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October 9, 2018

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

VIA ELECTRONIC FILING

Re: Pennsylvania Public Utility Commission, *et al.* v. Pittsburgh Water and Sewer Authority; Docket No. R-2018-3002645; C-2018-3004864; R-2018-3002647

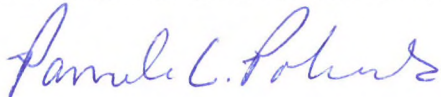
Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Answer of Pittsburgh Water and Sewer Authority to Peoples Natural Gas Company LLC's Motion to Dismiss Objections and Compel Responses to Discovery in the above-referenced docket.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served with a copy of this document. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By 

Pamela C. Polacek

Counsel to the Pittsburgh Water and Sewer Authority

Enclosure

c: Administrative Law Judge Mark A. Hoyer
Administrative Law Judge Conrad A. Johnson
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Counsel to the Pittsburgh Water and Sewer
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Dated this 9th day of October, 2018, at Harrisburg, Pennsylvania.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, <i>et al.</i>	:	R-2018-3002645
v.	:	C-2018-3004864
Pittsburgh Water and Sewer Authority – Water	:	
	:	
and	:	
	:	
Pennsylvania Public Utility Commission, <i>et al.</i>	:	R-2018-3002647
v.	:	
Pittsburgh Water and Sewer Authority – Wastewater	:	

**ANSWER OF PITTSBURGH WATER AND SEWER AUTHORITY TO PEOPLES
NATURAL GAS COMPANY LLC'S MOTION TO DISMISS OBJECTIONS AND
COMPEL ANSWERS TO DISCOVERY**

Pursuant to 52 Pa. Code § 5.342(g)(1) of the Pennsylvania Public Utility Commission's ("PUC" or "Commission") Regulations, and the July 20, 2018, Prehearing Order in the above-docketed proceeding issued by Administrative Law Judges ("ALJs") Mark A. Hoyer and Conrad A. Johnson, Pittsburgh Water and Sewer Authority ("PWSA") hereby submits this Answer to the October 5, 2018,¹ Motion of Peoples Natural Gas Company LLC ("Peoples") to Dismiss Objections and Compel Answers to Discovery ("Motion").

For the reasons set forth below, PWSA respectfully requests that the ALJs (1) deny Peoples' Motion; (2) sustain PWSA's Objections to the Interrogatories and Requests for Production of Documents Set I (excluding Interrogatory #6); (3) hold that PWSA does not need to respond to the objected Interrogatories and Requests for Production of Documents in Set I (other than

¹ Pursuant to the Prehearing Order, parties to this proceeding typically have three (3) calendar days of service of written objections to file an answer to a motion to dismiss objections and/or direct the answers of interrogatories. As such, this Answer would have been due on October 8, 2018 – a state holiday. Pursuant to 52 Pa. Code § 1.12, if the deadline for a filing falls on a state holiday, then the deadline shifts to the next day which is neither a Saturday, Sunday, or legal holiday in Pennsylvania. Accordingly, this Answer is timely filed on October 9, 2018.

Interrogatory #6); and (4) grant PWSA such other relief as is just and reasonable under the circumstances. In support of this Answer, PWSA avers as follows:²

I. BACKGROUND

1. On July 2, 2018, PWSA filed Tariff Water – Pa. P.U.C. No. 1 (the "Water Tariff") at Docket No. R-2018-3002645 and Tariff Wastewater – Pa. P.U.C. No. 1 (the "Wastewater Tariff") at Docket No. R-2018-3002647. The Water Tariff and Wastewater Tariff collectively represent a request for a general increase in rates of approximately \$27.0 million per year, or 17.1% on a total revenue basis over the amount of annual revenues at present rates. The proposed rates were initially scheduled to take effect on August 31, 2018, but the PUC issued an Order on July 12, 2018, that suspended the proposed rate increase by operation of law until March 31, 2019, unless permitted to take effect at an earlier time by Commission Order.

2. PWSA made a motion to consolidate the Water Tariff and Wastewater Tariff proceedings, which was granted by the Prehearing Order. That Prehearing Order additionally granted PWSA's request to use a combined revenue requirement pursuant to 66 Pa. C.S. § 1311(c). In addition, the Prehearing Order permitted PWSA to use a fully projected future test year beginning on January 1, 2019.

3. On September 21, 2018, Peoples filed a Complaint against the Water Tariff at PUC Docket No. C-2018-3004864.

4. On September 27, 2018, Peoples served its "Interrogatories and Requests for Production of Documents Propounded by Peoples Natural Gas Company LLC to Pittsburgh Water and Sewer Authority – Set I" (hereinafter referred to as "Set I") upon PWSA. A copy of that discovery was appended to Peoples' Motion as **Appendix A**.

² Any of Peoples' averments in support of its Motion that are not expressly addressed by PWSA herein are denied.

5. Pursuant to the Prehearing Order, on October 1, 2018, counsel for PWSA telephoned counsel for Peoples to object orally to Set I. Counsel were unable to resolve the dispute through informal negotiations.

6. On October 2, 2018, PWSA served its written objections to Set I. A copy of those objections was appended to Peoples' Motion as **Appendix B**.

7. On October 4, 2018, PWSA filed an Answer to Peoples' Complaint and Preliminary Objections to Peoples' Complaint at PUC Docket Nos. R-2018-3002645 and C-2018-3004864.

8. On October 5, 2018, Peoples filed an Amended Complaint against the Water Tariff and Wastewater Tariff at Docket No. C-2018-3004864. Peoples' amendments to its complaint reflect, among other things, allegations that Peoples is a wastewater customer of PWSA and is a tenant receiving water service from PWSA.³

9. For more than two years, Peoples has been promoting "partnership strategies" with PWSA whereby Peoples would, depending on the specific strategy, either: a) purchase and privatize PWSA; b) install replacement water facilities in PWSA's service territory to gradually gain ownership of the water system; c) install redundant facilities to compete with PWSA; d) construct a new water treatment facility on the Allegheny River to compete with PWSA for wholesale water service to various entities currently served by PWSA; and/or e) take over various customer billing, service, construction, administration, operations, and maintenance activities at PWSA.

10. In fact, when Peoples submitted a response to PWSA's Request for Expressions of Interest for Providing Billing, Call Center, Metering and Collections Services in July 2017,

³ PWSA will be filing an Answer and Preliminary Objections to the Amended Complaint challenging Peoples' standing to participate in this proceeding. Nothing herein should be construed as a waiver of any arguments related to those upcoming filings.

Peoples indicated that the information requested in Interrogatories 1-8, 10-18, and 20-26 was needed for it to provide a comprehensive technical cost proposal.

11. Peoples' promotion of its "partnership strategies" for PWSA with local politicians and in the media (including social media) serves as the backdrop for PWSA's objections below to providing certain interrogatory responses in Set I that appear to be designed to further Peoples' "partnership" competitive efforts, rather than any purported interest in this proceeding as a sewer customer and/or potential indirect user of water services.

II. ARGUMENT IN OPPOSITION TO MOTION TO COMPEL

A. GENERAL – PWSA SHOULD NOT BE COMPELLED TO ANSWER ALL INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS IN SET I (EXCEPT INTERROGATORY #6).

12. PWSA's Objections generally object to the entirety of Peoples' Set I discovery and specifically object to 13 of the 30 Interrogatories and Requests for Production of Documents ("Requests") delineated in Set I. Despite the clear justifications provided for such objections, Peoples avers that all of PWSA's objections, whether stated in PWSA's "Summary of Objections" section of its Objections, or the specific objections that follow, should be overruled. Peoples further requests that PWSA should be compelled to answer all Interrogatories and Requests in Set I (except Interrogatory #6). As discussed further below, PWSA will answer the Interrogatories and Requests to which it did not specifically object. For the remaining discovery questions in Set I to which PWSA specifically objected, Peoples lacks sufficient basis to compel PWSA to answer them.

B. THE OBJECTIONS RAISED IN PWSA'S "SUMMARY OF OBJECTIONS" SHOULD BE SUSTAINED.

13. Peoples makes several unfounded allegations in support of its request for dismissal of PWSA's objections in its Summary of Objections.

14. First, Peoples avers that it is unclear why PWSA should be excused from answering every interrogatory. Peoples alleges that it is untrue that all or even a majority of the interrogatories and requests for production in Set I seek competitively-sensitive information. Motion, p. 5. Peoples alleges that certain of those interrogatories are "quite common in rate cases" and do not require disclosure of confidential or proprietary information. *Id.* Peoples further indicates that to the extent confidential or proprietary information is requested, such information is adequately protected under the Protective Order and Non-Disclosure Certificates entered into this case. *Id.* However, implying that certain types of interrogatories are commonly asked in other cases does not establish Peoples' entitlement to obtain that information. As noted in PWSA's Answer to Peoples' Complaint, and PWSA's Preliminary Objections to Peoples' Complaint,⁴ scope of participation is tied to standing.

15. In order to participate in this ratemaking proceeding beyond matters relating to PWSA's sewer services, Peoples must demonstrate that it has standing. Specifically, Peoples must show that it has an interest in the proceeding that is substantial, direct, and immediate in the present ratemaking proceeding. *Wm. Penn Parking Garage, Inc. v. Pittsburgh*, 464 Pa. 168, 346 A.2d 269, 280 (1975) (plurality); accord *Franklin Twp. v. Pennsylvania Dept. of Env'tl. Res.*, 499 Pa. 162, 452 A.2d 718 (1982). To be "substantial," Peoples must show that its interest in the case is "in the resolution of the challenge which 'surpasses the common interest of all citizens in procuring obedience to the law.'" *Pittsburgh Palisades Park, LLC v. Commonwealth of Pennsylvania*, 585 Pa. 196, 888 A.2d 655, 660 (2005). To be "direct," Peoples must show "that the matter complained of 'caused harm to the party's interest.'" *Id.* The harm alleged by Peoples must surpass "mere

⁴ PWSA is in the process of preparing an Amended Answer and Amended Preliminary Objections to respond to Peoples' October 5, 2018, Amended Complaint. PWSA will be reiterating its objections to Peoples participation, especially to any arguments or issues that are designed primarily to furthering Peoples' competitive business interest in advancing its "partnership strategies."

conjecture about possible future harm." *Joint Application of Columbia Water Co. and Marietta Gravity Water Co.*, 2012 Pa. PUC LEXIS 1147, at *3 (Order entered July 20, 2012) (citing *Official Court Reporters of the Court of Common Pleas of Philadelphia Cnty. v. Pennsylvania Labor Relations Bd.*, 502 Pa. 518, 467 A.2d 311 (1983)). Likewise, the Commission has repeatedly held that competitive interests "are too speculative and conjectural to confer a direct interest sufficient to confer standing." *Id.* at *18; *see also*, *Joint Application of Aqua Pennsylvania and Country Club Gardens Water Co.*, 2006 Pa. PUC LEXIS 706, at *14 (Order entered Apr. 7, 2006) (Municipal authorities dismissed from proceeding because competitive interests are "not enough to confer standing" and municipal authorities were not customers of the public utility); *Municipal Auth. of the Borough of West View v. Pennsylvania-American Water Co.*, 2010 Pa. PUC LEXIS 322, at *6 (Order entered July 16, 2010) (Municipal authority dismissed from proceeding because its competitive interest "d[id] not amount to a grievance that confers standing"). Lastly, an interest is "immediate," only if it shares a causal connection that is neither remote nor speculative. *Commonwealth of Pennsylvania v. Donahue*, 626 Pa. 437, 98 A.3d 1223, 1229 (2014); *Pittsburgh Palisades Park, LLC v. Commonwealth of Pennsylvania*, 585 Pa. 196, 888 A.2d 655, 659-60 (2005).

16. For the first time, in its Motion and Amended Complaint, Peoples asserts standing with regard to the Water Tariff on the basis that it consumes water services at two different locations from PWSA. Specifically, Peoples states that it is a tenant at 225 North Shore Drive, Pittsburgh, Pennsylvania and a sublessee at 375 North Shore Drive, Pittsburgh, Pennsylvania. Motion, p. 4. Peoples avers that it is contractually obligated to "reimburse" its landlord at the 225 North Shore Drive location for the cost of utilities. *Id.* at 5. Likewise, Peoples states that the cost of water service is included in its rent at the 375 North Shore Drive location. *Id.* 52 Pa. Code §

65.1 defines the term "customer" as "[a] party contracting with a public utility for service." Peoples, therefore, is not a water service customer of PWSA, but rather is attempting to assert the rights of its landlords in this ratemaking proceeding. Peoples, however, "may not claim standing to vindicate the rights of a third party who has the opportunity to be heard." *Mid-Atlantic Power Supply Assoc. v. Pennsylvania Public Utility Comm'n*, 746 A.2d 1196, 1200 (Pa. Commw. 2000) (citing *Pennsylvania Dental Assoc. v. Commonwealth of Pennsylvania, Dept. of Health*, 75 Pa. Commw. 7, 461 A.2d 329 (Pa. Commw. 1983)). Peoples also alleges standing under the vague assertion that "Peoples is affected by the poor quality of water service provided by PWSA." Motion, p. 6. This new argument, raised by Peoples for the first time in its Motion and Amended Complaint, cites boil water advisories due to water main breaks in PWSA's system. Motion, p. 6. Peoples' concerns as a tenant-recipient of water services represent the same general interests that could be asserted by any of PWSA's actual customers. Peoples, however, has failed to distinguish its interests relating to water services from those of PWSA's actual customers. Accepting Peoples' arguments regarding standing, therefore, would require the Commission to accept similar claims by any person that consumes water in PWSA's territory as a customer of any restaurant, building, or other establishment. To avoid this slippery slope, Peoples' renewed "impact" and "affect" arguments must fail, as Peoples is merely asserting "'the common interest of all citizens in procuring obedience to the law'" which cannot serve as the basis for standing. *Pittsburgh Palisades Park, LLC v. Commonwealth of Pennsylvania*, 585 Pa. 196, 888 A.2d 655, 660 (2005). Consistent with the aforementioned precedent, it is PWSA's belief that Peoples' standing in this case should be limited to its status as a sewer service customer of PWSA.

17. Notwithstanding the above, assuming *arguendo* that Peoples is a water consumer of PWSA, Peoples' participation in this proceeding is limited to customer-oriented interests and

does not extend to any competitive concerns. *Pennsylvania Public Utility Comm’n, et al. v. Pennsylvania Gas & Water Co.*, 1995 Pa. PUC LEXIS 29, at *11-12 (Order entered Jan. 11, 1995) (a competitor-customer of a utility had standing to participate only as a customer and its biased interests required the Commission to weigh the credibility of its participation); *see also Pennsylvania Petroleum Assoc. v. Pennsylvania Power & Light Co.*, 32 Pa. Commw. 19, 377 A.2d 1270, 1273 (Pa. Commw. 1977) (association’s appeal dismissed where its predominant interest was a competitive interest), *aff’d*, *Pennsylvania Petroleum Assoc. v. Pennsylvania Power & Light Co.*, 488 Pa. 308, 412 A.2d 522, 311 (1980) (affirming the lower court’s ruling, the Supreme Court reasoned that the protection of competitive interests was “not an objective of the regulatory scheme.”) In light of the foregoing, many of Peoples' questions in its Set I Interrogatories are impermissible due to a lack of standing and merely represent attempts to gain leverage over PWSA in order for Peoples to further pursue its proposed "partnership" with PWSA. First, Peoples' participation should not encompass questions that are common to all PWSA customers and service recipients which are already adequately represented by the State Advocates. Peoples' Amended Complaint and Motion include several references to the quality of PWSA's water service and boil water advisories. Boil water advisories are not uncommon for a water utility such as PWSA and the State Advocates are better equipped to ensure that the public interest is well represented with regard to public safety and health. The State Advocates, as statutory creations, are granted greater latitude to participate in ratemaking proceedings than an individual recipient of utility services. Whereas allowing 80,000 customers to participate in this ratemaking proceeding would be impracticable, Peoples' participation must not result in unduly duplicative advocacy.

18. Second, Peoples' interrogatories in Set I and the information requested therein do not reflect Peoples' limited interest in the present ratemaking proceeding as a sewer service

customer and potential indirect recipient of PWSA's water services. In its Amended Complaint, Peoples asserts that it "has standing to participate in this proceeding – even if it has a competitive interest in the proceeding." Amended Compl. ¶ 13. Additionally, as noted in PWSA's Preliminary Objections, Peoples President Morgan O'Brien is quoted as saying: "We're not trying to pick a fight over what the rates will be. We're asking the PUC to engage with us and PWSA to look at the issue, at whether there is a business case to partner." Objections, p. 2. Peoples' real interest in this ratemaking proceeding, therefore, is abundantly clear and solely relates to Peoples' proposed "partnership" with PWSA. Peoples' interrogatories relating to PWSA's water services, therefore, are only meant to secure competitively sensitive intelligence from PWSA. This competitive interest, however, is insufficient to confer standing. *See Joint Application of Columbia Water Co. and Marietta Gravity Water Co.*, 2012 Pa. PUC LEXIS 1147, at *18 (Order entered July 20, 2012) (citing *Official Court Reporters of the Court of Common Pleas of Philadelphia Cnty. v. Pennsylvania Labor Relations Bd.*, 502 Pa. 518, 467 A.2d 311 (1983)); *Joint Application of Aqua Pennsylvania and Country Club Gardens Water Co.*, 2006 Pa. PUC LEXIS 706, at *14 (Order entered Apr. 7, 2006); *Municipal Auth. of the Borough of West View v. Pennsylvania-American Water Co.*, 2010 Pa. PUC LEXIS 322, at *6 (Order entered July 16, 2010). Peoples' participation in this proceeding, therefore, must reflect its only cognizable interests as a sewer service customer and as a potential indirect recipient of PWSA's water services.

19. As noted above, typically the State Advocates (*i.e.*, PUC's Bureau of Investigation and Enforcement, Office of Consumer Advocate, or Office of Small Business Advocate) are able to ask the types of questions included in Set I because they have a much wider scope of participation than an individual customer. In PWSA's rate case, the State Advocates have already

completed their discovery. Peoples entered the case late and must rely on what has already been provided.

20. Further, Peoples' also alleges that despite its late entry into PWSA's rate proceeding, PWSA "cannot simply refuse to answer all of Peoples' interrogatories on the grounds that PWSA has previously answered many interrogatories from other parties." Peoples misses the larger point. As evidenced in PWSA's Objections to Peoples' Set I discovery, although PWSA generally objects to the service of this discovery at such a late time (*i.e.*, after direct testimony has been served and parties' cases in chief have been raised therein), PWSA only specifically objected to certain interrogatories (addressed in Section III, *infra*). PWSA will make every effort to provide Peoples with responses to those questions which were answered previously and to which PWSA did not specifically object. However, as noted above, Peoples' standing is limited in this proceeding to customer-specific issues relating to sewer services and issues relating to Peoples' alleged indirect receipt of water services. Peoples does not enjoy the broad scope of standing provided to State Advocates. Accordingly, PWSA properly objected to providing responses to interrogatories issued by Peoples which requested information that lay outside the scope of Peoples' standing.

21. Finally, Peoples has already submitted its direct testimony in the above-captioned proceeding. It cannot supplement that analysis in subsequent testimony. 52 Pa. Code § 5.243(e) (Indicating that a party will not be permitted to introduce evidence during a rebuttal phase which: (1) is repetitive; (2) should have been included in the party's case-in-chief; (3) substantially varies from the party's case-in-chief). Peoples' Set I discovery to PWSA is being sought for other purposes, namely, competitive interests. As indicated in PWSA's Objections, Peoples' Set I discovery is sought in bad faith to pursue competitively-sensitive information and data to further Peoples' announced "partnership" plans to replace PWSA's management and operations with

Peoples-affiliated management and operations. Peoples' Set I discovery, therefore, is only meant to benefit Peoples' competitive interests, rather than aiding in the development and resolution of this ratemaking proceeding. In fact, in a recent article published in the *Pittsburgh Post-Gazette*, Peoples President Morgan O'Brien is quoted as saying: "We're not trying to pick a fight over what the rates will be. We're asking the PUC to engage with us and PWSA to look at the issue, at whether there is a business case to partner." Objections, p. 2. PWSA's first rate case under PUC jurisdiction is not an appropriate forum for Peoples to pursue this competitive endeavor. Notably, Peoples does not refute this claim in its Motion.

III. SPECIFIC OBJECTIONS

A. PEOPLES to PWSA-I-1 (referenced herein as "Interrogatory #1") indicates:

Please provide an inventory of your CIS, MIS, and GIS systems and associated costs (i.e. billing, call center, IT, metering, etc.).

22. PWSA objected to Interrogatory #1 pursuant to 52 Pa. Code § 5.321(c) on the basis that this interrogatory (1) requests information that is irrelevant and beyond the scope of this ratemaking proceeding for a cash-flow utility and (2) requests information beyond the scope of Peoples' participation in the ratemaking proceeding, as Peoples' standing is limited to its interest as a sewer service customer of PWSA.

23. Peoples alleges that its Amended Complaint establishes its standing to contest both the Water and Wastewater Tariffs. Peoples further argues that even if it only had standing to contest the Wastewater Tariff, questions about PWSA's sewer operations and procedures, and their associated costs, are within the scope of discovery in a proceeding relating to PWSA's rates. Peoples also suggests that the question is within the scope of discovery, as it will either identify admissible evidence or is reasonably calculated to lead to the discovery of admissible evidence. Peoples' arguments, however, fail to establish Peoples' right to participate in the present

ratemaking proceeding beyond its limited interest as a sewer service customer and a potential indirect recipient of PWSA's water services.

24. PWSA's initial testimony and filing include detailed information regarding the authority's current costs. As a cash flow utility, PWSA does not earn a return on rate base. Peoples' request to inventory the computer systems is not going to impact the determination of the rates that PWSA will charge to Peoples for sewer service or the rates charged to Peoples' landlords for water service.

25. As noted previously, Peoples' concerns relating to public safety, health, and consumer protection have already been adequately addressed by the Statutory Advocates. Furthermore, Peoples' real interest in requesting this information does not relate to its status as either a sewer service customer or a potential indirect recipient of PWSA's water services. Rather, Peoples' real interest in this ratemaking proceeding relates solely to Peoples' campaign to force PWSA into an ill-defined "partnership" with Peoples. Finally, Peoples' broad assertion that its question is within the scope of discovery, as it will either identify admissible evidence or is reasonably calculated to lead to the discovery of admissible evidence, fails for the same reason as its previous argument. Regardless of the discoverability of the information sought by this question, the request does not relate to Peoples' limited interest in this ratemaking proceeding. On the contrary, the question is calculated by Peoples as a means of competitive intelligence gathering to enable it to pursue its proposed "partnership" with PWSA.

B. PEOPLES to PWSA-I-3 (referred to herein as "Interrogatory #3") states:

Please provide number of current meter read routes or similar information if automated.

26. PWSA objected to Interrogatory #3 pursuant to 52 Pa. Code § 5.321(c) on the basis that this interrogatory (1) requests information that is irrelevant and beyond the scope of this

ratemaking proceeding and (2) requests information beyond the scope of Peoples' participation in the ratemaking proceeding, as Peoples' standing is limited to its interest as a sewer service customer of PWSA.

27. Peoples alleges that its Amended Complaint establishes its standing to contest both the Water and Wastewater Tariffs. Peoples further argues that even if it only had standing to contest the Wastewater Tariff, questions about the number of PWSA's meter read routes is within the scope of discovery in a proceeding relating to PWSA's rates. Peoples also suggests that the question is within the scope of discovery, as it will either identify admissible evidence or is reasonably calculated to lead to the discovery of admissible evidence.

28. Interrogatory #3 requests operational information and practices that will not impact the rates proposed for Peoples as a sewer customer or the rates for Peoples' landlords for water service.

29. As noted previously, Peoples' real interest in requesting this information does not relate to its status as either a sewer service customer or a potential indirect recipient of PWSA's water services. Rather, Peoples' real interest in this ratemaking proceeding relates solely to Peoples' campaign to force PWSA into an ill-defined "partnership" with Peoples. Finally, Peoples' broad assertion that its question is within the scope of discovery, as it will either identify admissible evidence or is reasonably calculated to lead to the discovery of admissible evidence, fails for the same reason as its previous argument. Regardless of the discoverability of the information sought by this question, the request does not relate to Peoples' limited interest in this ratemaking proceeding. On the contrary, the question is calculated by Peoples as a means of competitive intelligence gathering to enable it to pursue its proposed "partnership" with PWSA.

C. PEOPLES to PWSA-I-5 (referred to herein as "Interrogatory #5") states:

Please summarize most current billing performance of CIS system.

30. PWSA objected to Interrogatory #5 pursuant to 52 Pa. Code § 5.321(c) on the basis that the information called for in the question is vague and requests information beyond the scope of Peoples' participation in the ratemaking proceeding as Peoples' standing is limited to its interest as a sewer service customer of PWSA.

31. In response to PWSA's objection, Peoples avers that its Amended Complaint establishes its standing to contest both the Water and Wastewater Tariffs. Peoples further argues that even if it only had standing to contest the Wastewater Tariff, questions about the performance of PWSA's sewer operations and systems, and their associated costs, are within the scope of discovery in a proceeding relating to PWSA's rates. Peoples also suggests that the question is within the scope of discovery, as it will either identify admissible evidence or is reasonably calculated to lead to the discovery of admissible evidence.

32. Peoples has not alleged any errors in the bills received from PWSA. Nor will this information impact the rates proposed for Peoples' sewer service or for Peoples' landlords' water services.

33. As noted previously, Peoples' concerns relating to public safety, health, and consumer protection have already been adequately addressed by the Statutory Advocates. Furthermore, Peoples' real interest in requesting this information does not relate to its status as either a sewer service customer or a potential indirect recipient of PWSA's water services. Rather, Peoples' real interest in this ratemaking proceeding relates solely to Peoples' campaign to force PWSA into an ill-defined "partnership" with Peoples. Finally, Peoples' broad assertion that its question is within the scope of discovery, as it will either identify admissible evidence or is

reasonably calculated to lead to the discovery of admissible evidence, fails for the same reason as its previous argument. Regardless of the discoverability of the information sought by this question, the request does not relate to Peoples' limited interest in this ratemaking proceeding. On the contrary, the question is calculated by Peoples as a means of competitive intelligence gathering to enable it to pursue its proposed "partnership" with PWSA.

D. PEOPLES to PWSA-I-6 (hereinafter referred to as "Interrogatory #6") asks:

Please summarize most current call center performance.

34. In its Objections, PWSA noted that it had previously provided information on call center performance in its response to OCA-II-19. To the extent any additional information was requested by Peoples, PWSA objected pursuant to 52 Pa. Code § 5.321(c) on the basis that the information called for in the question is vague and requests information beyond the scope of Peoples' participation in the ratemaking proceeding as Peoples' standing is limited to its interest as a sewer service customer of PWSA.

35. Peoples has not alleged inadequate performance in its interactions with PWSA's call center. Unlike the Statutory Advocates, a customer does not have standing to raise "generalized" issues regarding call center performance; the customer must address its own interactions with the call center.

36. In response to PWSA's objection, Peoples noted that it will review the response and does not ask the Presiding Officers to compel PWSA to answer Interrogatory #6 at this time.

E. PEOPLES to PWSA-I-14 (hereinafter referred to as "Interrogatory #14") states:

Please describe the current bill print process.

(a) Are there plans to update or change these processes? If so, please describe.

37. PWSA objected to Interrogatory #14 pursuant to 52 Pa. Code § 5.321(c) on the basis that the information called for in the question is beyond the scope of Peoples' participation

in the ratemaking proceeding as Peoples' standing is limited to its interest as a sewer service customer of PWSA. PWSA also objected to Interrogatory #14 pursuant to 52 Pa. Code § 5.361(a)(1) on the basis that the information called for in this question is sought in bad faith solely as competitive intelligence to further Peoples' pursuit of a forced "partnership" with PWSA whereby Peoples would take over substantial portions of the equipment, operations, maintenance, and services provided by PWSA.

38. In response to PWSA's objections, Peoples alleges that its Amended Complaint establishes its standing to contest both the Water Tariff and Wastewater Tariff. Peoples further alleges that even if it only had standing to contest the Wastewater Tariff, questions about PWSA's billing process and its associated costs, with respect to the sewer system, are within the proper scope of discovery in a proceeding relating to PWSA's rates. Peoples also avers that it sees no need for PWSA to reveal any confidential or proprietary information in response to this interrogatory and submits that Interrogatory #14 is within the proper scope of discovery, as it will either identify admissible evidence or is reasonably calculated to lead to the discovery of admissible evidence.

39. The "bill print process" is an operational issue that does not impact the revenue requirement for a cash flow utility. Peoples has alleged no improper billing for its account that would warrant its ability to explore how PWSA issues bills.

40. As noted previously, Peoples' real interest in requesting this information does not relate to its status as either a sewer service customer or a potential indirect recipient of PWSA's water services. Rather, Peoples' real interest in this ratemaking proceeding relates solely to Peoples' campaign to force PWSA into an ill-defined "partnership" with Peoples. Finally, Peoples' broad assertion that its question is within the scope of discovery, as it will either identify admissible

evidence or is reasonably calculated to lead to the discovery of admissible evidence, fails for the same reason as its previous argument. Regardless of the discoverability of the information sought by this question, the request does not relate to Peoples' limited interest in this ratemaking proceeding. On the contrary, the question is calculated by Peoples as a means of competitive intelligence gathering to enable it to pursue its proposed "partnership" with PWSA.

F. PEOPLES to PWSA-I-18 (hereinafter referred to as "Interrogatory #18") provides:

Please describe any or all payment plans offered to customers.

(a) Are there plans to update or change the payment plans? If so, please describe.

41. PWSA objected to Interrogatory # 18 pursuant to 52 Pa. Code § 5.321(c) on the basis that the information called for in the question is beyond the scope of Peoples' participation in the ratemaking proceeding as Peoples' standing is limited to its interest as a sewer service customer of PWSA. PWSA further objected pursuant to 52 Pa. Code § 5.361(a)(1) on the basis that the information called for in this question is sought in bad faith solely as competitive intelligence to further Peoples' pursuit of a forced "partnership" with PWSA whereby Peoples would take over substantial portions of the equipment, operations, maintenance, and services provided by PWSA. Peoples' made this request in order to obtain confidential information regarding customer-specific negotiations in order to further Peoples' competitive position.

42. Peoples, as a customer, has no generalized interest in exploring payment plans offered to other customers, or whether PWSA may be contemplating changes. The Statutory Advocates have the authorization to examine this issue in a rate case; a customer with *one* account in the service territory does not.

43. In response to PWSA's objections, Peoples alleges that its Amended Complaint establishes its standing to contest both the Water Tariff and Wastewater Tariff. Peoples further alleges that even if it only had standing to contest the Wastewater Tariff, questions about PWSA's

payment plans for customers of the sewer system are within the proper scope of discovery in a proceeding relating to PWSA's rates. Peoples believes that an answer to Interrogatory #18 does not require disclosure of confidential or proprietary information. Peoples further alleges that Interrogatory #18 is within the scope of discovery because it will either identify admissible evidence or is reasonably calculated to lead to the discovery of admissible evidence.

44. As noted previously, Peoples' concerns relating to public safety, health, and consumer protection have already been adequately addressed by the Statutory Advocates. Furthermore, Peoples' real interest in requesting this information does not relate to its status as either a sewer service customer or a potential indirect recipient of PWSA's water services. Rather, Peoples' real interest in this ratemaking proceeding relates solely to Peoples' campaign to force PWSA into an ill-defined "partnership" with Peoples. Finally, Peoples' broad assertion that its question is within the scope of discovery, as it will either identify admissible evidence or is reasonably calculated to lead to the discovery of admissible evidence, fails for the same reason as its previous argument. Regardless of the discoverability of the information sought by this question, the request does not relate to Peoples' limited interest in this ratemaking proceeding. On the contrary, the question is calculated by Peoples as a means of competitive intelligence gathering to enable it to pursue its proposed "partnership" with PWSA.

G. PEOPLES to PWSA-I-19 (hereinafter referred to as "Interrogatory #19") provides:

Regarding Interrogatory 18 above, are there any existing third-party agreements for the implementation of payment plan programs?

- (a) If so, please provide costs, rates, etc. that the third parties charge.**
- (b) Are there plans to continue these third-party services in the future?**
- (c) Regarding Interrogatory 19b above, please discuss why or why not the services will be continued.**

45. PWSA objected to Interrogatory #19 pursuant to 52 Pa. Code § 5.321(c) on the basis that the information called for in the question is beyond the scope of Peoples' participation

in the ratemaking proceeding as Peoples' standing is limited to its interest as a sewer service customer of PWSA. PWSA further objected to Interrogatory #19 pursuant to 52 Pa. Code § 5.361(a)(1) on the basis that the information called for in this question is sought in bad faith solely as competitive intelligence to further Peoples' pursuit of a forced "partnership" with PWSA whereby Peoples would take over substantial portions of the equipment, operations, maintenance, and services provided by PWSA. Peoples' made this request in order to obtain confidential information regarding customer-specific negotiations in order to further Peoples' competitive position.

46. Peoples, as a customer, has no generalized interest in exploring payment plans offered to other customers, or whether PWSA may be contemplating changes. The Statutory Advocates have the authorization to examine this issue in a rate case; a customer with *one* account in the service territory does not.

47. In response to PWSA's objections, Peoples alleges that its Amended Complaint establishes its standing to contest both the Water Tariff and Wastewater Tariff. Peoples further alleges that even if it only had standing to contest the Wastewater Tariff, questions about PWSA's existing agreements pertaining to the wastewater system and their associated costs are within the proper scope of discovery in a proceeding relating to PWSA's rates. Peoples further avers that a municipal authority such as PWSA must disclose contracts pursuant to the Pennsylvania Right to Know Law, Act 3 of 2008 ("RTKL"). Finally, Peoples alleges that Interrogatory #19 is within the scope of discovery because it will either identify admissible evidence or is reasonably calculated to lead to the discovery of admissible evidence.

48. As noted previously, Peoples' real interest in requesting this information does not relate to its status as either a sewer service customer or a potential indirect recipient of PWSA's

water services. Peoples may have standing to address issues related to *its* sewer service, but this question addresses generalized concerns that exceed Peoples' basis for standing. The Statutory Advocates have the authorization to examine this issue in a rate case; a customer with *one* account in the service territory does not. Rather, Peoples' real interest in this ratemaking proceeding relates solely to Peoples' campaign to force PWSA into an ill-defined "partnership" with Peoples. Finally, Peoples' broad assertion that its question is within the scope of discovery, as it will either identify admissible evidence or is reasonably calculated to lead to the discovery of admissible evidence, fails for the same reason as its previous argument. Regardless of the discoverability of the information sought by this question, the request does not relate to Peoples' limited interest in this ratemaking proceeding. On the contrary, the question is calculated by Peoples as a means of competitive intelligence gathering to enable it to pursue its proposed "partnership" with PWSA. Moreover, if Peoples wishes to pursue a RTKL request, this discovery is not the venue for it. A different set of standards and procedures applies for submitting a request for documents under the RTKL.

H. PEOPLES to PWSA-I-21, I-23, I-26, I-28, I-29, and I-30 (hereinafter referred to as "Interrogatories #21, 23, 26, 28, 29, and 30).

49. Interrogatory #21 states:

Please list the types of correspondence sent to customers and what triggers each.

(a) **Are there plans to update or change these processes? If so, please describe.**

50. Interrogatory #23 states:

Please provide the interfaces and data content for each of the following processes:

- (a) **Financial;**
- (b) **Work Management; and**
- (c) **Usage & billing data.**

51. Interrogatory #26 states:

Please provide current staffing levels (Call Center, Billing, Meter Reading) and planned staffing levels.

52. Interrogatory #28 states:

For each PSWA construction project in 2017, 2018 and projected for 2019:

- (a) Identify projects where the City of Pittsburgh has provided street restoration (i.e., asphalt) at no cost or reduced cost to PWSA; and**
- (b) For each project identified in part (a) above, provide the dollar value of the restoration contributed by the City for the restoration**

53. Interrogatory #29 states:

Has PSWA worked with the City to increase the City's budget for asphalt in 2019 and 2020? If so, provide details of the agreement regarding the City's contribution of asphalt for PSWA projects.

54. Interrogatory #30 states:

Regarding lead service line replacement in 2017 and 2018:

- (a) What renewal methods were used?**
- (b) What is the total number of service lines renewed for each installation method?**

55. PWSA objected to Interrogatory #21, 23, 26, 28, 29, and 30 pursuant to 52 Pa. Code § 5.321(c) on the basis that the information called for in the question is beyond the scope of Peoples' participation in the ratemaking proceeding as Peoples' standing is limited to its interest as a sewer service customer of PWSA. In addition, PWSA objected to Interrogatory #23 pursuant to 52 Pa. Code § 5.361(a)(1) on the basis that the information called for in this question is sought in bad faith solely as competitive intelligence to further Peoples' pursuit of a forced "partnership" with PWSA whereby Peoples would take over substantial portions of the equipment, operations, maintenance, and services provided by PWSA.

56. Peoples did not contest PWSA's bad faith objection pursuant to Interrogatory # 23. However, in response to PWSA's objections that Interrogatories #21, 23, 26, 28, 29, and 30 request information that is beyond the scope of Peoples' participation in this ratemaking proceeding, Peoples alleges that its Amended Complaint establishes its standing to contest both the Water Tariff and Wastewater Tariff. Peoples further alleges that even if it only had standing to contest

the Wastewater Tariff, questions about PWSA's existing sewer operations and procedures, and their associated costs, are within the proper scope of discovery in a proceeding relating to PWSA's sewer rates. Finally, Peoples alleges that Interrogatories #21, 23, 26, 28, 29, and 30 are within the scope of discovery because they will either identify admissible evidence or is reasonably calculated to lead to the discovery of admissible evidence.

57. The information sought in these questions relates to operational data that is beyond Peoples' participation as a customer in this case. Types of customer correspondence, data interfaces, and staffing levels do not impact Peoples' specific interests. Similarly, the other construction projects addressed in Interrogatory Numbers 28, 29, and 30 also do not impact Peoples' specific interests.

58. As noted previously, Peoples' concerns relating to public safety, health, and consumer protection have already been adequately addressed by the Statutory Advocates. Furthermore, Peoples' real interest in requesting this information does not relate to its status as either a sewer service customer or a potential indirect recipient of PWSA's water services. Rather, Peoples' real interest in this ratemaking proceeding relates solely to Peoples' campaign to force PWSA into an ill-defined "partnership" with Peoples. Finally, Peoples' broad assertion that its question is within the scope of discovery, as it will either identify admissible evidence or is reasonably calculated to lead to the discovery of admissible evidence, fails for the same reason as its previous argument. Regardless of the discoverability of the information sought by this question, the request does not relate to Peoples' limited interest in this ratemaking proceeding. On the contrary, the question is calculated by Peoples as a means of competitive intelligence gathering to enable it to pursue its proposed "partnership" with PWSA.


IV. CONCLUSION

59. PWSA should not be compelled to respond to the interrogatories to which it specifically objected in Peoples to PWSA Set I, excluding Interrogatory #6, for the reasons specified herein.

WHEREFORE, PWSA requests that the Administrative Law Judges (1) deny Peoples' Motion; (2) sustain PWSA's Objections to the Interrogatories and Requests for Production of Documents Set I (excluding Interrogatory #6); and (3) determine that PWSA does not need to response to the objected Interrogatories and Requests for Production of Documents in Set I (other than Interrogatory #6); and (4) grant PWSA such other relief as is just and reasonable under the circumstances.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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Dated: October 9, 2018

VERIFICATION

I, Debbie M. Lestitian, Chief Corporate Counsel and Chief of Administration for Pittsburgh Water and Sewer Authority, hereby state that the facts set forth in the foregoing document are true and correct to the best of my knowledge, information, and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

10/8/2018
Date

Debbie M. Lestitian
Signature