



**HIGH SWARTZ**

**ATTORNEYS AT LAW**

EST. 1914

David J. Brooman, Esquire  
(610) 275-0700  
Email: [Dbrooman@highswartz.com](mailto:Dbrooman@highswartz.com)  
[www.highswartz.com](http://www.highswartz.com)

October 4, 2019

**VIA: Electronic Filing**

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

**Re: Pennsylvania Public Utility Commission, et al. v. Sunoco Pipeline, L.P. et al.  
Docket No. C-2018-3006534**

Dear Secretary Chiavetta:

Enclosed for filing is Intervenor West Goshen Township's Answer to Motion of the Bureau of Investigation and Enforcement to Strike Exhibits "A" and "B" of West Goshen Township's Public Comments in Opposition to the Joint Petition for Approval of Settlement dated April 3, 2019 in the above referenced matter, copies of which were served upon the individuals listed below and in the enclosed Certificate of Service in accordance with 52 Pa. Code § 1.54.

If you have any questions or concerns, please feel free to contact me.

Respectfully,

David J. Brooman

DJB:jmg  
Enclosure

cc: Honorable Elizabeth Barnes (via email & U.S. Mail)  
Stephanie M. Wimer, Senior Prosecutor (via email & U.S. Mail)  
Michael L. Swindler, Deputy Chief Prosecutor (via email & U.S. Mail)  
Thomas J. Sniscak, Esquire (via email & U.S. Mail)  
Kevin McKeon, Esquire (via email & U.S. Mail)  
Whitney E. Snyder, Esquire (via email & U.S. Mail)  
Vincent M. Pompo, Esquire (via email & U.S. Mail)  
Michael S. Bomstein, Esquire (via email & U.S. Mail)  
Thomas Casey (via email & U.S. Mail)  
Josh Maxwell (via U.S. Mail)  
Mark R. Fischer, Jr., Esquire (via email)  
Richard C. Sokorai, Esquire (via email)

High Swartz LLP  
40 East Airy Street  
Norristown, PA 19404  
(610) 275-0700, Fax (610)275-5290

*Offices in:*  
Doylestown  
Norristown

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

HIGH SWARTZ LLP

David J. Brooman, Esquire (I.D. No. 36571)  
Richard C. Sokorai, Esquire (I.D. No. 80708)  
Mark R. Fischer, Jr., Esquire (I.D. No. 94043)

40 East Airy Street  
Norristown, PA 19404

(t) 610-275-0700

(f) 610-275-5290

dbrooman@highswartz.com

rsokorai@highswartz.com

mfischer@highswartz.com

*Attorneys for Intervenor  
West Goshen Township*

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Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement,  
Complainant

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Docket No. C-2018-3006534

v.

Sunoco Pipeline, L.P., a/k/a  
Energy Transfer Partners,

Respondent

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**WEST GOSHEN TOWNSHIP’S ANSWER TO MOTION OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT TO STRIKE EXHIBITS “A” AND “B” OF WEST GOSHEN TOWNSHIP’S PUBLIC COMMENTS IN OPPOSITION TO THE JOINT PETITION FOR APPROVAL OF SETTLEMENT DATED APRIL 3, 2019**

Intervenor, West Goshen Township (“WGT”), through its Board of Supervisors and by its attorneys, High Swartz LLP, respectfully submits the following Answer in opposition to the Motion of the Bureau of Investigation and Enforcement (“I&E”) to Strike Exhibits “A” and “B” of West Goshen Township’s Public Comments submitted on August 15, 2019.

I&E’s Motion seeks to strike the report of WGT’s engineering consultant, Richard B. Kuprewicz of Accufacts, Inc. (Exhibit “A” to WGT’s Comments) and a Consent Order and Agreement between the Pennsylvania Department of Environmental Protection and Sunoco Pipeline, L.P. (“SPLP”) (Exhibit “B” to WGT’s Comments). The Motion is a shameless attempt

to cut out the substance of WGT's Comments so that I&E and SPLP do not have to answer for the serious inadequacies in the proposed settlement.

The paramount inquiry currently before the Commission is whether the settlement terms proposed by I&E and SPLP are in the public interest. See 52 Pa. Code § 69.1201. With their simultaneous motions to strike, I&E and SPLP are improperly attempting to limit the information available for the Commission's inquiry into the public interest. WGT, a governmental body, could not offer any meaningful comments on the adequacy of the proposed settlement without the guidance of qualified consultants learned in the complex science underlying the pipeline issues that are the subject of the settlement. I&E ignores this practical reality, seeking to preclude the information that gives WGT's Comments any substantive value to the Commission's determination of whether the proposed settlement is in the public interest. Further, I&E's Motion fails to cite any Commission authority supporting its argument for the limited, almost meaningless, scope of public comments in these types of cases. I&E's position is contrary to the public interest and even the very purpose of I&E's existence.

I&E's argument that WGT is introducing extra-record evidence at the eleventh hour is ludicrous. WGT did not come into these proceedings after discovery and a full hearing on the merits and try to introduce new evidence to dispute the parties' evidence. Rather, WGT has simply offered scientific and legal support for its Comments on the inadequacies of the proposed settlement, which was reached before any evidentiary record was ever developed. I&E's argument that it has been deprived of due process is equally curious, as the July 15, 2019 Order permits I&E the opportunity to submit reply comments to explain why it thinks WGT's consultant is wrong. Strangely, rather than address WGT's comments and assure that the public

interest has been protected, I&E seeks to avoid the information altogether. For all of these reasons, I&E's Motion must be denied.

In support of this opposition, WGT answers as follows:

**ANSWER**

1. Admitted in part, denied in part. It is admitted that I&E filed a formal complaint against Sunoco Pipeline, L.P. a/k/a Energy Transfer Partners ("SPLP"), which complaint is the subject of the above-captioned matter, and is a writing which speaks for itself. Any characterization of said writings by I&E is denied.

2. Admitted in part, denied in part. It is admitted that I&E filed a formal complaint against Sunoco Pipeline, L.P. a/k/a Energy Transfer Partners, which complaint is the subject of the above-captioned matter, and is a writing which speaks for itself. Any characterization of said writings by I&E is denied. Further, WGT is without sufficient information to form a belief as to the truth of the remaining allegations asserted in this paragraph of the Motion and as such the same are denied. As noted in WGT's Public Comments submitted on August 15, 2019, a material deficiency of the Settlement Agreement is its failure to disclose the revised practices and procedures.

3. Denied as stated. The procedural posture and positions taken by the parties are set forth in the filings reflected on Docket Number C-2018-3006534, all of which are writings that speak for themselves. Any characterization of said writings by I&E is denied.

4. Denied as stated. The procedural posture and positions taken by the parties are set forth in the filings reflected on Docket Number C-2018-3006534, all of which are writings that speak for themselves. Any characterization of said writings by I&E is denied.

5. Admitted.

6. Admitted in part, denied in part. It is admitted that I&E and SPLP filed an Addendum on June 28, 2019, which is a writing that speaks for itself. Any characterization of said writing by I&E is denied.

7. Admitted.

8. Admitted in part, denied in part. It is admitted that ALJ Barnes' July 15, 2019 Order is a writing that speaks for itself. Any characterization of said writing by I&E is denied.

9. Admitted in part, denied in part. It is admitted that ALJ Barnes' July 15, 2019 Order is a writing that speaks for itself. Any characterization of said writing by I&E is denied.

10. Admitted.

11. Denied as stated. WGT's Comments contain the referenced documents at Exhibits "A" and "B," but I&E's allegation that the exhibits were impermissibly included is vehemently denied for the reasons discussed below.

12. Denied. The allegations in this paragraph are denied for the reasons discussed herein below.

13. Denied. WGT strictly denies I&E's allegations that the information included with WGT's Comments is impermissible extra-record evidence. The paramount inquiry before the Commission is whether the settlement terms are in the public interest. *See* 52 Pa. Code § 69.1201. I&E is attempting to interfere with the Commission's full inquiry into the public interest determination by limiting the input of the public. I&E fails to cite any statutory definition or Commission explanation of the permissible scope of "public comment." WGT, as a governmental body, could not offer any meaningful comment on the adequacy of the proposed settlement without the guidance of qualified consultants learned in the complex science underlying the pipeline issues that are the subject of the settlement. It is contrary to the public

interest, and I&E's very purpose in serving that public interest, to thwart the substance of WGT by asking to preclude scientific basis for those comments as provided by its hired consultant. Further the publicly available information regarding the findings of other agencies of this Commonwealth regarding SPLP's safety practices are directly relevant to the monetary sufficiency of the proposed settlement. I&E's argument that WGT is introducing evidence at the eleventh hour is ludicrous, as the proposed settlement was reached before the pleadings even closed and no record even exists. I&E's allegations ignore or overlook the purpose of the information offered in WGT's Comments, which are not offered to influence whether I&E or SPLP have met their respective evidentiary burdens in the underlying case, but rather aim to assist the ALJ and Commission in deciding whether the proposed settlement sufficiently satisfies the public interest based on the concerns of the public. ALJ Barnes and the Commission can accordingly choose to consider or ignore the information to whatever extent it wishes without making an evidentiary ruling or impacting the parties' respective positions in the underlying case.

14. Denied as stated. ALJ Barnes' July 15, 2019 Order is a writing which speaks for itself, and any characterization thereof by I&E is denied. I&E's allegations in this paragraph are further denied for the reasons set forth in paragraph 13 above, which is incorporated herein by reference.

15. Denied. I&E's allegations in this paragraph are denied for the reasons set forth in paragraph 13 above, which is incorporated herein by reference. By way of further answer, I&E fails to recognize that the July 15, 2019 Order also provides, in relevant part: "I am persuaded to permit Intervenors not agreeing to the settlement to state the reasons why, to delineate the issues they would raise if the settlement were rejected and to outline how their interest would be

affected if the settlement were accepted.” *Pa. Pub. Util. Comm’n, Bureau of Investigation and Enforcement v. Sunoco Pipeline, L.P.*, Docket No. C-2018-3006534 (July 15, 2019 Order) at 17.

This matter involves highly complex issues of science, engineering, technology and related fields. I&E is attempting to cripple WGT’s ability to comment intelligently on these issues by limiting the scope of its public comments. WGT has not attempted to introduce “extra-record evidence;” rather, it has provided relevant scientific and legal support for its comments. ALJ Barnes’ Order specifically permits WGT to articulate the reasons why it does not agree with the settlement. WGT acted within the permissible scope of the July 15, 2019 Order by providing its comments, supported by relevant scientific information and legal context.

16. Denied. I&E again fails to recognize the purpose of the information offered in WGT’s Comments. WGT did not come into these proceedings after discovery and a full hearing on the merits and try to introduce new evidence to dispute the evidence offered by the parties. Rather, WGT has simply offered scientific and legal support for the inadequacy of the proposed settlement, which was reached before any evidentiary record was ever developed. By way of further answer, I&E has not been deprived of any due process rights, as the July 15, 2019 Order permits I&E the opportunity to submit reply comments to explain why it thinks WGT’s consultant is wrong. Strangely, rather than welcome the comments of the public it is charged to protect, and allow the process to be completed as contemplated in ALJ Barnes’ Order, I&E seeks to stifle the process with its Motion to Strike.

17. Denied, to the extent any response is required. ALJ Barnes’ July 15, 2019 Order already granted I&E the opportunity to file a reply comments.

18. Denied. I&E’s requested relief should be denied for the reasons set forth above.

WHEREFORE, Intervenor, West Goshen Township, respectfully requests that the Motion of the Bureau of Investigation and Enforcement to Strike Exhibits "A" and "B" of West Goshen Township's Public Comments in Opposition to the Joint Petition for Approval of Settlement Dated April 3, 2019 be denied.

HIGH SWARTZ LLP



By: \_\_\_\_\_

David J. Brooman, Esquire  
Richard C. Sokorai, Esquire  
Mark R. Fischer, Jr., Esquire  
Attorneys for Intervenor  
West Goshen Township

Date: 10/04/2019



**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

HIGH SWARTZ LLP

David J. Brooman, Esquire (I.D. No. 36571)  
Richard C. Sokorai, Esquire (I.D. No. 80708)  
Mark R. Fischer, Jr., Esquire (I.D. No. 94043)  
40 East Airy Street  
Norristown, PA 19404  
(t) 610-275-0700  
(f) 610-275-5290

dbrooman@highswartz.com  
rsokorai@highswartz.com  
mfischer@highswartz.com

*Attorneys for Intervenor  
West Goshen Township*

Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement,  
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Docket No. C-2018-3006534

v.

Sunoco Pipeline, L.P., a/k/a  
Energy Transfer Partners,  
Respondent

**CERTIFICATE OF SERVICE**

I David J. Brooman, Esquire, hereby certify that on October 4, 2019, I served a true and correct copy of West Goshen Township’s Answer to the Motion of the Bureau of Investigation and Enforcement to Strike Exhibits “A” and “B” of West Goshen Township’s Public Comments in Opposition to the Joint Petition for Approval of Settlement dated April 3, 2019, upon the parties listed below by email and U.S. Mail, first-class, postage prepaid, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

Honorable Elizabeth Barnes  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Office of Administrative Law Judge  
400 North Street  
Harrisburg, PA 17120  
Ebarnes@pa.gov

Stephanie M. Wimer, Senior Prosecutor  
Michael L. Swindler, Deputy Chief Prosecutor  
P.O. Box 3265  
Harrisburg, PA 17105  
stwimer@pa.gov  
mswindler@pa.gov  
*Attorneys for Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement*

Thomas J. Sniscak, Esquire  
Kevin J. McKeon, Esquire  
Whitney E. Snyder, Esquire  
Hawke McKeon & Sniscak, LLP  
100 North Tenth St.  
Harrisburg, PA 17101  
tjsniscak@hmslegal.com  
kjmckeon@hmslegal.com  
wesnyder@hmslegal.com  
*Attorneys for Sunoco Pipeline L.P.*

Michael P. Pierce, Esquire  
Pierce & Hughes PC  
17 Veterans Square  
P.O. Box 604  
Media, PA 19335  
*Attorney for Edgmont Township*

Vincent Matthew Pompo, Esquire  
Lamb McErlane PC  
24 E. Market St. Box 565  
West Chester, PA 19382  
*Solicitor for West Whiteland Township*

Michael S. Bomstein, Esquire  
Pinnola & Bomstein  
Land Title Bldg, Suite 2126  
100 S. Broad Street  
Philadelphia, PA 19110  
mbomstein@gmail.com  
*Attorney for Flynn Intervenors*

Josh Maxwell  
4 West Lancaster Avenue  
Downingtown, PA 19335  
*Pro Se*

Thomas Casey  
1113 Windsor Drive  
West Chester, PA 19380  
Tcaseylegal@gmail.com  
*Pro Se*

HIGH SWARTZ LLP



By: \_\_\_\_\_

David J. Brooman, Esquire  
Richard C. Sokorai, Esquire  
Mark R. Fischer, Jr., Esquire  
Attorneys for West Goshen Township

Date: 10/04/2019