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August 28, 2025

Via Electronic Filing

Rosemary Chiavetta, Secretary
Secretary's Bureau
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
rchiavetta@pa.gov

Re: *3213 Penn LLC v. The Pittsburgh Water and Sewer Authority*
Docket No. C-2023-3038775

Dear Secretary Chiavetta,

Enclosed for electronic filing in the above-referenced matter, please find Respondent, The Pittsburgh Water and Sewer Authority's Motion to Deem Requests for Admission Admitted, Compel Responses to Interrogatories and Requests for Production of Documents, and for Sanction. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

CLARK HILL PLC

/s/ Ashley L. Buck

Ashley L. Buck

ALB/sm

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Respondent, The Pittsburgh Water and Sewer Authority's Motion to Deem Requests for Admission Admitted, Compel Responses to Interrogatories and Requests for Production of Documents, and for Sanctions, upon the parties listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

VIA E-MAIL ONLY

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Hon. Steven K. Haas
Administrative Law Judge
PA Public Utility Commission
400 North Street
Keystone Bldg.
Harrisburg, PA 17120
sthaas@pa.gov

DATED this 28th day of August 2025.

/s/ Ashley L. Buck
Ashley L. Buck

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

3213 PENN, LLC,)	
)	
Complainant,)	
)	
vs.)	Docket No. C-2023-3038775
)	
THE PITTSBURGH WATER AND SEWER)	
AUTHORITY,)	
)	
Respondent.)	

**THE PITTSBURGH WATER AND SEWER AUTHORITY’S
MOTION TO DEEM REQUESTS FOR ADMISSION ADMITTED,
COMPEL RESPONSES TO INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS, AND FOR SANCTIONS**

To The Honorable Administrative Law Judge Steven K. Haas:

Pursuant to 52 Pa.Code §§5.321, 5.342, 5.349, 5.350, 5.371 and 5.372, Respondent, The Pittsburgh Water and Sewer Authority (“Pittsburgh Water”), by and through its undersigned counsel, files this Motion to Deem Requests for Admission Admitted, to Compel Complainant, 3213 Penn, LLC’s (“Complainant”) Responses to Pittsburgh Water’s First Set of Interrogatories, and Requests for Production of Documents, and for Sanctions (“Motion”).

Specifically, Pittsburgh Water seeks an Order from Administrative Law Judge Steven K. Haas (“Judge Haas”): (i) deeming Pittsburgh Water’s Requests for Admission served upon Complainant admitted for all purposes in this action; (ii) compelling Complainant’s response(s) to Pittsburgh Water’s First Set of Interrogatories and Requests for Production of Documents within five (5) days of the entry of the Order attached hereto; and (iii) all other relief deemed equitable and just. In support thereof, Pittsburgh Water states:

I. BACKGROUND

1. On January 3, 2025, Pittsburgh Water served Complainant with its First Set of Interrogatories, Requests for Production of Documents and Requests for Admission (collectively, the “Discovery Requests”). A true and correct copy of the same is attached hereto as **Exhibit “A”**.

2. The Discovery Requests contain thirty (30) interrogatories, nine (9) requests for production, and sixteen (16) requests for admission. *See* Ex. A.

3. Per applicable Rules, Complainant’s responses to the Discovery Requests were due on or before January 23, 2025. *See* 52 Pa.Code §5.342(d) (answering party shall serve answers within 20 days after service of the interrogatories); 52 Pa.Code §5.349(d) (party upon whom the request [for production] is served shall serve a written response within 20 days after service of the request); and 52 Pa.Code §5.350(c) (matter is admitted unless, within 20 days after service of the request [for admission], the party to whom the request is directed answers or makes an objection to the matter, signed by the party or by his attorney).

4. On January 22, 2025, Complainant requested an extension until February 20, 2025 to respond to the Discovery Requests, which Pittsburgh Water agreed to. A true and correct copy of the email correspondence reflecting this exchange is attached hereto as **Composite Exhibit “B”**.

5. On February 20, 2025, Complainant requested an additional extension of two weeks, to which Pittsburgh Water again agreed. *See* Composite Ex. B.

6. As such, Complainant’s responses to the Discovery Requests were due on or before March 6, 2025.

7. Complainant did not provide any responses - or request any additional extension of time to respond to the Discovery Requests – on or before the March 6, 2025 deadline.

8. On March 10, 2025, Pittsburgh Water emailed Complainant seeking a status update on any forthcoming responses to the Discovery Requests. *See* Composite Ex. B. Complainant did not respond.

9. On July 24, 2025, Pittsburgh Water contacted Complainant in response to a status update requested by Judge Haas, and Pittsburgh Water advised: “[I]f 3213 Penn intends to proceed with this litigation, Pittsburgh Water requests responses to the outstanding written discovery.” A true and correct copy of the email correspondence (as redacted for relevance) is attached hereto as **Composite Exhibit “C”**.

10. Complainant, again, did not respond.

11. On July 31, 2025, Pittsburgh Water again sought an update from Complainant so as to timely provide Judge Haas with the requested status update. *See* Composite Ex. “C”.

12. Complainant, again, did not respond.

13. Pittsburgh Water ultimately provided its own status update to Judge Haas on August 1, 2025, advising, in part: “No activity has occurred since the date of our last status update. While I have twice contacted Complainant in an attempt to obtain a status update as to this case (on July 24 and 31), I have not received any response. Complainant’s responses to Pittsburgh Water’s written discovery remain outstanding. Complainant’s counsel is copied on this correspondence.”

14. Complainant did not respond.

15. Judge Haas thereafter requested the parties’ availability for a prehearing conference in September, which Pittsburgh Water provided.

16. Complainant did not respond.

17. In light of Complainant's non-responsiveness and failure to pursue this action for a substantial period of time, Pittsburgh Water attempted one final outreach to Complainant on August 9, 2025, advising as follows: "Please be advised that if we do not receive Complainant's responses to Pittsburgh Water's outstanding discovery on or before August 25, 2025, we'll be forced to file a Motion to Compel and/or Deem Admitted." *See* Composite Ex. "C".

18. Complainant, again, did not respond.

19. To date, Complainant failed to provide any response(s) to the Discovery Requests, to otherwise respond to Pittsburgh Water, or provide Judge Haas with requested status updates and other availability.

20. In fact, for months, Pittsburgh Water has been the only party attempting to advance the resolution of this matter in any way.

21. Pittsburgh Water now moves for an Order: (i) deeming Pittsburgh Water's Requests for Admission served upon Complainant admitted for all purposes in this action; and (ii) compelling Complainant's response(s) to Pittsburgh Water's First Set of Interrogatories and Requests for Production of Documents within five (5) days of the entry of the Order attached hereto; and (iii) all other relief deemed equitable and just.

II. ARGUMENT

22. Pursuant to 52 Pa.Code §5.321(c), "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition, and location of any books, documents, or other tangible things and the identity, and location of persons having knowledge of a discoverable matter."

23. The Commission has held that “[i]nformation 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”, “[r]elevancy in discovery is broader than the standard used for admission of evidence at a hearing, and “[a]ny doubts regarding relevancy should be resolved in favor of discovery.” *See Petition of the Borough of Cornwall for a Declaratory Order that the Provision of Water Service to Isolated Customers Adjoining its Boundaries Does Not Constitute Provision of Public Utility Service Under 66 Pa.C.S. § 102*, Dkt. No. P-2015-2476211, (Order Issued Sept. 11, 2015) (citing *Smith v. Morrison*, 47 A.3d 131 (Pa. Super. 2012), *app. denied*, 57 A.3d 71 (Pa. 2012) and *Com. v. TAP Pharmaceutical Products, Inc.*, 904 A.2d 986 (Pa. Cmwlth. 2006)).

24. Indeed, the Commission has allowed participants wide latitude in discovery matters. *See Application of Nabil Nasr and Wael Hafez*, A-2012-2295813, Initial Decision Dismissing Application at p. 7 (Nov. 28, 2012).¹

25. To obtain discovery, a party may, *inter alia*, serve Requests for Admissions (52 Pa.Code §5.350), Interrogatories (52 Pa.Code §5.341), and Requests for Production 52 Pa.Code §5.349).

26. Failure to provide discovery responses, or to timely object, can result in the imposition of sanctions by the Commission or Presiding Officer against the non-compliant party. *See* 52 Pa.Code §§5.371 and 5.372.

¹ Complainant has not lodged any objection(s) to Pittsburgh Water’s Discovery Requests. Further, the burden is on the party objecting to discovery to establish that the information requested is not relevant or discoverable. *See Petition of the Borough of Cornwall for a Declaratory Order that the Provision of Water Service to Isolated Customers Adjoining its Boundaries Does Not Constitute Provision of Public Utility Service Under 66 Pa.C.S. § 102*, Dkt. No. P-2015-2476211, (Order Issued Sept. 11, 2015), citing *Koken v. One Beacon Ins. Co.*, 911 A.2d 1021, 1025 (Pa. Cmwlth. Ct. 2006). Since Complainant has failed to timely object, any challenge to relevancy and/or discoverability has been waived.

a. Complainant Failed To Respond To Pittsburgh Water's Requests For Admission, And The Requests Are Now Admitted As A Matter Of Law

27. On January 3, 2025, Pittsburgh Water served Complainant with Requests for Admission. *See* Ex. A.

28. A “matter is admitted unless, within 20 days after service of the request, the party to whom the request is directed answers or makes an objection to the matter, signed by the party or by his attorney.” 52 Pa. Code §5.350(c).

29. At the absolute latest, Complainant’s response(s) to the Requests for Admission were due on or before March 6, 2025.

30. However, Complainant did not answer, deny, or object – or seek an additional extension to respond - to the Requests for Admission on or before March 6, 2025. Indeed, as of the filing of this Motion, Complainant has failed to provide *any* response(s) to the Requests for Admission.

31. As such, as a matter of law, the Requests for Admission are admitted by Complainant for all purposes in this action.

32. Accordingly, Pittsburgh Water respectfully requests that the Presiding Officer enter an Order deeming the Requests for Admission admitted for all purposes in this action.

b. Complainant Failed To Respond To Pittsburgh Water's First Set Of Interrogatories And Requests For Production Of Documents And Must Be Compelled To Provide Full, Complete, Substantive, And Verified Discovery Responses

33. On January 3, 2025, Pittsburgh Water served its First Set of Interrogatories and Requests for Production of Documents upon Complainant. *See* Ex. A.

34. The First Set of Interrogatories and Requests for Production of Documents are aimed specifically at enabling Pittsburgh Water to better understand the instant dispute, adequately prepare its defense(s), and formulate its positions. *See* Ex. A.

35. At the absolute latest, Complainant's responses to the First Set of Interrogatories and the Requests for Production of Documents were due on or before March 6, 2025.

36. However, Complainant did not answer or respond – or seek an additional extension to respond - to the First Set of Interrogatories on or before March 6, 2025.

37. Indeed, as of the filing of this Motion, Complainant has failed to provide *any* response(s) to Pittsburgh Water's First Set of Interrogatories.²

38. Similarly, Complainant did not answer or respond – or seek an additional extension to respond - to the Requests for Production of Documents on or before March 6, 2025.

39. Indeed, as of the filing of this Motion, Complainant has failed to provide *any* response(s) to Pittsburgh Water's Requests for Production of Documents.³

40. Pursuant to 52 Pa.Code §§5.342, 5.349, 5.371 and 5.372, the Presiding Officer may enter an appropriate order if a party fails to answer or otherwise respond to discovery requests.

41. Pittsburgh Water respectfully requests the Presiding Officer enter an order compelling Complainant to provide full, complete, substantive, and verified responses to Pittsburgh Water's First Set of Interrogatories and Requests for Production of Documents within five (5) days of the entry of the Order attached hereto.

² Complainant did not object to the First Set of Interrogatories within 10 days of service. *See* Pa.Code §5.342 (e).

³ Complainant did not object to the Requests for Production of Documents within 10 days of service. *See* Pa.Code §5.349(d) (“If the request is objected to, the objection shall be made in the manner described in §5.342); *See also* Pa.Code §5.342(e) (“The objecting party shall serve objections within 10 days of service...”).

42. Pittsburgh Water has been nothing but patient and persistent with Complainant; however, Pittsburgh Water is now prejudiced by Complainant's failure to timely respond to the First Set of Interrogatories and Requests for Production of Documents.

43. The information sought by Pittsburgh Water in the First Set of Interrogatories and Requests for Production of Documents is necessary for Pittsburgh Water to investigate this matter and prepare a defense of the claims in this action.

44. Given that Complainant has the burden of proof in this action, it is incumbent upon Complainant to provide responses to Pittsburgh Water's First Set of Interrogatories and Requests for Production of Documents so that Pittsburgh Water is able to adequately and efficiently assess and defend the claims brought against it.

45. Without full and complete answers to the First Set of Interrogatories and the Requests for Production of Documents, Pittsburgh Water is prejudiced in its ability to properly defend itself against the claim(s) at issue herein.

46. Accordingly, Pittsburgh Water respectfully requests that the Presiding Officer enter an Order compelling Complainant to provide full and complete verified discovery responses to Pittsburgh Water's First Set of Interrogatories and Requests for Production of Documents within five (5) days of the entry of the Order attached hereto.

c. An Award of Sanctions Is Authorized And Appropriate In Light Of Complainant's Noncompliance

47. Pursuant to 52 Pa.Code §5.371(a)(1) the Commission or Presiding Officer may enter an appropriate order if "[a] party fails to appear, answer, file sufficient answers, file objections, make a designation, or otherwise respond to discovery requests."

48. Any such failure may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has failed an appropriate objection or has applied for a protective order. 52 Pa.Code §5.371(b).

49. Here, as detailed at length above, Complainant has failed to answer, respond, or object to Pittsburgh Water's First Set of Interrogatories and Requests for Production of Documents.

50. Succinctly stated, Complainant has failed to comply with its discovery obligations.

51. In light of Complainant's wholesale failure to comply with its discovery obligations, the Presiding Officer has the authority pursuant to 52 Pa.Code. §5.371(a) to enter an appropriate order sanctioning Complainant.

52. A Sanction Order may include:

- a. An order that the matters regarding which the questions were asked, the character or description of the thing or land, the contents of the paper, or other designated fact shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order.
- b. An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting the party from introducing in evidence designated documents, things, or testimony.
- c. An order striking out pleadings or parts thereof, staying further proceedings until the order is obeyed, or entering a judgment against the disobedient party or individual advising the disobedience.
- d. An order with regard to the failure to make discovery as is just.

52 Pa.Code §5.372(a) (1 – 4).

53. As set forth above, Pittsburgh Water requests that the Requests for Admission be deemed admitted for all purposes in this action.

54. Similarly, Pittsburgh Water requests that the Presiding Officer enter an Order compelling Complainant to provide full and complete verified discovery responses to Pittsburgh

Water's First Set of Interrogatories and Requests for Production of Documents within five (5) days of the entry of the Order attached hereto.

55. Pittsburgh Water further requests that the Presiding Officer include language within the Order that if Complainant fails to comply with the Order – and fails to provide discovery responses and/or documents to Pittsburgh Water's First Set of Interrogatories and Requests for Production within five (5) days of the Order – then Complainant shall be barred from introducing at any evidentiary proceeding or otherwise referring to such late or non-provided documents, information or evidence, among such other relief as Pittsburgh Water may request at a later date in advance of any evidentiary proceeding in this matter.

III. CONCLUSION

56. Pittsburgh Water's Discovery Requests are directly relevant to, and fall squarely within, the scope of this proceeding.

57. The information sought is reasonably calculated to lead to admissible evidence and will enable Pittsburgh Water to adequately prepare its case for the hearing.

58. For the reasons set forth above, Pittsburgh Water respectfully requests that the Presiding Officer grant this Motion.

WHEREFORE, Pittsburgh Water respectfully requests the entry of an Order: (i) deeming Pittsburgh Water's Requests for Admission served upon Complainant admitted for all purposes in this action; (ii) compelling Complainant's response(s) to Pittsburgh Water's First Set of Interrogatories and Requests for Production of Documents within five (5) days of the entry of the Order attached hereto; and (iii) all other relief deemed equitable and just.

Respectfully submitted,

Dated: August 28, 2025

/s/ Ashley L. Buck
Ashley L. Buck, Esquire

Pa. I.D. No. 320537
CLARK HILL PLC
One Oxford Centre
301 Grant Street, 14th Floor
Pittsburgh, PA 15219-1425
(412) 394-7711

*Attorneys for Respondent,
The Pittsburgh Water and Sewer Authority*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

3213 PENN, LLC,)	
)	
Complainant,)	
)	
vs.)	Docket No. C-2023-3038775
)	
THE PITTSBURGH WATER AND SEWER)	
AUTHORITY,)	
)	
Respondent.)	

ORDER

AND NOW, to wit, this _____ day of _____, 2025, it is hereby ORDERED, ADJUDGED and DECREED that The Pittsburgh Water and Sewer Authority’s Motion to Deem Requests for Admission Admitted, Compel Responses to Interrogatories and Requests for Production of Documents, and for Sanctions is **GRANTED**.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that The Pittsburgh Water and Sewer Authority’s First Set of Requests for Admissions attached to its Motion as Exhibit “A” are DEEMED ADMITTED for all purposes in this action.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that Complainant, 3213 Penn, LLC, shall provide full, complete, substantive, and verified responses to the Respondent’s First Set of Interrogatories and Requests for Production of Documents within five (5) days of the date hereof.

In the event that Complainant fails to provide responses and information (including the production of responsive documents) to the Respondent’s First Set of Interrogatories and Requests for Production of Documents as provided by this Order, Complainant, 3213 Penn, LLC, shall be barred from introducing at any evidentiary proceeding or otherwise referring to such late- or non-

provided documents, information or evidence, among such other relief as the Respondent may request at a later date in advance of any evidentiary proceeding in this matter.

DONE AND ORDERED THIS _____ DAY OF _____, 2025.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Respondent, The Pittsburgh Water and Sewer Authority's Motion to Deem Requests for Admission Admitted, to Compel Responses to Interrogatories and Requests for Production of Documents, and for Sanctions upon the parties listed below, in accordance with the requirements of §1.54 (relating to service by a party).

VIA E-MAIL ONLY

Stuart C. Gaul, Jr.
Bernstein Burkley, P.C.
601 Grant Street, 9th Floor
Pittsburgh, PA 15219
sgaul@bernsteinlaw.com
Attorneys for Complainant, 3123 Penn, LLC

Hon. Steven K. Haas
Administrative Law Judge
PA Public Utility Commission
400 North Street
Keystone Bldg.
Harrisburg, PA 17120
sthaas@pa.gov

DATED this 28th day of August 2025.

/s/ Ashley L. Buck

Ashley L. Buck

EXHIBIT

“A”

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

3213 PENN, LLC,)	
)	Docket No. C-2023-3038775
Complainant,)	
)	
v.)	
)	
THE PITTSBURGH WATER AND)	
SEWER AUTHORITY,)	
)	
Respondent.)	

**RESPONDENT PITTSBURGH WATER AND SEWER AUTHORITY’S
FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION OF
DOCUMENTS, AND REQUESTS FOR ADMISSION DIRECTED TO COMPLAINANT**

Respondent, Pittsburgh Water and Sewer Authority d/b/a Pittsburgh Water (“Pittsburgh Water”), requests that Complainant, 3213 Penn, LLC (“3213 Penn”), respond to the following First Set of Interrogatories, Requests for Production of Documents, and Requests for Admission (collectively, “Requests” and individually, “Request”) within twenty (20) days from the date of service hereof.

Each Request shall be continuing in nature. If, after providing responses to these Requests, You become aware of additional information responsive to a Request, You are required to furnish a supplemental response within a reasonable time. Each response shall be preceded by a restatement of the Request being answered. These consolidated Requests are issued in a consolidated manner for both of the above-captioned docket numbers.

DEFINITIONS

As used in these combined Requests, the terms listed below are defined as follows:

1. “Pittsburgh Water” shall mean and refer to Pittsburgh Water and Sewer Authority d/b/a Pittsburgh Water, as well as its employees, representatives, agents, subcontractors and suppliers.
2. “You” and “Your” shall mean and refer to 3123 Penn, LLC, as well as anyone acting on its behalf, including its agents, representatives, contractors, insurers and attorneys.
3. The “Complaint” shall mean and refer to the Amended Formal Complaint filed by You before the Pennsylvania Public Utility Commission at No. C-2023-3038775.
4. “Application” shall mean and refer to Your 2021 application to tap in to Pittsburgh Water infrastructure as described in Paragraph 3 of the Complaint.
5. “Renewed Application” shall mean and refer to Your renewed and/or modified application to tap in to Pittsburgh Water infrastructure, which was submitted to Pittsburgh Water in or about March 2022.
6. “Lawsuit” shall mean the above-captioned action.
7. “Document” or “documents” shall mean and refer to and include without limitation all written, printed or graphic matter of every kind or description, however produced or reproduced, whether drafted or final, original or reproduction, signed or unsigned, and regardless of whether approved, signed, sent, received, redrafted, or executed, including, but not limited to, written communications, letters, correspondence, facsimile transmissions, memoranda, minutes, notes, photographs, slides, motion pictures, diagrams, surveys, charts, calendars, field inspection reports, service reports, daily reports, sketches, telegrams, telex messages or phone logs, phone messages, tape or sound recordings, recordings of any type, contracts, agreements, purchase or

sale orders, records or memoranda of telephone conversations or personal conversations, diaries, calendars, minutes, notes of conferences or meetings, interoffice communications, confirmation slips, statistical records, measurements, journals, ledgers, books, magazines, brochures, newsletters, affidavits, statements, summaries, reports, studies, bills, receipts, logs, vouchers, checks, checkbooks, invoices, requisitions, computer printouts, e-mail, computer discs, computer hard drives and recordings, worksheets, work papers, personal expense accounts, electronic records or representations of any kind, mechanical records or representations of any kind, electrical records or representations of any kind, or material similar to any of the foregoing, however denominated and by whomever prepared and to whomever addressed which are in Your possession, custody or control or to which You have, have had, or can obtain access, including, but not limited to those which are in the possession, custody, or control of Your present or former agents, representatives, or attorneys.

8. “Communication” means any transfer or exchange between two or more persons of any information whether by written or oral means, including, but not limited to, personal conversations, correspondence, telephone calls, email, facsimile, computer disk, and telegrams.

9. “Person” shall mean and refer to any individual, business or entity.

10. “Referring to”, “relating to”, “relate” and “concerning” (and all similar phrases) should be construed in the broadest sense possible and shall mean commenting upon, including, regarding, discussing, describing, reflecting, relevant to, constituting, used in connection with, embodying, or evidencing, demonstrating and implying.

11. When used in reference to an individual person, “identify” or “identity” means to state his or her full name and present or last known address and telephone number, and present or last known position and business affiliation. When used in reference to a business organization or

entity other than an individual, “identify” or ‘identity’ means to state its full name, its principal business address, and the nature of the organization (e.g., corporation, partnership).

12. When You are asked to state or identify the date on which some Incident or event occurred, provide the day, month and year, if known; if the day is not known, provide the month or season along with the year; if the month and/or year is not known, identify’ the date by relating it to some established time (e.g., “six months after the death of _____”).

13. The term “identify” when used with reference to an oral communication, discussion, conversation, meeting, conference, or any other oral statements, shall mean to describe in detail the substance of each such communication, discussion, conversation, meeting, conference or statement, including a description of each statement made and each response thereto, identify the person making each statement and identify the person to whom each statement was made, state the date of such communication, discussion, conversation, meeting, conference or statement, the place where such communication, discussion, conversation, meeting, conference or statement was held, the duration of such communication, discussion, conversation, meeting, conference or statement and identify each person present for such communication, discussion, conversation, meeting, conference or statement, if such communication, discussion, conversation, meeting, conference or statement was by telephone, identify the persons participating in the telephone call, identify the person making the call and state the places where the persons participating in the call were located.

14. The terms “describe in detail” and “set forth the factual basis” shall mean to describe fully by reference to underlying facts rather than by ultimate facts or conclusions of facts or law and particularize as to the times, places and manner.

15. “And” as well as “or” shall be construed disjunctively or conjunctively, as necessary to bring within the scope of these requests any information which might otherwise be construed to be outside of their scope.

INSTRUCTIONS

1. With respect to each request herein to produce documents, You are required to produce all documents which are known to You or which can be located or discovered by reasonably diligent effort, in Your possession, custody or control, regardless of location, including all such documents requested to be produced which are in the files, possession, custody or control of Your attorneys, accountants, agents, consultants, representatives or employees.

2. If any document is withheld on the ground that it is privileged or that it constitutes attorney work product, or for any other reason, please identify each such document by stating:

- (a) The type of document (e.g. letter, memorandum, etc.);
- (b) The date of the document;
- (c) The name and address of the author of the document;
- (d) The name and address of each recipient of the document;
- (e) The general subject matter of the document;
- (f) The name and address of the custodian of the document and the designation of the file(s) in which the document is located; and
- (g) The precise basis upon which the document is being withheld.

3. In answering these Requests, furnish all information available to You, including information in the possession of Your attorneys or investigators, and not merely information based on Your own personal knowledge. If You cannot answer the following Interrogatories in full after exercising due diligence to secure the information to do so, then so state and answer to the extent possible, specifying Your inability to answer the remainder and stating whatever information or knowledge You have concerning the unanswered portions.

4. Each Request shall be accorded a separate answer. Each answer shall first set forth verbatim the Request to which it is responsive. Requests shall not be combined for the purpose of supplying a common answer thereto. The answer to a Request shall not be supplied by referring to the answer to another Request unless the Request supplies a complete and accurate answer to the Request being answered.

5. When an individual Requests calls for an answer that involves more than one part, the answer to each part should be clearly set out so that it is understandable.

6. In the event that Your answer to any Request is “not applicable” or any similar phrase or response, explain in detail why the Request is not applicable. In the event that Your Answer to a Request is “do not know” or “unknown” or any similar phrase or response, explain in detail all efforts made by You, Your attorneys, or representatives to obtain the answer to the Request.

7. If a Request asks for a date or time, provide the exact information. If You do not know or cannot determine the exact date or time, identify the time period or other information that can be of assistance in determining the requested date and time. If You refer to a document or documents with respect to any answer, identify such document or documents with sufficient specificity to permit the document to be easily and precisely located and/or requested, and identify the page or portion of the document that is pertinent to Your answer.

8. If You do not object to, or otherwise decline to answer any portion of a Request, provide all information called for by that portion of the Request to which You do not object or to which You do not decline to answer. For those portions of any Request to which You object or otherwise decline to answer, state in detail the reason for such objection or declination.

9. If You require clarification of what is being sought in any Request, please telephone the undersigned attorneys prior to declining to answer or answering incompletely.

10. When appropriate, in the context of a particular Request or an answer thereto, the singular shall mean the plural, and the masculine gender shall mean the feminine, and vice versa.

INTERROGATORIES

1. Identify each person who furnished information upon which answers to these Requests are based, and for each such person, state the number of each Request for which that person furnished any information.

ANSWER:

2. Identify all persons known to You who have knowledge of any of the issues or allegations set forth in the Complaint. In identifying each and every individual, provide the following information:

- (a) name and title;
- (b) home address and telephone number;
- (c) work address and telephone number; and
- (d) the specific nature, extent and substance of each and every witness' knowledge and/or information (including, without limitation, citation to particular paragraphs in the Complaint about which each such person has knowledge).

ANSWER:

3. Identify and produce every exhibit which You intend to use at trial, and produce each and every such exhibit identified in response to this Interrogatory for review and inspection by Pittsburgh Water.

ANSWER:

4. Set forth the name, address and telephone number of each person that You may call as a witness at trial, and for each such person set forth the substance of the facts to which each such person is expected to testify.

ANSWER:

5. Identify each and every occasion on which You communicated with someone other than Pittsburgh Water, either verbally or in writing, regarding either the Application or Renewed Application. In so doing:

- (a) Identify each other person with whom You communicated;
- (b) Identify any and all persons involved in each such communication on Your behalf;
- (c) Identify the date(s) of all such communications;
- (d) Identify the nature and content of all such communications; and
- (e) Identify and produce all documents and information that refer or relate to all such communications identified by You in response to this Interrogatory.

ANSWER:

6. Identify with particularity each and every detail which You contend is different between the Application and Renewed Application.

ANSWER:

7. Identify each and every attempt You made to tap in to Pittsburgh Water's infrastructure between August 20 and October 17, 2021.

ANSWER:

8. Describe in detail why You did not attempt to tap in to Pittsburgh Water's infrastructure between August 20 and October 17, 2021.

ANSWER:

9. Describe in detail why the City of Pittsburgh Office of Permits, Licenses, and Inspections ("PLI") demanded that You revise Your fire permit submission as alleged in paragraph 7 of the Complaint.

ANSWER:

10. Identify each and every "change[]" Pittsburgh Water "demanded" as alleged in paragraph 7 of the Complaint.

ANSWER:

11. Explain the basis for Your averment in paragraph 7 of the Complaint that You “could not practically proceed with tap-in.”

ANSWER:

12. State the date on which You first performed the updated flow test as alleged in paragraph 7 of the Complaint.

ANSWER:

13. Identify all such attempts You made for Pittsburgh Water to “otherwise approve” Your “tap-in to PWSA’s fresh-water and sewer lines” prior to January 12, 2022.

ANSWER:

14. Explain the basis for Your averment in paragraph 13 of the Complaint that “PWSA effectively revoked [its 2021] approval[.]”

ANSWER:

15. Explain the basis for Your averment in paragraph 13 of the Complaint that Pittsburgh Water “made it impossible for 3213 Penn to proceed in reliance on [Pittsburgh Water’s approval of the Application in 2021].”

ANSWER:

16. State the date on which You first learned that Pittsburgh Water’s tariff rates were changing in January 2022 to a structure that eliminated tapping fees, and explain how You came to learn of that fact and/or what implications the fee change would have on the cost of Your Application.

ANSWER:

17. Identify any and all third parties who You believe were approved to tap in to Pittsburgh Water’s infrastructure in 2021 but were charged pursuant to the 2022 rate structure.

ANSWER:

18. Describe in detail the basis for Your averment in paragraph 14 of the Complaint that “PWSA directed 3213 Penn to reapply” and identify every such occasion on which Pittsburgh Water directed You to “reapply.”

ANSWER:

19. Identify each and every “other similarly situated persons and entities” You refer to in paragraphs 16 and 25 of the Complaint.

ANSWER:

20. State with particularity any and all evidence (including, without limitation, documents) that You have that relates in any manner to Your averment in paragraph 17 of the Complaint that “PWSA recognized that the rates under the 2020 Schedule were not just and reasonable[.]”

ANSWER:

21. State with particularity any and all evidence (including, without limitation, documents) that You have that relates in any manner to whether Pittsburgh Water’s treatment of Your Application and Renewed Application was consistent with Pittsburgh Water’s treatment of other applicants similarly situated to You.

ANSWER:

22. Identify each and every provision of the Public Utility Code that Pittsburgh Water allegedly violated by its retention “of more than \$345,000 in 3213 Penn’s funds” as alleged in paragraph 18 of the Complaint.

ANSWER:

23. Describe in detail the basis for Your averment that Pittsburgh Water's retention "of more than \$345,000 in 3213 Penn's funds ... was contrary to the Public Utility Code" as alleged in paragraph 18 of the Complaint.

ANSWER:

24. State with particularity any and all evidence (including, without limitation, documents) that You have that relates to Your contention that Pittsburgh Water's retention "of more than \$345,000 in 3213 Penn's funds ... was contrary to the Public Utility Code" as alleged in paragraph 18 of the Complaint.

ANSWER:

25. Describe in detail the basis for Your averment that Pittsburgh Water's retention "of more than \$345,000 in 3213 Penn's funds" is "unlawful under Pennsylvania Law" as alleged in paragraph 18 of the Complaint.

ANSWER:

26. State with particularity any and all evidence (including, without limitation, documents) that You have that relates to Your contention that Pittsburgh Water's retention "of more than \$345,000 in 3213 Penn's funds" is "unlawful under Pennsylvania Law" as alleged in paragraph 18 of the Complaint.

ANSWER:

27. Describe in detail the basis for Your averment in paragraph 20 of the Complaint that “PWSA prevented 3213 Penn from proceeding with the tap-in” and identify every such occasion on which Pittsburgh Water prevented You from tapping in.

ANSWER:

28. Describe in detail the basis for Your averment in paragraph 21 of the Complaint that You were “not able to act” on Pittsburgh Water’s 2021 approval of the Application.

ANSWER:

29. State all such occasions on which You attempted to tap in to Pittsburgh Water’s infrastructure in 2021 but Pittsburgh Water did not “allow[] tap in to proceed” as alleged in paragraph 24 of the Complaint.

ANSWER:

30. State with particularity any and all evidence (including, without limitation, documents) that You have that relates in any manner to Your averment in paragraph 28 of the Complaint that Pittsburgh Water “kept that information secret while negotiating with 3213 Penn.”

ANSWER:

REQUESTS FOR PRODUCTION

1. Produce all documents reviewed, referred to, related to, referenced, identified, consulted or in any other way made use of or identified in connection with Your answers to Pittsburgh Water's First Set of Interrogatories Directed to You and all documents requested, identified or relied upon therein.

RESPONSE:

2. Produce all internal documents, information and communications relating to the Renewed Application, including but not limited to those documents, information and communications setting forth, referencing or alluding to the reason(s) for the purported renewal.

RESPONSE:

3. Produce all documents, information and communications with PLI relating to the Application and/or Renewed Application.

RESPONSE:

4. Produce all documents, information and communications relating to Your evaluation and/or discussion of potentially applicable tapping fees relating to the Application and/or Renewed Application.

RESPONSE:

5. Produce all internal documents, information and communications relating to Your receipt of Pittsburgh Water's letter dated August 2, 2021, and/or Your evaluation and/or discussion of the permit fees identified therein.

RESPONSE:

6. Produce all internal documents, information and communications relating to You tapping in to Pittsburgh Water infrastructure in 2021.

RESPONSE:

7. Produce all documents, information and communications related in any way to the claims asserted in the Complaint.

RESPONSE:

8. Produce all internal documents, information and communications relating to Your receipt of Pittsburgh Water's letter dated April 7, 2021, and/or Your evaluation and/or discussion of the permit fees identified therein.

RESPONSE:

9. Produce every exhibit that You intend to use at trial.

RESPONSE:

FIRST SET OF REQUESTS FOR ADMISSIONS

1. Admit that You submitted the Application to tap in to Pittsburgh Water's infrastructure in 2021.

ANSWER:

2. Admit that the fee schedule in effect at the time of the Application was as stated in the 2021 PUC Tariff set forth at PUC Docket No. R-2020-3017970.

ANSWER:

3. Admit that Pittsburgh Water approved the Application on August 19, 2021.

ANSWER:

4. Admit that the fee schedule in effect at the time the Application was approved by Pittsburgh Water was as stated in the 2021 PUC Tariff set forth at PUC Docket No. R-2020-3017970.

ANSWER:

5. Admit that on August 19, 2021, You paid to Pittsburgh Water the full fee determined in accordance with the fee schedule as stated in the 2021 PUC Tariff set forth at PUC Docket No. R-2020-3017970.

ANSWER:

6. Admit that Pittsburgh Water issued You an approved tap-in permit on August 20, 2021.

ANSWER:

7. Admit that You could have tapped in to Pittsburgh Water's infrastructure as of August 20, 2021.

ANSWER:

8. Admit that You did not attempt to tap in to Pittsburgh Water's infrastructure at any point in 2021.

ANSWER:

9. Admit that at no point after approving the Application did Pittsburgh Water advise You that You would not be permitted to tap in to Pittsburgh Water's infrastructure.

ANSWER:

10. Admit that at no point after August 20, 2021 did Pittsburgh Water advise You that Pittsburgh Water's approval of the Application was revoked.

ANSWER:

11. Admit that You were able to tap in to Pittsburgh Water's infrastructure prior to January 12, 2022.

ANSWER:

12. Admit that the Renewed Application contained only minor modifications to the Application.

ANSWER:

13. Admit that You did not request a reduction in tapping fees at any point during the process of Your Application.

ANSWER:

14. Admit that You did not request a reduction in tapping fees at any point during the process of Your Renewed Application.

ANSWER:

15. Admit that on August 19, 2021, You voluntarily paid to Pittsburgh Water the full fee determined in accordance with the fee schedule as stated in the 2021 PUC Tariff set forth at PUC Docket No. R-2020-3017970.

ANSWER:

16. Admit that the changes to in the Renewed Application were initiated at the request of PLI.

ANSWER:

Dated: January 3rd, 2025

/s/ Ashley L. Buck, Esq.
Ashley L. Buck, Esquire
Pa. I.D. No. 320537
CLARK HILL PLC
One Oxford Centre
301 Grant Street, 14th Floor
Pittsburgh, PA 15219-1425
(412) 394-7711
*Attorneys for Respondent,
Pittsburgh Water and Sewer Authority
d/b/a Pittsburgh Water*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **RESPONDENT PITTSBURGH WATER AND SEWER AUTHORITY'S FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION OF DOCUMENTS, AND REQUESTS FOR ADMISSIONS DIRECTED TO COMPLAINANT** was served via electronic mail, this 3rd day of January, 2025, upon the following:

Stuart C. Gaul, Jr.
Bernstein Burkley, P.C.
601 Grant Street, 9th Floor
Pittsburgh, PA 15219
sgaul@bernsteinlaw.com
Attorneys for Complainant, 3213 Penn, LLC

/s/ Ashley L. Buck
Ashley L. Buck

**COMPOSITE
EXHIBIT “B”**

From: Buck, Ashley L.
Sent: Monday, March 10, 2025 2:25 PM
To: Stuart C. Gaul, Jr.
Subject: RE: 3213 Penn LLC v. The Pittsburgh Water and Sewer Authority

Hi Stuart,

Can you please provide me with a status update as to the responses?

Thank you,
Ashley

Ashley L. Buck

Attorney-At-Law

Clark Hill

One Oxford Centre, 301 Grant Street, 14th floor, Pittsburgh, PA 15219
+1 412.394.2448 (office) | +1 724.825.9914 (cell) | +1 412.394.2555 (fax)
abuck@clarkhill.com | www.clarkhill.com

From: Stuart C. Gaul, Jr. <sgaul@bernsteinlaw.com>
Sent: Thursday, February 20, 2025 3:34 PM
To: Buck, Ashley L. <abuck@clarkhill.com>
Subject: Re: 3213 Penn LLC v. The Pittsburgh Water and Sewer Authority

EXTERNAL EMAIL: The sender (sgaul@bernsteinlaw.com) is external to Clark Hill. Exercise caution with links, attachments, or replies if this message is unexpected.

Makes sense. Thanks.

Stuart C. Gaul, Jr., Esq. 

601 Grant Street, 9th Floor | Pittsburgh, PA 15219

sgaul@bernsteinlaw.com | P: 412.456.8139 | F: 412.456.8135

Stuart C. Gaul, Jr., Esq.



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to legal service SM

601 Grant Street 9th Floor | Pittsburgh, PA 15219

sgaul@bernsteinlaw.com | P: 412.456.8139 | F: 412.456.8135



From: Buck, Ashley L. <abuck@clarkhill.com>
Sent: Thursday, February 20, 2025 3:18:06 PM
To: Stuart C. Gaul, Jr. <sgaul@bernsteinlaw.com>
Subject: RE: 3213 Penn LLC v. The Pittsburgh Water and Sewer Authority

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[EXTERNAL SENDER]
Stu,

Apologies I missed your call. No objection to the additional time assuming that you will not oppose that the deadline for depositions will clearly need to extend past the date of our next status conference.

Ashley L. Buck

Attorney-At-Law

Clark Hill

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From: Stuart C. Gaul, Jr. <sgaul@bernsteinlaw.com>
Sent: Thursday, February 20, 2025 1:57 PM
To: Buck, Ashley L. <abuck@clarkhill.com>
Subject: RE: 3213 Penn LLC v. The Pittsburgh Water and Sewer Authority

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Ashley,

I hate to do this, but I'd like to request another two weeks. I just left a message on your office phone, but, if you would like to discuss this, please feel free to call me on my cell at 412-370-1515. I'm going to be out of the office for the rest of the afternoon.

Thanks,
Stuart

Stuart C. Gaul, Jr., Esq.



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601 Grant Street 9th Floor | Pittsburgh, PA 15219
sgaul@bernsteinlaw.com | P: 412.456.8139 | F: 412.456.8135



From: Buck, Ashley L. <abuck@clarkhill.com>
Sent: Wednesday, January 22, 2025 2:31 PM
To: Stuart C. Gaul, Jr. <sgaul@bernsteinlaw.com>
Subject: RE: 3213 Penn LLC v. The Pittsburgh Water and Sewer Authority

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[EXTERNAL SENDER]
That's fine, Stuart.

Ashley L. Buck

Attorney-At-Law

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From: Stuart C. Gaul, Jr. <sgaul@bernsteinlaw.com>
Sent: Wednesday, January 22, 2025 12:33 PM
To: Buck, Ashley L. <abuck@clarkhill.com>
Subject: FW: 3213 Penn LLC v. The Pittsburgh Water and Sewer Authority

[External Message]

Ashley,

Would you be willing to give me an extension to February 20 on these? I was going to need an extension in any event, but we just realized that we had miscalendared the deadline.

Thanks,
Stuart

Stuart C. Gaul, Jr., Esq.



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sgaul@bernsteinlaw.com | P: 412.456.8139 | F: 412.456.8135



From: May, Linda M. <lmay@clarkhill.com>
Sent: Friday, January 3, 2025 2:16 PM
To: Stuart C. Gaul, Jr. <sgaul@bernsteinlaw.com>

Cc: Buck, Ashley L. <abuck@clarkhill.com>

Subject: 3213 Penn LLC v. The Pittsburgh Water and Sewer Authority

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[EXTERNAL SENDER]

Re: *3213 Penn LLC v. The Pittsburgh Water and Sewer Authority*

Docket No. C-2023-3038775

Attached please find correspondence, along with Respondent Pittsburgh Water and Sewer Authority's First Set of Interrogatories, Requests for Production of Documents and Requests for Admission Directed to Complainant in the above-referenced matter.

Linda M. May

Legal Administrative Assistant

Clark Hill

One Oxford Centre, 301 Grant Street, 14th floor, Pittsburgh, PA 15219

412.394.2557 (office) | 412.394.2555 (fax)

lmay@clarkhill.com | www.clarkhill.com

**COMPOSITE
EXHIBIT “C”**

From: Buck, Ashley L.
Sent: Tuesday, August 19, 2025 9:23 AM
To: Stuart C. Gaul, Jr.
Subject: RE: 3213 Penn, LLC v. PWSA (C-2023-3038775) Prehearing Conference

Stuart,

Please be advised that if we do not receive Complainant's responses to Pittsburgh Water's outstanding discovery on or before August 25, 2025, we'll be forced to file a Motion to Compel and/or Deem Admitted.

Thank you,
Ashley

Ashley L. Buck

Attorney-At-Law

Clark Hill

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From: Buck, Ashley L.
Sent: Thursday, July 31, 2025 9:39 AM
To: 'Stuart C. Gaul, Jr.' <sgaul@bernsteinlaw.com>
Subject: RE: 3213 Penn, LLC v. PWSA (C-2023-3038775) Prehearing Conference

Stuart,

Please let me know your response to the below.

Thanks.

Ashley L. Buck

Attorney-At-Law

Clark Hill

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abuck@clarkhill.com | www.clarkhill.com

From: Buck, Ashley L.
Sent: Thursday, July 24, 2025 2:16 PM
To: Stuart C. Gaul, Jr. <sgaul@bernsteinlaw.com>
Subject: RE: 3213 Penn, LLC v. PWSA (C-2023-3038775) Prehearing Conference

Stuart,

I am circling back on the below, as we owe Judge Haas another status update on August 1st. If 3213 Penn intends to proceed with this litigation, Pittsburgh Water requests responses to the outstanding written discovery in advance of the status update.

I am happy to have a call to discuss this matter as needed.

Ashley

Ashley L. Buck

Attorney-At-Law

Clark Hill

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