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RECEIVED

MAR 24 2010

**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

March 24, 2010

VIA FEDERAL EXPRESS

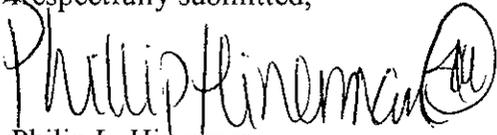
James McNulty, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: PA Public Utility Commission v. Philadelphia Gas Works
Docket Nos. R-2009-21398884 and P-2009-2097639**

Dear Secretary McNulty:

On behalf of Philadelphia Housing Authority ("PHA"), enclosed for filing please find an original and three copies of its Motion to Dismiss the Objections of Philadelphia Gas Works ("PGW") to PHA's first set of Interrogatories and to Compel PGW's Responses to all outstanding Discovery Requests of PHA. Copies have been served in accordance with the attached Certificate of Service.

Respectfully submitted,


Philip L. Hinerman

PLH:mn
Enclosure

cc: Certificate of Service (w/encl.)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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MAR 24 2010

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

v.

PHILADELPHIA GAS WORKS

Docket No. R-2009-2139884
P-2009-2097639

**ORDER GRANTING MOTION
OF PHILADELPHIA HOUSING
AUTHORITY TO DISMISS
OBJECTIONS AND COMPEL
DISCOVERY RESPONSES
FROM PHILADELPHIA GAS WORKS**

This matter, having been brought before the Pennsylvania Public Utility Commission (the "Commission") on a Motion filed by Philip L. Hinerman, Esquire of Fox Rothschild LLP, attorney for Philadelphia Housing Authority ("PHA"), to dismiss the Objections of Philadelphia Gas Works ("PGW") to PHA's first set of Interrogatories ("Discovery Requests") and to compel PGW's Responses to all outstanding Discovery Requests of PHA, and the Commission having considered the papers filed and the arguments made by counsel if any,

It is, on this _____ day of _____, 2010

ORDERED AND ADJUDGED as follows:

1. The Motion of PHA to Dismiss Objections and Compel Discovery Response I-1, I-8, I-11 and I-12 is hereby GRANTED.
2. PGW's Objection to PHA's Discovery Request I-1 is DISMISSED; and
3. PGW is ordered to respond fully and completely to Interrogatories I-1, I-8, I-11 and I-12 within ten (10) days of this Order or suffer appropriate sanctions to be imposed by the Commission.

Charles E. Rainey, Jr., A.L.J.

- Motion Opposed
 Motion Unopposed

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

MAR 24 2010

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	Docket No. R-2009-2139884
v.	:	P-2009-2097639
PHILADELPHIA GAS WORKS	:	MOTION OF PHILADELPHIA HOUSING AUTHORITY TO DISMISS OBJECTIONS AND COMPEL DISCOVERY RESPONSES FROM PHILADELPHIA GAS WORKS

Philadelphia Housing Authority ("PHA"), submits this motion requesting the Commission to dismiss the Objections of Philadelphia Gas Works ("PGW") to PHA's first set of Interrogatories ("Discovery Requests") and compel PGW's Responses to Interrogatories I-1, I-8, I-11 and I-12 in Discovery Requests of PHA. In specific support of this motion, PHA states as follows:

1. On February 17, 2010, PHA served its Discovery Requests upon PGW. A true and correct copy of the transmittal e-mail to PGW is attached hereto as Exhibit "A."
2. PGW's answers and/or objections, if any, to PHA's Discovery Requests were due on or before February 27, 2010.
3. On February 23, 2010, PGW orally notified PHA of its intention to object to two of PHA's Discovery Requests. As a result, counsel for PHA and counsel for PGW have made a good-faith effort to address and resolve PGW's Objections at various points in time since that time but have been unable to do so.
4. On February 25, PGW formally filed its first Objection to PHA's Interrogatories Nos. I-1 and I-10 (the "Objections"). See Philadelphia Gas Works' Objection to Philadelphia Housing Authority's Interrogatories Nos. I-1 and I-10, attached hereto as Exhibit "B." PHA

received the PGW's formal written Objections via first-class mail on March 9, 2010. This receipt was prior to receipt of the PUC's Order regarding discovery.

5. PHA I-1 requested identification of Municipal Rate customers and related information.

6. On March 19, 2010, PGW filed its formal response to PHA Interrogatories, including an alternative to Question 1. Furthermore, PGW filed an answer to I-8, I-11 and I-12 which are unclear.

7. Efforts have been ongoing to reach a compromise on objections.

8. The Discovery Requests are relevant to the instant rate proceeding because PHA requires a way by which it can ensure that the gas billing rates and tariff structure of PGW are set up properly.

9. The documents and information requested are solely within the knowledge and control of PGW.

10. PGW objected to Discovery Request I-1 based in part, on the allegation that it seeks "private customer information" that PGW is prohibited from releasing to a third party without prior consent of the customer pursuant to 52 Pa. Code § 62.78.

11. This Interrogatory requests information about what customers are being billed the "Municipal Rate." It is PHA's understanding that these customers are public entities – not "private customers".

12. PGW's Objections are also based on an internal PGW policy to prohibit "unauthorized access" of customer account records, not Pennsylvania law and on 52 Pa. Code §62.78.

13. However, there is no “unauthorized” access to the records; PHA simply seeks basic information as to the entities that participate in municipal rates offered by PGW so that it can determine the criteria upon which the rates are issued.

14. Furthermore, question PHA I-8 states that PHA’s rate class was created due to “different attributes of service” yet fails to identify what these attributes are.

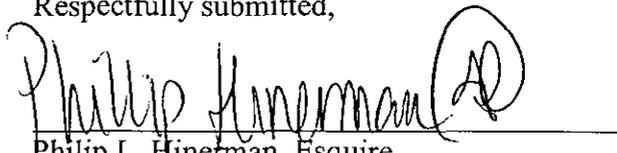
15. PHA I-11 & PHA I-12 also cross reference PHA I-8 and therefore are also insufficient responses.

16. The response to PHA I-8 is vague. PHA requests to know what attributes of service are different.

WHEREFORE, PHA respectfully requests that the Commission grant its Motion and enter an Order as follows:

- a. Dismissing PGW’s Objections to PHA’s Discovery Request I-8, and
- b. Compelling PGW to respond fully and completely to PHA I-1, I-8, I-11 and I-12 within ten (10) days or suffer appropriate sanctions to be imposed by the Commission.

Respectfully submitted,



Philip L. Hinerman, Esquire
FOX ROTHSCHILD LLP

Attorneys for Philadelphia Housing Authority

Dated: March 24, 2010

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

EXHIBIT "A"

RECEIVED

MAR 24 2010

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Miller, Benika G.

From: Miller, Benika G.
Sent: Tuesday, February 23, 2010 12:34 PM
To: 'Gregory.Stunder@pgworks.com'
Cc: Guldin, Jill A.; Hinerman, Philip
Subject: PHA Discovery Issues
Attachments: PH1-#2473819-v1-PUC_V__PGW_-_INTERROGATORIES.DOC

Good Afternoon Mr. Stunder,

As per your request, please see the attached document of PHA's first set of Interrogatories. Let me know if you have any questions or need anything additional with regards to this matter.

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3/24/2010

EXHIBIT "B"

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MAR 24 2010

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



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February 25, 2010

Via Hand Delivery

James McNulty, Secretary
PA Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Re: PA Public Utility Commission v. Philadelphia Gas Works
Docket Nos. R-2009-2139884 and P-2009-2097639

Dear Secretary McNulty:

On behalf of Philadelphia Gas Works ("PGW") enclosed for filing please find an original and three copies of its Objections to Philadelphia Housing Authority's Interrogatories Nos. I-1 and I-10 with regard to the above-referenced matter. Copies have been served in accordance with the attached Certificate of Service.

Very truly yours,

Carl Shultz

CS/lww

Enclosure

cc: Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of PGW's Objections to Philadelphia Housing Authority Interrogatories, Set I upon the participants listed below in accordance with the requirements of § 1.54 (relating to service by a participant).

VIA E-MAIL &/OR FIRST CLASS MAIL

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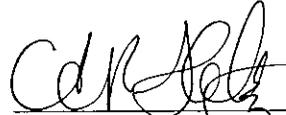
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Carl Shultz, Esq.

Dated: February 25, 2010

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
 : Docket No. R-2009-2139884
 v. :
 :
 Philadelphia Gas Works :
 :
 Philadelphia Gas Works' Revised Petition :
 for Approval of Energy Conservation and : Docket No. P-2009-2097639
 Demand Side Management Plan :

**PHILADELPHIA GAS WORKS' OBJECTION TO
PHILADELPHIA HOUSING AUTHORITY'S
INTERROGATORIES NOS. I-1 AND I-10**

Philadelphia Gas Works ("PGW") hereby objects to the Philadelphia Housing Authority's ("PHA"), Interrogatories Set I, Nos. 1 and 10. (PGW has previously orally communicated its intention to object to these Interrogatories).

PHA I-1:

PHA-I-1 states as follows:

Please provide all documents explaining the origin and continuation of the current tariff structure involving rates to PHA and its residents, including, but not limited to determinations as to what billing rates and structure, will be used for Residential and Commercial GS rate, the PHA rate and the Municipal MS Rate, including, but not limited to:

- (a) a list of all customers that receive the Municipal MS Rate and the basis of the determination of eligibility for that rate class.
- (b) a list of all customers that are billed at the PHA rate and the basis of the determination of eligibility for that rate class.
- (c) a list of all customers receiving the Municipal MS Rate at locations in which any portion of billing location use is residential.

OBJECTION:

PGW objects to parts (a) – (c) of PHA-I-1 on the following grounds:

(a) PHA-I-1(a) – (c) requests information which is confidential and privileged. Individual customer information is prohibited from release to a third party without the prior consent of the customer. 52 Pa. Code § 62.78. This is consistent with the protections afforded to customers under Pennsylvania’s Right to Know Law (or Open Records Law), 65 P.S. §§ 67.101 *et seq.*¹ Additionally, it is PGW’s internal policy to prohibit disclosure of customer account records in order to protect the Company’s customers.²

(b) PHA-I-1(a) – (c) seeks information which is neither relevant to any issue in this proceeding (or is likely to arise in the proceeding) and is not reasonably calculated to lead to the discovery of admissible information.

Notwithstanding the foregoing, it should be noted that, PGW is currently working cooperatively with PHA to discuss an alternative response to PHA I-1(b).

¹ See PGW’s Open Records Policy, which is available at: <https://www.pgworks.com/index.aspx?NID=332>

² *Id.* See also PGW’s Human Resources Department Personnel Policy And Procedures – Unauthorized Disclosure Of Company Information – Number #003-15, which states in part: “The policy of the Philadelphia Gas Works is to prohibit the unauthorized access, modification, misuse, disclosure, or destruction of confidential company records and corporate information. The Company will take measures to protect all information to assure security, reliability, integrity, and authorized availability of information. ... The purpose of this policy is to protect the Company, the employees, and the customers of the Philadelphia Gas Works from the willful unauthorized access, disclosure or dissemination of the information which includes, but is not limited to, personnel data, financial statements, customer account records, operational procedures, legal matters, descriptions of systems and applications, and other information, the disclosure of which may have an adverse effect upon PGW, its customers, and/or employees.”

PHA I-10:

PHA I-10 states as follows:

Please identify all PHA residents identified in the above Interrogatory and note which residents participate in the Low-Income Customer Responsibility Plan and the Low-Income Home Energy Assistance Program.

OBJECTION:

PGW objects to PHA-I-10 on the following grounds:

- (a) The interrogatory requests information which is confidential and privileged.

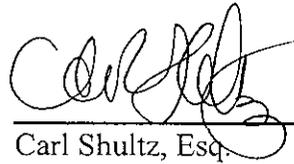
PGW hereby incorporates by reference the discussion set forth in its Part (a) of its objection to PHA-I-1(a) – (c), above.

(b) The interrogatory requests information which is neither relevant to any issue in the proceeding (or which is likely to arise in the proceeding) and is not reasonably calculated to lead to the discovery of admissible information.

(c) The interrogatory would require PGW to conduct a burdensome and expensive special study.

(d) The interrogatory is unclear and confusing. PHA-I-10 refers to the prior PHA interrogatory. The preceding Interrogatory (PHA-I-9) requests “reasons for not applying the MS rate to PHA.” It is, therefore, not clear which “above Interrogatory” is being referenced.

Respectfully submitted,



Carl Shultz, Esq.
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Of Counsel:

Gregory Stunder, Esq.
Philadelphia Gas Works
800 West Montgomery Ave.
Philadelphia, PA 19122

Dated: February 25, 2010

CERTIFICATE OF SERVICE

I hereby certify that on this date, a true and correct copy of the Motion of Philadelphia Housing Authority ("PHA") to dismiss the Objections of Philadelphia Gas Works ("PGW") to PHA's first set of Interrogatories ("Discovery Requests") and Compel PGW's Responses to all outstanding Discovery Requests of PHA, dated March 24, 2010, has been served upon the participants below in accordance with the requirements of § 1.54 (relating to service by a participant):

VIA FEDERAL EXPRESS

Honorable Charles E. Rainey, Jr.
Office of Administrative Law Judge
Philadelphia District Office
Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
801 Market Street
Philadelphia, PA 19107

VIA E-MAIL AND/OR FIRST CLASS MAIL

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MAR 24 2010

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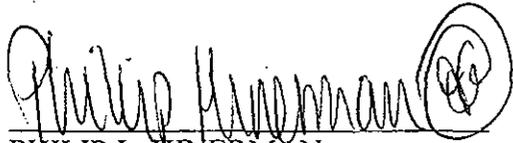
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A handwritten signature in cursive script that reads "Philip L. Finerman". The signature is written in black ink and is positioned above a horizontal line. To the right of the signature, there is a circular stamp or mark containing some illegible text.

PHILIP L. FINERMAN

Dated: March _____, 2010