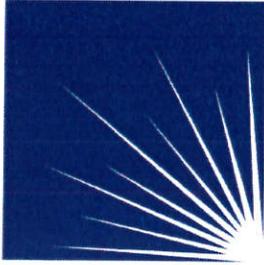


Clean Air Council



Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

February 6, 2015

Re: Clean Air Council's Pre-Hearing Conference Memorandum, Docket Nos. P-2014-2411941,  
et seq.

Dear Secretary Chiavetta,

Please find enclosed for filing the Clean Air Council's Pre-Hearing Conference Memorandum,  
as well as a Certificate of Service evidencing service on the parties of record.

If you have any questions or concerns please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Augusta Wilson".

Augusta Wilson, Esq.  
PA Attorney #316969  
Clean Air Council  
135 S. 19<sup>th</sup> St., Ste. 300  
Philadelphia, PA 19103  
215-567-4004 ext. 106  
awilson@cleanair.org

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Sunoco Pipeline, L.P. :  
for a finding that a building to shelter the :  
Walnut Bank valve control station :  
in Wallace Township, Chester County, : P-2014-2411941  
Pennsylvania is reasonably necessary for the :  
convenience or welfare of the public :

Petition of Sunoco Pipeline, L.P. :  
for a finding that a building to shelter the :  
Blairsville pump station :  
in Burrell Township, Indiana County, : P-2014-2411942  
Pennsylvania is reasonably necessary for the :  
convenience or welfare of the public :

Petition of Sunoco Pipeline, L.P. :  
for a finding that a building to shelter the :  
Middletown Junction valve control station :  
in Lower Swatara Township, Dauphin County, : P-2014-2411943  
Pennsylvania is reasonably necessary for the :  
convenience or welfare of the public :

Petition of Sunoco Pipeline, L.P. :  
for a finding that a building to shelter the :  
Cramer pump station :  
in East Wheatfield Township, Indiana County, : P-2014-2411944  
Pennsylvania is reasonably necessary for the :  
convenience or welfare of the public :

Petition of Sunoco Pipeline, L.P. :  
for a finding that a building to shelter the :  
Old York Road valve control station :  
in Fairview Township, York County, : P-2014-2411945  
Pennsylvania is reasonably necessary for the :  
convenience or welfare of the public :

Petition of Sunoco Pipeline, L.P. :  
for a finding that a building to shelter the :  
Conodoquist River West valve control station :  
in North Middleton Township, Cumberland :  
County, Pennsylvania is reasonably necessary : P-2014-2411946  
for the convenience or welfare of the public :

Petition of Sunoco Pipeline, L.P. :

for a finding that a building to shelter the  
Juniata River West valve control station  
in Frankston Township, Blair  
County, Pennsylvania is reasonably necessary  
for the convenience or welfare of the public

P-2014-2411948

Petition of Sunoco Pipeline, L.P.  
for a finding that a building to shelter the  
Ebensburg pump station  
in Cambria Township, Cambria County,  
Pennsylvania is reasonably necessary for the  
convenience or welfare of the public

P-2014-2411950

Petition of Sunoco Pipeline, L.P.  
for a finding that a building to shelter the  
West Conemaugh River valve control station  
in Derry Township, Westmoreland  
County, Pennsylvania is reasonably necessary  
for the convenience or welfare of the public

P-2014-2411951

Petition of Sunoco Pipeline, L.P.  
for a finding that a building to shelter the  
West Loyalhanna Dam valve control station  
in Loyalhanna Township, Westmoreland  
County, Pennsylvania is reasonably necessary  
for the convenience or welfare of the public

P-2014-2411952

Petition of Sunoco Pipeline, L.P.  
for a finding that a building to shelter the  
Old Chestnut Lane valve control station  
in Penn Township, Westmoreland  
County, Pennsylvania is reasonably necessary  
for the convenience or welfare of the public

P-2014-2411953

Petition of Sunoco Pipeline, L.P.  
for a finding that a building to shelter the  
Old Harmony Road valve control station  
in Hempfield Township, Westmoreland  
County, Pennsylvania is reasonably necessary  
for the convenience or welfare of the public

P-2014-2411954

Petition of Sunoco Pipeline, L.P.  
for a finding that a building to shelter the  
Youghiogheny River South valve control station  
in Rostraver Township, Westmoreland  
County, Pennsylvania is reasonably necessary

P-2014-2411956

for the convenience or welfare of the public	:	
	:	
Petition of Sunoco Pipeline, L.P.	:	
for a finding that a building to shelter the	:	
Hollidaysburg pump station	:	
in Allegheny Township, Blair County,	:	P-2014-2411957
Pennsylvania is reasonably necessary for the	:	
convenience or welfare of the public	:	
	:	
Petition of Sunoco Pipeline, L.P.	:	
for a finding that a building to shelter the	:	
Monongahela River West valve control station	:	
in Union Township, Washington	:	P-2014-2411958
County, Pennsylvania is reasonably necessary	:	
for the convenience or welfare of the public	:	
	:	
Petition of Sunoco Pipeline, L.P.	:	
for a finding that a building to shelter the	:	
Ross Road valve control station	:	
in North Strabane Township, Washington	:	P-2014-2411960
County, Pennsylvania is reasonably necessary	:	
for the convenience or welfare of the public	:	
	:	
Petition of Sunoco Pipeline, L.P.	:	
for a finding that a building to shelter the	:	
Marklesburg pump station and	:	
Raystown Lake West valve control station	:	P-2014-2411961
in Penn Township, Huntingdon County,	:	
Pennsylvania is reasonably necessary for the	:	
convenience or welfare of the public	:	
	:	
Petition of Sunoco Pipeline, L.P.	:	
for a finding that a building to shelter the	:	
Houston-Mark West, Houston-Williams	:	
and West Pike Street valve control stations	:	
in Chartiers Township, Washington	:	P-2014-2411963
County, Pennsylvania is reasonably necessary	:	
for the convenience or welfare of the public	:	
	:	
Petition of Sunoco Pipeline, L.P.	:	
for a finding that a building to shelter the	:	
Mount Union pump station	:	
in Shirley Township, Huntingdon County,	:	P-2014-2411964
Pennsylvania is reasonably necessary for the	:	
convenience or welfare of the public	:	
	:	

Petition of Sunoco Pipeline, L.P.	:	
for a finding that a building to shelter the	:	
Twin Oaks pump station	:	
in Upper Chichester Township, Delaware County,	:	P-2014-2411965
Pennsylvania is reasonably necessary for the	:	
convenience or welfare of the public	:	
	:	
Petition of Sunoco Pipeline, L.P.	:	
for a finding that a building to shelter the	:	
Boot pump station	:	
in West Goshen Township, Chester County,	:	P-2014-2411966
Pennsylvania is reasonably necessary for the	:	
convenience or welfare of the public	:	
	:	
Petition of Sunoco Pipeline, L.P.	:	
for a finding that a building to shelter the	:	
Doylesburg pump station	:	
in Toboyne Township, Perry County,	:	P-2014-2411967
Pennsylvania is reasonably necessary for the	:	
convenience or welfare of the public	:	
	:	
Petition of Sunoco Pipeline, L.P.	:	
for a finding that a building to shelter the	:	
Eagle pump station	:	
in Upper Uwchlan Township, Chester County,	:	P-2014-2411968
Pennsylvania is reasonably necessary for the	:	
convenience or welfare of the public	:	
	:	
Petition of Sunoco Pipeline, L.P.	:	
for a finding that a building to shelter the	:	
Beckersville pump station	:	
in Brecknock Township, Berks County,	:	P-2014-2411971
Pennsylvania is reasonably necessary for the	:	
convenience or welfare of the public	:	
	:	
Petition of Sunoco Pipeline, L.P.	:	
for a finding that a building to shelter the	:	
Montello pump station and valve control station	:	
in Spring Township, Berks County,	:	P-2014-2411972
Pennsylvania is reasonably necessary for the	:	
convenience or welfare of the public	:	
	:	
Petition of Sunoco Pipeline, L.P.	:	
for a finding that a building to shelter the	:	
Mechanicsburg pump station	:	
in Hampden Township, Cumberland County,	:	P-2014-2411974

Pennsylvania is reasonably necessary for the convenience or welfare of the public	:	
	:	
	:	
Petition of Sunoco Pipeline, L.P. for a finding that a building to shelter the Blainsport pump station in West Cocalico Township, Lancaster County, Pennsylvania is reasonably necessary for the convenience or welfare of the public	:	P-2014-2411975
	:	
	:	
Petition of Sunoco Pipeline, L.P. for a finding that a building to shelter the Middletown pump station in Londonderry Township, Dauphin Pennsylvania is reasonably necessary for the convenience or welfare of the public	:	P-2014-2411976
	:	
	:	
Petition of Sunoco Pipeline, L.P. for a finding that a building to shelter the Cornwall pump station in West Cornwall Township, Lebanon County, Pennsylvania is reasonably necessary for the convenience or welfare of the public	:	P-2014-2411977
	:	
	:	
Petition of Sunoco Pipeline, L.P. for a finding that a building to shelter the Plainfield pump station in Lower Frankford Township, Cumberland County, Pennsylvania is reasonably necessary for the convenience or welfare of the public	:	P-2014-2411979
	:	
	:	
Petition of Sunoco Pipeline, L.P. for a finding that a building to shelter the Delmont pump station in Salem Township, Westmoreland County, Pennsylvania is reasonably necessary for the convenience or welfare of the public	:	P-2014-2411980
	:	

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## **Pre-Hearing Conference Memorandum of the Clean Air Council**

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The Clean Air Council (“Council”) submits this Prehearing Conference Memorandum in the above-captioned matters in accordance with the Second Prehearing Order of Administrative Law Judges Salapa and Barnes, issued on December 1, 2014. The lettered responses below correspond to the December 1 Second Prehearing Order.

### **A. Name for Service List**

Augusta C. Wilson, Esq.  
Clean Air Council  
135 S. 19th St., Suite 300  
Philadelphia, PA 19103  
Tel: 215.567.4004 x106  
Fax: 215.567.5791

### **B. Statement Regarding Possible Settlement**

The Council has not been approached with any offers to settle this matter, and does not believe that a mutually agreeable settlement is likely. However, the Council will actively participate in good faith in settlement discussions if they occur.

### **C. Proposed Plan and Schedule of Discovery**

The Council will cooperate with Judges Barnes and Salapa as well as all other parties to these proceedings in developing a case management plan and a discovery schedule.

Fact discovery in this matter is ongoing. The Council served Sunoco Pipeline, L.P. (“SPLP”) with the Council’s First Set of Interrogatories and Request for Production of Documents on January 9, 2015. On January 22, 2015 the Council received an initial response to its discovery requests from SPLP, in which SPLP lodged specific objections to many of the Council’s requests and indicated that it does not plan to respond to various of those requests. On February 2, 2015 the Council timely filed a Motion to Compel SPLP to respond to its discovery requests.

Additionally, the Council is actively conferring with the other parties on language for a proposed Protective Order governing the use of proprietary information during the course of this case.

The Council tentatively proposes the following schedule for the discovery in this matter:

Disclosure of fact witnesses	March 13, 2015
Disclosure of expert witnesses	April 10, 2015
Beginning of fact depositions	April 10, 2015
Expert reports due	May 8, 2015
Rebuttal expert reports due	May 29, 2015
Beginning of expert depositions	June 22, 2015
Last day for service of written discovery	July 24, 2015
Depositions to be completed	August 28, 2015

#### **D. Other Proposed Orders with Respect to Discovery**

As mentioned above, the Council is actively participating in negotiating mutually agreeable language for a proposed Protective Order with the other parties and is hopeful that the parties will be able to reach agreement with respect to such a proposed order shortly. The Council respectfully proposes, however, that if the parties are unable to reach such an agreement by February 28, 2015, Judges Barnes and Salapa issue such an order governing the exchange and use of confidential or proprietary information in this case.

#### **E. Need for Public Input Hearings**

The Council believes there is a substantial need for public input hearings in this matter for several reasons. SPLP is seeking to be recognized as a *public* utility corporation with respect to its proposed Mariner East project. The provision of the Municipalities Planning Code pursuant to which SPLP seeks an exemption explicitly calls for a determination as to whether the project at issue is “reasonably necessary for the convenience and welfare *of the public.*” 53 P.S. § 10619 (emphasis added). Moreover, this is clearly a matter of great concern to the public that will be affected if SPLP’s project is allowed to go forward, as evidenced by the significant

responses SPLP has already received from local communities where it proposes to build the pump stations and valve control stations for the Mariner East project as well as by the numerous letters, interventions, comments and other expressions of concern that have been submitted by the public to the Commission relating to SPLP's petition to date. Public input hearings are therefore warranted and necessary.

**F. Proposed Schedule for the Submission of Written Testimony, Conducting an In-Person Hearing, and Submission of Briefs**

The Council will cooperate with Judges Barnes and Salapa as well as with all other parties to these proceedings to develop a schedule for the submission of written testimony, conducting of an in-person hearing and submission of briefs.

The Council tentatively proposes the following schedule for the hearing and submission of written testimony and briefs:

Submission of written testimony	September 25, 2015
All dispositive motions due	October 9, 2015
Pre-hearing memoranda due	November 13, 2015
In-person hearing	December 14, 2015
Post-hearing briefing due	January 15, 2016

**G. Names, Business Addresses, and Telephone Numbers of Witnesses the Party Expects to Call and the Subject Matter of Each Witness's Testimony**

The Council is still in the process of determining which if any witnesses it will call. The Council tentatively proposes that disclosure of fact witnesses and expert witnesses be done by all parties in accordance with the dates set out above. The Council will comply with any and all deadlines for disclosure of witnesses established by Judges Barnes and Salapa at the pre-hearing conference scheduled to take place on February 10, 2015.

**H. A list of Issues and Sub-issues of this Proceeding which the Party Intends to Address, and a Statement of the Party's Position on Each of the Issues and Sub-issues Listed**

A preliminary list of the issues the Council intends to address during this proceeding is as follows:

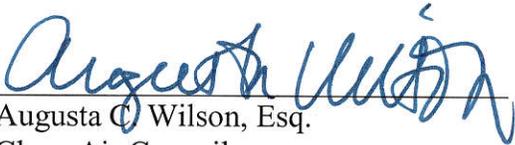
1. Whether SPLP fails to meet the definition of a “public utility corporation” within the meaning of § 619 of the Municipalities Planning Code, 53 P.S. § 10619 (“MPC § 619”), for purposes of its proposed Mariner East project.
  - The Council contends that SPLP fails to meet the definition of a “public utility corporation.”
2. Whether the structures SPLP proposes to build as part of its proposed Mariner East project constitute “buildings” within the meaning of MPC § 619.
  - The Council contends that the structures SPLP proposes to build do constitute “buildings” within the meaning of MPC § 619.
3. Whether SPLP’s proposed situation of structures is reasonably necessary for the convenience or welfare of the public within the meaning of MPC § 619.
  - The Council contends that SPLP’s proposed situation of structures is not reasonably necessary for the convenience and welfare of the public within the meaning of MPC § 619.
4. Whether Article 1, Section 27 of the Pennsylvania Constitution prohibits a grant of SPLP’s Amended Petitions.
  - The Council contends that Article I, Section 27 of the Pennsylvania Constitution does prohibit a grant of SPLP’s amended petitions.

**I. A Statement Describing the Evidence the Party Proposes to Present at Hearing, Relating the Evidence to Each of the Issues and Sub-issues the Party Intends to Address**

This matter is still in the early stages of fact discovery, and the Council is still in the process of gathering and evaluating evidence relevant to the issues detailed in Section H above in order to determine what evidence to submit for consideration at the hearing. The Council does expect to present evidence at the hearing including, but not limited to: (1) testimony from depositions of any fact witnesses SPLP may advance; (2) testimony from depositions of any experts SPLP may proffer; (3) evidence from fact witnesses the Council may advance; (4)

evidence from expert witnesses the Council may advance; (5) evidence gathered through written discovery, such as SPLP contracts, Commission Certificates, facility maps, engineering or other technical specifications of facilities, or SPLP correspondence with permitting agencies; and (6) evidence derived from Council expert witnesses.

Respectfully Submitted,



Augusta C. Wilson, Esq.  
Clean Air Council  
135 S. 19th St., Ste. 300  
Philadelphia, PA 19103  
215.567.4004 x106  
[awilson@cleanair.org](mailto:awilson@cleanair.org)

February 6, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that on February 6, 2015, I caused a true copy of the Clean Air Council's Pre-Hearing Conference Memorandum to be served on the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54, relating to service by a participant.

Honorable Elizabeth H. Barnes  
Honorable David A. Salapa  
Administrative Law Judges  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Christopher A. Lewis  
Blank Rome LLP  
One Logan Square  
Philadelphia, PA 19103

John R. Evans, Esquire  
Office of Small Business Advocate  
Suite 1102, Commerce Building  
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Harrisburg, PA 171 01

Tanya McCloskey, Esquire  
Aron J. Beatty, Esquire  
Office of Consumer Advocate  
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Forum Place - 5th Floor  
Harrisburg, PA 17101-1921

Johnnie Simms, Esquire  
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Robert Zundell, Chairman  
Salem Township Board of Supervisors  
244 Congruity Rd.  
Greensburg, PA 15601

David Hoover, Supervisor  
Cambria Township Board of Supervisors  
184 Municipal Rd.  
Ebensburg, PA 15931

Dennis Simmers, Chairman  
Cambria Township Planning Commission  
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Revloc, PA 15948

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Allegheny Township Board of Supervisors  
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Craig Houston, Chairman  
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Mechanicsburg, PA 17050

Philip Klotz, Chairman  
Hampden Township Planning Commission  
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Judith A. Hicks, Chairwoman

Shirley Township Board of Supervisors  
15480 Croghan Pike  
Shirleysburg, PA 17260

John McGarvey, Chair  
Shirley Township Planning Commission  
15480 Croghan Pike  
Shirleysburg, PA 17260

James J. Henry, Chairman  
Toboyne Township Board of Supervisors  
50 Lower Buck Ridge Rd.  
Blain, PA 17006

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Dauphin County Veterans Memorial Building  
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Reinholds, PA 17569

Leon Eby, Chairman  
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Reinholds, PA 17569

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Spring Township Board of Supervisors  
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Sinking Spring, PA 19608

Ronald Kopp, Chairman  
Londonderry Township Board of Supervisors  
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Middletown, PA 17057

Carolyn Akers, Chair  
Londonderry Township Planning Commission  
783 S. Geyers Church Rd.  
Middletown, PA 17057

Russell L. Gible, Chairman  
West Cornwall Township Board of Supervisors  
73 South Zinns Mill Rd.  
Lebanon, PA 17042

Dewey Yoder

West Cornwall Township Planning Commission  
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Lebanon, PA 17042

Patricia B. Mcilvaine, Chair  
West Goshen Township Board of Supervisors  
1025 Paoli Pike  
West Chester, PA 19380

Monica Drewniany, Chair  
West Goshen Township Planning Commission  
1025 Paoli Pike  
West Chester, PA 19380

Michael Gaudiuso, President  
Upper Chichester Board of Commissioners  
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Sinking Spring, PA 19608

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Mohnton, PA 19540

John R. Burger, Chairman  
Brecknock Township Planning Commission  
889 Alleghenyville Rd.  
Mohnton, PA 19540

Catherine A. Tomlinson, Chair  
Upper Uwchlan Township Board of Supervisors  
140 Pottstown Pike  
Chester Springs, PA 19425

Robert J. Schoenberger, Chair  
Upper Uwchlan Township Planning Commission  
140 Pottstown Pike  
Chester Springs, PA 19425

Carl DeiCas, Chair  
Union Township Board of Supervisors  
3904 Finleyville-Elrama Road  
Finleyville, PA 15332

Tamira Spedaliere, Township Planner  
Rostraver Township

201 Municipal Drive  
Belle Vernon, PA 15012

Dated: February 6, 2015

A handwritten signature in blue ink that reads "Augusta Wilson". The signature is written in a cursive style with a large initial 'A' and a long, sweeping tail.

Augusta Wilson  
Clean Air Council  
135 S. 19<sup>th</sup> St., Ste. 300  
Philadelphia, PA 19103  
215-567-4004 ext. 106  
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