



June 11, 2025

Via Electronic Filing

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Pennsylvania Public Utility Commission v. Philadelphia Gas Works,
Docket No. R-2025-3053112**

Dear Secretary Homsher:

Enclosed for electronic filing please find the **Answer of the Tenant Union Representative Network and Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania to Philadelphia Gas Works' Motion to Compel** in the above captioned matter.

A copy of this Petition is being served via email, as indicated on the attached Certificate of Service.

Sincerely,

Benjamin Clark, Esq.
Counsel for TURN and CAUSE-PA
Community Legal Services, Inc.

Encl.

Cc: Certificate of Service



BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission : Docket No. R-2025-3053112
: Docket No. C-2025-3053827
v. : Docket No. C-2025-3053978
: Docket No. C-2025-3054216
Philadelphia Gas Works :

CERTIFICATE OF SERVICE

I hereby certify that I have, on this day, served copies of the **Answer of the Tenant Union Representative Network and Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania to Philadelphia Gas Works’ Motion to Compel** in the above captioned matter upon the following persons and in accordance with the requirements of 52 Pa. Code § 1.54.

SERVICE BY EMAIL ONLY

Administrative Law Judge Eranda Vero
Office of Administrative Law Judge
Pennsylvania Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107
evero@pa.gov

Robert Hoaglund, Esq.
Senior Attorney
Philadelphia Gas Works
800 West Montgomery Ave.
Philadelphia, PA 19122
Robert.Hoaglund@pgworks.com

Harrison W. Breitman, Esq.
Ryan Morden, Esq.
Katherine Kennedy, Esq.
Keith D. Earls, Paralegal
Office of Consumer Advocate
Forum Place, 5th Floor
555 Walnut Street
Harrisburg, PA 17101
OCA25PGWBRC@paoca.org
kearls@paoca.org

Carrie B. Wright, Esq.
Michael A. Podskoch, Jr., Esq.
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
carwright@pa.gov
mpodskoch@pa.gov

Rebecca Lyttle, Esq.
Steven C. Gray, Esq.
Office of Small Business Advocate
Forum Place, 1st Floor
555 Walnut Street
Harrisburg, PA 17101
relyttle@pa.gov
sgray@pa.gov

Daniel Clearfield, Esq.
Bryce R. Beard, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
dclearfield@eckertseamans.com
bbeard@eckertseamans.com



Dennis A. Whitaker, Esq.
Kevin J. McKeon, Esq.
Todd S. Stewart, Esq.
Hawke McKeon & Sniscak LLP
100 N 10th Street
Harrisburg, PA 17101
dawhitaker@hmslegal.com
kjmckeon@hmslegal.com
tsstewart@hmslegal.com

Charis Mincavage, Esq.
Adeolu A. Bakare, Esq.
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17101-1166
cmincavage@mcneeslaw.com
abakare@mcneeslaw.com

Devin McDougall, Esq.
Mychal Ozaeta, Esq.
Rebecca Barker, Esq.
Hema Lochan, Esq.
Celine Busnelli
Clean Energy Program
Earthjustice
1617 John F. Kennedy Blvd., Suite 1130
Philadelphia, PA 19103
dmcdougall@earthjustice.org
mozaeta@earthjustice.org
rbarker@earthjustice.org
hlochan@earthjustice.org
cbusnelli@earthjustice.org

Respectfully submitted,

Benjamin Clark, Esq.
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102
(215) 227-4794
bclark@clsphila.org

June 11, 2025

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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|--|---|---------------------------|
| Pennsylvania Public Utility Commission | : | Docket No. R-2025-3053112 |
| | : | Docket No. C-2025-3053827 |
| v. | : | Docket No. C-2025-3053978 |
| | : | Docket No. C-2025-3054216 |
| Philadelphia Gas Works | : | |

**ANSWER OF THE TENANT UNION REPRESENTATIVE NETWORK
AND THE COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY
EFFICIENCY IN PENNSYLVANIA
TO PHILADELPHIA GAS WORKS' MOTION TO COMPEL**

Pursuant to 52 Pa. Code § 5.342, the Tenant Union Representative Network (“TURN”) and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) file this Answer to Philadelphia Gas Works’ (“PGW”) Motion to Dismiss the Objections of Energy Justice Advocates and Compel Complete Replies to PGW’s Set I Interrogatories (“Motion”).¹ PGW effectively served its Motion on Friday, June 6, 2025.²

TURN and CAUSE-PA respectfully request that Administrative Law Judge Vero deny PGW’s Motion and sustain EJA’s Objections to PGW’s Set I Interrogatories, Nos. I-10 and 15-18.³ PGW’s Motion tramples on First Amendment freedoms of association. The information PGW seeks violates on-point precedent affirming the application of the First Amendment to

¹ See Philadelphia Gas Works’ Motion to Dismiss the Objections of Energy Justice Advocates and Compel Complete Replies to PGW’s Set I Interrogatories (filed June 5, 2025), Docket No. R-2025-3053112 [hereinafter “Motion”].

² PGW served the Motion on parties via email at 4:41 PM on Thursday, June 5, 2025. Pursuant to Administrative Law Judge Eranda Vero’s Prehearing Order, filed on April 23, 2025, “[a]ny discovery or discovery-related pleadings (such as objections, motions, and answers to same) served after served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of calculating the due date for any responsive filing.” Prehearing Order at ¶ 16(G). Because PGW served the Motion after 4:30 PM on Thursday June 5, the Motion is deemed to have been served on the next business day: Friday, June 6.

³ See Written Objections of the Energy Justice Advocates to PGW’s Set I Interrogatories Nos. 8-13, 15-20, and 22 (filed May 29, 2025), Docket No. R-2025-3053112 [hereinafter “Objections”]. PGW and EJA resolved their disputes regarding most of the discovery requests to which EJA objected in its Objections. PGW seeks to compel PGW Set I Interrogatories Nos. I-10 and I-15 through I-18 through its Motion. Motion at 1. EJA provided detailed objections to the PGW interrogatories in question. TURN and CAUSE-PA concur with EJA’s positions outlined in its Objections and submit this Joint Answer to emphasize the points outlined herein.

discovery requests in Commission proceedings. And it threatens to chill public participation in rate case proceedings, upending Commission policy objectives, which is intended to solicit broad input from impacted stakeholders. Even setting these concerns aside, PGW seeks to compel production of information outside the bounds of discovery. Its interrogatories address threshold standing questions improper for this stage of the proceeding – questions settled when Judge Vero granted EJA’s unopposed Petition to Intervene on April 14, 2025.⁴

I. PGW’s Motion Violates First Amendment Protections and Threatens to Chill Public Participation in Commission Proceedings.

TURN and CAUSE-PA are both organizations comprised of individual members.⁵ As collective associations, TURN and CAUSE-PA are concerned that PGW’s Motion threatens to chill public participation in Commission proceedings – especially those that materially impact low-income Philadelphians and their access to affordable utility services – and infringe on First Amendment rights of freedom of association. PGW’s requests in I-10 and I-15 through I-18 undermine the privacy interests of members in member-based organizations. They impermissibly intrude into relationships between individuals exercising their First Amendment right to freedom of association through member-based organizations. And with its frivolous and overstepping requests, PGW directly contravenes the principle of public participation that underlies all Commission proceedings.⁶

⁴ See Prehearing Order at ¶ 4 (filed Apr. 14, 2025), Docket No. R-2025-3053112 [hereinafter “Prehearing Order”].

⁵ As explained in TURN and CAUSE-PA’s Petition to Intervene, TURN is a not-for-profit advocacy organization based in Philadelphia composed of moderate- and low-income tenants, most of whom are either customers of or dependent on gas service from PGW. Petition to Intervene of the Tenant Union Representative Network and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania at ¶¶ 10-11 (filed March 27, 2025), Docket No. Docket No. R-2025-3053112. CAUSE-PA is an unincorporated association of low-income individuals that advocates on behalf of its members to enable consumers of limited economic means to connect to and maintain affordable water, electric, heating, and telecommunication services. *Id.* at ¶¶ 12-13.

⁶ See 52 Pa. Code § 69.321 (Commission Statement of Policy regarding public input hearings in rate proceedings); In Re Pol’y Statement Concerning Pub. Input Hearings in Rate Proc., Docket No. M-00960829, 1996 WL 497154 (July 18, 1996) (announcing the republication of the policy statement because it was “too important to leave out” and “reaffirming our commitment to public input in rate proceedings.”).

As EJA explains in detail in its Objections, the First Amendment to the United States Constitution protects communications between members of advocacy organizations.⁷ Such constitutional protections shield parties from discovery requests by state actors seeking internal documents and communications related to ongoing advocacy campaigns or legal proceedings.⁸ Even if the state action in question does not explicitly restrict an individual’s ability to “join with others to further shared goals . . . [t]he risk of a chilling effect on association is enough” to trigger First Amendment protections.⁹

Federal courts have repeatedly affirmed these principles across a range of scenarios directly pertinent to this proceeding. In NAACP v. Alabama, for example, the United States Supreme Court held that the First Amendment protected the membership lists of advocacy organizations from discovery by state actors.¹⁰ The Eastern District of Pennsylvania recently noted that “nearly every opinion to interpret [NAACP v. Alabama has] found that the

⁷ See Objections at 7-8; 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.”) [hereinafter NAACP v. Alabama].

⁸ 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.”).

⁹ NAACP v. Button, 371 U.S. at 433.

¹⁰ NAACP v. Alabama, 357 U.S. at 462-63 (recognizing the “vital relationship between freedom to associate and privacy in one’s associations” and holding that compelled disclosure of membership lists “is 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”).

associational privilege extends beyond membership lists,” including shielding internal communications related to advocacy and litigation strategies from disclosure.¹¹

PGW’s Motion ignores constitutional protections and flouts established precedent reaffirming those protections. PGW requests documents related to EJA’s decision to participate in the rate case, along with information about which members have possession of the documents.¹² It asks for all emails, talking points, posters, and other “statements or materials” that EJA organizations shared with its members regarding hearings in this rate case.¹³ And as explored further in Section II below, it requests disclosure of the number of EJA members and a sampling of the non-public contact information of EJA members living within PGW’s service territory.¹⁴ Setting aside the unreasonableness and irrelevance of these sweeping requests,¹⁵ they

¹¹ Fraternal Ord. of Police, 668 F.Supp.3d at 388 (objecting to a “narrow reading” of NAACP v. Alabama and citing federal district and circuit court cases holding that freedom of association protections extend far beyond membership lists).

¹² Philadelphia Gas Works’ Interrogatories and Requests for Production of Documents, Set I, Addressed to the Energy Justice Advocates at I-15, I-16 (filed May 22, 2025), Docket No. R-2025-3053112 [hereinafter “Interrogatories”]. The precise requests are as follows:

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.”

¹³ Id. at I-17, I-18. The precise requests are as follows:

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.”

¹⁴ Id. at I-10. The precise request is as follows: “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.”

¹⁵ See Objections at 6-7, 9-10 (explaining that I-10 and I-15 through I-18 are unreasonable and neither relevant nor reasonably calculated to lead to evidence relevant to the subject matter of this proceeding) (citing 52 Pa. Code §§ 5.321(c), 5.361(a)(2)).

threaten the ability of EJA member organizations to encourage participation among their membership in the future. The threat of exposure – of a member’s contact information, of an email discussion on rate issues between members, or a poster in progress, for example – may “have the practical effects of discouraging political association and inhibiting internal campaign communications that are essential to effective association and expression.”¹⁶

PGW ignores its constitutional violations. Instead, it merely provides conclusory statements that its Motion will not have a chilling effect and that “any First Amendment claim must be rejected.”¹⁷ Dismissing First Amendment concerns, PGW claims that this “discovery is necessary to develop the factual record necessary to support informed decision-making by the Commission.”¹⁸ PGW thus appears to elevate discovery requests in a PUC proceeding above the United States Constitution. But “[b]ecause such disclosures may discourage members from freely exchanging ideas with other members in the future,” PGW’s Motion “thus infringe[s] upon those members’ associational rights.”¹⁹

II. The Contact Information of EJA Members is Irrelevant to the Subject Matter of this Proceeding.

The information PGW seeks in I-10 is not relevant to the subject matter of this proceeding, and PGW fails to specify any grounds for relevancy in its Motion. Further, even if such information were relevant, it would only pertain to questions of standing. Those questions have been settled by the approval of EJA’s uncontested Petition to Intervene.

In I-10, PGW requests lists of members and their contact information from EJA:²⁰

¹⁶ Fraternal Ord. of Police, 668 F.Supp.3d at 387 (citing Perry, 591 F.3d at 1143).

¹⁷ Motion at 10.

¹⁸ Id.

¹⁹ Fraternal Ord. of Police, 668 F.Supp.3d at 387.

²⁰ This section of the Answer addresses the improper nature of these requests under the Commission’s rules of discovery. However, TURN and CAUSE-PA also note that, as discussed in Section I above, requests for membership lists from advocacy organizations in ongoing campaigns and legal proceedings are precisely the types of sensitive

“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.”²¹

Member contact information is irrelevant to issues in the rate case. Discovery must be relevant to the subject matter involved in the pending action – namely, PGW’s proposed rate increase.²² PGW may wield the right terminology in its Motion, making frequent use of “relevance” and “materiality.”²³ But its jargon cannot cure the fact that PGW seeks information that is not reasonably calculated to lead to the discovery of admissible evidence.²⁴ PGW fails to provide any specific justification as to why the membership of the EJA organizations is relevant to the subject matter and substantive issues presented in this case.²⁵ EJA has already explained in detail in its Petition to Intervene that members of each constituent organization live in PGW’s service territory.²⁶ EJA also verified those averments of fact by signing its Petition to Intervene.²⁷ It is unclear what possible purpose the contact information of impacted EJA members would now serve in helping the Commission determine whether to grant PGW’s requested rate increase given that any rate increase would impact hundreds of thousands of customers in PGW’s service territory²⁸ – not just EJA members. Would the Commission disallow certain types of cost

information protected from disclosure by First Amendment freedoms of association given the potential for chilling effects on participation on important issues, such as the proposed increased gas rates for the hundreds of thousands of customers in PGW’s service territory.

²¹ Interrogatories at I-10.

²² 52 Pa. Code § 5.321(c); see PGW’s Objections to EJA Interrogatories, Set IX, No. 1, at 2 (May 8, 2025) (“PGW’s proposed rate increase request . . . is the subject of this proceeding[.]”).

²³ See Motion at 4, 5, 9.

²⁴ See 52 Pa. Code § 5.321(c).

²⁵ See Motion.

²⁶ Petition to Intervene of the Energy Justice Advocates (filed Apr. 3, 2025), Docket No. R-2025-3053112 [hereinafter “EJA Petition to Intervene”].

²⁷ EJA Petition to Intervene, Verification; see 52 Pa. Code § 1.36.

²⁸ There were 480,609 total PGW residential customers in 2024. PGW Response to OCA Set II-12, Supp., Attachment 1 (USRR Data with 2024). Needless to say, PGW’s proposed rate increase will also impact non-residential customer classes.

recovery if an EJA member lived in one zip code but not another? Would it respond differently to PGW’s proposed Revenue Normalization Adjustment if EJA provided the contact information of 100 versus 1000 members? Hardly. Without any articulation from PGW as to the specific relevance of this information, it can only be presumed that such requests constitute an unreasonable burden and annoyance.²⁹ EJA thus should not be compelled to respond to I-10.

Further, any possibility of relevancy of EJA member contact information is foreclosed by the fact that EJA’s participation in the 2025 PGW Rate Case was approved, without objection, by the ALJ. PGW did “not object to the eligibility” of EJA to intervene in its April 10, 2025, letter to Judge Vero.³⁰ PGW did not file an answer to EJA’s Petition to Intervene, thus waiving its ability to object to the granting of the petition.³¹ And Judge Vero granted EJA’s Petition to Intervene on April 14, 2025.³² Yet with its Set I interrogatories – specifically, PGW I-10 – PGW attempts to improperly revive questions related to EJA’s intervention in the guise of discovery requests. Indeed, PGW admits as much in its Motion: “PGW’s Set I interrogatories examine EJA’s claims and raise questions regarding . . . standing.”³³

PGW claims that its Set I Interrogatories “probe issues relating to EJA’s status and authority to represent the interests of individuals and groups who would be affected by the proceedings.”³⁴ Such “probing,” however, is precisely the line of inquiry afforded by an answer to a petition to intervene – an answer which PGW chose not to file. And PGW explicitly did not

²⁹ See 52 Pa. Code § 5.361(a)(2).

³⁰ PGW’s Letter – Not Filing Answer (filed Apr. 10, 2025), Docket No. R-2025-3053112.

³¹ See 52 Pa. Code § 5.66(a).

³² Prehearing Order at ¶ 4.

³³ See Motion at 5. For purposes of standing to intervene in this rate proceeding, the standard is set by 52 Pa. Code § 5.72. The regulation is not identical to the test applied by trial courts to determine if a party is aggrieved. See, e.g., 2 Standard Pa. Prac. 2d § 6:43.

³⁴ Motion at 7; see *id.* at 8 (“PGW 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, including data and information on its member organizations and whether its members would be directly affected by the proceeding” (internal citations omitted)).

object to EJA’s intervention pursuant to 52 Pa. Code § 5.72, which outlines eligibility requirements for intervention,³⁵ given EJA’s articulation of its members’ interests in its Petition to Intervene.³⁶ PGW’s irrelevant attempts to revive standing questions fall outside the boundaries of discovery and should be rejected.

III. Conclusion

As member-based organizations, TURN and CAUSE-PA strongly object to PGW’s Motion. Its requests exceed the bounds of permissible discovery in this proceeding and raise questions settled when Judge Vero approved EJA’s Petition to Intervene. They also infringe on First Amendment rights to freedom of association by threatening to chill participation and communication among members of advocacy organizations. PGW’s Motion should be denied both for the proceedings at hand and to uphold future public participation in Commission proceedings.

Respectfully submitted,



Benjamin Clark, Esq. (PA ID: 335697)
Joline R. Price, Esq. (PA ID: 315405)
Robert W. Ballenger, Esq. (PA ID: 93434)
Daniela E. Rakhlina-Powsner, Esq. (PA ID: 332206)

Counsel for TURN and CAUSE-PA
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102
(215) 981-3700

June 11, 2025

³⁵ 52 Pa. Code § 5.72.

³⁶ See Energy Conservation Council of Pa. v. P.U.C., 995 A.2d 465, 476 (Pa. Commw. Ct. 2010) (“An association may have standing as a representative of its members. Tripps Park v. Pennsylvania Public Utility Commission [citation omitted]. Thus, as long as an organization ‘has at least one member who has or will suffer a direct, immediate, and substantial injury to an interest as a result of the challenged action[, i.e., is aggrieved, the organization] has standing.’”); EJA Petition to Intervene (outlining eligibility of the EJA organizations to intervene and describing how the 2025 PGW Rate Case proceedings will impact each organization’s members).

VERIFICATION

I, Benjamin Clark, on behalf of Tenant Union Representative Network (“TURN”) and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) hereby state that the facts contained in the foregoing answer are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: June 11, 2025

A handwritten signature in black ink, appearing to read 'Be Clark', with a long horizontal flourish extending to the right.

Benjamin Clark, Esq.
Counsel for TURN and CAUSE-PA