



**PHILADELPHIA GAS WORKS**

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August 19, 2024

**VIA ELECTRONIC FILING**

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

Re: Yun Ren v. Philadelphia Gas Works; Docket No. F-2024-3045420

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Philadelphia Gas Works' 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' 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 ELECTRONIC MAIL

Yun Ren

[yunren10@yahoo.com](mailto:yunren10@yahoo.com)

Date: August 19, 2024

*/s/ Graciela Christlieb*

Graciela Christlieb, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Yun Ren,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. F-2024-3045420
	:	
	:	
Philadelphia Gas Works,	:	
	:	
Respondent.	:	

**PHILADELPHIA GAS WORKS’  
EXCEPTIONS TO INITIAL DECISION**

Pursuant to 52 Pa. Code §5.533, the Philadelphia Gas Works (“PGW” or “Respondent”) hereby submits the following Exceptions to the Initial Decision in this matter issued on July 29, 2024 (“Initial Decision”).

**I. INTRODUCTION**

On January 8, 2024, Yun Ren (“Ms. Ren” or “Complainant”) filed a Formal Complaint (“Complaint”) with the Pennsylvania Public Utility Commission (“Commission”) against PGW wherein she indicated that there were incorrect charges on her bill; she argued that she should not have to pay the bill of a tenant who lived at her property from January 2020 to January 2023.

On February 1, 2024, PGW filed an Answer wherein it denied that there were incorrect charges on the Complainant’s bill and stated that the amount for which PGW held the Complainant responsible for was the result of theft of gas service.

On April 4, 2024, an evidentiary hearing in this matter was held telephonically before Administrative Law Judge Darlene Heep (“Presiding Officer” or “ALJ”); both parties participated. The record closed on April 30, 2024, upon receipt of the transcript.

By Secretarial Letter dated July 29, 2024, the Commission served PGW with the Initial Decision.

**II. EXCEPTIONS**

1. The ALJ Erred by Finding that the Complainant Could Not Evict the Tenant from the Service Address During the COVID-19 Moratoriums.

Finding of Fact ¶ 12 states that “[t]he Complainant could not evict the tenant from or have the utility services turned off for the service address during periods of the COVID-19

moratoriums.”<sup>1</sup> This Finding of Fact appears to be based on other Findings of Fact in the Initial Decision, which include, inter alia, that on March 6, 2020, Governor Tom Wolf issued a Proclamation of Disaster Emergency due to the COVID-19 pandemic<sup>2</sup> (“Emergency Proclamation”); that on March 13, 2020, the Commission issued an Emergency Order establishing a prohibition on the termination of public utility service<sup>3</sup> (“Termination Moratorium”); and that on March 11, 2021, the Commission approved a Motion lifting the Termination Moratorium effective April 1, 2021.<sup>4</sup> These Findings of Fact, however, paint an incomplete picture of the effect of the Governor’s Orders on evictions in Pennsylvania during the COVID-19 pandemic and do not support the scope of Finding of Fact ¶ 12.

While it is true that on March 6, 2020, Governor Tom Wolf issued the Emergency Proclamation, the Emergency Proclamation did not, in and of itself, affect evictions in Pennsylvania; it was not until May 7, 2020, that the Governor issued an Order effectively creating an eviction moratorium to start on May 11, 2020.<sup>5</sup>

Notably, on May 21, 2020, the Governor issued an Amendment to the May 7, 2020, Order defining the scope of the Order (“Amendment”):

“The provisions of this Order and the suspension of the Acts under this Order apply only to matters involving the nonpayment of monies as well as those proceedings related to removal of any tenant solely because they tenant has held over or exceeded the term of a lease. *The order does not apply to suspend notice requirements relating to evictions for breaches of other covenants.*”<sup>6</sup>

Contrary to what Finding of Fact ¶ 12 states, this Amendment made it clear that landlords, such

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<sup>1</sup> FOF at ¶ 12.

<sup>2</sup> FOF at ¶ 8.

<sup>3</sup> FOF at ¶ 9.

<sup>4</sup> FOF at ¶ 11.

<sup>5</sup> “Commencing on May 11, 2020, the notice requirements mandated by the Landlord and Tenant Act of 1951 and the Manufactured Home Community Rights Act are stayed for 60 days, thereby tolling the ability to commence the timelines necessary for the initiation of eviction proceedings.” *Order of the Governor of the Commonwealth of Pennsylvania for Staying the Notice Requirements for Certain Actions Related to the Dispossession of Property*, 2019 PA EO 20-07 (May 7, 2020). Note, May 11, 2020, was the date of the Supreme Court of Pennsylvania’s statewide suspension of procedures related to the disposition of property, which started with the March 18, 2020 decision to close Pennsylvania courts, was to end. See <https://law.justia.com/cases/pennsylvania/supreme-court/2020/531-and-532-judicial-administration-2020.html> and <https://law.justia.com/cases/pennsylvania/supreme-court/2020/533-judicial-administration-2020-2.html>.

<sup>6</sup> *Amendment to the Order of the Governor of the Commonwealth of Pennsylvania for Staying the Notice Requirements for Certain Actions Related to the Dispossession of Property*, (May 21, 2020). (<https://www.cohenseglia.com/wp-content/uploads/2020/05/05.21-PA-Amendment-to-Evictions.pdf>) Emphasis added.

as the Complainant, could evict tenants, just not solely due to nonpayment of rent or exceeding the term of the lease. The Amendment to the May 7, 2020, Order was included in the July 9, 2020, Order extending the May 7, 2020, Order through August 31, 2020.<sup>7</sup>

And while it is also true that that on March 13, 2020, the Commission issued an Emergency Order establishing the Termination Moratorium, that Order did not affect the Complainant's rights vis a vis the gas service to the Service Address as she was neither the customer of record nor the ratepayer and could not have her tenant's gas service terminated regardless of the existence of a Termination Moratorium.

The implication in Finding of Fact ¶ 12 that there was a complete ban on evictions in Pennsylvania during the COVID-19 moratoriums is not supported by either the record or the law.

2. The ALJ Erred in Deciding that the Complainant Did Not Have Dominion and Control Over the Service Address During the COVID-19 Moratoriums.

From the various Findings of Fact, and without reaching a corresponding Conclusion of Law, the Initial Decision states that “[d]uring the time of the COVID-19 emergency, the Complainant did not have dominion and control over the service address...Ms. Ren is not responsible usage charges during the moratorium period of March 6, 2020 through April 1, 2021.”<sup>8</sup>

However, the emergency orders issued during the time of the COVID-19 pandemic did not affect the rights or duties of a property owner such that they would no longer be considered to have dominion and control over their property. Moreover, Pennsylvania law is clear that a lease is in the nature of a private contract and is to be controlled by the principals of contract law.<sup>9</sup> There is nothing in the emergency orders issued during the time of the COVID-19 pandemic that would vest them with the authority to interfere with private contracts; they could no more alleviate a property owner of dominion and control over that property than they could vitiate the implied warranty of habitability.

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<sup>7</sup> *Order of the Governor of the Commonwealth of Pennsylvania for Staying the Notice Requirements for Certain Actions Related to the Dispossession of Property*, 2019 PA EO P20-02 (July 9, 2020).

<sup>8</sup> I.D. p.8. Note, the use of the date of April 1, 2021 (the end date of the Termination Moratorium) in this statement is also not supported by the record or the law in that, even under the reasoning put forth in the Initial Decision, the Complainant's rights were not impacted by the Termination Moratorium as she was neither the customer of record nor the ratepayer; if anything, the end date of the moratorium on the eviction for nonpayment (August 31, 2020) would be appropriate.

<sup>9</sup> *Pugh v. Holmes*, 486 Pa. 272, 284 (1979).

Rather, the language of the emergency orders themselves clearly indicates that the landlord retains dominion and control of the property. By specifying that the Order does not apply to suspend notice requirements relating to evictions for breaches of other covenants, the Amendment<sup>10</sup> and subsequent Order<sup>11</sup> acknowledge that a property owner retains dominion and control such that they would be aware of any breaches of other covenants.

### III. CONCLUSION

WHEREFORE, PGW respectfully requests that the Commission grant these Exceptions and reject the conclusions of the Initial Decision consistent with the foregoing discussion and dismiss the Complaint in its entirety.

Respectfully submitted,

/s/ Graciela Christlieb

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Date: August 19, 2024

Counsel for PGW

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<sup>10</sup> *Amendment to the Order of the Governor of the Commonwealth of Pennsylvania for Staying the Notice Requirements for Certain Actions Related to the Dispossession of Property* (May 21, 2020).

<sup>11</sup> *Order of the Governor of the Commonwealth of Pennsylvania for Staying the Notice Requirements for Certain Actions Related to the Dispossession of Property*, 2019 PA EO P20-02 (July 9, 2020).