



June 17, 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 to Interrogatories Set II, Nos. 11-13. 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.

Service By E-Service and Email Only

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Dated: June 17, 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 II INTERROGATORIES
NOS. 11-13**

June 17, 2025

Contents

I. Introduction	1
A. Background	1
B. Overview	2
II. Legal Framework	3
III. The Commission Has Already Fully Considered and Rejected the Line of Questioning Contained in the 2025 Legal Authorities Interrogatories as Impermissible.....	5
A. The Commission’s Rejection of PGW’s 2020 Attempt to Force the Environmental Stakeholders to Disclose Their Legal Theories in Discovery.....	5
B. There Are No Meaningful Differences Between PGW’s Failed 2020 Attempt to Force the Environmental Stakeholders to Disclose Their Legal Theories in Discovery and PGW’s Current Attempt to Do the Same Thing to EJA	10
1. PGW’s Claims Regarding Distinctions.....	10
2. Comparison of the 2025 and 2020 Legal Authorities Interrogatories Reveals that PGW’s Claims are Incorrect.....	11
C. The Reasoning Behind the ALJs’ Prior Rejection of PGW’s 2020 Legal Authorities Interrogatories Applies With Full Force to PGW’s 2025 Legal Authorities Interrogatories	15
IV. EJA’s Privilege Objections Should Be Sustained.....	16
V. EJA’s Relevance Objections Should Be Sustained.....	21
VI. EJA’s Undue Burden Objections Should Be Sustained	23
VII. Conclusion.....	26

Table of Exhibits

Exh. A	EJA, Written Objections to PGW's Set II Interrogatories, Nos. 11-13 (June 5, 2025)
Exh. B	Order on PGW's Motion to Dismiss Objections, PA PUC Docket R-2020-3017206 (July 14, 2020)
Exh. C	PGW, Set I Interrogatories to the Environmental Stakeholders, PA PUC Docket R-2020-3017206 (June 19, 2020)
Exh. D	Excerpt of the Environmental Stakeholders' Statement No. 1, the Direct Testimony of Dr. Ezra D. Hausman, served on June 15, 2020
Exh. E	PGW, Set II Interrogatories to the Energy Justice Advocates, PA PUC Docket No. R-2025-3053112 (May 27, 2025)
Exh. F	Excerpt of the Energy Justice Advocates' Statement No. 1, the Direct Testimony of Dr. Dorie K. Seavey, served on May 21, 2025

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 II Interrogatories Nos. 11-13 in the above-captioned proceeding (“Proceeding”) of the Pennsylvania Public Utility Commission (“Commission”).

For the reasons explained below, EJA’s objections to these interrogatories should be sustained and PGW’s Motion to Dismiss should be denied. Thus far, EJA has produced answers to twenty-two (22) out of the twenty-five (25) questions in PGW’s Set II without objection.

EJA sought to negotiate a resolution with PGW for the remaining three interrogatories, but the parties were unable to reach agreement. The three interrogatories at issue are as follows:¹

PGW-II-11	Identify the PA PUC’s specific statutory and regulatory authority to require the City of Philadelphia to establish a “Coordinated stakeholder involvement to develop an energy blueprint for the City that establishes a timeline for building sector decarbonization goals and joint responsibilities and roles.” (p. 68)
PGW-II-12	Identify the PA PUC’s specific statutory and regulatory authority to implement requirements on PGW for “identifying, evaluating, implementing cost recovery.” (p. 69)
PGW-II-13	Provide the PA PUC’s specific statutory and regulatory authority to require PGW to engage in long-term planning in coordination with PECO. (p. 66)

¹ Exh. A. EJA, Written Objections to PGW’s Set II Interrogatories, Nos. 11-13 (June 5, 2025).

As discussed below, these interrogatories all improperly seek to require EJA to produce in discovery their legal theories concerning the authorities that grant the Commission the legal power to implement the recommendations in EJA's Direct Testimony.

PGW issued essentially identical interrogatories of the Environmental Stakeholders in its 2020 rate case, and the presiding Administrative Law Judges issued a detailed order (the "2020 ALJ Order") ruling that (1) "[t]here is nothing in the Commission's regulations related to discovery that would allow this type of request" and that (2) "[a]llowing the requests would violate Environmental Stakeholders' due process rights and would place an undue burden on them."²

For purposes of clarity, this Answer will refer to these 2020 interrogatories as the "2020 Legal Authorities Interrogatories," and the three interrogatories that are the subject of PGW's pending Motion to Dismiss as the "2025 Legal Authorities Interrogatories."

B. Overview

For the reasons explained below, EJA's objections to the 2025 Legal Authorities Interrogatories should be sustained and PGW's Motion to Dismiss should be denied. The 2025 Legal Authorities Interrogatories each instruct EJA to supply to PGW, prior to the briefing period, all of the statutory and regulatory authorities that provide the Commission with the legal power to enact the recommendations of EJA's experts. This is plainly outside the scope of discovery, as these questions do not seek factual evidence but instead seek to force EJA alone to produce its legal theories on the case almost two months ahead of the briefing schedule. These

² Exh. B. Order on PGW's Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 11 (July 14, 2020), available at <https://www.puc.pa.gov/pcdocs/1670039.docx>.

questions also seek to force the disclosure of privileged information concerning EJA's legal theories and strategy. Given the total lack of any factual evidentiary value of these questions for developing the record, if the Commission authorizes PGW's attempt to misuse the tools of discovery to compel disclosure of this information it would result in an unreasonable burden on EJA. As the Commission has previously recognized, such a burden would be so unreasonable as to amount to a violation of EJA's due process rights in this proceeding.³

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 decision-making by the Commission on whether a utility's proposed rates are just and reasonable.⁴ 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.⁵ 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."⁶ Second, Commission regulations prohibit discovery which would cause an undue burden or require an unreasonable

³ Exh. B. Order on PGW's Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 11 (July 14, 2020), available at <https://www.puc.pa.gov/pcdocs/1670039.docx>.

⁴ 66 Pa. C.S. § 1301; 66 Pa. C.S. § 2212.

⁵ 52 Pa. Code § 5.321(c).

⁶ *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).

investigation.⁷ Third, discovery related to a matter that is privileged is not permitted.⁸ Applicable privileges include the attorney-client privilege⁹ and work-product privilege.¹⁰

Notably, confidential attorney-client communications and attorney work product are privileged under Pennsylvania law, and therefore not subject to discovery.¹¹ 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, summaries, legal research or legal theories."¹² 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[.]"¹³

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

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

⁸ 52 Pa. Code § 5.361(a)(3).

⁹ 52 Pa. Code § 5.361(a)(3).

¹⁰ 52 Pa. Code § 5.323(a).

¹¹ 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).

¹² 52 Pa. Code § 5.323(a).

¹³ 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.").

regarded as a representative of that party for the purposes of Rule 4003.3.”¹⁴ 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.”¹⁵

III. The Commission Has Already Fully Considered and Rejected the Line of Questioning Contained in the 2025 Legal Authorities Interrogatories as Impermissible

A. The Commission’s Rejection of PGW’s 2020 Attempt to Force the Environmental Stakeholders to Disclose Their Legal Theories in Discovery

As EJA noted both in its initial oral objections and in its written objections,¹⁶ the Commission issued an order rejecting the line of questioning contained in the interrogatories as impermissible in PGW’s 2020 rate case (the “2020 PGW Rate Case”).¹⁷ A brief review of the lead-up to that order and the order itself provides important context, and demonstrates that the Commission has already fully considered and rejected the line of questioning in the 2025 Legal Authorities Interrogatories.

¹⁴ *Tate v. Philadelphia Sav. Fund Soc’y*, 1 Pa. D. & C.4th 131, 138 (Com. Pl. 1987).

¹⁵ *BouSamra v. Excelsa Health*, 210 A.3d 967, 969 (Pa. 2019).

¹⁶ Exh. A. EJA, Written Objections to PGW’s Set II Interrogatories, Nos. 11-13, at 1 (June 5, 2025).

¹⁷ Exh. B. Order on PGW’s Motion to Dismiss Objections, PA PUC Docket R-2020-3017206 (July 14, 2020), available at <https://www.puc.pa.gov/pcdocs/1670039.docx>.

Sierra Club and Clean Air Council (who had petitioned to intervene under the collective name “the Environmental Stakeholders”) were granted intervention on June 1, 2020.¹⁸ On June 15, 2020, the Environmental Stakeholders served the Direct Testimony of their witness, Dr. Ezra D. Hausman.¹⁹ On June 19, 2020, PGW issued the following discovery questions²⁰ to the Environmental Stakeholders regarding the recommendations contained in the Environmental Stakeholders’ Direct Testimony²¹ that had just been served:

PGW-ES-I-6	Provide the statutory authority under which the PA PUC can require a natural gas utility to produce a Climate Business Plan (CBP) and authorize rates based on the CBP.
PGW-ES-I-8	Provide statutory authority under which the PA PUC can order PGW to investigate the potential for non-pipeline alternatives.
PGW-ES-I-9	Provide statutory authority under which the PA PUC can direct PGW to reduce fossil fuels.
PGW-ES-I-10	Provide statutory authority under which the PA PUC has jurisdiction over issues pertaining to greenhouse gas emissions.
PGW-ES-I-17	Provide the statutory authority under which the PUC may direct PGW to switch its customers to electric service.
PGW-ES-I-18	Provide the statutory authority under which PGW ratepayers can be required to subsidize a customer’s switch from natural gas to electric service.

¹⁸ Order Granting Petition to Intervene of the Environmental Stakeholders, PA PUC Docket R-2020-3017206, at 3 (June 1, 2020), *available at* <https://www.puc.pa.gov/pcdocs/1664803.docx>.

¹⁹ Exh. A. Order on PGW’s Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 3 (July 14, 2020), *available at* <https://www.puc.pa.gov/pcdocs/1670039.docx>.

²⁰ Exh. C. PGW, Set I Interrogatories to the Environmental Stakeholders, PA PUC Docket R-2020-3017206, at 6–7 (June 19, 2020).

²¹ As indicated in the attached excerpt of Dr. Hausman’s testimony, these questions all concern Dr. Hausman’s recommendations. *See* Exh. D. Excerpt of the Environmental Stakeholders’ Statement No. 1, the Direct Testimony of Dr. Ezra D. Hausman, served on June 15, 2020.

On June 26, 2020, the Environmental Stakeholders served Written Objections to these questions.²² First, the Environmental Stakeholders objected based on privilege, since answering these questions would require disclosure of privileged information reflecting attorney-client communications and attorney work product, which is not allowed under 52 Pa. Code § 5.321(c). Second, the Environmental Stakeholders objected based on relevance, since the questions do not seek relevant evidence, or any evidence at all, but instead attempt to force the early disclosure of the Environmental Stakeholders' legal theories. Third, the Environmental Stakeholders objected based on unreasonable burden, because PGW's questions have no valid evidentiary purpose and solely function to single out the Environmental Stakeholders and compel them to disclose their legal strategy during the discovery period, in violation of the briefing schedule in the Prehearing Order.²³

On July 2, 2020, PGW filed a Motion to Dismiss the Environmental Stakeholders' Objections and Compel Complete Responses ("2020 Motion to Dismiss").²⁴ In its 2020 Motion to Dismiss, PGW claimed that the Environmental Stakeholders' privilege objections should be dismissed because PGW was not seeking "legal analysis" from the Environmental Stakeholders.²⁵ Instead, PGW claimed that it was asking the Environmental Stakeholders "to identify the statutory basis for the claims and recommendations made by the Environmental

²² Exh. B. Order on PGW's Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 4 (July 14, 2020), *available at* <https://www.puc.pa.gov/pcdocs/1670039.docx>.

²³ Exh. B. Order on PGW's Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 5–6 (July 14, 2020), *available at* <https://www.puc.pa.gov/pcdocs/1670039.docx>.

²⁴ PGW, Motion to Dismiss Objections, PA PUC Docket R-2020-3017206 (July 2, 2020), *available at* <https://www.puc.pa.gov/pcdocs/1668627.pdf>.

²⁵ PGW, Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 4 (July 2, 2020), *available at* <https://www.puc.pa.gov/pcdocs/1668627.pdf>.

Stakeholders in their pre-served Direct Testimony.”²⁶ PGW claimed that it needed this information in order to be able to evaluate “the legal basis for” these claims and recommendations.²⁷

PGW next asserted that the Environmental Stakeholders’ relevance objection should be dismissed because the Environmental Stakeholders’ legal theories are relevant to their testimony and because PGW should be allowed to conduct discovery of legal theories, not just facts.²⁸

Finally, PGW contended that the Environmental Stakeholders would not be unduly burdened by being compelled to answer PGW’s questions because the Environmental Stakeholders are not being asked to conduct new legal research, but to disclose only their current legal theories. PGW additionally asserted that the Environmental Stakeholders need to list every single legal source they consulted, but could list only the principal authorities they intended to rely on.

Following an answer by the Environmental Stakeholders that elaborated on their Written Objections, the presiding Administrative Law Judges (“ALJs”) issued an order completely rejecting PGW’s theories and denying PGW’s 2020 Motion to Dismiss in its entirety.²⁹ As the ALJs stated, “The requests from PGW appear aimed at obtaining the Environmental Stakeholders’ legal theories and analysis before the briefing period. We agree with the

²⁶ PGW, Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 4–5 (July 2, 2020), available at <https://www.puc.pa.gov/pcdocs/1668627.pdf>.

²⁷ PGW, Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 6 (July 2, 2020), available at <https://www.puc.pa.gov/pcdocs/1668627.pdf>.

²⁸ PGW, Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 6–7 (July 2, 2020), available at <https://www.puc.pa.gov/pcdocs/1668627.pdf>.

²⁹ Exh. B. Order on PGW’s Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 11 (July 14, 2020), available at <https://www.puc.pa.gov/pcdocs/1670039.docx>.

Environmental Stakeholders that this request will mean that they have to divulge this information before the record is fully formed and the parties brief the issues in this case.”³⁰

The ALJs held that PGW had failed to demonstrate “any relevant evidence” that the challenged questions were “intended to produce for the purposes of a factual basis in this case.”³¹ The ALJs also noted that the actual purpose of the questions appeared to be collecting information about the Environmental Stakeholders’ legal views in order to gain an advantage for relitigating a motion *in limine* PGW had previously filed attempting to exclude the Environmental Stakeholders’ Direct Testimony.³²

Finally, the ALJs held that compelling responses to PGW’s requests would be unfairly burdensome on the Environmental Stakeholders and “would violate the Environmental Stakeholders’ due process rights.”³³ As the ALJs determined, “[t]here is nothing in the Commission’s regulations that would allow this type of request.”³⁴ As the ALJs concluded, “[t]o require the Environmental Stakeholders to provide their legal theory of the case at this point is not allowed in Commission proceedings[.]”³⁵

³⁰ Exh. B. Order on PGW’s Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 11 (July 14, 2020), available at <https://www.puc.pa.gov/pcdocs/1670039.docx>.

³¹ Exh. B. Order on PGW’s Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 11 (July 14, 2020), available at <https://www.puc.pa.gov/pcdocs/1670039.docx>.

³² Exh. B. Order on PGW’s Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 10–11 (July 14, 2020), available at <https://www.puc.pa.gov/pcdocs/1670039.docx>.

³³ Exh. B. Order on PGW’s Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 11 (July 14, 2020), available at <https://www.puc.pa.gov/pcdocs/1670039.docx>.

³⁴ Exh. B. Order on PGW’s Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 11 (July 14, 2020), available at <https://www.puc.pa.gov/pcdocs/1670039.docx>.

³⁵ Exh. B. Order on PGW’s Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 11 (July 14, 2020), available at <https://www.puc.pa.gov/pcdocs/1670039.docx>.

B. There Are No Meaningful Differences Between PGW’s Failed 2020 Attempt to Force the Environmental Stakeholders to Disclose Their Legal Theories in Discovery and PGW’s Current Attempt to Do the Same Thing to EJA

1. PGW’s Claims Regarding Distinctions

In its Motion to Dismiss in the present proceeding, PGW attempts to distinguish the 2020 Legal Authorities Interrogatories from the 2025 Legal Authorities Interrogatories by making two arguments. PGW first argues that the 2025 Legal Authorities Interrogatories are different because the 2020 Legal Authorities Interrogatories “related to questions regarding the legal theories of the Intervenor for participation in that case—not the authority of the Commission, as requested here, upon which the Intervenor’s witness relies as the basis for the Commission to require PGW to undertake specific recommendations proposed by EJA witness Seavy in her direct testimony.”³⁶

PGW further explains that unlike the 2020 Legal Authorities Interrogatories, the 2025 Legal Authorities Interrogatories “were propounded *after* EJA filed its direct testimony and the disputed interrogatories specifically request information regarding the basis under which EJA’s witness recommends that specific proposals be adopted by the Commission in this proceeding.”³⁷

Second, PGW argues that while the 2020 Legal Authorities Interrogatories sought “the legal theories of the Intervenor,” the 2025 Legal Authorities Interrogatories “request that EJA’s

³⁶ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 6–7 (June 12, 2025).

³⁷ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 8 (June 12, 2025) (emphasis in original).

witness provide the authority to support the specific proposals that she advances in her testimony - not the legal theory or analysis of the Intervenor.”³⁸

PGW emphasizes that these two arguments represent an “important distinction” that shows that the 2025 Legal Authorities Interrogatories are “*not* ‘very similar’ to the questions that the 2020 ALJ Order ruled impermissible.”³⁹ As PGW claims, these two distinctions mean that “[t]he instant circumstances are materially different from those upon which the 2020 ALJ Order was predicated.”⁴⁰ “Consequently,” according to PGW, “the concerns and reasoning of the 2020 ALJ Order are not applicable here.”⁴¹

2. Comparison of the 2025 and 2020 Legal Authorities Interrogatories Reveals that PGW’s Claims are Incorrect

a) Both Sets of Questions Were Issued After Intervenor’s Direct Testimony Was Served and Concerned the Recommendations in Intervenor’s Direct Testimony

Both of PGW’s assertions are inaccurate. First, the 2020 Legal Authorities Interrogatories, like the 2025 Legal Authorities Interrogatories, sought to compel the disclosure of the legal theories concerning the specific recommendations contained in that intervenor’s Direct Testimony. Contrary to PGW’s claim, the rejected 2020 Legal Authorities Interrogatories

³⁸ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 6–7 (June 12, 2025).

³⁹ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 6–7 (June 12, 2025) (emphasis in original).

⁴⁰ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 10 (June 12, 2025).

⁴¹ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 8 (June 12, 2025).

were also issued after the Environmental Stakeholders had served their Direct Testimony, which was provided by Dr. Hausman. Also contrary to PGW’s assertion,⁴² the 2020 Legal Authorities Interrogatories did not relate to the right of the Environmental Stakeholders to participate in the proceeding. Instead, they all addressed the specific recommendations of Dr. Hausman.⁴³

b) Both Sets of Questions Were Propounded Upon the Intervenor, Not the Intervenor’s Witness, and Have an Identical Question Structure Concerning Recommendations in Intervenor’s Direct Testimony

Second, both the 2020 Legal Authorities Interrogatories and the 2025 Legal Authorities Interrogatories were propounded on the intervenor, not the intervenor’s witness. In both cases, the interrogatories, while directed to the intervenor, requested that the questions be answered by any representative of the intervenors with responsive knowledge. It is simply not the case that it is possible, as PGW attempts, to make a distinction wherein the 2020 Legal Authorities Interrogatories were propounded upon the intervenor, whereas the 2025 Legal Authorities Interrogatories were propounded upon the witness.

Comparison of the two sets of questions reveals an identical structure to how they are addressed. As stated in the introduction to the interrogatory set containing the 2020 Legal Authorities Interrogatories:

Pursuant to 52 Pa. Code §§ 5.341, 5.342 and 5.349, Philadelphia Gas Works (“PGW”), hereby propounds the following interrogatories and requests for documents upon the Clean Air Council and Sierra Club/PA Chapter (collectively, the “Environmental Stakeholders”) to be answered by those officers, employees or agents of the

⁴² PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 6 (June 12, 2025).

⁴³ Exh. D. Excerpt of the Environmental Stakeholders’ Statement No. 1, the Direct Testimony of Dr. Ezra D. Hausman, served on June 15, 2020.

Environmental Stakeholders as may be cognizant of the requested information and who are authorized to answer on behalf of the Environmental Stakeholders.⁴⁴

Additionally, the list of interrogatories is prefaced by a header that specifies: “PGW To Clean Air Council and Sieera [sic] Club/Pa Chapter Set I Interrogatories and Document Requests.”⁴⁵

As stated in the introduction to the interrogatory set containing the 2025 Legal

Authorities Interrogatories:

Pursuant to 52 Pa. Code §§ 5.341, 5.342 and 5.349, Philadelphia Gas Works (“PGW”) hereby propounds the following interrogatories and requests for documents upon the Energy Justice Advocates (“EJA”), to be answered by those officers, employees, agents, or affiliated entities of EJA who may be cognizant of the requested information and who are authorized to answer on behalf of EJA⁴⁶

Moreover, the list of interrogatories was also prefaced by a header that specifies “PGW Set II Interrogatories and Requests for Documents Addressed to EJA.”⁴⁷

The structure of the individual questions at issue is also identical. Compare the list of the 2020 Legal Authorities Interrogatories with the 2025 Legal Authorities Interrogatories:

2020 Legal Authorities Interrogatories

PGW-ES-I-6	Provide the statutory authority under which the PA PUC can require a natural gas utility to produce a Climate Business Plan (CBP) and authorize rates based on the CBP.
PGW-ES-I-8	Provide statutory authority under which the PA PUC can order PGW to investigate the potential for non-pipeline alternatives.

⁴⁴ Exh. C. PGW, Set I Interrogatories to the Environmental Stakeholders, PA PUC Docket R-2020-3017206, at 1 (June 19, 2020).

⁴⁵ Exh. C. PGW, Set I Interrogatories to the Environmental Stakeholders, PA PUC Docket R-2020-3017206, at 6 (June 19, 2020).

⁴⁶ Exh. E. PGW, Set II Interrogatories to the Energy Justice Advocates, PA PUC Docket No. R-2025-3053112, at 1 (May 27, 2025).

⁴⁷ Exh. E. PGW, Set II Interrogatories to the Energy Justice Advocates, PA PUC Docket No. R-2025-3053112, at 8 (May 27, 2025).

PGW-ES-I-9	Provide statutory authority under which the PA PUC can direct PGW to reduce fossil fuels.
PGW-ES-I-10	Provide statutory authority under which the PA PUC has jurisdiction over issues pertaining to greenhouse gas emissions.
PGW-ES-I-17	Provide the statutory authority under which the PUC may direct PGW to switch its customers to electric service.
PGW-ES-I-18	Provide the statutory authority under which PGW ratepayers can be required to subsidize a customer’s switch from natural gas to electric service.

2025 Legal Authorities Interrogatories

PGW-II-11	Identify the PA PUC’s specific statutory and regulatory authority to require the City of Philadelphia to establish a “Coordinated stakeholder involvement to develop an energy blueprint for the City that establishes a timeline for building sector decarbonization goals and joint responsibilities and roles.” (p. 68)
PGW-II-12	Identify the PA PUC’s specific statutory and regulatory authority to implement requirements on PGW for “identifying, evaluating, implementing cost recovery.” (p. 69)
PGW-II-13	Provide the PA PUC’s specific statutory and regulatory authority to require PGW to engage in long-term planning in coordination with PECO. (p. 66)

As indicated by this comparison, both sets of questions request that the intervenor supply the legal authority under which the Commission could enact the recommendations in the testimony intervenor’s expert submitted on behalf of intervenor. The 2025 Legal Authorities Interrogatories ask for both statutory and regulatory authority, and contain a page citation to the recommendations in the witness’s Direct Testimony on behalf of intervenor, whereas the 2020 Legal Authorities ask for only statutory authorities and do not contain a page cite to the

recommendations from the witness's Direct Testimony that they ask about. However, these distinctions are not substantive. Both sets of questions demand that the intervenor supply the legal reasoning under which the Commission could order implementation of the recommendations in the testimony of intervenor's witness.

C. The Reasoning Behind the ALJs' Prior Rejection of PGW's 2020 Legal Authorities

Interrogatories Applies With Full Force to PGW's 2025 Legal Authorities Interrogatories

Notably, PGW does not contend in its Motion to Dismiss that the 2020 ALJ Order was wrongly decided or that its reasoning was unsound. Instead, the entire argument of PGW's Motion to Dismiss hinges on PGW's ability to demonstrate that the 2025 Legal Authorities Interrogatories are materially different from the 2020 Legal Authorities Interrogatories that the ALJs ruled were impermissible and violated the due process rights of the Environmental Stakeholders.

As demonstrated above, PGW's attempted distinction collapses because, fatally, it relies on misrepresentations of the 2020 Legal Authorities Interrogatories. There is in fact no meaningful difference between the 2020 Legal Authorities Interrogatories and the 2025 Legal Authorities Interrogatories. Both seek to force intervenors to disclose, during the discovery period, their legal theories concerning the Commission's legal authority to order implementation of the recommendations in the Direct Testimony of intervenor's witness. As discussed in more detail below, the reasoning behind the 2020 ALJ Order applies with full force to the 2025 Legal Authorities Interrogatories.

IV. EJA's Privilege Objections Should Be Sustained

EJA objected to the three 2025 Legal Authorities Interrogatories under 52 Pa. Code § 5.361(a)(3) because they impermissibly seek information protected by privilege, including attorney-client privilege and work-product privilege.⁴⁸ As EJA explained, these requests are improper because they encompass privileged and confidential legal research, legal theories, and work product that are protected from discovery by the rules of this Commission.

PGW's Motion to Dismiss contains a number of assertions contesting EJA's privilege objections, each of which will be addressed in turn. On page 7, PGW argues that the 2025 Legal Authorities Interrogatories "request that EJA's witness [Dr. Seavey] provide the authority to support the specific proposals that she advances in her testimony - not the legal theory or analysis of the Intervenor."⁴⁹ PGW claims that "[i]dentifying the factual and legal basis behind specific proposals advanced in EJA's witness's testimony is not privileged legal analysis, and EJA cannot rely on the 2020 ALJ Order to support a claim of attorney/client privilege."⁵⁰ Here, PGW appears to be asserting that while privilege may protect "legal theory or analysis of the Intervenor," privilege does not protect the intervenor's witness from being compelled to provide her legal opinion on the authorities that provide the Commission the legal powers to implement her technical recommendations.

PGW is incorrect. Dr. Seavey is not an attorney and has not offered any legal opinions in this proceeding. Dr. Seavey is a PhD economist who has offered technical testimony on

⁴⁸ Exh. A. EJA, Written Objections to PGW's Set II Interrogatories, Nos. 11–13, at 2 (June 5, 2025).

⁴⁹ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 7 (June 12, 2025).

⁵⁰ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 7 (June 12, 2025).

structural challenges facing PGW’s business model and technical recommendations for how those challenges might be addressed. Any views that Dr. Seavey might possibly have on legal matters relating to this proceeding would result from attorney-client privileged communications with counsel or attorney work product, both of which are protected by privilege.⁵¹

Moreover, any mental impressions Dr. Seavey might form relating to legal aspects of the proceeding would themselves be protected by privilege as work product of a party’s representative.⁵² Accordingly, PGW’s bald assertion that any legal theories about a party’s positions in the case that are contained in the mind of a party’s witness are fully discoverable, even though such legal theories are not discoverable from the mind of a party’s counsel or the party itself, must fail.

As a secondary point, PGW here makes the puzzling claim that the 2025 Legal Authorities Interrogatories are somehow seeking information on the “factual basis”⁵³ of Dr. Seavey’s testimony. This is puzzling because everyone has access to the actual text of the interrogatories at issue, which exclusively demand disclosure of legal theories on the “statutory and regulatory authorities”⁵⁴ that provide the Commission with legal powers to implement various witness recommendations. EJA has no issue with answering reasonable discovery concerning the factual basis for Dr. Seavey’s testimony (and as noted above, EJA has answered 22 out of PGW’s 25 Set II Interrogatories about EJA’s expert testimony).

⁵¹ 52 Pa. Code § 5.361(a).

⁵² 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.”)

⁵³ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 7 (June 12, 2025).

⁵⁴ Exh. A. EJA, Written Objections to PGW’s Set II Interrogatories, Nos. 11-13 (June 5, 2025).

But PGW’s attempt to misrepresent the 2025 Legal Authorities Interrogatories as seeking information on the factual basis of Dr. Seavey’s testimony should be rejected. PGW’s effort to disguise its own questions raises the inference that PGW is aware that its actual questions are inappropriate and that PGW is not even itself willing to defend them squarely.⁵⁵ If not even PGW takes its own questions seriously, the Commission should not hesitate to reject them.

PGW next asserts that “PGW does not seek Intervenor’s ‘legal theories or analysis’ which the 2020 ALJ Order declared impermissible; instead, PGW seeks non-analytical evidence that there exists (or does not exist) authority for the Commission to compel PGW to adopt specific proposals advanced by EJA witness Dr. Seavey in her direct testimony.”⁵⁶

PGW does not explain what it means by “non-analytical evidence” regarding whether the Commission has or does not have certain legal powers, or why PGW believes that this does not involve legal analysis. PGW does not do so because this chain of assertions is wholly incoherent. PGW is effectively arguing that a party’s legal theories on whether the Commission has certain legal powers, and what specific legal authorities confer precisely what scope of legal powers, can be instantly transformed into discoverable material simply by PGW relabeling the requested information as “non-analytical evidence.”⁵⁷ PGW provides no authorities for this radical

⁵⁵ PGW repeats its puzzling claim, directly contradicted by the text of its own questions, that the 2025 Legal Authorities Interrogatories seek information on the factual basis of Dr. Seavey’s testimony numerous times. *See e.g.* PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 1 (June 5, 2025) (The “interrogatories at issue...seek the factual and legal basis for specific witness testimony”), and at 10 (“These requests fall well within the scope of discovery permitted under Section 5.321...The factual support for Dr. Seavey’s testimony is far from privileged legal analysis and PGW’s request for evidence of that support is a reasonable request.”).

⁵⁶ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 8 (June 12, 2025).

⁵⁷ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 9 (June 12, 2025).

position, nor can it. Legal theories remain legal theories, irrespective of PGW’s contrived and laborious attempts at relabeling them. The Commission should not hesitate to reject PGW’s arguments here.

Finally, PGW contends that EJA’s privilege objections to the 2025 Legal Authorities Interrogatories should be dismissed because these requests do “not seek privileged information and/or legal analysis and instead, simply seeks clarification as to EJA’s reliance on publicly available authority.”⁵⁸ PGW repeats this identical assertion in connection with each of three 2025 Legal Authorities Interrogatories.⁵⁹

Here PGW acknowledges that its 2025 Legal Authorities Interrogatories seek information on the legal theories of EJA, finally dropping its pretense that the 2025 Legal Authorities Interrogatories are completely different from the 2020 Legal Authorities Interrogatories because the 2025 version only seeks to force disclosure of the witness’s legal theories, not the legal theories of the party for whom the witness is testifying. As discussed in detail above, both the 2025 and 2020 versions were propounded upon an intervenor, not a witness, and are identical in structure.⁶⁰ But it is instructive that not even PGW can keep up the pretense that the 2025 versions are different as to their target in any meaningful way.

PGW also here argues that if a legal authority is “publicly available,”⁶¹ then a party’s legal theories concerning the meaning and scope of that legal authority must also be public, and

⁵⁸ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 11–13 (June 12, 2025).

⁵⁹ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 11–13 (June 12, 2025).

⁶⁰ *See supra* at Point III.B.

⁶¹ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 9, 13 (June 12, 2025).

therefore discoverable. PGW does not supply any reasoning or authority to support this claim. If this were true, because all law is publicly available, privilege would not exist. As with the other unreasoned and conclusory contentions in PGW's Motion to Dismiss concerning privilege, the Commission should swiftly reject this one as well.

While PGW's contentions are wholly unsupported, the stakes are real, because PGW is really asking the Commission to declare that privilege effectively does not exist for intervenors. This would enable PGW to "get the benefit of [intervenor's] legal and factual research and reasoning, enabling him to litigate 'on wits borrowed from the adversary.'"⁶²

Moreover, as the U.S. Supreme Court has observed, "In performing his various duties... it is essential that a lawyer work with a certain degree of privacy, free from unnecessary intrusion by opposing parties and their counsel. Proper preparation of a client's case demands that he assemble information, sift what he considers to be the relevant from the irrelevant facts, prepare his legal theories and plan his strategy without undue and needless interference."⁶³

Such work, as the Court noted, is reflected "in interviews, statements, memoranda, correspondence, briefs, mental impressions, personal beliefs, and countless other tangible and intangible ways... Were such materials open to opposing counsel on mere demand, much of what is now put down in writing would remain unwritten... The effect on the legal profession would be demoralizing. And the interests of the clients and the cause of justice would be poorly served."⁶⁴

⁶² *Sedat, Inc. v. Dep't of Env't Res.* 641 A.2d 1243, 1245 (Pa. Commw. Ct. 1994) (quoting *F.T.C. v. Grolier Inc.*, 462 U.S. 19, 30–31, (1983) (J. Brennan, concurring)).

⁶³ *Hickman v. Taylor*, 329 U.S. 495, 510–511 (1947).

⁶⁴ *Hickman v. Taylor*, 329 U.S. 495, 511(1947).

PGW's 2025 Legal Authorities Interrogatories seek to gain advantage in this litigation by violating these traditional common law privileges, to the detriment of the public interests described here by the Court. As such, they must be rejected.

Finally, PGW demands that EJA produce a privilege log in order to substantiate its privilege claims.⁶⁵ Given that PGW's 2025 Legal Authorities Interrogatories are identical in structure to questions that ALJs have previously ruled impermissible, EJA respectfully requests that any requirement for a privilege log in this context be waived at this time, as a detailed log does not appear to be needed to adjudicate PGW's arguments. However, if a privilege log would be necessary or helpful for this adjudication, EJA would supply one on request.

V. EJA's Relevance Objections Should Be Sustained

EJA also objected to the 2025 Legal Authorities Interrogatories under 52 Pa. Code § 5.321(c) on the grounds that the requested information on EJA's legal theories is not factual evidence, and therefore definitionally cannot be shown to be relevant factual evidence that is subject to discovery under the Commission's regulations.⁶⁶ As such, the 2025 Legal Authorities Interrogatories have no conceivable relevance to the subject matter of this proceeding, and EJA should not be compelled to answer them.

In its Motion to Dismiss, PGW makes a number of arguments about why the challenged questions are relevant. First, PGW argues that the questions are relevant because they seek to compel disclosure of "[t]he foundational authority relied upon by Dr. Seavey for these

⁶⁵ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 7 (June 12, 2025).

⁶⁶ Exh. A. EJA, Written Objections to PGW's Set II Interrogatories, Nos. 11–13, at 3 (June 5, 2025).

recommendations in her direct testimony,” which “is relevant to her credibility.”⁶⁷ PGW’s argument is misplaced. Fact witnesses in Commission proceedings do not lose “credibility” for not offering legal opinion in their testimony and do not establish their “credibility” by supplying legal opinions at the demand of their adversary.

Moreover, the factual foundations that Dr. Seavey relied on for her expert technical recommendations are identified in the 157 footnotes and 38 exhibits included in her pre-served Direct Testimony.⁶⁸ PGW has its own lawyers, and can form its own views on how and to what extent various legal authorities grant the Commission legal powers to implement Dr. Seavey’s recommendations. PGW can read EJA’s brief on this matter at the same time as any other party in this proceeding, according to the briefing schedule ordered by ALJ Vero in the Prehearing Order.⁶⁹

Next, PGW argues that the 2025 Legal Authorities Interrogatories are relevant because PGW needs this information to be able to evaluate “PGW’s compliance with Pennsylvania law and the Commission’s regulations,”⁷⁰ including “whether PGW is abiding by the statutory requirement in Section 1501 of the Public Utility Code to provide safe and reasonable service.”⁷¹ This contention, too, must fail. It is not the job of Dr. Seavey or EJA to offer legal advice to

⁶⁷ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 5 (June 12, 2025).

⁶⁸ Exh. F. Excerpt of the Energy Justice Advocates’ Statement No. 1, the Direct Testimony of Dr. Dorie K. Seavey, served on May 21, 2025.

⁶⁹ Prehearing Order, PA PUC Docket R-2025-3053112, at 4 (April 14, 2025), *available at* <https://www.puc.pa.gov/pdocs/1874464.pdf>.

⁷⁰ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 5 (June 12, 2025).

⁷¹ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 7 (June 12, 2025).

PGW on its regulatory compliance. PGW has its own lawyers to assist it with compliance. PGW may not misuse the tools of discovery, which are intended to develop the factual record, to force Dr. Seavey or EJA into PGW's service as regulatory counsel.

As demonstrated here, there is no conceivable relevance of the 2025 Legal Authorities Interrogatories. Discovery requests are only relevant if they “tend to establish a material fact, tend to make a fact at issue more or less probable, or support a reasonable inference or presumptions regarding a material fact.”⁷² The 2025 Legal Authorities Interrogatories fail this relevancy requirement, because they seek legal opinions, not facts. Such a conclusion would be consistent with the holding of the 2020 ALJ Order, which determined that the 2020 Legal Authorities Interrogatories were not relevant because they sought legal opinions instead of facts that are “relevant evidence” for the purposes of contributing to the “factual basis in this case.”⁷³

VI. EJA's Undue Burden Objections Should Be Sustained

EJA also objected to the 2025 Legal Authorities Interrogatories under 52 Pa. Code § 5.361(a)(2) on the grounds that answering them would cause “unreasonable annoyance, embarrassment, oppression, burden [and] expense.”⁷⁴

In response, PGW asserts that the 2025 Legal Authorities Interrogatories do not impose an unreasonable burden because “EJA's burden connected with responding to this request is

⁷² Order on PGW's Motion to Dismiss, PA PUC Docket No. R-2025-3053112, at 3 (June 16, 2025).

⁷³ Exh. B. Order on PGW's Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 11 (July 14, 2020), available at <https://www.puc.pa.gov/pdocs/1670039.docx>.

⁷⁴ Exh. A. EJA, Written Objections to PGW's Set II Interrogatories, Nos. 11–13, at 3 (June 5, 2025).

unproven and not sufficient to prohibit discovery.”⁷⁵ PGW also asserts that the 2025 Legal Authorities Interrogatories are not prohibited by the Commission’s Order in the 2020 PGW Rate Case and do not implicate EJA’s due process rights or place an unfair burden on them because the 2025 Legal Authorities Interrogatories are merely requesting the basis or authority supporting specific proposals included in Dr. Seavey’s direct testimony.⁷⁶ PGW’s assertions must fail.

EJA’s undue burden objections should be sustained because the 2025 Legal Authorities Interrogatories seek to compel EJA to produce the “legal basis” for why the Commission could act on Dr. Seavey’s recommendations over a month in advance of the briefing schedule set forth in the Prehearing Order.⁷⁷ Singling out EJA in such a fashion, while all other parties can enjoy the benefits of a complete factual record before producing their arguments regarding the legal basis of their direct testimony, is both unduly burdensome and a violation EJA’s due process rights to a fair proceeding that follows the procedures set forth in the Commission’s regulations.

It is common ground that the presiding officers have the power to “direct and focus the proceedings consistent with due process”⁷⁸ and that due process is rooted in “the due process provisions of constitutional law and...the principles of common fairness.”⁷⁹ The Commission’s regulations are designed to be a fair and equitable process that enables all parties in a proceeding to review the complete factual record for the proceeding before submitting legal arguments in the

⁷⁵ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 11–12, 13 (June 12, 2025).

⁷⁶ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 8 (June 12, 2025).

⁷⁷ Prehearing Order, PA PUC Docket R-2025-3053112, at 4 (April 14, 2025), *available at* <https://www.puc.pa.gov/pdocs/1874464.pdf>.

⁷⁸ 52 Pa. Code § 5.403.

⁷⁹ *Borough of Bridgewater v. Pa. Pub. Util. Comm’n*, 124 A.2d 165, 173 (Pa. Super. Ct. 1956).

briefing period that follows discovery.⁸⁰ This process makes sense because it enables all parties to be fairly heard on pertinent issues in the case at the same time and for legal briefing to be enriched by the complete factual record. Here, ALJ Vero affirmed such a fair approach by ordering that all parties' legal briefs be submitted on July 30, 2025 following the close of the factual record.⁸¹

The 2025 Legal Authorities Interrogatories seek to subvert the orderly and fair process provided in the Prehearing Order. The discovery process is for the focused and efficient development of the factual record to assist the Commission in its decision-making. The discovery process should not be derailed, as PGW seeks to do, by misappropriating the tools of discovery to seek an early examination of another party's legal positions. Compelling EJA to respond to the 2025 Legal Authorities Interrogatories would provide PGW with additional time to consider and conduct legal analysis ahead of the briefing schedule, therefore abusing the discovery process. Gathering this information while PGW benefits from a complete factual record before producing its arguments regarding the legal basis of its direct testimony, is both unduly burdensome and a violation of EJA's due process rights to a fair proceeding that follows the procedures set forth in the Commission's regulations.⁸²

Moreover, as noted above, the Commission previously rejected this line of questioning in interrogatories in the 2020 PGW Rate Case. In regards to interrogatories submitted by PGW requesting the statutory basis for why the Commission had the power to act on recommendations

⁸⁰ 52 Pa. Code § 5.502(f) (main briefs will be filed and served within 20 days after filing of the transcript, unless otherwise ordered by the presiding officer).

⁸¹ Prehearing Order, PA PUC Docket R-2025-3053112, at 4 (April 14, 2025), *available at* <https://www.puc.pa.gov/pcdocs/1874464.pdf>.

⁸² 52 Pa. Code § 5.403.

included in expert testimony, the ALJ sustained the Environmental Stakeholders' objections because it determined that the requests were aimed at obtaining "legal theories and analysis before the briefing period . . . [which] will mean that they have to divulge this information before the record is fully formed and the parties brief the issues in this case."⁸³ As such, the ALJ determined that "[a]llowing the requests would violate the Environmental Stakeholders' due process rights and would place an unfair burden on them."⁸⁴

PGW's attempt to again single out and compel EJA to articulate the statutory and regulatory basis for why the Commission has the power to act on Dr. Seavey's testimony, before the briefing period, before the completion of the factual record, and before any other party needs to put forth their legal arguments in support of their direct testimony would constitute a burden so unreasonable as to constitute a violation of EJA's fundamental due process rights. Accordingly, EJA's undue burden objections should be sustained.

VII. Conclusion

In sum, PGW's Motion to Dismiss should be denied because the 2025 Legal Authorities Interrogatories, in violation of numerous Commission rules and the 2020 ALJ Order, seek privileged information about EJA's legal theories, are not relevant to developing any admissible factual evidence, are unduly burdensome, and violate the EJA's due process rights. As with PGW's demand for EJA's internal communications, PGW does not need this information, and authorizing PGW's questions would be harmful to the public interest.

⁸³ Exh. B. Order on PGW's Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 11 (July 14, 2020), available at <https://www.puc.pa.gov/pcdocs/1670039.docx>.

⁸⁴ Exh. B. Order on PGW's Motion to Dismiss Objections, PA PUC Docket R-2020-3017206, at 11 (July 14, 2020), available at <https://www.puc.pa.gov/pcdocs/1670039.docx>.

EJA respectfully requests that the Commission issue an order denying PGW’s Motion to Dismiss in its entirety and holding that “the concerns and reasoning of the 2020 ALJ Order”⁸⁵ do apply to the 2025 Legal Authorities Interrogatories. EJA respectfully requests that the Commission also instruct PGW not to issue similar legal authorities interrogatories in the future. EJA would rather not engage in unnecessary motion practice again in the future over, for example, PGW’s 2027 Legal Authorities Interrogatories, nor would such repetitive motion practice be a productive use of the Commission’s adjudicatory resources.

Dated: June 17, 2025

Respectfully submitted,

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

Mychal Ozaeta, Esq.
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Counsel for the Energy Justice Advocates

⁸⁵ PGW, Motion to Dismiss Objections, PA PUC Docket No. R-2025-3053112, at 8 (June 12, 2025).

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 17, 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 17, 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 17, 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 17, 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 17, 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 17, 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 17, 2025

/s/ Abe Scarr

Abe Scarr, PennPIRG

Exhibit A.

**EJA, Written Objections to PGW's Set II Interrogatories,
Nos. 11-13 (June 5, 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

**WRITTEN OBJECTIONS
OF THE ENERGY JUSTICE ADVOCATES
TO PGW'S SET II INTERROGATORIES
NOS. 11-13**

June 5, 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 II Interrogatories of Philadelphia Gas Works (“PGW”) Nos. 11-13 (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 30, 2025 to discuss EJA’s objections to these Set II Interrogatories. EJA explained that PGW had issued very similar questions in its 2020 rate case, and these questions were ruled impermissible. That same day, EJA provided to PGW via email a copy of the Administrative Law Judges’ (“ALJs”) Order denying PGW’s motion to compel responses to those questions¹ and asked if PGW would agree to withdraw the Contested Interrogatories. EJA and PGW continued to discuss potential resolutions but were unable to resolve the objections.

¹ Order on Motion to Dismiss Objections, PA PUC Docket R-2020-3017206 (July 14, 2020), *available at* <https://www.puc.pa.gov/pdocs/1670039.docx>.

II. The Contested Interrogatories

PGW-II-11, PGW-II-12, and PGW-II-13²

PGW-II-11	Identify the PA PUC’s specific statutory and regulatory authority to require the City of Philadelphia to establish a “Coordinated stakeholder involvement to develop an energy blueprint for the City that establishes a timeline for building sector decarbonization goals and joint responsibilities and roles.” (p. 68)
PGW-II-12	Identify the PA PUC’s specific statutory and regulatory authority to implement requirements on PGW for “identifying, evaluating, implementing cost recovery.” (p. 69)
PGW-II-13	Provide the PA PUC’s specific statutory and regulatory authority to require PGW to engage in long-term planning in coordination with PECO. (p. 66)

The Contested Interrogatories, reproduced above, request EJA to answer several of PGW’s legal questions concerning aspects of EJA’s expert testimony. EJA objects on multiple grounds.

EJA objects to answering these questions because they impermissibly seek information protected by privilege. As a rule, discovery is not permitted that “relates to matter which is privileged.”³ The Commission’s rules go on to expressly provide that “discovery may not include disclosure of the mental impressions of a party’s attorney or his conclusions, opinions, memoranda, notes, summaries, legal research or legal theories.”⁴ PGW’s requests, however, would encompass privileged and confidential legal research, legal theories, and work product that are protected from discovery by the rules of this Commission.⁵

² Since the three Contested Interrogatories are similar, they will be considered together.

³ 52 Pa. Code § 5.361(a)(3); *see also* 52 Pa. Code § 5.321(c) (parties “may obtain discovery regarding “any matter, *not privileged*, which is relevant to the subject matter involved in the pending action”) (emphasis added).

⁴ 52 Pa. Code § 5.323(a).

⁵ 52 Pa. Code § 5.361(a)(3).

EJA also object on the grounds that these questions are not relevant because they are not “reasonably calculated to lead to the discovery of admissible evidence,” or any factual evidence at all.⁶ To the contrary, PGW’s requests for the legal authorities concern pure questions of law which belong to the briefing period, not the discovery period. The guiding standard for discovery is that it must be “reasonably calculated to lead to the discovery of admissible evidence.”⁷ As inquiries concerning the mental impressions and legal theories of the EJA’s counsel, these interrogatories will not and cannot contribute to establishing a single fact of relevance for the development of the evidentiary record regarding PGW’s proposed rates.

EJA also objects to these questions on the grounds that answering them would cause “unreasonable annoyance, embarrassment, oppression, burden [and] expense,”⁸ because doing so would require EJA to produce legal research and legal theories relating to their case, for no valid evidentiary purpose, well in advance of the briefing deadlines set out in ALJ Vero’s Prehearing Order.⁹

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.

⁶ 52 Pa. Code § 5.321(c).

⁷ *Id.*

⁸ 52 Pa. Code § 5.361(a)(2).

⁹ Prehearing Order, PA PUC Docket R-2025-3053112, at 4 (Apr. 14, 2025).

Dated: June 5, 2025

Respectfully submitted,

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ATTACHMENT A.

CONTESTED INTERROGATORIES

PGW-II-11	Identify the PA PUC’s specific statutory and regulatory authority to require the City of Philadelphia to establish a “Coordinated stakeholder involvement to develop an energy blueprint for the City that establishes a timeline for building sector decarbonization goals and joint responsibilities and roles.” (p. 68)
PGW-II-12	Identify the PA PUC’s specific statutory and regulatory authority to implement requirements on PGW for “identifying, evaluating, implementing cost recovery.” (p. 69)
PGW-II-13	Provide the PA PUC’s specific statutory and regulatory authority to require PGW to engage in long-term planning in coordination with PECO. (p. 66)

Exhibit B.

**Order on PGW's Motion to Dismiss Objections,
PA PUC Docket R-2020-3017206 (July 14, 2020)**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2020- 3017206
	:	
	:	
Office of Consumer Advocate	:	C-2020-3019161
Office of Small Business Advocate	:	C-2020-3019100
Philadelphia Industrial and Commercial Gas User Group	:	C-2020-3019430
v.	:	
	:	
Philadelphia Gas Works	:	

**ORDER ON PHILADELPHIA GAS WORKS’ MOTION TO DISMISS THE OBJECTIONS
OF ENVIRONMENTAL STAKEHOLDERS’ TO ITS INTERROGATORIES, SET I**

HISTORY OF THE PROCEEDING

On February 28, 2020, PGW filed Supplement No. 128 to PGW’s Gas Service Tariff – PA. P.U.C. No. 2 (Supplement No. 128) and Supplement No. 85 to PGW’s Supplier Tariff – Pa. P.U.C. No. 1 (Supplement No. 85) to become effective April 28, 2020, seeking a general rate increase calculated to produce \$70 million (10.5%) in additional annual revenues. At that time, PGW also filed a Petition for Waiver seeking waiver of the application of the statutory definition of the fully projected future test year (FPFTY) so as to permit PGW to use a FPFTY beginning on September 1, 2020 (its fiscal year) in this proceeding.

By Order entered April 16, 2020 (Suspension Order), the Pennsylvania Public Utility Commission (Commission or PUC) instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase. Supplement No. 128 and Supplement No. 85 were suspended by operation of law until November 28, 2020, unless permitted by Commission Order to become effective at an earlier date. The Suspension Order did not consider the Petition for Waiver.

The Commission's Bureau of Investigation and Enforcement (BIE) filed a Notice of Appearance. Three formal complaints have been filed: The Office of Consumer Advocate (OCA); the Office of Small Business Advocate (OSBA); and the Philadelphia Industrial and Commercial Gas Users Group (PICGUG).

The matter was assigned to the Office of Administrative Law Judge (OALJ), Administrative Law Judges Darlene Heep and Marta Guhl, to schedule such hearings as necessary to develop a record in this proceeding.

A Telephonic Prehearing Conference was held on Tuesday, May 5, 2020, at which time multiple issues were address. A Prehearing Order was issued which granted the Petitions to Intervene, and Petition for Waiver.

On May 14, 2020, a Telephonic Public Input Hearings Notice was issued which indicated that telephonic public input hearings were scheduled for June 2 and 3, 2020, at 1:00 p.m. and 6:00 p.m. each day.

On June 2 and 3, 2020, the telephonic public input hearings were held as scheduled. Members of the public and legislators provided testimony regarding the pending PGW filing.

On June 2, 2020, Meenal Ravel offered testimony at the 1:00 p.m. public input hearing and then submitted her statement as an exhibit on the same date. On June 3, 2020, State Senator Sharif Street offered testimony on behalf of his constituents at the 1:00 p.m. public input hearing and submitted his statement as an exhibit on the same date.

Via electronic mail dated June 8, 2020, we provided the exhibits to the parties and indicated that any objections to the exhibits have to be submitted by June 15, 2020. As of this date, no party has submitted an objection to the exhibits. Based on the fact that no party has objected to the public input hearing exhibits and they are relevant to the proceedings, the exhibits were entered into the record.

On June 9, 2020, PGW filed objections to interrogatories of Environmental Stakeholders. On June 12, 2020, Environmental Stakeholders filed a Motion to Dismiss the objections of PGW.

PGW specifically objected to interrogatories seeking information regarding PGW's Energy Sense Program, other energy efficiency programs and environmental concerns, objecting that these matters were addressed in the PGW Demand Side Management implementation Plan and the Universal Service and Energy Conservation Plan proceedings and that the Commission does not have jurisdiction over certain environmental claims. The Environmental Stakeholders responded that the interrogatories and responses are relevant to whether the rate sought in the instant proceeding is just and reasonable.

Non-company parties submitted direct testimony on June 15, 2020.

A hearing on the Environmental Stakeholders' Motion to Dismiss PGW objections was held on June 25, 2020. Rulings on the objections and motion were made on the record at the time of the hearing. PGW objections to interrogatories regarding electrification as alternatives to proposed infrastructure work included in rate calculations were sustained. All other objections were overruled.

On June 24, 2020, PGW filed a Motion *in Limine* Regarding the Testimony Submitted by Environmental Stakeholders. On June 25, 2020, PGW filed a Motion *in Limine* Regarding Testimony Submitted by the Office of Consumer Advocate Regarding Universal Service Programs (OCA Motion) and a Motion *in Limine* Regarding Testimony Submitted by TURN, et al. Regarding Universal Service Programs (TURN Motion).

On June 30, 2020, OCA filed an Answer of the OCA Motion; CAUSE-PA filed an Answer of CAUSE-PA in Opposition to PGW's TURN Motion; TURN filed an Answer of the TURN Motion; and Environmental Stakeholders filed an Answer in Opposition to PGW's Motion *in Limine*.

On June 26, 2020, the Environmental Stakeholders filed Objections to PGW's Set I of Interrogatories, Nos. 6, 8-10, and 17-18.

On July 2, 2020, PGW filed a Motion to Dismiss the Objections of Sierra Club and Clean Air Council (Environmental Stakeholders) to the Company's Set I of Interrogatories.

On July 9, 2020, the Environmental Stakeholders filed an Answer to PGW's Motion to Dismiss.

At this point, the Motion to Dismiss is now ripe for a decision.

DISCUSSION

Section 5.321(c) of the Commission's Rules of Administrative Practice and Procedure, 52 Pa.Code §5.321(c), specifically provides that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action." Discovery is permitted regardless of whether the information sought "relates to the claim or defense of the party seeking discovery or to the claim or defense of another party or participant." *Id.* Information may be discoverable, even if it would be inadmissible at a hearing. "It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." *Id.* Consistently, the Commission has allowed participants wide latitude in discovery matters. *Pa. Pub. Util. Comm'n. v. The Peoples Natural Gas Company*, 62 Pa. P.U.C. 56 (August 26, 1986); and *Pa. Pub. Util. Comm'n. v. Equitable Gas Company*, 61 Pa. P.U.C. 468 (May 16, 1986).

Regarding the limitation of scope of discovery and deposition, the Commission's regulations provide:

Discovery or deposition is not permitted which:

- (1) Is sought in bad faith.
- (2) Would cause unreasonable annoyance, embarrassment, oppression, burden or expense to the deponent, a person or party.
- (3) Relates to matter which is privileged.
- (4) Would require the making of an unreasonable investigation by the deponent, a party or witness.

52 Pa.Code § 5.361.

The discovery at issue are PGW interrogatories, as follows:

PGW Interrogatories Set 1, Nos. 6, 8-10, and 17-18:

6. Provide the statutory authority under which the PA PUC can require a natural gas utility to produce a Climate Business Plan (CBP) and authorize rates based on the CBP.
8. Provide statutory authority under which the PA PUC can order PGW to investigate the potential for non-pipeline alternatives.
9. Provide statutory authority under which the PA PUC can direct PGW to reduce fossil fuels.
10. Provide statutory authority under which the PA PUC has jurisdiction over issues pertaining to greenhouse gas emissions.
17. Provide the statutory authority under which the PUC may direct PGW to switch its customers to electric service.
18. Provide the statutory authority under which PGW ratepayers can be required to subsidize a customer's switch from natural gas to electric service.

Parties' Arguments

The Environmental Stakeholders (ES) lodged the same objections to all the interrogatory questions. Specifically, the Environmental Stakeholders argue that these requests are impermissible because they seek information protected by privilege. The Environmental

Stakeholders note that discovery is not permitted that “relates to matter which is privileged.”¹ The Commission’s rules go on to expressly provide that “discovery may not include disclosure of the mental impressions of a party’s attorney or his conclusions, opinions, memoranda, notes, summaries, legal research or legal theories.”² The Environmental Stakeholders assert that PGW’s requests would impermissibly require its counsel to disclose privileged and confidential legal research and legal theories that are protected from discovery by the rules of the Commission.³ (ES Objections at 2).

Further, the Environmental Stakeholders maintain that the requests are not relevant because they are not “reasonably calculated to lead to the discovery of admissible evidence,” or any evidence at all.⁴ The Environmental Stakeholders contend that PGW’s requests for the statutory bases of various recommendations concern pure questions of law which belong not to the discovery period, but to briefing. The Environmental Stakeholders state that the standard for discovery is that it must be “reasonably calculated to lead to the discovery of admissible evidence.”⁵ The Environmental Stakeholders argue that the inquiries concerning the mental impressions and legal theories of the Environmental Stakeholders’ counsel will not contribute to establishing a single fact for the development of the evidentiary record regarding PGW’s proposed rates. (ES Objections at 2-3).

Lastly, the Environmental Stakeholders also assert that the requests are unduly burdensome⁶ because they require Environmental Stakeholders to produce legal research and legal theories relating to their case well in advance of the briefing deadlines set out in this proceeding. (ES Objections at 3).

¹ 52 Pa.Code § 5.361(a)(3); *see also* 52 Pa.Code § 5.321(c) (parties “may obtain discovery regarding “any matter, not privileged, which is relevant to the subject matter involved in the pending action”).

² 52 Pa.Code § 5.323(a).

³ 52 Pa.Code § 5.361(a)(3).

⁴ 52 Pa.Code § 5.321(c).

⁵ *Id.*

⁶ 52 Pa.Code § 5.361(a)(2).

PGW argues that it is not seeking attorney work product or legal conclusions, opinions, or theories. PGW contends that it is seeking for the Environmental Stakeholders to identify the statutory basis for the claims and recommendations made by the Environmental Stakeholders in their pre-served Direct Testimony. PGW maintains that the Pennsylvania Rules of Civil Procedure also codify the attorney work product privilege and prohibit the “disclosure of the mental impressions of a party’s attorney or his conclusions, opinions, memoranda, notes, summaries, legal research or legal theories.” Pa. R.C.P. 4003.3. PGW notes that the Rules of Civil Procedure further provide, “Except as otherwise provided by these rules, it is not ground for objection that the information sought involves an opinion or contention that relates to a fact or the application of law to fact.” PGW cites to Pa. R.C.P. 4003.1(c) and the Note related to this provision.⁷ (PGW Motion to Dismiss at 4-5).

PGW asserts that it seeks the information regarding the legal basis for claims and recommendations raised by the Environmental Stakeholders in their pre-served Direct Testimony. PGW noted that it has filed a Motion *in Limine*⁸ seeking to exclude from this proceeding the portions of the Environmental Stakeholders’ pre-served testimony that serves as the basis for these discovery requests. PGW maintains that these interrogatories target contentions that it “reasonably suspects may be the proper subjects of early dismissal” of the

⁷ *Note:* Interrogatories that generally require the responding party to state the basis of particular claims, defenses or contentions made in pleadings or other documents should be used sparingly and, if used, should be designed to target claims, defenses or contentions that the propounding attorney reasonably suspects may be the proper subjects of early dismissal or resolution or, alternatively, to identify and to narrow the scope of claims, defenses and contentions made where the scope is unclear.

The referenced note was written by the Pennsylvania Civil Procedural Rules Committee. <http://www.pacourts.us/courts/supreme-court/committees/rules-committees/civil-procedural-rules-committee>. Notes contain directional or referential statements or citations to authority and are often located within the rule text itself. *See* 86 Pa. B.A. Q. 47. While notes and explanatory comments are not part of the Rules, they may be used in construing the Rules. In *Laudenberger v. Port Authority of Allegheny County*, 436 A.2d 147, 151 (Pa. 1981), the Supreme Court of Pennsylvania explained that explanatory notes “indicate the spirit and motivation behind the drafting of the rule, and they serve as guidelines for understanding the purpose for which the rule was drafted.” *See also Sherrill v. Port Auth. of Allegheny Cty.*, 556 A.2d 450 (Pa. Super. 1989); *Commonwealth v. 2338 N. Beechwood St. Phila.*, 134 A.3d 507 (Pa.Cmwlth. 2016).

⁸ The Motion *in Limine* was granted in part and denied in part in an Order dated July 7, 2020.

issues raised by the Environmental Stakeholders. Further, PGW contends that the discovery requests will help to “narrow the scope of the claims [...] and contentions” raised by the Environmental Stakeholders and to clarify which legal standards the Environmental Stakeholders are challenging through their pre-served testimony. PGW indicates that the discovery requests will permit it a reasonable opportunity to develop a factual record to respond to any mixed questions of law and fact or policy. (PGW Motion to Dismiss at 6).

Further, PGW also argues that it has consistently sought to exclude from this proceeding issues pertaining to Climate Business Plans, non-pipeline alternatives, the reduction of fossil fuels, greenhouse gas emissions, and electrification. PGW maintains that the Environmental Stakeholders has raised the issues in their direct testimony that they pre-filed. PGW asserts that it is preposterous for the Environmental Stakeholder to now challenge its interrogatories which seeks information related to these issues. (PGW Motion to Dismiss at 7-8).

Finally, PGW states that the Commission’s regulations do not prohibit discovery merely because it would require some investigation. PGW notes that the standard is “*unreasonable*” burden. PGW maintains that Set I, Nos. 6, 8-10, and 17-18 should not require any legal research. As noted above, PGW contends it is not requesting a legal analysis or for the Environmental Stakeholders to produce every source that supports a legal position. PGW indicates that it is seeking the Environmental Stakeholders’ view of the jurisdiction for these issues that the Environmental Stakeholders have already raised and should already know this information. (PGW Motion to Dismiss at 8-9).

In its Answer to the Motion to Dismiss, the Environmental Stakeholders also argue that PGW’s requests to “[p]rovide the statutory authority” under which the Commission can act on various recommendations in the Direct Testimony are in violation of Sections 5.323(a) and 5.321(c), because the Environmental Stakeholders do not have an opinion on the Commission’s statutory powers other than what they may have been advised by counsel in privileged and confidential attorney-client discussions. Moreover, the Environmental Stakeholders also asserts that the requests seek an advisory opinion from the Environmental

Stakeholders as to purely legal questions and PGW has its own lawyers to assist it in understanding the scope of the Commission's statutory authority. The Environmental Stakeholders maintains that PGW's requests are inappropriate, and there is no Commission case or section of the Public Utility Code or regulations that support its requests. (ES Answer at 5).

The Environmental Stakeholders also argue that PGW's reliance on the Rules of Civil Procedure is misplaced because it deals with civil litigation which is a different adjudicative process. The Environmental Stakeholders asserts that PGW's reliance on the Explanatory Note is also misplaced because the Commission never adopted anything like it anywhere in its regulations which reflects the differences between civil litigation and a Commission proceeding. Specifically, the Environmental Stakeholders note that in civil litigation: 1) a plaintiff files a pleading detailing its legal claims at the start of the proceeding, and 2) a defendant is entitled to file a motion to dismiss or motion for summary judgment to resolve some or all of the claims prior to the close of discovery. (ES Answer at 6).

The Environmental Stakeholders note that in a Commission proceeding like the current rate case, parties engage in discovery first, to develop a complete factual record, and then parties submit their legal arguments. The Environmental Stakeholders asserts that in a rate case such as this one, during the discovery stage there are no legal "claims, defenses or contentions made in pleadings or other documents" that could possibly warrant legal interrogatories like the PGW requests. Moreover, the Environmental Stakeholders maintain that legal arguments are made after discovery is complete, during discovery there is no possible way to obtain early dismissal or narrowing of legal arguments which simply have not been made yet. (ES Answer at 6-7).

The Environmental Stakeholders note that they have vigorously defended the relevance of their recommendations and Direct Testimony, and PGW does not provide any citation for where such a claim can be found in the Objections of the Environmental Stakeholders. The Environmental Stakeholder state that the threshold criterion for the relevance for a discovery request is that it must contribute to establishing a fact that is admissible to the record, and the PGW requests do not contribute to establishing any fact. The Environmental

Stakeholders argue that the Supreme Court of Pennsylvania has instructed, “[i]t is well established that the fundamental consideration in determining the admissibility of evidence is whether the proffered evidence is relevant to the fact sought to be proved. Evidence is relevant if it tends to make a fact at issue more or less probable.”⁹ The Environmental Stakeholders asserts that PGW, in its Motion to Dismiss, does not attempt to identify any “admissible evidence”¹⁰ – or even any fact at all – that its requests are calculated to discover. (ES Answer at 8-9).

The Environmental Stakeholders also argue that PGW is singling them out by requesting their legal arguments while other parties can enjoy the benefits of a complete factual record before producing their arguments regarding the legal basis of their direct testimony. The Environmental Stakeholders assert that this is both unduly burdensome and a violation of its due process rights to a fair proceeding that follows the procedures set forth in the Commission’s regulations. The Environmental Stakeholders maintain that the Commission’s regulations are designed to enable a fair and equitable process by enabling all parties to a proceeding to review the complete factual record for the proceeding before submitting their legal arguments in the briefing period that follows discovery.¹¹ The Environmental Stakeholders contend that this process makes sense, because it enables all parties to be fairly heard on pertinent issues in the case at the same time and for legal briefing to be enriched by the complete factual record. The Environmental Stakeholders state that PGW’s requests seek to subvert the orderly and fair process provided in the Corrected Prehearing Order and the discovery process is for the focused and efficient development of the factual record to assist the Commission in its decision making. (ES Answer at 10-11).

The Environmental Stakeholders also note in their Answer that an independent basis for the denial of PGW’s Motion to Dismiss is that it is both unnecessary and moot, because the request can serve no identifiable purpose at this point in the proceeding. The Environmental Stakeholders indicate that PGW already filed a Motion *in Limine* seeking to exclude substantial

⁹ *Martin v. Soblotney*, A.2d 1022, 1024 (Pa. 1983).

¹⁰ 52 Pa. Code § 5.321(c).

¹¹ 52 Pa. Code § 5.502(f) (main briefs will be filed and served within 20 days after filing of the transcript, unless otherwise ordered by the presiding officer).

portions of its Direct Testimony, and to narrow the scope of issues to be considered in this proceeding. The Environmental Stakeholders state that the Motion *in Limine* was resolved on July 7, 2020, via an Order issued by the presiding officers. The Environmental Stakeholders maintains that the proper scope of issues to be considered in this proceeding and whether its Direct Testimony fits within that scope has already been determined. The Environmental Stakeholder also note that in the normal course of litigating this proceeding, they have provided ample discussion of their views on pertinent legal issues. As such, the Environmental Stakeholders argue that the only function identified by PGW for the request has already been fulfilled, leaving PGW's Motion to Dismiss unnecessary and moot. (ES Answer at 11-12).

Ruling

In this matter, we agree with the Environmental Stakeholders. The requests from PGW appear aimed at obtaining the Environmental Stakeholders' legal theories and analysis before the briefing period. We agree with the Environmental Stakeholders that this request will mean that they have to divulge this information before the record is fully formed and the parties brief the issues in this case.

Further, there is nothing in the Motion to Dismiss that points to any relevant evidence that this request is intended to produce for the purposes of a factual basis in this case. These requests appear to be another attempt by PGW to revisit issues that the company raised in its Motion *in Limine* related to the Environmental Stakeholders' Direct Testimony.

Moreover, these requests are burdensome and in direct opposition to due process considerations. There is nothing in the Commission's regulations related to discovery that would allow this type of request. To require the Environmental Stakeholders to provide their legal theory of the case at this point is not allowed in Commission proceedings, which clearly differ from general civil litigation. Allowing the requests would violate the Environmental Stakeholders' due process rights and would place an unfair burden on them. As such, the objections to PGW's Interrogatories Set I, Nos. 6, 8-10, and 17-18 are sustained and PGW's Motion to Dismiss is denied.

R-2020-3017206 - PA PUBLIC UTILITY COMMISSION, et. al. v. PHILADELPHIA GAS WORKS

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Exhibit C.

**PGW, Set I Interrogatories to the Environmental Stakeholders,
PA PUC Docket R-2020-3017206 (June 19, 2020)**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2020- 3017206
	:	
	:	
Office of Consumer Advocate	:	C-2020-3019161
Office of Small Business Advocate	:	C-2020-3019100
Philadelphia Industrial and Commercial Gas User Group	:	C-2020-3019430
	:	
v.	:	
	:	
Philadelphia Gas Works	:	

**PHILADELPHIA GAS WORKS'
DISCOVERY REQUESTS DIRECTED TO THE CLEAN AIR
COUNCIL AND SIERRA CLUB/PA CHAPTER, SET I**

Pursuant to 52 Pa. Code §§ 5.341, 5.342 and 5.349, Philadelphia Gas Works (“PGW”), hereby propounds the following interrogatories and requests for documents upon the Clean Air Council and Sierra Club/PA Chapter (collectively, the “Environmental Stakeholders”) to be answered by those officers, employees or agents of the Environmental Stakeholders as may be cognizant of the requested information and who are authorized to answer on behalf of the Environmental Stakeholders.

These interrogatories and requests for documents are propounded on a continuing basis so as to require you to submit supplemental answers and/or documents should additional information become known that would have been includable in your answers and document production had they been known or available, or should information and/or documents supplied in the answers or production prove to be incorrect or incomplete. PGW reserves the right to propound additional interrogatories and to request additional documents as and if additional information is required.

Additional Instructions

A. Each request for admission or interrogatory shall be accorded a separate answer on a separate piece of paper, and each subpart thereof shall be accorded a separate answer. Each request for admission or interrogatory or subpart thereof shall be specifically admitted or denied, and discovery inquiries or subparts thereof should not be combined for the purpose of supplying a common answer.

B. Restate the discovery inquiry immediately preceding each response.

C. Identify the name, title, and business address of each person(s) providing each response and provide the data on which the response was created.

D. In answering this discovery, utilize all information and documents that are available to you, including information in the possession of any of your agents, employees or attorneys, or otherwise subject to your custody or control.

E. If you object to any part of an interrogatory or request, answer all parts of such interrogatories or requests to which you do not object, and as to each part to which you do object, separately set forth the specific basis for the objection.

F. If you claim any form of privilege or other protection from disclosure as a ground for withholding information responsive to an interrogatory or request for production or any part thereof, please explain your claim with sufficient specificity to permit PGW to make a full determination as to whether your claim is valid.

G. In each instance, the interrogatory or request shall be construed so as to require the most inclusive answer or production.

H. Please attach written material to any answer for which written material is requested and/or available. If such written material is not available, state where it may be

obtained. Please label the written material with the number of the interrogatory to which it pertains.

I. Please provide responses as they are completed; it is not necessary to delay providing completed responses while others are not completed.

Definitions

As used in these Interrogatories and Requests for Production of Documents, the following terms have the meaning as set forth below:

1. “You” or “your” means the Clean Air Council and/or the Sierra Club/PA Chapter (collectively, the “Environmental Stakeholders”) or the witness, as the context requires.

2. “List”, “describe”, “explain”, “specify” or “state” shall mean to set forth fully, in detail, and unambiguously each and every fact of which the Environmental Stakeholders or their officers, employees, agents or representatives, have knowledge which is relevant to the answer called for by the interrogatory.

3. The terms “document” or “documents” as used herein shall have the same meaning and scope as in Rule 4009 of the Pennsylvania Rules of Civil Procedure and shall include, without limitation, any writings and documentary material of any kind whatsoever, both originals and copies (regardless of origin and whether or not including additional writing thereon or attached thereto), and any and all drafts, preliminary versions, alterations, modifications, revisions, changes and written comments of and concerning such material, including but not limited to: correspondence, letters, memoranda, notes, reports, directions, studies, investigations, questionnaires and surveys, inspections, permits, citizen complaints, papers, files, books, manuals, instructions, records, pamphlets, forms, contracts, contract amendments or supplements, contract offers, tenders, acceptances, counteroffers or negotiating agreements, notices, confirmations, telegrams, communications sent or received, print-outs, diary entries,

calendars, tables, compilations, tabulations, charts, graphs, maps, recommendations, ledgers, accounts, worksheets, photographs, tape recordings, movie pictures, videotapes, transcripts, logs, workpapers, minutes, summaries, notations and records of any sort (printed, recorded or otherwise) of any oral communication whether sent or received or neither, and other written records or recordings, in whatever form, stored or contained in or on whatever medium including computerized or digital memory or magnetic media that: (a) are now or were formerly in your possession, custody or control; or (b) are known or believed to be responsive to these interrogatories, regardless of who has or formerly had custody, possession or control.

4. The terms “identify” and “identity” when used with respect to an entity mean to state its full name and the address of its principal place of business.

5. The term to “state the basis” for an allegation, contention, conclusion, position or answer means (a) to identify and specify the sources therefore, and (b) to identify and specify all facts on which you rely or intend to rely in support of the allegation, contention, conclusion, position or answer, and (c) to set forth and explain the nature and application to the relevant facts of all pertinent legal theories upon which you rely for your knowledge, information and/or belief that there are good grounds to support such allegation, contention, conclusion, position or answer.

6. The terms “and” and “or” have both conjunctive and disjunctive meanings as necessary to bring within the scope of the interrogatories and request any information or documents that might otherwise be construed to be outside their scope; “all” and “any” mean both “each” and “every”.

7. The terms “relates to” or “relating to” mean referring to, concerning, responding to, containing, regarding, discussing, describing, reflecting, analyzing, constituting, disclosing, embodying, defining, stating, explaining, summarizing, or in any way pertaining to.

8. The term “including” means “including, but not limited to.”

PGW TO CLEAN AIR COUNCIL AND SIEERA CLUB/PA CHAPTER SET I
INTERROGATORIES AND DOCUMENT REQUESTS

1. For Witness Ezra Hausman, please provide the following regarding all matters in which the witness has previously filed testimony, testified, or provided any reports in any proceeding, other than this case, for the last five years:

- (a) the forum of the proceeding where the testimony was given (e.g., Pennsylvania Public Utility Commission);
- (b) the date and docket number of the proceeding;
- (c) a summary of the subject of the testimony.

2. Please provide a copy of any testimony prepared or submitted by Ezra Hausman in a proceeding before the Pennsylvania Public Utility Commission since January 1, 2015.

3. Please provide a list of material (e.g., speeches, legislative testimony, articles, blog posts, social media posts, podcasts, etc.) published by Ezra Hausman which relates to the subject matter of your testimony (or anticipated testimony).

4. Provide a list of all publications that Ezra Hausman has authored, co-authored, been quoted in, or consulted for and the name of the publication in which the article has appeared, or the name of the publisher who has published the article.

5. Please provide copies of the complete workpapers, support documentation, electronic files (including all calculation and formulae intact), and electronic versions of any documents that Ezra Hausman prepared or relied upon in connection with his evaluation of the proposals set forth in PGW's rate case.

6. Provide the statutory authority under which the PA PUC can require a natural gas utility to produce a Climate Business Plan (CBP) and authorize rates based on the CBP.

7. Please identify all Pennsylvania natural gas utilities that have Climate Business Plans. Provide examples of CBPs from other natural gas utilities.

8. Provide statutory authority under which the PA PUC can order PGW to investigate the potential for non-pipeline alternatives.

9. Provide statutory authority under which the PA PUC can direct PGW to reduce fossil fuels.

10. Provide statutory authority under which the PA PUC has jurisdiction over issues pertaining to greenhouse gas emissions.

11. Please refer to the Direct Testimony of Ezra D. Hausman, SC St. No. 1, page 10, lines 15-18. Where did Mr. Hausman come up with the "hundreds of millions of dollars" figure?

12. Please refer to the Direct Testimony of Ezra D. Hausman, SC St. No. 1, Exhibit EDH, pages 6-7. With respect to the 3.3 to 1 Societal Cost Test (“SCT”) benefit cost ratio report from Central Hudson’s NPA program – only one of the three projects has been completed and the remaining two cases targeted have not yet been recruited:

- (a) In your opinion, what conclusions can be made about the success of the program if only 1 of the 20 (5%) targeted projects have even begun?
- (b) In your opinion, is this limited sample representative of results that could be expected in Philadelphia at scale?
- (c) Describe the additional costs or issues that arose in the one case that was completed, which altered costs from its originally projected cost benefit ratio.

13. With respect to the benefit cost ratio from Central Hudson’s NPA program societal test, detail the non-energy benefits included in the evaluation.

14. Central Hudson’s NPA program annual report describes its approach to date as, “the Company has identified three separate project locations throughout the service territory where it is likely feasible and cost-effective to permanently retire sections of LPP.” (p. 4 of Exhibit EDH-6)

- (a) Describe how many sites were evaluated but NPA was not feasible or cost-effective?
- (b) In your opinion, is it appropriate to cite the cost effectiveness results shared in Central Hudson’s NPA program annual report if other projects that were deemed not cost effective were left out of the program’s cost effectiveness results?

15. With respect to Central Hudson’s NPA program targeted locations in Newburgh and Saugerties, New York (p. 4 of Exhibit EDH-6), explain the similarities (or difference) between the houses and heating systems in the NPA project homes that allow strong parallels to be drawn to the houses in Philadelphia’s service territory.

16. Provide any report, study or analysis on the cost of electrification of households and distribution networks in Philadelphia created or used by you.

17. Provide the statutory authority under which the PUC may direct PGW to switch its customers to electric service.

18. Provide the statutory authority under which PGW ratepayers can be required to subsidize a customer’s switch from natural gas to electric service.

19. Provide all studies, reports and analyses Synapse has which indicate that electrification would be cost-effective in Philadelphia.

20. Provide your supporting evidence for the claim on p.21 that low income customers in Philadelphia use less gas than customers who are not low-income.
21. Provide evidence from billing analyses or other objective sources to support the claim on p. 22 that higher fixed customer charges result in customers using more gas.
22. Provide examples from other natural gas utilities where a decline in energy efficiency program participation was caused by increasing customer charges instead of volumetric rates.
23. Provide studies performed or used by you that conclusively indicate that consumers' behaviors change (i.e. higher thermostat setting, longer showers) to use more gas when utilities increase customer charges instead of volumetric rates.
24. If consumers do decide to use more gas after a utility switches to increase reliance on fixed charges, what is the reason for the behavior change? Provide any studies you have conducted or rely upon regarding this behavioral change.
25. Please refer to the Direct Testimony of Ezra D. Hausman, SC St. No. 1, page 25, lines 17-22. In your opinion, what is the appropriate per-customer fixed charge amount? Please provide a figure. How would the adoption of your recommendation related to the per-customer fixed charge amount alter the volumetric charges proposed by PGW?
26. In your opinion, would a fully fixed rate bill provide a benefit to any customers? If so, detail the characteristics of such customers and the benefits.
27. In your opinion, for what reason(s) would a customer increase his/her gas consumption?
28. The analysis provided in Exhibit EDH-2 is based on electric consumption and end-uses. Provide any studies or analyses you have performed or rely upon showing that gas utilities which increased the customer charge saw an increase in customer usage.
29. Would you agree that residential gas end-uses are finite (house heater, hot water heater, range and dryer), whereas electric end-uses are numerous and more easily added or removed? Provide studies, analyses or data you have performed or rely upon to support a claim that consumers are likely to add natural gas equipment, or increase reliance on natural gas equipment, when a utility has increased its customer charge instead of volumetric rate.

Exhibit D.

**Excerpt of the Environmental Stakeholders' Statement No. 1,
the Direct Testimony of Dr. Ezra D. Hausman, served on June 15, 2020**

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DIRECT TESTIMONY OF

EZRA D. HAUSMAN, PH.D.

ON BEHALF OF
THE SIERRA CLUB AND CLEAN AIR COUNCIL

Docket No. R-2020-3017206

Philadelphia Gas Works

General Rate Increase Request

June 15, 2020

Table of Contents

I. Professional Qualifications	1
II. Scope of Testimony and Recommendations to the Commission	3
III. Issues with the PGW Rate Increase Filing	5
IV. Planning for a Climate-Constrained Future	7
V. Need for a Climate Business Plan.....	11
VI. Fixed vs. Volumetric Charges.....	18
VII. Risks for PGW Customers	26
VIII. Recommendations and Conclusion.....	28

ATTACHED EXHIBITS

- Exhibit EDH-1 Resume of Ezra D. Hausman, Ph.D.
- Exhibit EDH-2 Jim Lazar et al., *Smart Rate Design for a Smarter Future, Appendix D: The Specter of Straight Fixed/Variable Rate Designs and the Exercise of Monopoly Power*, Regulatory Assistance Project (Aug. 31, 2015).
- Exhibit EDH-3 Ben Strauss et al., *Pennsylvania and the Surging Sea: A vulnerability assessment with projections for sea level rise and coastal flood risk*, Climate Central (July 2016).
- Exhibit EDH-4 Petition of the Office of the Massachusetts Attorney General Requesting an Investigation into the impact on the continuing business operations of local gas distribution companies as the Commonwealth achieves its 2050 Climate Limits (June 4, 2020).
- Exhibit EDH-5 Case No. 17-G-0460, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plan, New York State Department of Public Service, (June 14, 2018).
- Exhibit EDH-6 Case No. 17-G-0460, Central Hudson Gas & Electric Corporation's Non-Pipeline Alternatives Annual Report, Central Hudson Gas & Electric Corporation (Dec. 2, 2019).
- Exhibit EDH-7 PGW Responses to Clean Air Council Discovery Requests CAC-01-CAC-01-5, CAC-01-CAC-01-6 (June 10, 2020).
- Exhibit EDH-8 Case No. 14-0224, Order, pgs. 158–176, Illinois Commerce Commission (Jan. 21, 2015).

1 investments will be stranded as gas consumption dwindles, or uncontrolled climate
2 change renders much of the city uninhabitable, destroying energy and other
3 infrastructure, and similarly renders PGW's investments a stranded waste of ratepayer
4 funds.

5 This is why I recommend that PGW be directed to produce a CBP for reducing and
6 ultimately eliminating its sales of natural gas. Its infrastructure investments, along with
7 current and all future rate requests, should then be designed to conform to this plan.

8 **VIII. Recommendations and Conclusion**

9 **Q. What are your recommendations for this Commission?**

10 A. I make the following recommendations:

- 11 1. I recommend that the Commission find that the Company has inadequately studied
12 potential cost-effective alternatives to its proposed infrastructure work (such as
13 energy efficiency and electrification) and has inadequately considered climate trends
14 in its infrastructure planning, creating a likelihood of future stranded assets. As a
15 result, I recommend that the Commission find that the Company has failed to
16 demonstrate that its proposed investments are necessary, reasonable, or prudent. To
17 redress these deficiencies, and to provide the Commission with the necessary
18 information to determine whether or not the Company's proposed rate increase is just
19 and reasonable, the Commission should direct the Company to produce a Climate
20 Business Plan ("CBP"). The CBP, which should include consideration of potentially
21 cost-effective alternatives to maintaining or expanding the Company's gas
22 infrastructure, such as energy efficiency and electrification, should serve as a

1 roadmap for infrastructure planning that is consistent with climate trends and
2 consistent with the goals set forth by Governor Wolf and the Philadelphia City
3 Council to aggressively reduce and ultimately eliminate greenhouse gas emissions in
4 the Commonwealth of Pennsylvania and the City of Philadelphia.

5 2. I recommend that the Commission deny PGW's requested rate increase pending
6 completion of its CBP and a finding by the Commission that (a) the CBP is consistent
7 with the demonstrated need to reduce greenhouse gas emissions, and (b) that PGW's
8 request is consistent with the actions set forth in the CBP. If necessary, the
9 Commission could approve a narrowly tailored exception for safety-related
10 distribution system maintenance and addressing major gas leakage, but even in these
11 cases the Company should be directed to first investigate the potential for non-
12 pipeline alternatives.

13 3. Whether or not the Commission approves PGW's overall requested rate increase, I
14 recommend that the Commission reject PGW's proposal to increase its fixed
15 customer charge, which would be harmful to low-income customers and at cross-
16 purposes with energy efficiency initiatives. The Company should be directed to build
17 any approved rate increase into the volumetric charge for all customer classes.

18 **Q. Does this conclude your testimony?**

19 A. Yes.

Exhibit E.

**PGW, Set II Interrogatories to the Energy Justice Advocates,
PA PUC Docket No. R-2025-3053112 (May 27, 2025)**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION	:	
	:	
v.	:	Docket No. R-2025-3053112
	:	
PHILADELPHIA GAS WORKS	:	

**PHILADELPHIA GAS WORKS’ INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS, SET II, ADDRESSED TO
THE ENERGY JUSTICE ADVOCATES**

Pursuant to 52 Pa. Code §§ 5.341, 5.342 and 5.349, Philadelphia Gas Works (“PGW”) hereby propounds the following interrogatories and requests for documents upon the Energy Justice Advocates (“EJA”), to be answered by those officers, employees, agents, or affiliated entities of EJA who may be cognizant of the requested information and who are authorized to answer on behalf of EJA. These interrogatories and requests for documents are propounded on a continuing basis so as to require you to submit supplemental answers and/or documents should additional information become known that would have been includable in your answers and document production had they been known or available or should information and/or documents supplied in the answers or production prove to be incorrect or incomplete. PGW reserves the right to propound additional interrogatories and to request additional documents as and if additional information is required. In accordance with 52 Pa. Code §§ 5.342(d) and 5.349(d), the interrogatories are to be answered in writing under oath and documents are to be furnished and served in-hand upon the undersigned within the time prescribed by the Commission for this docket.

ADDITIONAL INSTRUCTIONS

1. Unless otherwise indicated, the time for all requests is 2020 to the present.

2. If you object to any part of an interrogatory or request, answer all parts of such interrogatories or requests to which you do not object, and as to each part to which you do object, separately set forth the specific basis for the objection.

3. If you claim any form of privilege or other protection from disclosure as a ground for withholding information responsive to an interrogatory or request for production or any part thereof, contained in a non-written communication, state the following with respect to the non-written communication:

- (i) the date thereof;
- (ii) the identity of each of the participants in the non-written communication;
- (iii) the identity of each person present during all or any part of the non-written communication;
- (iv) a description of the non-written communication which is sufficient to identify the communication without revealing the information for which a privilege or protection from non-disclosure is claimed;
- (v) the nature of your claim of non-discoverability (e.g., attorney-client privilege); and
- (vi) each fact on which you rest your claim of privilege or other protection from disclosure, stated with sufficient specificity to permit PGW to make a full determination as to whether your claim is valid.

4. If you claim any form of privilege or other protection from disclosure as a ground for withholding information responsive to an interrogatory or request or any part thereof, contained in a document, set forth with respect to the document:

- (i) the date and number of pages;
- (ii) the identity of the author(s) or preparer(s);

- (iii) the identity of the addressee, if any;
- (iv) the title;
- (v) the type of tangible thing (e.g., letter, memorandum, telegram, chart, report, recording disc);
- (vi) the subject matter (without revealing the information as to which privilege or protection from non-disclosure is claimed);
- (vii) the identity of each person who has received the document or to whom knowledge of the contents of the document was communicated;
- (viii) the identity of the present custodian(s);
- (ix) the nature of your claim of non-discoverability (e.g., attorney-client privilege); and
- (x) each fact on which you rest your claim of privilege or other protection from disclosure, stated with sufficient specificity to permit PGW to make a full determination as to whether your claim is valid.

5. If you claim any form of privilege or other protection from disclosure, otherwise than as set forth in Instructions 3 and 4, as a ground for not answering any interrogatory or request or any part thereof, set forth:

- (i) the nature of your claim as to non-discoverability; and
- (ii) each fact on which you rest your claim or privilege or other protection from disclosure, stating such facts with sufficient specificity to permit PGW to make a full determination as to whether your claim is valid.

6. If you know of any document, communication or information but cannot give the specific information or the full information called for by a particular interrogatory or request, state and give the best information you have on the subject and identify every person you believe to have the required information.

7. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun, and vice versa; the masculine form of a pronoun shall be considered to include also within its meaning the feminine and neuter forms of the pronoun, and vice versa; and the use of any tense of any verb shall be considered to include also within its meaning all other tenses of the verb. In each instance, the interrogatory or request shall be construed to require the most inclusive answer or production.

8. Please attach written material to any answer for which written material is requested and/or available. If such written material is not available, state where it may be obtained. Label the written material with the number of the interrogatory to which it pertains.

9. On each Interrogatory response list the name and title of the person or persons who prepared the response or who is responsible for the information contained therein.

DEFINITIONS

As used in these Interrogatories and Requests for Production of Documents, the following terms have the meaning as set forth below:

1. The term “EJA” means, collectively, POWER Interfaith, Sierra Club, Physicians for Social Responsibility Pennsylvania, Clean Air Council, Vote Solar, PennEnvironment, the Pennsylvania Public Interest Research Group, and any affiliate or subsidiary unless the context indicates otherwise .

2. The term “you” means POWER Interfaith, Sierra Club, Physicians for Social Responsibility Pennsylvania, Clean Air Council, Vote Solar, PennEnvironment, the Pennsylvania Public Interest Research Group and any agent or representative of EJA and any affiliated entity, not including persons who have been identified in this proceeding as speaking on their own behalf and not in their representative capacity.

3. “List,” “describe,” “explain,” “specify” or “state” means to set forth fully, in

detail, and unambiguously each and every fact of which EJA or its agents or representatives or affiliates have knowledge which is relevant to the answer called for by the interrogatory.

4. The terms “document” or “documents” as used herein has the same meaning and scope as in Rule 4009 of the Pennsylvania Rules of Civil Procedure and includes, without limitation, any writings and documentary material of any kind whatsoever, both originals and copies (regardless of origin and whether or not including additional writing thereon or attached thereto), and any and all drafts, preliminary versions, alterations, modifications, revisions, changes and written comments of and concerning such material, including but not limited to: correspondence, letters, memoranda, notes, reports, directions, studies, investigations, questionnaires and surveys, inspections, permits, citizen complaints, papers, files, books, manuals, instructions, records, pamphlets, forms, contracts, contract amendments or supplements, contract offers, tenders, acceptances, counteroffers or negotiating agreements, notices, confirmations, telegrams, communications sent or received, print-outs, diary entries, calendars, tables, compilations, tabulations, charts, graphs, maps, recommendations, ledgers, accounts, worksheets, photographs, tape recordings, movie pictures, videotapes, transcripts, logs, workpapers, minutes, summaries, notations, and records of any sort (printed, recorded or otherwise) of any oral communication whether sent or received or neither, and other written records or recordings, in whatever form, stored or contained in or on whatever medium including computerized or digital memory or magnetic media that:

- (a) are now or were formerly in your possession, custody, or control; or
- (b) are known or believed to be responsive to these interrogatories, regardless of who has or formerly had custody, possession, or control.

5. The term “date” means the exact day, month, and year, if ascertainable, or if not, the best approximation thereof, including relationship to other events.

6. The term “person” or “persons” means and includes any individual, committee, task force, division, department, company, contractor, state, federal or local government agency, corporation, firm, association, partnership, joint venture or any other business or legal entity.

7. The terms “identify” and “identity” when used with reference to a natural person mean to state his or her full name, present or last known address, present or last known telephone number, present or last known place of employment, position or business affiliation, his or her position or business affiliation at the time in question, and a general description of the business in which he or she is engaged.

8. The terms “identify” and “identity” when used with respect to any other entity mean to state its full name, the address of its principal place of business and the name of its chief executive officers.

9. The terms “identify” and “identity” with respect to a document mean to state the name or title of the document, the type of document (e.g., letter, memorandum, telegram, computer input or output, chart, etc.), its date, the person(s) who authored it, the person(s) who signed it, the person(s) to whom it was addressed, the person(s) to whom it was sent, its general subject matter, its present location, and its present custodian. If any such document was but is no longer in the possession of the EJA or subject to its control, state what disposition was made of it and explain the circumstances surrounding, and the authorization, for such disposition, and state the date or approximate date thereof.

10. The terms “identify” and “identity” with respect to any non-written communication mean to state the identity of the natural person(s) making and receiving the communication, their respective principals, or employers at the time of the communication, the date, manner and place of the communication, and the topic or subject matter of the communication.

11. The term “oral communication” means any utterance heard, whether in person, by telephone, or otherwise.

12. The term “identify the sources” means to identify and specify all documents and non-written communications upon which you rely in support of the allegation, contention, conclusion, position or answer in question, to state the references drawn from each such source upon which you rely in support of such allegation, contention, conclusion, position or answer and to identify all individuals whom you know to be knowledgeable with respect to the subject matter of such allegation, contention, conclusion, position or answer. Where a source is a public record (e.g., a newspaper, trade journal, judicial or administrative opinion), a quotation and page reference of the material relied upon shall be supplied.

13. The term to “state the basis” for an allegation, contention, conclusion, position, or answer means (a) to identify and specify the sources therefore, and (b) to identify and specify all facts on which you rely or intend to rely in support of the allegation, contention, conclusion, position or answer, and (c) to set forth and explain the nature and application to the relevant facts of all pertinent legal theories upon which you rely for your knowledge, information, and/or belief that there are good grounds to support such allegation, contention, conclusion, or answer.

14. The terms “and” and “or” have both conjunctive and disjunctive meanings as necessary to bring within the scope of the interrogatories and request any information or documents that might otherwise be construed to be outside their scope; “all” and “any” mean both “each” and “every.”

15. The terms “relates to” or “relating to” mean referring to, concerning, responding to, containing, regarding, discussing, describing, reflecting, analyzing, constituting, disclosing, embodying, defining, stating, explaining, summarizing, or in any way pertaining to.

16. The term “including” means “including but not limited to.”

**PGW SET II INTERROGATORIES AND REQUESTS FOR DOCUMENTS
ADDRESSED TO EJA**

INTERROGATORIES

As referenced in EJA Statement No. 1, the Direct Testimony of Dr. Dorie K. Seavey, May 21, 2025:

1. Provide data and all documents reflecting existing Philadelphia customers/buildings converting to electricity, not just losing market share based on new construction. (p. 10)
2. Provide Dr. Seavey's economic analysis and all documents relied upon comparing the ongoing gas costs to non-gas customers versus electrification conversion costs. (p. 17)
3. Provide Dr. Seavey's economic analysis and all related documents, based on a reduced federal LIHEAP funding scenario, comparing full lifetime costs for both low-income and non-low-income customers of continued natural gas service versus electrification conversions. (p. 18)
4. Provide the total additional costs to the electric system from the market-rate growth and conversions you are assuming, including the costs of maintaining infrastructure through 2060. (p. 30)
5. What remediation evaluation process would Dr. Seavey propose for avoiding replacement of at-risk cast iron pipes, while continuing to provide gas service to (at minimum) existing customers on that line as required by the Public Utility Code? (p. 34)
6. Provide the data analysis and documents demonstrating the cost-effectiveness comparison supporting this statement: "This trend will add to the incentives for customers to depart the gas system for more attractive electrification alternatives that are more efficient and offer new customer value." (p. 51)
7. Provide historic actual data, analysis and documents justifying this statement: "At some point, declining sales and customer attrition may in fact challenge its solvency, as wealthier customers leave the gas system and PGW's remaining customers are left with rising per-customer costs for maintaining the system, thereby increasing the need for bill assistance, but without sufficient numbers of customers left to finance the subsidies." (p. 60-61)
8. Provide data and documents demonstrating the Massachusetts energy policy on state-wide utility costs. (p. 63)
9. Provide Dr. Seavey's cost-effectiveness analysis comparing "continued investment in gas..." versus "...zero-emissions building solutions (e.g., electrification, networked geothermal)" including total lifetime costs of building retrofits, transmission and distribution systems upgrades, and power generation. (p. 64-65)
10. Provide all documents and data which provide support for PA existing "best practices" regarding integrated electric utility and gas utility distribution planning. (p. 66)
11. Identify the PA PUC's specific statutory and regulatory authority to require the City of Philadelphia to establish a "Coordinated stakeholder involvement to develop an energy blueprint for the City that establishes a timeline for building sector decarbonization goals and joint responsibilities and roles." (p. 68)

**PGW SET II INTERROGATORIES AND REQUESTS FOR DOCUMENTS
ADDRESSED TO EJA**

12. Identify the PA PUC's specific statutory and regulatory authority to implement requirements on PGW for "identifying, evaluating, implementing cost recovery." (p. 69)
13. Provide the PA PUC's specific statutory and regulatory authority to require PGW to engage in long-term planning in coordination with PECO. (p. 66)

As referenced in EJA Statement No. 2, the Direct Testimony of Dr. Sol DeLeon, May 21, 2025:

14. Provide the historical actual data and documents Dr. DeLeon relied upon demonstrating electrification of Philadelphia's existing building stock. (p. 15)
15. Provide the historical data and documents Dr. DeLeon relied upon demonstrating the prevalence of heat pump water heaters and heat pumps for space heating in PGW's service territory. (p. 16)
16. Provide all the simplifying assumptions and calculations used in Dr. DeLeon's model. (p. 18)
17. Provide Dr. DeLeon's model's results of reduced capital spending on PGW's safety metrics and all related documents. (p. 18)
18. Provide Dr. DeLeon's model's actual historical data and documents regarding electrification adoption your model used in setting the low sales scenario electrification assumptions. (p. 20)
19. Provide Dr. DeLeon's model's analysis of the current electric grid capacity to meet the increased electric demand within your low sales scenario. (p. 20)
20. Provide the impacts of Dr. DeLeon's model's low sales scenario on electric infrastructure, commodity, and delivery costs. (p. 20)
21. Provide Dr. DeLeon's model's results of in-home retrofit costs and related documents for conversions to electric heating. (p. 20)
22. Provide Dr. DeLeon's model's cost-effectiveness analysis results comparing total lifetime costs of continued gas service versus conversions to electric heating. (p. 20)
23. Provide a description of the impact of RNAs and electrification on affordability. (p. 23)
24. Provide all Pennsylvania Public Utility Commission orders on accelerated pipeline replacement programs that have ordered the utility to provide additional reporting. (p. 27)
25. Provide all Pennsylvania Public Utility Commission orders that have required gas utilities to submit long term plans as you reference in your testimony. (p. 29)

**PGW SET II INTERROGATORIES AND REQUESTS FOR DOCUMENTS
ADDRESSED TO EJA**

Respectfully submitted,

/s/ Renardo L. Hicks

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Dated: May 27, 2025

Counsel for Philadelphia Gas Works

Exhibit F.

**Excerpt of the Energy Justice Advocates' Statement No. 1,
the Direct Testimony of Dr. Dorie K. Seavey, served on May 21, 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-2025-3054216

**DIRECT TESTIMONY
OF
DR. DORIE K. SEAVEY
ON BEHALF OF THE
ENERGY JUSTICE ADVOCATES**

May 21, 2025

TABLE OF CONTENTS

I. Introduction	1
II. PGW’s Financial Condition	3
III. PGW’s Falling Gas Sales as a Financial Driver	4
A. Overview	4
B. Analysis.....	7
IV. PGW’s Customer Demographics as a Financial Driver	12
A. Overview	12
B. Analysis.....	16
V. PGW’s Capital Spending Cost Driver	25
A. Overview	25
B. Analysis.....	26
VI. PGW’s Operations and Maintenance Costs as a Financial Driver	36
A. Overview	36
B. Analysis.....	36
C. PGW’s Spending on Lobbying	41
VII. Analysis Implications for PGW’s Business Model	48
VIII. PGW’s Proposed Remedies	56
IX. Recommendations for the Commission	61

EXHIBIT LIST

Exh. DKS-1	Dorie Seavey, Ph.D. Curriculum Vitae.
Exh. DKS-2	PGW Response to OCA-XII-18, Attachment 1.
Exh. DKS-3	PGW 2024 Annual Comprehensive Financial Report (Feb. 17, 2025).
Exh. DKS-4	PA Climate Impacts Assessment 2024.
Exh. DKS-5	PGW Interrogatory Responses.
Exh. DKS-6	Pa. Pub. Util. Comm'n, Bureau of Consumer Affairs, Universal Service Programs & Collections Performance, 2023 Report (Sept. 2024).
Exh. DKS-7	PGW Response to OCA-XIV-3, Attachment 1.
Exh. DKS-8	PGW Response to BIE-RS-01-5A, Attachment 1.
Exh. DKS-9	PGW Response to EJA-V-15, Attachment 1.
Exh. DKS-10	PGW Response to EJA-I-2(i), Attachment 1.
Exh. DKS-11	PGW Response to BIE-RR-I-2, Attachment Capital Expenses 2020-2024.
Exh. DKS-12	American Council for an Energy-Efficient Economy, <i>Data Update: City Energy Burdens</i> (Sept. 2024).
Exh. DKS-13	PGW Response to OCA-VII-11, Attachment 1.
Exh. DKS-14	City of Philadelphia, Office of Sustainability, Alleviating Energy Poverty in Philadelphia (July 2024).
Exh. DKS-15	PGW, Gas Annual Report of Philadelphia Gas Works, Year Ended December 31, 2015.
Exh. DKS-16	PGW, Gas Annual Report of Philadelphia Gas Works, Year Ended December 31, 2024.
Exh. DKS-17	PGW FY 2026 Compliance Capital Budget and Forecast FY 2027-2031 with FY 2026 Financing Plan (Apr. 15, 2025).
Exh. DKS-18	PGW Response to EJA-V-19, Attachment 1.
Exh. DKS-19	PGW Response to EJA-V-25, Attachment 1.
Exh. DKS-20	U.S. Dep't of Transportation, PHMSA, F 7100.1-1, Gas Distribution Annual Data - 2010 to present (PGW download).
Exh. DKS-21	Dorie Seavey, <i>Philadelphia's Gas Pipe Replacement Plan</i> (Mar. 2023).
Exh. DKS-22	2023 Base Rate Case, PGW Interrogatory Responses, Response to POWER-01-22 and Response to POWER-01-23.
Exh. DKS-23	2023 Base Rate Case, PGW Interrogatory Responses, Response to POWER-01-23, Attachment 1.
Exh. DKS-24	Ill. Commerce Comm'n, Ameren Ill. Co., Order, Docket P2023-0067 (Nov. 16, 2023).
Exh. DKS-25	Dorie Seavey, <i>Leaked & Combusted</i> , HEET (May 2024).
Exh. DKS-26	PGW Interrogatory Responses to OCA-V-10 Attachment (Assets).
Exh. DKS-27	PGW Interrogatory Responses to EJA-IV-7, Attachment 1.
Exh. DKS-28	Excerpt from 2023 PGW Rebuttal Testimony of Joseph F. Golden, Jr.
Exh. DKS-29	Excerpt from 2023 Commission Order Denying All PGW Lobbying Expenses.
Exh. DKS-30	PGW Interrogatory Response to EJA-III-4, Attachment 1.
Exh. DKS-31	APGA Blog: APGA and Other Trades Urge DOE and EPA to Roll Back Harmful Electrification Policies.
Exh. DKS-32	Letter from Trade Associations to DOE and EPA (Feb. 2025).

Exh. DKS-33	Susan Phillips, “Gas industry group that includes PGW lobbies against federal funding for Philadelphia and state,” WHYY Article (Apr. 14, 2025).
Exh. DKS-34	Pa. Dep’t of Env’t Prot., <i>Pennsylvania Climate Action Plan 2024</i> (Apr. 2025).
Exh. DKS-35	Order, Mass. Dep’t of Utilities, Docket No. 24-GSEP-03 (Apr. 30, 2025).
Exh. DKS-36	Decision, Cal. Pub. Util. Comm’n, Docket No. 22-09-026, Phase III Decision Eliminating Gas Line Extension Allowances, Ten-Year Refundable Payment Option, and Fifty Percent Discount Payment Option Under Gas Line Extension Rules (Sep. 20, 2022).
Exh. DKS-37	Decision, Cal. Pub. Util. Comm’n, Docket No. 23-12-037, Decision Eliminating Electric Line Extension Subsidies for Mixed-Fuel New Construction and Setting Reporting Requirements (Dec. 21, 2023).
Exh. DKS-38	City of Philadelphia, Office of Sustainability, Philadelphia Climate Action Playbook (Jan. 2021).

* Exhibits are available for download [here](#).

1 climate goals. For example, the California Public Utilities Commission eliminated gas
2 line extension subsidies (including allowances and other subsidized payback options)
3 in 2022,¹⁵⁴ and in order to incentivize all-electric new construction, also eliminated
4 electric line extension subsidies to any property also connecting to the gas system in
5 2023.¹⁵⁵ Similarly, Colorado passed S.B. 23-291 in 2023 eliminating incentives for
6 gas line extensions.¹⁵⁶ Placing the costs of extending the gas distribution system on
7 the builder seeking to do so, rather than socializing these costs to all ratepayers, is
8 consistent with climate and affordability policies like Philadelphia’s.¹⁵⁷

- 9 4. Coordinated stakeholder involvement to develop an energy blueprint for the City that
10 establishes a timeline for building sector decarbonization goals and joint
11 responsibilities and roles. Possible stakeholders include: the City of Philadelphia, and
12 any interested offices therein, such as the Office of Sustainability; the
13 Commonwealth, and any state administrative agencies or staff, such as Commission

¹⁵⁴ Exh. DKS-36, Decision, Cal. Pub. Util. Comm’n, Docket No. 22-09-026, Phase III Decision Eliminating Gas Line Extension Allowances, Ten-Year Refundable Payment Option, and Fifty Percent Discount Payment Option Under Gas Line Extension Rules (Sep. 20, 2022).

¹⁵⁵ Exh. DKS-37, Decision, Cal. Pub. Util. Comm’n, Docket No. 23-12-037, Decision Eliminating Electric Line Extension Subsidies for Mixed-Fuel New Construction and Setting Reporting Requirements (Dec. 21, 2023).

¹⁵⁶ Colo. Rev. Stat. Ann. § 40-3.2-104.3(2)(a) (“A gas utility shall not provide an applicant with an incentive, including a line extension allowance, to establish gas service to a property.”).

¹⁵⁷ See, e.g., Exh. DKS-14, City of Philadelphia, Office of Sustainability, Alleviating Energy Poverty in Philadelphia at 6, 19 (July 1, 2024) (identifying “[e]nergy efficient houses, with affordable and clean heating and cooling” as a “fundamental aspect of housing quality and achieving emissions reductions” and identifying “advocat[ing] for stronger efficiency-related and clean energy standards for new construction and retrofit projects” as an “immediate” priority action in its Energy Poverty Alleviation Strategy); Exh. DKS-38 City of Philadelphia, Office of Sustainability, Philadelphia Climate Action Playbook, at 3, 13–14, 44 (Jan. 2021) (committing to carbon neutrality by 2050 and finding that 75% of Philadelphia’s carbon emissions come from buildings and industry, including “fugitive emissions from oil and natural gas systems.”).

1 staff; PECO; ratepayer advocates and advocates for low-income utility customers;
2 and any other stakeholders that choose to intervene in the docket.

- 3 5. Revised and/or expanded regulatory frameworks for: a) establishing longer planning
4 horizons for assessing PGW's capital spending proposals (the current active horizon
5 calls for five-year plans to address a four-decade project); b) managing stranded asset
6 risk, including updating depreciation methodologies in light of declining gas system
7 throughput and utilization; c) providing up-to-date best-industry standards for
8 rigorous and verifiable risk assessment methodology; and d) providing guidance and
9 requirements for identifying, evaluating, implementing cost recovery for NPAs.
- 10 6. Reasonable short-, medium- and long-term business goals for PGW given the
11 declining role of gas in Philadelphia's energy future, the evolving energy needs of the
12 City's building sector, and the advancing energy transition.

13
14 **Q. What procedural elements do you recommend?**

15 In order to ensure that the results of the proceeding are based on the best available
16 evidence and integrate information from as many stakeholders as possible, it is essential
17 the docket includes discovery, public input hearing, expert testimony, and evidentiary
18 hearings.

19
20 **Q. How would the PGW Long-Term Gas Planning Proceeding differ from PGW's
21 Long-Term Infrastructure Improvement Plan ("LTIIP") process?**

22 A. The LTIIP proceeding allows for the review and approval of accelerated infrastructure
23 replacement via the DSIC-funded portion of PGW's main replacement program. While

1 PGW could petition to increase its DSIC cap as part of an LTIP proceeding, thereby
2 accessing greater capital funds for pipeline replacement, LTIP does not contemplate
3 reducing capital spending to match declining load, or incorporate broader or deeper
4 system planning questions. In contrast, the PGW Long-Term Gas Planning Proceeding
5 would have a goal of developing longer-term planning processes for PGW to align its
6 goals and spending with changed circumstances.

7

8 **Q. Does this conclude your testimony?**

9 **A. Yes.**

VERIFICATION

I hereby verify that the facts contained in the foregoing testimony 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: May 21, 2025

/s/ Dr. Dorie K. Seavey