



PHILADELPHIA GAS WORKS

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September 15, 2014

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

Re: SBG Management Services, Inc v. PGW, Docket No. C – 2012 – 2304183, C – 2012 – 2304215, C – 2012 – 2304324, C – 2012 – 2304167, C – 2012 – 2304303, C – 2012 – 2308454, C – 2012 – 2308462, C – 2012 – 2308465, and C – 2012 – 2334253

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §5.371, the Philadelphia Gas Works ("PGW") hereby files its answer to the Complainants' Motion to Compel responses to the Interrogatories and Requests for Production of Documents ("Discovery") Set IV to which PGW has objected and that the Complainants, through their counsel have propounded upon PGW in the above captioned matters.

If additional information is required, please do not hesitate to contact the undersigned. Thank you for your assistance in the matter.

Sincerely,

A handwritten signature in blue ink that reads "Danielle Leva". The signature is written in a cursive, flowing style.

Danielle Leva

Enclosure

cc: Francine Thornton Boone, Esq. (FedEx and Email)
Donna Ross, Esq. (FedEx and Email)
Mr. Philip Pulley (Email)
Ms. Kathy Treadwell (Email)
Administrative Law Judge Eranda Vero (Email)
Linda Pereira (PGW Mail)
Wendy Vacca (PGW Mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SBG Management Services, Inc. / :
Colonial Garden Realty, LP, :
Complainant :
v. : **Docket No. C – 2012 – 2304183**
: :
Philadelphia Gas Works, :
Respondent :

SBG Management Services, Inc. / :
Fairmount Realty, :
Complainant :
v. : **Docket No. C – 2012 – 2304215**
: :
Philadelphia Gas Works, :
Respondent :

SBG Management Services, Inc. / :
Simon Gardens Realty, LP, :
Complainant :
v. : **Docket No. C – 2012 – 2304324**
: :
Philadelphia Gas Works, :
Respondent :

SBG Management Services, Inc. / :
EIRae Garden Realty, LP, :
Complainant :
v. : **Docket No. C – 2012 – 2304167**
: :
Philadelphia Gas Works, :
Respondent :

SBG Management Services, Inc. / :
Marshall Square Realty, LP, :
Complainant :
v. : **Docket No. C – 2012 – 2304303**
: :
Philadelphia Gas Works, :
Respondent :

SBG Management Services, Inc. /	:	
Marchwood Realty,	:	
Complainant	:	
v.	:	Docket No. C – 2012 – 2308454
	:	
Philadelphia Gas Works,	:	
Respondent	:	
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SBG Management Services, Inc. /	:	
Oak Lane Realty Co., LP,	:	
Complainant	:	
v.	:	Docket No. C – 2012 – 2308462
	:	
Philadelphia Gas Works,	:	
Respondent	:	
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SBG Management Services, Inc. /	:	
Fern Rock Realty,	:	
Complainant	:	
v.	:	Docket No. C – 2012 – 2308465
	:	
Philadelphia Gas Works,	:	
Respondent	:	
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SBG Management Services, Inc. /	:	
Colonial Garden Realty, LP,	:	
Complainant	:	
v.	:	Docket No. C – 2012 – 2334253
	:	
Philadelphia Gas Works,	:	
Respondent	:	

**Philadelphia Gas Works’
Answer to the Complainants’ Motion to Compel Responses
To Interrogatories and Requests for Production of Documents, Set IV**

Pursuant to 52 Pa. Code §5.341 and 5.342(g)(1), the Philadelphia Gas Works (“PGW”) hereby answers the Complainants’ motion to compel responses to the Interrogatories and Requests for Production of Documents (“Discovery”) Set IV to which PGW has objected and that the Complainants, through their counsel have propounded upon PGW in the above captioned matters.

For the reasons stated herein the Complainant’s motion should be denied:

I. Pennsylvania Rule of Civil Procedure, Rule 4009.1 Is Not Applicable in this Proceeding.

1. PGW has objected to the Discovery Set IV: Additional Instructions No. 23, which seeks to apply the Pennsylvania Rules of Civil Procedure, Rule 4009.1 (“Rule 4009.1”) to this proceeding. Rule 4009.1 allows the requesting party to specify the format in which electronically stored information is to be produced. As stated in its objections, the Commission’s Procedural Rules at 52 Pa. Code §3.21 et seq. govern the discovery in these proceedings. The Commission’s rules contain no such requirement.

2. PGW denies that its reading of the Commission rules governing discovery is misplaced. While, under the Commission’s rules, it may be within the discretion of the presiding officer to make requirements such as those in contained in Rule 4009.1, the presiding officer has made no such requirement. As with other responses submitted by PGW, the variation in format in which information can be produced is limited. PGW is not bound to provide discovery responses that comply with Rule 4009.1.

3. Denied. In its objections to the Discovery Set IV, PGW has attached and incorporated by reference the entire document, Discovery Set IV.

4. PGW has objected to the Discovery Set IV: Additional Instructions Nos. 16 through 19 that require PGW to provide a summary log of confidential documents and non-written communications that may be associated with the claim of “privilege” with respect to any document requested in the remainder of the Discovery Set IV. As stated in its objections, the requirement of preparing such a summary is unreasonably burdensome, oppressive and unnecessary in light of the subject material sought in the Discovery Set IV as Set IV seeks information that is beyond the matters at issue in these proceeding. PGW’s objection to the provision of the tenant account information is based upon relevance to these proceedings. The tenant account information sought is considered private customer information, but similar information has been the subject of the subpoena process. The Complainants may subpoena the information upon a showing of relevance to these proceedings as governed by the Commission’s Rules of Procedure at 52 Pa. Code §5.421 – Subpoenas.

5. The Complainants reliance upon the applicability of Rule 4009.1 is misplaced. The Commission is a creature of the Executive branch of the Commonwealth of

Pennsylvania. It administers the rules of procedure as approved by the legislature of the Commonwealth. These rules are the Pennsylvania Public Utility Code and include the rules, which govern the procedural operation of the Commission. Rule 4009.1 is part of the Pennsylvania Rules of Civil Procedure, which govern the judicial branch of the Commonwealth. The Pennsylvania Supreme Court's adoption of the new procedural rules, govern the discovery conducted in matters before the courts of the judicial branch of government and not those administrative agencies that are under the executive branch of the Commonwealth.

II. PGW Correctly Objects to Discovery Concerning Issues Related to Tenant Accounts.

6. PGW has objected to Discovery Set IV, Nos. 4 through 10, which seek information regarding "Tenant Customer Accounts" as defined in Discovery Set IV, Definitions: No. 7 on the grounds that the tenant accounts are not part of the dispute in these matters. Even as the Complainants' argue, if the accounts have been erroneously billed to the Complainants, they appear as accounts in one of the names of the Complainants. Thus far, in this proceeding, the only accounts that are in dispute are those under the name of the Complainants. As PGW states in its objections, with Set IV Nos. 4 through 10, the Complainants seek to expand the scope of the proceeding and extend discovery by, for the first time, requesting information on the accounts held by the Complainants' tenants. Set IV, Nos. 4 through 10 are not relevant to these proceedings within the meaning of 52 Pa. Code §5.341(c).

7. From the commencement of these matters, the disputed issues were confined only to those accounts in which the Complainants were Customers of Record, not the Complainants' tenants. Even if, as the Complainants now maintain, that some of the accounts that are in dispute in these proceedings should have been in the name of its tenants, the Complainants' own records would confirm an error or the failure of the Complainants' tenants to apply for gas service. The information sought in Set IV Nos. 4 through 10 is irrelevant to these proceedings.

8. Through its amendments to the Complaints in these matters, the Complainants specifically pled the disputed transactions, although numerous, were confined to those

transactions/bills contained in the Complainants' "Exhibits A-1 through A-8." These were modified statements of account containing a letter code indicating the nature of the dispute on each transaction on each account. These are the Complainants' designation of the disputes in these matters. As such, they define its scope. These were the subject of extensive discovery concerning financial records of these accounts along with any internal records, meter information, notes and "contacts." There are no "placeholder" accounts among the accounts at issue in these matters. As PGW states in its objections, with the Discovery Set IV, the Complainants now attempt to expand the scope of these proceedings by making inquiry into activity on its tenants' accounts, including payment agreements and communications which are not relevant to the Complainants' disputed accounts. The information sought by Discovery Set IV is irrelevant to, and beyond the scope of these proceedings. The Complainants should not be permitted to further expand the disputed matters with this new discovery request.

9. As stated above, PGW's objection to the provision of the tenant account information is based upon relevance to these proceedings. The tenant account information sought is considered private customer information, but similar information has been the subject of the subpoena process. The Complainants may subpoena the information upon a showing of relevance to these proceedings as governed by the Commission's Rules of Procedure at 52 Pa. Code §5.421 – Subpoenas.

10. As PGW stated in its objections, the nexus between the information sought in the Discovery Set IV and the Complainants' desire for it seems only to take issue with the application of Municipal Liens filed by the City of Philadelphia on behalf of PGW on any unpaid debt on the Tenant Customer Accounts under the Municipal Lien Act codified as the Municipal Claim and Tax Lien Law Act 153 of 1923, P.L. 207; 53 P.S. 7101 ("Municipal Lien Act"). The Commission has long held that such matters are beyond the Commission jurisdiction and as such the discovery of the information sought in Set IV is beyond the scope of these matters. As the Commission may decide the accuracy of bills rendered by any of its jurisdictional utilities under the appropriate circumstances of the case, such as standing, age of the disputed bill, etc., the tenant account information sought by the Discovery Set IV, Nos. 4 through 10 exceeds that information that necessary to determine accuracy of bills rendered to the Complainants' accounts. All

account information that has been provided to the Complainants' has included usage, metering and payment information. These are sufficient to determine the accuracy of the bills.

11. As stated in Paragraph 10 above, the Commission may decide the accuracy of bills rendered by any of its jurisdictional utilities under the appropriate circumstances of the case, such as standing, age of the disputed bill, etc., the tenant account information sought by the Discovery Set IV, Nos. 4 through 10 exceeds that information that necessary to determine accuracy of bills rendered to the Complainants' accounts that are the subject of these matters. The bills under the accounts of the Complainants tenants are no the subject of these matters.

12. PGW has admitted that the accuracy of bills rendered by any of its jurisdictional utilities is appropriately for the Commission to decide under the appropriate circumstances of the case, such as standing, age of the disputed bill, etc., however, the Complainants' assertion of what the Court of Common Pleas should do with respect to its determination of matters before it involving the Municipal Lien act is also outside of the scope of this matter and the Commission's jurisdiction.

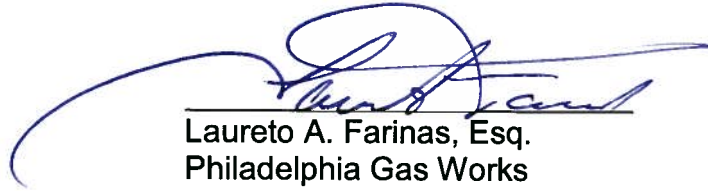
13. As stated above, even if the Commission is to conduct a review of the Complainants' tenants' unpaid debt, which was subject of proceedings under the Municipal Lien Act, such a review not within the scope of these proceedings and the propounding of Discovery Set IV, on August 19, 2014 does not permit the Complainants to expand the scope.

14. PGW has never claimed that there is not "any issue" over which the Commission has jurisdiction with respect to debt subject to the Municipal Lien Act. Certainly, of the amount in dispute in the accounts under the Complainants names (Exhibits A-1 through A-8) contains the disputed debt for Complainants' unpaid bills, collected under the Municipal Lien Act. The information sought in Discovery Set IV is the Complainants attempt to expand the dispute to matters that are not part of these proceedings.

WHEREFORE, for the reasons stated above, PGW respectfully requests that the Commission issue an order sustaining PGW's objections to the Complainants' Discovery Set IV.

September 15, 2014

Respectfully submitted,



Laureto A. Farinas, Esq.
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A TRUE COPY OF THE FOREGOING DOCUMENT, PHILADELPHIA GAS WORKS' OBJECTION TO THE COMPLAINANTS' INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS, Set IV, UPON THE PARTICIPANTS LISTED BELOW, IN ACCORDANCE WITH THE REQUIREMENTS OF 52 PA CODE §§1.54 and 5.342(c) (RELATING TO SERVICE BY A PARTICIPANT).

Service List

For Complainants:

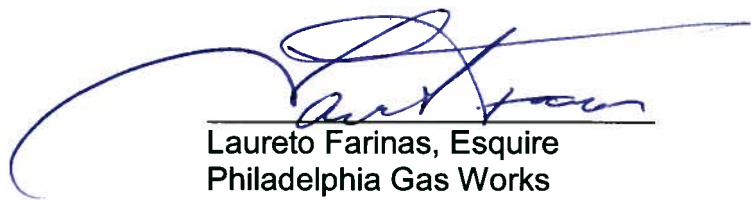
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September 15, 2014



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