

COMMONWEALTH OF PENNSYLVANIA



DARRYL A. LAWRENCE
Consumer Advocate

OFFICE OF CONSUMER ADVOCATE
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
(800) 684-6560

 @pa_oca
 /pennoca
FAX (717) 783-7152
consumer@paoca.org
www.oca.pa.gov

May 26, 2026

Via Electronic Filing

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Petition of FirstEnergy Pennsylvania
Electric Company for Approval of Its
Default Service Program for the
Period June 1, 2027 to May 31, 2031,
Docket No. P-2026-3060298

Dear Secretary Homsher:

Attached for electronic filing, please find the Motion of the Office of Consumer Advocate (OCA) to Dismiss Objections and to Compel Constellation Energy Generation, LLC and Constellation NewEnergy, Inc. to Answer Interrogatories in this proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Olivia M. Spergel
Olivia M. Spergel, Esq.
Assistant Consumer Advocate
PA Attorney I.D. # 337929
Email: OSpergel@paoca.org

Enclosures

cc: Administrative Law Judge Mark A. Hoyer (Via Email Only: mhoyer@pa.gov)
Administrative Law Judge Erin L. Gannon (Via Email Only: egannon@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

Petition of FirstEnergy Pennsylvania :
Electric Company for Approval of Its : Docket No. P-2026-3060298
Default Service Program for the Period June :
1, 2027 to May 31, 2031 :
:

I hereby certify that I have this day filed electronically on the Commission's electronic filing system and served a true copy of the following document, the Motion of the Office of Consumer Advocate (OCA) to Dismiss Objections and to Compel Constellation Energy Generation, LLC and Constellation NewEnergy, Inc. to Answer Interrogatories, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 26th day of May 2026.

SERVICE BY E-MAIL ONLY

Kenneth M. Kulak, Esq.
Brooke E. McGlinn, Esq.
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
ken.kulak@morganlewis.com
brooke.mcglinn@morganlewis.com
Counsel for FE PA

Tori L. Giesler, Esq.
Angelina Umstead, Esq.
FirstEnergy Service Company
2800 Pottsville Pike
Reading, PA 19612-6001
tgiesler@firstenergycorp.com
aumstead@firstenergycorp.com
Counsel for FE PA

Maggie E. Curran, Esq.
Morgan, Lewis & Bockius LLP
2222 Market Street,
Philadelphia, PA 19103-3007
maggie.curran@morganlewis.com
Counsel for FE PA

Allison C. Kaster, Esq.
Director & Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
akaster@pa.gov
Counsel for PA PUC

Elizabeth R. Marx, Esq.
Lauren N. Berman, Esq.
Ria M. Pereira, Esq.
John W. Sweet, Esq.
Levi A. Phillips, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org
Counsel for CAUSE-PA

Rebecca Lyttle, Esq.
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
relyttle@pa.gov
Counsel for OSBA

Thomas J. Sniscak, Esq.
Whitney E. Snyder, Esq.
Erich Struble, Esq.
Hawke McKeon & Sniscak, LLP
100 North Tenth Street
Harrisburg, PA 17101
tjsniscak@hmslegal.com
wesnyder@hmslegal.com
ewstruble@hmslegal.com
Counsel for PSU

Michael A. Gruin, Esq.
Donald Wagner, Esq.
Stevens & Lee
17 North 2nd Street, 16th Floor
Harrisburg, PA 17101
Michael.gruin@stevenslee.com
Donald.wagner@stevenslee.com
*Counsel for WGL Energy Services, and
Town Square*

Susan B. Bruce, Esq.
Charis Mincavage, Esq.
Matthew Garber, Esq.
Rebecca Kimmel, Esq.
McNees, Wallace & Nurick, LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
sbruce@mcneeslaw.com
cmincavage@mcneeslaw.com
mgarber@mcneeslaw.com
rkimmel@mcneeslaw.com
Counsel for Industrial Customer Groups

Deanne M. O'Dell, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
P.O. Box 1248
Harrisburg, PA 17101
dodell@eckertseamans.com
Counsel for RESA and NRG Energy, Inc.

Lauren M. Burge, Esq.
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
lburge@eckertseamans.com
Counsel for RESA

Michael Gianantonio, Esq.
Robert F. Daley, Esq.
Robert Peirce & Associates, P.C.
707 Grant Street
Gulf Tower, Suite 125
Pittsburgh, PA 15219
mgianantonio@peircelaw.com
*Counsel for John Bevec and
Sunrise Energy, LLC*

Melissa A. Chapaska, Esq.
HMS Legal LLP
501 Corporate Circle, Suite 302
Harrisburg, PA 17110
machapaska@hmslegal.com
Counsel for Penn Renewables

John M. White, Esq.
Constellation Energy Generation, LLC
101 Constitution Avenue, N.W.
Suite 400 East
Washington, DC 20001
john.white@constellation.com
*Counsel for Constellation Energy Generation,
LLC and Constellation NewEnergy, Inc.*

Colleen P. Kartychak, Esq.
Constellation
1310 Point Street
Baltimore, MD 21231
colleen.kartychak@constellation.com
*Counsel for Constellation Energy Generation,
LLC and Constellation NewEnergy, Inc.*

Linda S. Kizuka, Esq.
Constellation
250 Massachusetts Avenue, Northwest
Suite 760
Washington, DC 20001
linda.kizuka@constellation.com
*Counsel for Constellation Energy Generation,
LLC and Constellation NewEnergy, Inc.*

Marsha D. Makel, Esq.
Constellation
1310 Point Street Legal – 8th Floor
Baltimore, MD 21231
Marsha.Makel@constellation.com
*Counsel for Constellation Energy Generation,
LLC and Constellation NewEnergy, Inc.*

Todd S. Stewart, Esq.
HMS Legal LLP
501 Corporate Circle, Suite 302
Harrisburg, PA 17110
tsstewart@hmslegal.com
Counsel for EGS Parties

Daniel B. Markind, Esq.
Flaster Greenberg, PC
1717 Arch Street
Suite 3300
Philadelphia, PA 19103
Daniel.markind@flastergreenberg.com
Counsel for Dimension

Mitchell H. Kizner, Esq.
Flaster Greenberg, PC
Commerce Center
1810 Chapel Avenue West
Cherry Hill, NJ 08002
mitchell.kizner@flastergreenberg.com
Counsel for Dimension

Barry A. Naum, Esq.
Steven W. Lee, Esq.
Spilman Thomas & Battle PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
bnaum@spilmanlaw.com
slee@spilmanlaw.com
Counsel for Walmart, Inc.

Jamie L. Martines, Esq.
Spilman Thomas & Battle PLLC
301 Grant Street, Suite 3440
Pittsburgh, PA 15219
jmartines@spilmanlaw.com
Counsel for Walmart, Inc.

Nicholas A. Stobbe, Esq.
Stevens & Lee, P.C.
17 North 2nd Street, 16th Floor
Harrisburg, PA 17101
nicholas.stobbe@stevenslee.com
Counsel for CGC

Samuel W. Cortes, Esq.
Ashley L. Beach, Esq.
Fox Rothschild LLP
747 Constitution Drive, Suite 100
Exton, PA 19341
scortes@foxrothschild.com
abeach@foxrothschild.com
Counsel for SEIA and CCSA

Karen M. Kemerait, Esq.
Fox Rothschild LLP
301 Hillsborough Street, Suite 1120
Raleigh, NC 27603
KKemerait@FoxRothschild.com
Counsel for SEIA and CCSA

Christopher O'Hara, Esq.
PJM Interconnection LLC
2750 Monroe Boulevard
Audubon, PA 19403
christopher.ohara@pjm.com
Counsel for PJM

Counsel for:
Darryl A. Lawrence
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923

Phone: 717-783-5048
Fax: 717-783-7152

Dated: May 26, 2026

R. Taylor Speer, Esq.
Fox Rothschild LLP
2 West Washington Street, Suite 1100
Greenville, SC 29601
TSpeer@FoxRothschild.com
Counsel for SEIA and CCSA

Aron J. Beatty, Esq.
Duquesne Light Company
800 North Third Street
Harrisburg, PA 17402
abeatty@duqlight.com
Counsel for Duquesne Light

/s/ Olivia M. Spergel
Olivia M. Spergel, Esq.
PA Attorney I.D. # 337929
Assistant Consumer Advocate
Email: OSpergel@paoca.org

Harrison W. Breitman, Esq.
Senior Assistant Consumer Advocate
PA Attorney I.D. # 320580
Email: HBreitman@paoca.org

Katie Kennedy, Esq.
Assistant Consumer Advocate
PA Attorney I.D. # 317237
Email: KKennedy@paoca.org
Email: OCAFEPADSP26@paoca.org

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of FirstEnergy Pennsylvania	:	
Electric Company for Approval of Its	:	Docket No.: P-2026-3060298
Default Service Program for the Period	:	
June 1, 2027 to May 31, 2031	:	

MOTION OF THE OFFICE OF CONSUMER ADVOCATE
TO DISMISS OBJECTIONS AND TO COMPEL
CONSTELLATION ENERGY GENERATION, LLC AND
CONSTELLATION NEWENERGY, INC.
TO ANSWER INTERROGATORIES

I. INTRODUCTION

AND NOW, before Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Erin L. Gannon (ALJs), the Office of Consumer Advocate (OCA) files this Motion to Dismiss Objections and to Compel Answers to Interrogatories (Motion) pursuant to 66 Pa. C.S. Section 333(g) and 52 Pa. Code Sections 5.103, 5.331, and 5.342(c) and (g).

In this Motion, the OCA requests that the ALJs enter an order that (1) dismisses the written objections filed by Constellation Energy Generation, LLC and Constellation NewEnergy, Inc. (Constellation) on May 14, 2026; and (2) compels Constellation to provide the full and complete information requested in OCA Interrogatory Set 6, No. 3, on the grounds that the information sought in this interrogatory question is narrowly tailored to discover relevant and admissible evidence regarding matters which the Pennsylvania Public Utility Commission (Commission) must consider in this matter without imposing an unreasonable burden on Constellation, and

Constellation waived its right to object to the OCA's interrogatories when it failed to follow the modifications to the Commission's procedures for formal discovery ordered by the ALJs during the Prehearing Conference held on March 19, 2026 and 52 Pa. Code Section 5.342. In support of its Motion, the OCA sets forth the following:

II. BACKGROUND

On February 3, 2026, the FirstEnergy Pennsylvania Electric Company (FirstEnergy or Company) filed with the Commission a Petition for approval of its Default Service Plan for its generation customers (Petition). The Company's existing Default Service Plan (DSP) is set to expire on May 31, 2026. The proposed DSP is for the period of June 1, 2027, through May 31, 2031. This filing has been made pursuant to the requirements of Act 129 of 2008 (Act 129), the Commission's Default Service Regulations, the Commission's Policy Statement on Default Service, and related Commission Orders.

The Company's Petition was assigned to the Office of Administrative Law Judge and further assigned to Administrative Law Judges Mark A. Hoyer and Erin L. Gannon (ALJs Hoyer and Gannon). On February 10, 2026, the Office of Administrative Law Judge issued a Notice scheduling a Call-In Telephonic Prehearing Conference for March 19, 2026, at 10:00 a.m. and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed its Petition to Intervene and Answer. The Office of Small Business Advocate (OSBA) Attorneys Rebecca Lyttle and Steven C. Gray¹ filed their Joint Notice of Appearance on February 11, 2026. On February 12, 2026, OCA Attorneys Harrison W. Breitman, Katie Kennedy, and Olivia M. Spergel filed their Joint Notice of Entry of Appearance.

¹ OSBA Attorney Steven C. Gray later filed a Withdrawal of Appearance on February 18, 2026.

On February 19, 2026, ALJs Hoyer and Gannon issued a Prehearing Conference Order setting forth the parties' obligations with respect to the Prehearing Conference and directing the parties to prepare and distribute prehearing memorandums by March 17, 2026, at 3:30 p.m., and Penn Renewables LLC filed its Petition to Intervene. OSBA filed its Notice of Intervention and Public Statement on February 20, 2026. On February 23, 2026, Shipley Choice, LLC d/b/a Shipley Energy and Interstate Gas Supply, LLC d/b/a IGS Energy (EGS Parties) filed their Joint Petition to Intervene, and on February 24, 2026, Met-Ed Industrial Users Group (MEIUG), the Penelec Industrial Customer Alliance (PICA), and the West Penn Power Industrial Intervenors (WPPII) (together, Industrial Customer Groups) filed their Joint Petition to Intervene. Dimension PA 1 LLC (Dimension) filed its Petition to Intervene on March 5, 2026.

On March 9, 2026, the OCA filed its Notice of Intervention and Public Statement, and Answer in response to the Company's Petition. Also on March 9, 2026, the following parties filed their Petitions to Intervene: WGL Energy Services, Inc. (WGL ES); jointly, Sunrise Airport Road LLC, Sunrise Forrester Road LLC, Sunrise Franklin Road LLC, Sunrise Harlansburg Road LLC, Sunrise Hendersonville Road LLC, Sunrise McCurdy Road LLC, Sunrise Perry Highway LLC, Sunrise Sandy Lake Greenville Road LLC, Sunrise Sandy Lake Polk Road LLC, and Sunrise Springfield Church Road LLC (Customer Generation Coalition or CGC); and Town Square Energy East, LLC (Town Square). On March 10, 2026, Pennsylvania State University (PSU) filed its Petition to Intervene.

On March 13, 2026, the Solar Energy Industries Association (SEIA) and the Coalition for Community Solar Access (CCSA) (together, Joint Solar Advocates or JSA) filed their Joint Petition to Intervene. On March 16, 2026, ALJs Hoyer and Gannon issued two Interim Orders: the first, granting the Motion for Admission Pro Hac Vice of Mitchell H. Kinzer, Esquire; and the

second, granting the Motion for Admissions Pro Hac Vice of Linda S. Kizuka, Esquire and Marsha D. Makel, Esquire. Also on March 16, 2026, Constellation Energy Generation, LLC and Constellation NewEnergy, Inc., together (Constellation), filed their Petition to Intervene and Prehearing Conference Memorandum, and Duquesne Light Company (Duquesne) filed its Petition to Intervene.

On March 17, 2026, the Retail Energy Supply Association (RESA) and Walmart, Inc. (Walmart) filed Petitions to Intervene, and OSBA, Industrial Customer Groups, OCA, PSU, Walmart, RESA, Town Square, CGC, EGS Parties, WGLS, CAUSE-PA, FirstEnergy, Penn Renewables, LLC, SEIA and CCSA, together, Dimension PA 1, LLC, and Duquesne filed Prehearing Memorandums. On March 19, 2026, the Prehearing Conference was held, during which all 14 Petitions to Intervene were granted and the following modifications to the Commission's procedures for formal discovery were ordered from the date of the Prehearing Conference forward:

- A. Answers to written interrogatories and requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days of service.
- B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service of the interrogatories; unresolved objections shall be served in writing to the propounding party within five (5) calendar days of service of the interrogatories and/or requests for production.
- C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within five (5) business days of service of written objections.
- D. Answers to motions to dismiss objections and/or answering of interrogatories and/or requests for production shall be filed within three (3) business days of service of such motions.
- E. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
- F. Answers to on-the-record data requests shall be served in-hand within five (5) calendar days of the requests.
- G. Any discovery or discovery-related pleadings (such as objections, motions, and answers to same) served after served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day before a holiday will be

deemed to have been served on the next business day for purposes of calculating the due date for any responsive filing.

After rebuttal is served, the deadlines should be reduced as follows:

- A. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes shall be served within five (5) calendar days of service of the interrogatories or requests for production.
- B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within two (2) calendar days of service; unresolved objections shall be served on the propounding party in writing within three (3) calendar days of service of the interrogatories and/or requests for production.
- C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) business days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) business days of service of such motions.
- E. Requests for admission shall be deemed admitted unless answered or objected to within three (3) calendar days of service.
- F. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.

On April 29, 2026, the OCA, OSBA, CAUSE-PA, JSA, Walmart, CGC, RESA, and Town Square filed Direct Testimony, and WGLES, Constellation, EGS Parties, PSU, Industrial Customer Groups, and Penn Renewables filed Not Filing Direct Testimony Letters.

On May 4, 2026, the OCA served OCA Set 6 on Constellation. On May 13, 2026, counsel for Constellation sent OCA an email notifying the OCA that Constellation will be objecting to OCA's Set 6 Interrogatories in their entirety. On May 13, 2026, counsel for Constellation and OCA held a conference call to discuss the Objections and attempted to resolve the Objections without the need for a motion to compel, during which the OCA agreed to withdraw OCA Set 6,

No. 1. On May 14, 2026, Constellation served responses to OCA Set 6;² however, those responses were incomplete and improperly asserted objections, in part, to OCA Set 6, No. 3. The OCA therefore files this Motion to Compel seeking a full and complete response to the foregoing discovery request.

III. LEGAL STANDARD

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). 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.³ 52 Pa. Code § 5.321(c). It is not grounds 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.*

The Commission applies the relevancy test liberally. *See Pa. P.U.C. v. The Peoples Natural Gas Co.*, 62 PaPUC 56 (Aug. 26, 1986). Relevance depends upon the nature and the facts of the individual case. *Koken v. One Beacon Ins. Co.*, 911 A.2d 1021, 1025 (Pa. Cmwlth. 2006). Further, 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 (Sept. 11,

² Attached herein as OCA App. A.

³ 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).

2015).⁴ The burden is placed on the party objecting to discovery to establish that the information requested is not relevant or discoverable. *Id.*

Objections to filed interrogatories must be “prepared, filed and served in the same manner provided for an answer, except that an objection must be contained in a document separate from an answer” and “must: (1) Be served instead of an answer[,] (2) Restate the interrogatory or part thereof deemed objectionable and the specific ground for the objection[, and] (3) Include a description of the facts and circumstances purporting to justify the objection” 52 Pa. C.S. § 5.342(c).

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.*

The burden is placed on the party objecting to discovery to establish that the information requested is not relevant or discoverable. *Petition of the Borough of Cornwall for a Declaratory Order*, Docket No. P-2015-2476211, Order at 9-10 (Sept. 11, 2015).⁵ For the purpose of this OCA Motion, that burden lies with Constellation.

⁴ Citing *Koken v. One Beacon Ins. Co.*, 911 A.2d 1021, 1025 (Pa. Commw. 2006).

⁵ *Id.*

IV. MOTION TO COMPEL

A. OCA Set 6, No. 3 seeks information that is foundational in determining the impact FirstEnergy's Default Service Plan has on consumers in Pennsylvania who opt out of default service for renewable products.

OCA Interrogatory Set 6, No. 3 is as follows:

Does Constellation offer a renewable energy product? If so, provide the contract for such a product and the number of residential customers served by each FE EDC for the period January 2024 to the present.

As an interrogatory response to OCA Interrogatory Set 6, No. 3, Constellation stated:

Constellation has objected to providing the requested contracts and the requested information for the time period of January 2024 to the present. Notwithstanding these objections and without waiving its rights, Constellation answers as follows: Constellation does offer a renewable energy product to Pennsylvania residential customers. Currently, there are customers across the FE EDCs on a renewable energy product that Constellation serves.

It is the OCA's responsibility to protect the interests of Pennsylvania's consumers in matters that are properly before the Commission. 71 P.S. § 309-4. 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 proceeding. Absent privileged information, the OCA has the right to obtain discovery regarding any matter which is relevant to the subject matter involved in the proceeding. 52 Pa. Code § 5.321(c).

The subject matter involved in this case includes FirstEnergy's proposed DSP for the period June 1, 2027, through May 31, 2031, including proposed provisions concerning customer migration between default service and Electric Generation Supplier (EGS) service. Among other things, FirstEnergy proposes provisions that would return customers to default service after a specific period absent affirmative customer consent to remain on an EGS product and would prohibit certain EGS products priced above the applicable Price to Compare (PTC) from participating in the Purchase of Receivables (POR) program.

RESA and other EGSs challenged these provisions in direct testimony and pleadings, arguing that some customers knowingly choose to pay more for EGS products because those products include renewable energy attributes or other preferred characteristics. *See* RESA St. 1 at 18; Town Square St. 1 at 10. The information requested in OCA Interrogatory Set 6, No. 3 is in direct response to testimony⁶ and goes directly to these issues.

Constellation is an intervenor in this proceeding, is a member company of RESA, and admittedly offers renewable energy products to Pennsylvania residential customers, including customers in First Energy service territories. *See* OCA App. A, C.⁷ Although Constellation did not file direct testimony, RESA filed direct testimony advancing arguments regarding consumer preferences for renewable products and the asserted benefits of allowing customers to remain on EGS products without affirmative consent. RESA St. 1 at 14-26. The interrogatory seeks information necessary to evaluate those claims including the scope of customer participation in renewable products and the contractual representations being made to Pennsylvania consumers. The interrogatory was sent to all EGS intervenors in this proceeding, not just Constellation.⁸

Further, the requested contracts and customer counts are reasonably calculated to lead to the discovery of admissible evidence concerning the actual nature and value of the renewable products being offered. 52 Pa. Code § 5.321(c). The requested information is therefore directly relevant to assessing RESA's and EGSs' assertions regarding customer preferences, renewable content, consumer benefits, and the justification for opposing FirstEnergy's proposed customer protections.

⁶ As discussed herein, Constellation is a member of a party that provided testimony on their behalf and Marsha Makel, Constellation's counsel, is the first Vice President of RESA's executive committee. *See Executive Committee*, RESA, <https://www.resausa.org/about-us/executive-committee> (last visited May 22, 2026) attached herein as OCA App. B.

⁷ *See Our Members*, RESA, <https://www.resausa.org/our-members> (last visited May 22, 2026) attached herein as OCA App. C.

⁸ *See* OCA Interrogatories to EGS Parties, Set 7; OCA Interrogatories to Town Square, Set 8; OCA Interrogatories to WGLES, Set 9.

Under Section 333(d) of the Public Utility Code and the Commission's regulations, parties may obtain discovery regarding any nonprivileged matter relevant to the subject matter involved in the proceeding. 66 Pa. C.S. § 333(d); 52 Pa. Code § 5.321(c). The Commission applies relevancy broadly, and information need not itself be admissible if it is reasonably calculated to lead to admissible evidence. *Id.*; *Pa. PUC v. The Peoples Natural Gas Co.*, 62 Pa. PUC 56 (Aug. 26, 1986). Constellation, as an intervenor participating in this proceeding and offering the very type of products at issue, is subject to these discovery obligations. The burden rests on Constellation to demonstrate that the requested information is irrelevant or otherwise undiscoverable, and it has failed to meet that burden. *Petition of the Borough of Cornwall for a Declaratory Order*, Docket No. P-2015-2476211, Order (Sept. 11, 2015).

B. Constellation's objections are procedurally defective as they were not filed in a timely manner in accordance with the Commission ordered discovery modifications, were not filed in the correct form, and fail to state specific grounds for the objections asserted.

Constellation waived any objection to OCA Interrogatory Set 6, No. 3 when it failed to comply with the discovery procedures established by ALJs Hoyer and Gannon during the March 19, 2026, Prehearing Conference. The ALJs expressly ordered that objections to interrogatories "shall be communicated orally to the propounding party within three (3) calendar days of service of the interrogatories," and that unresolved objections "shall be served in writing to the propounding party within five (5) calendar days of service." The OCA served Set 6 on May 4, 2026. Constellation did not communicate oral objections within three calendar days of service and did not timely serve written objections in accordance with the ALJs' directives. Instead, Constellation first notified the OCA by email on May 13, 2026, that it intended to object to all interrogatories in Set 6, well after the deadline established by the ALJs' order and one day before the responses were required to be served.

Moreover, rather than serving proper written objections within five calendar days as required by the ALJs' discovery modifications, Constellation embedded its purported objection within its interrogatory responses on the date the responses were due. Constellation's failure to follow the ALJs' modified discovery procedures substantially prejudices the OCA. The OCA is required to file rebuttal testimony in this proceeding on May 27, 2026, and surrebuttal testimony on June 11, 2026, and because Constellation failed to timely raise and properly serve its objections, the OCA has been deprived of the requested discovery during this critical period preparing its case. The OCA must now await resolution of this Motion before obtaining any substantive response to the interrogatory. This is precisely the type of prejudice the ALJs' discovery rule modifications were intended to avoid, yet Constellation disregarded those procedures entirely. While the OCA met with Constellation in good faith to resolve what may be at issue, doing so does not waive the underlying waiver of Constellation to adhere to the ALJs' Prehearing Order regarding discovery modifications herein.

Constellation's objections to OCA Interrogatory Set 6, No. 3 are also procedurally defective because they were not filed in the form required by 52 Pa. C.S. Section 5.342(c). The regulation states that "[a]n objection shall be prepared, filed and served in the same manner provided for an answer, except that an objection must be contained in a document separate from an answer." 52 Pa. C.S. § 5.342(c). Here, Constellation did not prepare or serve a separate objection document. *See* OCA App. A. Instead, it embedded a statement within its interrogatory response, merely asserting that it "has objected to providing the requested contracts and the requested information" *Id.* Constellation also did not assert any facts or circumstances that purport to justify the objection in accordance with Commission regulations. 52 Pa. C.S. § 5.342(c).

Because Constellation did not assert its objection in the form and manner required by Commission regulations, its objection is invalid and should be deemed waived.

Additionally, Constellation's objections are procedurally defective because they fail to state specific grounds for the objections asserted. The Commission's regulations do not permit general objections. Rather, objections must "[r]estate the interrogatory or part thereof deemed objectionable and the specific ground for the objection." 52 Pa. Code § 5.342(c)(3). Constellation merely stated that it "has objected" to providing the requested contracts and information, without identifying any particular privilege, burden, confidentiality concern, or other legally cognizable basis for withholding the requested discovery. Such generalized and conclusory objections are insufficient under the Commission's regulations and should be dismissed.

V. CERTIFICATION

The undersigned counsel for OCA certifies that they have attempted, in good faith, to resolve the Company's objections by undertaking the informal effort of participating in phone calls and email correspondence on May 13, 2026, with Constellation's counsel to discuss the basis for OCA's request and the basis for the Company's objection. The parties reached agreement on three out of four of Constellation's objections but counsel for both sides were unable to reach a resolution with regard to OCA Set 6, No. 3.

VI. CONCLUSION

For the foregoing reasons, the OCA's Set 6 Interrogatory No. 3 requests relevant and discoverable information, does not impose an unreasonable burden on Constellation, and is not overly broad. Additionally, Constellation's objections are procedurally defective because they were untimely, were not in accordance with the ALJs' Prehearing Order and Commission regulations, and did not state specific grounds for the objections asserted. Accordingly, the OCA respectfully requests that the ALJs grant this Motion to Dismiss Objections and Compel Response

to Discovery and direct Constellation to answer OCA Set 6 Interrogatory No. 3 within three calendar (3) days from the date of the order.

Respectfully submitted,

/s/ Olivia M Spergel

Olivia Spergel

Assistant Consumer Advocate

PA Attorney I.D. # 337929

Email: OSpergel@paoca.org

Harrison W. Breitman

Senior Assistant Consumer Advocate

PA Attorney I.D. # 320580

Email: HBreitman@paoca.org

Katie Kennedy

Assistant Consumer Advocate

PA Attorney I.D. #317237

Email: KKennedy@paoca.org

Counsel for:

Darryl A. Lawrence

Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048

DATED: May 26, 2026

Appendix A

Constellation Energy Generation, LLC and
Constellation NewEnergy, Inc.'s Responses to
the Office of Consumer Advocate's Interrogatories, Set 6

Petition of FirstEnergy Pennsylvania Electric Company for Approval of Its Default Service Program for the Period June 1, 2027 to May 31, 2031
Docket No. P-2026-3060298
Interrogatories of the Office of Consumer Advocate
Set VI to Constellation

OCA Interrogatory No. VI-1:

Provide the monthly price charged to Pennsylvania residential customers served by each First Energy Pennsylvania (FE) Electric Distribution Company (EDC) for the period January 2024 to the present month and the number of residential customers charged each such price. For the purposes of this request, limit the date to the prices charged through the Purchase of Receivables (POR) billing method. For this request, price is defined as the cents per KWh for generation supply that is comparable to the Price to Compare (PTC) identified on the customer's bill. Provide this data in an electronic spreadsheet.

Response to OCA Interrogatory No. VI-1:

After discussions with OCA Counsel, OCA has agreed to withdraw Interrogatory No. VI-1, therefore Constellation is not responding to this interrogatory.

Petition of FirstEnergy Pennsylvania Electric Company for Approval of Its Default Service Program for the Period June 1, 2027 to May 31, 2031
Docket No. P-2026-3060298
Interrogatories of the Office of Consumer Advocate
Set VI to Constellation

OCA Interrogatory No. VI-2:

Does Constellation Energy Generation, LLC and Constellation NewEnergy, Inc. (together, Constellation) offer a time of use rate? If so, provide the contract for such a product and the number of residential customers served by each FE EDC for the period January 2024 to the present.

Response to OCA Interrogatory No. VI -2:

Constellation has objected to providing the requested contracts and the requested information for the time period of January 2024 to the present. Notwithstanding these objections and without waiving its rights, Constellation answers as follows: Constellation does offer a time-of -use product to Pennsylvania residential customers. Currently, Constellation does not have any residential customers in the FE EDC's on this product.

Petition of FirstEnergy Pennsylvania Electric Company for Approval of Its Default Service Program for the Period June 1, 2027 to May 31, 2031
Docket No. P-2026-3060298
Interrogatories of the Office of Consumer Advocate
Set VI to Constellation

OCA Interrogatory No. VI-3:

Does Constellation offer a renewable energy product? If so, provide the contract for such a product and the number of residential customers served by each FE EDC for the period January 2024 to the present.

Response to OCA Interrogatory No. VI -3:

Constellation has objected to providing the requested contracts and the requested information for the time period of January 2024 to the present. Notwithstanding these objections and without waiving its rights, Constellation answers as follows: Constellation does offer a renewable energy product to Pennsylvania residential customers. Currently, there are customers across the FE EDCs on a renewable energy product that Constellation serves.

**Petition of FirstEnergy Pennsylvania Electric Company for Approval of Its Default Service
Program for the Period June 1, 2027 to May 31, 2031
Docket No. P-2026-3060298
Interrogatories of the Office of Consumer Advocate
Set VI to Constellation**

OCA Interrogatory No. VI-4:

Provide the contract terms in use by Constellation governing the definition of how a variable rate price is calculated and charged to FE EDC residential customers since January 2024 to the present.

Response to OCA Interrogatory No. VI -4:

Constellation has objected to providing the requested contract terms and the requested information for the time period of January 2024 to the present. Notwithstanding our objections and without waiving our rights, Constellation answers as follow: Constellation does not currently offer a variable rate product to Pennsylvania residential customers for enrollment in the FE EDCs.

**Petition of FirstEnergy Pennsylvania Electric Company for Approval of Its Default Service
Program for the Period June 1, 2027 to May 31, 2031
Docket No. P-2026-3060298
Interrogatories of the Office of Consumer Advocate
Set VI to Constellation**

VERIFICATION

I, Dean Bush, hereby state that the facts set forth in Constellation's responses to the Office of Consumer Advocate's Interrogatories, Set VI 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).

DATED: May 14, 2026

Signature: *Dean Bush*

Dean Bush
Executive Director, Consumer Marketing
Constellation
1409 Tangier Dr Ste A
Baltimore, MD 21220

Appendix B

Executive Committee, RESA,

<https://www.resausa.org/about-us/executive-committee>

(last visited May 22, 2026)

EXECUTIVE COMMITTEE

Edwin Dearman

President

Shell Energy Solutions



Marsha Makel

First Vice President

Constellation



Matt White

Second Vice President

IGS Energy



Kristina Montgomery

Secretary

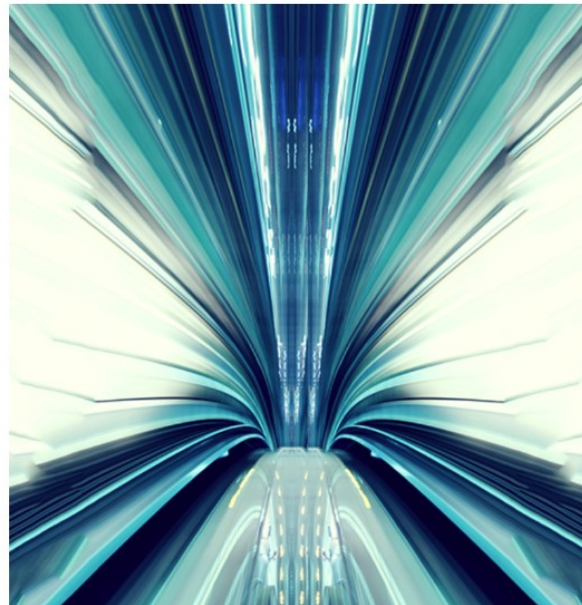
Vistra Corp.



Trish McFadin

Treasurer

SouthStar Energy Services



Appendix C

Our Members, RESA,

<https://www.resausa.org/our-members>

(last visited May 22, 2026)



OUR MEMBERS

RESA is comprised of a broad and diverse group of retail energy suppliers operating throughout the United States delivering competitively priced electricity and natural gas to residential, commercial and industrial energy customers.

Search by State

Service Type

Clear Filters



Delaware, Illinois, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Washington DC



Illinois, Maryland, New Jersey, New York, Ohio, Pennsylvania



Illinois, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Washington DC



Illinois, Maryland, New Jersey, New York, Ohio, Pennsylvania, Texas



Delaware, Illinois, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Texas, Washington DC



California, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Washington DC, Wyoming



Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas, Washington DC



California, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Ohio, Pennsylvania, Rhode Island



freepoint
commodities



Delaware, Illinois, Maryland, New Jersey, Ohio, Pennsylvania, Texas, Washington DC



Alabama, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Washington DC, West Virginia, Virginia



igsenergy



Alabama, California, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Mississippi, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia



California, Florida, Georgia, Illinois, Indiana, New Jersey, North Carolina, South Carolina, Texas, Virginia, West Virginia



California, Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Washington DC



California, Connecticut, Delaware, Georgia, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas, Virginia, Washington DC





Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas, Virginia, Washington DC



SouthStar Energy Services



Florida, Georgia, Illinois, Michigan, Ohio, Pennsylvania



California, Connecticut, Illinois, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania



California, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas, Virginia, Washington DC

BECOME A MEMBER

CONNECT WITH US

Executive Director:

Tracy McCormick
tmccormick@resausa.org

Media:

Stacey Gaswirth
Email: press@resausa.org
Phone: 214-213-4675

QUICK LINKS

- About Us
- Retail Energy
- Energy by State
- Legal Filings
- Resources
- For Consumers
- Members
- News & Events
- Contact
- Sitemap

JOIN THE CONVERSATION

RESA NEWS

SUBSCRIBE NOW

© 2026 RESA USA. RESA is a non-profit 501c(6) organization.