**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. :

ORDER REGARDING LAUREL’S MOTION TO COMPEL SHEETZ TO PROVIDE

RESPONSES TO LAUREL SET I DISCOVERY REQUEST

On November 14, 2016, Laurel Pipe Line Company, L.P. (Laurel or Applicant) filed with the Commission the above-captioned Application. On February 1, 2017, Sheetz, Inc. (Sheetz) filed a formal Protest against the Application. On March 2, 2017, Laurel served Set I Discovery on Sheetz. Sheetz objected to Laurel’s Set I Discovery on March 13, 2017. Sheetz objected to Laurel – Set I, Request Nos. 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16, and 18.

On March 23, 2017, Laurel filed a Motion to Compel (Motion to Compel) responses to Laurel – Set I, Request Nos. 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16, and 18. On March 28, 2017, Sheetz filed its Answer to Laurel’s Motion to Compel.

On April 27, 2017, counsel for Sheetz and Laurel requested a continuance of any decision on Laurel’s pending Motion to Compel Responses from Sheetz in order to allow the two parties to resolve the discovery issues informally.  The continuance was granted, and on May 9, 2017, counsel for Laurel and Sheetz informed me that the parties had reached an agreement on all of Laurel – Set I questions to Sheetz except for Request No. 18.

Laurel’s Motion to Compel responses to its discovery requests to Sheetz is ripe for ruling with regard to Laurel – Set I, Request No. 18.

The Commission’s Rules of Administrative Practice and Procedure at 52 Pa.Code §5.321 permit a broad scope of discovery:

(c) Scope. Subject to this subchapter, a party may obtain discovery regarding any mater, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter It is not ground for objection that the information sought will be inadmissible at hearing if the information sought is reasonably calculated to lead to the discovery of admissible evidence.

1. Pa.Code § 5.321(c).

**Laurel – Set I, Request No. 18** provides as follows:

18. Provide copies of all contracts and/or agreements for Sheetz’ lease of, use of or throughput rights for terminal capacity for all terminals in Pennsylvania.

Sheetz objects to this request on the grounds that the information sought is irrelevant to the issues and subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. Sheetz argues that this information is irrelevant to the determination of whether Laurel has met its burden of proving that its proposal is in the public interest. Objections, at 9-10, 24. In addition to the primary argument that Sheetz's individual shipments are irrelevant to the market issues presented in this case, Sheetz maintains that this discovery request is particularly irrelevant as it requests contracts and/or agreements concerning Sheetz's rights for terminal capacity for all terminals in Pennsylvania. Sheetz argues that Laurel's request for contracts for Sheetz's statewide terminal capacity is not reasonably calculated to lead to admissible evidence of available alternatives at issue in this case, which concerns alternatives for supplying markets currently served by Laurel's Pipeline, not alternatives for supplying every market in Pennsylvania. Answer, at 18.

With respect to Sheetz’s relevancy arguments, Laurel argues that the information sought is relevant in assessing Sheetz’s claims regarding the inadequacy of alternatives to Laurel pipeline. According to Laurel, the existence of terminal capacity and throughput rights is directly relevant to Sheetz’s claims regarding the lack of available alternatives and the impact and ability of Sheetz to compensate for the loss of movements on Laurel to Pittsburgh through other readily available alternatives (*e.g.*, from a particular storage location with short distance trucking, or from a different pipeline to storage location). Motion to Compel, at 23-24.

I find that the relationship between the information sought (Sheetz's statewide terminal capacity) in Laurel – Set I, Request No. 18, and the reason given by Laurel for seeking it (to assess Sheetz’s claims regarding the inadequacy of alternatives to Laurel pipeline) is too attenuated to defend the burden imposed upon Sheetz by this discovery request as reasonable. In other words, I find that Laurel – Set I, Request No. 18, as currently worded, places an unreasonable burden upon Sheetz. Consequently, Laurel’s Motion to Compel a response to Laurel – Set I, Request No. 18 is denied.

THEREFORE,

IT IS ORDERED:

1. That Laurel’s Motion to Compel responses to Laurel – Set I, Request No. 18 is denied.

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| --- | --- | --- | --- |
| Date: | May 12, 2017 |  |  |
|  |  |  | Eranda Vero  Administrative Law Judge |

**A-2016-2575829 & G-2017-2587567APPLICATION OF LAUREL PIPE LINE COMPANY, L.P**

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