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March 13, 2017

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

VIA ELECTRONIC FILING

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 for filing with the Pennsylvania Public Utility Commission is the Petition for Certification of a Material Question of Gulf Operating, LLC and Philadelphia Energy Solutions Refining & Marketing, LLC in the above-referenced proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Thank you.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to read 'A. Bakare', is written over a horizontal line.

Adeolu A. Bakare

Counsel to Gulf Operating, LLC

Enclosure

c: Administrative Law Judge Eranda Vero (via E-Mail and First-Class Mail)
Certificate of Service

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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

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Certificate of Service

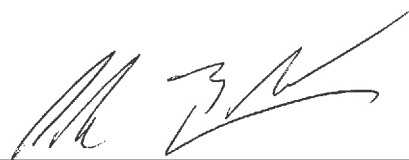
Docket No. A-2016-2575829 and G-2017-2587567

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Counsel to Gulf Operating, LLC and Sheetz, Inc.

Dated this 13th day of March, 2017, in Harrisburg, Pennsylvania.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Laurel Pipe Line Company, L.P.	:	
For approval to change direction of petroleum	:	A-2016-2575829
products transportation service to delivery	:	
points west of Eldorado, Pennsylvania	:	
Affiliated Interest Agreement between	:	G-2017-2587567
Laurel Pipe Line Company, L.P. and	:	
Buckeye Pipe Line Company, L.P.	:	

**PETITION OF GULF OPERATING, LLC AND PHILADELPHIA ENERGY SOLUTIONS
REFINING & MARKETING, LLC
FOR CERTIFICATION OF A MATERIAL QUESTION**

TO ADMINISTRATIVE LAW JUDGE ERANDA VERO:

1. Gulf Operating, LLC ("Gulf") and Philadelphia Energy Solutions Refining & Marketing, LLC ("PESRM"), by undersigned counsel and pursuant to 52 Pa. Code § 5.302, respectfully submit this Petition for Certification of a Material Question ("Petition") requesting that Administrative Law Judge ("ALJ") Eranda Vero certify the below Material Question, regarding information sought in Question No. 28 of Gulf's Set I Interrogatories and Question No. 1 of PESRM's Set I Interrogatories to the Pennsylvania Public Utility Commission ("Commission" or "PUC") for review pursuant to Section 5.304(a)(2) of the Commission's Regulations. 52 Pa. Code § 5.304(a)(2).

2. The proposed Material Question is as follows:

Should Laurel Pipe Line Company ("Laurel"), which asserts in its Application that Commission approval for changes in flow direction is not required and seeks Commission confirmation that it may reinstate the direction of flow at its discretion in the future, be required to furnish the information intended to determine whether the proposal to reverse flows on its PUC-jurisdictional pipeline for points west of Altoona/Eldorado is a stand-alone proposal or an initial phase of a documented plan to reverse flows easterly to Philadelphia as requested by Gulf's Set I Interrogatory No. 28 and PESRM's Set I Interrogatory No. 1?

3. Proposed Answer: Yes.

4. The Material Question involves important issues of law and policy, a resolution of which is necessary to expedite the conduct of the above-docketed proceeding and prevent irreparable harm and substantial prejudice to Gulf and PESRM that would otherwise result from the presiding ALJ's Prehearing Order and cannot be cured during the ordinary course of Commission review.

5. On February 3 and 6, 2017, Gulf and PESRM respectively submitted Set I Interrogatories to Laurel. Following submission of Laurel's Objections, Gulf, PESRM, and Laurel conferred and resolved all objections other than Laurel's objections to Gulf Set I Interrogatory No. 28 and PESRM Set I Interrogatory No. 1, both of which requested the following information:

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.

6. Gulf filed a Motion to Compel a response to its Question No. 28 on February 23, 2017, and Laurel filed an Answer on February 28, 2017. PESRM filed a Motion to Compel a response to its Question No. 1 on February 27, 2017, and Laurel filed an Answer on March 6, 2017.

7. On March 8, 2017, ALJ Vero issued a Prehearing Order denying Gulf's and PESRM's Motions to Compel.

8. The information sought by Gulf and PESRM is directly relevant to Laurel's Application. As stated in the ALJ's Prehearing Order, Laurel's first claim for relief asks the Commission to "issue an Order determining that the change in direction of service proposed in this Application does not require Commission approval..." *See* Prehearing Order, p. 3 *citing* Application, p. 20. The ALJ determined that the requested information is not relevant to this claim for relief because the matter presented is a question of law to which such factual inquiry is irrelevant. *See id.* However, the presence or absence of Commission authority over the proposed reversal may be impacted by the underlying facts. For example, the Application represents that "the eastern portion of the system will continue to provide westbound service from points of origin in the Philadelphia area to western delivery points terminating in Eldorado." *See* Gulf Motion to Compel, p. 6, *see also* PESRM Motion to Compel, p. 6. Gulf and PESRM must be permitted to propound discovery intended to address the veracity of this statement.


9. The ALJ additionally found the requested information to be irrelevant to Laurel's second claim for relief on grounds that the request for approval of a reversal of a portion of the pipeline concerns only areas west of Eldorado. *See* Prehearing Order, p. 3. But Laurel has proposed to cede jurisdiction to FERC over reversed flows through its proposed agreement with affiliate Buckeye Pipeline. That, in

combination with Laurel's request for a finding of lack of Commission authority over flow direction issues raises the potential for any future changes in flow direction to the east to be completely outside Commission jurisdiction and purview. Gulf and PESRM should be entitled to conduct discovery on the factual basis of any currently anticipated or planned additional flows in an easterly direction as part of this proceeding to assess the overall impacts on themselves, the Pennsylvania market generally and the scope and nature of the Commission's jurisdiction over the pipeline to protect the public interest. They also have a right to evaluate whether existing documents support or contradict Laurel's representations, particularly in light of Commission precedent establishing that any uncertainty regarding relevancy shall be resolved in favor of a finding of relevancy. *Koken v. One Beacon Ins. Co.*, 911 A.2d 1021, 1025 (Pa. Commw. Ct. 2006). The issue at hand is whether the information sought is relevant or will lead to relevant information, which is a broader issue than whether any information obtained on further flow reversal plans is admissible. Admissibility for evidentiary purposes can be determined at a later time.

WHEREFORE, Gulf and PESRM request that the ALJ grant certification of the Material Question for review by the Commission.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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Counsel to Gulf Operating, LLC

Dated: March 13, 2017

BUCHANAN INGERSOLL & ROONEY PC

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