

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

3213 Penn, LLC	:	
	:	
v.	:	C-2023-3038775
	:	
Pittsburgh Water and Sewer Authority	:	

**ORDER
GRANTING MOTION OF
PITTSBURGH WATER AND SEWER AUTHORITY
TO COMPEL RESPONSES TO
INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS**

Procedural Background

On or about March 24, 2023, the Complainant, 3213 Penn, LLC (3213 Penn), filed an amended complaint against the Pittsburgh Water and Sewer Authority (Pittsburgh Water), challenging Pittsburgh Water’s retention of tap in fees it paid to Pittsburgh Water prior to revisions to Pittsburgh Water’s tap in fee schedule as reflected in a 2022 fee schedule and the utility’s tariff. 3213 Penn is seeking the return of approximately \$345,000.00, which is the approximate difference between the amount 3213 Penn paid under the prior fee schedule and the amount it would have been required to pay under the 2022 fee schedule. In its answer to 3213 Penn’s complaint, Pittsburgh Water denied that 3213 Penn is entitled to a refund.

The parties initially attempted to resolve 3213 Penn’s complaint through the Commission’s mediation process, but that process was unsuccessful. Subsequently, with the agreement of the parties, additional time was allowed prior to the establishment of a formal litigation schedule for discovery and further settlement discussions. Pittsburgh Water served formal discovery requests and requests for admissions on 3213 Penn on January 3, 2025. Several prehearing conferences were held for the purpose of discussing the status of the

proceeding and discovery issues. The last prehearing conference was held on March 19, 2024, during which the parties again agreed to allow additional time for discovery. It was specifically discussed during this conference that 3213 Penn owed to Pittsburgh Water outstanding responses to discovery requests and that, pending receipt of those responses, the parties may seek to conduct depositions. Accordingly, we did not establish a hearing schedule during the March 19th conference.

Counsel to 3213 Penn requested and was granted several extensions of time to submit responses to Pittsburgh Water's discovery requests. The last such request was made by 3213 Penn on February 20, 2025, at which time 3213 Penn was granted by Pittsburgh Water a two-week extension of time, until March 6, 2025, to provide its responses. To date, despite having been given several extensions of time to provide responses, 3213 Penn never objected to or provided responses to any of Pittsburgh Water's discovery requests.

On August 28, 2025, Pittsburgh Water filed a Motion (1) to deem its requests for admissions admitted, (2) to compel responses to its interrogatories and requests for production of documents, and (3) for sanctions. In its Motion, Pittsburgh Water noted that 3213 Penn requested on several occasions additional time to respond to discovery requests, but still failed to ever provide any responses. Pittsburgh Water further noted that its more recent attempts to contact, via e-mail, counsel to 3213 Penn to obtain updates on the status of discovery responses were unsuccessful and that 3213 Penn never responded to those attempted contacts. Motion, pp. 2-4. 3213 Penn did not file a response to Pittsburgh Water's Motion.

Discussion

The Commission's Regulations at 52 Pa.Code § 5.371 address the consequences of a participant's failure to comply with the Commission's discovery regulations. Section 5.371 provides that:

- (a) The Commission or the presiding officer may, on motion, make an appropriate order if one of the following occurs:

(1) A party fails to appear, answer, file sufficient answers, file objections, make a designation or otherwise respond to discovery requests, as required under this subchapter.

Further, 52 Pa.Code § 5.372 provides that the presiding officer may impose appropriate sanctions upon a party found to be found in violation of the obligations set forth in the Commission's Regulations.

As noted, Pittsburgh Water is seeking in its Motion an Order from the Commission that (1) deems its requests for admissions admitted, (2) compels 3213 Penn to provide responses to its outstanding interrogatories and requests for production of documents, and (3) imposes sanctions on 3213 Penn. I will address each of these requests below.

Motion to Deem Requests for Admissions Admitted

The Commission's regulations provide that a party to a proceeding may request of another party that it admit the truth of matters set forth in the requests. 52 Pa. Code §5.350. The regulation further provides, "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).

Here, the last extension of time given to 3213 Penn by Pittsburgh Water to provide responses had a deadline date of March 6, 2025. As noted, 3213 Penn never responded to Pittsburgh Water's requests for admissions or any other discovery requests promulgated by the utility. Therefore, while I could direct that Pittsburgh Water's requests for admissions have been deemed admitted by 3213 Penn's failure to respond, I will give the Complainant a final opportunity, as directed below, to respond to Pittsburgh Water's requests for admissions.

Motion to Compel Responses to Interrogatories and Document Requests

As noted above, 3213 Penn failed to provide responses to Pittsburgh Water's interrogatories and document requests by the March 6, 2025, extended deadline, or at any time from that deadline to date. In an attempt to give 3213 Penn one final opportunity to respond, I direct that it provide full and complete responses to all of Pittsburgh Water's interrogatories and requests for the production of documents no later than 4:00 p.m. on Friday, October 17, 2025.

Motion for Sanctions

I am not directing that any sanctions, beyond the directions set forth above, be imposed on 3213 Penn at this time. However, if 3213 Penn fails to fully comply with this Order, I will swiftly consider and rule on any other appropriate motions Pittsburgh Water may choose to make seeking the imposition of sanctions, including dismissal of the complaint, or other desired relief.

THEREFORE,

IT IS ORDERED:

1. That the Motion to Compel Responses to Interrogatories and Requests for Production of Documents filed by Pittsburgh Water on August 28, 2025, is granted.
2. That 3213 Penn shall serve upon counsel for Pittsburgh Water full and complete responses to all of the Interrogatories and Requests for Production of Documents served on 3213 Penn on January 3, 2025, by no later than 4:00 p.m. on Friday, October 17, 2025.
3. That the Motion to Deem Requests for Admissions Admitted filed by Pittsburgh Water on August 28, 2025, is denied.

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AUTHORITY**

Revised: June 20, 2024

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Served via eService October 9, 2025

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