



**PHILADELPHIA GAS WORKS**

800 West Montgomery Avenue • Philadelphia, PA 19122

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October 4, 2023

**VIA ELECTRONIC FILING**

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

Re: Rachel Honore v. Philadelphia Gas Works; Docket No. C-2023-3043022

Dear Secretary Chiavetta:

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

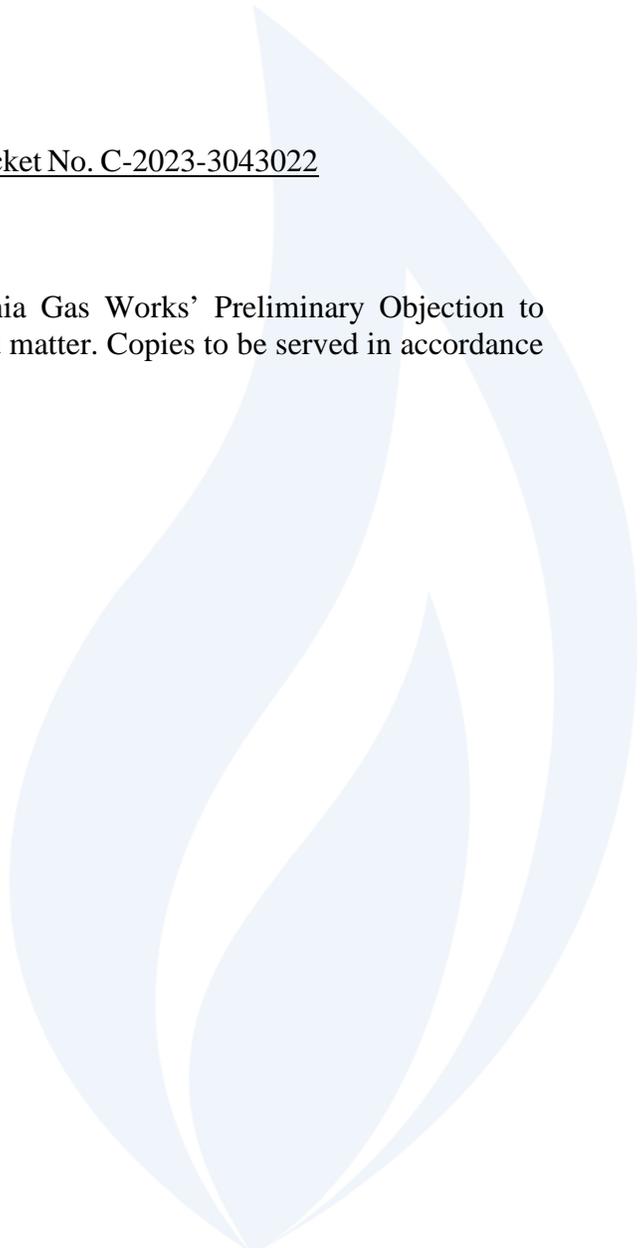
Sincerely,

*/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' 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**

Rachel Honore

[rachelhonore@verizon.net](mailto:rachelhonore@verizon.net)

Date: October 4, 2023

*/s/ Graciela Christlieb*

Graciela Christlieb, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rachel Honore,	:	
Complainant,	:	
v.	:	Docket No. C-2023-3043022
	:	
Philadelphia Gas Works,	:	
Respondent.	:	

**NOTICE TO PLEAD**

**To:** Rachel Honore  
[rachelhonore@verizon.net](mailto:rachelhonore@verizon.net)

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  
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800 W. Montgomery Avenue  
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Date: October 4, 2023

*Counsel for PGW*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rachel Honore,	:	
Complainant,	:	
v.	:	Docket No. C-2023-3043022
	:	
Philadelphia Gas Works,	:	
Respondent.	:	

**PRELIMINARY OBJECTION OF RESPONDENT  
PHILADELPHIA GAS WORKS**

Philadelphia Gas Works (“PGW” or “Respondent”), pursuant to 52 Pa. Code § 5.101(a)(3) and (4) of the Commission’s regulations, hereby submits the following Preliminary Objection to the Formal Complaint of Rachel Honore (“Complainant”) served by the Secretary of the Pennsylvania Public Utility Commission (“Commission” or “PUC”) on September 4, 2023 (“Complaint”). In support of this Preliminary Objection, PGW states as follows:

**I. INTRODUCTION**

The Complaint does not contain information specific enough to allow PGW to understand the allegations against it, in order to conduct a meaningful investigation of the allegations and to prepare a coherent response or defense. Also, the Complaint fails to set forth any facts that could be construed as a violation of a Commission regulation, statute, or order by PGW.

**II. LEGAL STANDARD**

1. The Commission’s Rules of Administrative Practice and Procedure permit parties to file preliminary objections.

2. The grounds for preliminary objections are limited to those set forth in 52 Pa.Code § 5.101(a) as follows:

- (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.
- (7) Standing of a party to participate in the proceeding.

3. Commission preliminary objection practice is analogous to Pennsylvania civil practice regarding preliminary objections. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

4. Preliminary objections in civil practice requesting dismissal of a pleading will be granted only where the right to relief is clearly warranted and free from doubt. *Interstate Traveller Services, Inc. v. Pa. Dept. of Environment Resources*, 406 A.2d 1020 (Pa. 1979); *Rivera v. Philadelphia Theological Seminary of St. Charles Borromeo, Inc.*, 595 A.2d 172 (Pa. Super. 1991). The Commission follows this standard. *Montague v. Philadelphia Electric Company*, 66 Pa. PUC 24 (1988).

5. The Commission may not rely upon the factual assertions of the moving party but must accept as true for purposes of disposing of the motion all well pleaded, material facts of the nonmoving party, as well as every inference from those facts. *County of Allegheny v. Commonwealth of Pennsylvania*, 490 A. 2d 402 (Pa. 1985); *Commonwealth of Pennsylvania v. Bell Telephone Co. of Pa.*, 551 A.2d 602 (Pa.Cmwlth. 1988).

6. The Commission must view the complaint in this case in the light most favorable to the complainant and should dismiss the complaint only if it appears that the complainant would not be entitled to relief under any circumstances as a matter of law. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

7. The regulation at 52 Pa.Code § 5.21(d) authorizes the Commission to dismiss a complaint if a hearing is not necessary and authorizes preliminary objections to be filed in response to a complaint. This provision serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of a case exists, a hearing is unnecessary. 66 Pa.C.S. § 703(a); *Lehigh Valley Power Committee v. Pa. Pub. Util. Comm'n*, 563 A.2d 548 (Pa.Cmwlth. 1989); *S.M.E. Bessemer Cement, Inc. v. Pa. Pub. Util. Comm'n*, 540 A.2d 1006 (Pa.Cmwlth. 1988).

### **III. PRELIMINARY OBJECTIONS BY PGW**

8. In paragraph 5 of the Complaint “Reason for Complaint,” Complainant marked an “X” next to “Other” and added “lower payments.”

9. In paragraph 6 of the Complaint “Requested Relief,” Complainant only wrote “lower payments.”

10. Complainant makes no allegations against PGW.

**A. Dismissal Based on Insufficient Specificity of the Pleading**

11. A formal complaint must set forth “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.

12. The Commission’s regulations require that a complaint contain a clear statement of the relief sought. 52 Pa.Code § 5.22(a)(5).

13. A complaint should contain information specific enough to allow the respondent to understand the allegations against it, in order to conduct a meaningful investigation of the allegations and to prepare a coherent response or defense.

14. The Complaint fails to comply with either 66 Pa.C.S. § 701 or 52 Pa.Code § 5.22(a)(5) and contains no information specific enough to allow PGW to prepare a coherent response or defense.

**B. Dismissal Based on Legal Insufficiency of the Pleading**

15. The Complaint does not set forth any facts that could be construed as a violation of a Commission regulation, statute or order by PGW, so even if the Commission accepts all of the facts alleged in the Complaint as true, the Complainant is not entitled to relief as a matter of law.

**IV. CONCLUSION**

WHEREFORE, PGW respectfully requests that this Commission grant PGW’s Preliminary Objection, dismiss the Complaint, and grant any other relief to PGW that is deemed to be reasonable and appropriate.

Respectfully submitted,

*/s/ Graciela Christlieb*

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Date: October 4, 2023

*Counsel for PGW*