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July 10, 2023

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: PA Public Utility Commission, et al., v. Philadelphia Gas Works
2023 PGW Base Rate Case – Docket No. R-2023-3037933

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Philadelphia Gas Works' ("PGW") Motion to Remove Designations of "Highly Confidential" and "Confidential" from Information Produced by POWER Interfaith in Response to PGW POWER Set I Interrogatories with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely

Sarah C. Stoner

Sarah C. Stoner
Counsel for Philadelphia Gas Works

Enclosure

cc: Hon. Eranda Vero w/enc.
Hon. Arlene Ashton 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 Remove Designations of “Highly Confidential” and “Confidential”** upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

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Date: July 10, 2023

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PA Public Utility Commission, et al	:	
	:	
v.	:	
	:	Docket No. R-2023-3037933
Philadelphia Gas Works	:	
	:	

**PHILADELPHIA GAS WORKS
MOTION TO REMOVE DESIGNATIONS OF “HIGHLY CONFIDENTIAL” AND
“CONFIDENTIAL” FROM INFORMATION PRODUCED BY POWER INTERFAITH IN
RESPONSE TO PGW SET I INTERROGATORIES**

In accordance with the Protective Order entered in this matter on May 1, 2023 and regulations of the Pennsylvania Public Utility Commission (PUC) at 52 Pa. Code §§ 1.71-1.77, and §§ 5.365(c)-(f) the Philadelphia Gas Works (PGW) hereby respectfully requests that the Presiding Officer remove, or direct the removal of, the designations of “Highly Confidential” and “Confidential” from information produced by POWER Interfaith (POWER) in response to PGW POWER Set I-12, 13, 14, 16, 19 and 25¹ and permit PGW to serve supplemental testimony, if necessary, related to those responses.

I. BACKGROUND

On May 1, 2023, in response to a Motion for Protective Order that was filed by PGW on April 24, 2023, and pursuant to the provisions of 52 Pa. Code § 5.365(a), the Commission issued a Protective Order in this matter, attached hereto as Attachment 1.

On May 26, 2023, PGW served PGW-POWER-I-1-26 Set I Interrogatories on POWER in this proceeding (PGW Set I Interrogatories).

¹ See, Attachment 1.

On June 22, 2023, POWER served Written Objections to the PGW Set I Interrogatories and also on June 22, 2023, POWER served partial responses to 16 of the 26 interrogatories included in PGW Set I Interrogatories.

On June 26, 2023, PGW filed a Motion to Dismiss the Objections of POWER and Compel Complete Replies to PGW Set I Interrogatories.

On June 29, 2023, POWER filed an Answer to PGW's Motion to Compel, and on July 3, 2023 the Presiding Officer issued the following Order: 1) That the Motion to Dismiss the objections of Power Interfaith and Compel Complete Replies to PGW Set I Interrogatories is granted; and, 2) That Philadelphians Organized to Witness Empower and Rebuild (P.O.W.E.R.), Inc. shall file full and complete answers to Interrogatories PGW-POWER Set I-1 through I-26 no later than 9:00 AM on July 5, 2023.

On July 5, 2023, POWER timely served Supplemental Responses to PGW's Set I Interrogatories. Further, in accordance with the May 11, 2023 Prehearing Order in this matter, encouraging informal resolution of discovery disputes, PGW contacted counsel for POWER and discussed each of POWER's Supplemental Responses which appeared to PGW to continue to be incomplete. After an extended discussion of each interrogatory and response, Counsel for POWER informally agreed to provide a Second Supplemental Response to PGW Set I Interrogatories by 1:00 p.m. on July 6, 2023. In accordance with that informal agreement, POWER timely filed Second Supplemental Responses to PGW Set I Interrogatories.

With the receipt of POWER's Second Supplemental Responses, PGW no longer seeks to compel "complete responses" to PGW Set I Interrogatories. In this Motion, PGW specifically seeks the removal of designations of "Highly Confidential" and "Confidential" information marked by POWER on documents and information provided in POWER's Second Supplemental

Set I Interrogatory responses. PGW notes that on July 6, 2023, shortly after receiving POWER's Second Supplemental Responses, PGW attempted to secure agreement with counsel for POWER regarding the removal of such designations from responses to PGW Set I interrogatories; however, no agreement was reached.

As a municipal utility, with significant governmental interaction and responsibilities, PGW seeks to advance the goal of free and open public access to nonproprietary, non-trade secret and non-Confidential Security Information. None of these subjects have been raised or are at issue in this proceeding. This Motion challenges the propriety of POWER's designation of documents and information as "Highly Confidential" or "Confidential" without conforming to the basic requirements of the Protective Order in this proceeding or the Commission's Rules of Practice and Procedure. As PGW's ability to fully analyze these data will be hampered by these unjustified "Highly Confidential" and "Confidential" designations, PGW files this Motion to have those designations lifted.

II. POWER'S DESIGNATIONS OF "CONFIDENTIAL" AND "HIGHLY CONFIDENTIAL" MATERIALS IN ITS RESPONSES TO PGW SET I INTERROGATORIES DO NOT COMPLY WITH THE BASIC REQUIREMENTS FOR APPLYING SUCH DESIGNATIONS UNDER THE COMMISSION'S PROTECTIVE ORDER IN THIS PROCEEDING

Under the Commission's Protective Order in this proceeding², there are two categories of Proprietary Information: "CONFIDENTIAL" and "HIGHLY CONFIDENTIAL" protected material. See, Attachment 1 - Protective Order in R-2023-3037933, May 1, 2023 at 2. A producing party may designate as "CONFIDENTIAL" those materials that are customarily treated by that party as sensitive or proprietary, that are not available to the public, and that, if generally disclosed, would subject that party or its clients to the risk of competitive disadvantage

² See, Attachment 1 - Protective Order in R-2023-3037933, May 1, 2023.

or other business injury. *Id.* . A producing party may designate as “HIGHLY CONFIDENTIAL” those materials that are: (1) of such a commercially sensitive nature, relative to the business interests of parties to this proceeding, or of such a private or personal nature, that the producing party is able to justify a heightened level of confidential protection with respect to those materials; or (2) deemed Confidential Security Information pursuant to the Public Utility Confidential Security Information Disclosure Protection Act (35 P.S. §§ 2141.1 to 2141.6). *Id.* Further, the Protective Order provides that the “parties shall endeavor to limit the information designated as “HIGHLY CONFIDENTIAL” protected material.” *Id.*

Of note, that Protective Order also provides: “That the parties shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information and to question or challenge the admissibility of Proprietary Information.” The Protective Order added that “If a party challenges the designation of a document or information as proprietary, the party providing the information retains the burden of demonstrating that the designation is appropriate.” *Id.* at paragraph 17.

POWER has not demonstrated that its documents designated as “Confidential” and “Highly Confidential” comply with the basic requirements of the Commission’s Protective Order in this proceeding. POWER’s designation of a witnesses “workpapers” as “Confidential” in its response to PGW Set I-25 does not transform that document into “materials that are customarily treated by POWER as sensitive or proprietary, that are not available to the public, and that, if generally disclosed, would subject POWER to the risk of competitive disadvantage or other business injury. Consequently, the Commission should find that POWER’s designation of “Confidential” materials in POWER’s response to PGW Set I-25 does not comply with the basic

requirements for applying such designations under the Commission’s Protective Order in this proceeding.

Similarly, POWER has not demonstrated that the materials included in any of its responses in HC# 12, 13, 14, 16 and 19, marked as “Highly Confidential,” are (1) of such a commercially sensitive nature, relative to the business interests of parties to this proceeding, or of such a private or personal nature, that POWER is able to justify a heightened level of confidential protection with respect to those materials; or (2) deemed Confidential Security Information (CSI) pursuant to the Public Utility Confidential Security Information Disclosure Protection Act (35 P.S. §§ 2141.1 to 2141.6). Consequently, the Commission should find that POWER’s designations of “Highly Confidential” materials in each of the above-referenced responses do not comply with the basic requirements for applying such designations under the Commission’s Protective Order in this proceeding.

III. POWER’S DESIGNATIONS OF “CONFIDENTIAL” AND “HIGHLY CONFIDENTIAL” MATERIALS IN ITS RESPONSES TO PGW SET I INTERROGATORIES DO NOT COMPLY WITH THE REQUIREMENTS OF THE COMMISSION’S RULES OF PRACTICE AND PROCEDURE.

The Commission’s Rules of Practice and Procedure permit the Commission to issue protective orders limiting the availability of certain proprietary or confidential information. More specifically, Section 5.365 of the Commission’s regulations provides, in pertinent part:

- (a) *General rule for adversarial proceedings.* A petition for protective order to limit the disclosure of a trade secret or other confidential information on the public record will be granted only when a party demonstrates that the potential harm to the party of providing the information would be substantial and that the harm to the party if the information is disclosed without restriction outweighs the public’s interest in free and open access to the administrative hearing process. A protective order to protect trade secrets or other confidential information will apply the least restrictive means of limitation which will provide the necessary protections from disclosure. In considering whether a protective

order to limit the availability of proprietary information should be issued, the Commission or the presiding officer should consider, along with other relevant factors, the following:

- (1) The extent to which the disclosure would cause unfair economic or competitive damage.
- (2) The extent to which the information is known by others and used in similar activities.
- (3) The worth or value of the information to the party and to the party's competitors.
- (4) The degree of difficulty and cost of developing the information.
- (5) Other statutes or regulations dealing specifically with disclosure of the information.

52 Pa. Code § 5.365. The party seeking the protective order has the burden to establish that the potential harm to the party of providing the information would be substantial and the harm to the party if the information is disclosed without restriction outweighs the public's interest in free and open access to the administrative hearing process. Petition for Protective order of GTE North Inc., 1996 Pa PUC LEXIS 95, Docket No. G-00940402 (Order entered August 8, 1996) (GTE Order); ITT Communications Services' Petition for a Protective Order, 1991 Pa PUC LEXIS 193, Docket No. R-912017 (Order entered November 5, 1991). If that burden is satisfied, the least restrictive means of limitation which will provide the necessary protection from disclosure will be applied.

These provisions, however, must be balanced against Commission regulations that also provide that the Commission's records, including the record of this proceeding, may be accessed by the public pursuant to 52 Pa. Code §§ 1.71-1.77. In particular, Section 1.71 of the Commission's regulations provides: "The Commission's record maintenance system is intended to provide for the greatest degree of public access to Commission documents that is consistent

with the exercise of the functions of the Commission under the act and other applicable laws.”

52 Pa. Code § 1.71.

In this case, in addition to its failure to adhere to the requirements of the Protective Order in this proceeding, POWER’s unilateral designations do not demonstrate why any of its exhibits numbered HC# 12, 13, 14, 16 (including notes of Rabbi Greenberg), HC #19 and POWER response to 1-25 which specifically references the workpapers of POWER witness Havumaki, marked as Confidential³, should qualify for treatment as confidential or highly confidential under the Commission’s rules of practice and procedure. POWER has failed to provide any information which could lead to the conclusion that potential harm to POWER would be substantial and that the harm to POWER if the information is disclosed without restriction outweighs the public’s interest in free and open access to the administrative hearing process. 52 Pa. Code § 5.365 This is particularly true when considering the numerous factors listed in Section 5.365 that must be considered when determining whether specific information should be made public.

IV. POWER’S DESIGNATION OF RESPONSES TO PGW SET I-12, 13, 14, 16, 19 AND 25 INTERROGATORIES DESIGNATED “HIGHLY CONFIDENTIAL” OR “CONFIDENTIAL” ARE MIS-LABELED AND SHOULD BE MADE PUBLIC

Each of the disputed POWER responses to PGW Set I Interrogatories is attached to this Motion as Attachment 2. However, even a cursory review of the information requested, and responses provided by POWER reveals that none of POWER’s designations satisfy the numerous factors listed in Section 5.365 that must be considered when determining whether specific information should be made public.

³ Attachment 2 - HC# 12, 13, 14, 16 (including notes of Rabbi Greenberg), HC #19 and POWER response to 1-25 which specifically references the workpapers of POWER witness Havumaki, marked as Confidential.

For example, PGW Set I-12, 13 and 14 seek information concerning the specific sources and amounts of grants and funds received by POWER and their intended purpose. POWER's designation of its response in HC #12, 13 and 14 as "Highly Confidential" leads to the conclusion that they are mislabeled. As discussed above, in addition to their failure to comply with the requirements of the Protective Order, they fail to comply with Section 5.365 of the Commission's Rules of Practice and Procedure because POWER has not demonstrated that: 1) The disclosure would cause unfair economic or competitive damage to POWER; 2) The information is not known by others and used in similar activities; 3) The worth or value of the information to POWER and to POWER's competitors; and, 4) The degree of difficulty and cost of developing the information. 52 Pa. Code § 5.365 (a) 1-4.

PGW has a legitimate right to conduct further investigations and analyses of these data in order to determine whether the POWER's list of grantors might have connections to PGW competitors or potential competitors that could influence POWER's position in this proceeding. By designating the information received as "highly confidential" POWER severely limits the access to and the use of the information such that it will be virtually impossible for PGW to conduct any analysis or investigation.

In addition to the above concerns regarding the mislabeling of POWER's response to PGW Set I-12, 13, and 14, this Commission should find that POWER's designation of PGW Set I-16 and 19 as "Highly Confidential" are equally defective because they do not comply with the Protective Order in this proceeding or with Section 5.365 of the Commission's Rules of Practice and Procedure. In each of these instances, the Commission should conclude that POWER has not demonstrated that the potential harm to POWER, as the party providing the information, would be substantial or that any alleged harm would come to POWER if the

information were disclosed without restriction. In this proceeding, POWER's claims do not outweigh the public's interest in free and open access to the administrative hearing process. 52 Pa. Code § 5.365 (a).

V. CONCLUSION

As discussed above, with the receipt of POWER's Second Supplemental Responses, PGW no longer seeks to compel "complete responses" to PGW Set I Interrogatories. Here, PGW specifically requests the removal of designations of "Highly Confidential" and "Confidential" marked by POWER on documents and information provided in POWER's responses to six interrogatories in PGW Set I. PGW submits that these six responses are all mislabeled and should be made public.

In this case, pursuant to 52 Pa. Code §§ 1.71-1.77, §§ 5.365(c)-(f) and paragraph 17 of the Protective Order entered in this matter, POWER has failed to demonstrate that its documents even qualify to be marked under the Protective Order in this proceeding and has not demonstrated that any of its exhibits numbered HC# 12, 13, 14, 16 (including notes of Rabbi Greenberg), HC #19 and POWER response to 1-25 which specifically references the workpapers of POWER witness Havumaki, marked as Confidential, qualify for treatment as confidential or highly confidential under the Commission's rules of practice and procedure. Consequently, this information should not be permitted to be treated as Confidential or Highly Confidential in this proceeding and PGW should be permitted to serve supplementary testimony, if necessary, related to those public documents.

WHEREFORE, PGW hereby respectfully requests that the Presiding Officer: 1) lift, or direct the removal of, the designations of "Highly Confidential" and "Confidential" from information produced by POWER in response to PGW POWER Set I-12, 13, 14, 16, 19 and 25;

2) permit PGW to serve supplementary testimony, if necessary, related to those public documents; and 3) grant any other relief deemed appropriate under the circumstances.

Respectfully submitted,

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Dated: July 10, 2023

Attachment 1

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2023-3037933
Office of Consumer Advocate	:	C-2023-3038846
Office of Small Business Advocate	:	C-2023-3038885
Philadelphia Industrial And Commercial	:	C-2023-3039059
Gas User Group	:	C-2023-3038727
Grays Ferry Cogeneration Partnership and	:	
Vicinity Energy Philadelphia, Inc.	:	
	:	
v.	:	
	:	
Philadelphia Gas Works	:	

PROTECTIVE ORDER

Upon consideration of the Motion for Protective Order that was filed by Philadelphia Gas Works (“PGW”) on April 24, 2023, and pursuant to the provisions of 52 Pa. Code § 5.365(a):

IT IS ORDERED:

1. This Protective Order is hereby granted with respect to all materials and information identified in Paragraphs 2 and 3 below, which are or will be filed with the Commission, produced in discovery, or otherwise presented during the above-captioned proceeding and all proceedings consolidated with it. All persons now or hereafter granted access to the materials and information identified in Paragraphs 2 and 3 of this Protective Order shall use and disclose such information only in accordance with this Protective Order.

2. The information subject to this Protective Order is all correspondence, documents, statements, exhibits, data, information, studies, methodologies and other materials, whether produced or reproduced or stored on paper, cards, tape, disk, film, electronic facsimile, magnetic

or optical memory, computer storage devices or any other devices or media, including, but not limited to, electronic mail (e-mail), furnished in this proceeding that the producing party believes to be of a proprietary or confidential nature and are so designated by being stamped or marked “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” protected material. Such materials are referred to in this Order as “Proprietary Information.” When a statement or exhibit is identified for the record, the portions thereof that constitute Proprietary Information shall be designated as such for the record.

3. For purposes of this Protective Order there are two categories of Proprietary Information: “CONFIDENTIAL” and “HIGHLY CONFIDENTIAL” protected material. A producing party may designate as “CONFIDENTIAL” those materials that are customarily treated by that party as sensitive or proprietary, that are not available to the public, and that, if generally disclosed, would subject that party or its clients to the risk of competitive disadvantage or other business injury. A producing party may designate as “HIGHLY CONFIDENTIAL” those materials that are: (1) of such a commercially sensitive nature, relative to the business interests of parties to this proceeding, or of such a private or personal nature, that the producing party is able to justify a heightened level of confidential protection with respect to those materials; or (2) deemed Confidential Security Information pursuant to the Public Utility Confidential Security Information Disclosure Protection Act (35 P.S. §§ 2141.1 to 2141.6). Pursuant to the Commission’s rules regarding the handling of Confidential Security Information, no information subject to protection under the Public Utility Confidential Security Information Disclosure Protection Act (35 P.S. §§ 2141.1 to 2141.6) and PUC Regulations at 52 Pa. Code §§ 102.1-102.4 will be provided electronically to the Commission, Administrative Law Judges, Secretary’s Bureau, or any other Commission staff, and such information must be filed with the

Commission in hard copy only. The parties shall endeavor to limit the information designated as “HIGHLY CONFIDENTIAL” protected material.

4. Proprietary Information shall be provided to counsel for a party, subject to the terms of this Protective Order, who meets the criteria of a “Reviewing Representative” as set forth below. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, testimony, cross examination or argument in this proceeding. To the extent required for participation in this proceeding, such counsel may allow others to have access to Proprietary Information only in accordance with the conditions and limitations set forth in this Protective Order.

5. Information deemed “CONFIDENTIAL” shall be provided to a “Reviewing Representative.” For purposes of “CONFIDENTIAL” Proprietary Information, a “Reviewing Representative” is a person who has signed a Non-Disclosure Certificate and is:

- a. An attorney for a public advocate pursuant to 52 Pa. Code § 1.8 or an attorney who has formally entered an appearance in this proceeding on behalf of a party;
- b. An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph (a) above;
- c. An expert or an employee of an expert retained by a party for the purpose of advising that party or testifying in this proceeding on behalf of that party; or
- d. Employees or other representatives of a party to this proceeding who have significant responsibility for developing or presenting the party’s positions in this docket.

6. Information deemed “HIGHLY CONFIDENTIAL” protected material shall be provided to a Reviewing Representative, provided, however that a Reviewing Representative, for purposes of “HIGHLY CONFIDENTIAL” protected material, is limited to a person who has signed a Non-Disclosure Certificate and is:

- a. An attorney for a public advocate pursuant to 52 Pa. Code § 1.8 or an attorney who has formally entered an appearance in this proceeding on behalf of a party;
- b. An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph (a);
- c. An outside expert or an employee of an outside expert retained by a party for the purposes of advising that party or testifying in this proceeding on behalf of that party; or
- d. A person designated as a Reviewing Representative for purposes of HIGHLY CONFIDENTIAL protected material pursuant to Paragraph 11.

Provided, further, that in accordance with the provisions of Sections 5.362 and 5.431(e) of the Commission's Rules of Practice and Procedure (52 Pa. Code §§ 5.362, 5.431(e) any party may, by objection or motion, seek further protection with respect to HIGHLY CONFIDENTIAL protected material, including, but not limited to, total prohibition of disclosure or limitation of disclosure only to particular parties.

7. For purposes of this Protective Order, a Reviewing Representative may not be a "Restricted Person" absent agreement of the party producing the Proprietary Information. A "Restricted Person" shall mean: (a) an officer, director, stockholder, partner, or owner of any competitor of the parties or an employee of such an entity if the employee's duties involve marketing or pricing of the competitor's products or services or advising another person who has such duties; (b) an officer, director, stockholder, partner, or owner of any affiliate of a competitor of the parties (including any association of competitors of the parties) or an employee of such an entity if the employee's duties involve marketing or pricing of the competitor's products or services or advising another person who has such duties; (c) an officer, director, stockholder, owner, agent or employee of a competitor of a customer of the parties or of a competitor of a vendor of the parties if the Proprietary Information concerns a specific, identifiable customer or

vendor of the parties; and (d) an officer, director, stockholder, owner or employee of an affiliate of a competitor of a customer of the parties if the Proprietary Information concerns a specific, identifiable customer of the parties; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert's interest in the business would provide a significant motive for violating the limitations of permissible use of the Proprietary Information. For purposes of this Protective Order, stocks, partnership or other ownership interests valued at more than \$10,000 or constituting more than 1% interest in a business (excluding ownership interests where the expert has no direct knowledge of such interest, or control over investment or business decisions, such as a mutual fund) establishes a significant motive for violation.

8. If an expert for a party, another member of the expert's firm or the expert's firm generally also serves as an expert for, or as a consultant or advisor to, a Restricted Person, that expert must: (1) identify for the parties each Restricted Person and all personnel in or associated with the expert's firm that work on behalf of the Restricted Person; (2) take all reasonable steps to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a Restricted Person; and (3) if segregation of such personnel is impractical, the expert shall give to the producing party written assurances that the lack of segregation will in no way adversely affect the interests of the parties or their customers. The parties retain the right to challenge the adequacy of the written assurances that the parties' or their customers' interests will not be adversely affected. No other persons may have access to the Proprietary Information except as authorized by order of the Commission.

9. Reviewing Representatives qualified to receive "HIGHLY CONFIDENTIAL" protected material may discuss HIGHLY CONFIDENTIAL protected material with their client

or with the entity with which they are employed or associated, to the extent that the client or entity is not a "Restricted Person," but may not share with, or permit the client or entity to review or have access to, the HIGHLY CONFIDENTIAL protected material. Provided, however, that counsel for I&E, the Office of Consumer Advocate, and Office of Small Business Advocate may share proprietary information with the I&E Chief Prosecutor, I&E Deputy Chief Prosecutor, Consumer Advocate, Deputy Consumer Advocate, and Small Business Advocate, respectively, without obtaining a Non-Disclosure Certificate from these individuals, provided however, that these individuals otherwise abide by the terms of the Protective Order.

10. Proprietary Information shall be treated by the parties and by the Reviewing Representative in accordance with the terms of this Protective Order, which are hereby expressly incorporated into the certificate that must be executed pursuant to Paragraph 12(a). Proprietary Information shall be used as necessary, for the conduct of this proceeding and for no other purpose. Proprietary Information shall not be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding.

11. Reviewing Representatives may not use anything contained in any Proprietary Information obtained through this proceeding to give any party or any competitor of any party a commercial advantage. In the event that a party wishes to designate as a Reviewing Representative a person not described in Paragraph 6 (i) through (iii) above, the party must first seek agreement to do so from the party providing the Proprietary Information. If an agreement is reached, the designated individual shall be a Reviewing Representative pursuant to Paragraph 6 (iv) above with respect to those materials. If no agreement is reached, the party seeking to have

a person designated a Reviewing Representative shall submit the disputed designation to the presiding Administrative Law Judges for resolution.

12. A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Proprietary Information pursuant to this Protective Order unless that Reviewing Representative has first executed a Non-Disclosure Certificate in the form provided in Appendix A, provided, however, that if an attorney or expert qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under his or her instruction, supervision or control need not do so. A copy of each executed Non-Disclosure Certificate shall be provided to counsel for the party asserting confidentiality prior to disclosure of any Proprietary Information to that Reviewing Representative. Attorneys and outside experts qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with the Protective Order.

13. The parties shall designate data or documents as constituting or containing Proprietary Information by stamping or marking the documents "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" protected material. Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the parties, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information.

14. That the Commission and all parties, including the statutory advocates and any other agency or department of state government, will consider and treat the Proprietary

Information as within the exemptions from disclosure in Section 335(d) of the Public Utility Code, 66 Pa. C.S. § 335(d), and the Pennsylvania Right-to-Know Act, 65 P.S. §§ 67.101 *et seq.* (the “RTKL”), until such information is found by a tribunal with jurisdiction to be not confidential or subject to one or more exemptions. In the event that any person or entity seeks to compel the disclosure of Proprietary Information under Section 335(d) and/or the RTKL, the Commission and/or the party receiving such request shall promptly notify the producing party in order to provide the producing party an opportunity to oppose or limit such disclosure. None of the parties waive their right to pursue any available remedies that may be available in the event of actual or anticipated disclosure of Proprietary Information.

15. Any public reference to Proprietary Information by a party or its Reviewing Representatives shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to understand fully the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

16. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination, argument, and responses to discovery, and including reference thereto as mentioned in Paragraph 15 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the parties to this proceeding or pursuant to an order of the Commission or a Court with jurisdiction over such matters.

17. The parties shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information and to question or challenge the admissibility of Proprietary Information. If a party challenges the designation of a document or information as proprietary, the party providing the information retains the burden of demonstrating that the designation is appropriate.

18. The parties shall retain the right to object to the production of Proprietary Information on any proper ground, and to refuse to produce Proprietary Information pending the adjudication of the objection.

19. Within 30 days after a Commission final order is entered in the above-captioned proceeding, or in the event of appeals, within thirty days after appeals are finally decided, the receiving party, upon request, shall either destroy or return to the parties all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information. In the event that the party elects to destroy all copies of documents and other materials containing Proprietary Information instead of returning the copies of documents and other materials containing Proprietary Information to the parties, upon request, the party shall certify in writing to the producing party that the Proprietary Information has been destroyed.

Date: May 1, 2023

_____/s/
Eranda Vero
Administrative Law Judge

_____/s/
Arlene Ashton
Administrative Law Judge

Pennsylvania Public Utility Commission	:	
	:	R-2023-3037933
	:	
Office of Consumer Advocate	:	C-2023-3038846
Office of Small Business Advocate	:	C-2023-3038885
Philadelphia Industrial And Commercial	:	C-2023-3039059
Gas User Group	:	C-2023-3038727
Grays Ferry Cogeneration Partnership and	:	
Vicinity Energy Philadelphia, Inc.	:	
v.	:	
	:	
Philadelphia Gas Works	:	

NON-DISCLOSURE CERTIFICATE

TO WHOM IT MAY CONCERN:

The undersigned is the _____ of _____
(the receiving party). The undersigned has read and understands the Protective Order deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order, which are incorporated herein by reference.

SIGNATURE

PRINT NAME

ADDRESS

EMPLOYER

DATE: _____

**R-2023-3037933 - PENNSYLVANIA PUBLIC UTILITY COMMISSION v.
PHILADELPHIA GAS WORKS**

Revised 5-1-2023

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(Representing TURN)

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Accepts eService

(Representing Power Interfaith)

Attachment 2

Pa. PUC v. Philadelphia Gas Works

Docket No. R-2023-3037933

Second Supplemental Response to Discovery Request: PGW-POWER-I-12

Response Provided By: Rabbi Julie Greenberg, POWER Interfaith, Climate Justice and Jobs Director, 1429 N. 11th St., Philadelphia, PA 19122.

Date of Response: 07/06/2023

Question

12. On the Profit and Loss Statement contained in the 2021 Annual Report of POWER Interfaith at Line 3100 it states that POWER received \$2,047,281.47 in “Grants”:

- a. Please identify the specific source(s) and amount of each grant, the purpose for which it was granted and the specific purpose for which each grant was actually used.

Supplemental Answer

The referenced document is the 2021 Annual Report of Philadelphians Organized to Witness Empower and Rebuild (P.O.W.E.R.), Inc. (aka POWER Interfaith). For the requested information regarding Line 3100 of that report, please see Highly Confidential Attachment 12, available at a link that will be provided under separate cover to parties authorized to view it.

Pa. PUC v. Philadelphia Gas Works

Docket No. R-2023-3037933

Second Supplemental Response to Discovery Request: PGW-POWER-I-13

Response Provided By: Rabbi Julie Greenberg, POWER Interfaith, Climate Justice and Jobs Director, 1429 N. 11th St., Philadelphia, PA 19122.

Date of Response: 07/06/2023

Question

13. On the Profit and Loss Statement contained in the 2021 Annual Report of POWER Interfaith at Line 3420 it states that POWER received \$35,093.87 from “Sustainers,” please identify each “Sustainer” the amount each contributed to 2021 revenues of POWER, and the purpose for which funds were given to POWER.

Supplemental Answer

The referenced document is the 2021 Annual Report of Philadelphians Organized to Witness Empower and Rebuild (P.O.W.E.R.), Inc. (aka POWER Interfaith). For the requested information regarding Line 3420 of that report, please see Highly Confidential Attachment 13, available at a link that will be provided under separate cover to parties authorized to view it.

Pa. PUC v. Philadelphia Gas Works

Docket No. R-2023-3037933

Second Supplemental Response to Discovery Request: PGW-POWER-I-14

Response Provided By: Rabbi Julie Greenberg, POWER Interfaith, Climate Justice and Jobs Director, 1429 N. 11th St., Philadelphia, PA 19122.

Date of Response: 07/06/2023

Question

14. On the Profit and Loss Statement contained in the 2021 Annual Report of POWER Interfaith at Line 3440 it states that POWER received \$22,500.00 in the category of “Sponsorship/Individual Gift”, please identify the source of each sponsorship and individual gift included in that total, the amount of each sponsorship or gift and the and the purpose for which it was given to POWER.

Supplemental Answer

The referenced document is the 2021 Annual Report of Philadelphians Organized to Witness Empower and Rebuild (P.O.W.E.R.), Inc. (aka POWER Interfaith). For the requested information regarding Line 3440 of that report, please see Highly Confidential Attachment 14, available at a link that will be provided under separate cover to parties authorized to view it.

Pa. PUC v. Philadelphia Gas Works

Docket No. R-2023-3037933

Second Supplemental Response to Discovery Request: PGW-POWER-I-16

Response Provided By: Rabbi Julie Greenberg, POWER Interfaith, Climate Justice and Jobs
Director, 1429 N. 11th St., Philadelphia, PA 19122.

Date of Response: 07/06/2023

Question

16. If the Answer to Interrogatory No. 15 is Yes:

- a. List each written material or document;
- b. List who presently has possession of each document;
- c. List where it is located; and,
- d. Please attach a copy of each document set forth in Answer 16.

Supplemental Answer

* Meeting Notes, December 7, 2022; Julie Greenberg; Julie Greenberg's Paper Files; Please see Highly Confidential Attachment 16, available at a link that will be provided under separate cover to parties authorized to view it.

* Meeting Notes, March 1, 2023; Julie Greenberg; Julie Greenberg's Laptop; Please see Highly Confidential Attachment 16, available at a link that will be provided under separate cover to parties authorized to view it (portion containing legal advice redacted as attorney-client privileged materials).

Pa. PUC v. Philadelphia Gas Works

Docket No. R-2023-3037933

Second Supplemental Response to Discovery Request: PGW-POWER-I-19

Response Provided By: Rabbi Julie Greenberg, POWER Interfaith, Climate Justice and Jobs
Director, 1429 N. 11th St., Philadelphia, PA 19122.

Date of Response: 07/06/2023

Question

19. Identify any and all direct funders of POWER's PGW Just Transition campaign since January 1, 2022. State with specific identifiers and the purposes of all funds collected for and used by the PGW Just Transition campaign since January 1, 2022.

Supplemental Answer

For the requested information concerning the PGW Just Transition campaign of Philadelphians Organized to Witness Empower and Rebuild (P.O.W.E.R.), Inc. (aka POWER Interfaith), please see Highly Confidential Attachment 19, available at a link that will be provided under separate cover to parties authorized to view it.

Pa. PUC v. Philadelphia Gas Works

Docket No. R-2023-3037933

Second Supplemental Response to Discovery Request: PGW-POWER-I-25

Response Provided By: Mark Kleinginna, Emergent Urban Concepts, LLC, 13 Kendall Avenue, Sleepy Hollow, NY 10591 (re: materials relating to Mark Kleinginna); Dorie Seavey, PhD, Research Economist, 73 Mount Vernon Street, Suite 3, Boston, MA 02108 (re: materials relating to Dorie Seavey, PhD); and Ben Havumaki, Senior Associate, Synapse Energy Economics, Inc., 485 Massachusetts Avenue, Cambridge, MA 02139 (re: materials relating to Ben Havumaki)

Date of Response: 07/06/2023

Question

25. Identify and provide the following for each person that POWER intends to call as a witness in this proceeding, including but not limited to Mark Kleinginna, Ben Havumaki, and Dorie Seavey, PhD:

- a. Curriculum vitae.
- b. Identify all cases where the witness has provided testimony in the last three (3) years.
- c. Produce all copies of testimony, workpapers, or reports each witness generated related to each and every case identified in (b) above.

Supplemental Answer

a. Please see Attachment 25(a), which contains the curriculum vitae for each witness, available at this [link](#).

b. Please see the below list of all cases where each witness has provided testimony in the last three years:

Mark Kleinginna

* Philadelphia Gas Commission, In Re PGW's Proposed FY 2024 Capital Budget and FY 2025-2029 Forecast (2023).

* Philadelphia Gas Commission, In Re PGW's Proposed FY 2024 Operating Budget and FY 2025-2029 Forecast (2023).

* Philadelphia Gas Commission, In Re PGW's Proposed FY 2023 Capital Budget and FY 2024-2028 Forecast (2022).

* Philadelphia Gas Commission, In Re PGW's Proposed FY 2023 Operating Budget and FY 2024-2028 Forecast (2022).

Dorie Seavey, PhD

None.

Ben Havumaki

* New Brunswick Energy and Utilities Board, Matter 529 (2023).

* Minnesota Public Utilities Commission, Docket No. E-002/GR-21-630 (2022).

* Public Utilities Commission of New Hampshire, Docket No. DE 20-161 (2022).

* Public Service Commission of West Virginia, Case No. 21-0857-E-CN (2022).

* Illinois Commerce Commission, Docket No. 22-0067 (2022).

* Public Utilities Commission of New Hampshire, Docket DG 21-104 (2022).

* Illinois Commerce Commission, Docket No. 22-0063 (2022).

* Public Utilities Commission of New Hampshire, Docket No. DE 21-030 (2021).

* Rhode Island Division of Public Utilities & Carriers, Docket No. 5189 (2021).

c. For the requested testimony, reports, or workpapers, please see Attachment 25(c), available at this [link](#), except for a Confidential workpaper that is available at a link that will be provided under separate cover to parties authorized to view it. There are no workpapers associated with prior testimony of Mark Kleinginna and Dorie Seavey, PhD.