

January 25, 2019

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission, Bureau of Investigation and
Enforcement v. Sunoco Pipeline, L.P. a/k/a Energy Transfer Partners

Docket No. C-2018-3006534

Dear Secretary Chiavetta:

Enclosed for electronic filing with the Commission please find a Response to Sunoco Pipeline LP's Opposition to the Intervention of Thomas Casey, in the above-captioned proceeding. Please direct all responses and any documents via electronic format to tcaseylegal@gmail.com.

If your office has any questions, please do not hesitate to contact me.

Respectfully,

A handwritten signature in black ink, appearing to read 'Thomas Casey', with a long horizontal flourish extending to the right.

Thomas Casey, *pro se*
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West Chester, PA 19380
tcaseylegal@gmail.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility	:	
Commission, Bureau of Investigation	:	
and Enforcement,	:	
Complainant	:	
v.	:	Docket No. C-2018-3006534
	:	
Sunoco Pipeline, L.P. a/k/a	:	
Energy Transfer Partners,	:	
Respondent	:	

**RESPONSE TO SUNOCO PIPELINE L.P.’S OPPOSITION
TO THE INTERVENTION OF THOMAS CASEY**

I, Thomas Casey (“Petitioner”), submit this Response to Sunoco Pipeline L.P.’s (“SPLP”) opposition to Petitioner’s request to intervene on the Pennsylvania Public Utility Commission’s (“Pa PUC”) Bureau of Investigation and Enforcement (“BI&E”) complaint Docketed to C-2018-3006534 (“Complaint”).

I. Overview

On December 13, 2018 BI&E filed a Formal Complaint against SPLP alleging multiple counts¹ for violations of federal codes regarding the Mariner East 1 pipeline. In their complaint, BI&E stated, “I&E alleges that there is a statewide concern with SPLP’s corrosion control program and the soundness of SPLP’s engineering practices with respect to cathodic protection.”²

On December 21, 2018, Petitioner sent in a request to Intervene. Petitioner outlined his right to intervene Pursuant to 52 Pa. Code §§ 5.72-5.75. Petitioner outlined several concerns regarding BI&E’s filing which showed an issue with SPLP’s ability to provide accurate data, or in some

¹ BI&E’s complaint, Docket No. C-2018-3006534, outlines 15 violations of federal codes.

² BI&E’s complaint, Docket No. C-2018-3006534, line item #39

instances any data at all, with regards to the Mariner East 1 pipeline. SPLP also claims that the scope of the BI&E complaint deals simply with a pin-hole leak in the ME1 pipeline segment near 5330 Morgantown Road, Morgantown, Berks County.” By stating that this is the only concern for the BI&E complaint, as SPLP sees it, SPLP is ignoring most of the complaint which outlines 15 counts of violating federal codes.

SPLP also states, “BI&E’s Complaint does not allege that SPLP’s ME1 pipeline is unsafe or otherwise in violation of 66 Pa. C.S. § 1501.” This assertion by SPLP is simply denying all the allegations from BI&E’s Complaint which unequivocally states they have a “statewide concern with SPLP’s corrosion control program and the soundness of SPLP’s engineering practices with respect to cathodic protection.” SPLP is inserting a new argument into the debate over Petitioner’s standing. Therefore, Petitioner agrees with the citation as a problem, but disagrees with SPLP’s understanding of the code as pertaining in a negative way to Petitioner’s filing. By stating their concerns in this manner, BI&E eludes to the very principals outlined in 66 Pa. C.S. § 1501 which require public utilities to have “such service and facilities shall be in conformity with the regulations and orders of the commission.”³ The PA Public Utility Commission has adopted all

³ 66 Pa. C.S. § 1501. Character of service and facilities.

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission. Subject to the provisions of this part and the regulations or orders of the commission, every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service. Any public utility service being furnished or rendered by a municipal corporation beyond its corporate limits shall be subject to regulation and control by the commission as to service and extensions, with the same force and in like manner as if such service were rendered by a public utility. The commission shall have sole and exclusive jurisdiction to promulgate rules and regulations for the allocation of natural or artificial gas supply by a public utility.

federal codes under CFR Title 49 regarding the safe operation of pipelines and facilities. Therefore, BI&E must also hold SPLP to the requirements of 66 Pa. C.S. § 1501.

Petitioner denies SPLP's assertions that he fails to allege concerns regarding the section of pipeline from the BI&E Complaint that runs from Twin Oaks to Montello, a zone in which the Petitioner's home lies within 100' of both the 8" and 12" pipelines. Petitioner did assert concern by stating he has "grave concerns".⁴ Grave concerns are stated as having concerns for the health, safety, and welfare of Petitioner's family and their ability to live in and feel safe in their home. With the allegations in BI&E's Complaint, Petitioner feels his concerns are warranted for his inclusion in this process. "A party need not wait to experience harm before its position may be fully heard in a proceeding before the Commission. *See, Lehigh Valley Power Committee v. Pa. PUC*, 593 A.2d 1333, 1336-1337 (Pa. Cmwlth. 1991)."⁵

Petitioner has an additional concern regarding inclusion into the BI&E Complaint because Petitioner's local municipality, West Goshen Township ("WGT"), is incapable of providing detailed information to residents due to a settlement agreement⁶ that the township has with SPLP. This agreement denies WGT the ability to question the safety of the ME1 pipeline, as well as to openly provide information to the public regarding any safety issues with the line or any safety concerns of the board of supervisors to residents. Petitioner has inquired publicly and privately to various township officials regarding these issues and has never had his questions or concerns responded to in any meaningful way.

4 Petitioner's Intervention request filed on December 21, 2018, Line #8 outlines some of the concerns Petitioner has regarding the allegations. Unless, and until more information is gained through the discovery phase, Petitioner is limited in his argument.

5 DiBernardino v. Sunoco Pipeline, LP, Docket No. C-2018-3005025 Commission Order dated Dec. 21, 2018.

6 Please see Pa PUC Docket #U-2015-2486071

Petitioner also denies SPLP's statement that "BI&E adequately represents Petitioner's concerns." For this to be an accurate statement, SPLP would need to know exactly what the Petitioner's concerns are in their entirety. Petitioner denies this to even be possible because SPLP has not engaged in trying to find out what those concerns are; arguably, SPLP actively engaged in instructing their representatives and field agents to not have communications with Petitioner. From an email communication, "All, We need to discuss Chester and Delaware counties Monday. Please don't respond to Tom Casey any further. Let me know your availability."⁷

Petitioner also cites the order from Judge Barnes's decision in the matter of DiBernardino v. Sunoco Pipeline, LP "Order Granting in Part and Denying in Part Preliminary Objections to Amended Complaint," (Docket No. C-2018-3005025)⁸ as further evidence of his ability to intervene. In her Honors decision she specified that Complainant's reasons "should not be stricken because Sunoco's performance record of construction, maintenance and operations of its pipeline affects the integrity and safety of the overall project and a currently pending formal complaint filed by BI&E strengthens her standing. Therefore, she has standing to complain about events occurring outside of Saints Peter and Paul School." Petitioner claims similar standing in this docket.

Petitioner also puts forth that his rights to intervene are in direct correlation to his Constitutional rights under Articles § § 1, 25, 26, 27.⁹

II. Reply to Arguments

A. Legal Standard

DENIED – Petitioner meets all the standards for Intervention under 52 Pa. Code § 5.72.

Petitioner current has a Right-Of-Way (ROW) easement for the Mariner East 1, both the 8"

⁷ Email communication from Karen McMillen, Sat, Sep 19, 2015 at 7:53 AM, to agents of SPLP.

⁸ Petitioner has filed to Intervene on this docket number. Intervention was not contested by SPLP on that matter.

⁹ Pa Constitution Articles § 1. Inherent rights of mankind, § 25. Reservation of powers in people, § 26. No discrimination by Commonwealth and its political subdivisions, § 27. Natural resources and the public estate.

and 12” pipelines, which are approximately 85’ to 100’ from the structure of Petitioner’s home. These distances are approximated. SPLP, to date, has not given accurate details regarding placement of pipelines in the ROW of Petitioner’s property. Petitioner’s claim to standing would also point to a recent decision involving Senator Andrew E. Dinniman (Docket Nos. P-2018-3001453 and C-2018-3001451, Opinion and Order entered July 25, 2018 where the Commission held, “Our discretion to grant standing is at its apex where the matter before us concerns an alleged public safety emergency. Under the circumstances, we believe our finding that Senator Dinniman has standing was reasonable.” Petitioner acknowledges that BI&E did not ask for an emergency relief, however a reasonable person could conclude that the lack of proper cathodic protections in a high consequence, multi-use utility corridor, like Boot Road (West Goshen Twp) would constitute a public safety concern.

B. Petitioner’s interest is not direct, immediate, or substantial

DENIED – Petitioner has a direct, immediate, and substantial interest which is distinguishable from the general public with regards to the Mariner East 1 pipeline because SPLP has chosen to reverse the flow of the 12” line located in the ROW. By doing so, SPLP has increased the cause for concern in the region located along Boot Road, West Goshen Township. Also, the 8” and 12” co-located lines are not always within the same ROW throughout the state. The BI&E Complaint also states, “any testing related to the adequacy of cathodic protection must consider the eight (8) inch and twelve (12) inch pipelines because they are located in the same right-of-way.” Petitioner’s immediate relief is justified because the ROW at Petitioner’s location also contains multiple buried utilities which are not located at the

sight in Morgantown¹⁰ making Petitioner's interest different than that of the residents in Morgantown and the general public.

C. BI&E Adequately Represents Petitioner's Alleged Interest

DENIED – BI&E does not adequately represent Petitioner's interests beyond the scope of the Commissions mandate. BI&E, as an administrative body, can only require SPLP to follow the rules that have been adopted by the Pa PUC. Petitioner can argue for compliance considerations outside the boundaries of administrative restrictions. Furthermore, BI&E did not adequately represent Petitioner's interests for a five (5) year period when they did not have, nor were they provided with, accurate information from SPLP detailing their corrosion control measures to ensure that the SPLP was meeting or exceeding all federal standards.¹¹

Title 49 CFR Part 195, Subpart H - Corrosion Control standards are designed to ensure that SPLP is maintaining proper cathodic protections. But these standards are inadequate for Petitioner if the Pa Public Utility Commission does not have the ability to ensure the public that these standards are being adhered to by SPLP for a 5 year period of time. The commission has the absolute right to go beyond standards to ensure safe and reliable service.

D. Petitioner Will Not Be Bound by This Proceeding

DENIED – SPLP continues to aver a 'limited scope' for the BI&E Complaint. The Complaint goes beyond a simple pin-hole leak located in Morgantown, PA, and into the realm of a state-wide concern for SPLP's corrosion control program and the soundness of their engineering practices for cathodic protection. If SPLP's assertion that BI&E's involvement

¹⁰ The Morgantown cite is a rural setting in a field. Petitioner's location has several sewer, stormwater drain, electric, gas, and water lines that are all located within a 100' zone having an effect on cathodic protection.

¹¹ BI&E Complaint, Docket No. C-2018-3006534, Complaint count #14, section 44.

adequately represents Petitioner's interests, then SPLP cannot make the assertion that Petitioner will not be bound by the outcome of the proceedings.

E. Granting Intervention is Not in the Public Interest

DENIED – Petitioner has clearly demonstrated standing as it pertains to 52 Pa. Code §§ 5.72-5.75. The inclusion of Petitioner in the process will not needlessly expand the proceedings because it is the Petitioner's position that the proceedings should carefully look at all aspects, both known and unknown/unrealized, to ensure that the public is properly represented regarding SPLP's cathodic protection methodology and implementation.

Additionally, SPLP is attempting to assert what is in the public's interests which is an overstep for them to assume what is in the Petitioner's best interest. The Petitioner is seeking to ensure, for the public good, that the cathodic protection for the Mariner East 8" line (and co-located 12" line) not only meet the federal requirements of -850 millivolts of cathodic protection but exceed them as well. This exceeding requirement stems from many of SPLP's public statements, mailings, newspaper articles, testimonies, and letters to public officials over the last five (5) years in which SPLP boasts of "meeting or exceeding federal requirements." BI&E's Complaint clearly alleges a different story with regards to meeting or exceeding federal guidelines for cathodic protection. The Commission has jurisdiction to allow participation in public proceedings and actions before a duly appointed Office of Administrative Law Judge. SPLP should not attempt to deny participation in any proceeding that impacts communities within the Commonwealth.

THEREFORE, Petitioner denies SPLP's assertions regarding the status of Petitioner's ability to intervene. Furthermore, Petitioner respectfully requests that his intervention, Pursuant to 52 Pa. Code §§ 5.72-5.75 and 52 Pa. Code § 1.2 (a-d),¹² be allowed to continue.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Thomas Casey', is centered on the page.

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January 25, 2019

¹² This provision gives the Commission the ability to allow participation.

VERIFICATION

I, Thomas Casey, hereby verify that the facts contained in the foregoing pleading are true and accurate to the best of my knowledge and understanding. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas Casey', written in a cursive style.

Thomas Casey, *pro se*

January 25, 2019

CERTIFICATE OF SERVICE

I hereby certify that this day I have served a copy of Petitioner's "Response to Sunoco Pipeline L.P.'s Opposition to the Intervention of Thomas Casey" upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a party).

VIA ELECTRONIC SERVICE

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Sincerely,



Thomas Casey, *pro se*

January 25, 2019