it
20 appeared on that column?

21 A. Would the symbol P-A-Y reflecting payment seem
22 logical to me?

23 Q. Right.

24 A. Yeah.

25 Q. Okay. And you stated that there was no -- you

1 weren't able to understand them. Do you remember seeing any
2 P-A-Y's on the documents that you saw?

3 A. I don't remember any designation whatsoever on
4 the documents that I saw from Mr. Clark. All we had were,
5 from my recollection -- and I probably could have got this
6 from my file, and I apologize for not doing so. But all I
7 recall were the amount billed, the late charges, and then
8 current amounts, with a running tally.

9 Q. Okay.

10 A. I don't remember seeing any kind of designation
11 regarding P-A-Y, L-P-C's or anything like that on the
12 left-hand margin.

13 Q. Okay. But if an account, this is an account
14 document, and it shows bills and late payment charges, but no
15 P-A-Y's, could it possibly mean that there were no payments
16 made during in that section?

17 A. Yeah, it could mean anything.

18 Q. Okay. When you went to -- did Mr. Clark ever put
19 on, to your knowledge, in any of the cases that you were
20 involved in, any testimony with regard to the accuracy of
21 the bills?

22 A. Jerry and I never had a contested hearing.

23 Q. Okay.

24 A. Jerry and I just -- when they filed the
25 petitions, we literally had two or three status conferences

1 in front of Judge Fox. And then we ended up, I filed a
2 petition to consolidate. There were three outstanding
3 matters, which I just mentioned.

4 And then when they were consolidated, I think it was
5 actually the consolidation hearing in front of Judge Fox,
6 where she recommended the utility, the PUC complaint.

7 Q. And those are the matters that are now still held
8 in abeyance while this matter's pending?

9 A. I have no idea what's -- I don't do that kind of
10 work.

11 Q. Okay.

12 A. I know Mr. Pulley, like I said, interviewed
13 multiple law firms. So I don't know what he filed and what
14 he didn't file.

15 Q. No. Do you know if the matters that are now held
16 in abeyance before Judge Fox, are the matters, are the
17 substantive matters about which we're discussing today, the
18 billing?

19 A. They're not substantive matters, they're
20 petitions to sell the property free and clear that's filed
21 in the court of common pleas.

22 Q. And the matters which Judge Fox instructed or
23 suggested that a PUC complaint be filed concerned what?

24 A. Concerned the payments.

25 Q. And do you know if the payments that were the

1 subject of Judge Fox's suggestion are the matters that we're
2 discussing in this matter?

3 A. I do not.

4 Q. I want to clear up something. You first stated
5 that there were matters you were involved in in 2004, but
6 this was the first time Judge Fox or anyone recommended that
7 in order to, I guess, get to the bottom of what payments
8 were made, to file a PUC complaint. Is that correct?

9 A. When you say this, what do you mean, this?

10 Q. Well, you gave testimony that you were involved
11 in matters involving, in 2004; right?

12 A. Yeah, the 2004 matter was Simon Garden and Fern
13 Rock. And we settled it. And I actually -- the settlement
14 agreement is actually in that packet.

15 Q. But during the 2004 matter, nobody suggested that
16 you file a complaint with the Public Utility Commission?

17 A. Not to my knowledge. I don't even know what the
18 PUC does, to be honest with you. Or how it operates. I
19 kind of operate in my own little world.

20 Q. To your knowledge, was -- now, getting back to
21 the Judge Fox matters. Was the amount, were any of the
22 amounts at issue associated with the late payment charges
23 and having to do with the accounts that were from SBG's
24 tenants?

25 A. I think that's one of the issues, yes.

1 Q. Okay.

2 A. The matters in front of Judge Fox, I've got the
3 court term and number, if you need it.

4 Q. What I'm asking though is, the matters that are
5 disputed, or that you're disputing in this matter or in that
6 matter -- I'm sorry -- did they involve tenant debt?

7 MS. BOONE: Objection.

8 JUDGE VERO: On what grounds?

9 MS. BOONE: On the grounds that cross was limited to
10 SBG accounts and SBG payments. It didn't have anything to
11 do with liens that had been filed for tenant accounts.

12 JUDGE VERO: Cross or direct?

13 MS. BOONE: His cross is going beyond the scope of my
14 direct. My direct was limited to SBG accounts. It did not
15 mention tenant accounts that have been liened. So he's
16 talking about something completely different, off topic.

17 MR. FARINAS: He provided testimony regarding the
18 matters that are currently in abeyance before Judge Fox,
19 about which she asked that Mr. Pulley file a PUC complaint.
20 And I'm asking what was the content, what was the purpose of
21 it.

22 MS. BOONE: With all due respect, in your
23 preliminarily objections you said that municipal liens were
24 not part of this proceedings, and that it had no part in it.
25 Now you're bringing those tenant liens into this.

1 MR. FARINAS: I'm bring it for the reason that --

2 MS. BOONE: And as you know, in evidence, you can
3 certainly present evidence for what's relevant of that
4 evidence. What you're talking about in your own PO is you
5 said was irrelevant. So I'm not sure why you're bringing it
6 up now.

7 MR. FARINAS: I'll tell you, if you like. I'm
8 bringing this matter up because the Commission has held that
9 there have been complainants coming before the Commission
10 that are bringing disputes which are really collateral tax
11 on liens filed.

12 MS. BOONE: And with all due respect, we aren't doing
13 that. We're limiting to SBG accounts.

14 JUDGE VERO: Hold on, hold on.

15 Mr. Farinas, if I recall correctly, they dropped the
16 tenants, all the claims with regards to tenants' accounts
17 once they were identified during discovery. I think those
18 claims were dropped in the amended complaint.

19 Remember, they were present in the original
20 complaints, but then with Mr. DeBroff's involvement and his
21 filing of the amended complaints, those tenant related
22 issues, as they pertained to the liens, were dropped.

23 MS. BOONE: Also, Fern Rock, Marchwood and Oak Lane
24 don't have any tenant, and they have meters.

25 JUDGE VERO: Fairmount, Marchwood and --

1 MS. BOONE: I'm sorry. Fern Rock, Marchwood and Oak
2 Lane.

3 JUDGE VERO: Fern Rock.

4 MS. BOONE: Don't have any tenant meters. So he's
5 talking about matters that don't have tenant meters and
6 wouldn't have tenant liens.

7 JUDGE VERO: Okay. Hold on a moment. I haven't had
8 a chance to look through this, but I did receive it over the
9 weekend.

10 But like the witness, I also operate in my little
11 world.

12 (Laughter.)

13 JUDGE VERO: And I'm not very familiar with the court
14 of common pleas and their terminology, etcetera. So like he
15 said, he doesn't understand the account history very well, I
16 didn't understand this very well.

17 Are you saying that currently these cases, I
18 understand, were held in abeyance or pended until the PUC
19 get an opportunity to conduct a formal hearing and issue a
20 decision?

21 I understand that these cases that I have here, these
22 pages are numbered, but the first, I'm going to say, five or
23 the first ten pages, maybe --

24 MS. BOONE: It's my understanding that Fern Rock,
25 Marchwood, and Oak Lane don't have any tenant meters. So

1 there shouldn't be any tenant --

2 JUDGE VERO: Are these cases in the court of common
3 pleas, do they pertain to straight properties you just
4 mentioned, or do they --

5 MS. BOONE: Yes.

6 JUDGE VERO: -- pertain to any other properties?

7 MS. BOONE: No, just these three properties.

8 JUDGE VERO: Okay.

9 There you have it, Mr. Farinas.

10 MR. FARINAS: Thank you. And I understand also that
11 part of SBG's request for relief does not include any late
12 payment charges associated with tenant debt.

13 JUDGE VERO: Is that question directed to whom?

14 MR. FARINAS: I'm sorry.

15 Is it my understanding that your relief does not
16 include late payment charges associated with tenant debt?

17 MS. BOONE: Well, I'm not sure why we're talking
18 about tenants in this proceeding. I mean the cases have
19 been held in abeyance. Mr. McCaffery's firm is handling it,
20 and Mr. McCaffery. We're here to talk about SBG, what SBG
21 owes and SBG's late payment charges.

22 There are some cases where SBG believes that tenant
23 accounts were put in SBG's name, and shouldn't. But that's
24 a different issue from municipal lien. That, again, goes to
25 service.

1 JUDGE VERO: Yes. Mr. Farinas, why are you asking
2 that question at this time?

3 MR. FARINAS: I was of the understanding that part of
4 the relief going --

5 JUDGE VERO: Are you trying to clarify what type of
6 relief?

7 MR. FARINAS: Yes, yes.

8 JUDGE VERO: And the extent of the relief?

9 MR. FARINAS: The extent of the relief. As I
10 understood, it's still held that there was accountings that
11 were requested even regarding the debt by SBG's tenants.
12 And therefore the late payment charges associated with that
13 debt were part of the request.

14 MS. BOONE: Well, as Mr. Pulley testified to, one of
15 the issues is that there may have been a tenant who lived at
16 a different residence, then moved in to an SBG managed
17 property, and that debt traveled with him.

18 That's not the same as a municipal lien law. The
19 municipal lien law refers to tenants who generate debt
20 within the SBG property, and so that owner of that property
21 has it.

22 This is, again, the issue is being mixed between the
23 municipal lien issue, which is that a municipal lien runs
24 with the property, versus a tenant who's municipal lien
25 should have run with a different property that's transferred

1 to something different.

2 MR. FARINAS: I'm not talking about that. It is not
3 your expectation that PGW will provide information regarding
4 the application of amounts paid in satisfaction of a lien to
5 tenant debt that's at the SBG property?

6 MS. BOONE: You know what, actually, I think I
7 understand what his question is.

8 JUDGE VERO: Okay.

9 MS. BOONE: When we first started these inquiries,
10 one of the questions had -- some of the questions centered
11 on what were the tenants' debt, what were SBG's debts.

12 And one of the things that's happened is, over the
13 course of this year we have started to receive information.
14 So we're able to identify whether a lien or a debt claimed
15 by PGW belongs to SBG or belongs to a tenant.

16 And that's why after reviewing all these documents
17 and having meetings, we have now refined our questions or
18 our disputes to SBG properties.

19 Our internal accountants took the statement of
20 accounts and went through and identified the SBG matters.

21 If a tenant is in there, it's only because it's
22 something that should have gone to the tenant, not because
23 we're saying there shouldn't be a lien there for the tenant
24 debt.

25 JUDGE VERO: Does it answer your question?

1 MR. FARINAS: Yes.

2 JUDGE VERO: Good. Any further questions for the
3 witness?

4 MR. FARINAS: I have no further questions, Your
5 Honor.

6 JUDGE VERO: Any redirect?

7 MS. BOONE: No.

8 JUDGE VERO: All right. I do have a few questions
9 for you, Mr. McCaffery.

10 You testified that you represented SBG in certain
11 issues, or rather certain claims, before the court of common
12 pleas during the period 2002 to 2005, you were involved with
13 SBG?

14 THE WITNESS: Yes.

15 JUDGE VERO: Are you responsible in any form or shape
16 for SBG filing an informal complaint with the Pennsylvania
17 Public Utility Commission during that period of time?

18 THE WITNESS: Am I responsible?

19 JUDGE VERO: Uh-huh. Did you hear of it? Did you
20 encourage it? Did you direct SBG to do that?

21 THE WITNESS: No.

22 JUDGE VERO: Are you aware that they filed something
23 during that period of time?

24 THE WITNESS: Am I aware?

25 JUDGE VERO: Uh-huh.

1 THE WITNESS: No. I don't even know what the process
2 would be for a utilities complaint.

3 JUDGE VERO: Okay.

4 THE WITNESS: That's what I meant to convey when I
5 said I stay in my own little world.

6 JUDGE VERO: All right. You also testified that from
7 about 2007 till 2012, you have had almost annual meetings
8 with PGW representatives at various PGW locations.

9 And you also mentioned something that you got these
10 reassurances from PGW employees, that they would provide the
11 information that you needed for your own cases in front of
12 the court of common pleas.

13 Can you be more specific? What's the exchange or the
14 feedback that you got from PGW in those meetings? I
15 understand that they occurred almost once a year. And the
16 intention was to ask questions, exchange information? What?

17 THE WITNESS: I don't want the Court to get the
18 mis-impression that we had annual meetings. There were
19 annual emails, telephone calls, several meetings. Some may
20 have occurred two or three times during the course of a
21 year.

22 Understood, Your Honor, Mr. Pulley and his entities
23 own multiple properties. There's got to be three, maybe two
24 or three dozen, you know, single-purpose limited entities.

25 Throughout the course of the last six or seven years

1 there have been multiple questions raised regarding these
2 PGW bills.

3 On those occasions I've had -- I think I was in on at
4 least one or maybe even two of the conference calls with
5 Mr. Dunn.

6 I had other meetings with PGW reps, city council
7 reps. Mr. Clark has gotten involved in the last couple of
8 years. I think he took over for Maryanne Mandabi. Jerry's
9 been very, very helpful when he can, answering some of the
10 questions, some of the disputes.

11 So these are not necessarily face-to-face meetings,
12 but there have been conference calls, there've been emails
13 back and forth regarding the bills.

14 I really only get involved from a court hearing when
15 PGW files a petition to sell one of these properties free
16 and clear. Because then it has a court term and number, and
17 it's in the court of common pleas. And that's when I
18 usually get involved.

19 I mean, personally I view this as an accounting
20 function, not really a legal function.

21 JUDGE VERO: Okay. I'm trying to understand the
22 purpose of your testimony, why Ms. Boone brought you here to
23 testify.

24 MS. BOONE: I brought him to show that the issues
25 that we're bringing forth are not recent issues. Again, we

1 want to show the extent, how long it's been where SBG has
2 sought information on how their bills are calculated, how
3 it's done, the extent to which SBG has actually sought help
4 with this.

5 They've gone to outside counsel, several different
6 firms. They've even asked outside counsel to call on
7 government officials, or the staff of city council, people
8 there.

9 JUDGE VERO: Neither one of those actions follow the
10 statute of limitations. And you're aware of it. Because I
11 sent you the language. I sent a citation as well, provided
12 you at the prehearing conference.

13 MS. BOONE: Right.

14 JUDGE VERO: Citations to the case, to the
15 Commission's final opinion and order, I believe, covers the
16 language in terms of what follows the statute of
17 limitations. What it is, how it can get told.

18 MS. BOONE: Yes. And I have researched that case, as
19 well as others, where the courts have said that if you
20 haven't done anything, if you haven't sought information
21 from the utility company, if you've rested on your
22 laurels -- if there's anything that's been shown today, they
23 have sought information from the public utility company.

24 JUDGE VERO: Okay. In providing the citation where
25 the Commission said that just contacting the company with

1 questions, or even with disputes or complaints directed
2 strictly to the company, was sufficient in and of itself to
3 tell the statute of limitations.

4 MS. BOONE: Well, there is a case, and I can produce
5 it.

6 JUDGE VERO: Yes, please do.

7 MS. BOONE: Where the court said, the fact that the
8 complainant did not contact the utility company prior to the
9 statute of limitations, the court would not look beyond the
10 three-year period.

11 So the converse of that is, if a party is contacting
12 them before the statute of limitations, then the judge may
13 look to the fact that they have tried to be vigilant.

14 Here it's not just one contact, it's many, many, many
15 contacts using many, many different vehicles.

16 MR. FARINAS: After the rejection of the information
17 provided again and again.

18 MS. BOONE: And there's also no point where you've
19 heard testimony from PGW that --

20 JUDGE VERO: The utility has not set up its case yet.

21 MS. BOONE: I'll bring it.

22 JUDGE VERO: Okay. No, I'm just saying, PGW has not
23 had an opportunity to present its case. So you cannot say
24 that there has been no point when they have or have not
25 stated something, because they haven't presented their case

1 yet.

2 So you were saying, other than that?

3 MS. BOONE: We looked at their records, and we don't
4 see a written response that defined it. Also, we are going
5 to put on additional testimony that shows that these bills
6 have not been calculated in accordance with the tariff. And
7 so we have asked.

8 Simply giving us the statement of account without
9 talking about the internal calculations, we finally got
10 information this year.

11 Our accountants internally calculated the amount of
12 interest that's being charged on some of these LPCs. And
13 they don't comply with the tariff.

14 JUDGE VERO: Okay.

15 MS. BOONE: But I would be happy to brief this issue.

16 JUDGE VERO: And I'll be very happy to read the
17 brief.

18 Mr. McCaffery, last question. You also mentioned
19 during your questioning that from time to time you counseled
20 Mr. Pulley to get PUC counsel. Can you be more specific?

21 THE WITNESS: Can I be more specific?

22 JUDGE VERO: Uh-huh. Your statement was that you
23 instructed or counseled Mr. Pulley from time to time to get
24 PUC counsel. Or utility counsel.

25 THE WITNESS: Yes. Well, I think -- well,

1 specifically, I can tell you that when Judge Fox made the
2 recommendation to file a PUC complaint, I said you're going
3 to have to find somebody that knows this area of law and is
4 familiar with the process.

5 I think historically I may have told him once or
6 twice beforehand that their -- when the rate issue came up
7 and we had interviewed some experts as far as taking a look
8 at how they were calculating the rates, that he should
9 probably retain utility counsel, somebody from the PUC.

10 JUDGE VERO: And when did this advice occur?

11 THE WITNESS: I couldn't tell you specifically when.
12 I know one time was when we met in his office. Was probably
13 was about 2010 or 2011 maybe.

14 We met with an expert from, I believe he was from
15 Bucks County. He had been a former member of the
16 Pennsylvania Public Utility Commission, and he was looking
17 at the bills and to render an expert opinion. I think that
18 was in 2000 and -- probably two years ago.

19 MS. BOONE: If I can just -- I think it was actually
20 just in 2012.

21 THE WITNESS: I don't know when it was.

22 JUDGE VERO: It's okay.

23 I have no further questions for you, Mr. McCaffery.
24 I believe Mr. Farinas and Ms. Boone also don't have any
25 redirect.

1 of today.

2 (Whereupon, at 4:35 p.m., the hearing was adjourned,
3 to reconvene on Tuesday, August 27, 2013, in Philadelphia,
4 Pennsylvania.)
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FORM 2

1 MS. BOONE: No.

2 JUDGE VERO: Any redirect?

3 MR. FARINAS: No.

4 JUDGE VERO: All right. You may step down. Thank
5 you very much.

6 THE WITNESS: Thank you, Your Honor.

7 JUDGE VERO: Next witness.

8 THE WITNESS: May I be excused?

9 JUDGE VERO: Yes. I said that you can step down.

10 THE WITNESS: May I be excused from the proceedings?

11 JUDGE VERO: Yes, of course.

12 THE WITNESS: Thank you.

13 (Witness excused.)

14 MS. BOONE: Next witness is Eric Lampert.

15 JUDGE VERO: Ms. Boone, what is the scope of
16 Mr. Lampert's testimony?

17 MS. BOONE: Mr. Lampert is the controller for SBG
18 Management Services, and he is the party who actually filed
19 the 2005 complaint. And he can talk about why that was
20 done.

21 He can also talk about some of his interaction where
22 he --

23 JUDGE VERO: Are we still dealing with general issues
24 and estoppel?

25 MS. BOONE: Yes.

Testimony of Eric Lampert

Date 8/20/13

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Exhibit # SBG CG/SG 8

COMMONWEALTH OF PENNSYLVANIA

PUBLIC UTILITY COMMISSION

-----x
 :
SBG Management Services, Inc. : Docket Nos.
v. Philadelphia Gas Works. : C-2012-2304167
 : C-2012-2304215
 Initial Hearing. : C-2012-2304303
 :
 -----x

Pages 1 through 270

Fourth Floor Hearing Room
State Office Building
801 Market Street
Philadelphia, Pennsylvania

Monday, August 26, 2013

Met, pursuant to notice, at 10:08 a.m.

BEFORE:

ERANDA VERO, Administrative Law Judge

APPEARANCES:

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FOR IDENTIFICATION IN EVIDENCE

(None.)

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C E R T I F I C A T E

1
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6 transcript is a true and accurate record to the best of
7 my ability.
8

9 COMMONWEALTH REPORTING COMPANY, INC.
10

11 By: William J. Horst (w)
12 William J. Horst
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1 MS. BOONE: No.

2 JUDGE VERO: Any redirect?

3 MR. FARINAS: No.

4 JUDGE VERO: All right. You may step down. Thank
5 you very much.

6 THE WITNESS: Thank you, Your Honor.

7 JUDGE VERO: Next witness.

8 THE WITNESS: May I be excused?

9 JUDGE VERO: Yes. I said that you can step down.

10 THE WITNESS: May I be excused from the proceedings?

11 JUDGE VERO: Yes, of course.

12 THE WITNESS: Thank you.

13 (Witness excused.)

14 MS. BOONE: Next witness is Eric Lampert.

15 JUDGE VERO: Ms. Boone, what is the scope of
16 Mr. Lampert's testimony?

17 MS. BOONE: Mr. Lampert is the controller for SBG
18 Management Services, and he is the party who actually filed
19 the 2005 complaint. And he can talk about why that was
20 done.

21 He can also talk about some of his interaction where
22 he --

23 JUDGE VERO: Are we still dealing with general issues
24 and estoppel?

25 MS. BOONE: Yes.

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JUDGE VERO: All right, yes.

Mr. Lampert, please raise your right hand.

Whereupon,

ERIC LAMPERT

having been duly sworn, testified as follows:

JUDGE VERO: Please state your name, and spell your last name for the record.

THE WITNESS: My name is Eric Lampert, L-A-M-P as in Paul, E-R-T. And what else did you want?

JUDGE VERO: That's all.

Then, Ms. Boone, you may take over.

MS. BOONE: Sure. Thank you.

DIRECT EXAMINATION

BY MS. BOONE:

Q. Will you please state your name, birth date, address?

A. Eric Lampert, L-A-M-P-E-R-T. Birth date, 9/8/61. My office address is 1095 Reidle Road, Third Floor, Reidle, PA 19046.

Q. Please describe your job title and your job responsibilities.

A. I am the controller over at SBG Management. I handle mostly all of the -- most of it, if not all of the financial aspects of various properties, bills, etcetera.

Q. How do you go about doing that? When a bill

1 comes in, what happens?

2 A. A bill will come in. And normally, because we've
3 diversified a little bit, the bill will come in, and it's
4 usually looked at for reasonableness, validity, somebody
5 ordered it; if there's a mark on there as to who ordered it,
6 what it was for; if the bill is valid or its entered into
7 the system for payment, and then processed along the way.

8 Q. Okay. Have you had a chance to -- if a bill is
9 not proper, then what course of action do you take?

10 A. What we'll tentatively do is, whoever the vendor
11 is, we'll contact them. Or first, actually, whoever -- if
12 it's for material, supplies, something like that, I'll
13 contact whoever ordered it, find out if, in fact, that's
14 what they ordered.

15 If the bill looks like something out of the ordinary,
16 I'll contact them, say, hey, did you order this, or how much
17 was it, how much did you order.

18 If they say no, or that's not the price, I'll then
19 contact the vendor and say, how did you arrive at this, what
20 is this for, what's this charge, and so on.

21 So I'll validate what is on the bill. And then if
22 I'm satisfied, fine. If not, we'll usually work it out
23 somehow. Either they'll send me a revised bill, or I'll
24 understand why they're charging me what they're charging me.

25 And then, okay, I may not like it, but I understand

1 it, and okay, and we entered it into the system.

2 Q. How long have you been employed at SBG?

3 A. I guess since about 2001.

4 Q. And how long have you been working at pretty much
5 reviewing the bills, including utility bills?

6 A. Well, for most of them, pretty much up until, I
7 guess, sometime in late 2010 or early '11, when Kathy came
8 on and I diversified a little bit of some of the stuff to
9 her. Especially the utility stuff.

10 Q. You know that we're here today on three
11 properties in particular.

12 A. Yes.

13 Q. Fairmount, Elray and Marshall Square.

14 A. Yes.

15 Q. I'd like to turn your attention to page 130 in
16 the SBG Fairmount binder.

17 A. I don't know if I have that. Do you have a
18 binder I can --

19 (Document handed to witness.)

20 A. Okay.

21 Q. Okay. On page 130 of the Fairmount binder
22 there's a letter. Can identify the letter for the record?

23 A. Yeah. it's a letter that I wrote to PGW in June
24 of '04.

25 Q. Can you say the exact date, please.

1 A. June 18, 2004. Regarding a bill that I received
2 in June of 2004.

3 Q. I'd like to turn your attention to page 131 and
4 132. Can you identify what those documents are?

5 A. Yes. 131 and 132 are the copies of the bill that
6 I received.

7 Q. Please read the letter into the record.

8 JUDGE VERO: The entire letter?

9 MS. BOONE: It's not that long.

10 THE WITNESS: Do you want me to read fast?

11 MS. BOONE: Okay.

12 THE WITNESS: Pardon me.

13 June 18, 2004, PGW, P.O. Box 3500, Philadelphia, PA
14 19122-0050, regarding Fairmount Manor, 625 North Seventh
15 Street, Account No. 0612167092.

16 To whom it may concern. We are the management
17 company for the above referenced property. We have recently
18 received our PGW bill for the period 4/30/2004 through
19 6/2/2004, and are confused. This property is an eleven-unit
20 apartment building, and it is inconceivable that it could
21 use 6,524 CCF during the month of May, when during the
22 winter months our usage did not exceed 400 CCF. However,
23 speaking to our on-site property manager, she reported that
24 on or about April 25, upon her arrival to work, Seventh
25 Street was closed due to PGW work crews. And apparently

1 were doing work through 4/28/04, when PGW reps M. Hughes and
2 V. McAnders came into the office and spoke with our manager
3 and told her that there was work that needed to be done, and
4 new gas lines had to be installed. Crews came back and
5 performed this work on 6/2 and 6/3. These dates also
6 coincide with the dates of the extremely outrageous bill for
7 one month of service. Upon our review of the information,
8 we feel that this bill is a result of something PGW work
9 crew did and therefore we are not responsible for anything
10 beyond the reasonable charges of approximately 578 versus
11 what was billed, \$12,777.54. In addition, please explain
12 the weather normalization adjustment charge and how it is
13 calculated. We would appreciate your view of the
14 information, and reissue a new reasonable bill. Enclosed is
15 a copy of the disputed bill for your convenience. Thank you
16 for your assistance with this matter. Respectfully,
17 Eric Lampert.

18 BY MS. BOONE:

19 Q. In looking at page 131, why did you suspect the
20 bill was a problem, or you had questions?

21 A. Well, you know, if you look at it, one, this is,
22 the period of time is May. Which is traditionally, I guess,
23 the beginning of the summer months, the warmer months.

24 And the prior months, which are on here, you can see,
25 which are the winter months, you know, January, our bill's

1 maybe only averaged \$500 a month, or the proportionate CCFs.

2 All of a sudden in one month, in May, a summer month,
3 when I would figure it would either be the same if not a
4 little lower, it's not double, it's like, you know, \$12,000.
5 It just doesn't seem, you know, reasonableness that we could
6 possibly have used that in an eleven-unit apartment
7 building, which I don't think at that time was fully
8 occupied either.

9 Q. If you could turn -- and so what was the
10 response?

11 A. I received no response.

12 Q. What happened with the billing?

13 A. What I did get was a subsequent bill, I think the
14 following month, that went back down to \$500.

15 Q. What explanation did you receive in response to
16 your written request?

17 A. None. I received no explanation.

18 Q. What happened? What explanation did you receive
19 for the change in the reduction for --

20 A. Received nothing.

21 Q. Okay. I'd like to turn your attention to SBG
22 Fairmount page number 109. So you're saying that the high
23 charge was taken off?

24 A. That's correct.

25 Q. I'm sorry, the Fairmount binder, on page 109.

1 It's the same binder there.

2 A. Oh, okay.

3 Q. Please state the date of this letter?

4 A. September 12, 2005.

5 MR. FARINAS: Your Honor, I heard the testimony.
6 Again, consistent with your expression of your wishes
7 earlier, we're back in 2005. It's not just a summary.
8 We're actually --

9 MS. BOONE: If I can have your leeway, I can explain
10 to you what's going to happen. We only received documents
11 from PGW on Saturday. Which led us to understand that this
12 matter that was brought up in 2004 was not even investigated
13 internally until 2007, despite receiving correspondence from
14 SBG. And we only received that documentation on Saturday.

15 JUDGE VERO: Did you ask for it?

16 MS. BOONE: We've been asking for explanations since
17 2004. And we asked for it again and again and again.
18 That's the whole reason why we're here.

19 JUDGE VERO: No. Did you ask for it during
20 discovery?

21 MS. BOONE: We asked for explanations for the bills.
22 Yes, we did ask for explanation. It's only when they
23 provided internal records that we saw what happened.

24 JUDGE VERO: Internal records of what type?

25 MS. BOONE: The notes that they make internally. If

1 you look at PGW's Fairmount Manor book, at page 107 -- not
2 107.

3 I'm sorry. It's page 99 of PGW 1, their Fairmount
4 book.

5 THE WITNESS: If I may interject real quick, because
6 you guys keep going back to that meeting we had at 1241
7 Welsh with Mr. Dunn. This was actually part of the
8 information I discussed with Mr. Dunn because I did not
9 receive any response.

10 And then again when it was rebilled, I still got no
11 response. And he said that's one of the things that he
12 would look into.

13 BY MS. BOONE:

14 Q. Now, in the documents we recently received from
15 PGW, if you look at PGW 1 Fairmount, page 99, if you read
16 the notes that are entered, the date of these notes are
17 March 1, 2007. And the notes say -- can you turn to that
18 page?

19 A. I don't have that one.

20 Q. Oh, you don't have it. Okay.

21 (Document handed to witness.)

22 Q. So we've been asking for years and years and
23 years, information --

24 A. Can I mention the other page too, where they
25 acknowledged?

1 Q. Yes. Yes, you can.

2 A. Your Honor, also, if you look on PGW Fairmount,
3 page 107.

4 JUDGE VERO: Yes, I'm there.

5 THE WITNESS: No, that's not -- oh, yeah, there it
6 is. About midway down, the date of June 30, 2004.

7 JUDGE VERO: Uh-huh.

8 THE WITNESS: It says letter and correspondence
9 received from SBG Management.

10 JUDGE VERO: Yes.

11 THE WITNESS: So they do acknowledge receiving my
12 original correspondence.

13 BY MS. BOONE:

14 Q. And what does it show on that page in terms of
15 how they responded to it? What do you see in their notes
16 about what they did?

17 A. Oh. After they got my correspondence, there's
18 nothing in there until -- nothing in there regarding that,
19 oh, until October of '05, when they say, Malita (phonetic)
20 contact made. They spoke with accounts payable, who may be
21 in the process of disputing the bill. He is putting
22 together some information and will get back to us one way or
23 another.

24 Q. Now, that letter, that note is dated October?

25 A. October 2005.

1 Q. 2005. When you looked at SEG page, Fairmount,
2 109, you have a letter that you wrote. What was the date of
3 your letter?

4 A. June of 2004. Which they actually acknowledge
5 receiving June of 2004.

6 Q. What written information did you receive --

7 A. Nothing.

8 Q. -- from PGW after the --

9 A. Nothing.

10 Q. And what happened in 2005? What did you do?

11 A. 2005, when they actually came out, replaced the
12 meter, I then sent that second letter, stating, because they
13 rebilled me for the \$12,000.

14 Q. So let me understand. They took off -- you sent
15 one letter, and they reduced the bill?

16 A. Correct.

17 Q. And then a year later they put the charge back
18 on?

19 A. Correct.

20 Q. Why was that a problem?

21 A. Well, they never -- they corrected the bill, but
22 they never fixed the meter problem.

23 Q. What does that mean?

24 A. Well, that would mean that the meter is still
25 going to be wrong. And any readings that come off the meter

1 are going to be wrong. And they're not going to agree with
2 our bill.

3 And therefore, while I'm making payments, the meter's
4 way ahead. So that once they take an actual physical
5 reading or take that meter out, I'm going to be back to
6 where the bill told me I was. Which is not my charges,
7 because that's what I was questioning.

8 Q. Now, there was testimony today that when there's
9 a question about a meter in general, somebody comes out in
10 30 days.

11 Looking at this information, you sent a letter in
12 '04. The meter that was questioned was actually moved when?

13 A. In '05.

14 Q. What month?

15 A. I want to say I think it was -- well, actually,
16 and I'll tell you something. It doesn't say on their
17 printout here that they removed it, but if you look at the
18 bill that came in September of '05, it shows when it was
19 removed.

20 Q. Okay. And that bill is found at -- can you turn
21 to Fairmount 110, page 110, the Fairmount binder, 110. Page
22 111, I'm sorry, of the Fairmount binder. Is that the bill
23 that you're referring to?

24 A. Yes. And you see on page two where it shows that
25 it was removed, and they didn't --

1 Q. Excuse me. You mean page 111 of the Fairmount
2 binder?

3 A. I'm sorry. Page 111. It's page two of the bill,
4 I guess. But page 111 of the Fairmount binder. It shows
5 the reading. And then when they actually removed it,
6 August 24 of '05. And then just rebilled us the difference.

7 Q. Okay. And you said that this was the kind of
8 thing that you had asked PGW about, you sought information?

9 A. Yes.

10 Q. And what response did you receive?

11 A. I received none.

12 Q. We received these documents about PGW's internal
13 records. What does the next note say?

14 A. The next note actually --

15 Q. If you could say the date of that note as well?

16 A. The date of this note, it's actually their doc
17 action tab. I guess actions taken.

18 Q. Can you say the page number of the PGW binder?

19 A. It's Fairmount 0099. And I think it's 0098. 98
20 and 99.

21 Q. Okay.

22 A. Customer -- the nature of the case. Customer
23 accrued an \$11,000 plus bill 9/1/05. There is an original
24 bill over \$12,000 in '04 that was taken off. Said PGW
25 changed meter here, and in turn rebilled for the \$11,000

1 plus bill. Need investigated.

2 PGW's answer, account was turned on in office with
3 erroneous AMR index 4/3/2001. The last manual read prior to
4 the turn-on was 12/14/1999. And in parentheses, 1.3 years
5 in time. Several manual reads were recorded, but were
6 ignored, where the makeup bill canceled an error and
7 deferred to the AMR reading. A usage pattern analysis was
8 performed using manual readings on record up to the meter
9 exchange of 8/24/05. Calculations made to obtain a
10 justified start index, in parentheses, 5-4-2-9-1 instead of
11 5-1-5-2-9 as of 4/3/2001. Now waiting on approval to
12 proceed with the commercial industrial remedy. For the
13 record, this customer did not dispute the bill until they
14 were seriously in arrears.

15 Q. Now, that's what it says on 3/7 note?

16 A. That's correct.

17 Q. Okay. But on the earlier notes, what did it say
18 happened for 6/30, the 6/30/2000 --

19 A. Four, they received correspondence.

20 Q. Okay. Thank you. So what is the amount of time
21 that passed between when you filed this complaint and when
22 it looks like they fully investigated?

23 A. Well, based on this, I filed the first letter in
24 June of 2004, and it doesn't look like they did this until
25 March 22 of 2007.

1 Q. And what were you doing in between that period in
2 terms of trying to understand the bill?

3 A. Trying to contact, get information, call the CRC,
4 tried to explain. Would either be on hold, or told someone
5 would look into it, or several plies that I got from --

6 JUDGE VERO: Ms. Boone, I'm sorry to interrupt. But
7 you're going into way more detail.

8 MS. BOONE: I'm sorry. I apologize.

9 JUDGE VERO: All right. Don't linger on. This is
10 2005 we're talking here?

11 MS. BOONE: Uh-huh.

12 JUDGE VERO: Okay. And it's being discussed
13 extensively for the purpose of establishing a pattern?

14 MS. BOONE: Yes.

15 JUDGE VERO: All right.

16 MS. BOONE: Thank you.

17 THE WITNESS: Actually, it's 2000 and -- it started
18 in four, but they didn't do it till seven.

19 JUDGE VERO: Okay. I see.

20 THE WITNESS: My first correspondence was in '04.

21 JUDGE VERO: 2004, yes.

22 BY MS. BOONE:

23 Q. I'd like to turn your attention to Marshall
24 Square. We'll hand you the Marshall Square binder.

25 (Document handed to witness.)

1 MS. BOONE: We're not going to go into detail on
2 every issue, but just to give you a sampling of the kinds of
3 issues, in trying to resolve.

4 JUDGE VERO: What time period are we looking at?

5 MS. BOONE: This is 2003.

6 JUDGE VERO: Okay.

7 MS. BOONE: But it's a different property.

8 JUDGE VERO: I understand. But keep in mind that
9 it's for the purpose of establishing a pattern.

10 MS. BOONE: Yes.

11 JUDGE VERO: All right.

12 BY MS. BOONE:

13 Q. Turn to the Marshall Square binder at page 99?

14 A. 99?

15 Q. Yes.

16 A. Okay.

17 Q. Please identify this letter.

18 A. This is a letter I wrote in response to -- this
19 is a follow-up letter I wrote to a conversation that I had
20 had with an individual from PGW regarding a high bill. This
21 letter is dated November 12, 2003, and it was to the PUC,
22 Informal Complaint Unit.

23 Q. And can you read the letter?

24 A. Sure.

25 Q. It's not that long.

1 A. Do you want me to give the date, title, all that
2 stuff?

3 Q. Sure.

4 A. November 12, 2003, Bureau of Consumer Services,
5 Informal Complaint Unit, P.O. Box 3265, Harrisburg, PA
6 17105-3265, regarding PGW Account No. 0373007503, 844 North
7 Sixth Street, Philadelphia, PA Marshall Square Realty.

8 To whom it may concern. Please consider this letter
9 an official appeal of PGW's finding on the above-referenced
10 account. See copy of letter attached.

11 When I spoke with a PGW collection rep, Mr. Garris, I
12 explained there's an issue regarding the account. We were
13 assessed \$31,000 in one month with no explanation. He
14 stated that it appears there was, that the, was for back gas
15 service. I stated that we had been receiving bills with
16 actual readings, and were paying them. None of the bills
17 were estimates. I -- I, we -- hmum, good grammar --
18 receiving actual bills. How can we be charged for back
19 service? As a result of our conversation he said that he
20 would put the bill in for high bill dispute, and that
21 someone would contact us either by phone or letter within 30
22 days. Enclosed you will find a copy of the correspondence
23 received dated 11/3, which was 30 days after my conversation
24 with Mr. Garris, 10/3/03, which basically stated that the
25 bill was correct. No discussion, no contact as to

1 explanation. Just that an actual meter reading had been
2 obtained. And based on this actual meter read, PGW has
3 found the bill to be correct. Is that is the case, why
4 weren't the bills which were originally received with actual
5 meter readings correct? We are appealing PGW's findings and
6 are asking for your help. Thank you for your assistance
7 with this matter. Should you have any questions or need
8 additional information, please contact us.

9 Q. And what happened as a result of that?

10 A. I heard nothing from PGW. And my response from
11 the PUC, because I think it was an informal complaint, is
12 that the individual -- and I think they called me back. I'm
13 trying to remember, because I don't have it in front of me.

14 That they had gotten my information, attempted to
15 contact PGW, but received no responses from them. My
16 choices were, you know, I could move on, or whatever, you
17 know, I could do from there. I guess file a formal or
18 whatever complaint.

19 But they weren't responding to them. I could take it
20 to the next level.

21 Q. So you contacted PGW in writing and asked for an
22 explanation, and --

23 A. No. Actually, first I spoke with Mr. Garris, the
24 rep on the phone. And he said that that's what he would do.
25 The letter I got from PGW, which I don't have in here, is

1 that they did look at the account. They determined the
2 meter to be correct and that the reading was right.

3 Q. And when you sent this additional letter, what
4 was the response?

5 A. Nothing.

6 Q. Does this raise a new or additional question?

7 A. Yes. And actually, again, going back to the
8 meeting with Mr. Dunn, this was another thing which I had
9 said to them that I needed an explanation for.

10 Q. I just want to turn your attention to page 121 of
11 the Marshall Square?

12 A. 121?

13 Q. I'm sorry. Actually I mean 109 of the Marshall
14 Square.

15 (Pause.)

16 Q. I'm sorry. That's Fairmount. I apologize. It's
17 109 of Fairmount.

18 A. Oh. She took that back.

19 Q. Okay.

20 (Document handed to witness.)

21 Q. It's actually 121 to 122.

22 A. Fairmount?

23 Q. Uh-huh.

24 A. Okay.

25 MR. FARINAS: Sorry, Your Honor. I'm glad we're not

1 going into a great amount of detail.

2 JUDGE VERO: Yes, I notice.

3 MS. BOONE: I just want to make sure the record is
4 complete when we ask the Commission to consider instituting
5 a violation. Because these dates, these are issues of
6 calling across property lines. They're going over several
7 years, and it's the same pattern of behavior.

8 JUDGE VERO: I understand. But can't we summarize?
9 Rather than reading the entirety of the letter, can we
10 summarize? The letter was sent to PGW, this account number,
11 this property, asking questions with regard to this balance,
12 rather than having Mr. Lampert here read the entire letter.

13 This is what I was driving at when I said let's move
14 on, summarize, keep it short. Because it is for the purpose
15 of establishing a pattern. Okay?

16 MS. BOONE: All right.

17 JUDGE VERO: I have nothing against detail. I love
18 detail. But there should be a limit. We are talking 2004.

19 MS. BOONE: All right.

20 BY MS. BOONE:

21 Q. The letter that's on page 121 in the Fairmount
22 book is involving 2009. April, I think, of 2009.

23 A. Fairmount book?

24 Q. Yes.

25 A. What page?

1 Q. It's page 121 in the Fairmount book.

2 A. It's not a letter, it's an email.

3 Q. I'm sorry, email. I apologize. Email, you're
4 right.

5 A. Okay. Regarding 615 North Seventh?

6 Q. Yes.

7 A. Okay.

8 Q. At the bottom was an email that you're copied
9 from Phil Pulley, dated April 15, 2009.

10 A. Right.

11 Q. What does it say? Or summarize it.

12 A. This may be, I think this is a different issue
13 there. This looks like, because it says G-4. Which would
14 then indicate that it might be a tenant and not the main
15 meter.

16 Because by this point, 2009, they had started
17 putting -- I had gotten -- the bills started to get
18 convoluted with house accounts, tenant accounts, unit and
19 numbers, and all that stuff.

20 Q. So if you turn to page 122, what's the question
21 there that's being put to Mr. Dunn that you were copied on?

22 A. John, here's an invoice we got for an apartment
23 that has been vacant for two years. The amount makes no
24 sense, and shouldn't be in SBG's name.

25 Q. And the response from Mr. Dunn? It's on page

1 121.

2 A. 121, response. Phil. Okay. Can you please open
3 the attachment I provided? Snapshots of the usage and meter
4 readings for the meter 2071223 at 615 North Seventh, G-4,
5 and give an explanation as to what I need from you regarding
6 positive shut off, as well as the questions of the small
7 usage that occurred on the meter from 12/7 through 6/08 for
8 143 CCF. Let me know what you find, as well as how we can
9 get access to the meter. Contact name and number.

10 Gratefully, John Dunn.

11 Q. Even today, what's happened with this account?

12 A. I can't tell you, because this was about the time
13 that, because of the volume of information that we were
14 trying to get, and just with my other duties, I had turned
15 it over to Mr. Pulley to get assistance with this, because
16 they weren't responding to any of the other issues that we
17 had either, in terms of what was the problem, why was I
18 billed; you know, if there was a high meter, can you tell me
19 why.

20 The only responses we used to get is, that's what the
21 meter said.

22 Q. So essentially, Mr. Pulley has testified as to
23 his response from PGW for making inquiries. And what was
24 your experience with their responses?

25 A. I either got no response. And on numerous

1 occasions, if I'd bring up the issue, I would either get,
2 well, if that's what the meter said, then that's the bill
3 and you have to pay it.

4 If I was questioning, you know, why was it higher in
5 this month than last month -- and I'm not talking, you know,
6 small, you know, like I said, going from a small percentage
7 to, you know, like a couple percentage points.

8 In the case of Fairmount, you went from \$500 a month
9 to \$12,000 in a month. And my responses verbally, I think,
10 were, you know, that can't be right, or that can't happen,
11 or that's what the meter said.

12 Q. Right.

13 A. You know, the same case with the Marshall. When
14 I got the response that said the meter's right, it's, well,
15 why wasn't it right when it was reading the first time when
16 I was paying the bills.

17 Q. Okay. Let me ask you something. You're the
18 controller.

19 A. Correct.

20 Q. You see bills from various vendors?

21 A. Almost everybody that comes in, pretty much.

22 Q. Okay. And what --

23 A. I shouldn't say that, you know, but it's most of
24 them.

25 Q. Okay. And when you review bills, what are you

1 looking for?

2 A. I'm looking for, one, accuracy. In other words,
3 first of all, the amount of the bill. You know, then I look
4 at, well, what is it that we ordered, or what is on the
5 bill, what is it for.

6 You know, if it seems accurate based on, you know, if
7 it's for supplies from Home Depot or something, you know,
8 does it look right in terms of what's there.

9 If it's -- like we'll go to a vendor, you know, and
10 they'll bill us for -- well, a guy who does lawn cutting.
11 If the bill comes in and I'm looking, and he's billing me
12 130 bucks, 130 bucks, 130 bucks to maintain one of the
13 properties, all of a sudden he throws 500 bucks on there.
14 Well, what is it?

15 But he's usually got an explanation. A downed tree,
16 cleaned it up. Okay. I'm fine with that.

17 Utility bills. You know, I've had where we've got a
18 PECO bill that'll come in. And maybe the bill's a little
19 higher, and I find out, well, the guys were in the unit, we
20 had the electric on, they were using it. No problem.
21 There's my explanation.

22 Q. What bills do you pay without explanation? What
23 bills come in that say pay this amount?

24 A. Really, none. You know, even if a phone bill
25 comes in and it looks like it's out of whack, I'll look at

1 why. You know?

2 Q. Right. Why do you look at that detail?

3 A. Well, it's almost a fiduciary responsibility to
4 the property owners themselves. You know, we're on a
5 budget. And some of the properties, when they were HUD,
6 your rents were fixed, so you had a limited amount of money
7 coming in, you know, and it was tight. The investors would
8 have to put up more money if we couldn't make the bills.

9 So I wouldn't want to just pay a bill that was out of
10 line without an explanation, because then it's, you know,
11 I've got to justify why I allowed that to go through if
12 it's -- I mean, you know, if it should have been 250 and it
13 was 270, nobody's going to yell at me. But if --

14 Q. Every time there's a problem with the bill, do
15 you immediately file a lawsuit?

16 A. No.

17 Q. What's the general course?

18 A. Usually contact the vendor.

19 Q. And then what happens?

20 A. It's usually worked out. I mean, you know, I've
21 had where we've got to get back and forth, or, you know,
22 maybe it's worked out within the day, maybe they supply me
23 the stuff, I review it, and it seems that we've missed
24 something. Okay, no problem. I know where I am.

25 But it's usually I get information. You know,

1 usually I'll get some information to at least validate or
2 explain. And whether or not I like the explanation, I at
3 least understand it.

4 Q. Okay. Mr. Pulley talked about the LIHEAP issue.
5 Is that something that you consider in terms of what
6 subsidies are coming in or what --

7 A. I don't know anything about that. You know,
8 that's something that I've just actually found out about
9 through Kathleen's review of stuff.

10 Q. Okay. Thank you.

11 MS. BOONE: I'm finished.

12 JUDGE VERO: Mr. Farinas, any questions for
13 Mr. Lampert?

14 MR. FARINAS: Yes, Your Honor. And Your Honor, I
15 intend to very briefly, as to each of the three cases that
16 we're here today, I do have a witness, if you want to
17 indulge me. It might be faster that way. But I will do it
18 through cross examination for each of the three cases. If
19 at any time you want to stop me, you can.

20 JUDGE VERO: Just bear in mind it is now ten minutes
21 after four. Okay?

22 MR. FARINAS: Yes.

23 JUDGE VERO: And I will keep an eye out to correct
24 you if you go overboard. But you also check yourself.

25 MR. FARINAS: Yes.

CROSS EXAMINATION

1
2 BY MR. FARINAS:

3 Q. Mr. Lampert, I wanted to ask you about a letter
4 that you wrote in June of 2004.

5 A. Okay.

6 Q. The letter is with your correspondence received
7 from SBG Management. If I can direct your attention to
8 PGW 1, Fair 0107, the document that PGW calls the contacts
9 for accounts.

10 A. Oh, yeah. Okay.

11 Q. Okay. I want to walk you through this.

12 A. Uh-huh.

13 Q. Your letter is indicated June 3 of 2004.

14 A. Correct.

15 Q. Letter and correspondence. And then you also
16 testified to the reason that occurred in PGW 1 Fair 98, you
17 read the reason that someone had entered into the PGW record
18 regarding the correction of the bill; and they had done that
19 in March of 2007.

20 A. Correct.

21 Q. Before. Okay. And then if I can direct you to
22 go back to 107.

23 A. Okay.

24 Q. If I could direct your attention back to the
25 July 24, 2004, entry, which is two entries above your

1 letter.

2 A. Uh-huh.

3 Q. There is a notation that someone had left. Left
4 message with Bill, correction info.

5 A. Right.

6 Q. Would it surprise you if that message refers to
7 the bill correction info that you read from that
8 information?

9 A. Yes, it would.

10 Q. And why is that?

11 A. Well, one, because apparently nobody ever called
12 me. Otherwise I would have gotten the message. Because at
13 that time our office was not that big.

14 Q. Okay.

15 A. We only had a couple people in there. And it was
16 either me answering the phone or somebody else. And this
17 was a hot issue. And I had been calling, and had made
18 subsequent calls.

19 Also, if you look at my conversation in October of
20 2005, if I'm telling them I'm disputing the bill, why
21 wouldn't they have given me the information then?

22 Q. I don't know.

23 A. Well, maybe it's because they didn't know in the
24 2007.

25 Q. No one asked you that it -- are you saying that

1 that record is not, is for something else?

2 A. I have no idea what it's for.

3 Q. Could it be for the fact that someone had left a
4 message entering the correction of the bill, noting the
5 correction of the bill?

6 A. It could be for anything under the sun.

7 Q. Okay. But you did write a letter a month before,
8 actually 24 days before, inquiring. And someone left you a
9 message about a corrected bill.

10 A. No. Not that I was -- I wasn't inquiring about
11 anything. My note explicitly detailed what I was
12 questioning.

13 Q. Right. And they left you a message regarding --

14 A. Nobody left me a message that I was aware of.

15 Q. All right. The second case, you said that this
16 is the one where you did file an informal complaint?

17 A. That's correct.

18 Q. And did you receive a response from PGW?

19 A. Yes. And that was that the meter was correct,
20 and that was it.

21 Q. Did you receive a response from PGW to receive a
22 decision from the Bureau of Consumer Services of the PUC?

23 A. No, I did not.

24 Q. You did not receive --

25 A. I told you it was an informal complaint. What I

1 got from them was a verbal response to my knowledge that
2 they had reached out to PGW, received no response. If I
3 wanted, I could take it a step further.

4 Q. So are you familiar with the informal complaint
5 process?

6 A. No, I wasn't.

7 Q. Okay. Can I direct your attention to PGW
8 M-A-R-S, Marshall 33? This is also another one of those
9 contacts for accounts.

10 MS. BOONE: Excuse me. You said page 33?

11 MR. FARINAS: 33.

12 MS. BOONE: Thank you.

13 THE WITNESS: Okay, 33. Got it.

14 BY MR. FARINAS:

15 Q. 33. I direct your attention to the entry to
16 November 16, 2004. And actually, the one closest to the
17 bottom of the page.

18 A. Uh-huh.

19 Q. You said that you weren't familiar with the
20 informal complaint process. Do you remember when you did
21 complain, did you call the hotline or write a letter?

22 A. Wrote a letter.

23 Q. And when the Bureau of Consumer Services of the
24 PUC, BCS, received your letter, do you know what happened to
25 it then?

1 A. No, I don't.

2 Q. Did you know that the formal complaint process
3 dictates that they send out a summary of your letter, or
4 your letter, to the utility, --

5 A. Uh-huh.

6 Q. -- and it's the utility's obligation to respond
7 in an informal complaint within 30 days? Are you aware of
8 that?

9 A. Okay. If you're telling me that, correct, I
10 received no response.

11 Q. Okay. And actually, the response is sent to the
12 PUC. And so if I direct your attention to November 16,
13 2004, from a type, in that very narrow column, CRU, that
14 stands for Customer Review Unit.

15 A. Uh-huh.

16 Q. There is a notation that says, report BCS, and it
17 gives the number, that is the number of your complaint. And
18 actually, this represents a summary of the response from PGW
19 to your informal complaint. Okay?

20 A. Okay.

21 Q. All right. And then if I can direct your
22 attention, two more --

23 JUDGE VERO: Mr. Farinas, since the report went to
24 BCS, it didn't go to SBG -- I mean PGW's report went to BCS,
25 not to SBG, obviously he has no idea.

1 MR. FARINAS: Right.

2 JUDGE VERO: And the other thing is, do you know if
3 BCS issued a written decision at that time?

4 MR. FARINAS: Yes. That was the next thing I was
5 getting to.

6 BY MR. FARINAS:

7 Q. I direct your attention to December 14, 2004.

8 A. Uh-huh.

9 Q. The narrow column says CRU.

10 A. Right.

11 Q. And then there's a PUC decision, and it gives the
12 BCS number, the same number, 1542342.

13 A. Correct.

14 Q. And it also summarizes the decision provided. So
15 this complaint was called in to the PUC, was reported on by
16 PGW, and then resolved one way or the other by the Bureau of
17 Consumer Services.

18 Did you file an appeal, a formal complaint, after, in
19 December of 2014, (sic) after you received that decision?

20 A. I never received that decision from them. And in
21 fact, since you brought my attention to this, it says here
22 that the analysis shows an adjustment usage to be in line
23 with the actual usage after the exchange.

24 What exchange? We received this on --

25 Q. That was --

1 A. Wait, wait. We received this on Friday --

2 Q. -- (unintelligible) formal complaint.

3 A. Well, you never told us anything.

4 Q. It's from the Public Utility Commission.

5 A. No, no. The exchange here is from the Public
6 Utility Commission? These notes?

7 Q. The decision of December 14, 2009.

8 A. But you never relayed anything to us in terms of
9 exchanges, new meters, nothing. And even when I spoke with
10 Mr. Dunn, I got nothing.

11 Q. I understand you say that you weren't familiar
12 with the informal complaint process.

13 A. Right. But if I've got no response, then why
14 didn't Mr. Dunn tell me that this goes back to 2004 when
15 they exchanged the meter?

16 MS. BOONE: I think it's --

17 THE WITNESS: Then at that point I would have
18 understood.

19 JUDGE VERO: Yes, Ms. Boone, what were you saying?

20 MS. BOONE: I was just saying that he's talking about
21 a decision that was made in 2004. But on direct we were
22 talking about the fact that they reduced the amount, but
23 then they put it back on in 2005.

24 THE WITNESS: No, that's different. That's
25 Fairmount. This is Marshall.

1 MS. BOONE: Not Marshall. Okay.

2 MR. FARINAS: Your Honor, this is precisely why they
3 have statutes of limitation.

4 THE WITNESS: But you're supposed to respond within a
5 timely fashion.

6 JUDGE VERO: All right. I think, Mr. Farinas, you
7 went into even more detail than Ms. Boone is going.

8 MR. FARINAS: Yes. I apologize.

9 JUDGE VERO: Yes, okay. I understand your need to
10 clarify issues in cross, but don't go into any more detail.
11 The time to explain where things, how they happened, where
12 things went, I think it was during discovery as far as these
13 issues that fall outside the statute of limitations go.

14 Are you done?

15 MR. FARINAS: I have one more question.

16 JUDGE VERO: One more question.

17 BY MR. FARINAS:

18 Q. Earlier in testimony, you stated that the way to
19 go when you have a dispute with a vendor, whatever, to avoid
20 a lawsuit.

21 A. Uh-huh.

22 Q. Are you familiar with the number of lawsuits SBG
23 is either the plaintiff or the defendant in?

24 A. No. That's not my department.

25 Q. Not your department? Do you know if it's more

1 than ten?

2 A. No idea.

3 Q. Would it surprise you if it were more than ten?

4 A. No idea.

5 MR. FARINAS: I have no further questions, Your
6 Honor.

7 JUDGE VERO: Redirect?

8 MS. BOONE: Yes.

9 JUDGE VERO: Keep it briefly, please, because we
10 might run out of time.

11 MS. BOONE: Yes. It will be brief.

12 **REDIRECT EXAMINATION**

13 BY MS. BOONE:

14 Q. With respect to the Fairmount issue for July 24,
15 2004, the entry that left the info with Phil.

16 A. Uh-huh.

17 Q. Did PGW -- did SBG have voice mail service in
18 2004?

19 A. In 2004? I don't think so.

20 Q. Does that entry say who at SBG was spoken to?

21 A. No.

22 Q. Does it say the contents of what was stated?

23 A. No.

24 Q. Does it even confirm that the phone number that
25 was dialed was SBG's?

1 A. No.

2 Q. So there's no way to know from that entry who
3 spoke to whom from SBG or PGW, or whether even SBG was
4 contacted?

5 A. No. But if I could note also, with all the other
6 line items, most of them do indicate an individual.
7 Especially when they were talking with me.

8 Q. Right. So it could be that PGW contacted someone
9 at a different company altogether?

10 A. I don't know.

11 Q. Okay. In any event, you sent a written letter
12 requesting information?

13 A. Correct.

14 Q. What written response did you receive?

15 A. I received none.

16 Q. Okay. Thank you. You said that you were not
17 totally familiar with the Bureau of Consumer Services?

18 A. No, I winged that one.

19 Q. Confirmed that their letter -- what happened?
20 The letter that he's referring to, did you receive that
21 letter?

22 A. No, I don't remember seeing that, no.

23 Q. No response. Okay.

24 A. But that's why -- I mean, I do remember the
25 conversation. That's why it vividly sticks out, because,

1 you know, I remember thinking to myself, if they can't do
2 it, who, you know, what else do I, you know, what's my other
3 choice?

4 Q. Right.

5 MS. BOONE: That's all.

6 JUDGE VERO: All right. I do have a few questions
7 for you, Mr. Lampert.

8 THE WITNESS: Sure. I'm here.

9 JUDGE VERO: Okay. So you are the one who filed the
10 sole informal complaint, or the sole contact through the
11 years from SBG with the Public Utility Commission?

12 THE WITNESS: Uh-huh.

13 JUDGE VERO: Finally we found who is responsible for
14 that. And this is the sole contact through the years until
15 May of 2012?

16 THE WITNESS: Correct.

17 JUDGE VERO: Okay. How did you come about to hear
18 about the PUC and to file this?

19 THE WITNESS: In all honesty, I don't remember. I
20 just may have been fumbling around, trying to figure out
21 what to do. I honestly -- I'm not an attorney.

22 I don't remember how I got to it. I got lucky with
23 that one. But I honestly don't remember how I got there.

24 JUDGE VERO: I believe during your testimony you
25 stated that you didn't receive a decision from the Bureau of

1 Consumer Services. Am I correct?

2 THE WITNESS: Correct. It was an informal -- it was
3 an informal complaint. And I think that's why they called
4 me back, or whatever they -- you know.

5 JUDGE VERO: Did you get a decision from them orally
6 or --

7 THE WITNESS: I don't -- I remember a phone call. I
8 don't remember a letter.

9 JUDGE VERO: I understand. But did they get back to
10 you with a --

11 THE WITNESS: I got a letter from PGW that stated
12 that the meter was correct, and therefore it stands. I
13 got -- I don't remember getting a letter from PUC on any
14 decision.

15 JUDGE VERO: I didn't say you got a letter. I said,
16 did PUC contact you with a decision on that informal
17 complaint back in 2000 and --

18 THE WITNESS: Yes. If the informal complaint was
19 that phone call, that was the response I got.

20 JUDGE VERO: So they got back to you via a phone
21 call, and they informed you of what their determination was;
22 right?

23 THE WITNESS: Their determination was that they
24 couldn't make a determination because they had reached out
25 to PGW and did not get any responses.

1 Now, apparently from what he's telling me now, they
2 sent PGW a letter. And I guess subsequent to my phone call,
3 they got something. I don't know. I haven't seen anything
4 in writing.

5 Because if I at least got an explanation, I would
6 have understood. I may not have liked it, but I would have
7 understood.

8 JUDGE VERO: Okay. But did I hear you correctly when
9 you testified that in 2004, SBG did not have an answering
10 machine and a voice mail?

11 THE WITNESS: We were a small office. We had those
12 message pads. It wasn't probably for a couple years later
13 that we wound up getting voice mail.

14 I'll tell you, it wasn't a big company.

15 JUDGE VERO: Okay.

16 THE WITNESS: I mean I think there was, what, five of
17 us, six of us. I don't know. You know?

18 JUDGE VERO: Okay. Ms. Boone asked you whether or
19 not every time there is a dispute with one of your vendors,
20 you immediately filed a lawsuit. And you said?

21 THE WITNESS: No.

22 JUDGE VERO: No. Do you eventually file a lawsuit?

23 THE WITNESS: One, it depends on the circumstance,
24 depends on the amount, and it depends on whether or not I
25 get an explanation.

1 If they give me an explanation and it's something I
2 don't like but I understand it, there's no point to it.

3 JUDGE VERO: Okay. When do you usually determine
4 that the time has come to file a lawsuit?

5 (Pause.)

6 JUDGE VERO: How many attempts? How much time?

7 THE WITNESS: I haven't.

8 JUDGE VERO: I understand. But I understand that --

9 THE WITNESS: No, I shouldn't say that. There was
10 one, it involved -- it was over 1,000 bucks. We had gotten
11 into a dispute with a vendor who basically sold us a piece
12 of equipment that broke. Sent it back to them. They fixed
13 it. Broke again.

14 We went back and forth, back and forth. And it
15 wasn't until they turned us over to a collection agent that
16 we decided to sue them.

17 JUDGE VERO: Okay. How long between the time that
18 you were first served by this vendor until the time that
19 they sent you to a collection agency?

20 THE WITNESS: It was a couple years. Because we were
21 working back and forth. They would take it, it would run
22 for a little bit, then they'd take it back, they'd fix it.
23 Well, we got to order a part. We'd get it back.

24 And, you know, there was -- we were working with
25 them. We saw no reason to.

1 JUDGE VERO: Okay. You have dealt with PGW through
2 the years.

3 THE WITNESS: Yes.

4 JUDGE VERO: At any point in time, did they ever
5 refer to you the PUC?

6 THE WITNESS: No. Not until --

7 (Pause.)

8 THE WITNESS: No. Not when I was talking to them.
9 Because usually what was happening is we sat down with them,
10 we told them what we wanted, I'd give them the facts, they'd
11 say, well, we'll get you some info, no problem.

12 We'd go about our business, they'd go about theirs.
13 Every so often they're like, oh, we're working on it, or
14 we're getting it back.

15 I saw no -- you know, they never mentioned it, and,
16 you know, it's like, okay, you know, everybody's fine, we're
17 doing this, we're doing that, we're working on it, we're
18 going to get it straightened.

19 Because I couldn't understand with some of these
20 issues how you can't at least -- I spent 20 years as a CPA
21 in public practice. How do you run a business where you
22 can't put your finger, especially a company of that size,
23 put your finger on a button and print out all of your
24 calculations and say to me, here's what we did? And I never
25 got that.

1 I got to the point early on where I actually sat down
2 and took all of our PGW properties and did a CCF analysis,
3 and said, okay, all buildings were built within the same
4 period, they're all of the same construction, single
5 families generating X amount of CCF, de-de-de-det.

6 And that's how I came up and said, whoa, this
7 property is using three times the amount of CCFs. Help me.
8 I never got an explanation.

9 The Simon issue he talked about, that's what started
10 it. We resolved it financially, but they never came out to
11 look at the bills, and it started all over again.

12 All I wanted to know is, you know, I mean -- and the
13 thing at Fairmount shows me if that can happen, and how do I
14 know it's not happening over here? How do I know it's not
15 happening over there?

16 You're not giving me a rational explanation as to --
17 all you tell me is A plus B equals C. Yeah. But if three
18 million plus one million equals four million, yeah, that
19 makes sense. But how did you get the four million?

20 You know, to me, my background tells me this is how
21 you get to that point. This is the stages you build up.

22 JUDGE VERO: But you, as one of the employees of SBG,
23 you were frustrated; right?

24 THE WITNESS: Uh-huh.

25 JUDGE VERO: And the frustration's been going on for

1 several years. They say we'll get back to you, you say all
2 the same, provided some information, we'll provide you some
3 information. On the issues that weren't resolved, didn't
4 there come a point --

5 THE WITNESS: Why didn't we do this sooner?

6 JUDGE VERO: Yes.

7 THE WITNESS: Be honest with you, they're a big
8 organization.

9 JUDGE VERO: They are a big organization?

10 THE WITNESS: Yeah. To take on them with lawsuits
11 and all the other stuff, you know, I don't think we were
12 ready for that day.

13 You know, I'm looking at this and I'm thinking to
14 myself, this is a public utility. How do they not have that
15 information just to give me? Just sit down and explain how
16 you got that number.

17 JUDGE VERO: I understand. But this is how you get
18 them to give you that information.

19 THE WITNESS: Well, we had also put -- but also, if
20 I'm dealing with representatives from their company, and
21 they're telling me, not a problem, I understand your
22 question, I will get you that information, and they're
23 working with me and I'm working with them, why do I need to
24 get all these attorneys and lawsuits and sit here and spend
25 weeks and hours and months and have her start to dig into

1 information and donate an entire employee, and go spend
2 \$60,000 if someone's willing to talk to me?

3 So financially, I can't justify that at that point.
4 But going through all that we've been through the past
5 couple years, it's like you got to stop. You got to tell me
6 what it is. It's not a bottomless pit.

7 JUDGE VERO: The practice in general is that a public
8 utility should try to work the issues out directly with the
9 customer. Okay?

10 THE WITNESS: That's what I would think.

11 JUDGE VERO: And if they reach a point where the
12 customer is dissatisfied with the company's actions or
13 inactions, then the company has a responsibility to inform
14 that customer that they have recourse to the Pennsylvania
15 Public Utility Commission.

16 What I'm hearing is that SBG never reached that
17 point.

18 THE WITNESS: No, because they never gave us an
19 indication as to why. They were always, yeah, no problem,
20 we'll meet with you. Yeah, we're working on getting you
21 that. Oh, well, we'll send you this.

22 They'd send us. It's, well, that's not what we asked
23 for. Oh, what did you want? We'll send it to you. Oh, can
24 you give me the addresses again? No problem, here they are.
25 Oh, I'm on vacation, I'll get it back to you. Oh, well, you

1 know what, this one's retired, I got to get caught up to
2 speed. No problem.

3 You know, and this goes on for years, back and forth,
4 back. It wasn't until -- and what I just learned about
5 statute, it wasn't until we were out of statute that
6 somebody finally said, you don't like it, go sue. Take this
7 to PUC. So like now we're stuck.

8 JUDGE VERO: Who said that?

9 THE WITNESS: I think that was from --

10 MS. BOONE: Mr. Savage.

11 THE WITNESS: Mr. Savage. Who said, you know, here's
12 my answer. If you don't like it, contact the PUC.

13 MS. BOONE: As well as Ms. Guzman. I think she said
14 it.

15 THE WITNESS: And that was -- I mean I sat with him
16 once, and I think we sat -- and that wasn't until the fiasco
17 with Colonial.

18 MR. FARINAS: Objection.

19 MS. BOONE: There was previous testimony on page 35
20 of SBG correspondence. It was testified to about
21 Mr. Savage.

22 JUDGE VERO: Okay.

23 Now, Mr. Lampert, you went over briefly to some
24 extent that issue with the June 18, 2004, letter about some
25 work being done outside the property, and that apparently

1 screwed up the meter or something like that.

2 THE WITNESS: I don't know.

3 JUDGE VERO: You don't know. But was that issue ever
4 resolved?

5 THE WITNESS: No. The only thing I got was a
6 subsequent bill that was reduced. I figured, okay, they
7 fixed it. I guess they got my letter. They agreed with me.
8 They fixed it.

9 It wasn't until September that I get a new bill, and
10 it's back. And I'm like, whoa. You fixed the bill, but you
11 didn't fix the meter.

12 JUDGE VERO: Okay. So the issue continued.

13 THE WITNESS: So I sent him another letter. I got no
14 response. I think we had subsequently -- I had spoke with a
15 couple people there. And they're like, oh, well, that's not
16 how it works. If they're working the street, that doesn't
17 matter.

18 I said, Okay, well, can you explain to me? Well, let
19 me research it and get back to you. Nothing.

20 JUDGE VERO: It was never resolved?

21 THE WITNESS: Never resolved. Actually, I shouldn't
22 say that.

23 JUDGE VERO: Okay.

24 THE WITNESS: With what they just sent me on Friday
25 or Saturday --

1 MS. BOONE: Friday.

2 THE WITNESS: Friday? It at least gave me an
3 explanation. But now, to me, that leads to another
4 argument. Because their explanation predates our
5 acquisition to the property.

6 JUDGE VERO: Really?

7 THE WITNESS: Yeah. If you look at PGW's -- oh, no.
8 PGW Fairmount. Can I stand up?

9 JUDGE VERO: Yes. I have the same thing you have.

10 THE WITNESS: Okay, yeah.

11 JUDGE VERO: Just point me to the right page.

12 THE WITNESS: It's page 98.

13 JUDGE VERO: 98. Yes, I have it.

14 THE WITNESS: Right in the middle it says, the last
15 manual read prior to the turn-on was 12/14/99. And there
16 was several meter -- we didn't own it then. We didn't buy
17 it till 4/3/01.

18 And apparently they didn't do a read at 4/3/01. They
19 just went by whatever the AMR says. And the AMR apparently
20 was screwed up, and they ignored whatever manual readings
21 were there.

22 JUDGE VERO: But was it fixed? Did they ever fix it?

23 THE WITNESS: I don't know. That's the problem.

24 JUDGE VERO: I'm not talking about the AMR. I'm not
25 talking about whether they fixed the meter. Did they --

1 THE WITNESS: No. What they did is they came and
2 took the meter out in '05.

3 JUDGE VERO: In '05?

4 THE WITNESS: That was it. And now we're disputing
5 the bill.

6 JUDGE VERO: In '05?

7 THE WITNESS: In other words, what they did is this
8 happened --

9 JUDGE VERO: Did PGW give any refunds on '05?

10 THE WITNESS: No. No. In fact, that's part of one
11 of the high bills that we're still disputing. We got
12 finance charges on that amount, we got late charges on that
13 amount.

14 And anytime I would verbally tell somebody that's
15 what happened, they tell me that can't happen. I didn't
16 understand anything until I saw this on Friday.

17 JUDGE VERO: All right. I have no further questions
18 for you.

19 THE WITNESS: Thank you.

20 JUDGE VERO: Anything else?

21 (No audible response.)

22 JUDGE VERO: No? I have now 4:35. And I think this
23 is a good time to wrap up today's hearing. I still need
24 counsel to hang on for a couple of minutes so that we sort
25 of have a plan for tomorrow. But we are off the record as

Testimony of Phil Pulley

Date 8/28/13

Pages 628-668

Exhibit # SBG CG/SC 8

PUBLIC UTILITY COMMISSION

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:

SBG Management Services, Inc. v. :

Philadelphia Gas Works : Docket No.

: C-2012-2304167

: C-2012-2304215

: C-2012-2304303

:

(Initial and Further Hearings) :

:

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Pages 470 through 673

Thomas Jefferson Hearing Room
801 Market Street
Philadelphia, Pennsylvania

Wednesday, August 28, 2013

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

ERANDA VERO, Administrative Law Judge

APPEARANCES:

FRANCINE THORNTON BOONE, Esquire
SBG Management Services, Inc.
Post Office Box 549
Abington, Pennsylvania 19001
(For Complainant)

LAURETO FARINAS, Esquire
Philadelphia Gas Works
800 West Montgomery Avenue, 4th Floor
Philadelphia, Pennsylvania 19122
(For Philadelphia Gas Works)

Commonwealth Reporting Company, Inc.

700 Lisburn Road
Camp Hill, Pennsylvania 17011

1 ALSO PRESENT:

2 MS. KATEY TREADWELL
3 SBG Management Services, Inc.
4 702 North Marshall Street
5 Philadelphia, Pennsylvania 19123

6 MS. LINDA PEREIRA
7 Philadelphia Gas Works
8 800 West Montgomery Avenue
9 Philadelphia, Pennsylvania 19122

10 MS. TYRA JACKSON
11 Philadelphia Gas Works
12 800 West Montgomery Avenue
13 Philadelphia, Pennsylvania 19122

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WITNESS INDEX

WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
Ralph T. Savage				
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(By Mr. Farinas)	--	564	--	--
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2 (Sample Bills from 2002-2013)	557	670

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C E R T I F I C A T E

I hereby certify, as the stenographic reporter,
that the foregoing proceedings were taken stenographically by me
and thereafter reduced to typewriting by me, or under my
direction, and that this transcript is a true and accurate record
to the best of my ability.

COMMONWEALTH REPORTING COMPANY, INC.

By: *Judith E. Shuller (OH)*
Judith E. Shuller, CSR

1 Ms. Boone, you may call Mr. Pulley as your next
2 witness.

3 MS. BOONE: Actually I would -- since we, okay.
4 That's fine.

5 Come forward, Mr. Pulley.

6 JUDGE VERO: Mr. Pulley, you're still under oath,
7 so I don't have to swear you in again.

8 Whereupon,

9 PHILIP PULLEY,
10 having been duly sworn previously, testified as follows:

11 JUDGE VERO: You may proceed, Ms. Boone.

12 DIRECT EXAMINATION

13 BY MS. BOONE:

14 Q. If you would turn to SBG Correspondence, page 35. It's a
15 slim black binder.

16 A. What number?

17 Q. 35.

18 A. Can I get my glasses?

19 Q. Sure.

20 (Whereupon, the witness left and
21 returned to the witness stand.)

22 THE WITNESS: Yes, ma'am.

23 BY MS. BOONE:

24 Q. Actually, if you would, it's page 35, 36, 37, 38 of the
25 SBG Correspondence file.

- 1 A. They're e-mails, correct?
- 2 Q. Yes.
- 3 A. Okay.
- 4 Q. It's for year 2012, under tab 2012, page 35 in the SBG
5 Correspondence file.
- 6 A. Would you like me to read it in?
- 7 Q. I'd like you to just start with the e-mail that's listed
8 on page 37. Just say the date. I know covering --
- 9 A. SBG Correspondence, page 37, e-mail from Kathy Treadwell
10 to Phil Pulley, dated January 30th, 2012. Phil, attached is a
11 listing of the PGW accounts in dispute. Let me know if you need
12 anything else. Kathy.
- 13 Q. If you would just turn to pages 38 and describe what is
14 page 1 of page 2? What is shown on page 38 of the SBG
15 Correspondence file?
- 16 A. They are account listings with address and review,
17 exceptions on those items.
- 18 Q. Okay. And the person who prepared this list?
- 19 A. Kathy Treadwell.
- 20 Q. Who is an employee of?
- 21 A. Yes, she's an accountant in the office.
- 22 Q. Of what office?
- 23 A. SBG Management.
- 24 Q. Okay. Thank you. This listing, does it include
25 properties for Fairmount, Elrae, Marshall?

1 A. Yes.

2 Q. Okay. And what does this state? It includes this docket
3 has account number, the address, and it says review?

4 A. That's what it says.

5 Q. Okay. Does reviews list some of the problems with the
6 accounts?

7 A. That is correct.

8 Q. Okay. Now, this e-mail of January 30th and the
9 attachment, if you could turn to page 36 and let us know what
10 that e-mail says, January 31st, 9:45.

11 A. January 31st, 2012, is an e-mail from Phil Pulley to Ted
12 Savage. The e-mail states, Ralph, please see the attached list
13 of accounts in dispute. Can we sit down with PGW accountants and
14 yourself to review? Many of these are tenant matters.

15 Q. Okay. In this e-mail, are you referring to the list that
16 is attached to the e-mail of January 30th?

17 A. Yes, I am.

18 Q. Which is the list showing -- that begins on page 38 of the
19 SBG Correspondence binder?

20 A. That is correct.

21 Q. Okay. Now, if you could just turn to page 35.

22 A. Page 35, one of the items is an e-mail from Phil Pulley to
23 Ted Savage, dated March 2nd, 2012. The e-mail reads, Ralph, see
24 the attached as requested. Any questions you can speak to Kathy
25 or me.

1 Q. Okay. And will you read the e-mail you received from Mr.
2 Savage which is just above?

3 A. E-mail from Ted Savage dated March 8th, 2012, to Phil
4 Pulley. Phil, do you have --

5 Q. Did you say who's carbon copied on this e-mail?

6 A. Daniel Murray, Gerald Clark, both of them are with PGW.

7 Q. And the subject line?

8 A. PGW gas accounts in dispute.

9 Q. And then would you read what Mr. Savage wrote to you?

10 A. Phil, we have reviewed your list of accounts. I have
11 added a review column to reflect our investigation results.
12 First bullet point, if the row is blank, this account number and
13 its debt was recorded. Second bullet, if the row says not on
14 list, then no debt was recorded. Next bullet point, if the row
15 says correct account number, it means that the number you
16 provided was incorrect and the debt was reported under the
17 correct account number as shown.

18 As I stated before, tenant debt can be liened to
19 the property where the gas was consumed. If you have anything
20 else to dispute, you can file a complaint with the Public Utility
21 Commission. Their contact information is 1-800-692-7380. There
22 is no need for us to meet regarding this debt. Regards, Ted
23 Savage. That's it.

24 Q. Will you now turn to page 26 in the SBG Correspondence
25 binder?

1 JUDGE VERO: What page? I'm sorry.

2 MS. BOONE: Page 26 in the 2012 -- under the 2012
3 tab of the SBG Correspondence binder.

4 JUDGE VERO: 26?

5 MS. BOONE: Yes.

6 BY MS. BOONE:

7 Q. Would you state the date of that correspondence?

8 A. It's a letter on SBG stationery dated May 21st, 2012,
9 addressed to Philadelphia Gas Works, 800 West Montgomery Avenue,
10 Philadelphia, PA 19122, attention Abby Pozefscy, P-O-Z-E-F-S-K-Y.

11 Q. And who did you understand this individual to be that the
12 letter is addressed to?

13 A. I don't remember.

14 Q. Okay. Is she an employee of Philadelphia Gas Works?

15 A. Yeah. She was a big shot there.

16 Q. For clarification, was she in the legal department or
17 another department?

18 A. I think she was in the legal department.

19 Q. Okay. So you assume she was a senior lawyer in the legal
20 department?

21 A. I think we dealt with her in 2008.

22 Q. But was your understanding that she was a senior attorney
23 in the PGW law department, legal department?

24 A. I believe so.

25 Q. Okay. Thank you. And, in your letter, what do you say to

1 Ms. Pozefsky? I apologize if I mispronounced her name.

2 A. Dear Ms. Pozefsky, I am in receipt of your May 7th, 2012
3 correspondence whereby outlining various purported facts of the
4 PGW tariffs. Unfortunately what you failed to note is since 2008
5 we have tried to resolve our differences with PGW, employing the
6 services of various attorneys who have also been frustrated with
7 the lack of response by PGW. It is obvious that we cannot
8 resolve this dispute without legal intervention. I regret this
9 action; however, I assure you that we have been the one chasing
10 PGW for many years to resolve this matter.

11 Q. And the signature?

12 A. I signed it.

13 Q. Okay. And who's copied on here?

14 A. Daniel McCaffery, Esquire.

15 Q. Okay. So in March you finally had a statement from the
16 head of CRC that, if you aren't satisfied, go file with the PUC;
17 is that correct?

18 A. That's correct.

19 Q. In May of 2012 -- that was March of 2012 I'm referring to.
20 In May of 2012, you now have a senior attorney in the law
21 department of PGW that you've written to and that you said you're
22 going to file legal -- you're going to assume legal intervention;
23 is that correct?

24 A. That is correct.

25 Q. Okay. What did you do after the second letter or what did

1 SBG do after this letter?

2 A. We sat with Daniel McCaffery and talked about options and
3 things to do now because we had reached an impasse.

4 Q. Okay. And so what action was taken with respect to the
5 PUC?

6 A. Dan is not a utility attorney, so we contacted some
7 various other people and lawyers, interviewed some of them to
8 hire.

9 Q. What action did you immediately take in May of 2012 after
10 this letter?

11 JUDGE VERO: When specifically in May of 2012?

12 THE WITNESS: What was that?

13 BY MS. BOONE:

14 Q. Let me just refresh your recollection.

15 JUDGE VERO: You are on direct.

16 MS. BOONE: Yes, I know. I understand.

17 JUDGE VERO: All right.

18 MS. BOONE: I just want to --

19 BY MS. BOONE:

20 Q. If you could turn to SBG Fairmount binder, page 316 --

21 JUDGE VERO: What binder?

22 MS. BOONE: In the SBG Fairmount binder, the
23 first binder. I apologize.

24 BY MS. BOONE:

25 Q. Under tab 1.

- 1 A. What number?
- 2 Q. Under tab 1, SBG Fairmount, page 316.
- 3 A. Okay.
- 4 Q. If you look at page 310 first, okay?
- 5 A. Yes.
- 6 Q. Okay. What is page 310 in the SBG Fairmount binder? On
7 page 310, what is that?
- 8 A. It's a formal complaint form for the Pennsylvania Public
9 Utility Commission.
- 10 Q. And who's the complainant listed there or the customer?
- 11 A. SBG Management Services, Inc.
- 12 Q. And, under number 2, what's the name of the utility that
13 this action is being filed against?
- 14 A. Philadelphia Gas Works.
- 15 Q. And what's the title of this action?
- 16 A. Formal Complaint.
- 17 Q. Okay. And then turn to page 316 of the SBG Fairmount
18 binder.
- 19 A. Yes.
- 20 Q. And what is the date by your signature?
- 21 A. May 3rd, 2012.
- 22 Q. So I want to strike my question about that he filed this
23 letter after; but instead, after receiving Mr. Clark's letter on
24 e-mail on March 8th, 2012, on May 3rd, 2012, what did you do?
25 What action did SBG take?

1 A. I think you meant Mr. Savage's.

2 Q. Yes.

3 A. Okay, Mr. Savage's. We moved forward with the filing of
4 the complaint with the Public Utility Commission, and we filed
5 the complaint on May 3rd and got a letter from PGW on May 7th and
6 responded back to that correspondence on May 1st.

7 MS. BOONE: Okay. I strike the question that he
8 filed the complaint. To the extent that my earlier question may
9 have indicated that he filed a complaint after receiving the
10 correspondence from Abby Pozefsky, instead I would just say that
11 he filed it after Gerald Clark's e-mail -- I'm sorry, Ted
12 Savage's. I apologize.

13 JUDGE VERO: It's okay.

14 BY MS. BOONE:

15 Q. You did say you received a letter from Ms. Pozefsky?

16 A. Pozefsky.

17 Q. And what was her letter essentially?

18 A. I don't remember.

19 Q. Okay. But, in response to the letter, you sent this one?

20 A. That's correct.

21 Q. Okay. And just to sum it up, why did you file the PUC
22 complaint, Msy 3rd, 2012?

23 A. It appeared we hit an impasse. Ted Savage told us in his
24 e-mail that, if we don't like the answers to these things, then
25 file a complaint with the PUC.

1 Q. What other employees said that to you over the course of
2 all these communications with PGW since going back to 2004, 2005,
3 or even earlier or later?

4 A. None.

5 Q. Not a single PGW employee?

6 A. Nobody.

7 Q. Okay. What about an attorney at PGW?

8 A. No.

9 Q. Okay. Thank you. And did you wait -- how long did SBG
10 wait before receiving a determination that PGW was done
11 discussing? How long did you wait, did SBG wait before filing
12 with the PUC?

13 A. Seven years, eight years.

14 Q. No, no. How long after receiving Mr. Savage's letter in
15 March, on March 3rd of 2012, how much time elapsed?

16 A. A couple of months.

17 Q. A couple of months, right. Why didn't you file sooner?
18 Why didn't you file a PUC sooner?

19 A. From receipt of Mr. Savage's note?

20 Q. Why didn't you file a PUC complaint prior to receiving Mr.
21 Savage's letter?

22 JUDGE VERO: Well, you need to allow him to
23 answer. Again, he is your witness. You cannot lead him too
24 much.

25 MS. BOONE: Okay.

1 JUDGE VERO: All right.

2 THE WITNESS: Did you want from the time period?

3 MS. BOONE: I just wanted to give him the
4 timeframe.

5 JUDGE VERO: You are.

6 MS. BOONE: I wasn't sure if I heard it. May I
7 give him the timeframe?

8 JUDGE VERO: Mm-hmm.

9 BY MS. BOONE:

10 Q. Why didn't you file a PUC letter before receiving Mr.
11 Savage's March, 2012 letter or e-mail?

12 A. We were always working and attempting to work with PGW
13 over the years. Even though it took time, I mean, I believed
14 that that was the best route to go. I wasn't aware of the PUC
15 ability to do it. Plus everybody's communicating from their
16 general counsel to the heads of the CRC and, you know, trying to
17 resolve these things; and, you know, John Dunn was involved. Ted
18 was involved and trying to work through all these disputes.
19 That's the crux of it. I mean, it's good faith. You don't want
20 to just litigate everything.

21 MS. BOONE: Thank you. No further questions.

22 JUDGE VERO: All right. I do have a further
23 question for you, Mr. --

24 I'm sorry. PGW, any cross?

25 MR. FARINAS: Yes.

1 JUDGE VERO: You may proceed, Mr. Farinas.

2 CROSS-EXAMINATION

3 BY MR. FARINAS:

4 Q. Mr. Pulley, during the period that you say that you have
5 an ongoing complaint, how many lawyers did you have? Did you
6 have representation during that period?

7 JUDGE VERO: Legal representation.

8 BY MR. FARINAS:

9 Q. Legal representation, I'm sorry. Did Ms. Boone work for
10 you at the beginning of the period when you say your billing
11 troubles started?

12 A. No.

13 Q. Did you have general counsel or some kind of in-house
14 counsel then?

15 A. No.

16 Q. Did you have any kind of counsel for any kind of disputes?

17 A. Well, back in 2003, four, five, we had Daniel McCaffery
18 working with us with Marian Mahdavi to resolve the issues.

19 Q. Okay. And you had mentioned before that he had assisted
20 you in looking for PUC counsel; is that correct?

21 A. Well, that wasn't until late or May, 2012.

22 Q. And how long did Mr. Lampert -- has Mr. Lampert worked for
23 you?

24 A. Mr. Lampert has been with us since I want to say 2002 or
25 2003, somewhere in that timeframe maybe.

1 Q. And are you aware that he filed a complaint with the
2 Public Utility Commission -- an informal complaint very early on
3 prior to 2010?

4 A. No, I wasn't.

5 Q. Is it likely that something happens at SBG, especially
6 involving the filing of a complaint, that you don't know about?

7 A. It's very possible.

8 Q. Are you saying that he did so without your authorization?

9 A. Yeah, probably. That may have been within his scope.

10 Q. And he was around during all of your discussions with the
11 PGW regarding their complaint matters, right?

12 A. That's correct.

13 Q. At no time did he ever say, hey, I remember when I filed a
14 complaint with the PUC, why don't we get them to resolve it? You
15 never heard that from Mr. Lampert during those years that you
16 were discussing this with PGW?

17 MS. BOONE: Objection.

18 JUDGE VERO: Grounds?

19 MS. BOONE: Well, he needs to be specific. What
20 time period? Every day of every year, every conversation?

21 JUDGE VERO: One instance, just one.

22 MS. BOONE: He said --

23 JUDGE VERO: I will allow it. Even one instance
24 would suffice. He was more broad, did he ever. I will allow it
25 as it stands so your objection is overruled.

1 THE WITNESS: No. He never brought up about
2 filing a PUC complaint. He sat with me at the various meetings
3 with Dan McCaffery and to try and work through a harmonious
4 resolution of these things with PGW.

5 BY MR. FARINAS:

6 Q. And has SBG ever received a shutoff notice for any of its
7 accounts?

8 A. Yeah, I believe so.

9 Q. And I know I'm going to take a chance. Do you review
10 them?

11 MS. BOONE: Objection.

12 JUDGE VERO: Grounds?

13 MS. BOONE: Beyond the scope. We didn't talk
14 about shutoff notices. I talked about two letters that were
15 brought up.

16 JUDGE VERO: We talked about shutoff notices. We
17 talked about shutoff notices when Mr. Farinas, both parties
18 agreed to stipulate that the bill itself doesn't direct the
19 customer to the PUC but the shutoff notices do. And also there
20 were e-mails from Mr. Pulley to Mr. Dunn referring to having
21 received shutoff notices. So I want to hear it. Your objection
22 is overruled.

23 BY MR. FARINAS:

24 Q. So, in the course of receiving shutoff notices, was it
25 more than one over the years?

1 A. Yes.

2 Q. More than 20 over the years?

3 A. I'm not sure about that.

4 Q. Who would they be reviewed by in your office?

5 A. They would go typically to the accounting department. In
6 the instances you're talking about, they would then bring them to
7 me. We talked to Mr. Dunn -- no, worked with Mr. Dunn and he
8 told us to ignore them. They were all on hold and that's why
9 there is no further action taken in regards to those notices.

10 Q. In that instance they may have been on hold. Did you ever
11 familiarize yourself with the fact that the PUC was available by
12 virtue of having the notice, reading the notice?

13 A. No.

14 Q. With all of this, you can tell me that this is the first
15 time you've ever been acquainted with the fact that you have a
16 remedy beyond talking to someone at PGW? Can you honestly tell
17 me that?

18 A. The answer is, we hired counsels. We wanted to talk to
19 PGW. I did not know that the PUC was an option for us. I even
20 went as far as -- that's why I sat in the back of the room
21 yesterday and went through you guys' website, and nowhere does it
22 say that the PUC is an option for a commercial account. It does
23 reference it if you're a residential customer, and it says it all
24 over your account. It says for residential customers,
25 residential customers.

1 I mean, I even sat there after you were asking
2 Mr. Dunn some questions. I mean, I Googled it. I looked it up
3 in the back of the room. So, no, it did not appear; and at the
4 same time, you know, none of the accounts -- and you asked me
5 this before -- ever brought up filing a PUC action.

6 Q. You're not a residential -- in this regard, your account
7 is not considered residential. You are a businessman. You
8 provide services to the City of Philadelphia, to people that rent
9 your buildings. You run a business. Do you believe that there's
10 a certain amount of higher scrutiny that you have to know what's
11 entailed in the running of a business, particularly where there
12 are --

13 MS. BOONE: Objection.

14 BY MR. FARINAS:

15 Q. -- public utilities provided?

16 JUDGE VERO: Grounds? I always need the grounds.

17 MS. BOONE: It's very broad. It's very broad.

18 JUDGE VERO: I told you I always want the
19 grounds.

20 MS. BOONE: His question is very broad. He needs
21 to be specific about what part of his business is he supposed to
22 know. What part of his business is he referring to? What part
23 of his knowledge of operation is he referring to?

24 JUDGE VERO: I will allow it.

25 MS. BOONE: Is he talking about environmental

1 questions that come up at a property? Is he talking about -- you
2 know, what does he mean? It's too broad.

3 JUDGE VERO: I will allow it.

4 MS. BOONE: Okay.

5 JUDGE VERO: Continue. Either repeat the
6 question or, Mr. Pulley, if you recall the entirety of the
7 question, you may answer.

8 BY MR. FARINAS:

9 Q. As a provider of rental properties for residential
10 customers in Philadelphia, do you believe that you have or should
11 have a comprehensive knowledge in providing such services where
12 there are public utilities provided? Do you believe that you are
13 exempt from having the requisite knowledge of how to deal with
14 utility bills where you provide utility services in the course of
15 your business?

16 MS. BOONE: Objection. This is a compound
17 question.

18 JUDGE VERO: It is a compound question.

19 BY MR. FARINAS:

20 Q. Do you believe that you should have the requisite
21 knowledge to provide -- requisite knowledge to handle utility
22 services when you are providing services that use such a high
23 amount of utility bills?

24 MS. BOONE: I also object because it's overbroad.

25 JUDGE VERO: Okay. Hold on a second. It was

1 better the first time around. So take a moment, rephrase it.
2 Try it one more time. It was overbroad and at one point
3 compound, etc., etc. I know what you want to ask, so ask for
4 that particular information.

5 BY MR. FARINAS:

6 Q. Mr. Pulley, as a provider of properties for rent in the
7 City of Philadelphia for people to rent for their homes, do you
8 believe that it is necessary for you to have knowledge regarding
9 how to deal with and administer utility bills when utilities are
10 so much an integral part of providing the service that you do in
11 the City of Philadelphia?

12 A. In the ordinary course, the answer is no. But, when
13 you're dealing with PGW and your rules are different than PECO's
14 rules and how you're unable to do business differently and the
15 rights that are extended beyond any other utility that you guys
16 have a right to lien, okay, is much different than anybody else
17 out there, I think Mr. McCaffery said it best when he sat on this
18 stand.

19 He's a lawyer. He worked in the district
20 attorney's office for seven years. He's been practicing in the
21 City of Philadelphia for 20 years, and he had no idea about the
22 unilateral power that PGW has in how they conduct business here
23 in the City of Philadelphia.

24 Q. So is there a reason for --

25 A. Wait, I had another piece. I had another piece.

1 JUDGE VERO: Go to the answer without
2 characterizing PGW. Go to the answer to Mr. Farinas's question
3 without characterizing PGW's business, manner of business. So it
4 was a yes or a no?

5 THE WITNESS: No.

6 JUDGE VERO: So it was a no. Moving along. Next
7 question.

8 BY MR. FARINAS:

9 Q. Based on the additional verbiage you just gave us, is the
10 true basis for your filing these matters --

11 MS. BOONE: Objection --

12 MR. FARINAS: Objection? I'm asking a question.

13 MS. BOONE: -- as to characterization. It
14 characterizes his answer as verbiage as if -- this gentleman has
15 taken an oath. He's testifying.

16 MR. FARINAS: Did he speak in words?

17 JUDGE VERO: Okay.

18 MS. BOONE: Verbiage usually means superfluous
19 and --

20 JUDGE VERO: Yes. I agree. That bit about
21 verbiage is stricken out. Go to the question.

22 BY MR. FARINAS:

23 Q. Based upon your previous answer regarding your
24 characterizations of PGW, is your purpose for and your motivation
25 for filing these matters actual protest against the unilateral

1 power that you believe PGW has?

2 A. No. I believe PGW has been overpaid by our company. We
3 are owed an amount in excess of a million dollars by PGW, and I
4 believe the tyranny that PGW continues to suscepr our company to
5 is why we're here.

6 MR. FARINAS: I have no further cross.

7 JUDGE VERO: Thank you.

8 Redirect?

9 MS. BOONE: Yes.

10 JUDGE VERO: Brief.

11 MS. BOONE: Yes, it will be brief.

12 JUDGE VERO: Thank you.

13 REDIRECT EXAMINATION

14 BY MS. BOONE:

15 Q. You said that you have received shutoff notices. I'd like
16 to turn your attention to SBG Fairmount, page 309. That's the
17 big binder under tab 12.

18 A. What number?

19 Q. Page 309.

20 A. Where am I supposed to go?

21 Q. It's the big binder under tab 12. It's the last --

22 A. That's tab 13.

23 Q. And it's numbered 309. It's SBG Fairmount, page 309 under
24 Roman numeral 13. I'm sorry, Roman numeral 13. Sorry about
25 that.

1 A. Okay. The last page in the book.

2 Q. Okay.

3 JUDGE VERO: Right. It's the last page in the
4 book.

5 BY MS. BOONE:

6 Q. I'd like to direct your attention to the paragraph that's
7 called your rights. First of all, please identify this document
8 for the record. Whose name is at the title of the document? The
9 first line, it says --

10 A. Name of landlord?

11 Q. No. The name of the party sending.

12 A. Philadelphia Gas Works.

13 Q. Okay. And the line under it, 37 --

14 A. Thirty-seven-day shutoff notice for landlord ratepayer.

15 Q. Okay. And the date?

16 A. July 22nd, 2013.

17 Q. Okay. Is this a shutoff notice, Mr. Pulley, for Fairmount
18 or for a property that SBG manages?

19 A. This is a shutoff notice, yes.

20 Q. Okay. I'd like to turn your attention to the paragraph
21 that says your rights and if you would read the first few
22 sentences.

23 A. It says your rights. To talk about your bill, please call
24 at (215) 235-7077 or visit your local office Monday through
25 Friday 9:00 a.m. to 5:00 p.m. After you talk with us --

1 Q. The word after, can you read into the record how that's
2 stated?

3 A. It's capitalized and I think it's bolded.

4 Q. Okay. After --

5 A. After you talk with us, if you are not satisfied, you may
6 file a complaint with the Public Utility Commission.

7 Q. Okay. Go on. Next.

8 A. You may do so by calling the Public Utility Commission,
9 toll free, at 1-800-692-7380 or by writing the Public Utility
10 Commission, P O Box 3265, Harrisburg, PA 17120-3265. If you file
11 a complaint within seven days of receipt of this notice, we will
12 delay notifying your tenants that we will shut their service off
13 until the PUC resolves your complaint.

14 Q. Okay. Thank you. Is this -- and so the language with the
15 PUC is found in what notice? The shutoff notice?

16 A. It's in the shutoff notice.

17 Q. Okay. Now, you had an understanding with Mr. Dunn. What
18 was that understanding about shutoff notices?

19 A. I believe it was with everybody on that conference call in
20 December, 2008; but also in regard to Mr. Dunn, he reaffirmed it
21 that there would be no shutoffs and everything would be put on
22 hold.

23 Q. Okay. And did Mr. Dunn tell you when that agreement was
24 ended?

25 A. It never ended.

1 Q. It never ended? Did you receive any correspondence from
2 anyone else at PGW that that agreement from Mr. Dunn was not --
3 was stopped?

4 A. No.

5 Q. Okay. Does a shutoff document refer to residential or
6 commercial customers?

7 A. I'm not sure.

8 Q. Okay.

9 A. And plus the shutoff notice tells me that I'm the landlord
10 in all of these.

11 Q. Okay. But in that paragraph that language is directed to
12 whom? Does it mention landlord? Of the parties, landlord versus
13 tenant, what party is this directed to or what party is mentioned
14 in that paragraph? Is it the landlord or the tenant?

15 A. I think the landlord. Am I wrong?

16 Q. All right. Thank you. I just want to direct your
17 attention to the SBG Correspondence, page 103. It's the black
18 small Correspondence binder, SBG. And if you can look at -- if
19 you can refer to the -- to your e-mail dated December 15th. It's
20 under 2009 tab --

21 JUDGE VERO: Ms. Boone, I fear you're going to go
22 into --

23 MS. BOONE: Okay. I just wanted him to have the
24 document that he was promised, the agreement.

25 JUDGE VERO: Okay.

1 MS. BOONE: Thank you. No further questions.

2 JUDGE VERO: All right. Anything from PGW?

3 MR. FARINAS: Yes, very quickly.

4 RECROSS-EXAMINATION

5 BY MR. FARINAS:

6 Q. Mr. Pulley, you were just directed but then not directed
7 to it, and reference was made to an agreement made with Mr. Dunn
8 in 2009. The shutoff notice that you were speaking from was
9 served on the properties on July, 2013. In the interim, wasn't
10 there an agreement that as long as you paid current bills
11 everything would be okay? Did you actually --

12 A. I --

13 Q. I'm sorry.

14 A. No, go ahead.

15 Q. Did you actually believe this e-mail promise from Mr. Dunn
16 meant for all time?

17 A. As long as we were talking, yes. I believe that, once we
18 got Ted's e-mail that told us go contact the PUC and we filed --
19 wait a minute, and we filed an action, I think with that all bets
20 are off; and that would be consistent with the notice that you
21 provided dated July 27th.

22 Q. Well, so this notice wasn't served in error or in
23 violation of any agreement, was it?

24 A. I don't believe so, the one dated July 22nd, 2013.

25 Q. And let me ask you, were you paying current bills?

1 MS. BOONE: Objection.

2 JUDGE VERO: I will allow it.

3 THE WITNESS: I believe all current bills are
4 paid now and, matter of fact, were overpaid and I believe at all
5 times.

6 BY MR. FARINAS:

7 Q. At the time, at the time --

8 A. Excuse me?

9 Q. You're not answering my question.

10 JUDGE VERO: Yes. You need to answer his
11 question, and his question is specific.

12 THE WITNESS: Okay.

13 BY MR. FARINAS:

14 Q. Prior to this notice, were you paying current bills?

15 A. I believe PGW was overpaid.

16 Q. Were you paying the bills you received in the mail for the
17 months that you received bills?

18 MS. BOONE: Objection.

19 JUDGE VERO: Grounds?

20 MS. BOONE: Asked and answered. He said he had
21 overpaid.

22 JUDGE VERO: I will allow it.

23 THE WITNESS: I believe I was entitled to a
24 credit, and I believe I had a credit on my account.

25 JUDGE VERO: It's not the question. Did you pay?

1 As bills were coming in, did you pay current usage?

2 THE WITNESS: I didn't feel --

3 JUDGE VERO: So you didn't?

4 THE WITNESS: Huh?

5 JUDGE VERO: You said you didn't?

6 MS. BOONE: In fact, if I may say something --

7 JUDGE VERO: It was a yes or no question. I'm
8 sure if I know Mr. Pulley knows what Mr. Farinas is referring to
9 or what he is driving at.

10 THE WITNESS: Mm-hmm.

11 JUDGE VERO: Okay. It was a clear question,
12 asked twice. Yes, no answer will be sufficient. Did you pay
13 current bills as they were coming due? As you were getting bills
14 for them, did you pay current charges?

15 THE WITNESS: Again, as far as I was concerned,
16 we were due a credit from PGW.

17 JUDGE VERO: Again, yes, no? I think he doesn't
18 know. I have sufficient information to know it's a no and your
19 answer before was a no. Moving along. Next question.

20 MR. FARINAS: Thank you, Your Honor.

21 JUDGE VERO: We cannot just hang around.

22 MR. FARINAS: No further questions on cross.

23 JUDGE VERO: It is now 45 minutes after 4:00. I
24 do have some questions for you. I see you are standing up.
25 Okay, you are sitting now. I have some questions for Mr. Pulley.

1 All right. During this part of your testimony, I
2 think Mr. Farinas asked you whether or not you were aware that
3 you could approach the PUC. Before Mr. Savage told you in his
4 communications back in March of 2012, he told you if you are
5 dissatisfied you can file a complaint with the PUC, before March
6 of 2012, were you aware that PUC regulated public utility
7 companies in general?

8 THE WITNESS: I don't believe so.

9 JUDGE VERO: You don't believe so. So you
10 weren't aware of the PUC's existence before March of 2012, and
11 that was only because Mr. Savage informed you that this is the
12 forum you want to go next?

13 THE WITNESS: Correct.

14 JUDGE VERO: All right. Mr. McCaffery was here

15 --

16 When was Mr. McCaffery here? Monday? Tuesday?

17 MS. BOONE: Monday.

18 JUDGE VERO: Monday -- and he said that, yes, in
19 his little world he wasn't aware of existence of PUC or what PUC
20 did and that's fine. Attorneys are very specialized in their
21 knowledge. So that's a possibility that he did not know. But
22 didn't he also testify that the Judge in the Court of Common
23 Pleas back in 2010 during a prehearing or pretrial conference
24 instructed you to approach the PUC for calculation of the bills
25 that were the subject of the liens that you were fighting in the

1 Court of Common Pleas back in 2009?

2 THE WITNESS: I didn't attend any of those
3 hearings or those conferences.

4 JUDGE VERO: Okay. But you weren't advised by
5 Mr. McCaffery in 2010 about Judge Fox's I believe it was
6 suggestion that SBG go to PUC in order to resolve any billing
7 discrepancies that related to the liens that you were fighting
8 off in the Court of Common Pleas back in 2010? Yes? Answer my
9 question.

10 THE WITNESS: Don't know. I attended one hearing
11 with Judge Fox --

12 JUDGE VERO: No. Did Mr. McCaffery inform you of
13 what Judge Fox said in 2010 with regard to filing with the PUC if
14 you wanted to sort out your billing issues?

15 THE WITNESS: No.

16 JUDGE VERO: All right. We have determined that
17 back in 2003 or was it 2004 Mr. Lampert filed an informal
18 complaint with the PUC. Was it 2002? 2003? When was it?

19 MR. FARINAS: Three.

20 MS. BOONE: Three.

21 JUDGE VERO: Three, okay. I think there is
22 resolution maybe came in 2004. I don't have the document in
23 front of me; but there was testimony after a while we figured out
24 who filed for SBG that single, lone informal complaint with the
25 PUC. And Mr. Farinas asked you some questions, and right now you

1 stated that may be or had been within Mr. Lampert's scope of I'm
2 assuming employment or scope of tasks. You are his employer.
3 Wouldn't you know what Mr. Lampert's scope is?

4 THE WITNESS: No. I know what his scope is.

5 JUDGE VERO: Okay.

6 THE WITNESS: And one of those things is, if
7 there's vendor issues and vendor problems and disputes, his job
8 is to figure it out. And, in the case of if a material supplier
9 says, hey, I'm billing you because you got a hundred gallons of
10 paint and meanwhile the man in the field says, no, I didn't get
11 that, it would be within Eric Lampert to contact the property
12 manager or project manager, get a copy of the delivery ticket and
13 to figure it out. So I wouldn't be bothered with that. That
14 would have been on his side.

15 Maybe it's the same thing here with PGW. There
16 was an issue, and he did what he did.

17 JUDGE VERO: Okay. We've also pretty much now
18 determined that termination notices have that language that
19 directs a customer to first contact and talk to the PGW and then,
20 if they're still dissatisfied, they can approach the Commission
21 with their dispute. We have determined that it's in the
22 termination notices, and we've determined you received some.
23 When was the first termination notice you received for your
24 properties in general? I'm not just talking Fairmount, Marshall,
25 and Elrae. I'm talking first one you received from PGW?

1 THE WITNESS: Someplace amongst all these
2 documents there was where I -- it was either '08 or '09 I sent --
3 it had to be '09 -- I sent to John Dunn shutoff notices, and I
4 sent those to him.

5 JUDGE VERO: Okay.

6 THE WITNESS: But they take a different form than
7 the ones that are dated July 22nd. I don't remember exactly what
8 they say. I know they're a different form.

9 JUDGE VERO: All right. I understand by Mr.
10 McCaffery's testimony that some of the properties -- which ones
11 were they -- Fernrock, Simon Garden were liened by PGW back in
12 2002, maybe 2003, right?

13 THE WITNESS: Could be.

14 JUDGE VERO: That's how Mr. McCaffery was
15 involved.

16 THE WITNESS: Okay.

17 JUDGE VERO: Okay. Maybe 2004, 2005. I don't
18 have the transcript and the detailed testimony; but we're talking
19 2003, 2002 maybe as an initial date going all the way to 2005. I
20 understand that's where the settlement occurred, right?

21 THE WITNESS: That's correct.

22 JUDGE VERO: Okay. There was a settlement of
23 those liens which means they were liened against Fernrock and
24 Simon Garden, right?

25 THE WITNESS: I believe so. Yes.

1 JUDGE VERO: I'm going on a limb here, but I
2 assume you received termination notices by PGW before the lien
3 was applied or placed on the property?

4 THE WITNESS: Don't know.

5 JUDGE VERO: You don't know whether or not you
6 received termination notices on those two properties?

7 THE WITNESS: That's correct.

8 JUDGE VERO: From 2005 to 2008, did you receive
9 any other termination notices on any of the properties?

10 THE WITNESS: I don't know.

11 JUDGE VERO: You don't know.

12 Mr. Farinas, I need that information as late
13 filed exhibit. You want me to go over it again?

14 MR. FARINAS: Please.

15 JUDGE VERO: All right. We're talking Fernrock,
16 Simon Garden. Remember Mr. McCaffery testified that there was a
17 settlement, several liens placed on these two properties back in
18 2005 I believe he said; and I understand there were liens placed
19 on them. Can you find out if there were terminations sent to
20 SBG --

21 MR. FARINAS: I will.

22 JUDGE VERO: Okay. -- that led to those liens?
23 Also, any termination notice between the period 2005 to 2008, any
24 of the properties. How much time would you need to submit that
25 information?

1 THE WITNESS: Poor Ted.

2 MR. FARINAS: Because it goes back more than a
3 few years, we're discussing what records would show that, you
4 know, the liens themselves -- the notices themselves but the
5 record of them being sent out.

6 JUDGE VERO: You believe that the termination
7 notices themselves will not be archived?

8 MS. JACKSON: We may have a record but not the
9 actual document.

10 JUDGE VERO: You don't have the actual document?

11 MR. FARINAS: A copy of it --

12 MS. JACKSON: -- not that far back.

13 MR. FARINAS: Your Honor, I'm looking at one for
14 Elrae from 2005. It's noted in the contacts that there was a
15 termination notice sent out.

16 JUDGE VERO: I need the notice so I can look at
17 the language, whether or not that PUC language that's required by
18 regulations is in there, okay?

19 MR. FARINAS: I can look for it.

20 JUDGE VERO: You can trace it.

21 MR. FARINAS: Trace it and find a sample of what
22 was used at that time in those notices?

23 JUDGE VERO: Yes. So I would need archived
24 documentation of -- even if it's archived will do -- archived
25 documentation of term notices on Fernrock, Simon from 2002, 2003,

1 all the way to 2005 maybe. But in 2005 they were in the liening
2 process, and they even settled but also any other termination
3 notices covering all the other properties from 2005 to the
4 present and a sample of what a termination notice during this
5 time period would look like, okay, even if you cannot locate the
6 ones that were sent to SBG.

7 MR. FARINAS: Yes.

8 JUDGE VERO: All right. Can we do that? How
9 much time?

10 MS. BOONE: I'm not objecting. I just have a
11 question.

12 JUDGE VERO: Okay. I know.

13 MS. BOONE: Okay. The only question I had is,
14 can he also provide proof that they served it? Because, if the
15 termination notice didn't go to SBG, then it's kind of irrelevant
16 if they didn't receive it. So we'd also need proof that it was
17 served.

18 JUDGE VERO: Are you saying there was an address
19 issue?

20 MS. BOONE: I don't know, but I think one of the
21 things we want to know is proof that it was served on SBG.

22 JUDGE VERO: Okay. In your records I think you
23 sometimes note whether it was returned by U.S. Postal Service?

24 MR. FARINAS: I guess if that --

25 JUDGE VERO: If that occurred, it would be noted.

1 MR. FARINAS: But, if it's automated, then
2 there's a standard address that it's sent to of record as well.
3 So the record would say it was sent out to the address of record
4 and would verify that it was sent; and, if it was returned, we
5 would know.

6 MS. BOONE: And that would be in the
7 correspondence department so that they're also going to check the
8 correspondence department to make sure and affirm to us that all
9 of these were received by SBG.

10 JUDGE VERO: Okay. Maybe this is not the time
11 but can Ms. -- can someone go over briefly how service of
12 termination notices is performed by PGW? Okay. I would want an
13 answer from someone at PGW. I would even take it from Mr.
14 Farinas if he knows. But Mrs. Pereira would be more on point.

15 MR. FARINAS: Okay.

16 JUDGE VERO: This is just for clarification
17 because they're asking you to do something. I think you are
18 unable to do. Can you just briefly tell SBG how termination
19 notices are sent?

20 MS. PEREIRA: In the current system, okay, it
21 looks like -- the money is in buckets --

22 JUDGE VERO: No, no, no, how they are sent. Once
23 it is determined, how is it generated?

24 MS. PEREIRA: Oh. Through the what we call the
25 cubra (ph.) billing, and it's mailed out the ten -- well, in

1 their case they have a seven-day notice because it's commercial.
2 So it's mailed to the address on file, okay? And then they
3 follow up in three days with a telephone call.

4 JUDGE VERO: Would this have been different back
5 in 2002?

6 MS. JACKSON: Our process is still the same.

7 JUDGE VERO: The process is still the same. So
8 is it automatically generated by a computer system?

9 MS. PEREIRA: Yes.

10 JUDGE VERO: After a certain number of --

11 MS. PEREIRA: Days.

12 JUDGE VERO: -- days?

13 MS. PEREIRA: When the new bill is prepared and
14 in the buckets, depending on the money in the buckets.

15 JUDGE VERO: When you say buckets, it's your
16 terminology. It doesn't --

17 MS. PEREIRA: Ninety or 120 days, no answer --
18 over 30 days, 31 days, if the bill is due over 31 days it is
19 generated through the system.

20 JUDGE VERO: Termination comes out automatically?

21 MS. PEREIRA: Automatically.

22 JUDGE VERO: Human, any human intervention in
23 that generation of termination notices?

24 MS. PEREIRA: The only ones that I'm aware of
25 which occurred maybe a couple of years ago were the residential

1 use end ones.

2 JUDGE VERO: Okay.

3 MS. BOONE: I just want to show an example of a
4 nonresidential post-termination notice that was not sent to the
5 address of record and doesn't even say the name that it was on.
6 So that's why we're asking that we need to have, you know, proof
7 that it was sent to the billing address because this is a shutoff
8 notice --

9 JUDGE VERO: Okay. Let's do it this way. You
10 produce -- you being PGW -- produce those archived records, okay?
11 Would they have the address, as in sometimes notation would say
12 send to?

13 MS. JACKSON: It would be whatever address where
14 the bills are going.

15 MS. BOONE: This is an example of a shutoff
16 notice that went --

17 MR. FARINAS: May I approach, Your Honor --
18 (Multiple people speaking at the
19 same time.)

20 JUDGE VERO: Ms. Boone, post-termination notices
21 are left at the door or in case of landlord-tenant issues they
22 are left in a visible place.

23 MR. FARINAS: Yes.

24 JUDGE VERO: Posted somewhere in a visible place
25 but I was talking to just residential service, just strict

1 residential service. They are left at the door, just left at the
2 handle maybe or snuck in the door jamb, something like that, just
3 left at the door after termination. We're talking it's the
4 difference between pre-termination and post-termination notices
5 and the way they are delivered.

6 MS. BOONE: I also have a copy, the shutoff
7 notice we referred to as being July 22nd, 2013. That was mailed
8 to Mr. Pulley's home address which is not the billing address.
9 It was mailed to 1241 Welsh Road, Huntingdon Valley, PA, which is
10 not the billing address but Mr. Pulley's home address.

11 MR. FARINAS: He gave us the address.

12 JUDGE VERO: Hold on a second. Okay. I don't
13 want to discuss the entire process of termination notices right
14 now, okay? This is not the issue. So let's get those archives,
15 okay? Once we get them and see what's in there, then we can
16 discuss deficiencies if there are any, okay?

17 MS. BOONE: Okay.

18 JUDGE VERO: We'll address deficiencies. Right
19 now, I don't know what's in there so I cannot address something
20 where it sent, etc. Maybe it will be in the archive information
21 that they have and will come with the address, etc. I also would
22 like to have any record of a return mail, termination notice that
23 was returned by the U.S. Postal Service that was undeliverable.
24 We do have them sometimes.

25 And, since these are archives documents that I've

1 asked for goes past the full year, they are required by law to do
2 documentary retention. There is four-year requirement for
3 document retention. This predates that, so I'm assuming it's
4 harder to retrieve the information. So how many days do you
5 need?

6 MR. FARINAS: Can we say ten days just for
7 cushion?

8 JUDGE VERO: I want it to be correct and
9 thorough. I don't want it to be a rush job, okay? So I'll give
10 you 20 days.

11 MR. FARINAS: Your Honor, thank you.

12 JUDGE VERO: Today being the 28th, you've got 20
13 days from that.

14 MR. FARINAS: September 19th, 20 days?

15 JUDGE VERO: It's not 28. It would be it's 18th,
16 17th, okay? If it falls on a Saturday or Sunday, I expect it on
17 the following business day which would be a Monday, all right?

18 MR. FARINAS: Yes.

19 JUDGE VERO: And SBG will have sufficient time to
20 review the documents. How much time do you need? Well, we don't
21 know how much there is so, once we receive them, I will inform
22 Ms. Boone that she will have a comparable amount of time to
23 review them, file either written objections or oral objections
24 since we might have ongoing hearings, okay?

25 MS. BOONE: Thank you.

1 JUDGE VERO: All right. So you will have the
2 opportunity to review and object. All right. That issue being
3 clarified, moving on.

4 Mr. Pulley, you stated that you did receive some
5 termination notices in 2008. Did you familiarize yourself with
6 their content?

7 THE WITNESS: No. And I think it was 2009. It
8 was either eight or nine I got them, and I sent them over to Mr.
9 Dunn. I think it was nine.

10 JUDGE VERO: That's okay. But you did receive
11 some?

12 THE WITNESS: Yes.

13 JUDGE VERO: And you did not familiarize yourself
14 with their content?

15 THE WITNESS: No. I had them scanned, and I sent
16 them right out.

17 JUDGE VERO: Did any of your employees at SBG
18 familiarize themselves with their content, with the content of
19 the termination notices?

20 THE WITNESS: I don't know the answer to that.

21 JUDGE VERO: You do have employees on board that
22 deal with your billings, right?

23 THE WITNESS: Yeah.

24 JUDGE VERO: Who is the employee in charge for
25 reviewing the bills for correctness, consistency, etc.?

1 THE WITNESS: I would tend to think it's Karen
2 Keizer; but I don't want to take anything away from her, but all
3 she does is looks at numbers and slides things in, inputs
4 numbers.

5 JUDGE VERO: So you have no one who actually
6 reads the bills, the fine print on the back?

7 THE WITNESS: That's correct.

8 JUDGE VERO: You just don't do it?

9 THE WITNESS: There's so many bills that it would
10 take forever to sit there and read the back of every bill.

11 JUDGE VERO: You have 50 employees?

12 THE WITNESS: Now.

13 JUDGE VERO: In 2008, how many did you have?

14 THE WITNESS: Maybe five. We used to operate
15 this business out of my house.

16 JUDGE VERO: This business is big. Right now it
17 has over a million dollars in disputed charges. You're just
18 disputing them. Not how many you have from PGW alone, it's just
19 what you're disputing out of PGW; and PGW is not the only vendor.
20 You have many vendors I would assume. So you have no one who
21 goes over the bills, the fine print, the contracts, nothing?

22 THE WITNESS: No.

23 JUDGE VERO: Okay. Also there was a reference to
24 this agreement you had with Mr. Dunn. I think PGW's side of the
25 agreement was that they would place a hold on the collection

1 activities on the accounts that you had disputed with Mr. Dunn,
2 right?

3 THE WITNESS: That is correct.

4 JUDGE VERO: All right. What was SBG's part of
5 the agreement?

6 THE WITNESS: Going back to the meeting of 2008,
7 the conference call, we were supposed to stay current with bills
8 on certain accounts. I don't remember which ones those were, and
9 they were supposed to provide information within X period of
10 time; and they didn't provide the information in January or
11 February of '09 and --

12 JUDGE VERO: Did you keep your part of the
13 agreement?

14 THE WITNESS: I think for the most part, yes; but
15 I'm not going to swear entirely.

16 JUDGE VERO: Okay. I have no further questions.
17 Can we agree to close for today?

18 MS. BOONE: Your Honor, can I just follow up on
19 one point with Mr. Pulley that you brought up?

20 JUDGE VERO: Just one?

21 MS. BOONE: Yeah, just one.

22 JUDGE VERO: Okay.

23 MS. BOONE: Actually, I'll wait. I can just do
24 it tomorrow.

25 JUDGE VERO: Tomorrow is a different set of