

Daniel Clearfield
717.237.7173
dclearfield@eckertseamans.com

December 7, 2022

Via Electronic Filing

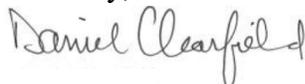
Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: *SBG Management Services, Inc./Simon Garden Realty Co., L.P. v. PGW*; Docket Nos. C-2012-2304324; C-2015-2486642; *SBG Management Services, Inc./Colonial Garden Realty Co., L.P. v. PGW*; Docket Nos. C-2012-2304183; C-2015-2486677; *SBG Management Services, Inc./Elrea Garden Realty Co., L.P. v. PGW*; Docket Nos. C-2012-2304167; C-2015-2486674; *SBG Management Services, Inc./Fern Rock Gardens Realty Co., L.P. v. PGW*; Docket Nos. C-2012-2308465; C-2015-2486670; *SBG Management Services, Inc./Fairmont Manor Realty Co., L.P. v. PGW*; Docket Nos. C-2012-2304215; C-2015-2486664; *SBG Management Services, Inc./Oak Lane Realty Co., L.P. v. PGW*; Docket Nos. C-2012-2308462; C-2015-2486655; *SBG Management Services, Inc./Marchwood Realty Co., L.P. v. PGW*; Docket Nos. C-2012-2308454; C-2015-2486648; and ; *SBG Management Services, Inc./Marshall Square Realty Co., L.P. v. PGW*; Docket Nos. C-2012-2304303; C-2015-2486618;

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Philadelphia Gas Works' ("PGW") Motion to Compel SBG Management Services, Inc. *et al.* Responses to Set I Interrogatories with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Daniel Clearfield, Esq.

DC/lww
Enclosure

cc: Hon. Eranda Vero w/enc.
Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this date I served a copy of PGW's Motion to Compel SBG et al.'s Responses to Set I Interrogatories, upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

VIA EMAIL

Shawn M. Rodgers, Esquire
Patricia M. Starner, Esquire
Michael Yanoff, Esquire
Goldstein Law Partners, LLC
11 Church Road
Hatfield, PA 19440
Srodgers@goldsteinlp.com
Pstarner@goldsteinlp.com
Myanoff@goldsteinlp.com

Dated: December 7, 2022



Daniel Clearfield, Esq.

Counsel for Philadelphia Gas Works

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SBG Management Services, Inc. / Simon Garden Realty Co., L.P.	:	Docket No.	C-2012-2304324
	:		C-2015-2486642
v.	:		
	:		
Philadelphia Gas Works	:		
SBG Management Services, Inc. / Colonial Garden Realty Co., L.P.	:	Docket No.	C-2012-2304183
	:		C-2015-2486677
v.	:		
	:		
Philadelphia Gas Works	:		
SBG Management Services, Inc. / Elrea Garden Realty Co., L.P.	:	Docket No.	C-2012-2304167
	:		C-2015-2486674
v.	:		
	:		
Philadelphia Gas Works	:		
SBG Management Services, Inc. / Fern Rock Realty Co., L.P.	:	Docket No.	C-2012-2308465
	:		C-2015-2486670
v.	:		
	:		
Philadelphia Gas Works	:		
SBG Management Services, Inc. / Fairmount Manor Realty Co., L.P.	:	Docket No.	C-2012-2304215
	:		C-2015-2486664
v.	:		
	:		
Philadelphia Gas Works	:		
SBG Management Services, Inc. / Oak Lane Realty Co., L.P.	:	Docket No.	C-2012-2308462
	:		C-2015-2486655
v.	:		
	:		
Philadelphia Gas Works	:		
SBG Management Services, Inc. / Marchwood Realty Co., L.P.	:	Docket No.	C-2012-2308454
	:		C-2015-2486648

	v.	:	
		:	
Philadelphia Gas Works		:	
		:	
SBG Management Services, Inc. /		:	
Marshall Square Realty Co., L.P.		:	Docket No. C-2012-2304303
		:	C-2015-2486618
		:	
	v.	:	
		:	
Philadelphia Gas Works		:	

NOTICE TO PLEAD

To: Each of the Complainants
c/o *Counsel for Complainants*

Patricia M. Starner, Esquire
Michael Yanoff, Esquire
Shawn M. Rodgers, Esquire
GOLDSTEIN LAW PARTNERS, LLC
11 Church Road
Hatfield, PA 19440
pstarner@goldsteinlp.com,
myanoff@goldsteinlp.com,
srodgers@goldsteinlp.com

You are hereby notified that a written response to the enclosed Motion to Compel by Philadelphia Gas Works must be filed within five days from service hereof, pursuant to 52 Pa. Code § 5.342(g)(1). A written response must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served on the Administrative Law Judge and undersigned counsel.



Daniel Clearfield, Esquire
Carl R. Shultz, Esquire
Bryce R. Beard, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Fl.
Harrisburg, PA 17101
Phone: (717) 237-7173
Fax: (717) 237-6019
dclearfield@eckertseamans.com
cshultz@eckertseamans.com
bbeard@eckertseamans.com

Date: December 7, 2022

Attorneys for Philadelphia Gas Works

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SBG Management Services, Inc. / Simon Garden Realty Co., L.P.	:	Docket No.	C-2012-2304324
	:		C-2015-2486642
v.	:		
	:		
Philadelphia Gas Works	:		
SBG Management Services, Inc. / Colonial Garden Realty Co., L.P.	:	Docket No.	C-2012-2304183
	:		C-2015-2486677
v.	:		
	:		
Philadelphia Gas Works	:		
SBG Management Services, Inc. / Elrea Garden Realty Co., L.P.	:	Docket No.	C-2012-2304167
	:		C-2015-2486674
v.	:		
	:		
Philadelphia Gas Works	:		
SBG Management Services, Inc. / Fern Rock Realty Co., L.P.	:	Docket No.	C-2012-2308465
	:		C-2015-2486670
v.	:		
	:		
Philadelphia Gas Works	:		
SBG Management Services, Inc. / Fairmount Manor Realty Co., L.P.	:	Docket No.	C-2012-2304215
	:		C-2015-2486664
v.	:		
	:		
Philadelphia Gas Works	:		
SBG Management Services, Inc. / Oak Lane Realty Co., L.P.	:	Docket No.	C-2012-2308462
	:		C-2015-2486655
v.	:		
	:		
Philadelphia Gas Works	:		
SBG Management Services, Inc. / Marchwood Realty Co., L.P.	:	Docket No.	C-2012-2308454
	:		C-2015-2486648

	v.	:	
		:	
Philadelphia Gas Works		:	
		:	
SBG Management Services, Inc. /		:	
Marshall Square Realty Co., L.P.		:	Docket No. C-2012-2304303
		:	C-2015-2486618
		:	
	v.	:	
		:	
Philadelphia Gas Works		:	

**MOTION OF PHILADELPHIA GAS WORKS
TO COMPEL SBG MANAGEMENT SERVICES, INC.
ET AL. RESPONSES TO SET I INTERROGATORIES**

Pursuant to 52 Pa. Code §§ 5.342, 5.371, and 5.372, Philadelphia Gas Works (“PGW”) hereby moves to compel the responses of SBG Management Services, Inc. *et al.* (collectively “SBG”) to PGW Set I Interrogatories (“PGW Set I”). In support of this Motion, PGW avers as follows:

1. On November 8, 2022, PGW served its Set I Interrogatories on SBG.¹ A copy of the of PGW Set I, containing two (2) interrogatories, is included as **Attachment A**.
2. On November 9, 2022, Counsel for SBG, via email discussing scheduling of this matter, admitted that SBG received PGW Set I interrogatories.² A copy of said email is included as **Attachment B**. (Highlight added for emphasis).
3. SBG did not object to PGW Set I pursuant to 52 Pa. Code § 5.342(e) within 10-days of service, or by November 18, 2022.

¹ The Certificate of Service for PGW Set I was filed with the Commission at <https://www.puc.pa.gov/pdocs/1764239.pdf>

² In an email between the Parties and Your Honor on November 9, 2022, Attorney Yanoff for SBG stated when discussing scheduling of this matter that “Further, I have just received discovery requests from PGW which we did not discuss at all in any of our conferences.” See **Attachment B**. (Highlight added for emphasis).

4. Pursuant to 52 Pa. Code § 5.342(d), SBG's responses to PGW Set I were due within 20 days of service, or by November 28, 2022.

5. SBG failed to provide any responses to PGW Set I on or by November 28, 2022.

6. By email dated November 29, 2022, PGW inquired on the status of SBG's overdue responses to PGW Set I. Through the email, PGW voluntarily extended SBG's deadline to provide full and complete responses to PGW Set I until Thursday, December 1, 2022. A copy of the email is included as **Attachment C**. SBG did not respond to the PGW's November 29, 2022 email, and PGW's voluntary extension to SBG has passed.

7. To date, SBG has failed to provide any responses to PGW Set I.

8. The information sought in PGW Set I relates to the identification of SBG's expert and lay witnesses and their respective experience and qualifications to testify in this proceeding. *See Attachment A*. Such information is necessary for PGW's preparation for the upcoming hearing in this matter. Only by receiving timely answers to these interrogatories will PGW have the time to promulgate follow-up discovery in time to potentially incorporate such discovery answers into its rebuttal.

9. SBG's disregard for the Commission's discovery regulations, as well as PGW's good-faith efforts to voluntarily extend SBG's 20-day response deadline, warrant Your Honor granting this Motion to Compel SBG's full and complete responses to PGW Set I.

WHEREFORE, for the reasons set forth above, PGW respectfully requests that SBG Management Services, Inc. *et al*, be compelled to provide full and complete responses to PGW's Set I Interrogatories within 5 days of Your Honor's Order, and any other relief in favor of PGW that is deemed to be reasonable and appropriate.

Respectfully submitted,



Graciela Christlieb, Esquire
(PA Atty. I.D. No. 200760)
Senior Attorney
Legal Department
Philadelphia Gas Works
800 W. Montgomery Ave.
Philadelphia, PA 19122
graciela.christlieb@pgworks.com

Daniel Clearfield, Esquire (PA Atty. I.D. No. 26183)
Carl R. Shultz, Esquire (PA Atty. I.D. No. 70328)
Bryce R. Beard, Esquire (PA Atty. ID. No. 325837)
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
(717) 237-6000 (phone)
(717) 237-6019 (fax)
dclearfield@eckertseamans.com
cshultz@eckertseamans.com
bbeard@eckertseamans.com

December 7, 2022

Attorneys for Philadelphia Gas Works

Attachment A

**PGW's November 8, 2022 Set
I Interrogatories to SBG**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SBG Management Services, Inc. <i>et al.</i>	:	C-2012-2304183
	:	C-2012-2304324
	:	C-2015-2486618
	:	C-2015-2486677
	:	C-2015-2486674
	:	C-2015-2486670
v.	:	C-2015-2486664
	:	C-2015-2486655
	:	C-2015-2486648
Philadelphia Gas Works	:	C-2015-2486674

**PHILADELPHIA GAS WORKS' INTERROGATORIES ADDRESSED TO SBG
MANAGEMENT SERVICES, INC. *ET AL.*, SET I**

Pursuant to 52 Pa. Code §§ 5.341, 5.342 and 5.349, Philadelphia Gas Works (“PGW”) hereby propounds the following interrogatories and requests for documents upon the SBG Management Services, Inc. *et al.* (“SBG”), to be answered by those officers, employees or agents of SBG who may be cognizant of the requested information and who are authorized to answer on behalf of SBG. These interrogatories and requests for documents are propounded on a continuing basis so as to require you to submit supplemental answers and/or documents should additional information become known that would have been includable in your answers and document production had they been known or available or should information and/or documents supplied in the answers or production prove to be incorrect or incomplete. PGW reserves the right to propound additional interrogatories and to request additional documents as and if additional information is required. In accordance with 52 Pa. Code §§ 5.342(d) and 5.349(d), the interrogatories are to be answered in writing under oath and documents are to be furnished and served in-hand upon the undersigned within the time period prescribed by the Commission for this docket.

ADDITIONAL INSTRUCTIONS

1. Unless otherwise indicated, the time period for all requests is 2008 to the present.
2. If you object to any part of an interrogatory or request, answer all parts of such interrogatories or requests to which you do not object, and as to each part to which you do object, separately set forth the specific basis for the objection.
3. If you claim any form of privilege or other protection from disclosure as a ground for withholding information responsive to an interrogatory or request for production or any part thereof, contained in a non-written communication, state the following with respect to the non-written communication:
 - (i) the date thereof;
 - (ii) the identity of each of the participants in the non-written communication;
 - (iii) the identity of each person present during all or any part of the non-written communication;
 - (iv) a description of the non-written communication which is sufficient to identify the particular communication without revealing the information for which a privilege or protection from non-disclosure is claimed;
 - (v) the nature of your claim of non-discoverability (e.g. attorney-client privilege); and
 - (vi) each and every fact on which you rest your claim of privilege or other protection from disclosure, stated with sufficient specificity to permit PGW to make a full determination as to whether your claim is valid.
4. If you claim any form of privilege or other protection from disclosure as a ground for withholding information responsive to an interrogatory or request or any part thereof, contained in a document, set forth with respect to the document:

- (i) the date and number of pages;
- (ii) the identity of the author(s) or preparer(s);
- (iii) the identity of the addressee, if any;
- (iv) the title;
- (v) the type of tangible thing (e.g. letter, memorandum, telegram, chart, report, recording disc);
- (vi) the subject matter (without revealing the information as to which privilege or protection from non-disclosure is claimed);
- (vii) the identity of each person who has received the document or to whom knowledge of the contents of the document was communicated;
- (viii) the identity of the present custodian(s);
- (ix) the nature of your claim of non-discoverability (e.g. attorney-client privilege); and
- (x) each and every fact on which you rest your claim of privilege or other protection from disclosure, stated with sufficient specificity to permit PGW to make a full determination as to whether your claim is valid.

5. If you claim any form of privilege or other protection from disclosure, otherwise than as set forth in Instructions 3 and 4, as a ground for not answering any interrogatory or request or any part thereof, set forth:

- (i) the nature of your claim as to non-discoverability; and
- (ii) each and every fact on which you rest your claim or privilege or other protection from disclosure, stating such facts with sufficient specificity to permit PGW to make a full determination as to whether your claim is valid.

6. If you know of any document, communication or information but cannot give the specific information or the full information called for by a particular interrogatory or request, so state and give the best information you have on the subject and identify every person you believe to have the required information.

7. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun, and vice versa; the masculine form of a pronoun shall be considered to include also within its meaning the feminine and neuter forms of the pronoun, and vice versa; and the use of any tense of any verb shall be considered to include also within its meaning all other tenses of the verb. In each instance, the interrogatory or request shall be construed so as to require the most inclusive answer or production.

8. Please attach written material to any answer for which written material is requested and/or available. If such written material is not available, state where it may be obtained. Label the written material with the number of the interrogatory to which it pertains.

9. On each Interrogatory response list the name and title of the person or persons who prepared the response or who is responsible for the information contained therein.

DEFINITIONS

As used in these Interrogatories and Requests for Production of Documents, the following terms have the meaning as set forth below:

1. The term “SBG” means the SBG Management Services, Inc. and any affiliate or subsidiary unless the context indicates otherwise including but not limited to Colonial Garden Realty Co., LP; Elrae Garden Realty Co., LP; Fairmount Manor Realty Co., LP; Fern Rock Realty Co., LP; Marchwood Realty Co., LP; Marshall Square Realty Co., LP; Oak Lane Court Realty Co., LP; and Simon Garden Realty Co., LP..

2. The term “you” means SBG and any agent or representative of SBG.

3. “List”, “describe”, “explain”, “specify” or “state” means to set forth fully, in detail, and unambiguously each and every fact of which SBG or its agents or representatives have knowledge which is relevant to the answer called for by the interrogatory.

4. The terms “document” or “documents” as used herein has the same meaning and scope as in Rule 4009 of the Pennsylvania Rules of Civil Procedure and includes, without limitation, any writings and documentary material of any kind whatsoever, both originals and copies (regardless of origin and whether or not including additional writing thereon or attached thereto), and any and all drafts, preliminary versions, alterations, modifications, revisions, changes and written comments of and concerning such material, including but not limited to: correspondence, letters, memoranda, notes, reports, directions, studies, investigations, questionnaires and surveys, inspections, permits, citizen complaints, papers, files, books, manuals, instructions, records, pamphlets, forms, contracts, contract amendments or supplements, contract offers, tenders, acceptances, counteroffers or negotiating agreements, notices, confirmations, telegrams, communications sent or received, print-outs, diary entries,

calendars, tables, compilations, tabulations, charts, graphs, maps, recommendations, ledgers, accounts, worksheets, photographs, tape recordings, movie pictures, videotapes, transcripts, logs, workpapers, minutes, summaries, notations and records of any sort (printed, recorded or otherwise) of any oral communication whether sent or received or neither, and other written records or recordings, in whatever form, stored or contained in or on whatever medium including computerized or digital memory or magnetic media that:

- (a) are now or were formerly in your possession, custody or control; or
- (b) are known or believed to be responsive to these interrogatories, regardless of who has or formerly had custody, possession or control.

5. The term “date” means the exact day, month and year, if ascertainable, or if not, the best approximation thereof, including relationship to other events.

6. The term “person” or “persons” means and includes any individual, committee, task force, division, department, company, contractor, state, federal or local government agency, corporation, firm, association, partnership, joint venture or any other business or legal entity.

7. The terms “identify” and “identity” when used with reference to a natural person mean to state his or her full name, present or last known address, present or last known telephone number, present or last known place of employment, position or business affiliation, his or her position or business affiliation at the time in question, and a general description of the business in which he or she is engaged.

8. The terms “identify” and “identity” when used with respect to any other entity mean to state its full name, the address of its principal place of business and the name of its chief executive officers.

9. The terms “identify” and “identity” with respect to a document mean to state the name or title of the document, the type of document (e.g., letter, memorandum, telegram, computer input or output, chart, etc.), its date, the person(s) who authored it, the person(s) who signed it, the person(s) to whom it was addressed, the person(s) to whom it was sent, its general subject matter, its present location, and its present custodian. If any such document was but is no longer in the possession of the SBG or subject to its control, state what disposition was made of it and explain the circumstances surrounding, and the authorization, for such disposition, and state the date or approximate date thereof.

10. The terms “identify” and “identity” with respect to any non-written communication mean to state the identity of the natural person(s) making and receiving the communication, their respective principals or employers at the time of the communication, the date, manner and place of the communication, and the topic or subject matter of the communication.

11. The term “oral communication” means any utterance heard, whether in person, by telephone, or otherwise.

12. The term “identify the sources” means to identify and specify all documents and non-written communications upon which you rely in support of the allegation, contention, conclusion, position or answer in question, to state the references drawn from each such source upon which you rely in support of such allegation, contention, conclusion, position or answer and to identify all individuals whom you know to be knowledgeable with respect to the subject matter of such allegation, contention, conclusion, position or answer. Where a source is a public record (e.g., a newspaper, trade journal, judicial or administrative opinion), a quotation and page reference of the material relied upon shall be supplied.

13. The term to “state the basis” for an allegation, contention, conclusion, position or answer means (a) to identify and specify the sources therefore, and (b) to identify and specify all facts on which you rely or intend to rely in support of the allegation, contention, conclusion, position or answer, and (c) to set forth and explain the nature and application to the relevant facts of all pertinent legal theories upon which you rely for your knowledge, information and/or belief that there are good grounds to support such allegation, contention, conclusion, position or answer.

14. The terms “and” and “or” have both conjunctive and disjunctive meanings as necessary to bring within the scope of the interrogatories and request any information or documents that might otherwise be construed to be outside their scope; “all” and “any” mean both “each” and “every”.

15. The terms “relates to” or “relating to” mean referring to, concerning, responding to, containing, regarding, discussing, describing, reflecting, analyzing, constituting, disclosing, embodying, defining, stating, explaining, summarizing, or in any way pertaining to.

16. The term “including” means “including, but not limited to.”

17. The term “PUC Complaints” means any and all of the formal complaints filed with the Pennsylvania Public Utility Commission, including: SBG Management Services, Inc./Simon Garden Realty Co., L.P. v. PGW at Docket Nos. C-2012-2304324 and C-2015-2486642; SBG Management Services, Inc./Colonial Garden Realty Co., L.P. v. PGW at Docket Nos. C-2012-2304183 and C-2015-2486677; SBG Management Services, Inc./Elrea Garden Realty Co., L.P. v. PGW at Docket Nos. C-2012-2304167 and C-2015-2486674; SBG Management Services, Inc./Fern Rock Gardens Realty Co., L.P. v. PGW at Docket Nos. C-2012-2308465 and C-2015-2486670; SBG Management Services, Inc./Fairmont Manor Realty Co.,

L.P. v. PGW at Docket Nos. C-2012-2304215 and C-2015-2486664; SBG Management Services, Inc./Oak Lane Realty Co., L.P. v. PGW at Docket Nos. C-2012-2308462 and C-2015-2486655; SBG Management Services, Inc./Marchwood Realty Co., L.P. v. PGW at Docket Nos. C-2012-2308454 and C-2015-2486648; and SBG Management Services, Inc./Marshall Square Realty Co., L.P. v. PGW at Docket Nos. C-2012-2304303 and C-2015-2486618.

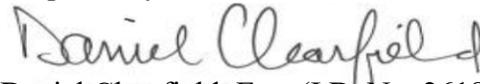
**PHILADELPHIA GAS WORKS' INTERROGATORIES ADDRESSED TO SBG
MANAGEMENT SERVICES, INC. *ET AL.*, SET I**

INTERROGATORIES

1. Identify all expert witnesses SBG expects to present on remand of the PUC Complaints. For each expert witness:
 - a. Provide each expert witness' name, address, employer, job title, job responsibilities, and curriculum vitae;
 - b. Identify the subject matter of the written testimony each expert witness will provide on behalf of SBG;
 - c. Identify the date when SBG retained each expert for preparation of testimony in the PUC Complaints;
 - d. Identify the method by which the expert will be compensated (i.e. flat fee, hourly or contingency);
 - e. Identify all legal matters where each expert witness has provided testimony including date, jurisdiction, and subject matter;
 - f. For each expert witness, indicate whether the expert witness has provided testimony before the PA PUC or any other states' public utility regulator and, if so, identify all such proceedings and the subject matter of the testimony;
 - g. Fully describe each expert's particular experience with public utility operations and billing, if any;
 - h. Fully describe each expert's particular experience regarding municipal liens and judgments, if any.

2. Identify all other witnesses SBG expects to present on remand of the PUC Complaints, if any. For each witness:
 - a. Provide each witness' name, address, employer, job title, job responsibilities, and curriculum vitae;
 - b. Identify the subject matter of the testimony each witness will provide on behalf of SBG.

Respectfully submitted,



Daniel Clearfield, Esq. (I.D. No. 26183)
Carl R. Shultz, Esq. (I.D. No. 70328)
Bryce R. Beard, Esq. (I.D. No. 325837)
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Fl.
Harrisburg, PA 17101
717.237.7173 (direct dial)
717-237-6019 (fax)
dclearfield@eckertseamans.com
cshultz@eckertseamans.com
bbeard@eckertseamans.com

Dated: November 8, 2022

Attachment B

**SBG Counsel's November 9,
2022 Email Stating Receipt of
PGW Set I**

From: Michael Yanoff <myanoff@goldsteinlp.com>
Sent: Wednesday, November 9, 2022 8:25 AM
To: Dan Clearfield; Vero, Eranda; Lori Walter; Shawn Rodgers; Patricia Starner
Cc: Carl R. Shultz; Bryce R. Beard; graciela.christlieb@pgworks.com
Subject: RE: [External] RE: SBG et al v. PGW - C-2012-2304324 et al - Proposed Revisions to Schedule

Dear Judge Vero:

I have reviewed Mr. Clearfield's request below and offer the following response. As an initial point of clarification, Mr. Clearfield misstates the precondition that he requested from SBG for consenting to the continuance of the November 11th evidentiary hearing. In his email this evening, Mr. Clearfield explains: "PGW was willing to go along with a short(ish) extension **so long as we had at least 30 days to review and respond to SBG's testimony.**" This, however, is not entirely accurate.

PGW did not request "at least 30 days to review and respond to SBG's testimony." Nor did SBG agree to *this* precondition. Rather, in a November 1st email correspondence between counsel, Mr. Clearfield wrote: "Again, **this is on condition that you provide pre-filed written testimony and exhibits at least 30 days before the hearing.**" These two statements are not the same. The current schedule that Your Honor created today sets the evidentiary hearing on January 31st and calls for SBG to produce the written testimony (and exhibits) of its expert witness by December 30th. The current schedule, in fact, *does provide PGW with SBG's expert analysis* "at least 30 days before the hearing[.]" The current schedule does not provide PGW with "**at least 30 days to review and respond to SBG's testimony[,]**" but this was not a precondition to which SBG agreed. At the time of the parties' email correspondence on November 1st, it appeared to be contemplated that the parties would provide rebuttal - if any - during the hearing. The schedule now affords both parties the opportunity for written rebuttal and sur-rebuttal. This does not lessen the fact that PGW will have SBG's report more than 30 days before the re-scheduled hearing date.

As I see Mr. Clearfield's new request, it is designed to give PGW more time, but does not afford SBG the same extension of time. **Further, I have just received discovery requests from PGW which we did not discuss at all in any of our conferences.**

1. As Your Honor has indicated at the conference, PGW should not need the full 30 days to review and provide a rebuttal report as they have told all of us that most of their work was done for the filing of its written testimony.
2. On November 1st, PGW only requested that SBG provide its written testimony "**at least 30 days before the hearing.**" The current schedule provides this, as PGW requested.
3. There is no reason to provide any of SBG's expert's "work papers" in native excel format. This gives PGW multiple opportunities to prepare its cross examination, which, of course, PGW's proposed revision to the schedule does not extend to SBG.
4. There is no reason to have an "informal Discovery conference[.]" which appears to allow PGW an opportunity to conduct an "informal" deposition of SBG's expert. Other than to provide PGW with yet another opportunity to argue against SBG's expert, there is no basis for this request. And, again, PGW's revision does not offer SBG an "informal Discover conference" where SBG may ask questions of PGW's expert.

In addition, please be advised that SBG would ask for a live in-person evidentiary hearing.

Attachment C

**PGW's November 29, 2022
Email on Status of SBG's
Responses to Set I and
Voluntary Extension of 20-
day Deadline**

From: Carl R. Shultz
Sent: Tuesday, November 29, 2022 4:25 PM
To: Shawn Rodgers; Patricia Starnier; Michael Yanoff
Cc: Dan Clearfield; Christlieb, Graciela C; Bryce R. Beard
Subject: SBG et al., v. PGW C-2015-2486642 et al., Responses to PGW'S Set I Interrogatories

Dear Counsel:

This message is being sent to remind you of the need for SBG Management Services, Inc. *et al.*'s ("SBG") to file responses to Philadelphia Gas Works ("PGW") Set I Interrogatories.

SBG's responses to Set I were due by November 28, 2022. PGW served Set I, which seeks information on such expert's qualifications and identification of SBG's other witness(es), via email to SBG on November 8, 2022. (<https://www.puc.pa.gov/pcdocs/1764239.pdf>) As SBG did not object to Set I pursuant to 52 Pa. Code § 5.342(e) within 10-days of service (by November 18, 2022), full and complete answers were due within 20-days of service (by November 28, 2022), pursuant to 52 Pa. Code § 5.342(d).

Please provide full and complete responses to Set I by 4:30 PM on Thursday, December 1, 2022. This should be sufficient time to provide responses, since SBG has previously indicated that it has retained an expert for this proceeding. If we do not receive SBG's responses by said date and time, PGW will be forced to pursue an appropriate Motion to Compel before the Administrative Law Judge so that PGW continue its preparations for the upcoming hearing.

If you would like to discuss the above deadline for SBG's responses to Set I, or anything else related to this matter, please feel free to contact me. Thank you.

Carl



Carl R. Shultz

Member

Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor | Harrisburg, PA 17101

☎ 717-255-3742 | 📠 717-237-6019 | 📱 717-580-9280

✉ CShultz@eckertseamans.com

BIO: 👤 VCARD: 📄 | 🌐  