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February 25, 2019

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

Re: In Re: Meghan Flynn, et al. v. Sunoco Pipeline, L.P.
Docket Numbers: C-2018-3006116; P-2018-3006117

Dear Secretary Chiavetta:

Enclosed for electronic filing with the Commission please find a Response to Sunoco Pipeline, L.P.'s Opposition to the Petition to Intervene of the Downingtown Area School District, Chester County, Pennsylvania with regard to the above-captioned proceeding.

All parties of record have been served pursuant the attached Certificate of Service. If you have any questions or concerns, please do not hesitate to contact this office.

Thank you very much for your cooperation and assistance.

Very Truly Yours,

LAMB MCERLANE, PC

By: /s/ Guy A. Donatelli
Guy A. Donatelli
Counsel for Downingtown Area School
District

GAD/ajb
Enclosures
cc: Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**RESPONSE TO SUNOCO PIPELINE L.P.’S OPPOSITION TO THE INTERVENTION
OF THE DOWNINGTOWN AREA SCHOOL DISTRICT, CHESTER COUNTY,
PENNSYLVANIA**

The Downingtown Area School District, Chester County, Pennsylvania (the “School District”) hereby submits this Response to Respondent Sunoco Pipeline, L.P.’s (“Sunoco”) Opposition to the School District’s request to intervene in the above-captioned proceeding. In support thereof, the School District submits as follows:

A. OVERVIEW.

On November 19, 2018, Petitioners/Complainants Meghan Flynn, Rosemary Fuller, Michael Walsh, Nancy Harkins, Gerald McMullen, Caroline Hughes and Melissa Haines (collectively the “Flynn Complainants”) filed a Complaint against Sunoco Pipeline, L.P. (“Sunoco”) at Docket No. C-2018-3006116. An Amended Complaint was filed on December 20, 2018. On January 16, 2019, the School District Petitioned for Intervention. On February 5, 2019, Sunoco filed its Opposition to the School District’s Petition.

The Flynn Complainants averred that their properties in Chester and Delaware Counties were in close proximity to the Mariner East 1 (“ME1”) pipeline and/or a work-around 12-inch diameter pipeline that circumvents stopped construction on the Mariner East 2 (“ME2”) and

Mariner East 2X (ME2X) (collectively, “the ME Pipelines”). The Amended Complaint alleges the following deficiencies and violations of the statutes and regulations of the U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (“PHMSA”) and the Pennsylvania Public Utility Code:

Count I: Violation of 49 CFR § 195.440 (Deficiencies in Sunoco’s public awareness program);

Count II: Violation of 66 Pa. C.S. § 1501¹ and 52 Pa. Code § 59.33 (Sunoco’s failure to furnish and maintain adequate, efficient, safe, and reasonable service facilities necessary or proper for the accommodation, convenience, and safety of the public and failure to properly warn and protect the public);

Count III: Violation of 52 Pa. Code § 59.33 (Failure to Consider the Value of Lost Human Life);

Count IV: Violation of 49 CFR § 195.452 (Failure of Sunoco’s Integrity Management Plan).

The School District’s Petition for Intervention requests relief concerning the following:

- a. That the Commission order Sunoco to perform continued and ongoing line inspection and geophysical testing and analysis in the areas of the School District where the Mariner pipelines are operating/being constructed.
- b. That the School District be provided the results of the line inspections/geophysical testing.
- c. That the Commission order Sunoco to immediately cease operations and/or construction in the absence of line inspection/geophysical testing that concludes it is safe to operate/construct.
- d. That the Commission order Sunoco to develop and submit testing and inspection protocols to ensure the safe operation of the ME pipelines in close proximity to the School Districts’ schools.
- e. That the Commission order Sunoco to develop and install a mass early warning notification system at all potentially affected School District Schools to provide

¹ 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. . .

immediate notice of a leak, potential explosion or other failure of the Mariner Pipelines.

F. That the Commission order Sunoco to provide a School District-specific public education and awareness plan.

G. That the Commission order Sunoco to relocate the valve station currently sited on Dorlan Mill Road.

B. ARGUMENT

1. The School District's Request for Relief are Directly Related to the Scope of the Issues Contained within the Amended Complaint

The Respondent Sunoco's assertion that the School District's requests for relief are unrelated to the scope of the issues in the Amended Complaint is unfounded. The PHMSA regulations, codified at 49 CFR § 195.440, require Sunoco to specifically include provisions to educate the public and appropriate government organizations, including, *inter alia*, possible hazards associated with unintended releases from hazardous liquids; physical indications that such a release may have occurred; steps that should be taken for public safety in the event of a hazardous liquid or carbon dioxide pipeline release; and activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations.

Moreover, the regulations of PHMSA define the attendant areas in Chester County where the ME Pipelines are located within close proximity to the properties of the School District as being contained within a "High Consequence Area"². As a result, the PHMSA regulations require that Sunoco develop and integrate a pipeline integrity management plan which accounts for the unique considerations stemming from the ME Pipelines location within the High Consequence Areas. Count IV of the Amended Complaint claims deficiencies in Sunoco's integrity management plan. Additionally, 66 Pa. C.S. § 1501 of the Public Utility Code

² See: 49 CFR 195.450 & 49 CFR 195.452 and Count IV of the Amended Complaint.

empowers the Commission to require public utilities to incorporate additional measures beyond the prescripts of 49 CFR 195.450 for the reasonable safety of the public.

The requests for relief of the School District represent specific requests for additional protections to be incorporated into Sunoco's Integrity Management Plan which are necessary for the safety of the public based upon the unique considerations of the ME Pipelines located within the High Consequence Area. The requests for relief are tied to the unique characteristics of Chester County. The pipelines close proximate location to the schools within the district (mass places of public gatherings) and the geologic makeup of the soil in which the ME Pipelines are sited and are being constructed (which consists of limestone and dolomite formations, which are highly soluble and thus highly susceptible to karst features such as sinkholes) are unique characteristics which give rise to specific dangers to which Sunoco's Integrity Management Plan and its emergency response plan required by 49 CFR §195.402 must account for.

The relief requested is within the scope of this proceeding as it tailored to provide more prospective detection and warning concerning the soil conditions surrounding the ME Pipelines located in Chester County that carry a greater risk of pipeline leak, failure and/or catastrophic explosion as opposed to the areas of the Commonwealth where the pipeline is sited that do not possess the same soil characteristics.

WHEREFORE, the Petitioner Downingtown Area School District denies Sunoco's assertions regarding the status of Petitioner's ability to intervene.

Respectfully submitted,

LAMB MCERLANE, PC

By: /s/ Guy A. Donatelli

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Attorneys for Intervenor

Downingtown Area School District

Dated February 25, 2019

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Petitioner,	:	
	:	
v.	:	
	:	
Sunoco Pipeline, L.P.,	:	
	:	
Respondent.	:	

CERTIFICATE OF SERVICE

I hereby certify that this day I have served a copy of the Downingtown Area School District's Response to Sunoco's Opposition to Intervention 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 First Class Mail

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Dated: February 25, 2019

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