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December 18, 2018

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Enclosed please find the Brief in Support of the Order Denying Interim Emergency Relief of Range Resources – Appalachia, LLC in the above-referenced proceeding. The HIGHLY CONFIDENTIAL version of this brief will only be provided to counsel who have executed an appropriate non-disclosure agreement pursuant to the Protective Order issued in this proceeding. In addition, the HIGHLY CONFIDENTIAL version of this brief is being separately filed with the Commission in a sealed envelope stamped HIGHLY CONFIDENTIAL. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,


Anthony D. Kanagy

ADK/kl
Enclosure

cc: Certificate of Service
Honorable Elizabeth Barnes

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL AND FIRST CLASS MAIL

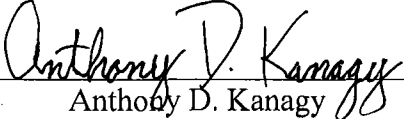
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Date: December 18, 2018


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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Meghan Flynn	:	
Rosemary Fuller	:	
Michael Walsh	:	
Nancy Harkins	:	
Gerald McMullen	:	Docket No. C-2018-3006116
Caroline Hughes	:	Docket No. P-2018-3006117
Melizza Haines	:	
	:	
	:	
Complainants,	:	
	:	
v.	:	
	:	
Sunoco Pipeline L.P.,	:	
	:	
Respondent	:	

**RANGE RESOURCES – APPALACHIA, LLC’S
BRIEF IN SUPPORT OF THE ORDER DENYING INTERIM EMERGENCY RELIEF**

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I. INTRODUCTION

Intervenor, Range Resources – Appalachia, LLC (“Range” or the “Company”) files this Brief in Support of Administrative Law Judge Elizabeth H. Barnes’ (the “ALJ”) December 11, 2018 Order Denying the Petition for Interim Emergency Relief (“Order”) filed by Meghan Flynn, Rosemary Fuller, Michael Walsh, Nancy Harkins, Gerald McMullen, Caroline Hughes, and Melizza Haines (“Petitioners”) on November 20, 2018 (the “Flynn Petition”). As admitted by Petitioners, their claims are limited to the adequacy of Sunoco Pipe Line Company L.P.’s (“SPLP”) public awareness program, emergency management plan and the relative proximity of the SPLP’s Mariner East 1 (“ME1”), Mariner East 2 (“ME2”) and Mariner East 2X (“ME2X”)¹ pipelines to their communities. The Order correctly concludes that the Petitioners failed to carry their burden as to the limited issues raised. *See* 52 Pa. Code § 3.6(b). As explained below, first and foremost, the issues raised by the Petitioners cannot form the basis for emergency relief. Furthermore, the evidence presented (or lack thereof) at the hearing conclusively demonstrated that the continued operation of SPLP’s ME1 pipeline or the continued construction and subsequent operation of SPLP’s ME2 or ME2X pipelines do not constitute an “emergency” that would result in an immediate, irreparable injury, which is consistent with the Commission’s findings and conclusions reached during prior investigations of the Mariner East Projects.²

For these reasons, and the reasons more fully explained below, the Commission must affirm the Order and deny the extraordinary relief requested by the Petitioners.

¹ Collectively referred to as the “Mariner East Projects.”

² *See Petition of the Bureau of Investigation and Enforcement of the Pa. Pub. Util. Comm’n for the Issuance of an Ex Parte Emergency Order*, Docket No. P-2018-3000281 (Order entered May 3, 2018) (the “*Commission’s Unanimous Order Reinstating ME1*”); *see also Pennsylvania State Senator Andrew E. Dinniman v. Sunoco Pipeline, L.P.*, Docket Nos. C-2018-3001451 and P-2018-3001453 (Order entered June 15, 2018) (“*Dinniman Order Reinstating ME1*”).

II. PROCEDURAL SUMMARY

Despite the recent prior findings and conclusions of the Commission, made after a full and comprehensive review of ME1 operations,³ that included the denial of a petitioner's request for interim emergency relief and allowed for the continued operation of ME1⁴ and a review of SPLP's emergency response plan,⁵ the Petitioners filed the above-captioned Flynn Petition and an associated Complaint on November 20, 2018, seeking to re-litigate many of these same issues. SPLP filed a Petition for Extension of Time to Answer the Petition on November 21, 2018.

Andover Homeowners' Association, Inc., ("Andover") filed a Petition to Intervene on November 26, 2018. SPLP filed an Answer to Andover's Petition to Intervene on November 29, 2018. Andover was granted intervenor status at the November 29, 2018 evidentiary hearing.

Range filed its Petition to Intervene on November 27, 2018. Range was granted intervenor status at the November 29, 2018 evidentiary hearing.

SPLP filed a Motion for Protective Order on November 27, 2018.

Two days of evidentiary hearings were held on November 29 and 30, 2018.

The parties submitted post-hearing briefs on December 7, 2018.

The ALJ issued the Order on December 11, 2018. The Order summarily and correctly denied the requested interim emergency relief and certified the denial of the relief requested to the commission as a material question requiring interlocutory review.

³ *Commission's Unanimous Order Reinstating ME1*, p. 13; *see also id.*, Ordering Paragraph 6.

⁴ *Dinniman Order Reinstating ME1*, Ordering Paragraph 3.

⁵ *See Dinniman Order Reinstating ME1*, pp. 33-34, Order Paragraphs 1, 3 (denying a petitioner's request to enjoin ME1 operations for all reasons, including arguments regarding the inadequacy of SPLP's emergency management plan); *see also . Pennsylvania State Senator Andrew E. Dinniman v. Sunoco Pipeline, L.P.*, Docket Nos. C-2018-3001451, P-2018-3001453 (Order entered Aug. 14, 2018) (finding SPLP supplied additional information regarding its emergency management plan with respect to ME2).

III. SUMMARY OF ARGUMENT

The Order correctly concludes that the Petitioners failed to demonstrate any facts supporting their request for extraordinary relief in the form of an immediate injunction of ME1 operations and/or ME2 and ME2X construction. The evidence relied upon by Petitioners was circumspect and failed to satisfy any one of the essential pre-requisites justifying interim emergency relief.

Petitioners have not alleged and have presented no evidence that in any way demonstrates an emergency, *i.e.* “a clear and present danger to life or property,” and therefore have no right to the requested relief. The Order correctly found that the central issue in this and related proceedings was “whether the continued operation of ME1 will create a clear and present danger to life or property and whether the construction of ME2 and ME2X creates a clear and present danger to life or property.” Order, pp. 6-7 (citing *Dinniman Order Reinstating ME1*). Importantly, the Petitioners presented no evidence regarding pipeline integrity or the risk or probability of any of the hypothetical incidents they put forth regarding ME1 or ME2. The Petitioners’ only arguments regarded alleged deficiencies in SPLP’s emergency management program and public awareness program, and the relative proximity of the Mariner East Projects to the Petitioners’ communities. The record clearly demonstrates that SPLP’s emergency management plan is robust and fully complies with all regulations. Moreover, the adequacy or alleged inadequacy of an emergency management plan cannot serve as the basis for an injunction.

The Order similarly concluded that the need for relief is not immediate. In this regard, the ALJ correctly and persuasively explained “...Petitioners have failed to demonstrate that the need for relief is immediate in that they presented no evidence regarding the likelihood, *i.e.* risk,

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of a fatality occurring due to an accidental leak on any of the Mariner East Projects.” Order, p. 13.

In addition, the Order concluded that Petitioners would not suffer irreparable harm if the relief is denied. Here, Petitioners conceded that the risk or probability of an accident on the Mariner pipelines was not an issue, and therefore, Petitioners could not demonstrate by a preponderance of the evidence that they would be irreparably harmed.

Finally, the Order correctly found that the Petitioners failed to demonstrate that the complained of harms would occur. Furthermore, Range demonstrated that it and the public would suffer significant, irreparable harm if the ME1 pipeline was enjoined, especially in the winter months. The ME1 pipeline is vital for Range to ship propane to its customers including the ultimate, consumer end-users. It is also vital for the transport of ethane, which like propane, must be removed from the natural gas stream to prepare natural gas for market and consumption. Therefore, without the continued flow of natural gas liquids on ME1, the supply of natural gas and natural gas liquids is at risk and would result in inflated pricing for all downstream users, including Pennsylvania homeowners.

For these reasons, and the reasons more fully explained below, the Commission must immediately affirm the ALJ’s Order and deny the Petitioners’ request for interim emergency relief.

IV. ARGUMENT

A. THE ORDER CORRECTLY FOUND THAT THE PETITIONERS FAILED TO DEMONSTRATE THAT THEY ARE ENTITLED TO INTERIM EMERGENCY RELIEF.

An interim emergency order is an extraordinary remedy that can only be granted after a party meets several, “essential prerequisites.” See *Summit Towne Ctr., Inc. v. Shoe Show of Rocky Mt., Inc.*, 828 A.2d 995, 1001 (Pa. 2003) (citations omitted); *Golden Triangle News v.*

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Corbett, 689 A.2d 974, 978 (Pa. Cmwlth. 1997) (citation omitted); *Schwartz v. Delaware & Hudson Rwy. Co.*, 2011 Pa. PUC LEXIS 1715, at *12-13 (Order entered July 5, 2011) (citation omitted).

In order to justify this extraordinary relief, Petitioners must demonstrate all of the following elements: (1) the petitioner's right to relief is clear; (2) the need for relief is immediate; (3) injury would be irreparable if relief is not granted; (4) relief requested is not injurious to the public interest. 52 Pa. Code § 3.6(b); *see also Summit*, 828 A.2d at 1001 (citations omitted); *see also Peoples Natural Gas Co. v. Pa. Pub. Util. Comm'n*, 555 A.2d 288, 291 (Pa. Cmwlth. 1989). If the petitioners fail to prove any one of the four requirements, the Commission will deny the relief requested. *Crums Mill Assoc. v. Dauphin Consolidated Water Supply Co.*, 1993 Pa. PUC LEXIS 90 (Order dated April 16, 1993); *see also County of Allegheny v. Commonwealth*, 518 Pa. 556, 544 A.2d 1305, 1307 (Pa. 1988) ("For a preliminary injunction to issue, every one of the[] prerequisites must be established; if the petitioner fails to establish any one of them, there is no need to address the others.").

As explained below, the Order correctly concluded that the Petitioners failed to establish each and every one of these "essential prerequisites" and, therefore, they are not entitled to the requested injunctive relief.

- 1. The Order Correctly Concludes That The Petitioners Provided No Basis for Emergency Relief.**
 - a. The Petitioners Did Not Demonstrate The Existence Of An Emergency.**

A party is not entitled to interim emergency relief, where there is no evidence of an emergency. *Peoples Natural Gas Co.*, 555 A.2d at 291 (affirming the decision of the ALJ that an interim emergency order was not warranted because the ALJ properly found that "the record is devoid of evidence of an emergency."). As noted in the Order, Section 3.1 of the

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Commission's regulations, 52 Pa. Code § 3.1, defines an "emergency" as "a situation which presents a clear and present danger to life or property or which is uncontested and requires action prior to the next scheduled public meeting." Order, p. 3.⁶ Clearly, a petitioner's failure to demonstrate the existence of an "emergency," as defined under the Commission's regulations, is fatal to its request for interim emergency relief.

The Order correctly concludes that "Petitioners have failed to show a clear and present...danger to life or property within the meaning of 52 Pa. Code § 3.1." Order, p. 11. Here, as the Order notes, Petitioners did not submit evidence of any "emergency", nor did they attempt to prove "the probability or risk of the catastrophic events including fatalities". *Id.*, pp. 11-13. Rather, the Plaintiffs claims focused on the sufficiency of SPLP's public awareness program, emergency response program and the location of the pipelines in the community. The Order correctly concluded that those claims do not give rise to the type of emergency relief requested and credited the expert testimony of SPLP's witnesses that these programs are adequate. *See* Order, pp. 7-10. Therefore, the Order must be affirmed and the Flynn Petition must be denied.

b. The Petitioners Have Failed To Raise Substantial Legal Questions.

Another fatal flaw to Petitioners' claims was that they failed to raise substantial legal questions. *See T.W. Phillips Gas and Oil v. Peoples Natural Gas*, 492 A.2d 776 (Pa. Cmwlth. Ct. 1985). This inquiry requires the petitioner to demonstrate that "substantial legal questions must be resolved to determine the rights of the respective parties." *Fischer v. Department of*

⁶ While the Commission has previously suggested that Section 3.6 "does not require a petitioner to establish the existence of an emergency," the Commission's analysis and decision ultimately focused on whether an emergency existed. *Commission's Unanimous Order Reinstating MEI*, p. 32, n.11; *see also id.*, pp. 19-20, 34.

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Public Welfare, 497 Pa. 267, 439 A.2d 1172, 1174 (Pa. 1982). Indeed, if no legal questions need to be resolved to determine the rights of the parties, then substantial legal questions do not exist.

As noted in the Order, Petitioners raise three limited issues in this proceeding. Order, p.

6. They allege that:

- (1) SPLP's public awareness program is deficient;
- (2) SPLP's emergency management program is deficient; and
- (3) Natural gas liquids pipeline operations are so inherently dangerous that they should be enjoined from operating, regardless of the integrity of the pipeline or the risk of an accident.

See Order, p. 6; *see also* Hearing Tr. 347-356. Petitioners have no right to relief, much less injunctive relief, for each these issues.

Regarding the adequacy of SPLP's public awareness program, the Order correctly credits the uncontradicted expert testimony of SPLP's witnesses, Mr. Perez and Mr. Zurcher. *See* Order, pp. 7-10 (discussing the expert testimony of Mr. Perez and Mr. Zurcher). SPLP's brochures are compliant with all regulations, with industry practices, and appropriately cover the topics that they are required to cover, and are standardized to provide a consistent message to the audiences for several hundred other pipeline companies. *See id.*; *see also* Range Post-Hearing Brief, Section IV.A.2. (citing Hearing Tr. 372-373, 392 and SPLP Ex. No. 41). In addition, Petitioners' argument that SPLP's public awareness program is deficient was conclusively addressed in the *Dinniman Order Reinstating ME1*. The Commission denied Dinniman's argument that SPLP's public awareness program was inadequate, and concluded that this

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argument was not an adequate basis for enjoining ME1. *Dinniman Order Reinstating ME1*, pp. 5-6, 20-21, Order Paragraphs 1, 3.⁷

Regarding, SPLP's emergency management program, the Order also appropriately concluded that the credible expert testimony of Mr. Noll demonstrates the program "is adequate and provides all information that is necessary for the public and emergency responders to identify a pipeline release and to respond to a pipeline-related emergency, and is consistent with industry standards and PHMSA regulations." Order, p. 9; *see also* Range Post-Hearing Brief, Section IV.A.2. (citing Hearing Tr. 482 and SPLP Ex. Nos. 7 and 41). In addition to this evidence, SPLP has an extensive emergency management plan that has been reviewed and accepted by the Commission. *See* Range Post-Hearing Brief, Section IV.A.2. Moreover, even if the Petitioners' arguments were accepted, it would not support an injunction; it would merely support SPLP taking corrective action. *See* Range Post-Hearing Brief, p. 9 n. 3.

Finally, the Order correctly declines to credit Petitioners' assertions that NGL pipeline operations are so inherently dangerous that they should be enjoined from operations. *See* Flynn Petition ¶¶ 15, 28-33; *see also* Hearing Tr. 18, 346, 349-350. The Petitioners and Andover argue that the location of Mariner East Projects is inherently dangerous because the pipelines are located near residences, schools, restaurants and bars. Flynn Brief, pp. 18-19; Andover Brief, p. 4. However, Petitioners have stipulated that the integrity of the subject pipelines themselves is not an issue in this proceeding. Hearing Tr. 32:8-16; *see also* Hearing Tr. 346-347. As more fully explained in Range's Post-Hearing Brief, the Petitioners made no allegations and presented no evidence that a leak in the pipeline supports their request or that the pipeline is violating any federal or state law with respect to its operations.

⁷ The Commission also found that SPLP's public awareness program for ME2 was adequate and did not provide a basis for enjoining ME2. *Pennsylvania State Senator Andrew E. Dinniman v. Sunoco Pipeline, L.P.*, Docket Nos. C-2018-3001451, P-2018-3001453 (Order entered Aug. 14, 2018).

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For the reasons explained above, the Petitioners have provided no legal or factual basis supporting their right to injunctive relief. Therefore, the Order must be affirmed and the Flynn Petition must be denied.

2. The Need For Relief Is Not Immediate Because The Petitioners Concede The Safe Operation Of The Pipelines.

The Order correctly concludes that the Petitioners' alleged need for relief is not immediate because the complained of events are not imminent, or likely to occur. Order, p. 13 (citing *Application of Fink Gas Company for Approval of the Abandonment of Service by Fink Gas Company to 22 Customers Located in Armstrong County, Pennsylvania, and the Abandonment by Fink Gas Company of all Natural Gas Services and Natural Gas Distribution Services*, Docket No. A-2015-2466653, 2015 Pa. PUC LEXIS 408, *21-22 (Order entered Aug. 20, 2015) and *Zebra v. School Dist.*, 206 A.2d 748, 752 (Pa. 1972)).

Importantly, Petitioners conceded that ME1 is operated safely and that its integrity is not an issue. *See* Hearing Tr. 32, 347. In addition, the Petitioners presented no evidence regarding the likelihood, *i.e.* risk, of a fatality occurring due to an accidental leak on any of the Mariner East Projects. *Id.*

Not only did Petitioners' counsel concede that the probability of a fatality from a highly volatile liquids ("HVL") pipeline was extremely remote, Petitioners' witness Mr. Marx confirmed that the probability is orders of magnitude less than the risk of death from lightning, specifically:

Q. So if you're assuming one fatality in the PHMSA data set from an accidental leak of an HVL pipeline over eight years, you would have a probability of fatality of one to the minus one?

A. It's about ten to the minus ten.

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JUDGE BARNES: I'm going to overrule the objection. I got 3.47 times ten to the negative ten also.

BY MR. WITKES:

Q. So that is more than two orders of magnitude less than the risk of death from lightning in the United States; correct?

A. Yeah, based on the initial assumption of one fatality in eight or nine years from an HVL pipeline.

See Hearing Tr. 319-320 (emphasis added).

At best, the “immediacy” of the Petitioners’ need for relief is so attenuated as to be *two orders of magnitude* less probable than any one of the Petitioners’ suffering harm from lightning. Nonetheless, Petitioners’ conceded that the probability, *i.e.* risk, of the complained of events is not even at issue in this proceeding. Therefore, the Order must be affirmed.

3. The Order Correctly Concludes That There Was No Demonstration of Irreparable Injury.

With respect to the third standard that the Commission evaluates in determining whether to grant injunctive relief, *i.e.* whether the alleged injury would be irreparable if relief is not granted, the Order also correctly found in favor of SPLP. Order, p. 14; *see also* 52 Pa. Code § 3.6(b)(3). Here, again, the Order correctly explains that injunctive relief was not warranted, “[a]s Petitioners conceded the risk of fatalities is small, they have failed to show they would more likely than not be injured irreparably either through fatalities, personal injury or loss of property during the pendency of this consolidated complaint proceeding.” Order, p. 14 (emphasis added). In addition, Petitioners have conceded that ME1 is being operated safely and that its integrity is not an issue. *See* Hearing Tr. 32, 347. As such, the Petitioners failed to demonstrate that irreparable harm would result from the continued operation of ME1 and the construction of ME2 and ME2X. Therefore, the Order must be affirmed and the Flynn Petition must be denied.

4. **The Relief Requested Would Cause Substantial Harms To Range And The Public At Large.**

The Petitioners also failed to demonstrate that their requested relief is not injurious to the public. 52 Pa. Code § 3.6(b)(4). The Order correctly notes that “Petitioners’ assertion[s] without evidence of probability of such a catastrophic event is insufficient to meet the standard.” Order, p. 15. The Order goes on to conclude that SPLP and Range “offered credible evidence that they would be financially negatively impacted if the injunctive relief would be granted.” *Id.*

Specifically, Range witness Mr. Engberg credibly testified that shutting down ME1 would result in direct and significant negative impacts for SPLP and its shippers. *Id.* Indeed, when ME1 was enjoined in March through June of this year, Range suffered harm of [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] due to higher transportation costs and diversion of propane to lower-priced markets. Hearing Tr. 526.

However, a shutdown of ME1 now will cause substantially more harm than was experienced in March through June. Mr. Engberg explained that [BEGIN HIGHLY CONFIDENTIAL] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁸ [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] Range requests that an order granting interim emergency relief should be conditioned on

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [END HIGHLY CONFIDENTIAL]

The unrebutted evidence submitted by Range demonstrates that enjoining the continued flow of natural gas liquids on ME1 and further delays to ME2, particularly during the winter months, would cause significant material harm to both Range and the public, including Range's Pennsylvania royalty owners and Pennsylvania residents and businesses. Therefore, the Order must be affirmed and the Flynn Petition must be denied.

B. THE PETITION ABUSES THE REGULATORY PROCESS BY SEEKING TO ENJOIN ME1 AND ME2 PIPELINE OPERATIONS.

The Commission has previously found that a pattern of pleadings designed to forestall a public utility's lawful exercise of its rights may constitute abuse of the Commission's administrative or regulatory process. *See Argento's Pizza v. Philadelphia Gas Work*, Docket Nos. C-2009-2138055 C-2010-2167822, 2010 Pa. PUC LEXIS 2252, at *10-12 (Initial Decision dated Aug. 2, 2010) (Van Nguyen, J.), *becoming final without further action*, Docket Nos. C-2009-2138055 C-2010-2167822 (Order entered Oct. 1, 2010); *see also Application of Modern Motor Coaches, Inc. d/b/a Modern Piano Moving, for the right to transport, by motor vehicle,*

Petitioners being required to post a bond sufficient to cover these losses, see Section IV.B. *infra*. 52 Pa. Code § 3.8(b).

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household goods in use, limited to pianos and organs, between points in Pennsylvania, 2011 Pa. PUC LEXIS 1736, at *9 (Initial Decision dated May 19, 2011) (Colwell, J.) (warning that the filing of pleadings that attempt to “slow down” a motor carrier’s application process constitute an abuse of process).

As noted in Range’s Post-Hearing Brief, the Flynn Petition does nothing more than seek to re-litigate issues related to ME1 operations, and ME2 and ME2X construction, that were reviewed and resolved by the *Commission’s Unanimous Order Reinstating ME1* and the *Dinniman Order Reinstating ME1*. See Range Post-Hearing Brief, Section IV.B; see also SPLP Post-Hearing Brief, pp. 39-40 (comparing the allegations made by the Flynn Petition, and prior petitioners seeking interim emergency relief regarding the Mariner East Projects). In addition, the Commission has concluded the specific conditions it imposed in the *Dinniman Order Reinstating ME1* with respect to ME2 and ME2X construction activities have been fulfilled by SPLP, and authorized SPLP to continue construction activities. See Range Post-Hearing Brief, Section IV.B.3. Petitioners, and their counsel, are aware of these prior, binding orders, yet filed the Flynn Petition in an apparent attempt to conduct an unlawful end-run around the Commission’s prior findings and conclusions. Therefore, and for the reasons more fully explained in Range’s Post-Hearing Brief, the Flynn Petition constitutes an unlawful abuse of the administrative and should be denied.

C. IF THE REQUESTED RELIEF IS GRANTED, THE PETITIONERS SHOULD BE REQUIRED TO POST A BOND.

Should the Commission find any basis for relief here, it should be conditioned upon a sufficient bond by the Petitioners to cover damages to SPLP, its shippers and the public. Section 3.8(b) of the Commission’s regulations states that “[a]n 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

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and will specify the amount of the bond.” 52 Pa. Code § 3.8(b). Range fully supports and joins in SPLP’s request that Petitioners be required to post a bond sufficient to cover the damages that would result from the requested relief. Therefore, and for the reasons more fully explained in Section IV.A.4. *supra*, any order granting the relief sought should be conditioned upon Petitioners posting a suitable bond.

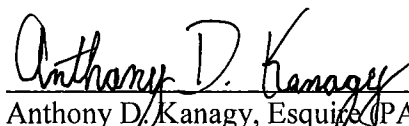
V. STAY OF THE PROCEEDING

Under Section 5.305(c), parties writing a Responsive Brief to an Interim Emergency Order and Certification of Material Question must address whether a stay of the proceedings is required to protect the substantial rights of a party. 52 Pa. Code § 5.302(c); *see* 52 Pa. Code § 3.10(b) (stating the procedures applicable to interlocutory review of a material question certified by a presiding officer apply to the Commission’s review of an interim emergency order). Range does not believe that a stay of the proceedings is appropriate in order to protect the substantial rights of the parties and other affected entities. The Commission has repeatedly determined that it is safe for the ME1 pipeline to resume operations and for ME2 and ME2X construction activities to continue, and therefore Range requests that the Commission immediately affirm the Order and deny the Flynn Petition.

VI. CONCLUSION

WHEREFORE, Range Resources – Appalachia, LLC respectfully requests that and the Pennsylvania Public Utility Commission immediately affirm the Order of the Administrative Law Judge Elizabeth H. Barnes Denying the Petition for Interim Emergency Relief filed by Meghan Flynn, Rosemary Fuller, Michael Walsh, Nancy Harkins, Gerald McMullen, Caroline Hughes, and Melizza Haines on November 20, 2018.

Respectfully submitted,



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