



17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Main Fax
www.postschell.com

Anthony D. Kanagy

akanagy@postschell.com
717-612-6034 Direct
717-731-1985 Direct Fax
File #: 162860

February 28, 2017

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Application of Laurel Pipe Line Company, L.P. for All Necessary Authority, Approvals, and Certificates of Public Convenience To Change the Direction of Petroleum Products Transportation Service to Delivery Points West of Eldorado, Pennsylvania
Docket No. A-2016-2575829

Dear Secretary Chiavetta:

Enclosed please find the Answer of Laurel Pipe Line Company, L.P. to the Motion to Compel Responses to Gulf Operating, LLC in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Anthony D. Kanagy

ADK/skr
Enclosure

cc: Certificate of Service
Honorable Eranda Vero

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL AND FIRST CLASS MAIL

John R. Evans
Small Business Advocate
Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101

Tanya J. McCloskey, Esquire
Senior Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

Adam D. Young, Esquire
Michael L. Swindler, Esquire
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
PO Box 3265
Harrisburg, PA 17105-3265

Robert A. Weishaar, Jr., Esquire
McNees Wallace & Nurick LLC
1200 G Street, NW
Suite 800
Washington, DC 20005
*Counsel for Gulf Operating, LLC
and Sheetz, Inc.*

Susan E. Bruce, Esquire
Adeolu A. Bakare, Esquire
Kenneth R. Stark, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
*Counsel for Gulf Operating, LLC
and Sheetz, Inc.*

Alan M. Seltzer, Esquire
John F. Povilaitis, Esquire
Buchanan Ingersoll & Rooney, PC
409 N. Second Street, Suite 500
Harrisburg, PA 17101-1357
Counsel for PESRM

Karen O. Moury, Esquire
Carl R. Shultz, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
*Counsel for Husky Marketing and
Supply Company*

Jonathan D. Marcus, Esquire
Daniel J. Stuart, Esquire
Marcus & Shapira LLP
One Oxford Centre, 35th Floor
301 Grant Street
Pittsburgh, PA 15219-6401
Counsel for Giant Eagle, Inc.

Andrew S. Levine, Esquire
Stradley, Ronon, Stevens & Young, LP
2600 One Commerce Square
Philadelphia, PA 19103
Counsel for Sunoco, LLC

Kevin J. McKeon, Esquire
Todd S. Stewart, Esquire
Whitney E. Snyder, Esquire
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
Counsel for Monroe Energy, LLC

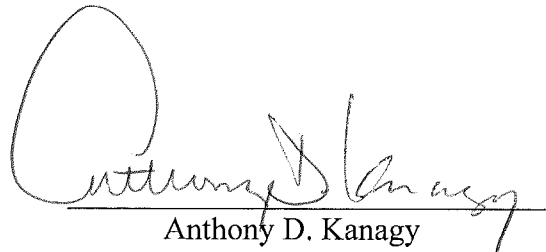
Christopher A. Ruggiero, Esquire
Vice President, General Counsel &
Secretary
Monroe Energy, LLC
4101 Post Road
Trainer, PA 19061
Counsel for Monroe Energy, LLC

Richard E. Powers, Jr., Esquire
Joseph R. Hicks, Esquire
Venable LLP
575 7th Street, NW
Washington, DC 20004
Counsel for Monroe Energy, LLC

VIA E-MAIL ONLY:

Joseph Otis Minott, Esquire
Ernest Logan Welde, Esquire
Clean Air Council
135 S. 19th Street, Suite 300
Philadelphia, PA 19103
Counsel for Clean Air Council

Date: February 28, 2017



Anthony D. Kanagy

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Laurel Pipe Line Company, :
L.P. for All Necessary Authority, Approvals, :
and Certificates of Public Convenience To : Docket No. A-2016-2575829
Change the Direction of Petroleum Products :
Transportation Service to Delivery Points :
West of Eldorado, Pennsylvania :

**ANSWER OF LAUREL PIPE LINE COMPANY, L.P.
TO THE MOTION TO COMPEL RESPONSES TO GULF SET I**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE ERANDA VERO:

Laurel Pipe Line Company, L.P. (“Laurel” or the “Company”) hereby files this Answer, pursuant to 52 Pa. Code § 5.342, to the Motion to Compel Responses to Gulf Set I (“Motion”) filed by Gulf Operating, LLC (“Gulf”) on February 23, 2017. As explained below, Gulf’s Motion should be denied because the interrogatory set forth in Gulf Set I is not relevant and is not likely to lead to the discovery of relevant or admissible evidence in this application proceeding. In support thereof, Laurel states as follows:

I. INTRODUCTION

1. On February 13, 2017, Laurel submitted timely Objections to Gulf’s Set I Interrogatories. Laurel objected to Gulf Set I, Instruction No. 13, Gulf Set I, Definition Nos. 5 and 13, and Gulf Set I Interrogatories Nos. 3, 4, 17, 19(iv), 21, 23, 24, 26, 28, 32, 33, and 37 (“Objections”). Following discussions between both parties, Gulf timely submitted its Motion with respect to Gulf Set I, Interrogatory No. 28, which requested the following:

Provide all internal or external studies, analyses, reports, etc. prepared by or for Laurel within the last 5 years addressing in any way the possibility of extending the reversal of flow along the Laurel pipeline to any points further east of those described in the Application.

2. In its Objections, Laurel objected to Gulf Set I, Interrogatory No. 28 as follows:

Pursuant to Section 5.321(c), a party may obtain discovery of any matter not privileged that is relevant to a pending proceeding and that is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). The information sought in Gulf Set I, Number 28 is not relevant to the issues to be addressed in this proceeding, and not likely to lead to the discovery of admissible evidence.

The information requested in Gulf Set I, Number 28 pertains to the “possibility of extending the reversal of flow along the Laurel pipeline to any points further east” of Eldorado, Pennsylvania. As demonstrated by the use of the term “possibility,” the requested information is entirely unrelated to Laurel’s proposed change in direction of flow that is before the Commission at the above-captioned docket. Laurel has not proposed nor is it seeking to change the direction of [flow] to any points further east of Eldorado, Pennsylvania. Therefore, the information sought by Gulf Set I, Number 28 is irrelevant to Laurel’s proposed change in direction of flow for points west of Eldorado that is pending before the Commission.

Based on the foregoing, Laurel objects to Gulf Set I, Number 28, which seeks information that is irrelevant, immaterial, and not likely to lead to admissible evidence in this proceeding.

Objections, at pp. 12-13. As discussed more fully herein, Laurel has demonstrated that the information sought by this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of evidence that is admissible in this proceeding.

3. Under Section 5.342(g)(1) of the Commission’s regulations, “[t]he party against whom the motion to compel is directed shall file an answer within 5 days of service of the

motion absent good cause...” 52 Pa. Code § 5.342(g)(1). Accordingly, Laurel hereby files this Answer to Gulf’s Motion with respect to Gulf Set I, Interrogatory No. 28.

II. ANSWER TO THE MOTION TO COMPEL

4. The Commission’s regulations and precedent limit discovery to information that is relevant to the subject matter involved in the pending proceeding. Section 5.321(c) of the Commission’s regulations states that:

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 a 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.

52 Pa. Code § 5.321(c) (emphasis added). In addition, the information sought by discovery must be “reasonably calculated to lead to the discovery of admissible evidence.” *Id.*

Discovery seeking information outside the scope of a pending proceeding is impermissible. *See, e.g., Petition of the Borough of Cornwall for a Declaratory Order*, 2015 Pa. PUC LEXIS 433, at *19-21 (Order Denying Motion to Compel, Sept. 11, 2015) (“*Cornwall*”); *Re Structural Separation of Bell Atlantic-Pennsylvania, Inc. Retail and Wholesale Operations*, 2000 Pa. PUC LEXIS 49, at *18-19 (July 20, 2000) (holding a presiding Administrative Law Judge (“ALJ”) correctly determined discovery related to the *need* for structural separation was outside the scope of proceeding regarding the *form, nature and details* of the separation). In *Cornwall*, the ALJ found that an interrogatory seeking “information concerning the *possible future transfer*” of a water system was not relevant to the issues pending before the ALJ because

“possible future actions by the Borough are irrelevant to the considerations in this proceeding.” *Cornwall.*, at *20-21 (emphasis added).

Gulf cites *Koken v. One Beacon Ins. Co.*, 911 A.2d 1021, 1025 (Pa. Cmwlth. 2006), for the proposition that any doubts regarding the relevancy of subject matter should be resolved in favor of relevancy, and that the party contending discovery is not relevant has the burden of proving irrelevancy. Motion ¶ 1. Notably, Gulf fails to disclose that the Commonwealth Court in *Koken* went on to hold that “if there is nothing in the record from which relevancy can be ascertained, this Court may place the burden of establishing relevancy upon the requesting party.” *Koken*, 911 A.2d at 1025.

Laurel is not seeking Commission approval to reverse the flow of the pipeline further east past Eldorado. Therefore, information regarding the possibility of extending the reversal past Eldorado is not an issue in this proceeding and not relevant. Despite Gulf’s attempts to misconstrue Laurel’s Application and the issues raised therein, there is nothing in the record to support the relevancy of the sought information as within the subject matter of Laurel’s Application. Therefore, for the reasons more fully explained below, Gulf has failed to demonstrate that information regarding “the possibility of extending the reversal of flow along the Laurel pipeline to any points further east of those described in the Application” is related to a relevant issue in this proceeding.

5. Paragraph 2 of Gulf’s Motion attempts to summarize Laurel’s Objection. The Objections are a written document that is attached hereto as Appendix A. The Terms of the Objections speak for themselves. Any interpretation or characterization thereof is denied.

6. Gulf effectively concedes that Gulf Set I, Interrogatory No. 28 seeks information outside the scope of discovery by stating that “[t]he Commission has a clear duty and legal

obligation to investigate all available evidence related to Laurel’s proposal to **reverse flow on a portion of its pipeline as requested in its Application** filed November 14, 2016.” Motion ¶ 3 (emphasis added). Indeed, there is only one proposal to reverse the flow over a portion of Laurel’s pipeline pending before the Commission: Laurel’s Application only proposed to reverse the flow of its system for points west of Eldorado. That proposal establishes the scope of information that is “relevant to the subject matter involved in the pending action,” and informs the inquiry of whether the information sought is “reasonably calculated to lead to the discovery of admissible evidence.” 52 Pa. Code § 5.321(c).

Gulf’s assertion that this discovery is necessary to “substantiate Laurel’s claims with regard to the extent of its planned pipeline reversal” is without merit. To the extent that the Commission determines Laurel must receive a Certificate of Public Convenience to effect the proposed reversal, the “extent” of the planned pipeline reversal that can be approved in this proceeding is defined by the Application and limited to points west of Eldorado, Pennsylvania. Thus, the subject matter involved in the pending action, to be analyzed under the public interest test, is the reversal as proposed by the Application.

7. Moreover, Gulf’s assertion that the information sought is relevant to “assessing the credibility of Laurel’s claims regarding its plans to reverse flows only to Eldorado” is without merit. To the extent that the Commission must approve Laurel’s proposal as described by the Application, the Commission would not be able to order reversal beyond what Laurel proposed in the Application. Such a separate and independent proposal, which would involve evaluation of separate and independent benefits and costs, in no way informs the Commission’s analysis of whether the pending proposal is in the public interest.

8. More fundamentally, however, Gulf's arguments in support of disclosure attempt to misconstrue the two issues raised by Laurel in its Application. Laurel's Application requests that the Commission: (1) determine that no approval is required to effectuate the proposed reversal; or (2) if the Commission determines that Laurel must receive its approval for the proposal, that the Commission find Laurel's proposed reversal, as described by the Application, to be in the public interest.

The first determination is a question of law involving what authority was granted to Laurel by the Commission in its Certificate of Public Convenience. Under this determination, the proper subject matter to determine relevance is the authority granted to Laurel in the Certificate of Public Convenience issued by the Commission. The issue of whether Laurel would possibly at some unspecified point in the future reverse the flow of its pipeline for points east of Eldorado is entirely irrelevant to determining whether the Commission authorized Laurel to provide both westbound and eastbound service in its Certificate of Public Convenience. In addition, the Commission is federally pre-empted from limiting Laurel's proposal to use its pipeline in interstate commerce and any such limitation would unreasonably burden interstate commerce.

The second determination involves an evaluation of facts to determine whether Laurel's proposal is in the public interest, if and only if the Commission determines that approval is required. Under this determination, the proper subject matter to determine relevance is the proposal as stated in Laurel's Application. Clearly, any information related to possible plans to reverse other, unidentified segments of the Laurel pipeline east of Eldorado at an unspecified future date is irrelevant to determining whether the proposed reversal of points west of Eldorado, described in the Application, is in the public interest. Such a proposal would necessarily involve

delivery points, engineering work, timing, financing, etc. that are irrelevant, and entirely outside the scope of Laurel's Application.

Indeed, the question is not whether the information sought by Gulf is relevant to an issue raised by them, *i.e.* any possible, unspecified future reversal of Laurel's pipeline to points east of Eldorado; rather, the question is whether this issue is relevant to the subject matter of either of the issues in this proceeding. *See Cornwall*, 2015 Pa. PUC LEXIS, at * 20-21. The reason that Gulf Set I, Interrogatory No. 28 is irrelevant is because the issue raised by Gulf regarding possible, unspecified future reversals to points east of Eldorado is not relevant to the pending consideration of either the scope of Laurel's authority under its Certificate of Public Convenience, or whether Laurel's proposal to reverse flow to Eldorado is in the public interest. *Id.* The fact that Interrogatory No. 28 is related to an issue raised by Gulf, does not somehow make it relevant to this proceeding when Gulf's issue is outside the scope of the Application.

Based on the foregoing, Gulf has failed to demonstrate that the information is relevant to the subject matter of this proceeding.

9. To the extent that Gulf argues Laurel's Application raised the issue of possible, unspecified future reversals of the Laurel pipeline to points east of Eldorado and inquiry into this irrelevant issue is reasonably expected to lead to the discovery of admissible evidence, Gulf's arguments are without merit and must be disregarded for several reasons. First, Gulf's assertions improperly summarize Laurel's Application and the requests contained therein. The Application is a written document, and its terms speak for themselves. Second, that Laurel has sought confirmation from the Commission that it has the authority to change the direction of flows over its pipeline system without Commission approval, does not implicate how Laurel would use that authority, if confirmed. As explained above, in paragraph 8, Gulf confuses the issues in this

regard. Third, Laurel's representations in its Application and testimony that westbound service from Philadelphia to Eldorado will continue solely speak to the scope of the reversal proposed in this proceeding: the change in direction of flow for points west of Eldorado. And finally, that a shipper has publically stated it would support extending the reversal east of Eldorado is irrelevant to the pending proposal which only seeks to reverse flow for points west of Eldorado. As demonstrated below, these attempts to identify matter in the record to support relevancy are unavailing, and therefore Gulf has failed to carry its burden to demonstrate that the information sought is relevant, because nothing in the record exists from which relevance can be determined. *See Koken*, 911 A.2d at 1025.

- a) Gulf's assertion that "the scope of the Application and supporting testimony necessarily includes all potential future pipeline reversals that could be implemented" if the Commission confirms Laurel's Certificate of Public Convenience authorizes it to provide both westbound and eastbound service is an attempt to cloud the issues. Whether Laurel is authorized to provide both westbound and eastbound service is a purely legal determination involving an evaluation of the authorization contained in Laurel's Certificate and federal law. Moreover, should the Commission determine that Laurel requires authorization to effectuate the reversal, then any other such "possible future actions" (*i.e.* reversals) would be subject to review and approval in another proceeding before the Commission. *See Cornwall*, 2015 Pa. PUC LEXIS 433, at *19-21. As such, the parties have not been deprived of due process with respect to information sought by this question, and Gulf's arguments to the contrary must be denied.

- b) As to Gulf's second point, the Application described that flow over Laurel's system would remain unchanged east of Eldorado, in order to clarify the scope of Laurel's proposal. The cited portion of Laurel's testimony merely supports that proposal by demonstrating that westbound service will continue to these points, and is not being altered by Laurel as a part of this proceeding. Gulf's attempt to point to this testimony is nothing more than an attempt to distract from the fact that the information Gulf seeks is unrelated to the subject matter of Laurel's pending proposal.
- c) Gulf's third point suffers from similar infirmities. Again, the cited portion of Laurel's testimony merely supports Laurel's statement in its Application that it is not seeking to change the direction of flow at any point east of Altoona in this proceeding. Moreover, that a shipper supporting the Broadway II project has publically expressed interest in attaining capacity to points east of Altoona, has no relevance to the evaluation of Laurel's proposal to reverse flow to points west of Altoona. The shipper is not a public utility subject to the jurisdiction of the Commission, or the entity seeking approval to effect such a reversal. Gulf again misses the point with respect to whether the information sought is relevant for purposes of discovery. The issue is not whether Gulf seeks information that is relevant to an issue it raises (*e.g.*, a non-utility's interest in capacity to points different from those in the pending proposal) that is outside the scope of the Application. Rather, the question is whether this issue is relevant to evaluate whether Laurel's proposal is in

the public interest. Gulf's inquiry is irrelevant to the subject matter of this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

10. Furthermore, Gulf's argument that any documentation indicating plans to complete reversals to points east of Eldorado would "call in question any weight accorded to cost/benefit analyses predicated on a reversal only to Eldorado" is illogical. The results of a cost/benefit analysis of the proposed reversal will necessarily be different from any cost/benefit analysis conducted for a reversal to points east of Eldorado. The latter analysis would involve different delivery points, different shipper commitments, different engineering work, different timing, and different economics.¹ Indeed, the latter analysis would deal with an entirely different, *i.e.* irrelevant, reversal than the one pending before the Commission in this proceeding. Therefore, Gulf Set I, Interrogatory No. 28 seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence.

11. No uncertainty exists with respect to whether the information sought by Gulf Set I, Interrogatory No. 28 is relevant to this Application. The information sought relates to "possible future actions" by Laurel, which are neither the subject of the pending Application nor relevant to the consideration of either issue involved in this proceeding, and the information is therefore irrelevant and outside the scope of discovery. *See* Cornwall, 2015 Pa. PUC LEXIS, at * 20-21. As explained above, the issues raised by Gulf in support of its Motion are irrelevant to

¹ Moreover, the Commission cannot act as a "super board of directors" and substitute its judgment for that of the utility, unless an abuse of discretion by the utility has been shown. *See Metropolitan Edison Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 76 (Pa. Cmwlth. 1981). Gulf effectively asks the Commission to substitute its judgment for Laurel's with respect to Laurel's cost/benefit analysis of the proposed reversal as compared to any number of other speculative projects that Laurel possibly could have considered and proposed. Gulf's request for the Commission to engage in such analysis is contrary to well-established law, and should be denied.

either of the issues involved in this proceeding. *See* paragraph 8 *supra*. Despite Gulf's attempts to conflate these issues and argue that, at worst, the relevancy of the information sought by Gulf Set I, Interrogatory No. 28 is uncertain, the information sought by Gulf is only related to issues that are irrelevant to and outside the scope of this proceeding. No uncertainty regarding the irrelevancy of this information exists, and Gulf's attempts to misconstrue the record to demonstrate relevancy are unavailing.

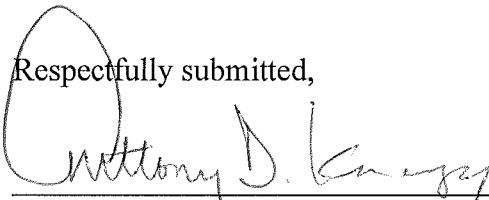
In addition, the highly sensitive nature of the information sought by Gulf Set I, Interrogatory No. 28 enhances the need to deny disclosure given the information's lack of relevance. Due to the lack of relevance, this question appears to be nothing more than a fishing expedition to gain access to highly sensitive commercial information that would provide certain market participants with an unfair competitive advantage over other market participants in the highly competitive petroleum products market and, in particular, over other shippers on Laurel's system. As such, limiting the disclosure of the irrelevant information sought by Gulf Set I, Interrogatory No. 28 would be insufficient to protect the commercial interests of both Laurel and its shippers. Therefore, Gulf's Motion should be denied.

III. CONCLUSION

WHEREFORE, Laurel Pipe Line Company, L.P. respectfully requests that Administrative Law Judge Eranda Vero grant Laurel Pipe Line Company, L.P.'s objection and enter an appropriate order directing the following:

(I) Gulf Set I, Interrogatory No. 28 is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and therefore Laurel Pipe Line Company, L.P. is not required to respond to this question; and

(II) Gulf's Motion to Compel is denied.

Respectfully submitted,


Christopher J. Barr, Esquire (DC ID #375372)
Jessica R. Rogers, Esquire (PA ID #309842)
Post & Schell, P.C.
607 14th Street, N.W., Suite 600
Washington, DC 20005-2000
Phone: (202) 347-1000
Fax: (202) 661-6970
E-mail: cbarr@postschell.com
E-mail: jrogers@postschell.com

David B. MacGregor, Esquire (PA ID #28804)
Anthony D. Kanagy, Esquire (PA ID #85522)
Garrett P. Lent, Esquire (PA ID #321566)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: (717) 731-1970
Fax: (717) 731-1985
E-mail: dmacgregor@postschell.com
E-mail: akanagy@postschell.com
E-mail: glent@postschell.com

Date: February 28, 2017

Counsel for Laurel Pipe Line Company, L.P.

Appendix A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Laurel Pipe Line Company, :
L.P. for All Necessary Authority, Approvals, :
and Certificates of Public Convenience To : Docket No. A-2016-2575829
Change the Direction of Petroleum Products :
Transportation Service to Delivery Points :
West of Eldorado, Pennsylvania :

**OBJECTIONS OF LAUREL PIPE LINE COMPANY, L.P.
TO CERTAIN INTERROGATORIES PROPOUNDED BY
GULF OPERATING, LLC SET I**

Laurel Pipe Line Company, L.P. (“Laurel” or the “Company”) hereby submits these Objections to certain Interrogatories of Gulf Operating, LLC (“Gulf”) Set I, pursuant to 52 Pa. Code § 5.342. As explained below, Laurel objects to certain discovery requests set forth in Gulf Set I because they seek information that is privileged, not relevant to the issues raised in the above-captioned matter, and not likely to lead to the discovery of relevant or admissible evidence in the above-captioned matter. In support thereof, Laurel states as follows:

I. INTRODUCTION

On November 14, 2016, Laurel filed the above-captioned Application with the Pennsylvania Public Utility Commission (“Commission”) at Docket No. A-2016-2575829. The Application sought all necessary, authority, approvals and Certificates of Public Convenience, to the extent required, authorizing Laurel to change the direction of its petroleum products transportation service over a portion of its system west of Eldorado, Pennsylvania, and confirming that Laurel may, in its discretion, reinstate the current direction of service in the future without further Commission approval.

In support of its Application, Laurel also filed the direct testimony of six witnesses and associated exhibits on February 7, 2016. Therein, Laurel more fully explained the details of the proposed change in direction of flow over the western portion of its system, and why the Company believes that the proposed change in direction of flow either does not require Commission approval; or if it does require Commission approval, why the Company believes that the proposed change in direction of flow is in the public interest and should be approved consistent with Sections 1102(a)(2) and 1103(a) of the Public Utility Code.

On November 22, 2016, Gulf filed a Petition to Intervene and Motion to Extend the Deadline for Protests. Gulf subsequently filed a formal Protest on February 1, 2017. On February 3, 2017, Gulf served Gulf Set I interrogatories. On February 6, 2017, the Commission issued a Notice setting the date for the Prehearing Conference on February 14, 2017.

Under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c), in turn, provides that a party is entitled to obtain discovery of any matter not privileged that is relevant to a pending proceeding and reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). In addition, under Section 5.323, discovery may not include disclosure of legal research or legal theories. 52 Pa. Code § 5.323(a).

For the reasons explained below, the interrogatories set forth in Gulf Set I, Instruction Number 13, Definition Numbers 5 and 13, and Numbers 3-4, 17, 19(iv), 21, 23-24, 26, 28, 32-33 and 37 seek information that is exempt from discovery under the Commission's regulations. Therefore, in accordance with the Commission's regulations, Laurel hereby objects to Gulf Set I, Instruction Number 13, Definition Numbers 5 and 13, and Numbers 3-4, 17, 19(iv), 21, 23-24, 26, 28, 32-33 and 37.

II. OBJECTIONS

A. **Objection to Gulf Set I, Instruction Number 13**

Gulf Set I, Instruction Number 13 provides as follows:

13. In addition to the requirements of paragraphs 20 and 21 below, if any Document covered by any Data Request is withheld for whatever reason, including any privilege, please furnish a list identifying the date, type, and nature all each withheld Document and the legal basis and rationale for withholding it from production.

The Commission's regulations broadly exempt privileged materials and documents from discovery. 52 Pa. Code §§ 5.321(c) and 5.323(a); *see also* 52 Pa. Code § 5.361(a)(3) (prohibiting discovery which relates to a matter which is privileged). However, the Commission's regulations do not require a party to maintain a privilege log for any material or materials for which privilege is asserted. In addition, the Commission's regulations prohibit discovery which would cause unreasonable burden to a party. 52 Pa. Code § 5.361(a)(4). Gulf Set I, Instruction Number 13 seeks to unreasonably burden Laurel efforts to respond to discovery requests, which specifically inquire in to matters which are exempt from discovery under the Commission's regulations, by imposing a requirement on Laurel that is not contemplated by the Commissions regulations.

Based on the foregoing, Laurel objects to Gulf Set I, Instruction Number 13 as unreasonably burdensome.

B. **Objection to Gulf Set I, Definition Number 5 "Document"**

Gulf Set I, Definition Number 5 provides as follows:

5. "*Document*" means the original and all drafts of all written and graphic matter, however produced or reproduced, of any kind or description, whether or not sent or received, and all copies thereof which are different in any way from the original (whether by interlineation, date-stamp, notarization, indication of copies sent or received, or otherwise), including without limitation, any

emails, paper, book, account, photograph, blueprint, drawing, sketch, schematic, agreement, contract, memorandum, press release, circular, advertising material, correspondence, letter, telegram, telex, object, report, opinion, investigation, record, transcript, hearing, meeting, study, notation, working paper, summary, intra-office communication, diary, chart, minutes, index sheet, computer software, computer-generated records or files, however stored, check, check stub, delivery ticket, bill of lading, invoice, record or recording or summary of any telephone or other conversation, or of any interview or of any conference, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter of which You have or have had possession, custody or control, or of which You have knowledge.

Pursuant to Section 5.321(c), a party may obtain discovery of any matter not privileged that is relevant to a pending proceeding and that is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). Section 5.323(a) of the Commission's regulations also exempts preliminary or draft versions of testimony and exhibits from discovery, whether or not the final versions of the testimony or exhibits are offered into evidence. 52 Pa. Code § 5.323(a). In addition, the Commission's regulations prohibit discovery which would cause unreasonable burden to a party. 52 Pa. Code § 5.361(a)(4). Gulf Set I, Definition Number 5 is defines "Document" in a manner which is unreasonably burdensome, and seeks information that is privileged, irrelevant, immaterial, and not likely to lead to the discovery of admissible evidence.

Gulf Set I, Definition Number 5 specifically seeks to include all prior drafts of any document, and handwritten notes, notations, records or recordings of any conversation in the definition of "Document." Any prior drafts of a document are irrelevant and immaterial to the issues in this proceeding, and are not likely to lead to the discovery of admissible evidence. To the extent that a document is relevant to the issues in this proceeding, the content of that document speaks for itself and does not require inquiry into any prior draft(s). Moreover, such drafts are exempt from discovery under the Commission's regulations. In addition, production

of prior drafts, and any handwritten notes, notations, records or recordings of any conversation is unreasonably burdensome. Production of such materials would require an unreasonably extraordinary and burdensome effort by Laurel, and only serve to inefficiently delay this proceeding.

Moreover, Definition Number 5 seeks to include materials and documents that were created in preparation of litigation in its definition of Document. To the extent that any document or other material was prepared in advance of Laurel's Application, in preparation for its submission for review before the Commission, such materials are privileged and exempt from discovery.

Based on the foregoing, Laurel objects to Gulf Set I, Definition Number 5 as unreasonably burdensome, and as seeking information that is privileged, irrelevant, immaterial, and not likely to lead to the discovery of admissible evidence. Laurel reserves the right to further object to any question that similarly seeks discovery of an overly broad classification or category of materials or documents.

C. Objection to Gulf Set I, Definition Number 13

Gulf Set I, Definition Number 13 provides as follows:

21. "*You,*" "*Your,*" or "*Laurel*" means Laurel Pipeline Company, L.P., the Applicant in PUC Docket No. A-2016-2575829, pending before the Commission and Buckeye Pipe Line Company L.P., together with their attorneys, consultants, employees, agents, representatives, officers and directors, and any other person acting on their behalf, including any affiliate, division, department, predecessor, corporation, general partner, or partnership through which they now conduct or have conducted business affairs.

Pursuant to Section 5.321(c), a party may obtain discovery of any matter not privileged that is relevant to a pending proceeding and that is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). Gulf Set I, Definition Number 13 is overly

broad, and is written to seek information that is irrelevant, immaterial, and not likely to lead to the discovery of admissible evidence in this proceeding.

Gulf Set I, Definition Number 21 seeks information related to “any affiliate” through which Laurel conducts or has conducted business affairs. This definition is overly broad because it includes any Laurel affiliate, even those that are irrelevant to the issues involved in this proceeding. To the extent that an affiliate of Laurel may be properly included in this definition, that affiliate must be directly involved with an issue involved in Laurel’s Application that is pending before the Commission.

Based on the foregoing, Laurel objects to Gulf Set I, Definition Number 13 as overly broad, and written to seek information that is irrelevant, immaterial, and not likely to lead to the discovery of admissible evidence in this proceeding.

D. Objection to Gulf Set I, Numbers 3 and 4

Gulf Set I, Numbers 3 and 4 provide as follows:

3. Does Laurel dispute its status as a regulated public utility in the Commonwealth of Pennsylvania? Explain your answer and provide all Documents in support of your response.
4. Does Laurel dispute that it is currently subject to the jurisdiction of the PUC with respect to its rates, services and facilities comprising the Laurel pipeline? Explain your answer and provide all Documents in support of your response.

Pursuant to Section 5.321(c), a party may obtain discovery of any matter not privileged that is relevant to a pending proceeding and that is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). In addition, Section 5.323 prohibits discovery of legal research and legal theories. 52 Pa. Code § 5.323(a). The information sought in Gulf Set I, Numbers 3 and 4 specifically calls for a legal conclusion.

Gulf Set I Numbers 3 and 4 seek information related Laurel's legal research, legal theories, and legal conclusions as to whether Laurel is a public utility in the Commonwealth of Pennsylvania and subject to the jurisdiction of the Commission. These questions specifically inquire of Laurel's legal conclusions, rather than facts relevant to the issues in this case. Accordingly, the information requested in Gulf Set I, Numbers 3 and 4 is exempt from discovery pursuant to 52 Pa. Code § 5.323(a).

Based on the foregoing, Laurel objects to Gulf Set I, Numbers 3 and 4 because the information sought is related to legal theories and conclusions.

E. Objection to Gulf Set I, Number 19(iv)

Gulf Set I, Number 19 provides as follows:

19. Has Laurel, any Laurel affiliate or anyone acting on behalf of Laurel provided notice of Laurel's proposal to reverse the flow of the Laurel pipeline as described in the Application to any shippers or other customers who use the Laurel pipeline to ship any product from New Jersey or other areas into Pennsylvania as part of interstate pipeline service? If so, provide (i) the names and addresses of such entities contacted; (ii) the date(s) of such contacts; (iii) a description of the form and type of notice provided to such entities; and (iv) a summary of that entities' position with respect to the flow reversal proposal.

Pursuant to Section 5.321(c), a party may obtain discovery of any matter not privileged that is relevant to a pending proceeding and that is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). The information sought in Gulf Set I, Number 19(iv) is not relevant to the issues to be addressed in this proceeding, and not likely to lead to the discovery of admissible evidence.

The information requested in Gulf Set I, Number 19(iv) is not relevant to this proceeding. Laurel served a copy of its Application upon the following entities in accordance with the requirements of the Commission's December 6, 2016 Secretarial Letter: (1) current customers

using the subject pipeline; (2) former customers who used the subject pipeline during the period from January 1, 2015, through the date of filing; and (3) prospective and committed customers Laurel expects to use the subject pipeline if the flow direction of the line is changed. All such entities were notified that Petitions to Intervene and/or Protests to the Application were due to the Commission on or before February 1, 2017. To the extent that such entities have not filed a letter, Petition to Intervene, or Protest with the Commission, their “position with respect to the flow reversal proposal” is irrelevant and not properly before the Commission, such that discovery of these positions is not likely to lead to admissible evidence. Furthermore, those entities that have filed a Petition to Intervene, Protest or letter with the Commission have made their position clear. Therefore, the information sought in Gulf Set I, Number 19(iv) is not relevant to the issues, claims, or proposals in this proceeding, and is not likely to lead to admissible evidence in this application proceeding.

Based on the foregoing, Laurel objects to Gulf Set I, Number 19(iv) because the information sought is not relevant to the issues to be addressed in this application proceeding, and not likely to lead to the discovery of admissible evidence.

F. Objection to Gulf Set I, Number 21

Gulf Set I, Number 21 provides as follows:

21. Identify all locations that Laurel uses, or has used in the past five years, as a records repository.

Pursuant to Section 5.321(c), a party may obtain discovery of any matter not privileged that is relevant to a pending proceeding and that is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). The information sought in Gulf Set I, Number 21 is not relevant to the issues to be addressed in this proceeding, and not likely to lead to the discovery of admissible evidence.

The location of where Laurel keeps its records is completely irrelevant in this proceeding. Gulf may ask, and has asked, for relevant information and documents to support its cases. However, where the documents are actually kept has no relevance to the issues in this proceeding.

Based on the foregoing, Laurel objects to Gulf Set I, Number 21 because the information sought is not relevant to the issues to be addressed in this application proceeding, and not likely to lead to the discovery of admissible evidence.

G. Objection to Gulf Set I, Number 23

Gulf Set I, Number 23 provide as follows:

23. Summarize all facts and bases supporting Laurel's view that the proposed reversal of flow along the Laurel pipeline as proposed in the Application does not constitute an abandonment of service currently being provided along the Laurel pipeline.

Pursuant to Section 5.321(c), a party may not obtain discovery of any matter that is privileged. 52 Pa. Code § 5.321(c). In addition, Section 5.323 prohibits discovery of legal research and legal theories. 52 Pa. Code § 5.323(a). The information sought in Gulf Set I, Number 23 is privileged and includes the legal research, theories and legal conclusions of Laurel.

Gulf Set I, Number 23 seeks information related to Laurel's mental impressions, legal research, legal theories, legal conclusions, opinions, and litigation strategies related to whether or not Laurel's proposed change in direction of service over a portion of its pipeline system constitutes an abandonment of flow. Any such information or materials were prepared in anticipation of a formal proceeding to analyze the value, merit, and strategy of presenting Laurel's proposed change in direction of flow for Commission review and consideration. Accordingly, the information requested in Gulf Set I, Number 23 is exempt from discovery pursuant to 52 Pa. Code § 5.323(a).

Further, the information requested in Gulf Set I, Number 23 was prepared by and with the assistance of legal counsel. Any such information is subject to attorney-client privilege and attorney-work product doctrine and, therefore, is exempt from discovery pursuant to 52 Pa. Code § 5.321(c).

Based on the foregoing, Laurel objects to Gulf Set I, Number 23 because the information sought is privileged, and related to the legal research, legal theories, and legal conclusions of Laurel.

H. Objection to Gulf Set I, Number 24

Gulf Set I, Number 24 provides as follows:

24. Does Laurel claim that it currently has the lawful ability to change the direction of flow along any portion of the Laurel pipeline in its sole and exclusive discretion without any approvals or other authorization by any state or federal agency including, without limitation, the PUC, the Federal Energy Regulatory Commission ("FERC"), others? If the answer is in the affirmative, identify and describe the basis for your answer and provide all supporting Documents.

Pursuant to Section 5.321(c), a party may not obtain discovery of any matter that is privileged. 52 Pa. Code § 5.321(c). In addition, Section 5.323 prohibits discovery of legal research and legal theories. 52 Pa. Code § 5.323(a). The information sought in Gulf Set I, Number 24 is privileged and includes the legal research, theories and legal conclusions of Laurel.

Gulf Set I, Number 24 seeks information related to Laurel's mental impressions, legal research, legal theories, legal conclusions, opinions, and litigation strategies related to whether Laurel is required to seek any approvals or other authorization to change the direction of flow over its pipeline system. Any such information or materials were prepared in anticipation of a formal proceeding to analyze the value, merit, and strategy of presenting Laurel's proposed change in direction of flow over a portion of its system for Commission review and

consideration. Accordingly, the information requested in Gulf Set I, Number 24 is exempt from discovery pursuant to 52 Pa. Code § 5.323(a).

Further, the information requested in Gulf Set I, Number 24 was prepared by and with the assistance of legal counsel. Any such information is subject to attorney-client privilege and attorney-work product doctrine and, therefore, is exempt from discovery pursuant to 52 Pa. Code § 5.321(c).

Finally, Gulf Set I, Number 24 explicitly calls for a legal conclusion as to whether Laurel “has the lawful ability to change the direction of flow along any portion of the Laurel pipeline in its sole and exclusive discretion without any approvals or other authorization by any state or federal agency including, without limitation, the PUC, the Federal Energy Regulatory Commission (“FERC”), others.” Therefore, Gulf Set I, Number 24 is not likely to lead to the discovery of admissible evidence.

Based on the foregoing, Laurel objects to Gulf Set I, Number 24 because the information sought is privileged, and not likely to lead to the discovery of admissible evidence.

I. Objection to Gulf Set I, Number 26

Gulf Set I, Number 26 provide as follows:

26. Will the proposed reversal of flow along the Laurel pipeline as proposed in the Application constitute an abandonment of intrastate service to Pittsburgh from the Laurel pipeline? Explain and provide all Documents in support of your answer.

Pursuant to Section 5.321(c), a party may not obtain discovery of any matter that is privileged. 52 Pa. Code § 5.321(c). In addition, Section 5.323 prohibits discovery of legal research and legal theories. 52 Pa. Code § 5.323(a). The information sought in Gulf Set I, Number 26 is privileged and includes the legal research, theories and legal conclusions of Laurel.

Gulf Set I, Number 26 seeks information related to Laurel's mental impressions, legal research, legal theories, legal conclusions, opinions, and litigation strategies related to whether or not Laurel's proposed change in direction of service over a portion of its pipeline system constitutes an abandonment of intrastate service to Pittsburgh. Any such information or materials were prepared in anticipation of a formal proceeding to analyze the value, merit, and strategy of presenting Laurel's proposed change in direction of flow for Commission review and consideration. Accordingly, the information requested in Gulf Set I, Number 23 is exempt from discovery pursuant to 52 Pa. Code § 5.323(a).

Further, the information requested in Gulf Set I, Number 26 was prepared by and with the assistance of legal counsel. Any such information is subject to attorney-client privilege and attorney-work product doctrine and, therefore, is exempt from discovery pursuant to 52 Pa. Code § 5.321(c).

Finally, Gulf Set I, Number 26 calls for a legal conclusion as to whether the proposed change in direction of flow "will constitute an abandonment of interstate service to Pittsburgh." Therefore, Gulf Set I, Number 26 is not likely to lead to the discovery of admissible evidence.

Based on the foregoing, Laurel objects to Gulf Set I, Number 26 because the information sought is privileged, and not likely to lead to the discovery of admissible evidence.

J. Objection to Gulf Set I, Number 28

Gulf Set I, Number 28 provides as follows:

28. Provide all internal or external studies, analyses, reports, etc. prepared by or for Laurel within the last 5 years addressing in any way the possibility of extending the reversal of flow along the Laurel pipeline to any points further east of those described in the Application.

Pursuant to Section 5.321(c), a party may obtain discovery of any matter not privileged that is relevant to a pending proceeding and that is reasonably calculated to lead to the discovery

of admissible evidence. 52 Pa. Code § 5.321(c). The information sought in Gulf Set I, Number 28 is not relevant to the issues to be addressed in this proceeding, and not likely to lead to the discovery of admissible evidence.

The information requested in Gulf Set I, Number 28 pertains to the “possibility of extending the reversal of flow along the Laurel pipeline to any points further east” of Eldorado, Pennsylvania. As demonstrated by the use of the term “possibility,” the requested information is entirely unrelated to Laurel’s proposed change in direction of flow that is before the Commission at the above-captioned docket. Laurel has not proposed nor is it seeking to change the direction of to any points further east of Eldorado, Pennsylvania. Therefore, the information sought by Gulf Set I, Number 28 is irrelevant to Laurel’s proposed change in direction of flow for points west of Eldorado that is pending before the Commission.

Based on the foregoing, Laurel objects to Gulf Set I, Number 28, which seeks information that is irrelevant, immaterial, and not likely to lead to admissible evidence in this proceeding.

K. Objection to Gulf Set I, Numbers 17, 32, 33, 37

Gulf Set I, Numbers 17, 32, 33 and 37 provide as follows:

17. Identify and describe the anticipated products and volumes expected to be shipped on the Laurel pipeline into Eldorado, Pa each month for the first three years after the flow reversal described in the Application has been completed and has commenced.

32. Please provide monthly volumes by product, by origin and destination, and by shipper on Laurel's system to Western PA Destinations for the period January 2012 to the present.

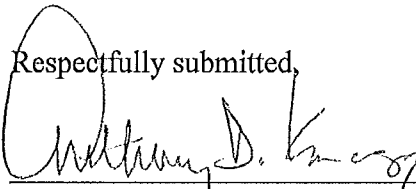
33. Please provide monthly volumes by product, by origin and destination, and by shipper on the capacity Laurel leases to its affiliate Buckeye from origins in Pennsylvania and New Jersey to Western PA Destinations for the period January 2012 to the present.

37. Please provide monthly volumes by product, by origin and destination, and by shipper on Buckeye's system from origins in Ohio, Michigan, Indiana or Illinois to Western PA Destinations for the period January 2012 to the present.

The information sought in Gulf Set I, Numbers 17, 32-33 and 37 contains Proprietary Information, as defined by 52 Pa. Code § 5.365, and may contain competitively sensitive information concerning interstate shipments subject to the restrictions contained in the Interstate Commerce Act ("ICA"), 49 U.S.C.A. App. Section 15(13). As a Protective Order providing for the limited, protected disclosure of such information is not yet in place, Laurel objects to Gulf Set I, Numbers 17, 32-33 and 37. To the extent that a Protective Order is entered in the above-captioned proceeding adequately protects against improper disclosures of Proprietary Information, as defined by 52 Pa. Code § 5.365, and adequately protects against improper disclosures of competitively sensitive information subject to the restrictions of the ICA, 49 U.S.C.A. App. Section 15(13), Laurel will withdraw this objection.

III. CONCLUSION

WHEREFORE, Laurel Pipe Line Company, L.P. objects to Gulf Set I, Instruction Number 13, Definition Numbers 5 and 13, and Numbers 3-4, 17, 19(iv), 21, 23-24, 26, 28, 32-33 and 37, which seek information that is privileged, irrelevant, immaterial, and not likely to lead to admissible evidence. Laurel Pipe Line Company, L.P. reserves the right to object to future interrogatories, requests for admissions, and requests for production of documents including any instructions and definitions contained therein.

Respectfully submitted,


Jessica R. Rogers, Esquire (PA ID #309842)
Post & Schell, P.C.
607 14th Street, N.W., Suite 600
Washington, DC 20005-2000
Phone: (202) 347-1000
Fax: (202) 661-6970
E-mail: cbarr@postschell.com
E-mail: jrogers@postschell.com

David B. MacGregor, Esquire (PA ID #28804)
Anthony D. Kanagy, Esquire (PA ID #85522)
Garrett P. Lent, Esquire (PA ID #321566)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: (717) 731-1970
Fax: (717) 731-1985
E-mail: dmacgregor@postschell.com
E-mail: akanagy@postschell.com
E-mail: glent@postschell.com
Counsel for Laurel Pipe Line Company, L.P.

Date: February 13, 2017