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October 21, 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., Docket Nos. C-2018-3006116 & P-2018-3006117 (consolidated)
Melissa DiBernardino, Docket No. C-2018-3005025 (consolidated)
Rebecca Britton, Docket No. C-2019-3006898 (consolidated)
Laura Obenski, Docket No. C-2019-3006905 (consolidated)
Andover Homeowner's Association, Inc.; Docket No. C-2018-3003605 (consolidated)
v.
Sunoco Pipeline L.P.

**SUNOCO PIPELINE L.P.'S MOTION IN LIMINE TO PRECLUDE THE ORAL
TESTIMONY OF NEWLY IDENTIFIED WITNESSES BY MELISSA
DIBERNARDINO AND REBECCA BRITTON FILED OCTOBER 17, 2019**

Dear Secretary Chiavetta:

Attached for electronic filing with the Commission is Sunoco Pipeline L.P.'s Motion in Limine to preclude Oral Testimony of Newly Identified Witnesses by Melissa DiBernardino and Rebecca Britton at the October 23 and 24, 2019 Lay Witness Hearings in this matter and **request for oral argument if necessary and ruling at the October 23 hearing**. Because this document does not contain new averments of fact, it does not require a verification.

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 email and first class mail)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN et al.	:	Docket Nos.	C-2018-3006116 (consolidated)
	:		P-2018-3006117
MELISSA DIBERNARDINO	:	Docket No.	C-2018-3005025 (consolidated)
REBECCA BRITTON	:	Docket No.	C-2019-3006898 (consolidated)
LAURA OBENSKI	:	Docket No.	C-2019-3006905 (consolidated)
ANDOVER HOMEOWNER'S ASSOCIATION, INC.	:	Docket No.	C-2018-3003605 (consolidated)

v.

SUNOCO PIPELINE L.P.

NOTICE TO PLEAD

TO: – Melissa DiBernardino
 – Rebecca Britton

PLEASE TAKE NOTICE that Sunoco Pipeline L.P. (“SPLP”) has filed a Motion *In Limine* regarding oral testimony of newly identified witnesses by Melissa DiBernardino and Rebecca Britton at the October 23 and 24, 2019 Lay Witness Hearings (“Motion”). Pursuant to 52 Pa. Code § 5.103, **you are hereby notified that that an answer or other responsive pleading may be filed prior to the October 23, 2019 Hearing Day or the Administrative Law Judge may allow you to address this Motion via oral argument at hearing¹.** Your failure to file or argue an answer or other responsive pleading will allow the presiding officer to rule on the Motion without a response from you. All pleadings must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served on the undersigned counsel.

¹ Pursuant to 52 Pa. Code § 5.103, this Motion requests the Administrative Law Judge grant oral argument if necessary on this Motion and rule on October 23, 2019 on this Motion.

Respectfully submitted,



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Kevin J. McKeon, Esq. (PA ID No. 30428)
Whitney E. Snyder, Esq. (PA ID No. 316625)
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dsilva@mankogold.com

Attorneys for Respondent Sunoco Pipeline L.P.

Dated: October 21, 2019

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN et al.	:	Docket Nos.	C-2018-3006116 (consolidated)
	:		P-2018-3006117
MELISSA DIBERNARDINO	:	Docket No.	C-2018-3005025 (consolidated)
REBECCA BRITTON	:	Docket No.	C-2019-3006898 (consolidated)
LAURA OBENSKI	:	Docket No.	C-2019-3006905 (consolidated)
ANDOVER HOMEOWNER'S ASSOCIATION, INC.		Docket No.	C-2018-3003605 (consolidated)

v.

SUNOCO PIPELINE L.P.

**SUNOCO PIPELINE L.P.'S MOTION IN LIMINE TO PRECLUDE THE ORAL
TESTIMONY OF NEWLY IDENTIFIED WITNESSES BY MELISSA DIBERNARDINO
AND REBECCA BRITTON FILED OCTOBER 17, 2019**

Pursuant to 52 Pa. Code §§ 5.103 and 5.483 and 66 Pa. C.S. § 333, Sunoco Pipeline L.P. moves to exclude from testifying at the October 23 and 24 Lay Witness hearings Melissa DiBernardino's newly identified witness, *pro se* Intervenor Virginia Marcille Kerslake, and Rebecca Britton's newly identified witness, *pro se* Intervenor Josh Maxwell. Ms. DiBernardino and Ms. Britton's actions in amending their witness lists 3-business days¹ prior to the hearings is a direct violation of Your Honor's Orders, Ms. DiBernardino and Ms. Britton have no good cause shown for this late amendment in direct violation of 66 Pa. C.S.A. § 333, and Ms. DiBernardino and Ms. Britton's actions violate SPLP's due process rights through their trial by ambush tactics. Moreover, the subject of the testimony of the two witnesses is different and expanded including listing "related matters" as a topic of testimony. In contrast, while SPLP's due process rights are

¹ SPLP was served Ms. DiBernardino's amended list on October 17, 2019 and Ms. Britton's amended witness list at 6:20 PM on October 17, 2019, making effective receipt Friday, October 18, 2019.

infringed if Virginia Kerslake or Josh Maxwell are allowed to testify due to the lack of notice to prepare discovery and for hearing Ms. DiBernardino and Ms. Britton suffer no such prejudice as they (and their witness who are both Intervenors in the consolidated proceeding) can submit written testimony as Your Honor ordered by January 15, 2020. Such intentional disregard for Your Honor's order, even by a *pro se* complainants, should not be tolerated before this Commission.

SPLP filed this motion as expeditiously as possible given the untimely amendments to the witness lists, and SPLP requests that Your Honor decide this issue at hearing, allowing for oral argument on the issue if necessary.

SPLP moves to preclude the oral testimony of late-identified witnesses Virginia Kerslake and Josh Maxwell at the October 23 and 24 Lay Witness hearings as supported by the following:

1. On August 2, 2019, Your Honor issued the first prehearing order regarding the October 23 and 24 Lay Witness hearings. In relevant part, Your Honor ordered:

1. Complainants and Complainant-Aligned Intervenors are directed to serve the presiding officer, Respondent, and Respondent-Aligned Intervenor with a list of lay witness names, addresses, and brief summaries of the subject matter to which they are expected to testify at the October hearing on or before **August 20, 2019**.

...

4. Complainants' and Complainant-Aligned Intervenors' lay witnesses may either testify at the hearing in October, or through direct written testimony submitted to the presiding officer and other parties by January 15, 2020 as set forth in the Procedural Order.

Flynn et al. v. SPLP, Docket No. C-2018-3006116 et al, Prehearing Order at 2 (Entered August 2, 2019) (emphasis in original). As discussed at the various pre-hearing conferences on the lay witness hearing, the purpose of advanced identification of witnesses is to ensure an efficient proceeding and to ensure that all parties' due process rights are protected. Both Ms. DiBernardino

and Ms. Britton as well as the Intervenor Virginia Kerslake and Josh Maxwell had the ability and obligation to comply with this order.

2. On or about August 20, 2019, Rebecca Britton submitted her first “List Lay Witness.” *See* Attachment A. In her witness list, Ms. Britton identified the following witnesses: Micheal Holmes, Fire Marshal Uwchlan Township; Chief Scott Alexander, Police Chief Uwchlan Township; William Turner, Chester County Emergency Management; Dr. Emilie Lonardi, Downingtown Area School District Superintendent; and Mrs. Wanda J. Dunn, Neighbor Uwchlan Township. *See* Attachment A.

3. On or about September 5, 2019, Melissa DiBernardino submitted her first “Lay Witness List.” *See* Attachment B. In her witness list, Ms. DiBernardino identified the following witnesses: William Turner, Chester County Emergency Management; Margaret Egan, Saints Peter & Paul School Principal; Caroline Hughes – Saints Peter & Paul School Parent; and Kevin Miller – East Goshen Emergency Management Coordinator. *See* Attachment B.

4. On September 5, 2019, Your Honor issued a second prehearing order regarding the October 23 and 24 Lay witness hearings. Your Honor ordered that Complainants and Complainant-Aligned Intervenor must serve a list of lay witnesses they expect to testify by September 12, 2019. *Flynn et al. v. SPLP*, Docket No. C-2018-3006116 et al, Second Prehearing Order at 2 (Order entered September 5, 2019). Both Ms. DiBernardino and Ms. Britton as well as Intervenor Virginia Kerslake and Josh Maxwell had the ability and obligation to comply with this order.

5. As noted in Chester County’s October 17, 2019, Objection to Rebecca Britton’s Subpoena of William Turner, Ms. DiBernardino and Ms. Britton were informed on or before September 11, 2019, *significantly prior to the deadline for amended witness list submissions*, that the County would not agree to any employee testifying as a lay witness on their behalf, as doing

so would hinder Chester County's rights as a party in this matter. *See* Chester County's Attachment 1 titled "Email, dated September 11, 2019, to R. Britton" of *Chester's October 17, 2019 Objection to Rebecca Britton's Subpoena of William Turner*, Attached here as Attachment C (hereinafter the "September 11, 2019 email").

6. On or about September 12, 2019, Melissa DiBernardino submitted her "Amended Lay Witness List." *See* Attachment D. In her amended list, Ms. DiBernardino identified the same witnesses as before, with only one qualification of "William Turner or other individual (to be determined) from Chester County Department of Emergency Services." *See* Attachment D (emphasis added). As noted by Chester County's Counsel in the September 11, 2019 email, Ms. DiBernardino was already on notice that Chester County would oppose her calling any County employee as a lay witness. *See* Attachment C.

7. On or about September 12, 2019, Rebecca Britton submitted her "Lay Witness List Ammended [sic]." *See* Attachment E. In her amended list, Ms. Britton identified the same witnesses with a similar qualification as Ms. DiBernardino that "Yet to be determined, Chester County Emergency Management Employee." *See* Attachment E (emphasis added). Just like Ms. DiBernardino and as noted by Chester County, Ms. Britton was already on notice that Chester County would oppose her calling any County employee as a lay witness. *See* Attachment C.

8. On October 17, 2019, effectively 3-business days prior to the hearings, Ms. DiBernardino served another "Amended List Lay Witness." *See* Attachment F. Here, for the first time, Ms. DiBernardino identified *pro se* Intervenor Ms. Virginia Kerslake as a witness, identifying her as an "impacted resident." *See* Attachment F at Page 3.

9. On October 17, 2019, effectively 3-business days prior to the hearings, Ms. Britton served her “corrected” lay witness list. See Attachment G at Page 1. Here, for the first time, and as stated in full, Ms. Britton identified *pro se* Intervenor Mr. Josh Maxwell as a witness:

In lieu of, “yet to be determined, Chester County Emergency Management Employee”; I am requesting to include Mr Josh Maxwell the Mayor of Downingtown. Mr. Maxwell will testify to the general awareness and preparedness of his municipality regarding pipeline emergencies and the reliance of mutual aid agreements in emergency responses. Other related matters as he identified in his intervention into my original filing. This will be my only change in my witness list. 610.308.3037

See Attachment G (emphasis added).

10. Both Ms. DiBernardino and Ms. Britton’s October 17, 2019 amended lay witness lists are in direct violation of Your Honor’s August 2, 2019 and September 5, 2019 Prehearing Orders. Your Honor put in such procedural deadlines for a purpose, to ensure both efficient hearings and to protect all parties’ due process and evidentiary rights. That purpose, especially here where both Ms. DiBernardino and Ms. Britton had ample notice, should be enforced.

11. Further, Ms. DiBernardino and Ms. Britton’s conduct are in direct violation of the Commission’s controlling statutes at 66 Pa. C.S. § 333(a) and (c) as neither has alleged any good cause for such late and prejudicial identification of their witnesses:

(a) Conferences.--The presiding officer shall have the authority to hold one or more prehearing conferences during the course of the proceeding on his own motion or at the request of a party to the proceeding. The presiding officer shall normally hold at least one prehearing conference in proceedings where the issues are complex or where it appears likely that the hearing will last a considerable period of time. In addition to other matters which the commission may prescribe by rule, the presiding officer at a prehearing conference may direct the parties to exchange their evidentiary exhibits and witness lists prior to the hearing. Where good cause exists, the parties may at any time amend, by deletion or supplementation, their evidentiary exhibits and witness lists.

...

(c) Disclosure of information on witnesses.--At the prehearing conference or at some other reasonable time prior to the hearing, which may be established by commission rule, each party to the proceeding shall make available to the other parties to the proceeding the names of the witnesses he expects to call and the subject matter of their expected testimony. Where good cause exists, the parties shall have the right at any time to amend, by deletion or supplementation, the list of names of the witnesses they plan to call and the subject matter of the expected testimony of those witnesses.

12. Indeed, Ms. DiBernardino and Ms. Britton's own conduct and refusal to accept Chester County's rights to not have a County employee called so it can put forth its own case (i.e. the "September 11, 2019 email", *see* Attachment C), and their now decision to wholly change witnesses without reason or "In lieu of" is not "good cause." Simply put, Ms. DiBernardino and Ms. Britton's prejudicial conduct should not be permitted by Your Honor, and it is absolutely no excuse that either party did not know that Chester County would not allow their employees to testify on the *pro se* Complainants behalf. Clear notice of Chester County's objections was given to Ms. DiBernardino and Ms. Britton on or before September 11, 2019. *See* Attachment C. Why Ms. DiBernardino and Ms. Britton waited 36 days, until 3 business days before trial to amend their witness lists after notice was given is purely demonstrative of the tactics at play.

13. Ms. DiBernardino and Ms. Britton's tactics here are nothing more than "hide-the-ball" schemes which should not be endorsed or permitted before this Commission, especially where both Your Honor's orders and the Commission's governing statutes are clear. These amendments to their lay witness list are a blatant disregard for Your Honor's orders and, if allowed, would violate SPLP's due process rights to discovery and notice ability to prepare for hearing for newly-identified witnesses 3-business days before trial. The result, if allowed, would amount to a

trial by ambush, and such self-serving tactics by Ms. DiBernardino and Ms. Britton should not be allowed. Your Honor should not allow complete disregard for Orders in this proceeding.

14. In contrast, neither Ms. DiBernardino's and Ms. Britton's nor Intervenor Virginia Kerslake's and Intervenor Josh Maxwell's rights are affected if Ms. DiBernardino and Ms. Britton's October 17, 2019 amendments are denied. As recognized by Your Honor in the August 2, 2019 Order:

4. Complainants' and Complainant-Aligned Interveners' lay witnesses may either testify at the hearing in October, or through direct written testimony submitted to the presiding officer and other parties by January 15, 2020 as set forth in the Procedural Order.

Flynn et al. vs SPLP, Docket No. C-2018-3006116 et al, Prehearing Order at 2 (Entered August 2, 2019) (emphasis added). Both Ms. DiBernardino and Ms. Britton and/or Interveners Virginia Kerslake and Josh Maxwell can submit written testimony as ordered by Your Honor. Such written testimony would allow for proper procedural safeguards and protect SPLP's right to develop meaningful cross examination, do discovery² of the witness prior to hearing and rebuttal through its own written rebuttal testimony, rather than trial by ambush where these newly identified witnesses *who will be testifying to new subjects including "related matters" (whatever that means)* may not be subject to cross examination again where SPLP has a legitimate due process issue with the limited time to research and prepare cross examination.

² In addition to expanding the subject of testimony to be presented just before hearings, the actions here of DiBernardino and paralegal Britton effectively deny SPLP the opportunity to conduct discovery prior to hearing and presentation of these two eleventh-hour witnesses the result being a textbook example of due process deprivation.

15. The prejudice to SPLP here of allowing a witness to testify who was identified 3-business days prior to hearing without good cause shown far outweighs any prejudice to Ms. DiBernardino and Ms. Britton who, by their own actions, violated Your Honor's order and the Commission's governing statutes. No rights of Ms. DiBernardino and Ms. Britton would be affected if Your Honor precludes Ms. Kerslake and Mr. Maxwell's testimony at this time as these Intervenor's can submit written testimony in compliance with Your Honor's prior orders.

16. SPLP believes that it is in all parties' and Your Honor's interests to resolve this Motion prior to the October 23 and 24 Lay Witness Hearings. SPLP believes that by precluding the oral testimony of Ms. DiBernardino and Ms. Britton's October 17, 2019 identified witnesses, Virginia Kerslake and Josh Maxwell (respectively), prior to hearing, significant hearing time can be saved because there will be no need for additional argument against such conduct in clear violation of Your Honor's Orders and the Commission's governing statutes. This should cut down on both the time to address SPLP's objections to Ms. Kerslake's and Mr. Maxwell's oral testimony at hearing and the objections and arguments thereon.

WHEREFORE, SPLP respectfully requests that Your Honor preclude the oral testimony of Melissa DiBernardino's October 17, 2019 identified witness Virginia Kerslake and Rebecca Britton's October 17, 2019 identified witness Josh Maxwell as Ms. DiBernardino's and Ms. Britton's conduct violated Your Honor's prehearing orders, Ms. DiBernardino and Ms. Britton have no good cause shown for their late amendments in violation of 66 Pa. C.S. § 333(a) and (c), and Ms. DiBernardino and Ms. Britton's actions (if allowed) would infringe on SPLP's due process rights while no rights would be hindered by precluding the identified witnesses' oral testimony as they may submit written testimony by January 15, 2020.

SPLP also requests Your Honor decide this issue at hearing, allowing for oral argument on the issue if necessary

Respectfully submitted,

A handwritten signature in black ink, reading "Thomas J. Sniscak". The signature is written in a cursive style with a horizontal line underneath the name.

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dsilva@mankogold.com

Attorneys for Respondent Sunoco Pipeline L.P.

Dated: October 21, 2019

ATTACHMENT A

Rebecca Britton
211 Andover Dr.
Exton PA 19341

August 20, 2019

VIA ELECTRONIC FILING

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

August 20, 2019

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

Meghan Flynn. et al. v. Sunoco Pipeline L.P.; Docket Nos. C-2018-3006116 and
P-2018-3006117;

REBECCA BRITTON'S LAY WITNESS LIST

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Rebecca Britton's lay witness list.

If you have any questions regarding these filings please do not hesitate to contact me.

Very Truly Yours,

A handwritten signature in black ink that reads "Rebecca Britton". The signature is written in a cursive, flowing style.

Rebecca Britton
Pro se
August 20, 2019

August 20, 2019

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

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rebecca Britton	:	
211 Andover Dr.	:	
Exton, PA 19341	:	Docket No. C-2019-3006898
Complainant	:	

v. :

SUNOCO PIPELINE L.P., :
Respondent.

	:	
MEGAN FLYNN <i>et al</i>	:	Docket Nos.C-2018-3006116
v.	:	P-2018-3006117
SUNOCO PIPELINE L.P.,	:	

:

LIST LAY WITNESS

Micheal Holmes, Fire Marshall Uwchlan Township
Testify to information presented to Township Officials responsible for public safety and other
information consistent with my complaint. 610.363.0518

Chief Scott Alexander, Police Chief Uwchlan Township

Testify to information presented to Township Officials responsible for public safety and other information consistent with my complaint. 610.363.0518

William Turner, Chester County Emergency Management

Testify to information presented to County Officials responsible for public safety and other information consistent with my complaint. 610.344.5000

\

Dr. Emilie Lonardi Downingtown Area School District Superintendent

Testify to information presented to School District Officials responsible for school safety and other information consistent with my complaint. 610.269.8460

Mrs. Wanda J. Dunn Neighbor Uwchlan Township

Testify to information consistent with my complaint. I reserve the right to change this neighbor should her health decline and will inform all parties as soon as possible if changes are needed.

I intend to give testimony during the October hearing.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Rebecca Britton". The signature is fluid and cursive, with the first name "Rebecca" written in a larger, more prominent script than the last name "Britton".

Rebecca Britton

August 20, 2019

VERIFICATION

I, Rebecca Britton, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

A handwritten signature in cursive script that reads "Rebecca Britton".

Rebecca Britton
Pro se
August 20, 2019

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 1.54 (relating to service by a party).

This document has been filed via electronic filing:

VIA ELECTRONIC FILING

Pennsylvania Public Utility Commission
efiling system

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Honorable Elizabeth Barnes
ebarnes@pa.gov

A handwritten signature in black ink, appearing to read "Rebecca Britton". The script is cursive and fluid.

Rebecca Britton
Pro se
August 20, 2019

ATTACHMENT B

Melissa DiBernardino
1602 Old Orchard Lane.
West Chester PA 19380

September 4, 2019

VIA ELECTRONIC FILING

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

September 4, 2019

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

Meghan Flynn. et al. v. Sunoco Pipeline L.P.; Docket Nos. C-2018-3006116 and
P-2018-3006117;

MELISSA DIBERNARDINO'S LAY WITNESS LIST

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Melissa DiBernardino's lay witness list.

If you have any questions regarding these filings please do not hesitate to contact me.

Sincerely,

Melissa DiBernardino

Pro se

September 4, 2019

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

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

MELISSA DIBERNARDINO

:

Complainant : **Docket No. C-2018-3005025**

v. :

SUNOCO PIPELINE L.P., :
Respondent.

MEGAN FLYNN *et al* : **Docket Nos.C-2018-3006116**
v. : **P-2018-3006117**
SUNOCO PIPELINE L.P., :

:

LIST LAY WITNESS

William Turner, Chester County Emergency Management

Testify to information presented to County Officials responsible for public safety and other information consistent with my complaint.

601 Westtown Road, Suite 012
West Chester, PA 19380
(610) 344-5011 (office)

(484) 401-8778 (cell)

Margaret Egan, Saints Peter & Paul School Principal

Will testify to school emergency plans, communication with Sunoco/Energy Transfer and other information consistent with my complaint.

1327 E Boot Rd
West Chester, PA
19380
(610) 696.1000

Caroline Hughes - Saints Peter & Paul School Parent

Will testify to concerns and issues raised in my complaint as a fellow parent.

(484) 883-1156
1101 Amalfi Drive
West Chester, Pa
19380

Kevin Miller - East Goshen Emergency Management Coordinator

Mr. Miller can testify to our township's plans for emergency, evacuation and response. Additionally, he can speak for information received from Sunoco and other issues raised in my complaint.

East Goshen Township
1580 Paoli Pike
West Chester, PA 19380-6199
Phone: (610) 692-7171

I intend to give testimony during the October hearing.

Respectfully Submitted,

Melissa DiBernardino

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Melissa DiBernardino
lissdibernardino@gmail.com

Virginia Marcille-Kerslake
vkerslake@gmail.com

James J. Byrne, Esq.
Kelly S. Sullivan, Esq.
jjbyrne@mbmlawoffice.com
ksullivan@mbmlawoffice.com

Honorable Elizabeth Barnes
ebarnes@pa.gov

ATTACHMENT C

**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.

ATTACHMENT D

Melissa DiBernardino
1602 Old Orchard Lane.
West Chester PA 19380

September 12, 2019

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building 400
North Street, Filing Room
Harrisburg, PA 17120
September 4, 2019

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

Meghan Flynn. et al. v. Sunoco Pipeline L.P.; Docket Nos. C-2018-3006116 and
P-2018-3006117;

MELISSA DIBERNARDINO'S AMENDED LAY WITNESS LIST

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Melissa DiBernardino's lay witness list.

If you have any questions regarding these filings please do not hesitate to contact me.

Sincerely,

Melissa DiBernardino

Pro se

September 12, 2019

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

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

MELISSA DIBERNARDINO :

:Docket No. C-2018-3005025
Complainant

v.:
SUNOCO PIPELINE L.P.,
Respondent.

:
MEGAN FLYNN *et al*

Docket Nos .C-2018-3006116 v. P-2018-3006117 SUNOCO PIPELINE L.P.,:

:

AMENDED LIST LAY WITNESS

William Turner or other individual (to be determined) from Chester County Department of Emergency Services

Testify to information presented to County Officials responsible for public safety, preparedness and emergency plans in place and other information consistent with my complaint.

601 Westtown Road, Suite 012
West Chester, PA 19380
(610) 344-5011 (office)
(484) 401-8778 (cell)

Margaret Egan, Saints Peter & Paul School Principal

Will testify to school emergency plans, communication with Sunoco/Energy Transfer and other information consistent with my complaint.

1327 E Boot Rd
West Chester, PA
19380
(610) 696.1000

Caroline Hughes - Saints Peter & Paul School Parent

Will testify to concerns and issues raised in my complaint as a fellow parent.

(484) 883-1156
1101 Amalfi Drive
West Chester, Pa
19380

Kevin Miller - East Goshen Emergency Management Coordinator

Mr. Miller can testify to our township's plans for emergency, evacuation and response. Additionally, he can speak for information received from Sunoco and other issues raised in my complaint.

East Goshen Township
1580 Paoli Pike
West Chester, PA 19380-6199
Phone: (610) 692-7171

I intend to give testimony during the October hearing.

I reserve the right for friendly cross examination of witnesses for other complainants and intervenors at the October 23rd and 24th Hearing.

Respectfully Submitted,

Melissa DiBernardino

Thomas J. Sniscak, Esq
tjsniscak@hmslegal.com

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kjmckeon@hmslegal.com

Whitney E. Snyder
@hmslegal.com

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dsilva@mankogold.com

Michael Bomstein
mbomstein@gmail.com

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jdalton@utbf.com

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ksullivan@mbmlawoffice.com

Honorable Elizabeth Barnes
ebarnes@pa.gov

ATTACHMENT E

Rebecca Britton
211 Andover Dr.
Exton PA 19341

September 12, 2019

VIA ELECTRONIC FILING

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

August 20, 2019

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

Meghan Flynn. et al. v. Sunoco Pipeline L.P.; Docket Nos. C-2018-3006116 and
P-2018-3006117;

REBECCA BRITTON'S LAY WITNESS LIST AMMENDED

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Rebecca Britton's lay witness list.

If you have any questions regarding these filings please do not hesitate to contact me.

Very Truly Yours,

A handwritten signature in black ink that reads "Rebecca Britton". The signature is written in a cursive, flowing style.

Rebecca Britton
Pro se
September 12, 2019

September 12, 2019

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

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rebecca Britton	:	
211 Andover Dr.	:	
Exton, PA 19341	:	Docket No. C-2019-3006898
Complainant	:	

v.	:
----	---

SUNOCO PIPELINE L.P.,	:
Respondent.	:

	:	
MEGAN FLYNN <i>et al</i>	:	Docket Nos.C-2018-3006116
v.	:	P-2018-3006117
SUNOCO PIPELINE L.P.,	:	

:

LIST LAY WITNESS

Micheal Holmes, Fire Marshall Uwchlan Township
Testify to information presented to Township Officials responsible for public safety and other
information consistent with my complaint. 610.363.0518

Chief Scott Alexander, Police Chief Uwchlan Township

Testify to information presented to Township Officials responsible for public safety and other information consistent with my complaint. 610.363.0518

Yet to be determined, Chester County Emergency Management Employee
Testify to information presented to County Officials responsible for public safety and other information consistent with my complaint. 610.344.5000

\

Dr. Emilie Lonardi Downingtown Area School District Superintendent
Testify to information presented to School District Officials responsible for school safety and other information consistent with my complaint. 610.269.8460

Mrs. Wanda J. Dunn Neighbor Uwchlan Township
Testify to information consistent with my complaint. I reserve the right to change this neighbor should her health decline and will inform all parties as soon as possible if changes are needed.

I intend to give testimony during the October hearing.

I continue to reserve the right to cross examine any other witness during the hearing.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Rebecca Britton". The signature is fluid and cursive, with a small dot at the end.

Rebecca Britton

September 12, 2019

VERIFICATION

I, Rebecca Britton, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

A handwritten signature in black ink, appearing to read "Rebecca Britton". The script is cursive and fluid.

Rebecca Britton

Pro se

September 12, 2019

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 1.54 (relating to service by a party).

This document has been filed via electronic filing:

VIA ELECTRONIC FILING

Pennsylvania Public Utility Commission
efiling system

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Kelly S. Sullivan, Esq.
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Honorable Elizabeth Barnes
ebarnes@pa.gov

A handwritten signature in black ink, appearing to read "Rebecca Britton". The script is cursive and fluid.

Rebecca Britton
Pro se
September 12, 2019

ATTACHMENT F

Melissa DiBernardino
1602 Old Orchard Lane.
West Chester PA 19380

October 17, 2019

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building 400
North Street, Filing Room
Harrisburg, PA 17120
September 4, 2019

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

Meghan Flynn. et al. v. Sunoco Pipeline L.P.; Docket Nos. C-2018-3006116 and
P-2018-3006117;

MELISSA DIBERNARDINO'S 2nd AMENDED LAY WITNESS LIST

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Melissa DiBernardino's lay witness list.

If you have any questions regarding these filings please do not hesitate to contact me.

Sincerely,

Melissa DiBernardino

Pro se

October 17, 2019

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

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

MELISSA DIBERNARDINO :

:Docket No. C-2018-3005025
Complainant

v.:
SUNOCO PIPELINE L.P.,
Respondent.

:
MEGAN FLYNN *et al*

Docket Nos .C-2018-3006116 v. P-2018-3006117 SUNOCO PIPELINE L.P.,:

:

AMENDED LIST LAY WITNESS

Margaret Egan, Saints Peter & Paul School Principal

Will testify to school emergency plans, communication with Sunoco/Energy Transfer and other information consistent with my complaint.

1327 E Boot Rd
West Chester, PA
19380
(610) 696.1000

Caroline Hughes - Saints Peter & Paul School Parent

Will testify to concerns and issues raised in my complaint as a fellow parent.

(484) 883-1156
1101 Amalfi Drive
West Chester, Pa
19380

Virginia Kerslake - Impacted Resident

Will testify to concerns and issues in my complaint and is also an intervenor. Just recently learning that Ms. Kerslake will not be calling any lay witnesses to the stand, I would like to please have her added to my list.

(215) 200-2966
103 Shoen Road
Exton, Pa 19341

Kevin Miller - East Goshen Emergency Management Coordinator and West Whiteland Fire Chief

Mr. Miller can testify to our township's plans for emergency, evacuation and response. Additionally, he can speak about information received from Sunoco and other issues raised in my complaint. It is unclear at this time if he will be taking the stand with my other witnesses or if I will be asking my questions when Ms. Morris is through with her questioning.

East Goshen Township
1580 Paoli Pike
West Chester, PA 19380-6199
Phone: (610) 692-7171

I intend to give testimony during the October hearing.

I reserve the right for friendly cross examination of witnesses for other complainants and intervenors at the October 23rd and 24th Hearing.

Respectfully Submitted,

Melissa DiBernardino

Thomas J. Sniscak, Esq
tjsniscak@hmslegal.com

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ksullivan@mbmlawoffice.com

Honorable Elizabeth Barnes

ebarnes@pa.gov

ATTACHMENT G

Rebecca Britton
211 Andover Dr.
Exton PA 19341

October 17, 2019

VIA ELECTRONIC FILING

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

October 17, 2019

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

Meghan Flynn. et al. v. Sunoco Pipeline L.P.; Docket Nos. C-2018-3006116 and
P-2018-3006117;

REBECCA BRITTON'S LAY WITNESS LIST AMENDED

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Rebecca Britton's
amended lay witness list.

If you have any questions regarding these filings please do not hesitate to contact me.

Very Truly Yours,

A handwritten signature in black ink that reads "Rebecca Britton". The script is cursive and fluid, with the first name and last name clearly distinguishable.

Rebecca Britton
Pro se
October 17, 2019

October 17, 2019

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

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rebecca Britton	:	
211 Andover Dr.	:	
Exton, PA 19341	:	Docket No. C-2019-3006898
Complainant	:	
 v.	:	
SUNOCO PIPELINE L.P.,	:	
Respondent.	:	
 	:	
MEGAN FLYNN <i>et al</i>	:	Docket Nos.C-2018-3006116
v.	:	P-2018-3006117
SUNOCO PIPELINE L.P.,	:	
 	:	

LIST LAY WITNESS

In lieu of, “yet to be determined, Chester County Emergency Management Employee”;
I am requesting to include Mr Josh Maxwell the Mayor of Downingtown. Mr. Maxwell will testify to the general awareness and preparedness of his municipality regarding pipeline emergencies and the reliance of mutual aid agreements in emergency responses. Other related matters as he identified in his intervention into my original filing. This will be my *only* change in my witness list. 610.308.3037

Micheal Holmes, Fire Marshall Uwchlan Township

Testify to information presented to Township Officials responsible for public safety and other information consistent with my complaint. 610.363.0518

Chief Scott Alexander, Police Chief Uwchlan Township

Testify to information presented to Township Officials responsible for public safety and other information consistent with my complaint. 610.363.0518

\

Dr. Emilie Lonardi Downingtown Area School District Superintendent

Testify to information presented to School District Officials responsible for school safety and other information consistent with my complaint. 610.269.8460

Mrs. Wanda J. Dunn Neighbor Uwchlan Township

Testify to information consistent with my complaint. I reserve the right to change this neighbor should her health decline and will inform all parties as soon as possible if changes are needed.

I intend to give testimony during the October hearing.

I continue to reserve the right to cross examine any other witness during the hearing.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Rebecca Britton".

Rebecca Britton

October 17, 2019

October 17, 2019

VERIFICATION

I, Rebecca Britton, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

A handwritten signature in black ink, appearing to read "Rebecca Britton". The script is cursive and fluid.

Rebecca Britton
Pro se
October 17, 2019

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 1.54 (relating to service by a party).

This document has been filed via electronic filing:

VIA ELECTRONIC FILING

Pennsylvania Public Utility Commission
efiling system

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jjbyrne@mbmlawoffice.com

ksullivan@mbmlawoffice.com

Honorable Elizabeth Barnes

ebarnes@pa.gov

A handwritten signature in black ink, appearing to read "Rebecca Britton". The script is cursive and fluid.

Rebecca Britton
Pro se

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).

VIA ELECTRONIC MAIL

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

Counsel for Flynn et al. Complainants

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Garrett P. Lent, Esquire
Post & Schell PC
17 North Second Street, 12th Floor
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glent@postschell.com

*Counsel for Intervenor
Range Resources – Appalachia LLC*

Erin McDowell, Esquire
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Canonsburg, PA 15317
emcdowell@rangeresources.com

Counsel for Range Resources Appalachia

Rich Raiders, Esquire
Raiders Law
606 North 5th Street
Reading, PA 19601
rich@raiderslaw.com

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

Vincent M. Pompo
Guy A. Donatelli, Esq.
24 East Market St., Box 565
West Chester, PA 19382-0565
vpompo@lambmcerlane.com
gdonatelli@lambmcerlane.com

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

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Mays, Connard & Rotenberg LLP
1235 Penn Avenue, Suite 202
Wyomissing, PA 19610
rotenberg@mcr-attorneys.com

*Counsel for Intervenor
Twin Valley School District*

Margaret A. Morris, Esquire
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104
mmorris@regerlaw.com

*Counsel for Intervenor
East Goshen Township and County of Chester*

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Joanna Waldron
Curtin & Heefner LP
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Doylestown, PA 18901
mlf@curtinheefner.com
jaw@curtinheefner.com

*Counsel for Intervenor
Uwchlan Township*

Josh Maxwell
Mayor of Downingtown
4 W. Lancaster Avenue
Downingtown, PA 19335
jmaxwell@downingtowntown.org

Pro se Intervenor

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P.O. Box 515
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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

Pro Se Intervenor

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