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MARK L. FREED
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March 14, 2018

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: In re: Sunoco Pipeline, L.P. a/k/a Energy Transfer Partners

**Petition of the Bureau of Investigation and Enforcement of the
Pennsylvania Public Utility Commission For the Issuance of An
Ex Parte Emergency Order
Docket No. P-2018-3000281**

Dear Secretary Chiavetta:


Attached for electronic filing please find an Emergency Petition to Intervene of Uwchlan Township in connection with the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully Submitted,

CURTIN & HEEFNER LLP

BY: _____


Mark L. Freed (Pa. I.D. No. 63860)
Joanna A. Waldron (Pa. I.D. No. 84768)
mlf@curtinheefner.com
jaw@curtinheefner.com
Counsel for:
Uwchlan Township

Enclosure

cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Sunoco Pipeline, L.P. a/k/a :
Energy Transfer Partners : Docket No. P-2018-3000281
 :
 :
Petition of the Bureau of Investigation and :
Enforcement of the Pennsylvania :
Public Utility Commission For the Issuance of :
An Ex Parte Emergency Order :

**EMERGENCY PETITION TO INTERVENE OF
UWCHLAN TOWNSHIP**

Pursuant to 52 Pa. Code § 5.71, *et seq.*, Uwchlan Township hereby petitions to intervene in the above-captioned proceeding. In support thereof, Uwchlan Township submits as follows:

1. The name and contact information of the Petitioner is as follows:

Uwchlan Township
715 North Ship Road
Exton PA 19341

2. Uwchlan Township attorneys in this matter, and all documents should be served upon:

Mark L. Freed, Esq.
Joanna A. Waldron, Esq.
Curtin & Heefner LLP
2005 S. Easton Road, Suite 100
Doylestown, PA 18901
267-898-0570
mlf@curtinheefner.com
jaw@curtinheefner.com

3. On March 7, 2018, the Public Utility Commission’s Bureau of Investigation and Enforcement (“BIE”) petitioned the Public Utility Commission (“Commission”) for an *ex parte* emergency order under 52 Pa. Code § 3.2 to require Sunoco Pipeline, L.P. a/k/a Energy Transfer partners (“Sunoco”) to suspend operations on its Mariner East 1 pipeline (“ME1”). Petition at ¶ 2.

2. A true and correct copy of BIE’s Petition is attached hereto as Exhibit “A”.

4. BIE alleged that three sinkholes had opened up along Sunoco’s ME1 pipeline in West Whiteland Township, within 550 feet of ME1, which is an 8” active Natural Gas Liquids (“NGL”) pipeline that has been in operation since approximately 1931. Petition at ¶ 2.

5. The sinkholes appeared starting in December 2017, as Sunoco has been installing two new pipelines in the ME1 right-of-way, referred to as the Mariner East 2 (“ME2”) and Mariner East 2X (“ME2X”). Petition at ¶ 4.

6. ME2X is a 16” diameter pipeline that is being installed through a 24” diameter horizontal directional drilling (“HDD”), in a high consequence area (“HCA”)¹. ME2 is a 20” pipeline that Sunoco is installing in the same right-of-way. Petition at ¶ 3.

7. Sunoco discovered two sinkholes in December 2017 and a third sinkhole on March 3, 2017, but did not notify the PUC or Federal Pipeline and Hazardous Materials Safety Administration (“PHMSA”). Petition at ¶ 5, 7.

8. Sunoco filled the two sinkholes with a specialty concrete, but did not notify the Commission or PHMSA. Petition at ¶ 6.

¹ PHMSA safety regulations use the HCA concept to identify specific locales and areas where a release could have the most significant adverse consequences. HCA areas for hazardous liquid pipelines depends on populated areas, drinking water sources, and unusually sensitive ecological resources.

9. In response to a resident's email to the PUC on March 3, 2018, PHMSA and BIE inspectors discovered that sinkholes had formed in the area of Lisa Drive in the path of ME1 and the construction from ME2X. Petition at ¶ 1.

10. The third sinkhole was 15 feet wide and 20 feet deep, exposed the ME1 pipeline and is approximately 10 feet from a house foundation. Petition at ¶ 4.

11. Despite being engaged in HDD in a HCA, Sunoco never reported the formation of sinkholes, to BIE or the Commission.

12. Sunoco's installation of ME2 and ME2X have caused portions of the existing ME1 pipeline to be exposed. Petition at ¶ 4.

Emergency Ex Parte Order

13. On or about March 7, 2018, the Commission granted the emergency order. A true and correct copy of the March 7, 2018 Order ("Order") is attached hereto as Exhibit "B".

14. Sunoco was ordered to inspect the ME1 from at least 1 mile upstream from the Lisa Drive location to a point at least 1 mile downstream from the Lisa Drive location. Order at 1.a.

15. Pursuant to the Order, Sunoco must immediately suspend hazardous liquids transportation service on the ME1 line until BIE inspectors are satisfied and concur with any reinstatement request by Sunoco, which request will be subject to Commission review and approval. Order at ¶ 1.c.i.

16. Further, during the shutdown, Sunoco must conduct geophysical testing and analyses "in the area described in the BIE petition" Order at ¶ 1. b.

17. The Order is on the Agenda for the March 15, 2018 Commission Public Meeting.

18. Sunoco is entitled to petition for a hearing in this proceeding under 52 Pa. Code § 3.4.

19. As a holder of a certificate public convenience for ME1, Sunoco is required under Section 1505 of the Public Utility Code to furnish “adequate, efficient, safe and reasonable services and facilities”, and “shall make all such repairs, changes, alteration, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for accommodation, convenience, and safety of its patrons, employees, and the public.” 66 Pa.C.S. § 1505.

20. The Commission is entitled to determine and prescribe all such repairs, alterations, extensions or improvements,” necessary and proper for the safety, accommodation, and convenience of the public.” 66 P.S. § 1505(a).

21. The Commission regulations incorporate by reference the safety standards under the federal pipeline safety laws, and regulations of the federal Pipeline and Hazardous Materials Safety Administration (“PHMSA”). 52 Pa. Code §59.33(b).

Uwchlan Township’s Interest in this Proceeding

22. A petition to intervene in a proceeding is permitted for “an interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.” 52 Pa. Code § 5.72(a)(2).

23. Uwchlan Township seeks to intervene in this proceeding, and any subsequent

hearing and conferences related to the testing and analysis of ME1, proposals and implementation of corrective actions, and any request for reinstatement of the hazardous liquids transportation service on ME1.

24. Uwchlan Township and its residents are directly affected by the Order.

25. Uwchlan Township is adjacent to West Whiteland Township, and ME1 crosses Uwchlan Township.

26. The Lisa Drive sinkholes are located approximately 2 miles from Uwchlan Township.

27. The Order requires Sunoco to suspend operations of the hazardous liquids transportation service and inspect the pipeline from a point at least one mile upstream and one mile downstream from Lisa Drive. The inspection points are within 1 mile of Uwchlan Township.

28. The March 7, 2018 Order also requires Sunoco to conduct geophysical testing within 1 mile of the Township.

29. On information and belief, the sinkholes at Lisa Drive occurred in the Octoraro Formation (schist, phyllite and gneiss), along a fault line.

30. Chickies Formation (quartzite and schist) is located along the border of West Whiteland Township and Uwchlan Township in the area of ME1.

31. As noted on various State mapping, a fault line exists immediately adjacent to the West Whiteland/Uwchlan Township border in the area of ME1.

32. There are also other changes in geology within Uwchlan Township along the ME1

route.

33. Safety regulations require all pipelines to be buried and installed so that the depth of cover between the top of the pipe and ground level is 36 inches, for industrial, commercial, and residential areas. 49 C.F.R. § 195.248.

34. Any pipeline that is within 50 feet of a “private dwelling, or any industrial building or place of public assembly in which persons work, congregate, or assemble” must have an additional 12 inches of cover in addition to the requirements of 49 C.F.R. § 195.248. See 49 C.F.R. § 195.210.

35. The ME1 pipeline in Uwchlan Township is in close proximity to residential dwellings, apartment buildings, Route 113, and various “public assembly” areas, such as retail shopping centers.

36. In some areas of Uwchlan Township, ME1 is as shallow as approximately 2 feet or less.

37. Uwchlan Township informed Sunoco and the Commission about its concerns about the depth of the ME1 more than nine (9) months ago, but has received no assurance that the current ME1 depth-to-cover is sufficient, or that the drilling rigs and machinery involved in the construction of the ME2 and ME2X will not disturb operations on ME1. A true and correct copy of the Email to the Commission is attached hereto as Exhibit “C”.

38. On information and belief, Sunoco is using the same installation process – HDD in a HCA in the existing ME1 right-of-way—in Uwchlan as it is using in West Whiteland Township.

39. In addition, during the construction of ME2, Sunoco is running heavy equipment at and around ME1 in Uwchlan Township.

40. The depth of ME1 and Sunoco's activities during ME2 and ME2X jeopardize the safety of Uwchlan Township and its residents.

41. The March 7, 2018 Order confirms that construction of the ME2 and ME2X is impacting the integrity of ME1, and that the integrity of ME1 can no longer be assured in West Whiteland Township, less than two miles from Uwchlan Township.

42. Despite the proximity of known sinkholes to Uwchlan Township, the geology in and around Uwchlan Township, the depth of ME1 and Sunoco's activities in and around Uwchlan Township, the Order requires no testing, analysis, corrective action or other conditions related to Uwchlan Township.

43. No other party represents Uwchlan Township's interests in this proceeding, and the Township may be effected by any Commission decision to reinstate ME1.

44. In West Whiteland Township, Sunoco failed to report the formation of sinkholes during the installation of ME2 and ME2X for several months and the Commission only became aware of the issue from a resident; therefore, Uwchlan Township must intervene to ensure the safety of its citizens. Petition at ¶ 1, 4.

45. Based on Sunoco's failure to report the formation of sinkholes in West Whiteland for several months, Uwchlan Township has no assurance that Sunoco will report integrity threats to ME1 in Uwchlan Township.

46. Uwchlan Township requests that the Commission order that Sunoco run at least one line inspection through the portion of ME1 that traverses Uwchlan Township and conduct geophysical testing and analysis in the areas of Uwchlan Township where HDD is being conducted.

47. Uwchlan Township further requests that Sunoco be prohibited from reinstating transportation services on ME1 until the results of said testing and analysis are reviewed and approved by BIE/Pipeline Safety staff, Sunoco takes all necessary corrective actions to the satisfaction of BIE/Pipeline Safety staff, and BIE/Pipeline Safety approves reinstatement of transportation services, subject to Commission review and approval.

48. Uwchlan Township's interests in this proceeding are direct, immediate and substantial and are not adequately represented by any other parties that may seek to intervene.

49. Consequently, Uwchlan Township satisfies the standards for intervention under Section 5.72 of the Commission's regulations. 52 Pa. Code § 5.72.

50. Emergency relief is permitted where there is: (1) a clear right to relief; (2) immediacy; (3) irreparable harm; and, (4) relief will not harm the public interest. 52 Pa. Code § 3.6; Glade Park East Home Owners Ass'n v. Pa. Public Utility Comm'n, 628 A.2d 468 (Pa. Cmwlth Ct. 1993).

51. Uwchlan Township has a clear right to intervene in this proceeding.

52. The need for intervention is immediate because Sunoco can apply for reinstatement of hazardous liquids transportation on ME1 in approximately 10-14 days. Order at 1.b.

53. Further, the March 7, 2018 Order recognizes that failure to ensure the integrity of ME1 could cause irreparable harm. The Commission concludes that “permitting the continued flow of hazardous liquids through the ME1 pipeline without the proper steps to ensure the integrity of the pipeline could have catastrophic results impacting the public.” Order at 2.

54. Uwchlan Township will be irreparably harmed if Sunoco does not ensure the integrity of the entire ME1 line, and particularly where the depth-to-cover of the ME1 in Uwchlan Township has been identified as less than current federal regulations require.

55. “Whenever an operator discovers any condition that could adversely affect the safe operation of its pipeline system, it must correct the condition within a reasonable time. However, if the condition is of such a nature that it presents an immediate hazard to persons or property, the operator, may not operate the affected part of the system until it has corrected the unsafe condition.” 49 C.F.R. § 195.401(b).

56. Participation by Uwchlan Township will not harm the public interest, but rather, will help “ensure the integrity of the pipeline” and avoid the “catastrophic results impacting the public” that the Commission recognized in the March 7, 2018 Order. Order at 2.

57. Pursuant to 52 Pa. Code § 1.54(b)(3), the undersigned counsel consent to the electronic service of all documents at the email addresses shown above.

WHEREFORE, the Township respectfully requests that the Commission grant this Petition to Intervene, providing the Township with full-party status in this proceeding and any hearings or conferences held, and with ability to comment; that the Commission deny the reinstatement of transportation services on ME1 until Sunoco has conducted the required testing

and analysis of the portions of the ME1 that traverse Uwchlan Township as set forth herein, and the results of such testing and analysis, any required corrective action, and reinstatement, has been reviewed and approved by BIE/Pipeline Safety, subject to Commission review and approval; and that the Commission take such other actions as it finds to be appropriate under the circumstances.

Respectfully submitted,
CURTIN & HEEFNER LLP



By: Mark L. Freed (Pa. I.D. No. 63860)
Joanna A. Waldron (Pa. I.D. No. 84768)
2005 South Easton Road, Suite 100
Doylestown, PA 18901

Dated: March 14, 2018

**CERTIFICATE OF
SERVICE**

In re: Sunoco Pipeline, L.P. a/k/a :
Energy Transfer Partners : Docket No. P-2018-30000281
 :
Petition of the Bureau of Investigation and :
Enforcement of the Pennsylvania :
Public Utility Commission For the Issuance of :
An Ex Parte Emergency Order :

I hereby certify that I have this day served a true copy of the foregoing Petition to Intervene upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated: March 14, 2018

SERVICE BY FIRST CLASS MAIL

Michael L. Swindler
Deputy Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
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Harrisburg, PA 17105-3265

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5th Floor, Forum Place
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Office of Small Business Advocate
300 North Second Street
Suite 1102
Harrisburg, PA 17101

Respectfully submitted,
CURTIN & HEEFNER LLP



By: Mark L. Freed (Pa. I.D. No.63860)
Joanna A. Waldron (Pa. I.D. No. 84768)
2005 South Easton Road, Suite 100
Doylestown, PA 18901

VERIFICATION

I, William Miller, am the Chairman of the Board of Supervisors of the Township of Uwchlan. I hereby state that the facts set forth herein are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements made herein are subject to the penalties of 18 Pa.C.S. Section 4904 concerning unsworn falsification to authorities.

DATED: March 14, 2018



Name: William Miller

EXHIBIT A



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

March 7, 2018

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

Re: Pennsylvania Public Utility Commission, Bureau of Investigation
and Enforcement v. Sunoco Pipeline L.P. a/k/a Energy Transfer
Partners
Docket No. P-2018-

Dear Secretary Chiavetta:

Enclosed please find the Petition of the Bureau of Investigation and Enforcement
of the Pennsylvania Public Utility Commission for the Issuance of an *Ex Parte*
Emergency Order Regarding Sunoco Pipeline L.P. a/k/a Energy Transfer Partners.

Should you have any questions, please feel free to contact me.

Sincerely,

Michael L. Swindler
Deputy Chief Prosecutor
PA Attorney ID No. 43319

cc: As per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Petitioner	:	
	:	
v.	:	Docket No. P-2018-_____
	:	
Sunoco Pipeline L.P. a/k/a Energy Transfer	:	
Partners,	:	
Respondent	:	

**PETITION OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT
OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION
FOR THE ISSUANCE OF AN *EX PARTE* EMERGENCY ORDER**

AND NOW, comes the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission” or “PUC”), pursuant to 52 Pa. Code § 3.2, and petitions the Commission for the issuance of an *ex parte* emergency order: 1) requiring Sunoco Pipeline L.P. a/k/a Energy Transfer Partners (“Sunoco” or “Company”) to immediately suspend operations of its Mariner East 1 pipeline (“ME1”) due to safety concerns regarding the integrity of said pipeline as being potentially hazardous to life, property and/or the environment. In support of this Petition, I&E avers as follows:

I. INTRODUCTION

1. On or about On March 3, 2018, the PUC was notified through email communications from a local resident regarding the formation of sinkholes near and/or

above Sunoco's ME1 pipeline facility near 491 Lisa Drive, West Whiteland Township, West Chester, Chester County, Pennsylvania.¹ The sinkholes occurred at three locations within 550 feet along the path of the ME1 pipeline.

2. ME1 is an eight-inch diameter (8") Natural Gas Liquids ("NGL") pipeline with a Maximum Operating Pressure ("MOP") of 1,440 PSI. ME1 is an active pipeline that has been in operation since approximately 1931. ME1 currently operates in a west to east direction pursuant to its intrastate transportation tariffs filed with the Commission and transports liquid propane, butane and ethane at the MOP allowed.

3. Sunoco is installing a new sixteen-inch diameter (16") pipeline in the common right-of-way ("ROW") through a twenty-four inch diameter (24") horizontal directional drill bore ("HDD") in a high consequence area ("HCA"). This new pipeline is referred to as Mariner East 2X (ME2X). Sunoco is also installing a pipeline called Mariner East 2 ("ME2") in the same ROW across the Commonwealth and is twenty (20) inches in diameter.

4. In December 2017, the first sinkhole ("Sinkhole No. 1") was discovered near station 12+00 (HDD station), just south of railroad tracks used by Amtrak. The size of this sinkhole was approximately 8 feet wide and 3 feet deep. On March 1, 2018, the new ME2X was pulled back.² During post drilling, Sunoco workers noticed the second sinkhole ("Sinkhole No. 2") near station 13+00, measuring 8 feet wide by 15 feet deep.

¹ "Sinkhole" refers to a form of soil collapse.

Sinkhole No. 2 is located 300 feet from Amtrak's facilities. The third sinkhole ("Sinkhole No. 3") was discovered on Saturday, March 3, 2018 at approximately 8:30 a.m. at 491 Lisa Drive, near station 9+00, approximately 10 feet from the house's foundation wall. Sinkhole No. 3 measured approximately 15 feet wide and 20 feet deep and partially exposed the buried ME1 pipeline.

5. Sinkhole Nos. 1 and 2 were located over ME2X and near ME1. Sinkhole No. 3 was located within the path of ME1. ME1 is believed to be approximately 4 to 8 feet deep in the areas of HDD. ME2X varies in depth from 50 feet to 115 feet. The lateral separation between the two pipelines is 10 to 15 feet. ME2X crossed under ME1 in the vicinity of Sinkhole No. 3.

6. On March 3, 2018, Sunoco's Operations Group conducted an inspection of the sinkhole sites and directed that flowable fill (specialty concrete) be introduced into the three known sinkhole areas.

7. Sunoco did not provide any notification to the PUC or PHMSA of these sinkholes. In fact, Sunoco's Compliance Group was also unaware of these events until March 3, 2018.

8. On March 5, 2018, PUC Safety Engineers accompanied by the PUC Safety Division Manager visited Lisa Drive in West Chester, Pennsylvania, at the site of Sunoco's ME1 and ME2X pipelines that are the subject of the above-referenced events.

² The term "pulled back" refers to a pipeline procedure whereby a welded segment of pipeline is pulled through the pre-bored shaft.

Additionally, an engineer from the federal Pipeline and Hazardous Materials Safety Administration (“PHMSA”) joined the inspection.

9. All three sinkholes were filled on March 3, 2018 and construction work had ceased at the time of the PUC Engineers’ inspection on March 5, 2018, although Sunoco continued to perform surveys and other geological testing at the site.

10. During their on-site inspection on March 5, 2018, PUC Safety Engineers also discovered that additional sinkholes were developing south of 491 Lisa Drive, also in the path of ME1 and/or in the path of the under construction ME2X.

11. Due to, *inter alia*, the concern for the safety of the public given the unknown effects on the nature of the geological instability of the area and the sinkhole events referenced herein which correspond to the construction of the ME2X pipeline, the close proximity of the ME2X construction to the existing and active ME1 pipeline as well as the close proximity of residential single-family dwellings, apartment buildings, Route 100 and Amtrak lines to the site of ME1 and ME2X, I&E is compelled to bring this Petition for Issuance of *Ex Parte* Emergency Order and requests that the Commission direct: 1) that Sunoco shall immediately suspend operations of its Mariner East 1 pipeline and shall not reinstate transportation service on ME1 until the completion of repairs to I&E’s satisfaction at which time Sunoco may then file with the Commission a petition for reinstatement of service; 2) Sunoco shall perform the necessary geo-physical tests and analyses, including but not limited to, i) Resistivity, ii) Seismic, iii) Gravity on the HDD project at the Lisa Drive site from the bore beginning to end; 3) Sunoco shall perform a

drawdown/purge of the hazardous liquid products between the first valve upstream and downstream at the Lisa Drive site within 72 hours of the entry of the Commission's Emergency Order; and 4) upon conclusion of the drawdown/purge, Sunoco shall immediately run an in-line inspection ("ILI") tool at the Lisa Drive site and report the findings to PHMSA and I&E.

II. PARTIES

12. The Pennsylvania Public Utility Commission, with a mailing address of P.O. Box 3265, Harrisburg, PA 17105-3265, is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth pursuant to the Public Utility Code, 66 Pa.C.S. §§ 101, *et seq.*

13. Petitioner is the Commission's Bureau of Investigation and Enforcement and is the entity established to initiate proceedings that are prosecutory in nature for violations of the Public Utility Code and Commission regulations. *See Delegation of Prosecutory Authority to Bureaus with Enforcement Responsibilities*, Docket No. M-00940593 (Order entered September 2, 1994), as amended by Act 129 of 2008, 66 Pa.C.S. § 308.2(a)(11).

14. Respondent is Sunoco Pipeline L.P., Utility Code A-14001, a certificated public utility in the Commonwealth of Pennsylvania, with a place of business at 4041 Market Street, Ashton, Pennsylvania, 19014, and a common carrier transporter of hazardous liquids.

III. JURISDICTION

15. The Commission has jurisdiction over this matter pursuant to 66 Pa.C.S. § 501, which provides in pertinent part: “In addition to any powers expressly enumerated in this part, the commission shall have full power and authority, **and it shall be its duty to enforce**, execute and carry out, by its regulations, orders, or otherwise, **all and singular, the provisions of this part, and the full intent thereof . . .**” (emphasis added).

16. Section 1501 of the Public Utility Code states that every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities and that such service shall be reasonably continuous and without unreasonable interruptions or delay. 66 Pa.C.S § 1501. *See also*, 66 Pa.C.S § 1505.

17. Moreover, 52 Pa. Code § 59.33 reads:

- (a) Each public utility shall at all times use every reasonable effort to properly warn and protect the public from danger, and shall exercise reasonable care to reduce the hazards to which employees, customers and others may be subjected to by reason of its equipment and facilities.
- (b) *Safety code.* The minimum safety standards for all natural gas and hazardous liquid public utilities in this Commonwealth shall be those issued under the pipeline safety laws as found in 49 U.S.C.A. § § 60101—60503 and as implemented at 49 CFR Parts 191—193, 195 and 199, including all subsequent amendments thereto. Future Federal amendments to 49 CFR Parts 191—193, 195 and 199, as amended or modified by the Federal government, shall have the effect of amending or modifying the Commission’s regulations with regard to the minimum safety standards for all natural gas and hazardous liquid public utilities. The amendment or modification shall take effect 60 days after the effective date of the Federal amendment or modification, unless the Commission publishes

a notice in the *Pennsylvania Bulletin* stating that the amendment or modification may not take effect.

- (c) *Definition.* For the purposes of this section, “hazardous liquid public utility” means a person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for transporting or conveying crude oil, gasoline, petroleum or petroleum products, by pipeline or conduit, for the public for compensation.
- (d) *Enforcement.* Each public utility shall be subject to inspections as may be necessary to assure compliance with this section. The facilities, books and records of each public utility shall be accessible to the Commission and its staff for the inspections. Each public utility shall provide the Commission or its staff the reports, supplemental data and information as it shall from time to time request in the administration and enforcement of this section.

IV. STANDARD FOR ISSUANCE OF AN EMERGENCY ORDER

18. Section 3.2 of the Commission’s regulations, 52 Pa. Code § 3.2, permits a petition to the Commission for the issuance of an *ex parte* emergency order where supported by a verified statement of facts which establishes the existence of an emergency. The petition must establish facts to demonstrate that:

- 1. The Petitioner’s right to relief is clear.
- 2. The need for relief is immediate.
- 3. The injury would be irreparable if relief is not granted.
- 4. The relief requested is not injurious to the public interest.

52 Pa. Code § 3.2(b).

19. “Emergency” is defined in the Commission’s regulations as “[a] situation which presents a clear and present danger to life or property or which is uncontested

and requires action prior to the next scheduled meeting.” 52 Pa. Code § 3.1 (emphasis added).

20. The person or entity seeking emergency relief bears the burden of proving that the facts and circumstances meet all four of the above requirements. 66 Pa.C.S. § 332; 52 Pa. Code § 3.2(b). The burden of proof must be carried by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990). The petitioner's evidence must be more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (1950).

21. The Chairperson, a Commissioner, the Commission’s Director of Operations and the Commission’s Secretary have the authority to issue an emergency order. 52 Pa. Code § 3.3(a). An emergency order will be issued in writing. 52 Pa. Code § 3.3(b). An emergency order will be ratified, modified or rescinded by the Commission at the next scheduled public meeting after issuance of the order. 52 Pa. Code § 3.3(c). An emergency order will be served by the Secretary as expeditiously as practicable upon the persons directly affected by the decision with copies to the Commissioners and the Director of Operations. 52 Pa. Code § 3.3(d).

22. A person against whom an emergency order is issued *may* file a petition for an expedited hearing to be held before a presiding officer within 10 days of receipt of the petition by the Secretary. 52 Pa. Code § 3.4.

A. I&E's Right To Relief Is Clear

23. As a certificated public utility, Sunoco is subject to the jurisdiction of the Commission. Pursuant to 52 Pa. Code § 59.33, there are specific safety standards that must be met by a hazardous liquid public utility, such as Sunoco. Under Section 59.33, the Commission has adopted the federal pipeline safety laws as set forth at 49 CFR Parts 191, *et seq.* Such safety provisions are enforced by the Commission's Bureau of Investigation and Enforcement, Safety Division. It is not necessary to determine the merits of the controversy or dispute in order to find that a petitioner has satisfied the first prong of Section 3.2(b) of the Commission's regulations, 52 Pa. Code 3.2(b), by showing that the right to relief is clear. Rather, the Commission has found that if a petitioner raises "substantial legal questions," then a petitioner has established that its right to relief is clear. *Core Communications, Inc. v. Verizon Pennsylvania, Inc. and Verizon North LLC*, Docket No. P-2011-2253650 (Order entered September 23, 2011); *Level 3 Communications, LLC v. Marianna & Scenery Hill Telephone Company*, Docket No. C-20028114 (Order entered August 8, 2002); *T.W. Phillips Gas and Oil Company v. The Peoples Natural Gas Company*, 492 A.2d 776 (Pa. Cmwlth. 1985).

24. I&E serves as the Commission's prosecutory bureau and enforces compliance with the Public Utility Code and Commission regulations. *Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011), p. 5.

25. Section 1501 of the Public Utility Code states, in pertinent part, as follows:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in, or to such service and facilities as shall be necessary or proper for the accommodation, convenience and safety of its patrons, employees and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay.

66 Pa.C.S § 1501.

26. The construction of ME2 and ME2X at or near the location of the active ME1 pipeline, and the resulting sinkhole events that are occurring concomitant to the boring of the ME2X pipeline compromise the safety of the public.

27. Based on its investigation to date, I&E is not able to conclude that Sunoco has met its required threshold of safety pursuant to 66 Pa.C.S. § 1501 and 52 Pa. Code § 59.33 without Sunoco first conducting the necessary and appropriate elements of an integrity management plan and affording an opportunity for I&E to review the results of those integrity management efforts in order to ascertain that the continued operation of ME1 is viable and safe under the circumstances described herein.

28. Permitting the continued flow of hazardous liquid through the ME1 pipeline without the proper steps to ensure the integrity of the pipeline could have catastrophic results impacting the public near or adjacent to the paths of ME1, ME2 and ME2X.

B. The Need For Relief Is Immediate

29. I&E's need for relief is immediate. The very recent sinkhole events witnessed by I&E Safety Engineers establish that the integrity of the ME1 pipeline may

be compromised by these or other similar but yet to-be-discovered sinkholes. It is Sunoco's obligation, pursuant to Section 315(c) of the Public Utility Code, 66 Pa.C.S. § 315, to establish that their pipeline is adequate, safe and reasonable and not a safety hazard to the public.

30. Should Sunoco not immediately suspend operation of ME1 while integrity management steps are taken and then reviewed by I&E to confirm the safety of the pipeline, and should ME1 in fact be compromised by these or other sinkholes while permitting the continued flow of hazardous liquids, the resulting event would have an immediate adverse impact on the operation of ME1, the continued construction of ME2 and ME2X and, most importantly, the health and welfare of the public, property and surrounding environment.

C. The Injury From Respondents' Actions Will Be Irreparable If Relief Is Not Granted

31. By failing to immediately suspend operations of ME1 pending review of integrity steps conducted by Sunoco, the safety of the public would be jeopardized. The pipeline in question transports hazardous liquids in densely populated areas defined by PHMSA as High Consequence Areas. Needless to say, any compromise or failure of the pipeline would have dire results, and the injuries resulting therefrom would most certainly be irreparable.

D. The Relief Requested Is Not Injurious To The Public Interest

32. The relief that I&E requests is certainly not injurious to the public interest.

To the contrary, it is clear that it will be injurious to the public interest if the relief requested is *not* granted.

V. PRAYER FOR RELIEF

WHEREFORE, the Bureau of Investigation and Enforcement, Petitioner herein, respectfully requests that the Commission enter an Emergency Order that directs that:

1) Sunoco shall immediately suspend operations of its Mariner East 1 pipeline and shall not reinstate transportation service on ME1 until the completion of repairs to I&E's satisfaction at which time Sunoco may then file with the Commission a petition for reinstatement of service;

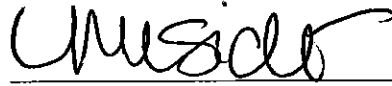
2) Sunoco shall perform the necessary geo-physical tests and analyses, including but not limited to, i) Resistivity, ii) Seismic, iii) Gravity on the HDD project at the Lisa Drive site from the bore beginning to end;

3) Sunoco shall perform a drawdown/purge of the hazardous liquid products between the first valve upstream and downstream at the Lisa Drive site within 72 hours of the entry of the Commission's Emergency Order;

4) Upon conclusion of the drawdown/purge, Sunoco shall immediately run an in-line inspection ("ILI") tool at the Lisa Drive site and report the findings to PHMSA and I&E; and

5) Any other such relief that the Commission deems appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "MSwinder", written over a horizontal line.

Michael L. Swindler
Deputy Chief Prosecutor
PA Attorney ID No. 43319

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 783-6369

Date: March 7, 2018

VERIFICATION

I, Paul J. Metro, Fixed Utility Valuation Manager, Safety Division, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: March 7, 2018

A handwritten signature in black ink, appearing to read "Paul J. Metro", is written over a horizontal line.

Paul J. Metro
Fixed Utility Valuation Manager,
Bureau of Investigation and Enforcement
Safety Division

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mwindler@pa.gov

Dated: March 7, 2018

EXHIBIT B

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

In re: Sunoco Pipeline L.P. a/k/a
Energy Transfer Partners

Petition of the Bureau of Investigation : Docket No. P-2018-3000281
And Enforcement of the Pennsylvania :
Public Utility Commission For the :
Issuance of an Ex Parte Emergency :
Order :

EMERGENCY ORDER

On March 7, 2018 the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission (BIE) filed the above captioned Petition for Issuance of an Ex Parte Emergency Order (*BIE Petition*) with the Pennsylvania Public Utility Commission (Commission or PUC). BIE requests the Commission issue an emergency order against Sunoco Pipeline L.P. (Sunoco) pursuant to the Commission's regulations at 52 Pa.Code §§3.1-3.4.

Pursuant to the Commission's regulations governing emergency relief, an *ex parte* Emergency Order will be issued only when there exists a clear and present danger to life or property or when the relief requested is uncontested and action is required prior to the next scheduled public meeting. 52 Pa. Code §3.1. Additionally, Commission regulations at 52 Pa. Code §3.2 provide that in addition to the existence of an emergency, a petitioner must establish the following:

- (1) The petitioner's right to relief is clear.
- (2) The need for relief is immediate.
- (3) The injury would be irreparable if relief is not granted.

(4) The relief requested is not injurious to the public interest.

Upon review of the *BIE Petition*, I find that it meets these standards. In particular I agree with BIE that permitting the continued flow of hazardous liquids through the ME1 pipeline without the proper steps to ensure the integrity of the pipeline could have catastrophic results impacting the public. To the extent that the relief requested may be injurious to members of the public who are shippers on the Mariner East 1 Pipeline, the risks to the general public outweigh the risks to the shippers.

The Law Bureau conducted two conference calls with counsel for BIE and counsel for Sunoco on March 8, 2018. The calls provided valuable technical information to the Commission to assist it in crafting the emergency relief being provided through this Emergency Order. The Commission appreciates the cooperation and professionalism of the parties.

THEREFORE, IT IS ORDERED:

1. The *BIE Petition* is granted as set forth in this Emergency Order with the following relief:
 - a. Within 24 hours of the entry of this Order Sunoco shall run at least one in line inspection tool through the Mariner East 1 Pipeline, inspecting the pipeline from a point at least 1 mile upstream from the Lisa Drive location to a point at least 1 mile downstream from Lisa Drive.¹
 - b. Within 12 hours of completing the inspection tool run Sunoco will suspend hazardous liquids transportation service on its

¹ Sunoco maintains, and BIE concurs, that a pipeline must be pressurized in order to run an in line inspection tool.


Mariner East 1 pipeline for a period of time, presently estimated by BIE and Sunoco to be of 10-14 days duration (the “Study Period”), in order for Sunoco to perform the following:

- i. Conduct geophysical testing and analyses (including at least the following: resistivity², seismic and gravity) in the HDD area described in the BIE Petition; and
 - ii. Share all findings of the inspection tool run and geophysical testing with BIE/Pipeline Safety staff; and
 - iii. Meet and discuss the findings with BIE/Pipeline Safety staff, such discussions shall include, but not be limited to Sunoco’s addition of strain gauges to Mariner East 1 in the study area.
 - iv. During the Study Period, Sunoco shall maintain sufficient minimum pressure in Mariner East 1 to avoid gasification of NGLs. Such pressures are estimated to be in the range between 475 and 650 psig, however, the NGLs shall not be flowing during such period .
- c. Sunoco will not reinstate hazardous liquids transportation service on Mariner East 1 until the earlier of the following:
- i. Completion of (a) and (b)(i)-(iv), with any corrective actions taken, or planned to be taken, to the satisfaction of BIE/Pipeline Safety coupled with BIE/Pipeline Safety’s concurrence with reinstatement of transportation service on Mariner East 1, subject to Commission review and approval.
 - ii. If BIE/Pipeline Safety does not concur with Sunoco’s request to resume service on ME1, Sunoco may file an

Answer to the BIE Petition within 3 business days following notice of BIE's nonconcurrency.

1. The Petition and Answer will be assigned for expedited hearing(s) before the Office of Administrative Law Judge;
2. Sunoco may not resume hazardous liquids transportation service on Mariner East 1 without prior Commission approval.
2. As the party against whom an emergency order has been entered, Sunoco may petition for an expedited hearing pursuant to 52 Pa.Code §3.4.
3. That this Emergency Order shall be placed on the Agenda of the March 15, 2018 Public Meeting.
4. That the Secretary shall serve a copy of this Emergency Order on BIE, Sunoco and the other persons and entities listed of the Certificate of Service attached to the *BIE Petition*.

Dated: March 7, 2018
Entered: March 7, 2018



Gladys M. Brown, Chair

² BIE and Sunoco shall meet and discuss whether resistivity testing is appropriate at the bore site. Following such discussions BIE, at its discretion, may waive this Order's requirement for resistivity testing. If so, BIE shall provide written notice of the waiver to Sunoco and file same at this docket.

EXHIBIT C

From: dhanley@uwchlan.com [<mailto:dhanley@uwchlan.com>]

Sent: Tuesday, June 20, 2017 11:08 AM

To: gmb@pa.gov; tcsmith@pa.gov; pmetro@pa.gov; phmsa.pipelinesafety@dot.gov; tcharles@pa.gov

Cc: FREDERICK GAINES; Milton Bozarth; toeste@verizon.net; Dan Daley

Subject: Sunoco Mariner 2 Project

Chairman Brown, Ms. Smith, Mr. Metro and Mr. Charles,

As the agencies in charge of pipeline matters in Pennsylvania, we are writing to you to ask your position in regard to a concern about the installation of the new Sunoco Mariner 2 pipelines in Uwchlan Township, Chester County, their proximity to the existing Mariner 1 pipeline and the depth of that existing pipeline being only about two (2) feet in depth. While doing "soft digs" to determine the location and depth of the existing line, Sunoco last Friday discovered this line to be at that shallow depth, upon hearing this, we immediately contacted the Sunoco office representatives and questioned the logic (and legality) of having that line at this depth especially considering the current installation of two additional pipelines within the existing 40-foot wide (in some locations) easement - Attached hereto you will find the response from the Sunoco rep, Charles Stewart - We are desirous to hear from you whether you concur with Sunoco's position - Concerns continue to be voiced as this existing line was installed "decades ago", and with the drilling rigs and vibration from them and the mud-sucking machines being in such close proximity to this existing line, the Township is concerned about the depth and possible damage that could occur to this line - Your review of this matter and issuance of your position is appreciated - DH