

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG PENNSYLVANIA 17120**

**Amended Petition of State Senator
Andrew E. Dinniman for Interim
Emergency Relief
Pennsylvania State Senator Andrew E.
Dinniman**

v.

Sunoco Pipeline, L.P.

**Notational Vote held July 20, 2018
3001453-OSA
P-2018-3001453, C-2018-3001451**

MOTION OF COMMISSIONER DAVID W. SWEET

On June 25, 2018, Sunoco Pipeline, L.P. (Sunoco) filed a Motion for Certification of the Commission's June 15, 2018 Order for Interlocutory Appeal (Motion) pursuant to the Commission's regulations.¹ Sunoco seeks Commission certification of three issues: (1) whether Senator Dinniman established standing to bring the complaint; (2) whether the evidence supports a finding of clear and present danger warranting emergency relief; and (3) whether imposition of a bond requirement was warranted.

Under our regulation, we can certify an interlocutory order to the Commonwealth Court if we find, upon motion, that the order in question involves a controlling question of law as to which there is a substantial ground for difference of opinion and that an immediate appeal to Commonwealth Court may materially advance the ultimate termination of the matter.² Inclusion of this finding is prescribed by Rule of Appellate Procedure 1311, governing interlocutory appeals by permission.

Neither the second nor the third issue would materially advance the ultimate termination of the matter presently being litigated before the Office of Administrative Law Judge. However, the first issue, standing, has been vigorously contested in this case and is immediately relevant to the jurisdiction of the Commission to hear the case at all. While I am confident that the Commission's Order of June 15, 2018 is correct, it does appear that there can be differences of opinion³ and that an immediate appeal to the Commonwealth Court may materially advance the ultimate termination of the matter.

Importantly, the grant of this motion does not stay the proceeding before the Office of Administrative Law Judge, which can and will proceed during the interlocutory appeal to the Commonwealth Court.⁴

¹ 52 Pa. Code §5.633.

² Id.

³ Even between the presiding ALJ and the Commission, as evidenced by her Order Denying Preliminary Objections, issued on July 19, 2018, in which she denies Sunoco's challenge to Senator Dinniman's standing based her statement that the Commission has recognized the Senator's standing on both his membership in the General Assembly and also as a property owner and resident of West Whiteland Twp, Page 3, *Order Denying Preliminary Objection*, when the Commission specifically declined to decide the question of legislative standing.. *Opinion and Order of June 15, 2018*.

⁴ RAP 1313.

THEREFORE,

I MOVE:

1. That the Motion for Certification of the Commission's June 15, 2018 Order for Interlocutory Appeal is granted in part and denied in part, consistent with this Motion.
2. That the Commission's June 15, 2018 Opinion and Order entered at this docket is amended to find that the issue of the standing of Senator Dinniman to bring the complaint is a controlling question of law, the resolution of which may ultimately advance the termination of the case.
3. That the Office of Special Assistants prepare an appropriate order consistent with this motion.

July 20, 2018

DATE



DAVID W. SWEET
COMMISSIONER