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February 27, 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 Rose Tree Media School District, Delaware 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 Rose Tree Media 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 ROSE TREE MEDIA SCHOOL DISTRICT, DELAWARE COUNTY,
PENNSYLVANIA**

The Rose Tree Media School District, Delaware 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 18, 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 District’s 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 engage in emergency planning, including, but not limited to, participation in tabletop activities.

h. That the Commission order Sunoco to relocate the valve station located immediately behind Glenwood Elementary School.

B. ARGUMENT

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

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 Delaware County where the ME Pipelines are located within close proximity to the property 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

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

integrity management plan. Additionally, 66 Pa. C.S. § 1501 of the Public Utility Code 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 school-age children, staff and members of the public present at the School District's Glenwood Elementary School. The close proximity of the valve station located immediately behind Glenwood Elementary School creates a unique danger for which Sunoco's Integrity Management Plan and its emergency response plan required by 49 CFR §195.402 must account.

To date, Sunoco's discharge of its statutory and regulatory obligations to provide public awareness and emergency response programs to the School District have amounted to little more than false platitudes. The "information" provided by Sunoco to the School District has not addressed any of the issues specific to the School District, namely proper emergency response in relation to over 400 school-age children, as well as staff, and the unique challenges that may arise. The information provided to the School District by Sunoco has not outlined any response to address specific contingencies such as wind direction or size of a vapor cloud which would directly affect emergency response planning. Sunoco's description of its early warning system is also woefully inadequate—it merely states that it will "contact emergency responders", and it provides no early notification to the Glenwood Elementary School building.

Furthermore, Sunoco has provided nothing more than lip service in regards to its emergency training. To date, Sunoco has refused, and continues to refuse, to participate with the School District in tabletop drills to plan for various contingencies around a leak or rupture of the

ME Pipelines. Despite Sunoco's contentions, its contractor Delta Development ("Delta") has not and is not working with the School District to develop a hazard plan specific to the School District. To date, Delta has met with the School District on a single occasion, during which Delta handed out what amounted to nothing more than public relations literature which provided no detailed information regarding the School District's specific information requests. Nor during this meeting was Delta able to answer even rudimentary questions regarding planning such as the speed at which a vapor cloud stemming from the ME Pipelines could reach Glenwood Elementary based on size and wind conditions.

The relief requested is within the scope of this proceeding as it is tailored to provide more prospective detection, warning and information concerning the ME Pipelines so as to enable the School District to discharge its constitutional and statutory duties to protect the health, safety and welfare of the school-age children and staff within its care.

II. The Interests of the School District Raised in the Petition are not Already Adequately Represented.

Simply stated, the distinct interests of the School District in this matter are self-evident. The School District uniquely represents and serves as in loco parentis for the care and safety of over 400 school-age children along with the staff which serve these children. Glenwood Elementary School also serves as a place of mass public gatherings, and as a result, the School District owes a unique obligation to ensure the health and safety of the assembled public. The Complainants in this matter do not possess a constitutional or statutory obligation to ensure the safety of any of these groups. Accordingly, the School District's obligations cannot be adequately represented through the Complainants in this matter.

WHEREFORE, the Petitioner Rose Tree Media 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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Dated February 27, 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 Rose Tree Media 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).

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