

**MARCUS & SHAPIRA LLP**

ONE OXFORD CENTRE, 35<sup>TH</sup> FLOOR  
301 GRANT STREET  
PITTSBURGH, PENNSYLVANIA 15219-6401  
(412) 471-3490

—  
FAX: (412) 391-8758

DANIEL J. STUART  
E-mail: stuart@marcus-shapira.com  
Direct Dial: (412) 338-3992

August 15, 2017

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
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**

**Affiliated Interest Agreement between Laurel Pipe Line Company, L.P. and Buckeye Pipe Line Company, L.P., Docket No. G-2017-2587567**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Answer of Giant Eagle, Inc. to the Motion to Compel Answers to Interrogatories and Requests for Production of Documents Propounded by Laurel Pipe Line Company, L.P., Set II in the above-captioned proceedings.

Copies will be served in accordance with the attached Certificate of Service.

Respectfully submitted,



Daniel J. Stuart  
*Counsel for Giant Eagle, Inc.*

DJS/glo  
Enclosure

cc: Certificate of Service

## 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

Administrative Law Judge Eranda Vero  
Pamela McNeal, Legal Assistant  
Pennsylvania Public Utility Commission  
801 Market Street, Suite 4063  
Philadelphia, PA 19107  
[evero@pa.gov](mailto:evero@pa.gov)  
[pmcneal@pa.gov](mailto:pmcneal@pa.gov)

David B. MacGregor, Esq.  
Anthony D. Kanagy, Esq.  
Garrett P. Lent, Esq.  
Post & Schell, P.C.  
17 North Second Street, 12th Floor  
Harrisburg, PA 17101  
[dmacgregor@postschell.com](mailto:dmacgregor@postschell.com)  
[akanagy@postschell.com](mailto:akanagy@postschell.com)  
[glent@postschell.com](mailto:glent@postschell.com)  
*Counsel for Laurel Pipe Line Company, L.P.*

Christopher J. Barr, Esq.  
Jessica R. Rogers, Esq.  
Post & Schell, P.C.  
607 14th Street, N.W., Suite 600  
Washington, DC 20005  
[cbarr@postschell.com](mailto:cbarr@postschell.com)  
[jrogers@postschell.com](mailto:jrogers@postschell.com)  
*Counsel for Laurel Pipe Line Company, L.P.*

Heidi L. Wushinske, Esq.  
Michael L. Swindler, Esq.  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105  
[hwushinske@pa.gov](mailto:hwushinske@pa.gov)  
[mwindler@pa.gov](mailto:mwindler@pa.gov)

Andrew S. Levine, Esq.  
Stradley, Ronon, Stevens & Young, LP  
2005 Market Street, Suite 2600  
Philadelphia, PA 19103  
[alevine@stradley.com](mailto:alevine@stradley.com)  
*Counsel for Sunoco, LLC*

Kevin L. Barley, Esq.  
Frost Brown Todd LLC  
1 PPG Place, Suite 2800  
Pittsburgh, PA 15222  
[kbarley@fbtlaw.com](mailto:kbarley@fbtlaw.com)  
*Counsel for Marathon Petroleum Corporation*

Karen O. Moury, Esq.  
Carl R. Shultz, Esq.  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8th Floor  
Harrisburg, PA 17101  
[kmoury@eckertseamans.com](mailto:kmoury@eckertseamans.com)  
[cshultz@eckertseamans.com](mailto:cshultz@eckertseamans.com)  
*Counsel for Husky Supply and Marketing Company*

VIA E-MAIL ONLY

Joseph Otis Minott, Esq.  
Ernest Logan Welde, Esq.  
Clean Air Council  
135 S. 19<sup>th</sup> Street, Suite 300  
Philadelphia, PA 19103  
[joe\\_minott@cleanair.org](mailto:joe_minott@cleanair.org)  
[lwelde@cleanair.org](mailto:lwelde@cleanair.org)  
*Counsel for Clean Air Council*

Susan E. Bruce, Esq.  
Adeolu A. Bakare, Esq.  
Kenneth R. Stark, Esq.  
McNees Wallace & Nurick LLC  
100 Pine Street, P.O. Box 1166  
Harrisburg, PA 17108  
[sbruce@mcneeslaw.com](mailto:sbruce@mcneeslaw.com)  
[abakare@mcneeslaw.com](mailto:abakare@mcneeslaw.com)  
[kstark@mcneeslaw.com](mailto:kstark@mcneeslaw.com)  
*Counsel for Gulf Operating, LLC and  
Sheetz, Inc.*

Robert A. Weishaar, Jr., Esq.  
McNees Wallace & Nurick LLC  
1200 G Street, NW  
Suite 800  
Washington, DC 20005  
[rweishaar@mcneeslaw.com](mailto:rweishaar@mcneeslaw.com)  
*Counsel for Gulf Operating, LLC and  
Sheetz, Inc.*

Christopher A. Ruggiero, Esq.  
Vice President, General Counsel and Secretary  
Monroe Energy, LLC  
4101 Post Road  
Trainer, PA 19061  
[christopher.ruggiero@monroe-energy.com](mailto:christopher.ruggiero@monroe-energy.com)  
*Counsel for Monroe Energy LLC*

Alan M. Seltzer, Esq.  
John F. Povilaitis, Esq.  
Buchanan Ingersoll & Rooney, PC  
409 N. Second Street, Suite 500  
Harrisburg, PA 17101  
[alan.seltzer@bipc.com](mailto:alan.seltzer@bipc.com)  
[john.povilaitis@bipc.com](mailto:john.povilaitis@bipc.com)  
*Counsel for PESRM*

Kevin J. McKeon, Esq.  
Todd S. Stewart, Esq.  
Whitney E. Snyder, Esq.  
Hawke McKeon & Sniscak LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
[kjmckeon@hmslegal.com](mailto:kjmckeon@hmslegal.com)  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)  
[wesnyder@hmslegal.com](mailto:wesnyder@hmslegal.com)  
*Counsel for Monroe Energy, LLC*

Richard E. Powers, Jr., Esq.  
Joseph R. Hicks, Esq.  
Venable LLP  
575 Seventh Street, N.W.  
Washington, D.C. 20004  
[repowers@venable.com](mailto:repowers@venable.com)  
[jrhicks@venable.com](mailto:jrhicks@venable.com)  
*Counsel for Monroe Energy LLC*



---

Daniel J. Stuart  
*Counsel for Giant Eagle, Inc.*

Dated this 15th day of August, 2017, in Pittsburgh, Pennsylvania.

**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	:	
	:	
Laurel Pipe Line Company, L.P. - Pipeline	:	
Capacity Agreement with Buckeye Pipe Line	:	Docket No. G-2017-2587567
Company, L.P.	:	

---

**ANSWER OF GIANT EAGLE, INC.  
TO THE MOTION TO COMPEL ANSWERS TO INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS  
PROPOUNDED BY LAUREL PIPE LINE COMPANY, L.P., SET II**

---

**TO ADMINISTRATIVE LAW JUDGE ERANDA VERO:**

Pursuant to 52 Pa. Code § 5.342, Intervenor and Protestor Giant Eagle, Inc. (“Giant Eagle”) hereby files this Answer to the Motion to Compel Answers to Interrogatories and Requests for Production of Documents Propounded by Laurel Pipe Line Company, L.P., Set II (“Set II Discovery”) filed by Laurel Pipe Line Company, L.P. (“Laurel”) (“Motion” or “Motion to Compel”). As explained herein, Laurel’s Motion to Compel responses to Set II Discovery Request Numbers 3(b), 4, and 7(b) should be denied.

**I. BACKGROUND**

1. On July 14, 2017, Giant Eagle served Giant Eagle Statement No. 1, the Direct Testimony of Richard Tomnay.
2. On July 21, 2017, Laurel served Set II Discovery Requests on Giant Eagle.

3. Giant Eagle objected to Laurel's Set II Discovery on July 31, 2017 ("Objections"). A copy of Giant Eagle's Objections is attached as Appendix B to Laurel's Motion to Compel.

4. As outlined in paragraphs 7 and 8 of Laurel's Motion, Laurel and Giant Eagle attempted to resolve Giant Eagle's Objections but were unable to do so.

5. The present Motion to Compel, filed August 10, 2017, asks this Court to overrule Giant Eagle's Objections and compel Giant Eagle to respond to Set II Discovery Request Numbers 3(b), 4, and 7(b). For the reasons set forth below, Laurel's Motion to Compel should be denied.

6. Throughout its Motion, Laurel asks (as an alternative form of relief) that if Giant Eagle "continue[s] to refuse to provide relevant information that is necessary to evaluate its claims in its direct testimony, such testimony should be stricken and Giant Eagle should be barred from continuing to assert or attempting to prove its claims as a part of this proceeding." This alternative request is improper and should be disregarded. Giant Eagle is not "refusing" to provide relevant information. Giant Eagle is raising good faith objections to the discovery sought by Laurel. It is Laurel's responsibility to craft discovery requests that are tailored to the issues relevant in this proceeding and that do not impose an unnecessary burden. Of course, if the ALJ overrules Giant Eagle's Objections and compels Giant Eagle to respond to any particular request, Giant Eagle will comply with any such ruling and there will be no need to "strike" or "bar" Giant Eagle from participating in these proceedings.

**II. ANSWER TO THE MOTION TO COMPEL**

**A. LAUREL'S MOTION TO COMPEL RESPONSE TO SET II, NUMBER 3(b) SHOULD BE DENIED**

7. Laurel's Set II, Request Number 3 provides as follows:

3. Regarding Mr. Tomnay's statement at p. 3, lines 20 through 22 that a "majority of the fuel sold in Pittsburgh-area GetGo Stations originates from East Coast sources and is shipped westward via the Laurel Pipeline [*sic*]," please provide a detailed explanation of how Mr. Tomnay is aware of the origin of the volumes, and provide supporting documents.
  - a) Provide a list of all Pittsburgh-area GetGo stations, including the street address and town/city etc. for each station.
  - b) For each month since January 2012 through July 2017,
    - i) Provide the number of gallons of each type of petroleum product sold by each Pittsburgh-area GetGo station; and
    - ii) Provide the source – either East Coast or Midwest or other for all gallons identified in subpart (i) above.

8. Giant Eagle objected to Number 3(b)(i) because it is not relevant to the issues to be addressed in this proceeding and not likely to lead to the discovery of admissible evidence. This proceeding concerns whether Laurel has met its burden of proving that the proposal to reverse flows on its jurisdictional pipeline west of Eldorado would serve the public interest. As set forth in Laurel's Application, the evidentiary issues relevant to Laurel's proposal include assessments of the impact of Laurel's proposal in markets across Pennsylvania. A request seeking monthly data relating to every gallon of gasoline sold at every GetGo station in Western Pennsylvania over a 5-year period is outside the scope of issues in this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. Giant Eagle further objected to this request on the grounds that it would impose an unreasonable burden on Giant Eagle and require an unreasonable investigation.

9. As set forth in Giant Eagle's Objections, the monthly amounts of all petroleum products sold at Western Pennsylvania GetGo stations over a five-plus year period is not relevant to the subject matter and issues in this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. GetGo is one participant in the market for petroleum in Western Pennsylvania. The issue in this proceeding is the effect of the proposed reversal on the entire market, not how much gasoline is sold in a particular month at various GetGo stations. The volume of fuel sold by Giant Eagle's GetGo stations is already included in market-wide data, which has been the subject of testimony by Laurel and the protesting parties. Laurel, of course, already knows how much petroleum it delivers into the market via its pipeline and from which direction that fuel comes. Laurel can also testify as to how much fuel will continue to enter the market via the pipeline after the reversal and the origins of that fuel. Whether a certain volume of gasoline is sold at a GetGo station in any particular month over the past five years is not relevant to the issues in this proceeding.

10. With respect to Number 3(b)(ii), which seeks the source of every gallon of gasoline sold at GetGo stations since 2012, Giant Eagle has already responded to that request twice by stating that it does not maintain that information. When fuel is delivered to GetGo, it does not contain detailed information about the source of the particular gallons being delivered. To trace back the origin point of every single gallon sold since 2012 (nearly five years before the proposed reversal) would be extremely burdensome—indeed, to even begin re-creating five-plus years of its retail gasoline business would require gathering thousands of hard copy bills of lading from hundreds of GetGo stations as well as from off-site document storage facilities, and then working with non-parties to re-trace the origin of each gallon to its source. This would be an unreasonable burden in comparison to the relevance of this information.

11. Section 5.361(a) of the Commission’s regulations expressly prohibits discovery that would cause unreasonable annoyance, oppression, burden and expense, and that would require the making of an unreasonable investigation. *See* 52 Pa. Code § 5.361(a). The burden on Giant Eagle to piece together a five-plus year history of gasoline sales—if it was even possible—would substantially outweigh any need by Laurel to have monthly gallon-by-gallon data to make its case to the Commission.

12. In any event, the source of each particular gallon of gasoline sold at GetGo stations is not relevant to the issues in this proceeding, which concerns whether the proposed reversal is in the public interest. Laurel has argued that the information is necessary to evaluate certain statements in Mr. Tomnay’s testimony; however, the requests are not tailored to the statements actually made. Mr. Tomnay testified that the “majority of the fuel sold at Pittsburgh-area GetGo stations originates from East Coast sources and is shipped westward via the Laurel Pipeline.” Number 3(b)(ii) is not aimed at the statement made by Mr. Tomnay; rather, it seeks granular data that “matches” every gallon of fuel with that gallon’s particular source. Laurel can surely draft a more tailored request if it seeks information it believes is necessary to evaluate Mr. Tomnay’s testimony.

13. The Motion to Compel a response to Request Number 3(b) should be denied.

**B. LAUREL’S MOTION TO COMPEL RESPONSE TO SET II, NUMBER 4 SHOULD BE DENIED**

14. Laurel’s Set II, Request Number 4 provides as follows:

4. Given that Giant Eagle is not a shipper, and relies entirely on contracts with marketers that do ship on pipelines such as Laurel, please provide the following:
  - a) provide a list of all contracts for wholesale supply of refined products, including gasoline and diesel, serving GetGo’s Western Pennsylvania stations between 2012 and July 2017, and in that list include the following information:



- i) name of the wholesale supplier;
  - ii) volume and identity of products;
  - iii) term of contract; and
  - iv) pricing terms;
- b) provide a copy of each such wholesale contracts.

15. Giant Eagle objected to Number 4 because it seeks information that is not relevant to the issues in this proceeding. This proceeding concerns the impact of Laurel’s proposed reversal on markets across Pennsylvania and whether such reversal is in the public interest. The specific details of Giant Eagle’s contract with its wholesale supplier are not relevant to assessing that impact.

16. Giant Eagle, via its responses to Laurel’s discovery requests, has already provided information that is responsive to Numbers 4(a)(i) and 4(a)(ii), which seek the name of Giant Eagle’s wholesale supplier(s) (Guttman Energy) and the “volume and identity of products” (exclusive).<sup>1</sup> Giant Eagle is willing to produce the contract in a form sufficient to respond to and confirm the information requested in Numbers 4(a)(i), (ii), and (iii).

17. The remaining items sought by Number 4—the pricing terms (4(a)(iv)) and a full copy of the agreement (4(b))—are overbroad and irrelevant.

18. The pricing terms of Giant Eagle’s wholesale contract are not relevant because this proceeding involves the impact of the proposed reversal on the entire market. An important issue for the PUC is whether the price to obtain fuel from the Laurel Pipe Line will be higher or lower after the proposed reversal. A contract between Giant Eagle and its supplier is not relevant to the question of whether fuel from the Midwest will be more or less expensive than fuel from

---

<sup>1</sup> See Response to Laurel Set II, Numbers 1, 2, 3, 5 (served August 10, 2017); Giant Eagle Response to Laurel Set I, Number 5 (served March 30, 2017).

the East Coast during certain times of the year. It follows that a complete copy of such contract also would not be relevant, as it contains other contractual terms having nothing to with the proposed reversal and its impact on the Western Pennsylvania market.

19. Giant Eagle respectfully requests that Laurel's Motion to Compel be denied.

**C. LAUREL'S MOTION TO COMPEL RESPONSE TO SET II, NUMBER 7(b) SHOULD BE DENIED**

20. Laurel's Set II, Request Number 7 provides as follows:

7. Please provide all documents of Giant Eagle during the period 2012 through July 2017:
  - a) analyzing, referencing, discussing or addressing the effects on price or supply of refined petroleum products of a potential reversal of the Laurel system, in whole or in part;
  - b) all documents of Giant Eagle projecting or discussing future wholesale or retail prices for its Western Pennsylvania operations;
  - c) all documents analyzing, referencing, discussing or addressing alternatives that Giant Eagle may have in supplying its Western Pennsylvania retail outlets with refined petroleum products; and
  - d) all documents analyzing, referencing, discussing or addressing the effects of the reversal on competition in Western Pennsylvania.

21. Giant Eagle objected to Number 7(b) as vague, overbroad, and unreasonably burdensome. A request seeking all documents over a 5-year period "projecting or discussing future wholesale or retail prices," regardless of whether those documents have anything to do with Laurel's proposed reversal, is outside the scope of issues in this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. Giant Eagle also objected because requiring Giant Eagle to provide all documents over a 5-year period "projecting or discussing future wholesale or retail prices," regardless of whether those documents have anything to do with Laurel's proposed reversal, would impose an unreasonable burden on Giant Eagle and require an unreasonable investigation.

22. With respect to relevance, Laurel's Motion argues that this information "would provide the basis for an alleged status quo (*i.e.*, the wholesale and retail prices expected by Giant Eagle without the reversal), which is necessary to evaluate Giant Eagle's claims regarding the effects [sic] wholesale and retail prices if the reversal is approved." Motion at 10, ¶ 30. Laurel further argues that the requested information is relevant because it could "demonstrate Giant Eagle's internal projections and discussions of wholesale and retail prices differ from the projections used in the analysis of either or both of the Indicated Parties' witnesses Dr. Arthur and Mr. Schaal, which is relevant to the accuracy and credibility of the information relied upon by Mr. Tomnay." Motion at 10-11, ¶ 30.

23. Laurel's Motion to compel a response to Number 7(b) should be denied. Request Number 7(b) is neither substantively nor temporally related to the reversal. Instead, the request seeks *every document since 2012* "projecting or discussing future wholesale or retail prices for its Western Pennsylvania operations," without any limitation that such "projections or discussions" have anything to do with the proposed reversal. The request is simply not tethered to the issues raised by the Application.

24. Moreover, Number 7(b) as written is vague in that it appears to seek documents that are not in any way related in time to the Application. For example, the request goes back to 2012 and seeks all documents "projecting or discussing future wholesale or retail prices for its Western Pennsylvania operations." A document from 2012 that "discusses" potential retail prices in 2013 would be a document that "discusses future wholesale retail prices for its Western Pennsylvania operations." Of course, such a document would unquestionably be irrelevant to the present proceedings, as it would have no conceivable connection to the Application.

25. To the extent Laurel seeks documents it believes are necessary to evaluate Giant Eagle's statements regarding the effects *of the proposed reversal* on price, supply, competition, and/or the availability of alternatives, such documents are covered in Numbers 7(a), (c), and (d). Numbers 7(a), (c), and (d) seek documents from Giant Eagle that are related *to the proposed reversal*. Giant Eagle did not object to those requests and produced responsive documents.

26. Laurel's Motion also argues that the information requested by Number 7(b) is required to evaluate the credibility of the Indicated Parties' expert witnesses, Mr. Schaal and Mr. Arthur. This argument also misses the mark. Mr. Schaal and Mr. Arthur provided testimony about the impacts *of the reversal*.<sup>2</sup> To the extent any information from Giant Eagle is needed to evaluate the credibility of the Indicated Parties' experts, such information would come from responses to Numbers 7(a), (c), and (d), which seek documents actually related to the reversal.

27. Giant Eagle also objected that this request is unduly burdensome. Giant Eagle, via its GetGo stations, operates as a fuel retailer that acquires fuel and then it sells it. Thus, an overwhelming number of documents in Giant Eagle's possession—on *both* the supply *and* sales side of its business—could be a document that “discusses future wholesale or retail prices.” It would be unduly burdensome to require Giant Eagle to go back to 2012 to search its documents for every document “projecting or discussing future wholesale or retail prices.”

28. Contrary to Laurel's Motion, it is not the protestor's burden to establish a “status quo.” It is Laurel's burden to demonstrate that its proposed reversal is in the public interest. Documents that relate to the *proposed reversal* are potentially relevant, and those documents are

---

<sup>2</sup> The purpose of Mr. Arthur's testimony is “specifically to evaluate Laurel's claims *in its Application and Direct Testimony* that a reversal of the portion of its pipeline between Altoona (Eldorado) and Pittsburgh, Pennsylvania will result in substantial public benefits without harming the public.” (Arthur Public Testimony at pg. 2, lines 12-15). The purpose of Mr. Schaal's testimony is “to evaluate the *impact of the proposal* by Laurel Pipe Line Company, L.P. (“Laurel”) to reverse the direction of flow on its existing petroleum products pipeline between Pittsburgh, Pennsylvania and Eldorado, a location specified on the Laurel pipeline that is just south of Altoona, Pennsylvania.” (Schaal Public Testimony at pg. 3, lines 8-11).

provided in response to Numbers 7(a), (c), and (d). However, Number 7(b), which seeks documents that generally discuss wholesale and retail prices, is casting a net too wide for the issues raised by the Application.

29. Giant Eagle respectfully requests that the Motion to Compel a response to Set II, Request Number 7(b) be denied.

### **III. CONCLUSION**

WHEREFORE, for the foregoing reasons, Giant Eagle, Inc. respectfully requests that Administrative Law Judge Eranda Vero deny Laurel's Motion to Compel Giant Eagle to fully answer Set II, Request Numbers 3(b), 4, and 7(b).

Respectfully submitted,



Jonathan D. Marcus (PA ID #312829)

Daniel J. Stuart (PA ID #321011)

MARCUS & SHAPIRA LLP

One Oxford Centre, 35th Floor

301 Grant Street

Pittsburgh, PA 15219-6401

Phone: 412-471-3490

Fax: 412-391-8758

[jmarcus@marcus-shapira.com](mailto:jmarcus@marcus-shapira.com)

[stuart@marcus-shapira.com](mailto:stuart@marcus-shapira.com)

*Counsel for Giant Eagle, Inc.*

Dated: August 15, 2017