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CELEBRATING OVER 80 YEARS

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June 20, 2018

Via Electronic Filing

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

**Re: Pennsylvania State Senator Andrew E. Dinniman v. Sunoco Pipeline, L.P.
Docket Nos. C-2018-3001451 and P-2018-3001453**

Dear Secretary Chiavetta:

Attached for filing is Senator Andrew E. Dinniman's Answer in Opposition to Petition to Intervene and Request for Expedited Review of Range Resources-Appalachia, LLC to be filed in the above-referenced matter.

Thank you.

Very truly yours,



Mark L. Freed
For CURTIN & HEEFNER LLP

MLF:jmd

Enclosure

cc: The Honorable Elizabeth Barnes (via email: ebarnes@pa.gov)
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA STATE SENATOR	:	
ANDREW E. DINNIMAN,	:	
	:	
Complainant,	:	Docket No.: C-2018-3001451
	:	Docket No.: P-2018-3001453
v.	:	
	:	
SUNOCO PIPELINE, L.P.,	:	
	:	
Respondent.	:	

**SENATOR ANDREW E. DINNIMAN’S ANSWER IN OPPOSITION TO
PETITION TO INTERVENE AND REQUEST FOR EXPEDITED REVIEW OF
RANGE RESOURCES-APPALACHIA, LLC**

Petitioner, Senator Andrew E. Dinniman (hereinafter “Senator Dinniman” or “Complainant”), by and through his attorneys, Curtin & Heefner LLP, hereby answers the petition to intervene and request for expedited review of Range Resources-Appalachia, LLC (“Range”), and in support thereof states as follows:

I. INTRODUCTION

Range seeks to intervene in this matter pursuant to 52 Pa. Code § 5.57(a)(2), which requires that a petitioner establish that it has “[a]n interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.” Range has failed to explain how its interest is not adequately represented by Sunoco Pipeline, L.P. In fact, throughout the proceeding, Sunoco has been representing the interests of Range. During the hearing on the Petition for Interim Emergency Relief, Sunoco presented the testimony of a Range witness and has alleged that “Range Resources will be harmed if the ME1 pipeline is enjoined from

operating.” Sunoco Post Hearing Brief, pp. 12-13, 52. Its interests are adequately represented by Sunoco. Adding a cumulative and duplicative party will cause unnecessary time and expense, and invite delay. In addition, Range has failed to allege that it may be bound by the action in the proceeding. Furthermore, to the extent that Range relies on Judge Barnes’ Interim Emergency Order suspending operations on ME1 for its intervention, that portion of Judge Barnes’ Order has been superseded by the Commission’s Opinion and Order entered June 15, 2018 and Range’s petition is, therefore, moot.

II. ALLEGATIONS OF RANGE IN PENNSYLVANIA

1. Denied. After reasonable investigation, Complainant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth herein and they are, therefore, denied and strict proof thereof is demanded.

2. Denied. After reasonable investigation, Complainant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth herein and they are, therefore, denied and strict proof thereof is demanded. By way of further response, Range’s alleged indirect support of other entities, such as contractors and service companies, has no bearing on the alleged impact of this proceeding on Range’s rights or interests.

3. Denied. After reasonable investigation, Complainant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth herein and they are, therefore, denied and strict proof thereof is demanded. By way of further response, Range’s alleged gas exploration and production activities have no bearing on the adequacy, efficiency, safety and reasonableness of the Mariner East 1, 2 and 2X pipelines and the other issues to be addressed in this proceeding.

4. Denied. After reasonable investigation, Complainant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth herein and they are, therefore, denied and strict proof thereof is demanded. By way of further response, Range's alleged payment of leasing, royalty payments and impact fees to others has no bearing on the alleged impact of this proceeding on Range's rights or interests.

III. BACKGROUND

5. Admitted in part and denied in part. It is admitted that on or about March 7, 2018, the Commission's Bureau of Investigation and Enforcement ("BIE") filed a Petition for Issuance of an *Ex Parte* Emergency Order and that on March 7, 2018, Commission Chairman Gladys M. Brown granted the Petition and issued an *Ex Parte* Emergency Order, which was ratified at a March 15, 2018 public meeting. The referenced documents speak for themselves. By way of further response, BIE determined that "[t]he construction of ME2 and ME2X at or near the location of the active ME1 pipeline, and the resulting sinkhole events that are occurring concomitant to the boring of the ME2X pipeline compromise the safety of the public." Petition for Issuance of an *Ex Parte* Emergency. Chairman Brown's March 7, 2018 Order found that "permitting the continued flow of hazardous liquids through ME1 pipeline without proper steps to ensure the integrity of the pipeline could have catastrophic results impacting the public." March 7, 2018 Order.

6. Admitted in part and denied in part. It is admitted that on or about April 27, 2018, Sunoco filed a Petition to Lift *Ex Parte* Emergency Order and Request for Expedited Treatment, and that on April 27, 2018, BIE filed a statement concurring with Sunoco's request. The documents speak for themselves. By way of further response, the investigation conducted by Sunoco pursuant to the March 15 Order was limited in scope. It ran only about 1,200 feet, from

south of the Amtrak/SEPTA rail line to south of Lyntree Drive. As the Commission recognized in its May 3 Order, “[t]his proceeding is directed at this specific safety concern on a specific portion of the ME 1 pipeline,” *Petition for the Issuance of an Ex Parte Emergency Order*, PUC Docket No. P-2018-3000281 (May 3, 2018) at 2, and while that proceeding was “not the appropriate forum to address those wide-ranging concerns about the construction and operation of the ME pipelines,” such issues could be properly addressed in other actions, like the very action filed by Complainant. *Id.* at 11-13.

7. Admitted in part and denied in part. It is admitted that on May 3, 2018, the Commission issued an Order lifting the suspension of operations on ME1. The Order speaks for itself. By way of further response, see response to Paragraph 6, above, which is incorporated herein by reference.

8. Admitted in part and denied in part. It is admitted only that on or about April 25, 2018, Complainant filed a Formal Complaint and a Petition for Interim Emergency Relief in the above-referenced matters and that on or about May 1, 2018, Complainant filed an Amended Formal Complaint and an Amended Petition for Interim Emergency Relief. The documents speak for themselves.

9. Admitted in part and denied in part. It is admitted that hearings on Complainants Amended Petition for Interim Emergency Relief were held on May 7 and May 10, in which various witnesses testified, and that, thereafter, Administrative Law Judge Elizabeth Barnes issued an Interim Emergency Order and certified that Order for Commission review. The Order speaks for itself. It is denied that the Interim Emergency Order was “improper” or relied upon extra-judicial information and hearsay over fact or ignored expert analysis. On the contrary, the Order was well-reasoned and fully supported by the evidence. By way of further response,

Judge Barnes properly found that Sunoco's expert geologist witness was not convincing, while Complainant's expert geologist witness was "credible" and "persuasive". To the extent that Range relies on Judge Barnes' Interim Emergency Order suspending operations on ME1 for its intervention, that portion of Judge Barnes' Order has been superseded by the Commission's Opinion and Order dated entered June 15, 2018 and Range's petition is, therefore, moot.

10. Admitted that Range filed an *Amicus Curiae* Brief and that Range has not been granted party status in the captioned matters.

IV. RANGE'S INTERESTS ARE ADEQUATELY REPRESENTED

11. Denied. After reasonable investigation, Complainant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth herein and they are, therefore, denied and strict proof thereof is demanded.

12. Denied. After reasonable investigation, Complainant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth herein and they are, therefore, denied and strict proof thereof is demanded.

13. Denied. After reasonable investigation, Complainant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth herein and they are, therefore, denied and strict proof thereof is demanded. By way of further response, to the extent that Range relies on Judge Barnes' Interim Emergency Order suspending operations on ME1 for its intervention, that portion of Judge Barnes' Order has been superseded by the Commission's Opinion and Order dated entered June 15, 2018 and Range's petition is, therefore, moot.

14. Denied. After reasonable investigation, Complainant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth herein and they are, therefore, denied and strict proof thereof is demanded.

V. REQUEST FOR RELIEF

15. Admitted in part and denied in part. It is admitted only that Range seeks to intervene in this matter. After reasonable investigation, Complainant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments set forth herein and they are, therefore, denied and strict proof thereof is demanded.

16. Denied. After reasonable investigation, Complainant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth herein and they are, therefore, denied.

17. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, it is expressly denied that Range's "interests are not adequately represented by other participants" or that it has established that they "may be bound by the action of the Commission in the proceeding". In fact, Range fails to even allege that it may be bound by the action of the Commission in the proceeding.

18. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, after reasonable investigation, Complainant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth herein and they are, therefore, denied and strict proof thereof is demanded.

19. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, after reasonable investigation, Complainant

is without knowledge or information sufficient to form a belief as to the truth of the averments set forth herein and they are, therefore, denied and strict proof thereof is demanded.

20. Denied. It is denied that Range's rights and obligations are not adequately represented by other parties. On the contrary, throughout the proceeding, Sunoco has been representing the interests and obligations of Range. In fact, during the hearing on the Petition for Interim Emergency Relief, Sunoco presented the testimony of a Range witness and has alleged that "Range Resources will be harmed if the ME1 pipeline is enjoined from operating." Sunoco Post Hearing Brief, pp. 12-13, 52. Adding a cumulative and duplicative party will cause unnecessary time and expense, and invite delay.

21. Denied. After reasonable investigation, Complainant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth herein and they are, therefore, denied and strict proof thereof is demanded.

22. Denied.

23. Denied. The investigation conducted by Sunoco pursuant to the March 15, 2018 Order was limited in scope. It ran only about 1,200 feet, from south of the Amtrak/SEPTA rail line to south of Lyntree Drive. As the Commission recognized in its May 3 Order, "[t]his proceeding is directed at this specific safety concern on a specific portion of the ME 1 pipeline," *Petition for the Issuance of an Ex Parte Emergency Order*, PUC Docket No. P-2018-3000281 (May 3, 2018) at 2, and while that proceeding was "not the appropriate forum to address those wide-ranging concerns about the construction and operation of the ME pipelines," such issues could be properly addressed in other actions, like the very action filed by Complainant. *Id.* at 11-13. It is expressly denied that the present action in any way "contradicts" the Commission's prior order. By way of further response, to the extent that Range relies on Judge Barnes' Interim

Emergency Order suspending operations on ME1 for its intervention, that portion of Judge Barnes' Order has been superseded by the Commission's Opinion and Order entered June 15, 2018 and Range's petition is, therefore, moot.

24. Denied. As this paragraph demonstrates, Range's entire petition to intervene is based on the alleged harm caused by the suspension of operations on ME1 in the Interim Emergency Order. As that portion of the Interim Emergency Order has been superseded, Range's petition is moot and must be denied.

VI. CONCLUSION

In light of the forgoing, Complainant respectfully requests that this Honorable Commission issue an order denying Range's Petition to Intervene and Request for Expedited Review, granting Complainant its costs and fees, and granting such other relief as the Commission finds to be just and appropriate.

Respectfully submitted,
CURTIN & HEEFNER LLP

By:



Date: June 20, 2018

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VERIFICATION

I, Andrew E. Dinniman, hereby state that the facts set forth in the foregoing Answer to Petition to Intervene and Request for Expedited Review are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



Andrew E. Dinniman
State Senator
19th District

Date: June 20, 2018

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA STATE SENATOR ANDREW E. DINNIMAN,	:	
	:	
Complainant,	:	Docket No.: C-2018-3001451
	:	Docket No.: P-2018-3001453
v.	:	
	:	
SUNOCO PIPELINE, L.P.,	:	
	:	
Respondent.	:	

CERTIFICATE OF SERVICE

I hereby certify that I have, on this date, served a true and correct copy of the foregoing on the following:

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By:



Date: June 20, 2018

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