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May 21, 2018

Via Electronic Filing

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

*CHERRY HILL, NJ
**HONOLULU, HI
PHILADELPHIA, PA
by appointment only

**Partner responsible – John F. Gullace
**Partner responsible – Brenda H. Gotanda*

Re: *Pennsylvania State Senator Andrew E. Dinniman v. Sunoco Pipeline L.P.,
Docket No. C2018-3001451 (Formal Complaint)*

*Pennsylvania State Senator Andrew E. Dinniman v. Sunoco Pipeline L.P.,
Docket No. P-2018-3001453 (Petitioner for Interim Emergency Relief)*

Dear Ms. Chiavetta:

Attached for filing is Respondent Sunoco Pipeline L.P.'s Objection to Documents Cited in Intervenor's Post-Hearing Brief to be filed in the above-referenced matter.

Respectfully submitted,



Neil S. Witkes

For MANKO, GOLD, KATCHER & FOX, LLP

NSW/mrb/11842-019

Enclosure

cc: The Honorable Elizabeth Barnes (via email: ebarnes@pa.gov) (.pdf and word versions)
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA STATE SENATOR
ANDREW E. DINNIMAN,

Petitioner,

v.

SUNOCO PIPELINE L.P.,

Respondent.

Docket No. C-2018-3001451

PENNSYLVANIA STATE SENATOR
ANDREW E. DINNIMAN,

Petitioner,

v.

SUNOCO PIPELINE L.P.,

Respondent.

Docket No. P-2018-3001453

**RESPONDENT SUNOCO PIPELINE L.P.'S
OBJECTION TO DOCUMENTS CITED IN
INTERVENOR'S POST-HEARING BRIEF**

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Dated: May 21, 2018

Violating the duty of candor to this tribunal, the post-hearing brief of intervenor Clean Air Council (“CAC”) grossly mischaracterizes two documents that were not offered or accepted as evidence. The documents should be given no weight.

During cross-examination of John Zurcher, SPLP’s expert in pipeline safety and integrity management, CAC’s counsel asked about a pipeline failure that occurred in 2015 on another operator’s pipeline in West Virginia. Tr. at 575:7-8. SPLP objected to the questioning on grounds of relevance, and Your Honor allowed the questions, with the caveat that you would “determine what weight to give it.” Tr. at 576:15-17. Without providing copies of the order and investigation report of this three-year-old incident, counsel for CAC then asked Mr. Zurcher whether the pipeline had failed “because of subsidence,” and Mr. Zurcher responded that there was “not subsidence of the pipeline,” but a failure caused by weight on the pipeline. Tr. at 576:20-577:2. Instead of producing the documents from this incident that only CAC had, counsel asked no further questions of Mr. Zurcher about this incident, and stated that “it might be easier just to rely on the documents for this” and that she would “move on.” Tr. at 577:3-5. Your Honor responded “[p]lease do.” Tr. at 577:6.

On page 4 of its post-hearing brief, CAC completely mischaracterizes the documents and the cause of this three-year-old incident on another company’s pipeline by asserting that “subsidence was at play” like the sinkhole on Lisa Drive (which the Commission unanimously determined did not damage the integrity of ME1). In fact, the two referenced documents say no such thing, and do not even contain the words “subsidence” or “sinkhole.”

The first document is PHMSA’s Amended Corrective Action Order, which states in the seventh bullet item on page 3 that the cause of the pipeline’s failure “is still undetermined and the investigation is ongoing.” The second document, PHMSA’s Failure Investigation Report

dated 13 months after the January 26, 2015 incident, finds on page 5 of 6 “that the accident was caused by a girth weld failure due to a ductile tensile overload from stresses resulting from loads imposed by the surrounding soil.” And consistent with Mr. Zurcher’s testimony, the report continues on page 5 of 6 to identify as a contributing factor that pipeline settlement was caused by stress placed on top of the pipeline “likely caused by the consolidation of existing surface mine spoils during construction, added cover, and the placement of buoyancy control measures on the pipe.”

CAC’s mischaracterization of the two PHMSA documents from a January 26, 2015 incident on another operator’s pipeline is not evidence, and should be given no weight.

Respectfully submitted,

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Dated: May 21, 2018

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the forgoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party). This document has been filed electronically on the Commission's electronic filing system and served by email on the following:

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