

October 17, 2019

Via Electronic filing

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

**Re: Docket Nos. P-2018-3006117 and C-2018-3006116
Megan Flynn et al. v. Sunoco Pipeline, L.P.
Objections of The County of Chester to the Subpoena for W. Turner**

Dear Secretary Chiavetta:

Attached for filing is The County of Chester's Objections to Rebecca Britton's Subpoena of William Turner.

A copy of the Objections has been forwarded in the manner indicated on the attached Certificate of Service.

If there are any questions, please contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/lam
Enclosure

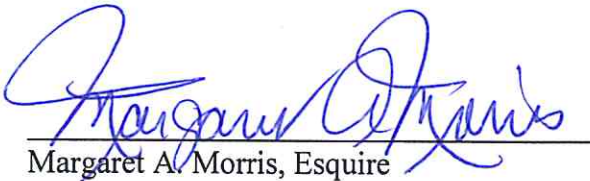
cc: The Hon. Elizabeth Barnes, Pennsylvania Public Utility Commission [w/encl.]
Thomas L. Whiteman, Esquire, Chester County Solicitor's Office [w/encl.]
Service List [w/encl.]

Re: Docket Nos. P-2018-3006117 and C-2018-3006116
Megan Flynn et al. v. Sunoco Pipeline, L.P.
Objections of The County of Chester to the Subpoena for W. Turner

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following persons on the attached service list, *via First Class and Electronic Mail*, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Dated: October 17, 2019


Margaret A. Morris, Esquire

Re: Docket Nos. P-2018-3006117 and C-2018-3006116
Megan Flynn et al. v. Sunoco Pipeline, L.P.
Service List

MICHAEL BOMSTEIN ESQUIRE
PINNOLA & BOMSTEIN
SUITE 2126 LAND TITLE BUILDING
100 SOUTH BROAD STREET
PHILADELPHIA PA 19110

Accepts E-Service

Representing Complainants

MEGHAN FLYNN
212 LUNDGREN ROAD
LENNI PA 19052
Complainant

ROSEMARY FULLER
226 VALLEY ROAD
MEDIA PA 19063

Accepts E-Service

Complainant

MICHAEL WALSH
12 HADLEY LANE
GLEN MILLS PA 19342
Complainant

NANCY HARKINS
1521 WOODLAND RD
WEST CHESTER PA 19382

Accepts E-Service

Complainant

GERALD MCMULLEN
200 HILLSIDE DRIVE
EXTON PA 19341

Complainant

CAROLINE HUGHES
1101 AMALFI DRIVE
WEST CHESTER PA 19380

Accepts E-Service

MELISSA HAINES
176 RONALD ROAD
ASTON PA 19014
Complainant

CURTIS STAMBAUGH ASSISTANT
GENERAL COUNSEL
SUNOCO PIPELINE LP
212 N THIRD STREET SUITE 201
HARRISBURG PA 17101

Curtis.Stambaugh@Energytransfer.com

Accepts E-Service

Representing Sunoco Pipeline LP

NEIL S WITKES ESQUIRE
ROBERT D FOX ESQUIRE
DIANA A SILVA ESQUIRE
MANKO, GOLD, KATCHER & FOX
401 CITY AVENUE
BALA CYNWYD PA 19004

nwitkes@mankogold.com

dsilva@mankogold.com

rfox@mankogold.com

Accepts E-Service

Representing Sunoco Pipeline LP

THOMAS J SNISCAK ESQUIRE
KEVIN J. MCKEON
WHITNEY E. SNYDER
HAWKE MCKEON AND SNISCAK
100 N TENTH STREET
HARRISBURG, PA 17101

tjsniscak@hmslegal.com

kjmckeon@hmslegal.com

wesnyder@hmslegal.com

THOMAS J SNISCAK ESQUIRE

Accepts E-Service

Representing Sunoco Pipeline LP

RICH RAIDERS ESQUIRE
606 NORTH 5TH STREET
READING PA 19601

rich@raiderslaw.com

Accepts E-Service

*Representing Intervenor Andover
Homeowners' Association Inc.*

Re: Docket Nos. P-2018-3006117 and C-2018-3006116
Megan Flynn et al. v. Sunoco Pipeline, L.P.
Service List

ANTHONY D KANAGY ESQUIRE
GARRET P LENT ESQUIRE
POST & SCHELL PC
17 N SECOND ST 12TH FL
Harrisburg, PA 17101-1601
akanagy@postschell.com
glent@postschell.com
Accepts E-Service
*Representing Intervenor Range
Resources Appalachia*

ERIN MCDOWELL ESQUIRE
3000 TOWN CENTER BLVD
CANONSBURG, PA 15317
Emcdowell@Rangeresources.com

LEAH ROTENBERG ESQUIRE
MAYS CONNARD & ROTENBERG
1235 PENN AVE
SUITE 202
WYOMISSING PA 19610
Rotenberg@Mcr-Attorneys.com
Accepts E-Service
*Representing Intervenor Twins Valley
School District*

VINCENT MATTHEW POMPO
ESQUIRE
LAMB MCERLANE PC
24 EAST MARKET ST
PO BOX 565
WEST CHESTER PA 19381
Vpompo@Lambmcerlane.com
Accepts E-Service
*Representing Intervenor West Whiteland
Township*

JAMES DALTON
UNRUH TURNER BURKE & FREES
PO BOX 515
WEST CHESTER PA 19381
Jdalton@Utbf.com

MARK L FREED ESQUIRE
JOANNA WALDRON ESQUIRE
CURTIN & HEEFNER LLP
DOYLESTOWN COMMERCE
CENTER
2005 S EASTON ROAD SUITE 100
DOYLESTOWN PA 18901
mlf@curtinheefner.com
Accepts E-Service
*Representing Intervenor Uwchlan
Township*

JAMES R FLANDREAU
PAUL FLANDREAU & BERGER LLP
320 WEST FRONT ST
MEDIA PA 19063
jflandreau@pfblaw.com
Accepts E-Service
*Representing Intervenor Middletown
Township*

PATRICIA BISWANGER ESQUIRE
PATRICIA BISWANGER
217 NORTH MONROE STREET
MEDIA PA 19063
patbiswanger@gmail.com
Accepts E-Service
*Representing Intervenor County of
Delaware*

GUY DONATELLI ESQUIRE
LAMB MCERLANE PC
24 EAST MARKET ST
BOX 565
WEST CHESTER PA 19381
gdonatelli@lambmcerlane.com
vpompo@lambmcerlane.com
*Representing Intervenor Rose Tree
Media School District*

*Representing Intervenor West Chester
Area School District*

Re: Docket Nos. P-2018-3006117 and C-2018-3006116
Megan Flynn et al. v. Sunoco Pipeline, L.P.
Service List

JAMES BYRNE ESQUIRE
KELLY SULLIVAN ESQUIRE
MCNICHOL BYRNE & MATLAWSKI
1223 NORTH PROVIDENCE RD
MEDIA, PA 19063
ksullivan@mbmlawoffice.com
jjbyrne@mbmlawoffice.com
Accepts E-Service
Representing Intervenor Thornbury Township

MELISSA DIBERNARDINO
1602 OLD ORCHARD LANE
WEST CHESTER PA 19380
lissdibernardino@gmail.com
Accepts E-Service

VIRGINIA MARCILLE KERSLAKE
103 SHOEN ROAD
EXTON PA 19341
vkerslake@gmail.com
Accepts E-Service
Intervenor

LAURA OBENSKI
14 S VILLAGE AVE
EXTON PA 19341
liobenski@gmail.com
Accepts E-Service

REBECCA BRITTON
211 ANDOVER DR
EXTON PA 19341
rbrittonlegal@gmail.com
Accepts E-Service

JOSH MAXWELL
MAYOR OF DOWNINGTOWN
4 W LANCASTER AVENUE
DOWNINGTOWN PA 19335
jmaxwell@downingtown.org
Intervenor

THOMAS CASEY
1113 WINDSOR DR
WEST CHESTER PA 19380
tcaseylegal@gmail.com
Intervenor

MICHAEL P PIERCE ESQUIRE
MICHAEL P PIERCE PC
17 VETERANS SQUARE
PO BOX 604
MEDIA PA 19063
MPPIerce@PierceAndHughes.Com
Accepts E-Service
Representing Edgmont Twp.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Meghan Flynn	:	
Rosemary Fuller	:	
Michael Walsh	:	
Nancy Harkins	:	C-2018-3006116
Gerald McMullen	:	P-2018-3006117
Caroline Hughes and	:	
Melissa Haines	:	
v.	:	
Sunoco Pipeline, L.P.	:	

Melissa DiBernardino	:	
v.	:	C-2018-3005025
Sunoco Pipeline, L.P.	:	

Rebecca Britton	:	
v.	:	C-2019-3006898
Sunoco Pipeline, L.P.	:	

Laura Obenski	:	
v.	:	C-2019-3006905
Sunoco Pipeline, L.P.	:	

**OBJECTIONS OF THE COUNTY OF CHESTER
TO THE SUBPOENA APPLICATION TO COMPEL
THE LAY TESTIMONY OF WILLIAM TURNER**

The County of Chester (Chester County or County), by and through its attorneys, Reger Rizzo & Darnall LLP, pursuant to 52 Pa. Code Section § 5.421(f), hereby files its Objections to the Subpoena Application filed by *pro se* Complainant, Rebecca Britton (Ms. Britton) seeking to compel the lay testimony of William Turner, Chester County's Deputy Director of Emergency Services (Application). Contrary to Ms. Britton's assertion that she "is

not anticipating objections,” Chester County has advised Ms. Britton on several occasions that Mr. Turner would be testifying as an expert witness at the scheduled July 2020 hearing. Ms. Britton will have the opportunity to cross-examine Mr. Turner at the July 2020 hearing. She has offered no reason why the Application should be granted which will result in preventing the County from calling its employee as an expert witness.

In support of its Objections, Chester County states as follows:

1. The Application is procedurally defective as it does not provide the mandatory notice required by 52 Pa. Code § 5.421(2)(b)(3) that a “response or objection shall be filed in 10 days.” Rather the provided notice “asks that any responses [sic] are within 7 days in accordance with Judge Barnes’ prehearing conference order.¹” Ms. Britton blatantly misrepresents the Prehearing Order, dated August 2, 2019 (*August PHO*). Judge Barnes specifically directed that a written application must be submitted in advance of the hearing date “**so that the other parties have the required ten (10) days’ notice to answer or object.**” *August PHO* at ¶ 15.

2. Chester County has listed Mr. Turner as an expert witness. The stated scope of the testimony sought by Ms. Britton is identical to the anticipated scope of his expert testimony to be presented on behalf of the County.

3. Pursuant to the Procedural Order, dated June 6, 2019 (*Procedural Order*), expert witnesses will prefile direct written testimony by January 15, 2020, surrebuttal written testimony

¹ Ms. Britton specifically requests that Judge Barnes “consider expediting” her request so as to allow for response if one is needed. Application ¶ 11. Commission regulations do not permit the filing of a responsive pleading to an objection to a subpoena application. 52 Pa. Code § 5.421.

by May 14, 2020 and testify at the hearings scheduled July 15, 2020 through July 29, 2020. *Procedural Order* at 7.

4. Judge Barnes has ruled that lay witnesses are permitted to testify in person at the October hearing or through written direct or rebuttal testimony, but not both. *August PHO* at ¶ 6.

5. Ms. Britton was advised verbally, *via* email, and during the Prehearing Telephonic Conference held on September 5, 2019. A copy of an email, dated September 11, 2019, is provided as Attachment 1.

6. Granting the Application will deny the County, a party to the proceeding, its due process rights to present its direct case, as it sees fit, since Mr. Turner would be precluded from offering expert testimony at the July 2020 hearings.

7. Ms. Britton's due process rights are not affected since she will have the opportunity to cross-examine Mr. Turner at the scheduled July 2020 hearing.

8. Commission regulations authorize Judge Barnes to regulate the course of the proceeding² and control the receipt of evidence.³

² 52 Pa. Code § 5.483.

³ 52 Pa. Code § 5.403.

10. Ms. Britton's request that Mr. Turner be compelled to testify as a lay witness, rather than as expert witness on behalf of its employer, Chester County, should be summarily denied.

WHEREFORE, The County of Chester respectfully requests that this Honorable Commission deny the Subpoena Application filed by *pro se* Complainant Rebecca Britton to compel the lay testimony of William Turner.

Respectfully submitted,

Dated: October 17, 2019



Margaret A. Morris, Esquire

Attorney I.D. # 75048

Cira Centre, 13th Floor

2929 Arch Street

Philadelphia, PA 19104

(215) 495-6524 (voice)

(215) 495-6600 (fax)

mmorris@regerlaw.com

Counsel for The County of Chester

**Re: Docket Nos. P-2018-3006117 and C-2018-3006116
Megan Flynn et al. v. Sunoco Pipeline, L.P.
Objections of The County of Chester to the Subpoena for W. Turner**

Attachment 1

Email, dated September 11, 2019, to R. Britton

Margaret A. Morris, Esquire

From: Margaret A. Morris, Esquire
Sent: Wednesday, September 11, 2019 4:40 PM
To: rbrittonlegal@gmail.com; lissdibernardino@gmail.com
Subject: County response to request for employee to testify as lay witness at October 2019 hearing

Importance: High

Ms. Britton and Ms. DiBernardino:

I have consulted with my client, and based on my advice, the County will not agree to any employee testifying as a lay witness at the October 23-24, 2019 hearing. Furthermore, the County will aggressively oppose any request for subpoena of any of its employees.

The County will be presenting Bill Turner as an expert witness at the July 2020 hearing. You will also have the opportunity to propound discovery to the County's witness(es) after the written statement(s) is prefiled with PUC. The information/facts you seek to be placed on the record, can be elicited at the scheduled June 2020 hearing in Harrisburg.

Margie Morris

REGER | RIZZO | DARNALL LLP
Attorneys at Law
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, Pa 19104
Phone: 215.495.6500
Fax: 215.495.6600
Web: www.regerlaw.com

Margaret A. Morris, Esquire
mmorris@regerlaw.com
Direct: 215.495.6524
Cell: 215.870.5785

NOTICE: THIS COMMUNICATION, INCLUDING ATTACHMENTS, MAY CONTAIN INFORMATION THAT IS CONFIDENTIAL AND PROTECTED BY THE ATTORNEY/CLIENT OR OTHER PRIVILEGES. IT CONSTITUTES NON-PUBLIC INFORMATION INTENDED TO BE CONVEYED ONLY TO THE DESIGNATED RECIPIENT(S). IF THE READER OR RECIPIENT OF THIS COMMUNICATION IS NOT THE INTENDED RECIPIENT, AN EMPLOYEE OR AGENT OF THE INTENDED RECIPIENT WHO IS RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, OR YOU BELIEVE THAT YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY BY RETURN E-MAIL AND PROMPTLY DELETE THIS E-MAIL, INCLUDING ALL ATTACHMENTS WITHOUT READING OR SAVING THEM IN ANY MANNER. THE UNAUTHORIZED USE, DISSEMINATION, DISTRIBUTION, OR REPRODUCTION OF THIS E-MAIL, INCLUDING ATTACHMENTS, IS PROHIBITED AND MAY BE UNLAWFUL. RECEIPT BY ANYONE OTHER THAN THE INTENDED RECIPIENT(S) IS NOT A WAIVER OF ANY ATTORNEY/CLIENT OR OTHER PRIVILEGE.