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VIA ELECTRONIC FILING

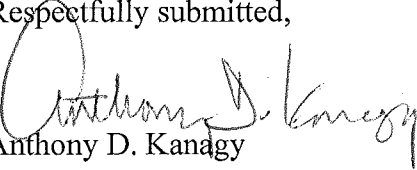
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
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Re: Application of Laurel Pipe Line Company, L.P. for All Necessary Authority, Approvals, and Certificates of Public 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 Philadelphia Energy Solutions Refining and Marketing 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).

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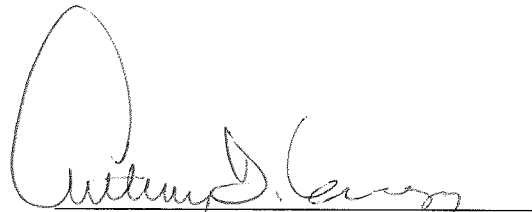
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Date: March 6, 2017



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 PESRM 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 PESRM Set I (“Motion”) filed by Philadelphia Energy Solutions Refining and Marketing LLC (“PESRM”) on February 27, 2017. As explained below, PESRM’s Motion should be denied because the Interrogatory Number 1 set forth in PESRM 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 16, 2017, Laurel submitted timely Objections to PESRM’s Set I Interrogatories. Laurel objected to PESRM Set I, Instruction No. 13, PESRM Set I, Definition Nos. 5 and 13, and PESRM Set I Interrogatories Nos. 1, 5, 22 and 23 (“Objections”). Following discussions between both parties, PESRM timely submitted its Motion with respect to PESRM Set I, Interrogatory No. 1, 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 PESRM Set I, Interrogatory No. 1 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 PESRM Set I, Number 1 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 PESRM Set I, Number 1 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 PESRM Set I, Number 1 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 PESRM Set I, Number 1, which seeks information that is irrelevant, immaterial, and not likely to lead to admissible evidence in this proceeding.

Objections, at p. 7. 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 PESRM’s Motion with respect to PESRM Set I, Interrogatory No. 1.

II. ANSWER TO THE MOTION TO COMPEL

4. PESRM Set I, Interrogatory No. 1 seeks the same information as Gulf Set I, Interrogatory No. 28, and, for the reasons more fully explained in Laurel’s Answer to Gulf’s Motion to Compel and the reasons explained herein, disclosure of the information sought by these interrogatories should be denied. In addition, paragraph 4 of PESRM’s Motion attempts to summarize Laurel’s Objection. The Objections are a written document, the terms of which speak for themselves. Any interpretation or characterization thereof is denied.

5. 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).

PESRM 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 ¶ 5. Notably, PESRM 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, the possibility of extending the reversal past Eldorado is not an issue in this proceeding and not relevant. Despite PESRM’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, PESRM 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.

6. PESRM effectively concedes that PESRM Set I, Interrogatory No. 1 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 ¶ 6 (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).

PESRM’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, PESRM’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, PESRM'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 PESRM 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 PESRM Set I, Interrogatory No. 1 is irrelevant is because the issue raised by PESRM 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. 1 is related to an issue raised by PESRM, does not somehow make it relevant to this proceeding when PESRM's issue is outside the scope of the Application.

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

9. To the extent that PESRM 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, PESRM's arguments are without merit and must be disregarded for several reasons. First, PESRM'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, PESRM 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. Furthermore, the two additional Oil Price Information System articles, respectively dated November 14, 2016 and October 26, 2016, that are attached to PESRM's Motion are hearsay that is outside the scope of this proceeding. As such, these articles do not support PESRM's claim that the information sought by Interrogatory No. 1 is relevant.

As demonstrated below, these attempts to identify matter in the record to support relevancy are unavailing, and therefore PESRM 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) PESRM'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 PESRM's arguments to the contrary must be denied.

- b) As to PESRM'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. PESRM's attempt to point to this testimony is nothing more than an attempt to distract from the fact that the information PESRM seeks is unrelated to the subject matter of Laurel's pending proposal.
- c) PESRM'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. PESRM again misses the point with respect to whether the information sought is relevant for purposes of discovery. The issue is not whether PESRM 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. PESRM'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, PESRM'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.

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). PESRM effectively asks the Commission review projects that Laurel may have considered, but did not propose. PESRM's request for the Commission to engage in such analysis is contrary to well-established law, and should be denied.

Therefore, PESRM Set I, Interrogatory No. 1 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 PESRM Set I, Interrogatory No. 1 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 PESRM in support of its Motion are irrelevant to either of the issues involved in this proceeding. *See* paragraph 8 *supra*. Despite PESRM’s attempts to conflate these issues and argue that, at worst, the relevancy of the information sought by PESRM Set I, Interrogatory No. 1 is uncertain, the information sought by PESRM 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 PESRM’s attempts to misconstrue the record to demonstrate relevancy are unavailing.

In addition, the highly sensitive nature of the information sought by PESRM Set I, Interrogatory No. 1 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 PESRM Set I, Interrogatory No. 1 would be insufficient to protect the commercial interests of both Laurel and its shippers. Therefore, PESRM’s Motion should be denied.

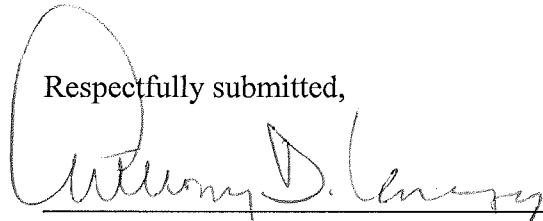
III. CONCLUSION

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) PESRM Set I, Interrogatory No. 1 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) PESRM's Motion to Compel is denied.

Respectfully submitted,



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Date: March 6, 2017

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