

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17105**

**Amended Petition of State  
Senator Andrew E. Dinniman for  
Interim Emergency Relief**

**Notational Vote: July 25, 2018  
3001453-OSA**

**Pennsylvania State Senator  
Andrew E. Dinniman**

**Docket Nos. P-2018-3001453,  
C-2018-3001451**

**v.**

**Sunoco Pipeline, L.P.**

**STATEMENT OF VICE CHAIRMAN ANDREW G. PLACE**

Today, the Commission is voting on Sunoco Pipeline, L.P.'s (Sunoco) Motion for Certification of the Commission's June 15, 2018 Order for Interlocutory Appeal which was filed on June 25, 2018. Senator Andrew E. Dinniman filed an Answer in Opposition for Certification of said Order. Sunoco seeks Commission certification of three issues: (1) whether Senator Dinniman has established standing to bring his Complaint before the Commission; (2) whether the evidence in the underlying proceeding supports a finding of clear and present danger warranting emergency relief; and (3) whether imposition of a bond requirement is warranted in this case. In accordance with the Commission's Regulations at 52 Pa.Code §5.633 and appellate rules, the Commission is granted thirty days from the date that the Motion is filed to render a disposition or the Motion is deemed denied.

The Order entered today allows Sunoco to pursue an interlocutory appeal of the issue of whether Senator Dinniman has standing to litigate his Formal Complaint currently pending before the Commission. I dissent from this action for several reasons but most importantly because the issue of standing in this case has been decided by the Administrative Law Judge (ALJ) and the Commission on several occasions in this proceeding.

In May 2018, the presiding ALJ determined that Senator Dinniman had standing to file an Amended Petition for Interim Emergency Relief as the Senator also filed his Amended Complaint against Sunoco at the above-mentioned dockets. At that time, the ALJ consolidated these proceedings and indicated that standing to participate in proceedings before an administrative agency is primarily within the discretion of the agency.<sup>1</sup> The ALJ also recognized that the 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.<sup>2</sup> The ALJ also found that Senator Dinniman has standing to proceed with his complaint and emergency petition in accordance with the Commission's

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<sup>1</sup> *Pennsylvania Natural Gas Association v. T.W. Phillips Gas and Oil Co.*, 75 Pa. PUC 598 (1991), *Amended Petition of State Senator Andrew E. Dinniman for Interim Emergency Relief and Pennsylvania State Senator Andrew E. Dinniman v. Sunoco Pipeline, L.P.*, Docket Nos. P-2018-3001453 and C-2018-3001451, Initial Decision (I.D.) at 3 (Issued May 21, 2018).

<sup>2</sup> *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269, 282-284 (Pa. 1975); I.D. at 3.

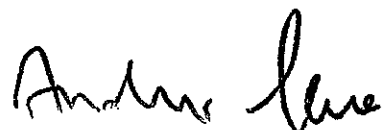
liberal construction of 66 Pa. C.S. §701 and 52 Pa. Code §§1.21 (c)(3); 1.22 and 5.72(b).<sup>3</sup> Further, as stated in its June 15, 2018 Order addressing the Interim Emergency Relief Petition regarding whether Mariner East (ME) 1 should be operational and whether ME 2 and 2X should be constructed, the Commission determined, in its discretion, that the record in the underlying proceeding is sufficient to support Senator Dinniman's standing in his personal capacity as a property owner and resident of West Whiteland Township. Further, the Commission found that the facts in this case were sufficient to warrant our consideration of the important safety concerns presented by Senator Dinniman's Complaint and request for emergency relief.<sup>4</sup>

In addition, on July 19, 2018, the ALJ, in the underlying proceeding, denied Sunoco's Preliminary Objections which alleged that the Amended Complaint be dismissed pursuant to Section 5.101(a)(7) of our regulations for lack of standing. The ALJ indicated that the Commission had addressed the issue in its June 15, 2018 Order and found in favor of the Complainant on the issue.

I believe that this issue has been fully addressed at the Commission and that there is no need to grant Sunoco's Motion for Interlocutory Appeal on this same subject. By taking this action, the Commission is creating uncertainty regarding the advancement of the proceeding below and causing all parties to further litigate in two separate forums which can be costly and adds a layer of complexity that is not necessary as the standing issue has already been addressed.

I further believe that Sunoco should turn its focus to the issues alleged in this Complaint proceeding. At this time, Sunoco is currently enjoined from constructing ME2 and 2X in West Whiteland Township pursuant to the ALJ's May 21, 2018 Interim Emergency Order as well as the Commission's ratification of this action in its June 15, 2018 Order. There is a record being developed on the issues that are alleged in this proceeding which will assist the Commission in its further examination and deliberation of all issues in this case including whether the current Emergency Order in place should remain in effect. Once the proceeding is concluded, Sunoco can pursue its appellate rights if the Company believes such action is warranted.

Therefore, I dissent from the decision reached today.



**DATE: July 25, 2018**

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**Andrew G. Place, Vice Chairman**

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<sup>3</sup> I. D. at 5-6.

<sup>4</sup> *Amended Petition of State Senator Andrew E. Dinniman for Interim Emergency Relief and Pennsylvania State Senator Andrew E. Dinniman v. Sunoco Pipeline, L.P.*, Docket Nos. P-2018-3001453 and C-2018-3001451, Order entered June 15, 2018.