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July 5, 2017

VIA ELECTRONIC FILING

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


Re: *West Goshen Township v. Sunoco Pipeline L.P.*
Docket No. C-2017-2589346

Dear Secretary Chiavetta,

Enclosed please find Sunoco Pipeline L.P.'s Motion to Stay Discovery Pending Disposition of the Motion for Judgment on the Pleadings in the above referenced case. Copies have been served on all parties of record in accordance with the Certificate of Service.

Thank you for your attention to this matter, and please do not hesitate to contact me with any questions or concerns.

Very truly yours,



Christopher A. Lewis

Enclosures

cc: As per Certificate of Service
Honorable Elizabeth Barnes (*via email and first class mail*)

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*Attorneys for Defendant
Sunoco Pipeline L.P.*

WEST GOSHEN TOWNSHIP AND :
 CONCERNED CITIZENS OF WEST :
 GOSHEN TOWNSHIP :
 Complainant, :
 v. :
 SUNOCO PIPELINE L.P., :
 Respondent. :

Docket No. C-2017-2589346

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.103, you are hereby notified that, if you do not file a written response to the enclosed MOTION TO STAY DISCOVERY of Sunoco Pipeline L.P. within 20 days from service of this notice, a decision may be rendered against you. Any Response to the Motion to Stay Discovery must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Sunoco Pipeline L.P., and where applicable, the Administrative Law Judge presiding over the issue.

File with:
 Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 Commonwealth Keystone Building
 400 North Street, Second Floor
 Harrisburg, PA 17120

With a copy to:

Christopher A. Lewis, Esquire
Frank L. Tamulonis, Esquire
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Dated: July 5, 2017



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*Attorneys for Defendant
Sunoco Pipeline L.P.*

WEST GOSHEN TOWNSHIP AND
CONCERNED CITIZENS OF WEST
GOSHEN TOWNSHIP

Complainant,

v.

SUNOCO PIPELINE L.P.,

Respondent.

Docket No. C-2017-2589346

**RESPONDENT SUNOCO PIPELINE L.P.’S
MOTION TO STAY DISCOVERY PENDING DISPOSITION
OF THE MOTION FOR JUDGMENT ON THE PLEADINGS**

Pursuant to 52 Pa. Code § 5.103, Sunoco Pipeline L.P. (“SPLP”) hereby files this Motion to Stay Discovery Pending Disposition of the Motion for Judgment on the Pleadings. In support of its Motion, SPLP states as follows:

I. INTRODUCTION

Before bringing this Motion, SPLP asked West Goshen Township (the “Township”) whether it would agree to postpone potentially unnecessary and costly discovery until after the Public Utility Commission (the “Commission”) has ruled on the pending Motion for Judgment on the Pleadings. Rather than accede to this reasonable request, the Township wishes to push forward, and, in the process, force SPLP, the Township, and the Commission itself to expend substantial time and resources litigating issues that might ultimately be moot.

Counsel for the Township has already informed SPLP that the Township contemplates extensive discovery in this proceeding, including 120 days for fact discovery and an additional 120 days for expert discovery. If the Motion for Judgment on the Pleadings is granted, this discovery would be completely unnecessary. Conversely, if the Motion for Judgment on the Pleadings is denied, the Township will suffer no prejudice, since it will have ample time for discovery in any event.

Commission precedent strongly favors a stay in these circumstances. *See Moyer v. PPL Electric Utils. Corp.*, Docket No. C-2015-2511904 (Pa. Pub. Util. Comm’n Jan 13, 2016) (granting stay of discovery); *Joint Appl. of Columbia Water Co. and Marietta Gravity Water Co. for Approval of: 1) the transfer of the rights, service obligations, water system and assets used and useful in the operation of the water system of Marietta Gravity to Columbia Water; 2) the abandonment of service by Marietta Gravity; and 3) all other approvals or certificates appropriate, including the approval of Security Certificates*, Docket Nos. A-2012-2282219 & A-2012-2282221 (Pa. Pub. Util. Comm’n Mar. 16, 2012) (granting stay of discovery).

For these reasons, SPLP respectfully requests the Commission to stay discovery until it has ruled on SPLP’s Motion for Judgment on the Pleadings.

II. BACKGROUND

1. On February 17, 2017, the Township filed with the Commission a Complaint to Enforce Settlement Agreement, alleging that SPLP was in material breach of the Settlement Agreement between SPLP, the Township, and Concerned Citizens of West Goshen Township effective as of June 15, 2015.
2. SPLP responded to the Complaint on March 10, 2017 by filing an Answer and New Matter, and a Motion to Strike the Township's Request for Attorney's Fees.
3. On March 30, 2017, the Township amended the Complaint (the "Amended Complaint"), abandoning one of the counts previously asserted in the original Complaint and eliminating its request for attorney's fees.
4. The Amended Complaint that is now before the Commission asserts a single breach-of-settlement-agreement count, which argues that SPLP is not permitted to site a specific valve ("Valve 344") outside of a designated area known as the SPLP Additional Acreage.
5. On April 17, 2017, SPLP filed an Answer to the First Amended Complaint and New Matter asserting that the Township's Amended Complaint failed to state a claim upon which relief can be granted.
6. On May 4, 2017, the Township filed its Answer to SPLP's New Matter.
7. On May 22, 2017, SPLP filed a Motion for Judgment on the Pleadings requesting that the Commission dismiss the Amended Complaint in its entirety.

8. In the Motion, SPLP submits that the Township has failed to state a claim for which relief can be granted because, among other reasons: 1) there is no prohibition against locating Valve 344 outside of the SPLP Additional Acreage; 2) Section II of the Settlement Agreement contains no binding promises; and 3) the relief requested by the Township violates long established public policy that vests exclusive jurisdiction in the regulation of public utilities with the Commission.

9. On June 12, 2017, the Township filed its Response in Opposition to the Motion for Judgment on the Pleadings.

10. Counsel for the Township has already informed SPLP that the Township will be seeking extensive discovery, including 120 days for fact discovery and another 120 days for expert discovery. This discovery will necessarily impose a substantial burden on the parties in reviewing and gathering the materials to respond to document requests, answering interrogatories, and taking and defending depositions.

11. Moreover, in the event discovery ensues, disputes over the scope of permissible discovery are highly likely, and the Commission will have to devote substantial time and resources to resolving these disputes.

12. The Township is a governmental entity. Inasmuch as attorneys' fees cannot be awarded in this proceeding, the cost of unnecessary discovery will be borne by the Township's taxpayers.

13. Should the Commission grant SPLP's Motion for Judgment on the Pleadings, neither the Parties nor the Commission would have to incur the time and expense of discovery and further litigation.

III. ARGUMENT

14. SPLP submits that discovery should be stayed because SPLP's Motion for Judgment on the Pleadings, which seeks to dismiss the Amended Complaint in its entirety, is still pending before the Commission, and would obviate the need for discovery should it be granted.

15. If discovery is not suspended, then both SPLP and the Township will be required to expend significant time and resources reviewing potentially thousands of documents for responsiveness, conducting a privilege review of those documents, diverting SPLP employees away from their normal responsibilities and preparing them for depositions, and preparing written responses to interrogatories and other discovery requests.

16. These expenditures will have been wasted in the event the Commission grants SPLP's Motion for Judgment on the Pleadings, and dismisses the Amended Complaint. For the Township, the expense of unnecessary discovery will be borne by the Township's taxpayers.

17. Further, should this matter proceed to a final hearing, there will not be a resolution until at least March of 2018. Therefore, the Township will not be prejudiced by a brief delay in discovery, while SPLP will be greatly prejudiced, if it must prepare for extensive discovery that never comes to fruition.

18. The Commission in the past has found it appropriate to stay discovery when dispositive motions are outstanding, and the expense of prematurely beginning the discovery process is significant. *See Moyer v. PPL Electric Utils. Corp.*, Docket No. C-2015-2511904 (Pa. Pub. Util. Comm'n Jan 13, 2016). *Joint Appl. of Columbia Water Co. and Marietta Gravity Water Co. for Approval of: 1) the transfer of the rights, service obligations, water system and assets used and*

useful in the operation of the water system of Marietta Gravity to Columbia Water; 2) the abandonment of service by Marietta Gravity; and 3) all other approvals or certificates appropriate, including the approval of Security Certificates, Docket Nos. A-2012-2282219 & A-2012-2282221 (Pa. Pub. Util. Comm'n Mar. 16, 2012).

19. For example, in *Columbia Water Co.*, the Commission granted the water companies' motion to stay discovery because they had filed dispositive motions—including a motion for judgment on the pleadings—to dismiss the City of Lancaster's protest. *See* Docket No. C-2015-2511904 at 4-5.

20. In reaching its conclusion, the Commission "determined that the most reasonable and appropriate course is to grant a stay of discovery" pending the outcome of the dispositive motions, and that the "time and expense involved in requiring [discovery] responses when the party status of the propounding party is uncertain outweighs the City's stated concerns." *Id.* at 5.

21. Further, the Commission negated any potential prejudice to the City of Lancaster by ordering that "any time periods for responding to outstanding discovery will start afresh as of the date of the ruling on the . . . Motion for Judgment on the Pleadings." *Id.* at 6.

22. There is no material difference between *Columbia Water Co.* and the case at hand. If SPLP's Motion for Judgment on the Pleadings is granted, the Amended Complaint will be dismissed, and discovery will be moot. Thus, SPLP submits that it would be unnecessary and a waste of the Parties' and the Commission's resources to begin discovery now.

23. Similarly, the Township will not be prejudiced by the stay of discovery. If the Motion for Judgment on the Pleadings is ultimately denied, the Township will have ample time to propound

discovery, and the Commission can further tailor the discovery schedule to provide the Township with even more time to complete discovery if necessary.

24. For these reasons, SPLP respectfully requests that the Commission, consistent with *Columbia Water Co.*, stay all discovery pending the ruling on SPLP's Motion for Judgment on the Pleadings.

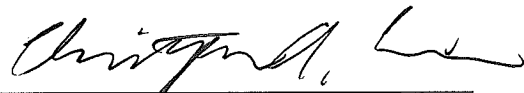
IV. CONCLUSION

For the reasons set forth above, SPLP requests that the Pennsylvania Public Utility Commission grant this Motion to Stay Discovery Pending Disposition of the Motion for Judgment on the Pleadings.

Respectfully submitted,

BLANK ROME LLP

Dated: July 5, 2017



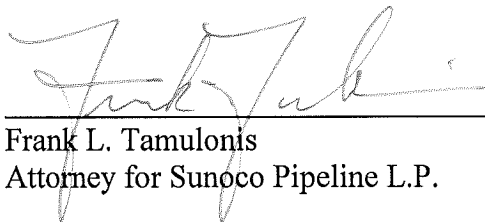
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CERTIFICATE OF SERVICE

I, Frank L. Tamulonis, certify that on July 5, 2017, I caused a true and correct copy of the foregoing Motion To Stay Discovery Pending Disposition of the Motion for Judgment on the Pleadings to be served upon the party listed below by electronic mail and U.S. Mail, first-class, postage prepaid, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

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