

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17120

West Goshen Township v. Sunoco
Pipeline, L.P.

Public Meeting December 21, 2017
2589346-OSA
Docket No. C-2017-2589346

MOTION OF COMMISSIONER NORMAN J. KENNARD

Before the Public Utility Commission (Commission) for consideration and disposition is the Petition to Rescind or Discontinue (Petition) filed by Sunoco Pipeline, L.P. (Sunoco or Company) relative to the above captioned proceeding. Sunoco's Petition seeks rescission or discontinuance of the Commission's October 26, 2017 Order (*October 2017 Order*) enjoining the Company from constructing Valve 344, and its related facilities, on certain tracts of property located in West Goshen Township (Township).¹

In its Petition, Sunoco asserts that Valve 344 is no longer operationally needed nor required by any applicable code or regulation. As such, Sunoco no longer plans to construct the valve anywhere within the municipal limits of the Township. Accordingly, Sunoco avers that there is no longer a need to continue the injunction enjoining the Company's construction and activities that were the subject of the *October 2017 Order*.

I find that Sunoco's Petition requesting rescission of the *October 2017 Order* should be denied. The purpose of a Commission Order granting emergency relief is to enjoin a party from specific action *for a certain period of time*. The *October 2017 Order* should not be rescinded in the event the Township wishes to challenge Sunoco's compliance with the injunction for the time period beginning when the injunction was issued and ending when the specific enjoined action was abandoned by Sunoco.

However, I also find that Sunoco's Petition requesting discontinuance of the *October 2017 Order* should be granted on a going forward basis. The *October 2017 Order* was predicated on Sunoco constructing Valve 344 in the Township. Because Sunoco has stated on the record that it will not construct the valve within the Township, the specific action from which Sunoco was enjoined is moot. As such, it is reasonable to discontinue the injunction issued by our *October 2017 Order* as of the date the final order disposing of the Petition is entered.

I note that the underlying Amended Complaint in this proceeding has not been resolved, and it appears that contested issues remain for litigation. To be clear, discontinuing the injunction regarding construction of Valve 344 on a going forward basis will not impact the Township's ability to prosecute the issues raised in its Complaint in any way.

¹ The Commission's *October 2017 Order* enjoined Sunoco from constructing Valve 344 in the Township based on the terms of a Settlement Agreement between Sunoco and the Township certified by the Commission's Secretary on June 15, 2015, at Docket No. U-2015-2486071.

However, I note that that under the existing procedural schedule in the underlying proceeding, hearings are scheduled for the end of April 2018, which is more than one year after the Amended Complaint was filed by the Township, with briefing scheduled to conclude in June 2018. I recognize that the procedural schedule is an issue that is currently before the Commission as part of our interlocutory review process. However, given that outstanding issues appear to remain for litigation and in the interest of administrative efficiency, we direct the Office of Administrative Law Judge return the matter to us for final resolution in time for consideration at the September 20, 2018 Public Meeting.

THEREFORE, I move:

1. That the injunction issued by our *October 2017 Order* is discontinued as of the date the final order disposing of Sunoco's Petition is entered.
2. That the Office of Administrative Law return the matter to us for final resolution by the Commission at the September 20, 2018 Public Meeting.
3. That the Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

Date: December 21, 2017



**NORMAN J. KENNARD
COMMISSIONER**