

SBG Management Services, Inc.

P.O. Box 549 Abington, PA 19001
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July 30, 2014

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


RE: SBG Management Services, Inc. (and related entities) v. PGW, Docket Nos. C-2012-2304167; C-2012-2304183; C-2012-2304215; C-2012-2304303; C-2012-2304324; C-2012-2308454; C-2012-2308462; C-2012-2308465; and C-2012-2334253

Dear Secretary Chiavetta:

On behalf of the Complainants in the above-referenced matters, enclosed for filing is the original **Motion for Sanctions** and original **"Notice to Plead" for the Motion for Sanctions**. Copies to be served in accordance with the attached Certificate of Service. This Motion is also being filed by First-Class, overnight mail, with the Commission today.

If you have questions or require additional information, please do not hesitate to contact me at 215-260-4562 or as described in the contact information, below. Your assistance in this matter is appreciated.

Sincerely,


Francine Thornton Boone, Esquire
Attorney for Complainants
General Counsel, SBG Management Services, Inc.
P.O. Box 549, Abington, PA 19001
c: 215-260-4562
e: fboone@sbgmanagement.com or Booneft@aol.com

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JUL 30 2014

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Enclosure

cc: ALJ Eranda Vero (by overnight, First Class mail)
Laureto Farinas, Esquire, Philadelphia Gas Works (by overnight, First Class mail)
Phil Pulley, SBG Management Services, Inc. (by hand-delivery)
Kathy Treadwell, SBG Management Services, Inc. (by hand-delivery)

Francine Thornton Boone, Esquire
SBG Property Management Services, Inc.
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Attorney I.D. No. 45118

Attorney for Complainants

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JUL 30 2014

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SBG MANAGEMENT SERVICES, INC./
COLONIAL GARDEN REALTY, LP
Complainant

: DOCKET NO. C-2012-2304183

V.

PHILADELPHIA GAS WORKS
Respondent

SBG MANAGEMENT SERVICES, INC./
FAIRMOUNT REALTY
Complainant

: DOCKET NO. C-2012-2304215

V.

PHILADELPHIA GAS WORKS
Respondent

SBG MANAGEMENT SERVICES, INC./
SIMON GARDENS REALTY, LP
Complainant

: DOCKET NO. C-2012-2304324

V.

PHILADELPHIA GAS WORKS
Respondent

SBG MANAGEMENT SERVICES, INC./
ELRAE GARDEN REALTY, LP
Complainant

: DOCKET NO. C-2012-2304167

V.

PHILADELPHIA GAS WORKS
Respondent

SBG MANAGEMENT SERVICES, INC./
MARSHALL SQUARE REALTY, LP
Complainant

: DOCKET NO. C-2012-2304303

V.

PHILADELPHIA GAS WORKS
Respondent

SBG MANAGEMENT SERVICES, INC./
MARCHWOOD REALTY
Complainant

: DOCKET NO. C-2012-2308454

V.

PHILADELPHIA GAS WORKS
Respondent

SBG MANAGEMENT SERVICES, INC./

OAK LANE REALTY CO., LP	: DOCKET NO. C-2012-2308462
<i>Complainant</i>	:
V.	:
PHILADELPHIA GAS WORKS	:
<i>Respondent</i>	:
	:
SBG MANAGEMENT SERVICES, INC./	:
FERN ROCK REALTY	: DOCKET NO. C-2012-2308465
<i>Complainant</i>	:
V.	:
PHILADELPHIA GAS WORKS	:
<i>Respondent</i>	:
	:
SBG MANAGEMENT SERVICES, INC./	:
COLONIAL GARDEN REALTY, LP	: DOCKET NO. C-2012-2334253
<i>Complainant</i>	:
V.	:
PHILADELPHIA GAS WORKS	:
<i>Respondent</i>	:

COMPLAINANTS', SBG MANAGEMENT SERVICES, INC., COLONIAL GARDEN REALTY CO. (I and II), FAIRMOUNT REALTY CO., SIMON GARDENS, ELRAE GARDEN REALTY, MARCHWOOD REALTY, FERNROCK REALTY, OAK LANE REALTY CO., L.P., AND MARSHALL SQUARE REALTY ("COMPLAINANTS"),

MOTION FOR SANCTIONS ("S. MOTION") FOR PGW'S FAILURE TO RESPOND TO COMPLAINANTS' REQUESTS FOR PRODUCTION OF DOCUMENTS AND INTERROGATORIES ADDRESSED TO RESPONDENT PHILADELPHIA GAS WORKS, SET II, INTERROGATORY NOS. 5, 11-20, 22-24, 25 (EXCEPT #25(b), 26, 27, 35, 36, 38, 39. ("S. INTERROGATORIES"))

Pursuant to 52 Pa. Code Sections 5.371-5.372, Complainants, by and through their undersigned counsel, hereby respectfully request the Pennsylvania Public Utility Commission ("Commission") to grant this Motion for Sanctions on Philadelphia Gas Works ("PGW" or "Respondent") for the failure to fully and properly respond to Complainants' Requests for Production of Documents and Interrogatories Addressed to Respondent PGW, Set II, Interrogatory Nos. 5, 11-20, 22-25 (except #25 (b), 26, 27, 35, 36, 38, and 39 ("S. Interrogatories"), as propounded by Complainants to Respondent, in this matter, and as attached hereto as "Exhibit 'A'". In support thereof, Complainants aver and represent as follow:

I. BACKGROUND AND SUMMARY

Respondent's responses to the Specific Interrogatories are incomplete and non-responsive and violate applicable statutory law, including 52 Pa. Code Sections 5.342, as well as the November 14, 2013, December 9, 2013, April 9, 2014 Orders, and other Orders of the Commission (collectively, "Commission's Orders"), as Respondent: (1) submitted incomplete responses that failed to supply all the requested information and the information ordered by the Commission including the Commission's April 9, 2014 Order ("4/9/2014 Order") and (2) submitted responses fail to provide *all such ordered and requested* information.

II. SPECIFIC GROUNDS FOR MOTION FOR SANCTIONS

In support of this S. Motion, Complainants by and through their undersigned counsel, hereby move the Commission to enter an appropriate Order for Sanctions against Respondent, pursuant to 52 Pa. Code Section 5.371-5.372. In support of this S. Motion, Complainants aver as follows:

1. The above-referenced consolidated Complaints were commenced by filing Complaints and Amended Complaints. Respondents subsequently filed Answers and Amended Answers to the Amended Complaints.
2. Complainants, by its former counsel, Scott DeBroff, Esquire, served discovery requests upon counsel for Respondent.
3. On October 9, 2013, Complainants, by their current counsel, served a second set of discovery requests, Complainants' Requests for Production of Documents and Interrogatories Addressed to Respondent PGW, Set II (collectively, "Interrogatories" or "Interrogatories, Set II"), a copy of these Interrogatories, in full, are attached as Exhibit "A", and incorporated herein by reference.

4. On December 9, 2013, ALJ Eranda Vero issued an “Order on the Joint Motion to Extend the Time to Conduct Discovery and to Continue the Scheduled Hearings” (“12/9/2013 Order”) on page 4 (second full paragraph), that cited ALJ Vero’s November 14, 2013 Order (“11/14/2013 Order”) as follows:

“On November 14, 2013, I issued an Order granting, in part, and denying, in part, the Complainants’ Motion to Compel.... Noting that the objections did not state with any degree of specificity where such information was provided to the Complainants, I instructed the Respondent to do so ‘within fifteen (15) days of the date of this Order unless the parties agree upon a different due date.’ See Order of Motion to Compel, Ordering Paragraphs 5, and 11. Based on the Respondent’s claim that it had already provided to Complainants the information requested by the majority of their Set II-Discovery Requests, I deemed this amount of time sufficient **for the Respondent to direct the Complainants to the information it had provided during previous discovery, to supplement that information, and to answer the remainder of discovery requests propounded by the Complainants.**” (Emphasis added.)

5. The deadline for PGW to provide responses to Set II-Discovery Requests was further extended to January 31, 2014; other extensions to answer were granted and agreed to by the parties and additional responses were due on 5/27/2014 (pursuant to the 5/9/2014 Order), and on 7/11/2014 and 7/16/2014. Pursuant to an agreement between the parties, SBG’s Motion for Sanctions for Set II, Interrogatories, if filed, is due on July 30, 2014.

6. Pennsylvania statutes define the manner and form of Answers to Interrogatories. Specifically, 52 Pa. Code Section 5.342 require:

- (a) **Form. Answers to Interrogatories must:**
- (1) Be in writing.
 - (2) Identify the name and position of the individual who provided the answer.
 - (3) *Be submitted as an answer and may not be submitted as an exhibit or in another form.*
 - (4) *Answer each interrogatory fully and completely unless an objection is made.*

(5) Restate the interrogatory which is being answered or be inserted in the spaces provided in the interrogatories.

(6) Be verified in accordance with Section 1.36 (relating to verification).

(See 52 Pa. Code Section 5.342)

7. Further, ALJ Eranda Vero ordered, in the 12/9/2013 Order at Paragraph 3, page 6, that:

“That the Order issued on November 14, 2013, shall be amended to extend the period of time available to Philadelphia Gas Works for proving (sic) **a full and complete response to Complainants Set II of Interrogatories and Requests for Production of Documents to January 17, 2014.**” (*Emphasis added.*)

8. Respondent and Complainants agreed PGW would begin forwarding the responses to Complainants in December 2013.

9. Between January 17, 2014 and January 31, 2014, Respondent filed Responses and/or supplemental responses for Interrogatory Nos. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 29, 30, 31, 32 (n/a), 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43 (n/a), and 44 (n/a). Respondent previously provided the response for Interrogatory No. 1; PGW filed additional responses for the Interrogatories, including the Specific Interrogatories, ##5-13, 15, 16, 22, 23, 24, 27, 29, 30, 36 and 38 on 5/27/2014. The Commission also ordered that PGW provided additional responses to Interrogatory #39. Additional responses were served on Complainants on 7/11/2014 and 7/16/2014.

10. The original Second Motion to Compel and a Motion for Reconsideration were filed because the initial responses to the Interrogatories, including the Specific Interrogatories, failed to include the full, complete, and specific information as requested and as required to be provided by the applicable statutes and the Commission's Orders. The statements, exhibits, and contents of the Second Motion to Compel and the

Commission's Orders are incorporated herein by reference as though stated below and herein.

11. Complainants file this S. Motion due to Respondent's failure to comply with the Commission's Orders regarding the Motions to Compel and applicable case and statutory law and Respondent's failure to provide the requisite full, complete and specific responses to the following S. Interrogatories. Copies of the Set II, Interrogatories are identified and set forth on Exhibit "A", which is CD#1. Copies of all Respondent's responses over the last 7-8 months are identified by Interrogatory number and set forth on Exhibit "A", which is CD #1. The incomplete or missing responses are shown and identified (if applicable), by Interrogatory number and set forth on Exhibit "B", which is CD #2. Complainants compiled the substantial documentation (and lack of documentation) on CD ##1 and 2. For the remainder of this S. Motion, refer to Exhibits "A" ("CD #1") and "B" ("CD #2") for (and by) the particular Interrogatory, Respondent's Response to said Interrogatory, and proof in the documents of Respondent's failure (if applicable) to fully, completely, and specifically respond to the corresponding Interrogatory by Interrogatory number.

The Specific Interrogatories provide as follows:

12. (a) For Interrogatory #5. Identify and describe with particularity any and all documents, of any kind, that are in the possession, control or custody of Respondent, or of which Respondent has knowledge, whether originals, copies or facsimiles, regardless of their location, which are utilized to manage Complainants' Customer Accounts, SA accounts, former and current meters located at the Subject Properties, including but not limited to, Disputed Transactions attached hereto as Exhibits "A-1" through "A-8".

(b) Though the 4/9/2014 Order required PGW to identify where the requested information is located with specificity, PGW failed to provide copies of the requested notices and bills and failed to provide a comprehensive list of the same. (See Paragraph 2, Page 10 of the 4/9/2014 Order.) Further, PGW failed to provide the requested meter information. See List of

Missing Responses, Interrogatory #5, Set II, set forth on the CD, titled Exhibit "B" and All PGW Responses, Interrogatory #5, Set II, set forth on the CD, titled Exhibit "A".

13. For Interrogatories ## 11-13:

(a) #11. Identify and describe fully any and all computerized, mechanical, manual, or other system(s) that Respondent uses, maintains, or operates to record any and all mail, email, telephone, electronic data collection, electronic notation, in-person, or other forms of communications, or attempted communications, with persons or other third parties in connection with the collection of accounts, and Respondent's policies and procedures for operating such a system of records pertaining to Complainants' Customer Accounts, SA accounts, former and current meters located at the Subject Properties, including but not limited to, Disputed Transactions attached hereto as Exhibits "A-1" through "A-8".

(b) #12. Identify and describe fully any and all computerized, mechanical, manual, or other system(s) that Respondent uses, maintains, or operates to record any and all mail, email, electronic data collection, electronic notation, telephone, in-person, or other forms of communications, or attempted communications, with persons or other third parties in connection with rates charged or billed or the billing of Customer Accounts, and Respondent's policies and procedures for operating such a system of records, pertaining to Complainants' Customer Accounts, SA accounts, former and current meters located at the Subject Properties, including but not limited to, Disputed Transactions attached hereto as Exhibits "A-1" through "A-8".

(c) #13. Identify and describe fully any and all computerized, mechanical, manual, or other system(s) that Respondent uses, maintains, or operates to record any and all mail, telephone, in-person, or other forms of communications, or attempted communications, with persons or other third parties in connection with the dispute resolution practices, and Respondent's policies and procedures for operating such a system of records.

(d) For Interrogatories ##11-13, PGW provided policy statements and some supplemental responses that the AIMS system provides various types of reports, but failed to set out the specific "customer service screens" that relate to each dispute/disputed transaction. PGW failed to provide detailed information on the underlying the transactions set forth at Exhibits (to Set II) "A-1" through "A-8". (See Original Set II Interrogatories and Responses by PGW on Exhibit "A"/CD #1 and list of failures and missing information on Exhibit "B"/CD #2.)

14. For Interrogatories ##14-16:

(a) #14. Identify whether Respondent, including, any or all of the Respondent's employees, directors, officers, managers, contractors, and/or related parties, notate, manually or electronically record, or tape record, telephone calls by any means with any persons from whom they are collecting debts or alleged debts, and what steps are taken to preserve these recordings.

(b) #15. Identify whether Respondent, including, any or all of the Respondent's employees, directors, officers, managers, contractors, and/or related parties, notate, manually or electronically record, or tape record, telephone calls by any means with any persons from whom they are performing customer dispute resolution actions, and what steps are taken to preserve these recordings or notations.

(c) #16. Identify whether Respondent, including, any or all of the Respondent's employees, directors, officers, managers, contractors, and/or related parties, recorded any telephone call, manually or electronically notated, logged, discussions with Complainants and whether or not these recordings, logs or notations have been preserved, and the current location and/or disposition of these recordings or notations pertaining to Complainant's Customer Accounts, SA accounts, former and current meters located at the Subject Properties, including but not limited to, Disputed Transactions attached hereto as Exhibits "A-1" through "A-8".

(d) PGW failed to provide the above specific information for these interrogatories, including only referring Complainants to the Customer Contact Screens but without showing which Customer Contact Screens refer to which disputed transactions, as set forth in greater detail at Exhibits "A" and "B".

15. For Interrogatories ##17, 18, and 19:

(a) #17. In the form of a chronology, for each of Complainants Customer Accounts, SA accounts, former and current meters located at the Subject Properties, including but not limited to, Disputed Transactions attached hereto as Exhibits "A-1" through "A-8", identify and describe in detail and with particularity, the process, the origin, the events, and circumstances under which the Complainants incurred the arrearages, if any alleged due by Respondent, sufficient to warrant the imposition of municipal liens, identifying all documents relevant to, related to, or reflecting such filing or imposition of such municipal lien.

(b) #18. Identify and describe each document known to Respondent, which is related to or contains information about the debts that Respondent alleges are due and owing by Complainants and for which Respondent has sought or now seeks to collect on, from Complainants for utility service provided by Respondent, pertaining to

Complainant's Customer Accounts, SA accounts, former and current meters located at the Subject Properties, including but not limited to, Disputed Transactions attached hereto as Exhibits "A-1" through "A-8".

(c) #19. Identify, explain and describe each document known to Respondent, which is related to or contains information about billing inquiries, complaints, or disputes on or pertaining to Complainant's Customer Accounts, SA accounts, former and current meters located at the Subject Properties, including but not limited to, Disputed Transactions attached hereto as Exhibits "A-1" through "A-8".

(d) Despite repeated requests for full, complete, and specific responses, PGW submitted the same Statement of Account ("SOA") and just updated the charges from 1/2014 to 5/2014, without providing the specific "embedded" information on disputed vs. undisputed amounts and on other embedded information discussed herein. See Exhibit "A", Responses ##17, 18, and 19 and Exhibit "B", ##17, 18, and 19. Also referred to Set II, No. 36 as the response, which is also incomplete as shown in Exhibit "B" for ##17-19.

16. For Interrogatory #20:

(a) #20. Identify, describe and explain each instance of a mistake, error or event requiring a correction by Respondent for which Respondent was responsible—either for the error or the correction--pertaining to Complainants' Customer Accounts, SA accounts, former and current meters located at the Subject Properties, including but not limited to, Disputed Transactions attached hereto as Exhibits "A-1" through "A-8"; thereafter, identify and describe the conduct and action taken by Respondents to resolve, correct, repair or rectify the dispute, problem, or error. [check for waiver inform and meter info.]

(b) See Exhibit "A", #20, which shows the PGW Responses and Exhibit "B", #20, which shows the requested information is incomplete or missing from the Response.

17. For Interrogatory ##22-27:

(a) #22. Identify and describe each communication, or attempted communication, by any means, between the Respondents and the Complainants, or any other person, which was made in connection with the collection of Complainants' Customer Accounts, by stating the following:

a. The name of the individual initiating communication;

- b. The name of the person and/or description of the person to whom the communication was directed;
- c. The date and time of the communication;
- d. The method of the communication (e.g. letter, phone call, in-person);
- e. A detailed description of the substance of the communication, (do not simply refer to collection notes);
- f. Identification of all witnesses to or participants in the communication; and,
- g. Any actions taken by any Respondent as a result of the communication.

(b) #23. Identify and describe each communication, or attempted communication, between the Respondents and the Complainants, or any other person related to this litigation, by any means, which was made in connection with the bills, billings, rates, billing disputes, billing practices/statements for Complainants' Customer Accounts, SA accounts, former and current meters located at the Subject Properties, including but not limited to, Disputed Transactions attached hereto as Exhibits "A-1" through "A-8".

- a. The name of the individual initiating communication;
- b. The name of the person and/or description of the person to whom the communication was directed;
- c. The date and time of the communication;
- d. The method of the communication (e.g. letter, phone call, in-person);
- e. A detailed description of the substance of the communication, (do not simply refer to collection notes);
- f. Identification of all witnesses to or participants in the communication; and,
- h. Any actions taken by any Respondent as a result of the communication.

(c) #24. Identify and describe each communication, or attempted communication, between the Respondent and the Complainants, or any other person, which was made in connection with the dispute resolution negotiations for Complainants' Customer Accounts, including, but limited to the Disputed Transactions, including those set forth at Exhibits "A-1" through "A-8", by stating the following:

- a. The name of the individual initiating communication;
- b. The name of the person and/or description of the person to whom the communication was directed;
- c. The date and time of the communication;
- d. The method of the communication (e.g. letter, phone call, in-person);
- e. A detailed description of the substance of the communication, (do not simply refer to collection notes);
- f. Identification of all witnesses to or participants in the communication;
- g. Any actions taken by any Respondent, or agent thereof, as a result of the communication; and
- h. Identify, describe and explain the resolution reached by the parties.

(d) #25. Identify and describe the manner and frequency in which Respondent maintains, repairs, inspects, tests, and insures accuracy of utility meters, pertaining to Complainant's Customer Accounts, SA accounts, former and current meters

located at the Subject Properties, including but not limited to, the Disputed Transactions attached hereto as Exhibits "A-1" through "A-8", and for each Customer Account and/or SA metered account number--identify and state the following:

a. The date of each meter and sub-meter test for each meter where at any or all of the Subject Properties, from time of application for service to the present.

b. Describe the nature of each test and results of each test performed.

c. The name of the person(s) conducting the test and documenting the results of each test.

d. Identify any written, electronic, notations or reports of tests performed or condition reports of meters tested (including the date of the test and report and the author of the report).

e. Identify any repaired or replaced meters.

f. Identify the date and manner of meters replaced or repaired at the Subject Property or Subject Properties, by named property address, account number, and SA accounts, if applicable, and explain the methodology used for determining the necessity for replacement and/or repair.

(e) #26. Identify and describe any writings, utility reports, correspondence, letters, memorandums, email communications, "MELITA" notes, or any other documentation Respondents sent, mailed, faxed to Complainants or the Commission related to the resolution of or pertaining to Complainant's Customer Accounts, SA accounts, former and current meters located at the Subject Properties, including but not limited to, Disputed Transactions attached hereto as Exhibits "A-1" through "A-8", and including but not limited to the same as located in the books and records of Respondents' Dispute Resolution Group, Customer Service Center and/or the Commercial Resource Center.

(f) #27. Identify and describe any writings, utility reports, correspondence, letters, memorandums, email communications, notes, electronic notations, or any other documentation Respondents sent, mailed, emailed, faxed to Complainants or the Commission related to the filing of an Informal Complaint with the Commission related to Complainants' customer disputes, disputed transactions, or pertaining to Complainant's Customer Accounts, SA accounts, former and current meters located at the Subject Properties, including but not limited to, Disputed Transactions attached hereto as Exhibits "A-1" through "A-8", and including but not limited to the same as located in the books and records of Respondents' Dispute Resolution Group, Customer Service Center and/or the Commercial Resource Center.

(g) For the above Interrogatories, Respondent failed to provide the specific information related to the disputed transactions as set forth in Exhibit "B"/CD#2, at Interrogatories 22-27, Set II, and failed to certify that the responses constitute all correspondence between PGW and the Complainants. Further, the "burdensome"

defense should not apply here, as this information should be kept by PGW in the regular course of business to calculate a customer's bills and charges.

18. For Interrogatory #35:

(a) #35. Identify, describe and explain the manner, calculations, and methodology Respondents used to calculate and apply interest charges to Complainants' Customer Accounts where liens were filed with the Philadelphia Court of Common Pleas and/or Philadelphia Municipal Court, for Complainants' Customer Accounts, SA accounts, former and current meters located at the Subject Properties, and including but not limited to, Disputed Transactions attached hereto and set forth at Exhibits "A-1" through "A-8".

(b) PGW failed to provide the requested information as set forth in Exhibit "B"/CD #2 for Interrogatory #35, Set II.

19. For Interrogatory ##36:

(a) #36. Identify, describe and explain the numeric interest rate used by Respondent to calculate and apply interest on late charges on Complainants' Customer Accounts, SA metered account numbers, former and current meters located at the Subject Properties, and including but not limited to, the Disputed Transactions attached hereto as Exhibits "A-1" through "A-8".

(b) PGW failed to provide the requested and Commission ordered information as shown and set forth in Exhibit "B"/CD#2 for Interrogatory #36. (In particular, the failure to provide headers on the documents also contributed to problems with identifying and applying the information provided by PGW.)

20. For Interrogatories ##38 and 39:

(a) #38. Identify, describe and explain the origin of, as well as the billing period and gas usage period covered by each lien filed or imposed on any and all of Complainants' Customer Accounts, SA accounts, former and current meters located at the Subject Properties, and including but not limited to, those related to the Disputed Transactions attached hereto as Exhibits "A-1" through "A-8" imposed since initiation of the Customer Account in each Complainants' name.

(b) #39. Identify, describe, and produce all documents, court orders, notices, letters, correspondence, and/or other writings Respondent sent to the Commission and to Complainants indicating that any municipal liens on file with the

Court of Common Pleas and/or Municipal Court have been marked as satisfied, and for each production, provide the date and manner in which notice was given to Complainants of the same, for Complainants' Customer Accounts, SA accounts, former and current meters located at the Subject Properties, including but not limited to, the Disputed Transactions attached hereto as Exhibits "A-1" through "A-8".

(c) On Reconsideration, the Commission noted that all the original information was not provided and ordered Respondent to provide certain information. See Exhibits "A" and "B" for Interrogatory ## 38 and 39, which show that PGW failed to provide the additional lien information.

21. PGW's Responses to the S. Interrogatories fail to satisfy the Complainants' discovery requests for the reasons stated above and below.

22. Respondent refuses to provide the critical pieces of data on how each transaction was actually calculated, including stating how each payment was applied to the disputed vs. undisputed portions of the bills.

23. The critical underlying data on the application of Complainants' payments, including the gas usage periods covered in the municipal liens, the date of filing each lien, the dates of satisfaction of the liens, when each account is determined to be inactive or active and for what period of time, the specific application of partial payments to an outstanding balance to undisputed and disputed Customer Accounts, reconciliation of payments to charges, a running tabulation of Late Payment Charges, separate from the other charges, provide the kind of full, complete and specific responses requested by these S. Interrogatories, which Respondent failed to provide, here.

24. This S. Motion, incorporates the contents and statements set forth in the prior Motions filed by Complainants, as though set forth herein and thereto, in its entirety.

25. A copy of the Prehearing Conference Memorandum of 7/11/2014 is attached hereto and incorporated herein by reference, in its entirety, on Exhibit "B", as it

also sets forth the legal basis for Complainants' discovery requests, the absence of a legal basis for Respondent's refusal to provide full, complete and specific responses to the Interrogatories and the potential prejudice to the proceedings if the requested information is not obtained from Respondent.

MOTION FOR SANCTIONS.

26. The Commission's Regulations at 52 Pa. Code Sections 5.371 and 5.372 address the consequences of a participant's failure to comply with the Commission's regulations regarding discovery. Section 5.371 (a) provides:

(a) The Commission or the presiding officer may, on motion, make an appropriate order if one of the following occurs:

(1) A participant fails to appear, answer, file sufficient answers, file objections, make a designation or otherwise respond to discovery requests, as required under this subchapter.

Section 5.372 further provides that the Presiding Officer may impose appropriate sanctions upon a party found to be in violation of the obligations set forth in the Commission's Regulations.

27. Here, despite entering into agreements to extend PGW's time to answer and filing multiple motions to compel, PGW's responses to Set II, Interrogatories, including the S. Interrogatories, failed to provide sufficient responses to these discovery requests as required by Sections 5.371 and 5.372.

28. 52 Pa. Code Section 5.372(a)(3) provides that a presiding officer may make "an order striking out pleadings or parts thereof, staying further proceedings until the order is obeyed, or entering judgment against the disobedient party or individual advising the disobedience."

29. Complainants' discovery requests seek information related to all of the allegations raised by the Complainants. The information requested is necessary for Complainants to fully prove their allegations and prosecute the Complaints. Accordingly, appropriate sanctions under Section 5.372(a)(3) would be to strike all of Respondent's defenses to the Complaints, resulting in judgment for Complainants and judgment against Respondent on all counts and claims.

III. CONCLUSION

WHEREFORE, Complainants respectfully request Your Honor and the Commission:

- (1) grant this Motion for Sanctions;
- (2) issue an Order to:
 - a. Strike PGW's answer, Preliminary Objections, amended answer(s) and any and all defenses or claims against the Complaints.
 - b. Strike all PGW bills, demands for payments, charges, late payment charges, interest charges (except those that subject to separate stipulation on interest charges between the parties), and other costs and charges for those Customer Accounts from PGW to Complainants (except for basic gas usage charges that are not in dispute) for those Customer Accounts, where PGW failed to fully, completely, and specifically provide and respond to any or all of the discovery requests, which are the subject of this S. Motion; and
 - c. Bar the introduction, by PGW, of any evidence in the form of testimony, exhibits, examples or documentation, at the remaining hearings and in the

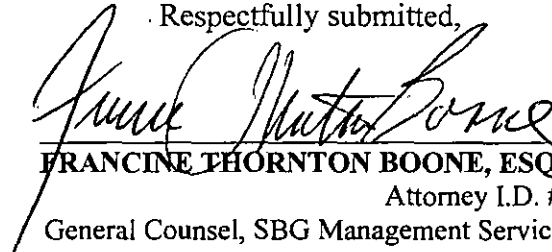
prefiled testimony presented by PGW, to be used by PGW to defend against Complainants' cases in chief or in PGW's defenses, that requires the use of, relates to or refers to the documents, materials, and/or responses related to billing, charges, and/or payments on the Complainants' accounts and disputed transactions/disputes.

- (3) grant any other relief deemed appropriate, including, but not limited to:
 - Imposing, any and all other appropriate sanctions for failing to fully and completely answer the S. Interrogatories.
- (4) *compel, as and in the alternative to above Paragraphs (2) and (3), that* PGW answer the S. Interrogatories and produce full and complete answers and to provide all such information requested within five (5) days of the Commission's Order or for the failure to do so, to suffer additional and further sanctions as set forth in Paragraphs (2) through (3) above.

WHEREFORE, Complainants respectfully request, that upon and as a result of the Respondent's failure to respond fully, completely, and with specificity to Complainants' discovery requests, that the Commission issue an Order granting the Motion for Sanctions and an Order striking all of Respondent's defenses to the Complaints and granting the Complaints on all counts and claims. In the alternative, Complainants request that the Respondent be directed to provide complete responses to the discovery requests within five (5) days of the Commission's Order so directing with the consequence of failure to comply being dismissal, with prejudice, of all Respondent's defenses and granting of the Complaint on all counts and claims.

Date: July 30, 2014

Respectfully submitted,


FRANCINE THORNTON BOONE, ESQUIRE
Attorney I.D. #45118
General Counsel, SBG Management Services, Inc.
P.O. Box 549
Abington, PA 19001
E: Booneft@aol.com; T: 215-260-4562
Attorney for Complainants

RECEIVED

JUL 30 2014

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

EXHIBIT "A": CD #1

This CD and Exhibit "A" contain the following sets of documents:

1. COMPLAINANTS' SECOND SET OF INTERROGATORIES
(without attachments; attachments provided in original Motion to Compel);
2. ALL OF RESPONDENT'S RESPONSES, BY INTERROGATORY NUMBER,
TO COMPLAINANTS' SECOND SET OF INTERROGATORIES.

EXHIBIT "B"

This CD and Exhibit "B" contain the following sets of documents:

1. A REVIEW OF DOCUMENTS PRODUCED BY RESPONDENT THAT SHOW HOW OR IN FACT THAT RESPONDENT FAILED TO RESPOND (FULLY, SPECIFICALLY, OR COMPLETELY) TO THE COMPLAINANTS' SECOND SET OF INTERROGATORIES, BY INTERROGATORY NUMBER.

2. The July 10, 2014 Prehearing Discovery Conference Memorandum of Complainants.

**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In the Matter of:

Docket No. C-2012-2304167--SBG Management Services, Inc. (Elrae) v. Philadelphia Gas Works
Docket No. C-2012-2304183--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2304215--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2304303--SBG Management Services, Inc. (v. Philadelphia Gas Works
Docket No. C-2012-2304324--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2308454--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2308462--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2308465--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2334253--SBG Management Services, Inc./Colonial Garden Realty Co., L.P. v. Philadelphia Gas Works

CERTIFICATE OF SERVICE

I hereby certify that on the date below, I have served the foregoing Complainants' **Motion for Sanctions with Exhibits "A", "B" and "C" and the original "Notice to Plead" for the Motion for Sanctions**, upon the Secretary for the Pennsylvania Public Utility by mailing, via First Class, overnight mail, as a hard-copy, and served a copy of the same upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54:

VIA First Class Mail, Overnight Mail only:

For the PA Public Utility Commission:

Administrative Law Judge Eranda Vero
PA Public Utility Commission
Suite 4063--801 Market Street
Philadelphia, PA 19107


For Respondent:

Laureto Farinas, Esquire, Philadelphia Gas Works
Attorney for PGW and Respondents
800 W. Montgomery Avenue, 4th Floor, Philadelphia, PA 19122

VIA Personal Service (by Hand Delivery):

Phil Pulley and Kathy Treadwell, SBG Management Services, Inc.:
P.O. Box 549, Abington, PA 19001 or
1095 Rydal Road, Abington, PA 19001

Date: July 30, 2014

BY: 
FRANCINE THORNTON BOONE, ESQUIRE
P.O. BOX 549
ABINGTON, PA 19001
Phone: 215-260-4562; Office: 215-938-6665
Electronic Mail Address: Booneft@aol.com
Facsimile Number: 215-938-7613
Pennsylvania Attorney I.D. No.—45118
ATTORNEY FOR COMPLAINANTS

COMMONWEALTH OF PENNSYLVANIA BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In the Matter of:

Docket No. C-2012-2304167--SBG Management Services, Inc. (Elrae) v. Philadelphia Gas Works
Docket No. C-2012-2304183--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2304215--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2304303--SBG Management Services, Inc. (v. Philadelphia Gas Works
Docket No. C-2012-2304324--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2308454--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2308462--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2308465--SBG Management Services, Inc. v. Philadelphia Gas Works
Docket No. C-2012-2334253--SBG Management Services, Inc./Colonial Garden Realty Co., L.P. v.
Philadelphia Gas Works

**CERTIFICATION OF COUNSEL OF DISCOVERY UNDERTAKEN AND EFFORTS TO
RESOLVE THE DISCOVERY DISPUTES INFORMALLY AND FORMALLY IN THE
JULY 11, 2014 PREHEARING CONFERENCE BEFORE ALJ VERO.**


In accordance with the applicable regulations and statutes, I, Francine Thornton Boone, Esq., counsel for Complainants, hereby certify that in good faith, on an informal basis, and without the intervention of and prior to contacting the Commission or ALJ Vero for this Motion for Sanctions, as well as on a formal basis through written memoranda and a hearing before ALJ Vero, I attempted to resolve these discovery disputes amicably with counsel for Respondent, Laureto Farinas, Esq., in accordance with the applicable sections of Title 52 of the Pennsylvania Code.

Informal: I hereby certify that prior to filing the foregoing Complainants' Motion for Sanctions, I personally contacted and spoke to PGW Senior Attorney Laureto Farinas by telephone on several occasions, including July 28, 2014, in an effort to resolve these discovery issues, without success, ("resolution attempts" included agreeing to extensions of time for Respondent to provide documents to Complainants). Counsel for PGW refused to provide the additional requested information and documents.

Formal: I hereby certify that in accordance with the July 3, 2014 Order of ALJ Vero, I prepared a detailed written Prehearing Discovery Conference Memorandum for 7/10/2014 ("7/10/2014 Memo") that sets forth Complainants' discovery issues, including Respondent's failure to comply with the discovery rules and laws and failure to fully, completely, and specifically respond to Complainants' discovery responses to date. On July 11, 2014, ALJ Vero held a Prehearing Conference on the discovery issues, where Respondent did not concede an obligation to or agree to provide all the key information again. (Further informal attempts: After receiving additional responses on 7/11/2014 and 7/16/2014, I contacted PGW, by telephone, and Senior Attorney Laureto Farinas, again, did not agree to provide the key information, including the embedded information that is discussed in the 7/10/2014 Memo.)

Therefore, Complainants are filing this Motion for Sanctions for Respondent's failure to provide the requested documents and information.

Date: July 30, 2014

BY: 
FRANCINE THORNTON BOONE, ESQUIRE
P.O. BOX 549
ABINGTON, PA 19001
Phone: 215-260-4562; Office: 215-938-6665
Electronic Mail Address: Booneft@aol.com
Facsimile Number: 215-938-7613
Pennsylvania Attorney I.D. No.—45118
ATTORNEY FOR COMPLAINANTS

Francine Thornton Boone, Esquire
SBG Property Management Services, Inc.
702 N. Marshall Street
Philadelphia, PA 19123
cell: (215) 260 – 4562
fax: (215) 938 - 7613
email: Booneft@aol.com
Attorney I.D. No. 45118

Attorney for Complainants

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SBG MANAGEMENT SERVICES, INC./ COLONIAL GARDEN REALTY, LP <i>Complainant</i>	: DOCKET NO. C-2012-2304183
V.	:
PHILADELPHIA GAS WORKS <i>Respondent</i>	:
	:
SBG MANAGEMENT SERVICES, INC./ FAIRMOUNT REALTY <i>Complainant</i>	: DOCKET NO. C-2012-2304215
V.	:
PHILADELPHIA GAS WORKS <i>Respondent</i>	:
	:
SBG MANAGEMENT SERVICES, INC./ SIMON GARDENS REALTY, LP <i>Complainant</i>	: DOCKET NO. C-2012-2304324
V.	:
PHILADELPHIA GAS WORKS <i>Respondent</i>	:
	:
SBG MANAGEMENT SERVICES, INC./ ELRAE GARDEN REALTY, LP <i>Complainant</i>	: DOCKET NO. C-2012-2304167
V.	:
PHILADELPHIA GAS WORKS <i>Respondent</i>	:
	:
SBG MANAGEMENT SERVICES, INC./ MARSHALL SQUARE REALTY, LP <i>Complainant</i>	: DOCKET NO. C-2012-2304303
V.	:
PHILADELPHIA GAS WORKS <i>Respondent</i>	:
	:
SBG MANAGEMENT SERVICES, INC./ MARCHWOOD REALTY <i>Complainant</i>	: DOCKET NO. C-2012-2308454
V.	:
PHILADELPHIA GAS WORKS <i>Respondent</i>	:
	:
SBG MANAGEMENT SERVICES, INC./	:

OAK LANE REALTY CO., LP <i>Complainant</i>	: DOCKET NO. C-2012-2308462
V.	:
PHILADELPHIA GAS WORKS <i>Respondent</i>	:
SBG MANAGEMENT SERVICES, INC./ FERN ROCK REALTY <i>Complainant</i>	: DOCKET NO. C-2012-2308465
V.	:
PHILADELPHIA GAS WORKS <i>Respondent</i>	:
SBG MANAGEMENT SERVICES, INC./ COLONIAL GARDEN REALTY, LP <i>Complainant</i>	: DOCKET NO. C-2012-2334253
V.	:
PHILADELPHIA GAS WORKS <i>Respondent</i>	:

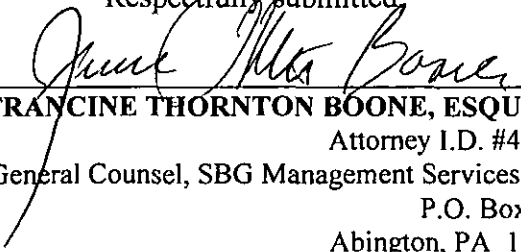
--- NOTICE TO PLEAD---

TO: PHILADELPHIA GAS WORKS, RESPONDENT:

Pursuant to 52 Pa. Code Section 5.371, you are hereby notified to file a written response to this Motion for Sanctions, which was served on July 30, 2014, of the above-captioned matters, within five (5) days from service hereof or you may be deemed to be in default and relevant facts stated in these pleadings may be deemed admitted, the Pennsylvania Public Utility Commission ("Commission") may rule on this Motion without further input, and a judgment may be entered against you. All pleadings, such as an Answer to the enclosed Motion, must be filed with the Secretary of the Commission, with a copy served on the undersigned counsel for Complainants.

Date: July 30, 2014

Respectfully submitted,



FRANCINE THORNTON BOONE, ESQUIRE
 Attorney I.D. #45118
 General Counsel, SBG Management Services, Inc.
 P.O. Box 549
 Abington, PA 19001
 E: Booneft@aol.com; T: 215-260-4562
 Attorney for Complainants

FedEx Package Express US Airbill 8063 1205 4837

1 From Please print and print here. Date 7/30/14 Sender's FedEx Account Number 2393-0508-3 Sender's Name Francine Boone, Esq. Phone 215 938-6665 Company SBG MANAGEMENT Address 1095 RYDAL RD City RYDAL State PA ZIP 19046-1711

2 Your Internal Billing Reference

3 To Recipient's Name Rosemary Chiavetta Company PA PUC Address 400 North St. Keystone Bldg. Harrisburg PA 17120

0115759565



0215

4 Express Package Service Packages up to 150 lbs. FedEx First Overnight, FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day A.M., FedEx 2Day, FedEx Express Saver

5 Packaging FedEx Envelope, FedEx Pak, FedEx Box, FedEx Tube, Other

6 Special Handling and Delivery Signature Options SATURDAY Delivery, No Signature Required, Direct Signature, Indirect Signature

7 Payment \$0.00 Recipient Third Party Credit Card Cash/Check Total Packages 1 Total Weight LTR Total Declared Value \$0.00

0115759565

PLEASE RETAIN THIS COPY BEFORE AFFIXING TO THE PACKAGE. NO OTHER RECORD.

FedEx Package Express US Airbill 8063 1205 4848

1 From Please print and print here. Date 7/30/14 Sender's FedEx Account Number 2393-0508-3 Sender's Name Francine Boone, Esq. Phone 215 938-6665 Company SBG MANAGEMENT Address 1095 RYDAL RD City RYDAL State PA ZIP 19046-1711

2 Your Internal Billing Reference

3 To Recipient's Name JUDGE ERANDA YERO Company PA PUC Address SUITE 4063 801 MARKET ST Philadelphia PA 19107

0115759565



0215

4 Express Package Service Packages up to 150 lbs. FedEx First Overnight, FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day A.M., FedEx 2Day, FedEx Express Saver

5 Packaging FedEx Envelope, FedEx Pak, FedEx Box, FedEx Tube, Other

6 Special Handling and Delivery Signature Options SATURDAY Delivery, No Signature Required, Direct Signature, Indirect Signature

7 Payment \$0.00 Recipient Third Party Credit Card Cash/Check Total Packages 1 Total Weight LTR Total Declared Value \$0.00

0115759565

PLEASE RETAIN THIS COPY BEFORE AFFIXING TO THE PACKAGE. NO OTHER RECORD.

FedEx Package Express US Airbill 8063 1205 4826

1 From Please print and print here. Date 7/30/14 Sender's FedEx Account Number 2393-0508-3 Sender's Name Francine Boone, Esq. Phone 215 938-6665 Company SBG MANAGEMENT Address 1095 RYDAL RD City RYDAL State PA ZIP 19046-1711

2 Your Internal Billing Reference

3 To Recipient's Name LAURETO FARINAS Company Philadelphia Gas Works Address 800 W Montgomery Ave 4th Floor Philadelphia PA 19122

0115759565



0215

4 Express Package Service Packages up to 150 lbs. FedEx First Overnight, FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day A.M., FedEx 2Day, FedEx Express Saver

5 Packaging FedEx Envelope, FedEx Pak, FedEx Box, FedEx Tube, Other

6 Special Handling and Delivery Signature Options SATURDAY Delivery, No Signature Required, Direct Signature, Indirect Signature

7 Payment \$0.00 Recipient Third Party Credit Card Cash/Check Total Packages 1 Total Weight LTR Total Declared Value \$0.00

PLEASE RETAIN THIS COPY BEFORE AFFIXING TO THE PACKAGE. NO OTHER RECORD.

FedEx Package
Express **US Airbill**

FedEx
Tracking
Number

8063 1205 4837

Form
ID No. **0215**

Recipient's Copy

1 From

Date: 7/30/14

Sender's Name: Francine Boone Esq Phone: 215 938-6665

Company: SBG MANAGEMENT

Address: 1095 RYDAL RD

Dept./Floor/Suite/Room

City: RYDAL State: PA ZIP: 19046-1711

2 Your Internal Billing Reference

3 To

Recipient's Name: Rosemary Chiavetta Phone:

Company: PA PUC

Address: 400 North St. Keystone Bldg
We cannot deliver to P.O. boxes or P.O. ZIP codes

Dept./Floor/Suite/Room

Address:

Use this line for the HOLD location address or for continuation of your shipping address

City: Harrisburg State: PA ZIP: 17120

0115759565



8063 1205 4837

4 Express Package Service * To most locations.
NOTE: Service order has changed. Please select carefully.

Packages up to 150 lbs.
For packages over 150 lbs., use the
FedEx Express Freight US Airbill

Next Business Day

2 or 3 Business Days

- FedEx First Overnight**
Earliest next business morning delivery to select locations. Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
- FedEx Priority Overnight**
Next business morning. Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
- FedEx Standard Overnight**
Next business afternoon.
Saturday Delivery NOT available.

- FedEx 2Day A.M.**
Second business morning.
Saturday Delivery NOT available.
- FedEx 2Day**
Second business afternoon. Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
- FedEx Express Saver**
Third business day.
Saturday Delivery NOT available.

5 Packaging * Declared value limit \$500

- FedEX Envelope*
- FedEX Pak*
- FedEx Box
- FedEx Tube
- Other

6 Special Handling and Delivery Signature Options

- SATURDAY Delivery**
NOT available for FedEx Standard Overnight, FedEx 2Day A.M., or FedEx Express Saver.
- No Signature Required**
Package may be left without obtaining a signature for delivery.
- Direct Signature**
Signature of recipient's address may be required for delivery. Fee applies.
- Indirect Signature**
If no one is available at recipient's address, someone at a neighboring address may sign for delivery. For residential deliveries only. Fee applies.

Does this shipment contain dangerous goods?

- No
- Yes
- As per attached Shipper's Declaration
- Dangerous goods (including dry ice) cannot be shipped in freight containers or placed in a FedEx Express Drop Box.

7 Payment Bill to:

- Enter FedEx Acct. No. or Credit Card No. below.
- Obtain recip. Acct. No.
- Sender (Access No. in Section 1 will be billed)
- Recipient
- Third Party
- Credit Card
- Cash/Check

Total Packages: 1 Total Weight: 1.16 lbs. Credit Card Auth.

*Our liability is limited to USD\$100 unless you declare a higher value. See the current FedEx Service Guide for details.

611

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fedex.com 1.800.GoFedEx 1.800.463.3339