

 **SBG Management Services, Inc.**

P.O. Box 549 Abington, PA 19001  
Phone 215.938.6665 Fax 215.938.7613

July 30, 2014

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

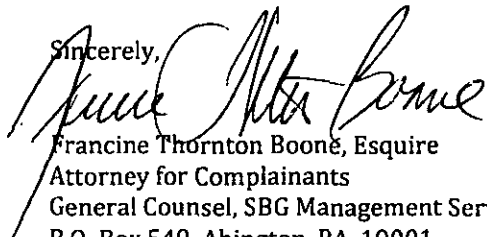
**RE: SBG Management Services, Inc. (and related entities) v. PGW, Docket Nos. C-2012-2304167; C-2012-2304183; C-2012-2304215; C-2012-2304303; C-2012-2304324; C-2012-2308454; C-2012-2308462; C-2012-2308465; and C-2012-2334253**

Dear Secretary Chiavetta:

On behalf of the Complainants in the above-referenced matters, enclosed for filing is the original **Motion To Compel Responses to Set III Discovery Requests** and original **"Notice to Plead" for the Motion for Compel**. 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  
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**RECEIVED**

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

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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

v.

PHILADELPHIA GAS WORKS  
*Respondent*

: DOCKET NO. C-2012-2304183

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SBG MANAGEMENT SERVICES, INC./  
FAIRMOUNT REALTY  
*Complainant*

v.

PHILADELPHIA GAS WORKS  
*Respondent*

: DOCKET NO. C-2012-2304215

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

v.

PHILADELPHIA GAS WORKS  
*Respondent*

: DOCKET NO. C-2012-2304324

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

v.

PHILADELPHIA GAS WORKS  
*Respondent*

: DOCKET NO. C-2012-2304167

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

v.

PHILADELPHIA GAS WORKS  
*Respondent*

: DOCKET NO. C-2012-2304303

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SBG MANAGEMENT SERVICES, INC./  
MARCHWOOD REALTY  
*Complainant*

v.

PHILADELPHIA GAS WORKS  
*Respondent*

: DOCKET NO. C-2012-2308454

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SBG MANAGEMENT SERVICES, INC./

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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>	:

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**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 TO COMPEL PGW'S RESPONSES TO COMPLAINANTS' REQUESTS FOR PRODUCTION OF DOCUMENTS AND INTERROGATORIES ADDRESSED TO RESPONDENT PHILADELPHIA GAS WORKS, SET III, INTERROGATORY NOS. ##2-3 (as limited herein), 4-11, 12(b-d), 13, 14, 16, 17, 19-14, and 26-28 ("SUBJECT INTERROGATORIES")AND REQUEST FOR SANCTIONS ("MOTION")**

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Pursuant to 52 Pa. Code Sections 5.342 and 5.321(c), Complainants, by their undersigned counsel, hereby respectfully request the Pennsylvania Public Utility Commission ("Commission") to compel Philadelphia Gas Works ("PGW" or "Respondent") to fully respond and to file complete answers to Complainants' Requests for Production of Documents and Interrogatories Addressed to Respondent PGW, Set III, Interrogatory Nos. 2-3 (as limited herein), 4-11, 12(b-d), 13, 14, 16, 17, 19-14, and 26-28, as detailed herein, and ("Subject Interrogatories") as propounded by Complainants to Respondent, in this matter, and as attached hereto as "Exhibit 'A' on CD #1.

**I. SUMMARY**

Respondent's response to the Subject Interrogatories are incomplete and non-responsive and violate applicable statutory law, including 52 Pa. Code Sections 5.342, as Respondent: (1) submitted incomplete responses that failed to supply all the requested information, including documents, calculations, memoranda, and other information as discussed below; (2) submitted responses that claim to provide information on all the accounts but then fails to provide the *all such* information; and (3) submitted responses that refers to "previously provided" information [to Complainants from Respondent] without specifically identifying where and in what particular documents the discoverable information is set forth or by referring to Response #36 to Set II, Interrogatories, which was also an incomplete response.

**II. SPECIFIC GROUNDS TO COMPEL RESPONSES TO THE SUBJECT INTERROGATORIES**

In support of this Motion, Complainants by and through their undersigned counsel, hereby move the Commission to enter an appropriate Order and Sanctions against Respondent, pursuant to 52 Pa. Code Section 5.342 and 5.371-5.372. In support of this 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, 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. Pennsylvania statutes define the manner and form of Answers to Interrogatories. Specifically, 52 Pa. Code Section 5.342 (a) (3) and (4) require:

***"(a) Form. Answers to Interrogatories must:***

***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.***  
(See 52 Pa. Code Section 5.342)

6. On 4/9/2014 ALJ Vero, issued an order granting and denying, in whole or in part, Complainants' Second Amended Motion to Compel for Interrogatory Nos. 2,3, 5-31, 33-39, that granted on 4/9/2014: 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 22, 23, 24, 27,

29, 30, and 36; and denied on 4/9/2014: 14, 17, 18, 19, 20, 21, 26, 28, 31, 33, 34, 35, 37, 38, and 39.

7. Upon Motion for Reconsideration by Complainants, ALJ Vero issued an Order amending the 4/9/2014 Order to require certain additional responses from Respondent, including responses for Interrogatory #39 by 5/27/2014.

8. On 5/28/2014, Complainants served, Interrogatories and Requests for Production of Documents Set III ("Set III") on Respondent, a copy of which is attached hereto and herein at Exhibit "A"/CD #1, and identified individually by each Interrogatory Number.

9. On 6/9/2014, Respondent filed objections to, Interrogatories Set III Nos. 1-11.

10. Thereafter, PGW requested and SBG agreed to additional extensions of time for PGW to provide discovery responses to Set II and Set III and, for SBG to file any motions on the same.

11. PGW's time to respond to Set III was extended to July 11, 2014 and then to July 16, 2014, Complainants' time to file motions to the same, if any, was extended to July 30, 2014. All of Respondent's Responses to, Interrogatories Set III are set forth and herein at Exhibit "A", CD#1, where each is set forth by particular Interrogatory Number.

12. Complainants file this Motion due to Respondent's failure to comply with applicable case and statutory law and Respondent's failure to provide the requisite full, complete and specific responses to the following Interrogatories ##2-3 (as limited herein), 4-11, 12(b-d), 13, 14, 16, 17, 19-14, and 26-28 ("Subject Interrogatories"), which are discussed specifically herein and below (to reduce the amount of paper, all the

Interrogatories (Sets I and II) and all Respondent's Responses (to Sets I and II) are set forth on Exhibits "A"/CD #1 and Failures to Respond (as shown by highlighted and detailed text and/or examples) are set forth on Exhibits "B"/CD#2; please refer to these Exhibits as you review and read the Motion below):

13. At the 7/11/2014 Prehearing Discovery Conference ("7/11/14 Conference"), the parties agree that Respondent's responses to Set III, Interrogatory #2 and #3 shall comply with the Commission's prior orders. Nevertheless, Complainants request that the Commission order Respondent to verify and confirm that Respondent is so providing documents, information, and responses consistent with the Commission's Orders for all of Interrogatories Set III.

14. As stated below in this Motion, for the remainder of the Responses, Respondent failed to identify all such documents and/or failed to provide for inspection or to attach all documents as required by Set III, Interrogatory ##2 and 3 and as alleged in Response ##2 and 3 for the remaining Set III, Interrogatories 4-11, 12(b-d), 13, 14, 16, 17, 19-14, and 26-28.

15. Specifically, Respondent failed to identify and attach or provide for inspection, in accordance with Interrogatory ##2 and 3, all documents for the following Interrogatories:

a. For Interrogatories #4 and #5: Respondent objected to these Interrogatories and claimed the information is set forth in Response #36, Set II. The original Interrogatory, by number, and Respondent's response to the same are set forth in Exhibit "A"/CD #1 (including Response #36, Set II). Exhibit "B"/CD#2 shows that the requested information is not contained in the Response #36, Set II. To the contrary,

Response #36, Set II, does not calculate principal or gas usage from the date of opening the account. It also lacks the kind of embedded information that is referred to in the 7/10/2014 Memo which is attached hereto at Exhibit "B"/CD #2.

b. For Interrogatory #6: Respondent objected to this Interrogatory and claimed the information is set forth in Response #36, Set II. The original Interrogatory, by number, and Respondent's response to the same are set forth in Exhibit "A"/CD #1 (including Response #36, Set II). Exhibit "B"/CD#2 shows that the requested information is not contained in the Response #36, Set II. To the contrary, Response #36, Set II, does not calculate principal or gas usage from the date of opening the account. It also lacks the kind of embedded information that is referred to in the 7/10/2014 Memo which is attached hereto at Exhibit "B"/CD #2. Further, PGW argues that SBG is asking PGW to do SBG's work. This statement shows a complete and flagrant denial of the discovery rules. The discovery rules require the Respondent to verify its response to the discovery requests. How can Complainants, therefore, answer for Respondent? Are Complainants to assume how and what the responses of Respondent will contain? Thereafter, would Respondent verify that Complainants attempted to guess Respondent's responses—without ever stating under oath the full content of "Respondent's ACTUAL responses"? This approach, as recommended by Respondent, is not only absurd but lacks any support in case or statutory law. In fact, Respondent failed to cite a single legal authority in support of these bald assertions and circular arguments. For the specific evidence and statements of the missing information and responses, by Interrogatory No. 6, please see Exhibit "B"/CD #2, which shows that the Responses lack the requested information. For example, Respondent's responses for Interrogatory #6(a) fail to state



when all the accounts were opened; Response #6(b) failed to state when all the accounts were first billed; Response #6(c) fail to include the “embedded” information as defined and discussed in the 7/10/2014 Memo; Response #6(c) (i-ix) failed to include the dates of each charge; Response #6(c)(ii) failed to clearly state the underlying calculations for gas usage (but did provide gas usage amount); #6(c) (iii and iv) failed to include information on interest charges and Late Payment Charges (“LPCs”), but the parties will submit a stipulation on PGW’s practice and procedures. Nevertheless, Complainants’ request that the Commission order PGW to show the actual calculations and the dates when LPC’s began and when the liens on each account were filed. Complainants need the lien filing dates (and gas usage periods) to determine when the charges on the outstanding debt might be reduced if post-judgment interest applied pursuant to 42 Pa. Code Section 8101; Responses #6(c) (v-ix), Respondent again failed to provide “embedded” information as defined in the 7/10/2014 Memo. Specifically, for Response #6(c)(vi)—Missing taxes; #6(c)(vii)—Missing penalties; #6(c)(viii)—Missing equipment charges; #6(c)(ix)—Missing other service/repair charges, Respondent provided no specific breakdown of these pieces of the bills. To the contrary, this information is wrapped up and part of the embedded information. Similarly for #Response 6(d)(i), Respondent failed to provide the dates that each payment was received by PGW and for Response #6(d)(ii), Respondent may have provided all the dates that PGW applied Complainants’ payments, but only on those accounts where Complainants were given the SOAs for a particular SA. For Responses #6(e)(i), (ii), and (iii), Respondent provided partial answers. To the contrary, Respondent failed to provide the disputed amounts of the charges which are embedded for #6(e)(i-iii).

For Response #6(f), Respondent referred Complainants to #36, Set II, but this response is inadequate and fails to provide detailed and embedded information.

c. For Interrogatories #7(a), (b), and (c), Respondent only provide partial answers. See Exhibit "A"/CD#1 for the original interrogatories and all the responses. See Exhibit "B"/CD #2, which highlights and shows that the full information is missing from the responses. While Respondent claimed to update the SOA, it really amounted to adding the additional charges/payments form January 2014 through May 2014 without including the embedded and detailed information requested in Interrogatories Set III.

d. For Interrogatory #8, PGW argues that the municipal lien information is beyond the authority of the Commission; this statement contradicts the Commission's own decisions and statements by ALJ Vero that the Commission can examine and rule on the debt and bill calculations underlying the liens. Further, #8 required PGW to provide each notice of lien Interrogatory (#8(a)), each Court order releasing/dismissing/vacating/amending each lien (in whole or in part). As set forth in Exhibit "B"/CD #2, by the respective Interrogatory No., PGW failed to provide all this information.

e. For Interrogatories ##9, 10, and 11: PGW argues that SBG seeks a particular format, which is incorrect. Complainants seek full, complete and specific responses that answered and verified by PGW. PGW also refers Complainants to Response #36, Set II, which does not include the requested detailed information. See Exhibit "A"/CD #1 and Exhibit "B"/CD#2 for a detailed statement or representation of the missing information.

f. For Interrogatories ##12(b-d), 13, and 14, Respondent failed to provide the requested detailed response and failed to indicate where this information can be found in the documents, as shown in Exhibit "B"/CD#2, which contains a detailed statement or representation of the missing information. Further for Interrogatory #14, PGW only provided their policy statement on assessing LPCs, but nowhere showed the underlying calculations for each disputed transaction/dispute to prove the manner and way, in which these accounts were actually calculated.

g. For Interrogatories ##16 and 17, Respondent's response provides a general answer, but fails to SHOW or PROVIDE the specific procedures to finalize a bill and to stop charging LPCs on an amount subject to lien.

h. For Interrogatories ##19 and 20, Respondent provided a partial response by stating the "Past Due Debt" information, but then failed to provide the regulatory and/or statutory source for these terms. Therefore, one must conclude, that these terms are "made up" and illusory with no basis in a particular tariff or law. Respondent should explicitly state the legal or "non-legal" source of these terms.

i. For Interrogatories ##21, 22, 23, and 24, Respondent failed to provide the detailed and embedded information, as illustrated at Exhibits "A"/CD #1 and "B"/CD#2. For Interrogatory #21, Respondent failed to provide all the requisite dates; for Interrogatory #22, no specific information underlying the disputed transactions/disputes were provided by Respondent; for Interrogatory #23, Respondent failed to provide the specific source of/for the bills/charges; and for Interrogatory #24, the embedded information is not explicitly stated; for example, information on transfers are not set out.

j. For Interrogatory #26, Respondent failed to provide detailed lien information as required by this Interrogatory #26 (a) and (b). Further, Respondent failed to provide any response to #26 (c) and (d). See Exhibit "B"/CD #2, Interrogatory #26, for a detailed listing of the liens with incomplete information.

k. For Interrogatories ##27 and 28, Respondent alleges that the responses are set forth in Set II, Response #36. But as discussed above, Response #36 is incomplete and does not provide the underlying pieces of data to calculate the charges and show application of the payments in the SOA.

16. This Motion incorporates the contents and statements set forth in the Prehearing Conference Memorandum dated 7/10/2014 ("7/10/2014 Memo"), by reference as though set forth herein and thereto, in its entirety.

\* \* \* \* \*

#### SUMMARY OF MOTION TO COMPEL:

In summary, based on a review of the applicable case and statutory law, Respondent must be compelled to fully, completely, and specifically answer the Subject Interrogatories.

Essentially, the Interrogatories are governed by 52 Pa. Code Section 5.321(c), which provides:

(c) Scope. Subject to this subchapter, a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be inadmissible at hearing if the information sought is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code Section 5.321 (c).

52 Pa. Code Section 5.342 states the form and manner of Answers to

Interrogatories:

(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).

Here, Complainants served Interrogatories on Respondent. Respondent failed to fully comply with Section 5.342, and Respondent provided partial or no responsive information to Complainants, as discussed in detail in Paragraphs 1 through 16, above. Neither Section 5.342, nor any other section of the statute, supports these incomplete and inadequate discovery responses. As noted in prior pleadings, discovery is encouraged so that the parties may dispose of any or as many issues as possible, prior to trial or hearing. Through discovery, the parties may discover that certain issues are “resolvable” or not in dispute and avoid wasting precious judicial time and resources. Here, Respondent is acting in contradiction to the rules governing discovery.

Respondent must provide its discovery documents and responses in a proper manner. Here, Respondent refers to policies, procedures, practices, calculations of basic charges, outstanding balances, interest and penalties, the imposition of liens, applications of payments and even issues conclusions that Respondent satisfied the applicable laws and tariffs, while responding with exhibits or other forms of or statements documents that

contain incomplete information and that fail to organize or state account information in a manner that fully and specifically answers or responds to the Interrogatories as required by Section 5.342. Respondent needs to answer the Interrogatories, specifically, fully and completely as required by law and we respectfully request that the Commission compel PGW to do so.

Pursuant to 52 Pa. Code Section 5.321(c):

**“...a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter.”**

Here, the Interrogatories seek information, including “books, documents, and other tangible things and the identity and location of persons having knowledge of a discoverable matter”, that are relevant to this proceeding and that are further defined as discoverable at Section 5.321(c), above. Respondent failed to fully provide and identify those letters, correspondence, records, emails, and other documents explaining the bills, charges, application of payments on the Customer Accounts, SAs, and Disputed Transactions, and documents containing or referring to the internal memoranda/documentation on Respondent’s practices, policies, and procedures underlying the calculation of the debt, imposition of liens (including gas usage period covered by the lien and date of filing/satisfying all liens, if applicable), application of payments, charges, LPC’s, and interest charges—and to provide this information on each Customer Account, SA, and Disputed Transaction that are part of this litigation. Without this detailed information, Respondent is withholding critical data that permits all parties and the Commission to confirm or defeat its claim of billing Complainants in accordance

with the applicable statutes, tariffs, and laws. (In an effort to amicably resolve this matter, the need for this information was also discussed with counsel for PGW, who refused to provide it.)

Respondent also failed to show where and how the information was previously provided “during the hearings”; as previously done, Respondent simply refers to its Exhibits and its Statement of Accounts (the original and “updated” SOAs). The Exhibits are not organized in a manner to specifically correlate to each discovery request as required by 52 Pa. Code Sections 5.342 and 5.321. The Statement of Account, as stated repeatedly by PGW, does not provide details on calculation of the debt and the application of the payments as discussed in greater detail above.

The importance of receiving this detailed, complete, specific, and full discovery response is best shown in the case of Campos v. PGW, where the Administrative Law Judge for the Commission stated that Linda Pereira, a senior customer review officer for PGW testified and noted:

“...the credit that the Complainant had established on his account was absorbed through the make-up bill and that the current undisputed charges after the issuance of the make-up bill have not been paid...PGW also assess a late payment fee...because Complainant had not paid undisputed charges for gas services rendered.” (See Campos, p. 28)”

Thereafter, the Commission, by its ALJ, held at page 28:

“I disagree with the account of billed charges by PGW toward Complainant’s account. The amount of \$2,028.80 is under dispute. PGW does not dispute that \$781.01 is credit accrued by the Complainant for early payments made. PGW cannot place the credit established by the Complainant toward the disputed amount owed. Rather, PGW must continue to place the credit toward undisputed amounts owed. (See Campos, at p. 30)...”

As shown in the Campos case, one can not assume that because PGW claims it is calculating the bills and payments in accordance with the statutes, rules, and tariffs, that a full examination of the critical underlying pieces of the bills and charges is a waste of time or unnecessarily burdensome. To the contrary, this Motion to Compel is needed to force a clear and readily understandable explanation for the bills, charges, and payments underlying this litigation and the related Customer Accounts, SAs, and Disputed Transaction.

The statutes governing billing by a utility in this Commonwealth are clear and provide substantial guidance to the parties, as set forth below:

**52 Pa. Code Section 56.15 provides:**

**“§ 56.15. Billing information.**

**A bill rendered by a public utility for metered residential public utility service must state clearly the following information:**

**(4) The amount due for service rendered during the current billing period, specifying the charge for basic service, the energy or fuel adjustment charge, State tax adjustment surcharge if other than zero, State sales tax if applicable and other similar charges.** The bills should also indicate that a State gross receipts tax is being charged and a reasonable estimate of the charge. A Class A utility shall include a statement of the dollar amount of total State taxes included in the current billing period charge. For the purpose of this paragraph, a Class A utility shall also include a Class A telephone utility as defined under § 63.31 (relating to classification of public utilities).

**(7) The total amount of payments and other credits made to the account during the current billing period.**

**(8) The amount of late payment charges, designated as such, which have accrued to the account of the customer** for failure to pay bills by the due date of the bill and which are authorized under §56.22 (relating to accrual of late payment charges).

**(9) The total amount due.**

**(11) A statement directing the customer to “register any question or complaint about the bill prior to the due date,”** with the address and telephone number where the customer may initiate the inquiry or complaint with the public utility.

**(12) A statement that a rate schedule, an explanation of how to verify the accuracy of a bill and an explanation, in plain language of the various charges, if applicable, is available for inspection in the local business office of the public utility and on the public utility’s web site.”**



(14) Electric distribution utilities and **natural gas distribution utilities shall incorporate the requirements in §§ 54.4 and 62.74 (relating to bill format for residential and small business customers).** (Emphasis added.)

Accordingly, the applicable laws and tariffs require that the utility provide specific information on its bills and billing statements. Arguably, despite the discovery requests and the above statutory provisions, PGW continues to refuse to provide details on the bills and payments, including a separate statement of the “accrued late payment charges” and an explanation on how to verify the accuracy of the bills, i.e., provide the details and accounting for the application of payments, including those involving disputed vs. undisputed debt, lien information, payment information, and LPC detailed information.

52 Pa. Code Section 56.21 provides:

**“§ 56.21. Payment.**

(2) *Date of payment by mail.* For a remittance by mail, one or more of the following applies:

(i) Payment shall be deemed to have been made on the date of the postmark.

(ii) The public utility may not impose a late payment charge unless payment is received more than 5 days after the due date.

(4) *Electronic transmission.* The effective date of a payment electronically transmitted to a public utility is the date of actual receipt of payment.

(6) *Multiple notifications.* When a public utility advises a customer of a balance owed by multiple notices or contacts which contain different due dates, the date on or before which payment is due shall be the latest due date contained in any of the notices.”

52 Pa. Code Section 56.22, provides:

**“§ 56.22. Accrual of late payment charges.**

a) Every public utility subject to this chapter is prohibited from levying or assessing a late charge or penalty on any overdue public utility bill, as defined in § 56.21 (relating to payment), in an amount which exceeds 1.5% interest per month on the overdue balance of the bill. These charges are to be calculated on the overdue portions of the bill only. The interest rate, when annualized, may not exceed 18% simple interest per annum.

(b) An additional charge or fixed fee designed to recover the cost of a subsequent rebilling may not be charged by a regulated public utility.

(c) Late payment charges may not be imposed on disputed estimated bills, unless the estimated bill was required because public utility personnel were willfully denied access to the affected premises to obtain an actual meter reading.”

In addition to the above, the Courts of this Commonwealth have limited how and when the 1.5% financing charge/rate may be imposed in the face of a judgment or lien. Despite PGW’s claims, if the rate of the finance charge must change to 6% from 18%, upon postjudgment, then the filing date of the judgment or lien is needed to calculate the post-judgment interest on the lien debt? Further, only PGW files the liens and knows the details of the debts and charges underlying these debts and charges. Some of the liens have no account numbers or information on the gas usage periods covered by the liens—all of this information is part of verifying the underlying debt. Since 42 Pa.C.S. § 8101 (relating to interest on judgments) limits post-judgment interest to 6% per year unless otherwise provided by another statute, it supersedes the regulation that provides for 18% financing charge or LPCs, per year on amounts owed to a public utility. Equitable Gas Co. v. Wade, 812 A.2d 715 (Pa. Super. 2002). We cannot assume, as PGW might, that it does not matter when the lien was filed on each and every Subject Property; this information creates a 12% difference in the particular financing charged assessed and deemed due on the debt.

Further, statutes and the Commission have set requirements on providing information to customers on bills and charges. The Complainants seek information that will easily and readily explain how PGW created its bills and claims against Complainants. By providing the requested detailed information on the bills and payments for the Customer Accounts, as described herein and in Paragraphs 1 through 16 above, PGW will be complying with the discovery requests, as well as with the spirit and goals of the “plain language” guidelines set forth in 52 Pa. Code §69.251, that permit a customer to obtain billing information in a clear and easily and readily understood manner.

52 Pa. Code Sections 56.23 and 56.24 provide as follows:

**“§ 56.23. Application of partial payments between public utility and other service.**

Payments received by a public utility without written instructions that they be applied to merchandise, appliances, special services, meter testing fees or other nonbasic charges and which are insufficient to pay the balance due for the items plus amounts billed for basic utility service shall first be applied to the basic charges for residential public utility service.

And

**§ 56.24. Application of partial payments among several bills for public utility service.**

In the absence of written instructions, a disputed bill or a payment agreement, payments received by a public utility which are insufficient to pay a balance due both for prior service and for service billed during the current billing period shall first be applied to the balance due for prior service.”

The Statement of Accounts clearly show partial payments or payments that do not pay the full balance on bills that include basic and nonbasic charges and bills that are for prior service and service billed during the current period. Yet, the Statement of Accounts, do not designate how these partial payments are applied. Without this detailed information, the parties and the Commission cannot verify whether PGW has fully, completely, specifically, and properly complied with the tariffs, statutes, rules, and laws governing good service and billing by a utility in this Commonwealth.

52 Pa. Code Section 56.151 provides:

**“§ 56.151. General rule.**

*Upon initiation of a dispute covered by this section, the public utility shall:...*

**(2) Investigate the matter using methods reasonable under the circumstances, which may include telephone or personal conferences, or both, with the customer or occupant.**

(3) Make a diligent attempt to negotiate a reasonable payment agreement if the customer or occupant is eligible for a payment agreement and claims a temporary inability to pay an undisputed bill. Factors which shall be considered in the negotiation of a payment agreement include, but are not limited to:

- (i) The size of the unpaid balance.
- (ii) The ability of the customer to pay.
- (iii) The payment history of the customer.

(iv) The length of time over which the bill accumulated.

**(4) Provide the customer or occupant with the information necessary for an informed judgment, including, but not limited to, relevant portions of tariffs, statements of account and results of meter tests.**

**(5) Within 30 days of the initiation of the dispute, issue its report to the complaining party. The public utility shall inform the complaining party that the report is available upon request.**

**(i) If the complainant is not satisfied with the dispute resolution, the utility company report must be in writing and conform to § 56.152 (relating to contents of the public utility company report). Further, in these instances, the written report shall be sent to the complaining party if requested or if the public utility deems it necessary.**

**(ii) If the complaining party is satisfied with the orally conveyed dispute resolution, the written utility company report may be limited to the information in § 56.152(1), (2) and, when applicable, § 56.152(7)(ii) or (8)(ii).**

**(iii) The information and documents required under this subsection may be electronically provided to the complaining party as long as the complaining party has the ability to accept electronic documents and consents to receiving them electronically.”**

Clearly, the above shows that Section 56.151 provides the criteria for actions required by the utility in the face of a dispute with a customer. The information requested in the Interrogatories seek details on the training, practices, policies, and procedures used to resolve the disputes in the underlying litigation. The Interrogatories seek specific and detailed information (See the Set III, Interrogatories attached at Exhibit “A”/CD #1), which would permit an understanding and a determination of whether PGW satisfied the dictates of Section 56.151 and other statutes with respect to the disputes at the heart of this litigation. PGW’s refusal to specifically, fully, and completely provide this information is an attempt to frustrate the discovery process and to prevent a full and thorough hearing on the bills and PGW’s actions in providing “good service” in these consolidated cases. Accordingly, Complainants respectfully request that the Commission compel Respondent to fully, completely, and specifically answer the Interrogatories.

### III. CONCLUSION

WHEREFORE, Complainants respectfully request Your Honor and the Commission:

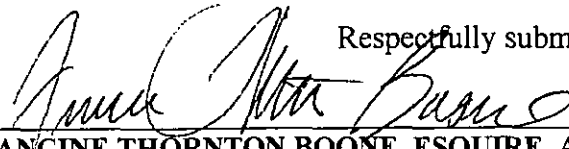
- (1) *grant this Motion to Compel;*
- (2) *compel PGW to answer Set III, Interrogatories Nos. ##2-3 (as limited herein), 4-11, 12(b-d), 13, 14, 16, 17, 19-14, and 26-28 (“Subject Interrogatories”)*  
*and produce full and complete answers and to provide all information requested in Set III, Interrogatory, Nos. ##2-3 (as limited herein), 4-11, 12(b-d), 13, 14, 16, 17, 19-14, and 26-28, within five (5) days of the date of the Commission’s Order on the same; and*
- (3) *grant any other relief deemed appropriate, including, but not limited to:*
  - a. *Striking all PGW bills, demands for payments, charges, late payment charges, interest charges, 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 Motion; and*
  - b. *Barring 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, in contradiction of Complainants’ case in chief or in PGW’s defense, that*

requires the use of, relates to or refers to the documents, materials,  
and/or responses sought, but not provided by PGW in response to,  
Interrogatories Set III /Subject Interrogatories and

- c. Imposing, any and all other appropriate sanctions for failing to fully  
and completely answer the Subject Interrogatories.

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](mailto:Booneft@aol.com); T: 215-260-4562  
Attorney for Complainants

**EXHIBIT "A": CD #1**

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

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

**EXHIBIT "B"**

**This CD and Exhibit "B" contain the following set 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 AND THIRD SETS 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 To Compel Responses to Set III Discovery Requests** and original **"Notice to Plead"** for the **Motion for Compel with Exhibits "A" and "B"** and the original **"Notice to Plead"** for the **Motion to Compel**, 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, 4<sup>th</sup> 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](mailto:Booneft@aol.com)  
Facsimile Number: 215-938-7613  
Pennsylvania Attorney I.D. No.—45118  
**ATTORNEY FOR COMPLAINANTS**

**RECEIVED**

JUL 30 2014

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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

In the Matter of:

Docket No. C-2012-2304167--SBG Management Services, Inc. (Elrac) v. Philadelphia Gas Works  
Docket No. C-2012-2304183--SBG Management Services, Inc. v. Philadelphia Gas Works  
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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 to Compel, 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 to Compel, 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 on 7/28/14, 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 to Compel 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](mailto:Booneft@aol.com)  
Facsimile Number: 215-938-7613  
Pennsylvania Attorney I.D. No.—45118

**ATTORNEY FOR COMPLAINANTS**

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email: [Booneft@aol.com](mailto:Booneft@aol.com)  
Attorney I.D. No. 45118

Attorney for Complainants

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**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  
*Complainant*

V.

PHILADELPHIA GAS WORKS  
*Respondent*

SBG MANAGEMENT SERVICES, INC./  
FERN ROCK REALTY  
*Complainant*

V.

PHILADELPHIA GAS WORKS  
*Respondent*

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

V.

PHILADELPHIA GAS WORKS  
*Respondent*

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: DOCKET NO. C-2012-2334253  
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--- 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 to Compel Respondent's Responses to Complainants' Set III Discovery Requests, 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](mailto:Booneft@aol.com); T: 215-260-4562

Attorney for Complainants

FedEx Package Express US Airbill 8063 1205 4837

1 From Please print and print hard. Date 7/30/14 Sender's FedEx Account Number 2393-0508-3 Sender's Name Francine Boone, Esq. Phone 215 938-6665 Company SBO MANAGEMENT Address 1095 RYDAL RD 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. Harrisburg PA ZIP 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. Does this shipment contain dangerous goods?

7 Payment \$/lb. Sender, Recipient, Third Party, Credit Card, Cash/Check. Total Packages 1, Total Weight LTR, Total Declared Value \$.

PULL AND RETURN THIS COPY BEFORE AFFIXING TO THE PACKAGE. NO POUCH HEREIN.

FedEx Package Express US Airbill 8063 1205 4848

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

2 Your Internal Billing Reference. 3 To Recipient's Name JUDGE FRANDA VERO Phone Company PA PUC Address SUITE 4063 801 MARKET ST Philadelphia PA ZIP 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. Does this shipment contain dangerous goods?

7 Payment \$/lb. Sender, Recipient, Third Party, Credit Card, Cash/Check. Total Packages 1, Total Weight LTR, Total Declared Value \$.

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FedEx Package Express US Airbill 8063 1205 4826

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

2 Your Internal Billing Reference. 3 To Recipient's Name LAURETO FARINAS Phone Company Philadelphia Gas Works Address 800 W Montgomery Ave 4th Floor Philadelphia PA ZIP 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.

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