

Center City

December 7, 2018

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

Re: Meghan Flynn, et al. v. Sunoco Pipeline L.P.
Docket Nos. C-2018-3006116 and P-2018-3006117

Dear Secretary Chiavetta:

Enclosed for filing please find Petitioners' Post-Hearing Brief in Support of Petition for Interim emergency Relief in the above-reference proceeding.

Thank you for your courtesies and cooperation.

Very truly yours,

/s/Michael S. Bomstein
MICHAEL S. BOMSTEIN, ESQ.

MSB:mik
Encl.

cc: Hon. Elizabeth Barnes

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN	:	
ROSEMARY FULLER	:	
MICHAEL WALSH	:	
NANCY HARKINS	:	
GERALD MCMULLEN	:	
CAROLINE HUGHES and	:	
MELISSA HAINES	:	
	Petitioners	:
	:	Docket Nos. P-2018-3006117
v.	:	C-2018-3006116
	:	
SUNOCO PIPELINE L.P.,	:	
	Respondent	:

**POST-HEARING BRIEF OF PETITIONERS IN SUPPORT OF
PETITION FOR INTERIM EMERGENCY RELIEF**

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Dated: December 7, 2018

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I. INTRODUCTION

Sunoco Pipeline LP (“Sunoco”) has repurposed a 1930s-era hazardous liquids pipeline which it now markets as Mariner East 1 (“ME1”) to transport *hazardous, highly volatile liquids* (“HVLs”) across the Commonwealth for shipment to locales outside the state. Sunoco has also proposed to construct new HVL pipelines: the 20-inch “Mariner East 2” or “ME2” and 16-inch “Mariner East 2X” or “ME2X.”

Finding itself unable to complete either ME2 or ME2X, Sunoco now proposes as a workaround to cobble together another existing 1930s-era 12-inch pipeline with various sections of the new 20- inch ME2 and 16- inch ME2X pipe segments to begin additional transport of HVLs across the Commonwealth for shipment to locales outside the state. In an abrupt but unannounced change of terminology, Sunoco has begun referring to this cobbled-together hybrid pipeline as “ME2.” In this petition, the term “workaround pipeline” is used to distinguish it from ME2 as originally proposed by Sunoco. In both cases—ME1 and the workaround pipeline—the probability of injury, death, and property damage is significantly greater than in the case of non-HVL pipelines.

Applicable federal regulations, enforceable by the Public Utility Commission (“PUC”), require that Sunoco give the public adequate notice of procedures to follow in the event of a leak from its HVL pipelines. The notice that Sunoco has given the public, however, does not provide adequate notice of procedures sufficient to ensure the safety of the public in the event of a leak or rupture of an HVL transmission pipeline.

Heretofore, it appears that the PUC has simply accepted Sunoco’s “public awareness program.” This petition for interim emergency relief expressly seeks PUC review of Sunoco’s public awareness program to determine whether or not it is adequate. Petitioners allege also that

even if Sunoco's public awareness program were adequate, the locations of the operational ME1 pipeline and the proposed ME2 hybrid workaround pipeline are dangerously close to their residences, places of work and other public places and facilities in Chester and Delaware Counties.

The Commission to date has never ruled on the siting of the Mariner pipelines. Petitioners submit that the siting of the Mariner pipelines in Chester and Delaware Counties is dangerous and that the PUC must exercise its responsibility to make sure that Mariner pipeline operations are reasonable, safe, adequate, and sufficient for the convenience of the public.

In light of the foregoing, petitioners now seek (a) a determination of whether or not Sunoco's pipeline awareness program and the siting of the Mariner pipelines in Chester and Delaware Counties are reasonable, safe, adequate, and sufficient for the convenience of the public, and (b) cessation of HVL pipeline operations until the review is complete.

II. STATEMENT OF THE CASE

a. Description of the Mariner Project

Sunoco's Mariner East project has been designed to utilize existing pipeline infrastructure as well as new pipelines to transport natural gas liquids from fracking sites to the company's refineries in southeastern Pennsylvania. *State Senator Andrew Dinniman v. Sunoco Pipeline L.P.*, Docket Nos. P-2018-3001453 and C-2018-3001451, Opinion and Order of June 14, 2018. ME1 was repurposed in 2014 for HVLs. (N.T. 251). The ME2 workaround as proposed includes the use of an existing 12 inch line and will also be transporting HVLs. (N.T. 251-252, N.T. 606).

b. Evidence on Public Awareness Plan

Nancy Harkins

Nancy Harkins is familiar with Ex. 2, Sunoco's Public Awareness Plan (PAP) (N.T. 21). The document reads, "Call 911 from a safe location." Ms Harkins states she does not know what constitutes a safe location. (N.T. 22). She has concerns regarding other statements in the brochure as well, such as how to recognize that a pipeline leak has occurred. (N.T. 23). For example, Ms. Harkins does not know how she and her husband would recognize a pipeline leak if they were inside their house, or asleep in the night. She would not be able to see it or smell it (N.T. 23-24).

Ms. Harkins believes a propane cloud might extend 2100 feet. (N.T. 25). She would need to evacuate at least another 1000 feet further from the pipeline. The PAP directs residents to go uphill and upwind. Ms. Harkins is concerned that the direction away from the pipeline is actually downhill, and potentially downwind. If the vapor cloud extended downhill as she walked away from a leak, she is concerned the combustible vapor cloud might migrate towards her. (N.T. 26). That could result in suffocation, burns or death. (N.T. 28).

Her husband who could not even walk up the driveway after open heart surgery would not have been able to evacuate on foot in the event of a leak. He still experiences symptoms that might make evacuating by foot very challenging. (N.T. 28).

The witness is also concerned for her neighbors. The brochure says to turn off equipment and eliminate ignition sources. (N.T. 29). Her neighbor who lives on the Mariner right of way is on oxygen and uses a motorized scooter operated by electrical switches. The brochure indicates not to turn on electrical switches. Ms. Harkins is concerned that the electrical switches or other mechanism of the motorized wheelchair could provide an ignition source for an

unignited vapor cloud. Further, the terrain behind the neighbor's house is rugged. He would therefore not be able to move away from the Mariner pipelines.

Ms. Harkins asserts that public awareness program is inadequate and incomplete. (N.T. 35). Residents do not know how they would become aware of a leak. Residents do not believe they will see or smell the product (N.T. 54), especially if they are indoors, or it is nighttime. If residents were to become aware of a leak, it is unclear what constitutes a safe location (N.T. 49).

Directions to go uphill and upwind may actually direct residents to move towards the pipeline. In the case of Nancy Harkins' neighborhood, the direction away from the pipeline is downhill and potentially downwind. Further, some residents will not be able to move to safety when factoring in obstacles such as the disabilities (i.e., inability to run after heart surgery, being wheelchair bound, and rough terrain). The very act of attempting to evacuate, in the case of the neighbor in a motorized wheelchair, could provide an ignition source. (N.T. 29).

Ms. Harkins is aware of an explosion on a similar ethane pipeline in Follansbee, West Virginia where thermal impacts extended over an area upwards of half a mile. (N.T. 32-33)/. She believes that a serious leak or explosion of ME1 or ME2 could result in significant injury, and catastrophic loss of life and property.

Tim Hubbard

Tim Hubbard has seen Sunoco's color pamphlets regarding how to deal with a pipeline emergency. The pamphlet instructs the reader to move on foot out of the area; upwind and uphill if possible; don't turn any light switches on; don't turn on a motor vehicle. (N.T. 87). Within the Downingtown Area School District there are students with autism, disabilities, and mobility issues. Even a student with a broken leg and a cast on could have impaired mobility that could become an issue in the event of an HVL event. (N.T. 88). A child in an electric wheelchair

could be overtaken by a vapor cloud. (N.T. 89). And a motorized wheelchair could also be a source of ignition. (N.T.88).

His training has taught him that a half mile upwind is a safe distance. (N.T. 90). Very young children and autistic support children could not be expected to escape that distance in a quick and efficient manner. (N.T. 90). Being able to determine wind direction would be hit and miss. (N.T. 90-91).

In his opinion, the two-page brochure is not adequate to protect and inform people. (N.T. 107).

Caroline Hughes

Caroline Hughes did not receive the Ex. 2 brochure prior to November 29, 2018. (N.T. 179). She is concerned about the safety of her family and community, especially those who are more vulnerable and those with physical challenges. It would be impossible to evacuate all the patients in her ambulatory care center. (N.T. 100). It would be nearly impossible to ask them to walk half a mile uphill and upwind. (N.T. 181).

Based on what she has read and seen, the Sunoco PAP is wholly insufficient. It is impossible for many residents. It is impossible for our children. It is impossible for the elderly. It is impossible for the physically handicapped. (N.T. 189-190).

Michael Walsh

Michael Walsh received a different version of Sunoco's brochure. (N.T. 207). It described three ways to identify a pipeline leak, including by smell. Yet, everything he has read and learned about Mariner is that the liquids have no smell. (N.T. 207). The other two ways included sight and sound, like hissing. (N.T. 208-209). The suggestion that residents will see a leak is flawed given that we spend half our lives in the dark. (N.T. 208-209).

Mr. Walsh has ACL surgery coming up so he would not be able to run during recovery. (N.T. 218). His opinion of Sunoco's public awareness plan is that it is barebones and minimal. Also, it is not fair to those who need to self-evacuate. It is not practical. The advice is meaningless if you are already dead or critically wounded or your house is burning down from the pipeline failure. The PAP is set up to fail. (N.T. 219).

Jeffrey Marx

Mr. Marx has read Sunoco's two-page color brochure. (N.T. 280). The brochure advice to leave the area on foot is not realistic for all people. Some people may not be physically able to flee or will not know what direction to flee in. (N.T. 281). It is unclear what a safe location is because there are many variables. (N.T. 285-286). In the end, Sunoco's one size fits all plan fails to take into account the inability of the bedridden, wheelchair bound, school children, developmentally disabled and others who will not be able to proceed quickly on foot in the event of an HVL leak or rupture event. (N.T. 293-294).

John Zurcher

Mr. Zurcher testified that Sunoco's brochure is sufficient and meets applicable requirements. (N.T. 383). Natural gas liquids transmission lines are not odorized but you will smell a petroleum smell like gasoline or oil. (N.T. 387). As for people with disabilities, they just have to get away. If they are impaired in some way, he just hopes that neighbors or family can help them. (N.T. 392; N.T. 444).

Mr. Zurcher refused to answer what the brochure means by a "safe location." (N.T. 413-415 and N.T. 425). His position appears to be that it is different for everyone. He also would not state what the brochure means by "safe." (N.T. 413-414). Everyone should figure that out for themselves. (N.T. 413-415). However, he acknowledged you should get as far away from

the leak as possible in order to save your life. (N.T. 423).

Half of the HVL pipelines in the U.S. run through high consequence area. Those are highly populated area. (N.T. 378-379). Mr. Zurcher refused to answer if he would want HVL lines to go through Harrisburg. (N.T. 445). Tellingly, he does not know how anyone would allow an HVL pipeline through a schoolyard. (N.T. 434). He also refused to answer if it was a good idea to put an HVL valve station next to a restaurant. (N.T. 435-436).

In HVL event, you should just walk away and keep walking. (N.T. 390). If Nancy Harkins and her husband are asleep at 2:00 a.m. and the pipeline leaks their olfactory senses will not wake them up.. (N.T. 407).

A person with normal hearing will hear a hiss 200 ft away. (N.T. 407). Vapor can be seen when released but this really depends on the size of the leak diameter of pipeline, etc. (N.T. 408). He acknowledges that ethane is odorless, colorless and tasteless on its own but with other hydrocarbons not so. (N.T. 408).

Gregory Knoll

He agrees that in the event of a leak there would be both visible vapor cloud area and invisible vapor cloud area. One sees the condensation, not the vapors. The visible cues don't represent the entire problem. There could be vapors you can't see. (N.T. 510-511).

c. Proximity of HVL Pipelines: Witnesses's Direct Evidence

Caroline Hughes, her husband and two young children have lived in their home in West Chester, PA for 14 years. Her daughter is twelve years old and her son is ten years old. (N.T.172-173). Their home is 1700 – 1800 feet from the line (N.T.174). She is a physical therapist (N.T. 173) whose office is 250 feet from the route of the pipeline (N.T. 174). Mariner Pipelines are across the street from her son's school. (N.T. 193). The ME1 pipeline runs

underneath her son's Little League baseball field in a shallow trench. (N.T. 184).

Nancy Harkins and her husband have on Woodland Road in West Chester, PA for 17 years. (N.T. 20). Their house is 1100 feet west of the current ME1 and proposed ME2 workarround pipelines. (N.T. 21). Her next door neighbor lives 60 feet from the pipeline. He is wheelchair bound in an electric wheelchair. (N.T. 42).

Ms. Harkins drives up and down Route 352 daily, sometimes multiple times a day. (N.T. 55). That route is immediately adjacent to Mariner Pipelines (N.T. 21). In her view, placement of an HVL line so close to her home is reckless and irresponsible. In many townships, you could not put a shed as close to someone's house as this pipeline is. (N.T. 35).

Michael Walsh, his wife, and their three children have lived on Hadley Lane in Glen Mills, PA for 3 years . (N.T. 202-204). The youngest children are 2 and 6 years old. Their home is 75 yards from the proposed ME2 workarround pipeline. (N.T. 206).

An ME2 valve station is behind Duffer's Tavern, less than 100 feet away. (N.T. 207). The back part of Duffers consists of the kitchen and smoking patio. (N.T. 211). The valve site itself is about 1000 feet from his family's home. (N.T. 207). Route 352 is maybe 30-40 yards from the closest home. (N.T. 214). The valve site is at a higher elevation than the Andover homes. (N.T. 215).

Timothy Hubbard is the Chief Security officer of the Downingtown Area School District (DASD). The district has six schools that are within a few hundred to 740 feet of Mariner Pipelines (N.T.81). Some are across from a playing field. (N.T. 81).

Jeffrey Marx is a mechanical engineer who, in the course of preparing a previous report, became familiar with the proximity of Mariner pipelines to homes and facilities in Chester and Delaware Counties. (N.T. 277). It is 80 to 500 feet from the Wellington Senior Living Center to

the Mariner ROW. (N.T. 279). The Exton County Library is within tens of feet of the same ROW. (N.T. 279). Duffers Tavern is 30-40 feet away from Mariner Pipelines. (N.T. 278). The valve station is immediately adjacent to Duffers. (N.T. 278), less than one hundred feet south. (N.T. 207).

Sunoco is believed to operate ME1 valve sites at intervals of between five and ten miles. (N.T. 260). In two situations, Sunoco could be required to evacuate the entire contents of ME1 without any notice or opportunity for planning. First, if a valve site failure or pipeline failure were to occur, the entire contents of a pipeline segment would immediately be discharged from the pipeline. Second, if for other reasons, Sunoco were required to de-inventory a pipeline segment, the entire contents of the pipeline would likely be routed to relief at a valve site. (N.T. 299-300).

d. Proximity of HVL Pipelines in Three Historic Catastrophes

i. The Carmichael, Mississippi Accident

Jeffrey Marx testified that NTSB records confirm the following facts as alleged in paragraph 49 of the Petition (N.T. 265-266):

On November 1, 2007, a 12-inch-diameter pipeline transporting liquid propane ruptured in a rural area near Carmichael, Mississippi. The resulting gas cloud, formed from the 430,626 gallons of liquid propane that were released, expanded over nearby homes, forming a low-lying cloud of flammable gas. The gas found an ignition source about 7 1/2 minutes later. Witnesses miles away reported seeing and hearing a large fireball and heavy black smoke over the area. In the ensuing fire, two people were killed and seven people sustained minor injuries. Four houses were destroyed, and several others were damaged. About 71.4 acres of grassland and woodland were burned. This accident occurred in a sparsely populated area, with only about 200 people

living within a one-mile radius (about three square miles) of the location of the pipeline failure. A similarly sized area in Chester or Delaware Counties (about three square miles) might contain thousands of people. The National Transportation Safety Board identified the inadequacy of the pipeline operator's public education program as a factor that contributed to the severity of the accident.

Petitioners introduced the Carmichael, Mississippi NTSB investigation report as Exhibit 6. (N.T. 272). The report states, "The resulting gas cloud expanded over nearby homes and ignited." (p. vii) The report does not state how far from the rupture the cloud expanded or where the houses were located except that it says "The fire extended about 950 feet southwest and about 1250 feet south of the rupture site."(p. 2) There were four explosions, fire 200 feet in the air (p. 3). A homeowner called 911 to say she saw white gas and smelled gas. She was told not to leave the house. This house is where one of two fatalities was discovered.(p. 4) Another dead person was found next to her home. Six houses were clustered 500 feet from rupture site. Another five were located a short distance away.

ii. The Lively, Texas Accident

Jeffrey Marx testified that NTSB records confirm the following facts as alleged in paragraph 50 of the Petition (N.T. 265-266):

On Saturday, August 24, 1996, at about 3:26 p.m. near Lively, Texas, an 8-inch pipeline transporting butane ruptured. The material volatilized into colorless, odorless, extremely flammable gas that stayed close to the ground as it drifted across the surrounding residential area. Danielle Smalley and Jason Stone, both 17 years old, ran to a pickup truck intending to warn neighbors. As they sped away, their truck ignited the vapor. Both suffered fatal thermal injuries. The fire continued to burn until about 6:00 p.m. the next day, which was how long it took the

operator to isolate the failed section

iii. The Franklin County, Missouri Accident

Jeffrey Marx testified that NTSB records confirm the following facts as alleged in paragraph 51 of the Petition (N.T. 265-266):

On December 9, 1970, in Franklin County, Missouri, an 8-inch pipeline transporting propane ruptured. Twenty-four minutes later, “the propane-air mixture exploded, destroyed all buildings at the blast origin, extensively damaged 13 homes within a 2-mile radius [approximately 12 and a half square miles], sheared telephone poles, snapped tree trunks, smashed windows 12 miles away, and registered its impact on a seismograph in St. Louis, 55 miles away. An expert from the United States Department of the Interior, Bureau of Mines, determined that the “detonation and initial fire consumed [only] 756 barrels of propane, giving rise to an estimated explosive force of 100,000 pounds of TNT.” There were no fatalities due to the fact that accident occurred in a sparsely populated area while people were awake, and the few people in the area used the twenty-four minutes between the release and the explosion to self-evacuate themselves with expedition.

e. HVL Characteristics Described by Witnesses

Jeff Marx testified that a rupture event could be catastrophic for the Walshes’ house in Andover. (N.T. 280). He stated that a person standing 50 feet from rupture event has a probability of death approaching 100%. (N.T. 287).

Smoking at Duffer’s is a potential ignition event (N.T. 282). The hazard zone for ME1 is about ¼ of a mile. For ME2 it is perhaps up to ½ a mile. (N.T. 279). While these hazard zones were developed for his computer model as conservative estimates, the actual zones may be as little as 600 feet and that distance has generally been considered acceptable. (N.T. 311).

John Zurcher stated unequivocally that a child standing a few feet away from ME1 leak of 2-3 inches is at risk of serious injury or fatality. (N.T. 416-418). In general, the farther away from a leak, puncture or rupture the safer. (N.T. 419-420). Mr. Zurcher testified he cannot say what distance from an HVL event would be safe. (N.T. 414-415). Certainly one should evacuate the area to save one's life. (N.T. 423).

Mr. Zurcher refused to answer if it was a good idea to place a valve station next to a restaurant, such as Duffers. (N.T. 435-436). He also refused to answer whether he would want HVL lines to go through Harrisburg. (N.T. 445).

He does not know how it would be allowed that pipelines could run through school yards. (N.T. 434). He agrees also that children riding school buses on Route 352 next to the proposed Mariner pipelines are at risk. (N.T. 438). Mr. Zurcher refused to answer as to whether an HVL event could happen anywhere and at anytime (N.T. 427-434), although he acknowledged he was familiar with a number of HVL events on Sunoco pipelines. (N.T. 431). He was not aware of 305 Sunoco leak incidents with \$72 million in property damage that occurred from 2006-2018. (N.T. 432).

Gregory Noll, Sunoco's witness, confirmed that the farther away from an HVL event, the lower the probability of harm. (N.T. 500). But, where a safe area can be found varies from event to event. (N.T. 501). It is a determination ordinarily made by emergency responders. (N.T. 501-502). When responders get to the accident site, they make a determination as to where there are hot zones, warm zones, and cold zones. (N.T. 483).

f. Claims of Lost Profits and Adverse Effect on Public

Alan Engberg of Range Resources testified that Range is engaged in exploring and producing natural gas liquids. Range has invested \$7 billion in Pennsylvania and pays out impact

fees, royalties, and so on to landowners. (N.T. 516-517). Impact fees actually would be deferred not lost. (N.T. 536). ME1 delivers ethane, at least 90% of which is for export. (N.T. 541-542).

Anthony Gallagher of Steamfitters 420 testified that a temporary shutdown would hurt his members.

III. SUMMARY OF ARGUMENT

Petitioners are Pennsylvania residents who believe and aver that they are at risk of potential property damage, injury, and death from (a) the existing operation of the 8-inch ME1 HVL pipeline; (b) the HVL workaround pipeline the operation of which appears imminent; and (c) additional Sunoco HVL pipelines which Sunoco may yet attempt to construct. Facing this threat, they have standing to bring this action under Section 701 of the Public Utility Code, 66 Pa.C.S. § 701. Having presented substantial evidence at hearing, Petitioners have satisfied each of the four factors set forth in 52 Pa. Code § 3.6 and are entitled to emergency relief.

First, Petitioners' right to relief is clear. As shown at the hearing, the route of ME1 and the workaround pipeline through and near Petitioners' properties poses dangers to them, their families and their communities. ME1 and other Sunoco pipelines have leaked multiple times in the past and are likely to leak in the future. People and properties exposed to leaks, punctures, and ruptures are in great danger of injury or worse. These risks are much higher due to a public awareness program shown to be inadequate. Sunoco's failure to create a legally compliant public awareness program violates both state and federal law.

Second, Petitioners' need for relief is immediate. HVLs are already flowing through ME1 and Sunoco intends for the ME2 workaround pipeline to be operating in the very near future if it is not operational already. *See* Energy Transfer LP 2018 Wells Fargo Midstream & Utility Symposium slideshow, December 5th – 6th, 2018, available at <http://media.corporate->

[ir.net/media_files/IROL/10/106094/2018_ET_Wells_Fargo_Conference_Presentation_Final_r.pdf](http://www.witf.org/news/2018/11/sunoco-expects-hybrid-mariner-east-2-to-start-operating-by-years-end.php) (at page 19, ME2 completed in “Q4 2018”); StateImpact Pennsylvania, “Sunoco expects hybrid Mariner East 2 to start operating by year's end,” November 8, 2018, available at <http://www.witf.org/news/2018/11/sunoco-expects-hybrid-mariner-east-2-to-start-operating-by-years-end.php>. While no one can predict exactly where and when a leak or rupture will take place, the consequences of future leaks and ruptures include the risk of death, permanent injury, and extensive damage to property. Failure to shut down the Mariner pipelines pending review of Sunoco’s Public Awareness Program may very well lead to such losses. With HVLs already flowing and the possibly of even greater volumes coming online at any time, the need for relief is immediate.

Third, the injury would be irreparable if relief is not granted. The harm resulting from a rupture or explosion on ME1 or the workaround pipeline (or both, in a cascading failure accident) would be irreparable because the high likelihood of death or permanent injury would make the harm irreversible.

Finally, the relief requested is not injurious to the public interest. The temporary cessation of operations of ME1 and construction of the ME2 workaround pipeline would mean that the public is temporarily protected from the possibility of a catastrophic event at Little League fields, elementary schools, senior citizens centers and thousands of homes and businesses in Chester and Delaware Counties. That clearly would benefit the public. Respondent’s witnesses offered no credible testimony nor other evidence to support a finding that the harm to their businesses would outweigh the harm to the greater public.

Accordingly, pursuant to 52 Pa. Code § 3.6, emergency relief should be granted.

IV. ARGUMENT

a. **The clear and present danger to Petitioners and the public requires emergency relief.**

Because Petitioners and the public are in clear and present danger, there is an emergency which the Commission should remedy. *See* 52 Pa. Code § 3.1 (defining “emergency”), § 3.6 (providing for emergency relief). The Commission and the Commonwealth Court have held that emergencies can come in many stripes. In *West Penn Power Co. v. PUC*, the Commonwealth Court upheld the Commission in holding that the risk that a party would lose money it had deposited was an emergency. 615 A.2d 951, 959 (Pa. Cmwlth. 1992). The Commission held the interruption of water service to be an emergency in *PUC v. Beaver Brook Water Co.*, 66 Pa. PUC 411, Docket No. M-880185 (Order entered March 10, 1988). It is not necessary that the peril be guaranteed for the emergency to exist. Thus, in *Maidencreek Township Board of Supervisors v. Consolidated Rail Corp.*, the Commission held that an emergency existed requiring bridge repair. “It is difficult to imagine a situation which is more clearly an emergency than a public roadway which is in danger of collapse.” 71 Pa. PUC 334, Docket No. C-79121760 (Order entered Nov. 14, 1989).

The situation at hand, with HVL pipelines in danger of rupture and ignition, where the operator has no credible safety plan and has in fact misled the public, is just as “clearly an emergency.”

b. **Petitioners’ right to relief is clear**

Petitioners have clearly demonstrated their right to relief on their claims. *See* 52 Pa. Code § 3.6(b)(1). As the Commission explained in *West Goshen Township v. Sunoco Pipeline L.P.*,

As to the first element, the Commission has determined that it is

not necessary to determine the merits of a controversy in order to find that a petitioner's right to relief is clear; rather, the basis for determining whether this standard has been met is whether a petitioner has raised “substantial legal questions.”

Docket No. C-2017-2589346, 2017 Pa. PUC LEXIS 209, *15 (Pa. P.U.C. October 26, 2017) (citing cases).

As explained below and based on the extensive evidence presented at hearing, Petitioners have raised “substantial legal questions” requiring a grant of relief. In particular, Petitioners show that Sunoco is in violation of its duties under 52 Pa. Code § 59.33(a) and they have a right to relief under 66 Pa. C.S. § 1505(a).

Section 1505(a) of the Public Utility Code, 66 Pa.C.S. § 1505(a), provides:

(a) General rule.--Whenever the commission, after reasonable notice and hearing, upon its own motion or upon complaint, finds that the service or facilities of any public utility are unreasonable, unsafe, inadequate, insufficient, or unreasonably discriminatory, or otherwise in violation of this part, the commission shall determine and prescribe, by regulation or order, the reasonable, safe, adequate, sufficient, service or facilities to be observed, furnished, enforced, or employed, including all such repairs, changes, alterations, extensions, substitutions, or improvements in facilities as shall be reasonably necessary and proper for the safety, accommodation, and convenience of the public.

Sunoco has not provided safe, reasonable, and adequate public utility service. The factual issues addressed in detail below all implicate “the reasonableness and safety of the pipeline transportation services or facilities, matters committed to the expertise of the PUC by express statutory language.” *Delaware Riverkeeper Network v. Sunoco Pipeline L.P.*, 179 A.3d 670, 682 (Pa. Cmwlth. 2018) (citing 66 Pa. C.S. § 1505). These issues include the hazardous nature of the petroleum products and their transportation through pipelines; protection of public natural resources generally; and detrimental impacts on health, safety, welfare and property values. “Sunoco’s decisions are subject to review by the PUC to determine whether Sunoco’s

service and facilities ‘are unreasonable, unsafe, inadequate, insufficient, or unreasonable discriminatory, or otherwise in violation of the Public Utility Code’” *Id.* at 693 (*citing* 66 Pa. C.S. § 1505(a)).

52 Pa. Code § 59.33(a) provides that “[e]ach 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.” As explained in detail below, Sunoco has neither used reasonable care to reduce the hazards to residents living along its pipeline routes, nor has it used reasonable efforts to properly warn and protect the public from danger. Minimum safety standards under 52 Pa. Code § 59.33(b) include 49 CFR § 195.210(a), which provides that the “[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.” The evidence demonstrates that Sunoco has not avoided such areas as far as practicable.

The Commission should exercise its responsibility under Section 1505(a), and in administering Section 59.33(a). Here, the routes of ME1 and the workaround pipelines are dangerously and unreasonably close to Petitioners’ homes, families, schools, and communities. That danger is compounded by the inadequacy of Sunoco’s public awareness program. Petitioners’ claims regarding these dangers have not previously been ruled upon by the Commission. Petitioners’ right to relief is clear.

i. The siting of the ME Pipelines is unsafe and unreasonable

HVL pipeline explosions have been documented to cause moderate damage as far as 12 miles away and serious damage to homes 2 miles away from the site of a rupture. Fatalities have been documented in a range of 512 – 1112 feet. Emergency responders have extended

evacuation areas to at least 1 mile from a rupture site. The Franklin County, Missouri explosion was equivalent to 100,000 pounds of TNT, or equivalent in explosive force to 200 of the 500-pound bombs dropped by American B-17 bombers on Germany during World War II.¹

Mariner East's path through Delaware and Chester Counties cuts through "high consequence areas" as defined by 49 CFR § 192.903. This means a greater number of lives are at stake in the event of pipeline failure. If the Franklin County, Missouri explosion had occurred next to one of the Downingtown schools, it would have taken many lives.

If the Carmichael explosion had occurred in the Andover community, where Petitioner Walsh resides, five times as many people could have perished.

The following people and places are within 1112 feet of Sunoco's Mariner East pipelines from which a puncture or rupture could cause an explosion leading to death:

- (a) Nancy Harkins's home;
- (b) the home of Nancy Harkins's neighbor;
- (c) Nancy Harkins as she drives up and down Route 352;
- (d) Caroline Hughes's workplace;
- (e) Caroline Hughes's son's school;
- (f) Caroline Hughes's son's baseball field;
- (g) Mike Walsh's house in Andover;
- (h) Duffer's Tavern;
- (i) 11 schools in the Downingtown Area School District (DASD)
- (j) 1 school playing field across from a valve station in the DASD;

¹ Higginbotham, Adam; "There are Still Thousands of Tons of Unexploded Bombs in Germany, Leftover from World War II", Smithsonian Magazine, January 2016, available at: <https://www.smithsonianmag.com/history/seventy-years-world-war-two-thousands-tons-unexploded-bombs-germany-180957680/>

- (k) Wellington Senior Living Center; and
- (l) the Exton County Library.

In addition, Caroline Hughes's home is within 2 miles of HVLs lines from which a puncture or rupture could cause an explosion leading to significant property destruction.

Accepting Mr. Noll's testimony, (a) the further away from the problem, the lower the probability of harm; (b) where a safe area is varies from event to event; and (c) what area is safe is determined by emergency responders. Mr. Zurcher testified he cannot say what distance from an HVL event would be safe. It may be impossible to say definitively what areas would be safe in advance of any given HVL catastrophe, but based on past incidents, some distances are plainly not safe and present an unsafe and unreasonable risk. Petitioners live, work, and send their children to school close enough to the ME pipelines that a leak or rupture comparable to previous HVL pipeline explosions would threaten their lives along with the lives of their families and neighbors and many residents in their communities.

Given such a danger, it is crucial that Sunoco's Public Awareness Plan be safe, reasonable, and exemplary.

ii. Sunoco's Public Awareness Plan is unsafe, unreasonable, and inadequate

Despite the immense risk to the public from Sunoco's HVL lines, its Public Awareness Plan is unsafe, unreasonable, and inadequate. Petitioners' Hearing Exhibit 2 is a color brochure prepared by Sunoco as part of its Public Awareness Plan. All of the petitioners either received a copy of the brochure or a copy of a similar brochure, or if they did not receive it were aware of its contents.

The material provisions of the brochure at issue in this case are on the second page and are set out under three headings: (1) How would you recognize a leak? (2) What to do in the

event a leak were to occur, and (3) What *not* to do in the event a leak were to occur. Each section is fatally flawed, in some cases leaving the public at greater risk for having consulted the brochure.

While the brochure clearly is referring to petroleum product pipelines, nowhere does it distinguish between natural gas (methane) and hazardous highly volatile liquids (HVLs) such as propane, butane and ethane.

The brochure speaks of sight, sound and smell as means of recognition of a leak. As regards sight, it identifies indicators “around a pipeline area” that might be indicia of a leak. As regards sound, the brochure states that volume can range from a quiet hissing to a loud roar. As regards smell, it states that *sometimes* there will be an unusual smell, petroleum odor or gaseous odor.

In contrast, Sunoco’s MERO training manual, Hearing Exhibit SPLP 7, describes ethane, propane and butane as “[c]olorless, tasteless and odorless.” The HVL lines are not odorized. Their only scent is a faint petroleum odor that *may* be noticed very close to a leak or puncture but will otherwise not be discernible. Nothing will be visible except possibly at the site of leak or rupture, and possibly a vapor cloud. When there is a vapor cloud, the visible part is the condensation but, as explained by Mr. Noll, the visual cues do not represent the entire problem. There may be vapors that may not be seen.

The brochure sensibly admonishes the public not to light a match if a leak occurs. Duffer’s Tavern has a smoking area for its customers that is adjacent to a Mariner East valve site. Valve sites are more likely than the underground pipes to experience leak, puncture or rupture. If a leak or puncture were to occur at the Duffer’s valve site there is every reason to believe that it would not be noticed by patrons who were smoking. This would have been perfectly obvious

to Sunoco's pipeline planners, yet was not accounted for.

The brochure advises to turn off equipment to eliminate ignition sources and not to drive into a leak or rupture cloud while leaving the area. It fails to address what happens if you are driving a car or if you are a child in a school bus on Route 352 immediately next to a leaky or ruptured pipeline. The Lively, Texas accident demonstrates the legitimacy of this threat. The possibility of ignition by motor vehicle also would have been perfectly obvious to Sunoco pipeline planners, yet was not accounted for.

"Leave the area by foot immediately" is another of the brochure's warnings. This warning is problematic in several respects. There is, of course, no quarrel with the general proposition that if one is aware of danger one should try to get as far away as possible as quickly as possible.

The first concern is whether a leak or puncture would be noticeable. Unlike the "tree falling in a forest" conundrum, if a pipeline leaks in a forest and no one notices, it is still leaking. Witnesses identified several circumstances under which a leak or rupture of one of the ME pipelines would not be noticed, including families sleeping at home in the middle of the night in Westtown; young children playing near a pipe on a school ground in Downingtown; kids playing baseball on top of a pipe in East Goshen; and patrons in a restaurant next to a valve site. Mr. Zurcher acknowledged there could be ordinary circumstances in which people would simply not notice a leak or rupture. Moreover, the very notion that in such circumstances people would see or be expected to see bubbles on the ground or an oil sheen or discolored vegetation is beyond credulity.

The second concern is whether the public even has the ability to proceed on foot. Nancy Harkins's neighbor using an electric wheelchair plainly does not. Some of Caroline Hughes'

patients clearly do not. Entire groups of children described by Mr. Hubbard do not. Senior citizens at the Wellington senior living center may not. Persons who are homebound may not. Sunoco's witness Mr. Zurcher recognized this.

Third, the brochure says, "From a safe location, call 911...", but does not explain what a "safe" location is. Why Sunoco believes the public would know what distance is safe was never explained at the hearing, other than to state that the decision is made by emergency responders. Yet, Messrs. Hubbard, Marx, Zurcher and Noll all agreed that the time for responders to arrive on a scene depends on the circumstances. In the case of a volunteer fire department, it could be 20 minutes. Mr. Noll explained that it is first responders who have the ability to establish hot zones, warm zones and cool zones.

In the time period until responders arrive and establish a hot zone, civilians will not know how far they must flee from the leak site to be safe. Hence, following Sunoco's instructions to wait until reaching a safe location to call 911, would effectively eliminate reliance on 911 as an emergency response option for residents: A safe distance cannot be identified until first responders are already on location to make that determination, negating the need for the call.

Finally, as made clear by the witnesses at hearing, not only are residents unaware of how far they must flee to protect their lives in the event of a leak, Sunoco's materials do not adequately explain what direction to flee in. Residents have been instructed to flee uphill, but in some instances, as Ms. Harkins explained, fleeing uphill would be toward the pipeline. Sunoco's public awareness plan does not account for such apparent conflicts.

A public awareness plan that does not make the public aware of how to identify an emergency, does not make all members of the public aware of how to flee the emergency, and does not make the public aware of how far or in what direction they must flee, cannot be a

reasonable, safe, or adequate plan.

iii. Sunoco's Public Awareness Plan has not been examined by the Commission relative to Petitioner's claims and evidence

In its response to the Petition, Sunoco contends that the Commission already has decided that Sunoco's public awareness program does not merit the granting of an injunction to stop the Mariner pipelines and that the Commission's decision in that regard is binding. (Sunoco Answer at 1). That contention is misleading at best and simply incorrect both as a matter of fact and as matter of law in the present case.

In *State Senator Andrew Dinniman v. Sunoco Pipeline L.P.*, Docket No. P-2018-3001453, an Interim Emergency Order and Certification of Material Question ("May Order") was entered disposing of issues raised by the parties to that proceeding. The parties seeking emergency relief were Senator Dinniman, Clean Air Council, and Virginia Marcille-Kerslake. None of those parties are parties to the instant proceeding. 66 Pa. C.S. § 316—which serves as the foundation for Sunoco's argument—makes clear that the Commission's findings are binding upon the "parties affected." Petitioners in the present matter, who did not participate in the Dinniman matter, have different factual circumstances, and whose claims have never been heard, are not such parties and are not barred from receiving the relief they seek.

Sunoco also overlooks the significant factual distinctions between the *Dinniman* case and the case at hand that render that result beside the point in this case. The substance of the parties' claims in the *Dinniman* case involved Sunoco's construction and operation of its pipelines specifically in West Whiteland Township, Chester County. That geographic limitation informed the evidentiary record that was ultimately developed in that case. In the instant proceeding, the geographic focus is different and broader; the Mariner lines in Delaware County and multiple Chester County townships are at issue.

The May Order certified to the Commission the granting of interim relief that in paragraphs 10-20 directed Sunoco to provide various submissions and otherwise take steps that would enable Sunoco to lift the injunction upon proof of compliance. Paragraph 14 required respondent to report its emergency response plan, practices and procedures in responding to a release or ignition of HVLs. Nothing was said about the content of brochures disseminated to the public regarding how to deal with HVL accidents.

The Commission's June 14, 2018 decision reviewing the May Order considered the following certified question:

Whether the evidentiary record supports the provisions of the Interim Emergency Order which (a) enjoins Sunoco from all current operation on Mariner East 1 [ME1]; and (b) enjoins construction, including drilling activities on the Mariner East 2 [ME2] and Mariner East 2X [ME2X] pipelines, all in West Whiteland Township, Pennsylvania, until the entry of a final Commission Order in the formal complaint proceeding at Docket No. C-2018-3001451?

In connection with ME2 and ME2X, the June decision upheld the injunction and required that it remain in effect until Sunoco met certain conditions, including the submission of an emergency response plan that included materials intended to instruct affected parties how they should respond in the event of a pipeline-related incident. The June decision never assessed or even purported to assess the validity of the emergency response plan.

To the extent the Commission later made any determinations regarding Sunoco's emergency response plan, it did so only in the context of a "compliance proceeding." The

Commission took care to point out explicitly in its August 2, 2018 decision the limited nature of that decision: "Our scope of review in compliance proceedings, such as the present case, is narrow." The Commission then analyzed whether there had been compliance with the June 15, 2018 Opinion and Order and specifically discussed paragraphs 6(a)(1)(a)-(c), 6(a)(2)(a),

6(a)(2)(c), and 6(a)(3)(a)-(b) of the June Order.

While the Commission did not in its analysis look at paragraph 6(a)(2)(b) relative to warning the public of what steps to take in the event of a leak, it did hold that Sunoco's submittals in response to Ordering Paragraph No. 6 of the June 15th Order complied with the obligation to make a submission.

Notably, at the same time, the Commission held that, "the alleged lack of transparency and whether Sunoco and its employees, agents, and contractors have, in fact, implemented the policies outlined in the June 22 Submittal are beyond the scope of this compliance proceeding." August 2 Order at p. 25. In other words, Sunoco submitted a plan, but the Commission declined to render a decision as to concerns regarding the substance of the plan.

iv. The Commission has made a determination regarding the safety of ME outside of West Whiteland Township or relative to Petitioners' claims

The petition and evidence before this tribunal are clear that petitioners are complaining of the location (siting) of the Mariner pipelines relative to their homes, businesses and other places in their communities. Petitioners contend that, in the event there is a leak, puncture or rupture there is an unacceptably high probability of death, serious injury or property damage.

Respondent's witnesses refused at the hearing to state what Sunoco means by "safe," despite the fact that the terms safe and safety are liberally sprinkled throughout their literature and on their website. The Commission in its June 15, 2018 Order wrote that at that time of its decision there was "no new, credible evidence to support a finding that the continued operation of ME1 poses a clear and present danger to life or property in West Whiteland Township." (Order at 34). That is a far cry from declaring that ME1 is safe.

No evidence was presented by the petitioners in the *Dinniman* matter about the location

of the Mariner pipes in West Whiteland Township relative to residences, business, schools, and other structures there. On the other hand, whether the location of Mariner pipes in a shallow trench under a Little League field or adjacent to an elementary school or behind a smoking patio at a restaurant—all in other townships—is unreasonably risky was raised by Petitioners in the present case and has not previously been examined and ruled upon. It is patently false, then, for Sunoco to write that “Petitioners raise no new facts or arguments that the Commission as not already rejected.” (Answer at 6).

Based on the merit of Petitioners’ arguments and the lack of merit in Sunoco’s responses, Petitioners have raised “substantial legal questions” and thus demonstrated that their right to relief is clear.

c. Petitioners’ need for relief is immediate.

The second requirement for a grant of an interim emergency order is that the need for relief be immediate. 52 Pa. Code § 3.6(b)(2). As noted above, the need for relief is emergent and immediate where a disaster can happen at any second. *See Maiden Creek Township Board of Supervisors v. Consolidated Rail Corp.*, 71 Pa. PUC 334, Docket No. C-79121760 (Order entered Nov. 14, 1989). ME1 is already operating without an adequate public awareness plan, pumping tens of thousands of barrels of HVLs through high consequence areas every day. *See* Energy Transfer, “Mariner East FAQ,” available at <https://marinerpipelinefacts.com/mariner-east/mariner-east-faq/>. The dangers are only amplified with the workaround pipeline coming online, which if not already operational, is scheduled to be operating imminently. It could be in another cornfield or in the middle of West Chester. The evidence is overwhelming and unrebutted that if such an event occurs, there could be more fatalities in a densely populated area than would be expected in a remote setting. A random spark set off by smokers at Duffer’s next

to a leaky valve site could endanger scores of patrons as well as Andover residents next door.

Although Mr. Zurcher minimizes the probability of injury resulting from a pipeline, he noted that he has a combustible gas detector in his home, has bought them for his family and friends, and “if I had a way to them for everybody in the United States or if I had a way to require the building codes to be adjusted, that’s what I would do, sir.” (N.T. 568-69). This is from a person who does not even live next to an HVL pipeline. Clearly, he believes that without such equipment he might not become aware of an HVL leak or puncture. Section 59.33(b) also provides that a pipeline right-of-way *must* be selected to avoid, as far as practicable, areas containing *private dwellings*, industrial buildings, and *places of public assembly*. Sunoco’s placement of Mariner pipes under playing fields and next to playgrounds clearly fails to live up to that regulatory obligation.

d. The injury would be irreparable if relief is not granted.

In determining whether an injury is irreparable, the Commission considers “whether the harm can be reversed if the request for emergency relief is not granted.” *Application of Fink Gas Co. for Approval of the Abandonment of Serv. by Fink Gas Co. to 22 Customers Located in Armstrong Cty., Pennsylvania, & the Abandonment by Fink Gas Co. of All Nat. Gas Servs. & Nat. Gas Distribution Servs.*, 2015 WL 5011629, at *9 (Pa. P.U.C. Aug. 20, 2015).

Here, there can be no dispute that the harm resulting from a rupture or explosion on ME1 or the workaround pipeline (or both, in a cascading failure accident) would be irreparable because the high likelihood of death or permanent injury would make the harm irreversible.

Furthermore, a violation of law is irreparable harm *per se*. *Pa. PUC v. Israel*, 356 Pa. 400, 52 A.2d 347 (1947); *Core Communications, Inc. v. Verizon Pennsylvania Inc. Verizon North LLC*, 2011 WL 5121092 (Pa. P.U.C. September 23, 2011). As set forth above, Sunoco has

violated 52 Pa. Code § 59.33(a) (requirement to use every reasonable effort to properly warn and protect the public from danger) and 49 CFR § 195.210(a) (requirement to select pipeline right-of-way to avoid areas containing private dwellings, industrial buildings, and places of public assembly). As such, Sunoco's actions are irreparable harm *per se*.

e. The relief requested is not injurious to the public interest.

The public interest is adversely affected where greater injury would result by refusing the preliminary injunction then granting it. *See, e.g., Valley Forge Historical Soc. v. Washington Memorial Chapter*, 426 A.2d 1123 (Pa. 1981) (affirming grant of preliminary injunction where denial of the injunction would have interfered with the public's right to access historic artifacts in the natural setting). Where an action is clearly within the public interest, the preliminary injunction should issue. *Shondra Rushing v. Pennsylvania Am. Water Co.*, Opinion and Order, Docket No.: F-2015-2461147 (Pa. PUC) (affirming Administrative Law Judge findings that it was clearly within the public's interest and the interest of PAWC customers to issue a preliminary injunction to terminate a customer's service to prevent further loss of water resource prior to any expansion project by PAWC).

Here, the temporary cessation of operations of ME1 and construction of the ME2 workaround pipeline would result in the public gaining temporary protection from the possibility of a catastrophic event at Little League fields, elementary schools, senior citizens centers and thousands of homes and businesses in Chester and Delaware Counties. That clearly would benefit the public. On the other hand, Respondent's witnesses offered no credible testimony nor other evidence to support a finding that the harm to their businesses would outweigh the harm to the larger public.

Sunoco claims that an injunction would monetarily impact Sunoco, a supplier, and a trade

union. Even if true, financial considerations of private interests cannot trump the need to protect the health and safety of the public. Sunoco identified losses and projected losses in gross revenues but provided no testimony as to their expenses, making a calculation of actual losses impossible. Mr. Gallagher of the steamfitters union testified that his members would lose income if there is a shutdown, but that was not quantified either.

Sunoco's witnesses testified that Pennsylvanians would face price hikes if the pipelines are temporarily shut down. Once again, no documentation was offered in support of its conclusions.

Sunoco's witnesses notably failed to identify any harms to the public from a temporary cessation of their firms' activities.

The need for an injunction is the result of Sunoco's own actions and failures. The interests of the public cannot be outweighed by financial harm resulting from Sunoco's own actions and inactions. *See, e.g., Com., Dep't of Pub. Welfare v. Court of Common Pleas of Philadelphia Cnty.*, 485 A.2d 755, 760 (Pa. 1984) ("although there may be some added financial burden placed on the Department ..., that burden, when weighed against the potential damage to the individuals, is not substantial").

f. Petitioners should not be required to post a bond.

Based on questions asked by Sunoco's counsel during the hearing, it is anticipated that Sunoco will request a bond. Under Pennsylvania Rule of Civil Procedure 1531(b) governing special relief and injunctions, the decision to order or not order a bond is discretionary. Section 3.8(b) of the Commission's regulations provides that: "An order following a hearing on a petition for interim emergency relief *may* require a bond to be filed in a form satisfactory to the Secretary and will specify the amount of the bond." 52 Pa. Code 3.8(b) (emphasis added).

Where a bond is required, bond amounts are to be determined on a case-by-case basis. *Christo v. Tuscany, Inc.*, 533 A.2d 461 (Pa. Super. 1987). Where the damages could be great and plaintiffs may be unable to provide sufficient security where damages could be great, “yet the court may determine, based upon the balance of the equities, that the injunction should nevertheless issue. Consequently, a relatively low bond in light of possible damages may be set.” *Christo*, 533 A.2d at 467.

In addition, there is no requirement that a bond would cover all damages, because the nature of a preliminary injunction hearing makes a court's primary duty the consideration of whether to grant an injunction; the amount of potential damages to the party whose conduct is sought to be enjoined is not the court's primary concern. *Green County Citizens United by Cumpston v. Greene County Solid. Waste Auth.*, 636 A.2d 1278 (Pa. Cmwlth. 1994). Imposition of an excessive bond could deprive a party of its due process rights by preventing it from seeking relief to which it is entitled.

Here, Petitioners are a group of concerned residents seeking only to protect their families and communities from the harms of an HVL pipeline explosion and to secure the safety the Commission is charged with providing. Equity weighs in favor of Petitioners and against requiring a bond.

V. CONCLUSION

In light of the forgoing, Petitioners respectfully request that the Commission issue an interim emergency order preventing current and future operation of ME1 and the ME2 workaround pipelines until such time as the claims in Petitioners' complaint can be adjudicated after a full hearing on the merits.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this day, December 7, 2018, a true and correct copy of the foregoing has been served upon the following persons via electronic mail, pursuant to 52 Pa. Code § 1.54.

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