

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105**

**PUBLIC MEETING
AUGUST 25, 2005**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION,
LAW BUREAU PROSECUTORY STAFF**

V.

PHILADELPHIA GAS WORKS

**AUG-2005-OSA-0286*
DOCKET NO. M-00041858**

PHILADELPHIA GAS WORKS

**AUG-2005-OSA-0285*
DOCKET NO. M-00041859**

MOTION OF CHAIRMAN WENDELL F. HOLLAND

Before the Commission for its consideration and disposition are two Settlement Agreements filed by the Commission's Prosecutory Staff. These Agreements were initiated by Prosecutory Staff at the request of the Commission's Bureau of Consumer Services as is customary practice regarding cold-weather related deaths.

The circumstances in both cases are remarkably similar: fatalities occurred due to hypothermia resulting from a utility termination. In Mr. O'Kelly Barlow's case, the investigation reveals that PGW repeatedly failed to establish contact with the customer and to complete the termination process. Rather than leaving the required 24 hour notice, PGW immediately terminated service to Mr. Barlow's premises. Subsequently, Mr.

Barlow was found deceased in the residence on December 4, 2002. The Settlement recognizes that Philadelphia Gas Works (PGW) will make changes to improve its shut-off procedures and provides for a civil penalty totaling \$7,000 for six violations of its tariff and/or the Public Utility Code.

In Ms. Betty Clark's case, the investigation reveals that PGW terminated service without notice. On January 24, 2003, Ms. Clark was found deceased in her apartment. The Settlement recognizes that the Company is committed to implementing changes to its customer contact follow-up procedures and provides for a civil penalty totaling \$15,250 for eight violations of its tariff and/or the Public Utility Code.

The civil penalties in these proceedings are inadequate and send the wrong signal to PGW and every other public utility under our jurisdiction that provides service essential for the health and safety of its customers. I believe that a civil penalty, under these circumstances, of \$50,000 in each proceeding is appropriate and consistent with prior Commission decisions.¹

I emphasize that public utilities are required under section 1501 of the Public Utility Code to "...furnish and maintain adequate, efficient, safe, and reasonable service...as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public." 66 Pa. C.S. § 1501. While the Commission has a long standing practice of encouraging settlements, I am reminded that the overriding Commission consideration of any proposed settlement is whether the proposed settlement is in the public interest. 52 Pa. Code § 5.231; *Proposed Policy Statement for Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations*, Docket No. M-00051875 (Order entered August 12, 2005).² Given the particular circumstances of these investigations, I find that the civil penalties

¹ Pa. PUC v. PECO, Docket No. M-890239 (Order entered December 15, 1989).

² See also Joseph A. Rosi v. Bell Atlantic, Inc., Docket No. C-00992409 (Order entered March 16, 2000).

proposed in the Settlement Agreements are not consistent with the public interest, due to the egregious nature of the alleged violations.

The winter heating season is fast approaching and energy prices are rising. Given the serious repercussions that winter terminations could have on the health and safety of residential customers, I remind all utilities that violations of the winter termination provisions and the failure to appropriately restore service will be subject to the maximum civil penalties allowed under the Public Utility Code. I do not want this Commission to be in the position of adjudicating these kinds of incidents arising this coming winter.

THEREFORE, I MOVE:

1. That the Settlement Agreement at Docket No. M-00041858 is amended to reflect the imposition of a \$50,000 civil penalty.
2. That the Settlement Agreement at Docket No. M-00041859 is amended to reflect the imposition of a \$50,000 civil penalty.
3. That both Opinion and Orders resulting from this Motion be issued tentatively and that all persons having an interest in these proceedings shall have twenty (20) days, from the date of entry of these Tentative Orders to file a response.
4. That absent adverse comment within the 20 day comment period, the Tentative Opinion and Orders shall then become final.
5. That the Office of Special Assistants prepare the necessary Tentative Opinion and Orders.

9.25.05

Renald J. Bellard