

November 15, 2010

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Via Hand Delivery

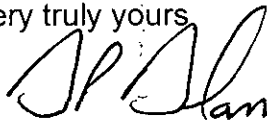
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Bldg., 2nd Floor
400 North Street
Harrisburg, PA 17120

Re: Application of Peregrine Keystone Gas Pipeline, LLC for Approval on a Non-exclusive Basis to Begin to Offer, Render, Furnish, or Supply Natural Gas Gathering, Compression, Dehydration, and Transportation or Conveying Service by Pipeline to the Public in All Municipalities Located in Greene and Fayette Counties and in East Bethlehem Township in Washington County, Pennsylvania.
Docket No. A-2010-2200201
Answer to Protest

Dear Secretary Chiavetta:

Enclosed please find an original and three copies of Peregrine Keystone Gas Pipeline, LLC's Answer to the Protest of James Rosenberg in the above-captioned matter. A copy of this document has been served on the protestant in this matter as indicated on the attached certificate of service.

Very truly yours,



Daniel P. Delaney
PA Attorney I.D. 23955
Counsel for Peregrine Keystone Gas Pipeline, LLC

Enclosures

c: Loren Fuller (w/enc.)
Service List (w/enc.)

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Peregrine Keystone Gas Pipeline, LLC for Approval on a Non-exclusive Basis to Begin to Offer, Render, Furnish, or Supply Natural Gas Gathering, Compression, Dehydration, and Transportation or Conveying Service by Pipeline to the Public in All Municipalities Located in Greene and Fayette Counties and in East Bethlehem Township in Washington County, Pennsylvania. :
: Docket No. A-2010-2200201

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**PEREGRINE KEYSTONE GAS PIPELINE, LLC'S
ANSWER TO THE PROTEST OF JAMES E. ROSENBERG.**

Peregrine Keystone Gas Pipeline, LLC ("Peregrine Keystone") files this answer to the protest filed by James E. Rosenberg ("Mr. Rosenberg") for purposes of addressing and clarifying the allegations contained in Mr. Rosenberg's protest. Peregrine Keystone files this answer pursuant to Section 5.61 of the Commission's regulations, 52 Pa. Code § 5.61. In support of its answer, Peregrine Keystone respectfully represents the following.

1. On September 17, 2010, Peregrine Keystone filed an Application with the Commission for approval on a non-exclusive basis to begin to offer, render, furnish or supply natural gas gathering, compression, dehydration, transportation or conveying service by pipeline to the public in all municipalities located in Greene and Fayette Counties, Pennsylvania, and in East Bethlehem Township in Washington County, Pennsylvania. The Application was docketed by the Commission Secretary at A-2010-2200201 ("the Application").

2. On October 2, 2010, notice of Peregrine Keystone's Application was published in the Pennsylvania Bulletin, 40 Pa. B. 5662 (October 2, 2010). Protests and

petitions to intervene were required to be filed with the Commission and served on Peregrine Keystone on or before November 1, 2010. On November 3, 2010, Mr. Rosenberg filed a protest to Peregrine Keystone's Application. Peregrine Keystone files this Answer to address and correct the allegations and legal conclusions contained in Mr. Rosenberg's protest.

- I. Peregrine Keystone's Application demonstrates that the approval of its proposed service is in the public interest.

Peregrine Keystone denies the allegations that are contained in this paragraph of Mr. Rosenberg's protest. The Commission has previously certificated interstate pipeline utilities providing gathering and related services in two cases and concluded that those services are in the public interest. See *Application of Ardent Resources, Inc.*, Dkt. No. A-140005 (Opinion and Order entered April 16, 2007), and *Application of Allegheny Land and Exploration, Inc.*, Dkt. No. A-125136 (Opinion and Order entered March 7, 2005). The information contained in the application supports the Commission's issuance of a certificate of public convenience to Peregrine Keystone pursuant to Section 1102 of the Public Utility Code, 66 Pa. C.S. § 1102. As stated in its Application, Peregrine Keystone is proposing to construct natural gas gathering and transportation facilities and provide service in all municipalities in Greene and Fayette Counties and in East Bethlehem Township in Washington County (§§ 6). Peregrine Keystone anticipates taking production from wells owned by affiliated and unaffiliated natural gas producers with which Peregrine Keystone has executed a gas gathering and transportation agreement (§§ 7). Peregrine Keystone will be offering natural gas gathering and related services to unaffiliated producers as an integral part of its proposed service (§§ 9). Peregrine Keystone is unaware of any other companies certificated by the Commission

furnishing intrastate natural gas gathering or transportation services in the proposed service territory (§ 13). Since Peregrine Keystone has not yet received a certificate of public convenience from the Commission, it is premature for it to be offering its services to the public. However, Peregrine Keystone anticipates that the presence of its gathering and transportation system will enhance drilling activities in the proposed service areas and Peregrine Keystone will provide services to other producers. See § 18 of the Application. Peregrine Keystone anticipates providing service to producers in Fayette County, and as a result has included that county within the proposed service territory identified in the Application.

II. The Contents of the Application Are Consistent with the Commission's Requirements.

Peregrine Keystone denies the allegations contained in this paragraph of Mr. Rosenberg's protest. The contents of the Application satisfy the requirements of Section 5.12 of the Commission's regulations, 52 Pa. Code § 5.12. Peregrine Keystone anticipates providing service to producers in Fayette County, and as a result has included that county within the proposed service territory identified in the Application. This paragraph of the protest complains about the possible siting of Peregrine Keystone's pipeline in Fayette County. The proposed siting of the pipeline, however, is not before the Commission for approval. The Commission does not exercise jurisdiction over the siting of natural gas pipelines. Although Peregrine Keystone is and will comply with all Pennsylvania requirements concerning its project, no provision of the Public Utility Code or the Commission's regulations addresses the siting of natural gas pipelines. There is no Commission regulation which requires Commission approval of the siting of natural gas pipelines. The Application does not request Commission

approval of the siting of the natural gas pipeline, but rather requests authority to provide *natural gas transportation and related services*.

III. Peregrine Keystone Has Provided Notice of its Application Throughout the Proposed Service Territory.

Peregrine Keystone denies the allegations in this paragraph of Mr. Rosenberg's protest. Peregrine Keystone has provided notice of the Application consistent with Section 5.14 of the Commissions regulations, 52 Pa. Code § 5.14. Notice of Peregrine Keystone's Application was published in the Pennsylvania Bulletin on October 2, 2010. Notices of the Application were also published in the Tribune-Review (September 24, 2010) and the Observer-Reporter (September 25, 2010). Both of these newspapers qualify as newspapers of general circulation for Fayette County, as that term is defined at 45 Pa. C.S. § 101. Peregrine Keystone also provided additional notice of the Application as part of its voluntary public outreach in Fayette County. On October 27, 2010, Peregrine Keystone conducted a public meeting at the Uniontown Holiday Inn and Conference Center in Fayette County to explain its project to the public and answer questions raised by the public concerning the project. Peregrine Keystone also explained at this meeting the status of its Application before the Commission. Notices advertising the public meeting ran in the Tribune Review and Observer-Reporter on October 21, 2010 and October 24, 2010. Peregrine Keystone also ran ten radio advertisements concerning the meeting between 5:00 a.m. and 7:00 p.m. on WNBS-AM, Uniontown, PA, daily on October 26, 2010 and October 27, 2010. Contrary to Mr Rosenberg's assertions contained in this paragraph of his protest, Peregrine Keystone provided public notice of its Application in Fayette County which exceeded the Commission's requirements.

IV. Peregrine Keystone's Application can be Decided by the Commission on its Own Merits.

Peregrine Keystone denies the allegations contained in this paragraph of Mr. Rosenberg's protest. There is no connection between Peregrine Keystone's Application and the application of Laser Marcellus Gathering Company at Commission Dkt. No. A-2010-2153371. Peregrine Keystone's Application requests authority to provide service in different geographical areas and the proposed services are different from those proposed in the Laser Marcellus application. A non-unanimous settlement of the Laser Marcellus application is currently under deliberation before Administrative Law Judge Susan Colwell. By its own terms, however, the settlement in that case does not apply to other applications filed with the Commission. Paragraph 34 of that settlement specifically states that it does not constitute precedent for any other gatherer with different facts, who holds themselves out differently, operates differently or serves or may serve a different territory than that sought by Laser Marcellus Gathering Company. There is no linkage between the applications and there is no requirement or need for Peregrine Keystone's Application to be delayed by the Commission's consideration of the application at Dkt. No. A-2010-2153371.

V. Peregrine Keystone Will Comply with All Required Regulatory Approvals.

Peregrine Keystone denies all of the allegations contained in this paragraph of Mr. Rosenberg's protest. Peregrine Keystone has stated in ¶ 19 of its Application that it will apply for all necessary state and local approvals necessary to provide the service identified in its Application. As stated in ¶ 10 of the Application, Peregrine Keystone will construct, operate and maintain its gathering and transportation system and facilities in accordance with the pipeline safety regulations promulgated by the United States

Department of Transportation as required by Section 59.33 of the Commission's regulations, 52 Pa Code § 59.33. Contrary to Mr. Rosenberg's arguments in this paragraph of his protest, the Commission has no authority over the exercise of eminent domain by certificated natural gas pipelines. Section 1511 of the Business Corporation Law, 15 Pa. C.S. § 1511, provides authority for natural gas public utilities to exercise eminent domain for the transmission, distribution or furnishing of natural gas, which includes the gathering of natural gas. There is no provision of Section 1511 that authorizes the Commission to supervise the exercise of eminent domain by a natural gas gathering public utility. The Commonwealth Court has held that the Commission does not have jurisdiction over easements and right-of-way agreements related to the provision of natural gas service. See *Adams v. Pennsylvania Public Utility Commission*, 819 A.2d 631 (Pa. Cmwlth Ct. 2003). Mr. Rosenberg's arguments in this paragraph of his protest are unsupported by the Application or Pennsylvania law.

VI. Peregrine Keystone Will Comply with All Pennsylvania Environmental Requirements.

Peregrine Keystone denies the allegations contained in this paragraph of Mr. Rosenberg's protest. Peregrine Keystone has stated in ¶ 19 of its Application that it will apply for all necessary state and local approvals for the construction of its facilities. These applications would include the permit requirements of the Pennsylvania Department of Environmental Protection ("DEP"). Peregrine Keystone submits that the Commission lacks authority over environmental issues. See *PECO Energy v. Township of Upper Dublin*, 922 A.2d 96, 1002 (Pa. Cmwlth Ct. 2007) (Commission lacks jurisdiction over environmental matters specifically regulated by statutes administered

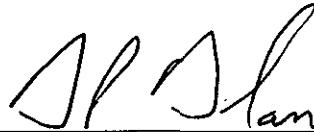
by other state and federal agencies). Peregrine Keystone's compliance with the permit requirements enforced by the DEP will satisfy all existing Pennsylvania environmental requirements for the construction of its facilities.

WHEREFORE, for all the foregoing reasons, Peregrine Keystone respectfully requests the Commission to enter an Order which:

1. Dismisses the protest filed by James E. Rosenberg;
2. Grants the authority requested in Peregrine Keystone's Application; and
3. Provides any additional relief which is just and reasonable under the

circumstances.

Respectfully submitted,



Daniel P. Delaney
PA Attorney I.D. 23955

George A. Bibikos
PA Attorney I.D. 91249

Counsel for Peregrine Keystone
Gas Pipeline, LLC

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Dated: November 15, 2010


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by Pipeline to the Public in all :
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Fayette Counties and in East Bethlehem :
Township in Washington County, :
Pennsylvania. :

VERIFICATION

I, D. Loren Fuller, hereby state that the facts set forth in the foregoing 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).

Date: 11/15/10



D. Loren Fuller
Peregrine Keystone Gas Pipeline, LLC

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing by first class mail upon the individual listed, in accordance with the requirements of Section 1.54 (relating to service by a party).

James E. Rosenberg
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Grindstone, PA 15442

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Dated: November 15, 2010



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Gas Pipeline, LLC

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