



June 11, 2025

VIA ELECTRONIC FILING

Matthew L. Homsher, Esq., Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-2025-3053112

Dear Secretary Homsher,

Please find enclosed for filing in the above-referenced proceeding the Answer of the Energy Justice Advocates to the Motion to Dismiss Objections and Compel Complete Responses of Philadelphia Gas Works. Should you have any questions, please do not hesitate to contact me. Thank you.

Sincerely,

/s/ Devin McDougall

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cc:

Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et al.

v.

Philadelphia Gas Works

Docket No. R-2025-3053112

Docket No. C-2025-3053827

Docket No. C-2025-3053978

Docket No. C-2025-3054216

CERTIFICATE OF SERVICE

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

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Dated: June 11, 2025

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et
al.

v.

Philadelphia Gas Works

Docket No. R-2025-3053112
Docket No. C-2025-3053827
Docket No. C-2025-3053978
Docket No. C-2024-3054216

**ANSWER OF EJA
TO PGW'S MOTION TO DISMISS
EJA'S OBJECTIONS AND COMPEL COMPLETE RESPONSES
TO PGW'S SET I INTERROGATORIES
NOS. 10, 15-16, 17-18**

June 11, 2025

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I. Introduction

A. Background

POWER Interfaith, Sierra Club, Physicians for Social Responsibility Pennsylvania, Clean Air Council, Vote Solar, PennEnvironment, and the Pennsylvania Public Interest Research Group (collectively, the “Energy Justice Advocates” or “EJA”) respectfully submit this Answer (“Answer”) to Philadelphia Gas Works’ (“PGW”) Motion to Dismiss (“Motion to Dismiss”) EJA’s Objections and Compel Complete Responses to PGW’s Set I Interrogatories Nos. 10, 15 and 16, and 17 and 18 (the “Contested Interrogatories”) in the above-captioned proceeding (“Proceeding”) of the Pennsylvania Public Utility Commission (“Commission”).

Thus far, EJA has produced answers to eight (8) of PGW’s Set I questions without objection, and has been able to reach reasonable compromises with PGW to resolve a further nine (9) of PGW’s Set I questions. EJA also invested significant time in seeking to negotiate a resolution with PGW for the remaining Contested Interrogatories, but the parties were unable to reach agreement.

B. Overview

For the reasons explained below, EJA’s objections to the Contested Interrogatories should be sustained and PGW’s Motion to Dismiss should be denied. The Contested Interrogatories address three topics. Question 10 addresses whether EJA has members that are PGW customers. EJA has offered in compromise, and remains willing, to identify one member of each EJA organization that is a PGW customer. PGW is seeking to compel EJA to also produce the number of members each EJA organization has that are PGW customers. This request to compel a response to this portion of Question 10 should be denied. The EJA organizations do not collect

information on which of their members are PGW customers. Furthermore, the number of PGW customers each EJA organization has among its members is not relevant to any issue in this proceeding.

PGW is also seeking to compel responses to Questions 15 and 16, which seek all written documents, including sensitive internal communications, that relate to the decisions of the EJA organizations to intervene in this proceeding. This request to compel responses should be denied, because the information it seeks is not relevant. The EJA organizations were clear in their Petition to Intervene that their specific interest in this proceeding is the overlap between affordability and climate change, and EJA has since served extensive expert testimony on these topics. The internal deliberative communications of EJA organizations prior to intervention have no bearing on any issue in this proceeding, which is whether PGW's requested rate increase will produce just and reasonable rates. Many of the documents sought by these questions are also protected under attorney-client and work product privilege, as reflected in the privilege log attached hereto.¹

EJA's internal communications regarding intervention are also protected by First Amendment associational privilege. As reflected by the declarations attached hereto (the "EJA Declarations"), the compelled disclosure of these sensitive internal communications will have a chilling effect on EJA members' exercise of their associational rights under the First Amendment.² Notably, if EJA can be forced to turn over such internal communications to PGW, this will severely harm the ability of members to have the free and candid internal discussions that are essential to their meaningful exercise of the associational rights protected under the First

¹ Exh. A. Privilege Log.

² Exh. B. EJA Declarations.

Amendment. Since EJA's declarations establish this chilling effect, to compel responses PGW must be able to demonstrate that EJA's pre-intervention internal deliberative communications are "highly relevant" to the subject matter of this proceeding. PGW does not and cannot demonstrate this.³

Moreover, the chilling effect that EJA establishes in connection with demonstrating the applicability of First Amendment associational privilege also establishes that being compelled to answer these questions would inflict an undue burden on EJA, because it would harm EJA organizations' ability to have free and candid internal discussions but would not produce any evidence of consequence to the subject matter of this proceeding.

Finally, PGW is also seeking to compel responses to Questions 17 and 18, which seek all internal communications of EJA to its members concerning preparation for the public input hearings in this proceeding. This request to compel responses should also be denied. As with the information sought by Questions 15 and 16, this information has no relevance to the subject matter of this proceeding, which is whether PGW's rate increase request will produce just and reasonable rates.

The compelled disclosure of internal communications about public input hearing preparation would also, for the same reasons as the compelled disclosure of internal communications about the decision to intervene, cause a chilling effect on EJA members' exercise of their associational rights. PGW has also failed to demonstrate that EJA's internal communications about public input hearing preparation are "highly relevant" to the subject matter of this proceeding, and therefore is not entitled to compel the production of such

³ *Fraternal Ord. of Police Pennsylvania Lodge v. Twp. of Springfield*, 668 F. Supp. 3d 375, 389, n.5 (E.D. Pa. 2023); *Perry v. Schwarzenegger*, 591 F.3d 1126, 1145 n.13 (9th Cir. 2009).

information.⁴ Given the harms such compelled disclosure would cause, and the lack of any evidentiary need for this material, compelling responses to these questions would also cause an undue burden to EJA.

More broadly, if PGW establishes that it can compel public interest organizations, as a condition of their participation in Commission proceedings, to turn over internal communications on sensitive matters, this will harm the ability of such organizations to participate effectively and may even deter organizations from participating.

This would not be in the public interest. As the Commission has recognized, “In the context of a general rate increase case such as this one, the Commission is aided by the active participation of entities representing various subgroups of the entire public. A number of these active participants have a statutorily imposed obligation to provide this representation, while others are self-created entities choosing to represent a delineated subgroup. Taken as a whole, these active participants cover the entire spectrum of the public whose welfare is to be protected.”⁵

II. Legal Framework

The Public Utility Code and its implementing regulations provide for reasonable discovery in rate cases in order to develop the factual record necessary to support informed

⁴ *Fraternal Ord. of Police Pennsylvania Lodge v. Twp. of Springfield*, 668 F. Supp. 3d 375, 389, n.5 (E.D. Pa. 2023); *Perry v. Schwarzenegger*, 591 F.3d 1126, 1141 (9th Cir. 2009).

⁵ Opinion and Order, PA PUC Docket No. C-2021-3024200, at 37 (Oct. 28, 2021).

decision-making by the Commission on whether a utility’s proposed rates are just and reasonable.⁶ However, the scope of discovery is subject to several limitations.

First, discovery must be relevant to the subject matter of the proceeding or reasonably calculated to lead to the discovery of relevant admissible evidence.⁷ Information is relevant if “it tends to establish a material fact, tends to make a fact at issue more or less probable, or supports a reasonable inference or presumption regarding a material fact.”⁸ Second, Commission regulations prohibit discovery which would cause an undue burden or require an unreasonable investigation.⁹ Third, discovery related to a matter that is privileged is not permitted.¹⁰ Applicable privileges include the attorney-client privilege¹¹ and work-product privilege¹² as well as privilege under the First Amendment to the United States Constitution (“First Amendment”).

Notably, confidential attorney-client communications and attorney work product are privileged under Pennsylvania law, and therefore not subject to discovery.¹³ The Commission’s discovery regulations further expressly provide that “discovery may not include disclosure of the mental impressions of a party’s attorney or his conclusions, opinions, memoranda, notes,

⁶ 66 Pa. C.S. §§ 1301, 2212.

⁷ 52 Pa. Code § 5.321(c).

⁸ *Application of Exeter Twp. for Certificate of Pub. Convenience to Offer, Furnish, Render & Supply Wastewater Serv. to the Pub. in Certain Portions of Lower Alsace Twp., Berks Cnty., Pa.*, No. A-2018-3006505, 2019 WL 1506802, at *1 (Mar. 22, 2019).

⁹ 52 Pa. Code § 5.361(a)(2); 52 Pa. Code § 5.361(a)(4).

¹⁰ 52 Pa. Code § 5.361(a)(3).

¹¹ 52 Pa. Code § 5.361(a)(3).¹² 52 Pa. Code § 5.323(a).

¹² 52 Pa. Code § 5.323(a).

¹³ 52 Pa. Code § 5.361(a)(3); 52 Pa. Code § 5.323(a); 52 Pa. Code 5.321(c) (“a party may obtain discovery regarding any matter, *not privileged...*”) (emphasis added).

summaries, legal research or legal theories.”¹⁴ In addition to protecting an attorney’s work product, Pennsylvania law and the Commission’s regulations both protect the work product of a party’s representative from discovery. Specifically, as it pertains to a non-attorney representative, “discovery may not include disclosure of his [or her] mental impressions, conclusions or opinions respecting the value or merit of a claim or defense or respecting strategy [or] tactics[.]”¹⁵

When defining a “representative,” Pennsylvania courts have found that “any person, not a lawyer, who has a tie to a party which might require or occasion participation in decisions respecting the value or merit of a claim or defense, or respecting strategy or tactics, should be regarded as a representative of that party for the purposes of Rule 4003.3.”¹⁶ Furthermore, strict confidentiality is not required to maintain the work-product privilege. The “attorney work-product doctrine is not waived by disclosure unless the alleged work product is disclosed to an adversary or disclosed in a manner which significantly increases the likelihood that an adversary or anticipated adversary will obtain it.”¹⁷

The First Amendment imposes an additional limit on discovery. Since the Commission is a state actor, it is subject to the U.S. Constitution, including the First Amendment. The U.S. Supreme Court has held that the First Amendment limits the ability of state actors to compel

¹⁴ 52 Pa. Code § 5.323(a).

¹⁵ 52 Pa. Code § 5.323(a); *See also* Pa.R.C.P. No. 4003.3 (“With respect to the representative of a party other than the party’s attorney, discovery shall not include disclosure of his or her mental impressions, conclusions or opinions respecting the value or merit of a claim or defense or respecting strategy or tactics.”)

¹⁶ *Tate v. Philadelphia Sav. Fund Soc’y*, 1 Pa. D. & C.4th 131, 138 (Com. Pl. 1987).

¹⁷ *BouSamra v. Excelsa Health*, 210 A.3d 967, 969 (Pa. 2019).

disclosures of information where such compulsory disclosure will have a chilling effect on the exercise of the rights to free association and free expression.¹⁸

III. Question 10 re Standing

PGW-I-10	Are there “Members” of each organization which comprises EJA who live within PGW’s service territory, who are customers of PGW, who will be directly impacted by the Commission’s decision in this proceeding? If so, please provide a) the number of members that satisfy these criteria; and b) the name, address, telephone number, email, and/or any other communication method of at least one such member.
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EJA objected to this question on several grounds. First, EJA objected under 52 Pa. Code § 5.321(c) on the grounds of relevance, because EJA already answered the first part of the question in EJA’s Petition to Intervene, EJA’s standing to intervene has already been adjudicated, and PGW waived any objection to EJA’s intervene by declining to file an answer.¹⁹ Second, EJA objected under 52 Pa. Code § 5.361(a)(2) and (4) on the grounds of unreasonable burden and that it would require an unreasonable investigation because “EJA’s constituent organizations do not maintain records of which of their members are PGW customers, and attempting to conduct a census of all members of all seven organizations that are PGW members would be an inordinate and disproportionate burden.”²⁰

¹⁸ *Nat’l Ass’n for Advancement of Colored People v. State of Ala. ex rel. Patterson*, 357 U.S. 449 (1958); *See also Fraternal Ord. of Police Pennsylvania Lodge v. Twp. of Springfield*, 668 F. Supp. 3d 375, 389, n.5 (E.D. Pa. 2023); *Sierra Club v. Union Elec. Co.*, No. 4:14-CV-00408-AGF, 2015 WL 9583394 (E.D. Mo. Dec. 31, 2015) *Heartland Surgical Specialty Hosp., LLC v. Midwest Div., Inc.*, No. 05-2164- MLW-DWB, 2007 WL 852521 (D. Kan. Mar. 16, 2007).

¹⁹ Exh. C. EJA, Written Objections to PGW’s Set I Interrogatories, at 2-4 (May 29, 2025) (citing 52 Pa. Code § 5.321(c)).

²⁰ Exh. C. EJA, Written Objections to PGW’s Set I Interrogatories, at 5 (May 29, 2025) (citing 52 Pa. Code § 5.361(a)(2) and 52 Pa. Code § 5.361(a)(4)).

A. EJA’s Relevance Objections Should Be Sustained

PGW’s Motion to Dismiss responds to EJA’s relevance objection to Question 10 by generally stating that PGW’s Set I Interrogatories are “designed to solicit information necessary to confirm the accuracy of facts and circumstances alleged by EJA to support its participation in the proceeding,” and EJA’s responses will enable PGW to assess “‘the relevance, materiality, standing, and credibility’ of EJA’s averments” as well as EJA’s compliance with the Commission’s intervention requirements.²¹ PGW’s contentions are unavailing and improper.

As noted in EJA’s Written Objections, EJA’s participation in this proceeding has already been adjudicated and approved. EJA timely filed a Petition to Intervene containing the necessary averments to establish associational standing for each of EJA’s constituent organizations by pleading that each constituent organization has members that are PGW customers and live in PGW’s service territory. PGW was afforded an opportunity to object to EJA’s Petition to Intervene, but chose not to, and EJA’s Petition to Intervene was granted on April 14, 2025.²²

As such, PGW waived its opportunity to challenge EJA’s allegations in support of EJA’s participation in this proceeding. Although PGW claims that its Motion to Compel does not challenge EJA’s standing to participate in this proceeding,²³ PGW fails to explain how the information specifically requested in Question 10 is relevant to the subject of this proceeding—PGW’s proposed rate increase request. It is also unclear what PGW means by its desire to

²¹ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 8–9 (June 5, 2025).

²² Prehearing Order, PA PUC Docket R-2025-3053112, at 3 (Apr. 14, 2025).

²³ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 9 (June 5, 2025).

investigate the “materiality,” “relevance,” and “credibility” of EJA’s responses. All three of these are evidence law concepts that apply to a witness’s testimony offered as evidence, but PGW does not indicate how it plans to use the information requested in Question 10 to challenge any claim in EJA’s two expert witnesses’ testimonies. Question 10 does not even cite or refer to either of EJA’s two pieces of pre-served expert witness testimony. Thus, PGW’s desire to investigate non-specific, generalized “materiality” and “credibility” claims amounts to nothing more than a fishing expedition and does not qualify as relevant to the subject matter of this proceeding, which is whether PGW’s requested rate increase will produce just and reasonable rates under Section 1301.

B. PGW’s Unreasonable Burden and Unreasonable Investigation Objections Should Be Sustained

PGW’s Motion to Dismiss responds to EJA’s unreasonable burden and unreasonable investigation objections to Question 10 by alleging that EJA’s burden is unproven and not sufficient to prohibit discovery, and EJA has not asserted that it does not have the information or is unable to produce the information.²⁴ PGW is wrong. In EJA’s written objections, EJA specifically asserted that “EJA’s constituent organizations do not maintain records of which of their members are PGW customers[.]”²⁵ Thus, EJA *did* assert that it does not have the information requested in subquestion (a).

²⁴ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 8 (June 5, 2025).

²⁵ Exh. C. EJA, Written Objections to PGW’s Set I Interrogatories, at 5 (May 29, 2025).

Since EJA’s constituent organizations do not maintain records of which of their members are PGW customers, EJA would have to conduct a census of all members of all seven constituent organizations that are PGW customers to respond to subquestion (a), as EJA asserted in its written objections.²⁶ Thus, EJA has adequately asserted how Question 10(a) would cause an unreasonable burden and require the making of an unreasonable investigation.²⁷

It is also worth emphasizing that EJA has offered to resolve Question 10 by agreeing to identify the name and address of one member of each EJA organization that is a PGW customer. EJA remains willing to produce this information.

IV. Questions 15 and 16 re EJA Organizations’ Decision to Intervene in this Case

PGW-I-15	Do any written memoranda, specifications, advertisements or other written materials of any kind or character relating to the decision of EJA to participate in this proceeding now exist?
PGW-I-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. Produce a copy of each document identified in this Answer.

EJA objected to Questions 15 and 16 on several grounds. First, EJA objected under 52 Pa. Code § 5.321(c) based on lack of relevance.²⁸ No fact related to the EJA organizations’ pre-intervention internal deliberative process has any conceivable relevance to the subject matter of

²⁶ Exh. C. EJA, Written Objections to PGW’s Set I Interrogatories, at 5 (May 29, 2025).

²⁷ 52 Pa. Code § 5.361(a)(2); 52 Pa. Code § 5.361(a)(4).

²⁸ Exh. C. EJA, Written Objections to PGW’s Set I Interrogatories, at 6 (May 29, 2025) (citing 52 Pa. Code § 5.321(c)).

this proceeding, which is whether or not PGW’s proposed rate increase request will result in just and reasonable rates under Section 1301 of the Public Utility Code.²⁹

Second, EJA objected under 52 Pa. Code § 5.361(a)(3) on the grounds that these questions impermissibly seek documents concerning litigation strategies that are protected by attorney-client and work product privilege.³⁰

Third, EJA objected on the grounds that these questions impermissibly seek internal communications that are protected by the First Amendment because their forced disclosure to EJA’s adversary would have a chilling effect on members’ First Amendment associational rights.³¹

Fourth, EJA objected under 52 Pa. Code § 5.361(a)(2) on the grounds that answering these questions would impose an undue burden, because forcing EJA organizations to turn over internal deliberative documents concerning the decision to initiate litigation would cause significant harm to the ability EJA members’ ability to have open and candid internal conversations.³²

²⁹ Exh. C. EJA, Written Objections to PGW’s Set I Interrogatories, at 6 (May 29, 2025); 52 Pa. Code § 5.321(c).

³⁰ Exh. C. EJA, Written Objections to PGW’s Set I Interrogatories, at 7 (May 29, 2025); 52 Pa. Code § 5.361(a)(3).

³¹ Exh. C. EJA, Written Objections to PGW’s Set I Interrogatories, at 7–8 (May 29, 2025); *Perry v. Schwarzenegger*, 591 F.3d 1126, 1142 (9th Cir. 2009) (rejecting discovery of advocates’ internal strategy communications and identifying “two ways in which compelled disclosure of internal campaign communications can deter protected activities—by chilling participation and by muting the internal exchange of ideas[.]”); *Fraternal Ord. of Police Pa. Lodge v. Twp. of Springfield*, 668 F. Supp. 3d 375, 387 (E.D. Pa.2023) (rejecting discovery of fraternal organization’s internal communications because “disclosure of members’ internal communications will discourage them from freely exchanging ideas with other members in the future, and thus, infringe up on those members’ associational rights.”).

³² Exh. C. EJA, Written Objections to PGW’s Set I Interrogatories, at 8 (May 29, 2025); 52 Pa. Code § 5.361(a)(2).

Each of these objections, and PGW’s response to them, will now be discussed in detail. For the reasons discussed below, each of these objections to Questions 15 and 16 should be sustained.

A. EJA’s Relevance Objections Should Be Sustained

1. PGW’s “Specific Responses” are Unavailing

As noted above, EJA objected to Questions 15 and 16 on the grounds of lack of relevance under 52 Pa. Code § 5.321(c).³³ PGW’s Motion to Dismiss provides two “Specific Responses” to EJA’s relevance objections to Questions 15 and 16.³⁴

PGW’s first “Specific Response” simply states that Questions 15 and 16 are “well within the broad scope of discovery.”³⁵ However, PGW provides no reasoning to support this conclusion. Under 52 Pa. Code § 5.321(c), the scope of discovery is limited to matters that are “relevant to the subject matter involved in the pending action[.]”³⁶ As EJA asserted in its Written Objections, there is no conceivable link between EJA’s internal deliberative communications concerning intervention and whether PGW’s requested rate increase will produce just and reasonable rates under Section 1301. Notably, neither Section 1301 nor any Section of the Public Utility Code contains any reference to intervenors’ internal deliberations prior to intervention as

³³ Exh. C. EJA, Written Objections to PGW’s Set I Interrogatories, at 6 (May 29, 2025).

³⁴ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 9 (June 5, 2025).

³⁵ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 9 (June 5, 2025).

³⁶ 52 Pa. Code § 5.321(c).

a factor to be evaluated by the Commission in order to determine if a utility’s requested rate increase will produce just and reasonable rates.

PGW’s second “Specific Response” contends that EJA’s relevance objections to these questions should be disregarded, because they seek to “improperly impose a requirement to demonstrate evidentiary relevance” for interrogatories that are “well within the scope of discovery.”³⁷ This is incorrect. 52 Pa. Code § 5.321(c) expressly provides that discovery in Commission proceedings is limited to matters that are “relevant” to the subject matter of the proceeding.³⁸ An objection based on failure to comply with this limitation is proper, and in order to adjudicate such an objection, the Commission must determine whether the information sought is relevant.

The Commission’s regulations do provide that objections based on *inadmissibility* may not be lodged if the question at issue is “reasonably calculated to lead to the discovery of admissible evidence.”³⁹ But this caveat, concerning admissibility, does not in any way weaken the foundational requirement that discovery is only authorized on matters that are relevant.

2. PGW’s “General Responses” are Unavailing

PGW’s Motion to Dismiss also provides “General Responses” to EJA’s Written Objections, which PGW claims apply equally to establish the relevance of all five of the Contested Interrogatories. PGW claims that it needed to structure its argument in the form of

³⁷ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 9 (June 5, 2025).

³⁸ 52 Pa. Code § 5.321(c).

³⁹ 52 Pa. Code § 5.321(c).

General Responses because EJA lodged only general objections to PGW’s interrogatories.⁴⁰ This is not accurate. EJA’s Written Objections do not contain any general objections. They instead provide a detailed explanation on a question-by-question basis of why EJA has lodged particular objections to particular questions. Nevertheless, since PGW has chosen to organize a substantial part of the argument in its Motion to Dismiss in the format of General Responses, EJA’s Answer will address those General Responses as they apply to particular questions.

In its General Responses, PGW asserts that all of the Contested Interrogatories are relevant to the issue of whether PGW is providing safe and reliable service under Section 1501 of the Public Utility Code. As PGW puts it, all of the Contested Interrogatories “are reasonably calculated to lead to the discovery of admissible, relevant evidence regarding safe and reasonable service.”⁴¹

In support of this assertion, PGW identifies three categories of evidence that it claims are relevant to whether it is providing safe and reliable service under Section 1501 and that it contends that the Contested Interrogatories are reasonably calculated to produce. Each will now be discussed in turn.

a) Evidence Regarding EJA’s Specific Interests in this Proceeding

The first category of facts that PGW contends is relevant to whether it is providing safe and reliable service under Section 1501, and which it contends the Contested Interrogatories are reasonably calculated to investigate, is evidence regarding what EJA’s specific interests are in

⁴⁰ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 2-3 (June 5, 2025).

⁴¹ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 5 (June 5, 2025).

this proceeding. To start, EJA's specific interests in this proceeding has no conceivable relevance to whether PGW is providing safe and reliable service. The Public Utility Code does not identify the specific interests of intervenors as a factor for consideration in making this determination. This information has no consequence for the Commission's determination of whether a utility is providing safe and reliable service.

EJA's specific interests in the proceeding were relevant to determining whether EJA should be granted intervention in this proceeding. However, as discussed in EJA's Written Objections, EJA's intervention has been granted and PGW has waived any objection to it by failing to file an answer.⁴²

Next, even if EJA's specific interests in the proceeding were relevant to the question of whether PGW is providing safe and reliable service, Questions 15 and 16 are not reasonably calculated to produce information on EJA's specific interests. EJA's specific interests in this proceeding have been very clearly articulated already, which PGW fails to acknowledge.

To support its claim that EJA's specific interests are unknown, PGW quotes from Paragraph 5 of EJA's Petition to Intervene, which states that EJA members should be granted intervention because they "will be directly affected by the Proceeding, their interests are not adequately represented by existing parties in the Proceeding, and their participation in the Proceeding would be in the public interest."⁴³

⁴² Exh. C. EJA, Written Objections to PGW's Set I Interrogatories, at 2–3 (May 29, 2025).

⁴³ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 5-6 (June 5, 2025) (quoting EJA, Petition to Intervene, PA PUC Docket No. R-2025-3053112, at ¶ 5 (Apr. 3, 2025)).

PGW then states that it does not know what the phrase “their interests” means in this paragraph, and needs to conduct discovery to investigate.⁴⁴ If PGW continued reviewing EJA’s Petition to Intervene, it would find that there are paragraphs for each of the seven EJA organizations that explain that each organization has an interest in ensuring that PGW’s rates are just and reasonable with respect to affordability and climate change.⁴⁵

EJA has also served its Direct Testimony in this proceeding. This consists of the Direct Testimony of Dr. Dorie K. Seavey and the Direct Testimony of Dr. Sol deLeon. These testimonies provide an in-depth analysis of affordability and climate change challenges facing PGW and a clear and specific list of EJA’s requested actions from the Commission on those issues.

Moreover, members of EJA have been granted intervention to address these issues in Commission proceedings since 2020, including PGW’s last two rate cases.⁴⁶ Any contention from PGW that EJA’s interests in this proceeding are unknown is baseless.

⁴⁴ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 5-6 (June 5, 2025)

⁴⁵ EJA, Petition to Intervene, PA PUC Docket No. R-2025-3053112, at ¶¶ 8, 11, 14, 17, 20, 23, 26 (Apr. 3, 2025).

⁴⁶ PECO Default Service Plan Proceeding, Docket No. P-2024-3046008 (POWER Interfaith, Vote Solar, Clean Air Council, Sierra Club, Physicians for Social Responsibility, and PennEnvironment); PGW Rate Case, Docket No. R-2023-3037933 (POWER Interfaith); PECO Rate Case, Docket No. R-2021-3024601 (Sierra Club and Clean Air Council); PGW Rate Case, Docket No. R-2020-3017206 (Sierra Club and Clean Air Council); PECO Default Service Plan Proceeding, Docket No. P-2020-3019290 (Sierra Club and Clean Air Council).

b) Evidence Regarding EJA's Preliminary Evaluation of PGW's Rate Increase Filing

The second category of facts that PGW contends is relevant to whether it is providing safe and reliable service under Section 1501, and which it contends the Contested Interrogatories are reasonably calculated to investigate, is evidence regarding EJA's preliminary evaluation of PGW's rate increase filing. PGW quotes from Paragraph 28 of EJA's Petition to Intervene, which states that "[o]n initial review, the Energy Justice Advocates are concerned that PGW's filing may not result in just and reasonable rates."⁴⁷ PGW then states that it needs to know precisely which concerns EJA had regarding PGW's rate increase filing on initial review, because such evidence is "exceedingly relevant to the issue of whether PGW is abiding by the statutory requirement in Section 1501 of the Public Utility Code to provide safe and reasonable service."⁴⁸

PGW does not provide any reasoning to support this claim, and nor could it, because the claim is unsupportable. Information concerning the initial concerns of EJA on first review of PGW's rate increase filing has no conceivable relevance to whether PGW is providing safe and reliable service. The Public Utility Code does not identify such information as a factor for consideration in making this determination. This information has no consequence for the Commission's determination of whether a utility is providing safe and reliable service.

It is possible that the internal communications of EJA relating to their decision to intervene, sought by Questions 15 and 16, may include information on EJA members' initial concerns regarding PGW's rate increase filing. But these questions nonetheless cannot be

⁴⁷ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 6 (June 5, 2025) (quoting EJA, Petition to Intervene, PA PUC Docket No. R-2025-3053112, at 6, ¶ 28 (Apr. 3, 2025)).

⁴⁸ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 6 (June 5, 2025).

considered reasonably calculated to produce relevant evidence because information about EJA's concerns with PGW's filing on initial review has absolutely no relevance to the question of whether PGW is providing safe and reliable service.

As noted above, however, EJA has submitted two pieces of extensive Direct Testimony describing in great detail the concerns that EJA has with PGW's proposal now that EJA has had the ability to develop the record more fully. To the extent that PGW is interested in what concerns EJA has with its rate increase filing, these documents provide that information.

c) Evidence Regarding Pamela Darville's Essay Opposing Expanding Fracking in Pennsylvania

The third category of facts that PGW contends is relevant to whether it is providing safe and reliable service under Section 1501, and which it contends the Contested Interrogatories are reasonably calculated to investigate, is evidence regarding an essay by POWER Interfaith leader Pamela Darville which advocates for Ms. Darville's belief that fossil fuel extraction operations should not be expanded in Pennsylvania. PGW states that in order to demonstrate that it is providing safe and reliable service under Section 1501, PGW needs to determine the "source and authors" of and "facts and circumstances" related to this essay.⁴⁹ PGW also states that it needs, for this purpose, to determine if any EJA organizations other than POWER Interfaith agree with Ms. Darville's views on fossil fuel extraction.⁵⁰

None of this information has any conceivable relevance to whether or not PGW is providing safe and reliable service. Notably, the Public Utility Code does not identify such

⁴⁹ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 6 (June 5, 2025).

⁵⁰ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 6 (June 5, 2025).

information as a factor for consideration in making this determination. It is also important to note that Ms. Darville's viewpoint on the public policy question of whether fossil fuel extraction operations should be expanded in Pennsylvania has absolutely nothing to do with whether PGW, as a gas distribution utility, is providing safe and reliable service.

Moreover, even if this category of information was relevant, Questions 15 and 16, which seek information on the internal deliberations of EJA about joining this rate case, are not reasonably calculated to produce any information on this topic. Ms. Darville's essay on fossil fuel extraction, published in late May of this year, has nothing to do with the decisions of seven public interest organizations to intervene in a gas distribution utility's base rate case in early April.

More broadly, PGW's expressed intent in its Motion to Dismiss to use the tools of discovery in this case to investigate a POWER Interfaith member's exercise of her First Amendment right to free speech on a topic totally unrelated to the rate case is troubling. The tools of discovery in a rate case are to be used to develop the record about a rate increase proposal to aid in the Commission's review of the merits of that proposal. They are not to be used by PGW to investigate advocates with whose views, expressed on unrelated topics and outside the proceeding, it may disagree with.

3. Conclusion

For the reasons explained above, the information on EJA members' internal deliberations about intervention that is sought by Questions 15 and 16 lacks any relevance to the subject matter of this proceeding, which is whether PGW's proposed rate increase will result in just and reasonable rates under Section 1301.

B. EJA’s Attorney-Client and Work Product Privilege Objections Should Be Sustained

EJA also objected to Questions 15 and 16 under 52 Pa. Code § 5.361(a)(3) on the grounds that these requests impermissibly seek documents concerning litigation strategies that are protected by the confidential attorney-client and work-product privileges.⁵¹ In the “General Responses” section of PGW’s Motion to Dismiss, PGW claims that PGW’s Set I Interrogatories “do not seek communications between EJA and its members that are protected by privilege or which advise members of the progress of these proceedings or positions asserted by EJA.”⁵² In response to EJA’s objections to Questions 15 and 16, PGW claims that EJA should be compelled to provide the requested information because “EJA does not provide a credible assessment of the alleged privilege (including providing a privilege log)[.]”⁵³

Questions 15 and 16 specifically request all documents that relate to each of the EJA organizations’ decisions to intervene, which implicates documents relating to the decision to intervene that are protected from the scope of discovery under the attorney-client privilege and work-product privilege. Although PGW’s counsel claims that they do not seek communications or documents protected by privilege, they should be fully aware of the types of communications and documents that are protected under both the attorney-client privilege and work-product privilege.

⁵¹ Exh. C. EJA, Written Objections to PGW’s Set I Interrogatories, at 7 (May 29, 2025).

⁵² PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 5 (June 5, 2025).

⁵³ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 9–10 (June 5, 2025).

As noted above, confidential attorney-client communications and attorney work product are privileged under Pennsylvania law, and therefore not subject to discovery.⁵⁴ Further, not only do Pennsylvania law and the Commission’s regulations protect attorney work product, but they also both protect the work product of a party’s representative. For attorneys, Pennsylvania law and the Commission’s regulations “set a high bar of protection in relation to the discovery of the work product of an attorney, which may not include disclosure of the mental impressions, conclusions, opinions, memoranda, notes, legal research or legal theories of an attorney.”⁵⁵ As for the materials produced by a non-attorney representative, the law and regulations “prohibit[] the disclosure of the representative’s mental impressions, conclusions or opinions respecting the value or merit of a claim or defense or respecting strategy or tactics.”⁵⁶ As it relates to value or merit of a claim or defense or respecting strategy or tactics, “the representative functions as an adviser, confidant or gossip and enjoys protection from discovery for his or her non-evidentiary communications.”⁵⁷

The privilege log attached hereto specifically identifies the documents responsive to Questions 15 and 16 that are protected under the attorney-client privilege or work-product privilege. As specified in the privilege log, certain of these documents are protected by the attorney-client privilege because they involve EJA’s counsel in this proceeding or they involve one of the EJA organizations’ in-house counsel. Additionally, numerous of the communications

⁵⁴52 Pa. Code § 5.323(a).

⁵⁵ *McIlmail v. Archdiocese of Philadelphia*, 189 A.3d 1100, 1107 (2018) (citing Pa.R.C.P. No. 4003.3); *see also* 52 Pa. Code § 5.323(a) (including nearly identical language to the state rules).

⁵⁶ *McIlmail v. Archdiocese of Philadelphia*, 189 A.3d 1100, 1107 (2018) (citing Pa.R.C.P. No. 4003.3); *see also* 52 Pa. Code § 5.323(a) (including nearly identical language to the state rules).

⁵⁷ *Tate v. Philadelphia Sav. Fund Soc’y*, 1 Pa. D. & C.4th 131, 139–40 (Com. Pl. 1987).

and documents requested in Questions 15 and 16 are protected under the work-product privilege because they involve the work product of either EJA’s counsel or one of the EJA organizations’ in-house counsel, or they involve one of the EJA organizations’ representative’s mental impressions, conclusions or opinions respecting the value or merit of a claim or defense or respecting strategy or tactics. Accordingly, EJA’s attorney-client and work-product privilege objections should be sustained.

C. EJA’s First Amendment Associational Privilege Objections Should Be Sustained

EJA also objected to Questions 15 and 16 on the grounds that they impermissibly seek internal communications that are protected by the First Amendment’s associational privilege.⁵⁸ As EJA noted, these questions go beyond asking for public documents relating to the decision of EJA organizations to intervene. These questions ask for all “written materials of any kind or character,”⁵⁹ which includes sensitive internal communications that are subject to protection under the First Amendment.

EJA explained in its Written Objections that compelled disclosure of such internal communications would have a chilling effect on the ability of EJA members to exercise their First Amendment rights to free association because the forced disclosure of sensitive internal

⁵⁸ Exh. C. EJA, Written Objections to PGW’s Set I Interrogatories, at 7–8 (May 29, 2025),

⁵⁹ Exh. C. EJA, Written Objections to PGW’s Set I Interrogatories, at 6 (May 29, 2025), PGW Interrogatory No. 15 (“Do any written memoranda, specifications, advertisements or other written materials of any kind or character relating to the decision of EJA to participate in this proceeding now exist?”).

communications would significantly harm members' ability to have free and candid internal discussions in the future.⁶⁰

PGW's "Specific Responses" to EJA's First Amendment objections to Questions 15 and 16 argue that EJA's First Amendment objections should be dismissed for two reasons.⁶¹ First, PGW contends that EJA has not demonstrated how disclosure of the requested information will have a chilling effect on EJA members' exercise of their associational rights.⁶² Second, PGW contends that EJA's "alleged First Amendment right" should be "rejected," because the First Amendment does not apply to discovery under the Commission's regulations.⁶³

PGW's contentions must fail, and EJA's First Amendment objections to Questions 15 and 16 should be sustained. There are two elements to establishing First Amendment associational privilege. First, an organization must establish the *prima facie* applicability of First Amendment associational privilege by demonstrating that the compelled disclosure at issue will have a chilling effect on the exercise of its members' associational rights.⁶⁴

Second, if *prima facie* applicability is established, the burden shifts to the party seeking discovery, who must show that the information sought "is highly relevant to the claims or

⁶⁰ Exh. C. EJA, Written Objections to PGW's Set I Interrogatories, at 8, 10, 11, 14 (May 29, 2025).

⁶¹ PGW's General Responses do not address EJA's First Amendment objections.

⁶² PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 10 (June 5, 2025).

⁶³ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 9–10 (June 5, 2025).

⁶⁴ *Fraternal Order of Police Pennsylvania Lodge v. Twp. of Springfield*, 668 F.Supp.3d 375, 386–87 (E.D. Pa. 2023).

defenses in the litigation—a more demanding standard of relevance[.]”⁶⁵ If the party seeking discovery fails to make such a showing, the compelled disclosure must be denied under First Amendment associational privilege.⁶⁶

As explained in detail below, both elements necessary to establish First Amendment associational privilege are fulfilled, because EJA has demonstrated the chilling effects of the compelled disclosures PGW is seeking and PGW has failed to show how the compelled disclosures are relevant at all to the subject matter of this proceeding, let alone highly relevant.

Finally, PGW’s claim that the U.S. Constitution’s First Amendment does not apply to the Commission’s discovery regulations must also fail. The Commission’s exercise of its statutory powers, including its statutory power to compel responses to discovery questions in Commission proceedings, is subject to the limitations imposed by the U.S. Constitution.⁶⁷ The Commission is no different from any other state agency in this regard. PGW provides no reasoning or authority to support its claim, which is unsupported.

1. The Compelled Disclosure of EJA’s Internal Communications About Intervention Will Have a Chilling Effect on EJA Members’ Associational Rights

As noted above, EJA’s Written Objections explained precisely how the compelled disclosure of sensitive internal communications about intervention will have a chilling effect on

⁶⁵ *Fraternal Order of Police Pennsylvania Lodge v. Twp. of Springfield*, 668 F.Supp.3d 375, 386–87 (E.D. Pa. 2023).

⁶⁶ *Fraternal Ord. of Police Pennsylvania Lodge v. Twp. of Springfield*, 668 F. Supp. 3d 375, 389, n.5 (E.D. Pa. 2023); *Perry v. Schwarzenegger*, 591 F.3d 1126, 1145 n.13 (9th Cir. 2009).

⁶⁷ U.S. Const. Amend. I; U.S. Const. Amend. XIV; *Americans for Prosperity Found. v. Bonta*, 594 U.S. 595, 618–19 (2021); *Nat’l Ass’n for Advancement of Colored People v. State of Ala. ex rel. Patterson*, 357 U.S. 449, 461 (1958).

EJA members’ associational rights—it will impair free and candid internal communication in the future.⁶⁸ The EJA Declarations attached to this Answer include sworn statements from members of each of EJA’s seven public interest organization members describing this chilling effect and the harm it will do to the ability of EJA members to exercise their rights to free association and free expression.⁶⁹

As the EJA Declarations demonstrate, across members of all seven organizations: (1) the ability to have free and candid internal discussions on sensitive topics is essential to the effective exercise of First Amendment-protected rights to free association and free expression; (2) being forced to disclose such internal communications to the principal adversary in a litigation would seriously impair candid internal communications in the future; and (3) such impairment would have a severely negative impact on the exercise of their associational rights to advocate for their beliefs.⁷⁰

These declarations meet the requirements of establishing the *prima facie* applicability of First Amendment associational privilege. To do so, a party must demonstrate that enforcement of the discovery requests at issue “will result in consequences which objectively suggest an impact on, or chilling of, the members’ associational rights.”⁷¹

In the context of discovery that seeks to force the disclosure of internal communications of an advocacy group, this requirement can be met through providing declarations from members

⁶⁸ Exh. C. EJA, Written Objections to PGW’s Set I Interrogatories, at 7–8 (May 29, 2025).

⁶⁹ Exh. B. EJA Declarations.

⁷⁰ Exh. B. EJA Declarations.

⁷¹ *Fraternal Order of Police Pa. Lodge v. Twp. of Springfield*, 668 F. Supp. 3d 375, 386 (E.D. Pa. 2023) (quoting *Perry v. Schwarzenegger*, 591 F.3d 1126, 1140 (9th Cir. 2009)).

attesting that their ability to engage in free and candid internal communications will be inhibited in the future, harming the exercise of their associational rights.⁷²

For example, the U.S. District Court for the Eastern District of Pennsylvania recognized that this requirement is met where the group provides declarations from members stating that they will be less likely to communicate freely and candidly with other members in the future, because such declarations “give rise to a ‘reasonable inference’ that disclosure of members’ internal communications will discourage them from freely exchanging ideas with other members in the future, and thus, infringe up on those members’ associational rights.”⁷³

The U.S. Court of Appeals for the Ninth Circuit has also recognized that such declarations can support “a reasonable inference that disclosure would have the practical effects of discouraging political association and inhibiting internal campaign communications that are essential to effective association and expression.”⁷⁴

Accordingly, the EJA Declarations meet the recognized standard for the *prima facie* applicability of First Amendment associational privilege. PGW’s claim in its Motion that EJA has not demonstrated how the forced disclosure of internal communications concerning the decision to intervene will have a chilling effect on EJA members’ exercise of their First Amendment rights must fail.⁷⁵

⁷² *Fraternal Order of Police Pa. Lodge v. Twp. of Springfield*, 668 F. Supp. 3d 375, 387 (E.D. Pa. 2023); *Perry v. Schwarzenegger*, 591 F.3d 1126, 1143 (9th Cir. 2009).

⁷³ *Fraternal Order of Police Pa. Lodge v. Twp. of Springfield*, 668 F. Supp. 3d 375, 387 (E.D. Pa. 2023).

⁷⁴ *Perry v. Schwarzenegger*, 591 F.3d 1126, 1143 (9th Cir. 2009).

⁷⁵ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 10 (June 5, 2025).

2. PGW Has Failed to Show EJA’s Internal Communications about Intervention are “Highly Relevant” to the Subject Matter of this Proceeding

As discussed above, once a party objecting to discovery under the First Amendment establishes the *prima facie* applicability of First Amendment associational privilege, the burden shifts to the party seeking discovery to make a showing that the information sought is “is *highly relevant* to the claims or defenses in the litigation” which is “a more demanding standard of relevance” than otherwise required.⁷⁶

PGW’s contentions in support of the relevance of Questions 15 and 16 are analyzed in great detail in Part IV.A. For the reasons described therein, the information sought by these questions lacks any relevance whatsoever to the subject matter of this proceeding, which is whether PGW’s proposed rate increase will produce just and reasonable rates under Section 1301.⁷⁷ Since PGW cannot meet 52 Pa. Code § 5.321(c)’s baseline relevance requirement for Questions 15 and 16, PGW falls far short of meeting the First Amendment’s heightened relevance requirement.

3. PGW’s Conclusory Contention that the First Amendment Does Not Apply to the Commission Must Be Rejected

Finally, PGW contends that the EJA’s assertion of an “alleged First Amendment right” is “misplaced and should be rejected” because the Commission’s regulations define the scope and

⁷⁶ *Fraternal Order of Police Pa. Lodge v. Twp. of Springfield*, 668 F. Supp. 3d 375, 386–87 (E.D. Pa. 2023) (emphasis added by the E.D. Pa.) (quoting *Perry v. Schwarzenegger*, 591 F.3d 1126 (9th Cir. 2009)).

⁷⁷ *See supra* at Point IV.A.

limits of discovery, not the First Amendment.⁷⁸ PGW’s claim that the First Amendment does not apply to the Commission represents a radical and novel legal claim, and the Commission should decisively correct it. PGW provides absolutely no support for its argument, not even a single case citation or citation to any other authority.

However, it is well-established that the fundamental rights protected by the First Amendment apply as limitations on the powers of state governmental actors. For example, the U.S. Supreme Court applied the First Amendment’s associational rights protections to the State of California in the course of striking down a provision of California law compelling the disclosure of nonprofit donors.⁷⁹ As the Court explained, “The First Amendment prohibits government from ‘abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.’ This Court has ‘long understood as implicit in the right to engage in activities protected by the First Amendment a corresponding right to associate with others.’”⁸⁰ Moreover, a foundational case on First Amendment associational privilege, *NAACP v. Alabama*, centered on the U.S. Supreme Court overruling an order by the State of Alabama seeking to compel the disclosure in discovery of sensitive information concerning an advocacy group’s membership.⁸¹ PGW’s unreasoned contention that the First Amendment does not apply to the Commission must fail.

⁷⁸ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 9–10 (June 5, 2025).

⁷⁹ *Americans for Prosperity Found. v. Bonta*, 594 U.S. 595, 601 (2021).

⁸⁰ *Americans for Prosperity Found. v. Bonta*, 594 U.S. 595, 605–06 (2021).

⁸¹ *Nat’l Ass’n for Advancement of Colored People v. State of Ala. ex rel. Patterson*, 357 U.S. 449, 460–461 (1958).

4. Conclusion

For the reasons explained above, PGW's Motion to Dismiss EJA's First Amendment associational privilege objections to Questions 15 and 16 must be denied. As required under the First Amendment, EJA has submitted declarations demonstrating the chilling effects of compelling disclosure of the information sought by these questions, thereby establishing the *prima facie* applicability of First Amendment associational privilege. PGW has offered only a miscellaneous collection of conclusory assertions as to the relevance of these questions, none of which establish relevance, and has completely failed to meet the heightened relevance standard required under the First Amendment.

The privilege log attached hereto identifies numerous documents as withheld on the basis of First Amendment associational privilege in connection with Questions 15 and 16.⁸² Since all of these documents reflect sensitive internal communications relating to the decision of EJA organizations to intervene in this proceeding, they are properly withheld under First Amendment associational privilege.

D. EJA's Undue Burden Objections Should Be Sustained

EJA also objected to Questions 15 and 16 under 52 Pa. Code § 5.361(a)(2) on the grounds that answering these questions would impose an undue burden on EJA.⁸³ As EJA explained, answering these questions would require the disclosure of sensitive internal communications regarding organizations' decisions to intervene in the proceeding, which would harm the ability

⁸² Exh. A. Privilege Log.

⁸³ Exh. C. EJA, Written Objections to PGW's Set I Interrogatories, at 7 (May 29, 2025) (quoting 52 Pa. Code § 5.361(a)(2)).

of organizations to have free and candid internal conversations in the future. Given the lack of any evidentiary value to the information sought, this would cause “unreasonable annoyance, embarrassment, oppression, burden or expense” in violation of 52 Pa. Code § 5.361(a)(2).

In its Specific Response to these objections, PGW contended that any such burden is “unproven and not sufficient to prohibit discovery.”⁸⁴ As noted above, EJA did provide a detailed explanation of the nature of the burden, and its lack of proportionality to any evidentiary objective, in its Written Objections. However, as discussed above in connection with EJA’s First Amendment objections, in this Answer EJA provides, by way of the EJA Declarations, extensive evidence of the burdens and harms that would be imposed by being compelled to answer these questions. EJA also provides a detailed analysis of the lack of any conceivable relevance of these questions. This establishes the existence of an undue burden under 52 Pa. Code § 5.361(a)(2).

V. Questions 17 and 18 re EJA Organizations’ Communications with their Members About Public Input Hearing Preparation

PGW-I-17	Did any Member organization of EJA provide written documents, information, or materials to its Members, or make available to its Members, information, statements or materials, including emails, talking points or posters, for use at public hearings in these proceedings?
PGW-I-18	<p>If the Answer to Interrogatory No. 17 is Yes:</p> <ul style="list-style-type: none"> a. List each written document, information or material, including emails, talking points or posters; b. Identify each person who received each such document, information or material, including emails, talking points or posters; and, c. Produce a copy of each document identified in this Answer.

⁸⁴ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 9 (June 5, 2025).

EJA objected to Questions 17 and 18 on several grounds. First, EJA objected under 52 Pa. Code § 5.321(c) based on lack of relevance, because no fact related to the EJA organizations' communications with their members concerning preparation for the public input hearings has any conceivable relevance to the subject matter of this proceeding, which is whether or not PGW's proposed rate increase request will result in just and reasonable rates under Section 1301 of the Public Utility Code.⁸⁵

Second, EJA objected on the grounds that these questions impermissibly seek internal communications that are protected by the First Amendment because their forced disclosure to EJA's adversary would have a chilling effect on members' First Amendment associational rights.⁸⁶

Third, EJA objected under 52 Pa. Code § 5.361(a)(2) on the grounds that answering these questions would impose an undue burden, because forcing EJA organizations to turn over internal communications concerning preparation for public input hearings would cause significant harm to EJA members' ability to have open and candid internal conversations.⁸⁷

Each of these objections, and PGW's response to them, will now be discussed in detail. For the reasons discussed below, each of these objections to Questions 17 and 18 should be sustained.

⁸⁵ Exh. C. EJA, Written Objections to PGW's Set I Interrogatories at 9 (May 29, 2025); 52 Pa. Code § 5.321(c).

⁸⁶ Exh. C. EJA, Written Objections to PGW's Set I Interrogatories at 10-11 (May 29, 2025), 1A cites

⁸⁷ Exh. C. EJA, Written Objections to PGW's Set I Interrogatories at 9-10 (May 29, 2025); 52 Pa. Code § 5.361(a)(2).

A. EJA's Relevance Objections Should Be Sustained

1. PGW's "Specific Responses" are Unavailing

As noted above, EJA objected to Questions 17 and 18 on the grounds of lack of relevance under 52 Pa. Code § 5.321(c).⁸⁸ PGW's Motion to Dismiss provides two "Specific Responses" to EJA's relevance objections to Questions 17 and 18.⁸⁹

PGW's first "Specific Response" contends that Questions 17 and 18 are "well within the broad scope of discovery."⁹⁰ As with PGW's identical "Specific Response" to EJA's relevance objections to Questions 15 and 16, PGW provides no reasoning to support its conclusory assertion that Questions 17 and 18 fall within the scope of discovery.

Under 52 Pa. Code § 5.321(c), the scope of discovery is limited to matters that are "relevant to the subject matter involved in the pending action[.]"⁹¹ As EJA asserted in its Written Objections, there is no conceivable link between how EJA communicated with its members concerning preparation for the public input hearings and whether PGW's requested rate increase will produce just and reasonable rates under Section 1301.

PGW's second "Specific Response" contends that EJA's relevance objections to Questions 17 and 18 should be disregarded, because they seek to "improperly impose[] a requirement to demonstrate evidentiary relevance" for interrogatories that are "well within the

⁸⁸ Exh. C. EJA, Written Objections to PGW's Set I Interrogatories, at 9 (May 29, 2025).

⁸⁹ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 10 (June 5, 2025).

⁹⁰ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 10 (June 5, 2025).

⁹¹ 52 Pa. Code § 5.321(c).

scope of discovery.”⁹² An identical “Specific Response” was discussed in detail above in Part IV.A.1 in connection with EJA’s relevance objections to Questions 15 and 16. For the reasons discussed therein, PGW is incorrect that any relevance objections to its interrogatories must be disregarded because PGW cannot be required to explain how its interrogatories meet 52 Pa. Code § 5.321(c)’s relevance requirement.

2. PGW’s “General Responses” are Unavailing

As discussed above in Part IV.A.2 in connection with Questions 15 and 16, PGW’s Motion to Dismiss also provides “General Responses” to EJA’s Written Objections, which PGW claims apply equally to establish the relevance of all five of the Contested Interrogatories.

To review, PGW’s “General Responses” contend that all of the Contested Interrogatories are reasonably calculated to obtain evidence within three categories, all of which PGW claims are relevant to the issue of whether PGW is providing safe and reliable service: (1) what EJA’s interests are in this proceeding; (2) what EJA’s initial concerns about PGW’s filing were upon first review; and (3) the circumstances surrounding Ms. Darville publishing an essay online several weeks ago advocating against the expansion of fossil fuel extraction operations in Pennsylvania. For the reasons discussed above in Part IV.A.2, none of these three categories of evidence are in fact relevant to the question of whether PGW is providing safe and reliable service under Section 1501.

However, even if these categories of evidence were relevant, which they are not, Questions 15 and 16, which seek EJA’s internal communications with its members about

⁹² PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 10 (June 5, 2025).

preparation for the public input hearing in this proceeding, are not reasonably calculated to produce any evidence in these categories. First, as noted above, EJA's interests in this proceeding are already well-established, including by means of two pieces of detailed Direct Testimony.⁹³

Second, questions concerning EJA's internal communications with members in preparation for the public input hearings will not produce information that indicates what EJA's initial concerns on first review of PGW's filing were. EJA filed its Petition to Intervene, in which it noted that it had initial concerns with PGW's filing, on April 2, 2025. The public input hearings in this proceeding were held on May 6 and May 7, 2025. By the time of preparations for those hearings, EJA had conducted multiple rounds of discovery, and its communications with members would no longer necessarily represent precisely the same initial concerns EJA may have had upon its first review of PGW's filing.

Third, questions concerning EJA's internal public input hearing preparation are not reasonably calculated to produce any information concerning Ms. Darville's essay. Ms. Darville's essay concerns the expansion of fossil fuel extraction in Pennsylvania, which is not an issue in this proceeding, and EJA's communications with its members in preparation for the public input hearings in this proceeding did not include any discussion of it.

3. Conclusion

For the reasons explained above, the information on EJA members' internal communications with its members about preparation for the public input hearings that is sought by Questions 17 and 18 lacks any relevance to the subject matter of this proceeding, which is

⁹³ *See supra* at Point IV.A.2.

whether PGW’s proposed rate increase will result in just and reasonable rates under Section 1301.

B. EJA’s First Amendment Associational Privilege Objections Should Be Sustained

EJA also objected to Questions 17 and 18 on the grounds that they impermissibly seek internal communications with EJA’s members about public input hearing preparations that are protected by the First Amendment’s associational privilege.⁹⁴ These questions go beyond asking for public documents—they ask for all “written documents, information, or materials...including emails” which includes sensitive internal communications that are subject to protection under the First Amendment.

PGW’s “Specific Responses” to EJA’s objections to Questions 17 and 18 contain only a brief reference to the First Amendment. PGW notes that EJA lodged an objection based on “an alleged First Amendment right,” contends generally that EJA “does not provide a credible assessment of the alleged privilege of burden of retrieving the information,” and asserts that all of EJA’s objections to Questions 17 and 18 should be dismissed.⁹⁵

However, because EJA has established the applicability of First Amendment associational privilege to protect the internal communications with members relating to public input hearing preparations, PGW’s contentions must fail. As discussed above in Part IV.C in connection with Questions 15 and 16, First Amendment associational privilege applies when two conditions are present: 1) the compelled disclosure of the information sought in discovery will have a chilling

⁹⁴ Exh. C. EJA, Written Objections to PGW’s Set I Interrogatories at 10-11 (May 29, 2025).

⁹⁵ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 11 (June 5, 2025).

effect on the exercise of associational rights, and 2) the party seeking discovery has failed to demonstrate that the information sought is “highly relevant” to the subject matter of the proceeding. As demonstrated below, both these conditions are fulfilled with respect to Questions 17 and 18.

1. The Compelled Disclosure of EJA’s Internal Communications About Public Input Hearing Preparations Will Have a Chilling Effect on EJA Members’ Associational Rights

As explained above in Part IV.C., the *prima facie* applicability of First Amendment associational privilege is established through demonstrating that the compelled disclosure at issue would have a chilling effect on the exercise of associational rights by members of an organization. A recognized example of such a chilling effect is the inhibition of internal communications in the future, harming the ability of members to associate together to advocate for their beliefs. Such a chilling effect can be demonstrated through declarations from members of an organization.⁹⁶

As also discussed above, the attached EJA Declarations demonstrate, for members of all seven organizations, that: (1) the ability to have free and candid internal discussions on sensitive topics is essential to the effective exercise of First Amendment-protected rights to free association and free expression; (2) being forced to disclose such internal communications to the principal adversary in a litigation would seriously impair candid internal communications in the future; and (3) such impairment would have a severely negative impact on the exercise of their associational rights to advocate for their beliefs.⁹⁷ Accordingly, EJA has established the *prima*

⁹⁶ *See supra* at Point IV.C.

⁹⁷ Exh. B. EJA Declarations.

facie applicability of First Amendment associational privilege to the internal communications about public input hearing preparations sought by Questions 17 and 18.

With regard to internal communications with members about public input hearing preparation specifically, it should be noted that the U.S. Court of Appeals for the D.C. Circuit has held that the compelled disclosure of educational materials that an advocacy organization provides to its members would infringe on the First Amendment associational rights of that organization. As the court held, when an agency “compels public disclosure of an association’s confidential internal materials, it intrudes on the ‘privacy of association and belief guaranteed by the First Amendment,’ as well as seriously interferes with internal group operations and effectiveness.”⁹⁸

The court also specifically noted that the forced disclosure of information on an organization’s “training programs” for members and “member mobilization campaigns” would have a chilling effect on members ability to exercise their associational rights in the future “by revealing to their opponents ‘activities, strategies and tactics [that they] have pursued and will likely follow in the future.’”⁹⁹

⁹⁸ *Am. Fed’n of Lab. & Cong. of Indus. Orgs. v. Fed. Election Comm’n*, 333 F.3d 168, 177–78 (D.C. Cir. 2003) (citations omitted).

⁹⁹ *Am. Fed’n of Lab. & Cong. of Indus. Orgs. v. Fed. Election Comm’n*, 333 F.3d 168, 176–77 (D.C. Cir. 2003).

2. PGW Has Failed to Show EJA’s Internal Communications about Public Input Hearing Preparations are “Highly Relevant” to the Subject Matter of this Proceeding

As noted above in Part IV.C.2, once *prima facie* applicability of First Amendment associational privilege is established, the party seeking discovery has the burden to show that the information sought is “highly relevant” to the subject matter of the proceeding.

PGW cannot meet that burden with regard to Questions 17 and 18, because as discussed above in Part V.A, PGW cannot even meet 52 Pa. Code § 5.321(c)’s baseline relevance requirement for these questions, and it falls far short of meeting the “highly relevant” standard under First Amendment associational privilege doctrine.

3. PGW’s Request to Identify All Recipients of Membership Communications is a Request to Produce Membership Lists and Should Also Be Denied under the First Amendment

Subsection (b) of Question 18 requests that EJA “[i]dentify each person who received” communications EJA organizations sent to their members regarding preparation for public input hearings. As EJA noted in its Written Objections, this request is in effect a request to produce membership lists.¹⁰⁰ However, courts have ruled that First Amendment associational privilege protects against compelling the production of such information in discovery in the absence of a showing of heightened relevance. In a foundational case, the U.S. Supreme Court struck down an order by the State of Alabama seeking to compel the NAACP to produce its membership list.¹⁰¹ More recently, a federal court rejected an attempt by the operator of a coal plant to compel Sierra

¹⁰⁰ Exh. C. EJA, Written Objections to PGW’s Set I Interrogatories, at 11 (May 29, 2025).

¹⁰¹ *Nat’l Ass’n for Advancement of Colored People v. State of Ala. ex rel. Patterson*, 357 U.S. 449, 466 (1958).

Club to produce its membership list.¹⁰² Federal courts have also rejected such a demand in other instances.¹⁰³

Here, too, PGW's demand that EJA members effectively produce membership lists should be rejected. Such information has no relevance to any issue in this proceeding, which is an investigation into whether PGW's proposed rate increase will produce just and reasonable rates.

4. Conclusion

For the reasons explained above, PGW's Motion to Dismiss EJA's First Amendment associational privilege objections to Questions 17 and 18 must be denied. The privilege log attached hereto identifies numerous documents that are responsive to Questions 17 and 18 but which are withheld on the basis of First Amendment associational privilege.¹⁰⁴ Since all of these documents reflect sensitive internal communications relating to preparation for the public input hearings in this proceeding, they are properly withheld under First Amendment associational privilege.

¹⁰² *Sierra Club v. Energy Future Holdings Corp.*, No. 5:10CV156, 2013 WL 12244352, at *3 (E.D. Tex. Dec. 30, 2013).

¹⁰³ *Fed. Election Comm'n v. Machinists Non-Partisan Pol. League*, 655 F.2d 380, 397 (D.C. Cir. 1981); *Am. C.R. Union v. Martinez-Rivera*, No. 2:14-CV-026-AM-CW, 2015 WL 13650010, at *2-3 (W.D. Tex. Sept. 10, 2015); *In re Motor Fuel Temperature Sales Pracs. Litig.*, 258 F.R.D. 407, 412-418 (D. Kan. 2009), *rev'd in part*, 707 F. Supp. 2d 1145 (D. Kan. 2010); *Int'l Action Ctr. v. United States*, 207 F.R.D. 1, 3 (D.D.C. 2002) ("The courts have long recognized the sensitivity of information related to such activities and consequently have ruled that the following information is protected by the First Amendment: membership and volunteer lists, contributor lists, and past political activities of plaintiffs and of those persons with whom they have been affiliated. Consequently, discovery requests from Defendants that seek such information will not be allowed.").

¹⁰⁴ Exh. A. Privilege Log.

C. EJA’s Undue Burden Objections Should Be Sustained

EJA also objected to Questions 17 and 18 under 52 Pa. Code § 5.361(a)(2) on the grounds that answering these questions would impose an undue burden on EJA.¹⁰⁵ As EJA explained, answering these questions would require the disclosure of highly sensitive internal communications regarding organizations’ communications with members about public input hearing preparations, which would harm the ability of organizations to have free and candid internal conversations in the future. Given the lack of any evidentiary value to the information sought, this would cause “unreasonable annoyance, embarrassment, oppression, burden or expense” in violation of 52 Pa. Code § 5.361(a)(2).

In its “Specific Responses” to these objections, PGW contended that any such burden is “unproven and not sufficient to prohibit discovery.”¹⁰⁶ As noted above, EJA did provide a detailed explanation of the nature of the burden, and its lack of proportionality to any evidentiary objective, in its Written Objections. However, as discussed above in connection with EJA’s First Amendment objections, in this Answer EJA provides, by way of the EJA Declarations, extensive evidence of the burdens and harms that would be imposed by being compelled to answer these questions. EJA also provides a detailed analysis of the lack of any conceivable relevance of these questions. This establishes the existence of an undue burden under 52 Pa. Code § 5.361(a)(2).

¹⁰⁵ Exh. C. EJA, Written Objections to PGW’s Set I Interrogatories, at 10 (May 29, 2025).

¹⁰⁶ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 10 (June 5, 2025).

VI. Conclusion

For the reasons explained above, PGW's Motion to Dismiss should be denied in its entirety, and EJA's objections should be sustained. Question 10 seeks information about whether EJA's members are PGW customers. EJA has offered to provide almost all of the information requested by Question 10, and remains willing to do so. EJA does not have the remaining information requested by that question, which is not relevant in any event.

Questions 15 and 16 seek information concerning EJA's decision to intervene in this proceeding, including internal communications. Questions 17 and 18 seek information concerning EJA's communications with its members concerning preparation for the public input hearings in this proceeding. As detailed above, such information has no bearing on the subject matter of this proceeding, which is whether PGW's requested rate increase will produce just and reasonable rates under Section 1301.

PGW argues that the information it seeks with these questions is relevant because it relates to whether PGW is providing safe and reliable service under Section 1501, which is a criterion the Commission considers in assessing whether PGW's rates are just and reasonable under Section 1301.

But while a determination of whether PGW is providing safe and reliable service under Section 1501 is relevant to the Section 1301 determination that is the focus of this proceeding, information concerning EJA's internal communications on intervention and public input hearing preparation has absolutely no relevance to whether or not PGW is providing safe and reliable service under 1501.

The safety and reliability of the service PGW provides under Section 1501 is an objective and serious matter, and one with high stakes for Philadelphians. PGW should focus on facts that

matter to that finding, and not attempt to stretch Section 1501 into a rationalization for needlessly intrusive discovery about public interest organizations that have opposed its rate increase request.

More broadly, PGW's request to force the disclosure of EJA's internal communications, if granted, would inhibit EJA members' ability to have free and candid internal conversations, impairing their ability to conduct effective advocacy in the future. This would have a chilling effect on EJA members' exercise of their First Amendment rights of free association and free expression. As such, PGW's request may only be granted if PGW can demonstrate that the information it seeks is "highly relevant" to the subject matter of this proceeding, which it cannot do.¹⁰⁷

For all of these reasons, PGW's Motion to Dismiss should be denied. Utilities around the Commonwealth have successfully obtained the rate increases they need in countless Commission proceedings without needing to demand access to the internal communications of public interest intervenors. PGW does not need this information, and approving the unnecessarily intrusive discovery PGW requests here will inflict serious harms on the ability of public interest organizations to participate effectively in Commission proceedings in the future.

¹⁰⁷ *Fraternal Order of Police Pennsylvania Lodge v. Twp. of Springfield*, 668 F. Supp. 3d 375, 386 (E.D. Pa. 2023).

Dated: June 11, 2025

Respectfully submitted,

/s/ Devin McDougall
PA Attorney ID No. 329855
Supervising Senior Attorney

Mychal Ozaeta, Esq.
Hema Lochan, Esq.
Rebecca Barker, Esq.

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(917) 628-7411

Counsel for the Energy Justice Advocates

VERIFICATION

I hereby verify that the facts in this Answer are true and accurate to the best of my knowledge and that I am duly authorized to make this verification, and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Dated: June 11, 2025

/s/ Sara Melton

Sara Melton, POWER Interfaith

VERIFICATION

I hereby verify that the facts in this Answer are true and accurate to the best of my knowledge and that I am duly authorized to make this verification, and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Dated: June 11, 2025

/s/ Zachary Fabish

Zachary Fabish, Sierra Club

VERIFICATION

I hereby verify that the facts in this Answer are true and accurate to the best of my knowledge and that I am duly authorized to make this verification, and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Dated: June 11, 2025

/s/ Tonyehn Verkitus

Tonyehn Verkitus, Physicians for Social Responsibility PA

VERIFICATION

I hereby verify that the facts in this Answer are true and accurate to the best of my knowledge and that I am duly authorized to make this verification, and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Dated: June 11, 2025

/s/ Eric Cheung

Eric Cheung, Clean Air Council

VERIFICATION

I hereby verify that the facts in this Answer are true and accurate to the best of my knowledge and that I am duly authorized to make this verification, and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Dated: June 11, 2025

/s/ Kartik Amarnath

Kartik Amarnath, Vote Solar

VERIFICATION

I hereby verify that the facts in this Answer are true and accurate to the best of my knowledge and that I am duly authorized to make this verification, and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Dated: June 11, 2025

/s/ David Masur

David Masur, PennEnvironment

VERIFICATION

I hereby verify that the facts in this Answer are true and accurate to the best of my knowledge and that I am duly authorized to make this verification, and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Dated: June 11, 2025

/s/ Abe Scarr

Abe Scarr, PennPIRG

Exhibit A.

Privilege Log

Privilege Log

I. Documents Withheld Based on Privilege for Questions 15 and 16

Note: Attorneys are indicated with an asterisk following their name.

#	Date	Type	Author	Recipients	Privileges Asserted	Subject Matter
1	3/8/2025	Email	Peter Furcht	Pamela Darville, Steve Greenspan, Devin McDougall*, Mitch Chanin, Celine Busnelli	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential POWER Interfaith intervention into PGW rate case
2	3/8/2025	Email	Mitch Chanin	Pamela Darville, Steve Greenspan, Devin McDougall*, Peter Furcht, Celine Busnelli	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential POWER Interfaith intervention into PGW rate case
3	3/8/2025	Email	Pamela Darville	Pamela Darville, Steve Greenspan, Devin McDougall*, Mitch Chanin, Celine Busnelli	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential POWER Interfaith intervention into PGW rate case
4	3/9/2025	Email	Steve Greenspan	Pamela Darville, Steve Greenspan, Devin McDougall*, Mitch Chanin, Celine Busnelli	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential POWER Interfaith intervention into PGW rate case
5	3/11/2025	Email	Peter Furcht	Sara Melton	Work Product; First Amendment	Correspondence concerning potential POWER Interfaith intervention into PGW rate case
6	3/12/2025	Email	Kartik Amarnath	Devin McDougall*	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Vote Solar intervention

						into PGW rate case
7	3/12/2025	Email thread	Devin McDougall*	Alex Bomstein*, Lauren Otero*, Logan Welde*, Larry Hafetz*	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Clean Air Council intervention into PGW rate case
8	3/12/2025	Email thread	Zachary Fabish*	Emily Abendroth, Tom Schuster, Nate Reagle	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case
9	3/12/2025	Email	Flora Cardoni	Abe Scarr, David Masur	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential PennEnvironment and PennPIRG intervention into PGW rate case, including forwarded attorney-client communication
10	3/12/2025	Email	Abe Scarr	David Masur, Flora Cardoni	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential PennEnvironment and PennPIRG intervention into PGW rate case. including forwarded attorney-client communication
11	3/12/2025- 3/13/2025	Email thread	Devin McDougall*	Linnea Bond, Tonyehn Verkitus	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential PSR PA intervention into PGW rate case
12	3/14/2025	Email thread	Abe Scarr	Flora Cardoni, David Masur	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential PennEnvironment and PennPIRG intervention into PGW rate case, including forwarded attorney-client communication

13	3/14/2025	Email	Abe Scarr	Devin McDougall*, Flora Cardoni, David Masur	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential PennEnvironment and PennPIRG intervention into PGW rate case
14	3/14/2025	Email	Zachary Fabish*	Tom Schuster, Emily Abendroth, Nate Reagle	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case
15	3/17/2025	Email thread	Zachary Fabish*	Devin McDougall*, Emily Abendroth, Tom Schuster	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case
16	3/17/2025	Email thread	Zachary Fabish*	Devin McDougall*, Tom Schuster	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case
17	3/17/2025	Email thread	Devin McDougall*	Zachary Fabish*, Tom Schuster	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case
18	3/17/2025	Email	Peter Furcht	Pamela Darville, Steve Greenspan, Devin McDougall*, Mitch Chanin, Celine Busnelli	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential POWER Interfaith intervention into PGW rate case
19	3/17/2025	Email	Devin McDougall*	Pamela Darville, Steve Greenspan, Peter Furcht, Mitch Chanin, Celine Busnelli	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential POWER Interfaith intervention into PGW rate case

20	3/18/2025	Email	Zachary Fabish*	Josh Stebbins	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case
21	3/20/2025	Email	Peter Furcht	Pamela Darville, Steve Greenspan, Devin McDougall*, Mitch Chanin, Celine Busnelli	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential POWER Interfaith intervention into PGW rate case
22	3/20/2025	Email	Peter Furcht	Sara Melton, Pamela Darville, Steve Greenspan, Devin McDougall*, Mitch Chanin, Celine Busnelli	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential POWER Interfaith intervention into PGW rate case
23	3/20/2025	Email thread	Abe Scarr	David Masur, Flora Cardoni	Work Product; First Amendment	Correspondence concerning potential PennEnvironment and PennPIRG intervention into PGW rate case
24	3/21/2025	Email	Sara Melton	Peter Furcht	Work Product; First Amendment	Correspondence concerning potential POWER Interfaith intervention into PGW rate case
25	3/21/2025	Email thread	Abe Scarr	Andre Delattre, Emily Rusch, David Masur, Flora Cardoni	Work Product; First Amendment	Correspondence concerning potential PennEnvironment and PennPIRG intervention into PGW rate case
26	3/21/2025	Email	Flora Cardoni	Devin McDougall*, David Masur, Abe	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential PennEnvironment and

				Scarr		PennPIRG intervention into PGW rate case
27	3/21/2025	Email thread	Abe Scarr	David Masur, Flora Cardoni	Work Product; First Amendment	Correspondence concerning potential PennEnvironment and PennPIRG intervention into PGW rate case
28	3/22/2025	Email	Peter Furcht	Sara Melton, Pamela Darville, Steve Greenspan, Devin McDougall*, Mitch Chanin	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential POWER Interfaith intervention into PGW rate case
29	3/23/2025	Email thread	Mitch Chanin	Pamela Darville, Steve Greenspan, Devin McDougall*, Peter Furcht	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential POWER Interfaith intervention into PGW rate case
30	3/24/2025	Email	Devin McDougall*	Sara Melton, Pamela Darville, Steve Greenspan, Mitch Chanin	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential POWER Interfaith intervention into PGW rate case
31	3/24/2025	Email thread	Zachary Fabish*	Ariana Abedifard, Joya Manjur	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case
32	3/24/2025	Email thread	Zachary Fabish*	Devin McDougall*, Tom Schuster	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case
33	3/24/2025	Email	Zachary Fabish*	Kristina Andreotta	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case

34	3/25/2025	Email thread	Zachary Fabish*	Devin McDougall*	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case
35	3/25/2025	Email	Zachary Fabish*	Ariana Abedifard, Joya Manjur	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case
36	3/25/2025	Email thread	Zachary Fabish*	Tom Schuster	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case
37	3/25/2025	Email	Devin McDougall*	Pamela Darville, Steve Greenspan, Mitch Chanin, Sara Melton	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential POWER Interfaith intervention into PGW rate case
38	3/25/2025	Email	Emily Rusch	Katie McGinn, Lydia Parker*, Karen Raihofer*, David Masur, Abe Scarr	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential PennEnvironment and PennPIRG intervention into PGW rate case
39	3/25/2025	Email thread	Emily Rusch	Abe Scarr, Andre Delattre, David Masur, Flora Cardoni	Work Product; First Amendment	Correspondence concerning potential PennEnvironment and PennPIRG intervention into PGW rate case
40	3/26/2025	Email	Katie McGinn	Emily Rusch, Lydia Parker*, Karen Raihofer*, David Masur, Abe Scarr	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential PennEnvironment and PennPIRG intervention into PGW rate case
41	3/26/2025	Email	Abe Scarr	David Masur, Flora Cardoni	Work Product; First Amendment	Correspondence concerning potential PennEnvironment and PennPIRG intervention into PGW rate case

42	3/27/2025	Email	Flora Cardoni	Devin McDougall*, David Masur, Abe Scarr	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential PennEnvironment and PennPIRG intervention into PGW rate case
43	3/27/2025	Email	Flora Cardoni	David Masur, Abe Scarr	First Amendment	Correspondence concerning potential PennEnvironment and PennPIRG intervention into PGW rate case
44	3/28/2025	Email	Devin McDougall*	Pamela Darville, Steve Greenspan, Mitch Chanin, Sara Melton	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential POWER Interfaith intervention into PGW rate case
45	3/28/2025	Email	Devin McDougall*	Alex Bomstein*, Lauren Otero*, Logan Welde*, Larry Hafetz*	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Clean Air Council intervention into PGW rate case
46	3/28/2025	Email	Lauren Otero*	Larry Hafetz*, Logan Welde*	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Clean Air Council intervention into PGW rate case
47	3/28/2025	Email	Kartik Amarnath	Stephan Roundtree	First Amendment	Correspondence concerning potential Vote Solar intervention into PGW rate case
48	3/28/2025	Email thread	Zachary Fabish*	Kristina Andreotta, Tom Schuster	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case
49	3/28/2025	Email thread	Zachary Fabish*	Ariana Abedifard	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case
50	3/28/2025	Email thread	Zachary Fabish*	Devin McDougall*, Tom Schuster	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case

51	3/28/2025-3/31/2025	Email thread	Devin McDougall*	Tonyehn Verkitus, Linnea Bond	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential PSR PA intervention into PGW rate case
52	3/29/2025	Text	Sara Melton	Dr. Gregory Edwards	Work Product; First Amendment	Correspondence concerning potential POWER Interfaith intervention into PGW rate case
53	3/29/2025	Text	Lauren Otero*	Larry Hafetz*	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Clean Air Council intervention into PGW rate case
54	3/30/2025	Email	Lauren Otero*	Larry Hafetz*	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Clean Air Council intervention into PGW rate case
55	4/1/2025	Email thread	Zachary Fabish*	Devin McDougall*	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case
56	4/1/2025	Email	Kartik Amarnath	Devin McDougall*	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Vote Solar intervention into PGW rate case
57	4/2/2025	Email	Zachary Fabish*	Srinidhi Kumar	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case
58	4/2/2025	Email thread	Larry Hafetz*	Devin McDougall*	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Clean Air Council intervention into PGW rate case
59	4/3/2025	Email thread	Zachary Fabish*	Devin McDougall*, Tom Schuster	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case
60	5/13/2025	Email	Zachary Fabish*	Ariana Abedifard, Joya Manjur	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case

61	5/13/2025	Email thread	Zachary Fabish*	Ariana Abedifard, Joya Manjur	Attorney-Client; Work Product; First Amendment	Correspondence concerning potential Sierra Club intervention into PGW rate case
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II. Documents Withheld Based on Privilege for Questions 17 and 18

#	Date	Type	Author	Recipients	Privileges Asserted	Subject Matter
1	4/29/2025-4/30/2025	Email thread	Linnea Bond	PSR PA members	First Amendment	Correspondence regarding public input hearing preparation
2	5/1/2025	Email	Kartik Amarnath	Vote Solar members	First Amendment	Correspondence regarding public input hearing preparation
3	5/2/2025	Email thread	Linnea Bond	PSR PA members	First Amendment	Correspondence regarding public input hearing preparation
4	5/2/2025	Email	Flora Cardoni	PennEnvironment members	First Amendment	Correspondence regarding public input hearing preparation
5	5/4/2025	Email	Emily Abendroth	Sierra Club members	First Amendment	Correspondence regarding public input hearing preparation
6	5/5/2025	Email	Linnea Bond	PSR PA members	First Amendment	Correspondence regarding public input hearing preparation

Exhibit B.

EJA Declarations

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et
al.

v.

Philadelphia Gas Works

Docket No. R-2025-3053112
Docket No. C-2025-3053827
Docket No. C-2025-3053978
Docket No. C-2024-3054216

DECLARATION OF SARA MELTON

I, Sara Melton, make this declaration and aver as follows:

1. My name is Sara Melton. I am of legal age and competent to give this declaration. I am the Managing Director of Organizing for POWER Interfaith. In this capacity, I oversee our organizing across the state of Pennsylvania, including Philadelphia. I am responsible for the training and development of organizers and relate to member leaders across our various bases to support them in their leadership development and the creation of campaign and advocacy strategy to advance our shared goals as an organization.
2. POWER Interfaith uses our faith and moral grounding to organize and empower Pennsylvanians to live and work together so that the presence of the Divine is known on every block, that people work together to transform the conditions of their neighborhood, and that life flourishes for all.
3. POWER Interfaith has intervened in the above-captioned proceeding of the Pennsylvania Public Utility Commission (“Commission”) as part of the Energy Justice Advocates (“EJA”), comprised of POWER Interfaith, Sierra Club, Physicians for Social

Responsibility Pennsylvania, Clean Air Council, Vote Solar, PennEnvironment, and the Pennsylvania Public Interest Research Group.

4. As part of EJA, POWER Interfaith served two pieces of Direct Testimony concerning the rate increase proposal of Philadelphia Gas Works (“PGW”). These testimonies develop the record with expert analysis of affordability and climate issues relating to PGW’s proposed rate increase and call for PGW to engage in improved long-term planning with respect to affordability and climate change, among other recommendations.

5. I am submitting this declaration in support of EJA’s Answer to PGW’s Motion to Dismiss Objections and Compel Complete Responses to its Set I Interrogatories Nos. 10, 15-16, and 17-18. Among other things, these questions seek discovery of sensitive internal communications of EJA member organizations concerning the decision to intervene in this proceeding and concerning preparation for the public input hearings in this proceeding.

6. The effectiveness of POWER Interfaith’s advocacy depends on the ability to have free and candid internal discussions on sensitive topics, including advocacy strategies. I have frequently engaged in such free and candid internal discussions on sensitive matters relating to POWER Interfaith’s advocacy and strategy in this Commission proceeding.

7. If POWER Interfaith is compelled to disclose its internal communications relating to its decision to intervene and its preparation for the public input hearings in this proceeding, this would have a drastically negative impact on the ability of POWER Interfaith to carry out its advocacy.

8. Being forced to disclose such sensitive internal communications about this proceeding would compromise the ability of POWER Interfaith staff and members to have free and candid internal communications in the future.

9. If PGW can demand and obtain copies of such internal communications, I will be forced to second-guess myself and to substantially alter how I communicate. I would be less inclined to share my views freely and candidly.

10. I believe that PGW's ability to demand and obtain such internal communications from POWER Interfaith would have a similar impact on others within POWER Interfaith, inhibiting their ability to have free and candid internal discussions in the course of carrying out POWER Interfaith's work.

11. Such impairment of internal communications would significantly degrade POWER Interfaith's ability to carry out its advocacy and to participate in Commission proceedings.

12. I declare under penalty of perjury that the foregoing is true and correct.

13. This concludes my sworn statement.

/s/ Sara Melton

SARA MELTON

Dated: June 11, 2025

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et
al.

v.

Philadelphia Gas Works

Docket No. R-2025-3053112
Docket No. C-2025-3053827
Docket No. C-2025-3053978
Docket No. C-2024-3054216

DECLARATION OF THOMAS SCHUSTER

I, Thomas Schuster, make this declaration and aver as follows:

1. My name is Thomas Schuster. I am of legal age and competent to give this declaration. I am the Director of Sierra Club’s Pennsylvania Chapter. I work primarily in Pennsylvania, coordinating the efforts of the Chapter to effectuate Chapter priorities as well as the mission of the broader Sierra Club in Pennsylvania.

2. A critical part of our work to fulfill those priorities and that mission is engagement in public fora and before state agencies, like the Pennsylvania Public Utilities Commission. I believe that the Sierra Club’s efforts to put testimony, information, and viewpoints before such entities as the Commission are invaluable in helping those entities fulfill their functions, and in ensuring that Sierra Club members and the broader public are able to petition their government on issues that concern them.

3. In my role as Chapter Director, I guide Sierra Club’s strategy in Pennsylvania, and I lead teams of Sierra Club staff and volunteers. These teams employ legal, communication, organizing, and political strategies to achieve Sierra Club’s objectives. Due to the geographic

diversity among these teams, we communicate largely through the use of email, shared documents, and phone and videoconferencing.

4. Sierra Club is a nonprofit public benefit organization with nearly 620,000 members nationally, including nearly 25,000 in Pennsylvania. The Sierra Club's mission is to explore, enjoy, and protect the wild places of the Earth; to practice and promote the responsible use of the Earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives.

5. Sierra Club has intervened in the above-captioned proceeding of the Pennsylvania Public Utility Commission ("Commission") as part of the Energy Justice Advocates ("EJA"), comprised of POWER Interfaith, Sierra Club, Physicians for Social Responsibility Pennsylvania, Clean Air Council, Vote Solar, PennEnvironment, and the Pennsylvania Public Interest Research Group.

6. As part of EJA, Sierra Club served two pieces of Direct Testimony concerning the rate increase proposal of Philadelphia Gas Works ("PGW"). These testimonies develop the record with expert analysis of affordability and climate issues relating to PGW's proposal and call for PGW to engage in improved long-term planning with respect to affordability and climate change, among other recommendations.

7. I am submitting this declaration in support of EJA's Answer to PGW's Motion to Dismiss Objections and Compel Complete Responses to its Set I Interrogatories Nos. 10, 15-16, and 17-18. Among other things, these questions seek discovery of sensitive internal communications of EJA member organizations concerning the decision to intervene in this proceeding and concerning preparation for the public input hearings in this proceeding.

8. The effectiveness of Sierra Club's advocacy depends on the ability to have free and candid internal discussions on sensitive topics, including strategy.

9. I have frequently engaged in such free and candid internal discussions on sensitive matters relating to Sierra Club's advocacy and strategy in this proceeding.

10. If Sierra Club is compelled to disclose its internal communications relating to its decision to intervene and its preparation for the public input hearings in this proceeding, this would have a drastically negative impact on the ability of Sierra Club to carry out its advocacy. The ability of individuals working in the Chapter and across the organization across multiple capacities to deliberate and collaborate about potential strategies would be severely affected if our non-public communications were subject to discovery.

11. Being forced to disclose such sensitive internal communications about this proceeding would compromise the ability of Sierra Club staff and members to have free and candid internal communications in the future.

12. If PGW can demand and obtain copies of such internal communications, I will be forced to second-guess myself and to substantially alter how I communicate. I would be less inclined to share my views freely and candidly.

13. I believe that PGW's ability to demand and obtain such internal communications from Sierra Club would have a similar impact on others within Sierra Club, inhibiting their ability to have free and candid internal discussions in the course of carrying out Sierra Club's work.

14. Such impairment of internal communications would significantly degrade Sierra Club's ability to carry its advocacy and to participate in Commission proceedings.

15. I declare under penalty of perjury that the foregoing is true and correct.

16. This concludes my sworn statement.

/s/ Thomas Schuster

THOMAS SCHUSTER

Dated: June 11, 2025

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et
al.

v.

Philadelphia Gas Works

Docket No. R-2025-3053112
Docket No. C-2025-3053827
Docket No. C-2025-3053978
Docket No. C-2024-3054216

DECLARATION OF LINNEA BOND

I, Linnea Bond, make this declaration and aver as follows:

1. My name is Linnea Bond. I am of legal age and competent to give this declaration. I am the Environment & Health Education Director at Physicians for Social Responsibility Pennsylvania. In this role, I educate medical professionals, members of communities whose health is impacted by heavy industry, and members of the public about climate change and environmental health concerns. I support members of communities whose health has been impacted or who are facing the threat of their health being impacted by climate change or environmental impacts as they advocate for themselves.

2. To that end, I have written and presented educational materials, I have educated the public on how they can advocate for their health vis-à-vis government and other spaces in which decisions that affect them are being made, and I have organized events and other opportunities for members of the public to advocate. I have also spoken at public hearings and other opportunities on behalf of my organization as well as, at times, on behalf of myself or communities I am part of in support of efforts to protect public health, in addition to communicating with legislators about public health concerns.

3. The mission of Physicians for Social Responsibility Pennsylvania is to champion the health of all communities by advocating for socially and environmentally just actions.

Physicians for Social Responsibility Pennsylvania works to develop safe and resilient communities for a healthy future.

4. Physicians for Social Responsibility Pennsylvania has intervened in the above-captioned Pennsylvania Public Utility Commission (“Commission”) proceeding as part of the Energy Justice Advocates (“EJA”), comprised of POWER Interfaith, Sierra Club, Physicians for Social Responsibility Pennsylvania, Clean Air Council, Vote Solar, PennEnvironment, and the Pennsylvania Public Interest Research Group.

5. As part of EJA, Physicians for Social Responsibility Pennsylvania served two pieces of Direct Testimony concerning the rate increase proposal of Philadelphia Gas Works (“PGW”). These testimonies develop the record with expert analysis of affordability and climate issues relating to PGW’s proposal and call for PGW to engage in improved long-term planning with respect to affordability and climate change, among other recommendations.

6. I am submitting this declaration in support of EJA’s Answer to PGW’s Motion to Dismiss Objections and Compel Complete Responses to its Set I Interrogatories Nos. 10, 15-16, and 17-18. Among other things, these questions seek discovery of sensitive internal communications of EJA member organizations concerning the decision to intervene in this proceeding and concerning preparation for the public input hearings in this proceeding.

7. The effectiveness of Physicians for Social Responsibility Pennsylvania’s advocacy depends on the ability to have free and candid internal discussions on sensitive topics, including advocacy strategies. I have frequently engaged in such free and candid internal

discussions on sensitive matters relating to Physicians for Social Responsibility Pennsylvania's advocacy and strategy in this Commission proceeding.

8. If Physicians for Social Responsibility Pennsylvania is compelled to disclose its internal communications relating to its decision to intervene and its preparation for the public input hearings in this proceeding, this would have a drastically negative impact on the ability of Physicians for Social Responsibility Pennsylvania to carry out its advocacy.

9. Being forced to disclose such sensitive internal communications about this proceeding would compromise the ability of Physicians for Social Responsibility Pennsylvania staff and members to have free and candid internal communications in the future.

10. If PGW can demand and obtain copies of such internal communications, I will be forced to second-guess myself and to significantly alter how I communicate. I would be less willing to share my views freely and candidly.

11. I believe that PGW's ability to demand and obtain such internal communications from Physicians for Social Responsibility Pennsylvania would have a similar impact on others within Physicians for Social Responsibility Pennsylvania, inhibiting their ability to have free and candid internal discussions in the course of carrying out Physicians for Social Responsibility Pennsylvania's work.

12. Such impairment of internal communications would significantly degrade Physicians for Social Responsibility Pennsylvania's ability to carry out its advocacy and to participate in Commission proceedings.

13. I declare under penalty of perjury that the foregoing is true and correct.

14. This concludes my sworn statement.

/s/ Linnea Bond

LINNEA BOND

Dated: June 11, 2025

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et
al.

v.

Philadelphia Gas Works

Docket No. R-2025-3053112
Docket No. C-2025-3053827
Docket No. C-2025-3053978
Docket No. C-2024-3054216

DECLARATION OF LOGAN WELDE

I, Logan Welde, make this declaration and aver as follows:

1. My name is Logan Welde. I am of legal age and competent to give this declaration. I am a Senior Attorney at Clean Air Council, where I work on legal and policy advocacy in a range of areas, including clean energy, preemption laws (both proposed and enacted), and plastic and waste issues.

2. Clean Air Council is a member-supported environmental organization serving the Mid-Atlantic Region. The Council is dedicated to protecting and defending everyone’s right to a healthy environment. The Council works through a broad array of related sustainability and public health initiatives using public education, community action, government oversight and enforcement of environmental laws.

3. Clean Air Council has intervened in the above-captioned proceeding of the Pennsylvania Public Utility Commission (“Commission”) as part of the Energy Justice Advocates (“EJA”), comprised of POWER Interfaith, Sierra Club, Physicians for Social Responsibility Pennsylvania, Clean Air Council, Vote Solar, PennEnvironment, and the Pennsylvania Public Interest Research Group.

4. As part of EJA, Clean Air Council served two pieces of Direct Testimony concerning the rate increase proposal of Philadelphia Gas Works (“PGW”). These testimonies develop the record with expert analysis of affordability and climate issues relating to PGW’s proposal and call for PGW to engage in improved long-term planning with respect to affordability and climate change, among other recommendations.

5. I am submitting this declaration in support of EJA’s Answer to PGW’s Motion to Dismiss Objections and Compel Complete Responses to its Set I Interrogatories Nos. 10, 15-16, and 17-18. Among other things, these questions seek discovery of sensitive internal communications of EJA member organizations concerning the decision to intervene in this proceeding and concerning preparation for the public input hearings in this proceeding.

6. The effectiveness of Clean Air Council’s advocacy depends on the ability to have free and candid internal discussions on sensitive topics, including advocacy strategies. I have frequently engaged in such free and candid internal discussions on sensitive matters relating to Clean Air Council’s advocacy and strategy in this proceeding.

7. If Clean Air Council is compelled to disclose its internal communications relating to its decision to intervene and its preparation for the public input hearings in this proceeding, this would have a drastically negative impact on the ability of Clean Air Council to carry out its advocacy.

8. Being forced to disclose such sensitive internal communications about this proceeding would compromise the ability of Clean Air Council staff and members to have free and candid internal communications in the future.

9. If PGW can demand and obtain copies of such internal communications, I will be forced to second-guess myself and to significantly alter how I communicate. I would be less willing to share my views freely and candidly.

10. I believe that PGW's ability to demand and obtain such internal communications from Clean Air Council would have a similar impact on others within Clean Air Council, inhibiting their ability to have free and candid internal discussions in the course of carrying out Clean Air Council's work.

11. Such impairment of internal communications would significantly degrade Clean Air Council's ability to carry out its advocacy and to participate in Commission proceedings.

12. I declare under penalty of perjury that the foregoing is true and correct.

13. This concludes my sworn statement.

/s/ Logan Welde

LOGAN WELDE

Dated: June 11, 2025

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et
al.

v.

Philadelphia Gas Works

Docket No. R-2025-3053112
Docket No. C-2025-3053827
Docket No. C-2025-3053978
Docket No. C-2024-3054216

DECLARATION OF KARTIK AMARNATH

I, Kartik Amarnath, make this declaration and aver as follows:

1. My name is Kartik Amarnath. I am of legal age and competent to give this declaration. I am the Mid-Atlantic Regulatory Director for Vote Solar, and I am responsible for Vote Solar's regulatory advocacy across the Mid-Atlantic states including Pennsylvania. I work on regulatory interventions with Mid-Atlantic state public utility commissions, including the Pennsylvania Public Utility Commission (“Commission”), through participation in dockets and leveraging partnerships to jointly advocate for equitable clean energy transformations in the energy system. Regulatory interventions are guided by the overlapping priorities of expanded affordability, grid resilience, and environmental health.

2. Vote Solar fights to realize a 100% clean energy future through a solutions-driven, people-first approach. Vote Solar is working for a 100% clean powered future that supports the needs, health and well-being of everyone in the U.S.—with solar energy leading the way. Vote Solar focuses on solar energy because it is plentiful, it is popular, and it has a unique ability to shift power (literally and figuratively) over energy decision-making to real people who overwhelmingly support a rapid transition to clean energy.

3. Vote Solar has intervened in the above-captioned Commission proceeding as part of the Energy Justice Advocates (“EJA”), comprised of POWER Interfaith, Sierra Club, Physicians for Social Responsibility Pennsylvania, Clean Air Council, Vote Solar, PennEnvironment, and the Pennsylvania Public Interest Research Group.

4. As part of EJA, Vote Solar served two pieces of Direct Testimony concerning the rate increase proposal of Philadelphia Gas Works (“PGW”). These testimonies develop the record with expert analysis of affordability and climate issues relating to PGW’s proposal and call for PGW to engage in improved long-term planning with respect to affordability and climate change, among other recommendations.

5. I am submitting this declaration in support of EJA’s Answer to PGW’s Motion to Dismiss Objections and Compel Complete Responses to its Set I Interrogatories Nos. 10, 15-16, and 17-18. Among other things, these questions seek discovery of sensitive internal communications of EJA member organizations concerning the decision to intervene in this proceeding and concerning preparation for the public input hearings in this proceeding.

6. The effectiveness of Vote Solar’s advocacy depends on the ability to have free and candid internal discussions on sensitive topics, including advocacy strategies. I have frequently engaged in internal discussions with Vote Solar staff and members on sensitive matters relating to Vote Solar’s advocacy and strategy in this Commission proceeding. This includes Vote Solar’s decision to intervene, preparation for public input hearings, and overall litigation strategy.

7. If Vote Solar is compelled to disclose its internal communications on such topics, this would have a drastically negative impact on the ability of Vote Solar to carry out its advocacy.

8. Being forced to disclose such sensitive internal communications would seriously degrade the ability of Vote Solar staff and members to have free and candid internal communications in the future.

9. If such sensitive internal communications are made available to PGW, I would be forced to dramatically change how I communicate, becoming far less inclined to share my thoughts candidly.

10. I believe that PGW's ability to demand and obtain such internal communications from Vote Solar would have a similar impact on others within Vote Solar, inhibiting their ability to have free and candid internal discussions in the course of carrying out Vote Solar's work.

11. Such impairment of internal communications would significantly frustrate Vote Solar's ability to carry out its advocacy and to participate in Commission proceedings.

12. I declare under penalty of perjury that the foregoing is true and correct.

13. This concludes my sworn statement.

/s/ Kartik Amarnath

KARTIK AMARNATH

Dated: June 11, 2025

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et
al.

v.

Philadelphia Gas Works

Docket No. R-2025-3053112
Docket No. C-2025-3053827
Docket No. C-2025-3053978
Docket No. C-2024-3054216

DECLARATION OF FLORA CARDONI

I, Flora Cardoni, make this declaration and aver as follows:

1. My name is Flora Cardoni. I am of legal age and competent to give this declaration. I am the Deputy Director of PennEnvironment. In that capacity, I oversee most of PennEnvironment's Climate and Clean energy campaign work as well as most of our citizen advocacy. This looks like managing staff and mobilizing volunteers to help Pennsylvanians make their voices heard to their elected officials in support of good climate, clean energy, and energy efficiency policies via emails, calls, petitions, constituent meetings and more. I also help raise visibility for our campaigns and proposed solutions in the media (via press events, op-eds, releasing reports, pitching reporters), online (via our website and social media), and by hosting and attending community events. And I help with organizational fundraising, planning, and management.

2. PennEnvironment works for clean air, clean water, clean energy, wildlife and open spaces, and a livable climate. PennEnvironment members across the state put grassroots support behind our research and advocacy. PennEnvironment envisions a greener Pennsylvania: one that protects more places where nature can thrive, and offers us and our children a greater opportunity

to live healthier, more enriching lives. Through PennEnvironment's research, public education, advocacy, litigation, and actions, we advance policies and practices that put our state and our country on a better path.

3. PennEnvironment has intervened in the above-captioned proceeding of the Pennsylvania Public Utility Commission ("Commission") as part of the Energy Justice Advocates ("EJA"), comprised of POWER Interfaith, Sierra Club, Physicians for Social Responsibility Pennsylvania, Clean Air Council, Vote Solar, PennEnvironment, and the Pennsylvania Public Interest Research Group.

4. As part of EJA, PennEnvironment served two pieces of Direct Testimony concerning the rate increase proposal of Philadelphia Gas Works ("PGW"). These testimonies develop the record with expert analysis of affordability and climate issues relating to PGW's proposal and call for PGW to engage in improved long-term planning with respect to affordability and climate change, among other recommendations.

5. I am submitting this declaration in support of EJA's Answer to PGW's Motion to Dismiss Objections and Compel Complete Responses to its Set I Interrogatories Nos. 10, 15-16, and 17-18. Among other things, these questions seek discovery of sensitive internal communications of EJA members concerning the decision to intervene in this proceeding and concerning preparation for the public input hearings in this proceeding.

6. The effectiveness of PennEnvironment's advocacy depends on the ability to have free and candid internal discussions on sensitive topics, including advocacy strategies. I have frequently engaged in such free and candid internal discussions on sensitive matters relating to PennEnvironment's advocacy and strategy in this Commission proceeding.

7. If PennEnvironment is compelled to disclose its internal communications relating to its decision to intervene and its preparation for the public input hearings in this proceeding, this would have a drastically negative impact on the ability of PennEnvironment to carry out its advocacy.

8. Being forced to disclose such sensitive internal communications about this proceeding would seriously degrade the ability of PennEnvironment staff and members to have free and candid internal communications in the future.

9. If PGW can demand and obtain copies of such internal communications, I will be forced to dramatically change how I correspond, becoming far less inclined to share my thoughts candidly.

10. I believe that PGW's ability to demand and obtain such internal communications from PennEnvironment would have a similar impact on others within PennEnvironment, inhibiting their ability to have free and candid internal discussions in the course of carrying out PennEnvironment's work.

11. Such impairment of internal communications would significantly frustrate PennEnvironment's ability to carry out its advocacy and to participate in Commission proceedings.

12. I declare under penalty of perjury that the foregoing is true and correct.

13. This concludes my sworn statement.

/s/ Flora Cardoni

FLORA CARDONI

Dated: June 11, 2025

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et
al.

v.

Philadelphia Gas Works

Docket No. R-2025-3053112
Docket No. C-2025-3053827
Docket No. C-2025-3053978
Docket No. C-2024-3054216

DECLARATION OF ABRAHAM SCARR

I, Abraham Scarr, make this declaration and aver as follows:

1. My name is Abraham Scarr. I am of legal age and competent to give this declaration. I am the Energy and Utilities Program Director for the Public Interest Research Group, and advocate for energy and utility policies that protect consumers and promote the public interest. I lead advocacy on Pennsylvania energy and utility matters for Pennsylvania Public Interest Research Group (“PennPIRG”).

2. PennPIRG is an advocate for the public interest. PennPIRG speaks out for the public and stands up to special interests on problems that affect the public’s health, safety and wellbeing. PennPIRG works to find common ground around common-sense solutions that will help make a healthier, safer, more secure future a reality. The problems PennPIRG works on are not progressive or conservative. They are just problems that our country should not tolerate in an age of great abundance and technological progress.

3. PennPIRG has intervened in the above-captioned proceeding of the Pennsylvania Public Utility Commission (“Commission”) as part of the Energy Justice Advocates (“EJA”),

comprised of POWER Interfaith, Sierra Club, Physicians for Social Responsibility Pennsylvania, Clean Air Council, Vote Solar, PennEnvironment, and PennPIRG.

4. As part of EJA, PennPIRG served two pieces of Direct Testimony concerning the rate increase proposal of Philadelphia Gas Works (“PGW”). These testimonies develop the record with expert analysis of affordability and climate issues relating to PGW’s rate increase proposal and call for PGW to engage in improved long-term planning with respect to affordability and climate change, among other recommendations.

5. I am submitting this declaration in support of EJA’s Answer to PGW’s Motion to Dismiss Objections and Compel Complete Responses to its Set I Interrogatories Nos. 10, 15-16, and 17-18. Among other things, these questions seek discovery of sensitive internal communications of EJA member organizations concerning the decision to intervene in this proceeding and concerning preparation for the public input hearings in this proceeding.

6. The effectiveness of PennPIRG’s advocacy depends on the ability to have free and candid internal discussions on sensitive topics, including advocacy strategy. I have frequently engaged in such free and candid internal discussions on sensitive matters relating to PennPIRG’s advocacy and strategy in this Commission proceeding.

7. If PennPIRG is compelled to disclose its internal communications relating to its decision to intervene and its preparation for the public input hearings in this proceeding, this would have a drastically negative impact on the ability of PennPIRG to carry out its advocacy.

8. Being forced to disclose such sensitive internal communications about this proceeding would seriously impair the ability of PennPIRG staff and members to have free and candid internal communications in the future.

9. If PGW can demand and obtain copies of such internal communications, I will be forced to second-guess myself and to significantly alter how I communicate. I would be less willing to share my views freely and candidly.

10. I believe that PGW's ability to demand and obtain such internal communications from PennPIRG would have a similar impact on others within PennPIRG, inhibiting their ability to have free and candid internal discussions in the course of carrying out PennPIRG's work.

11. Such impairment of internal communications would significantly frustrate PennPIRG's ability to carry out its advocacy and to participate in Commission proceedings.

12. I declare under penalty of perjury that the foregoing is true and correct.

13. This concludes my sworn statement.

/s/ Abraham Scarr

ABRAHAM SCARR

Dated: June 11, 2025

Exhibit C.

EJA Written Objections

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et
al.

v.

Philadelphia Gas Works

Docket No. R-2025-3053112
Docket No. C-2025-3053827
Docket No. C-2025-3053978
Docket No. C-2024-3054216

**WRITTEN OBJECTIONS
OF THE ENERGY JUSTICE ADVOCATES
TO PGW'S SET I INTERROGATORIES
NOS. 8-13, 15-20, AND 22**

May 29, 2025

I. Background

POWER Interfaith, Sierra Club, Physicians for Social Responsibility Pennsylvania, Clean Air Council, Vote Solar, PennEnvironment, and the Pennsylvania Public Interest Research Group (collectively, the “Energy Justice Advocates” or “EJA”) respectfully submit these Written Objections to the Set I Interrogatories of Philadelphia Gas Works (“PGW”) Nos. 8–13, 15–20, and 22 (the “Contested Interrogatories,” attached hereto as Attachment A) in the above-captioned proceeding (“Proceeding”) of the Pennsylvania Public Utility Commission (“Commission”).

EJA spoke with PGW on May 27, 2025 to discuss EJA’s objections to PGW’s Set I Interrogatories. This discussion resulted in the resolution of EJA’s objection to PGW-I-14 as EJA and PGW were able to reach agreement on documents to be produced by EJA in response to that question.

EJA’s remaining objections to PGW’s Set I Interrogatories are discussed below and are grouped into three categories. The first category comprises interrogatories concerning EJA’s standing to intervene in this Proceeding. The second category comprises interrogatories concerning EJA’s internal documents and communications. The third category comprises miscellaneous irrelevant and unduly burdensome interrogatories.

Subject to and without waiver of these objections, EJA is willing to provide certain information in response to certain of the Contested Interrogatories. The details are discussed under the headings of the applicable questions.

II. The Contested Interrogatories

A. Interrogatories Concerning EJA’s Standing to Intervene

PGW-I-8

PGW-I-8	Identify each organization which comprises EJA that has a “statutorily imposed obligation to provide representation” in this proceeding and state the precise statute that is the source of any such obligation.
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EJA objects to answering this question on the grounds of relevance.¹ Although the source of the quoted language is not specified by PGW, it appears to be part of a Commission order that EJA quoted in its Petition to Intervene.² The quoted Commission order is one approving a settlement in a rate case, and the passage quoted by EJA in its Petition to Intervene reflects the Commission’s conclusion that it benefits from the participation of many different public interest organizations in rate case proceedings.

This question is not relevant, or reasonably calculated to lead to relevant admissible evidence, because EJA has already explained in detail its basis for standing to intervene in its Petition to Intervene.³ EJA’s Petition to Intervene contains, for each of the seven EJA organizations, detailed pleadings as to how they meet the requirements for intervention.⁴

Moreover, PGW has already acknowledged the sufficiency of the averments in EJA’s Petition to Intervene. In a letter filed on the docket for this proceeding on April 10, 2025, PGW stated that it would not be filing an answer in opposition to EJA’s Petition to Intervene and

¹ 52 Pa. Code § 5.321(c).

² EJA, Petition to Intervene, PA PUC Docket No. R-2025-3053112, at 5 (Apr. 3, 2025), quoting Opinion and Order, PA PUC Docket No. C-2021-3024200, at 37 (Oct. 28, 2021).

³ 52 Pa. Code § 5.361(c) (“If the information requested has been previously provided, the answering party shall specify the location of the information.”).

⁴ 52 Pa. Code §§ 5.72–3.

further stated that “PGW does not object to the eligibility of...Energy Justice Advocates to intervene under 52 Pa. Code § 5.72 based on the averments contained within their petitio[n].”⁵

This question is also not relevant, or reasonably calculated to lead to relevant admissible evidence, because EJA’s standing to intervene in this Proceeding is no longer a live legal issue. After PGW confirmed that it was not interested in filing an answer in opposition to EJA’s Petition to Intervene, Administrative Law Judge Eranda Vero (“Judge Vero”) determined that EJA does meet the legal standard for intervention and issued an order granting EJA’s Petition to Intervene on April 14, 2025.⁶

As the Commission’s regulations concerning petitions to intervene specify, a party that does not file an answer to a petition to intervene “may be deemed to have waived objection to the granting of the petition.”⁷ Since PGW previously had an opportunity to timely challenge EJA’s Petition to Intervene, but declined to do so, its objections to EJA’s intervention should be deemed waived.

PGW-I-9

PGW-I-9	Identify each organization which comprises EJA which “are self-created entities choosing to represent a delineated subgroup” and identify the specific subgroup which each organization represents in this proceeding.
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⁵ PGW, Letter to Judge Vero, PA PUC Docket No. R-2025-3053112 (Apr. 10, 2025).

⁶ Prehearing Order, PA PUC Docket R-2025-3053112, at 3 (Apr. 14, 2025) (“... the Petition to Intervene filed by POWER Interfaith, Sierra Club, Physicians for Social Responsibility Pennsylvania, Clean Air Council, Vote Solar, PennEnvironment, and the Pennsylvania Public Interest Research Group (collectively, the Energy Justice Advocates) on April 4, 2025, is granted.”).

⁷ 52 Pa. Code § 5.66(a).

EJA objects to answering this question on the grounds of relevance⁸ for the same reasons explained above in connection with PGW-I-8. EJA notes that the answer to this question has already been provided⁹ because EJA has provided averments explaining the basis of each EJA organization’s standing to intervene in its Petition to Intervene.¹⁰

PGW-I-10

PGW-I-10	Are there “Members” of each organization which comprises EJA who live within PGW’s service territory, who are customers of PGW, who will be directly impacted by the Commission’s decision in this proceeding? If so, please provide a) the number of members that satisfy these criteria; and b) the name, address, telephone number, email, and/or any other communication method of at least one such member.
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EJA objects to answering this question on the grounds of relevance,¹¹ for the same reasons explained above in connection with PGW-I-8. EJA notes that the answer to the first part of this question, concerning whether each EJA organization has a member that meets the specified criteria, has already been answered in EJA’s Petition to Intervene.¹²

EJA also further objects to the relevance of the question in PGW-I-10(a) regarding the number of members that satisfy the specified criteria. Under the applicable law, an organization may have associational standing if only one member meets the requirements of standing.¹³ As

⁸ 52 Pa. Code § 5.321(c).

⁹ 52 Pa. Code § 5.361(c).

¹⁰ EJA, Petition to Intervene, PA PUC Docket No. R-2025-3053112, (Apr. 3, 2025).

¹¹ 52 Pa. Code § 5.321(c).

¹² EJA, Petition to Intervene, PA PUC Docket No. R-2025-3053112, at 2–5 (Apr. 3, 2025); Prehearing Order, PA PUC Docket R-2025-3053112, at 3 (Apr. 14, 2025).

¹³ 52 Pa. Code § 1.8(a) definition of “intervenor”; *See also Energy Conservation Council of Pa. v. Pub. Util. Comm’n*, 995 A.2d 465, 476 (Pa. Commw. Ct. 2010) (“An association may have standing as a representative of its members...Thus, as long as an organization ‘has at least one member who has or will suffer a direct, immediate, and

such, whether or not more than one member of an organization meets those requirements is irrelevant.

EJA also further objects to PGW-I-10(a) on the grounds of unreasonable burden and that it would require an unreasonable investigation.¹⁴ EJA’s constituent organizations do not maintain records of which of their members are PGW customers, and attempting to conduct a census of all members of all seven organizations that are PGW members would be an inordinate and disproportionate burden.

PGW-I-20

PGW-I-20	Please state what specific interest of EJA may be directly affected in this proceeding and which is not adequately represented by other participants.
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EJA objects to answering this question on the grounds of relevance,¹⁵ for the same reasons explained above in connection with PGW-I-8. EJA notes that the answer to this question has already been provided¹⁶ in EJA’s Petition to Intervene in the form of specific averments for each of EJA’s seven organizations.¹⁷ As discussed above, in a letter filed on the docket for this Proceeding on April 10, 2025, PGW stated that “PGW does not object to the eligibility of...Energy Justice Advocates to intervene under 52 Pa. Code § 5.72 based on the averments contained within their petiti[o]n.”¹⁸

substantial injury to an interest as a result of the challenged action [, i.e., is aggrieved, the organization] has standing.”) (internal citations omitted).

¹⁴ 52 Pa. Code § 5.361(a)(2); 52 Pa. Code § 5.361(a)(4).

¹⁵ 52 Pa. Code § 5.321(c).

¹⁶ 52 Pa. Code § 5.361(c).

¹⁷ EJA, Petition to Intervene, PA PUC Docket No. R-2025-3053112, (Apr. 3, 2025).

¹⁸ PGW, Letter to Judge Vero, PA PUC Docket No. R-2025-3053112 (Apr. 10, 2025).

B. Interrogatories Concerning EJA’s Internal Documents and Communications

PGW-I-15 and PGW-I-16¹⁹

PGW-I-15	Do any written memoranda, specifications, advertisements or other written materials of any kind or character relating to the decision of EJA to participate in this proceeding now exist?
PGW-I-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. Produce a copy of each document identified in this Answer.

EJA objects to answering these questions on the grounds of relevance.²⁰ Information concerning EJA’s process for deciding to intervene in this Proceeding is not relevant to or reasonably calculated to lead to evidence relevant to the subject matter of this Proceeding. The subject matter of this Proceeding, as PGW has acknowledged, is “PGW’s proposed rate increase request.”²¹

No fact related to how any of EJA’s seven constituent organizations completed their decision process to intervene has any possible relevance to any claim or defense connected to PGW’s proposed rate increase request. As noted above, EJA has already proven that it meets the criteria for intervening and its intervention has already been approved by an order of Judge Vero.²²

¹⁹ Since these two questions are linked, they will be considered together.

²⁰ 52 Pa. Code § 5.321(c).

²¹ PGW’s Objections to EJA Interrogatory Set IX, No. 1, at 2 (May 8, 2025) (“PGW also objects to the production of a copy of its DIMP on the grounds that the DIMP is not relevant to the issue of PGW’s proposed rate increase request, which is the subject of this proceeding[.]”).

²² Prehearing Order, PA PUC Docket R-2025-3053112, at 3 (Apr. 14, 2025).

EJA also objects to answering these questions to the degree that they seek the production of documents protected by attorney-client privilege and attorney work product privilege. Since these questions ask about all documents that relate to each EJA organization's decision to intervene, this would include documents relating to the decision to intervene that are attorney-client privileged and attorney work product privileged.

EJA also objects to answering these questions on the grounds that they would cause an “unreasonable annoyance, embarrassment, oppression, [and] burden” that will harm the ability of EJA and other public interest organizations to participate in Commission proceedings.²³ With these questions, PGW has singled out EJA in an attempt to force the disclosure of highly sensitive internal documents relating to the decision process of EJA members regarding intervention. As noted above, this information has no evidentiary value in aiding the Commission in evaluating the merits of PGW's proposal, and the Commission has adjudicated many utility proposals in the past without needing such information. But if the public interest organizations comprising EJA are forced to turn over such highly sensitive internal documents as a condition for participating in Commission proceedings, this will cause significant harm to their ability to have free and open internal discussions and will have a chilling effect on the willingness of public interest organizations to participate in Commission proceedings in the future. Such a burden is unreasonable in light of the lack of any evidentiary need for this material.

EJA also objects to answering these questions to the extent that they seek the production of internal documents and communications for which compelled disclosure would violate the

²³ 52 Pa. Code § 5.361(a)(2).

First Amendment to the United States Constitution (“First Amendment”).²⁴ As the Supreme Court has recognized, the First Amendment’s protection of the right to free association operates as a limit on the state’s power to compel disclosures that would chill the exercise of that right to free association.²⁵

This First Amendment protection specifically includes internal documents and communications of organizations engaged in advocacy for their policy views,²⁶ and federal courts have specifically rejected discovery into internal documents and communications relating to the decision of an advocacy group to initiate litigation.²⁷ This is because the forced disclosure of such internal documents to their adversaries would impair the ability of members to exercise their First Amendment-protected rights to free association through free and candid communication and would deter others from joining in the exercise of those fundamental rights.²⁸

²⁴ U.S. Const. Amend. I.

²⁵ See, e.g., *Americans for Prosperity Found. v. Bonta*, 594 U.S. 595, 618–19 (2021), quoting *Nat’l Ass’n for Advancement of Colored People v. Button*, 371 U.S. 415, 433 (1963) (“When it comes to the freedom of association, the protections of the First Amendment are triggered not only by actual restrictions on an individual’s ability to join with others to further shared goals. The risk of a chilling effect on association is enough, ‘[b]ecause First Amendment freedoms need breathing space to survive.’”); *Nat’l Ass’n for Advancement of Colored People v. State of Ala. ex rel. Patterson*, 357 U.S. 449, 462 (1958) (“Inviolability of privacy in group association may in many circumstances be indispensable to preservation of freedom of association, particularly where a group espouses dissident beliefs.”).

²⁶ See, e.g., *Perry v. Schwarzenegger*, 591 F.3d 1126, 1142 (9th Cir. 2009) (rejecting discovery of advocates’ internal strategy communications and identifying “two ways in which compelled disclosure of internal campaign communications can deter protected activities—by chilling participation and by muting the internal exchange of ideas[.]”); *Fraternal Ord. of Police Pa. Lodge v. Twp. of Springfield*, 668 F. Supp. 3d 375, 387 (E.D. Pa.2023) (rejecting discovery of fraternal organization’s internal communications because “disclosure of members’ internal communications will discourage them from freely exchanging ideas with other members in the future, and thus, infringe up on those members’ associational rights.”).

²⁷ See, e.g., *Fraternal Ord. of Police Pa. Lodge v. Twp. of Springfield*, 668 F. Supp. 3d 375, 385, 399 (E.D. Pa. 2023) (specifically rejecting on First Amendment grounds discovery of internal communications of fraternal organization “referring to, relating to, or regarding the decision to commence a lawsuit[.]”).

²⁸ *Id.*

PGW-I-17 and PGW-I-18²⁹

PGW-I-17	Did any Member organization of EJA provide written documents, information, or materials to its Members, or make available to its Members, information, statements or materials, including emails, talking points or posters, for use at public hearings in these proceedings?
PGW-I-18	If the Answer to Interrogatory No. 17 is Yes: a. List each written document, information or material, including emails, talking points or posters; b. Identify each person who received each such document, information or material, including emails, talking points or posters; and, c. Produce a copy of each document identified in this Answer.

EJA objects to answering these questions on the grounds of relevance.³⁰ Information concerning how the seven organizations that make up EJA communicated with their members concerning the public input hearings in this Proceeding is not relevant to or reasonably calculated to lead to evidence relevant to the subject matter of this Proceeding, which is PGW’s proposed rate increase. No fact related to how any of EJA’s seven constituent organizations communicated with their members about the public input hearing has any possible relevance to any claim or defense connected to PGW’s proposed rate increase request.

EJA also objects to answering these questions on the grounds it would cause “unreasonable annoyance, embarrassment, oppression, burden [and] expense”³¹ and would require an “unreasonable investigation.”³² The question seeks the identification of every single person who received an email about the public input hearing from all of EJA’s seven nonprofit

²⁹ Since these two questions are linked, they will be considered together.

³⁰ 52 Pa. Code § 5.321(c).

³¹ 52 Pa. Code § 5.361(a)(2).

³² 52 Pa. Code § 5.361(a)(4).

members. Compiling all documents and emails relating to the public input hearings and then constructing an index of every single person who may have received any document or email about the public input hearings from an EJA organization would be a significant burden. It would also impose a disproportionate burden, given the lack of any evidentiary value relating to the subject matter of the Proceeding, PGW's request for a rate increase.

EJA also objects to answering these questions on the grounds that they would cause an "unreasonable annoyance, embarrassment, oppression, [and] burden" by harming the ability of EJA and other public interest organizations to participate in Commission proceedings.³³ For the same reasons discussed above in connection with PGW-I-15 and PGW-I-16, forcing the public interest organizations that make up EJA to disclose internal communications with their members regarding the public input hearings would cause harm to the ability of these organizations to have free and open internal communications, and would have a chilling effect on participation in Commission proceedings by public interest organizations. Given the lack of any evidentiary need for this material, this burden is unreasonable.

EJA also objects to answering these questions to the extent that they seek the production of internal documents and communications for which compelled disclosure would violate the First Amendment.³⁴ As discussed above, the First Amendment limits the compelled disclosure of internal documents by advocacy groups, including documents relating to campaign strategy, where such disclosure would impair the exercise of fundamental First Amendment rights to free expression and free association.³⁵ Compelled disclosure of internal documents and

³³ 52 Pa. Code § 5.361(a)(2).

³⁴ U.S. Const. Amend. I.

³⁵ See, e.g., *Perry v. Schwarzenegger*, 591 F.3d 1126, 1141 (9th Cir. 2009) (rejecting discovery of advocates' internal strategy communications and identifying "two ways in which compelled disclosure of internal campaign

communications relating to preparation for the public input hearings would infringe on such free association and free expression rights. Public input hearings represent a quintessential example of the exercise of basic rights of free expression and free association. The forced disclosure of documents and communications relating to preparation for the public input hearings to the very entity, PGW, that is seeking the rate increase at issue serves no public benefit and would inflict serious harm to the basic purpose of a public input hearing. Moreover, PGW's demand that EJA produce a list of all its organizations' members that received information about the public input hearings is tantamount to demanding that EJA organizations produce membership lists, a discovery demand which has specifically been rejected by the Supreme Court on First Amendment grounds.³⁶

communications can deter protected activities—by chilling participation and by muting the internal exchange of ideas.”); *Fraternal Ord. of Police Pa. Lodge v. Twp. of Springfield*, 668 F. Supp. 3d 375, 389 (specifically rejecting on First Amendment grounds discovery of internal communications of fraternal organization relating to strategy).

³⁶ See e.g., *Nat'l Ass'n for Advancement of Colored People v. State of Ala. ex rel. Patterson*, 357 U.S. 449, at 462-463, 466 (1958) (holding that an organization's membership list was immune from state scrutiny, because of “the likelihood of a substantial restraint upon the exercise by petitioner's members of their right to freedom of association...” which was “likely to affect adversely the ability of petitioner and its members to pursue their collective effort to foster beliefs which they admittedly have the right to advocate, in that it may induce members to withdraw from the Association and dissuade others from joining it because of fear of exposure of their beliefs shown through their associations and of the consequences of this exposure.”).

PGW-I-22

PGW-I-22	Is EJA or any of its member organizations a member of any local, state, or national organization or coalition that addresses environmental, climate, or sustainability related issues concerning the use of natural gas? If yes, please identify and for each organization or coalition identified, provide: a. Any position papers, research, or policy suggestions that EJA received from each organization or coalition in the past two (2) years.
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EJA objects to answering this question on the grounds of relevance.³⁷ “[P]osition papers, research, or policy suggestions” received by EJA members in connection with their participation in “any local, state, or national organization or coalition that addresses environmental, climate, or sustainability related issues concerning the use of natural gas” are not relevant to or reasonably calculated to lead to evidence relevant to the subject matter of this Proceeding, which is PGW’s proposed rate increase.

No fact related to organizations or coalitions EJA members participate in or information received by EJA members in connection with their participation in coalitions has any possible relevance to any claim or defense connected to PGW’s proposed rate increase request. EJA’s seven organizations, which include several national environmental organizations, may be active in high numbers of environmental coalitions in many different locations around the country at any given time. A very high proportion of environmental organizations or coalitions will likely address gas use in some fashion, because gas is one of the leading fossil fuels in use in the United States, so this criterion will do little to narrow down the list. Producing a list of all such organizations or coalitions in all locations that each EJA member participates in adds nothing of value to the record.

³⁷ 52 Pa. Code § 5.321(c).

Moreover, any given month, EJA members likely receive a wide variety of different position papers from organizations or coalitions, each of which may reach different conclusions or develop different policy recommendations. *Merely receiving* a research paper, position paper, or policy suggestion in no way means that an organization agrees with all or even any of the findings in that particular document.

The generalized mix of research papers, position papers, and policy suggestions that EJA's seven member organizations may have received from the many environmental organizations or coalitions they participate in over the past two years is simply not relevant for this Proceeding. What *are* relevant for this Proceeding are the views of EJA on PGW's specific proposals in this Proceeding. EJA's position on those proposals is described in detail, with extensive footnotes and exhibits, in EJA St. No. 1, the Direct Testimony of Dr. Dorie K. Seavey, and EJA St. No. 2, the Direct Testimony of Dr. Sol deLeon. In contrast, a "fishing expedition" through all policy suggestions, research papers, and position papers that were simply received over the past two years by all EJA members from all environmental organizations and coalitions addressing gas use that they participate in will not be additive to developing the record in any meaningful fashion.

EJA also objects to this question on the grounds that answering it would cause "unreasonable annoyance, embarrassment, oppression, burden [and] expense"³⁸ and require an "unreasonable investigation."³⁹ EJA members do not maintain lists of all "position papers, research, or policy suggestions" received from all environmental organizations or coalitions they participate in that address gas in any capacity. Compiling all such documents received over a

³⁸ 52 Pa. Code § 5.361(a)(2).

³⁹ 52 Pa. Code § 5.361(a)(4).

two-year period would require conducting extensive searches of high numbers of individuals' email inboxes and files. There are seven organizations in EJA, including multiple national organizations, and the total number of environmental organizations or coalitions that address gas in some fashion that EJA members are involved in may be quite high. The number of communications received from such organizations or coalitions over a two-year period is also likely extremely high. This burden is unreasonable in light of the lack of any evidentiary need for this material.

Additionally, for the same reasons discussed in detail above in connection with EJA's objections to PGW-I-17 and PGW-I-18, to the extent this question seeks the forced disclosure of any internal coalition communication on strategy, such as strategy regarding "policy suggestions," this would cause "unreasonable annoyance, embarrassment, oppression, [and] burden"⁴⁰ to the public interest organizations that make up EJA, harming their ability to have candid discussions and imposing a chilling effect on participation in Commission proceedings. Given the lack of any evidentiary need for this material, this burden is unreasonable.

EJA also objects to answering this question to the extent that it includes in its sweep a demand for the production of internal coalition documents and communications for which compelled disclosure would violate the First Amendment.⁴¹ As discussed in detail above, the First Amendment limits the compelled disclosure of internal documents concerning strategy by advocacy groups where such disclosure would impair the exercise of fundamental First Amendment rights to free expression and free association.⁴²

⁴⁰ 52 Pa. Code § 5.361(a)(2).

⁴¹ U.S. Const. Amend. I.

⁴² See, e.g., *Perry v. Schwarzenegger*, 591 F.3d 1126, 1141 (9th Cir. 2009) (rejecting discovery of advocates' internal strategy communications and identifying "two ways in which compelled disclosure of internal campaign

Subject to and without waiver of these objections:

EJA will produce readily accessible position papers, research papers, and policy papers its members have received from environmental organizations or coalitions addressing gas that they participate in.

communications can deter protected activities—by chilling participation and by muting the internal exchange of ideas.”); *Fraternal Ord. of Police Pa. Lodge v. Twp. of Springfield*, 668 F. Supp. 3d 375, 389 (specifically rejecting on First Amendment grounds discovery of internal communications of fraternal organization relating to strategy).

C. Miscellaneous Interrogatories

PGW-I-11

PGW-I-11	State the names of each person who was spoken to or who provided information to assist in answering these Interrogatories and for each person state the following: <ul style="list-style-type: none">a. The number of each question and its subpart for which such personnel provide information;b. For each question identified in 11a above, state the name, title and position description of the personnel supplying information;c. The present location and address of the personnel supplying information;d. The contents of the information provided.
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EJA objects to answering this question on the grounds of relevance.⁴³ Information concerning every person spoken to by EJA in connection with answering PGW’s Set I interrogatories is not relevant to the subject matter of this Proceeding, which is PGW’s proposed rate increase. The question is also not reasonably calculated to lead to relevant admissible evidence.⁴⁴ PGW already has the ability to issue discovery questions seeking relevant information to EJA by serving its counsel of record, and does not need to know “the present location and address” of all EJA staff spoken to in the course of answering these interrogatories. Since this generalized inquiry has no discernible link to any specific claim or defense, it is a classic “fishing expedition” question and fails to meet the relevance criterion for interrogatories.

EJA also objects to answering this question on the grounds that answering it would cause “unreasonable annoyance, embarrassment, oppression, burden [and] expense”⁴⁵ and would

⁴³ 52 Pa. Code § 5.321(c).

⁴⁴ 52 Pa. Code § 5.361(c).

⁴⁵ 52 Pa. Code § 5.361(a)(2).

require an “unreasonable investigation.”⁴⁶ EJA comprises seven public interest organizations endeavoring to answer interrogatories on a tight turnaround. Identifying the witness(es) providing the answer for interrogatories has proven entirely sufficient for Commission proceedings on many previous occasions. Every other party in this Proceeding has found it satisfactory to know the identity of the witness providing the answer and has not demanded indices of every single person spoken to in connection with discovery requests. PGW has not demanded such indices from any other party than EJA in this Proceeding. Requiring EJA to compile an index of every single person in all seven organizations spoken to by anyone in connection with preparing answers to interrogatories would create a burden that is unreasonable, given the lack of any evidentiary need to do so.

Subject to and without waiver of these objections:

For each question answered, EJA will identify the name and job title for each witness providing an answer to that question.

⁴⁶ 52 Pa. Code § 5.361(a)(4).

PGW-I-12

PGW-I-12	Please provide a copy of the organizational chart of each non-profit organization which comprises EJA and explain the responsibilities of each person referenced thereon.
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EJA objects to answering this question on the grounds of relevance.⁴⁷ Information concerning the organizational charts of EJA’s constituent organizations and duties of all persons listed therein is not relevant to the subject matter of this Proceeding, which is PGW’s proposals in its filing. The question is also not reasonably calculated to lead to relevant admissible evidence. PGW already has the ability to issue discovery questions seeking relevant information to EJA by serving its counsel of record. Since this generalized inquiry has no discernible link to any specific claim or defense, it is a classic “fishing expedition” question and fails to meet the relevance criterion for interrogatories.

EJA also objects the portion of this question requesting a written explanation of the duties of every single person on every single organizational chart on the grounds that answering it would cause “unreasonable annoyance, embarrassment, oppression, burden [and] expense”⁴⁸ and would require an “unreasonable investigation.”⁴⁹ EJA is comprised of seven nonprofit organizations, some of which are national organizations, and some organizational charts may be extensive. Requiring EJA to compile written explanations of the duties of every single person listed on every organizational chart would be an inordinate burden. At the same time, it would produce no benefit to developing the record for the Commission concerning PGW’s proposals.

⁴⁷ 52 Pa. Code § 5.321(c).

⁴⁸ 52 Pa. Code § 5.361(a)(2).

⁴⁹ 52 Pa. Code § 5.361(a)(4).

Subject to and without waiver of these objections:

EJA will produce such organizational charts for its member organizations as are readily accessible.

PGW-I-13

PGW-I-13	List all current directors, officers, and executive Committee members for the Pennsylvania portion of each non-profit organization which comprises EJA and for each state the following: a. Present position and date(s) position has been held; and b. All prior positions with such organization and date(s) held.
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EJA objects to answering this question on the grounds of relevance.⁵⁰ Information concerning the boards of EJA’s constituent organizations, dates of service, and prior service is not relevant to the subject matter of this Proceeding, which is PGW’s proposals in its filing. The question is also not reasonably calculated to lead to relevant admissible evidence. PGW already has the ability to issue EJA discovery questions seeking relevant information by serving its counsel of record. Since this generalized inquiry has no discernible link to any specific claim or defense, it is a classic “fishing expedition” question and fails to meet the relevance criterion for interrogatories.

EJA also objects to this question on the grounds that answering it would cause “unreasonable annoyance, embarrassment, oppression, burden [and] expense”⁵¹ and would require an “unreasonable investigation.”⁵² Preparing a list of the names and dates of service for

⁵⁰ 52 Pa. Code § 5.321(c).

⁵¹ 52 Pa. Code § 5.361(a)(2).

⁵² 52 Pa. Code § 5.361(a)(4).

board members, officers, and executive committee members for seven organizations and then preparing a history of all prior positions held by each person would be an significant burden. In light of the lack of any evidentiary need to do so, this burden is unreasonable.

Subject to and without waiver of these objections:

EJA will produce a list of the board members for EJA member organizations to the extent such information is readily accessible.

PGW-I-19

PGW-I-19	Does EJA or any of its member organizations have a policy regarding electricity generated by natural gas? If yes, please: a. State when it was developed and describe that policy in detail; b/ Provide the name, address and position of the individual(s) who developed it. c. When was this policy adopted by each organization; d. Produce a copy of any such policy referenced in response to Question 19.
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EJA objects to answering this question on the grounds of relevance. Information EJA members may have concerning any policy on natural gas-fired electricity generation plants is not relevant to or reasonably calculated to lead to evidence relevant to the subject matter of this Proceeding. The subject matter of this Proceeding, as PGW has acknowledged, is “PGW’s proposed rate increase request.”⁵³ No fact related to any such policy relating to electricity generation by a gas-fired power plant has any possible relevance to any claim or defense

⁵³ PGW’s Objections to EJA Interrogatory Set IX, No. 1, at 2 (May 8, 2025) (“PGW also objects to the production of a copy of its DIMP on the grounds that the DIMP is not relevant to the issue of PGW’s proposed rate increase request, which is the subject of this proceeding[.]”).

connected to PGW's proposed rate increase request. PGW is a gas utility, not an electric utility, and even if PGW were an electric utility, electric utilities in Pennsylvania are barred from owning electricity generation plants, whether they use natural gas or not.⁵⁴

EJA also objects to this question on the grounds that answering it would cause "unreasonable annoyance, embarrassment, oppression, burden [and] expense"⁵⁵ and would require an "unreasonable investigation."⁵⁶ Compiling the name, address and position of individual(s) who developed any such policies for any of EJA's seven organizations may involve historical investigation of many different records across years or decades and would be a significant burden. In light of the lack of any evidentiary need to do so, this burden is unreasonable.

Subject to and without waiver of these objections:

EJA will produce any policy documents concerning electricity generated from natural gas that are readily accessible.

III. Conclusion

For the reasons explained above, the Energy Justice Advocates respectfully object to the Contested Interrogatories. Should PGW wish to further discuss potential resolutions to these objections, the Energy Justice Advocates are available to do so.

⁵⁴ See 66 Pa.C.S § 2803.

⁵⁵ 52 Pa. Code § 5.361(a)(2).

⁵⁶ 52 Pa. Code § 5.361(a)(4).

Dated: May 29, 2025

Respectfully submitted,

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Counsel for the Energy Justice Advocates

ATTACHMENT A

CONTESTED INTERROGATORIES FROM PGW'S SET I

8. Identify each organization which comprises EJA that has a “statutorily imposed obligation to provide representation” in this proceeding and state the precise statute that is the source of any such obligation.
9. Identify each organization which comprises EJA which “are self-created entities choosing to represent a delineated subgroup” and identify the specific subgroup which each organization represents in this proceeding.
10. Are there “Members” of each organization which comprises EJA who live within PGW’s service territory, who are customers of PGW, who will be directly impacted by the Commission’s decision in this proceeding? If so, please provide a) the number of members that satisfy these criteria; and b) the name, address, telephone number, email, and/or any other communication method of at least one such member.
11. State the names of each person who was spoken to or who provided information to assist in answering these Interrogatories and for each person state the following:
 - a. The number of each question and its subpart for which such personnel provide information;
 - b. For each question identified in 11a above, state the name, title and position description of the personnel supplying information;
 - c. The present location and address of the personnel supplying information;
 - d. The contents of the information provided.
12. Please provide a copy of the organizational chart of each non-profit organization which comprises EJA and explain the responsibilities of each person referenced thereon.
13. List all current directors, officers, and executive Committee members for the Pennsylvania portion of each non-profit organization which comprises EJA and for each state the following:
 - a. Present position and date(s) position has been held; and
 - b. All prior positions with such organization and date(s) held.
15. Do any written memoranda, specifications, advertisements or other written materials of any kind or character relating to the decision of EJA to participate in this proceeding now exist?
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. Produce a copy of each document identified in this Answer.
17. Did any Member organization of EJA provide written documents, information, or materials to its Members, or make available to its Members, information,

statements or materials, including emails, talking points or posters, for use at public hearings in these proceedings?

18. If the Answer to Interrogatory No. 17 is Yes:
 - a. List each written document, information or material, including emails, talking points or posters;
 - b. Identify each person who received each such document, information or material, including emails, talking points or posters; and,
 - c. Produce a copy of each document identified in this Answer.

19. Does EJA or any of its member organizations have a policy regarding electricity generated by natural gas? If yes, please:
 - a. State when it was developed and describe that policy in detail;
 - b. Provide the name, address and position of the individual(s) who developed it.
 - c. When was this policy adopted by each organization;
 - d. Produce a copy of any such policy referenced in response to Question 19.

20. Please state what specific interest of EJA may be directly affected in this proceeding and which is not adequately represented by other participants.

22. Is EJA or any of its member organizations a member of any local, state, or national organization or coalition that addresses environmental, climate, or sustainability related issues concerning the use of natural gas? If yes, please identify and for each organization or coalition identified, provide:
 - a. Any position papers, research, or policy suggestions that EJA received from each organization or coalition in the past two (2) years.