

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Application of American Water Works Company, Inc., Essential Utilities, Inc., Aqua Pennsylvania, Inc., Aqua Pennsylvania Wastewater, Inc., Peoples Natural Gas Company LLC, and Alpha Merger Sub, Inc. for a Certificate of Public Convenience under Sections 1102(a)(3) and 2210(c) of the Public Utility Code and All Other Necessary Approvals to Effect a Change of Control of Aqua Pennsylvania, Inc., Aqua Pennsylvania Wastewater, Inc., and Peoples Natural Gas Company LLC

A-2025-3058927
A-2025-3058928
A-2025-3058929

NOTICE TO PLEAD

TO: Parties at Docket Nos. A-2025-3058927, *et al.*

Pursuant to 52 Pa. Code § 5.103 and the Prehearing Order, you are hereby notified that Intervenor, County of Delaware, City of Butler, East Whiteland Township, North York Borough, York Township, Spring Garden Township, West Manchester Township, and Manchester Township, have filed a Motion to Compel Production from Essential Utilities Inc., Aqua Pennsylvania, Inc., Aqua Pennsylvania Wastewater, Inc., and Peoples Natural Gas Company LLC at the above-referenced dockets, to which you may file an answer within 5 days as set by the Prehearing Order.

Your failure to answer will allow the Commission to rule on the Motion without a response from you, thereby requiring no other proof. All pleadings such as an Answer to this Joint Motion must be filed with the Secretary of the Pennsylvania Public Utility Commission at P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the undersigned counsel.

/s/ Matthew S. Olesh

Thomas Wyatt, Esquire (PA I.D. 89342)
Matthew S. Olesh, Esquire (PA I.D. 206553)

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Joint Application of American Water Works Company, Inc., Essential Utilities, Inc., Aqua Pennsylvania, Inc., Aqua Pennsylvania Wastewater, Inc., Peoples Natural Gas Company LLC, and Alpha Merger Sub, Inc. for a Certificate of Public Convenience under Sections 1102(a)(3) and 2210(c) of the Public Utility Code and All Other Necessary Approvals to Effect a Change of Control of Aqua Pennsylvania, Inc., Aqua Pennsylvania Wastewater, Inc., and Peoples Natural Gas Company LLC

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MOTION TO COMPEL PRODUCTION FROM ESSENTIAL UTILITIES INC., AQUA PENNSYLVANIA, INC., AQUA PENNSYLVANIA WASTEWATER, INC., AND PEOPLES NATURAL GAS COMPANY LLC

Intervenors, County of Delaware, City of Butler, East Whiteland Township, North York Borough, York Township, Spring Garden Township, West Manchester Township, and Manchester Township (“Moving Intervenors”), by and through its undersigned attorneys, hereby submits the instant Motion to Compel Production from Essential Utilities Inc., Aqua Pennsylvania, Inc., Aqua Pennsylvania Wastewater, Inc., and Peoples Natural Gas Company LLC (“Essential Utilities Parties”), and in support thereof avers:

1. On or about November 26, 2025, American Water Works Company, Inc., Essential Utilities, Inc., Aqua Pennsylvania, Inc., Aqua Pennsylvania Wastewater, Inc., Peoples Natural Gas Company LLC, and Alpha Merger Sub, Inc. (the “Joint Applicants”) filed for approval of a merger between these companies and the issuance of a certificate of public convenience for the resulting combined entity.

2. On or about December 26, 2025, Intervenors, County of Delaware, City of Butler, East Whiteland Township, York Township, Manchester Township, West Manchester Township, and Spring Garden Township, filed their Petitions to Intervene in this matter.

3. On or about January 12, 2026, Intervenor, North York Borough, filed its Petition to Intervene in this matter.

4. On or about January 20, 2026, Joint Applicants, American Water Works Company, Inc. Alpha Merger Sub, Inc., Essential Utilities Inc., Aqua Pennsylvania, Inc., Aqua Pennsylvania Wastewater, Inc., and Peoples Natural Gas Company LLC (“Joint Applicants”) filed a Petition for Protective Order (the “Petition”) seeking a court order regarding confidentiality and to restrict access of parties and certain “restricted persons” (as defined in ¶ 3(a) of the Petition) to designated production.

5. Administrative Law Judge Mary D. Long was assigned to preside over the proceeding and an Initial Prehearing Conference was noticed for January 22, 2026.

6. At the January 22, 2026 Prehearing Conference, ALJ Long granted the Moving Intervenors’ Petitions to Intervene.

7. In addition, ALJ Long granted Joint Applicants’ Petition and issued their requested Protective Order (the “Protective Order”). A copy of the Protective Order is attached hereto as Exhibit A.

8. The Protective Order provided that the Joint Applicants were permitted to mark materials as Confidential and that said materials would be provided to parties and their attorneys, employees and consultants who executed and agreed to be bound by the terms of the confidentiality agreement and Order, with the exception of defined “Restricted Persons.”

9. In the event that any producing party desires to secure additional restrictions “beyond the protection expressly afforded . . . by [the Protective Order],” ¶ 5 of the Order permitted

it the right to do so, but did not automatically afford any additional restrictions beyond those explicitly set out in the Protective Order.

10. Despite the terms of the Order, the Essential Utilities Parties have produced certain materials which they have labeled “HIGHLY CONFIDENTIAL” – a designation not provided for in the Protective Order – and to which they have unilaterally restricted access to only the designated statutory advocates, refusing to produce such materials to any other party.

11. American Water Works Company, Inc. have also produced certain materials which are designated as “HIGHLY CONFIDENTIAL” but have disseminated those materials in redacted form to all parties with the exception of the Essential Utilities Parties – a restriction to which the Essential Utilities Parties seemingly consent.

12. No party, however, has consented to the Essential Utilities Parties restricting access to their “HIGHLY CONFIDENTIAL” documents to only the statutory advocates.

13. Had such restriction been proposed, the Moving Intervenors would not have consented to the terms of the Protective Order.

14. As of the filing of this motion, the Essential Utilities Parties have not filed any request with the Commission seeking any additional restrictions outside of those contained in the Protective Order.

15. Chapter 5 Subchapter D of Pa. Code Title 52 governs the discovery process in Formal Proceedings before the Public Utilities Commission.

16. Pursuant to 52 Pa. Code §5.341, “a party may serve upon another party written interrogatories to be answered by the party served or, if the party served is a public or private corporation, similar entity or a partnership or association, by an officer or agent, who shall furnish the information as is available to the party.” 52 Pa. Code §5.341.

17. Further, under 52 Pa. Code §5.349, “[a] party may request another party to produce or inspect documents as part of interrogatories.” 52 Pa. Code §5.349.

18. In the event of a failure by a responding party to provide responsive production and/or answers, “[t]he party submitting the request may move for an order under § 5.342(e) with respect to an objection or to other failure to respond to the request or any part thereof, or failure to permit inspection as requested.” 52 Pa. Code §5.349.

19. When “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” the commission or officer “may, on motion, make an appropriate order” including on a motion for sanctions. 52 Pa. Code §5.371.

20. 52 Pa. Code §5.361, in pertinent part, limits discovery which is: “(1) 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;” and where “the information requested has been previously provided, the answering party shall specify the location of the information.” 52 Pa. Code §5.361(a) and (c).

21. No other limitations are included in the Rules for Formal Proceedings before the Public Utilities Commission.

22. If a party wishes to withhold proprietary materials which are otherwise discoverable, the party may seek a protective order pursuant to 52 Pa. Code §5.362.

23. Despite these requirements and the clear language of the existing Protective Order, the Essential Utility Parties have unilaterally determined to impose limitations on the production of self-identified “highly confidential” documents in excess of those requested in its request for a protective order and of that granted by the Commission.

24. Without access to the withheld materials, which the Essential Utility Parties have identified as high level board materials, the Moving Intervenors will be severely prejudiced in the preparation of their case and future assessment of the potential costs and benefits of the proposed merger.

25. Suitable confidentiality protections exist for the materials in question, which can be restricted from disclosure to American Water Works Company, Inc. if so agreed. Such restriction, however, does not justify the withholding of these discovery materials from the Moving Intervenors and all other non-statutory advocate parties.

26. This unilateral action clearly violates the terms of the Prehearing Order and the Commission's rules governing discovery and will cause severe prejudice to Intervenors; therefore, the Essential Utility Parties should be compelled to produce all confidential discoverable materials to all parties in accordance with the terms of the Protective Order.

27. For the aforementioned reasons, Intervenors are entitled to an Order compelling the Essential Utility Parties to produce all confidential discoverable materials to all parties in accordance with the terms of the Protective Order.

WHEREFORE, Intervenors, County of Delaware, City of Butler, East Whiteland Township, North York Borough, York Township, Spring Garden Township, West Manchester Township, and Manchester Township, respectfully request that this Honorable Court enter an Order granting the instant Motion and direct the Essential Utility Parties to provide all discoverable materials deemed to be confidential to all parties pursuant to the terms of the Protective Order within three (3) days of the date of the Commission's Order ruling on the instant Motion.

Respectfully submitted,

/s/ Matthew S. Olesh

Thomas Wyatt, Esquire (PA I.D. 89342)

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Counsel for Intervenors

Dated: February 17, 2026

CERTIFICATION OF COUNSEL

I, Matthew Olesh, Esq., hereby certify that I attempted to resolve the issues in the aforementioned motion informally through a telephone/video conference with counsel for the Joint Applicants on February 11, 2026, but that such efforts were unsuccessful and that the Joint Applicants were informed of the Moving Intervenors' intention to seek relief via motion practice.

Dated: February 17, 2026

/s/ Matthew Olesh
Matthew Olesh, Esquire

CERTIFICATE OF SERVICE

I, Matthew Olesh, Esq., hereby certify that I have served a true and correct copy of the foregoing Motion to Compel Production was served upon all parties to this proceeding in accordance with the requirements of 52 Pa. Code §§ 1.54 (relating to service by a party) via electronic mail and e-filing.

Dated: February 17, 2026

/s/ Matthew Olesh

Matthew Olesh, Esquire

VERIFICATION

I, Matthew S. Olesh, counsel for County of Delaware, City of Butler, East Whiteland Township, North York Borough, York Township, Spring Garden Township, West Manchester Township, and Manchester Township, hereby state that the facts set forth in the preceding motion are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).



Matthew S. Olesh

Date: February 17, 2026