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December 1, 2017

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

This office represents West Goshen Township in the above referenced matter pending before the Commission.

Enclosed is West Goshen Township's Answer to the Sunoco Pipeline, L.P.'s Petition to Rescind or Discontinue the Commission's October 26, 2017 Order, along with a Certificate of Service.

If you have any questions or concerns, please feel free to contact me.

Respectfully,

Richard C. Sokorai

RCS:pro/jmg

Enclosure

cc: Honorable Elizabeth H. Barnes (via email & U.S. Mail)
Christopher Lewis, Esquire (via email & U.S. Mail)
Michael Montalbano, Esquire (via email & U.S. Mail)
Frank Tamulonis, Esquire (via email & U.S. Mail)
Thomas J. Sniscak, Esquire (via email & U.S. Mail)
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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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WEST GOSHEN TOWNSHIP,	:	
Complainant	:	Docket No. C-2017-2589346
	:	
v.	:	
	:	
SUNOCO PIPELINE, L.P.,	:	
Respondent	:	

**WEST GOSHEN TOWNSHIP’S ANSWER TO SUNOCO PIPELINE, L.P.’S
PETITION TO RESCIND OR DISCONTINUE
THE COMMISSION’S OCTOBER 26, 2017 ORDER**

West Goshen Township (“Township”), through its attorneys, High Swartz LLP, pursuant to 52 Pa. Code § 5.572, respectfully submits this answer to Sunoco Pipeline, L.P.’s (“SPLP”) petition to rescind or discontinue the injunction imposed by the Commission’s October 26, 2017 Order.

The Township initiated this matter by Formal Complaint to enforce SPLP’s contractual obligations under the parties’ Settlement Agreement, specifically to require SPLP to install a control valve (“Valve” or “Valve 344”) for the ME2 pipeline in the Township in an area identified by the parties as the SPLP Use Area. The Township learned shortly before filing the Formal Complaint that SPLP intended to install Valve 344 on a different property in the Township identified as the Janiec 2 Tract. Within months after the Township’s Formal

Complaint, Sunoco began site work on the Janiec 2 Tract to prepare for horizontal directional drilling (“HDD”) and construction of the ME2 pipeline and Valve 344 on the Janiec 2 Tract, in complete derogation of SPLP’s contractual promises in the Settlement Agreement. The Township therefore filed its petition for an interim emergency order to stop the offending activity until the merits of the underlying case are decided. The evidence at the resulting hearing confirmed that the location and path of the HDD and subsequent pipeline installation determines the location of the valve.¹ Based on this and other evidence presented at the hearing, on July 24, 2017 Administrative Law Judge Elizabeth Barnes (“ALJ”) entered an Interim Emergency Order (“Injunction”) stopping all construction in the Township inconsistent with SPLP’s promises in the Settlement Agreement. Pursuant to the certification of the material question to the Commission, on October 26, 2017, the Commission affirmed the Injunction.

In yet another effort to avoid fulfilling its obligations under the Settlement Agreement, SPLP now tries to reframe the Township’s case by suggesting that the only relief sought was to stop SPLP from constructing the Valve on the Janiec 2 Tract, and since SPLP has unilaterally decided not to install the Valve anywhere in the Township, the Injunction is no longer necessary. However, SPLP’s characterization of the Township’s case is simply incorrect. The Township’s pursuit of this case has always been to enforce SPLP’s promise to put the Valve on the SPLP Use Area.² Because SPLP’s clear intent was to install the Valve at the wrong location, a significant amount of evidence, argument and relief sought to date in the case has related to stopping SPLP from installing the Valve on the Janiec 2 Tract. However, that does not imply that SPLP should

¹ The evidence also reveals that while Sunoco represented in its Settlement Agreement that it had no plans to install a valve or other above ground facilities in the Township other than as set forth in the Settlement Agreement, Sunoco had absolutely no plan to put the Valve where it promised, but instead had well-developed plans to put the Valve on the Janiec 2 Tract.

² The Settlement Agreement at Section II.A.2. states, in pertinent part, “a remote operated valve station will be constructed and maintained on SPLP’s adjacent 4.42 acre property... The proposed location of such valve station on the SPLP Additional Acreage is depicted on the map attached hereto as Appendix 1 and incorporated by reference (the “SPLP Use Area”).”

be relieved from installing the Valve at the location where it promised to do so. The Injunction is still necessary, as there is no evidence, indication or assertion that the HDD and pipelines SPLP intends to run in the Township are consistent with its promise to put the Valve in the SPLP Use Area. There is no evidence, indication or assertion as to what impact the unilateral decision to again breach the Settlement Agreement will have on the Township. No alternative plans have even been presented for the Township's safety expert to consider. For these reasons, and those that follow, SPLP's petition to rescind or discontinue the Commission's October 26, 2017 Order affirming the Injunction must be denied.

1. Denied as stated. The Amended Complaint, as a writing, speaks for itself and any characterization thereof is denied. The Township is seeking to enforce the terms of the Settlement Agreement between the parties, which includes SPLP's agreement to install the Valve on the SPLP Use Area.

2. Admitted in part, denied in part. It is admitted that on July 24, 2017, ALJ Barnes issued an Interim Emergency Order, which is a writing that speaks for itself. Any characterization of said writing by SPLP is denied. By way of further answer, on October 26, 2017, the Commission issued an Order affirming the Interim Emergency Order. Further, the Orders did not just enjoin SPLP from constructing the Valve on the Janiec 2 Tract, but also enjoined SPLP from HDD and pipeline installation activities that were inconsistent with installation of the Valve in the SPLP Use Area. There is no allegation or indication that SPLP has reconfigured its HDD or pipeline installation activities to be consistent with its contractual obligations in the Settlement Agreement.

3. Admitted in part, denied in part. It is admitted that the Township submitted Proposed Findings of Fact and Conclusions of Law in support of the Interim Emergency Order

on July 24, 2017, and that said submission is a writing that speaks for itself. Any characterization of said writing by SPLP is denied. By way of further response, the Township filed and continues to pursue this action to enforce SPLP's obligations under the terms of the Settlement Agreement, all of which were aimed at the safety and best interests of the Township's residents, one of many facts cited by the Township in its Findings of Fact and Conclusions of Law.

4. Admitted in part, denied in part. It is admitted that the Commission issued an Order on October 26, 2017, which is a writing that speaks for itself. Any characterization of said writing by SPLP is denied. By way of further response, the Commission's October 26, 2017 Order imposes an interim injunction until the entry of a final order on the full merits of this action, which involves the interpretation and enforcement of all terms of the parties' Settlement Agreement.

5. Denied. The Township is without any information to determine the truth of the allegations set forth in this paragraph regarding SPLP's reevaluation of Valve 344 and whether it can be eliminated the Township altogether, and therefore the allegations in this paragraph are denied. By way of further response, the Commission's October 26, 2017 Order imposes an interim injunction until the entry of a final order on the full merits of this action, which involves the interpretation and enforcement of all terms of the parties' Settlement Agreement.

Presumably due to the procedural schedule applicable to this matter, with which SPLP is clearly unhappy, SPLP is now seeking to avoid the Injunction and the remainder of this litigation by unilaterally asserting that Valve 344 is unnecessary and may be eliminated, despite the terms of the Settlement Agreement providing that the Valve will be installed on the SPLP Use Area. SPLP has not provided the Township, or this Commission, with any information regarding the

impacts to the Township of eliminating Valve 344. SPLP has spent a considerable amount of time in this litigation attempting to convince the Commission that the Valve must go on the Janiec 2 Tract, and but for that requirement SPLP would not have gone through the considerable expense of acquiring the Janiec 2 Tract. Now, without any facts or analysis, or any information at all for anyone to evaluate how a complete derogation of SPLP's contractual obligations regarding the Valve would impact the Township, SPLP wants the Commission to permit it to run the pipelines wherever SPLP wants without regard to the consequences to the Township or its obligations under the Settlement Agreement. SPLP's petition is simply another effort to fast-track the installation of the ME2 pipeline through the Township without regard for the valuable promises SPLP made to the Township and its residents in the Settlement Agreement.

6. Denied. The allegations are denied for the reasons set forth in paragraph 5 above, which are incorporated herein by reference. Further, SPLP apparently believes that the elimination of Valve 344 ends the dispute that is the subject of the Township's Amended Complaint. However, SPLP agreed in the Settlement Agreement that it will install a Valve for the ME2 pipeline on the SPLP Use Area, and until the Commission issues a final order in this matter determining SPLP's obligations under the Settlement Agreement, the Injunction must remain and the litigation must continue.

7. Admitted in part, denied in part. The Commission's authority under Section 703(g) is admitted. SPLP's right to relief from the Commission's October 26, 2017 Order is denied for the reasons set forth in paragraphs 3 through 6 above, which are incorporated herein by reference. SPLP notes that Section 703(g) allows the Commission to modify its October 26, 2017 Order without any new evidence, but at the same time attempts to present significant new evidence regarding an alleged unilateral determination that the Valve is not necessary and an

alleged unilateral decision to eliminate the Valve entirely from the Township. SPLP is attempting to present this evidence through a mere verification without the benefit of cross-examination or review by the Township's consultants. Given that SPLP's prior verified assertions have proven to be untrue, such self-serving and unsubstantiated evidence cannot be accepted as a basis for the requested relief.³ Further, SPLP is essentially asking the Commission to decide the entire case now under the guise of Section 703(g).

8. Denied. SPLP's right to relief from the Commission's October 26, 2017 Order is denied for the reasons set forth in paragraphs 3 through 6 above, which are incorporated herein by reference. By way of further answer, granting this request, or even having a hearing on this request, will waste valuable resources. If this request is granted, WGT would be forced to file a new petition for interim emergency relief and have a new hearing, while at the same time preparing for the submission of initial evidence on its Amended Complaint by the February 1, 2018 deadline, which is contrary to conserving the time and resources of the Commission and the parties.

9. Denied. SPLP's willingness to accept a condition of not locating Valve 344 anywhere in the Township is an attempt to avoid its obligation in the Settlement Agreement to install a Valve for the ME2 line on the SPLP Use Area. SPLP is not proposing to refrain from HDD and construction activities that are inconsistent with a valve being installed on the SPLP Use Area. Dissolving the Injunction will allow SPLP to perform the HDD and run the pipelines in a manner inconsistent with installing the Valve on the SPLP Use Area, exposing the Township to an argument down the line that SPLP cannot satisfy its contractual obligations under the

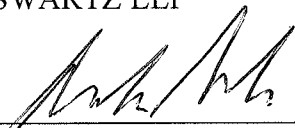
³ For instance, in its motion to modify the procedural schedule, SPLP asserted numerous times that West Goshen Township was the only location in the Commonwealth where HDD had not resumed, but then admitted that it was not true when challenged by the Township. *See* SPLP's petition for interlocutory review of the order denying Sunoco's motion to modify the procedural schedule.

Settlement Agreement because of the existing configuration. This would give rise to the same dilemma that existed before the Injunction and subject the Township to the possibility of needless duplication of the HDD, along with the attendant risks and costs to the public. Until the Commission issues a final order in this matter determining SPLP's obligations under the Settlement Agreement, the Injunction must remain and the litigation must continue, regardless of the condition proposed by SPLP.

WHEREFORE, the Township respectfully requests that the Commission deny SPLP's Petition.

HIGH SWARTZ LLP

By: _____


David J. Brooman, Esquire
Richard C. Sokorai, Esquire
Mark R. Fischer, Jr., Esquire
Attorneys for Complainant
West Goshen Township

Date: _____

12/1/17

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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WEST GOSHEN TOWNSHIP,

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Docket No. C-2017-2589346

v.

SUNOCO PIPELINE, L.P.,

CERTIFICATE OF SERVICE

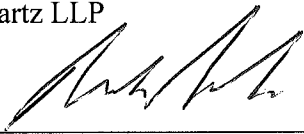
I hereby certify that on December 1, 2017, a true and correct copy of West Goshen Township’s Answer to Sunoco Pipeline, L.P.’s Petition to Rescind or Discontinue the October 26, 2017 Commission Order was served upon the individuals listed below by electronic filing, email, and U.S. Mail, first-class, postage prepaid, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

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Date: 12/1/17