

Melissa DiBernardino  
1602 Old Orchard Lane.  
West Chester Pa 19380

October 22, 2019

**VIA ELECTRONIC FILING**

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

**Re: Melissa DiBernardino 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;

**Melissa DiBernardino's Answer to Motion in Limine**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is my answer to Sunoco's Motion in Limine.

If you have any questions regarding this filing please do not hesitate to contact me.

Sincerely,

Melissa DiBernardino  
*Pro se*  
October 22, 2019

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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**  
1602 Old Orchard Lane  
West Chester Pa 19380

:

**Docket No. C-2019-3006898**

Complainant

Consolidated  
MEGAN FLYNN *et al*

**Docket Nos.C-2018-3006116**

v.

:

**SUNOCO PIPELINE L.P.**,  
Respondent.

:

**Answer to Motion in Limine**

In response to yet another tactic used by SPLP to keep parties from being able to prepare for the hearings, I would like to argue the false accusations being thrown at me. If I “violated” any order given by Your Honor, I am truly sorry. It was not my intention at all as it was my understanding that we were allowed to amend our lists and Your Honor would decide if the amendment was acceptable or not.

Virginia Kerslake, an intervenor in my complaint and resident impacted by the Mariner East Pipeline Project had been out of the country for some time until just a few days before I amended my list. In that time, I was able to confirm that Ms Kerslake would not be calling any witnesses or testifying herself in the hearing. It was then that I asked her to be a witness for me and she agreed.

Ms Kerslake has been a witness in Sen. Dinniman’s emergency petition and SPLP is more than familiar with her and her backround involving the project up until that time, at the very least.

Additionally, I would imagine that SPLP prepared even further with even more recent information about Ms Kerslake when she petitioned to intervene and was granted that status. I am unfamiliar with what discovery would be needed to cross examine her but if it included exhibits of some kind, there has not been any submitted by SPLP for any other witnesses. Therefore I find the claim of SPLP being deprived of due process to simply be a way to keep Ms Kerslake off of the witness stand.

As for the use of William Turner (or any other Department of Emergency Services), SPLP is either unaware or simply leaving out that there was a lot more confusion involved than the one part of email attached. The first time I heard there was an issue with using Mr. Turner was on our conference call in September. Prior to that, I had his name on witness lists dating back to March and had been granted by Chester County to use Mr. Turner as a witness. Once this issue came up, there were few conversations to clarify how to move forward. Not wanting to jeopardize an intervenor's case to be heard, I respectfully agreed to not call Mr. Turner under the assumption that I would be permitted to call someone else from DES.

Attached is email communication showing that there was still much confusion about witnesses well after September 10th.

12:33 ↗



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**From:** rebecca britton

[mailto:[rbrittonlegal@gmail.com](mailto:rbrittonlegal@gmail.com)]

**Sent:** Thursday, October 10, 2019  
10:49 AM

**To:** Margaret A. Morris, Esquire;  
Melissa DiBernardino

**Subject:** County witness


Hello Margie,

Ccing Melissa.

I hope your October is going well. I was wondering if you have decided who is the best person at the county who can testify to my questions at

12:33



RE: County witness --Flynn et al v Sunoco--CC response 



Inbox



Margaret A. Morris, Es... Oct 10



to rebecca, me 

Sorry for the delay in responding –I was in a hearing and just got back to office.

Based on the questions you forwarded, I have no idea. The questions are appropriate for Bill Turner. If you still choose to compel a county witness, please refer to the PUC regs (52 Pa Code § 5.541). Thank you.

According to Black's Law Dictionary the definition of **ambush** is as follows:

**AMBUSH**

The noun "ambush" means (1) the act of attacking an enemy unexpectedly from a concealed station; (2) a concealed station, where troops or enemies lie in wait to attack by surprise, an ambuscade; (3) troops posted in a concealed place for attacking by surprise. The verb "ambush" means to lie' in wait, to surprise, to place in ambush. Dale County v. Gunter, 46 Ala. 142.

If I were even knowledgeable or experienced enough in law to try and pull something like this off, the last witness I would ever choose for this alleged "tactic" would be Ms Kerlake. As mentioned previously, SPLP has had much experience and has enough knowledge about Ms Kerlake to fairly cross examine her. Alleging "prejudice" and being deprived of their due process is not appropriate at all in this situation.

Furthermore, I am accused of additional "tactics" that "are nothing more than "hide-the- ball" schemes which should not be endorsed or permitted before this Commission". If this is an official legal term that I'm unfamiliar with, I apologize but I do not understand the accusation or what it means I'm doing wrong. However, I am familiar with the lay phrase "throwing spaghetti at the wall to see what sticks", which seems to be an appropriate description of SPLP's "tactics" (along with delaying my ability to prepare for our hearing).

Lastly, it is my opinion that the only violation that has occurred in this latest event is possibly the Pennsylvania rules of professional conduct for attorneys by SPLP's counsel when it comes to overburdensome bullying tactics with pro se' complainants. Perhaps even the Code of Civility when throwing around unfounded and scandalous accusations.

The only "tactic" I was using in the timing of my amended complaint was ensuring I had the proper confirmations and avoiding confusion with the schedule as best I as I could. It would have caused more issues had I amended my complaint again and again as decisions were being made and confirmed.

Therefore, I respectfully ask that Your Honor deny SPLP's Motion in Limine in its entirety.

Respectfully,  
Melissa DiBernardino

Thomas J. Sniscak, Esq  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)

Kevin J. McKeon  
[kjmckeon@hmslegal.com](mailto:kjmckeon@hmslegal.com)

Whitney E. Snyder  
[@hmslegal.com](mailto:@hmslegal.com)

Robert D. Fox, Esq.  
Neil S. Witkes, Esp.  
Diana A. Silva, Esq.  
[rfox@mankogold.com](mailto:rfox@mankogold.com)  
[nwitkes@mankogold.com](mailto:nwitkes@mankogold.com)  
[dsilva@mankogold.com](mailto:dsilva@mankogold.com)

Michael Bomstein  
[mbomstein@gmail.com](mailto:mbomstein@gmail.com)

Anthony D. Kanagy, Esquire  
Garrett P. Lent, Esquire  
[akanazy@postschell.com](mailto:akanazy@postschell.com)  
[glent@postschell.com](mailto:glent@postschell.com)

Rich Raiders, Esq.  
[rich@raiderslaw.com](mailto:rich@raiderslaw.com)

Vince M. Pompo, Esq.  
Guy. A. Donatelli, Esq  
Alex J. Baumler, Esq.  
[vpompo@lambmcerlane.com](mailto:vpompo@lambmcerlane.com)  
[Gdonatelli@lambmcerlane.com](mailto:Gdonatelli@lambmcerlane.com)  
[abaumler@lambmcerlane.com](mailto:abaumler@lambmcerlane.com)

Margaret A. Morris, Esq.  
[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

Leah Rotenberg, Esq.  
[rotenberg@mcr-attorneys.com](mailto:rotenberg@mcr-attorneys.com)

Mark L. Freed  
[mlf@curtinheefner.com](mailto:mlf@curtinheefner.com)

James R. Flandreau  
[jflandreau@pfblaw.com](mailto:jflandreau@pfblaw.com)

David J. Brooman  
Richard Sokorai  
Mark R. Fischer  
[dbrooman@highswartz.com](mailto:dbrooman@highswartz.com)  
[rsokorai@highswartz.com](mailto:rsokorai@highswartz.com)  
[mfischer@highswartz.com](mailto:mfischer@highswartz.com)

Thomas Casey  
[tcaseylegal@gmail.com](mailto:tcaseylegal@gmail.com)

Josh Maxwell  
[jmaxwell@downingtown.org](mailto:jmaxwell@downingtown.org)

Laura Obenski  
[ljobenski@gmail.com](mailto:ljobenski@gmail.com)

Stephanie M. Wimer  
[stwimer@pa.gov](mailto:stwimer@pa.gov)

Michael Maddren, Esq.  
Patricia Sons Biswanger, Esq.  
[maddrenM@co.delaware.pa.us](mailto:maddrenM@co.delaware.pa.us)  
[patbiswanger@gmail.com](mailto:patbiswanger@gmail.com)

James C. Dalton, Esq.  
[jdalton@utbf.com](mailto:jdalton@utbf.com)

Melissa DiBernardino  
[lissdibernardino@gmail.com](mailto:lissdibernardino@gmail.com)

Virginia Marcille-Kerslake



[vkerslake@gmail.com](mailto:vkerslake@gmail.com)

James J. Byrne, Esq.

Kelly S. Sullivan, Esq.

[jjbyrne@mbmlawoffice.com](mailto:jjbyrne@mbmlawoffice.com)

[ksullivan@mbmlawoffice.com](mailto:ksullivan@mbmlawoffice.com)

Honorable Elizabeth Barnes

[ebarnes@pa.gov](mailto:ebarnes@pa.gov)