



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
400 NORTH STREET, HARRISBURG, PA 17120

March 12, 2021

Erin Burlew, Esquire
Appeals Officer
Commonwealth of Pennsylvania
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
E-Mail: eburlew@pa.gov

Re: Pa. PUC Response to Request for *In Camera* Review
Nase v. Pa. PUC – OOR Appeal Docket No. AP 2019-2652

Dear Appeals Officer Burlew:

This letter is in response to your March 5, 2021 email requesting an update regarding the Commission's ability to access the records at issue in this appeal so that the Office of Open Records (OOR) can conduct *in camera* review of those records.

Commission staff remain in telework status and have only limited access to the Commission's offices in the Commonwealth Keystone Building. To produce the records needed for the OOR's *in camera* review is a significant task under these circumstances. Commission staff will first have to obtain approval to enter the building, most likely for multiple days, then locate the records—which have not been dealt with in nearly a year—and sort and photocopy the records for delivery to the OOR. All work must be done while observing COVID-19 protocols, which limit the number of staff that may coordinate to complete this task. Thus, producing the records for *in camera* review will require significant time and effort on behalf of the Commission, at a time when the Commission faces numerous other deadlines in pending proceedings.

Further, at the OOR's request, the Commission already provided the OOR with privilege/exemption logs. Commission staff spent significant time producing these logs to address the OOR's questions regarding the content of the undisclosed records. The logs identify, among other things, the type of record, the date, the number of pages, the subject matter, the authors and recipients, and the basis for exclusion. The Commission respectfully requests that, if the OOR can specify the deficiencies in the logs that resulted in the OOR's request for *in camera* review of the records, the Commission may be able to accommodate the OOR's needs without the necessity of the additional laborious exercise of assembling all records for *in camera* review. Moreover, if the logs are

deficient as to only some of the records, the Commission requests that any *in camera* review be limited to those records in order to conserve administrative time and resources.

As a final matter, the Commission notes that the OOR's April 9, 2020 Order indefinitely staying this appeal stated that the OOR would "establish *in camera* record submission and final determination deadlines" upon the resumption of "regular operations." As stated above, the Commission has not yet resumed normal operations. A copy of the OOR's Order is attached to this letter as Appendix A.

If you have any questions, please contact Scott Thomas or Hayley Dunn at (717) 783-2812 or sjthomas@pa.gov and (717) 214-9594 or haydunn@pa.gov.

Sincerely,

/s/ Scott J. Thomas

Scott J. Thomas
Assistant Counsel
Attorney ID No. 201013

Hayley E. Dunn
Assistant Counsel
Attorney ID No. 324763

John E. Herzog
Executive Deputy Chief Counsel

Renardo L. Hicks
Chief Counsel

Counsel for Pennsylvania Public Utility
Commission

cc: *Via E-Mail Only*
Johnathan Nase
Cozen O'Conner
17 North Second Street, Suite 1410
Harrisburg, PA 17101
E-Mail: jnase@cozen.com

Appendix A

Jonathan Nase v. PA Public Utility Commission
Docket No. 2019-2652
Order of the Office of Open Records
Dated April 9, 2020



pennsylvania
OFFICE OF OPEN RECORDS

ORDER

IN THE MATTER OF

:

**JONATHAN NASE,
Requester**

:

:

:

:

v.

:

Docket No: AP 2019-2652

:

**PENNSYLVANIA PUBLIC UTILITY
COMMISSION,
Respondent**

:

:

Due to the efforts to contain the spread of the coronavirus (COVID-19),¹ the Office of Open Records (“OOR”) takes note that many agencies have reduced or ceased operations and the OOR is teleworking. This appeal requires *in camera* review to complete the record. In order to ensure the agency has had a full and fair opportunity to participate in this appeal, the OOR hereby ORDERS that this appeal be stayed indefinitely, so that *in camera* review may proceed following OOR protocol. Upon resuming regular operations, the OOR will establish *in camera* record submission and final determination deadlines for the parties. This Order shall not be deemed a Final Determination for purposes of Section 1101 and 1102 of the Right-to-Know Law, 65 P.S. §§ 67.1101-1102. Parties with access to email will be provided immediate notice of this Order; for all other parties, a copy of this Order will be mailed to those parties as soon as is possible.

¹ See Governor’s Proclamation of Disaster Emergency, available at <https://www.governor.pa.gov/wp-content/uploads/2020/03/20200306-COVID19-Digital-Proclamation.pdf>.

ORDER ISSUED: April 9, 2020

/s/ Erin Burlew

ERIN BURLEW, ESQ.
APPEALS OFFICER

Sent to: Jonathan Nase, Esq. (via email only);
Scott Thomas, Esq. (via email only);
John Herzog, Esq. (via email only);
Hayley Dunn, Esq. (via email only);
Rosemary Chiavetta, Esq. (via email only);
Doreen Trout (via email only)