



**PHILADELPHIA GAS WORKS**

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September 25, 2023

**VIA ELECTRONIC FILING**

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

Re: Bryan Garner v. Philadelphia Gas Works; Docket No. F-2022-3036883

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**

Bryan Garner  
5924 Pulaski Avenue  
Philadelphia, PA 19144  
[foundation25beg@gmail.com](mailto:foundation25beg@gmail.com)

Date: September 25, 2023

*/s/ Graciela Christlieb*

Graciela Christlieb, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bryan Garner,	:	
Complainant,	:	
v.	:	Docket No. F-2022-3036883
	:	
Philadelphia Gas Works,	:	
Respondent.	:	

**REPLY EXCEPTIONS OF PHILADELPHIA GAS WORKS**

Pursuant to 52 Pa. Code §5.535 of the regulations of the Pennsylvania Public Utility Commission (“Commission”) and the Secretarial Letter dated September 14, 2023, issued in the above-captioned proceeding, the Philadelphia Gas Works (“PGW” or “Respondent”) hereby submits the following Reply to the Exceptions filed by Bryan Garner (“Complainant”) to the Initial Decision of Administrative Law Judge Arlene Ashton (“Judge Ashton”) in this matter (“Initial Decision”).

**I. INTRODUCTION**

On October 28, 2022, the Complainant filed a Formal Complaint (“Complaint”) with the Commission against PGW wherein he alleges *inter alia* that there are incorrect charges on his bill for the period November 2021 through March 2022.

On December 13, 2022, PGW filed its Answer wherein it averred that bills for service issued to the Complainant were based on actual meter readings and there were no incorrect charges on the bill for natural gas service to Complainant’s home.

On December 19, 2022, the Commission served an initial telephonic hearing notice setting a formal call-in telephonic hearing for this matter for February 24, 2023, at 10:00 a.m. and assigning Judge Ashton as the presiding officer. The hearing convened as scheduled on February 24, 2023, at 10:00 a.m. The Complainant appeared pro se with two potential witnesses. PGW appeared represented by counsel with one witness. Shortly after the hearing began, the Complainant requested a continuance of the hearing to allow him an opportunity to secure counsel to represent him in this matter. PGW objected to the Complainant’s request for a continuance. The Respondent’s objection was denied, the Complainant’s motion was granted, and the hearing was continued.

On March 13, 2023, the Commission electronically served a Cancelled/Rescheduled Telephonic Hearing Notice on the parties rescheduling the call-in telephonic hearing for this matter for March 24, 2023, at 10:00 a.m. The hearing reconvened, as rescheduled. Complainant appeared pro se and presented the testimony of one witness. Complainant identified three exhibits that were admitted into the record at the hearing. PGW appeared represented by counsel and presented the testimony of one witness. Respondent identified five exhibits that were admitted into the record at the hearing. During the hearing, counsel for PGW indicated that following the hearing, an update of PGW Exhibit 4 would be submitted for the record. Mr. Garner was informed that he would have five days to review any such exhibit submitted by PGW and to state any objection to its entry into the record. PGW submitted the exhibit and, as no objections being made, the document, marked as PGW Exhibit 6, was subsequently admitted into the record in this matter through the Initial Decision, which was issued on September 5, 2023.

On September 14, 2023, the Complainant filed Exceptions to the Initial Decision. By Secretarial Letter dated that same day, the Commission served PGW with Complainant's Exceptions to the Initial Decision. PGW's Reply to Complainant's Exceptions follows.

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

### **Exception**

In the initial portion of his Exceptions, Complainant addresses the finding that he failed to meet his burden of proving that PGW provided unreasonable service when it tested his meter.<sup>1</sup>

### **Reply**

The Complainant has failed to identify any error in law or fact that would support reversal of Judge Ashton's finding regarding the quality of the service provided by PGW. Rather than address any of the points made by Judge Ashton in the Initial Decision regarding PGW's attempts to work with him,<sup>2</sup> the Complainant merely reiterates the version of events he testified to during the hearing. It is notable that the Complainant does not dispute Judge Ashton's observation that "[w]ith the exception of the exact time PGW counsel called the Complainant to reset the time for the meter test, the parties provided consistent testimony as to the events of that morning." ID. 12.

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<sup>1</sup> This issue was not a part of the initial Complaint; it arose during the course of PGW's investigation into the allegation made in the Complaint that the bills for gas service during the 2021/2022 heating season were incorrect.

<sup>2</sup> Judge Ashton notes that "PGW's willingness to conduct the test in Mr. Garner's presence, waiver of the normal testing fee, and attempts to communicate with him on the day of the test show PGW's flexibility and efforts to accommodate Mr. Garner and his schedule." ID. 12.

The record clearly demonstrates that PGW did its best to accommodate the Complainant regarding the testing of his meter. The appointment with the Complainant was scheduled for 9:15 a.m., to accommodate his schedule. Tr. 31-32 & 39-40. Upon not finding the Complainant in the PGW lobby at the appointed time, PGW reached out to the Complainant to advise that it would hold the appointment until 9:30 a.m. Tr. 37-38, 54-55. The Complainant's testimony was that he left at 9:57 a.m. because he had to go to work. Tr. 38. Regardless of anything else that occurred that morning, it is unclear how the Complainant was planning to be present during the meter test if he had to leave by 9:57 in order to make it to work when he selected 9:15 a.m. as the time for his appointment to be collected from the PGW lobby and be taken to the meter shop to be present for testing.

### **Exception**

In the latter portion of his Exceptions, Complainant addresses the finding that he failed to meet his burden of proving that there were incorrect charges on his bills for gas service.

### **Reply**

The Complainant has failed to identify any error in law or fact that would support reversal of Judge Ashton's finding that "he failed to demonstrate that the bills issued for December 2021 and January through March 2020 were inaccurate or that the meter installed in his home malfunctioned." ID. 11. In the Initial Decision, Judge Ashton charts out the Complainant's gas consumption for the months of November through March for the years 2020 through 2023 and then goes on to analyze the data, stating "the Complainant's gas billing and usage was slightly elevated in November 2021 and extremely elevated for December 2021 and January through March 2022." Judge Ashton goes on to state, however, that the Complainant's failed to provide anything to support his assertion that it was the meter rather than some other issue or condition existing inside his home that caused the high billing and that the evidence presented by PGW regarding the accuracy of the meter rebutted the Complainant's argument that the billing was inaccurate.

Furthermore, the Complainant's own evidence fails to support his assertion that he did not use gas during the 2021-2022 heating season and instead relied on electric heaters. Complainant's Exhibit 2, the PECO Account Activity Statement, shows that during the months of November 2021 through February 2022, months when he claimed to be relying solely on electricity to heat his house, the Complainant used *less* electricity than those same months in 2022 through 2023 and less electricity than he used in March 2021. The Complainant's electric usage during the relevant time period for the months supplied in Complainant's Exhibit 2 is indicated in the following chart.

	2020/2021	2021/2022 Usage in KWH	2011/2023 Usage in KWH
November		419	547
December		923	892
January		447	708
February		253	329
March	424	246	

As the above chart shows, the only month during the 2021 through 2022 heating season where the Complainant used more electricity than he did the subsequent heating season was during December and the difference is negligible. The data presented by Complainant completely fails to support his allegation that he was using electricity rather than gas to heat his home during the 2021/2022 heating season.

### III. CONCLUSION

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

Respectfully submitted,

*/s/ Graciela Christlieb*

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Date: September 25, 2023

*Counsel for PGW*