



**PHILADELPHIA GAS WORKS**

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March 8, 2023

**VIA ELECTRONIC FILING**

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

Re: Marcus Culver v. Philadelphia Gas Works; Docket No. F-2022-3037377

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Philadelphia Gas Works' Petition for Reconsideration 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: Hon. Christopher Pell, 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 Petition 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**

Marcus Culver

[marcus.culver7264@gmail.com](mailto:marcus.culver7264@gmail.com)

Date: March 8, 2023

*/s/ Graciela Christlieb*

Graciela Christlieb, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Marcus Culver,	:	
Complainant,	:	
v.	:	Docket No. F-2022-3037377
	:	
Philadelphia Gas Works,	:	
Respondent.	:	

**PETITION FOR RECONSIDERATION OF PHILADELPHIA GAS WORKS**

**I. INTRODUCTION**

By Initial Telephonic Hearing Notice dated January 19, 2023, a call-in telephonic hearing was scheduled in this matter for March 10, 2023.

On March 3, 2023, Graciela Christlieb, Esq. Counsel for PGW, filed a Motion for Continuance of the March 10, 2023 hearing. In support of the continuance request, Ms. Christlieb indicated that a PGW witness is unavailable to appear on the scheduled day of the hearing. Ms. Christlieb further indicated that PGW had spoken with the Complainant regarding the continuance request, and that Mr. Culver objected to the request.

By Interim Order dated March 6, 2023, Deputy Chief Administrative Law Judge Christopher Pell, the Presiding Officer in this matter, denied PGW's Motion for Continuance because PGW failed to identify the unavailable witness, failed to indicate when it learned that the witness would be unavailable for the hearing, failed to indicate the subject of the witness' testimony, and failed to indicate the reason, if known, for Mr. Culver's objection to the continuance request. Although Judge Pell noted that witness unavailability generally constitutes good cause warranting a continuance of a hearing, he denied PGW's Motion for Continuance without prejudice due to the lack of specificity in the request.

On March 6, 2023, Ms. Christlieb filed an Amended Motion to Continue the March 10, 2023, hearing. In support of the Amended Motion, Ms. Christlieb indicated that she

learned on March 3, 2023 that Marc Colflesh, the Field Services Department Serviceperson who entered 2904 N. 25<sup>th</sup> Street and discovered evidence of theft of service, is unavailable for the March 10, 2023 hearing due to his work schedule. By way of further explanation, Ms. Christlieb indicated that PGW asked Field Services Supervisor Albert Teti if Mr. Colflesh's schedule could be changed to accommodate the March 10, 2023 hearing and was informed that it could not be changed. Ms. Christlieb further indicated that Mr. Culver objected to PGW's request because he does not want this matter to go on any longer than it already has.

By Interim Order dated March 7, 2023, Judge Pell denied PGW's Amended Motion for Continuance because PGW's potential witness is a PGW employee who is only unavailable because his supervisor, another PGW employee, will not adjust his schedule to allow him to participate in the evidentiary hearing. The potential witness is unavailable because of a business decision made by PGW, not because of a conflict beyond PGW's control.

## **II. STANDARDS FOR RECONSIDERATION**

Requests for reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under the Public Utility Code to rescind or amend a prior order in whole or in part.<sup>1</sup> A Petition for Reconsideration is properly before the Commission where it pleads newly discovered evidence, alleges errors of law, or a change in circumstances.<sup>2</sup>

In this instance, as discussed below, Counsel for PGW has recently become aware of the fact that PGW could not change Mr. Colflesh's schedule to have him report for the hearing on March 10, 2023 due to his being on a previously scheduled family vacation in

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<sup>1</sup> *Duick v. Pennsylvania Gas and Water Co.*, Docket No. C-R0597001 *et al.*, 56 Pa. P.U.C. 553 (1982).

<sup>2</sup> *Id.*

Florida on that date. For the reasons discussed below, the Commission should reconsider its Interim Order dated March 7, 2023.

### **III. BASIS FOR CLARIFICATION AND/OR RECONSIDERATION**

#### **A. PGW's Potential Witness's Schedule Can Not be Changed due to a Previously Scheduled Vacation Out of State.**

In order to ascertain Mr. Colflesh's availability for the evidentiary hearing in this matter, Ms. Christlieb spoke to Field Services Supervisor Albert Teti, who is assigned to supervise PGW's Revenue Protection Unit ("RPU"). As an RPU supervisor, Mr. Teti acts as the liaison between the Legal Department and the Field Services Department in cases that involve theft of service. Mr. Teti is not Mr. Colflesh's direct supervisor. Mr. Teti checked with Mr. Colflesh's supervisors and was informed that his schedule could not be changed. Mr. Teti relayed that information to Ms. Christlieb and Ms. Christlieb included it in PGW's Amended Motion to Continue. Ms. Christlieb took the information regarding PGW's inability to alter Mr. Colflesh's schedule at face value as the company has consistently worked hard to accommodate the Legal Department when service personnel and technicians are required to serve as witnesses, and the Legal Department is aware that scheduling of union members is governed by a variety of collectively bargained agreements.

After being served with the Interim Order dated March 7, 2023 and seeing PGW's inability to alter Mr. Colflesh's schedule misinterpreted as a business decision made by PGW based on the assumption that Mr. Colflesh's supervisors' were merely unwilling to adjust his schedule to allow him to participate in the evidentiary hearing, Ms. Christlieb asked Mr. Teti to ascertain why, specifically, Mr. Colflesh's schedule could not be altered. At that point, Mr. Teti obtained the information about Mr. Colflesh's vacation and relayed it to Ms. Christlieb. PGW submits that a previously schedule and already paid for family vacation that takes a potential witness out of state is a conflict beyond PGW's control.

**IV. CONCLUSION**

For the foregoing reasons, PGW respectfully requests that the Commission grant this Petition and reconsider the March 7, 2023 Interim Order and grant PGW's request for a continuance in this matter.

Respectfully submitted,

*/s/ Graciela Christlieb*

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Date: March 8, 2023

*Counsel for PGW*