



June 16, 2023

VIA E-MAIL

The Honorable Eranda Vero
The Honorable Arlene Ashton
Office of Administrative Law Judge
Pennsylvania Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107

Re: *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-2023-3037933

Dear Judge Vero and Judge Ashton:

Please find enclosed the Answer of POWER Interfaith. The parties have been served per the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me. Thank you.

Sincerely,

/s/ Devin McDougall

PA Attorney ID No. 329855

Senior Attorney

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cc:

PA PUC Secretary's Bureau
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et
al.

Docket No. R-2023-3037933

v.

Philadelphia Gas Works

ANSWER OF POWER INTERFAITH TO THE ANSWER OF PGW

June 16, 2023

Pursuant to 52 Pa. Code §§ 5.223, POWER Interfaith (“POWER”) hereby files this Answer (“Answer”) in the above-captioned proceeding (the “Proceeding”) of the Pennsylvania Public Utility Commission (the “Commission”) concerning the request for a base rate increase filed by Philadelphia Gas Works (“PGW”).

In support of this Answer, POWER states as follows:

1. Since PGW in its Answer has requested an extension to its rebuttal period based specifically on a claim of prejudice relating to the delay in resolution of Set I, it is necessary to evaluate the scope of issues addressed in Set I in order to assess the scope of any prejudice and to develop an appropriately tailored remedy.

2. PGW’s Set I includes only questions addressed to POWER as an entity. Set I questions fall into several categories: (1) POWER as a corporate entity, its intentions, and its motives;¹ (2) the names of POWER’s donors and how POWER uses donations; (3) miscellaneous policy and political views POWER has expressed prior to this proceeding; and (4) POWER’s relationships, associations, and affiliations.² The intrusive and unusual nature of these questions is a factor in why, prior to the pending request for an extension, Set I had not yet been resolved.

3. None of the pending Set I questions are addressed to POWER’s three expert witnesses, and none of the pending questions ask anything about POWER’s three pieces of timely-served expert testimony. PGW has had the full and normal discovery period, unaffected by any delays, to conduct discovery addressed to POWER’s expert witnesses and their pre-served expert testimony.

¹ One Set I question addressed what witnesses POWER intended to call in this proceeding, and requested copies of their curriculum vitae and prior testimony. POWER served a response to this question on June 10.

² The Prehearing Order in this proceeding instructs that discovery materials are not to be sent to the Administrative Law Judges except as attached to a motion to compel, but upon request, POWER is willing to supply a copy of PGW’s Set I to the Administrative Law Judges.

4. POWER agrees that the current circumstances pose scheduling challenges, but they are ultimately not the fault of or under the control of any party. As such, the response to those circumstances should be as tailored and as equitable as possible and avoid placing the burden excessively on one party. PGW's proposal to extend its own rebuttal period on all issues by 7 calendar days without extending POWER's surrebuttal period is overbroad, unbalanced, and unreasonably burdensome to POWER, and POWER has already been highly prejudiced by the circumstances concerning its case lead Rabbi Greenberg.

5. This proceeding already contains a short surrebuttal period of 11 days, and losing even one day of that period would severely prejudice POWER.

6. Given that hearings in this proceeding are scheduled to commence on July 11, the scope for an equitable and balanced extension of rebuttal and surrebuttal periods is highly limited.

7. A manageable and equitable way forward would be to authorize a balanced extension for supplemental rebuttal testimony limited to addressing any materials that result from the resolution of PGW's Set I. POWER would agree to supplemental rebuttal testimony of this nature being submitted by PGW on June 29, a 3 calendar day extension, with supplemental surrebuttal testimony from POWER responding to that supplemental rebuttal testimony due on July 10, a 3 calendar day extension.³ This would not be entirely equitable, because while PGW's extension would be three business days, POWER's extension would be only 1 business day, and business days are highly significant for testimony preparation due to the availability of witnesses and office support staff. This approach would also be difficult given the demands of hearing

³ POWER would like to note that while it is making this proposal for procedural scheduling issues, it reserves all rights to review and respond to any supplemental rebuttal testimony served by PGW.

preparation during the same period. However, despite this burden, POWER is willing to agree to it, and POWER could make this approach work if the above-discussed limitation on the scope of supplemental rebuttal is approved.

8. The questions in PGW's Set I, all targeted to POWER as organization and asking questions about POWER's motives, donors, and previously expressed policy views, are logically distinct from questions relating to the merits of POWER's timely-served direct testimony from outside experts. It is difficult to see how, for example, obtaining POWER's donor list would be necessary for rebutting the merits of the recommendations of POWER expert witness Dorie Seavey, PhD to increase LIURP spending.

9. Instead, it would be possible for PGW to address the merits of POWER's pre-served expert testimony on the normal rebuttal date of June 26, and to address any materials that are ultimately produced from Set I in supplemental rebuttal. It bears emphasis that PGW has not experienced any delays with regard to discovery about POWER's pre-served expert testimony, and Set I does not contain a single question concerning POWER's pre-served expert testimony.

10. It would be inequitable and unbalanced for PGW, as a result of the unfortunate circumstances delaying the resolution of Set I, to obtain a plenary extension for discovery and rebuttal preparation on all issues. Doing so would unreasonably burden POWER, which has already been severely burdened by the injuries to its case lead, during a particularly busy and advanced stage of the proceedings.

11. It is understandable that PGW may ideally wish to have all of its rebuttal testimony in one piece and there is some burden associated with preparing supplemental rebuttal testimony. However, it is appropriate for parties to share the burden of adapting to the present unavoidable circumstances.

12. POWER respectfully submits that the proposal describe herein (1) is appropriately tailored to addressing the potential for prejudice from the delay in the resolution of Set I, and (2) provides a balanced way of reasonably sharing the burdens of adapting to the current unfortunate circumstances.

13. With regard to PGW's proposal about production from Set I, POWER can agree to produce any remaining non-objected partial responses to Set I by June 22, 2023.

14. For the reasons discussed herein, in addition to the extension requested in POWER's Motion for Extension, POWER respectfully requests that the Commission make the following orders:

1. PGW be required to address the merits of POWER's pre-served expert testimony on the normal rebuttal testimony date of June 26.
2. PGW be authorized to submit supplemental rebuttal testimony limited to addressing any materials resulting from the resolution of pending Set I questions on June 29.
3. POWER be authorized to submit supplemental surrebuttal testimony limited to responding to PGW's supplemental rebuttal on July 10.

Dated: June 16, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

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

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Dated: June 16, 2023

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