



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

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

January 3, 2023

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement v.  
Westover Property Management Company, L.P.  
d/b/a Westover Companies  
Docket Nos. C-2022-3030251; P-2021-3030002  
**I&E Answer to Motion to Dismiss Objections and Compel Answers**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Answer of the Bureau of Investigation and Enforcement to the Motion to Dismiss Objections and Compel Answers to Interrogatories and Requests for Production of Documents of Westover Property Management Company, L.P. d/b/a Westover Companies with regard to the above-referenced proceeding.

Copies have been served on the parties of record in accordance with the Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads 'Kayla L. Rost'.

Kayla L. Rost  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 322768  
(717) 787-1888  
[karost@pa.gov](mailto:karost@pa.gov)

Enclosures

cc: Per Certificate of Service  
Hon. Christopher P. Pell, OALJ-Philadelphia (*via email*)  
Athena Delvillar, OALJ Legal Assistant (*via email*)  
Michael L. Swindler, I&E Deputy Chief Prosecutor (*via email*)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company, L.P.	:	
d/b/a Westover Companies	:	
Respondent	:	

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**ANSWER OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT  
TO THE MOTION TO DISMISS OBJECTIONS AND  
COMPEL ANSWERS TO INTERROGATORIES AND  
REQUESTS FOR PRODUCTION OF DOCUMENTS OF  
WESTOVER PROPERTY MANAGEMENT COMPANY, L.P.  
d/b/a WESTOVER COMPANIES**

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Pursuant to 52 Pa. Code § 5.342(g)(1), the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its prosecuting attorneys, files this Answer to the Motion to Dismiss Objections and Compel Answers to Interrogatories and Requests for Production of Documents (“Motion”) of Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”). For the reasons set forth herein, Westover’s Motion should be denied.

**I. Procedural History**

**A. Westover’s Petition for Declaratory Order**

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.

**B. I&E's Complaint**

5. Admitted in part and denied in part. It is admitted that I&E filed the Formal Complaint (“Complaint”) that initiated this proceeding on January 3, 2022, and that the Secretary’s Bureau served the Complaint on January 5, 2022. I&E is without sufficient information or knowledge to form a belief as to the Secretary’s Bureau’s method of service and the same is therefore denied.
6. Admitted.
7. Admitted.
8. Admitted.

**C. Westover’s Interrogatories Set III**

9. Admitted.
10. Admitted. By way of further response, given the irrelevancy of Westover’s Set III Interrogatories, I&E filed Objections, in full or in part, as fully articulated in I&E’s December 15, 2022 filing.
11. Admitted. By way of further response, counsel for Westover sent one email on December 21, 2022 to which I&E replied on December 22, 2022.

**II. Legal Standards**

12. Admitted. By way of further response, 52 Pa. Code § 5.321(c) speaks for itself.
13. Denied. By way of further response, *Pa. Pub. Util. Comm’n v. the Peoples Natural Gas Company*, 62 Pa. PUC 56 (Aug. 26, 1986), involves the material question of whether an ALJ’s decision to strike a portion of an expert witness’s testimony based on *res judicata* is contrary to the law and

established **ratemaking** policy of the Commission. Specifically, the Commission found:

“that the relevancy test should be liberally applied when considering discovery requests. While we do not intend to pronounce a rule for widespread application, nor make a policy pronouncement, we will state that in our view historical data is almost always relevant to what has, or is occurring during the period under examination, be it a recent historic period, or a future estimated period.”

*Pa. Pub. Util. Comm’n v. the Peoples Natural Gas Company*, 62 Pa. PUC 56 (Aug. 26, 1986)(emphasis added in original). *Pa. Pub. Util Comm’n v. Equitable Gas Company*, 61 Pa. PUC 468 (May 16, 1986), also involves the question of discovering historical data in the context of a Section 1307 rate proceeding.

14. Admitted. By way of further response, 52 Pa. Code § 5.361 speaks for itself.

### **III. The ALJ Should Deny Westover’s Motion to Dismiss I&E’s Objections**

#### **A. Background**

15. Admitted in part, denied in part. It is admitted that I&E requested the visual inspection of Woodland Plaza Apartment complex. I&E is without sufficient information or knowledge to form a belief as to the circumstances on which the basis of Set III, Interrogatories No. 1-3 arose.
16. Admitted.
17. Admitted. By way of further response, upon approaching the meter located outside Buildings K and J, Ms. Cooper Smith smelled the distinct odor of natural gas, which Mr. Orr confirmed also smelling natural gas near the

meter. While standing some distance away from the meter with Westover personnel, Prosecutor Rost also smelled the distinct odor of natural gas. Prosecutor Rost advised counsel for Westover of the odor and noted that the parties could move on to the next building while Mr. Orr called UGI to report the odor of gas. Mr. Orr then called UGI, as is routine safety procedure in such circumstances, to report the odor of gas at the meter outside of Buildings K and J.

18. Admitted. By way of further response, Mr. Orr, Ms. Cooper Smith, and Prosecutor Rost again smelled the distinct odor of natural gas as soon as they approached the gas meter located on the outside of Building H. Mr. Orr placed a second call to UGI, as is routine safety procedure in such circumstances, to report the odor of gas at the meter outside of Building H.
19. Admitted.
20. Admitted in part, denied in part. It is admitted that UGI personnel arrived at Woodland Plaza Apartments when Mr. Orr and Ms. Cooper Smith were visually inspecting the pipeline facilities at Buildings E and F. It is denied that Westover was unaware that Mr. Orr reported the odor of gas to UGI as Westover representatives were made aware that Mr. Orr called UGI after the visual inspection of Buildings K and J.
21. Admitted in part, denied in part. It is admitted that additional UGI personnel arrived at Woodland Plaza Apartments. I&E representatives did not record or take inventory of the number of UGI vehicles which were on-site, and therefore the same is denied.

22. Admitted in part, denied in part. It is admitted that UGI inspected the meter and found leaks. It is denied that the leak was found at the meter, rather the leak was found on the riser valve.
23. Denied. I&E personnel was advised that UGI personnel found leaks at 9 of the apartment buildings. This information was provided to Westover personnel as I&E had temporarily delayed the completion of its visual inspections to ensure that UGI was addressing the safety issue(s) presented by the odor of natural gas at the various buildings.
24. Denied. By way of further response, I&E is without sufficient information or knowledge to form a belief as to the conversations Westover personnel may or may not have had with UGI personnel, and therefore it is denied.
25. Admitted in part, denied in part. It is admitted that I&E personnel told Westover representatives that they were unable to leave Woodland Plaza Apartments until I&E confirmed that the safety issue was remediated or was in the process of being remediated by UGI. It is denied that Mr. Orr communicated to Westover representatives that the leak was a “Grade 3 Emergency” or “Grade C Emergency.”
26. Admitted in part, denied in part. It is admitted that I&E and Westover departed Woodland Plaza Apartments following the visual inspection by I&E of Buildings E and F. It is denied that the parties’ departed from Woodland Plaza Apartments after UGI addressed the leaks at Buildings K and J, and Building H. By way of further response, I&E personnel did not agree to leave Woodland Plaza Apartments until UGI confirmed that the leaks found were going to be or were remediated. I&E is without

sufficient information or knowledge to form a belief on whether the leaks at Buildings K and J, and Building H were fully addressed prior to leaving the apartment complex.

27. Denied. By way of further response, I&E is without sufficient information or knowledge to form a belief as to the observations made by residents of Woodland Plaza Apartments or the reactions of the residents upon seeing the UGI vehicles at the apartment complex, and therefore is denied.

**B. I&E Should Not be Compelled to Answer Interrogatories 1-3**

28. Admitted. By way of further response, Interrogatory 1 speaks for itself.
29. Admitted in part, denied in part. By way of further response, I&E's Objection to Interrogatory 1 speaks for itself and any interpretation, quotation, or characterization is therefore denied.
30. Denied. The averment states a request for relief to which no response is required. To the extent a response is deemed to be required, it is denied.
- a. Admitted in part, denied in part. It is admitted that Mr. Orr called UGI to report a gas leak, that UGI responded to the report of a gas leak, and that I&E personnel observed UGI's inspection of one of the meters. It is denied that the term "UGI's activities at Woodland Plaza Apartments on November 15, 2022" is not unclear or overly broad. As explained in Paragraph 26, I&E personnel were not present during the entirety of UGI's response to the report of the smell of gas. In addition, I&E has no control over the activities of UGI and UGI could have been on location for a matter or matters unrelated to I&E's call to

UGI, for which I&E would have no knowledge. Moreover, the request seeking information relating to “UGI’s activities” seeks information of no probative value and instead confuses the issues. No information relating to UGI’s response to the gas leak has any bearing on whether the Woodland Plaza Apartment complex is a master meter system subject to the Commission’s jurisdiction which is the subject of this proceeding.

- b. Denied. By way of further response, Westover erroneously assumes that UGI filed reports with I&E relating to its response to the gas leaks and that these alleged reports may contain information related to Westover’s compliance with federal pipeline regulations. This argument must fail for various reasons, the first being that UGI would not routinely file a report with I&E when it responds to a gas leak. Second, Westover assumes that if such a document existed, then it may contain information related to Westover’s compliance with federal pipeline regulations. Westover provides no basis to support that an alleged *UGI report* would provide any information or statements related to *Westover’s pipeline facilities* and is instead a fishing expedition. Moreover, any documentation or report related to UGI’s response to a gas leak, were such report to exist, is not related to the subject matter of the complaint.
- c. Admitted in part, denied in part. It is admitted that I&E visually inspected Woodland Plaza as part of discovery. It is denied that I&E is



required to receive Westover's consent to call UGI to report a gas leak or that I&E is using UGI as an agent. By way of further response, I&E personnel advised Westover personnel of the odor of gas near the meter outside the building and that Mr. Orr was calling UGI to report a possible gas leak. Such communication is a routine safety precaution. Additionally, I&E is not required to seek the consent of Westover to report a gas leak. Anyone at the apartment complex could have called 911 or UGI to report the smell of gas, Westover's consent is not required and to suggest such a requirement is in direct contrast to Pipeline Safety's main objective- safety. Moreover, UGI is not I&E's agent and to imply as much further exemplifies Westover's baseless claims; UGI was responding to a safety issue. Lastly, Westover's suggestion that I&E would act unethically so as to "hide" relevant information and then introduce such at the hearing is groundless and should be dismissed.

- d. Denied. By way of further response, Westover's attempt to suggest that the leaks confirmed by UGI may have been on Westover's facilities and that I&E is withholding relevant, safety information from Westover should be dismissed. These claims are absurd and are in stark contrast to Westover's own Request for Admission, No. 2(h): All of the leaks found during I&E's inspection of Woodland Plaza on November 15, 2022 were on the natural gas distribution company's side of the gas meter. Moreover, it is disingenuous of Westover to

argue that it needs certain information to “promptly take all necessary action” when it served Set III on December 5, 2022, roughly 20 days after the November 15, 2022 visual inspection (and noting that I&E’s response would not be due until December 27, 2022, an additional 22 days).

31. Admitted. By way of further response, Interrogatory 2 speaks for itself.
32. Admitted in part, denied in part. By way of further response, I&E’s Objection to Interrogatory 2 speaks for itself and any interpretation, quotation, or characterization is therefore denied.
33. Denied. The averment states a request for relief to which no response is required. To the extent a response is deemed to be required, it is denied.
  - a. Denied. By way of further response, Westover makes an erroneous assumption for which Westover provides no reasoning or support for its claim that UGI would discuss Westover’s pipeline facilities with Mr. Orr. To the extent known by I&E, UGI was at Woodland Plaza Apartment complex in response to a report of an odor of gas. Westover’s request is nothing more than a fishing expedition. Communications, if any, between Mr. Orr and UGI are not relevant to the pending proceeding nor would any communication be reasonably calculated to lead to the discovery of admissible evidence.
  - b. Denied. By way of further response, Mr. Orr did not discuss the instant legal proceeding with UGI personnel. UGI’s presence at Woodland Plaza, to the extent known by I&E, was solely to address the

immediate safety concern, the smell of gas. Thus, Mr. Orr's communications with UGI, which consisted of reporting the odor of gas and confirming that UGI was going to remediate the immediate safety concern presented, is not relevant to the pending proceeding nor is it reasonably calculated to lead to the discovery of admissible evidence.

- c. Admitted in part, denied in part. It is admitted that I&E visually inspected Woodland Plaza as part of discovery. It is denied that I&E is required to receive Westover's consent to call UGI to report a gas leak or that I&E is using UGI as an agent. By way of further response, I&E personnel advised Westover personnel of the odor of gas near the meter outside the building and that Mr. Orr was calling UGI to report a possible gas leak. Such communication is a routine safety precaution. Additionally, I&E is not required to seek the consent of Westover to report a gas leak. Anyone at the apartment complex could have called 911 or UGI to report the smell of gas, Westover's consent is not required and to suggest such a requirement is in direct contrast to Pipeline Safety's main objective- safety. Moreover, UGI is not I&E's agent and to imply as much further exemplifies Westover's baseless claims; UGI was responding to a safety issue. Lastly, Westover's suggestion that I&E would act unethically so as to "hide" relevant information and then introduce such at the hearing is groundless and should be dismissed.

34. Admitted in part, denied in part. By way of further response, Interrogatory 3 speaks for itself. Moreover, I&E is without sufficient information or knowledge to form a belief on Westover's research and therefore it is denied.
35. Admitted in part, denied in part. By way of further response, I&E's Objection to Interrogatory 3 speaks for itself and any interpretation, quotation, or characterization is therefore denied.
36. Denied. The averment states a request for relief to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further response, Mr. Orr did not advise or represent to Westover personnel that the situation at Woodland Plaza Apartments was a "Grade 3 Emergency" or "Grade C Emergency." A natural gas distribution company's classification of gas leaks is not federally or state defined but rather based upon a company's internal procedures, and thus has no bearing on Mr. Orr's credibility as a witness.
37. Admitted in part, denied in part. It is admitted that I&E objected to the request for Mr. Orr's notes as they are protected by attorney-client privilege. The averment states a request for relief to which no response is required, and to the extent a response is deemed to be required, it is denied. By way of further response, Mr. Orr did not advise or represent to Westover personnel that the situation at Woodland Plaza Apartments was a "Grade 3 Emergency" or "Grade C Emergency."

#### IV. Conclusion

**WHEREFORE**, for all the foregoing reasons, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that the presiding Administrative Law Judge deny Westover's Motion to Dismiss Objections and Compel Answers to Interrogatories and Requests for Production of Documents.

Respectfully submitted,



Kayla L. Rost  
Prosecutor  
PA Attorney ID No. 322768

Michael L. Swindler  
Deputy Chief Prosecutor  
PA Attorney ID No. 43319

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(717) 787-1888  
[karost@pa.gov](mailto:karost@pa.gov)

Date: January 3, 2023

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company, L.P.	:	
d/b/a Westover Companies	:	
Respondent	:	

**VERIFICATION**

I, Scott Orr, Fixed Utility Valuation Engineer – 3, in the Bureau of Investigation and Enforcement’s Safety Division, hereby state that the facts above set forth 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.

Date: January 3, 2023



\_\_\_\_\_  
Scott Orr  
Fixed Utility Valuation Engineer – 3  
Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**


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	:	P-2021-3030002
Westover Property Management Company, L.P.	:	
d/b/a Westover Companies	:	
Respondent	:	

**CERTIFICATE OF SERVICE**

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

**Service by Electronic Mail:**

David P. Zambito, Esq.  
Jonathan P. Nase, Esq.  
Cozen O'Connor  
17 North Second Street, Suite 1410  
Harrisburg, PA 17101  
[dzambito@cozen.com](mailto:dzambito@cozen.com)  
[jnase@cozen.com](mailto:jnase@cozen.com)  
*Counsel for Westover Property  
Management Company, L.P.  
d/b/a Westover Companies*

  
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Kayla L. Rost  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 322768  
(717) 787-1888  
[karost@pa.gov](mailto:karost@pa.gov)

Dated: January 3, 2023