

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA STATE SENATOR	:	
ANDREW E. DINNIMAN,	:	
	:	
Complainant,	:	Docket No.: C-2018-3001451
	:	Docket No.: P-2018-3001453
v.	:	
	:	
SUNOCO PIPELINE, L.P.,	:	
	:	
Respondent.	:	

**SENATOR ANDREW E. DINNIMAN’S REPLY TO
SUNOCO PIPELINE, L.P.’S NEW MATTER**

COMES NOW, Petitioner, Senator Andrew E. Dinniman (hereinafter “Senator Dinniman” or “Complainant”), by and through his attorneys, Curtin & Heefner LLP, pursuant to 52 Pa. Code § 5.63, and respectfully files this Reply to New Matter, and in support thereof avers the following:

95. Denied. The averments of this paragraph constitute conclusions of law to which no response is required.

A. Senator Dinniman has Standing

96. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, as Administrative Law Judge Elizabeth Barnes has already ruled, Complainant has standing. *See Pennsylvania State Senator Dinniman v. Sunoco Pipeline, L.P.*, PUC Docket Nos. P-2018-30011453, C-2018-30011451 (May 21, 2018). This issue is now resolved under the “law of the case” doctrine. *See City of Philadelphia v. F.A. Realty Investors Corp.*, 146 A.3d 287, 297 (Pa. Cmwlth. 2016). Furthermore, in its May

3, 2018 Order regarding the *Petition of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission for the Issuance of an Ex Parte Emergency Order* at P-2018-3000281 the Commission found that:

As a formal complainant in his own proceeding, ***Senator Dinniman has full party status*** and may proceed with litigation before the Commission including exercising the right of discovery, the presentation of testimony and evidence, and the cross-examination of opposing witnesses.

Petition of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission for the Issuance of an Ex Parte Emergency Order P-2018-3000281, (Order entered May 3, 2018 at 12) (emphasis added).

By way of further response still, standing to participate in proceedings before an administrative agency ***is primarily within the discretion of the agency***. *Pennsylvania Natural Gas Association v. T.W. Phillips Gas and Oil Co.*, 75 Pa. PUC 598 (1991) (emphasis added).

Generally, Pennsylvania courts have held that a person or entity has standing when the person or entity has a direct, immediate, and substantial interest in the subject matter of a proceeding.

William Penn Parking Garage, Inc. v. City of Pittsburgh, 346 A.2d 269, 282-284 (Pa. 1975). In *Pennsylvania Game Commission v. Department of Environmental Protection*, 555 A.2d 812 (Pa. 1989), the Pennsylvania Supreme Court described these terms as follows:

The concept of “standing” in its accurate legal sense, is concerned only with the question of who is entitled to make a legal challenge to the matter involved.... Although our law of standing is generally articulated in terms of whether a would-be litigant has a “substantial interest” in the controverted matter, and whether he has been “aggrieved” or “adversely affected” by the action in question, we must remain mindful that the purpose of the “standing” requirement is to insure that a legal challenge is by a proper party.... The terms “substantial interest”, “aggrieved” and “adversely affected” are the general, usual guides in that regard, but they are not the only ones. For example, when the legislature statutorily invests an agency with certain functions, duties and responsibilities, the agency has a

legislatively conferred interest in such matters. From this it must follow that, unless the legislature has provided otherwise, such an agency has an implicit power to be a litigant in matters touching upon its concerns. In such circumstances the legislature has implicitly ordained that such an agency is a proper party litigant, i.e., that it has “standing.”

555 A.2d at 815.

Legislators are granted standing in their official capacity to challenge agency actions that may implicate their legislative functions. *Fumo v. City of Philadelphia*, 972 A.2d 487, 497 (Pa. 2009); *Corman v. NCAA*, 74 A.3d 1149, 1161 (Pa. Cmwlth. 2013). “[L]egislators, as legislators, are granted standing to challenge executive actions when specific powers unique to their functions under the Constitution are diminished or interfered with.” *Fumo v. City of Philadelphia*, 972 A.2d 487, 497 (Pa. 2009) (citing *Wilt v. Beal*, 363 A.2d 876, 881 (Pa. Cmwlth. 1976)) (granting legislative standing to state legislators in a challenge to an agency action implicating the General Assembly's authority to license submerged lands within the Commonwealth). “These duties have their origin in the Constitution and in that sense create constitutional powers to enforce those duties. Such powers are in addition to what we normally speak of as the constitutional rights enjoyed by all citizens.” *Id.* Additionally, these powers may also be found in statute. *Corman v. NCAA*, 74 A.3d 1149 (Pa. Cmwlth. 2013). See also 52 Pa. Code § 1.21(b)(3), which permits officers of government entities to represent those entities before the Commission.

97. Admitted.

98. Admitted in part and denied in part. It is admitted only that the paragraph contains quoted language from *Markham*. However, the averments of this paragraph constitute conclusions of law to which no response is required and are, therefore, denied. By way of further response, in support of its argument, Sunoco relies primarily on *Markham v. Wolf*, 136

A.3d 134 (Pa. 2016). Sunoco goes so far as to claim that *Markham* overruled prior precedent. It did not. Rather, by its very terms, *Markham* merely reviewed “our Commonwealth’s prior caselaw applying these principals as they relate to legislators.” 136 A.3d at 141. It neither set out to, nor did, overrule any of the prior case law on this issue.

Furthermore, *Markham* involved a facial challenge to an executive order before the Commonwealth Court in its original jurisdiction, not a proceeding before an administrative agency. The petitioners in that case claimed that the executive order was an “unqualified and improper intrusion upon one branch by another,” constituted a “discernable and palpable infringement” on the legislators’ authority as legislators, and that they were seeking to vindicate the voting rights of “every member of the General Assembly.” 136 A.2d at 138-39. The court characterized petitioners claims as “legislators claiming an institutional injury.” *Id.* at 140. The court found that in that case, petitioners were “not directly or substantially related to unique legislative prerogatives, but, rather, are generalized interests in the conduct of government common to the general citizenry.” *Id.* at 146.

The court expressed that it was particularly concerned that allowing the general challenge to the executive order in *Markham* would “seemingly permit legislators to join in any litigation in which a court might interpret statutory language in a manner purportedly inconsistent with legislative intent” and that petitioners “offer no limiting principle which would permit their intervention in the instant matter. . . .” *Id.* at 145.

The case at bar deals with a very different situation than the one addressed in *Markham*. Rather, it deals with Complainant’s “unique legislative prerogatives,” and his interests far exceed those “common to the general citizenry”. He represents a Senatorial District directly impacted to the project at issue in this matter. In his role as Senator, he sits on numerous Senate Committees

responsible for water protection and public safety, including the standing Senate Environmental Resources and Energy Committee and the Joint Legislative Air and Water Pollution Control and Conservation Committee. He has the statutory authority to receive, review and comment upon the Governor's annual expenditure plan for the Environmental Stewardship Fund under 27 Pa.C.S. § 6104, which funds in part the Chester County Conservation District and its oversight of the watersheds and water supply of West Whiteland Township, and he receives annual, mandatory reports from the Commission under the Pennsylvania Public Utility Code. 66 Pa.C.S. §§ 320. And, in his official capacity as Senator, he served as a member of the Pennsylvania Pipeline Infrastructure Task Force, which recommended policies, guidelines and best practices for the expansion of pipeline infrastructure in the Commonwealth. He is also a resident of West Whiteland Township and a former County Commissioner, and he possesses knowledge of a local perspective and the potential effects essential to a determination.

As Judge Barnes properly found:

participation in this matter relates to his official duties as a Senator for the affected district. He is involved with several committees that address water issues. He has personal knowledge of the subject matter and has the responsibility of commenting on or approving expenditures related to water resources in Chester County. Consequently, Senator Dinniman's interest is direct because it will be adversely affected by the actions challenged in this Complaint and Emergency Petition. His interest is immediate because there is a close causal nexus between Senator Dinniman's asserted injury and the actions challenged. In addition, the interest is substantial because Senator Dinniman has a discernible interest other than the general interest of all citizens in seeking compliance with the law. Accordingly, the decision regarding this Emergency Petition will have a direct, immediate and substantial effect on Senator Dinniman.

Pennsylvania State Senator Dinniman, PUC Docket Nos. P-2018-30011453, C-2018-30011451

at 6.

99. Admitted in part and denied in part. It is admitted only that the paragraph contains quoted language from *Markham*. However, the averments of this paragraph constitute conclusions of law to which no response is required and are, therefore, denied. By way of further response, it is expressly denied that recognizing Complainant's standing in this matter, "would seemingly permit legislatures to join in any litigation in which a court might interpret statutory language in a matter purportedly inconsistent with legislative intent." The pending matter does not even deal with the consistency of statutory language with legislative intent. Moreover, this matter implicates Complainant's unique duties and roles. *See* response to Paragraph 98, above, which is incorporated herein by reference.

100. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, it is denied that the issues in *Camille "Bud" George v. Pennsylvania Public Utility Commission*, 735 A.2d 1282 (Pa. Cmwlth. 1999) are applicable or analogous to the present case. In that case, Representative George did not claim standing based on his official capacity as a State Representative. Instead, he claimed standing based on a "*personal interest* in having *all* ratepayers be provided with adequate notice." 735 A.2d at 1286 (emphasis added). He advanced no argument to explain how the Commission's action impacted his duties as a State Representative. *Id.*

101. Admitted in part and denied in part. It is admitted that, in support of his standing, Complainant has alleged that:

- He is a member of the General Assembly as a Senator and represents the 19th Senatorial District, which includes West Whiteland Township;
- He is the representative of the individuals in the 19th District affected by the project;
- He is a member of the standing Senate Environmental Resources and Energy Committee;

- He is a member of the Joint Legislative Air and Water Pollution Control and Conservation Committee;
- He served as a member of the Pennsylvania Pipeline Infrastructure Task Force, which recommended policies, guidelines and best practices for the expansion of pipeline infrastructure in the Commonwealth.
- He is a member of the General Assembly with the authority to receive, review and comment upon the Governor’s annual expenditure plan for the Environmental Stewardship Fund under 27 Pa.C.S. § 6104, which funds in part the Chester County Conservation District and its oversight of the watersheds and water supply of West Whiteland Township;
- He receives annual, mandatory reports from the Commission under the Pennsylvania Public Utility Code. 66 Pa.C.S. § 320;
- He resides approximately two miles from ME1, ME2 and ME2X, and possesses knowledge of a local perspective on the potential effects essential to make a determination.

See Amended Formal Complaint, ¶¶ 11-13. It is denied that these facts are irrelevant or fail to establish standing. The remaining averments of this paragraph are denied. By way of further response, see response to Paragraph 98, above, which is incorporated herein by reference.

102. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, Sunoco attempts to shoehorn this matter into the principals of a case dealing with a facial challenge to an executive order before the Commonwealth Court in its original jurisdiction, where petitioners were seeking to vindicate the voting rights of “every member of the General Assembly,” 136 A.3d at 138-39, and were

asserting “an institutional injury” that was “not directly or substantially related to unique legislative prerogatives, but, rather, are generalized interests in the conduct of government common to the general citizenry.” *Id.* at 140, 146. In contrast, this matter deals with issues touching upon Complainant’s specific Constitutional and statutory duties and concerns. *See Corman v. NCAA*, 74 A.3d 1149, 1161 (Pa. Cmwlth. 2013) (*en banc*). It is expressly denied that these are not legislative in nature or fail to grant Complainant standing.

103. Denied. It is denied that Complainant relies “solely on” the PUC’s precedent in *Application of Artesian Water Pennsylvania, Inc.*, PUC Docket No. A-2014-2451241 (March 13, 2015) or that *Artesian* is distinguishable from the present case, or has been overruled by *Markham*. As set forth in Paragraph 98, above, which is incorporated herein by reference, *Markham* deals with very different types of claims than those presented here. In addition, *Markham* did not overrule anything. Rather, by its very terms, *Markham* merely reviewed “our Commonwealth’s prior caselaw applying these principals as they relate to legislators.” 136 A.3d at 141. It neither set out to, nor did, overrule any of the prior case law on this issue. In fact, it only reviewed case law related to the specific issues raised therein. It neither discussed nor cited the Commonwealth Court’s *en banc* decision in *Corman*, or the issues raised therein.

104. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, it is denied that in *Artesian*, Complainant did “not establish the stringent direct, immediate, and substantial interest necessary to bring a complaint.”¹ On the contrary, in *Artesian*, the water company specifically argued that

¹ Sunoco identifies its *erroneous* allegation that Complainant was not required to establish a “direct, immediate and substantial interest” in *Artesian* as “critical” because “a protestant need not establish the stringent direct, immediate, and substantial interest necessary to bring a complaint.” Sunoco’s New Matter, ¶ 104.

Complainant “has not identified any *direct, immediate and substantial interest* in the action he challenges” *Application of Artesian Water Pennsylvania, Inc.*, PUC Docket No. A-2014-2451241 (March 13, 2015) at 5. In granting Complainant standing, two administrative law judges rejected this argument and found that:

Consequently, Senator Dinniman’s interest is *direct* because it will be adversely affected by the actions challenged in this Protest. His interest is *immediate* because there is a close causal nexus between Senator Dinniman’s asserted injury and the actions challenged in the Protest. In addition, the interest is *substantial* because Senator Dinniman has a discernible interest other than the general interest of all citizens in seeking compliance with the law. Accordingly, the decision regarding this Application will have a direct, immediate and substantial effect on Senator Dinniman.

Application of Artesian Water Pennsylvania, Inc., PUC Docket No. A-2014-2451241 (March 13, 2015) at 11 (emphasis added). Interestingly, *Markham*, the primary case relied upon by Sunoco for standing, similarly addressed “whether state legislators have standing to *intervene* in a challenge to the issuance of an executive order” 136 A.3d at 136 (emphasis added). It is further denied that a “protestant is akin to a commenter” which is allowed to file a comment without seeking party status, or that the decisions in *Artesian* and other cases “has no precedential value” in this matter.

105. Denied. The May 16, 2018 brief is a document that speaks for itself. By way of further response, it is denied that the court’s decision on *Corman* “is wholly distinguishable” from the present case or shows that Complainant does not have standing. Therein the court examined the specific and unique official duties of Senator Corman and found that because of those duties, Senator Corman had standing. 74 A.3d 1161-62. Specifically, the court found that:

Clearly, Senator Corman’s statutory duties for overseeing Fund expenditures is a “matter [] touching upon [his] concerns.” *Pennsylvania Game Comm’n*, 521 Pa. at 128, 555 A.2d at 815. As such, “the legislature has implicitly ordained that [Senator Corman,

as Chair of the Senate Appropriations Committee,] is a proper party litigant, i.e., that [he] has ‘standing.’ ” *Id.* Accordingly, we conclude that Senator Corman has standing.

Id. at 1161. The court further noted that Senator Corman was one of “10 General Assembly leaders from different political parties” with the specific authority that provided him standing in that matter. *Id.* at n. 16. Just as the court found in regard to Senator Corman, Complainant’s interests in this matter far exceed those of the general population. *See* response to Paragraph 98, above, which is incorporated herein by reference.

106. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, the averments are expressly denied. On the contrary, as Administrative Law Judge Elizabeth Barnes has already ruled, Complainant has standing in this matter. *Pennsylvania State Senator Dinniman*, PUC Docket Nos. P-2018-30011453, C-2018-30011451 (May 21, 2018) at 6.

B. The Complaint Does Not Fail to Join Necessary Parties

107. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, in *Pennsylvania Fish Commission v. Pleasant Tp.*, 388 A.2d 756 (Pa. Cmwlth. 1978), the court found that the Pennsylvania Department of Transportation was *not* a necessary party. *See also Com., Dept. of Transp. v. Pennsylvania Power & Light Co.*, 383 A.2d 1314, 1317 (Pa. Cmwlth. 1978) (To support its contention that the Authority is a necessary party, PP&L relied solely on the Authority's financial agreement regarding the project. Since PP&L failed to show any direct manner in which the Authority’s rights or obligations must necessarily be determined by the outcome of this litigation, the court concluded that PP&L has failed to establish the requisite elements to find the Authority to be a necessary party).

108. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, it is denied that parties are necessary to this action or have “rights so connected to the claims of the litigants” because they allegedly have contracts to use the pipelines, to allegedly pay royalties to landowners for the withdrawal of material to be put in the pipelines, or because they allegedly receive delivery from the pipelines. As in *Pennsylvania Power & Light*, Sunoco relies solely on alleged financial agreements regarding the project, which are insufficient to establish these entities and individuals as necessary parties. Furthermore, if accepted, Sunoco’s expansive view of necessary parties (i.e. anyone with a contract related to the material to be placed in the pipeline, including countless landowners who allegedly are to receive royalties) would require the joinder of hundreds of parties to this action. Finally, the various parties Sunoco claims are necessary parties have notice of Complainant’s action. In fact, a number of them, including Range Resources, testified in the hearing on the Petition for Interim Emergency Relief. Yet, despite this knowledge, to date only one of these so called “necessary parties” have even attempted to intervene in this matter.

109. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, it is denied that the shippers are necessary parties, that Complainant failed to join or give formal notice to any necessary parties, or that the Complaint should be dismissed.

C. The Complaint is Not Barred By Illegality

110. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, the averments are expressly denied.

111. Denied. The averments of this paragraph mischaracterize the allegations of the Complaint. In fact, the Complaint asks that “Sunoco fully conduct[] and release[] to the public *a*

written integrity management program, risk analysis *and any other information required to warn and protect the public from danger and to reduce the hazards to which the public may be subjected by reason of MEI, ME2 and ME2X . . .*” Amended Formal Complaint at 16.

112. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, Sunoco claims it is unable to comply with Complainant’s request, and the Commission is unable to require such compliance, under Public Utility Confidential Security Information Disclosure Act, 35 P.S. §§ 2141.1, *et seq.*, and the regulations thereunder, 52 Pa. Code §§ 102.1, *et seq.* This argument is flawed for numerous reasons. First, the Act only prohibits “[a]n agency shall not *release, publish or otherwise disclose* a public utility record or portion thereof which contains confidential security information.” 35 P.S. § 2141.5. It does not prevent Sunoco from releasing any information, nor is anything in the Complaint to indicate that Sunoco’s integrity management plan or risk assessment contains confidential security information. Furthermore, Complainant does not seek the release of confidential information. Rather, to comply with Complainant’s request, Sunoco can redact any confidential security information or prepare documents that exclude the confidential security information, and release and/or prepare such other non-confidential security information as is required to warn and protect the public from danger and to reduce the hazards to which the public may be subjected. Rather than provide this information, Sunoco has chosen to hide behind the claims of “security” to produce virtually none of the requested information.

D. The Complaint is Not Barred By Laches

113. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, 49 CFR § 195.210(a) of the federal Pipeline and Hazardous Materials Safety Administration (“PHMSA”) regulations, incorporated by

reference into the PUC regulations at 52 Pa. Code 59.33(b), provides that a “[p]ipeline right-of-way must be selected to avoid, as far as practicable, areas containing private dwellings, industrial buildings, and places of public assembly.” Amended Complaint, ¶ 78. The Complaint alleges that Sunoco has failed to “avoid areas in and around West Whiteland Township containing private dwellings and places of public assembly. On the contrary, the ME2 and ME2X right of way goes directly through the yards and curtilage of private dwellings. The result has been to impact, and will continue to risk impact to, private water supplies, houses and other buildings, their foundations, and their occupants.” Amended Complaint, ¶ 78. It is denied that such a failure is not a violation of this regulation or any other. By way of further response, there is a significant amount of work remaining on ME2/2X in West Whiteland Township. In addition, permits for a significant amount of the construction in West Whiteland Township are still pending with the Department of Environmental Protection. Furthermore, the key events that prompted the Complaint did not start until the summer of 2017 (i.e., the inadvertent returns) and did not culminate until November 2017 and March of 2018 (i.e., the development of sinkholes that, among other things, exposed ME1). After reasonable investigation, Complainant is without knowledge or information sufficient to form a belief as to the remaining averments of this paragraph and they are denied, and strict proof thereof is demanded.

114. Denied. The averments of this paragraph constitute conclusions of law to which no response is required.

115. Denied. The averments of this paragraph are denied. By way of further response, it is denied that “Complainant had all the information needed to bring a claim regarding the location of the pipelines over 4 years ago” or that he failed to exercise due diligence. Rather, the key events that prompted the Complaint did not start until the summer of 2017 (i.e.,

the inadvertent returns) and did not culminate until November 2017 and March of 2018 (i.e., the development of sinkholes that, among other things, exposed ME1). Even without such factors, and under Sunoco's recitation of laches, Complainant's action was brought well within the six-year period that gives rise to a presumption of unreasonable delay. See *Sunoco New Matter*, ¶ 114.

116. Denied. It is denied that Sunoco has been prejudiced. Sunoco has been on notice of opposition to the pipeline from its outset. It has been the subject of numerous lawsuits. *See, e.g., Clean Air Council v. Sunoco Pipeline, L.P.*, C.C.P. Philadelphia, Docket No. 150803484 (filed August 2015); *Clean Air Council, et al. v. Sunoco Pipeline, L.P.*, EHB Docket No. 2017009 (filed February 2017); *Delaware Riverkeeper Network v. Sunoco Pipeline, L.P.*, C.C.P. 2017-05040 (filed May 2017) (challenging siting of pipelines); *Flynn v. Sunoco Pipeline, L.P.*, C.C.P. Delaware County, Docket No. CV-2017-004148 (filed May 2017) (challenging siting of the pipelines). Sunoco has been well aware of this opposition and yet chose to proceed with construction at its own risk. It cannot claim prejudice. Furthermore, Sunoco defended the actions in *Delaware Riverkeeper Network* and *Flynn*, by arguing that challengers' relief was before the Commission. Having directed challengers to the Commission, it cannot claim prejudice from challengers pursuing their action in the forum Sunoco demanded. Finally, it is denied that Sunoco's permits have already been acquired. On the contrary, permits for a significant amount of the construction in West Whiteland Township are still pending with the Department of Environmental Protection. It is expressly denied that this is the type of action laches was meant to bar.

E. The Complaint is Not Barred by Issue Preclusion

117. Denied. The averments of this paragraph constitute conclusions of law to which no response is required.

118. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, all of the cases cited by Sunoco involve condemnation proceedings. It is well established that the authority of the courts to review certificates in such proceedings is extremely limited and that the courts have no authority “to review the public need for a proposed service by a public utility” *See, e.g., In re Sunoco Pipeline, L.P.*, 143 A.3d 1000, 1018 (Pa. Cmwlth 2016).

119. Denied. The averments of this paragraph constitute conclusions of law to which no response is required.

120. Denied. See response to Paragraph 118, above, which is incorporated herein by reference.

121. Denied. The Complaint speaks for itself. By way of further response, see response to Paragraph 118, above, which is incorporated herein by reference. By way of further response still, the Commission’s October 2, 2014 Opinion and Order was a determination on preliminary objections filed in opposition to Sunoco’s amended petitions. Accordingly, the Commission was required to view the amended petitions “in the light most favorable to Sunoco, the non-moving party” *Petitions of Sunoco Pipeline, L.P. for findings that buildings to shelter utility facilities are reasonably necessary for the convenience or welfare of the public*, Docket Nos. P-2014-2411841, et al., at 32.

122. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, the Complaint speaks for itself. By way of

further response still, see response to Paragraphs 118 and 121, above, which is incorporated herein by reference.

123. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, the Complaint speaks for itself. By way of further response still, see response to Paragraphs 118 and 121, above, which is incorporated herein by reference.

124. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, the Complaint speaks for itself. By way of further response still, see response to Paragraphs 118 and 121, above, which is incorporated herein by reference.

125. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, see response to Paragraphs 118 and 121, above, which is incorporated herein by reference.

126. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, see response to Paragraphs 118 and 121, above, which are incorporated herein by reference.

WHEREFORE, Complainant respectfully requests that the Commission issue an Order in his favor, assess costs and counsel fees against Sunoco, and grant such other relief as the Commission finds to be just and appropriate.

Respectfully submitted,
CURTIN & HEEFNER LLP

By:



Mark L. Freed
PA ID No. 63860

Date: June 11, 2018

Doylestown Commerce Center
2005 South Easton Road, Suite 100
Doylestown, PA 18901
Tel.: 267-898-0570
mlf@curtinheefner.com

VERIFICATION

I, Andrew E. Dinniman, hereby state that the facts set forth in the foregoing Reply to New Matter are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



Andrew E. Dinniman
State Senator
19th District

Date: June 11, 2018

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA STATE SENATOR	:	
ANDREW E. DINNIMAN,	:	
	:	
Complainant,	:	Docket No.: C-2018-3001451
	:	Docket No.: P-2018-3001453
v.	:	
	:	
SUNOCO PIPELINE, L.P.,	:	
	:	
Respondent.	:	

CERTIFICATE OF SERVICE

I hereby certify that I have, on this date, served a true and correct copy of the foregoing on the following:

Via electronic service

Thomas J. Sniscak, Esquire
Kevin J. McKeon, Esquire
Whitney E. Snyder, Esquire
Hawke, McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
tjsniscak@hmslegal.com
kjmckeon@hmslegal.com
wesnyder@hmslegal.com

Kathryn Urbanowicz, Esquire
Clean Air Council
135 South 19th Street, Suite 300
Philadelphia, PA 19103
kurbanowicz@cleanair.org

Virginia Marcille-Kerslake
103 Shoen Road
Exton, PA 19341
VKerslake@gmail.com

Robert Fox, Esquire
Neil Witkes, Esquire
Diana A. Silva, Esquire
Manko, Gold, Katcher & Fox, LLP
401 City Avenue, Suite 901
Bala Cynwyd, PA 19004
rfox@mankogold.com
nwitkes@mankogold.com
dsilva@mankogold.com

CURTIN & HEEFNER LLP

By:



Date: June 11, 2018

Mark L. Freed
PA ID No. 63860
Joanna A. Waldron
PA ID No. 84768
Doylestown Commerce Center
2005 South Easton Road, Suite 100
Doylestown, PA 18901
Tel.: 267-898-0570
mlf@curtinheefner.com
jaw@curtinheefner.com