

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2025-3053112
	:	
Office of Consumer Advocate	:	C-2025-3053827
Office of Small Business Advocate	:	C-2025-3053978
Philadelphia Industrial And Commercial Gas User Group	:	C-2025-3054216
v.	:	
	:	
Philadelphia Gas Works	:	
	:	
Petition Of Philadelphia Gas Works for Waiver of Provisions of Act 11 to Modify the Definition of the Charges Subject to the Distribution System Improvement Charge Cap or, Alternatively, to Increase the Current DSIC Cap	:	Docket No. P-2025-3053659

PROTECTIVE ORDER

Upon consideration of the Motion for Protective Order that was filed by Philadelphia Gas Works (“PGW”) on April 14, 2025 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. For example, but without limitation, “Highly Confidential” information may include Proprietary Information that constitutes or describes: (a) customer names or customer prospects’ names, addresses, annual volumes of gas usage, or other customer-identifying information; (b) marketing plans; (c) competitive strategies or service alternatives; (d) market share projections; (e) competitive pricing or discounting information; and (f) marketing materials that have not yet been used. 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, case preparation, 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;

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.; or

e. A person mutually agreed to by the Parties to this Protective Order.

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;

d. A person designated as a Reviewing Representative for purposes of HIGHLY CONFIDENTIAL protected material pursuant to Paragraph 11; or

e. A person mutually agreed to by the Parties to this Protective Order.

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. The Office of Small Business Advocate's ("OSBA") consultant, Mr. Robert Knecht, will not be considered "Restricted Person," provided that Mr. Knecht does not share, distribute, or discuss the Proprietary Information with any person except authorized OSBA representatives.

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 (a) through (d) 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 (e) 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. If any person who has had access to Proprietary Information subsequently is assigned to perform any duties which would make that person ineligible to be a Reviewing Representative of “Confidential” or “Highly Confidential” information, that person shall immediately inform the producing Party of his or her new duties, shall either destroy or return to the parties all copies of all documents and any Proprietary Information and any information derived therefrom in his or her possession, and shall continue to comply with the requirements of this Protective Order with regard to the Proprietary Information to which that person previously had access.

18. 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.

APPENDIX A

Pennsylvania Public Utility Commission	:	R-2025-3053112
	:	
Office of Consumer Advocate	:	C-2025-3053827
Office of Small Business Advocate	:	C-2025-3053978
Philadelphia Industrial And Commercial Gas User Group	:	C-2025-3054216
	:	
v.	:	
	:	
Philadelphia Gas Works	:	
	:	
Petition Of Philadelphia Gas Works for Waiver of Provisions of Act 11 to Modify the Definition of the Charges Subject to the Distribution System Improvement Charge Cap or, Alternatively, to Increase the Current DSIC Cap	:	Docket No. P-2025-3053659
	:	
	:	

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-2025-3053112 - PA PUBLIC UTILITY COMMISSION v. PHILADELPHIA GAS WORKS

Revised on 4/7/25

MICHAEL ARTUSO DIRECTOR
PHILADELPHIA GAS WORKS
800 WEST MONTGOMERY AVENUE
PHILADELPHIA PA 19122
267-249-6880
michael_artuso@pgworks.com
Served via email and US mail April 15, 2025

DAN CLEARFIELD ESQUIRE
BRYCE R BEARD ESQUIRE
ECKERT SEAMANS CHERIN & MELLOTT LLC
213 MARKET ST 8TH FL
HARRISBURG PA 17110
717-237-7173
dclearfield@eckertseamans.com
bbeard@eckertseamans.com
Accepts eService April 15, 2025

(Counsel for Philadelphia Gas Works)

DARRYL A LAWRENCE ESQUIRE
HARRISON W BREITMAN ESQUIRE
KATHERINE M KENNEDY ESQUIRE
RYAN MORDEN ESQUIRE
OFFICE OF CONSUMER ADVOCATE
5TH FLOOR FORUM PLACE
555 WALNUT STREET
HARRISBURG PA 17101-1923
717-783-5048
dlawrence@paoca.org
hbreitman@paoca.org
kkennedy@paoca.org
rmorden@paoca.org
OCA25PGWBRC@paoca.org
Accepts eService April 15, 2025

CARRIE B WRIGHT ESQUIRE
MICHAEL PODSKOCH ESQUIRE
PA PUC BIE LEGAL TECHNICAL
SECOND FLOOR WEST
400 NORTH STREET
HARRISBURG PA 17120
717-783-6156
carwright@pa.gov
mpodskoch@pa.gov
Accepts eService April 15, 2025

STEVEN C GRAY ESQUIRE
REBECCA LYTTLE ESQUIRE
OFFICE OF SMALL BUSINESS ADVOCATE
555 WALNUT STREET 1ST FLOOR
HARRISBURG PA 17101
717-783-2525
sgray@pa.gov
relyttle@pa.gov
Served via email April 15, 2025

CHARIS MINCAVAGE ESQUIRE
MCNEES WALLACE & NURICK
100 PINE STREET
PO BOX 1166
HARRISBURG PA 17108
717-237-5437
cmincavage@mwn.com
Accepts eService April 15, 2025
(Counsel to the Philadelphia Industrial and Commercial Gas Users Group)

BENJAMIN CLARK ESQUIRE
1424 CHESTNUT STREET
PHILADELPHIA PA 19102
215-227-4794
bclark@clsphila.org
Accepts eService April 15, 2025
(*Counsel for TURN and CAUSE-PA*)

RICK KRAJEWSKI
PENNSYLVANIA STATE REPRESENTATIVE
4712 BALTIMORE AVENUE
PHILADELPHIA PA 19143
215.724.2227
repkrajewski@pahouse.org
Served via email April 15, 2025

AARON DAVIS
CHIEF OF STAFF
REP BEN WAXMAN 182ND DISTRICT
PENNSYLVANIA HOUSE OF REPRESENTATIVES
1500 WALNUT STREET
SUITE # 1050
PHILADELPHIA PA 19102
215.246.1501
apdavis@pahouse.net
Served via email April 15, 2025