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January 7, 2019

VIA ELECTRONIC FILING

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

Re: Meghan Flynn, et al. v. Sunoco Pipeline L.P.; Docket Nos. C-2018-3006116 and P-2018-3006117; **SUNOCO PIPELINE L.P.'S ANSWER TO AMENDED COMPLAINT**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Sunoco Pipeline L.P.'s Answer to Amended Complaint in the above-referenced proceeding.

If you have any questions regarding this filing, please contact the undersigned.

Very truly yours,

Thomas J. Sniscak
Kevin J. McKeon
Whitney E. Snyder
Counsel for Sunoco Pipeline L.P.

WES/das
Enclosure

cc: Honorable Elizabeth Barnes, ALJ (By email ebarnes@pa.gov and first class mail)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN	:		
ROSEMARY FULLER	:		
MICHAEL WALSH	:		
NANCY HARKINS	:		
GERALD MCMULLEN	:		
CAROLINE HUGHES and	:		
MELISSA HAINES	:		
	:		
Complainants,	:	Docket No.	C-2018-3006116
	:		
v.	:		
	:		
SUNOCO PIPELINE L.P.,	:		
	:		
Respondent.	:		

NOTICE TO PLEAD

TO: Michael S. Bomstein, Esquire
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Philadelphia, PA 19110
mbomstein@gmail.com

Pursuant to 52 Pa. Code §§ 5.62 and 5.63, you are hereby notified that, if you do not file a written response denying or correcting the enclosed Answer to Amended Formal Complaint and New Matter of Sunoco Pipeline L.P., within twenty (20) days from service of this notice, the facts set forth by Sunoco Pipeline L.P. in the New Matter may be deemed to be true, thereby requiring no other proof. All pleadings such as a Reply to New Matter must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served on the undersigned counsel for Sunoco Pipeline L.P.

Respectfully submitted,

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Attorneys for Respondent Sunoco Pipeline L.P.

Dated: January 7, 2019

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN	:		
ROSEMARY FULLER	:		
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	:		
Complainants,	:	Docket No.	C-2018-3006116
	:		
v.	:		
	:		
SUNOCO PIPELINE L.P.,	:		
	:		
Respondent.	:		

**SUNOCO PIPELINE L.P.’S ANSWER AND NEW MATTER TO AMENDED FORMAL
COMPLAINT OF MEGHAN FLYNN, ROSEMARY FULLER, MICHAEL WALSH,
NANCY HARKINS, GERALD MCMULLEN, CAROLINE HUGHES AND MELISSA
HAINES**

Pursuant to 52 Pa. Code § 5.61, Respondent Sunoco Pipeline L.P. (SPLP) answers the Amended Formal Complaint¹ as follows:

A. Denied as stated. SPLP operates the Mariner East 1 (ME1) pipeline to transport natural gas liquids on an inter and intrastate basis from Houston, Pennsylvania and other eastern origins to Pennsylvania destinations terminating at the Twin Oaks and Marcus Hook terminals in Pennsylvania. ME1 was constructed in 1931, but before the pipeline was reversed, ME1 underwent significant upgrades and testing that went above and beyond federal regulations, including over 1,200 integrity repairs and pipe replacements, multiple inline inspections and

¹ The Complaint contains four unnumbered paragraphs titled “Introduction.” SPLP has assigned each of these paragraphs a letter, A-E in order to respond.

hydrostatic pressure testing (hydrotesting), including spike testing in some areas. Notably, an expert retained by West Goshen Township performed an evaluation of the ME1 pipeline in 2015 and concluded that SPLP had utilized important hydrotesting protocols that exceed federal regulatory protocols for ME1, including a spike hydrotest not currently required by pipeline safety regulations. He concluded that SPLP exceeds federal hydrotest regulatory requirements and complied with PHMSA's Advisory Bulletin concerning pipeline reversals (ADB-2014-04). Richard B. Kuprewicz, *Accufacts Mariner 1 Safety Report*, March 6, 2015 (available at <https://www.westgoshen.org/wpfb-file/accufacts-mariner-i-safety-report-pdf/>). It is denied to the extent implied that the ME1 pipeline does not transport products, including propane, to destinations within Pennsylvania. It is denied that SPLP has merely "proposed to construct ME2/2X." The ME2 pipeline is in service and SPLP is continuing to construct the ME2X pipeline.

B. Denied and denied as stated. Denied to the extent implied that the ME2 pipeline will not transport products on an intra-state basis. Denied that SPLP has "cobble[d] together" the 12-inch pipeline referenced. While the 12-inch pipeline was originally constructed in 1937, it has undergone routine maintenance and significant upgrades since that time, including a \$30 million upgrade in 2016 that included multiple inline inspections and hydrotesting to the approximately 24-mile portion of the pipeline segment reversed. The result is an upgraded section of pipe which exceeds the requirements of applicable regulations. For the 12-inch pipeline reversal, SPLP has and will follow all federal pipeline regulations and PHMSA's guidance (PHMSA Advisory Bulletin 2014-0040), which allows and pertains to reversals of pipelines. Notably, an expert retained by West Goshen Township performed an evaluation of the 12-inch pipeline, in November 2018 and concluded that Sunoco meets and exceeds the requirement of federal pipeline safety regulations for this pipeline in the areas of integrity management regulations, design and mainline valve placement, valve actuation, pipeline overpressure protection, pipeline monitoring, control

room procedures, leak detection, and automatic pipeline system shutdown. He also discussed that: age of steel pipe is a poor risk predictor, SPLP has met or exceeded federal hydrotesting requirements in assessing the 12-inch pipeline's integrity, no hydrotesting failures occurred, and a recent ILI run indicated no anomalies requiring timely remediation. Richard B. Kuprewicz, *Accufacts Report on the repurposing of an existing 12-inch Sunoco pipeline segment to interconnect with the Mariner East 2 and Mariner East 2X*, November 8, 2018 (available at <https://www.westgoshen.org/download/Miscellaneous/Accufacts-Final-Report-on-12-inch.pdf>)

It is denied that ME1 and/or the 12-inch pipeline/ME2 pose a risk of injury death, or property damage that is "significantly greater than in the case of non-HVL pipelines."

C. Denied. It is denied that SPLP's Public Awareness Plan or implementation thereof is in violation of any applicable regulation. It is further denied that SPLP's Public Awareness mailings and other information given to the public do not provide "adequate notice of procedures sufficient to ensure the safety of the public." SPLP has adopted a comprehensive public awareness program that includes individual and group meetings, mass mailings, and specialized training programs that raise awareness of the location and presence of SPLP's pipelines, educates the public and emergency responders about what to do and what not to do in the event of a pipeline release, and provides the relevant information for stakeholders to develop emergency response and evacuation plans. *See, e.g.*, SPLP Ex. 31, Public Awareness Plan; *see also* SPLP Ex. 41, J. Perez Presentation (summarizing public awareness plan); N.T. 584:23-607:15 (Perez testimony regarding same). SPLP mailed its most recent public outreach brochures in September 2018 (*see* SPLP Exs. 18-19) to the affected public (residents, businesses, farms, schools, and other places of congregation within 1,000 feet of each side of the pipeline), excavators, public officials, and emergency response organizations. N.T. 590; *see also* SPLP Ex. 41 at 4. These brochures were sent to:

- 40,046 members of the affected public;
- 16,338 excavators;
- 4,384 public officials; and
- 3,301 emergency response organizations.

N.T. 593; SPLP Ex. 41 at 4. SPLP completes this mailing every two years consistent with PHMSA regulations. N.T. 591. Notably, SPLP goes beyond the required 660-foot PHMSA API RP 1162 criteria for public awareness mailings by using a 1,000-foot mailing zone. N.T. 592. The remainder of the allegations herein are denied as conclusions of law to which no response is required.

D. Denied that the PUC has “simply accepted” SPLP’s Public Awareness Program. The Commission specifically asked for, reviewed, and evaluated SPLP’s Public Awareness Plan just this past summer and concluded it was compliant:

The documentary materials provided by Sunoco, on their face, indicate communication to the affected public and stakeholders concerning the Mariner East Pipeline projects. Therefore, we conclude Sunoco has established that it has complied with standard notice procedures of DEP and its internal policies and such procedures, as outlined, comply with the requirements of Ordering Paragraph No. 6.

State Senator Andrew Dinniman v. Sunoco Pipeline L.P., Docket Nos. P-2018-3001453 et al., August 2, 2018 Order at pp. 24-25. The remainder of this paragraph does not contain allegations to which a response is required.

E. Denied. SPLP’s integrity management program was and continues to function in compliance with the law. As discussed at length in response to Paragraph 74, BI&E’s complaint is alleging SPLP’s corrosion control procedures are inadequate, but that is not the case in fact or law. SPLP respectfully submits that BI&E’s complaint misconstrues federal pipeline safety regulations and attempts to create standards that do not exist and then faults SPLP for not following them. That is not a violation of regulation, but instead an impermissible and due-process deficient

attempt to create *de facto* regulations via an adjudication with retroactive effect. *See, e.g., Application of Bucks Cty. Servs., Inc. for the Right to Transp., by Motor Vehicle, Persons Upon Call or Demand Between Points in Fort Washington, Montgomery Cty. & Within an Airline Distance of Twenty (20) Miles Thereof, & from Points in the Said Area to Points Outside the Area & Vice Versa*, A-2015-2511281, 2018 WL 2149250, at *7 (May 3, 2018) (“Impermissible [r]etroactive laws have been defined as those which take away or impair vested rights acquired under existing laws, **create new obligations, impose a new duty**, or attach a new disability in respect to the transaction or consideration already past.”) (emphasis added) (citing *Alexander v. Com of PA, Dept. of Transportation, Bureau of Driver Licensing*, 880 A. 2d 552, 559, 583 Pa. 592, 604-05 (Pa. 2005)).

1. (a). – (g). Denied. After reasonable investigation SPLP is without sufficient information as to the truth of the matters asserted and therefore this paragraph is denied.

2. Admitted in part, denied as stated in part. It is admitted that SPLP is a public utility. The remainder of the allegations of this paragraph are denied as stated. SPLP is a Texas Limited Partnership with its principal place of business in Dallas Texas, although SPLP has an office at 4041 Market Street, Aston, Pennsylvania 19014.

3. This paragraph does not contain allegations to which a response is required.

JURISDICTION

4. Denied as a conclusion of law to which no response is required.

5. Denied as a conclusion of law to which no response is required.

6. Denied as a conclusion of law to which no response is required.

7. Denied as a conclusion of law to which no response is required.

8. Denied as a conclusion of law to which no response is required.

STANDING

9. Denied as a conclusion of law to which no response is required.

10. Denied. After reasonable investigation, SPLP is without knowledge as to whether Complainants are Pennsylvania residents and what Complainants “believe” regarding alleged risk of SPLP’s pipelines and therefore these allegations are denied. By way of further response, Complainants’ non-expert “beliefs” are irrelevant and are legally and factually insufficient as a basis for the relief requested. The remainder of the allegations of this paragraph are denied as conclusions of law to which no response is required.

11. Denied. ME1, the 12-inch pipeline/ME2 are not and will not be operated without required emergency plans and procedures (“adequate emergency notification system or legally adequate emergency management plan”) in place. It is unclear to which emergency plans and procedures this paragraph of the Complaint alludes. To the extent the Complaint claims that SPLP is responsible for developing local, county, or school district emergency plans, this allegation is denied. SPLP works with these entities to provide the necessary information so that these entities can develop their own required plans. SPLP is not and cannot be held responsible for any alleged deficiencies in these entities’ emergency plans. SPLP has a robust public awareness and emergency response plan and goes above and beyond in engaging with affected communities and emergency responders to provide them with the information necessary. *See* Response to Paragraph C, which is incorporated herein as if set forth at length. Denied that Complainants are at “imminent risk of catastrophic and irreparable loss.” By way of further response, Complainants’ attorney admitted at hearing that the integrity of SPLP’s pipelines are not at issue in this proceeding, after the ALJ had consolidated the Petition and Complaint Proceedings, and that admission is binding. The remainder of the allegations of this paragraph are denied as conclusions of law to which no response is required.

12. Admitted.

13. Denied. After reasonable investigation, SPLP is without knowledge as to the truth of the matters asserted and therefore they are denied.

14. Denied. After reasonable investigation, SPLP is without knowledge as to the truth of the allegations in this paragraph and therefore they are denied.

15. Denied as stated. Based on each of the addresses provided in the Complaint, Ms. Flynn lives approximately 2,200 feet from the ME1 right-of-way and 3,000 feet from the ME2 pipeline right-of-way, Ms. Harkins lives approximately 1,200 feet from the pipeline right-of-way, Ms. Haines lives approximately 3,160 feet from the pipeline right-of-way, and Ms. Hughes lives approximately 700 feet from the pipeline right-of-way. The remainder of the allegation of this paragraph concerning whether these residents “might reasonably have to be evacuated in the event of a leak” are too vague, non-specific, hypothetical, and speculative for SPLP to have sufficient information as to the truth of these matters and therefore they are denied.

16. Denied. After reasonable investigation SPLP is without sufficient information as to the truth of the matters asserted and therefore this paragraph is denied.

FACTUAL AVERMENTS

17. Admitted.

18. Admitted.

19. Admitted.

20. Denied as stated. The 12-inch pipeline and ME2 are operational, and transport NGLs through certain high consequence areas.

21. Admitted.

22. Admitted.

23. Denied as stated. HVLs are not odorless and can be detected without specialized equipment. Complainants' allegations regarding movement of HVLs over "long distances while remaining in combustible concentrations" are too vague and non-specific for SPLP to have sufficient information as to the truth of these matters and therefore they are denied.

24. Denied and denied as stated. ME1, the 12-inch pipeline/ME2 run through high consequence areas in Chester and Delaware counties. A high consequence area is a specifically defined term under federal regulations and as such, Complainants' definition is denied. Denied that the products SPLP will ship are not for use by "the public." The Commission has already conclusively established this concept. *See Petitions of Sunoco Pipeline L.P. for findings that buildings to shelter utility facilities are reasonably necessary for the convenience or welfare of the public*, Docket Nos. P-2014-2411941 et al., at 25, 36-38 (Order Oct. 2, 2014). Any argument that SPLP is not a public utility because of the type of product it ships (propane, ethane, butane) has been conclusively rejected. "[P]etroleum products' – is a broad term that includes both propane and ethane" . . . "the undefined term 'petroleum products,' as used in Section 102 of the Code [has] a broad meaning as a 'catch all phrase' to include what would otherwise be an exhaustive list of products." The Commission thus expressly found public utility service encompasses transportation of propane and ethane. Under this broad interpretation, petroleum product likewise undoubtedly includes butane. *Id.* at 38. Any argument that SPLP is not a public utility because it only serves shippers, and not individual retail customers, has been conclusively rejected.

- "The view that Sunoco's services do not constitute public utility services because no retail end-users are specifically identified conflicts with applicable law, including the definition of 'public utility' set forth in Section 102(1)(v) of the Code and our more recent decision the *Laser June 2011 Order*, in which we found that Laser's provision of service as a midstream gathering pipeline operator that transported natural gas from producer wells to an interstate pipeline constituted service "for the public." *Id.*

- "[A] retail component is not a requirement for public utility service." *Id.* (citing numerous cases).

- “[W]hether a service is considered to be offered for the public does not depend on the number of persons who actually use the service. Rather, the determination depends on the service offering and whether the service is available to all members of the public, or a class of the public, who may require the service.” *Id.* at 37.

Denied that the route of the Mariner East pipelines favors high-consequence areas and represents and unnecessary and unacceptable risk to public safety. *See* Response to Paragraph 11 regarding risk, which is incorporated herein as if set forth at length.

25. Denied. After reasonable investigation, SPLP is without information as to the truth of the matters asserted concerning Complainants “beliefs” alleged in this paragraph. Denied that “valve sites for HVL Pipelines are particularly high-risk areas.” By way of further response, in his November 2018 Report, West Goshen’s third-party safety expert debunked allegations regarding the safety and risk of valve sites. He stated:

The dangers and risks of mainline valves in an HVL pipeline are being overstated.

I have found parties trying to prevent the installation of mainline valves on the Mariner East pipelines, declaring that valve installations are unsafe (i.e., adding potential leak sites) in an apparent attempt to stop the Mariner East projects. While I can appreciate the efforts to stop the projects, **claims that valves are unsafe are based on false information and lack of experience that fails to understand and recognize the design, operating, and maintenance requirements, as well as the safety purpose of mainline valves, especially in sensitive locations.** Mainline valves are not the primary level of safety protection on a HVL liquid transmission pipeline to prevent a release, but their installation serves an important role as a last level of protection to reduce the volume of release in the event of a pipeline rupture. Properly designed, installed, and maintained, mainline valves serve an important safety role, if ever needed.

Attachment 1 at 7 (available at <https://www.westgoshen.org/download/Miscellaneous/Accufacts-Final-Report-on-12-inch.pdf>).

26. Admitted in part, denied in part. It is denied that an accident at the referenced valve site “would” endanger large number of restaurant patrons and workers and potentially hundreds of neighboring residences. This allegation is too non-specific, vague, hypothetical, and speculative

for SPLP to have sufficient information as to the truth of these matters and therefore they are denied.

27. Admitted in part, denied in part. After reasonable investigation, SPLP is without sufficient information as to the number of people that inhabit the referenced schools each day and therefore such allegations are denied.

28. Denied and denied as stated. There are locations and valve stations in high consequence areas. It is denied that “a large leak at any location along ME1 or the workaround pipeline has the potential for fatalities, and there are many locations where dozens or hundreds of fatalities could occur” because this statement is too vague, hypothetical, non-specific, and speculative for SPLP to have sufficient information as to the truth of these assertions.

29. Denied as a conclusion of law to which no response is required.

30. Denied as a conclusion of law to which no response is required.

31. Denied as a conclusion of law to which no response is required.

32. Denied as a conclusion of law to which no response is required.

33. Denied as a conclusion of law to which no response is required.

34. Denied as a conclusion of law to which no response is required.

35. Denied as a conclusion of law to which no response is required.

36. Denied. The document attached to the Complaint as Exhibit A is only a portion of SPLP’s 2016 public awareness mailing. It is not SPLP’s “entire plan for the public.” It is not SPLP’s sole emergency response plan. Complainants should be fully aware of this as SPLP’s full public awareness plan has been posted on the Commission’s website since June 22, 2018 when SPLP complied with the Commission’s request to file such plan. SPLP has a robust public awareness program that the Commission has already reviewed, evaluated, and found to be adequate and compliant with regulations. See Response to Paragraphs C and D. By way of further

response, that SPLP's public awareness mailing is consistent across pipelines and consistent with other industry brochures is not a violation of any PHMSA or state regulation or any indication that SPLP's mailing is inadequate. These mailings are intended to be consistent across the industry to avoid confusion to the public, who may receive multiple mailings from various pipeline companies in their area.

37. Admitted in part and denied in part. Denied that the document attached to the Complaint as Exhibit B is SPLP's "earlier version" of its public awareness program. Again, the public awareness program is a much broader plan than the portion of the mailing attached to the Complaint. Moreover, the portion of the mailing attached to the Complaint as Exhibit B is in fact SPLP's 2018 mailing and is only a portion of that mailing.

38. Denied. SPLP's public awareness mailings provide all of the necessary information for the public. Again, the documents referenced are not SPLP's complete public awareness plans or even complete copies of SPLP's public awareness mailings. By way of further response, see response to Paragraphs C and D, which are incorporated herein as a response to each subset of this Paragraph as if set forth in full.

- a. Denied. SPLP's public awareness brochures fully inform the public of how to detect a leak, and very clearly advises the public to move away from the pipeline on foot in the event of a pipeline incident.
- b. Denied. SPLP's public awareness brochures fully inform all members of the public of how to detect a leak – using sight, smell, and sound. That some members of the public may not be able to use some senses does not mean the public has not been adequately informed of how to detect a leak. This would be the same for any emergency requiring evacuation, not just pipeline incidents.

- c. Denied as stated. Determination of which way the wind is blowing does not change regardless of whether a “dangerous leak situation” is occurring. Determination of wind direction is not required to be specifically explained under applicable regulations. Determination of wind direction is simple, common sense observation that does not require explanation.
- d. Denied. SPLP’s public awareness brochures fully inform all members of the public to move away from the pipeline on foot in the event of a pipeline incident. That some members of the public may not be ambulatory does not mean SPLP’s public awareness brochure is inadequate. This would be the same for any emergency requiring evacuation, not just pipeline incidents.
- e. Denied. A “safe area” cannot be predefined for all types of incidents where evacuation would be necessary. This is a determination that the public and emergency responders must make based on the facts, observations, and circumstances in a particular scenario.
- f. Denied. The public is clearly advised to call once a safe location is reached.
- g. Denied. SPLP’s public awareness brochures fully inform all members of the public to move away from the pipeline on foot in the event of a pipeline incident. It is up to emergency responders, based on the facts, observations, and circumstances of a particular incident to determine whether to advise the public to shelter in place in a particular scenario. SPLP has provided emergency responders with the training and knowledge to make this determination.

39. Denied. After reasonable investigation, SPLP is without knowledge as to whether Complainants are Pennsylvania residents and what Complainants “believe” regarding alleged risk of SPLP’s pipelines and therefore these allegations are denied. By way of further response,

Complainants' non-expert "beliefs" are irrelevant and are legally and factually insufficient as a basis for the relief requested. See Response to Paragraph 38, which is incorporated herein as if set forth in full.

40. Denied. See Response to Paragraph 38, which is incorporated herein as if set forth in full.

41. Denied as stated and denied. It is important for the affected public to be provided with the information necessary as to what to do and what not to do in the event of a pipeline incident. SPLP provides that information. Allegations regarding pipelines in other states are irrelevant hearsay assertions and after reasonable investigation SPLP is without sufficient information as to the truth of these assertions and as such they are denied. Denied that SPLP has not provided the public with adequate information. See Response to Paragraph 38, which is incorporated herein as if set forth in full.

42. a.-d. Denied. See responses to paragraph 38, which is incorporated herein as if set forth at length.

43. Denied. The referenced writings are not attached to the Complaint in violation of the Commission's rules of procedure. Said documents speak for themselves and any characterization thereof is denied. Denied that SPLP has not provided school districts with adequate information. By way of further response, see November 1, 2018 Letter from P. Metro to School District Superintendents at 1, see copy attached as Attachment 2.

44. Denied. After reasonable investigation, SPLP is without knowledge what Complainants "believe" and therefore these allegations are denied. By way of further response, Complainants' non-expert "beliefs" are irrelevant and are legally and factually insufficient as a basis for the relief requested. SPLP denies that it does not provide proper public awareness materials. See Responses to Paragraphs C, D, and 38, which are incorporated herein as if set forth

at length. Denied that SPLP “has been intentionally withholding crucial information from the public” including any alleged hazards analysis or its integrity management plan. SPLP provides these materials to agencies with jurisdiction upon request. In fact, SPLP submitted a large portion of its integrity management plan to the Commission in publicly available form in its June 2018 Compliance Filing in the *Dinniman* Proceeding. SPLP has provided the public with all “crucial” information. Portions of SPLP’s integrity management plan are highly confidential documents protected under federal and state law including the Public Utility Confidential Security Information Disclosure Protection Act, 35 P.S. §§ 2141.1 et seq., and the Commission’s corresponding regulations, 52 Pa. Code. §§ 102.1-102.4 (“Security Act.”) and the Freedom of Information Act for reasons that include security issues. SPLP’s decision to keep its integrity management plan and risk assessment confidential and protected from disclosure is not a violation of any law or regulation.

45. Denied. See Responses to preceding paragraphs which are incorporated herein as if set forth at length.

46. Denied. The allegations in this paragraph are from a National Transportation Safety Board report which is not attached to the Complaint in violation of the Commission’s regulation. That document speaks for itself and any characterization thereof is denied. Complainants do not have direct knowledge or the expertise to verify the facts alleged in this paragraph and therefore they are denied. By way of further response, the allegations in this paragraph are irrelevant, scandalous, and should be stricken.

47. Denied. The allegations in this paragraph are from a National Transportation Safety Board report which is not attached to the Complaint in violation of the Commission’s regulation. That document speaks for itself and any characterization thereof is denied. Complainants do not have direct, personal knowledge or the expertise to verify the facts alleged in this paragraph and

therefore they are denied. By way of further response, the allegations in this paragraph are irrelevant, scandalous, and should be stricken.

48. Denied. The allegations in this paragraph are from a National Transportation Safety Board report which is not attached to the Complaint in violation of the Commission's regulation. That document speaks for itself and any characterization thereof is denied. Complainants do not have direct, personal knowledge or the expertise to verify the facts alleged in this paragraph and therefore they are denied. By way of further response, the allegations in this paragraph are irrelevant, scandalous, and should be stricken.

49. Denied. Denied that the events referenced in Paragraphs 46-48 are in any way representative of SPLP's Mariner East pipelines. Denied that there are "many other serious accidents" that are representative of SPLP's Mariner East pipelines.

50. Denied in part and admitted in part. SPLP will notify, *inter alia*, county emergency response agencies in the event of a pipeline related incident. Denied to the extent implied that SPLP does not have proper leak detection measure in place. Denied that SPLP can be held responsible for local emergency response procedures. See Response to Paragraph 11, which is incorporated herein as if set forth in full. SPLP is unable to answer on behalf of Delaware and Chester Counties as to whether each intends to use reverse 911 capabilities and therefore the statement is denied. By way of further response, SPLP provides extensive outreach and training to emergency responders. One component of SPLP's emergency response outreach is "MERO" training, which includes several key elements:

- Information and training on the nature of the materials in the ME1 and ME2 pipelines (N.T. 472-473:1-17);
- The direction that product flows in the pipelines (N.T. 473:18-25, 474:1-9);
- Mapping resources that provide the location of the ME1 and ME2 pipelines, and other pipelines in the area (N.T. 474:10-475:1-5);

- Information on how to detect a release from a pipeline (N.T. 475:6-18);
- Emergency response protocols for both a non-ignition release event and an event where the release is ignited (N.T. 475:194-476:22, 476:25-477:9);
- Identification of danger areas when a release occurs (N.T. 477:10-478:2);
- How emergency responders should assess and respond to a pipeline release (N.T. 478:3-8); and
- The importance of the relationship between the pipeline operator and emergency responders, and that SPLP established those relationships through the MERO training (N.T. 478:19-479:21).

Through its MERO training, SPLP provided the specific information to emergency responders to enable them to develop a pre-incident emergency plan. N.T. 479:22-480:5, 486:3-18.

51. Admitted. By way of further response, see Response to Paragraph 50, which is incorporated herein as if set forth in full.

52. Denied. SPLP is unable to answer on behalf of Delaware and Chester Counties as to the allegations set forth herein and as such they are denied. By way of further response, see Response to Paragraph 50, which is incorporated herein as if set forth in full.

53. Denied as stated. Again, SPLP is unable to answer on behalf of all first responders, and as such, the allegations in this paragraph are denied. See Response to Paragraph 50, which is incorporated herein as if set forth in full. By way of further response, SPLP gives local emergency responders all of the tools necessary for emergency response plans. Many counties, including both Chester and Delaware, have programs where individuals with mobility or other issues can register with the County so that emergency responders are aware of the need to assist with evacuation.

54. Denied. Allegations regarding “the probable blast zone and/or evacuation zone of Mariner East” are too vague and non-specific for SPLP to have sufficient information as to the truth of these allegations and as such they are denied. SPLP is without knowledge as to what Complainants “believe” regarding Complainants’ proximity to SPLP’s pipelines and therefore

these allegations are denied. Denied that it is appropriate to refer to or characterize any area as a “probable blast zone” because such phrase relies on Complainants’ alleged worst-case scenario with no reference to or evidence of the probability of such event occurring. By way of further response, Complainants’ non-expert “beliefs” are irrelevant and are legally and factually insufficient as a basis for the relief requested. Moreover, PHMSA regulations expressly provide for the ability to locate pipelines in High Consequence Areas so long as applicable requirements are met. SPLP meets or exceeds applicable requirements. The location of SPLP’s pipelines is not “unsafe.”

55. Denied. The allegations contained in this paragraph are too vague, hypothetical, speculative and non-specific for SPLP to have the information required as to the truth of these allegations and as such they are denied. By way of further response, PHMSA regulations expressly provide for the ability to locate pipelines in High Consequence Areas so long as applicable requirements are met. SPLP meets or exceeds applicable requirements. The location of SPLP’s pipelines is not unsafe.

56. Denied. See Responses to Paragraphs 50-55, which are incorporated herein as if set forth at length.

57. Denied. After reasonable investigation, SPLP is without information as the truth of the allegations concerning the age of Complainants’ homes and therefore these allegations are denied. SPLP is likewise without knowledge as to what Complainants “believe” regarding the risk of SPLP’s pipelines and therefore these allegations are denied. By way of further response, Complainants’ non-expert “beliefs” are irrelevant and are legally and factually insufficient as a basis for the relief requested. Denied that risk of leak or rupture of SPLP’s pipelines has increased. SPLP has taken all required steps to ensure the safety and integrity of its pipelines. See Response to Paragraphs A, B, and E which are incorporated herein as if set forth in full.

58. Denied. Again, the allegations of this paragraph are too vague, speculative, hypothetical, and non-specific for SPLP to have the information necessary as to the truth of these allegations and therefore they are denied.

59. Denied. Again, the allegations of this paragraph are too vague, speculative, hypothetical, and non-specific for SPLP to have the information necessary as to the truth of these allegations and therefore they are denied.

60. Denied. After reasonable investigation, SPLP is without knowledge as to what Complainants “believe” regarding the risk of SPLP’s pipelines and therefore these allegations are denied. By way of further response, Complainants’ non-expert “beliefs” are irrelevant and are legally and factually insufficient as a basis for the relief requested. Denied that SPLP has exposed Complainants to “an immediate risk of permanent injury, death, or property damage” from operation of its pipelines.

61. Admitted in part, denied in part. The testimony of Mr. Zurcher speaks for itself and any characterization thereof is denied. Admitted that SPLP’s integrity management program is adequate and conforms to industry standards.

62. Admitted as an accurate quotation of a portion of Mr. Zurcher’s testimony.

63. Admitted in part, denied in part. The testimony of Mr. Martin speaks for itself and any characterization thereof is denied. The portions of testimony quoted are admitted as accurate quotations.

64. Denied and denied as stated. The testimony of Mr. Martin speaks for itself and any characterization thereof is denied. By way of further response, SPLP x-rays 100% of the welds for new construction and 100% of the welds for updates to previously installed pipelines.

65. Admitted in part, denied in part. Admitted that SPLP's Mariner East 1 pipeline experienced a pinhole leak on April 1, 2017 and that a landowner first reported this incident. The allegations regarding Mr. Shields' statements are denied.

66. Denied and denied as stated. SPLP's PHMSA Accident Report referenced speaks for itself and any characterization thereof is denied. Denied that the pipeline "failed at least three different ways." SPLP performed all required tests on this segment of pipeline.

67. Admitted in part, denied in part. The testimony of Mr. Martin speaks for itself and any characterization thereof is denied. The portions of testimony quoted are admitted as accurate quotations.

68. Admitted in part, denied as stated in part. It is admitted only that on September 10, 2018 ETP's 24-inch natural gas Revolution Pipeline experienced an incident, that certain property was damaged, and no fatalities occurred. All characterizations of such incident in this paragraph by Complainants are denied. By way of further answer, the news article cited herein is inadmissible hearsay and any allegations contained therein and characterization thereof are therefore denied and may not be relied upon by the Commission.

69. Denied. SPLP does not own or operate the pipeline referred to.

70. Denied. The news article cited herein is inadmissible hearsay and any allegations contained therein and characterization thereof are therefore denied and may not be relied upon by the Commission. Moreover, such articles are not even attached to the Amended Complaint in violation of the Commission's rules of procedure. Allegations related to other pipelines in other states are irrelevant to the issues here, as the Commission found in rejecting the same type of allegation and argument in its decision and order in *State Senator Andrew Dinniman v. Sunoco Pipeline L.P.*, Docket Nos. P-2018-3001453 et al.

71. Admitted in part, denied in part. Admitted only that a landslide may have been the cause of the referenced incident. Denied that SPLP's witness Mr. Zurcher was "ignorant of the geological underpinnings of key pipeline failures." Mr. Zurcher's testimony speaks for itself and Complainants' mischaracterizations based on their own ignorance thereof are denied. By way of further answer, the news article cited herein is inadmissible hearsay and any allegations contained therein and characterization thereof are therefore denied and may not be relied upon by the Commission. By way of yet further response, after reasonable investigation, SPLP is unable to determine what Complainants' vague reference to "such incidents" is intended to refer to, and after reasonable investigation is without knowledge as to the truth of these allegations and therefore they are denied.

72. Denied. Mr. Zurcher's testimony speaks for itself and all characterizations thereof are denied.

73. Denied. As to SPLP's integrity management program, see response to paragraph 74, which is incorporated herein as if set forth at length. Regarding the alleged "5% detection rate" this allegation is too vague, speculative, hypothetical, and non-specific for SPLP to have knowledge necessary as to the truth of this allegation and therefore it is denied. Denied that SPLP only monitors its pipelines for leaks via a drop in pressure. Denied that SPLP can only detect leaks greater than 1.5%-2% of the daily flow of the pipeline. Denied that the public is the "primary detection source for leaks." In further Answer thereto, SPLP submits that the public, consistent with PHMSA regulations, is one factor of the leak detection equation.

74. Admitted in part, denied in part. Admitted only that BI&E filed the referenced complaint. Complainants cannot merely incorporate all the averments of that complaint here by reference as Complainants in their Amended Complaint have demonstrated a legally defective lack of knowledge, investigation, and verification of said alleged facts. Accordingly, this allegation of

the Amended Complaint is not properly and legally pled. SPLP will fully respond to the BI&E Complaint when necessary. SPLP’s refusal to essentially answer another entire complaint within the context of one paragraph of this Amended Complaint is not and cannot be a waiver of SPLP’s right to answer the BI&E Complaint in full. By way of further response, SPLP denies any alleged violation of state or federal law raised in the BI&E Complaint. By way of yet further response, SPLP respectfully submits the BI&E Complaint is simply wrong on the facts and the law when it alleges SPLP violated pipeline safety regulations. While the BI&E Complaint alleges SPLP violated a regulation, SPLP submits the plain terms of the regulation do not require the actions SPLP is faulted for allegedly not taking. BI&E’s interpretation of what it wants the regulations to require is neither the law nor a regulation. Further, SPLP cannot be faulted for not meeting criteria BI&E is trying to impose after the fact as essentially a retroactive rulemaking via an adjudication that sets new standards or requirements upon pipelines carrying HVLs. That approach violates due process and the law governing promulgation of regulations.

For example, in Counts 1-5, BI&E alleges that SPLP violated 49 C.F.R. 195.571 regarding criteria for adequate cathodic protection, but BI&E misconstrues the law to create a violation that does not exist:

I&E Allegation	SPLP Response
Pipe-to-soil potentials did not meet at least -850mV	Under federal regulations, this is not the only criteria by which to measure adequacy of cathodic protection consistent with NACE SP0169-2007 at § 6.2.2.2 and SPLP O&M Procedures in effect at the time of the inspection. In fact, NACE SP0169-2007 at § 6.2.2.2, incorporated into the PHMSA regulations, expressly provides: “It is not intended that persons responsible for external corrosion control be limited to the criteria listed below.”
SPLP utilized side drain measurements without considering the precautionary note in NACE SP0169-2007 at § 6.2.2.3.1	SPLP did consider the precautionary note consistent with SPLP O&M Procedures in effect at the time. SPLP analyzed and documented that the testing it used, taken together, demonstrated that net protective

	current was flowing toward both lines from the north and south, since the lines share the same CP system(s), any CP current accumulated on either line will remain on that line as it returns to its source, and there would not be a current exchange between the lines through the soil, as the resistance of the electrolyte to the pipe surface is much greater than the resistance of the metallic path through the pipe itself.
SPLP did not perform ILI testing on an annual basis	Regulations do not require annual ILI testing. There is no annual ILI requirement in 49 C.F.R. Part 195. ILI comparisons are one of several data sets (along with bimonthly rectifier inspections, annual test station surveys, net protective current measurements, CIS, CP coupons, etc.) used to verify the effectiveness of cathodic protection.
SPLP did not use any other criteria to determine the adequacy of cathodic protection	SPLP did conduct other tests to evaluate the cathodic protection status where necessary, consistent with its procedures in place at the time.

Likewise, in Counts 6-9, BI&E misconstrues and would misapply 49 C.F.R. Part 195.402, which requires pipeline operators to have in place corrosion control procedures. SPLP did have adequate and compliant procedures in place in its O&M manual, which referenced the NACE standards. In some instances, SPLP also used Scope of Work documents to supplement its O&M procedures for specific tasks. Review of 195.402 shows there are not prescriptive standards of what details must be contained in an O&M manual. BI&E cannot fault SPLP for not doing something SPLP was not required to do by regulation.

In Counts 10-11, BI&E alleges SPLP violated Part 195.573(a) for failure to adequately monitor corrosion control in that SPLP allegedly did not conduct tests at least once each calendar year. But SPLP did conduct required tests, including bi-monthly rectifier inspections and output measurements and annual test station pipe-to-soil potential measurements. BI&E also alleges SPLP failed to identify circumstances in which a Close Interval Potential Survey (CIPS) is practicable and necessary within two years after installing cathodic protection. This is incorrect. SPLP's manual provides SPLP will create a list of segments where CIPS should be utilized and

where such testing is not practical and necessary the list will document the reasons. SPLP created and maintains this list.

In Counts 12-13, BI&E alleges SPLP violated Part 195.573(e) for failing to correct identified corrosion control deficiency. But, the alleged “deficiency” is only indicated by one of the allowable criteria. The criteria SPLP used, consistent with federal regulations, showed adequate cathodic protection levels were met. Likewise, BI&E alleges the results of a 2017 ILI inspection indicated metal loss, which indicates active corrosion. However, just because metal loss was measured in 2017 does not mean there was active corrosion or inadequate cathodic protection at that time. SPLP compared several consecutive ILI reports with cathodic protection data to look for areas of consistent corrosion growth or new areas of corrosion, consistent with its O&M Procedure.

In Count 14, BI&E alleges inadequate recordkeeping. SPLP’s O&M procedures are consistent with federal regulations for maintaining corrosion control information.

Finally, in a catchall, duplicative count, BI&E alleges SPLP failed to demonstrate that its pipeline operates at a level of safety required by federal pipeline safety regulations because SPLP allegedly failed to demonstrate the adequacy of its cathodic protection system on ME1. The ME1 pipeline system has operated and continues to operate safely. While BI&E may not prefer the procedures SPLP used and prefer its preferences to SPLP’s legitimate exercise of what the Pennsylvania Supreme Court has recognized as the doctrine of “managerial discretion,”² that does

² *National Fuel Gas Distribution Corp. v. Pennsylvania Pub. Util. Comm’n*, 464 A.2d 546, 559 (Pa. Cmwlth. 1983) (“utility management is in the hands of the utility and the Commission may not interfere with lawful management decisions). The Commission itself has recognized this concept. For example, *Pa. PUC v. PECO*, 74 Pa. PUC 1, 21 (1989):

The PUC’s authority to review the internal management decisions of a utility company in a proceeding is limited. It may not interfere with such decisions unless it finds an abuse of the utility’s managerial discretion. . . . Such abuse must be determined on the basis of what the utility’s management knew or should have known at the time of the decision at issue. Judgment by hindsight is prohibited.

not mean SPLP violated the law, any regulation, or that its pipeline is unsafe. SPLP respectfully submits BI&E's Complaint mischaracterizes federal pipeline safety regulations and is contrary to and in conflict with the nature of performance based regulations. Unlike many agencies that use prescriptive regulatory standards where 'one size fits all,' PHMSA's regulations promulgated pursuant to the Pipeline Safety Act are performance based, intended to establish minimum safety standards that are then tailored to individual systems. Each operator is required under the regulations to prepare a variety of manuals, specific to its own system, in a manner that will meet or exceed the minimum federal standards. Those manuals, in turn, become enforceable by PHMSA. *See e.g., Interpretation Letter from J. Caldwell, Director, OPS to H. Garabrant (April 22, 1974)* ("the procedures of an operating and maintenance plan are as binding on the operator as the federal standards").

Rather than telling operators what to do, the regulations tell them what level of safety to achieve. [...] There is tremendous variation between pipeline operators and between pipeline facilities. In order for one set of regulations to be comprehensive in scope, it would have to be quite lengthy and detailed. It would have to prescribe what operating, maintenance and emergency procedures are appropriate for all conceivable scenarios. The performance-based regulations reject this approach. They tell operators what level of safety must be achieved but do not spell out all of the steps necessary to get there.

Final Order, In re: Kanab Pipe Line, CPF No. 53509 (Feb. 26, 1998). BI&E's Complaint essentially tries to mandate retroactively its internal preferences that SPLP simply was not required to undertake per the regulations. Not following BI&E's after-the-fact and prescriptive newly proposed rules is not a violation of any regulation. By way of further Answer, proposing new rules and retroactively applying them and imposing retroactive fines patently violates due process and is an end-run around the legal process for establishing "binding norms" – notice and comment rulemaking, which may only be done by following the Pennsylvania regulation promulgation

process set forth in Pennsylvania's Commonwealth Documents Law and the Regulatory Review Act.

75. Denied. The BI&E Complaint is a document that speaks for itself and any characterization thereof is denied.

76. Admitted in part, denied as stated in part. SPLP's independent third-party industry experts performed the lab analysis, not by internal SPLP personnel. By way of further response, the analysis concluded that microbiologic induced corrosion (MIC) may have contributed to the corrosion that was observed. SPLP has addressed that condition under its Integrity Management Plan and Corrosion Prevention Plan.

77. Admitted.

78. Denied. BI&E does not make binding determinations for the Commission. Instead, BI&E alleges and makes conclusions for the complaint litigation. It is denied that SPLP's cathodic protection readings were "subpar," regardless of BI&E's allegations. It is denied that SPLP did not properly assess cathodic protection on the line, regardless of BI&E's allegations. Regarding Complainants' assertions of missing "relevant" information, this is a vague, non-specific characterization of the BI&E Complaint, of which Complainants have no firsthand knowledge or expertise to opine, and as such it is denied.

79. Admitted in part, denied in part. Admitted that in 2016 SPLP ran an ILI test that did not produce data and that this test included Morgantown. Admitted that SPLP ran an ILI test in 2017. Admitted that metal loss was measured in 2017. Denied that metal loss proved the presence of active corrosion. Metal loss features from an ILI report do not indicate that there is inadequate cathodic protection on the line or active corrosion; rather, it indicates that there was corrosion on the line at one isolated point that could have been indicative or historic corruptions, which has now been addressed and remedied.

80. Denied. Again, the BI&E Complaint speaks for itself and Complainants' characterizations thereof are denied. Denied that it is has been "found" that SPLP's procedures pertaining to corrosion control violate federal standards; rather BI&E makes an allegation to which SPLP disagrees in both fact and law. Denied that SPLP's procedures violate federal standards. Denied that there is a statewide concern with SPLP's corrosion control program and the soundness of SPLP's engineering practices regarding cathodic protection.

81. Denied. See responses to paragraphs 74-80, which are incorporated herein as if set forth at length. Denied to the extent implied that SPLP's witnesses have given false testimony.

82. Denied. The referenced document speaks for itself and any characterization thereof is denied. The referenced report is not attached to the Complaint, in violation of the Commission's rules and regulations governing pleading and litigation. Moreover, the report is hearsay and Complainants, all of whom are non-experts, cannot rely on or verify the contents of said report, cannot render opinions as they are not experts, and their allegations regarding such report are insufficient to obtain the relief requested.

83. Denied. See response to paragraph 82, which is incorporated herein as if set forth in full.

84. Denied. After reasonable investigation, SPLP is without knowledge as to the truth of the hearsay allegations concerning what the Chester County Department of Emergency Services allegedly calculated. The reference email speaks for itself and any characterization thereof is denied.

85. Denied. The document reference speaks for itself and any characterization thereof is denied. By way of further response, the complete context of the quoted language provides:

The benefit of preventing an injury or fatality is measured by what is conventionally called the Value of a Statistical Life (VSL), defined as the additional cost that individuals would be willing to bear for improvements in safety (that is, reductions in risks) that, in

the aggregate, reduce the expected number of fatalities by one. The value of a statistical life is a critical factor in evaluating the benefits of transportation infrastructure investment and rulemaking initiatives. Reduction of injuries and fatalities *in passenger or freight transportation is a major purpose of investments, and rules that slow travel may sometimes enhance safety*. As the Department expands its use of *benefit-cost analysis in evaluating competitive funding applications under such programs as the TIGER Grant program and the High-Speed Intercity Passenger Rail program*, it is essential to have appropriate, well-reasoned guidance for valuing safety benefits.

(emphasis added). U.S. Department of Transportation, "*Revised Departmental Guidance on Valuation of a Statistical Life in Economic Analysis*", August 8, 2016, available at: <https://www.transportation.gov/officepolicy/transportation-policy/revised-departmental-guidance-on-valuation-of-a-statistical-life-ineconomic-analysis>. As cited, Complainants are attempting to cherry-pick their desired outcome from a non-adjudicatory and unrelated federal agency guidance on internal investment and rulemaking initiatives; not adjudicatory analyses. The purpose of the *Revised Departmental Guidance* is for internal evaluations to prepare economic analyses in some rulemaking initiatives "to evaluate in monetary terms the costs and benefits of their regulations, investments, and administrative actions, in order to demonstrate the faithful execution of their responsibilities to the public." U.S. Department of Transportation "Revised Departmental Guidance 2016: Treatment of the Value of Preventing Fatalities and Injuries in Preparing Economic Analyses," August 8, 2016. Available at: <https://www.transportation.gov/officepolicy/transportation-policy/revised-departmental-guidance-on-valuation-of-a-statistical-life-ineconomic-analysis>. This document is irrelevant to the Complaint, the Commission's jurisdiction, and has no bearing on SPLP or its conduct.

86. Denied as stated. See Response to paragraph 85 which is incorporated herein as if set forth at length. By way of further response, the "Revised Department Guidance 2016: Treatment of the Value of Preventing Fatalities and Injuries in Preparing Economic Analyses"

indicates that the value of a statistical life for the purposes of economic analyses in rulemaking initiatives was \$9.6 million. *Id.*

87. Denied. The “risk assessment” speaks for itself and any characterization thereof is denied. By way of further response, see Responses to paragraphs 85 and 86 which are incorporated herein as if set forth at length. It is denied that the “value of a statistical life” is appropriate for use in an adjudication and outside of internal rulemaking initiatives by the Federal Department of Transportation.

88. Denied as legal and hypothetical conclusions without foundational basis to which no response is required. See Responses to paragraphs 85 -87 which are incorporated herein as if set forth at length.

89. SPLP incorporates herein its answers to the preceding paragraphs as if set forth fully at length.

90. Denied. See responses to Paragraphs 54-55, 57, and 60 which are incorporated herein as if set forth in full.

91. Denied. After reasonable investigation, SPLP is without knowledge as to what Complainants “believe” regarding SPLP’s pipelines and therefore these allegations are denied. By way of further response, Complainants’ non-expert “beliefs” are irrelevant and are legally and factually insufficient as a basis for the relief requested.

92. Denied. SPLP’s public awareness plan, as the Commission has already determined, is adequate and compliant with applicable regulations. See Response to Paragraph C, which is incorporated herein as if set forth in full.

93. Denied. Allegations regarding standing are denied as conclusions of law to which no response is required. Denied that SPLP’s alleged “act or omissions” “endanger” Complainants.

94. Denied. Again, the allegations of this paragraph are too vague, speculative, hypothetical, and non-specific for SPLP to have the information necessary as to the truth of these allegations and therefore they are denied.

95. Denied. Denied that failure to review SPLP's public awareness program will result in the alleged losses to Complainants. The Commission has already reviewed SPLP's public awareness program and found it to be adequate and compliant with applicable regulations. By way of further response, Commission review of SPLP's public awareness program has no factual, legal, or logical link to shutting down SPLP's pipelines. By way of further response, see Response to Paragraphs C and D, which are incorporated herein as if set forth in full.

96. Denied as a conclusion of law to which no response is required. By way of further response, see Response to Paragraphs C and D, which are incorporated herein as if set forth in full.

WHEREFORE, SPLP requests Count I of the Complaint be dismissed.

97. SPLP incorporates herein its answers to the preceding paragraphs as if set forth in full.

98. Denied as a conclusion of law to which no response is required.

99. Denied as a conclusion of law to which no response is required.

100. Denied that SPLP has not created a legally compliant public awareness program. See Response to Paragraphs C, D, and 38, which are incorporate herein as if set forth fully at length. The remainder of the allegations of this paragraph are denied as a conclusion of law to which no response is required.

WHEREFORE, SPLP requests Count II of the Complaint be dismissed.

101. SPLP incorporates herein its answers to the preceding paragraphs as if set forth in full.

102. Denied as a conclusion of law to which no response is required.

103. Denied as a conclusion of law to which no response is required.

104. Denied as a conclusion of law to which no response is required. By way of further response, it is denied SPLP's integrity management does not comply with PHMSA regulations or that BI&E's allegations constitute "confirmation" that SPLP has not complied with PHMSA regulations. Denied that Complainants vague and non-specific allegations regarding notices of probable violations and "additional incidents" indicate failure to comply with PHMSA regulations.

105. Denied. SPLP does not have "reckless integrity management practices." Denied that SPLP's integrity management program or practices are non-compliant with 52 Pa. Code § 59.33.

106. Denied. Complainants have not alleged any facts regarding the probability or "risk" of "a Mariner East accident" and therefore such alleged "risk" shows nothing. Regardless, SPLP complies with any applicable regulations.

107. Denied as stated. Denied that the accidents alleged are in any way relevant to this proceeding or SPLP's pipelines at issue here. Denied that any conclusions can be made from the referenced accidents and applied to draw conclusions related to SPLP's pipelines at issue here.

108. Denied. See Responses to paragraphs 85 -88 which are incorporated herein as if set forth at length.

109. Denied. Complainants have not alleged any facts regarding the probability or "risk" of "such an accident" and therefore such alleged "risk" shows nothing.

110. Denied. Denied that Complainants' hyperbole that SPLP's pipelines pose a "catastrophic threat to life and property" or that the Commission must consider such hypothetical, unsupported allegation of risk. The remainder of the allegations herein are denied as conclusions of law to which no response is required.

WHEREFORE, SPLP requests Count III of the Complaint be dismissed.

111. SPLP incorporates herein its answers to the preceding paragraphs as if set forth in full.

112. Denied as a conclusion of law to which no response is required.

113. Denied as a conclusion of law to which no response is required.

114. Denied as a conclusion of law to which no response is required. By way of further response, Complainants set forth in this paragraph yet another inaccurate statement of the law. Contrary to Complainant's statement, 49 C.F.R. Part 195.452 (i) actually requires an operator to take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. "These measures include conducting a risk analysis of the pipeline segment to identify additional actions to enhance public safety or environmental protection. Such actions may include, but are not limited to, implementing damage prevention best practices, better monitoring of cathodic protection where corrosion is a concern, [...]" *Id.* (emphasis added).

115. Denied as a conclusion of law to which no response is required.

116. Admitted in part, denied as stated in part. Denied that SPLP merely claims to have an integrity management plan and risk assessment. In fact, SPLP maintains a robust integrity management plan program that it has implemented on these pipelines where they are in or near high consequence areas. It has been reviewed and inspected by PHMSA and the PA PUC. The program is annually reviewed and updated as appropriate. SPLP's integrity management plan does include a risk analysis for the pipeline segments at issue, which is likewise annually reviewed and updated. Admitted that SPLP does not share all portions of its integrity management plan with the entire public. By way of further response, SPLP cannot provide such materials to the public due to federal and state security laws, including the 'The Public Utility Confidential Security Information Disclosure Protection Act (35 P.S. §§ 2141.1 to 2141.6) and the PUC's regulations implementing such Act at 52 Pa. Code §§ 102.1 – 102.4 and the Freedom of Information Act for

reasons that include security issues. By way of further response, SPLP does provide pertinent information with emergency responders as appropriate.

117. Denied as conclusions of law to which no response is required. By way of further response, SPLP maintains a robust integrity management plan program that it has implemented on these pipelines where they are in or near high consequence areas. It has been reviewed by PHMSA and the PA PUC. The program is annually reviewed and updated as appropriate. SPLP's integrity management plan does include a risk analysis for the pipeline segments at issue, which is likewise annually reviewed and updated. By way of further response, SPLP employs prevention and maintenance measures targeted to the specific risk profiles of each pipeline segment. The risk analysis and P&M measures are annually reviewed and updated as appropriate

118. Denied. After reasonable investigation, SPLP is without knowledge as to what Complainants "believe." By way of further response, Complainants' non-expert "beliefs" are irrelevant and are legally and factually insufficient as a basis for the relief requested. Denied that BI&E has alleged the 12-inch pipeline "must be evaluated more closely." The BI&E Complaint speaks for itself and any characterization thereof is denied. Denied that SPLP cannot "be entrusted with the responsibility to evaluate its own pipelines." As an operator, SPLP is required to and does just that. Denied that only an independent contractor "can possibly be expected to conduct a remaining life study of the pipelines at issue." By way of further response, there is absolutely no legal requirement to conduct a "life-study" of a pipeline. That is not an industry standard study, nor is it required by statute or regulation and is contrary to the approach for pipeline integrity employed under PHMSA's regulations. Instead, compliance with PHMSA rules establish and confirm a pipelines fitness for service and pipeline integrity. Industry experts note that a pipeline's age does not necessarily impact its integrity and ability to operate safely. As West Goshen Township's independent pipeline safety expert has explained:

Age of steel pipe is a poor risk predictor. As mentioned in previous reports, pipe steel, even pipe steel manufactured over 80 years ago, does not age or wear out like some older materials such as cast or wrought iron that can be “age” sensitive. Pipe steel has essentially an infinite life if properly maintained and operated within its design parameters, and periodically assessed as to its integrity.

Richard B. Kuprewicz, *Accufacts Report on the repurposing of an existing 12-inch Sunoco pipeline segment to interconnect with the Mariner East 2 and Mariner East 2X*, November 8, 2018 (available at <https://www.westgoshen.org/download/Miscellaneous/Accufacts-Final-Report-on-12-inch.pdf>). The types of pipeline safety issues raised in the Amended Complaint are precisely what a system integrity management program is intended to address under PHMSA rules, and SPLP’s integrity management program already does just that. By way of further response, any requirement to perform a life of pipe study or identify an end of service date would preempted by the federal Pipeline Safety Act, 49 U.S.C. § 60104(c), where it is not compatible with PHMSA minimum standards.

WHEREFORE, SPLP requests Count IV of the Complaint be dismissed.

NEW MATTER

119. Pursuant to 52 Pa. Code § 5.62(b), SPLP sets forth the following affirmative defenses: failure to state a claim for which relief can be granted, issue and claim preclusion, and collateral attack, Complainant's lack of standing outside of their locations in Chester and Delaware Counties, lack of Commission jurisdiction over non-public utility entities, lack of standing to pursue issues related to BI&E's complaint, federal preemption, estoppel, and laches.

120. The Complaint should be dismissed because it fails to state a claim on which relief can be granted.

121. The Complaint makes various assertions regarding SPLP's location and operations of its pipelines and operations of pipelines generally. However, that a reportable incident or leak may occur or that SPLP's pipelines are located in some areas that are High Consequence Areas does not mean SPLP has violated any law or regulations.

122. Moreover, the pipeline safety requirements that SPLP must follow are that prescribed by PHMSA at 49 CFR Part 195. 52 Pa. Code § 59.33(b). SPLP is in compliance with those regulations and the Commission cannot arbitrarily penalize SPLP or make additional requirements inconsistent with these regulations. Federal regulations preempt Commission action regarding PHMSA regulations. This is especially true as to a portion of the relief the Amended Complaint now seeks – a remaining life study of ME1. No such studies are considered or required under the applicable regulations, and the Commission is preempted from mandating inconsistent requirements from federal law.

123. Regarding SPLP's reversal and conversion of a segment of its 12-inch pipeline, there is no requirement that SPLP obtain regulatory approval. The 2014 PHMSA document that the Complaint relies upon, PHMSA Advisory Bulletin 2014-0040, Pipeline Safety: Guidance for Pipeline Flow Reversals, Product Changes and Conversion to Service, is not a regulation, but

instead is guidance. It has no binding effect and cannot have the force of law. Nonetheless, SPLP has followed this guidance in implementing reversal and product change and BI&E has inspected SPLP against this guidance.

124. Likewise, the Commission has already found in its August 2, 2018 Order in *Dinniman v. Sunoco Pipeline*, Docket No. P-2018-3001453, et al., that SPLP has sufficient emergency response procedures and public outreach plans.

125. Complainants' claims are barred by issue and claim preclusion and prior Commission Orders, and are an improper collateral attack on prior orders and determinations of the Commission.

126. Complainants lack standing to bring claims outside of their geographic area where standing is claimed. Complainants make multiple allegations with no factual averments connecting such allegations to the locations for which they claim standing.

127. The Commission only has jurisdiction over Public Utilities, and the allegations against emergency response agencies' alleged actions or lack thereof are improper.

128. Complainants lack standing to pursue claims BI&E has raised in its complaint against SPLP regarding the Morgantown 2017 incident. Complainants do not have standing to enforce pipeline safety laws regarding events that had no effect on them.

129. Complainants are estopped from raising issues regarding integrity in this proceeding. At hearing, counsel for Complainants admitted, after the Petition and Complaint were consolidated, that integrity is not at issue in this proceeding. That admission is binding on Complainants. *See, e.g., Sule v. W.C.A.B. (Kraft, Inc.)*, 121 Pa. Cmwlth. 242, 245, 550 A.2d 847, 849 (1988) ("It is well settled that an admission of an attorney during the course of a trial is binding upon his client."); *Marmo v. Com., Dep't of Transp.*, 121 Pa. Cmwlth. 191, 195–96, 550 A.2d 607, 609 (1988). Complainants cannot now attempt to raise integrity as an issue here.

130. Complainants claims regarding the location of SPLP's pipelines are barred by laches.

WHEREFORE, SPLP respectfully requests the Formal Complaint be dismissed with prejudice for the reasons stated herein, that the Commission assess costs and counsel fees, and that the Commission grant such other and further relief as it deems just and proper.

Respectfully submitted,



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Attorneys for Respondent Sunoco Pipeline L.P.

Dated: January 7, 2019

Sunoco Pipeline L.P.'s Attachment 1

Accufacts Inc.

“Clear Knowledge in the Over Information Age”

8151 164th Ave NE
Redmond, WA 98052
Ph (425) 802-1200
kuprewicz@comcast.net

Date: November 8, 2018

**To: Mr. Casey LaLonde
Township Manager
West Goshen Township
1025 Paoli Pike
West Chester, PA 19380-4699**

Re: Accufacts report on the repurposing of an existing 12-inch Sunoco pipeline segment to interconnect with the Mariner East 2 and Mariner East 2X crossing West Goshen Township

1. Introduction

Accufacts Inc. (“Accufacts”) was asked to assist West Goshen Township (“WGT”) in evaluating a recent Energy Transfer Partners/Sunoco Pipeline L.P. (“Sunoco”) proposal to repurpose an existing Sunoco 12-inch liquid transmission pipeline to serve as an interconnection to begin moving propane and butane eastward on the completed western portion of the Mariner East 2 (“ME 2”) and completed eastern segment of Mariner East 2 Expansion (“ME 2X”) pipelines (“Repurpose Project”).¹ Remaining portions of the yet to be completed ME 2 and ME 2X have run into unexpected challenges and delays in allowing their full project installations. It should be noted that the 12-inch pipeline segment involved in the Repurpose Project will be returned to its previous refined product (i.e., gasoline, jet fuel, and diesel) service once the ME 2 and ME 2X projects are fully installed.

This Accufacts evaluation focuses on the repurposed 12-inch segment that could directly impact WGT and follows a similar evaluation process utilized for the ME 1 and ME 2 pipelines crossing WGT.² My evaluation follows a process safety management “system” approach focused mainly on the 12-inch pipeline spanning WGT. This includes validating pipeline integrity, possible threat evaluation to the specific pipeline, the pipeline’s design and

¹ A third expansion project after ME 1 and ME 2 was initiated by Sunoco as a new 16-inch pipeline to carry additional HVLs eastward, beyond that supplied via ME 1 (8-inch) and ME 2 (20-inch), and is now renamed ME 2X.

² Accufacts public reports to WGT Township Manager, Mr. Casey LaLonde, “Accufacts Report on Mariner East Project Affecting West Goshen Township,” dated March 6, 2015, and “Accufacts Report on Mariner East 2 Expansion Project Affecting West Goshen Township,” dated January 6, 2017.

operation, and other system equipment beyond WGT such as mainline valve placement/actuation, control room remote release detection and monitoring, as well as automatic and emergency shutdown and response planning. As discussed further below, the 12-inch pipeline meets or exceeds federal pipeline safety regulations for HVL liquid transmission pipeline service. Additional observations as they relate to the Repurpose Project's 12-inch pipeline, are discussed below.

Accufacts provides specialized technical and safety expertise in pipeline siting, design, operation/maintenance, emergency response, and regulatory requirements, especially as it relates to HVLs, a category of liquids given special definition and regulation in the federal pipeline safety regulations.³ Accufacts assisted WGT's legal team in collecting relevant technical information from Sunoco regarding the design and operation of the proposed repurposed ME 1, and the new ME 2, providing advice as to the safety and adequacy of Sunoco's approach. The safety processes used to analyze the ME 1 and ME 2 pipelines is very similar, though the threats, pipe diameter, and specific materials moved on each pipeline can influence various safety approaches that have been implemented.

The discussion and conclusions in this report are based on a careful review and analysis of detailed information provided by Sunoco to Accufacts under the conditions of a Settlement Agreement between WGT, approved by the Pennsylvania Public Utilities Commission, as well as a Nondisclosure Agreement, or NDA, restricting release by Accufacts of certain "sensitive" information. While this limitation does not restrict Accufacts' ability to present its independent critical observations, the reader should be aware of the obligation to honor the NDA, as Accufacts will not disclose such sensitive details.

2. The Repurpose Project Interconnection System

Under the Repurpose Project, Sunoco is proposing to temporarily use slightly more than 24 miles of an existing 12-inch line segment to interconnect a western portion of the completed 20-inch ME 2 pipeline ending at Fairview Road in Wallace Township, with the completed downstream eastern segment of the 16-inch ME 2X that begins at Glen Riddle Junction in Middletown Township, and flows to the system's terminus, the Sunoco Marcus Hook Industrial Complex on the Delaware River. The Repurpose Project, depending on the material shipped, would allow Sunoco to move approximately 150 to 160 MB/D of butane or propane liquids from western Pennsylvania eastward to Sunoco's Marcus Hook facility until the ME 2 and ME 2X pipelines are fully completed, at which time the 12-inch line would be returned to its previous refined products service.

³ 49CFR§195.2 Definitions.
Accufacts Inc.

The 12-inch pipeline passes through the Boot Road pump station located within WGT, but does not utilize the pumps at this station, as pumping is not needed at this site for HVL movement to reach Marcus Hook. The nearest upstream pump station involving the interconnected Repurpose Project system is at Middletown pump station, located in Londonderry Township, Dauphin County, approximately 72 miles upstream of WGT. The Middletown pump station will supply energy to the 20-inch ME 2 Pipeline running approximately 60 miles eastward where it will interconnect at Fairview Road in Wallace Township to the slightly over 24 miles of the 12-inch that would then flow eastward until it connects to the completed eastern portion of the 16-inch ME 2X at Glen Riddle Junction in Middletown Township. The Marcus Hook delivery facility is roughly 20 miles downstream of WGT.⁴

3. Integrity of the repurposed 12-inch pipeline segment

The Repurpose Project will utilize slightly over 24 miles of existing 12-inch pipeline that was originally installed in 1937, consisting of seamless Grade B pipe that is not at risk of vintage seam cracking or selective seam crack corrosion threats, specialized forms of “crack like” threats that can result in pipeline rupture. The 12-inch Repurpose Project pipeline segment, like the ME 1 8-inch line, crosses slightly over a mile of WGT passing through the Boot Road pump station site. Approximately 55% of the slightly over one mile of 12-inch pipeline spanning WGT has been replaced with pipe of 1968 or newer vintage. It is not unusual to have certain sections of an older pipeline updated or replaced. This could be due to imperfections or major anomalies introduced with time, such as corrosion or third-party damage identified by field inspections or assessment methods such as inline inspection (“ILI”) tools that may identify that a particular section of the pipeline be remediated or replaced. Pipe segments may also require replacement and relocation because of other needs such as roadwork or other activities that have nothing to do with the condition of the pipeline.

3a) Age of steel pipe is a poor risk predictor

As mentioned in previous reports, pipe steel, even pipe steel manufactured over 80 years ago, does not age or wear out like some older materials such as cast or wrought iron that can be “age” sensitive. Pipe steel has essentially an infinite life if properly maintained and operated within its design parameters, and periodically assessed as to its integrity. The type of 12-inch pipe installed in 1937 underscores why risk factors cannot be properly assigned to steel pipe based solely on age, such as old versus new claims. For

⁴ Because the older 12-inch segment utilizes a different milepost numbering system, I have just referenced by approximate mileage from key facilities to avoid confusion.

example, because of greater uncertainties, safety factors during manufacturer for some older steel pipe tended to be more stringent than that utilized on new steel pipe. This is one reason why many types of older steel pipe can easily accept hydrotest pressures well above 100% specified minimum yield strength, or SMYS, without damage. Quite simply, much of the so-called old steel pipe across the U.S. can be in better condition for service than some new steel pipe. Thus, age by itself is a very poor predictor of steel pipe failure risks. For the Repurpose Project, the 12-inch pipe steel, both initially installed and the newer replacement segments within WGT, do not exhibit cracking threat risks associated with certain vintages of pipe that can be very challenging to assess as to its integrity.

3b) Sunoco has met or exceeded federal hydrotesting requirements in assessing the 12-inch pipeline's integrity for future service.

Given the type of pipe, a strength test hydrotest, like that performed by Sunoco in 2017 involving the 12-inch segment, is appropriate in assessing the existing 12-inch pipeline's integrity to operate at the determined maximum operating pressure, or MOP.⁵ Sunoco has provided me with the hydrotest details regarding the important 2017 pipe integrity verification assessment. In addition, Sunoco also submitted further evidence that in 2017 they went beyond minimum federal hydrotest regulations by performing a spike hydrotest at pressures above the strength hydrotest defined in federal pipeline safety regulations.⁶ Sunoco also reported the hydrotest results as pressures and as a percentage of specified minimum yield strength, or % SMYS. SMYS and % SMYS are important pipe variables in evaluating pipeline potential failure risks utilizing pipe fracture mechanics. Neither the spike hydrotest nor reporting results as % SMYS are required in federal pipeline safety regulations. For the Repurpose Project, Sunoco has met and exceeded federal requirements in the important integrity assessment validation method utilizing hydrotesting to verify the pipe's integrity and maximum operating pressure, or MOP.

In addition, it is also worth noting that Sunoco had run in-line inspection ("ILI,") tools, commonly called smart pigs, before the 2017 hydrotest. The ILI runs were utilized to help identify possible pipe corrosion or abnormal force damage anomalies that may have needed remediation/replacement to assure a successful hydrotest. The modifications to

⁵ MOP is defined in federal pipeline safety regulation 49CFR§195.406. Surge and other pressure variations up to 110% MOP are allowed in the pipeline provided the operator has incorporated "adequate controls and protective equipment to control the pressures within this limit."

⁶ A spike test is a short duration hydrotest (on the order of 15 to 30 minutes) at pressures higher than a strength test that is required to be carried out for eight hours. While not required, spike hydrotests are usually performed in addition to a strength hydrotest to provide additional confidence in a pipe's integrity.

the 12-inch pipeline repurpose segment incorporate the installation of pig launchers/receivers to permit future ILI runs on this pipeline segment. ILI can be an important integrity monitoring approach, especially since the 12-inch pipeline spanning WGT is obviously located in a high consequence area, or HCA.⁷

Sunoco recently, within the last month, repeated hydrotesting, both strength and spike, and an additional ILI run of the 12-inch pipeline segment to assure pipeline integrity for its new service. No hydrotesting failures occurred even though this recent hydrotest was performed at slighter higher pressures than those of the 2017 hydrotest. The recent ILI run indicated no anomalies requiring timely remediation, though additional field verification digs are currently being performed to verify ILI tool performance tolerances and that identified anomalies are within acceptable levels, as is advised by industry standards for ILI tool runs.

4. Operation of the Repurposed Project 12-inch pipeline affecting the Township

Given my background and experience, several main operational issues are relevant to the Repurpose Project 12-inch segment that could affect WGT.

4a) Overpressure protection on the 12-inch pipeline segment

The MOP of the approximately 24 miles of 12-inch pipeline will be lower than that for either the ME 2 or ME 2X pipelines that it will be operationally linked with as one pipeline system. In further questioning, Sunoco provided me with evidence of the protective equipment that will be utilized to keep the 12-inch pipeline below 110% MOP. While not specifically defined in federal pipeline safety regulations, prudent safety management approaches usually require that overpressure protection be based on two independent systems that are not linked, and that do not rely on an individual, such as control room operator intervention, to prevent an overpressure event. Sunoco has demonstrated to me that their overpressure protection on the 12-inch is based on two independent levels of safety equipment, not relying on human intervention, to prevent overpressure. On a liquid pipeline, overpressure can occur very quickly, well before a control room operator, for example, could recognize and timely intervene to prevent overpressure. While the control room operator has the capability to initiate automatic shutdown of the pipeline at any time, Sunoco has undertaken an approach to establish two independent safety equipment installations that don't rely on humans to prevent possible overpressure on the 12-inch line.

⁷ An HCA is defined in federal pipeline safety regulation 49CFR§195.450, and currently requires integrity evaluation, such as ILI, at least every five years.

The MOP limitation on the 12-inch pipeline will also restrict the maximum flow rate of the Repurpose Project pipeline that will vary with the product. A quick calculation will easily demonstrate that maximum flow rates will be below Sunoco's internal maximum design velocity to avoid large surge overpressure events from flow changes, such as inadvertent valve closure, or pump shutdown. Sunoco has repeatedly demonstrated to me that their engineers and design standards understand the risk of surge overpressure in their liquid pipelines and have taken measures to avoid such situations.

4b) 12-inch pipeline segment remote operation of mainline valves

The 12-inch pipe that could affect WGT contains a remotely operated valve at the Boot Road pump station that splits the 12-inch pipeline that could affect WGT into two segments. The nearest valve upstream on the 12-inch line will be at Exton Junction in Chester County, approximately 4 miles upstream from the Boot Road valve. This existing valve from the line's previous service is currently a manual valve, but at the request of Accufacts, Sunoco has agreed to add a remote actuator to this valve before startup. The nearest downstream mainline valve on the 12-inch is approximately 6 miles downstream of Boot Road in Middletown Township in Delaware County, and is also a remotely operated valve.

Given the many uncertainties in valve placement calculations and decisions, the science of valve placement on a liquid HVL pipeline is not determined within feet along a pipeline, but by miles or approximate milepost. The location and valve operation decisions are driven by such factors as the material being moved, pipe diameter, sensitive area locations along the pipeline, and the ease and quickness of when a valve can be accessed and closed in an emergency. Given the smaller diameter of the pipeline, the valve locations on the 12-inch Repurpose Project segment appear reasonable. In a release emergency, manual valves cannot be closed as quickly as remotely operated valves. The remotely operated valves along the 12-inch will be similar in purpose and pipeline system integration as remotely operated valves on the ME 1 and ME 2 projects.⁸ Remotely operated valves can be commanded to close at their location or by the control center. From my perspective, Sunoco has incorporated prudent additional safety design and protocols related to mainline valve remote operation that are not required by federal pipeline safety regulations.

⁸ Accufacts public reports to WGT Township Manager, Mr. Casey LaLonde, "Accufacts Report on Mariner East Project Affecting West Goshen Township," dated March 6, 2015, and "Accufacts Report on Mariner East 2 Expansion Project Affecting West Goshen Township," dated January 6, 2017.
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Based on recent observations and my extensive experience, I believe there is a need to comment further on two specific issues on mainline valves as they pertain to the Mariner East projects:

- i) The dangers and risks of mainline valves in an HVL pipeline are being overstated.**

I have found parties trying to prevent the installation of mainline valves on the Mariner East pipelines, declaring that valve installations are unsafe (i.e., adding potential leak sites) in an apparent attempt to stop the Mariner East projects. While I can appreciate the efforts to stop the projects, claims that valves are unsafe are based on false information and lack of experience that fails to understand and recognize the design, operating, and maintenance requirements, as well as the safety purpose of mainline valves, especially in sensitive locations. Mainline valves are not the primary level of safety protection on a HVL liquid transmission pipeline to prevent a release, but their installation serves an important role as a last level of protection to reduce the volume of release in the event of a pipeline rupture. Properly designed, installed, and maintained, mainline valves serve an important safety role, if ever needed.

- ii) An ASME code citing maximum valve distance of 7.5 miles for pipelines moving LPGs is not always adequate.⁹**

An American Society of Mechanical Engineers (“ASME”) national code for pressure piping, ASME B31.4 attempts to address valve spacing. The section specifically referenced in this code was 434.15.2 Mainline Valves (e) which states: “In order to facilitate operational control, limit the duration of an outage, and to expedite repairs, mainline block valves shall be installed at 7.5 mile maximum spacing on piping systems transporting LPG or liquid anhydrous ammonia in industrial, commercial, and residential areas.”¹⁰ The cited section of the ASME code does not rise to the level of pipeline safety regulation for various important reasons. This national code does not consider unique additional risks associated with HVL pipelines in sensitive areas such as HCAs, the significant impact of pipe diameter on potential release volume, nor the unique property that, upon pipeline rupture, HVLs will essentially release the entire volume between closed valves, regardless of pipeline elevation profile. The location of sensitive receptors downhill of an HVL pipeline, for example, may justify

⁹ LPGs are usually considered liquefied petroleum gases consisting of ethane, propane, or butanes, or their mixtures. LPGs are basically another name for HVLs.

¹⁰ ASME B31.4-2006, “Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids,” documents incorporated by reference, either partly or wholly in 49CFR§195.3 for liquid pipelines.

placement of additional remotely operated valves as a rupture “safety” if such placement doesn’t increase the potential to overpressure the pipeline system, a determination easily evaluated by prudent engineering analysis.

Additional pipeline safety regulation regarding mainline valve spacing and placement in liquid pipelines, especially in HVL pipelines, is definitely warranted, but specific regulatory solutions are beyond this report, and will take quite some time and effort to promulgate, if ever, in today’s politically charged environment, and emphasis on deregulation.

4c) Automatic Pipeline System Shutdown

Similar to the ME 1 and ME 2 approaches, the 12-inch segment of the Repurpose Project will incorporate safety system methods entailing automatic pipeline shutdown, involving upstream pump station shutdown and remote valve closure along the pipeline system of the 20-inch, 12-inch and 16-inch diameter segments when certain trigger events, indicative of a possible pipeline major release, occur. Since it had been some time since I had reviewed this system, this was discussed in detail with Sunoco as it relates to the 12-inch project. It is my opinion that Sunoco has provided prudent design and installation of safety equipment to assure timely and automatic system shutdown. The control room operator can also manually initiate an automatic shutdown of the pipeline system at any time.

4d) Leak detection and Automatic Pipeline System Shutdown

Because of the complexity of various hydrocarbons, it is very difficult to design and install a leak detection system that can remotely identify all forms of pipeline releases. The 12-inch segment of the Repurpose Project will incorporate similar advanced computer/automatic system monitoring logic utilized in the ME 1 and ME 2 projects to remotely identify possible pipeline releases, especially ruptures. The computer system when triggered can automatically and quickly shut down pumps and close mainline isolation valves. As in the previous Mariner East projects, an independent non-automatic additional leak detection system will be employed across the 12-inch pipeline intended to assist control room personnel in identifying possible lower rate pipeline releases, who then can intervene to initiate pipeline shutdown and isolation. Lower rate releases, often classified as leaks, can be difficult to reliably determine, given the wide range in possible leak release rates.

4e) Emergency Response Plans, or ERPs

Pipeline operators are required under federal pipeline regulation to have emergency response plans to deal with the emergencies associated with pipeline releases. Such procedures focus on protecting people first and then property, establish who is in control and how control is handed off during various stages of a release, what type of command structure is utilized for such emergencies, such as the Incident Command Structure (or ICS) that has proven to be highly effective in pipeline releases, and how communication is maintained with first responders who are usually the first to arrive at a release site. It is important that all parties who may be involved be trained in their various roles and responsibilities in the event of a pipeline release emergency, especially pipelines moving HVL that can have serious consequences.

It is especially important to understand that an ERP will have no “one size fits all” solution to an HVL release at a specific site, as such a simple solution will not likely be appropriate or effective. An effective ERP will outline a process establishing various roles and responsibilities, especially communication with First Responders and the control room. This is a tough concept to convey to the public who tend to want to hear simple answers to complex issues. A pipeline operator’s ERP will likely outline different levels of response, and identify key decision makers, given the diverse natures of a pipeline release, such as leak or rupture, and their possible impact along the pipeline’s various locations.

During an emergency involving a release, the control room plays a critical role as the emergency contact actually controlling and monitoring the pipeline to assure that appropriate equipment has been properly shut down and pipeline segments isolated. In essence the control operator needs to verify that all automatic shutdown equipment has operated as designed during an emergency. The control room also serves as a liaison with local emergency responders until handoff to company onsite field incident command personnel can occur. The control room thus is a critically important initial contact with local emergency responders to assure everyone is properly communicating/coordinating during the initial stages of a possible pipeline release where there can be much confusion.

Under federal pipeline safety regulations, the pipeline operator is required to notify and coordinate with emergency first responders during pipeline emergencies.¹¹ The control room should have a list of local emergency contacts, including “other public officials.” Local first responders and these officials should also have company emergency contacts and, for obvious reasons as identified above, the important pipeline control room

¹¹ 49CFR§195.402 Procedural manual for operations, maintenance, and emergencies.
Accufacts Inc.

emergency contact number(s). Because of various changes that may occur in organizations, local official contact numbers can be frustratingly difficult to keep current, but the control room contact number usually should never change. Federal pipeline safety regulations place the responsibility to keep emergency contacts with Township officials squarely on the pipeline operator for very good reasons.¹² It is Accufacts' understanding that these important contacts for WGT exists, and that Sunoco has a process for periodically updating the list. I would advise that WGT periodically test the process unannounced to assure it is current.

Quick judgment or reaction to order an evacuation near a release may not be an appropriate response, depending on many factors. While no one approach will cover all situations, shelter in place many times may be the prudent action, but this specific response must be a determined during the release event and will be highly dependent on the terrain and nature of the pipeline release.

5. Accufacts' Conclusions

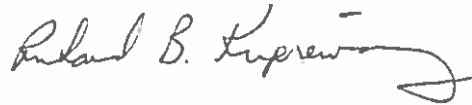
As discussed above, the important 2017 and recent hydrotests of the 12-inch segment and latest ILI assessments, verify its integrity for HVL service at its rated MOP. It is Accufacts' opinion for the section of 12-inch pipeline that crosses WGT, that Sunoco meets and exceeds a number of requirements of the federal pipeline safety regulations. It is Accufacts' opinion that on the Repurpose Project 12-inch pipeline segment spanning WGT, that in the specific areas of:

1. integrity management regulations that are meant to prevent pipe mainline rupture failure,
2. design and mainline valve placement,
3. valve actuation,
4. pipeline overpressure protection,
5. pipeline monitoring,
6. control room procedures,
7. leak detection, and
8. automatic pipeline system shutdown,

Sunoco meets and exceeds the requirements of federal pipeline safety regulations. These additional precautions reflect the level of respect that transporting such materials in a HCA should require in a prudent pipeline operation. Accufacts thus concludes that the 12-inch

¹² 49CFR§195.402(e)(7).
Accufacts Inc.

Repurpose Project spanning WGT meets or exceeds the prudent technical approaches commensurate with the safe transportation of HVL.

A handwritten signature in black ink, reading "Richard B. Kuprewicz". The signature is written in a cursive style with a long, sweeping tail that loops back under the name.

Richard B. Kuprewicz,
President,
Accufacts Inc.

Sunoco Pipeline L.P.'s Attachment 2



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
400 NORTH STREET, HARRISBURG, PA 17120

IN REPLY PLEASE
REFER TO OUR FILE

November 1, 2018

Dr. Emilie M. Lonardi, Superintendent
Downingtown Area School District
540 Trestle Place
Downingtown, Pennsylvania 19335

Dr. Eleanor DiMarino-Linnen, Acting Superintendent
Rose Tree Media School District
308 North Olive Street
Media, Pennsylvania 19063

Dr. James R. Scanlon, Superintendent
West Chester Area School District
829 Paoli Pike
West Chester, Pennsylvania 19380

RE: Mariner 2 Pipeline Project
Joint Letter dated October 23, 2018 to Paul Metro

Dear Drs. Lonardi, DiMarino-Linnen, and Scanlon:

Thank you for your joint letter dated October 23, 2018 on behalf of the school districts you represent regarding the Sunoco Pipeline projects located in Chester and Delaware Counties. I am aware that you also faxed the letter to Chairman Gladys Brown of the Commission.

The Pennsylvania Public Utility Commission's (PUC) Bureau of Investigation and Enforcement (I&E) is responsible for pipeline and electric safety throughout the Commonwealth. I&E is an independent arm of the Commission and does not speak on behalf of the Commission. We have 23 engineers stationed across the Commonwealth inspecting jurisdictional facilities daily. Our Pipeline Safety Section employs 18 federally certified engineers. Our Pipeline Safety Program works jointly with the federal Pipeline and Hazardous Material Safety Administration (PHMSA) in performing inspections on the Sunoco projects. The PUC's safety responsibilities are the highest priority for the Commission.

During the last two (2) years, our safety staff has inspected various Sunoco facilities more than 200 hundred days. Our engineers work on Sunoco projects daily conducting any one of 43 different types of inspections to ensure compliance with the federal and state codes.

Within your letter you request answers to three (3) questions. The answers to the questions are as follows:

1. What is the risk for unprotected valve stations, currently many of these valve stations have temporary fencing without adequate protection from possible accident?

Answer: The risks identified to these stations are included within the Integrity Management Plan maintained by Sunoco and reviewed and inspected by the PUC Pipeline Safety Section and PHMSA on a regular basis. There are eight (8) valve stations located in the GRE 12 Section (bypass) in Chester County. All valve stations except for one (1) are protected by a permanent fence that is secured. One (1) valve station is currently being constructed and has temporary fencing until construction is complete. The valves are locked and secured at this station during construction and meet all federal standards. Additionally, Sunoco will install rectangular concrete blocks at the Dorlan Mill Road station.

2. Is it safe to run natural gas liquid through this 12-inch pipe?

Answer: The responsibility of the PUC Pipeline Safety Section and PHMSA is to monitor and enforce compliance to the state and federal regulations. It is Sunoco's responsibility is to operate and maintain their pipeline facilities in a safe manner through practices and procedures that are in compliance with state and federal regulations.

Examples of actions undertaken by Sunoco to ensure that the referenced pipeline is safe include:

Hydrostatic (non-flowing water) Testing:

Sunoco has performed two (2) hydrostatic pressure tests on the GRE 12 (Bypass Line) in consecutive years; October 2017 and September 2018. No leaks were discovered in either test. These tests have been reviewed and inspected by the PUC Pipeline Safety staff and PHMSA.

Additionally, the GRE 12 (Bypass Line) is currently holding pressure.

Hydrostatic testing is periodically used to assess the integrity of hazardous liquid and gas transmission pipelines. If a pipeline successfully passes a hydrostatic pressure test, it can be assumed that no hazardous defects are present in the tested pipe.

Integrity Management Plans

Sunoco's integrity management programs and plans for the affected pipeline facilities have been reviewed and inspected by the PUC Pipeline Safety staff and PHMSA. Integrity management requires operators to proactively anticipate hazards, evaluate risks and identify preventative and mitigative actions to manage operational changes that have the potential to increase the risk of failure or the increase in potential consequences of a failure.

PHMSA Flow Reversal Guidelines:

In addition, Sunoco has adhered to the Flow Reversal Guidelines established by PHMSA. PHMSA has issued an Advisory Bulletin to alert hazardous liquid and gas transmission pipeline operators of the impacts associated with flow reversals, product changes, and conversions to service. The Advisory, issued in conjunction with newly-published Agency Guidance on these issues, recommends that operators consult existing conversion of service requirements for flow reversals and product changes and undertake additional actions in order to ensure integrity and safety.

While acknowledging in the associated Guidance that the Agency's recommended practices are not required, PHMSA nevertheless makes a number of suggestions, including that operators consider pressure testing the entire pipeline prior to flow reversals on gas and liquid pipelines and prior to significant product changes on liquid lines.

In order to address the Flow Reversal Guidance, the PUC Pipeline Safety Staff has reviewed and inspected the following to ensure Sunoco was able to demonstrate voluntary compliance:

- a) impacts to O&M,
- b) emergency plans,
- c) operator qualification training,
- d) emergency responder training,
- e) public awareness,
- f) spill response,
- g) maps and records.

3. Does this old 12-inch pipe contain shut off valves for emergency shut off in the event of a breach?

Answer:

Yes. Sunoco/ETP has a total of eight (8) valve locations on the 24.5 miles of GRE 12 reversal section. Six (6) of these valve locations contain Emergency Flow Restricting Devices ("EFRD") and two are manual valves. All manual valves are within the locked fencing and are secured by an additional lock on the valve itself to prevent unauthorized or accidental operation.

The PUC Pipeline Safety staff and PHMSA have held lengthy discussions with Sunoco about valve placement and locations for the EFRD automated valves on the 24.5-mile section of the GRE line.

As a result of PUC Pipeline Safety staff concerns and discussions, Sunoco has presented a change to the EFRD locations. Sunoco reduced the distance between the EFRDs. Sunoco changed a planned manual operated valve to an EFRD and thus reduced the distance between automated valves. Sunoco also changed the EFRD location at the southern point of the GRE section.

The PUC Pipeline Safety Division has reviewed the valve locations and has identified the valve locations and spacing within the school districts. PUC Pipeline Safety also reviewed the distance between the valves and has verified installed fencing, and plans to install fencing, at each of these locations.

Finally, I strongly urge that the above-mentioned schools actively partner with the County Emergency Manager to ensure that your "all hazards" plan and evacuation plans are up to date and incorporate all pipeline hazards. I would offer to meet with you to discuss the Sunoco projects and facilities and answer any other questions regarding pipeline safety that you may have.

Thank you again for your interest in these issues.

Sincerely,



Paul J. Metro
Manager, Safety Division
Investigation and Enforcement Bureau
Pennsylvania Public Utility Commission

CC: Gladys Brown, Pennsylvania Public Utility Commission Chairman
Richard A. Kanaskie, PUC Chief Prosecutor
Michael Swindler, Deputy Chief Prosecutor of Enforcement
Robert Horensky, Supervisor Pipeline Safety Section

VERIFICATION

I, Joe Perez, Vice President – Technical Services, at Energy Transfer Partners, am authorized to make this Verification on behalf of Sunoco Pipeline L.P., and I do hereby verify that the statements contained in the foregoing document are true and correct to the best of my knowledge, information and belief. I understand that false statements therein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.



Joe Perez
Vice President – Technical Services
Energy Transfer Partners

DATED: January 7, 2019

CERTIFICATE OF SERVICE

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

VIA ELECTRONIC AND FIRST CLASS

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