



Thomas J. Sniscak  
(717) 703-0800  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)

Kevin J. McKeon  
(717) 703-0801  
[kjmckeon@hmslegal.com](mailto:kjmckeon@hmslegal.com)

Whitney E. Snyder  
(717) 703-0807  
[wesnyder@hmslegal.com](mailto:wesnyder@hmslegal.com)

---

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 [www.hmslegal.com](http://www.hmslegal.com)

March 18, 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;

Melissa DiBernardino v. Sunoco Pipeline L.P.; Docket No. C-2018-3005025

Rebecca Britton v. Sunoco Pipeline L.P.; Docket No. C-2019-3006898

Laura Obenski v. Sunoco Pipeline L.P.; Docket No. C-2019-3006905

**SUNOCO PIPELINE L.P.'S MOTION TO CONSOLIDATE AND  
RESPONSE TO OBENSKI'S MOTION TO CONSOLIDATE**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Sunoco Pipeline L.P.'s Motion to Consolidate and Response to Laura Obenski's Motion to Consolidate in the above-referenced proceeding.

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
March 18, 2019  
Page 2

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 (by 1<sup>st</sup> class mail and email [ebarnes@pa.gov](mailto:ebarnes@pa.gov))  
James J. Byrne, Esquire (by 1<sup>st</sup> class mail and email [jjbyrne@mbmlawoffice.com](mailto:jjbyrne@mbmlawoffice.com))  
Kelly S. Sullivan, Esquire (by 1<sup>st</sup> class mail and email [ksullivan@mbmlawoffice.com](mailto:ksullivan@mbmlawoffice.com))  
Michael P. Pierce, Esquire (by 1<sup>st</sup> class mail and email [Mppierce@piercelandhughes.com](mailto:Mppierce@piercelandhughes.com))  
Margaret A. Morris, Esquire (The County of Chester)  
Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

---

MEGHAN FLYNN et al.	:		
	:		
Complainants,	:	Docket Nos.	C-2018-3006116
	:		P-2018-3006117
v.	:		
	:		
SUNOCO PIPELINE L.P.,	:		
	:		
Respondent.	:		

---

MELISSA DIBERNARDINO,	:		
	:		
Complainant,	:	Docket No.	C-2018-3005025
	:		
v.	:		
	:		
SUNOCO PIPELINE L.P.,	:		
	:		
Respondent.	:		

---

REBECCA BRITTON,	:		
	:		
Complainant,	:	Docket No.	C-2019-3006898
	:		
v.	:		
	:		
SUNOCO PIPELINE L.P.,	:		
	:		
Respondent.	:		

---

LAURA OBENSKI,	:		
	:		
Complainant,	:	Docket No.	C-2019-3006905
	:		
v.	:		
	:		
SUNOCO PIPELINE L.P.,	:		
	:		
Respondent.	:		

---

**NOTICE TO PLEAD**

**TO: Meghan Flynn et al.  
Melissa DiBernardino  
Rebecca Britton  
Laura Obenski**

**PLEASE TAKE NOTICE THAT YOU HAVE TWENTY (20) DAYS FROM THE DATE OF SERVICE OF THE ATTACHED MOTION WITHIN WHICH TO FILE AN ANSWER OR OTHER RESPONSE TO THE MOTION. FAILURE TO FILE A RESPONSIVE PLEADING WITHIN THE TIME ALLOWED MAY RESULT IN A RULING ON THE MOTION ADVERSE TO YOUR INTERESTS.**

*Thomas J. Sniscak*

Thomas J. Sniscak, Attorney I.D. # 33891  
Kevin J. McKeon, Attorney I.D. # 30428  
Whitney E. Snyder, Attorney I.D. # 316625  
Hawke McKeon & Sniscak, LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
(717) 236-1300  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)  
[kjmckeon@hmslegal.com](mailto:kjmckeon@hmslegal.com)  
[wesnyder@hmslegal.com](mailto:wesnyder@hmslegal.com)

*/s/ Robert D. Fox*

Robert D. Fox, Esq. (PA ID No. 44322)  
Neil S. Witkes, Esq. (PA ID No. 37653)  
Diana A. Silva, Esq. (PA ID No. 311083)  
MANKO GOLD KATCHER & FOX, LLP  
401 City Avenue, Suite 901  
Bala Cynwyd, PA 19004  
Tel: (484) 430 5700  
[rfox@mankogold.com](mailto:rfox@mankogold.com)  
[nwitkes@mankogold.com](mailto:nwitkes@mankogold.com)  
[dsilva@mankogold.com](mailto:dsilva@mankogold.com)

Dated: March 18, 2019

*Attorneys for Respondent Sunoco Pipeline L.P.*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

---

MEGHAN FLYNN et al.	:		
	:		
Complainants,	:	Docket Nos.	C-2018-3006116
	:		P-2018-3006117
v.	:		
SUNOCO PIPELINE L.P.,	:		
	:		
Respondent.	:		

---

MELISSA DIBERNARDINO,	:		
	:		
Complainant,	:	Docket No.	C-2018-3005025
	:		
v.	:		
SUNOCO PIPELINE L.P.,	:		
	:		
Respondent.	:		

---

REBECCA BRITTON,	:		
	:		
Complainant,	:	Docket No.	C-2019-3006898
	:		
v.	:		
SUNOCO PIPELINE L.P.,	:		
	:		
Respondent.	:		

---

LAURA OBENSKI,	:		
	:		
Complainant,	:	Docket No.	C-2019-3006905
	:		
v.	:		
SUNOCO PIPELINE L.P.,	:		
	:		
Respondent.	:		

---

---

**SUNOCO PIPELINE L.P.'S MOTION TO CONSOLIDATE  
AND RESPONSE TO OBENSKI'S MOTION TO CONSOLIDATE**

---

In accordance with 52 Pa Code §§ 5.81 and 5.103(b), Sunoco Pipeline L.P. (“SPLP”) moves for the consolidation of the *Flynn et al.* complaint (Docket Nos. C-2018-3006116 and P-2018-3006117), with the *DiBernardino* complaint (Docket No. C-2018-3005025), the *Britton* complaint (Docket No. C-2019-3006898), and the *Obenski* complaint (Docket No. C-2019-3006905), and responds to the Obenski Motion to Consolidate. SPLP avers in support thereof as follows:

1. On November 19, 2018, the Flynn complainants, who are residents of Chester and Delaware Counties, filed a formal complaint with the Commission that alleges concerns regarding the safety and integrity of the Mariner East pipelines, including Mariner East 1 (“ME1”), Mariner East 2 (“ME2”), Mariner East 2X (“ME2X”), and a 12-inch diameter pipeline that is being utilized in the Mariner East system (the “12-inch pipeline”). The Flynn complainants allege that SPLP lacks an adequate public awareness program, that SPLP’s emergency response procedures and training for the Mariner East pipeline system are inadequate, that SPLP has failed to comply with integrity management requirements, and that the location of the pipelines near residential properties and schools is unsafe. The Flynn complainants seek an order from the Commission that, *inter alia*, would suspend service on ME1, ME2, ME2X, and the 12-inch pipeline, require an independent “remaining life study” of ME1 and the 12-inch pipeline, and for the Commission to evaluate SPLP’s integrity management program.

2. On October 1, 2018, Melissa DiBernardino, a Chester County resident, filed a *pro se* formal complaint with the Commission that also alleges concerns regarding the safety and integrity of ME1, ME2, ME2X, and the 12-inch pipeline. Like the Flynn complainants, DiBernardino alleges that SPLP’s public awareness program and emergency response procedures and training are inadequate, and that the location of the pipelines is unsafe. DiBernardino also

alleges that using horizontal directional drilling to construct ME2 and ME2X is unsafe. Similar to the Flynn complainants, DiBernardino seeks an order from the Commission that, *inter alia*, would suspend service on ME1, suspend further construction of ME2 and ME2X, and prohibit SPLP from using the 12-inch pipeline as part of the Mariner East pipeline system.

3. On December 27, 2018, Rebecca Britton, a Chester County resident, filed a *pro se* formal complaint with the Commission alleging that the locations of ME1, ME2, ME2X and the 12-inch pipelines are unsafe. Like the Flynn complainants and DiBernardino, Britton also alleges that SPLP's public awareness program and emergency response procedures and training are inadequate, and alleges concerns regarding SPLP's integrity management program, including alleged inadequate leak detection protocols. Britton also alleges that the locations of valve stations are unsafe, and that the use of horizontal directional drilling to construct ME2 and ME2X has the potential to impact natural resources. Britton seeks the Commission to determine: whether SPLP's public awareness program and emergency response procedures and training are adequate; if the locations of the pipelines and related equipment (i.e. valve stations) are safe; if the pipelines are safe without the use of odorants in the products transported in the pipelines; whether alternative water supplies should be provided to local residents; whether the use of horizontal directional drilling is safe; and whether SPLP must further assess and address potential environmental impacts from the pipelines.

4. Lastly, on January 2, 2019, Laura Obenski, a resident of Chester County, filed a *pro se* formal complaint with the Commission that also alleges concerns regarding the safety and integrity of ME1, ME2, ME2X, and the 12-inch pipeline. Like the Flynn complainants, DiBernardino, and Britton, Obenski also alleges that SPLP's public awareness program and emergency response procedures and training are inadequate. Obenski also alleges that schools in

the Downingtown Area School District are at an increased risk due to their proximity to the pipelines and argues that the locations of certain valve stations are unsafe. Obenski seeks an order from the Commission that, *inter alia*, would suspend service on ME1, ME2, ME2X, and the 12-inch pipeline, suspend further construction of ME2 and ME2X, find that SPLP's public awareness program and emergency response procedures and training are inadequate, and find that locating valve stations near schools is unsafe.

5. While SPLP disputes the allegations in each of the four complaints, the complaints involve common questions of law and fact such that consolidation of the matters is appropriate.

6. Section 5.81(a) of the Commission's Rules of Practice and Procedure provides for consolidation of proceedings that involve common questions of law or fact:

The Commission or presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated. The Commission or presiding officer may make orders concerning the conduct of the proceeding as may avoid unnecessary costs or delay.

52 Pa. Code § 5.81(a).

7. Consolidation is appropriate when there are sufficient common legal and factual issues between the cases, and where a party opposing consolidation will not suffer prejudice from the consolidation. *See e.g., Hartman v. PECO*, Dkt. Nos. C-2015-2471129 and C-2015-2469877, 2015 WL 1780140 (Order entered Apr. 15, 2015) (consolidating payment complaints because second complaint "requires no more factual or legal development than the first, consolidation is justified as it furthers judicial efficiency and is not at all prejudicial to the parties."); *In re PECO Energy Company and Enron Energy Serv's Power, Inc.*, Dkt. Nos. R-00973953 and P-00971265, 87 Pa. P.U.C. 718 (Order entered Oct. 9, 1997) (granting motion to consolidate where the same "factual, legal, and policy considerations" were presented in both actions, and where "it would be extraordinarily difficult for this Commission to make an informed decision concerning one petition



without contemporaneous consideration of the other.”); *Poole v. Columbia Gas of Pa., Inc.*, Dkt. No. Z-00109922, 1995 WL 945815 (Order entered June 19, 1995) (affirming consolidation where an additional legal issue in second case was necessarily included in the consideration of a broader legal issues in primary case).

8. The Commission has consolidated interrelated cases when doing so will reduce costs and create efficiencies for the Commission and the parties, particularly where the issues in one proceeding are also central to another proceeding. *See e.g., Middletown Taxi Co.*, Dkt. Nos. 99339 and 99378, 1976 WL 41682, (Order entered Sept. 8, 1976) (consolidation appropriate where common issues exist, individual issues will not “cloud” the proceedings, and when costs would be reduced and efficiencies gained by consolidation).

9. In addition to evaluating whether the matters involve common questions of law or fact, the Commission will also balance eight factors to determine whether the cases are interrelated and whether efficiencies can be gained through consolidation:

1. Will the presence of additional issues cloud a determination of the common issues?
2. Will consolidation result in reduced costs of litigation and decision-making for the parties and the Commission?
3. Do issues in one proceeding go to the heart of an issue in the other proceeding?
4. Will consolidation unduly protract the hearing, or produce a disorderly and unwieldy record?
5. Will different statutory and legal issues be involved?
6. Does the party with the burden of proof differ in the proceedings?
7. Will consolidation unduly delay the resolution of one of the proceedings?
8. Will supporting data in both proceedings be repetitive?

*PUC v. City of Lancaster Sewer Fund*, Dkt. No. R-2012-2310366, at 3-4 (Order entered Nov. 26, 2012).

10. Consolidation is appropriate because the *Flynn*, *DiBernardino*, *Britton*, and *Obenski* complaints involve common questions of law and fact, and each of the eight factors established by the Commission in *City of Lancaster Sewer Fund* is met.

11. All four complaints assert six central issues: (1) the safety and integrity of ME1, ME2, ME2X, and the 12-inch pipeline; (2) the safety of the locations of the pipelines and related equipment (i.e. valve stations); (3) the adequacy of SPLP's public awareness program; (4) the adequacy of SPLP's emergency response procedures and training; (5) SPLP's integrity management protocols; and (6) the safety of the construction of ME2 and ME2X. And all four complaints seek similar (if not identical) relief to address the complainants' concerns with the Mariner East pipelines in Chester and Delaware Counties.

12. These six issues are at the heart of all four cases and addressing them jointly will allow the Commission to determine the issues once, rather than in a serial and repetitive manner for each individual complaint. Separate adjudications in each of the four proceedings is inefficient both for the Commission and the parties, particularly since each party's advocacy and witnesses will be largely duplicative in all four proceedings.

13. Furthermore, consolidation of these four proceedings is in the public interest, because it will conserve the Commission's and the parties' respective resources, eliminate the risk of any inconsistent rulings, and avoid unnecessary additional costs and delays if each matter proceeded individually.

14. While each of the four complaints may raise certain additional individual issues, those issues are subordinate to the six common issues shared by all four complaints, such that any individual issues will not "cloud" the determination of the primary issues in all the cases.

15. Obenski has already agreed that consolidation of these matters is appropriate, and filed a motion to consolidate her complaint with the Flynn matter on February 26, 2019, asserting that there are “interrelated issues in both proceedings.” *See* Motion to Consolidate, Dkt. No. C-2019-3006905 (Feb. 26, 2019). The complainants in *Flynn* did not object to consolidation of the *Obenski* complaint.

16. Moreover, in the context of granting certain petitions to intervene in the *Flynn* matter, the Commission has already recognized that judicial efficiency can be gained by joining matters that “raise issues essentially overlapping issues previously raised by [the Flynn] Complainants concerning safety and emergency preparedness in Chester and Delaware County areas.” *See* Second Interim Order, Dkt. No. C-2018-3006116 at 17 (Mar. 12, 2019).

17. Finally, consolidation will not prejudice any party, as prehearing schedules have not yet been established in any of the four cases, and a joint prehearing schedule will allow for an efficient, consistent, and streamlined adjudication of the overlapping issues presented in all four matters.

**WHEREFORE**, SPLP respectfully requests that the Commission consolidate Docket Nos. C-2018-3006116 and P-2018-3006117, with Docket No. C-2018-3005025, Docket No. C-2019-3006898, and Docket No. C-2019-3006905.

Respectfully submitted,



Thomas J. Sniscak, Attorney I.D. # 33891  
Kevin J. McKeon, Attorney I.D. # 30428  
Whitney E. Snyder, Attorney I.D. # 316625  
Hawke McKeon & Sniscak, LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
(717) 236-1300  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)  
[kjmckeon@hmslegal.com](mailto:kjmckeon@hmslegal.com)  
[wesnyder@hmslegal.com](mailto:wesnyder@hmslegal.com)

/s/ Robert D. Fox, Esq.

Robert D. Fox, Esq. (PA ID No. 44322)  
Neil S. Witkes, Esq. (PA ID No. 37653)  
Diana A. Silva, Esq. (PA ID No. 311083)  
MANKO GOLD KATCHER & FOX, LLP  
401 City Avenue, Suite 901  
Bala Cynwyd, PA 19004  
Tel: (484) 430 5700  
[rfox@mankogold.com](mailto:rfox@mankogold.com)  
[nwitkes@mankogold.com](mailto:nwitkes@mankogold.com)  
[dsilva@mankogold.com](mailto:dsilva@mankogold.com)

*Attorneys for Respondent Sunoco Pipeline L.P.*

Dated: March 18, 2019

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the forgoing document upon the persons 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 on the following:

### VIA ELECTRONIC AND FIRST-CLASS MAIL

Michael S. Bomstein, Esquire  
Pinnola & Bomstein  
Suite 2126 Land Title Building  
100 South Broad Street  
Philadelphia, PA 19110  
[mbomstein@gmail.com](mailto:mbomstein@gmail.com)

*Counsel for Flynn et al. Complainants*

Anthony D. Kanagy, Esquire  
Garrett P. Lent, Esquire  
Post & Schell PC  
17 North Second Street, 12<sup>th</sup> Floor  
[akanagy@postschell.com](mailto:akanagy@postschell.com)  
[glent@postschell.com](mailto:glent@postschell.com)

*Counsel for Intervenor  
Range Resources – Appalachia LLC*

Margaret A. Morris, Esquire  
Reger Rizzo & Darnall LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104  
[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

*Counsel for Intervenor  
East Goshen Township*

Rich Raiders, Esquire  
Raiders Law  
321 East Main Street  
Annville, PA 17003  
[rich@raiderslaw.com](mailto:rich@raiderslaw.com)

*Counsel for Intervenor  
Andover Homeowner's Association, Inc.*

Vincent M. Pompo  
Guy A. Donatelli, Esq.  
Alex J. Baumler, Esq.  
24 East Market St., Box 565  
West Chester, PA 19382-0565  
[vpompo@lambmcerlane.com](mailto:vpompo@lambmcerlane.com)  
[gdonatelli@lambmcerlane.com](mailto:gdonatelli@lambmcerlane.com)  
[abaumler@lambmcerlane.com](mailto:abaumler@lambmcerlane.com)

*Counsel for Intervenor  
West Whiteland Township,  
Downingtown Area School District,  
Rose Tree Media School District*

Leah Rotenberg, Esquire  
Mays, Connard & Rotenberg LLP  
1235 Penn Avenue, Suite 202  
Wyomissing, PA 19610  
[rotenberg@mcr-attorneys.com](mailto:rotenberg@mcr-attorneys.com)

*Counsel for Intervenor  
Twin Valley School District*

Mark L. Freed  
Curtin & Heefner LP  
2005 S. Easton Road, Suite 100  
Doylestown, PA 18901  
[mlf@curtinheefner.com](mailto:mlf@curtinheefner.com)

*Counsel for Intervenor  
Uwchlan Township*

David J. Brooman  
Richard Sokorai  
Mark R. Fischer  
High Swartz  
40 East Airy Street  
Norristown, PA 19404  
[dbrooman@highswartz.com](mailto:dbrooman@highswartz.com)  
[rsokorai@highswartz.com](mailto:rsokorai@highswartz.com)  
[mfischer@highswartz.com](mailto:mfischer@highswartz.com)

*Counsel for Intervenor  
West Goshen Township*

Josh Maxwell  
Mayor of Downingtown  
4 W. Lancaster Avenue  
Downingtown, PA 19335  
[jmaxwell@downingtwn.org](mailto:jmaxwell@downingtwn.org)

*Pro se Intervenor*

Stephanie M. Wimer  
Senior Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
[stwimer@pa.gov](mailto:stwimer@pa.gov)

*Counsel for Pennsylvania Public Utility  
Commission BIE*

James R. Flandreau  
Paul, Flandreau & Berger, LLP  
320 W. Front Street  
Media, PA 19063  
[jflandreau@pfblaw.com](mailto:jflandreau@pfblaw.com)

*Counsel for Intervenor  
Middletown Township*

Thomas Casey  
1113 Windsor Dr.  
West Chester, PA 19380  
[Tcaseylegal@gmail.com](mailto:Tcaseylegal@gmail.com)

*Pro se Intervenor*

Laura Obenski  
14 South Village Avenue  
Exton PA 19341  
[ljobenski@gmail.com](mailto:ljobenski@gmail.com)

*Pro se Complainant*

Michael Maddren, Esquire  
Patricia Sons Biswanger, Esquire  
Office of the Solicitor  
County of Delaware  
Government Center Building  
201 West Front Street  
Media, PA 19063  
[MaddrenM@co.delaware.pa.us](mailto:MaddrenM@co.delaware.pa.us)  
[patbiswanger@gmail.com](mailto:patbiswanger@gmail.com)

*Counsel for County of Delaware*

James C. Dalton, Esquire  
Unruh Turner Burke & Frees  
P.O. Box 515  
West Chester, PA 19381-0515  
[jdalton@utbf.com](mailto:jdalton@utbf.com)

*Counsel for West Chester Area School District,  
Chester County, Pennsylvania*  
Virginia Marcille-Kerslake  
103 Shoen Road  
Exton, PA 19341  
[vkerslake@gmail.com](mailto:vkerslake@gmail.com)

Melissa DiBernardino  
1602 Old Orchard Lane  
West Chester, PA 19380  
[lissdibernardino@gmail.com](mailto:lissdibernardino@gmail.com)

*Pro se Complainant*

Rebecca Britton  
211 Andover Drive  
Exton, PA 19341  
[rbrittonlegal@gmail.com](mailto:rbrittonlegal@gmail.com)

*Pro se Complainant*



---

Thomas J. Sniscak  
Kevin J. McKeon  
Whitney E. Snyder

Dated: March 18, 2019