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December 29, 2014

Via Electronic Filing

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

**Re: Amended Petition of SPLP, LP, for a Finding that the
Situation of Structures to Shelter Pump Stations and Valve
Control Stations is Reasonably Necessary for the
Convenience or Welfare of the Public in West Goshen
Township, Chester County
Docket No. P-2014-2411966 (Main Docket: P-2014-2411941)**

Dear Secretary Chiavetta:

Enclosed for electronic filing with the Pennsylvania Public Utility Commission is West Goshen Township's Answer to Sunoco Pipeline, L.P.'s Preliminary Objections to West Goshen Township's Answer and New Matter in the above-referenced matter, with Certificate of Service attached.

If you have any questions regarding the above, please contact me.

Thank you.

Respectfully,


David J. Brooman

Enclosures

cc: Certificate of Service (via email and/or U.S. Mail)
Kristen Camp, Esquire (w/enc)
Kenneth R. Myers, Esquire
Sireen I. Tucker, Esquire

**BEFORE THE
COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

Amended Petition of SPLP, LP, for a Finding that :
the Situation of Structures to Shelter Pump :
Stations and Valve Control Stations is Reasonably : Docket No. P-2014-2411966
Necessary for the Convenience or Welfare of the : (Main Docket: P-2014-2411941)
Public in West Goshen Township, Chester :
County :

**ANSWER OF WEST GOSHEN TOWNSHIP TO SUNOCO PIPELINE, LP'S
PRELIMINARY OBJECTIONS TO WEST GOSHEN TOWNSHIP'S ANSWER AND
NEW MATTER**

Pursuant to 52 Pa. Code § 5.101(f), West Goshen Township (the "Township"), intervener in the Amended Petition of Sunoco Pipeline, L.P. ("SPLP") proceedings, submits this Answer to the Preliminary Objections of SPLP to the Township's Answer and New Matter.

SPLP interprets Section 619 of the Municipal Planning Code ("MPC"), 53 P.S. § 10619, as if its legal standard was SPLP's convenience and necessity, but it is actually the *public* convenience and necessity that is to be analyzed and decided. The primary purpose of zoning is to protect the public health, safety, morals, and general welfare. MPC § 10604. Robinson Township v. Pa. P.U.C., 83 A.3d 901 (Pa. 2013), reminds us that the obligation of municipalities under zoning includes not only the achievement of these statutory goals, but also the protections guaranteed in the Environmental Rights Amendment, Article I, Section 27 of the Pennsylvania Constitution.

In Robinson Township, the Supreme Court found the wholesale takeover of zoning and land use by the Commonwealth unconstitutional, and returned power to the municipal governments. In the present case, the assumption of the zoning function by the Public Utility Commission ("PUC") must also carry with it the obligation to scrutinize all potential impacts of a particular land use. When the PUC takes over the zoning function under MPC § 619, it

necessarily acquires the obligations of the municipal government to assure that health, safety and environmental quality are adequately addressed in its decisional process.

I. The Township's Answer and New Matter are Timely.

1. Admitted
2. Paragraph 2 is a conclusion of law to which no response is required.
3. Paragraph 3 is a conclusion of law to which no response is required.
4. Paragraph 4 is a conclusion of law to which no response is required.
5. Admitted.
6. Paragraph 6 is a conclusion of law to which no response is required..
7. Denied. The Township timely filed and served its Petition to Intervene on SPLP

on April 21, 2014. The Township responded to the Amended Petition by filing and serving on SPLP its Protest to the Amended Petition ("Protest") on June 9, 2014, in compliance with the May 24, 2014 Notice ("Notice") published in the Pennsylvania Bulletin.

8. Denied. Paragraph 7 is incorporated by reference as if fully set forth.

9. Admitted.

10. Admitted in part and denied in part. It is admitted that the Notice established a June 9, 2014 deadline for responses to the Amended Petition. It is denied that the Township did not comply with the deadline. The Notice specifically provided that "formal protests, comments, and petitions to intervene" be filed by June 9, 2014, which the Township complied with by filing its Protest on June 9, 2014.

11. Admitted. In further answer, the Township filed its Petition to Intervene in these proceedings and served the same on SPLP on April 21, 2014. The Township filed and served on SPLP its Protest on June 9, 2014. The Protest did not need to allege that the Amended Petition was insufficiently specific because it contained all of the information consistent with an Answer

in accordance with 52 Pa.Code § 5.61. Section 5.61(e) provides that an answer to a petition must: 1) include the party's position on the issues raised in the petition; 2) state the basis for standing to participate in the proceeding; and, 3) state the facts and matters of law relied on. Section II of the Township's Protest expressly opposed SPLP's Amended Petition and provided reasons for its opposition in paragraphs 5(1) and (2); it stated the Township's standing to intervene in accordance with 52 Pa.Code § 5.72(a)(2); and, its Protest included appropriate references to the applicable law. The presiding Administrative Law Judges, by Prehearing Order No. 1, dated December 1, 2014, recognized the timely intervention and standing of the Township.

12. Denied. The Township filed and served on SPLP its Petition to Intervene on April 21, 2014 and its Protest on June 9, 2014, which were recognized as timely filed in the December 1, 2014 Prehearing Order #1. The Township's Answer and New Matter are amendments to those pleadings submitted in accordance with 52 Pa.Code § 5.91, which permits pleadings to be freely amended during the course of a proceeding. In further answer, the Township initially intervened in this proceeding without specifying all issues that it might raise, which the rules do not prohibit. As a result of formal and informal discovery and other information gathered since SPLP submitted its Amended Petition, the Township has identified issues that should be considered by this tribunal, and submitted those issues by filing its Answer and New Matter. The Answer and New Matter is, in law and fact, an amendment to the Township's initial pleadings in its Petition to Intervene and subsequent Protest. Amendments are freely accepted under the Commission's rules, and the Township's Answer and New Matter were properly submitted under 52 Pa.Code § 5.91.

13. Denied. The Township was not required to preserve its right to file an Answer because its Petition to Intervene was recognized as timely filed and its Protest complied with the

requirements for Answers to Petitions under 52 Pa.Code § 5.61(e). SPLP interprets the Commission's rules to render the Township's intervention as an *admission of all the relevant facts* stated in SPLP's Amended Petition. However, the Township's Petition to Intervene clearly and appropriately declined to endorse SPLP's Petition. The Township's Petition to Intervene, paragraph 4, specifically reserved the right to raise issues prospectively:

“Due to the early stage of the proceeding, WGT reserves the right to formalize its position after it has had the opportunity to evaluate Sunoco's further filings, conduct discovery and review any additional information that may be provided, and to raise and/or address additional issues that may be identified by other parties.”

The Township's Answer and New Matter properly implements that reservation and provides timely notice to the tribunal and all parties of the issues that the Township intends to develop in this case. Further, the Township's Answer and New Matter was not required to conform with 52 Pa.Code § 5.65(a), because said section is only applicable to the party answering the amended pleading.

14. Denied. Paragraphs 12 and 13 are incorporated by reference as if fully set forth.

15. Denied. Paragraphs 12 and 13 are incorporated by reference as if fully set forth.

16. Denied. Paragraphs 12 and 13 are incorporated by reference as if fully set forth.

By way of further response, 52 Pa.Code § 5.61(c) is inapplicable because it addresses the penalty for failing to respond to a Complaint filed with the Commission and not a Petition. Paragraph 16 is also denied as a conclusion of law to which no response is required.

17. Denied. Paragraphs 12 and 13 are incorporated by reference as if fully set forth.

Paragraph 17 is also denied as a conclusion of law to which no response is required.

18. Denied. Paragraphs 12 and 13 are incorporated by reference as if fully set forth.

Paragraph 18 is also denied as a conclusion of law to which no response is required.

II. The Township's Answer and New Matter are Appropriate and Legally Sufficient.

19. Admitted. In further answer, the Opinion and Order of the Commission dated October 29, 2014 is a preliminary decision entered on pleadings before any factual determination or hearings have been held. The Township and other parties may appropriately submit facts and arguments bearing on all aspects of the SPLP project that affect the convenience and welfare of the public.

20. Admitted.

21. Admitted. In further answer, SPLP has stated that the purpose of the building proposed to be constructed in the Township is to shelter certain facilities in certain areas. Until discovery establishes the facts regarding the need for and purpose of the building, it would be inappropriate on the basis of a Preliminary Order entered on pleadings without findings of fact to preclude inquiry into the reasons for the proposed location.

22. Admitted.

23. Denied. Safety considerations pertain to the design and location of the proposed building as well as the convenience and welfare of the public residing in the area, visiting the area, and traveling on adjoining and nearby roads and highways.

24. Denied. Paragraphs 21 and 23 are incorporated by reference as if fully set forth.

25. Denied. Paragraphs 21 and 23 are incorporated by reference as if fully set forth.

26. Denied. Paragraphs 21 and 23 are incorporated by reference as if fully set forth.

27. Denied. Paragraphs 21 and 23 are incorporated by reference as if fully set forth.

28. Denied. Paragraphs 21 and 23 are incorporated by reference as if fully set forth.

29. Denied. Paragraphs 21 and 23 are incorporated by reference as if fully set forth.

30. Denied. Paragraphs 21 and 23 are incorporated by reference as if fully set forth.

31. Denied as a conclusion of law to which no response is required.

32. Denied. Paragraphs 21 and 23 are incorporated by reference as if fully set forth. In further answer, the Commission's Opinion and Order dated October 29, 2014 was entered upon consideration of a ruling of the Administrative Law Judges, before the Township specified its issues in its Answer and New Matter, and without the opportunity to consider the Township's positions. Until discovery is completed and hearings are held, it is premature and inappropriate to foreclose the full examination of the convenience and welfare of the public specified under the MPC § 619.

33. Denied. Paragraph 32 is incorporated by reference as if fully set forth.

34. Denied. Paragraph 32 is incorporated by reference as if fully set forth.

III. The Township's safety-related allegations in its Answer and New Matter are specific and legally sufficient

35. Admitted.

36. Admitted in part and denied in part. It is admitted that SPLP's pipeline facilities are subject to federal PHMSA safety regulations found generally at 49 CFR Subchapter D. It is denied that these regulations are extensive. On the contrary, the regulations are general in nature and call for SPLP to prepare and implement plans, take steps, and exercise precautions nowhere set forth in those regulations. As to "repurposing" pipeline facilities under the conditions of SPLP's present project, there are no regulations, only PHMSA guidance at this time.

37. Denied. The plans and information pertaining to either safety or threat to public safety of the Mariner East project, both within and outside of the Township, are matters within the special knowledge of SPLP, and remain to be proven on a factual record. In further answer, the burden of proof in this proceeding rests on SPLP in the first instance to show that the public convenience and welfare will be served by its project. The Township's averments provide notice with ample specification to permit SPLP to prepare and present its case.

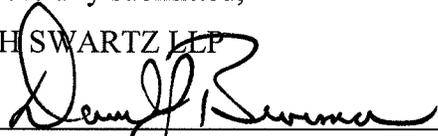
38. Denied. Paragraph 37 is incorporated by reference as if fully set forth.

39. Denied. Paragraph 37 is incorporated by reference as if fully set forth.

WHEREFORE, West Goshen Township respectfully requests that the Commission deny SPLP's Preliminary Objections.

Respectfully submitted,

HIGH SWARTZ LLP

By: 

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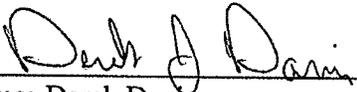
Date: December 29, 2014

VERIFICATION

I, DEREK DAVIS, Assistant Township Manager of West Goshen Township, hereby verify that the facts set forth in the forgoing Answer to Sunoco Pipeline, L.P.'s Preliminary Objections are true and correct to the best of my knowledge, information and belief.

I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 12/24/2014



Name: Derek Davis
Title: Assistant Township Manager

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Amended Petition of SPLP, LP, for a Finding that :
the Situation of Structures to Shelter Pump Stations :
and Valve Control Stations is Reasonably Necessary : Docket No. P-2014-2411966
for the Convenience or Welfare of the Public in : (Main Docket: P-2014-2411941)
West Goshen Township, Chester County :

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of December, 2014, I served a true copy of West Goshen Township's Answer to Sunoco Pipeline, L.P.'s Preliminary Objections to West Goshen Township's Answer and New Matter, filed electronically on the Commissions electronic service system, upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA FIRST CLASS MAIL

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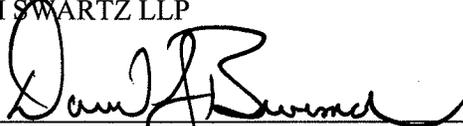
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Respectfully submitted,

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Date: December 29, 2014