**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Laurel Pipe Line Company, L.P. :

For approval to change direction of petroleum : A-2016-2575829

products transportation service to delivery :

points west of Eldorado, Pennsylvania :

Affiliated Interest Agreement between : G-2017-2587567

Laurel Pipe Line Company, L.P. and :

Buckeye Pipe Line Company, L.P. :

**ORDER**

**ON PETITION FOR CERTIFICATION**

On November 14, 2016, Laurel Pipe Line Company, L.P. (Laurel or Applicant) filed with the Commission in the above-captioned Application.

On February 3, 2017, Gulf Operating, LLC (Gulf) served Gulf Set I Interrogatories. On February 13, 2017, Laurel submitted timely Objections to Gulf’s Set I Interrogatories. On February 23, 2017, Gulf filed a Motion to Compel a response to Gulf Set I Interrogatory No. 28, indicating that the rest of the objections raised by Laurel had been resolved by the parties. On February 28, 2017, Laurel filed its Answer to Gulf’s Motion to Compel.

On February 6, 2017, Philadelphia Energy Solutions Refining and Marketing, LLC (PESRM) served Interrogatories and Requests for Production of Documents – Set I. On February 16, 2017, Laurel submitted timely written Objections to several of PESRM Set I Interrogatories. On February 27, 2017, PESRM submitted a Motion to Compel a response to PESRM Set I Interrogatory No. 1, indicating that the rest of the objections raised by Laurel had been resolved by the parties[[1]](#footnote-1). On March 6, 2017, Laurel filed its Answer to PESRM’s Motion to Compel.

PESRM Set I, Interrogatory No. 1 sought the same information as Gulf Set I, Interrogatory No. 28. Both Interrogatories read as follows:

*Provide all internal or external studies, analyses, reports, etc. prepared by or for Laurel within the last 5 years addressing in any way the possibility of extending the reversal of flow along the Laurel pipeline to any points further east of those described in the Application.*

Laurel objected to these interrogatories on the grounds that the information sought was not relevant to the issues to be addresses in this proceedings, and not likely to lead to the discovery of admissible evidence. Gulf’s and PESRM’s Motions to Compel responses to their respective interrogatory were very similar to each other. In turn, Laurel filed essentially the same Answer to both Motions.

By Order dated March 8, 2017, I denied Gulf’s and PESRM’s Motions to Compel after finding that the information sought in Gulf’s and PESRM’s interrogatories fell outside the scope of this proceeding, and consequently, was irrelevant to it.

On March 13, 2017, Gulf and PESRM filed a Joint Petition for Certification of a Material Question regarding information sought in PESRM Set I, Interrogatory No. 1 and Gulf Set I, Interrogatory No. 28 (Joint Petition).

The proposed Material Question is as follows:

*Should Laurel Pipe Line Company (“Laurel”), which asserts in its Application for Commission approval for changes in flow direction is not requires and seeks Commission confirmation that it may reinstate the direction of flow at its discretion in the future, be required to furnish the information intended to determine whether the proposal to reverse flows on its PUC-jurisdictional pipeline for points west of Altoona/Eldorado is a stand-alone proposal or an initial phase of a documents plan to reverse flows easterly to Philadelphia as requested by Gulf’s Set I interrogatory No. 28 and PESRM’s Set I Interrogatory No. 1.?*

According to Gulf and PESRM (Joint Petitioners), the Material Question involves important issues of law and policy, a resolution of which is necessary to expedite the conduct of the above-docketed proceeding and prevent irreparable harm and substantial prejudice to Gulf and PESRM that would otherwise result from the presiding ALJ’s Prehearing Order and cannot be cured during the Ordinary course of Commission review. (Joint Petition, ¶4.)

On March 20, 2017, the Joint Petitioners and Monroe Energy, LLC (Monroe), filed Briefs in support of the Joint Petition. Also on March 20, 2017, the Applicant filed a Brief in opposition to the Joint Petition.

The Pennsylvania Public Utility Code (“Code”) states that:

an interlocutory appeal from a ruling of the presiding officer on discovery shall be allowed only upon certification by the presiding officer that the ruling involves an important question of law or policy which should be resolved at that time. Notwithstanding the presiding officer's certification, the commission shall have the authority to dismiss summarily the interlocutory appeal if it should appear that the certification was improvident. An interlocutory appeal shall not result in a stay of the proceedings except upon a finding by the presiding officer and the commission that extraordinary circumstances exist.

66 Pa. C.S. § 333(h). In addition, section 5.304 of the Commission’s regulations regarding interlocutory review of discovery matters states that:

(a) *General*. Rulings of presiding officers on discovery are not subject to interlocutory review unless one or more of the following apply:

(1) Interlocutory review is ordered by the Commission.

(2) Interlocutory review is certified by the presiding officer.

(3) The ruling has as its subject matter the deposing of a Commissioner or Commission employee.

(b) *Standard for certification*. A presiding officer may certify that a discovery ruling is appropriate for interlocutory review when the ruling involves an important question of law or policy that should be resolved immediately by the Commission.

52 Pa. Code § 5.304.

Interlocutory reviews of discovery orders are generally disfavored and are only permitted in limited circumstances. *See MCI WorldCom Communications, Inc. v. Verizon Pennsylvania Inc*., Docket No. C-00015149, at pp. 14-15 (Order entered Nov. 13, 2001) (“*MCI WorldCom*”). Important questions of law or policy are not implicated by routine discovery rulings that deem information outside the scope of a case to be irrelevant. *See Whemco-Steel Castings, Inc. v. Duquesne Light Company*, Docket No. C-2014-2459527, at pp. 4-5 (Interim Order issued by Administrative Law Judge Jeffrey A. Watson Aug. 27, 2015) (“*Whemco-Steel*”); *see also Pa. Pub. Util. Comm’n v. Dauphin Consolidated Water Supply Co.*, 1987 Pa. PUC LEXIS 215, at \*9 (Opinion and order entered Aug. 21, 1987) (“*Dauphin Consolidated*”) (“there is nothing exceptional about disputes over the scope of discovery…”).

In the instant case, the discovery Order dated March 8, 2017, addressed one interrogatory seeking discovery of *“****all internal or external******studies, analyses, reports, etc****. prepared by or for Laurel within the last 5 years addressing in any way* ***the possibility*** *of extending the reversal of flow along the Laurel pipeline to any points further east of those described in the Application.”* (Emphasis added). The language of this discovery request, as written by Gulf and PESRM, is both broad and speculative, which ultimately rendered the information sought to be discovered irrelevant to the subject matter of this proceeding. In addition, the Motions to Compel filed by Gulf and PESRM on February 23, 2017, and February  27, 2017, respectively, did not provide convincing explanation as to why the information sought was within the scope of this proceeding beyond insisting that the information is necessary in assessing the credibility of Laurel’s claims to reverse flows only to Eldorado, PA.

The March 8, 2017 discovery Order did not address any other discovery requests posed to the Applicant by Gulf and PESRM.

At the heart of the present Joint Petition lays a standard discovery issue that is neither novel nor of such importance that it merits interlocutory review by the Commission. The Joint Petition does not raise any issue that cannot be satisfactorily cured during the normal Commission review process, see *Application of Rasier-PA, LLC*, PUC Docket No. P-2014-2431743 (Opinion and Order entered July 24, 2014), or even during the normal discovery process.

The Material Question presented in the Joint Petition does not involve important issues of law or policy that should be resolved immediately by the Commission. The Joint Petition is denied.

THEREFORE,

IT IS ORDERED:

1. That the Joint Petition for Certification of a Material Question filed by Gulf Operating, LLC and Philadelphia Energy Solutions Refining and Marketing, LLC is denied.

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| --- | --- | --- | --- |
| Date: | March 27, 2017 |  |  |
|  |  |  | Eranda Vero  Administrative Law Judge |

**A-2016-2575829 & G-2017-2587567APPLICATION OF LAUREL PIPE LINE COMPANY, L.P**

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1. By Order dated March 1, 2017, Laurel’s Application at Docket No. A-2016-2575829 was consolidated with the Affiliated Interest Agreement at Docket No. G-2017-2587567. [↑](#footnote-ref-1)