



PHILADELPHIA GAS WORKS

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January 25, 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' 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 ELECTRONIC MAIL

Rachel Honore

rachelhonore@verizon.net

Date: January 25, 2024

/s/ Graciela Christlieb

Graciela Christlieb, Esq.

**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

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 25, 2023

/s/ Graciela Christlieb
Graciela Christlieb, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**MOTION OF THE PHILADELPHIA GAS WORKS TO DISMISS COMPLAINT OF
RACHEL HONORE 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 Rachel Honore (“Complainant”) with prejudice for lack of prosecution well as for failure to comply with a Commission order. In support of this Motion to Dismiss, PGW avers as follows:

I. PROCEDURAL HISTORY

1. On September 14, 2023, the Complainant, filed this Complaint with the Commission against PGW wherein she checked the box labeled “Other” and typed “lower payments.”
2. In the relief requested, the Complainant again typed "lower payments.”
3. On October 4, 2023¹, PGW filed a Preliminary Objection to the Complaint asserting that the Complainant failed to state a basis upon which the relief that is requested could be obtained.
4. PGW’s Preliminary Objection contained a Notice to Plead, requiring Complainant to file a response within ten days of service.
5. As of this writing, the Complainant has not filed any response to the Preliminary Objection.
6. On November 1, 2023, the Commission issued a Motion Judge Assignment Notice, assigning this proceeding to Administrative Law Judge Marta Guhl (“Judge Guhl”).
7. On December 1, 2023, Judge Guhl issued an Interim Order denying PGW’s Preliminary Objection and ordering the Complainant to “file and serve an Amended Complaint which sets forth additional facts, consistent with the instructions provided on the Commission’s

¹ The formal complaint was served by the Secretary’s Bureau on September 14, 2023.

formal complaint form, in support of the Complainant's allegations against Philadelphia Gas Works **on or before December 11, 2023.**²

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

II. LAW AND ARGUMENT

9. 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).

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

11. 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).

12. The Commission has recognized that the public interest is prejudiced by the wasteful use of the agency's and the company's time and resources in addressing a complaint. *See, e.g., Jefferson v. UGI Utilities, Inc.*, Docket No. Z-00269892 (Order entered December 26, 1995), *see also, e.g., Charles Nichols III v. Bell Atlantic-Pennsylvania*, Docket No. C-00956667 (Order entered August 4, 1995).

13. A complaint is required to 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.

14. A complaint is required to include a “clear and concise statement of the act or omission being complained of including the result of any informal complaint or informal investigation.” 52 Pa. Code § 5.22(a)(5).

15. “If a Complainant fails to comply with these minimal standards, then a Respondent does not know what allegations it is defending itself against—a clear denial of due process of law to the Respondent.” *Shilyn Smith v. Harrisburg City Cabs, Inc.*, Docket No. C-2014-2457902 (Order entered January 21, 2016).

16. Complainant's failure to file an Amended Complaint involves not just failing to

² Interim Order at Ordering Paragraph 2. Emphasis in original.

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

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Date: January 25, 2023

Counsel for PGW