



**PHILADELPHIA GAS WORKS**

800 West Montgomery Avenue • Philadelphia, PA 19122

---

**Graciela Christlieb, Senior Attorney  
Legal Department**

Direct Dial: 215-684-6164

FAX: 215-684-6798

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

September 16, 2022

**VIA ELECTRONIC FILING**

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

**Re: Irena Porter v. Philadelphia Gas Works; Docket No. C-2022-3031693**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Philadelphia Gas Works' Reply to Complainant's Exceptions to the Initial Decision issued in the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

*/s/ Graciela Christlieb*

Graciela Christlieb, Esquire

Enclosure

cc: Cert. of Service w/enc.

## CERTIFICATE OF SERVICE

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

**Via Email Only**

Irena Porter

[whoissmissporter@gmail.com](mailto:whoissmissporter@gmail.com)

Date: September 16, 2022

*/s/ Graciela Christlieb*

Graciela Christlieb, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Irena Porter,	:	
Complainant,	:	
v.	:	Docket No. C-2022-3031693
	:	
Philadelphia Gas Works,	:	
Respondent.	:	

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

Pursuant to 52 Pa. Code §5.535 and the Secretary’s Letter dated September 6, 2022, the Philadelphia Gas Works (“PGW” or “Respondent”) hereby submits the following Reply to the Exceptions filed by Irena Porter (“Complainant”) to the Initial Decision in this matter issued on August 15, 2022 (“Initial Decision”).

**I. INTRODUCTION**

On March 28, 2022, Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) against PGW) wherein she alleged (1) there were incorrect charges on her bill and (2) there were false allegations on her account (“Complaint”).

On April 20, 2022, PGW filed an Answer with New Matter and Preliminary Objections (“Pos”). In its Answer with New Matter, PGW denied that there were incorrect charges on Complainant’s bill for gas service at 5351 Grays Avenue, Philadelphia, PA (“Service Address”), stated that the balance being disputed in the Complaint was from 2015, and asserted that the statute of limitations of the Public Utility Code (“Code”) at 66 Pa.C.S. § 3314 provides that no action for recovery of penalties or forfeitures, or any prosecution, may be maintained unless brought within three years from the date the liability arose. In its POs, PGW incorporated the averments of its New Matter and made a jurisdictional argument that any issue raised in the Complaint relating to charges from 2015 were barred by the statute of limitations at Section 3314 of the Code.

Complainant did not file a response to either the New Matter or the POs.

By First Interim Order entered June 22, 2022 (“Order”), PGW’s POs were sustained with respect to the statute of limitations. The Order also made it clear that a hearing would be scheduled on the issues of incorrect billing charges and reasonableness of service.

On June 24, 2022, a Call-In Telephone Hearing Notice was eServed upon the Parties stating that a call-in telephonic hearing on the remaining issues in the Complaint would be convened on July 21, 2022, at 10:00 a.m. before Administrative Law Judge Conrad A. Johnson. The Hearing Notice provided the Parties with the Toll-Free Bridge Number and the PIN to dial on the morning of the hearing to participate in the telephonic hearing. The Hearing Notice further stated as follows:

FAILURE TO APPEAR: You may lose the case if you do not take part in this hearing and present evidence on the issue(s) raised. Your case may be dismissed “with prejudice” which means that you will be barred from filing another complaint raising the same claim(s) and issue(s) presented in the dismissed complaint.

On July 21, 2022, at 10:00 a.m., counsel for PGW along with their witness dialed-in to participate in the telephonic proceeding. The court reporter was also present. Complainant was not present. Judge Johnson recessed the hearing to permit additional time for Complainant to appear or to contact the Office of Administrative Law Judge (“OALJ”) to explain her absence. When the hearing reconvened, Complainant had not dialed into the hearing nor contacted the OALJ to explain her absence. Accordingly, PGW moved for dismissal of the Complaint with prejudice for lack of prosecution. The hearing adjourned at approximately 10:40 a.m. on July 21, 2022.

On August 15, 2022, the Commission issued the Initial Decision wherein Judge Johnson granted PGW’s motion to dismiss the Complaint with prejudice due to Complainant’s failure to appear for the hearing to prosecute the Complaint.

By Secretarial Letter dated September 6, 2022, the Commission served PGW with exceptions to the Initial Decision filed by Complainant. PGW’s reply follows.

## **II. COMPLAINANT’S EXCEPTIONS AND PGW’S REPLY**

### **Exceptions**

Complainant’s exceptions fail to identify any error in fact or law contained in the Initial Decision. Rather, the bulk of Complainant’s exceptions reiterate claims made in the Complaint and appear to be a response to the First Interim Order granting PGW’s POs. It is not until the final paragraph of the exceptions that Complainant addresses failing to call in for the hearing in this matter.

## Reply

Complainant's exceptions fail to demonstrate that the Initial Decision is unsupported by substantial evidence. There is also nothing in the record to indicate that Complainant's failure to appear for the telephonic hearing was unavoidable.<sup>1</sup> Complainant claims not to have received notice of the hearing and states that she found out she missed her hearing when she contacted the PUC. However, the Complaint was filed in March and the hearing did not take place until July; Complainant gives no explanation for why she did not contact the Commission sooner if she were not receiving correspondence relating to her Complaint. Moreover, Complainant fails to address how she received the Initial Decision but failed to receive the Hearing Notice despite both being eServed by the Commission to the only email address provided by Complaint.

### III. CONCLUSION

WHEREFORE, PGW respectfully requests that this Commission deny Complainant's exceptions and adopt the Initial Decision.

Respectfully submitted,

/s/ Graciela Christlieb

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

Date: September 16, 2022

Counsel for PGW

---

<sup>1</sup> "The Code provides that a party who fails to attend a scheduled conference and hearing "shall be deemed to have waived the opportunity to participate" and shall not be permitted to later reopen the matter. 66 Pa. C.S. § 332(f); 52 Pa. Code § 5.245. As noted, the Commission may excuse non-attendance at a hearing where "... the presiding officer shall determine that failure to be represented was unavoidable and that the interests of the other parties and the public would not be prejudiced." Id. No determination was made that the non-attendance was unavoidable, and there are no facts in the record that would allow the Commission to reach this conclusion." Brown v. PECO Energy Co., Docket No. C-2019- 3009486 (Opinion and Order entered April 22, 2022).