



PHILADELPHIA GAS WORKS

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January 23, 2023

VIA ELECTRONIC FILING

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

Re: Victor Ruffin v. Philadelphia Gas Works; Docket No. C-2023-3042219

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. Marta Guhl, 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 FIRST CLASS MAIL

Victor Ruffin
1332 E. Airdrie Street
Philadelphia, PA 19124

Date: January 23, 2024

/s/ Graciela Christlieb

Graciela Christlieb, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Victor Ruffin,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2023-3042219
	:	
	:	
Philadelphia Gas Works,	:	
	:	
Respondent.	:	

NOTICE TO PLEAD

To: Victor Ruffin
1332 E. Airdrie Street
Philadelphia, PA 19124

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 and/or this Motion may be granted.

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.

Date: January 23, 2023

/s/ Graciela Christlieb
Graciela Christlieb, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Victor Ruffin,	:	
Complainant,	:	
v.	:	Docket No. C-2023-3042219
	:	
Philadelphia Gas Works,	:	
Respondent.	:	

**MOTION OF THE PHILADELPHIA GAS WORKS
TO DISMISS COMPLAINT**

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 and for failure to comply with a Commission order. In support of this Motion to Dismiss, PGW avers as follows:

I. PROCEDURAL HISTORY

1. On November 9, 2017, PGW discovered a bypass of the gas service at 1332 Airdrie Street, Philadelphia, PA (“Service Address”).
2. PGW subsequently billed the Complainant for unauthorized usage at the Service Address from October 22, 2004 through June 3, 2014 based on historical usage patterns.
3. On February 2, 2018, the Complainant filed a formal complaint at Docket No. F-2018-2646481, attached hereto as exhibit “A,” wherein he disputed the charges.
4. On March 2, 2018, PGW filed an Answer to the complaint wherein it denied the material allegations in the complaint and alleged that the Complainant was responsible for the charges.
5. By Hearing Notice dated March 14, 2018, an evidentiary hearing was scheduled for May 4, 2018 at 10:00 a.m. before Deputy Chief Administrative Law Judge Christopher Pell.
6. On March 14, 2018, the hearing convened as scheduled.
7. On September 13, 2018, Judge Pell issued an Initial Decision at Docket No. F-2018-2646481 wherein he dismissed in part and sustained in part the complaint.
8. No exceptions to the Initial Decision were filed by either party.

9. On December 6, 2018, the Commission issued its final Order at Docket No. F-2018-2646481, attached hereto as exhibit “B,” wherein it adopted the Initial Decision.

10. On December 10, 2018, PGW issued the Complainant a bill that complied with the Commission’s final Order at Docket No. F-2018-2646481.

11. PGW has not issued the Complainant a bill for gas service since the December 10, 2018 bill.

12. The Service Address has not had any gas service in over 6 years.

13. On August 15, 2023, the Complainant filed the instant Complaint wherein he appears to be again contesting the unauthorized usage charges addressed at Docket No. F-2018-2646481.

14. On September 5, 2023, PGW filed an Answer with New Matter denying the allegations raised in the Complaint and asserting that the Complaint is barred by the doctrine of res judicata as well as a Preliminary Objection arguing that the Complaint is barred by the statute of limitations at 66 Pa.C.S. § 3314.

15. The Complainant has not filed a Reply to the Answer with New Matter or the Preliminary Objection.

16. On December 8, 2023, Administrative Law Judge Marta Guhl, the Presiding Officer in this matter, issued an Interim Order granting PGW’s Preliminary Objection in part and ordering the Complainant to file and serve an Amended Complaint by December 22, 2023 that “sets forth additional facts, consistent with the instructions provided on the Commission’s formal complaint form, in support of the Complainant’s new or additional allegations against Philadelphia Gas Works.”¹

17. As of this writing, the Complainant has not filed or served an Amended Complaint in this matter.

II. LAW AND ARGUMENT

18. 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).

¹ Interim Order at Ordering Paragraph 2.

19. 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).

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

21. 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).

22. As there are no new or additional allegations against PGW, there is no reasonable ground for investigating the Complaint.

III. CONCLUSION

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

Respectfully submitted,

/s/ Graciela Christlieb

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Date: January 23, 2023

Counsel for PGW