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March 7, 2022

**Via Electronic Filing**

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

Re: Grays Ferry Cogeneration Partnership, and Vicinity Energy Philadelphia, Inc. v. Philadelphia Gas Works, Docket No. C-2021-3029259

Dear Secretary Chiavetta:

Enclosed for electronic filing, please find Philadelphia Gas Works' ("PGW") Motion to Dismiss the Objections of Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. and Compel Responses to PGW's Interrogatories and Requests for Production of Documents with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

*/s/ Kristine E. Marsilio*  
Kristine E. Marsilio, Esquire

KEM/lww  
Enclosure

cc: Hon. Marta Guhl w/enc.  
Cert. of Service w/enc.

## CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PGW's Motion to Dismiss Objections of Grays Ferry and Vicinity Energy and Compel Answers to PGW;s Interrogatories and Requests for Production of Documents upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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Dated: March 7, 2022

*/s/ Kristine E. Marsilio*

Kristine E. Marsilio, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Grays Ferry Cogeneration Partnership, and	:	
Vicinity Energy Philadelphia, Inc.,	:	
Complainants,	:	Docket No. C-2021-3029259
	:	
v.	:	
	:	
Philadelphia Gas Works,	:	
Respondent.	:	

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**PHILADELPHIA GAS WORKS’  
MOTION TO DISMISS THE OBJECTIONS  
OF GRAYS FERRY COGENERATION PARTNERSHIP  
AND VICINITY ENERGY PHILADELPHIA, INC. AND COMPEL RESPONSES  
TO PHILADELPHIA GAS WORKS’ INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS**

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**TO ADMINISTRATIVE LAW JUDGE GUHL:**

Pursuant to 52 Pa. Code § 5.342(g), Philadelphia Gas Works (“PGW” or the “Company”) hereby files this Motion to Dismiss the Objections of Grays Ferry Cogeneration Partnership (“Grays Ferry”) and Vicinity Energy Philadelphia, Inc. (“VEPI”) (collectively, the “Complainants” or “Vicinity”) and Compel Responses to PGW’s Interrogatories and Requests for Production of Documents, Set I, Nos. 20-22, 25, 30, 31, and 34. In Set I, Nos. 20-22, 25, 30, 31, and 34, PGW seeks information pertaining to the revenues and expenses associated with the production and sale of electricity and steam by Grays Ferry, as well as the prices that Grays Ferry charges VEPI. Certainly, PGW acknowledges that rates are not based on a customer’s ability to pay, but rather are primarily based on the cost of service. *See Lloyd v. Pa. P.U.C.*, 904 A.2d 1010 at 1020-21 (Pa. Cmwlth. 2006). These interrogatories, however, seek information relevant to

issues which have been introduced into this proceeding by the Complainants. PGW has a right to conduct discovery to develop its defenses to Complainants' allegations.<sup>1</sup>

These questions are directly relevant to the allegations raised by the Complainants in the Formal Complaint that PGW is engaging in a "price squeeze" by demanding a rate that would require VEPI to raise its steam rates charged to customers in Philadelphia. This rate increase, Complainants allege, would make PGW's natural gas service more attractive and would cause more VEPI customer to switch from steam service to natural gas service provided by PGW. There are many things wrong with this argument but, initially, it makes the unfounded assumption that any rate increase in the rate charged to Grays Ferry for natural gas service (which Grays Ferry uses, in part, to produce steam that it, in turn, sells to VEPI), would have to be passed along to steam customers. Of course, there is no legal requirement that Grays Ferry pass on, dollar for dollar, any gas transportation rate increases required by the application of cost of service principles onto Vicinity's steam customers, and no requirement that VEPI pass on any increase in the cost of steam sold to it by Grays Ferry.

These interrogatories are designed to elicit information that would permit a determination as to whether Grays Ferry or VEPI: 1) has the financial wherewithal to absorb any increases in the charge for PGW gas transportation and sales services; or 2) offset any required cost increases with existing or increased profits from sales of electricity produced in the process of making steam for sale to Vicinity, profits that, for some reason, are not currently being used as an offset to the cost of steam production. Either circumstance would permit Complainants to avoid or mitigate any rate increases to Vicinity customers necessitated by the application of long-accepted cost of service

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<sup>1</sup> 52 Pa. Code §5.321 (“[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 ... .”)

principles. Accordingly, the discovery questions are relevant, reasonably designed to lead to the discovery of relevant information, and/or are reasonably calculated to lead to the discovery of admissible evidence.<sup>2</sup>

The Complainants seem to assert that the Commission has jurisdiction and authority to consider the allegations that PGW is committing an antitrust violation in its consideration of whether the rates being charged to Vicinity are just and reasonable.<sup>3</sup> Contrary to this assertion, the Commission has never held that it can consider antitrust laws in determining just and reasonable rates. PGW maintains that the Commission does not have jurisdiction to consider antitrust allegations, and PGW is not waiving its right to challenge these allegations. Nonetheless, to the extent these issues remain a part of this proceeding, PGW has a right to conduct discovery related to same.

In further support of this Motion, PGW avers as follows:

## **I. BACKGROUND**

1. Grays Ferry is a PGW customer that produces electricity in the process of manufacturing steam; the steam is then sold to VEPI for delivery to end user customers. Upon information and belief, the electricity byproduct is then sold into the PJM market. VEPI is a regulated public utility that sells steam to customers in Pennsylvania.

2. In their Formal Complaint, the Complainants have alleged, among other things, that PGW is intentionally exposing VEPI to a “price squeeze” by attempting to impose an increase in rates to Grays Ferry that will require Grays Ferry to increase the rates that it charges to Vicinity. This rate increase, it is alleged, will cause VEPI customers to find the cost of steam

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<sup>2</sup> 52 Pa. Code § 5.321.

<sup>3</sup> See Vicinity Answer to New Matter at ¶¶ 25-26.

service to be unreasonable compared to natural gas service; this in turn, it is alleged, will induce customers to leave the steam service and consider obtaining their energy from PGW.

3. On February 15, 2022, PGW served Set I Interrogatories and Requests for Production of Documents upon Vicinity. PGW's Set I, Nos. 20-22, 25, 30, 31, and 34 seek information pertaining to the revenues and expenses associated with the production and sale of electricity and steam by Grays Ferry, as well as the prices charged specifically to VEPI.

4. On February 22, 2022, counsel for the Complainants informed counsel for PGW of their objections to certain interrogatories in PGW Set I. Counsel for PGW and the Complainants were able to resolve a number of Vicinity's Objections to Set I, but were unable to resolve the Objections to Nos. 20-22, 25, 30, 31, and 34.

5. On February 25, 2022, the Complainants served written Objections to Set I, Nos. 20-22, 25, 30, 31, and 34, on the grounds that said discovery requests seek information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. A copy of Vicinity's Objections is attached hereto as Exhibit A.

6. Vicinity's Objections should be denied because the underlying discovery requests seek information that is not prohibited by the Commission's regulations and is directly relevant to the issue raised by Vicinity in its Formal Complaint regarding PGW's alleged price-squeezing efforts.

## **II. LEGAL STANDARD**

7. Under Section 5.321 of the Commission's regulations:

[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 appears reasonably calculated to lead to the discovery of admissible evidence.

52 Pa. Code § 5.321(c).

8. The Commission's regulations also do not permit discovery which is sought in bad faith; would cause unreasonable annoyance, embarrassment, oppression, burden or expense to the deponent, a person or party; relates to a matter which is privileged; or would require the making of an unreasonable investigation by the deponent, a party or witness. 52 Pa. Code § 5.361(a).

### **III. ARGUMENT**

9. PGW Set-I Nos. 20-22, 25, 30, 31, and 34 provide:

20) On page 1 of the Grays Ferry/Vicinity complaint it states that it purchases natural gas from PGW to power its combined heat and power facility and that: "Grays Ferry produces electricity, which is sold into the PJM market, and waste heat, in the form of steam, which is then sold to its affiliate VEPI.

a) Please provide, (by month if available), for the last five (5) years the revenues from the sale of electricity from Gray's Ferry to the PJM market. In answering, please provide both MWH sold and the monthly average price that Gray's Ferry received for its electricity production.

b) Please provide, (by month if available), the costs for fuels used at Gray's Ferry for the production of electricity and steam. Please identify whether the fuel used was natural gas or oil.

c) Please provide, (by month if available), for the last five (5) years the costs incurred for O&M expenses at Gray's Ferry in the production of electricity.

d) Please provide, (by month if available), for the last five (5) years, the revenues from the sale of capacity from Gray's Ferry to the PJM market. Please include any revenues from PJM's ICAP, RPM, Capacity

Performance or any other capacity market construct that might have been in place at the time of such sale.

(1) If in any year, Gray's Ferry did not participate in PJM's capacity market, please explain why.

(e) Please provide, (by month, if available), for the last five (5) years, the volume of natural gas purchased to operate Gray's Ferry.

21) Please provide, (by month, if available) for the last five (5) years to the present, the revenues from the sale of ancillary services from Gray's Ferry to the PJM market. Please include any revenues from PJM's Synchronized Reserve market, PJM's Non-Synchronized Reserve Market, PJM's Regulation market, or any other service PJM procures from generators on its system.

22) Please provide full and complete copies of the last five (5) years of audited income statements and balance sheet reports for Grays Ferry.

25) Provide full and complete copies of the monthly bills for steam service tendered by Grays Ferry to Vicinity for each of the last twelve (12) months. Fully and completely describe all billing components.

30) Please provide, (by month, if available) for the last five (5) years to the present, the revenues from the sale of ancillary services from Gray's Ferry to the PJM market. Please include any revenues from PJM's Synchronized Reserve market, PJM's Non-Synchronized Reserve Market, PJM's Regulation market, or any other service PJM procures from generators on its system.

31) Please provide full and complete copies of any and all current agreements between Grays Ferry and Vicinity.

34) Provide a full and complete history (five years) of the cost of fuel (all types separately stated) to the Gray's Ferry steam generating facility and the pass through of such costs to Vicinity.

10. In their Objections, the Complainants argue that the information sought in Set I, Nos. 20-22, 25, 30, 31, and 34 is not relevant or reasonably calculated to lead to the discovery of admissible evidence, because a customer's ability to pay is not a relevant consideration in setting utility rates in Pennsylvania.

11. There is no dispute that rates are not based on a customer's ability to pay, but rather are primarily based on the cost of service. *See Lloyd v. Pa. P.U.C.*, 904 A.2d 1010 at 1020-21 (Pa.

Cmwlth. 2006). But, the Complainants themselves have raised the alleged consequences of VEPI's customers to absorb any rate increase. In their Formal Complaint, Complainants allege that PGW's attempt to assure that Complainants' natural gas service rates reflect their cost of service is part of an attempt to engage in a "price squeeze" by attempting to set rates for Complainants that would require VEPI to raise its steam rates, with allegedly adverse consequences. Complaint, Introduction at p. 5. The Complainants go on to assert:

Vicinity, an entity consisting of Grays Ferry, a customer of PGW at the first industry level, and VEPI, a competitor of PGW at the second industry level, is exposed to a price squeeze. PGW is aware that **even a modest increase in the rate Grays Ferry pays for natural gas delivery will increase the rates VEPI must charge steam customers to recover its costs, thereby making VEPI's steam service less competitive with PGW's discounted and subsidized natural gas service.**

Complaint at ¶ 26 (emphasis added).

12. By their own admission, the Complainants have "alleged facts regarding PGW's actions that fit the definition of a price squeeze." The Complainants have asserted that the Commission possesses the jurisdiction and authority to consider those facts as violations of the Public Utility Code. Vicinity Answer to New Matter at ¶¶ 25-2613. In order to make the "price squeeze" argument, an underlying, crucial assumption is that Grays Ferry will have to pass on to Vicinity any increase in the cost of natural gas transportation services provided by PGW. First, it is important to state that any increase ordered by the Commission would be to correct the massive subsidies that Complainants now enjoy under their current, soon to be grandfathered, contract and to require Complainants to pay a rate that reflects the cost of service. But, notwithstanding the need for such an increase, Complainants can avoid any alleged "competitive" harm by not passing on any required increase to VEPI's steam customers. PGW knows of no legal requirement that Grays Ferry pass on such rate increase for its "waste" steam.

Grays Ferry could well absorb any increase in gas rates in order to shield Vicinity customers, if it, in its business judgment, determined such action to be necessary and if it had the wherewithal to avoid passing on the additional charges.

14. Accordingly, the objected to questions are designed to elicit information about whether Grays Ferry could in fact avoid passing on any otherwise required increase, either because Grays Ferry is sufficiently financially healthy to absorb the increased costs or because it is enjoying financial benefits from the electricity that is a byproduct of its steam production, and which are, or could be, an offset to the cost of steam production. Accordingly, information regarding Grays Ferry's current revenues, expenses, and charges to VEPI are relevant. For example, the information requested by PGW could reveal that Grays Ferry's current revenues far exceed its current expenses and, therefore, Grays Ferry would have the wherewithal to absorb any natural gas transportation increase and not pass it onto VEPI.

15. Thus, the information requested would permit PGW to explore whether this defense can be factually supported and, accordingly, the questions are legally permissible as "reasonably calculated to lead to the discovery of admissible evidence."<sup>4</sup>

16. Similarly, Grays Ferry may be able to use the profits it realizes from the sale of electricity – a byproduct of its steam production – to offset the costs of any required natural gas rate increase. PGW believes, and therefor avers that Grays Ferry realizes profits from the sale of this electricity. It is not clear what portion (if any) of these electricity sales profits are used to offset the cost of steam that is passed onto VEPI (and that is then passed onto steam customers). PGW's questions, therefore, are designed to elicit information about those electricity sales,

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<sup>4</sup> 52 Pa. Code §5.321(c).

whether any of the profits from the sales are currently passed on and, most importantly, if Grays Ferry's natural gas rates are increased, whether Grays Ferry could use the profits that it realizes from its production and sale of electricity to offset those increases, thereby shielding VEPI and its customers from additional increases.

17. PGW has an interest (and a legal right) to obtain information that could lead to the discovery of admissible evidence necessary to defend this allegation.

18. PGW maintains that the Commission does not have jurisdiction to consider antitrust issues, or to determine any violations of the Sherman Act. Jurisdiction over violations of the Sherman Act and antitrust issues rests with the courts, not the Commission. Nothing in the Sherman Act or the Public Utility Code empowers the Commission to determine violations of the Sherman Act. *See Re: Investigation Upon the Commission's Own Motion With Regard to PJM Installed Capacity Credit Markets*, Docket No. I-00010090, Opinion (June 13, 2002), 2002 Pa. PUC LEXIS 27, 218 P.U.R.4th 149. Moreover, insofar as PGW is aware, the Commission has never determined that an alleged violation of the antitrust laws could be a basis for declaring a utility's rates or service to be unreasonable. Nonetheless, to the extent these issues remain a part of this proceeding, PGW has a right to conduct discovery related to same.

### III. CONCLUSION

WHEREFORE, PGW respectfully requests that Administrative Law Judge Guhl grant this Motion, dismiss the Objections of the Complainants, and direct the Complainants to produce the information requested in PGW's Set I, Nos. 20-22, 25, 30, 31, and 34.

Respectfully submitted,

*/s/ Kristine E. Marsilio*

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*Counsel for Philadelphia Gas Works*

Dated: March 7, 2022

# **Exhibit A**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Grays Ferry Cogeneration Partnership and	:	
Vicinity Energy Philadelphia, Inc.	:	
Complainants,	:	
	:	Docket No. C-2021-3029259
v.	:	
	:	
Philadelphia Gas Works,	:	
Respondent.	:	

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**GRAYS FERRY COGENERATION PARTNERSHIP  
AND VICINITY ENERGY PHILADELPHIA, INC.’S OBJECTIONS  
TO PHILADELPHIA GAS WORKS’ SET I INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS**

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Pursuant to 52 Pa. Code § 5.342, Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. (collectively “Vicinity”) submits these Objections to Philadelphia Gas Works’ (“PGW”) Set I Interrogatories and Requests for Production of Documents.<sup>1</sup> As explained below, Vicinity objects to PGW-I Nos. 20-22, 25, 30, 31, and 34, as such discovery is irrelevant and not reasonably tailored to lead to the discovery of admissible evidence regarding the Complaint and the proposed rates PGW has demanded of Vicinity, and are nothing more than a fishing expedition beyond the scope of discovery in this matter.

Under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c) provides that a party is entitled to

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<sup>1</sup> Vicinity notes that it orally communicated its objections to PGW on February 22, 2022, in an attempt to resolve the objections informally. The conversation did resolve Vicinity’s objections to Nos. 23, 26, 27, and 28 where the parties agreed that Vicinity would produce responsive information that was provided publicly in VEPI’s rate case at Docket No. R-2021-3024060, subject to and without waiver of objections on relevance to the instant matter.

obtain discovery of any matter not privileged that is relevant to a pending proceeding and reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). In addition, under Section 5.323, discovery may not include disclosure of legal research or legal theories. 52 Pa. Code § 5.323(a).

PGW-I Nos. 20-22, 25, 30, 31, and 34 seek information that is irrelevant and beyond the scope of discovery in this matter. Therefore, in accordance with the Commission's regulations, Vicinity formally objects as follows:

**I. OBJECTION TO PGW-I NOS. 20-22, 25, 30, 31, and 34**

1. PGW-I Nos. 20-22, 25, 30, 31, and 34 provide:
  - 20) On page 1 of the Grays Ferry/Vicinity complaint it states that it purchases natural gas from PGW to power its combined heat and power facility and that: "Grays Ferry produces electricity, which is sold into the PJM market, and waste heat, in the form of steam, which is then sold to its affiliate VEPI.
    - a) Please provide, (by month if available), for the last five (5) years the revenues from the sale of electricity from Gray's Ferry to the PJM market. In answering, please provide both MWH sold and the monthly average price that Gray's Ferry received for its electricity production.
    - b) Please provide, (by month if available), the costs for fuels used at Gray's Ferry for the production of electricity and steam. Please identify whether the fuel used was natural gas or oil.
    - c) Please provide, (by month if available), for the last five (5) years the costs incurred for O&M expenses at Gray's Ferry in the production of electricity.
    - d) Please provide, (by month if available), for the last five (5) years, the revenues from the sale of capacity from Gray's Ferry to the PJM market. Please include any revenues from PJM's ICAP, RPM, Capacity Performance or any other capacity market construct that might have been in place at the time of such sale.
      - (1) If in any year, Gray's Ferry did not participate in PJM's capacity market, please explain why.
    - (e) Please provide, (by month, if available), for the last five (5) years, the volume of natural gas purchased to operate Gray's Ferry.

- 21) Please provide, (by month, if available) for the last five (5) years to the present, the revenues from the sale of ancillary services from Gray's Ferry to the PJM market. Please include any revenues from PJM's Synchronized Reserve market, PJM's Non-Synchronized Reserve Market, PJM's Regulation market, or any other service PJM procures from generators on its system.
- 22) Please provide full and complete copies of the last five (5) years of audited income statements and balance sheet reports for Grays Ferry.
- 25) Provide full and complete copies of the monthly bills for steam service tendered by Grays Ferry to Vicinity for each of the last twelve (12) months. Fully and completely describe all billing components.
- 30) Please provide, (by month, if available) for the last five (5) years to the present, the revenues from the sale of ancillary services from Gray's Ferry to the PJM market. Please include any revenues from PJM's Synchronized Reserve market, PJM's Non-Synchronized Reserve Market, PJM's Regulation market, or any other service PJM procures from generators on its system.
- 31) Please provide full and complete copies of any and all current agreements between Grays Ferry and Vicinity.
- 34) Provide a full and complete history (five years) of the cost of fuel (all types separately stated) to the Gray's Ferry steam generating facility and the pass through of such costs to Vicinity.

2. Vicinity objects to these requests because they seek information irrelevant to this proceeding and not reasonably tailored to lead to the discovery of admissible evidence. Pursuant to 52 Pa. Code § 5.321(c), a party may obtain discovery of any matter not privileged that is relevant to a pending proceeding and that is reasonably calculated to lead to the discovery of admissible evidence. *Id.*

3. The information sought in PGW-I Nos. 20-22, 25, 30, 31, and 34 is not relevant to any issues to be addressed in this proceeding or any relief sought in the Complaint. The Complaint requests relief on four distinct points:

- Find that the rate demanded by PGW for service to Grays Ferry post 2022 is unjust and unreasonable;
- Require PGW to continue to provide Grays Ferry with firm transportation service;
- Require PGW to execute a new contract under Rate GTS-Firm for that service at a rate that is just and reasonable; and
- Require PGW to cease and desist from targeting VEPI's customers within VEPI's franchised service territory for rate discounts and financial incentives in order to entice them to switch from VEPI's steam service to PGW's natural gas service.

See Complaint at 13-14. Thus, the basis of this Complaint is that of PGW is demanding unjust and unreasonable rates for Vicinity after 2022, forcing Vicinity to take service under inappropriate terms (i.e., service that is interruptible), and requesting that PGW cease and desist targeting VEPI's steam customers to convert to natural gas. PGW-I Nos. 20-22, 25, 30, 31, and 34 do not seek information reasonably calculated to lead to the discovery of admissible evidence on any of this relief and is ultimately irrelevant to the disposition of any portion of this matter.

4. The thrust of PGW's Set I Nos. 20-22, 25, 30, 31, and 34 is PGW's desire paint Vicinity's financial characteristics in a way that diminishes the impact of the unjust and unreasonable rate demanded by PGW by generalizing revenues, costs, and, ultimately, the viability of Vicinity's operations. This can serve only one purpose – to argue that, on paper, Vicinity's *ability to pay* the unjust and unreasonable rates demanded by PGW makes the underlying demand for those rates more reasonable. It does not. Under no principle of Pennsylvania utility ratemaking is there a consideration of what a utility's customer is *able to pay* when setting, designing, or allocating rates. See J. Cawley and N. Kennard, Rate Case Handbook, A Guide to Utility Ratemaking before the Pennsylvania Public Utility Commission (Pennsylvania Public Utility

Commission 2018) at 138-141. Such consideration of a customer's ability to pay is of no doubt against public policy and ignores the tenants enshrined in Pennsylvania utility ratemaking – namely that rates must be set and designed based on the actual cost of service of each customer and customer class. Indeed, appellate courts have consistently held that cost of service is the “polestar” of ratemaking principles in Pennsylvania. *Lloyd v. Pa. P.U.C.*, 904 A.2d 1010 at 1020-21 (Pa. Cmwlth. 2006).

5. The information sought in PGW-I Nos. 20-22, 25, 30, 31, and 34 can only be for one purpose – to argue whether or not Vicinity *can afford* the new rates demanded by PGW. This is not and cannot be the basis of any finding of fact as to whether or not PGW's demanded rates for Vicinity's unique, single customer pipeline service – service unlike any other portion of PGW's distribution system – are just and reasonable. Therefore, the discovery is irrelevant and unlikely to lead to the discovery of admissible evidence in this matter.

6. Additionally, to the extent potential relevance could be imagined for PGW-I Nos. 20-22, 25, 30, 31, and 34, which there is none, the requests are so wide cast over Vicinity's operations and finances that they are nothing more than a mere fishing expedition, not reasonably tailored to discover admissible evidence. *See, e.g., City of York v. Pa. P.U.C.*, 281 A.2d 261, 265 (Pa. Commw. Ct. 1971)(“Anything in the nature of a mere fishing expedition is not to be encouraged. Where the plaintiff will swear that some specific book contains material or important evidence, and sufficiently describes and identifies what he wants, it is proper that he should have it produced. But this does not entitle him to have brought in a mass of books and papers in order that he may search them through to gather evidence.”) (quoting *American Car & Foundry Company v. Alexandria Water Company*, 70 A. 867, 869 (Pa. Super. Ct. 1908)). Instead, under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired

into under Section 5.321. Section 5.321(c) provides that a party is entitled to obtain discovery of any matter not privileged that is **relevant to a pending proceeding** and **reasonably calculated to lead to the discovery of admissible evidence**. 52 Pa. Code § 5.321(c) (emphasis added).

7. Therefore, Vicinity objects to PGW-I Nos. 20-22, 25, 30, 31, and 34 as irrelevant and unlikely to lead to the discovery of admissible evidence under 52 Pa. Code § 5.321(c).

## II. CONCLUSION

WHEREFORE, Vicinity objects to PGW-I Nos. 20-22, 25, 30, 31, 33 and 34 as irrelevant to the Complaint and relief sought, and unlikely to lead to the discovery of admissible evidence under 52 Pa. Code § 5.321(c).

Respectfully submitted,



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