**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2023-3039919 (stormwater)

Office of Small Business Advocate : C-2023-3040789

Office of Consumer Advocate : C-2023-3040847

:

v. :

:

The Pittsburgh Water and Sewer Authority :

Pennsylvania Public Utility Commission : R-2023-3039920 (water)

Office of Small Business Advocate : C-2023-3040785

Office of Consumer Advocate : C-2023-3040845

:

v. :

:

The Pittsburgh Water and Sewer Authority :

Pennsylvania Public Utility Commission : R-2023-3039921 (wastewater)

Office of Small Business Advocate : C-2023-3040780

Office of Consumer Advocate : C-2023-3040846

:

v. :

:

The Pittsburgh Water and Sewer Authority :

Petition of the Pittsburgh Water and Sewer : P-2023-3040734 (water)

Authority for Authorization to Increase : P-2023-2040735 (wastewater)

Water and Wastewater DSIC Charge Caps :

to 7.5% :

Petition of the Pittsburgh Water and Sewer : P-2023-3040578

Authority for Authorization to Implement a :

Customer Assistance Charge :

**ORDER**

**GRANTING THE PITTSBURGH WATER AND SEWER AUTHORITY’S**

**MOTION TO COMPEL RESPONSES TO THE INTERROGATORIES**

**ADDRESSED TO RIVER DEVELOPMENT CORPORATION, SET I**

In accordance with the provisions of 52 Pa. Code § 5.483 (relating to the authority

of the presiding officer), the various relevant provisions under Chapter 5 of the Code (relating to discovery), and the Scheduling Order dated July 10, 2023 (“*Scheduling Order*”), this Order grants the Motion to Compel filed by the Pittsburgh Water and Sewer Authority (“PWSA”). This Order directs River Development Corporation (“RDC”) to provide full and complete responses to PWSA’s Interrogatories Set I. However, RDC will be directed to submit its responses by no later than noon on September 11, 2023; and PWSA’s will be given the right to submit supplemental rebuttal testimony addressing RDC’s responses by no later than September 14, 2023. The reasons for this Order are discussed below.

PWSA’s Motion

On September 5, 2023, PWSA filed a Motion to Compel responses to its Interrogatories, Set I (“Motion”). A copy of PWSA’s Interrogatories was attached to the Motion as “Appendix 1.” This Appendix consists of twenty-six (26) questions directed to RDC, all of which refer to, or concern, RDC St. Nos. 1 and 2 (RDC’s submitted direct testimony).

In its Motion, PWSA avers the following: that it served its Set I Interrogatories on RDC on August 22, 2023;[[1]](#footnote-1) that pursuant to the *Scheduling Order*, RDC’s responses were due within ten (10) days of service or by September 1, 2023; that any objections thereto were due to be communicated orally to PWSA within three (3) calendar days of service and in writing within five (5) calendar days of service or by August 25, 2023 and August 28, 2023 respectively; and that RDC neither responded to the Interrogatories by the September 1 deadline nor communicated any objections to PWSA, orally or in writing, by the applicable August deadlines.

Further, in its Motion, PWSA avers that it tried to informally resolve this matter

with RDC by contacting RDC. PWSA also avers that RDC’s counsel indicated to it that RDC was not aware of the Set I Interrogatories and would provide responses by September 11, 2023. However, in response, PWSA requested RDC that it provide responses to it by September 7, 2023, since the rebuttal testimony deadline was September 8, 2023. PWSA also avers in its Motion that RDC has not responded to this request, that PWSA attempted to reach RDC again on September 3, 2023, and September 5, 2023, but it has received no response from RDC.

Further, in its Motion, PWSA avers that it requires responses to its Set I Interrogatories prior to the rebuttal testimony deadline of September 8, 2023, in order to provide a full and complete response to RDC’s direct testimony.

Finally, as relief, PWSA requests that, pursuant to 52 Pa. Code §§ 5.321, 5.342, and 5.349, and the *Scheduling Order*, that RDC be compelled to provide complete responses to PWSA’s Set I Interrogatories by no later than September 7, 2023; and in the event that responses are not received by this date, that PWSA reserves the right to submit supplemental testimony addressing RDC’s responses. Finally, given the short timelines in this proceeding, PWSA requests that this Motion be addressed on an expedited basis.

Disposition

First, I agree with PWSA that its Motion should be addressed on an expedited basis. I find that the interests of due process for all the parties are better served by resolving this matter expeditiously given the approaching rebuttal testimony deadline of September 8, 2023 (which follows one day after the issuance of this Order). Further, resolving this matter expeditiously will provide clear direction to PWSA and RDC, as well as the other active parties, how this discovery matter will be resolved in light of the current stage in the litigation process. The purpose of this Order is to move this matter forward in a manner which will be less disruptive to the litigation schedule which was carefully established and agreed upon by all the active parties at the Prehearing Conference[[2]](#footnote-2) with the applicable statutory deadlines in mind. I also note that to date, RDC has not responded to PWSA’s Motion,[[3]](#footnote-3) nor is there any indication that RDC has communicated any objection, either orally or in writing, to PWSA to the Interrogatories.

Second, I find PWSA’s assertion reasonable that it requires responses to its Set I Interrogatories prior to its rebuttal testimony deadline in order to provide a full and complete response to RDC’s direct testimony, especially since all of the Interrogatories refer to, or concern, RDC’s submitted direct testimony in RDC St. Nos. 1 and 2. However, instead of requiring RDC’s responses by September 7, 2023, as requested by PWSA, since this Order is being issued on September 7, 2023, I will direct RDC to provide full and complete responses to PWSA’s Set I Interrogatories by no later than September 11, 2023 at noon, or 12:00 p.m.

Further, since this September 11, 2023, deadline extension to RDC is after the

rebuttal testimony deadline of September 8, 2023, I also find it reasonable the PWSA be granted the right to submit supplemental testimony addressing RDC’s responses. Therefore, I will grant PWSA the right to file supplemental testimony addressing RDC’s responses by no later than close of business day (4:30 p.m.) on September 14, 2023.

Finally, I note that although this Order directs RDC’s responses by no later than

noon on September 11, 2023, RDC is expected to cooperate with PWSA as soon as possible to resolve this outstanding discovery matter. (*See, Scheduling Order* ¶ 12).

THEREFORE,

IT IS ORDERED:

1. That the Pittsburgh Water and Sewer Authority’s Motion to Compel

Responses to the Interrogatories Addressed to the River Development Corporation, Set I, is granted.

1. That River Development Corporation is directed to provide full and complete responses to the Pittsburgh Water and Sewer Authority’s Interrogatories Set I by no later than September 11, 2023, at noon, or 12:00 p.m.
2. That the Pittsburgh Water and Sewer Authority is granted the right to submit supplemental testimony addressing River Development Corporation’s responses to its Interrogatories Set I to River Development Corporation by no later than September 14, 2023, at 4:30 p.m.
3. That the remaining litigation schedule in the Scheduling Order dated July 10, 2023, shall remain in effect.

Date: September 7, 2023 /s/

Gail M. Chiodo

Administrative Law Judge

**R-2023-3039919 - PENNSYLVANIA PUBLIC UTILITY COMMISSION et al v. THE PITTSBURGH WATER AND SEWER AUTHORITY - STORMWATER  
R-2023-3039920 – WATER  
R-2023-3039921 – WASTEWATER**

*Updated 08/06/23*

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1. *See,* PWSA’s Certificate of Service filed August 22, 2023, indicating service of its Set I Interrogatories on RDC and the other active parties on this same date. [↑](#footnote-ref-1)
2. A Prehearing Conference was held on June 29, 2023, at which the following parties were represented by counsel: PWSA, the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Pittsburgh United’s Our Water Table, the City of Pittsburgh and the School District of Pittsburgh. Subsequently, RDC filed a Corrected Petition to Intervene on July 26, 2023, which was granted by Order dated July 28, 2023. [↑](#footnote-ref-2)
3. Although PWSA’s Motion was filed two days ago, and RDC ordinarily would have three days to file a written response to said Motion, for the reasons discussed herein, this Order expeditiously resolves PWSA’s Motion given the current stage of the litigation process. [↑](#footnote-ref-3)