



September 10, 2018

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Second Floor  
Harrisburg, PA 17120

RE: *Andover Homeowners' Association, Inc. v. Sunoco Pipeline L.P.*, Docket C-2018-3003605  
*Dinniman v. Sunoco Pipeline, L.P.*, Dockets C-2018-3001451 and P-2018-3001453  
Preliminary Objections of Andover Homeowners' Association, Inc. to the Answer of  
Sunoco Pipeline L.P. to the Association's Complaint

Dear Secretary Chiavetta,

Please find the attached Preliminary Objections to Sunoco Pipeline L.P.'s Answer to the Complaint of Andover Homeowners' Association, Inc. filed today by the Association. Copies have been served in accordance with the attached Certificate of Service.

Please contact me with any questions. Thank you.

Sincerely,

/s/

Rich Raiders, Esq.

Enclosure

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania State Senator Andrew E. Dinniman :  
 : C-2018-3001451  
 v. :  
 : P-2018-3001453  
 Sunoco Pipeline L.P. :  
  
 Andover Homeowners' Association, Inc., : C-2018-3003605  
 Petitioner :  
 :  
 v. :  
 :  
 Sunoco Pipeline L.P., :  
 Respondent :

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code § 5.61, you may file a response within ten (10) days of the attached preliminary objections. Any response must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Andover Homeowners' Association, Inc., and where applicable, the Administrative Law Judge presiding over the case.

File with:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Second Floor  
Harrisburg, PA 17120

Respectfully Submitted,

/s/ Rich Raiders

Dated: September 10, 2018

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**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania State Senator Andrew E. Dinniman	:	
	:	C-2018-3001451
v.	:	
	:	P-2018-3001453
Sunoco Pipeline L.P.	:	
Andover Homeowners' Association, Inc.,	:	C-2018-3003605
Petitioner	:	
	:	
v.	:	
	:	
Sunoco Pipeline L.P.,	:	
Respondent	:	

**ANDOVER HOMEOWNERS' ASSOCIATION, INC.'S PRELIMINARY OBJECTIONS TO SUNOCO PIPELINE L.P.'s ANSWER TO ANDOVER HOMEOWNERS' INC.'S FORMAL COMPLAINT**

Pursuant to 52 Pa. Code. 5.101, Andover Homeowners' Association, Inc. ("Association") submits these Preliminary Objections to the Sunoco Pipeline L.P. ("Sunoco") Answer to the Formal Complaint in the above captioned proceeding and requests that portions of the Answer be stricken from the record.

**INTRODUCTION**

1. Portions of the Answer should be stricken pursuant to 52 Pa. Code 5.101(a)(7) because Sunoco has included impermissible content.
2. Specifically, all of Paragraph 1 after the first sentence should be stricken. The Commission traditionally adopts Pennsylvania civil practice procedures, including significant portions of the Pennsylvania Rules of Civil Procedure, Chapter 231 of the Pennsylvania Code. *Equitable Small Transportation Interveners v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, PUC Docket No. C-00935435 (Jul. 18, 1994) (citing Pa.

R.C.P. 1017). The Commission does not have jurisdiction to opine upon, consider or evaluate any public participation of any citizen, either in their individual capacity or as an officer of any corporation, when such commentary is irrelevant to the current proceeding. *Piunti v. Dep't of Labor and Industry, Unemployment Bd. of Review*, 900 A.2d 1017, 1019 (Pa. Commw. 2006); quoting, *Common Cause/Pennsylvania v. Commw.*, 710 A.2d 108, 115 (Pa. Commw. 1998). After the first sentence, Sunoco includes over an entire page of irrelevant and inaccurate commentary about the President of the Association, with no citations to law or fact to evaluate relevance to this proceeding before the Commission. This paragraph seems to only represent Sunoco's attempt to stifle public participation before the Commission.

3. The last sentence of Paragraph 81 should be stricken as false. Sunoco, not a landowner or impacted citizen, is responsible for developing "a credible notification and evacuation plan." Sunoco plainly bears that burden, and is responsible for full implementation of that process. Sunoco admits in Paragraph 86 that it must develop competent emergency response procedures in its 195 Manual. 49 CFR section 195.402(e). Sunoco, not a landowner burdened with hosting multiple hazardous, highly volatile liquids pipelines, bears the responsibility for identifying a plausible emergency notification system and credible guidance for the public. 49 CFR section 195.403. Sunoco further admits in Paragraph 87 of its Answer that Sunoco is responsible for resident notification. Sunoco's implication that the neighbors must perform its duties to develop credible evacuation plans are scandalous and must be stricken from the Answer.

4. Sunoco incorrectly describes portions of the Association's complaint as "improper collateral attack" upon the *Dinniman v. Sunoco Pipeline L.P.* docket at #C-2018-3001453. Sunoco mischaracterizes this complaint as duplicative of the *Dinniman* complaint, where, at argument before Judge Barnes, it characterizes this complaint as not duplicative of the *Dinniman* action. However, nowhere does Sunoco assert that the Commission has, at any time, ever reviewed siting, emergency response or public awareness aspects that the Association asserts are, at best, wholly inadequate to protect the Association, its Members, neighbors, guests and the general public. In fact, until *Clean Air Council*, the Commission had never reviewed any siting decisions of any regulated utility corporation concerning natural gas liquids pipelines. Here, the Association has reviewed the "public awareness" materials provided by Sunoco and found them severely lacking any credible usefulness to the Association and its Members. These issues highlight the material issue of fact that our procedures leave to discovery and expert testimony to follow. The Association raises different concerns than were discussed in the Commission's P-2018-3001453 docket, specifically concerning how individuals would credibly receive notification via geographically targeted phones and other electronic devices when PHMSA itself warns "**DO NOT!** Use a telephone or cell phone (these can ignite airborne gases)."<sup>1</sup> Sunoco's protestations of specificity for how people engage in their lives and how they would be contacted, or not contacted, in the event Sunoco disrupts their lives with a pipeline leak are unconvincing. It is up to Sunoco, not the Association, to account for the variables associated with Sunoco's

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<sup>1</sup> <https://primis.phmsa.dot.gov/comm/emergencyresponse.htm>

emergency response and public awareness plans. Sunoco has not provided any authority to shift Sunoco's burden to provide a credible public awareness program.

Further, the Association's only duty is to put Sunoco on notice of the types of issues for which the Association seeks relief. *Smith v. Wagner*, 403 Pa. Super. 316, 319, 588 A.2d 1308, 1310 (Pa. Super. 1991); see also, *Sevin v. Kelshaw*, 417 Pa. Super. 1, 611 A.2d 1232, 1235 (Pa. Super. 1992) (fact pleading must "give the defendant notice of what the plaintiff's claim is and the ground upon which it rests, thus allowing the defendants to prepare a proper defense). Sunoco has demonstrated it has full notice that the Association alleges that the Mariner East public awareness program does not meet regulatory requirements. Sunoco asserts that lifestyle patterns of different Association Members, guests or licensees may not readily comport to Sunoco's public awareness program as it exists today. This simply serves to highlight the inadequacy of Sunoco's public awareness program: Sunoco wishes to construct multiple highly volatile liquids pipelines across the Association's R-1 zoned residential property, and it is up to Sunoco to produce a credible public awareness program. Sunoco fully understands that the Association seeks review of Sunoco's public awareness program, which has not been evaluated by the Commission for credibility, applicability, practicability, utility, or appropriateness to accidents involving hazardous, highly volatile liquids on Association property and in close proximity to Association Members' residences.

**WHEREFORE**, Andover Homeowners' Association, Inc. respectfully requests that the Public Utility Commission strike the foregoing sections from Sunoco's Answer in this matter.

Respectfully Submitted,

/s/ Rich Raiders

Dated: September 10, 2018

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**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania State Senator Andrew E. Dinniman	:	
	:	C-2018-3001451
v.	:	
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Andover Homeowners' Association, Inc.,	:	C-2018-3003605
Petitioner	:	
	:	
v.	:	
	:	
Sunoco Pipeline L.P.,	:	
Respondent	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing Andover Homeowners' Association, Inc.'s Answer to New Matter of Sunoco Pipeline L.P. in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

This document has been filed electronically on the Commission's electronic filing system.

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Dated: September 10, 2018

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