

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Application of American Water	:	
Works Company, Inc., Essential	:	
Utilities, Inc., Aqua Pennsylvania, Inc.,	:	
Aqua Pennsylvania Wastewater, Inc.,	:	Docket Nos. A-2025-3058927
Peoples Natural Gas Company LLC and	:	A-2025-3058928
Alpha Merger Sub, Inc., for a Certificate	:	A-2025-3058929
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  
ANSWER TO INTERROGATORY  
OF THE OFFICE OF CONSUMER ADVOCATE  
OCA INTERROGATORIES I-4 AND I-5

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**I. INTRODUCTION**

AND NOW, before the Honorable Administrative Law Judges (ALJs) Emily I. DeVoe and Ann Quimby, the Office of Consumer Advocate (OCA) files this Motion to Compel Answer to Interrogatory (Motion), pursuant to 66 Pa. C.S. Section 333(g), 52 Pa. Code Sections 5.103, 5.331, and 5.342(g), and the Prehearing Order issued on January 26, 2026 in the captioned proceeding. In this Motion, the OCA requests that the ALJs enter an order that compels Essential Utilities to provide the full and complete unredacted information requested in Interrogatory OCA Set 1, Questions No. 4 and 5, on the grounds that the information sought in the Interrogatories is relevant and Essential Utilities has not met its burden to show that any of the information sought is privileged. In support thereof, the OCA states as follows:

## II. BACKGROUND

1. On November 26, 2025, American Water Works Company, Inc. (American Water), and Aqua America, Inc., Aqua Pennsylvania, Inc. (Aqua PA) and Aqua Pennsylvania Wastewater (Aqua PA WW), Peoples Natural Gas Company LLC (Peoples) (collectively, Essential), and Alpha Merger Sub, Inc. (Merger Sub) (collectively, the Joint Applicants) filed with the Public Utility Commission (Commission) a Joint Application (Joint Application). Through this filing, the Joint Applicants seek approval of the Commission under Chapters 11, 21 and 22 of the Public Utility Code for a change of control of Aqua PA and Peoples to be affected by the merger of Essential and Merger Sub, a wholly owned subsidiary of American Water (the Merger).

2. On January 22, 2026, ALJ Mary Long held a telephonic prehearing conference. On January 26, 2026, ALJ Long issued a Prehearing Order, which, among other things, established a litigation schedule and discovery modifications that shortened the time periods for serving responses, objections, and motions to compel.

3. On January 12, 2026, the OCA issued its Sets 1 and 2 Interrogatories to the Joint Applicants. On January 13, 2026, the OCA issued its Set 3 Interrogatory to the Joint Applicants.

4. Essential did not orally object or file a written objection to providing full and complete unredacted information to OCA's Set 1 Questions No. 4 and 5, nor did Essential notify the OCA that it would not be providing full and complete unredacted information in its nonconfidential response to OCA's Set 1 Questions No. 4 and 5.

5. On February 3, 2026, after the OCA provided executed protective orders for the OCA's attorneys and consultants, Essential provided its responses labeled as highly confidential and for limited distribution to OCA Set 1 Questions No. 4 and 5.

6. On February 4, 2026, the OCA requested via email that the relevant documents be provided fully unredacted to the OCA because the OCA had provided executed protective orders.

On February 4, 2026, Essential informed the OCA via email that the documents had been redacted to remove information that is privileged or not relevant to the proposed merger and was therefore not discoverable information under 52 Pa. Code Section 5.321(c).

7. On February 5, 2026, during a conference call to discuss the matter, Essential noted that it would not be providing the full and complete unredacted information to OCA's Set 1 Questions No. 4 and 5 because the information sought was not relevant or was privileged as attorney work product.

8. On February 5, 2026, after the conference call, the OCA requested that Essential provide a privilege log explaining why responses covered by a highly confidential designation included redactions. Essential requested a week and a half to produce the privilege log.

9. On February 13, 2026, Essential provided a privilege and redaction log to the OCA, claiming that the redacted information found in Essential's response to OCA Set 1 Question No. 5 was either attorney product or not reasonably calculated to lead to the discovery of admissible evidence and unrelated to the transaction. Essential's privilege log did not provide further reasons regarding the redacted information found in Essential's response to OCA Set 1 Question No. 4.

10. The OCA files this Motion requesting that the ALJs compel Essential to provide the OCA with the full and complete unredacted responses to OCA Set 1, Questions No. 4 and 5.

### **III. LEGAL STANDARD**

11. Section 333(d) of the Public Utility Code permits a party to a proceeding to "serve written interrogatories upon any other party for purposes of discovering relevant, unprivileged information." 66 Pa. C.S. § 333(d).

12. Under the Commission's regulations, a party may obtain discovery regarding any

matter, not privileged, which is relevant to the subject matter involved in the pending action.<sup>1</sup> 52 Pa. Code § 5.321(c). 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.*

13. The Commission applies the relevancy test liberally. *See Pa. P.U.C. v. The Peoples Natural Gas Co.*, 62 Pa. PUC 56 (Aug. 26, 1986). Relevancy depends upon the nature and the facts of the individual case. *Koken v. One Beacon Ins. Co.*, 911 A.2d 1021, 1025 (Pa. Commw. 2006) (*Koken*). Any doubts are to be resolved in favor of relevancy and permitting discovery. *Petition of the Borough of Cornwall for a Declaratory Order*, Docket No. P-2015-2476211 (Order entered Sept. 11, 2015) (citing *Koken* at 1025).

14. The burden is placed on the party objecting to discovery to establish that the information requested is not relevant or discoverable. *Id.*

15. Section 5.342(c) of the Commission's regulations provides that an objection must: (1) be served instead of an answer; (2) restate the interrogatory or part thereof deemed objectionable and the specific ground for the objection; (3) include a description of the facts and circumstances purporting to justify the objection; and (4) be signed by the attorney making it. 52 Pa. Code § 5.342(c)(1)-(4). Essential has not filed any written objections to providing the full and complete information requested at OCA Set 1 Question Nos. 4 and 5 that meet the standards of

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<sup>1</sup> Section 5.321 outlines the scope of discovery as follows:

(c) *Scope.* Subject to this subchapter, 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. 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.

52 Pa. Code § 5.321(c) (emphasis added).

this section.

16. Where there has been an objection filed to an interrogatory, the propounding party has the right to file a motion requesting that the presiding officer issue an order that dismisses the objection and compels an answer to the interrogatory. 66 Pa. C.S. § 333(d); 52 Pa. Code § 5.432(g). The consequence to the propounding party for failure to file a motion to compel is that the objected to interrogatory will be deemed withdrawn. 52 Pa. Code § 5.432(g). The motion to compel must include the interrogatory objected to and the objection. *Id.*

#### IV. ARGUMENT

##### A. Interrogatory OCA-1-4

17. Interrogatory OCA-1-4 (a) and (b) states: “(a) Provide copies of all due diligence and consultant reports prepared by or for each of the Joint Applicants, either individually or collectively, in connection with the proposed transaction. This request includes all due diligence analysis, including materials that are considered by either of the Joint Applicants to be confidential; (b) Please provide the requested documents in electronic form with all spreadsheet links and formulas intact, source data used, and explain all assumptions and calculations used. To the extent the data requested is not available in the form requested, provide the information in the form that most closely matches what has been requested.”

18. Essential answered the Interrogatory by providing a document deemed highly confidential which **[BEGIN HIGHLY CONFIDENTIAL]** [REDACTED]

[REDACTED]

[REDACTED] **[END HIGHLY CONFIDENTIAL]**

19. Essential did not comply with the time frames for providing oral or written objections to the interrogatory either as laid out in regulation or as modified by the prehearing order.

20. In its nonconfidential response, Essential did not provide a written objection to providing a full and complete unredacted response to Interrogatory OCA-1-4 (a) and (b). Instead, Essential provided the redacted documents and then unilaterally refused to provide the highly confidential responses in unredacted format during a conference call.

21. It is the OCA's responsibility to protect the interests of Essential's subsidiaries' consumers in matters that are properly before the Commission. In doing so, the OCA must inquire into any and all matters which may lead to the discovery of admissible evidence to support its recommendations to the Commission in this merger proceeding.

22. As plainly stated in the Commission's regulations "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." 52 Pa. Code § 5.321(c) (emphasis added). **[BEGIN HIGHLY CONFIDENTIAL]** [REDACTED]

[REDACTED]

**[END HIGHLY CONFIDENTIAL]** The OCA has the right to obtain discovery regarding any matter which is relevant to the subject matter involved in the proceeding.

23. The subject matter involved in this case includes a merger of Essential Utilities, the parent company of Aqua Pennsylvania, Inc., Aqua Pennsylvania Wastewater, Inc., and Peoples Natural Gas LLC with Merger Sub, a wholly owned subsidiary of American Water. Pennsylvania-American Water Company is also a wholly owned subsidiary of American Water.

24. The OCA is a government agency whose attorneys and experts have all executed the protective order for this case; and should therefore be provided with an unredacted version of

Essential's highly confidential response instead of a document designated as "highly confidential" that continues to retain redactions.

25. Interrogatory OCA-1-4 (a) and (b) request Essential's due diligence reports and documentation as pertains to the proposed merger.

26. The OCA believes the requested information in Interrogatory OCA-1-4 is relevant because everything in a due diligence document that was prepared relating to the proposed merger is relevant to evaluating the proposed merger. More specifically, the due diligence document

[BEGIN HIGHLY CONFIDENTIAL] [REDACTED]

[REDACTED]

[REDACTED] [END HIGHLY CONFIDENTIAL] are

relevant to its analysis of the proposed merger and whether the merger is "necessary or proper for the service, accommodation, convenience or safety of the public," 66 Pa. C.S. § 1103(a), or that it "affirmatively promote[s] the service, accommodation, convenience or safety of the public in some substantial way." *City of York v. Pa. PUC*, 295 A.2d 825, 828 (Pa. Cmwlth. Ct. 1972). The OCA

and its experts must be permitted to review the [BEGIN HIGHLY CONFIDENTIAL] [REDACTED]

[REDACTED]

[REDACTED] [END HIGHLY CONFIDENTIAL]

27. To the extent that Essential's reasons for keeping the redactions in its response are because the redacted information [BEGIN HIGHLY CONFIDENTIAL] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [END HIGHLY CONFIDENTIAL]

28. To the extent that Essential's reasons for keeping redactions in its response are because the redacted information [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] and therefore privileged information, Essential has failed to specifically provide the OCA with facts showing any applicable privilege or [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] and has therefore not met its burden.

29. Essential should be compelled to provide an unredacted version under a highly confidential designation in its response to Interrogatory OCA-1-4 as the OCA seeks relevant information to support its recommendations to the Commission, Essential failed to timely object to providing the requested information in its full and complete form, and Essential has not met its burden in demonstrating either that its response to the interrogatory [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] or is undiscoverable as privileged information.

**B. Interrogatory OCA-1-5**

30. Interrogatory OCA-1-5 (a) and (b) are in regard to presentations to shareholders, board and senior management, and state: "(a) Provide all reports, presentations, and analyses regarding the proposed transaction which have been given to shareholders, Board of Directors, and senior management of each of the Joint Applicants, individually and collectively; (b) Please provide the requested documents in electronic form with all spreadsheet links and formulas intact, source data used, and explain all assumptions and calculations used. To the extent the data requested is not available in the form requested, provide the information in the form that most closely matches what has been requested."

31. Essential answered the Interrogatory by providing **[BEGIN HIGHLY CONFIDENTIAL]** [REDACTED]

[REDACTED] **[END HIGHLY CONFIDENTIAL]**

32. In its nonconfidential response, Essential did not provide an objection to providing a full and complete unredacted response to Interrogatory OCA-1-5 (a) and (b). Instead, Essential provided the redacted documents under a highly confidential designation and then refused to provide the unredacted document during a conference call. Essential did provide the OCA with its reasons for the redactions in the privilege log provided to the OCA, but the reasons provided are generalized across the redacted pages and are not specific enough for the OCA to ascertain if the information is privileged or is not reasonably calculated to lead to the discovery of admissible evidence.

33. Interrogatory OCA-1-5 (a) and (b) request all reports, presentations, and analyses regarding the proposed transaction which have been given to EU's shareholders, Board of Director's and senior management.

34. The OCA believes the requested information in Interrogatory OCA-1-5 is relevant to evaluating the proposed merger because it is relevant to an analysis of whether the merger is "necessary or proper for the service, accommodation, convenience or safety of the public," 66 Pa. C.S. Section 1103(a), or that it "affirmatively promote[s] the service, accommodation, convenience or safety of the public in some substantial way." *City of York v. Pa. PUC*, 295 A.2d 825, 828 (Pa. Cmwlth. Ct. 1972).

35. More specifically, Essential stated in its privilege log that the information redacted from OCA-JA-I-5\_Attachment 1\_EU\_HIGHLY CONFIDENTIAL **[BEGIN HIGHLY**

**CONFIDENTIAL]** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **[END HIGHLY**

**CONFIDENTIAL]**

36. Essential stated in its privilege log that the information redacted from OCA-JA-I-5\_Attachment 2\_EU\_HIGHLY CONFIDENTIAL **[BEGIN HIGHLY CONFIDENTIAL]** [REDACTED]

[REDACTED]

[REDACTED] **[END HIGHLY**

**CONFIDENTIAL]** and the OCA has no way of ascertaining if the claimed privilege has been properly invoked.

37. Essential stated in its privilege log that the information redacted from OCA-JA-I-5\_Attachment 3\_EU\_HIGHLY CONFIDENTIAL **[BEGIN HIGHLY CONFIDENTIAL]** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] **[END HIGHLY CONFIDENTIAL]** As a result, the OCA has no way of ascertaining if the claimed privilege has been properly invoked. Essential has failed to meet its burden to show that the redacted information is privileged and or not likely to lead to admissible evidence.

**V. CERTIFICATION**

26. The undersigned counsel for OCA certifies that they have attempted to resolve the issue of redactions by undertaking the informal effort of participating in a conference call with the Company's counsel to discuss the basis for OCA's request and the basis for the Essential's redactions, and allowing Essential to provide the OCA with a privilege log, but counsel for both sides were unable to reach a resolution.

**VI. CONCLUSION**

Essential has not complied with the Commission's well-accepted procedures on discovery and their delay has impaired the OCA's ability to investigate the filing and pursue its issues. Essential's tactics of acting unilaterally to decide if information is privileged or relevant to the proceeding should not be accepted. If adopted, Essential's tactics would cause litigation before the Commission generally to grind to a halt.

For the foregoing reasons, the OCA's Interrogatory OCA-1-4 and 1-5 request relevant information for which Essential has failed to show that any privilege has been properly invoked. Accordingly, the OCA respectfully requests that the Presiding Officers grant this Motion to

Compel Response to Discovery and direct Essential provide unredacted responses to Interrogatory OCA Set 1, Question Nos. 4 and 5 within three calendar (3) days from the date of the order.

Respectfully submitted,

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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

Docket Nos. A-2025-3058927  
A-2025-3058928  
A-2025-3058929

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VERIFICATION

I, Darryl A. Lawrence, hereby state that the facts above set forth in the OCA's Motion to Compel Answer to Interrogatory are true and correct to the best of my knowledge, information, 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).

DATED: February 20, 2026

Signature: /s/ Darryl A. Lawrence  
Darryl A. Lawrence

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