



PHILADELPHIA GAS WORKS

800 West Montgomery Avenue • Philadelphia, PA 19122

Graciela Christlieb, Senior Attorney
Legal Department
Direct Dial: 215-684-6164
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E-mail: graciela.christlieb@pgworks.com

January 17, 2023

VIA ELECTRONIC FILING

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

Re: Christopher Coe v. Philadelphia Gas Works; Docket No. C-2022-3035763

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Philadelphia Gas Works' Motion to Dismiss with regard to the above-captioned matter. Copies have been served in accordance with the attached Certificate of Service.

Please contact me if you have any questions regarding this filing.

Sincerely,

/s/ Graciela Christlieb

Graciela Christlieb, Esq.

Enclosures

cc: The Hon. Emily DeVoe, Pennsylvania Public Utility Commission [w/enc.]
Cert. of Service [w/enc.]

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of Philadelphia Gas Works' foregoing Motion 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 Electronic Mail

Christopher Coe

cicobooking@gmail.com

Date: January 17, 2023

/s/ Graciela Christlieb

Graciela Christlieb, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Christopher Coe,	:	
Complainant,	:	
v.	:	Docket No. C-2022-3035763
	:	
Philadelphia Gas Works,	:	
Respondent.	:	

NOTICE TO PLEAD

To: Christopher Coe
cicobooking@gmail.com

Pursuant to Pa. Code § 5.103, you are hereby notified that if you do not file a written response to the enclosed Motion to Dismiss within twenty (20) days of service of this Notice, the facts set forth by Philadelphia Gas Works in the Motion to Dismiss may be deemed to be true, thereby requiring no further proof.

All pleadings, such as a Reply to the Motion to Dismiss, must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served to counsel for the Philadelphia Gas Works and, when applicable, the Administrative Law Judge presiding over the proceeding.

File with:

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

With a copy to:

Emily DeVoe, Administrative Law Judge
Pennsylvania Public Utility Commission
Piatt Place, Suite 2200
301 5th Avenue
Pittsburgh, PA 15222

Date: January 17, 2023

/s/ Graciela Christlieb

Graciela Christlieb, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Christopher Coe,	:	
Complainant,	:	
v.	:	Docket No. C-2022-3035763
	:	
Philadelphia Gas Works,	:	
Respondent.	:	

**MOTION OF THE PHILADELPHIA GAS WORKS TO DISMISS COMPLAINT OF
CHRISTOPHER COE FOR LACK OF PROSECUTION**

Philadelphia Gas Works (“PGW” or “Respondent”), by and through its attorney, Graciela Christlieb, and pursuant to 52 Pa. Code § 5.103 of the Commission’s regulations, hereby moves to dismiss the Complaint (“Complaint”) of Christopher Coe (“Complainant”) with prejudice for lack of prosecution. In support of this Motion to Dismiss, PGW avers as follows:

I. PROCEDURAL HISTORY

1. On September 30, 2022, the Complainant filed the Complaint against PGW with the Pennsylvania Public Utility Commission (“Commission”).
2. In the Complaint, attached hereto as attachment “A,” Complainant alleged he is owed a “Refund Credit” under the PASC, which PGW believes to be a reference to Title 12 of the Pennsylvania Statutes and Court Rules.
3. In the Complaint (on typewritten pages attached to the complaint form), Complainant references a “billing dispute” and “billing errors.”
4. Complainant does not identify which bills or charges he believes are incorrect.
5. On October 20, 2022, PGW filed an Answer with New Matter, attached hereto as attachment “B,” wherein it averred that Complainant has not made any payments since initiating service.
6. The Answer with New Matter contained a Notice to Plead, which informed Complainant that any reply to the New Matter must be filed within in twenty days of service.
7. Complainant did not file a reply to the New Matter.
8. On October 20, 2022, PGW filed a Preliminary Objection, attached hereto as attachment “C,” wherein it moved to dismiss the Complaint for lack of jurisdiction as the Commission does not have jurisdiction to resolve disputes arising out of Title 12 of the

Pennsylvania Statutes and Court Rules or to award monetary damages.

9. The Preliminary Objection contained a Notice to Plead, which informed Complainant that any answer to the Preliminary Objection must be filed within in ten days of service.

10. Complainant did not file an answer to the Preliminary Objection.

11. On November 30, 2022, this Court issued an Interim Order (“Order”), attached hereto as attachment “D,” wherein it granted PGW’s Preliminary Objection regarding monetary damages and ordered Complainant to file an amended complaint. Specifically, Ordering Paragraphs 2 through 4 of the Order stated:

2. That the Preliminary Objection filed by Philadelphia Gas Works is otherwise granted such that Complainant shall file an Amended Complaint with the Pennsylvania Public Utility Commission by close of business on **December 9, 2022**, that *clearly, plainly, and specifically*: (1) identifies which bills or charges he believes are incorrect, if any; (2) identifies which statute(s) over which the Commission has jurisdiction to administer, PGW violated, if any, and how; and (3) identifies which Commission regulation(s), order(s), or tariff provision(s) PGW violated, if any, and how.

3. That in his Amended Complaint, Complainant shall also indicate the relief he is seeking from the Commission, **other than monetary damages**, as well as an explanation as to why he believes he is entitled to that relief.

4. That Complainant’s failure to file an Amended Complaint as ordered by Ordering Paragraphs 2 and 3 may result in dismissal of this proceeding. (Emphasis in original.)

12. As of January 17, 2023. PGW’s counsel has not received an amended complaint from Complainant, nor is there an amended complaint on the docket.

II. LAW AND ARGUMENT

13. The Commission has held that the orders of an administrative law judge must be complied with and that a failure to do so is a sufficient basis to support dismissal of the matter. *Snyderville Community Development Corporation v. Philadelphia Gas Works*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006).

14. A formal complaint must set forth, in a clear and concise statement, the act or thing done or omitted to be done by a public utility in violation, or claimed violation, of any law which

the commission has jurisdiction to administer, or of any regulation or order of the commission. 66 Pa.C.S. § 701; 52 Pa. Code § 5.22(a)(5).

15. Under 52 Pa. Code § 5.21(d), the Commission may dismiss a complaint if a hearing is not necessary.

16. A hearing is unnecessary if it does not appear to the Commission from a consideration of the complaint and answer that a reasonable ground exists for investigating the complaint. 66 Pa.C.S. § 703(a).

17. Complainant was given sufficient opportunity to respond to PGW's New Matter and failed to do so.

18. Complainant was given sufficient opportunity to respond to PGW's Preliminary Objection and failed to do so.

19. Complainant was given sufficient opportunity to file an amended complaint and failed to do so.

20. Complainant's conduct concerning this matter involves not just failing to comply with a Court order; it involves a failure to provide PGW with the notice of the alleged facts and issues to be litigated necessary to allow PGW to prepare a defense.

III. CONCLUSION

WHEREFORE, PGW respectfully requests that this Commission dismiss the Complaint with prejudice.

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

Date: January 17, 2023

Counsel for PGW

A

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

*Filing this form begins a legal proceeding and you will be a party to the case.
If you do not wish to be a party to the case, consider filing an informal complaint.*

To complete this form, please type or print legibly in ink.

1. **Customer (Complainant) Information**

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name: CHRISTOPHER COE

Street/P.O. 879 Brooklyn Street Box _____ Apt #

City: PHILADELPHIA State: PENNSYLVANIA Zip: 19104

County PHILADELPHIA _____

Telephone Number(s) Where We Can Contact You During the Day (required):

(_215_) _____ 758_6309 _____ (home) (_____) _____
(mobile)

E-mail Address (required):

_____ cicobooking@gmail.com _____

Utility Account Number (from your
bill) _____ 0951031427 _____

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name

Street/P.O. Box

City

State

Zip

2. **Name of Utility or Company (Respondent)**

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

3. **Type of Utility Service**

Check the box listing the type of utility service that is the subject of your complaint (check only one):

ELECTRIC

STORM WATER

GAS

WASTEWATER/SEWER

WATER

TELEPHONE/TELECOMMUNICATIONS (local, long distance)

STEAM HEAT

MOTOR CARRIER (e.g. taxi, moving company, limousine)

4. **Reason for Complaint**

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. **Your complaint may be dismissed without a hearing if you do not provide specific information.**

The utility is threatening to shut off my service or has already shut off my service.

I would like a payment agreement.

Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.

I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.

Other (explain).

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

5. Requested Relief

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

I would like the PUC to demand PGW to provide me with the Refund Credit due under PASC 12-6313(b) for all Purchase Money Loans under PASC 12-6325 (c) in regards to the Finance Charges on the account which was pre-paid under PASC 12-6313 (a), in addition to compensation for the willful violations committed under PASC 12-6351 as Unfair Trade Practices pursuant to PASC 12-6355.

TOTAL COMPENSATION DUE: \$7,000

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the

PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

6. Protection From Abuse (PFA)/ Domestic Violence

Has a court granted you a “Protection From Abuse” order or any other order which provides clear evidence of domestic violence against you that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a “Protection From Abuse” order or any other order for your personal safety or welfare?

YES
NO

If your answer to the above question is “yes,” attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. Prior Utility Contact

a. Is this an appeal from a decision of the PUC’s Bureau of Consumer Services (BCS)?

YES
NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES
NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

- c. **If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.**

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. Legal Representation

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer **in this matter**, provide your lawyer's name, address, telephone number, and e-mail address, (all required contact information). Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name _____

Street/P.O. Box _____

City _____

State _____

Zip _____

Area Code/Phone Number _____

E-mail Address _____

Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

9. Verification and Signature

You must sign your complaint. Individuals filing a Formal Complaint **must** print or type their name on the line provided in the verification paragraph below and **must** sign and date this form in **ink**. **If you do not sign the Formal Complaint, the PUC will not accept it.**

Verification:

I Christopher Coe _____, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

_____Coe:Christopher_____

(Signature of Complainant)

(Date)9/30/2022

Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification must be signed by an authorized officer or authorized employee. If the Formal Complaint is not signed by one of these individuals, the PUC will not accept it.

10. How to File Your Formal Complaint

Electronically. You must create an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

Mail. Mail the completed form with your original signature and any attachments, by certified mail, priority mail, or overnight delivery to this address and retain the tracking information as proof of submission:

Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120

If you are appealing a BCS decision: follow the directions in the cover letter you received from the Secretary's Bureau with the formal complaint form. **ONLY** Formal complaints appealing a BCS decision can be filed by fax, email or overnight delivery to meet filing deadlines. **All other formal complaints MUST be eFiled or mailed.**

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your Formal Complaint for your records.

Please know that your complaint form and the utility's answer will not be published to the PUC's website. Once your complaint case moves to the Office of Administrative Law Judge, any filings you make should be marked confidential if you do not want them published to the website.

8/15/2022

Account Number:0951031427

Christopher-Albert

(Grantor,Beneficiary,Entitlement Holder, Authorized Agent In Commerce)

On behalf of:CHRISTOPHER ALBERT COE

(Estate,Trust,Organization,Participant)

% 879 North Brooklyn Street

Philadelphia Pennsylvania Republic

Near [19104] (without the UNITED STATES)

Graceland Christlieb

(Esquire,Senior Attorney)

On behalf of:PHILADELPHIA GAS WORKS

(Public Service,Debt Collector)

Attn:Legal Department

800 West Montgomery Avenue

Philadelphia, PA 19122

Notice of Default and Immediate Discharge of Alleged Obligation

Notice to Agent is Notice to Principal

Notice to Principal is Notice to Agent

The following correspondence is in response to the communication received dated 8/4/2022, in which you and PGW claim that the instruments received were not acceptable for credit on account. Please be advised I am well aware of my right of Credit under the Truth In Lending Act as well as the use of the Credit Card by PGW to create the account for the Organization in which I am a Beneficiary of, and Entitlement Holder too [see 15 USC 1602]. For further clarification on my stance as a consumer regarding this matter, the billing dispute regarding the most recent Statement of account with the instrument/coupon attached was returned to you institution for setoff of the alleged obligation of the account. In addition I made a request pursuant to the Treatment of Credit Balances for a proper accounting of the credit balance to be assessed and distributed/refunded from the account [see 15 USC 1666d]. Please reference all previous statements of account and coupons provided by PGW that are in violation and contain billing errors of the accounting nature [see 15 USC 1666 (5)].

The nature of the communication received from you on behalf of PGW is false and misleading according to the Fair Debt Collection Practices Act ,in addition to the fact your use of interstate commerce in an

attempt to collect a debt proves that you as well as PGW are in fact a Debt Collector [see 15 USC 1692e (3)][see 15 USC 1692a (6)].

Please be advised the instrument/coupons was indorsed and claimed before being tendered as payment of the alleged obligation under Pennsylvania State Law [see PASC 13-3603 and 13-3306]. According to Pennsylvania State Law the action of me claiming the instrument on behalf of the Organization causes immediate discharge of the obligation [see PASC 13-3306]. Refusal of or non-honoring of the instrument without returning the instruments is grounds for discharge as said in the Pennsylvania State laws.

Also, according to the Trading With The Enemy Act [TWEA] "Private Property Shall Not Be Taken For Public Use Without Just Compensation", the fact PGW was able to create an account in the name of the Organization and issue an instrument in the form of a coupon in the name of the Organization from said account is proof my Organization's private property was used in which I have not received just compensation for the said use of. In addition to the fact that "All obligations are obligations of the United States" , and that the term Bill is defined as an obligation of the United States with a term not more than one year [see 18 USC 8][see 31 CFR 357.2].

All due compensation and/or credits are to be returned and/or refunded to me as the Grantor and Entitlement Holder of the account immediately after a proper accounting has been performed for all withholdings due. In addition, all future payments directed to the account are now to be sent to me in a form presented in the Treatment of Credit Balances from the Consumer Refund Credit Account or escrow account held by PGW in the name of the Organization [see 15 USC 1666d][see 15 USC 1692h].

LAWS IN CORRESPONDENCE WITH THIS COMMUNICATION ARE AS FOLLOWS:

TWEA,TILA, FDCPA, FCBA, 31 CFR 357.2, & PASC 13-3306, 13-3603

If you or any other alleged Attorney in the position of counsel on behalf of PGW have any further misunderstanding or incompetence on my stance and position with this matter regarding the bankrupt nature of the transaction as well as the system in which you operate in within the United States, they or you should look to settle the matter lawfully with a Lawful claim through a court of competent jurisdiction.

You have 10 Days to respond to this communication rebutting the facts stated above, failure to do so will result in all statements made as true in fact. This communication is in no way a waiver of any rights protected in favor of the signing party.

Respectfully with Honor

Christopher-Albert

[Grantor,Beneficiary,Entitlement Holder,Authorized Agent In Commerce]

On behalf of: CHRISTOPHER ALBERT COE

[Estate,Trust,Organization,Participant]

By: _____

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PASC 13-1308

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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

October 20, 2022

VIA ELECTRONIC FILING

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

Re: Christopher Coe v. Philadelphia Gas Works; Docket No. C-2022-3035763

Dear Secretary Chiavetta:

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

Sincerely,

/s/ Graciela Christlieb

Graciela Christlieb, Esquire

Enclosure

cc: Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of Philadelphia Gas Works' Answer with New Matter 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
Christopher Coe
cicobooking@gmail.com

Date: October 20, 2022

/s/ Graciela Christlieb
Graciela Christlieb, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Christopher Coe,	:	
Complainant,	:	
v.	:	Docket No. C-2022-3035763
	:	
Philadelphia Gas Works,	:	
Respondent.	:	

NOTICE TO PLEAD

To: Christopher Coe
cicobooking@gmail.com

Pursuant to Pa. Code § 5.63, you are hereby notified that any reply to the new matter in the enclosed Answer with New Matter of Philadelphia Gas Works must be filed within twenty (20) days of the date of service of the Answer with New Matter.

All pleadings, such as a Reply to New Matter, must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served to counsel for PGW and, when applicable, the Administrative Law Judge presiding over the proceeding. Failure to file a timely reply to new matter may result in relevant facts stated in the new matter being deemed admitted.

/s/ Graciela Christlieb

Graciela Christlieb, Esquire
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
graciela.christlieb@pgworks.com

Date: October 20, 2022

Counsel for PGW

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Christopher Coe	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2022-3035763
	:	
	:	
Philadelphia Gas Works,	:	
	:	
Respondent.	:	

**PHILADELPHIA GAS WORKS’
ANSWER WITH NEW MATTER TO FORMAL COMPLAINT**

Pursuant to 52 Pa. Code §5.61, Philadelphia Gas Works (“PGW” or “Respondent”) hereby submits this Answer with New Matter to the Formal Complaint (“Complaint”) of Christopher Coe (“Complainant”) that was served by the Secretary of the Pennsylvania Public Utility Commission (“Commission” or “PUC”) on September 30, 2022. In support of this Answer, PGW avers as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted. PGW admits that it issued a shut off notice for the service at 879 Brooklyn Street, Philadelphia, PA (“Service Address”).

By way of further answer, Complainant established service at the Service Address as of December 8, 2021. The Service Address is listed as residential gas heat and domestic usage. The Service Address is equipped with a functioning automatic meter reading device.

PGW records indicate that Complainant has not made a payment since establishing service.

5. Denied. The averments contained in this paragraph are a prayer for relief to which no response is required.
6. Admitted.
7. Admitted.

NEW MATTER

8. The Commission lacks jurisdiction over the Complaint insofar as the issues raised therein arise out of alleged violations of 12 Pa.C.S.A., Pt. V, Ch. 63.
9. The Commission lacks jurisdiction to issue money damages.

WHEREFORE, PGW respectfully requests that the Commission deny all relief requested in the Complaint, dismiss the Complaint, and grant any other relief in favor of PGW as deemed appropriate.

Respectfully submitted,

/s/ Graciela Christlieb

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

Date: October 20, 2022

Counsel for PGW

VERIFICATION

I, Graciela Christlieb, hereby state that I am counsel for the Philadelphia Gas Works, that the facts set forth in the foregoing Answer with New Matter are true and correct to the best of my knowledge, information, and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).

Date: October 20, 2022

/s/ Graciela Christlieb

Graciela Christlieb, Esquire

C



PHILADELPHIA GAS WORKS

800 West Montgomery Avenue • Philadelphia, PA 19122

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Sincerely,

/s/ Graciela Christlieb

Graciela Christlieb, Esquire

Enclosure

cc: Cert. of Service w/enc.

CERTIFICATE OF SERVICE

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

Via Email Only
Christopher Coe
cicobooking@gmail.com

Date: October 20, 2022

/s/ Graciela Christlieb
Graciela Christlieb, Esquire

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Complainant,	:	
v.	:	Docket No. C-2022-3035763
	:	
Philadelphia Gas Works,	:	
Respondent.	:	

NOTICE TO PLEAD

To: Christopher Coe
cicobooking@gmail.com

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

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

/s/ Graciela Christlieb

Graciela Christlieb, Esquire
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
graciela.christlieb@pgworks.com

Date: October 20, 2022

Counsel for PGW

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Christopher Coe,	:	
Complainant,	:	
v.	:	Docket No. C-2022-3035763
	:	
Philadelphia Gas Works,	:	
Respondent.	:	

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

Philadelphia Gas Works (“PGW” or “Respondent”) submits the following Preliminary Objections to the Formal Complaint of Christopher Coe (“Complainant”) served by the Secretary of the Pennsylvania Public Utility Commission (“Commission” or “PUC”) on September 30, 2022 (“Complaint”). Pursuant to 52 Pa. Code § 5.61 and 5.101(d) of the Commission’s regulations, PGW also filed an Answer with New Matter to the Complaint on this same date. In support of these Preliminary Objections, PGW avers as follows:

I. INTRODUCTION

Complainant claims he is owed a “Refund Credit” under the PASC, which PGW believes to be a reference to Title 12 of the Pennsylvania Statutes and Court Rules (“Title 12”). Complainant further claims that the amount is \$7,000. *See* Complaint, ¶5.

II. LEGAL STANDARDS FOR PRELIMINARY OBJECTIONS

1. Preliminary objections to a Complaint are a permissible filing under the Commission’s Rules of Administrative Practice and Procedure.¹
2. The Commission’s procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice.²
3. Under Section 5.101(a) of the Commission’s regulations, preliminary objections must specifically state the legal and factual grounds relied upon and be limited to the following:

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

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

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding;
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter;
- (3) Insufficient specificity of a pleading;
- (4) Legal insufficiency of a pleading;
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action;
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution; and
- (7) Standing of a party to participate in the proceeding.

52 Pa. Code § 5.101(a)(1-7).

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

5. In deciding the preliminary objections, the Commission must determine whether, based on the well-pleaded factual averments of the party, recovery or relief is possible.⁵

III. PRELIMINARY OBJECTIONS BY PGW

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

³ *County of Allegheny v. Cmwth. of Pa.*, 490 A.2d 402 (Pa. 1985).

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

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

A. Dismissal Based on Lack of Commission Jurisdiction

7. Section 5.101(a)(1) of the Commission's regulations permits a party to file a preliminary objection based on the lack of Commission jurisdiction. 52 Pa. Code § 5.101(a)(1).

8. To act on the Complaint, the Commission must have jurisdiction over the subject matter.⁶ The Commission, as a creation of the General Assembly, has only the powers and authority granted to it by the General Assembly contained in the Public Utility Code.⁷ As such, the Commission must act within, and cannot exceed, its jurisdiction.⁸ A party to the proceeding may not create jurisdiction where jurisdiction does not exist.⁹

1. The Commission Lacks Jurisdiction Over Claims Based on Alleged Violations of Title 12.

9. The instant Complaint is based on alleged transactions under and violations of Title 12.

10. The Commission is not the proper forum for resolving issues arising out of Title 12 as the state legislature has not specifically granted the Commission with such subject matter jurisdiction.¹⁰

11. Therefore, the Commission lacks jurisdiction over the Complaint and all of its claims based on Title 12.

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

2. The Commission Lacks Jurisdiction Over Requested Relief in Form of Money Damages.

13. As part of the relief sought, Complainant is asking the Commission to award money damages. *See* Complaint, ¶ 5.

14. The Commission's enforcement powers do not include the ability to award complainants with money damages.¹¹

⁶ *Hughes v. Pennsylvania State Police*, 619 A.2d 390 (Pa. Cmwlth. 1992), *alloc. den.*, 637 A.2d 293 (Pa. 1993) ("The Commission must have subject matter jurisdiction as a prerequisite to the exercise of its power before it can decide a controversy.")

⁷ *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977).

⁸ *City of Pittsburgh v. Pa. PUC*, 43 A.2d 348 (Pa. Super. 1945).

⁹ *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967).

¹⁰ *Feingold*, 383 A.2d at 794.

¹¹ *Elkin v. Bell Tel. Co. of Pa.*, 420 A.2d 371 (Pa. 1980); *Feingold*, 383 A.2d at 794-795.

15. Even if it is determined that Complainant has asserted a legally sufficient billing dispute claim which falls within the Commission's jurisdiction (which PGW disputes), the Commission still lacks jurisdiction to award Complainant with money damages.

16. For this reason, PGW respectfully requests that the Commission sustain this Preliminary Objection and strike the requested relief from the Complaint as impertinent matter.

IV. CONCLUSION

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

Respectfully submitted,

/s/ Graciela Christlieb

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Date: October 20, 2022

Counsel for PGW

D

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Christopher Coe	:	
	:	
v.	:	C-2022-3035763
	:	
Philadelphia Gas Works	:	

**INTERIM ORDER
GRANTING PGW’S PRELIMINARY OBJECTION AND
ORDERING AN AMENDED COMPLAINT**

On September 30, 2022, Christopher Coe (Complainant or Mr. Coe) filed a Formal Complaint with the Pennsylvania Public Utility Commission (Commission), using the Formal Complaint form. He checked the box indicating that Philadelphia Gas Works (PGW, Company, or Respondent) was threatening to cut off his service or had already done so. As relief, he indicated he would like the Commission to order PGW to “provide [him] with the Refund Credit due under PASC 12-6313(b) for all Purchase Money Loans under PASC 12-6325(c) in regards to the Finance Charges on the account which was pre-paid under PASC- 12-6313(a), in addition to compensation for the willful violations committed under PASC 12-6351 as Unfair Trade Practices pursuant to PASC 12-6355.” He indicated that the “total compensation due is \$7,000.”

Attached to the Complaint were two typed pages entitled, “Notice of Default and Immediate Discharge of Alleged Obligation.” Complainant writes,¹

The following correspondence is in response to the communication received dated 8/4/2022 in which [PGW and its counsel] claimed that the instruments received were not acceptable for credit on account. Please be advised I am well aware of my right of Credit under the Truth in Lending Act as well as the use of a credit card by PGW to create the account of the Organization in which I am a

¹ This excerpt is included here verbatim.

Beneficiary of, and Entitlement holder too [see 15 USC 1602]. For further clarification on my stance as a consumer regarding this matter, the billing dispute regarding the most recent statement of account with the instrument/coupon attached was returned to you institution for setoff of the alleged obligation of the account. In addition I made a request pursuant to the Treatment of Credit Balances for a proper accounting of the credit balance to be assessed and distributed/refunded from the account [see USC 1666d]. Please reference all previous statements of account and coupons provided by PGW that are in violation and contain billing errors of the accounting nature [see USC 1666(5)].

The nature of the communication received from you on behalf of PGW is false and misleading to the Fair Debt Collection Practices Act, in addition to the fact your use of interstate commerce in an attempt to collect a debt proves that you as well as PGW are in fact a Debt Collector [see 15 USC 1692e(3)][see 15 USC 1692a(6)].

Please be advised the instrument/coupon was indorsed and claimed before being tendered as payment of the alleged obligation under Pennsylvania State Law [see PASC 13-3603 and 13-3306]. According to Pennsylvania State Law the action of me claiming the instrument on behalf of the Organization causes immediate discharge of the obligation [see PASC 13-3306]. Refusal of or non-honoring of the instrument without returning the instruments is grounds for discharge as said in the Pennsylvania state laws.

Also, according to the Trading With the Enemy Act [TWEA], “Private Property Shall Not Be Taken For Use Without Just Compensation.” The fact PGW was able to create an account in the name of the Organization and issue an instrument in the form of a coupon in the name of the Organization from said account is proof my Organization’s private property was used in which I have not received just compensation for the said use of. In addition to the fact that “All obligation are obligations of the United States,” and that term Bill is defined as an obligation of the United States with a term not more than one year [see 18 USC 8] [see 31 CFR 357.2].

All compensation and/or credits are to be returned and/or refunded to me as the Grantor and Entitlement Holder of the account immediately after a proper accounting has been performed for all withholdings due. In addition, all future payments directed to the account are now to be sent to me in a form presented in the Treatment of Credit Balances from the Consumer Refund Credit Account or escrow held by PGW in the name of the Organization [see 15 USC 1666d] [see 15 USC 1692h].

Complainant then indicates that the “laws in correspondence with this communication are as follows: TWEA, TILA, FDCPA, FCBA, 31 CFR 357.2, and PASC13-3306, 13-3603.”

On October 20, 2022, PGW filed an Answer and New Matter to the Complaint, as well as a Preliminary Objection. In its Answer, PGW avers it provides gas service to Complainant at 879 Brooklyn Street, Philadelphia, PA (service location), Complainant has not made a payment on the account since he established gas service on December 8, 2021, and it served a shut off notice for service at the service location.

In its New Matter, PGW argues the Commission lacks jurisdiction over the Complaint insofar as the issues raised therein arise out of alleged violations of 12 Pa.C.S.A., Pt. V, Ch. 63. PGW Further argues the Commission lacks jurisdiction to award money damages.

In its Preliminary Objection, PGW argues Complainant claims in the Complaint that he is owed a “Refund Credit” under the PASC, which PGW believes to be a reference to Title 12 of the Pennsylvania Statutes and Court Rules (Title 12). PGW argues that the Complaint is based on transactions under and violations of Title 12, and the Commission is not the proper forum for resolving issues arising out of Title 12. PGW further argues the Commission lacks jurisdiction to award money damages.

The Preliminary Objection contained a Notice to Plead, which informed Complainant that any response to the Preliminary Objection must be filed within in ten days of service. Complainant did not file a response to the Preliminary Objection.

Discussion

Preliminary objection practice before the Commission is similar to Pennsylvania civil practice respecting preliminary objections.² Pursuant to Section 5.101(a)(1) a party may object to a pleading due to lack of Commission jurisdiction.³ The moving party may not rely on its own factual assertions but must accept for the purposes of disposition of the preliminary objection, all well-pleaded, material facts of the other party, as well as every inference fairly deducible from those facts.⁴ However, the Commission need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion.⁵

Commission regulations also provide that the content of a formal complaint must include a clear and concise statement of the act or omission being complained of and a clear and concise statement of the relief sought.⁶ The pleading must be sufficiently specific so that the defending party will know how to prepare its defense.⁷

As described above, Mr. Coe indicated on the Complaint that PGW was threatening to terminate his service or had already done so. He averred he was entitled to a “Refund Credit due under PASC 12-6313(b) for all Purchase Money Loans under PASC 12-6325(c) in regards to the Finance Charges on the account which were pre-paid under PASC- 12-6313(a),” as well as “compensation for the willful violations committed under PASC 12-6351 as Unfair Trade Practices pursuant to PASC 12-6355.”

² *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

³ 52 Pa. Code § 5.101(a)(1).

⁴ *County of Allegheny v. Cmwlt. of Pa.*, 490 A.2d 402 (Pa. 1985).

⁵ *Stanton-Negley Drug Co. v. Dep’t of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlt. 2007).

⁶ 52 Pa. Code §§ 5.22(1), (5), (6).

⁷ *Jackson v. Duquesne Light Company*, Docket No. C-2018-2644080 (Order entered July 12, 2018, adopting Initial Decision dated May 8, 2018).

The Commission, as a creation of the General Assembly, only has the powers and authority granted to it by the General Assembly and contained in the Public Utility Code.⁸ The Commission must act within and cannot exceed, its jurisdiction.⁹ Jurisdiction may not be conferred by the parties where not exists.¹⁰ It is well established under Pennsylvania law that the enforcement powers of the Commission do not include the power to award money damages.¹¹ Therefore, PGW’s Preliminary Objection is granted such that Complainant’s request for relief in the form of money damages is stricken from the Complaint.

Furthermore, the Commission’s rules provide, “A person complaining of an act done or omitted to be done by a person subject to the jurisdiction of the Commission, in violation, or claimed violation of a **statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission**, may file a formal complaint with the Commission.”

In the Complaint Form, as well as the attached typed pages, Complainant specifically, and repeatedly, references (what is likely) Title 12 of the Pennsylvania Consolidated Statutes (Commerce and Trade) and Title 13 of the Pennsylvania Consolidated Statutes (Commercial Code), as well as various federal laws and regulations. **The Commission lacks jurisdiction over Title 12 and Title 13 of the Pennsylvania Consolidated Statutes and lacks jurisdiction over any federal laws or regulations.**

Complainant *does*, however, reference a “billing dispute” and “billing errors.” Complainant does not identify which bills or charges he believes are incorrect.

⁸ *Tod and Lisa Shedlosky v. Pennsylvania Electric Co.*, Docket No. C-20066937, Opinion and Order (May 28, 2008); *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977).

⁹ *City of Pittsburgh v. PUC*, 43 A.2d 348 (Pa.Super. 1945).

¹⁰ *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967).

¹¹ *Elkin v. Bell Tel. Co. of PA., Co. of Pa. PA.*, 420 A.2d 371 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1978); *see Nagy v. Bell Tel Co. of PA.*, 436 A.2d 701(Pa. Super. 1981).

Therefore, consistent with the Ordering Paragraphs below, Complainant is ordered to file an Amended Complaint that *clearly, plainly, and specifically*: (1) identifies which bills or charges he believes are incorrect, if any; (2) identifies which statute(s) over which the Commission has jurisdiction to administer, PGW violated, if any, and how; and (3) identifies which Commission regulation(s), order(s), or tariff provision(s) PGW violated, if any, and how. Complainant must also indicate the relief he is seeking from the Commission, **other than monetary damages**, as well as an explanation as to why he believes he is entitled to that relief.

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objection filed by Philadelphia Gas Works against the Formal Complaint filed by Christopher Coe at Docket Number C-2022-3035763 is granted such that Complainant's request for relief in the form of money damages is stricken from the Complaint.

2. That the Preliminary Objection filed by Philadelphia Gas Works is otherwise granted such that Complainant shall file an Amended Complaint with the Pennsylvania Public Utility Commission by close of business on **December 9, 2022**, that *clearly, plainly, and specifically*: (1) identifies which bills or charges he believes are incorrect, if any; (2) identifies which statute(s) over which the Commission has jurisdiction to administer, PGW violated, if any, and how; and (3) identifies which Commission regulation(s), order(s), or tariff provision(s) PGW violated, if any, and how.

3. That in his Amended Complaint, Complainant shall also indicate the relief he is seeking from the Commission, **other than monetary damages**, as well as an explanation as to why he believes he is entitled to that relief.

4. That Complainant's failure to file an Amended Complaint as ordered by Ordering Paragraphs 2 and 3 may result in dismissal of this proceeding.

4. That Philadelphia Gas Works shall file an answer and/or other responsive pleading or motion by **January 4, 2023**.

Date November 30, 2022

_____/s/
Emily I. DeVoe
Administrative Law Judge

C-2022-3035763 - CHRISTOPHER COE v. PHILADELPHIA GAS WORKS

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