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August 16, 2020

VIA ELECTRONIC FILING

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

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 Reply to SPLP Motion for Partial Summary Judgement

Dear Secretary Chiavetta:

Attached for electronic filing with the Commission is Rebecca Britton's reply to Sunoco Pipeline L.P.'s Motion for Partial Summary Judgment on Consequence Without Probability.

If you have any questions regarding this filing, please contact the undersigned.

Very Truly Yours,



Rebecca Britton

Pro se

August 16, 2020

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Rosemary Chiavetta, Secretary
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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 :

Consolidated :
MEGAN FLYNN *et al* : **Docket Nos.C-2018-3006116**

v. :

SUNOCO PIPELINE L.P., :
Respondent. :

Rebecca Britton’s reply to Sunoco Pipeline L.P.’s Motion for Partial Summary Judgment on Consequence Without Probability.

Pursuant to 52 Pa. Code § 5.102, Sunoco Pipeline L.P. (“SPLP”) has moved for partial summary judgment of the above-captioned matter. SPLP incorrectly describes and categorizes my primary allegation that the Mariner East pipelines are unsafe within the meaning of Section 1501 of the Pennsylvania Public Utility Code, 66 P.S. § 1501 because they are ‘just’ located in high consequence areas in Chester and Delaware counties and a release of highly volatile liquids from ME2 in these high consequence areas could cause significant injuries and death to residents. When counsel says, “Fundamentally, Complainants allege that the potential consequences of a worst-case catastrophic release of highly volatile liquids from ME2 in a high consequence area, without offering any evidence of the likelihood that such a release will actually occur, satisfies their burden of proof that ME2 is unsafe within the meaning of Section 1501.” Which is indeed correct, although, I would add that I also expressed concern over the water resource Marsh Creek

Lake and the use of nonstandard drilling and other apartments of fact. SPLP is unfairly narrowing the scope and apartments made by me.

While, Administrative Law Judge Elizabeth H. Barnes (“ALJ Barnes”) and the unanimous Commission held that evidence of the consequences of a release from ME2 without evidence of the probability of that release actually occurring is insufficient to establish that ME2 violates Section 1501 of the Public Utility Code. ALJ Barnes’ decision is consistent with the standard for establishing when a utility is unsafe under Section 1501. See *Povacz v. PECO Energy Company*, Docket No. C-2015-2475023, Opinion and Order (Order entered March 28, 2019), appeal docketed, No. 492 CD 2019 (Commw. Ct. April 26, 2019) (the fact that hazard exists and there is a potential for harm is not sufficient to prove utility is unsafe under Section 1501, actual harm must be proved; and it is a logical fallacy to equate a hazard with actual exposure to harm).” The quote is unfairly accounted for as this narrows Judge Barne’s ruling in a most favorable light for SPLP and neglects to honor the scope of what was being asked for in the case. It is also true that the case counsel cites is for a smart meter. How can counsel be so arrogant to waste the time and energy of the courts with this. The risks and consequences a rate meter poses to overwhelming emergency response capabilities in a high consequence area is not equitable to the risks and consequences imposed by Mariner East.

Then counsel goes on to further waste the courts time citing, *Randall v. PECO*, Docket No. C-2016-2537666, Opinion and Order (Order entered May 9, 2019), appeal docketed, No. 607 CD 2019 (Commw. Ct. May 22, 2019) (proper focus of an inquiry regarding the safety of a utility facility or service is whether the preponderance of the evidence demonstrates that a utility facility or service caused or will cause harm to the public. Again, another smart meter case.

Why doesn't Counsel direct their client to work with the PEMA Director and order all the necessary studies, surveys, reports to prepare, for issuance by the Governor, executive orders, proclamations and regulations as necessary or appropriate in coping with disasters as related to Mariner East. Title 35 is specific, PEMA is to cooperate with the Federal Government and any public or private agency or entity in achieving any purpose of this part and in implementing programs for disaster prevention, preparation, response and recovery. Like keeping commonwealth water supplies clean.

For the PUC and Commission to stand firm against meeting the needs and requirements of the Emergency Response Requirements as cited in the Robert T. Stafford Disaster Relief and Emergency Assistance Act means PEMA cannot, in good faith, accept and coordinate assistance provided by Federal agencies in major disasters or emergencies in accordance with the provisions of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93288, 42 U.S.C. § 5121 et seq.), or any amendment or reenactment thereof should we not include Mariner in Standard State Mitigation Plans.

Under the planning section we learn; an effective planning process is essential in developing and maintaining a good plan. The mitigation planning process should include coordination with other State agencies, appropriate Federal agencies, interested groups, and be integrated to the extent possible with other ongoing State planning efforts. It states that PEMA's Risk assessments should provide the factual basis for activities proposed in the strategy portion of the mitigation plan. Statewide risk assessments must characterize and analyze natural hazards and risks to provide a statewide overview. This overview will allow the State to compare potential losses throughout the State and to determine their priorities for implementing mitigation measures under the strategy, and to prioritize jurisdictions for receiving technical and financial support in developing more detailed local risk and vulnerability assessments. The risk assessment shall include the following:

- (i) An overview of the type and location of all natural hazards that can affect the State, including information on previous occurrences of hazard events, as well as the probability of future hazard events, using maps where appropriate;
- (ii) An overview and analysis of the State's vulnerability to the hazards described in this paragraph (c)(2), based on estimates provided in local risk assessments as well as the State risk assessment. The State shall describe vulnerability in terms of the jurisdictions most threatened by the identified hazards, and most vulnerable to damage and loss associated with hazard events. State owned or operated critical facilities located in the identified hazard areas shall also be addressed;
- (iii) An overview and analysis of potential losses to the identified vulnerable structures, based on estimates provided in local risk assessments as well as the State risk assessment. The State shall estimate the potential dollar losses to State owned or operated buildings, infrastructure, and critical facilities located in the identified hazard areas.

PEMA's directives are clear and unwavering. PEMA is to take other action necessary, incidental or appropriate for the implementation of SubChapter B of Title 35. The people of Pennsylvania including those in Delaware and Chester County concerns should have been reported during PEMA Director's annual visit to the General Assembly, and given notice to them about the political subdivisions uncertainty on the state of our preparedness or lack thereof, so the Commonwealth could begin to deal with the potentials of attack or disaster by Mariner East and its' suitability near urban, suburban communities and the 40 or more schools impacted and left with inadequate safety plans as outlined by PEMA's own directives. PEMA is directed under Title 35 to recommend to the Governor legislation or other actions as deemed necessary in connection with the purposes of this project and its conduciveness and practicality for meeting state and federal safety standards.

Let's be clear. SPLP, a private company, is neglecting their duties to the Commonwealth by not giving this information to the state. Energy Transfer is preventing our state from taking necessary action by hiding behind PUBLIC UTILITY CONFIDENTIAL SECURITY INFORMATION DISCLOSURE PROTECTION ACT 156 (2006).

Counsel claims that despite " offering Complainants the opportunity to provide the necessary expert testimony on probability at the initial in-person hearing seeking interim emergency relief, in the initial in- person hearing on the Complaint docket, in their direct written testimony and in their rebuttal testimony, and openly questioning whether Complainants "read my decision," Complainants either expressly stated that they would continue to provide only testimony on consequence, not probability, or stated that they intended to provide testimony on probability, but failed to do so. Therefore, Complainants have failed to present a genuine issue of material fact for hearing and meet their burden of proof to show a violation of Section 1501 of the Public Utility Code, Commission regulations or Commission Order on the basis of consequence without evidence of risk or probability."

Probability is irrelevant to my filing. Probability has nothing to do with having an effective emergency management program. One that dictates county's and political subdivisions must address ALL hazards that threaten the community. An impact analysis should be developed outlining at-risk populations, critical facilities, economic and environmental impacts, and other related issues as it relates to Mariner East as dictated by law. The

local tax payers should not be responsible for the burden of costs beyond this identification; and we have! Sunoco is responsible to create a complete hazards analysis in conjunction with the state ensuring the community is prepared to respond to potential disasters caused by their infrastructure. The following are items that should be considered for inclusion in every county or municipal emergency management program as defined by law. 1) a mitigation plan that includes a hazard analysis and vulnerability impacts 2) a current EOP 3) a viable communication system 4) a warning system 5) evacuation plans 6) designated and viable mass care shelters 7) education program for citizens 8) trained response personnel 9) an exercise/drill schedule 10) an up to date resource manual 11) intrinsically safe equipment for response personnel.

Probability is also irrelevant to the General Assemblies mandate to look more closely at the valve next to the Marsh Creek 6th Grade Center. The assembly should look into, IF, the nature and scope of these threats is appropriate for Pennsylvanians through the Homeland Security Act of 2002, TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION Under Secretary for Information Analysis and Infrastructure Protection shall be as follows: (1) To access, receive, and analyze law enforcement information, intelligence information, and other information from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities, and to integrate such information in order to— (A) identify and assess the nature and scope of terrorist threats to the homeland; (B) detect and identify threats of terrorism against the United States; and (C) understand such threats in light of actual and potential vulnerabilities of the homeland. (2) To carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States (including an assessment of the probability of success of such attacks and the feasibility and potential efficacy of various countermeasures to such attacks).

Counsel themselves have acknowledged not being able to let me see confidential security information related to that above ground facility because of terrorist concerns. How does one measure the probability of a terrorist attack?

While, pipeline safety law and regulations expressly authorize the location and operation of hazardous volatile liquid pipelines in high consequence areas, such as the urbanized and heavily populated areas in Delaware and Chester counties. See 52 Pa. Code § 59.33(b) (incorporating 49 U.S.C.A. §§ 60101-60503 and 49 C.F.R. Part 195 regulations as safety standards for hazardous liquid public utilities); 49 U.S.C. § 60109; 49 C.F.R. §§195.1(a)(1), 195.450 and 195.452. Not one agency, state or federal, has studied the consequences to the community or created emergency plans as directed by state and federal law or reviewed the location of this pipeline and related infrastructure.

Until such a time the state has created Title 35 compliant emergency plans specific for Mariner East I am being denied my Pennsylvania State Constitutional Rights. Like, section 1, All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation.

Counsel says, “Highly volatile liquid pipelines have been expressly authorized to safely operate in high consequence areas since minimum federal pipeline safety regulations were established over fifty years ago, including after the integrity management regulations were promulgated twenty years ago. Therefore, Complainants’ argument that simply locating ME2 in a high consequence area is unsafe under Section 1501 directly conflicts with pipeline safety regulations and the authorizations contained in 49 U.S.C. § 60109 and 49 C.F.R. § 195.452.” and that, “Simply stated, Complainants have failed to present any evidence, much less substantial evidence necessary to sustain their burden, of the probability or risk of a catastrophic or other release from ME2. The potential consequences of a catastrophic release, without evidence of the likelihood of that release occurring, does not render ME2 unsafe within the meaning of Section 1501 as a matter of law. In addition, Complainants’ arguments that ME2 is unsafe simply because it is located in high consequence areas in Delaware and Chester counties directly contravenes the Commission’s regulations. Therefore, SPLP is entitled to summary judgment on this issue as a matter of law.”

The above is a fallacy of judgement on the part of counsel in an effort to expediently get this case thrown out of the court. It is irrelevant to the matter at hand and the questions raised before the court. The Pipeline System is a public utility and therefore this is the proper and only way to

raise issues regarding maintaining adequate, efficient, safe, and reasonable service and facilities, and the PUC can order SPLP to make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public.

Alternatively, according to 49 U.S. Code § 60112. Pipeline facilities hazardous to life and property. (a) General Authority.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide that a pipeline facility is hazardous if the Secretary decides that—

(1) operation of the facility is or would be hazardous to life, property, or the environment; or
(2) the facility is or would be constructed or operated, or a component of the facility is or would be constructed or operated, with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment.

(b) Considerations.—In making a decision under subsection (a) of this section, the Secretary shall consider, if relevant—

(1) the characteristics of the pipe and other equipment used in the pipeline facility, including the age, manufacture, physical properties, and method of manufacturing, constructing, or assembling the equipment;

(2) the nature of the material the pipeline facility transports, the corrosive and deteriorative qualities of the material, the sequence in which the material are [1] transported, and the pressure required for transporting the material;

(3) the aspects of the area in which the pipeline facility is located, including climatic and geologic conditions and soil characteristics;

(4) the proximity of the area in which the hazardous liquid pipeline facility is located to environmentally sensitive areas;

(5) the population density and population and growth patterns of the area in which the pipeline facility is located;

(6) any recommendation of the National Transportation Safety Board made under another law; and

(7) other factors the Secretary considers appropriate.

My burden of proof has been met. There is no substantive evidence anywhere on the public record proving to the courts that the Utility has made any attempt to comply with Title 35.

1. Admitted.
2. Admitted.
3. Denied. Counsel for SPLP is oversimplifying my argument.
4. Denied in part. I was not part of the interim emergency relief hearing. I was not at the hearing. I was not consolidated till after the hearing. I did not want to be consolidated and entered documents to the record accordingly. I was never given transcripts of the hearing.
5. Denied in part. I was not part of the interim emergency hearing. I did not file expert testimony. I do not know what others filed and cannot speak to that.
6. Denied as stated in 4.
7. Denied as stated in 4 and I have this “sinking” feeling like SPLP is playing some kind of word game with me. “Risks” I am, personally, defining as, “what could happen”. Example: the pipeline ruptures and my home, property and community are destroyed. If I survive, I lose loved ones and the local ER teams are overwhelmed by a catastrophic event. There is widespread damage. I do not have my right to rescue fulfilled and suffer painful losses and economic harm. I cannot be held to a “definition” or even comment on #7 of this filing because this was a hearing that I was not part of or present at. I have never had access to testimony. It feels like this is a pop quiz that I was never given study materials for.
8. I cannot comment on this. I have no awareness of the hearing other than; it occurred.
9. I am not commenting on this I am not familiar with it.
10. Judge Barnes discusses “likelihood” of it occurring causing risk ie. Death. I would like to say given the condition of ME1, non standard drilling practices, no ability to inspect pipes once pulled through bore holes the likelihood is “high”. These items form the basis of my complaint.
11. Denied. This has no bearing on my complaint as demonstrated above. I am not even sure why this is relevant?
12. Admitted. That reflects the little knowledge, I have personally, of the case.
13. Denied. I was not part of the emergency hearing. What is counsel trying to do?
14. Admitted. Lay testimony was presented.
15. Deferring to counsel of those parties. I would like to take a moment to object to this type of filing. It is confusing to have all parties addressed in things that do not pertain to them. Waste of the court's time.

16. Denied. I was not part of this case. I have no access to this case file.
17. Judge Barnes. With great respect and humility I am pleading with the court to clear up any more confusion in this case. Please define, “risk”, “probability”, “likelihood” so we all have a common language. To be as clear as I can be. I am personally defining. “Risk” what could happen ie death. “Likelihood” as the state or fact of something's being likely; or probability. To be even more clear, I myself am indicating that due to poor integrity management and nonstandard installation methods there is a higher likelihood of risk. The record Sunoco holds on the public record speaks for itself. Just in the last 2 weeks Sunoco has [ruptured aquifers near my home at Shoen Rd](#) and spilled [28,000 gallons\(preliminary numbers\) into the Marsh Creek Lake](#). I have also put on the record that ME1 is not buried properly in my neighborhood making it more susceptible to strikes. I would like, that, these factors that increase the likelihood of consequences to be taken into account when the court and commission render a decision. Including, but not limited to the other factors I discussed in my testimony and complaint as they relate to ³ [49 CFR Appendix C to Part 195 - Guidance for Implementation of an Integrity Management Program](#). This Appendix gives guidance to help an operator implement the requirements of the integrity management program rule in §§ 195.450 and 195.452 and is all relevant to likelihood of risks.
18. Denied. In my complaint and during my time providing lay testimony I cited concern for increased likelihood of risks because of poor integrity management and nonstandard drilling methodology.
19. Denied. I have more than demonstrated the pipeline is unsafe. There are no emergency plans and the operator is egregious hiding behind loopholes. In doing so they put my community, my children’s school, my water supply and my state park at risk.
20. Does not apply to my complaint.
21. Does not apply to my complaint.
22. Does not apply to my complaint.
23. Does not apply to my complaint.

1

<https://www.msn.com/en-us/news/us/residents-suspect-shoen-road-drill-site-breached-aquifer/ar-BB17Yu3w>

2

<https://www.msn.com/en-us/news/us/residents-suspect-shoen-road-drill-site-breached-aquifer/ar-BB17Yu3w>

³ https://www.law.cornell.edu/cfr/text/49/appendix-C_to_part_195

24. Does not apply to my complaint.
25. Denied as stated.
26. Does not apply to my complaint.
27. Does not apply to my complaint.
28. Denied. There is incredible evidence of disputed facts. The assertion is at first thinking.
29. Denied.
30. Denied.
31. Denied.
32. Denied.
33. Denied.
34. Denied.
35. Denied.
36. Denied.
37. Denied.
38. Denied. If you have proof you have complied with state law for hazard mitigation I look forward to seeing my emergency plans; in short, your service is not maintaining adequate, efficient, safe, and reasonable service and facilities.
39. Denied as stated.
40. Denied. The PUC has not made any ruling as to the safe location of this pipeline however they do have general powers over 1501. The location of the pipeline and general changing of tariffs without due diligence for hazard planning is the definition of “manifest of abuse of discretion and the location of this pipeline route shows arbitrary action”.
41. Denied. Counsel cannot “narrow down” for the courts what should and could be ruled on in the middle of a court proceeding.
42. Denied as stated.
43. Denied in part admitted in part. I cannot speak for other parties. I, Rebecca Britton, requests that the Commission make various determinations regarding the safety of the operation and construction of the Mariner East pipelines.
44. Denied. I do not even own an easement. I have zero ability to get any relief through any other avenue.
45. Denied. I met my burden of proof. SPLP’s lack of action.
46. Does not apply to my complaint.

- 47. Does not apply to my complaint.
- 48. Denied.
- 49. Denied.
- 50. Denied.
- 51. Denied.
- 52. Denied.
- 53. Denied.
- 54. Denied.
- 55. Denied.
- 56. Denied.
- 57. Denied.

Conclusion:

I ask that Your Honor deny the motion for partial summary judgement. Counsel is making things up, over-reaching, being insincere, wasting courts time, being repetitive, and misapplying previous rulings in the most unfavorable light and has not proven that they are in compliance of 1501.

Very Truly Yours,



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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Rebecca Britton
Pro se
August 16, 2020

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).

Rebecca Britton

Rebecca Britton

Pro se

August 16, 2020