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September 24, 2018

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Giant Eagle, Inc., et al. v. Laurel Pipe Line Company, L.P.
Docket Nos. P-2018-3004857 and C-2018-3003365

Dear Secretary Chiavetta:

Enclosed please find the Answer of Laurel Pipe Line Company, L.P. to the Second Petition for Interim Emergency Relief in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

Anthony D. Kanagy

ADK/skr
Enclosure

cc: Certificate of Service
Honorable Eranda Vero

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL AND FIRST CLASS MAIL

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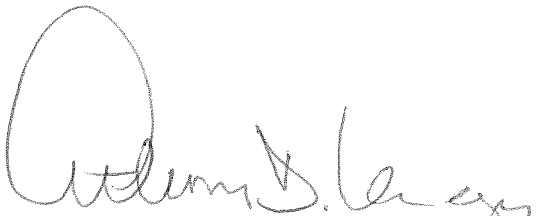

Anthony D. Kanagy

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Giant Eagle, Inc.; Guttman Energy, Inc.; Lucknow-Highspire Terminals, LLC; Monroe Energy, LLC; Philadelphia Energy Solutions Refining and Marketing, LLC; and Sheetz, Inc.	:	Docket No. P-2018-3004857 Docket No. C-2018-3003365
Petitioners,	:	
v.	:	
Laurel Pipe Line Company, L.P.	:	
Respondent.	:	

ANSWER OF LAUREL PIPE LINE COMPANY, L.P.
TO THE SECOND PETITION FOR INTERIM EMERGENCY RELIEF

Laurel Pipe Line Company, L.P. ("Laurel" or the "Company") hereby files this Answer, pursuant to 52 Pa. Code § 3.6(c),[1] to the Petitioners'[2] Second Petition for Interim Emergency Relief filed on September 20, 2018 ("Second Petition"). As more fully explained below, the Second Petition should be summarily rejected without a hearing for the following reasons: (1) the relief requested, that Laurel and Buckeye Pipe Line Company, L.P. ("Buckeye") be enjoined from scheduling or conducting a hydrostatic test until after receiving prior approval by the

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[1] Under Section 3.6(c), "[a]llegations set forth in the petition shall be deemed to have been denied by the opposing parties, and an answer is not required." 52 Pa. Code § 3.6(c). As such, Laurel's filing of this Answer should not be deemed an admission of any allegations contained in the Second Petition. Except where otherwise expressly stated, Laurel denies each paragraph contained in the Second Petition.

[2] The Petitioners are collectively comprised of Giant Eagle, Inc. ("Giant Eagle") Guttman Energy, Inc. ("Guttman"), Lucknow-Highspire Terminals, LLC ("LHT"), Monroe Energy, LLC ("Monroe"); Philadelphia Energy Solutions Refining and Marketing, LLC ("PESRM"), and Sheetz, Inc. ("Sheetz"). As these parties are all also parties to the recently filed Complaint proceeding docketed at Docket No. C-2018-3003365, at times they are also herein referred to as the "Complainants."

Federal Energy Regulatory Commission ("FERC") and Pennsylvania Public Utility Commission ("Commission"), violates the Joint Stipulation and Settlement ("Settlement")[3] among the parties to this proceeding that was previously approved by the Administrative Law Judge Eranda Vero ("ALJ") and the Commission and terminated the Petitioners' First Petition for Interim Emergency relief at Docket No. P-2018-3003368 ("First Petition"); and (2) Petitioners cannot currently prevail on their central legal argument, *i.e.* a requirement for prior Commission approval is necessary before a hydrostatic test may be scheduled or conducted to provide bi-directional service because (a) the issue of directionality has already been rejected by the Commission and (b) this issue is currently pending appeal before the Commonwealth Court and, therefore, neither the ALJ nor the Commission possesses jurisdiction to change or amend the prior order. For these reasons, there is no need for a hearing on the Second Petition, and such hearing would waste the time and resources of both the Commission and the Parties.

In the Settlement, the Petitioners agreed not to file or support directly or indirectly another petition seeking to prevent or delay the line outage to conduct the proposed hydrostatic testing. Settlement ¶ 5. Despite this Settlement, and in direct violation thereof, the Petitioners have filed the Second Petition for interim emergency relief seeking to enjoin the hydrostatic test. Specifically, Petitioners request that the Commission enjoin Laurel from even *scheduling* the contemplated hydrostatic test until Laurel receives regulatory approvals, which are not required, from the Commission and the FERC.

Where a petition for interim emergency relief is filed in violation of a Commission-approved Settlement, once again requests the Commission to unlawfully extend its jurisdiction

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[3] A true and correct copy of the Settlement is attached hereto is **Appendix A**.

over the provision of interstate service and once again fails on its face to demonstrate the petitioners are entitled to the emergency relief sought, the Commission should swiftly deny the petition and appropriately require the petitioners to abide by the terms of the legally binding settlement. Therefore, and for the reasons more fully explained below, Laurel requests that the ALJ and the Commission: (1) expeditiously resolve the above-captioned matter; (2) immediately deny the Second Petition and (3) enter an appropriate Order directing the Petitioners to comply with the terms of the Settlement.

I. SUMMARY

1. The Second Petition arises from essentially the same circumstances and seeks the same relief that was requested in the First Petition: a Commission order enjoining Laurel from scheduling and, therefore, performing a hydrostatic test of the segment of its pipeline system between Coraopolis, PA and Eldorado, PA.[4] Petitioners have filed this Second Petition during the course of a pending Complaint proceeding at Docket No. C-2018-3003365, and after the Petitioners entered into, the ALJ approved, and Commission adopted the Settlement, which resolved the First Petition.

2. As an initial matter, Petitioners cannot demonstrate that the Commission possesses the authority to enjoin Laurel's attempts to schedule and conduct this safety test under Section 104 of the Public Utility Code. 66 Pa. C.S. § 104. The test is necessary for Laurel to initiate bidirectional service—*i.e.* initiate eastbound interstate service without abandoning

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[4] *See* Second Petition ¶ 6 (requesting the Commission enjoin Laurel "from scheduling the November 1, 2018 outage, and any further outages for Hydrotesting..." (emphasis added)); *see also* First Petition ¶ 1(explaining that the Petitioners sought an order enjoining Laurel's scheduled temporary outage to conduct hydrotesting). To the extent that the Petitioners attempt to argue that they are seeking to enjoin Laurel's attempts to schedule a hydrostatic test, rather than the hydrostatic test itself, the express terms of the Settlement also bar this conduct. *See* Section V.B. *infra*.

westbound intrastate service. The Commission lacks jurisdiction over an initiation of interstate service that does not involve an abandonment of intrastate service and, as such, the Second Petition should be denied.

3. In addition, the Second Petition once again improperly seeks to enjoin the lawful and reasonable safety testing of Laurel's facilities between Eldorado and Pittsburgh, conducted in accordance with federal pipeline safety guidelines established by the United States Department of Transportation's ("US DOT") Pipeline and Hazardous Materials Safety Administration ("PHMSA"). In conformance with the Guidance for Pipeline Flow Reversals, Product Changes and Conversion to Service, issued by PHMSA in 2014, Laurel has attempted to schedule and conduct hydrostatic testing of its facilities between Eldorado and Pittsburgh before Laurel can initiate its provision of bidirectional—*i.e.* interstate eastbound and intrastate westbound—service over those facilities. Indeed, PHMSA's testing guidelines help ensure the safe, adequate, and reasonable provision of both interstate and intrastate service over the subject facilities. Petitioners have, once again, failed to demonstrate that Laurel's attempts to schedule and conduct a safety test constitute a violation of any provision of the Public Utility Code.

4. Even if the Commission has jurisdiction over the issues raised in the Second Petition, which it does not, Petitioners have once again failed to demonstrate that they are entitled to the emergency relief they seek. Importantly, the Petitioners are bound by the terms of the previously approved Settlement and may "not...file or support directly or indirectly another judicial or Pennsylvania Public Utility Commission petition seeking to prevent or delay the line outage to conduct the proposed hydrostatic testing" (Settlement ¶ 5) with respect to "any line outage to conduct the proposed hydrostatic testing on [the] Eldorado to Pittsburgh segment of the L718 line." *See* Settlement ¶¶ 1-2. Similarly, Laurel "will not take any line outage to conduct

the proposed hyrostatic testing...prior to September 15, 2018, and will not take any line outage to conduct the proposed hydrostatic testing during any subsequent summer (June 1-September 15) period." Settlement ¶ 2. The ALJ issued an Initial Decision approving the Settlement on July 30, 2018.[5] The Initial Decision became a Final Order by operation of Law on August 28, 2018.[6] Laurel has complied with the terms of the Settlement by attempting to schedule and conduct the hydrostatic test outside the prohibited summer period. By filing the Second Petition, however, the Petitioners have violated the express terms of this binding, Commission-approved Settlement. Therefore, and for the reasons more fully explained below, the Commission should immediately deny the Second Petition and enter an appropriate order directing Petitioners to abide by its terms.

5. Moreover, on each essential prerequisite to the issuance of an interim emergency order, the Petitioners' assertions fail. First, the Petitioners' representation that they need not demonstrate an emergency exists under the Commission's regulations applicable to interim emergency orders is false. The plain language of the regulations, basic logic, and binding precedent require Petitioners to demonstrate the existence of an emergency. Petitioners attempt to evade this fundamental legal requirement despite the plain language of the regulation and very recent Commission precedent in *Pennsylvania State Senator Andrew Dinniman v. Sunoco Pipeline, L.P.*

6. Second, Petitioners' right to relief is not clear because no substantial legal questions are involved. All applicable legal precedent, including the *Final Order*[7] issued in the

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[5] A true and correct copy of the Initial Decision is attached hereto as **Appendix B**.

[6] A true and correct copy of the Final Order of August 28, 2018 is attached hereto as **Appendix C**.

[7] *Application of Laurel Pipe Line Company, L.P.*, Docket Nos. A-2016-2575829 and G-2017-2587567 (Opinion and

Laurel Application proceeding at Docket Nos. A-2016-2575829 and G-2017-2587567, confirm that Laurel may initiate interstate petroleum products transportation service when it is not abandoning, but rather continuing to provide intrastate petroleum products transportation service. No provision of the Public Utility Code, no provision of Laurel's tariff, and no Commission precedent prohibits a common carrier pipeline or any other public utility from scheduling and conducting a temporary line outage to complete maintenance and testing activities. Petitioners do not have a reasonable likelihood of success on this issue. Moreover, success on this prong would require the ALJ and the Commission to opine on the issue of whether Laurel's certificate permits it to provide bi-directional service in and across Pennsylvania. This issue is currently on appeal before the Commonwealth Court and, therefore, the Commission is prohibited from making further determinations on it. Petitioners' right to relief simply has no credible basis under the law.[8]

7. Third, the need for relief is remote and not immediate. Petitioners attempt to characterize Laurel's efforts to schedule and conduct a brief and temporary outage for safety testing purposes as intent to circumvent intrastate jurisdiction and provide unreasonable service. Second Petition ¶¶ 1-6.[9] However, Petitioners admit that Laurel has, in each instance, provided

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Order entered July 12, 2018) ("*Final Order*").

[8] Laurel further notes that Pa. R.A.P. 1701(b)(3) permits an agency to grant reconsideration of a final order after an appeal is filed if: an application for reconsideration of the order is filed with the agency within the time provided or prescribed by law, and (ii) an order expressly granting reconsideration of such prior order is filed in the agency within the time prescribed by the appellate rules for the filing of a notice of appeal or petition for review of a quasijudicial order with respect to such order, or within any shorter time provided or prescribed by law for the granting of reconsideration. Petitioners have satisfied neither of this conditions and, therefore, reconsideration of the Commission's conclusions in the *Final Order* is not appropriate.

[9] As noted in Laurel's Answer to the First Petition, not only is the outage brief in the context of standard planned outages across the industry, it is significantly shorter than past planned outages on Laurel, which the Petitioners have not argued, and cannot argue, violate the Public Utility Code.

advanced written notice of the scheduled outage and that they have previously been able to plan for such outages and enter into alternative commercial arrangements. Planning for such outages is simply one of the costs of participation in the petroleum products transportation industry and a condition of the bargain Petitioners struck under the Settlement. Moreover, in each T-4 Notice, Laurel expressly advised shippers that the scheduled outage for the hydrostatic test was "subject to an appropriate order from the Federal Energy Regulatory Commission..." All shippers were on notice that the hydrostatic test would be cancelled if FERC did not issue an order at Docket No. OR18-22-000.

8. Fourth, the injuries alleged by Petitioners' are not irreparable, and are purely economic in nature. Perhaps recognizing that purely economic harm is insufficient to meet this criteria, Petitioners cobble together unsupported claims that Laurel's temporary outage violates Chapters 15 of the Public Utility Code; it does not. Laurel's actions do not constitute an unreasonable interruption or delay of service (Chapter 15), because Laurel's attempts to schedule and conduct a hydrostatic test are in compliance with the Settlement and are necessary to initiate the provision of bidirectional service.

9. Finally, the relief requested by Petitioners is injurious to the public interest. Petitioners' requested relief constitutes a violation of a Commission-approved settlement, resulting in Laurel and the Commission expending time and resources to require sophisticated entities to honor their prior agreement, and asks the Commission to enjoin a petroleum products pipeline from scheduling and conducting safety tests. If granted, Petitioners' request would establish overreaching precedent requiring any public utility that wishes to conduct safety and maintenance activities to seek prior Commission approval.

II. BACKGROUND

A. The Parties.

10. As stated in the Petition, Petitioners are major petroleum products retailers and shippers that are either a shipper of record for petroleum products movements on Laurel's pipeline or the entity that injects product into the pipeline.

11. By way of its participation in the prior Laurel Application proceeding at Docket Nos. A-2016-2575829 and G-2017-2587567, Laurel is generally aware of the nature of Giant Eagle's business as the owner and operator of a chain of corporate-owned and independently-owned retail supermarkets, food distribution facilities, and fuel and convenience stores through Western Pennsylvania, Ohio, north central West Virginia, Indiana, and Maryland. Laurel notes that Giant Eagle is not a shipper of record on the Laurel pipeline system.

12. Laurel is generally aware of the nature of Guttman's business as a fuels market and fuel management solutions provider serving commercial, wholesale, and retail markets. Laurel notes that Guttman is a shipper on Laurel's pipeline system.

13. Laurel is generally aware of the nature of LHT's business as a terminal operator throughout Pennsylvania. Laurel notes that LHT's affiliate, Gulf Operating LLC, is a shipper on Laurel's pipeline system.

14. By way of its participation in the prior Laurel Application proceeding at Docket Nos. A-2016-2575829 and G-2017-2587567, Laurel is generally aware of the nature of Monroe's business as a refiner of petroleum products, whose products are regularly injected into the Laurel pipeline, as well as its corporate relationship with its parent, Delta Air Lines, Inc. Laurel notes that Monroe is a shipper on Laurel's pipeline system.

15. By way of its participation in the prior Laurel Application proceeding at Docket

Nos. A-2016-2575829 and G-2017-2587567, Laurel is generally aware of the nature of PESRM's business as the owner and operator of a merchant refinery in Philadelphia, Pennsylvania. Laurel notes that PESRM is a shipper on Laurel's pipeline system.

16. By way of its participation in the prior Laurel Application proceeding at Docket Nos. A-2016-2575829 and G-2017-2587567, Laurel is generally aware of the nature of Sheetz's business as an owner and operator of retail convenience stores. Laurel notes that Sheetz is a shipper on Laurel's pipeline system.

17. Respondent, Laurel, is a Delaware Limited Partnership formed for the purpose of transporting petroleum and petroleum products through pipelines. Buckeye Partners, L.P. is a general partner of Laurel, as well as a general partner of Buckeye. Buckeye Partners, L.P. is indirectly controlled by its general partner, Buckeye GP LLC. Laurel owns and operates pipelines in Pennsylvania and New Jersey that form a single pipeline system extending from Eagle Point, New Jersey to Midland, Pennsylvania.[10] Current Pennsylvania operations consist of owning and operating approximately 350 miles of 12-inch to 24-inch pipeline and related facilities for the transportation of petroleum products to 24 customers at 14 delivery points. Under this current configuration, Laurel already provides both intrastate and interstate service on its pipeline in Pennsylvania; Laurel provides intrastate service pursuant to its Commission-approved tariff, and Laurel provides interstate service pursuant to the existing, Commission approved capacity agreement with its affiliate, Buckeye.

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[10] Laurel's pipeline system also currently transports petroleum products to locations throughout Pennsylvania. This transportation service is provided by Buckeye, pursuant to FERC-approved tariffs and a Commission-approved pipeline capacity agreement under which Laurel provides capacity to Buckeye for its interstate service. *See Laurel Pipe Line Company, L.P. – Pipeline Capacity Agreement with Buckeye Pipeline Company, L.P.*, Docket No. G-00940417 (Dec. 15, 1994), *as amended by, Laurel Pipe Line Company, L.P. – Amendment to Pipeline Capacity Agreement with Buckeye Pipeline Company, L.P.*, Docket No. G-00940417 (May 4, 2015).

B. The Prior Reversal Proceeding Before The Commission.

18. Of the aforementioned parties, Laurel, Giant Eagle, LHT, Monroe, PESRM and Sheetz, and/or their affiliates, were active participants in the prior Laurel Application proceeding at Docket Nos. A-2016-2575829 and G-2017-2587567.

19. On November 14, 2016, Laurel filed an Application with the Commission at Docket No. A-2016-2575829. The Application sought all necessary authority, approvals and Certificates of Public Convenience, to the extent required, authorizing Laurel to change the direction of its petroleum products transportation service over the portion of its system west of Eldorado, Pennsylvania, and confirming that Laurel may, in its discretion, reinstate the current direction of service in the future without further Commission approval. On February 6, 2017, Laurel filed a Capacity Agreement at Docket No. G-2017-2857567, between Laurel and its affiliate, Buckeye. In this consolidated proceeding, Laurel set forth a proposal to reverse the direction of its petroleum products transportation service between Eldorado and Pittsburgh, such that products would only flow from the west to the east post-reversal.

20. Throughout the proceeding, Laurel maintained that its proposed reversal did not require Commission approval, for several reasons. First, the contemplated post-reversal service would be exclusively interstate in nature and, therefore, outside the Commission's jurisdiction. Second, the contemplated post-reversal service was consistent with Laurel's existing certificate of public convenience, which broadly authorizes Laurel to transport petroleum products in and across Pennsylvania. Third, Laurel maintained that its proposal did not constitute an abandonment of service because petroleum products would continue to be received at all current origin points and delivered at all current delivery points on Laurel's pipeline system post-reversal. Therefore, no Commission approvals for Laurel's proposed reversal were required.

21. On March 21, 2018, the Administrative Law Judge Eranda Vero issued the *Recommended Decision.*[11] Therein, Judge Vero found that the Commission had jurisdiction over the reversal that was the subject of the Application, that Laurel's existing certificate of public convenience only authorized Laurel to provide westbound petroleum products transportation service, that the proposed reversal constituted an abandonment of service, and that Laurel failed to meet its burden under a four-factor abandonment analysis. As such, Judge Vero recommended that the Commission deny Laurel's Application and also deny the proposed Capacity Agreement as moot.

22. On July 12, 2018, the Commission entered the *Final Order*, which adopted and modified the *Recommended Decision* issued by the ALJ. Importantly, the Commission's *Final Order* reversed Judge Vero's finding regarding the directional limitation in Laurel's certificate, and explicitly held that it was improper to infer such a limitation. *Final Order*, pp. 45-46. On August 14, 2018, Laurel filed an appeal before the Commonwealth Court at Case No. 1113 C.D. 2018 that, *inter alia*, requests that the Commonwealth Court reverse the Commission's conclusions and findings in the *Final Order*. On August 24, 2018, the Petitioners filed a cross-appeal of the *Final Order* with the Commonwealth Court at Case No. 1168 C.D. 2018. Both the appeal and cross appeal remain pending before the Commonwealth Court.

Importantly, the issue raised by Petitioners on their cross appeal is related to the *Final Order*'s determination that Laurel's existing certificate of public convenience does not impose a directional limitation on the nature and character of service that Laurel is authorized to provided. As explained in Sections V.B.2. and V.D.2. *infra*, Petitioners cannot prevail in this Second

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[11] *Application of Laurel Pipe Line Company, L.P.*, Docket Nos. A-2016-2575829 and G-2017-2587567 (Recommended Decision dated March 23, 2018) ("*Recommended Decision*").

Petition unless the ALJ and the Commission were to reject this determination under the *Final Order*, which is currently on appeal before the Commonwealth Court. Such a request is fundamentally beyond the powers of the ALJ and the Commission, procedurally improper and, therefore, should be denied.

C. The PDO Proceeding.

23. On April 30, 2018, Laurel and Buckeye filed a PDO at FERC at Docket No. OR18-22-000. In the PDO, Laurel and Buckeye sought FERC approval of certain characteristics of a proposed joint contract rate for interstate petroleum products transportation service on Buckeye's and Laurel's pipelines. Buckeye and Laurel proposed to initiate a joint rate for interstate petroleum products transportation service for the shipment of products from origin points in Michigan, Ohio, and Pennsylvania to destination points in Ohio and Pennsylvania. This new interstate petroleum products transportation service involves an expansion of Buckeye's current interstate service from Midwestern origin points to Central Pennsylvania. It also involves the provision of bidirectional service—*i.e.* interstate eastbound service and intrastate westbound service—over Laurel's facilities between Eldorado and Pittsburgh. Importantly, this bidirectional service differs from the post-reversal service contemplated in the prior Laurel Application; namely, Laurel's westbound intrastate petroleum products service will continue to be available.

24. Petitioners filed a Protest to the PDO at FERC on June 12, 2018 ("FERC Protest"). Therein, Petitioners requested FERC to dismiss the PDO for numerous reasons. Among other arguments, Petitioners represented that the PDO was premature in light of the prior Laurel Application proceeding at Docket Nos. A-2016-2575829 and G-2017-2587567. Given that the Commission entered the *Final Order* in that proceeding on July 12, 2018, this argument

is moot. Laurel filed the FERC Answer on Jun 27, 2018, and responded to the inaccurate and unsupported assertions contained in the Petitioners' FERC Protest, including inter alia, the false and inaccurate claims of the Petitioners in that proceeding that Laurel and Buckeye had not provided assurances of continuing the current east-to-west transportation services, and that the east-to-west service could not be provided when the new west-to-east service commenced.[12] A true and correct copy of the FERC Answer is attached hereto as **Appendix D**. In particular, the Affidavit of Michael J. Kelly described in detail how Buckeye and Laurel would provide both the new west-to-east service and the current east-to-west service.[13] Notably, in a later-filed motion for leave to answer and answer to the FERC Answer at FERC, the Petitioners failed to provide any factual response to Mr. Kelly's statements.[14]

As explained in the PDO, Laurel and Buckeye planned for and scheduled a temporary outage of the Laurel facilities between Eldorado and Pittsburgh to conduct pipeline safety testing that must occur prior to the initiation of bidirectional service. Laurel's attempts to schedule and conduct hydrostatic testing do not constitute a violation of any provision of the Public Utility Code and do not constitute a violation of Laurel's duty to provide reasonably continuous service

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[12] FERC Answer, at pp. 17-27.

[13] FERC Answer, Internal Appendix B, ¶¶ 12-23.

[14] In a subsequent filing before FERC, Petitioners have admitted that the subject of scheduling and conducting the hydrostatic testing at issue in the First Petition and Second Petition are "no longer within the scope" of the proceedings before this Commission. *See Motion To Lodge of Lucknow-Highspire Terminals LLC; Sheetz, Inc.; Philadelphia Energy Solutions Refining & Marketing LLC; Monroe Energy, LLC; Guttman Energy, Inc.; and Giant Eagle, Inc.*, FERC Docket No. OR18-22-000, pp. 2-3 ("At the July 23, 2018 evidentiary hearing on the Indicated Parties' Petition for Emergency Relief in PaPUC Docket No. P-2018-3003368, the parties entered into a Settlement that resolved the matters concerning the scheduling of hydrostatic testing. The Settlement was approved in the Initial Decision issued by ALJ Eranda Vero on July 27, 2018, at PaPUC Docket No. P-2018-3300368. Because hydrostatic testing matters are no longer within the scope of the proceeding at PaPUC Docket Nos. C-2018-3003365 and P-2018-3003368, and to address other matters, on August 8, 2018, the Indicated Parties filed an Amended Complaint." (emphasis added)). The Petitioners must be bound by this prior admission before FERC and should not be permitted to take an inconsistent stance through the Second Petition before the Commission.

without unreasonable interruptions, subject to the jurisdiction of this Commission. In addition, Laurel's attempts to schedule and conduct hydrostatic testing does not constitute an unreasonable service interruption because: (1) the timing and length of the initially scheduled August outage was first altered in an attempt to address shippers' concerns; (2) the August outage was thereafter rescheduled for September 15, 2018 in accordance with Petitioners' express request and agreement via the Settlement; and (3) in each instance shippers were provided advanced notice, and Petitioners admit that such notice was sufficient for them to enter into alternative commercial arrangements.

D. Laurel And Buckeye's Attempts To Schedule And Conduct A Hydrotest.

25. On June 25, 2018, Laurel and Buckeye posted on their automated pipeline scheduling system known as "T-4," the following notice ("June 25 T-4 Notice"):

> L718-Laurel Pipe Line Company, L.P. ("LPL")
>
> Subject to an appropriate order from the Federal Energy Regulatory Commission regarding Docket No. OR18-22-000, LPL's 718 segment from Eldorado (DG) delivering to Delmont (DM), Greensburg (GR) and Pittsburgh (CP, CO & NA) will be taken out of service for what is estimated to be twenty-five days (25) commencing on August 20, 2018 for scheduled maintenance and a hydro test.
>
> LPL cautions that the service outage period represents LPL's current best estimate.
>
> LPL will work closely with our shippers to minimize the impact of the downtime and will provide updates via T4 if the anticipated duration materially shifts throughout this service outage.
>
> Please direct questions to:
>
> Dennis Shimer, Scheduling Manager – 610-904-4407
>
> Mark Johnson, Program Manager, Scheduling and Assurance –

610-904-4142

All media inquiries should be directed to Travis Windle at Travis.Windle@fticonsulting.com.

A true and correct copy of the text contained in the June 25 T-4 Notice is attached hereto as **Appendix E**.

The June 25 T4 Notice clearly indicates that the planned temporary outage is "Subject to an appropriate order from the Federal Energy Regulatory Commission regarding Docket No. OR18-22-000." The referenced "scheduled maintenance and a hydro test" are actions that Laurel and Buckeye are required to take by PHMSA before initiating eastbound interstate pipeline service and operating the pipeline bidirectionally.

Travis Windle, identified in the June 25 T-4 Notice, issued the following statement:

<u>**Statement from Buckeye Partners**</u>

Given our commitment to safety and operational transparency, we have notified the shipping community and individuals along the pipeline's route in western Pennsylvania of our plan to take a segment of the Laurel pipeline out of service to perform scheduled maintenance and a hydrostatic test beginning on August 20, 2018, <u>subject to an appropriate order from the Federal Energy Regulatory Commission regarding Docket No. OR18-22-000.</u> Advanced notice is our standard practice for hydrostatic tests and other maintenance outages on our pipelines.

The required testing, which involves moving pressurized water through a portion of the refined petroleum products line, is not uncommon and will be done safely, via a highly controlled engineering procedure meeting or exceeding state and federal requirements.

This procedure is to ensure that, when we add west-to-east [interstate] service to our current east-to-west [intrastate] service, <u>it is done safely and efficiently</u> and represents another important step forward in our plans to enhance market competition by providing Pennsylvania consumers with more access to lower-cost American-produced fuels.

26. After the issuance of the June 25 T-4 Notice, Laurel was contacted by its shippers, including the Petitioners, regarding the timing and duration of the planned temporary outage commencing August 20, 2018.

27. The June 25 T-4 Notice and planned temporary outage were consistent with prior announcements by Laurel and Buckeye that bidirectional service would be provided over the Eldorado to Pittsburgh segment of Laurel's pipeline.

28. On July 9, 2018, Laurel issued an update to the June 25 T-4 Notice that indicated the scheduled maintenance and hydro test outage would commence on August 17, 2018, and the out of service period was then estimated to be thirteen (13) days ("July 9 T-4 Notice"). A true and correct copy of the July 9 T-4 notice is attached hereto as **Appendix F.**

29. On July 12, 2018, the Petitioners (as Complainants) filed a Formal Complaint with the Commission at Docket No. C-2018-3003365. Laurel filed an Answer and New Matter and Preliminary Objections to the Complaint on August 1, 2018. Petitioners (as Complainants) filed a Formal Amended Complaint in response to Laurel's Preliminary Objections on August 8, 2018. Laurel filed its Answer and New Matter and Preliminary Objections to the Amended Formal Complaint on August 28, 2018. The Petitioners (as Complainants) filed a Response to Laurel's Preliminary Objections on September 7, 2018, and also filed an Answer to Laurel's New Matter on September 17, 2018. Throughout its pleadings, Laurel demonstrated that the Commission was without jurisdiction to decide the issues raised in the complaints and that the Petitioners (as Complainants) had failed to state a legally sufficient claim. A decision on the merits of Laurel's Preliminary Objections has not yet been issued.

30. Also on July 12, 2018, the Petitioners filed the First Petition, which also sought to enjoin Laurel's attempts to schedule and conduct hydrostatic testing. Laurel filed a timely

Answer to the First Petition on July 17, 2018. Therein, Laurel explained that Petitioners improperly sought to enjoin the lawful and reasonable safety testing of Laurel's facilities. Laurel's Answer to the First Petition explained that the Commission was without jurisdiction to grant the relief requested and that the Petitioners had failed to prove any, let alone all, of the essential requirements necessary to receive the requested interim emergency relief. Consistent with Section 3.6a of the Commission's regulations, 52 Pa. Code § 3.6a, the ALJ scheduled a hearing on the First Petition for July 23, 2018.

31. At the evidentiary hearing, the parties reached an agreement, *i.e.* the Settlement, wherein Laurel agreed that it "will not take any line outage to conduct the proposed hydrostatic testing on [the] Eldorado to Pittsburgh segment of the L718 line (line outage) prior to September 15, 2018, and will not take any line outage to conduct the proposed hydrostatic testing during any subsequent summer (June 1-September 15) period." Settlement ¶ 2. Laurel/Buckeye further agreed that it "will provide thirty (30) days advance notice to their shippers, via the T-4 system, of the exact date on which the line outage to conduct the proposed hydrostatic testing will commence." Settlement ¶ 3. As admitted in Paragraph 28 of the Second Petition, Petitioners also agreed "to withdraw their [First] Petition pursuant to 52 Pa Code § 5.94, [and] not to file or support directly or indirectly another judicial or Pennsylvania Public Utility Commission petition seeking to prevent or delay the line outage to conduct the proposed hydrostatic testing." Settlement ¶ 5 (emphasis added). A true and correct copy of the Settlement is attached hereto as **Appendix A**.

32. The ALJ issued an Initial Decision approving the Settlement on July 30, 2018. *See* **Appendix B**. The Initial Decision became a Final Order by operation of Law on August 28, 2018. *See* **Appendix C**.

33. On July 23, 2018, pursuant to the terms of the Settlement, Laurel issued a T-4 Notice ("July 23 T-4 Notice") postponing the 13-day outage from August 17, 2018, to September 15, 2018. A true and correct copy of the July 23 T-4 Notice is attached hereto as **Appendix G**.

34. Petitioners' representation that they have complied with the terms of the Settlement is patently false. *See* Second Petition ¶ 31. Petitioners appear to suggest that they were only prohibited from seeking to prevent or delay the outage scheduled for September 15, 2018. This mischaracterization of the Settlement ignores its plain language and should be rejected.

The "line outage" subject to the Settlement is defined as "any line outage to conduct the proposed hydrostatic testing on [the] Eldorado to Pittsburgh segment of the L718 line (line outage)." Settlement ¶ 2 (emphasis added). Petitioners expressly agreed "not to file or support directly or indirectly another judicial or Pennsylvania Public Utility Commission petition seeking to prevent or delay the line outage to conduct the proposed hydrostatic testing." Settlement ¶ 5. Petitioners are not only prohibited from contesting the September 15, 2018 line outage, but "any line outage to conduct the proposed hydrostatic testing." The Second Petition plainly requests the Commission to enjoin (*i.e.* "prevent or delay") the line outage, which is now scheduled November 1, 2018, and any subsequent attempt by Laurel to reschedule and conduct the hydrostatic testing if circumstances so require.

Moreover, to the extent that the Petitioners attempt to argue that they are merely seeking to enjoy Laurel's attempts to "reschedule" the hydrostatic testing contemplated by the Settlement, such a request still violates the express terms of the Settlement. The Petitioners are prohibited from "directly or indirectly" filing or supporting a request to "prevent or delay" the hydrostatic testing. Settlement ¶ 5. If Laurel is enjoined from "scheduling" and/or

"rescheduling" the line outage, it cannot conduct the line outage because it must first provide its shippers notice of the date on which the outage will commence. *See* Settlement ¶ 3. If Petitioners are seeking to enjoin Laurel's attempts to schedule or reschedule the line outage, Petitioners are indirectly delaying and/or preventing the line outage and expressly violating Paragraph 5 of the Settlement.

35. Moreover, the Petitioners are clearly aware, based on the June 25 and July 23 T-4 Notices that Laurel was conditioning the scheduled outages on receiving an appropriate FERC order in the PDO Proceeding. In addition, the Settlement does not prohibit Laurel from re-scheduling any hydrostatic test.

36. On September 7, 2018, Laurel issued a T-4 Notice ("September 7 T-4 Notice") that rescheduled the September 15, 2018 line outage for November 1, 2018. A true and correct copy of the September 7 T-4 Notice is attached hereto as **Appendix H**.

37. Laurel's repeated accommodation of its shippers and compliance with the terms of the Settlement are not the cause of Petitioners' alleged harms. Petitioners' alleged harms related to the August 2018 line outage, associated with Petitioners making standard business decisions that regularly occur in response to temporary planned outages, are the result of the Petitioners' decision to enter into the Settlement, which mandated that the line outage be rescheduled. Similarly, Laurel will also face certain stranded costs (*i.e.* employee, contractor and engineering expenses) associated with its attempts to schedule the proposed hydrostatic tests, where the test must be rescheduled. For both Laurel and the Petitioners, these stranded costs are simply an indirect business consequence of their bargain in the Settlement.

Moreover, Petitioners' attempt to argue that Laurel must seek regulatory approval, from either the Commission or FERC, in order to initiate bidirectional service—*i.e.* initiate eastbound

interstate service without abandoning westbound intrastate service—is irrelevant to the Second Petition. Even if Laurel were required to seek such approvals, which it is not, the Second Petition is limited in scope to Laurel's attempts to schedule and conduct a hydrostatic test; the Second Petition does not implicate whether or not Laurel's provision of bidirectional service violates Chapter 15 of the Public Utility Code.

III. JURISDICTION AND STANDING

38. Laurel is a certificated common carrier pipeline and public utility whose intrastate service is subject to the jurisdiction of the Commission. The Commission has jurisdiction over the safety, reasonableness and adequacy of Laurel's intrastate service, under the Public Utility Code.

39. The Commission does not, however, possess jurisdiction over any interstate service to be offered by Laurel. 66 Pa. C.S. § 104. As explained below, the Commission does not have jurisdiction over Laurel's proposal to initiate eastbound interstate service and operate the pipeline bidirectionally, because Laurel is not abandoning intrastate service.

40. Pursuant to *England v. Louisiana State Board of Medical Examiners*, 375 U.S. 411 (1964), Laurel reserves its right to seek adjudication of the following federal claims in federal court, should state tribunals hold against Laurel on questions of state law, including: (1) the ICA and PHMSA requirements preempt the Commission's ability to preclude Laurel from conducting hydrostatic testing in conformance with federal guidlines for the provision of interstate pipeline service; (2) the ICA preempts the Commission's ability to preclude Laurel from providing interstate pipeline service; and (3) a decision by the Commission that would effectively preclude Laurel from providing interstate pipeline service violates the dormant Commerce Clause of the United States Constitution and the ICA.

41. In addition, while many of the Petitioners are users of Laurel's intrastate service, not all of them are. In particular, Giant Eagle is not a shipper of record on Laurel.

IV. LEGAL STANDARDS

42. Section 1501 of the Public Utility Code states that a utility's "service also shall be reasonably continuous and without unreasonable interruptions or delay." 66 Pa. C.S.§ 1501. Laurel is neither required to provide the perfectly continuous service or the best possible service. *See Michael Sirak v. Metropolitan Edison Company*, Docket No. C-2011-2279502, 2012 Pa. PUC LEXIS 1729, at *21 (Initial Decision dated Oct. 2, 2012), *affirmed*, Docket No. C-2011-2279502 (Opinion and Order entered Aug. 15, 2013). Laurel's attempts to schedule and conduct a temporary outage to complete safety tests, and provision of advanced notice thereof to its shippers, does not constitute a violation of Chapter 15 of the Public Utility Code.[15]

43. The Commission's regulations provide for the issuance of interim emergency order during the course of a proceeding, upon petition by a party. 52 Pa. Code §§ 3.6-3.11. As noted in the Second Petition, the Petitioners have filed an Amended Complaint with the Commission on August 8, 2018, which *inter alia* alleges that Laurel's provision of bidirectional

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[15] Petitioners' attempt to argue that Chapter 11 of the Public Utility Code has any bearing on the issues raised in the Second Petition should be rejected. Second Petition ¶ 35. Petitioners have not alleged that Laurel's attempts to schedule and conduct safety tests constitute an abandonment of service under Chapter 11, and Petitioners' do not seek to enjoin Laurel's initiation of bidirectional service in the Second Petition. Furthermore, even if this argument had any bearing on the Second Petition, Laurel's attempts to schedule and conduct safety testing and/or initiate bidirectional service do not constitute an abandonment of service. "To constitute an abandonment there must be an intention to abandon together with external acts by which the intention is carried into effect." *Byerly v. Pa. Pub. Util. Comm'n*, 440 Pa. 521, 525-26, 270 A.2d 186, 189 (Pa. 1970); *see also Michael D. Fisher v. Columbia Gas of Pennsylvania*, C-00924183, 1992 Pa. PUC LEXIS 163 (Initial Decision Dec. 4, 1992), *adopted without further action*, 78 Pa. P.U.C. 432 (Order entered Feb. 19, 1993) ("*Fisher*"). Section 1102(a)(2) only applies to a "permanent abandonment or surrender of service rights;" it does not apply to temporary cessations of service. *Id.* Indeed, a temporary cessation of service, even an indefinite cessation, does not constitute an abandonment of service.

service constitutes a violate of one or more provisions of the Public Utility Code.. The Second Petition specifically targets Laurel's attempts to schedule and conduct the hydrostatic test contemplated under Laurel's initiation of bidirectional service.

44. An interim emergency order is an extraordinary remedy that can only be granted after a party meets several, "essential prerequisites." *See Summit Towne Ctr., Inc. v. Shoe Show of Rocky Mt., Inc.*, 828 A.2d 995, 1001 (Pa. 2003) (citations omitted); *Golden Triangle News v. Corbett*, 689 A.2d 974, 978 (Pa. Cmwlth. 1997) (citation omitted); *Schwartz v. Delaware & Hudson Rwy. Co.*, 2011 Pa. PUC LEXIS 1715, at *12-13 (Order entered July 5, 2011) (citation omitted).

45. In order to justify this extraordinary relief, Petitioners must demonstrate all of the following elements: (1) the petitioner's right to relief is clear; (2) the need for relief is immediate; (3) injury would be irreparable if relief is not granted; (4) relief requested is not injurious to the public interest. 52 Pa. Code § 3.6(b); *see also Summit*, 828 A.2d at 1001 (citations omitted); *see also Peoples Natural Gas Co. v. Pa. Pub. Util. Comm'n*, 555 A.2d 288, 291 (Pa. Cmwlth. 1989). If the petitioners fail to prove any one of the four requirements, the Commission will deny the relief requested. *Crums Mill Assoc. v. Dauphin Consolidated Water Supply Co.*, 1993 Pa. PUC LEXIS 90 (Order dated April 16, 1993); *see also County of Allegheny v. Commonwealth*, 518 Pa. 556, 544 A.2d 1305, 1307 (Pa. 1988) ("For a preliminary injunction to issue, every one of the[] prerequisites must be established; if the petitioner fails to establish any one of them, there is no need to address the others.").

46. In addition, Section 3.6(b) of the Commission's regulations requires the petition to establish "the existence of the need for interim emergency relief." 52 Pa. Code § 3.6(b) (emphasis added). Contrary to the Petitioners' assertions in Paragraph 38 of the Second Petition,

the very nature of an "interim emergency order" that provides "emergency relief" requires the Petitioners to demonstrate that an emergency exists. *See Pennsylvania State Senator Andrew E. Dinniman v. Sunoco Pipeline, L.P.*, Docket Nos. P-2018-3001453, C-2018-3001451, pp. 19-20 (citing the definition of "emergency" under Section 3.1 of the Commission's regulations, 52 Pa. Code § 3.1), and 33-34 (finding that petitioner did not meet his burden of proving an emergency existed with respect to the continued operation of Mariner East 1) (Opinion and Order entered June 15, 2018) ("*Sunoco Emergency Order*"). Indeed, in order for interim emergency relief to be issued, the petitioner must demonstrate that the complained of conduct "gives rise to an 'emergency'" under the Commission's regulations. *Id.*, at p 34. Complainants have completely failed to demonstrate that a temporary cessation of service, for approximately thirteen days, constitutes an emergency that warrants injunctive relief. Moreover, rescheduling a temporary cessation of service, and providing advanced notice thereof, does not constitute an emergency necessitating the relief sought by the Second Petition; Petitioners have, and can once again, take standard business actions to prepare for the outage and the costs of doing so are simply the cost of doing business.

47. As the parties seeking a rule or order from the Commission, Petitioners have the burden of proof for all claims alleged in the Petition. 66 Pa. C.S. § 332(a). The Petitioners must carry their burden of proof with respect to the aforementioned criteria by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. den.*, 529 Pa. 654, 602 A.2d 863 (Pa. 1992). Findings of fact rejecting an interim emergency order must also be based upon substantial evidence. *Edan Transportation Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993); *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982). More is required than a mere trace of evidence or a suspicion of

the existence of a fact sought to be established. *Norfolk and Western Ry. Co. v. Pa. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (Pa. 1980); *Murphy v. Commonwealth, Dept. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

48. In addition, Section 3.8(b) of the Commission's regulations permits the Commission to require a bond to be filed with and held by the Secretary for the duration of the interim emergency order. 52 Pa. Code § 3.8(b).

V. ARGUMENT: THE REQUESTED INTERIM EMERGENCY RELIEF IS NOT WITHIN THE COMMISSION'S JURISDICTION, IS PROHIBITED BY A BINDING, COMMISSION-APPROVED SETTLEMENT AND IS NOT PROPER UNDER THE CIRCUMSTANCES.

49. The relief sought by the Second Petition runs afoul of Section 104 of the Public Utility Code, 66 Pa. C.S. § 104, and the recently issued *Final Order* in the prior Laurel Application proceeding.

50. Even if Commission approvals were required for Laurel to schedule and conduct the proposed hydrostatic test, which they are not, the Second Petition violates the express terms of the binding, Commission-approved Settlement. Petitioners improperly attempt to avoid their obligation "not to file or support directly or indirectly another judicial or Pennsylvania Public Utility Commission petition seeking to prevent or delay the line outage to conduct the proposed hydrostatic testing." Yet, Petitioners expect Laurel to be bound by the same Settlement with respect to its attempts to schedule and conduct the subject hydrostatic testing. Petitioners cannot have their cake and eat it too; they, like Laurel, are bound by the provisions of the Settlement and the Commission should enter an appropriate order directing the Petitioners to comply with its terms.

51. Moreover, Petitioners have simply failed to demonstrate they are entitled to

interim emergency relief under Section 3.6 of the Commission's regulations, 52 Pa. Code § 3.6. Not only do the Petitioners fail to satisfy a single one of the four "essential prerequisites" to interim emergency relief, Petitioners fail to even allege, let alone demonstrate, that an emergency exists. Importantly, the unsubstantiated purely economic harms—*e.g.*, financial harm to the petitioners, or prices increases or product shortages in the Pittsburgh market—alleged by the Petitioners are simply driven by basic business and operations practices that are standard responses to temporary planned outages in the petroleum products transportation industry. These harms are neither an "emergency" nor "irreparable." Rather, they are simply the cost of doing business.

52. Finally, Laurel submits that, if interim emergency relief is granted, it is necessary and appropriate for the Commission to condition this relief upon Petitioners' submission of a bond suitable to compensate Laurel for the damages it will suffer from the unreasonable and improper delay in implementing maintenance, testing and interstate service activities that Petitioners seek to enjoin.

A. THE COMMISSION LACKS AUTHORITY TO ENJOIN LAUREL'S ATTEMPTS TO SCHEDULE AND CONDUCT A HYDROSTATIC TEST PURSUANT TO FEDERAL GUIDELINES THAT IS NECESSARY TO PROVIDE INTERSTATE SERVICE.

1. The Commission Has No Jurisdiction Over Interstate Service.

53. Section 104 of the Public Utility Code states:

> The provisions of this part, except when specifically so provided, shall not apply, or be construed to apply, to commerce with foreign nations, or among the several states, except insofar as the same may be permitted under the provisions of the Constitution of the United States and the acts of Congress.

66 Pa. C.S. § 104.

54. The prior Laurel Application proceeding at Docket Nos. A-2016-2575829 and G-2017-2587567 confirms that the Commission lacks jurisdiction over a pipeline's proposal to initiate interstate service, where intrastate service over the same facilities continues to be available. The ALJ explained that the key fact in determining whether the Commission had jurisdiction over Laurel's previously proposed reversal was an "operational sequence" that Laurel would have to follow to effect the reversal. The *Recommended Decision*[16] explained:

> It is clear from the parties' respective Briefs that Laurel treats the present proceeding as the application of a pipeline that plans to enter interstate service, while the Indicated Parties view the case as the application of an intrastate pipeline to abandon a portion of its intrastate service to enter interstate service. In simplified terms, the former is a one-step process, whereas the latter is a two-step one. Stated differently, Laurel describes the content of the Application as essentially a change in service (from intrastate to interstate, from westward to eastward) whereas, the Indicated Parties see the application first and foremost as an abandonment of intrastate service for the prospect of offering interstate service. I find that the disposition of the federal preemption issue, as well as of other aspects of the present Application, relies on this distinction.

Recommended Decision, p. 50 (emphasis added).

55. The Commission expressly noted and adopted the above-quoted analysis in the *Final Order*, and explained:

> The ALJ initially stated that Laurel describes the Application as a change in service, from intrastate to interstate, from westward to eastward. On the other hand, the Indicated Parties view the Application as an abandonment of intrastate service to offer interstate service. The ALJ also noted that Laurel is currently an intrastate pipeline operating within Pennsylvania and must reverse

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[16] *Application of Laurel Pipe Line Company, L.P.*, Docket Nos. A-2016-2575829 and G-2017-2587567 (Recommended Decision dated March 23, 2018) ("*Recommended Decision*").

> the flow of product over a portion of its pipeline located between Eldorado and Pittsburgh, Pennsylvania before it can provide interstate service. The ALJ observed that this operational fact can guide the Commission on the disposition of the federal preemption issue and the overall disposition of Laurel's Application.
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> ***
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> Given the applicable preemption law, we also find no merit in Laurel's argument that post-reversal, the service provided over the segment of Laurel between Midland and Eldorado, Pennsylvania will be interstate in nature, because this does not change the fact that the service Laurel proposes to abandon is currently intrastate service subject to our regulation and authority under Section 1102(a)(2) of the Code. Accordingly, we shall adopt the ALJ's decision on this issue and deny Laurel's Exceptions.

Final Order, pp. 20, 25 (emphasis added).

56. Petitioners simply fail to acknowledge Laurel's proposed bidirectional service, which will be implemented after Laurel schedules and conducts the contemplated line outage, is a one-step process that does not abandon intrastate service, is consistent with the *Recommended Decision* and the *Final Order*, and is outside the scope of the Commission's jurisdiction under Section 104 of the Public Utility Code. 66 Pa. C.S. § 104. Under the bidirectional operation described in the PDO, Laurel is not ceasing or diminishing westbound intrastate service before initiating eastbound interstate service.

57. Petitioners' allegations make clear that they seek Commission intervention and regulation of interstate service in violation of Section 104 of the Public Utility Code. Petitioners repeatedly lament Laurel's attempts to schedule and conduct maintenance and testing activities in conformance with federal guidelines and prior to the initiation of bidirectional—*i.e.* the initiate of eastbound *interstate* service without abandoning westbound intrastate service.. *See, e.g.*, Second Petition ¶ 6 (arguing "Laurel's pursuit of bi-directional service" is unlawful); Second Petition ¶ 33.

58. Moreover, it must be repeated that Petitioners' claims are limited in scope to Laurel's attempts to schedule and conduct a hydrostatic test. *See* Second Petition ¶ 6 ("The Commission should enjoin Laurel from scheduling the November 1, 2018 outage, and any further outages for Hydrotesting..."). If the Commission does not have jurisdiction over the contemplated initiation of eastbound interstate service, which it does not, then the Commission does not have jurisdiction over Laurel's attempts to schedule and conduct the safety and maintenance tests that are a prerequisite to the initiation of interstate service. In this regard, Petitioners' claims are essentially one step further removed from the unsupported claims regarding the initiation of bidirectional service in the First Petition.

59. For the reasons explained above, Section 104 of the Public Utility Code, 66 Pa. C.S. § 104, precludes Commission regulation of Laurel's attempts to schedule and conduct the hydrostatic test and initiation of bidirectional service.[17] Therefore, the Commission should reject the Petition for lack of jurisdiction.

2. Petitioners' Requested Relief Is Barred By The Commission's Prior Determination That Laurel's Certificate Of Public Convenience Does Not Contain A Directional Limitation, Which Is Now Pending On Appeal.

60. The Second Petition continues to try to tie Laurel's attempts to schedule the contemplated hydrostatic test to the issue of whether or not Laurel's certificate of public convenience permits it to provide service in any direction in and across Pennsylvania. *See* Second Petition ¶ 40 (stating that only the Commission has jurisdiction over Laurel's decision schedule and reschedule outages to initiate bidirectional service). That issue was resolved in the

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[17] In addition, as noted in Section II *supra*, Laurel reserves its right to seek adjudication of its federal claims in federal court, should state tribunals hold against Laurel on questions of state law under *England v. Louisiana State Board of Medical Examiners*, 375 U.S. 411 (1964).

Final Order and is now outside the purview of the Commission due to the Petitioners' appeal of this issue before the Commonwealth Court.

61. The Commission put the issue of what service Laurel is authorized to provide to rest in its *Final Order* and explained:

> In prior cases, such as the *Sunoco 2013 Application Order* and *Buckeye*, we have focused on requiring a Certificate when pipeline common carriers requested approval to stop providing service to particular segments on the pipeline, from certain origins to certain destinations delineated under their tariffs, that were included in their authorized service territory under their Certificate. Such is the case here. We have not often focused on the issue of directional limitations. We addressed the issue in some detail in the *Sunoco 2014 Petition Order* to address an argument one of the party's raised that the Sunoco pipeline was limited to east-to-west service. We stated the following:
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> > This argument appears to be based upon two details: (1) the description of the facilities in the original applications and Orders approving those applications, and (2) the original directional flow when other petroleum products were transported from Philadelphia area refineries to product distributors located in the West and North. Importantly, there is no directional restriction contained in any of the controlling Certificates or Commission Orders, nor do we believe it to be good public policy to adopt or interpret any such directional restrictions.
>
> *Sunoco 2014 Petition Order* at 39. In the present case, there are no clear directional restrictions or conditions in the 1957 Certificate or the 1957 Order. While there is a description of facilities extending generally westwardly from Philadelphia to the Pittsburgh area in the Certificate and the 1957 Order, such a description of Laurel's facilities is not enough to infer a directional restriction in this case. Accordingly, Laurel and Husky's Exceptions are granted in limited part and the ALJ's Recommended Decision is modified to the extent that we will not infer a directional limitation in Laurel's Certificate.

Final Order, pp. 45-46 (emphasis added).

62. Laurel is broadly authorized to provide westbound service, eastbound service, and/or service in any relative or cardinal direction, in and across Pennsylvania. Given that Laurel need not first obtain Commission approval to initiate *intrastate* service in a different direction, it clearly need not obtain Commission approval to initiate *interstate* service in a different direction, where it is not abandoning intrastate service. Petitioners' claims, therefore, must be rejected.

63. As noted above and in the Second Petition, however, the Petitioners have filed a cross-appeal before the Commonwealth Court that seeks review of this issue. *See* Second Petition, p. 1 (citing *Giant Eagle, Inc. et al. v. Pa. Pub. Util. Comm'n*, 1168 C.D. 2018 (Pa. Cmwlth. 2018), which "challenges only the Commission's determination that Laurel's existing CPC provides for both east-to-west and west-to-east intrastate service on the Laurel Pipeline.").

64. Petitioners' attempts to litigate this issue as a part of the Second Petition are improper for two reasons. First, the Commission may not opine on an issue that is currently on appeal. *See* Pa.R.A.P. Rule 1701(a) ("Except as otherwise prescribed by these rules, after an appeal is taken or review of a quasijudicial order is sought, the trial court or other government unit may no longer proceed further in the matter."). The official notes to Rule 1701(a) make clear that this rule codifies well-established principles at common law. *Id.* ("Subdivision (a) codifies a well-established principle." (citations omitted)). The Petitioners have appealed the Commission's determination in the *Final Order* that Laurel's certificate of public convenience does not contain a directional limitation; the Commission may not rule on this issue while it remains pending on appeal.

65. Second, the ALJ is bound by the Commission's *Final Order* and may not overturn that decision in the context of this proceeding for interim emergency relief. As noted above, the

sole issue presented by the Second Petition is whether the Commission should enjoin Laurel from *scheduling* the contemplated hydrostatic test. For this reasons, it would be procedurally improper and substantively irrelevant for the ALJ to engage in analysis of Laurel's certificate in the context of the Second Petition.

66. For the reasons more fully explained above, Petitioners' requested relief is barred by the Commission's prior determination in the *Final Order*, which may not be litigated in the context of the Second Petition.

3. Laurel's Attempts To Schedule And Conduct A Line Outage To Complete Necessary Hydrostatic Testing Do Not Violate The Public Utility Code.

67. Petitioners assert that Laurel's attempts to schedule and conduct hydrostatic testing violate Laurel's obligations under Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501. *See, e.g.*, Second Petition ¶¶ 6, 33, 35, 41, 45, 48, 49. The Petitioners principally argue that Laurel has rescheduled when the hydrostatic testing will commence and that, as a result of such rescheduling, they are economically harmed because their "alternative commercial arrangements were [and/or will be], in large part, 'stranded'..." Second Petition ¶ 33. These arguments should be rejected for several reasons.

68. Section 1501 states that a utility's "service also shall be reasonably continuous and without unreasonable interruptions or delay." 66 Pa. C.S.§ 1501. However, "[t]here is no requirement that service be 'perfect' or that it be the best possible service. Without question, a public utility is not a guarantor of either perfect service or the best possible service." *See Michael Sirak v. Metropolitan Edison Company*, Docket No. C-2011-2279502, 2012 Pa. PUC LEXIS 1729, at *21 (Initial Decision dated Oct. 2, 2012), *affirmed*, Docket No. C-2011-2279502 (Opinion and Order entered Aug. 15, 2013); *see also Analytical Laboratory Services, Inc. v.*

Metropolitan Edison Company, Docket No. C-20066608 (Opinion and Order entered Dec. 21, 2007); *Emerald Art Glass v. Duquesne Light Company*, Docket No. C-00015494 (Opinion and Order entered June 14, 2002). Indeed, scheduling a service interruption or delay to complete maintenance and testing activities to maintain the safe operation of facilities does not constitute an "unreasonable interruption" in violation of Section 1501. *See* 66 Pa. C.S. § 1501 ("Every public utility shall...make all such repairs, changes, alterations...and improvements in or to such service and facilities as shall be necessary ... for the accommodation... [of] its patrons... and the public."). In addition, no provision of Laurel's tariff guarantees the continuous, uninterrupted provision of petroleum products transportation service. Laurel Pipe Line Company, L.P. – Tariff Pa. P.U.C. No. 79 (effective June 1, 2008).[18]

69. Pennsylvania's appellate courts have repeatedly held that the Commission is not empowered to act as a super board of directors by substituting its judgment for that of management unless an abuse of managerial discretion has been proven. *Northern Pennsylvania Power Co. v. Pa. Pub. Util.Comm'n*, 333 Pa. 265, 5 A.2d 133 (Pa. 1939); *Metropolitan Edison Co. v. Pa. Pub. Util.Comm'n*, 62 Pa. Cmwlth Ct. 460, 437 A.2d 76 (Pa. Cmwth. 1981). Laurel is unaware of a single case, and Petitioners do not cite a single case, that prohibits any public utility from scheduling and/or rescheduling a temporary planned service outage to conduct safety tests without first obtaining Commission approval. If the Petitioners' relief is granted, the Commission would be directly managing the affairs of a public utility and acting like a "super board of directors," contrary to binding appellate precedent.

70. Laurel's attempts to schedule and/or reschedule and conduct hydrostatic testing

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[18] Moreover, Petitioners ignore the fact that continuous service is never provided over oil pipelines. Petroleum products are shipped over pipelines in "batches." This standard procedure results in a shipping "cycle," where movements are conducted on a periodic, rather than continuous, basis.

do not constitute an unreasonable disruption or delay in service. The contemplated line outage is necessary to comply with federal pipeline safety guidelines, and Laurel is attempting to suspend service during a period that permits it to conduct the necessary tests, complies with the Settlement, and also balances the interests of its shippers. Laurel will work to complete these activities as expeditiously and safely as possible, and it is undisputed that Laurel is communicating with its shippers regarding the timing and duration of the outage. Indeed, in each complained-of instance that Laurel attempted to schedule the line outage, the Petitioners received advance notice via the T-4 system and, generally, were able to plan accordingly.

71. Moreover, Laurel is obligated to test, maintain and alter its facilities as necessary to accommodate its patrons. 66 Pa. C.S. § 1501. As Laurel is scheduling a line outage to conduct maintenance and testing activities necessary to initiate bidirectional service, its actions are in fact consistent with Section 1501's mandate. Laurel's bidirectional service includes the continued provision of westbound intrastate service, alongside the initiation of eastbound interstate service. Thus, the maintenance and testing activities are necessary to accommodate the interests of Laurel's existing customers and the associated outage does not constitute an unreasonable service interruption.

72. The Petitioners' claims that Laurel has repeatedly "shot in the dark" in attempting to schedule and conduct the hydrostatic test ignore several critical facts. First, Laurel initially rescheduled the line outage August line outage from the 20th to the 17th of August in order shorten the time it would take to complete the outage and respond to certain of shippers' concerns with the timing and duration of the outage. *See* Second Petition ¶ 25. The next rescheduling of the hydrostatic test from August 17 to September 15 was the result of the Settlement. In this regard, the Petitioners essentially complain that they entered into an

agreement requiring Laurel to reschedule the hydrostatic test and that Laurel complied with the terms of the agreement by rescheduling the hydrostatic test. These actions do not constitute unreasonable service in violation of Section 1501. Lastly, the Complainants argue that Laurel again rescheduled the temporary outage on from September 7 to November 1 and that Petitioners will need to unwind and/or enter into additional alternative commercial arrangements to mitigate the effects of the reschedule. *See* Second Petition ¶ 33.

73. Again, the Complainants admit that Laurel provided them advanced written notice that the hydrostatic testing would be rescheduled and, in conformance with Paragraph 3 of the Settlement, Laurel provided the parties more than thirty (30) days' notice of the date that the hydrostatic testing was rescheduled to commence. In each instance, the parties were provided advance written notice of the date of the hydrostatic test and, in each instance, the Petitioners have sufficient time to plan accordingly. Laurel has engaged and will continue to engage in consistent communications with its shippers regarding the hydrostatic test, which provide sufficient advance notice and comply with the Settlement.

74. Finally, in each instance that Laurel provided written advanced notice to the Petitioners, the notice expressly informed the Petitioners that the scheduled date for the hydrostatic test was "[s]ubject to an appropriate order from the Federal Energy Regulatory Commission regarding Docket No. OR18-22-000." *See, e.g.*, **Appendix E**. Petitioners should not be permitted to argue that Laurel has provided unreasonable service by rescheduling the hydrostatic test, where the Petitioners were clearly aware that each date on which the hydrostatic test was scheduled to commence was conditioned upon FERC entering an appropriate order.

75. For these reasons, the Petitioners have failed to demonstrate that Laurel's attempts to schedule and conduct the line outage to complete the contemplated hydrostatic testing

constitute or will result in unreasonable service under Section 1501 of the Public Utility Code.

B. THE SECOND PETITION IS BARRED BY THE EXPRESS TERMS OF THE COMMISSION-APPROVED SETTLEMENT.

76. Parties to a settlement approved by the Commission are bound by the effects of the settlement's language. *See GPU Indus. Intervenors v. Pa. Pub. Util. Comm'n*, 628 A.2d 1187, 1195 (Pa. Cmwlth 1993) (concluding that the express language of a Commission-approved settlement binds the parties and precludes them from taking certain positions in later proceedings). The Commission regularly approves of settlements and orders that the parties to a settlement shall be bound by and shall adhere to its terms. *See, e.g., Application of Metropolitan Edison Company*, Docket Nos. R-00974008 et al., 1998 Pa. PUC LEXIS 242, at *34 (Order entered Oct. 20, 1998) (ordering "That in consideration of and reliance upon the representations, mutual promises and undertakings of the parties to this proposed settlement, including the express agreement of each signatory to be legally bound by its terms ... the terms of the proposed full settlement...shall be and are hereby approved as to each and every one of its terms and conditions..."); *Pa. Pub. Util. Comm'n v. PECO Energy Company (Retail Electric Operations)*, Docket No. R-00922479 et al., 1994 Pa. PUC LEXIS 65, at *7 (Tentative Order dated Oct. 19, 1994) (ordering that "all signatories to the proposed settlement shall be bound by and shall adhere to its terms").

77. Consistent with this practice, Laurel, Buckeye and the Petitioners (all parties to the Settlement) "agree[d] to be bound by the terms and conditions of the Settlement..." Settlement ¶ 1. Moreover, the parties agreed that the Settlement "shall be enforceable by the Pennsylvania Public Utility Commission." Settlement ¶ 8. The ALJ issued an Initial Decision approving this settlement. *See* **Appendix B**. This Initial Decision became a Final Order without

Commission action. *See* **Appendix C**. Therefore, it is indisputable that the parties agreed to be bound by the terms of the Settlement and that the ALJ and Commission approved the Settlement.

78. Under the terms of the binding, Commission-approved Settlement, Petitioners are precluded from seeking the relief requested in the Second Petition and, by filing the Second Petition, have violated the Settlement.

79. The "line outage" subject to the Settlement is defined as "any line outage to conduct the proposed hydrostatic testing on [the] Eldorado to Pittsburgh segment of the L718 line (line outage)." Settlement ¶ 2 (emphasis added).

80. Under the Settlement, Laurel and Buckeye agreed that it "will not take any line outage to conduct the proposed hydrostatic testing on [the] Eldorado to Pittsburgh segment of the L718 line (line outage) prior to September 15, 2018, and will not take any line outage to conduct the proposed hydrostatic testing during any subsequent summer (June 1-September 15) period." Settlement ¶ 2. Laurel and Buckeye further agreed to provide advance written notice to their shippers of the date on which the line outage will commence. Settlement ¶ 3.

81. In return, the Petitioners expressly agreed "not to file or support directly or indirectly another judicial or Pennsylvania Public Utility Commission petition seeking to prevent or delay the line outage to conduct the proposed hydrostatic testing." Settlement ¶ 5. Petitioners are not only prohibited from contesting the September 15, 2018 line outage, but "any line outage to conduct the proposed hydrostatic testing." Settlement ¶ 2.

82. The Second Petition plainly requests the Commission to enjoin (*i.e.* "prevent or delay") the line outage, which is now scheduled November 1, 2018, and any subsequent attempt by Laurel to reschedule and conduct the hydrostatic testing if circumstances so require.

Petitioners filing represents a clear violation of the Paragraph 5 of the Settlement and, therefore, the Petition should be immediately denied.

83. Moreover, to the extent that the Petitioners attempt to argue that they are merely seeking to enjoin Laurel's attempts to "reschedule" the hydrostatic testing contemplated by the Settlement, such a request still violates the express terms of the Settlement. The Petitioners are prohibited from filing or supporting "directly or indirectly" filing or supporting a request to "prevent or delay" the hydrostatic testing. Settlement ¶ 5. If Laurel is enjoined from "scheduling" and/or "rescheduling" the line outage, it cannot conduct the line outage because it must first provide its shippers notice of the date on which the outage will commence. *See* Settlement ¶ 3. If Petitioners are seeking to enjoin Laurel's attempts to schedule or reschedule the line outage, Petitioners are yet indirectly delaying and/or preventing the line outage and expressly violating Paragraph 5 of the Settlement.

84. Finally, neither the Settlement nor the T-4 notices provided to the Petitioners prohibit Laurel from rescheduling the hydrostatic test. Petitioners do not, and cannot, point to any provision of the Settlement that prohibits Laurel from rescheduling the date on which the hydrostatic test may commence. In addition, each notice expressly informed the Petitioners that the scheduled date for the hydrostatic test was "[s]ubject to an appropriate order from the Federal Energy Regulatory Commission regarding Docket No. OR18-22-000." *See, e.g.*, **Appendix E.** Petitioners were clearly aware that each date on which the hydrostatic test was scheduled to commence was conditioned upon FERC entering an appropriate order on the PDO and that Laurel was not prohibited from rescheduling the hydrostatic test.

85. For the reasons explained above, the Second Petition is barred by the express terms of the Settlement and should immediately be denied. Relatedly, the Commission should

enter an appropriate order directing the Petitioners to comply with the terms of the Settlement in order to prevent further possible breaches.

C. THE PETITIONERS HAVE FAILED TO DEMONSTRATE THAT THEY ARE ENTITLED INTERIM EMERGENCY RELIEF.

1. Petitioners Have Once Again Failed Demonstrate The Existence Of An Emergency.

86. Petitioners argue that, by proceeding under Section 3.6 of the Commission's regulations, they need not demonstrate, or even allege, that an emergency exists. Second Petition ¶ 38. This argument is contrary to precedent rejecting the issuance of an interim emergency order where no emergency was shown to exist and disregards any reasonable reading of Section 3.6.

87. The Commission squarely addressed whether a petitioner must demonstrate that emergency exists under Section 3.6 in its recent *Sunoco Emergency Order*. The Commission first cited the definition of "emergency" set forth in Section 3.1 of the Commission's regulations when it described the appropriate legal standard. *Sunoco Emergency Order*, pp. 19-20 (quoting the definition of emergency). Then, in evaluating whether the petition had carried his burden, explained that the material question was whether complained of conduct "gives rise to an 'emergency' as defined in our regulations." *Id.*, at p 34. The Commission went on to hold that the petitioner failed to carry this burden with respect to the continued operation of Mariner East 1, but that the petitioner had made this showing with respect to Mariner East 2 and Mariner East 2X construction activities. *See id.* Clearly, the Petitioners' failure to demonstrate the existence of an "emergency," as defined under the Commission's regulations, is fatal to their request for interim emergency relief.

88. Petitioners' claim that they need not demonstrate, or even allege, the existence of

an emergency also defies a common sense reading of Section 3.6. Section 3.6(a) reads "A petition for an interim emergency order must be supported by a verified statement of facts which establishes the existence of the need for interim emergency relief..." 52 Pa. Code § 3.6(a) (emphasis added). The repeated references to the term "emergency" make clear that an interim emergency order may only issue where the petitioner demonstrates the existence of an emergency. Indeed, if Petitioners' reading of Section 3.6 was correct, and it is not, then this regulation would permit the issuance of "interim orders," rather than the issuance of "interim emergency orders." This attempt to read the word "emergency" out of the regulations applicable to "interim emergency" relief simply strains credulity. For these reasons, Petitioners are required to allege and demonstrate the existence of an emergency to show that they are entitled to emergency relief.

89. Section 3.1 of the Commission's regulations defines an "emergency" as "[a] situation which presents a clear and present danger to life or property or which is uncontested and requires action prior to the next scheduled public meeting." 52 Pa. Code § 3.1 (emphasis added).

90. Appellate courts have also clarified that adverse economic harm does not constitute an emergency. *Peoples Natural Gas Co. v. Pa. Pub. Util. Comm'n*, 555 A.2d 288, 291 (Pa. Cmwlth. 1989) (affirming the decision of the ALJ that an interim emergency order was not warranted because the ALJ properly found that "the record is devoid of evidence of an emergency."). In *Peoples Natural Gas*, an ALJ recommended the denial of an interim emergency order under 52 Pa. Code § 3.7, the predecessor to current Section 3.6, and "expressly found that no emergency existed." *Id.* at 291. The Commission reversed. *Id.* On appeal, the Commonwealth Court held that the Commission abused its discretion by granting the interim

emergency relief because, the petitioner failed to submit any evidence of an emergency. *Id.* the Commonwealth Court explained:

> In *Brinks, Inc. v. Pennsylvania Public Utility Commission*, 76 Pa. Commonwealth Ct. 496, 464 A.2d 639 (1983) (*Brinks II*), this Court reversed the Commission's temporary grant of authority because the Commission failed to find the existence of an emergency. We held that a finding that economic detriment would result if the temporary grant were not issued did not amount to an "emergency" as a matter of law. After a review of the record, we agree with the ALJ's determination that the record is devoid of evidence of an emergency. At best, adverse economic effects are speculative. Therefore, the Commission's order was not supported by substantial evidence.

Id. (emphasis added).

91. Petitioners have not alleged, and cannot demonstrate, that an emergency exists in this case. Laurel's attempts to schedule and conduct hydrostatic testing constitute brief, planned, temporary events that are necessary to conform with federal pipeline safety guidelines. In addition, Laurel's attempts to schedule and conduct hydrostatic testing do not present "a clear and present danger to life or property." Laurel's hydrostatic testing will be scheduled and completed safely and in compliance with all applicable pipeline safety regulations, as well as the Settlement.

92. To the extent that Petitioners attempt to argue that their allegations of economic harm constitute an emergency, this argument must also be rejected. As explained below, Petitioners' claims of economic harm are simply the cost of Petitioners' complying with their obligations under the Settlement and Laurel bears similar costs in complying with the Settlement. Indeed, any alleged stranded costs borne by the Petitioners and Laurel related to an attempt to schedule and conduct the contemplated hydrostatic testing are simply the costs of doing business in the petroleum products transportation industry. *See* Section V.C.4. *infra.*

93. For the reasons more fully explained above, Petitioners once again have failed to demonstrate, or even allege, the existence of an emergency, justifying the need for interim emergency relief. Therefore, the Second Petition must be denied.

2. Petitioners Have Once Again Failed To Raise Substantial Legal Questions.

94. In order to find that Petitioners' right to relief is clear, the Petition must raise substantial legal questions, in addition to satisfying the other criteria for interim emergency relief. *T.W. Phillips Gas and Oil v. Peoples Natural Gas*, 492 A.2d 776 (Pa. Cmwlth. Ct. 1985). This inquiry requires the petitioner to demonstrate that "substantial legal questions must be resolved to determine the rights of the respective parties." *Fischer v. Department of Public Welfare*, 497 Pa. 267, 439 A.2d 1172, 1174 (Pa. 1982). A necessary corollary of this principle is that if no legal questions need to be resolved to determine the rights of the parties, then substantial legal questions do not exist.

95. Petitioners fail to raise substantial legal questions. Commission approval is not required for Laurel's attempts to schedule and conduct hydrostatic testing. *See* Section V.B. *supra*. Laurel's proposal to initiate interstate eastbound service, which is the basis of the complained-of attempts to schedule and conduct hydrostatic testing, without abandoning westbound intrastate service, is outside the Commission's jurisdiction. *See* Sections V.B.1. *supra*. Furthermore, Laurel's attempts to schedule and conduct the contemplated hydrostatic testing does not violate Laurel's obligation to provide reasonably continuous service under Section 1501 of the Public Utility Code. *See* Section V.B.3. *supra*.

96. Moreover, Petitioners cannot be found to have raised substantial legal questions because such a finding would require the ALJ and the Commission to opine on an order that is

currently on appeal before the Commonwealth Court. As explained in Section V.A.2. *supra*, the Commission is prohibited from engaging in this act. Given the above-described binding legal precedent, Petitioners' assertions that Laurel's attempts to schedule and conduct the hydrostatic test constitute a violation of Section 1501, or any other provision, of the Public Utility Code should be rejected.

97. For these reasons, Petitioners have failed to demonstrate that the Second Petition raises substantial legal issues and, therefore, the Second Petition should be denied.

3. Petitioners Have Once Again Failed To Demonstrate The Need For Relief Is Immediate Because They Are Able To Continue Their Business Operations.

98. Petitioners claim their need for relief is immediate because they will allegedly incur "unnecessary costs associated with seeking alternative commercial arrangements" when Laurel reschedules the contemplated hydrostatic test. Second Petition ¶ 44. Petitioners further allege rescheduling the August hydrostatic test for September harmed their commercial interests, and that they were further harmed when the test was rescheduled from September 15 to November 1. *Id.*

99. The Commission has previously found that a petitioner cannot demonstrate the need for relief is immediate where the petitioner is able to continue its business operations regardless of the complained of conduct. *Schwartz v. Delaware & Hudson Rwy. Co.*, 2011 Pa. PUC LEXIS 1715, at *18 (Order entered July 5, 2011) ("We are not persuaded that the Complainant needs immediate relief to prevent the failure of his businesses pending resolution of the Complaint proceeding. We note, in this regard, PennDOT's arguments that the Petitioner has full access to his property at the present time. In addition, we agree with the ALJ that, to the extent the ten ton weight limit on S.R. 4009 inhibits deliveries to the property, the evidence

establishes that this is not a recent development.").

100. Through the Second Petition, Petitioners admit that they have received advanced notice of Laurel's attempts to schedule the line outage, in each instance that Laurel attempted to schedule and conduct the contemplated line outage. Second Petition ¶¶ 22, (June 25 T-4 Notice), 25 (July 9 T-4 Notice), 30 (July 23 T-4 Notice), 32 (September 7 T-4 Notice), 33, 45. In each instance, Petitioners have had sufficient time to make standard and reasonable business preparations to attempt to hedge against and response to the contemplated temporary line outage.

101. Indeed, Petitioners admit that they can and were able to enter into standard "alternative commercial arrangements" in order to continue to provide petroleum products supplies to the Pittsburgh market, during the scheduled period for the line outage. Second Petition ¶ 33 (admitting Petitioners have previously entered into contracts for alternative supply for August outage), ¶ 45 (admitting the Petitioners will begin making alternative commercial arrangements on or around October 9, 2018, for the rescheduled November 1, 2018 outage). These are basic, standard business decisions that regularly occur in response to temporary planned outages in the petroleum products industry. A temporary business interruption, which can be significantly mitigated or avoided by the Petitioners and does not prevent the Petitioners from continuing their respective business operations, does not constitute an emergency requiring immediate injunctive relief.

102. For these reasons, Petitioners have failed to demonstrate that the need for relief is immediate.

4. Petitioners Have Once Again Failed To Demonstrate That The Alleged Harm Is Irreparable Because.

103. Petitioners' essentially allege two theories of irreparable harm. The first is

economic harm upon either the Petitioners' themselves, or the Pennsylvania petroleum products market as a whole. Second Petition ¶¶ 47-48. The second is harm related to alleged violations of Chapter 15 of the Public Utility Code. Second Petition ¶ 48.

104. Petitioners' allegations of economic harm are unsupported and far from irreparable. It is well settled in the law that financial harm alone is not considered irreparable. *See, e.g., Pa. Pub. Util. Comm'n v. Snyder Brothers, Inc.*, Docket No. C-2014-2402746 (Order entered July 30, 2015).[19] Moreover, where the allegations of economic harm are speculative in nature, appellate courts have found that petitioners have failed to demonstrate they will suffer economic harm. *See, e.g., Peoples Natural Gas Co.*, 555 A.2d at 291 ("At best, adverse economic effects are speculative. Therefore, the Commission's order was not supported by substantial evidence."). Finally, when evaluating whether or not economic harm is irreparable, courts have considered "the relative hardship" faced by each party. *See Goadby v. Philadelphia Electric Co.*, 639 F.2d 117, 121 (3d Cir. 1981) (discussing the district court's consideration of the irreparable harm factor in granting a preliminary injunction).

105. Petitioners do not attempt to quantify any alleged harms associated with Laurel's attempts to schedule and conduct the contemplated hydrostatic testing. Rather, the Second Petition contains a conclusory statement that "The Petitioners vary among themselves in terms of the degree of economic harm suffered...However, all Petitioners are adversely affected..." Second Petition, p. 2, n. 5. Because the Second Petition contains no statement regarding the economic damage suffered by the Petitioners, other than conclusory allegations that certain costs

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[19] *Duquesne Interruptible Complainants v. Duquesne Light Co.*, Docket No. C-913424, 1993 WL 854406, at *5 (Order entered May 14, 1993) (citing *Sameric Corporation v. Gross*, 448 Pa. 497, 295 A.2d 277 (1972), *Goadby v. Philadelphia Electric Co.*, 639 F.2d 117 (3d Cir. 1981), and *Virginia Jobbers Ass'n v. Federal Power Commission*, 259 F.2d 921 (D.C. Cir. 1958)).

associated with their alternative commercial arrangements are "stranded," the Petitioners' claims of monetary harm are unsupported and speculative.

106. Petitioners have admitted that any alleged harms associated with Laurel's attempts to schedule and conduct the proposed hydrostatic testing are the result of standard business decisions made by the Petitioners. Petitioners, as sophisticated entities with a wealth of experience and knowledge in the petroleum products transportation industry, surely understand that alternative commercial arrangements in preparation for a temporary planned outage may need to be altered if the circumstances surrounding the outage change. Laurel faces similar stranded costs (*i.e.* the time and expense associated with scheduling employees and contractors, and planning the engineering steps necessary to complete the hydrostatic test). The Commission should recognize that both parties face relative hardships where certain costs associated with rescheduling the proposed hydrostatic testing become stranded, but that these hardships are simply the cost of doing business. *See Goadby*, 639 F.2d at 121. Therefore, the Petitioners have failed to demonstrate that the alleged monetary harms are irreparable.

107. Prior temporary outage events on the Laurel pipeline also confirm that the economic harms alleged are baseless speculation. In each of those instances, Petitioners did not allege that the temporary outage constituted an "emergency" that would cause them irreparable harm. Such outages regularly occur in the petroleum products transportation industry, and the costs incurred by all parties to plan for and schedule around such outages are simply the costs of doing business.

108. In addition, Petitioners' allegations of harm related to alleged violations of Chapter 15 of the Public Utility Code are baseless. Laurel is not required to seek Commission approval to schedule and conduct a temporary line outage to complete maintenance and testing

activities in conformance with federal guidelines, nor is it required to seek Commission approval to initiate interstate eastbound service. *See* Section V.B.1. *supra.* Similarly, Laurel's attempts to schedule and conduct the contemplated line outage do not constitute a failure to provide reasonably continuous service. *See* Section V.B.3. *supra.* Petitioners have failed to allege actual violations of the Public Utility Code and, therefore, their claims of irreparable harm for such violations must be rejected.

109. Furthermore, Petitioners ignore the fact that, if Laurel did not conduct the maintenance and testing activities it plans to undertake, it could be found to have violated federal and state law. These activities are a prerequisite to the initiation of bidirectional service under PHMSA guidelines. Similarly, the Public Utility Code requires that Laurel maintain its facilities as necessary to accommodate its patrons. 66 Pa. C.S. § 1501. In order to accommodate both intrastate westbound service (*i.e.* to accommodate Petitioners) and initiate interstate eastbound service by implementing bidirectional operation of its pipeline, Laurel must schedule and conduct these maintenance and testing activities.

110. For these reasons, Petitioners have failed to demonstrate that any alleged harms will result from Laurel's attempts to schedule and/or reschedule the contemplated line outage or that any such harms are irreparable.

5. The Relief Requested Will Be Injurious To The Public Interest.

111. Petitioners argue that the relief sought is not injurious to the public interest because "it will protect the shippers on the Laurel Pipeline and downstream customers by preventing further unnecessary economic harm and accumulation of costs." Second Petition ¶ 49. Petitioners further argue that Laurel must receive regulatory approval from the Commission and FERC before it conducts the contemplated hydrostatic testing. *Id.*

112. Petitioners first ignore the fact that in two instances, Laurel rescheduled the hydrostatic testing in order to address its shippers' concerns regarding the timing of the test and/or comply with the terms of the Settlement. Petitioners' attempt to use instances where Laurel rescheduled the test to attempt to address its shippers' concerns should be rejected.

113. In addition, as explained in Section V.B.4. *supra*, Laurel's attempts to schedule and conduct the contemplated hydrostatic testing do not constitute unreasonable service in violation of Section 1501 of the Public Utility Code. Laurel has consistently provided its shippers with advanced written notice of the timing for the test and will continue to do so. Laurel will also use commercially reasonable efforts to complete the hydrostatic test in a 13-day window and has consistently reiterated that westbound intrastate service will continue after the test is completed.

114. Furthermore Laurel is permitted to schedule and conduct a hydrostatic test to initiate interstate service without Commission approval, when it is not abandoning intrastate service (*see* 66 Pa. C.S. § 104), and without FERC approval. Petitioners' request will substantially harm Laurel and the public interest because it will preclude Laurel from initiating interstate service, which will bring competitive, lower-priced petroleum products supplies to Central Pennsylvania, without significant delay. The relief sought would impose an unprecedented obligation upon Laurel to seek approval before conducting maintenance and testing activities and result in improper regulatory oversight of interstate service that does not affect intrastate service.

115. Finally, the relief requested by the Second Petition would establish overreaching precedent that would overburden the public utilities subject to this Commission's jurisdiction, as well as the Commission itself. Petitioners essentially argue that a public utility must receive

prior Commission approval in order to conduct maintenance and safety tests of their facilities. If this reasoning is adopted, routine, day-to-day activities that are regularly conducted by public utilities without Commission oversight would thereafter require the consent of the Commission before they could take place. As noted above, the Commission is not empowered to act as a super board of directors for public utilities. *See Northern Pennsylvania Power Co. v. Pa. Pub. Util.Comm'n*, 333 Pa. 265, 5 A.2d 133 (Pa. 1939); *Metropolitan Edison Co. v. Pa. Pub. Util.Comm'n*, 62 Pa. Cmwlth Ct. 460, 437 A.2d 76 (Pa. Cmwth. 1981). Therefore, the Petitioners' request should be denied.

116. For these reasons, the Petitioners have failed to demonstrate that the requested relief is not injurious to the public interest.

D. IF THE COMMISSION GRANTS THE RELIEF REQUESTED, PETITIONERS SHOULD BE REQUIRED TO POST A BOND.

117. Section 3.8(b) of the Commission's regulations states that "[a]n order following a hearing on a petition for interim emergency relief may require a bond to be filed in a form satisfactory to the Secretary and will specify the amount of the bond." 52 Pa. Code § 3.8(b). A bond or an escrow account is normally contemplated and required when a party may owe a specific amount of money based on a statutory or contract obligation or payment of an outstanding bill to a utility, and the money is secured pending the outcome of a proceeding. *See, e.g., Pa. Pub. Util. Comm'n v. Snyder Brothers, Inc.*, Docket No. C-2014-2402746 (Order entered July 30, 2015); *Palmerton Telephone Company v. Global NAPs South, Inc.*, Docket No. C-2009-2093336 (Order entered August 3, 2010); *Buffalo-Lake Erie Wireless Systems Co., LLC Petition for Emergency Order*, Docket No. P-2009-2150008 (Order entered January 14, 2010).

118. Importantly, the purpose of a bond is two-fold: (1) it serves to compensate a

wrongfully enjoined party; and (2) it serves to deter rash applications for interlocutory orders. *See Synthes, Inc. v. Gregoris*, 228 F. Supp. 3d 421 (E.D. Pa. Jan. 9, 2017). A petitioner is required to have some risk if it seeks emergency relief, disrupts or delays common carrier operations, causes losses, and then loses on the merits. Proof of damages regarding the injunction bond "need not be to a mathematical certainty." *Latuszewski v. VALIC Fin. Advisors, Inc.*, 393 F. App'x 962, 966 (3d Cir. 2010).

119. Any order granting the relief sought in the Petition should be conditioned upon the provision of a suitable bond by the Petitioners to cover damages to Laurel and its interstate committed shippers. If an order granting the relief sought is issued, necessary maintenance and testing activities will be delayed and, resultantly, the initiation of bidirectional service over the segment of Laurel's system between Eldorado, PA and Coraopolis, PA will be delayed.

120. The relief sought will also delay the provision of interstate service by Buckeye and Laurel to the interstate committed shippers. Laurel will lose revenues under the Transportation Service Agreements applicable to the eastbound interstate service.

121. In addition, the relief sought will also delay interstate shipments over Laurel's facilities by the committed interstate shippers and result in economic injury to these entities.

122. For the reasons explained above, conditioning the issuance of an interim emergency order upon submission of a bond is necessary and appropriate. Where, as here, the law clearly precludes the claim lodged by the Petitioners, a bond must be required to deter potential future, meritless challenges from being lodged in a forum that does not have jurisdiction to resolve them. Such claims serve no purpose other than to stymie interstate competition by delaying a competitive, market-based project that benefits the public.

VI. CONCLUSION

WHEREFORE, Laurel Pipe Line Company, L.P. respectfully requests that Presiding Officer and the Pennsylvania Public Utility Commission: (1) immediately deny the Second Petition for Interim Emergency Relief; and (2) enter an appropriate Order directing the Petitioners to comply with the terms of the Settlement.

Respectfully submitted,

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Appendix A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Giant Eagle, Inc.; Guttman Energy, Inc.; Lucknow-Highspire Terminals, LLC; Monroe Energy, LLC; Philadelphia Energy Solutions Refining and Marketing, LLC; and Sheetz, Inc.	:	Docket No. P-2018-3003368
Petitioners,	:	
v.	:	
Laurel Pipe Line Company, L.P.	:	
Respondent.	:	

JOINT STIPULATION AND SETTLEMENT

I. INTRODUCTION

Laurel Pipe Line Company, L.P. ("Laurel" or the "Company"), Giant Eagle, Inc. ("Giant Eagle") Guttman Energy, Inc. ("Guttman"), Lucknow-Highspire Terminals, LLC ("LHT"), Monroe Energy, LLC ("Monroe"), Philadelphia Energy Solutions Refining and Marketing, LLC ("PESRM"), and Sheetz, Inc. ("Sheetz") (Giant Eagle, Guttman, LHT, Monroe, PESRM and Sheetz are collectively referred to as the "Petitioners"), hereby file this Joint Stipulation and Settlement ("Settlement") in the above-captioned proceeding. Subject to the terms and conditions set forth below, this Settlement represents a full settlement of all issues and concerns raised in the above-captioned Petition for Interim Emergency Relief.

II. SETTLEMENT

1. All parties to the Emergency Petition (Docket No. P-2018-3003368) and Complaint (Docket No. C-2018-3003365), Buckeye Pipe Line Company, L.P. ("Buckeye") and Laurel agree to be bound by the terms and conditions of the Settlement, as set forth below.

2. Buckeye and/or Laurel will not take any line outage to conduct the proposed hydrostatic testing on Eldorado to Pittsburgh segment of the L718 line (line outage) prior to September 15, 2018, and will not take any line outage to conduct the proposed hydrostatic testing during any subsequent summer (June 1-September 15) period. Buckeye and Laurel agree to use commercially reasonable efforts to complete the proposed hydrostatic testing in thirteen (13) days. In the event that Buckeye and Laurel are not able to complete the proposed hydrostatic testing in thirteen (13) days, they will advise the Petitioners in writing and via the T-4 system and provide an estimate of when the proposed hydrostatic testing will be completed.

3. Buckeye and/or Laurel will provide at least thirty (30) days advance notice to their shippers, via the T-4 system, of the exact date on which the line outage to conduct the proposed hydrostatic testing will commence.

4. The parties reserve all rights relative to the pending Federal Energy Regulatory Commission PDO proceeding (Docket No. OR18-22-000), the Pennsylvania Public Utility Commission reversal proceeding (Docket Nos. A-2016-2575829; G-2017-2587567), the Pennsylvania Public Utility Commission Complaint proceeding (Docket No. C-2018-3003365), and in any FERC proceeding involving any tariffs for bi-directional service.

5. Petitioners in the above-captioned emergency proceeding agree to withdraw their Petition pursuant to 52 Pa. Code § 5.94, not file or support directly or indirectly another judicial

or Pennsylvania Public Utility Commission petition seeking to prevent or delay the line outage to conduct the proposed hydrostatic testing.

6. The parties acknowledge that the Settlement reflects a compromise of competing positions and does not necessarily reflect any party's position with respect to any issues raised in this proceeding. The terms and conditions of the Settlement are limited to the facts of this specific case and are the product of compromise for the sole purpose of settling this case. This Settlement is entered into and shall be presented to the Presiding Administrative Law Judgewithout prejudice to any position that any of the parties may have advanced, or could have advanced, and without prejudice to the position any of the parties may advance on the merits of the issues in future proceedings.

7. The Parties agree that the Settlement shall be considered to be a petition to withdraw the Emergency Petition and shall be enforceable by the Pennsylvania Public Utility Commission.

8. This settlement is to be entered into the record at the Hearing scheduled for Monday, July 23, 2018.

III. CONCLUSION

WHEREFORE, Laurel Pipe Line Company, L.P., Giant Eagle, Inc. Guttman Energy, Inc., Lucknow-Highspire Terminals, LLC, Monroe Energy, LLC, Philadelphia Energy Solutions Refining and Marketing, LLC, and Sheetz, Inc., respectfully requests that the Presiding Officer approve the withdrawal of the above-captioned petition and close the above-captioned petition proceeding.

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Appendix B

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Giant Eagle, Inc.; Guttman Energy, Inc.; Lucknow-Highspire Terminals, LLC; Monroe Energy, LLC; Philadelphia Energy Solutions Refining and Marketing, LLC; and Sheetz, Inc.	:	P-2018-3003368
v.	:	
Laurel Pipe Line Company, L.P.	:	

INITIAL DECISION GRANTING THE PETITION FOR LEAVE TO WITHDRAW

Before
Eranda Vero
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Petitioners' Petition for Leave to Withdraw their Petition for Interim Emergency Relief, at Docket No. P-2018-3003368.

HISTORY OF THE PROCEEDING

On July 12, 2018, Giant Eagle, Inc. ("Giant Eagle"), Guttman Energy, Inc. ("Guttman"), Lucknow-Highspire Terminals, LLC ("LHT"), Monroe Energy, LLC ("Monroe"), Philadelphia Energy Solutions Refining and Marketing, LLC ("PESRM"), and Sheetz, Inc. ("Sheetz") (collectively, "Petitioners") filed a Petition for Interim Emergency Relief ("July 12, 2018 Petition" or "Petition") pursuant to Section 3.6 of the regulations of the Pennsylvania Public Utility Commission ("Commission"), against Laurel Pipe Line Company, L.P. ("Laurel" or "Respondent").

The Petition for Interim Emergency Relief was made in the course of a Complaint proceeding filed against Laurel on July 12, 2018, at Docket No. C-2018-3003365, in accordance with Section 701 of the Pennsylvania Public Utility Code ("Code").

In their Petition for Interim Emergency Relief, the Petitioners requested that the presiding officer and the Commission expedite the scheduling of a hearing, issuance of a decision on the merits of the Petition, briefing to the Commission and a final Commission decision on this Petition due to the Petitioners' need to commercially prepare for a service interruption on Laurel Pipeline announced by Laurel and scheduled to commence on August 17, 2018. Petitioners requested that a final Commission order on the merits of the Petition be entered no later than July 31, 2018, and that the Commission consider the use of notational voting, if necessary, to resolve their request for an Interim Emergency Order.

On July 16, 2018, the Commission issued a Hearing Notice, informing the parties that a hearing on the Petition for Interim Emergency Relief was scheduled for Monday, July 23, 2018, and assigned the matter to me.

On July 16, 2018, I issued a Prehearing Order providing various procedural instructions to the parties with regard to the July 23, 2018 hearing.

On July 17, 2018, the Respondent filed a timely Answer to the Petition for Interim Emergency Relief.

On July 18, 2018, Timothy K. McHugh, Esq., filed a notice of Appearance of behalf of the Commission's Bureau of Investigation and Enforcement ("I&E").

On July 19, 2018, Laurel filed a Motion for a Protective Order, which was granted by Order issued on Friday, July 20, 2018.

Also on July 19, 2018, Laurel filed a Motion for Admission *Pro Hac Vice* of Christopher J, Barr, Esq.

On July 20, 2018, Monroe filed a Motion for Admission *Pro Hac Vice* of Richard E. Powers, Esq.

Also, on July 20, 2018, Scott D. Livingston, Esq., filed his Notice of Appearance on behalf of Giant Eagle.

The hearing convened as scheduled on July 23, 2018, in Hearing Room 1 in Harrisburg, PA. At the beginning of the hearing, the Petitioners and Laurel informed me that they had reached a settlement in principle on the Petitioners' request for emergency relief and requested time to render the terms of the agreement in writing. The hearing was recessed in order to provide the parties time to work on the terms of the agreement. When the hearing was reconvened at approximately 11:00 a.m., the parties submitted a written Joint Stipulation and Settlement ("Settlement").

Because the Settlement gives the Petitioners the relief they requested in their Petition for Interim Emergency Relief, the Petitioners agreed to withdraw their Petition in accordance with 52 Pa.Code § 5.94. Settlement ¶¶ 5, 7.

Although I&E is not a signatory of the Settlement, it indicated through its counsel that it does not object to the Settlement or the Petitioners' request to withdraw their Petition for Interim Emergency Relief. Tr. 12.

The record in this matter closed upon receipt of the hearing transcript on July 24, 2018.

FINDINGS OF FACT

1. The Petitioners in this proceeding are Giant Eagle, Inc., Guttman Energy, Inc., Lucknow-Highspire Terminals, LLC, Monroe Energy, LLC, Philadelphia Energy Solutions Refining and Marketing, LLC, and Sheetz, Inc.

2. The Respondent in this proceeding is Laurel Pipe Line Company, L.P.

3. On July 12, 2018, the Petitioners filed a Petition for Interim Emergency Relief requesting that the Commission expedite the scheduling of a hearing, issuance of a decision on the merits of the Petition, briefing to the Commission and a final Commission decision on this Petition due to the Petitioners' need to commercially prepare for a service interruption on Laurel Pipeline announced by Laurel and scheduled to commence on August 17, 2018.

4. Petitioners also requested that a final Commission order on the merits of the Petition be entered no later than July 31, 2018, and that the Commission consider the use of notational voting, if necessary, to resolve their request for an Interim Emergency Order.

5. The Petition for Interim Emergency Relief was made in the course of a Complaint proceeding filed against Laurel on July 12, 2018, at Docket No. C-2018-3003365.

6. On July 16, 2018, the Commission issued a Hearing Notice, informing the parties that a hearing on the Petition for Interim Emergency Relief was scheduled for Monday, July 23, 2018.

7. A Prehearing Order was issued on July 16, 2018, reminding the parties of the date and time of the newly scheduled hearing, and informing them of the procedures applicable to this proceeding.

8. On July 17, 2018, the Respondent filed a timely Answer to the Petition for Interim Emergency Relief.

9. On July 23, 2018, the Petitioners and Laurel filed a written Joint Stipulation and Settlement.

10. Because the Settlement gives the Petitioners the relief they requested in their Petition for Interim Emergency Relief, the Petitioners requested leave to withdraw their July 12, 2018 Petition in accordance with 52 Pa.Code § 5.94. Settlement ¶¶ 5, 7.

11. There were no objections to the Petitioners' request for leave to withdraw the July 12, 2018, Petition.

DISCUSSION

The Commission's Rules of Practice and Procedure at 52 Pa.Code § 5.94 permit parties to withdraw pleadings in a contested proceeding. The provision at 52 Pa.Code § 5.94(a) allows withdrawal of pleadings by filing, with the Commission and service to parties, a petition for leave to withdraw the pleading. The petition is granted only by permission of the presiding officer or the Commission. The presiding officer or Commission must consider the petition, any objections thereto and the public interest in determining whether to permit withdrawal of the pleading. For purposes of this decision, the Petitioner's written request that I approve the withdrawal of their Petition for Interim Emergency Relief and close the petition proceeding at Docket No. P-2018-3003368 will be treated as a Petition for Leave to Withdraw their July 12, 2018, Petition. 52 Pa.Code § 1.2.

In their Settlement, the parties agreed that Laurel and/or its affiliate Buckeye Pipe Line Company, L.P. ("Buckeye") will not take any line outage to conduct the proposed hydrostatic testing on the Eldorado to Pittsburgh segment of the L718 Line (line outage) prior to September 15, 2018 and will not take any line outage to conduct the proposed hydrostatic testing during any subsequent summer (June 1-September 15) period. Settlement ¶ 2. Buckeye and Laurel agreed to use commercially reasonable efforts to complete the proposed hydrostatic testing in 13 days and to advise the Petitioners in writing and via the T-4 system in the event they are unable to honor the deadline. *Id.* In addition, Buckeye and Laurel agreed to provide at least 30 days' advance notice to their shippers, of the exact date on which the line outage to conduct the proposed hydrostatic testing will commence. Settlement ¶ 3.

Because the Settlement gives the Petitioners the relief they requested in their Petition for Interim Emergency Relief, the Petitioners agreed to withdraw their Petition in accordance with 52 Pa.Code § 5.94. Settlement ¶¶ 5, 7. There were no objections to the Petitioners' request for leave to withdraw the July 12, 2018 Petition. Under these circumstances, granting the Petitioners' request to withdraw the Petition for Interim Emergency Relief is in the public interest because doing so will eliminate the need for litigation and save the parties any additional costs in time and money they would otherwise incur litigating the matter. Accordingly, the Petitioners' request to withdraw the July 12, 2018 Petition is granted.

The Complaint proceeding filed by the Petitioners against Laurel on July 12, 2018, at Docket No. C-2018-3003365, shall be set for evidentiary hearing(s).

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S § 701.

2. The Commission's Rules of Practice and Procedure at 52 Pa.Code § 5.94 permit parties to withdraw pleadings in a contested proceeding by permission of the presiding officer or Commission.

3. In determining whether to permit withdrawal of the pleading, the presiding officer or Commission must consider the petition, any objections thereto and the public interest. 52 Pa.Code § 5.94.

4. Granting the Petitioners' withdrawal request is in the public interest.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Petition for Leave to Withdraw the Petition for Interim Emergency Relief filed by Giant Eagle, Inc., Guttman Energy, Inc., Lucknow-Highspire Terminals, LLC, Monroe Energy, LLC, Philadelphia Energy Solutions Refining and Marketing, LLC, and Sheetz, Inc. at Docket No. P-2018-3003368 is granted.

2. That the Petition for Interim Emergency Relief filed July 12, 2018, at Docket No. P-2018-3003368 is withdrawn.

3. That the Secretary's Bureau shall mark Docket No. P-2018-3003368 closed.

4. The Complaint proceeding filed against Laurel Pipe Line Company, L.P. on July 12, 2018, at Docket No. C-2018-3003365, shall be set for evidentiary hearing(s).

Date: July 25, 2018

/s/

Eranda Vero
Administrative Law Judge

Appendix C

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Giant Eagle, Inc.; Guttman Energy, Inc.; Lucknow-Highspire Terminals, LLC; Monroe Energy, LLC; Philadelphia Energy Solutions Refining and Marketing, LLC; and Sheetz, Inc.	:	P-2018-3003368
v.	:	
Laurel Pipe Line Company, L.P.	:	

FINAL ORDER

In accordance with the provisions of Section 332(h) of the Public Utility Code, 66 Pa. C.S. §332(h), the decision of Administrative Law Judge Eranda Vero dated July 25, 2018, has become final without further Commission action;

THEREFORE,

IT IS ORDERED:

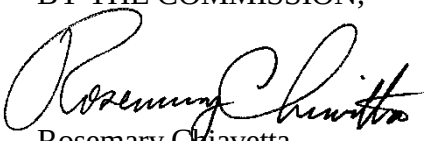
1. That the Petition for Leave to Withdraw the Petition for Interim Emergency Relief filed by Giant Eagle, Inc., Guttman Energy, Inc., Lucknow-Highspire Terminals, LLC, Monroe Energy, LLC, Philadelphia Energy Solutions Refining and Marketing, LLC, and Sheetz, Inc. at Docket No. P-2018-3003368 is granted.

2. That the Petition for Interim Emergency Relief filed July 12, 2018, at Docket No. P-2018-3003368 is withdrawn.

3. That the Secretary's Bureau shall mark Docket No. P-2018-3003368 closed.

4. The Complaint proceeding filed against Laurel Pipe Line Company, L.P. on July 12, 2018, at Docket No. C-2018-3003365, shall be set for evidentiary hearing(s).

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ENTERED: August 28, 2018

Appendix D

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Christopher J. Barr

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June 27, 2018

Ms. Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: Buckeye Pipe Line Company, L.P. and Laurel Pipe Line Company, L.P., Docket No. OR18-22-000, Motion For Leave to Answer and Answer to Protest

Dear Ms. Bose:

Pursuant to Rule 212 and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.212 and 385.213, Buckeye Pipe Line Company, L.P. and Laurel Pipe Line Company, L.P. (collectively, "Petitioners") hereby submit the "Motion to File an Answer and Answer of Buckeye Pipe Line Company, L.P. and Laurel Pipe Line Company, L.P. to Protest," ("Answer") in response to the "Joint Motion to Intervene, Comment, and Protest of Giant Eagle, Inc.; Guttman Energy, Inc.; Lucknow-Highspire Terminals LLC; Monroe Energy, LLC; Philadelphia Energy Solutions Refining & Marketing LLC; and Sheetz, Inc." ("Protest") filed on June 12, 2018 in the above-referenced matter. Petitioners are submitting both a public and a non-public version of the Answer, in light of the need to include information that is of a non-public character under the Commission's regulations, as is explained below.

Petitioners plan to serve the non-public version on parties that have Reviewing Representatives that have executed non-disclosure certificates pursuant to the Non-Disclosure and Confidentiality Agreement also agreed to by such parties.

Request for Special Treatment of Certain Information

Pursuant to 18 C.F.R. § 388.112, Petitioners hereby request confidential treatment of the non-public, confidential version of the Answer. The Answer contains discrete and limited sets of facts that are designated as "Highly Confidential Protected Materials." These specific portions of the Answer may contain privileged information subject to Section 15(13) of the Interstate Commerce Act and also constitute confidential business information, the release of which could be harmful to Petitioners and/or their shippers. The Highly Protected Confidential Materials fall

in one or more of the following categories: (1) Section 15(13) materials; (2) trade secrets or other protected forms of intellectual property; or (3) materials which, if revealed to one or more other participants, could have a detrimental impact on the business or competitive position of the participant providing such materials or a related entity.

Pursuant to the Commission's regulations, Petitioners request privileged treatment for the identified information supporting this filing. Accordingly, Petitioners are submitting this Highly Confidential information separately, with the relevant portions clearly labeled: "HIGHLY CONFIDENTIAL PROTECTED MATERIALS" or words of similar import. The Highly Confidential Protected Material has been redacted from the public versions being submitted.

Sincerely,

/s/
Christopher J. Barr

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing documents upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC this 27th day of June 2018.

/s/
Christopher J. Barr

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Buckeye Pipe Line Company, L.P.	**)**	
and	**)**	**Docket No. OR18-22-000**
Laurel Pipe Line Company, L.P.	**)**	

MOTION FOR LEAVE TO ANSWER
AND
ANSWER OF BUCKEYE PIPE LINE COMPANY, L.P. AND LAUREL PIPE LINE COMPANY, L.P.

Filed: June 27, 2018

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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Buckeye Pipe Line Company, L.P.	**)**	
and	**)**	**Docket No. OR18-22-000**
Laurel Pipe Line Company, L.P.	**)**	

MOTION FOR LEAVE TO ANSWER
AND
ANSWER OF BUCKEYE PIPE LINE COMPANY, L.P. AND
LAUREL PIPE LINE COMPANY, L.P.

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. §§ 385.212 and 385.213, Buckeye Pipe Line Company, L.P. ("Buckeye") and Laurel Pipe Line Company, L.P. ("Laurel") (collectively, the "Petitioners" or "Buckeye/Laurel") respectfully submit this Motion for Leave to Answer and Answer ("Answer") to the "Joint Motion to Intervene, Comment, and Protest of Giant Eagle, Inc.; Guttman Energy, Inc.; Lucknow-Highspire Terminals LLC; Monroe Energy, LLC; Philadelphia Energy Solutions Refining & Marketing LLC; and Sheetz, Inc." ("Protest")[1] filed on June 12, 2018. In support of this Answer, the Petitioners submit as Appendix A the Affidavit of David Arnold, Vice President, Domestic Pipelines, Buckeye Pipe Line Company ("Arnold Aff.") and as Appendix B the Affidavit of Michael J. Kelly, Director of Transportation Services, Buckeye Pipe Line Company ("Kelly Aff.").

The Petitioners request leave to answer, and provide this Answer in order to address the incorrect information and misleading claims made in the Protest. For the reasons set forth in detail below, the claims made in the Protest do not and cannot justify denial of the Petition for

[1] The named shippers will be known jointly, throughout this Answer, as the "Indicated Parties" or "IP".

Declaratory Order ("PDO") filed by the Petitioners on April 30, 2018.

I. MOTION FOR LEAVE TO ANSWER

Petitioners respectfully request a waiver of the prohibition against answers to answers and protests set forth in Rule 213(a)(2).[2] The Commission has permitted an answer when doing so aids the Commission in its decision-making process and provides a more complete record upon which a decision can be made.[3] Petitioners' Answer would assist the Commission because it provides necessary clarification and correction of factual and legal claims made in the Protest. The extensive nature of the Protest, totaling more than 500 pages including affidavits and exhibits, had raised many misleading arguments that could not be anticipated or addressed in the PDO. The Protest makes numerous incorrect claims to which Petitioners should have an opportunity to respond.

II. EXECUTIVE SUMMARY

Petitioners submitted a conventional liquids pipeline PDO, seeking limited findings from the Commission regarding Transportation Service Agreements ("TSA") resulting from a 2016 Open Season for a project to allow expanded refined products transportation from Midwestern refineries to Pittsburgh, and past Pittsburgh to Central Pennsylvania, which is currently served by pipeline only from East Coast sources (the "Project"). As Petitioners noted in the PDO, the specific implementation of the new service, via a joint rate service and on a segment of Laurel that would provide both eastbound and westbound service, was the result of a negative Recommended Decision regarding Laurel's original proposal at the Pennsylvania Public Utility Commission ("PaPUC") to completely reverse the segment of its system between Coraopolis (near Pittsburgh) and Eldorado (near Altoona, in Central Pennsylvania) as to intrastate volumes.

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2 18 C.F.R. § 385.213 (2018).

3 *See, e.g.*, *Algonquin Gas Transmission, LLC*, 150 FERC ¶ 61,163 at P 13 (2015).

Indicated Parties, who include the same companies that compete with the Midwestern refiners and that opposed Laurel's PaPUC application, attack the good faith of the PDO representations and make a wide range of factual claims, all with the goal of urging the Commission to deny the PDO, on various grounds. All of the Protests' claims should be rejected, and the Commission need not become bogged down in assessing the Indicated Parties' allegations regarding volume changes on Laurel, pricing, demand and other issues. The key legal and factual arguments of the opponents dissolve once several crucial facts are recognized:

1. **No PaPUC approvals are needed**. The PaPUC does not need to approve the eastbound interstate service, nor could it do so under principles of federal jurisdiction, and Laurel has a long history of providing interstate services under FERC tariffs without PaPUC approval. Petitioners are not providing the proposed service under a capacity use agreement, but under a joint rate to be provided directly by the two carriers on their own systems, subject to the joint rate. Therefore, the claims that the PDO is premature, or contingent on PaPUC action, or an "end run" around the PaPUC, are all entirely incorrect.

2. **Buckeye and Laurel will have the ability to continue to provide east to west service at levels equaling at least the peak use of the system during the past 10 years.** The Protest claims that Buckeye and Laurel will not, or cannot, provide both the proposed eastbound service and the current westbound service, based on an admixture of rumors from the industry, speculation, and incorrect operational claims. Petitioners clearly stated in the PDO that they could and would provide both services. Petitioners explain below in detail how they would do so, while correcting serious misconceptions in the Protest. Moreover, the PDO need not resolve the facts of future operations – if in the future Buckeye and Laurel's actions belie the factual premise of the PDO, parties could challenge the continued protections of the declaratory order.

3. **The TSA does not grant "preferences" to Committed Shippers over east-to-west shipments**. Indicated Parties claim that the priority rights of the Committed Shippers under the TSA create a preference against current westbound shippers, but cite only to the TSA and attached pro forma tariff, which specifically applies the preference only as among shipments moving in the Project from west to east, not to other Buckeye or intrastate volumes.

4. **The Open Season was fair, open, and transparent**. Indicated Parties allege that those reviewing the Open Season proposal would have viewed the TSA very differently had the Open Season discussed the potential for bi-directional service. This criticism fails in various respects. The open season and the TSA specifically provided the terms regarding the service to be provided by Buckeye (including Laurel) to transport refined products under certain rates and terms to Eldorado. The TSA and Open Season did not govern, or address, or limit, other services that either Buckeye or Laurel might provide, and the Committed Shippers are receiving the service described in the TSA. Moreover, even *arguendo* were the expectation of full reversal versus bi-directional operation to have been relevant to a potential committed shipper, none of the Committed Shippers has intervened to agree with the Indicated Parties, the Indicated Parties chose not to become committed shippers and, thus, have no basis for regret, and they fail to articulate how the bi-directional information would have led them to take a different course of action.

5. **The proposed service involves new capacity and does not displace existing shippers' capacity.** Buckeye and Laurel will be able to physically provide a new 40,000 barrels per day ("bbls./day") service from the Midwest to Eldorado, while being able to physically provide approximately 120,000 bbls./day of service from the East Coast to Pittsburgh – even without taking into account the certainty of being able to offset significant volumes by swaps.

The peak use of the Laurel segment over the past 10 years was 120,000 bbls./day, and that level is unlikely to be experienced again. The Project is providing new capacity without displacing volumes being moved by pre-existing shippers.

The Protest raises many other claims of harm – loss of the Pittsburgh market, higher prices in Pittsburgh, reduced security of supply in Pittsburgh – all of which must be dismissed because they rest entirely on the false premise that Buckeye and Laurel will not be able to continue to accommodate current volumes of East Coast originating barrels.

The Project would bring greater pipeline capacity and associated supply to Pittsburgh, bring competition from Midwestern refined products for the first time to Central Pennsylvania, and allow the market to choose which supply should be used. The Commission should reject the Protest and approve the PDO.

III. ARGUMENT

A. Indicated Parties Include Competitors of Shippers on the Project and Have a Substantial Economic Interest in Excluding Competing Midwestern Refined Products and the Resulting Lower Gasoline Prices throughout Pennsylvania.

Petitioners wish to focus on the merits of the issues raised by the Protest, and believe that the Protest provides no basis for denying the PDO. However, Petitioners also submit that the Commission should view this dispute in light of the apparent motives of the Indicated Parties, which appear to arise from concern over increased competition from Midwest refined products and lower gasoline prices in Pennsylvania, rather than from any genuine concerns about the propriety of the PDO.

At the PaPUC, Laurel sought to terminate its east-to-west service west of Eldorado, and a number of the Indicated Parties opposed that action as cutting off access by pipeline to the Pittsburgh market. Laurel believed, and continues to believe, that the request in that proceeding was in the public interest. However, in light of the negative Recommended Decision, which

Laurel has vigorously opposed via exceptions, Buckeye and Laurel reconsidered the best means of providing the service proposed via the Project, while doing so in accordance with the recommended outcome in the RD – continued east-to-west service. That is the subject of the PDO. The decision was to take a different route – to address the competitive concerns raised by opponents during the PaPUC proceeding by providing both the existing east-to-west interstate and intrastate services and the new west-to-east interstate service provided in the TSA. This revised approach would have substantial benefits for a wide range of interests:

- **Continued access to Pittsburgh for East Coast refiners** – a benefit that is claimed by some of the Indicated Parties to be critical to the long term survival of their refineries. The proposal in the PDO fully addresses this concern.

- **Continued dual-market sources for Pittsburgh**. The ability of the Pittsburgh area to receive fuels from both the west and the east was asserted by Laurel's opponents at the PaPUC as being critical to providing secure and low cost supplies to that region. While Petitioners disagree with that assertion, the bi-directional option fully addresses this issue by retaining full access to East Coast supplies for Pittsburgh.

- **Extension of dual-market sources to Central Pennsylvania.** Assuming, for the sake of understanding the Indicated Parties' position, their assertions at the PaPUC that having both east and west supply into Pittsburgh creates a real public benefit, then by extension, the same type of benefit must accrue to Altoona.

These were benefits that many of the Indicated Parties at the PaPUC declared were crucial from an economic and competitive standpoint. The proposal in the PDO was chosen given the fact that maintaining service from the East Coast while providing the proposed new service under the Project would fully and completely address each of them.

Nonetheless, the Indicated Parties have opposed the PDO before this Commission with a lengthy Protest raising a wide range of claims, all with the apparent goal of stymying the commencement of the Project—even with all of the benefits noted above.

Indicated Parties claim that their concerns are founded in an alleged fear that Buckeye and Laurel, despite committing to continue providing the current service,[4] will somehow go back on that word and deny service to the east-to-west shippers. As this Answer discusses in detail below, there is nothing to this concern, which is largely based on rumor and a few inaccurate assumptions about the proposed operation of the system.

Indicated Parties did not ask the Commission to condition the effectiveness of the protections of a declaratory order on Buckeye/Laurel's having the ability to provide east-to-west service – somewhat surprising, if that were truly their concern.

Indicated Parties attack the fairness of the Open Season, expressing concern for all the hypothetical shippers who might have acted differently if they knew that in addition to providing exactly the service described in the Open Season Notice and the TSA, Buckeye and Laurel would also provide other services, via bi-directional operation of the segment. Indicated Parties make this claim, even though the only parties conceivably injured under their mistaken theory were the Committed Shippers, who are not here making this claim. They make this claim, even though they could not suggest how they, having declined to participate during the Open Season, would have done anything differently, even if Buckeye had stated that bi-directional service was one operational option.

Why the vociferous Protest? Petitioners submit that a likely explanation, indeed the most likely, is anti-competitive rent seeking via the regulatory processes at the Commission. Indicated Parties simply do not want west-to-east service to commence and bring greater volumes of Midwest product to Pittsburgh, and new competitive supplies for the first time to Central

[4] As noted in the PDO, at p. 9, fn. 18, Laurel may prevail on its original plan to terminate east-to-west intrastate service by order of the PaPUC, or following a court decision, and in the event that it did have the authority to do so, might pursue the original plan of providing only eastbound service, because it would no longer have any obligation to provide east-to-west service.

Pennsylvania (or, if prevention is not available, then they seek to delay the onset of this new competition). This goal seems to be the only logical explanation for the Indicated Parties' actions and words. Their arguments should be viewed in light of this motive, and for the reasons provided in detail below, rejected.

B. A Few Key, Easily-Demonstrated Facts Alone Support Approval of the PDO and Rejection of the Protest, and Issuance of a Declaratory Order Does Not Require Findings of Fact on All Alleged Claims in the Protest.

1. The Declaratory Order Need Not Resolve the Factual Issues Raised Regarding the Potential Future Operation of the Project.

The Commission need not reach a decision here and now regarding the many factual question raised by the Protest: whether the proposed service described in the PDO will in the future successfully be provided, or the existing service will in the future successfully be provided as undertaken in the PDO. Those are not findings requested by the PDO, and the PDO is not an appropriate vehicle for resolving such issues of fact based on future operations. Buckeye/Laurel have presented compelling facts to support their undertaking that both types of service will be provided as described. It would be contrary to the Commission's usual pro-competitive policies to withhold the requested declaratory order because of concerns raised by opponents (particularly when the opponents have a vested interest in delaying or preventing the competition represented by the Project as competitors seeking to stave off the results of competition from the Project's shippers.[5] If, contrary to the facts shown by the Petitioners, Buckeye/Laurel were to fail to have

[5] In the area of certificating natural gas pipelines, the Commission has clearly articulated a policy of not giving weight to opposition by incumbent pipeiines seeking to avoid the price-reducing impacts of new competition, as the Commission explained in *D'Lo Gas Storage,LLC*, 140 FERC ¶ 61,182 at P 24 (2012)("*D'Lo*"):

> Likewise, the Commission recognized in the Certificate Policy Statement that while it does have an obligation to ensure fair competition, the Commission does not need to protect incumbent pipelines from the potential loss of market share. There is no suggestion that D'Lo Gas would be competing on anything other than a fair basis. In fact, while Leaf River at one point alleges that granting D'Lo Gas's application would somehow favor new entrants over incumbent storage providers, it later acknowledges that it has capacity available to provide service today, with no additional expenditure of capital. The Certificate Policy Statement characterizes the potential lowering of the price of storage capacity, as complained of by Leaf

the ability to provide service as undertaken in the PDO, then an important premise of the PDO will cease to exist, and the protections provided by the declaratory order may not apply. Those issues can, and should, be raised by parties in the future, in response to a failure by Petitioners to live up to the undertakings that formed the basis for the PDO.[6]

2. Despite Its Profusion of Claims, Alleged Facts and Theories, The Entire Protest Falls Apart When Three Supporting Pillars Are Shown to be False.

The Protest is 63 pages long, and with attachments well exceeds 500 pages, but its criticisms of the PDO repetitively and reductively hinge on a few inaccurate claims. Once these key allegations are addressed, the entire structure of their oppositional arguments collapses. Those few points are addressed in detail below:

- Petitioners do not need any authorization from the PaPUC to provide the proposed interstate west-to-east service under the Project; this fact fatally undermines all of the arguments made in Sections IV.A. and IV.B. of the Protest.

- Petitioners can and have undertaken to provide both the proposed west-to-east and the existing east-to-west services between Coroapolis and Altoona; the alleged "harms" in Protest Sections IV.C. and IV.F. are entirely predicated on the false and completely unsupported allegation that east-to-west service will be significantly reduced.

- Nothing in the PDO or the proposed pro forma tariff affects the prorationing rights of east-to-west shippers, so there is no "preference" for the west-to-east shippers, committed or uncommitted.

River, as a positive benefit. The impacts that Leaf River identifies, i.e., devaluation of existing storage capacity and any resultant potential financial stress for existing storage providers, are not adverse impacts to be weighed under the Certificate Policy Statement, but rather risks expected in the competitive market they have entered.

See also, Ruby Pipeline, LLC, 128 F.E.R.C. ¶ 61,224 at P 37 (2009) (rejecting competitor protests to construction of a new entrant). In this context, the competitors of Buckeye and Laurel's shippers should not be granted a veto over the project to protect their market position, at the expense of the types of benefits noted in *D'Lo*.

[6] As Buckeye and Laurel explain in this Answer, because they can and will provide the current east-to-west service, and because the PDO does not seek to interfere with the PaPUC rulings that may occur regarding the termination of the intrastate service, the Indicated Parties are like to shippers that protested the declaratory order in the Commission order affirmed in *PNGTS Shippers' Group v. FERC*, 592 F.3d 1322 (D.C. Cir. 2010) ("*PNGTS*"). In PNGTS, the Commission concluded that the declaratory order issued at the pipeline's request would not by its terms interfere with the rights of the shipper group to raise rate or service challenges in the future; here too, the concern that contrary to their statements to the Commission, the Petitioners will in the future fail to perform transportation, can be addressed by the shippers at that time.

IP make a few additional arguments that are addressed fully below, including the mistaken claim that the Open Season was not fair and transparent.

While the Protest is a very lengthy pleading, spooling out a large number of invalid and inaccurate claims, the validity of its legal arguments rest on three specific bases, all of which are false. Those three bases are that (1) the Pennsylvania Public Utility Commission ("PaPUC") will be deprived appropriate authority and jurisdiction if the PDO is granted; (2) that it is not physically possible to provide the service described in the PDO; and (3) there is a service preference for west-to-east service in the TSA. For the reasons shown by the Petitioners in this section of the Answer, these three pillars are all faulty, and as a result the Protest cannot sustain judicial scrutiny.

a. The PDO is not an evasion of the PaPUC proceeding or authority, and no PaPUC approvals are needed or sought to provide the FERC service.

Several arguments raised by the Indicated Parties rely on the wholly inaccurate premise that the PDO represents an effort to evade the rightful jurisdiction of the PaPUC.[7] Specifically, the Indicated Parties assert that Laurel, in particular, needs authority from the PaPUC to participate in the interstate service contemplated by the PDO, and that the proposed service is an abandonment for which PaPUC authority is needed.[8] The Indicated Parties also assert, incorrectly, that additional regulatory approvals are required from the PaPUC in order to allow the Petitioners to provide interstate service subject to FERC jurisdiction.[9] These positions are inconsistent with the position taken by the PaPUC's in its own pleading in this proceeding, with the prior history of Laurel's earlier FERC-regulated services, and with the terms of the PDO.

7 Protest at p. 19-26.
8 Protest at Section A and IV. B.
9 Protest at p. 20-22.

Thus, there is absolutely no support in fact or law for the Indicated Parties' arguments relying upon this need for additional PaPUC approval.

First, it must be pointed out that if the PDO presented such a serious concern as to whether it would violate the jurisdiction and authority of the PaPUC, then the most appropriate party to bring that issue to the Commission's attention would be the PaPUC itself. However, the PaPUC has intervened in this proceeding, and has generally not opposed the Petitioners' PDO.[10] The PaPUC has raised no specific concerns that the relief sought by the Petitioners would undermine the legitimate jurisdiction of the PaPUC. Further, there was no mention at all that additional approvals are necessary prior to FERC's approval of the PDO. Thus, it is clear that the party best situated to express concerns associated with the proper authority of the PaPUC has already provided its position in this proceeding, and that position does not oppose the granting of the PDO.

Turning to the legal contentions raised by the Indicated Parties, the PDO has clearly and unequivocally stated that the proposal being advanced by Petitioners will provide exclusively interstate service, west-to-east, while maintaining the existing intrastate service, east-to-west.[11] This continued provision of east-to-west intrastate service is clearly consistent with the conclusion endorsed by the RD, should the RD be affirmed, and does not attempt to "supplant" PaPUC orders or jurisdiction.[12] As identified in the Findings of Fact in the RD, Paragraph 11, "Laurel currently transports petroleum products from east to west from points of origin near Philadelphia, Pennsylvania, to destinations across the Commonwealth, terminating west of Pittsburgh, Pennsylvania, at destinations that are also connected to pipelines originating from a

[10] *Limited Protest of the Pennsylvania Public Utility Commission*, filed at Docket No. OR18-22 on May 31, 2018.
[11] PDO at p. 9.
[12] Protest at 10.

number of Midwest refineries." The PDO clearly states that "Buckeye and Laurel have decided to commence interstate service from west-to-east while *continuing to maintain*, rather than discontinue, intrastate and interstate service from east-to-west."[13] Further, the PDO provides that "the Pipeline capacity will be adequate to transport both intrastate volumes and the full interstate contract volumes, including the volumes moving in both directions on Laurel's system and at least 10% of the new capacity for Uncommitted Shippers, so there will be no diminution in the 10% available to Uncommitted shippers as a result of intrastate shipments."[14] There is no valid claim that any diminution of intrastate service will occur as a result of the service as proposed in the PDO. The PDO does not change the nature of the service to be provided to intrastate shippers, and therefore cannot and should not be seen as an effort to evade the PaPUC's jurisdiction over the intrastate movements.

More critically, the PaPUC itself recognizes that its jurisdiction is limited, and that it does not have jurisdiction over the provision of interstate service by either Buckeye or Laurel when that service is provided under FERC tariffs. No prior authorization from the PaPUC for the proposed service is needed, and therefore none has been sought. First, as described above, there will be no change in the nature of the service provided to intrastate shippers. Therefore, the only real question that appears to be posed by the Indicated Parties is whether the PaPUC has the authority to preempt FERC's ability to authorize interstate transportation. The clear answer to that, based on decades of case law and the basic foundation of our federal system, is that state

[13] *Id*., emphasis added. Although as a convenient shorthand for the operation of Laurel under the proposal, the PDO described the service as being bi-directional, the proposal concerns three distinct services, separately provided: west-to-east interstate service under FERC tariffs, east-to-west service under PaPUC tariffs, and east-to-west service under FERC tariffs. Buckeye and Laurel propose to add service (1), but do not propose any change to services (2) and (3). The proposal is not to provide a new service called "bi-directional" service, but to add a discrete, new, exclusively interstate service by Buckeye and Laurel under a joint rate.

[14] PDO at p. 12, footnote 22.

authority does not preempt federal authority.[15] Further, the Pennsylvania Public Utility Code explicitly recognizes that Federal jurisdiction preempts the authority of the PaPUC, regardless of any Pennsylvania law to the contrary. *See* 66 Pa. C.S. § 104 ("The provisions of this part, except when specifically so provided, shall not apply, or be construed to apply, to commerce with foreign nations, or among the several states, except insofar as the same may be permitted under the provisions of the Constitution of the United States and the acts of Congress."). This statutory limitation is reinforced by extensive Supreme Court case law prohibiting states from regulating interstate commerce in light of the dormant preemptive effect of the Commerce Clause of the United States Constitution.[16] There is simply no basis for concluding that the PaPUC must authorize the interstate service to be provided by the Petitioners prior to FERC approval of the PDO.

The Indicated Parties contend that Laurel is restricted to the provision of intrastate service.[17] The Indicated Parties do not, however, identify the source of the alleged restrictions, and they cannot do so, because there is simply no merit to this contention.[18] Laurel from its construction and first operations provided both interstate and intrastate transportation. Laurel was constructed in 1958 and 1959, and "products were first received into the line on January 20, 1959, and the entire line was in operation when the products reached its most western terminal at

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[15] See, e.g., *Transcontinental Gas Pipe Line Corp. v. State Oil & Gas Bd.*, 474 U.S. 409, 422 (1986); *Farmers Union Cent. Exch. v. FERC*, 584 F.2d 408, 413 (D.C. Cir. 1978) ("*Farmers Union I*"); *New Energy Co. v. Limbach*, 486 U.S. 269, 273 (1988); *Ark. Elec. Coop. Corp. v. Ark. Pub. Serv. Comm'n*, 461 U.S. 375, 391 (1983); *Farina v. Nokia, Inc.*, 625 F.3d 97, 115 (3d Cir. 2010); *Crosby v. Nat'l Foreign Trade Council*, 530 U.S. 363, 373 (2000). *See, also, Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992*, 65 F.E.R.C. ¶ 61,109 (Oct. 22, 1993)

[16] *See, e.g., New Energy Co. v. Limbach*, 486 U.S. 269, 273 (1988); *Ark. Elec. Coop. Corp. v. Ark. Pub. Serv. Comm'n*, 461 U.S. 375, 391 (1983); *Dep't of Revenue v. Davis*, 553 U.S. 328, 338 (2008).; *Brown-Forman Distillers Corp. v. N.Y. State Liquor Auth.*, 476 U.S. 573, 579 (1986); *Cloverland-Green Spring Dairies, Inc. v. Pa. Milk Mktg. Bd.*, 462 F.3d 249, 261-62 (3d Cir. 2006).

[17] Protest at p. 19-20. Indicated Parties wrongly claim that Laurel's intrastate certificate restricts its activities to particular direction of flow. However, the intrastate certificate merely addresses the intrastate services, and neither restricts, nor purports to restrict, interstate services that Laurel provides.

[18] The Protest refers to the original certificate of Laurel by the PaPUC, but that document did not and could not constrain or restrict Laurel from providing interstate services as an interstate common carrier.

Cleveland, Ohio, on March 25, 1959"[19] – i.e., its first products movements included interstate transportation. For decades, stretching from 1959 until 1994, Laurel provided interstate service under FERC tariffs.[20] In fact, from the initiation of service on Laurel, Laurel was intended to operate as an interstate pipeline running from New Jersey to Ohio. At no point prior to or during the time that Laurel operated as an interstate pipeline, did Laurel seek PaPUC approval in order to provide interstate service. Laurel's determination that in this proceeding it may similarly offer interstate service, albeit west-to-east, without obtaining PaPUC approval for the interstate component of the transportation is supported by its long history of offering interstate service with no prior PaPUC approval. As discussed in the prior paragraph, the PaPUC acknowledges that it would have no jurisdiction regarding any interstate service Laurel would offer. As discussed in the PDO, and previously in this Answer, Laurel's ability to provide interstate service will be undertaken concurrently with its ongoing compliance with the state-authorized and regulated service. There is simply no support in fact or in law for the contention that Laurel cannot provide interstate service, so long as it also meets its intrastate service obligations. On the contrary, Laurel's long history operating as an interstate pipeline without any regulatory approval by the PaPUC shows that Laurel's current proposal is consistent with its historic approach.

In a similar vein of argument, the Indicated Parties assert that the PDO reflects an abandonment, or partial abandonment, of service under Pennsylvania law, and that this partial abandonment requires PaPUC approval.[21] This is simply not an accurate summary of the

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[19] *See Laurel Pipe Line Company Valuation Docket No. 1403*, 324 I.C.C. Reports 633, 634 (1965). This, as well as selected other illustrative documents associated with Laurel's long history of interstate operation and regulation, are included with this Answer in Appendix C.

[20] *See* Appendix C (illustrative Commission order on interstate tariffs, and an illustrative FERC tariff filed by Laurel).

[21] Protest at p. 20.

proposal, or of the nature of the PaPUC's abandonment analysis.[22] In Pennsylvania, Section 1101 of the Code states that "[t]he commission's certificate of public convenience granted under the authority of this section shall include a description of the nature of the service and of the territory in which it may be offered, rendered, furnished or supplied." 66 Pa. C.S. § 1101. Any abandonment requires the termination of service, as described in the Company's certificate of public convenience, to customers/shippers.[23] Laurel's certificate does not provide any commitment for *daily* east-to-west service for shippers.[24] The proposal in the PDO will merely continue the transportation service currently provided from Altoona to Pittsburgh, while also allowing the Petitioners to offer eastbound service from Pittsburgh to Altoona. The bi-directional service will have no meaningful impact on the level of access provided for deliveries into Pittsburgh compared to what is currently offered by Laurel. Bi-directional service, as proposed in the PDO, is simply not an abandonment of service at all under Pennsylvania law, and therefore no approval from the PaPUC is required.

In considering the Indicated Parties' arguments regarding abandonment, two additional elements provide context to show that this argument seeks to mislead the Commission. First, at the PaPUC any full or "partial" abandonment must involve the actual termination of service, or

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[22] Once again, it is worth noting that the PaPUC's own comments in this proceeding do not indicate that the PaPUC believes an application for abandonment must be approved prior to the Commission's approval of the PDO.

[23] The Indicated Parties' own witnesses in the PaPUC proceeding argued that an abandonment is created by the termination of service. *See* Indicated Parties St. Nos. 3 and 5-SR. As described throughout this Answer, there will be no termination of service to the shippers as a result of the bi-directional service.

[24] *See In re Application of Laurel Pipe Line Company for approval of its incorporation, organization and creation*, Docket No. 84093, Folder 1 (Report and Order entered Feb. 5, 1957) ("Incorporation CPC Order"); *see also In re Application of Laurel Pipe Line Company for approval of the beginning of the exercise of the right, power or privilege of transporting, storing and distributing petroleum products by means of pipe lines, pumps, tanks and other equipment and appurtenances for the public*, Docket No. 84093, Folder 2 (Report and Order entered Feb. 5, 1957) ("Service CPC Order"). *See also In re Application of Laurel Pipe Line Company for approval of its incorporation, organization and creation*, Docket No. 84093, Folder 1 (Application Docketed Feb. 5, 1957); *see also In re Application of Laurel Pipe Line Company for approval of the beginning of the exercise of the right, power or privilege of transporting, storing and distributing petroleum products by means of pipe lines, pumps, tanks and other equipment and appurtenances for the public*, Docket No. 84093, Folder 2 (Application Docketed Feb. 5, 1957).

such a significant alteration in service that customers no longer have access to the service on an ongoing basis.[25] The claim made by the Indicated Parties in their Protest flies in the face of the actual requirements of the PaPUC, as well as the testimony submitted by the Indicated Parties themselves in the PaPUC proceeding. Second, the nature of the proposal in the PDO is fundamentally different from the operational proposal made in the PaPUC proceeding. The proposal made before the PaPUC would have entirely ceased the provision of east-to-west service from Altoona to Pittsburgh. The Indicated Parties' suggestion that bi-directional service that continues to provide the existing service to shippers is even a "partial" abandonment is completely unsupported, and should be rejected.

Additionally, Indicated Parties rely on the further erroneous and entirely unsupported assertion that a revised capacity use agreement is required and must be approved prior to any approval from FERC.[26] This argument is fatally flawed in two separate respects. First, nowhere in the PDO do Petitioners suggest that they would be using or seeking approval of a revised capacity use agreement, and none is required to provide the proposed joint tariff service. In the PaPUC proceeding, Laurel had sought approval of a "Revised Capacity Use Agreement" with its affiliate, Buckeye, because under the approach to the Project contemplated at that time, involving termination of east-to-west service, Buckeye would provide the entire new west-to-east service on its own tariffs, using a capacity use arrangement (having some similarities to a lease) of capacity on Laurel's system. As noted above, however, the Project services would be provided by means of a joint tariff by Buckeye and Laurel instead of a Buckeye-only tariff (with the same

[25] *See, e.g. Seaboard Tank Lines, Inc. v. Pa. Pub. Util. Comm'n*, 502 A.2d 762, 764-65 (Pa. Cmwlth. 1985); *Commuters' Comm. v. Pa. Pub. Util. Comm'n*, 88 A.2d 420 (Pa. Super 1952); *Application Of CMV Sewage Company, Inc.*, Docket No. A-230056F2002 (Order entered 2008) *citing Warwick Water Works v. Pa. Public Utility Comm'n*, 699 A.2d 770 (Pa.Cmwlth. 1997); *Borough of Duncannon v. Pa. Pub. Util. Comm'n*, 713 A.2d 737, 740 (Pa. Commw. 1998) .

[26] Protest at p. 21.

rates, terms and conditions specified in the TSA). Under the joint tariff approach, however, there is no use of Laurel capacity by Buckeye. Rather, Buckeye will provide service on its system, and Laurel will provide the service jointly with Buckeye, using its own capacity rights, albeit under a joint tariff. Laurel will be providing the west-to-east transportation proposed in the PDO exclusively under FERC tariffs and under Federal jurisdiction – the PDO contemplates that Laurel will file new, local FERC tariffs as well. Therefore, the Indicated Parties are simply wrong in their assertion that a Capacity Use Agreement must be approved by the PaPUC in order for Laurel to offer interstate service.[27]

The Indicated Parties have raised many inaccurate arguments regarding the need for PaPUC approvals associated with the bidirectional service described in the PDO. There is no legal support for their contentions, as well as no factual support. These claims should be rejected by the Commission.

b. Buckeye and Laurel will be able to provide the current and historical levels of service from east to west, either physically or via displacement, and the contrary claims of Indicated Parties are completely groundless.

A central pillar of the Protest is the contention that despite its commitment in the PDO, Buckeye and Laurel will not be able to provide adequate east-to-west service on the Coraopolis-Eldorado segment of Laurel following the commencement of west-to-east service to Eldorado.[28] With this premise, Indicated Parties claim that current East Coast-originating shippers will lose access to capacity to the Pittsburgh market, that the refineries in the East will suffer, that supply security will suffer in Pittsburgh, and that prices will rise, *inter alia*. They base this conclusion entirely on the conclusions in the Affidavit of Thomas O. Miesner ("Miesner Aff.").

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[27] As noted in response to the prior arguments, nothing in the PaPUC's comments in this proceeding indicates that the PaPUC believes an affiliated interest agreement must be approved prior to the Commission's approval of the PDO.

[28] *See e.g.*, Protest at pp. 40-47.

The allegations that Buckeye and Laurel will not be able to provide both the proposed eastbound service and the existing westbound service are false – and demonstrating their erroneous nature is unusually straightforward. In the Affidavit of Michael J. Kelly ("Kelly Aff."), the Director of Transportation Services for all of the affiliated systems operated by Buckeye Partners, including Buckeye and Laurel, Mr. Kelly refutes all of the allegations made in the Miesner Aff., including Mr. Miesner's crucial assumptions:

i. Contrary to Mr. Miesner's sources, Laurel plans to operate the Coraopolis-Eldorado segment both physically westbound and physically eastbound as necessary each month to meet the nominations of all shippers, from both Midwest and East Coast origins, and has not established or planned operations on any specific "predominant direction" of operation.

ii. "Virtual movements" – movements effected by swapping volumes to reduce physical transportation will be used to optimize operations on the line segment, but their use will not constrain the capacity available for east-to-west transportation, as Mr. Miesner concluded, based on his incorrect assumptions about physical movements being predominantly west to east.

iii. Buckeye and Laurel will be able, if necessary (as will certainly not be required) to provide physical movements of both the Project (40,000 bbls./day) and the highest monthly east-to-west volumes experienced in the last ten years, approximately 120,000 bbls./day, providing both new reversed eastbound service capacity, and not impairing historical levels of service westbound.

iv. Reversing the pipeline segment should typically require approximately an hour, not a week, removing another premise for Mr. Miesner's claims.

v. "Linefill" will not create delays in utilizing the line during reversals, as Mr. Miesner assumes, because Buckeye will schedule batches to allow it to deliver the "linefill" continuously during physical reversals – as it does now.

vi. Buckeye currently operates 10 line segments in bi-directional mode, including several longer than Mr. Miesner's arbitrary 25 mile limit, providing extensive operational experience.

Mr. Kelly addresses these points and other refutations of Mr. Miesner's pertinent facts in his affidavit, as discussed in detail below.

i. Buckeye and Laurel have undertaken to have the capacity to provide both existing and proposed services without diminution in volume, and stands behind that assurance.

Indicated Parties fault the absence of detailed operational data regarding the proposed services in the PDO,[29] and dismiss the undertaking in the PDO that Buckeye and Laurel will continue to provide east-to-west services under their respective tariffs as well as the committed and uncommitted services of the Project.[30]

Indicated Parties misconstrue the nature of the PDO and the requested Declaratory Order. This is not a certificate proceeding under the Natural Gas Act, in which detailed engineering documents are submitted to demonstrate that proposed facilities will have the required throughput capacity.[31] This is not a rate proceeding, in which an ALJ is making factual determinations regarding pipeline capacity and throughput for purposes of establishing rates or other disputed tariff issues. This is a petition for declaratory order, and Petitioners have provided a general description of the facilities involved, and indeed most of the Indicated Parties have had access to vastly more detail about those facilities as a result of discovery and testimony in the PaPUC proceeding. However, in a PDO proceeding, the petitioners provide a general account of the facilities involved, the proposed capacity, and the terms of service; they do not provide flow diagrams, pressure studies, or the detailed data of the type that Indicated Parties seem to fault the PDO for not including.[32] Petitioners could not anticipate what objections, if any, would be raised by the Indicated Parties, and in fact Buckeye and Laurel have been surprised at the speculative

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[29] *See e.g*., Protest at pp. 33, 46; *see also* Miesner Aff. at P 10, 26.

[30] "It is not enough for Petitioners to say to shippers on the Laurel Pipeline and this Commission that 'there is plenty of capacity for everyone, trust us.'" Protest at 33.

[31] *See e.g.*, 18 C.F.R. Section 157.14, Exhibits, esp. required Statements F, "Location of Facilities," and G, "Flow diagrams showing daily design capacity and reflecting operation with and without proposed facilities added."

[32] *See e.g*. *GEL Texas Pipeline, LLC*, 160 FERC ¶ 61,123 (2017); *Sunoco Pipeline L.P.*, 151 FERC ¶ 61,192 (2015); *Sunoco Pipeline L.P*, 149 FERC ¶ 61,191 (2014); *Saddlehorn Pipeline Company, LLC*, 155 FERC ¶ 61,225 (2016); *Colonial Pipeline Co*., 116 FERC ¶ 61,078 (2006).

allegations in the Protest, and could not have addressed the specific claims even if that were required. However, they Petitioners did not have to submit detailed operational plans in the PDO.

Moreover, as to operations, the Commission has traditionally accorded a presumption that management will operate pipelines as proposed, and in a PDO setting that presumption is even more appropriate. Buckeye and Laurel have made a commitment in the PDO that they will provide the east-bound services[33] in undiminished volumes, as well as the proposed new eastbound services under the Project.[34] Not only should the Commission accept this assurance of future performance in this context, if this key premise of the declaratory order were in the future to prove incorrect, then the protections of the declaratory order could be challenged by any dissatisfied parties.

ii. IP's contentions that westbound service will be reduced by east bound interstate service is based on speculation and mis-applied generic concerns.

As noted above, all of the projected harms cited by the Protest – loss of the Pittsburgh market to the East Coast via pipeline, harm to refineries, higher prices in Pittsburgh and reduced supply security, etc. – assume that Buckeye and Laurel will not be able to provide continued service from the East Coast, or sharply constrained service. This assumption in turn is based on Mr. Miesner's conclusions in his affidavit. Buckeye's Director of Transportation Services addresses Mr. Miesner's conclusions and allegations in Mr. Kelly's own affidavit, and concludes

[33] The length of time that the westbound services would be provided is dependent on other matters, including the holding of the PaPUC and ultimately the courts regarding Laurel's application to terminate westbound service between Eldorado and Coraopolis.

[34] Hence, Indicated Parties' claim that "Petitioners provide no assurances that current shippers will retain the services enjoyed today," Protest at p. 44, is flatly incorrect.

that Mr. Miesner relies almost entirely on easily-refuted assumptions – not on facts or calculations, but on in effect hearsay, and inaccurate hearsay at that. As Mr. Kelly concludes:[35]

i. No reduction in capacity will occur for shippers seeking to transport volumes from east to west; and

ii. Mr. Miesner's conclusion hinges almost entirely on two false assumptions; in fact:

a. Laurel does not plan on operating the Coraopolis to Eldorado segment in a "predominantly" west-to-east physical direction, but will operate physically in both directions, as necessary to meet shipper nominations and operating circumstances; and

b. Laurel and Buckeye do plan to use so-called "virtual" movements to optimize operations on the segment, but only to the extent that such movements will permit efficient transportation to meet nominated and confirmed volumes, and Laurel plans to make physical deliveries in both directions to meet demand as well.

Mr. Kelly explains that two other operational claims relied upon by Mr. Miesner – that reversal would take a week, and that linefill will be an operational handicap reducing capacity – are also based on incorrect assumptions. Consequently, there is no factual basis whatever for Mr. Miesner's conclusions, and the central premise of the Protest – the loss of westbound capacity – is false as well.[36]

Before directly addressing Mr. Miesner's specific allegations, however, Mr. Kelly provides a description in detail regarding the proposed operation of the Coraopolis-Eldorado segment and its context in Buckeye/Laurel's operational experience,37 which standing alone entirely refutes the Protester's assertions.

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[35] Kelly Aff. at P 7.

[36] Indicated Parties should rejoice at this information, but, as suggested above in Section II, Petitioners fear that these reassurances about the continuity of westbound service are not likely to assuage their real concerns which appear to be trepidation over competition from Midwest products delivered via pipeline east of Coraopolis.

[37] Kelly Aff. at P 12 through P 22.

As background, Buckeye operates ten bi-directional pipeline segments, several of which exceed the 25-mile limit posited by Mr. Miesner,38 and which give the Buckeye/Laurel scheduling and engineering teams extensive experience with the issues relating to providing service on lines that are regularly reversed.

As Mr. Kelly describes the process:

- Buckeye and Laurel would receive and review nominations, checking for capacity and determining whether equivalent volumes of the same products are being nominated for transportation from different directions to Coraopolis and Eldorado.[39]

- Schedules would be prepared for the cycles and batches to be pumped through the segment, taking in to account the ability to optimize the system by offsetting deliveries being requested that would allow "virtual" transportation by means of swaps, reducing use of the segment;[40]

- Mr. Kelly provides a detailed explanation of how this "virtual" transportation system works, including some schematic diagrams, reproduced below:

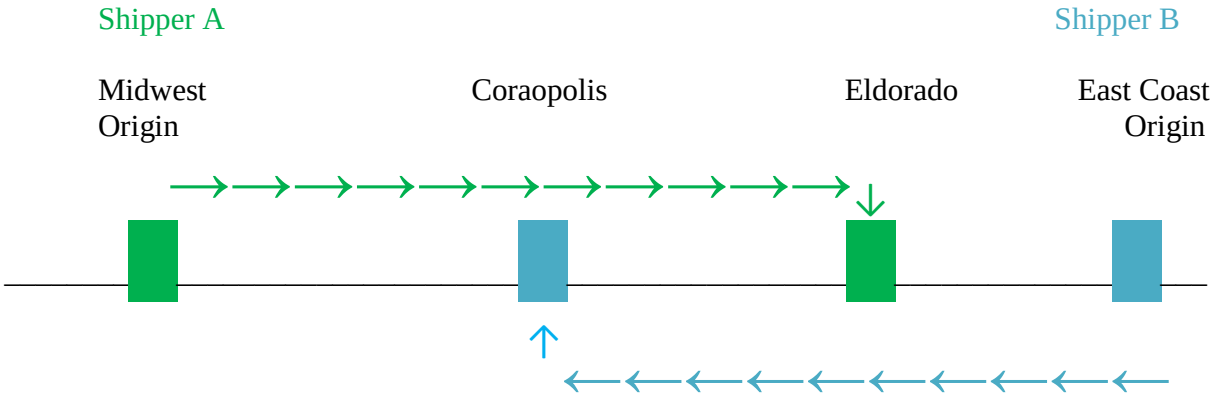
[38] Kelly Aff. at P 32. Mr. Kelly specifically notes the bi-directional operation of the Buckeye Line 714 (33 miles), which is on the mainline connecting the Buckeye system and the Laurel system, and is reversed several times each month, the Line 160, a 38 mile long line owned by Buckeye affiliate Wood River, operated by Mr. Kelly's team, which also reverses several times a month to permit leased service in the opposite direction of the Wood River tariff service, and the Buckeye Line 211 (48 miles), which reverses less frequently. Mr. Miesner's length issue, is, moreover, a red herring, for the reasons Mr. Kelly discusses.

[39] Kelly Aff. at P 13.

[40] Kelly Aff. at P 14.

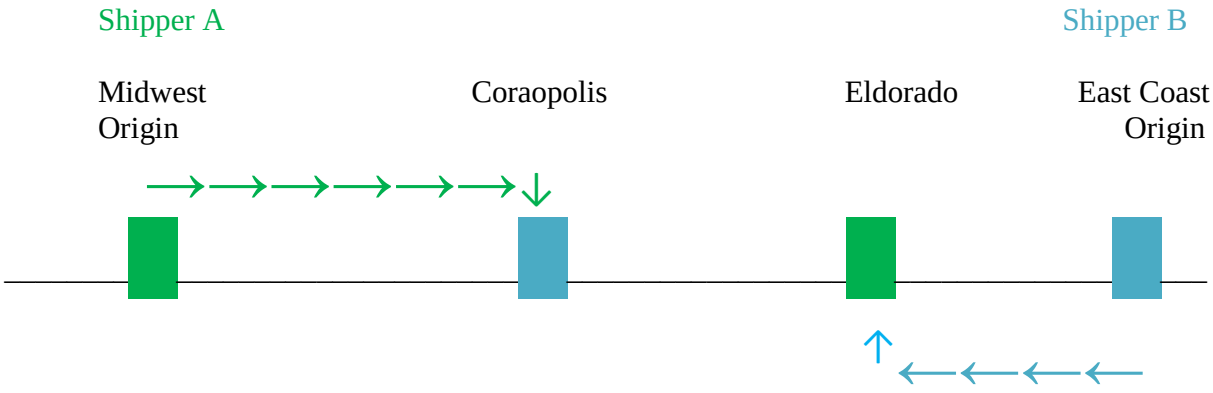
Scenario A – Physical transportation option:

Summary: Shipper A wants to deliver X barrels of ultra low sulfur diesel ("ULSD") to Eldorado, and Shipper B wants to deliver X barrels of ULSD to Coraopolis. X barrels tendered by Shipper A are physically transported from the Midwest to Eldorado, across the Coraopolis-Eldorado segment in west-to-east operating mode, where they are delivered for the account of Shipper A. X barrels tendered by Shipper B are physically transported from the East Coast to Coraopolis, across the Coraopolis-Eldorado segment in east-to-west operating mode, where they are delivered for the account of Shipper A.



Scenario B – Virtual transportation option

Summary: Shipper A wants to deliver X barrels of ULSD to Eldorado, and Shipper B wants to deliver X barrels of ultra low sulfur to Coraopolis. X barrels tendered by Shipper A are physically transported from the Midwest to Coraopolis, where they are delivered for the account of Shipper B. X barrels tendered by Shipper B are physically transported to Eldorado, where they are delivered for the account of Shipper A. No transportation takes place across the Coraopolis-Eldorado segment.



- As these scenarios, and Mr. Kelly's detailed explanation shows, use of "virtual" transportation will produce efficiencies and reduce the need to provide physical transportation over the Coraopolis-Eldorado segment.

- However, although virtual transportation will assist with optimization, Buckeye plans to make physical deliveries from the Midwest to Eldorado every month, and to make physical deliveries from Eldorado to Coraopolis as needed by shipper nominations and the available scope of virtual deliveries; if the predominant flow of nominations is from east-to-west, the predominant physical flow is likely to be east-to-west as well.[41]

- Mr. Kelly explains that scheduling for the bi-directional flows is not particularly different from other types of scheduling, with the exception of the need to schedule batches for a "linefill" role that will allow Buckeye and Laurel to make nearly continuous deliveries at both Coraopolis and Eldorado during reversals. This result is achieved by scheduling as "pre-staged delivery batches" those volumes that will be in the line at the time of reversal, and which are in effect transported past their destination, and then delivered into the destination once the line is reversed and those volumes are pushed back. As a result there is essentially no lost operational time due to the need for "linefill." Buckeye currently uses this approach in operating its bi-directional lines, and would apply the same scheduling techniques in this segment.[42]

- Physical reversal would not take a week, as Mr. Miesner inferred from the PaPUC record, but approximately less than one hour.[43]

Mr. Kelly explains further that Buckeye and Laurel have assessed a range of potential operating scenarios, and have confirmed that they could if necessary (which is highly unlikely) physically transport the full 40,000 bbls./day of west-to-east shipments under the Project as well as more than 120,000 bbls./day of east-to-west volumes, and the highest monthly volume moved on the Coraopolis-Eldorado segment in the past ten years is approximately 120,000 bbls./day.[44]

As Mr. Kelly notes, that June 2014 peak volume followed the shutdown of the Sunoco system for conversion to the Mariner I line, and occurred before the construction and operation of large additional supplies to Pittsburgh from the Midwest, including the Allegheny Access line (85,000 bbls./day, commenced service to Pittsburgh in 2015) and the Broadway I expansion of Buckeye Pipe Line Transportation LLC (38,000 bbls./day, commenced service to Pittsburgh in 2016). These figures also do not include virtual deliveries, which should be easier to effectuate

41 Kelly Aff. at P 17.
42 Kelly Aff. at P 19-20.
43 Kelly Aff. at P 21.
44 Kelly Aff. at P 22.

the higher the volumes are nominated from the East Coast into Pittsburgh. Moreover, as Mr. Arnold points out, the volumes from the Midwest and the East Coast are serving the same market west of Eldorado, and it is also unlikely that large volumes would be sold into the Eldorado market at the same time as record-high volumes were being sold in Pittsburgh from the East, as a result of lower prices.[45]

All of these factors overlap to demonstrate that there is no danger that east-to-west deliveries will be reduced by the west-to-east shipments

Mr. Kelly also responds to each of Mr. Miesner's criticisms and allegations tending to suggest lower service levels or significant operational problems, including the following:

Traffic analogy. Mr. Miesner's traffic analogy, which is intended to suggest inevitable loss of capacity due to bi-directional flows, is flawed and ignores differences between pipeline and highway operations, and should be rejected.[46]

False linefill assumptions. Mr. Miesner puts great emphasis on the alleged inefficiencies created by linefill, but his analysis assumes that linefill is a separate volume of product from the deliverable inventory, and that it must be moved around and "evacuated" from the segment and then re-injected. These are incorrect assumptions, because Buckeye's use of pre-staged delivery volumes allows almost continuous deliveries by the pipeline during reversals, obviating the hypothetical problem relied upon by Mr. Miesner.[47] A related contention by Mr. Miesner is that linefill will result in "contamination" unless linefill is "evacuated"; this contention is inexplicable, given that the sequenced batches of different products are already in contact during unidirectional flow, and reversing the line does nothing but add slightly to the

[45] *See* Arnold Aff. at P 12.

[46] Kelly Aff. at P 25. Mr. Miesner ignores the fact that pipelines can make deliveries into destinations at or just upstream from the reversed segment, and also can engage in virtual transactions due to the fungibility of products (in contrast to cars).

[47] Kelly Aff. at P 26.

transit time, with minor potential effects on transmix generation, which occurs anyway in the normal course of operations.[48] Mr. Miesner also assumes that a day of operations would be lost due to moving and dealing with the linefill; however, again the scheduling of linefill as pre-staged delivery volumes eliminates any of this posited downtime.[49]

Mr. Miesner's alleged "25-mile" limit on bi-directional lines. For the reasons explained by Mr. Kelly, bi-directional line operation does not pose any special challenges beyond addressing the linefill issue (as Buckeye has); therefore, the line length issue raised by Mr. Miesner is not credible. Further, Buckeye currently operates longer bi-directional line segments, disproving Mr. Miesner's inferential hypothesis on the length issue.[50] Mr. Kelly also notes that although some costs might modestly increase due to reversals (pumping costs, transmix generation, and transit time), these are not material changes, and would need to be compared to the savings arising from the ability to use virtual barrels to reduce use of the segment. Moreover, even if costs increased, it would not prevent operation of the line in bi-directional mode, which seems to be Mr. Miesner's ultimate concern.[51]

"Week-long" reversal time. Mr. Kelly explains that, as he described, the total time to reverse the segment should typically be less than one hour, with the system set up for bi-directional operation. The "week" reference Mr. Miesner uses was provided by Laurel in the PaPUC proceeding, when the topic was complete termination of east-to-west service, and the factual circumstances were quite different. Under the scenario envisioned in that proceeding, the west-bound pump stations were to be idled, taking time to restart, and personnel would not be

48 Kelly Aff. at P 28.
49 Kelly Aff. at P 29.
50 Kelly Aff. at P 31, P 32.
51 Kelly Aff. at P 32.

already engaged in pipeline safety staff monitoring operations, which would also take time to arrange. The true time is Mr. Kelly's hour figure.[52]

"Primary direction of flow." For the reasons discussed above, the assumption that the segment will be operated physically in a west-to-east manner as a "primary" matter, based on vague industry sources, is simply wrong. Mr. Kelly explains that, as described above, the physical flows will be determined on the basis of shipper nominations from both the Midwest and East Coast, in light of virtual opportunities, and the resulting direction of physical flow will be determined by the market, as reflected in shipper nominations.[53]

Inadequacy of "virtual movements" to permit continued east-to-west shipments. As Mr. Kelly explains, Mr. Miesner concluded that east-to-west shipments would be constrained, based on the assumption that the primary physical flow would be west-to-east, and further that the primary direction of nominations would be east-to-west, making virtual transportation inadequate. The flaw in this reasoning is, as noted above, the assumption that Buckeye and Laurel would choose (somehow) to move volumes physically west-to-east without moving volumes physically east-to-west – a false assumption, or rumor.[54]

Rate-biased directional flow. Mr. Kelly explains that, contrary to Mr. Miesner's vague suggestion that unspecified differentials in rates would cause Buckeye/Laurel to give a preference to west-to-east movements, the process will be driven by shipper nominations, and further that the scheduling team does not take tariff differentials into account in scheduling.[55]

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52 Kelly Aff. at P 33.
53 Kelly Aff. at P 34, P 35.
54 Kelly Aff. at P 36, P 37.
55 Kelly Aff. at P 38.

In sum, the operational arguments by Indicated Parties denying that Buckeye and Laurel could operate the Project as planned and as undertaken, are patently groundless and should be rejected.

a. Nothing in the PDO or the proposed service suggests or proposes any preferences for west-to-east shippers, either committed or uncommitted.

The Protest alleges that the proposed service will give "preferential treatment to west-to-east shippers in the event the Laurel Pipeline is over-nominated," relying on the Miesner Affidavit. This allegation is entirely baseless and should be rejected, under the plain language of the PDO and the pro forma Tariff cited by the Protest, points that are explained as well by Mr. Arnold.[56]

The PDO stated very clearly that the proposal included as an underlying premise the following commitment: "[c]ontinued transportation, initially, under existing Commission and PaPUC rates from origins on Buckeye in New Jersey and Pennsylvania, and on Laurel from origins in Pennsylvania, to destinations between Eldorado and Coraopolis."[57] Clearly, the east-to-west volumes will not be subject to the terms of the pro forma tariff attached to the TSA, but rather to the existing Buckeye and Laurel FERC and PaPUC tariffs.

Further, the PDO stated categorically that the pro forma Tariff attached to the PDO applies (as it must, under its terms) only to "Joint Tariff volumes moving on the Pipeline in the event Buckeye receives more nominations for transportation service in a month than it is able to accommodate."[58] The preference for Committed Volumes only applies to "Joint Tariff" volumes, which are solely in the context of west-to-east nominations. Furthermore, the "Pipeline" reference is a term defined in the TSA as being, "new capacity in a common carrier

[56] Arnold Aff. at P 23 through P 27.
[57] PDO at p. 10.
[58] PDO at p. 12.

pipeline system that will be capable of receiving and transporting Products from the Origin Points [in the Midwest] to the Destination Point" flowing from west to east.[59] In the pro forma Tariff, the relevant prorationing section, Item No. 90-A, specifically states that it applies to "2016 Expansion Capacity," and applies "when Carrier receives more Nominations in a month for transportation of Commodities on the capacity of Carrier's System created by the 2016 Open Season."[60] Nothing in the PDO, and nothing in the TSA, suggest that the Committed Volume preference (or the undertaking to reserve 10% of capacity for uncommitted volumes) will be at the expense of volumes moving under the terms other tariffs, or moving from east to west. The plain language makes it clear that the prorationing priorities in the TSA and the pro forma Tariff apply only to volumes moved from the Midwest towards Pennsylvania destinations – not to any other volumes.

Mr. Miesner's concerns about preferential prorationing terms in the pro forma Tariff (Miesner Affidavit, P 29 – P 30) stem largely from his reading of the pro forma Tariff. Although Mr. Miesner discusses allocations among the shippers affected by those rules and regulations, he completely fails to note that the terms of the tariff, and its application as described in the TSA and the pro forma Tariff apply only to nominations on the expansion capacity – not to preexisting capacity, or to nominations by other shippers on other capacity, and certainly not to PaPUC nominations on capacity used for PaPUC transportation.[61]

As Mr. Arnold clarifies in his Affidavit, not only the plain meaning of the PDO and the TSA and pro forma Tariff support the contention that there is no preference, the predicate of the requested PDO findings is that Petitioners will not prefer west-to-east over east-to-west. Mr. Miesner also conflates his misreading of these documents with his incorrect conclusions about

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59 TSA at p. 1, Witnesseth Clause.
60 Pro Forma Tariff at p. 14, Item No. 90-A.
61 See Arnold Aff. at P 25.

the alleged inability of Petitioners to provide both existing and proposed transportation, and as Mr. Arnold[62] and Mr. Kelly[63] demonstrate, this concern is entirely groundless and based on uniformed speculation.

C. The Protest's Two Substantive Theories Against Approval of the PDO – an Unfair and Non-Transparent Open Season, and Lack of New Capacity/Impact on Existing Customers' Capacity – Lack Any Merit.

The Indicated Parties argue that the Open Season was in some fashion unfair or non-transparent, and that there are insufficient investments for the PDO to qualify as a project under Commission policy. Despite the length and vehemence of these claims, neither withstands even cursory analysis, nor are they supported by Commission precedent.

1. The bi-directional context for the service in the PDO does not alter the conclusion that the Open Season was open, transparent and fair, contrary to the IP.

Over a span of nine pages, Indicated Parties accuse the Petitioners of having many "inaccuracies and misstatements" in the PDO, and conclude that the Open Season documents "describe a very different project" than the one described in the PDO, because of the retention of the east-to-west service, and thus cause the Open Season not to be "clear, transparent, and give all interested or affected parties reasonable notice of the terms" of the project.[64] Nothing in the nine-page discussion in any way supports these serious allegations, as discussed below, and they should be rejected.

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62 Arnold Aff. at P 12, P 14, P 22.
63 Kelly Affi. *passim*.
64 Protest at p. 54.

a. Indicated Shippers fail to even allege that their decision not to become committed shippers would be any different had the Open Season specified that bi-directional service might be provided.

Before addressing the complete lack of merit to these allegations of unfairness in the Open Season, Petitioners would note a striking feature of this claim – none of the Indicated Parties suggests that they were in any way harmed by the alleged non-transparency, or that they would have taken any other course of action had Petitioners been told of the potential for the service in the TSA to be operated concurrently with a retained east-to-west service. Under the claims of the Indicated Parties, which Petitioners believe are completely incorrect, the only conceivable "harm" would be to any shippers that made commitments under the impression that there would only be west-to-east service. The Indicated Parties do not suggest that any of their number would have made commitments had they known about the current proposal to provide the services under the TSA as well as east-to-west service. The Indicated Parties do not allege that any of their number have made commitments but regret that decision now that the PDO proposes bi-directional service.[65] In other words, they are completely unaffected by the alleged lack of transparency, except that they perceive this claim as being one more potential hurdle to throw in front of the PDO in this proceeding. The Indicated Parties lack standing to make this argument.[66] Moreover their transparency argument fails to suggest any harm to them; even if it were true that providing bi-directional service could have been seen by potential shippers as making the proposed service less attractive, the only parties that in theory would have suffered were those who chose to participate. Conceivably, the *Committed Shippers might* have alleged

[65] At page 54, the Indicated Parties recite that the any potential shippers were not aware of the potential that the project would allow continued service east-to-west, but fail to demonstrate how that would have made anyone sign up for the project that decided not to do so under the impression that there would be no east-to-west service maintained.

[66] *See e.g., Beckett v. Air Line Pilots Association*, 995 F.2d 280, 286 (D.C. Cir. 1993).

such a lack of transparency harmful in signing up, but they are not among the Indicated Parties (and for the reasons stated below, nothing in the Open Season documents supports that contention). Instead the Indicated Parties seek to leverage this claim to deny the Committed Shippers the service that they chose. This flaw alone should cause the Commission to reject this argument; however, it fails on the merits as well, as discussed below.

b. Nothing in the Open Season documents precluded or addressed service other than the proposed west-to-east service, and IP have found and cited nothing in support of their contention.

Neither the TSA, nor the Open Season Notice, nor the *pro forma* Tariff attached to the TSA in the Open Season documents, address in any way the services that *Laurel* would or would not provide after commencement of the Project. Nothing in any of the quoted or cited documents refers to Laurel terminating its east-to-west service.[67] That is because the Open Season documents and the TSA focus on defining the service that Buckeye would provide, which included arranging for transportation on Laurel between Coraopolis and Eldorado. For example, the first Whereas clause of the TSA refers to the "Pipeline" constituting the facilities for the project including westward flow on Laurel, sufficient to provide the referenced transportation, but it does not in any way preclude Laurel from flowing the pipeline east to west for non-Project purposes. Similarly, Indicated Parties cite to the services being provided in the TSA as being to Eldorado, not to Coraopolis,[68] and to the fact that the TSA is to govern all shipments on the "Pipeline" by the customer as being governed by the pro forma Tariff,[69] as somehow precluding Laurel from offering service. In fact all of the provisions relating to the

[67] Indicated Parties assert that these documents "all obviously contemplate a project predicated on the complete abandonment of intrastate service west of Eldorado," but none of the cited portions of those documents make such a statement or even assume such a result.

[68] Protest at 50-51.

[69] Protest at 51.

"Pipeline" and the services to be provided under the TSA relate to precisely that – services to be provided under the TSA. The TSA does not govern any other services, provided under any other facilities, and for example does not by its terms govern Uncommitted Shippers moving volumes on the "Pipeline" – manifestly, none of those terms apply to any services provide by either Buckeye or Laurel to any other shippers not under the terms of the TSA. The Indicated Parties' attempt to impute a negative exclusion of any other services by either Buckeye or Laurel, because of specified rights and services being specified in the TSA should be rejected.

Indicated Parties also argue that [**BEGIN HIGHLY CONFIDENTIAL MATERIAL**]

[redacted][71] **[END HIGHLY CONFIDENTIAL MATERIAL]** Similarly, Indicated Parties strain to suggest that

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70 Arnold Aff. at P 19.

71 *See e.g., Carey Canada Inc. v. Columbia Casualty Company*, 940 F.2d 1548 (1991)(construction of a contract must give effect to the parties' intent as expressed in the contract); *Towne Realty, Inc. v. Safeco Insurance Company*, 854 F.2d 1264, 1267 (11th Circuit 1988) (reversing a lower court that had mistakenly assumed that it could consider evidence of the parties subjective pre-contractual intent in order to find a latent ambiguity in the contracts at issuej, but a court construing a contract must give effect to the parties' intent and that the parties' intent is to be measured solely by the language of the policies unless the language is ambiguous); *Durham Tropical Land Corp. v. Sungarden Sales Company*, 106 Fla. 429, 138 SO. 21, 23 (1931). Only if the language used in a contract is ambiguous or vague and does not in itself disclose the parties' intent, should a court resort to usage or other surrounding circumstances existing at the time the contract was made to divine the intent of the parties. *See Conway Corp v. Ahlemeyer*, 754 F.Sup. 596, 599 (ND Illinois 1990). The offer in the Open Season and TSA was to provide a west-to-east transportation service under stated rates and conditions, and did not encompass elements other than those stated in the TSA.

the pro forma tariff, which was specifically provided as an attachment to the TSA, to govern TSA transportation, could somehow prohibit either Buckeye or Laurel from providing other services under other tariff or operational terms – a patently incorrect claim.[72]

Other than further vague claims of "bait and switch" and the failure of the Open Season to "include provisions that would effectuate or compensate for such bi-directional service,"[73] the Indicated Parties merely ignore the fact that the Open Season and TSA propose the terms of a particular new service, and do not restrict how that service will be provided, and do not restrict what other services Laurel and/or Buckeye may provide. Consequently, their theory that the potential for offering continued east-to-west service had to be included in the Open Season documents is mistaken. Nothing about the proposal to provide east-to-west services at the same time as the services in the Project conflicts with the offer of the Project-related services in the Open Season and TSA. Put otherwise, for Laurel and Buckeye to decide to offer an unrelated service (east-to-west transportation), which would not impair or prevent providing the terms, rates and service undertaken in the TSA, cannot make the Open Season documents unfair or misleading.

Assuming that the Commission grants the relief requested in the PDO, Buckeye and Laurel will provide the Services proposed in the PDO, under the stated terms and rates. That is all that committed shippers ever receive, and the fact that other shippers may receive other services, bi-directional or not, is not material to the TSA, nor to the fairness of the Open Season process.[74] This challenge should be rejected.[75]

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[72] Protest at 52-53.

[73] Protest at 52.

[74] Unsurprisingly, the cases cited in the Protest provide no support for the Indicated Parties' novel theory that the statement of one service in a contract compels the conclusion that other services cannot be offered by the pipeline to other shippers under other tariffs or contracts. Instead, the Protest cites *BP Products North America Inc. v. Sunoco Pipeline L.P.*, 159 FERC ¶ 63.020, for the premise that different shippers in an open season cannot be treated differently, a scenario whose facts and law are unrelated to even Indicated Parties' theory here. Similarly,

2. The Project required more than $200 million in investments and creates substantial new capacity on both the Buckeye and the Laurel systems, and thus it is proper to grant committed shippers firm rights in prorationing.

The Protest makes the very surprising claim that the Project fails to provide sufficient infrastructure and investments and new capacity to justify committed rates.[76] This argument involves two very different claims, neither of which survives even brief scrutiny. The claim that the infrastructure involved was too slight for committed rates verges on the frivolous, and is disappointing in light of Indicated Parties' knowledge of and access to even more detailed information in the PaPUC proceeding concerning the large investment needed for this major project, as discussed below. The claim that the there is no new capacity because of alleged interference in the existing east-to-west customers' rights is simply a retread in another setting of the entirely false arguments refuted in Section III.B.2.b., and in the Affidavit of Michael J. Kelly – the proposed firm service for the west-to-east shippers under the TSA will not interfere with the existing services for the east-to-west shippers, and that claim is based on premises easily shown to entirely false.

a. The PDO describes adequate infrastructure and capacity to demonstrate that committed shipper support was necessary.

Indicated Petitioners argue that the infrastructure being implemented to effect the proposed services is inadequate by characterizing as minor the very costly improvements stated in the PDO and acknowledged in the Protest: constructing new tanks, putting out of service tanks back into service, providing mainline pump replacements and electrical upgrades in the Midwest,

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Indicated Shippers' other cases, fn. 141, stand only for the proposition that open seasons must be non-discriminatory and open, transparent and widely-publicized, with no issues of undue preference, and an adequate opportunity to review and enter into the contracts. All of those standards were met by the Open Season held by Buckeye.

[75] Notably, Indicated Parties fail even to allege any other flaws in the Open Season, *e.g.*, that the Open Season was not widely publicized, failed to disclose the same materials to all parties, or in any way treated prospective shippers unequally.

[76] Protest at 40-47.

and building two new pump stations on Laurel.[77] Obviously, these are precisely the kinds of investments that have been found to support declaratory orders for liquids pipelines in the past.[78] Moreover, as the Indicated Parties well know from the PaPUC proceeding, these new facilities, which they label here as being "minimal"[79] cost more than $200 million, as Mr. Arnold discusses – and as Mr. Arnold notes, this figure was discussed on the record at the PaPUC.[80] This figure is quite substantial, and clearly is sufficient to require supporting committed contracts and a declaratory order, consistent with past orders on PDOs.

b. Substantial new capacity would be created on both the Buckeye and Laurel systems, and consistent with FERC precedent on PDOs, should be found sufficient to support firm prorationing rights for shippers.

Equally puzzling, with the claim addressed above that the $200 million infrastructure is "minimal" and not sufficient to require committed shippers and a declaratory order, is the claim that the project does not create new capacity.[81] As Mr. Arnold states,[82] the new improvements have created approximately 40,000 bbls./day of incremental new capacity from points in the Midwest on Buckeye's system to Coraopolis. Moreover, it is not clear how or why the Indicated Parties are contending that the *two entirely new pump stations* on the Laurel system designed to reverse a pipeline segment, are not creating "new capacity." The real claim in this section of the Protest is not about whether there will be new capacity, but rather about whether the operation of that new eastbound capacity would reduce the ability of westbound shippers to use Laurel and Buckeye. That claim rests on Mr. Miesner's analysis, which is comprehensively refuted by Mr. Kelly in his affidavit, as is discussed in detail above in Section III.B.2.b. Petitioners will not

77 Protest at p. 46.

78 *See e.g., Express Pipeline LLC*, 151 FERC ¶ 61,093 (2015) (granting a declaratory order as to a project involving no pipeline facilities, but two new tanks and pump station relocation, for a total of $120,000).

79 Protest at 47.

80 Arnold Aff. at P 31.

81 Protest at p. 41.

82 Arnold Aff. at P 31.

repeat those facts here, but Mr. Kelly shows that every one of Mr. Miesner's central grounds is based on a false premise and is inarguably incorrect, and that Buckeye plans to and will operate the system to provide both west-to-east and current east-to-west service without diminution.

Because of this central flawed premise the Indicated Parties' reliance on *Colonial*[83] and *Blue Racer*[84] is entirely inapposite. In *Colonial*, as the Protest's description admits, the pipeline sought approval of contract providing some priority without creating new capacity, on a prorated line, with the potential for a reduction in service. In *Blue Racer*, the pipeline proposed priority contract rights for shippers on a line for which the Commission found the average past use indicated that existing shippers' use would be reduced.

Far from raising "exactly the same concerns" as *Colonial* and *Blue Racer*, the proposed service is being provided in an underutilized segment, by means of new reverse-direction pump stations. The segment's capacity is 180,000 bbls./day, but the recent high, for more than two years, is only 102,000 bbls./day. Moreover, as Mr. Kelly states, the highest monthly use over the past ten years is approximately 120,000 bbls./day, which was achieved while the system was in prorationing, and in circumstances of high demand for east-to-west transportation that are not likely to recur.[85] Contrary to the Protest, the Project would not "redistribute a portion of the 180,000 bpd capacity," it is making unused capacity available to a new service that can use it without reducing the capacity needed by the existing shippers, as Mr. Kelly explains in detail regarding Laurel's ability to provide both 40,000 bbls./day in new, west-to-east service, and 120,000 bbls./day westbound in a month. The facts here are far closer to those in *Palmetto*,[86] in which the Commission found that existing underutilized space that had been unused for over 10

83 *Colonial Pipeline Company*, 146 FERC ¶ 61,206 (2014)("*Colonial*").
84 *Blue Racer NGL Pipelines, LLC*, 162 FERC ¶ 61,220 (2018) ("*Blue Racer*").
85 Kelly Aff. at P 22.
86 *Palmetto Products Pipe Line LLC*, 151 FERC ¶ 61,090 (2015) ("*Palmetto*").

years could be leased to a new pipeline for use with priority TSA transportation. Here, too, excess capacity in the Coraopolis-Eldorado segment has been unused for ten years (maximum use of approximately 120,000 bbls./day[87] in a segment with 180,000 bbls./day capacity) is being utilized by means of new investment, without harming existing shippers' use of the line. The Protest's claims in this regard should be rejected.

D. The Protest's Other Claims Are Without Merit and Should be Rejected.

1. The PDO Is Appropriate and Is Not Premature or Otherwise Unsuited to a Declaratory Order

The Indicated Parties argue in the Protest that the PDO is premature and that the Petitioners' request is not suited for a Declaratory Order.[88] These arguments should be rejected. First, the entire legal preface of the Indicated Parties' argument that this request is premature is based on a factually false assertion. Second, the PDO has provided all of the well-established cases related to oil pipelines, which support that this proposal is appropriate for a Declaratory Order, and also supports the conclusion that a ruling on the PDO is appropriate at this time. And, finally, the case law cited by the Indicated Parties in support of their claim is distinguishable from the Petitioners' position in this proceeding. The PDO is not premature, and is the appropriate subject for a Declaratory Order.

The central premise of the legal argument on prematurity relied upon by the Indicated Parties appears to be that the PaPUC must approve some component of the service, or the other alleged prerequisites of the Project. However, as shown in Section III.B.1, above, that is simply false. There are no existing prerequisites of the service proposed in the PDO that the PaPUC must approve for this project. The PaPUC has not indicated in its Limited Protest that any such prerequisites exist. The scope of the project reflected in the PDO is fundamentally different than

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87 Kelly Aff. at P 22.

88 Protest at pp. 26-32.

the project presented by Laurel to the PaPUC. Should the PaPUC approve the proposal before it, then the PDO's proposed project is encompassed within that approval.[89] Should the PaPUC, affirmed by the courts, deny the project before it, then the PDO's proposed project may go forward on a standalone basis, because it does not propose to terminate the east-to-west service. There is no legal ground for claiming that the PaPUC proceeding must be finally decided before the very different project proposed in the PDO can be approved.

In an effort to bolster their argument that the PDO is premature and not appropriate for a Declaratory Order, the Indicated Parties have relied upon two specific cases, *Phillips Petroleum Co., et. al.,*[90] and *Arkansas Power & Light Co.*[91] Those two cases are factually and legally distinguishable from this PDO proceeding, as described below. However, on a fundamental level, the Indicated Parties appear to argue that this project is not appropriate for a Declaratory Order, because the Commission's decision to act is wholly discretionary and the Commission may decline to rule on a petition where it believes that doing so is in the best interest of the agency, the parties, or the industry as a whole. (Protest at p. 27). The Indicated Parties provide no analysis or support showing that the commencement of bidirectional service from a petroleum products pipeline, after a properly conducted Open Season, is not the appropriate subject for a Declaratory Order. Nor have they contested the numerous cases cited in the PDO which show the long and clear history of prior FERC Declaratory Orders for substantially similar or identical projects.

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89 If the current service were to have consisted only of interstate service, this Commission's decisions leave no doubt that Laurel could abandon the "distinct service" of east-to-west" transportation, and reverse the segment to provide a new west-to-east service. Therefore, if the PaPUC or a court were to determine that Laurel need not provide intrastate service, as proposed in Laurel's PaPUC application, then Laurel would clearly have a right to provide the new west-to-east service regardless of the impact on interstate east-to-west shippers. See e.g., *Enterprise TE Products Pipeline Company LLC*, 143 FERC ¶ 61,191 (2013),

90 58 FERC ¶ 61,290 (1992) ("*Phillips*").

91 35 FERC ¶ 61,358 (1986) ("*Arkansas Power*").

In support of the argument that the request for a Declaratory Order is somehow improper, the Indicated Parties rely on *Phillips* for the premise that the Commission will deny a Declaratory Order where the requested relief would not set useful policy or precedent, and would generate controversy.[92] However, Indicated Parties' summary of the conclusions drawn in *Phillips*, is very misleading. It is worth stating each of the Indicated Parties' alleged conclusions, along with the full context from the Commission in *Phillips*:[93]

- (1) whether the petition presents "any issues that would affect any existing disputes concerning the Commission's regulatory responsibilities with respect to petitioners;"

> The petition does not present any issues that would affect any existing disputes concerning the Commission's regulatory responsibilities with respect to the petitioners. There is no outstanding issue concerning the appropriate prices that petitioners can charge for their gas, either to customers within the United States or in Japan, that would in any way be affected by a decision on this request for declaratory order. *There is no tariff involved in these proceedings, no future sales*, and no potential damages to be awarded for violation of a statute, since there is no allegation that any applicable lawful NGPA price has been exceeded. In short, a determination, herein, will not affect the price of gas for anyone. The only outstanding issue which Commission action on the request for declaratory order could affect is the tax dispute between petitioners and the state of Alaska. However, that is a matter outside the purview of this Commission. From the Commission's point of view, the petition presents a question which is purely academic.

- Whether ruling on the petition would "set useful policy or precedent for other persons subject to the Commission's regulations;"

> Furthermore, a Commission decision on the request for declaratory order would not set useful policy or precedent for other persons subject to the Commission's regulations. *The issues contained in the petition for a declaratory order relate to unique circumstances involving gas exports, of which few are now occurring. Thus, any ruling would be of very limited precedential value, particularly in light of the fact that the Wellhead Decontrol Act will result in the removal of all price controls by the end of this year.* Furthermore,

92 Protest at p. 27.

93 *Phillips* at 61,931-61,932 (emphasis added).

> all declaratory orders are applications of the law to a particular set of facts as described by the petitioner and, thus, are of limited use when applied to different factual circumstances. In the event, and to the extent, that factual circumstances differ, now or in the future, from those upon which an opinion is premised, the value of the order would be diminished.

- The likelihood that declaratory relief would "terminate a controversy or remove uncertainty."

> Considering the amount in controversy and the likelihood that any declaratory order (whether granting or denying the petition) would be offered into evidence in the Alaska proceeding, *a declaratory order would likely generate controversy*, not remove it. *As to solving a controversy, the underlying dispute may be resolved by the tax tribunal without reaching any question within the Commission's exclusive jurisdiction*.

It is clear from reading the full language from *Phillips* that the Indicated Parties misconstrue the language of *Phillips*. First and foremost, Indicated Parties' first prong of analysis is directly contrary to the facts in this PDO proceeding. In *Phillips*, there was no tariff involved, and there were no anticipated future sales resulting from the transaction. In the Petitioners PDO, both of those factors are present. As to the second prong, in *Phillips*, the facts surrounding the request for a Declaratory Order were unique both operationally, because not many entities engaged in the type of transaction at issue, and legally, because the law was changing within the year. Neither of those situations apply to the PDO. Many oil pipelines seek declaratory orders for new capacity, and there are no proposed legislative changes to address oil pipeline construction or operation.

Finally, Indicated Parties' summary of the third prong from Phillips is egregiously misleading. In *Phillips*, the FERC was concerned that its declaratory order would "generate controversy", and, further, that it was not needed to address the underlying dispute at all. This might have been applicable, had the Petitioners asked for a PDO addressing an identical project to the one proposed before the PaPUC, in order to resolve the PaPUC proceeding. The

Petitioners have not done so. They also have not proposed a PDO whose approval will generate further controversy because, as shown previously, no further approvals would be required from the PaPUC to accomplish the more narrow project proposed in the PDO. If anything, *Phillips* shows that this PDO should be granted, because future tariffs and sales are involved, the factual circumstances are common with no near-future changes, and the Declaratory Order will not generate further controversy.

The Indicated Parties have also relied upon *Arkansas Power*. First, it should be noted that in Arkansas Power there was a question as to whether the party requesting the declaratory order even had standing in order to do so. Second, the Commission was without power to grant the relief requested, even if standing could be established. Third, the declaratory order could not resolve the existing antitrust controversy, and also did not involve any "construction of rate schedules or contracts on file". Finally, the Commission noted that the federal court had not referred this question to FERC, suggesting that FERC's primary jurisdiction was not needed in order to resolve a question of law. Clearly, the numerous ancillary factors in *Arkansas Power* make it inapplicable to the otherwise straightforward and common oil pipeline project contemplated by the Petitioners in this PDO proceeding.

Further, *Phillips* and *Arkansas Power* are distinguishable from the current PDO for the same clear reason: in both of those proceedings, the declaratory order was sought as a means to resolve the pre-existing and underlying dispute being addressed in a separate forum. However, in this proceeding, there is no meaningful connection between the Petitioners' request for approval of its PDO, and the eventual outcome of the PaPUC proceeding. Just the opposite – the PDO unequivocally states that bidirectional service can be accomplished even if the PaPUC ultimately concludes that a full reversal of the Laurel pipeline is not appropriate. Despite the

numerous pages dedicated to this false argument made by the Indicated Parties, the Petitioners have absolutely no intention of using any declaratory order obtained from FERC for this bidirectional project in the separately existing PaPUC proceeding. There would be no relevance in doing so, and the PaPUC would likely rightly disregard that effort were the Petitioners to attempt it.

As clearly shown above, the precedents cited by the Indicated Parties are not relevant to this PDO. The Commission should reject the Indicated Parties' arguments that an Order granting this PDO is premature, or that this proposal – interstate service on an oil products pipeline – is outside the scope of a Declaratory Order.

2. The Proposed Service Will Create Substantial Benefits for Shippers and the Public.

The Commission need not make findings of public benefit in issuing a declaratory order – this is not a certificate proceeding under the Natural Gas Act, nor is the Commission ruling on the need for the facilities involved. Nonetheless, it is traditional in Commission orders approving requested declaratory orders for new liquid pipeline infrastructure that the Commission will note with approval that the proposed new services will have positive impacts, and the benefits of an expanded liquids pipeline infrastructure resulting from the declaratory order policy of the Commission have been dramatic. As described in the PDO, the proposed Project will have significant and in this format, unalloyed benefits, and the claims of harm by the Indicated Parties should be dismissed.

The central premise underlying the many claims of "harm" from the Project – that the proposal will cut off or restrict east-to-west shipments – is false, as the discussion above in Section III.B.2.b. describes in detail, and as explained by Mr. Kelly in his Affidavit. Because the Project will permit both new Midwest access to points east of Pittsburgh, and continued East

Coast access to points west of Eldorado at full historical volumes, all of the Indicated Parties' claims of harm are necessarily wrong.[94]

There is no question that over the past 12 years, demand for east to west service has declined substantially. Mr. Arnold attaches a usage chart as Exhibit 1 to his affidavit, which displays a rolling 12-month measure of volumes on Laurel to points west of Eldorado from 2006 to the present. Exhibit 1 shows a decline from more than 100,000 bbls./day average use at the beginning of the period, to an average of approximately 50,000 bbls./day for the first five months of this year.[95] As Mr. Arnold explains, the graph shows one temporary rise in use, commencing with the shutdown of the Sunoco Pipeline to Pittsburgh as part of the Mariner I project in 2013, and ending with the commencement of service to Pittsburgh in 2015 by Allegheny Access.[96] As Mr. Arnold shows, volumes have resumed their downward trend. He addresses Mr. Schaal's claims as well, and describes how Mr. Schaal's use of selective data as to time and product mean his volume data is not relevant.[97] Tellingly, the graphs used by Mr. Schaal start in 2012, avoiding the undeniable evidence of long-term declines in use of Laurel. Moreover, the increased demand for Midwest products is shown as well by the revealed preferences of shippers, via the commitment-supported construction of major new capacity from the Midwest to Pittsburgh, in Allegheny Access and Broadway I, show the increase in demand.[98] Finally, Laurel was in prorationing from 2013, when Sunoco shut down, until fall 2015, when Allegheny Access started up, and has not been in prorationing since, nor is it expected to do so.[99] As Mr. Arnold

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94 IP also make the argument that Midwest refiners cannot meet Pittsburgh and/or Altoona demand. This argument, which is false, is also rendered irrelevant by the proposal to maintain transportation from both markets on Laurel west of Altoona. If, contrary to the conventional wisdom, there were not to be sufficient product available from the Midwest at any point, then product could be supplied from the East Coast.

95 Arnold Aff. at P 6.

96 Arnold Aff. at P 6.

97 Arnold Aff. at P 8 through 12.

98 Arnold Aff. at P 14.

99 Arnold Aff. at P 10, P 5.

notes, Mr. Schaal also cites to some information selectively drawn from the PaPUC proceeding in apparent contradiction to the Protective Order in place there, which hampers a full response, but does not change the conclusion that the negative consequences posited by Mr. Schaal are entirely inaccurate in light of the continuation of east-to-west service.[100]

Petitioners do not ask that the Commission weigh in on the disputed issue of whether east-to-west volumes will continue their long-term decline, because it is unnecessary for the Commission to do so. This question was a major disputed issue before the PaPUC, when the questions were whether Laurel could *terminate* its east-to-west service, whether that service would be needed, and what would be the effects of such a termination. Despite the Indicated Parties' apparent willingness to argue those issues all over again in this forum, the Commission need not make any findings on those points, because Buckeye and Laurel propose to continue the current east-to-west services.

If, following commencement of service under the Project, in the face of all the evidence cited by Mr. Arnold, refined products from the East Coast were preferred by the market west of Coraopolis, none of the alleged harms claimed by the IP would occur, because the movement of product would remain primarily east to west under the PDO proposal.

Again, the Commission need not make findings on the question of demand or pricing trends between Midwest and East Coast production, because as proposed in the PDO, the Project unquestionably provides substantial benefits to shippers and consumers via the following:

- increased capacity for transportation of refined products from the Midwest to Pittsburgh (40,000 bbls./day);
- greater security of supply to Pittsburgh and Central Pennsylvania due to access to dual supply sources; and

[100] Arnold Aff. at P 13.

- not only Pittsburgh, but Altoona can take advantage of alternative supplies, depending on prices.

By increasing the supply of Midwestern refined products to Pittsburgh, by giving Central Pennsylvania for the first time the same ability that Pittsburgh currently has to be supplied from either the Midwest or the East Coast, by increasing resilience of supply in Pittsburgh and Central Pennsylvania, the result will be more competition for the ultimate benefit of consumers and more security of supply. There is no need for complex findings to agree that those outcomes are a public benefit, and the Commission should find that the Project will bring public benefits.[101]

IV. MODIFICATION OF REQUESTED TIMING OF THE DECLARATORY ORDER

In its PDO, the Petitioners requested an order no later than July 16, 2018. This timing was based on the fact that the Open Season shows that there is strong demand for the proposed service, with shippers seeking to commence service as soon as practical. However, upon consideration of the extra time granted to commenters by the Commission, the overlap of this proceeding with resource commitments by Commission Staff as to indexing filings, and the need for certainty regarding the Project, Petitioners amend their request for an order to July 31, 2018.

[101] Petitioners note that the claims of harm to the two Philadelphia area refineries deserve some response. The premise of these allegations is that the result of the service proposed by the Project will be to cut off access to the Pittsburgh market, which as is shown above is simply wrong and unsupported. However, at the PaPUC proceeding, the same two refiners made the same allegations of serious harm, when the proposal was termination of the east-to-west service, and in the course of that dispute two facts were quite clear: (1) the two refiners are, with minor exceptions, unaware of the ultimate end market for their product and do not specifically market it in Pittsburgh; and (2) Pittsburgh is a very small market for the Philadelphia area refineries – in 2017, only approximately **[BEGIN HIGHLY CONFIDENTIAL MATERIAL]** [redacted] **[END HIGHLY CONFIDENTIAL MATERIAL**] of the estimated pipelineable 2017 output of Philadelphia Energy Solutions Refining and Marketing LLC, only approximately **[BEGIN HIGHLY CONFIDENTIAL MATERIAL**] [redacted] **[END HIGHLY CONFIDENTIAL MATERIAL**], or approximately **[BEGIN HIGHLY CONFIDENTIAL MATERIAL**] [redacted] **[END HIGHLY CONFIDENTIAL MATERIAL**] for both refineries combined. *See* Arnold Aff. at P 34 through P 39. The real concern of these parties is likely not a hypothesized reduction in access to the relatively minor Pittsburgh market, but the prospect of having to compete in Eldorado and other points with Midwest refined products having greater pipeline access to consumers in Pennsylvania.

V. CONCLUSION

As shown above, the claims in the Protest are erroneous and should be rejected. The Petitioners urge the Commission to dismiss the Protest and approve the requested Petition for Declaratory Order, by July 31, 2018.

Respectfully submitted,

By: /s/

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Dated: June 27, 2018

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC this 27th day of June, 2018.

/s/
Christopher J. Barr

Appendix A

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Buckeye Pipe Line Company, L.P.	**)**	
and	**)**	**Docket No. OR18-22-000**
Laurel Pipe Line Company, L.P.	**)**	

REPLY AFFIDAVIT OF DAVID W. ARNOLD

1. My name is David W. Arnold, and my business address is Five TEK Park, 9999 Hamilton Boulevard, Breinigsville, PA 18031.

2. I am the same David W. Arnold who submitted an affidavit in support of the Petition for Declaratory Order ("PDO") in this proceeding filed on April 30, 2018, which formed Appendix A to the PDO.

3. I have read the "Joint Motion to Intervene, Comment, and Protest of Giant Eagle, Inc.; Guttman Energy, Inc.; Lucknow-Highspire Terminals LLC; Monroe Energy, LLC; Philadelphia Energy Solutions Refining & Marketing LLC; and Sheetz, Inc." ("Protest") filed on June 12, 2018, including its attachments, *e.g.*, the "Affidavit of Thomas O. Miesner," Appendix F to the Protest ("Miesner Affidavit") and the "Affidavit of A. Michael Schaal," Appendix G to the Protest. In this Reply Affidavit, I will refer to the parties to that Protest as "Indicated Parties."

4. I disagree with many allegations made in the Protest as a whole, as well as its attachments, including the Miesner Affidavit and the Schaal Affidavit. However, my Reply Affidavit relates only to a limited number of specific, inaccurate statements made in those documents, and my silence on other claims should not be construed as being acquiescence in the accuracy of statements that I do not address here.

I. Issues Relating to Historical and Projected Future Volumes Flowing Into Pittsburgh From Midwest and From East Coast Markets.

5. The Protest, and the Schaal Affidavit in particular, assert that volumes on the Laurel Pipe Line Company, L.P. ("Laurel") system being delivered to points west of Eldorado have not been in substantial decline, are not likely to decline, and may increase in the future. I disagree with those claims and believe that there is simply no question that demand for East Coast volumes in Pittsburgh has been declining fairly steadily for longer than a decade and is likely to continue doing so for the foreseeable future, for the reasons that I discussed in my earlier Affidavit filed with the PDO at Paragraph nos. 6 through 8, and which I will not repeat at length here.

6. The long-term trend is really not subject to argument. I have attached as Exhibit 1 to this Reply Affidavit a chart showing rolling 12-month average deliveries by the Laurel system from 2006 through May 2018. Laurel has been transporting refined products solely from East Coast locations under both Buckeye Pipe Line Company, L.P. ("Buckeye") interstate tariffs and Laurel intrastate ("PaPUC") tariffs to points west of Eldorado. This chart shows unequivocally that deliveries in 2006 exceeded 100,000 barrels/day ("bbls./day"); deliveries have averaged approximately 50,000 bbls./day for the past 12 months, a decline of approximately 50%, even with the discontinuation in this time period of similar east-to-west service in the Sunoco pipeline that parallels Laurel, and even though demand in the Pittsburgh market has not decreased. Over the past several years, use of the Laurel system has been even lower during the winter months, and operational problems stemming from very low throughputs - as little as 20,000 bbls./day - have caused Buckeye to convene working groups to address the best way to deal with these problems. As a result, Buckeye and Laurel have been considering ways to improve utilization of the pipeline for a number of years, beginning before I joined the Buckeye organization in 2014.

7. Based on long-term trends, Buckeye and Laurel expect demand for Midwestern refined products in both Pittsburgh and Central Pennsylvania to grow; this is also overwhelmingly the view of industry analysts who have published projections on this topic.

8. Mr. Schaal contends (at his Para. 12) that volumes from the East Coast to destinations west of Eldorado are higher in the summer than the winter, and can fluctuate; both statements are true, and neither statement contradicts the unequivocal long-term downward trend in the annual levels of those deliveries.

9. Mr. Schaal's Figures 1 and 2, intended to show that volumes fluctuate and are not declining, are highly selective and create a very misleading impression.

10. First, both charts start in 2012, a date chosen because it represented the low related to temporary East Coast refinery shutdowns that immediately preceded the shut-down of the Sunoco Pipeline system that had historically supplied Pittsburgh with refined petroleum products from the East Coast, when its owners began the process of re-purposing it as a line for ethane. Consequently, volumes on the Laurel system did rise immediately with the Sunoco closure in 2013; they then resumed the trend of declining volume immediately after the Allegheny Access line commenced service to Pittsburgh from the Midwest in the fall of 2015. Significantly, Laurel was not subject to prorationing until the Sunoco shut-down in 2013, and ceased to be in prorationing as soon as Allegheny Access started up.

11. The second reason Mr. Schaal's charts are misleading is the selective choice of products and end dates. Figure 1 only shows "summer blend gasoline" volumes – only one product out of several major products carried by Laurel. Figure 2 shows all products, but starts in 2012 and ends in 2016, even though his use of 2017 summer gasoline data for Figure 1 demonstrates that

Mr. Schaal had 2017 data in mind. He likely does not use all-products data for 2017 because it would show those volumes declined.

12. Despite the selective nature of these charts, however, his Figure 2 nonetheless makes one important point. Figure 2 shows that even the highest use of the pipeline, in 2014 following the Sunoco pipeline shutdown, is only approximately 120,000 bbls./day, well below the 180,000 bbls./day capacity of the segment, and at the same level that Mr. Kelly (at Para. 22) states that Laurel and Buckeye will be able to deliver physically from east to west at the same time that it will be able to deliver 40,000 bbls./day physically from west to east. Consequently, nothing in Mr. Schaal's volume data contradicts Buckeye/Laurel's contention that they can provide the new, incremental service proposed in the PDO while still providing continued transportation for east-to-west volumes. I would also note that were we to agree for the sake of argument that Mr. Schaal is correct that East Coast refined products will be more attractive in price than Midwest volumes, or more reliable, etc., causing even higher volumes to flow west of Eldorado to Pittsburgh than have moved recently, then it would be exceedingly unlikely that substantial volumes of Midwest refined products would be moving eastward to Eldorado, where they would be at a price disadvantage (again, in Mr. Schaal's projected future). In that case, there would be little transportation from west to east, further eliminating any potential for west-to-east volumes having any effect on the flow of East Coast volumes.

13. On a minor note, I must respond to Mr. Schaal's contention that Buckeye has "[i]n several instances" "understated" utilization of Laurel. This is simply false, and Mr. Schaal would surely have identified the alleged other specific instances of "understating" by Buckeye, but none exist. The one example that he points to relates to testimony submitted in the Direct Testimony of Dr. Michael Webb concurrently with Laurel's application for termination of east-

to-west service at the Pennsylvania Public Service Commission ("PaPUC") on February 7, 2017. Mr. Schaal contends that the "understatement" occurred because that testimony referred to October 2015-September 2016 volumes of 46,000 bbls./day, including Philadelphia area refinery-sourced data but not from other sources. This accusation is odd, partly because it seems so minor, and partly because it is easily shown to be itself misleading. The testimony by Dr. Webb addressed the potential impact of the proposed termination of east-to-west service on the Philadelphia area refiners, a logical topic given that the findings were to be made by the PaPUC, regarding intrastate service. I have attached the cover page and relevant pages of the testimony as Exhibit 2 to this Reply Affidavit, but I also quote below the statement to which Mr. Schaal refers (emphasis added):

> In summary, the Philadelphia refineries have numerous options aside from Laurel to dispose of their production.
>
> [omitted map image]
>
> For this reason, it is reasonable to conclude that Laurel's proposal would impose little, if any, cost on the Philadelphia producers.
>
> Q. Are there any other facts that suggest that Laurel's proposal will impose little if any cost on the Philadelphia suppliers?
>
> A. Yes. All petroleum products (interstate and intrastate) sourced from Philadelphia area refineries and transported to the Pittsburgh destinations located west of Altoona must originate at Chelsea Junction, PA, Girard Point PA or Paulsboro, NJ. From October 2015 to September 2016 Laurel transported approximately 46,000 bpd from these origins to Pittsburgh destinations located west of Altoona, This amount represents approximately 6.7 percent of the total amount of petroleum products produced at the four Philadelphia area refineries. *Please note that this figure includes intrastate (PUC) and interstate (FERC) volumes. I cannot show PUC-only volumes and percentages without risking the disclosure of confidential business information as to local refinery output being transported to Pittsburgh area destinations, and so I am using volume and refinery capacity data from the three origins that represent PUC and/or FERC access points to Laurel from Philadelphia area refineries - data that is sufficiently aggregated as to be non-confidential.* Given the numerous options the Philadelphia area refineries have to dispose of this relatively small amount of petroleum products, it is

> difficult to see how Laurel's proposal could impose significant costs on these refineries. They can simply sell the production they are transporting to Pittsburgh into the local market, into the New York market or into another water accessible market along the eastern seaboard.

Mr. Webb therefore quite clearly described the scope of the 46,000 bbls./day figure, and why he used that scope. He would have preferred to show the impact on the Philadelphia refineries by using only PaPUC volumes from those two refineries, but he could not do so without divulging confidential shipper information. Thus, Dr. Webb used as a proxy an aggregate number for all Philadelphia area receipts. No reader could rationally conclude from this testimony that Buckeye was providing the 46,000 bbls./day figure as all of the volumes being delivered by Laurel west of Eldorado.

14. I would close on the issue of volumes with a summary of the pertinent points, as Buckeye sees them:

a. Volumes on the Coraopolis-Eldorado segment have dropped by more roughly 50% since 2006 – and at the PaPUC hearing, none of the involved Indicated Parties could disprove those figures.

b. After an uptick due to the closure of the Sunoco pipeline in 2013-2015, volumes have resumed their downward trend.

c. Even during the summer, volumes have been far lower than the ten-year peak of June 2014 (roughly 120,000 bbls./day); thus far in May and June 2018, they have been approximately 66,000 bbls./day and 64,000 bbls./day respectively, and have averaged slightly less than 50,000 bbls./day for the twelve months ending this month.

d. The segment has longstanding excess capacity, and Buckeye has long been asked by Midwestern suppliers to make more capacity available, both to Pittsburgh and to Central Pennsylvania.

e. All proposals for new construction involving the Pittsburgh market have involved projects from the Midwestern refineries to Pittsburgh – I am not aware of any proposals, made to Buckeye or other pipelines, for a new pipeline or expanded capacity from the East Coast to Pittsburgh. A major new pipeline, Allegheny Access (85,000 bbls./day, commencing service fall 2015) and a major expansion of Buckeye's assets (Broadway I expansion, 38,000 bbls./day to Pittsburgh, commencing service fall 2016) have recently expanded capacity from the Midwest to Pittsburgh. This is a sign of Pittsburgh suppliers "voting with their feet" to use more Midwest product, and that trend is expected to continue. This Project includes substantial, long-term shipper commitments for new capacity that can be delivered in Pittsburgh or Eldorado.

These facts speak powerfully to the presence of increased demand for Midwestern product, which the Project will provide, and which it will do without reducing access to the same markets from East Coast suppliers.

15. I note that Mr. Schaal includes several pages of allegations to the effect that Buckeye/Laurel are wrong about the demand for Midwestern refined products in Central Pennsylvania, that there is a lack of Midwestern refining capacity to supply that market, and that relying on Midwestern supply for the Pittsburgh market is unwise. He bases these broad claims on materials from the PaPUC proceeding, which Laurel strongly disputed, and which of course was based on a very different fact pattern – the termination of east-to-west service on Laurel past Eldorado. Rather than rehash the evidence and arguments at the PaPUC, I will note that it is entirely unnecessary for the Commission to consider or resolve Mr. Schaal's claims. Under the

proposal stated in the PDO, shippers can choose to serve Pittsburgh and Central Pennsylvania using either Midwestern or East Coast supplies, and the market will sort out who is right about the attractiveness of Midwestern supplies versus East Coast supplies. The committed shippers have agreed to a long-term commitment to have the right to serve Eldorado, and if they don't do so, none of the (entirely imaginary) harms visualized by Mr. Schaal and the Indicated Parties will occur. Buckeye believes that the market should decide. I would note one point about Mr. Schaal's reference to Highly Confidential Protected Material from the PaPUC proceeding at page 9, Para. 20 of his Affidavit; it is my understanding from counsel that the referenced document was the subject of other Highly Confidential testimony and argument at the PaPUC proceeding. Although Indicated Parties appear willing to ignore the restrictions of the Protective Order in that case, which specifically limited use of "Proprietary Information" to the PaPUC proceeding,[1] I am informed by Counsel that I cannot review that information, nor is counsel able to respond, although I am told that we could provide a compelling response, if only the information in question were not impermissible for use in this proceeding. Like his other arguments, however, the key is that the underlying premise of the PaPUC disputes (namely, that service from the East Coast to Western Pennsylvania will be discontinued) is absent in this case, so the prohibited information is not necessary here.

II. Issues Relating to the Open Season.

16. The Protest (at pp. 47-55) makes two related arguments regarding the Open Season. They claim that the Open Season documents "obviously contemplate a project predicated on the complete abandonment of intrastate service west of Eldorado," p. 49. They then suggest that this

[1] "Protective Order," Application of Laurel Pipe Line Company, L.P., etc." PaPUC Dkt. No. A-2016-2575829, issued April 26, 2017 by Administrative Law Judge Eranda Vero, P 9 ("Information deemed Proprietary Information shall not be used except as necessary for the conduct of this proceeding, nor shall it be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding.")

affected, or would have affected potential shippers' decisions to become or not become committed shippers, had they only known that the project might not preclude east-to-west service. Both of these contentions are completely without any basis.

It is true the initial proposal, as reflected in the Open Season, contemplated a full reversal of the line between Coraopolis and Eldorado. That was because the expectation was (and in fact remains) that the market demand for Midwest products in western Pennsylvania will continue to grow and for Eastern product to decline, such that the optimal operation of the pipeline will be in exclusively eastbound service. However, nothing in the Open Season documents required that full reversal.

17. The Protest recites a number of quotes from the Open Season Notice, from the Transportation Service Agreement ("TSA"), and from the pro forma Tariff attached to the TSA. I do not have to quote these passages, nor cite other passages, to make the following observations:

- Every single quoted passage in this section of the Protest discusses the nature of the service that will be offered under the TSA, not any other services offered by Buckeye or Laurel.
- References to the Project have to do with the capacity created to make deliveries from the Origins to the Destination (Eldorado) or intermediate points.
- References to the Tariff are to the Tariff governing the service being offered, not other services being offered by the pipeline.
- Nothing in the Open Season Notice or the TSA requires Buckeye and/or Laurel to mandate west-to-east transportation only on the Coraopolis-Eldorado segment.

The purpose of the Open Season was to offer a firm contract service from the Midwest to Eldorado. None of the terms of the Open Season, or the TSA or the Tariff, are intended to apply to any other services. What the committed shippers were being offered, and what they received, was the eastbound service under the TSA. Contractually, they did not receive assurances of

anything else, including how the service was to be provided by Buckeye, as "Carrier." (I would note that under the proposed joint tariff service, Buckeye will be the carrier receiving nominations, and the pro forma Tariff defines "Carrier" to mean, "Buckeye Pipe Line Company, L.P. and other Carriers participating in joint tariffs" Item No. 8, Definitions).

18. Buckeye did expect to obtain revised capacity rights on Laurel to provide the service, and to reverse the service, but that is not required by the TSA, and the rights conveyed by the TSA are independent of the particular manner in which the "Pipeline" capacity arrangements noted in the TSA are made.

19. The Protest also argues that [BEGIN HIGHLY CONFIDENTIAL PROTECTED MATERIAL] [redacted].[END HIGHLY CONFIDENTIAL PROTECTED MATERIAL]

20. The other flaw with this argument is that they fail to show its relevance to the validity of the Open Season. Even if there were an expectation on the part of potential shippers regarding the Open Season Notice, the TSA and its attached pro forma Tariff, that the service could only

be effected via full reversal of the Laurel segment the only parties conceivably affected were the committed shippers who signed up. Those shippers, according to the logic and contentions of the Indicated Parties, would have expected no bi-directional service, and might have concluded (wrongly in Buckeye's view) that they wanted a service in a different context. None of those shippers have appeared to assert this claim, however. Instead, the Indicated Parties appear, claiming that the change from uni-directional to bi-directional service as a context for the TSA service could have caused unnamed parties to assess the Open Season differently. However, putting aside the committed shippers, for whom the Indicated Parties do not speak, they have not remotely suggested how parties could have or would have reacted differently to the Open Season had Buckeye specifically stated that it might provide bi-directional service. Presumably, given their extraordinary doom-saying about the results of bi-directional service, parties might have been dissuaded from signing up, but the Indicated Parties fail to explain how they, or any other parties, would have been more likely to sign up had there been a discussion of bi-directional service in the Open Season.

21. None of the Indicated Parties are committed shippers. None expressed interest in signing up to become committed shippers. It appears that if they had known about the potential for continued east-west service with the TSA service, they would *not* have been more likely to sign up. Hence, the alleged omission of information had no impact on the Indicated Parties' decision regarding the Open Season, and they have not suggested how it would have affected other parties differently.

22. Consequently, in addition to failing to identify any basis for the claim that the Project necessarily precluded east-to-west service, they fail to show that they (or anyone else) were disadvantaged by the omission of that possibility in the Open Season materials.

III. Issues Relating to the Alleged Preference for Firm Shipments Under the TSA.

23. Mr. Miesner contends that the pro forma Tariff attached to the TSA "gives preferential treatment in prorationing to west to east Committed Customers because Committed Customer volumes would not be subject to prorationing." Miesner Affidavit at Para. 30. He then makes a series of speculative observations, built on what the text "suggests," acknowledging about his construction, "[w]hile not stated in the tariff"; Mr. Miesner then segues into a discussion about rumors about the expected "normal" operation of the line from west to east, all of which in some way will limit access of East Coast barrels to the Pittsburgh market because of limits to swapped barrels. This confusing line of reasoning is entirely unrelated to the planned operations of the service, and to the relationship between the west-to-east service and the TSA service. (*See* Kelly Affidavit, Paragraph Nos. 12 through 22, describing the proposed operation of the Coraopolis/Eldorado segment)

24. It is not necessary to refute each link in Mr. Miesner's chain of reasoning about the supposed preference for west-to-east shippers. The TSA and the Tariff do not propose such a preference, nor does the concern about limits to swapping barrels westward have any validity, for the following reasons.

25. The language in the pro forma Tariff that governs the TSA shipments is a proposed tariff section whose scope is explicitly limited to "the capacity created by the 2016 Open Season ("Expansion Capacity")"; there is another, entirely separate prorationing section for other Buckeye capacity, Item No. 90, which underscores this limitation by stating that Item No. 90 applies, "except that the proration rule set forth in Item No. 90-A will be applied to the capacity of Carrier's System created by the 2016 Open Season." Consequently, even for Buckeye's system, the priority rights of the committed shippers under the TSA do not apply outside the 40,000 bbls./day of incremental capacity being created on the Buckeye system from the

Midwest, and on the Laurel system. Indeed, because westbound volumes on the Laurel system include interstate volumes being transported on the Buckeye tariff, Item 90-A explicitly does not apply to those westbound interstate volumes. Laurel intrastate volumes are subject to prorationing under the terms of the Laurel PaPUC rules and regulations tariff, not Item No. 90-A.

26. Consequently, no preference is being given by the pro forma Tariff to committed shippers under the TSA. There is an entirely different issue, regarding whether there will be adequate capacity for both westbound and eastbound shipments, and Mr. Kelly demonstrates conclusively in his affidavit that there will be capacity for both. See Kelly Affidavit Paragraph 22.

27. Mr. Miesner inserts into this discussion the claim that according to rumors, the "normal" operation of the segment on Laurel will be west-to-east; Mr. Kelly also addresses why that claim is completely incorrect. (See Kelly Affidavit, Paragraph Nos. 13 and 14, 17 through 19, 22, 34 and 35.)

IV. Issues Relating to the Likely Impact on Prices.

28. Mr. Schaal also argues that, contrary to my conclusions in my earlier Affidavit, the Project will not result in lower prices for consumers, Schaal Affidavit at Para. 15 through 18, premised on the "removal of eastern Pennsylvania supply from the Pittsburgh market." This claim seems curious in light of the fact that unlike the proposal before the PaPUC, which did propose termination of the east-to-west service, the PDO in this proceeding is premised on a *continuation* of the east-to-west service and the addition of increased supply to Pittsburgh (which Mr. Schaal completely ignores), and the addition of new pipeline access to Midwestern supplies at Eldorado, equal to the level of deliveries currently being made there. How can this not result in greater competition? Mr. Schaal concludes that despite Buckeye and Laurel's undertaking to provide east-to-west service, that service would not available; Mr. Kelly comprehensively refutes

this claim, as noted above. With that correction, Mr. Schaal's conclusion that competition, and prices, would not benefit is untenable.

29. Mr. Schaal includes two additional points to buttress his argument, both stemming from the PaPUC proceeding. One is a trade press article about a study that was discussed at the PaPUC hearing, which allegedly concluded that prices would increase. It is my understanding that that study was the subject of highly confidential testimony and argument, including testimony by the party that sponsored it; I was not privy to that evidence, and Buckeye is not, for the reasons discussed above, going to contravene the Protective Order to make those rebuttal points here. However, there is no need to do so, because the central premise of that article is that east-to-west service would be terminated, and Mr. Schaal's conclusion that it is relevant here is premised on his groundless and inaccurate view that the bi-directional proposal would either a partial or full reversal of the Laurel system. Consequently, it is not necessary to address this claim further.

30. Similarly, at his Paragraph 18, Mr. Schaal quotes again from a document that was part of the Highly Confidential record in the PaPUC proceeding, to allegedly contradict my price conclusion. Mr. Schaal's use of this document also appears inconsistent with the Protective Order in the PaPUC proceeding, but, unlike the other Highly Confidential document discussed above, which was another party's document, this document was produced by Laurel, and I can address here why this reference is extremely misleading and inaccurate. [BEGIN HIGHLY CONFIDENTIAL PROTECTED MATERIAL] [redacted]

[redacted] [END HIGHLY CONFIDENTIAL PROTECTED MATERIAL]

V. Issues Relating to the Investment Required to Create the Project.

31. In the Protest, Indicated Parties contend that the facilities required to create the capacity for the Project were not fully detailed in the PDO, and that they are too minor to support the need for committed shippers, or to merit a declaratory order. (Protest at 43-47) This claim is very surprising for two reasons. First, most of the Indicated Parties were parties to the PaPUC proceeding, where there was considerable discovery on this topic, and the issue arose in testimony. They are surely familiar with the details, and have not hesitated to import selectively matters from the PaPUC record. Second, there is no question that the investment was substantial—the listing of facilities very clearly indicates a major expenditure, with new and re-used tanks, mainline electrical upgrades, improved pump facilities, all on Buckeye, and two entirely new pump stations on Laurel. The Buckeye facilities created an incremental 40,000 bbls./day from the origins noted in the TSA to Coraopolis, and the Laurel pump stations created

an entirely new capability for Laurel to move 40,000 bbls./day eastward from Coraopolis to Eldorado – 40,000 bbls. per day in addition to Laurel's continuing ability to move the volumes that were the previous peak monthly east-to-west volumes over the past 10 years, hence creating incremental new capacity. The cost of these facilities is approximately $200 million, as Mr. Hollis testified on the public record at the PaPUC. (PaPUC Hearing Transcript 357).

VI. Issues Relating to the Impact on the Philadelphia Refineries.

32. Mr. Schaal also alleges that Laurel "operated in its current configuration is a critical outlet for Philadelphia refiners," and that "without access to the full service provided by the Laurel pipeline in its current configuration, the ability of those refineries to operate at full utilization would be compromised," Para. 34, and that both refineries "have stated that continued access to east to west service into the Pittsburgh market is important and irreplaceable to their operations," Para. 35, and then emphasizes the importance of the two refineries to East Coast supplies. Para. 36.

33. The short answer to these statements, and similar statements by the two refineries in their statements of interest (Protest, Attachment C, Protest at pp. 15-17), is that they are all premised on the invalid assumption that Buckeye cannot/will not provide continued east-to-west service, which is refuted by Mr. Kelly in his affidavit, as I discussed above. Because there will be continued access to the same capacity used in the past, the existing customers' claims of harm are simply and entirely wrong.

34. However, given the degree to which Mr. Schaal and the two Philadelphia area refiners trumpet the critical nature of the Pittsburgh market, Buckeye believes it necessary to correct the record with some key facts. A close review of the statements by Mr. Schaal and the refiners will indicate that nowhere do they provide specific volumes produced by the two refineries that are sold in the Pittsburgh market. Neither refiner actually knows the level of its production that is

transported on Laurel west of Eldorado, because they both overwhelmingly sell product at or near the refinery, and other parties make the decision where to transport the products as an ultimate market, and the shipment data as to those parties is not available to the refiners.

35. Philadelphia Energy Solutions Refining & Marketing LLC ("PESRM") makes general statements about the importance of Laurel (20% of its output goes into Laurel, no destinations given), (Protest at 17), but does not even provide an estimate of the volume of its output being transported to the Pittsburgh market, although it does make the unsupported claim that any change in transportation direction on the Pittsburgh/Altoona segment could harm and even "jeopardize PESRM's long-term financial viability." Despite this dramatic assertion, however, PESRM does not venture any estimate regarding the actual role of the Pittsburgh market for its output.

36. Mr. Schaal surely knows that figure, based on his access to the record in the PaPUC proceeding, and although he seems ready to share even Highly Confidential information from that hearing when he deems it beneficial, in contravention of the Protective Order as I discussed earlier, he refrains from providing the actual level of PESRM shipments to points west of Eldorado. Buckeye and Laurel have that data and placed this information on the record in the PaPUC proceeding. The truth about PESRM's relationship to the market west of Eldorado is radically different from the statements by Mr. Schaal and PESRM in this proceeding. Volumes entering Laurel from PESRM's refinery and delivered west of Eldorado in 2017 amounted to [BEGIN HIGHLY CONFIDENTIAL PROTECTED MATERIAL] [redacted] [END HIGHLY CONFIDENTIAL PROTECTED MATERIAL] of PESRM's estimated pipelineable output.

37. Monroe Energy, LLC ("Monroe") (Protest at pp. 15-16) states that it "injects nearly half of the annual output of its Trainer Refinery into the Laurel Pipeline," which is a fact in Monroe's possession, although it does not necessarily have any relationship to the role of the Pittsburgh market as a destination for its output. Monroe goes on to state that "[o]f that total, a substantial percentage of those products are delivered to points west of Eldorado," and further that the Pittsburgh market is "particularly important to Monroe" because of the alleged compatibility of its products with the Pittsburgh Market – without providing a figure, or the source for these general claims. Monroe goes on to suggest that the proposal "puts 30 percent of the production of Monroe's Trainer Refinery at risk of being less profitable." This last figure, 30 percent, appears to be the same one that appeared in public testimony of Monroe's witness Tracy Sadowski at the PaPUC, filed July 14, 2017, at pp. 7-8, which was not based on any direct information about the subject, but merely applied an assumption about Monroe's volumes likely mirroring other westbound shipments.

38. As with PESRM, Mr. Schaal knows the volume number that represents Monroe's estimated pipelineable output moving on Laurel to points west of Eldorado, although he has not provided it. The answer for 2017 is [BEGIN HIGHLY CONFIDENTIAL PROTECTED MATERIAL] [redacted] [END HC]. The total deliveries on Laurel west of Eldorado for 2017 amount to only [BEGIN HIGHLY CONFIDENTIAL PROTECTED MATERIAL] [redacted] [END HIGHLY CONFIDENTIAL PROTECTED MATERIAL] of the two refineries' combined estimated pipelineable throughput for 2017.

39. As noted above, the size of the Pittsburgh market for the two Pennsylvania refineries is not material to the PDO, given that both will still have full access to continue shipping products west on Laurel past Eldorado, even after the Project commences west-to-east service. However,

the facts also show that the statements by both refiners about the importance of the Pittsburgh market to them are not credible and are contradicted by their actual volumes.

40. This concludes my Reply Affidavit.

VERIFICATION

Commonwealth of Pennsylvania)
)
Lehigh County)

David W. Arnold, III, being first duly sworn, says that he is the David W. Arnold, whose Affidavit in the above-referenced proceeding accompanies this verification.

David W. Arnold, further states that the Affidavit bearing his name is true, accurate and complete, to the best of his knowledge, information and belief.

David W. Arnold

Subscribed and sworn to before me, the undersigned Notary Public, this 27th day of June, 2018.

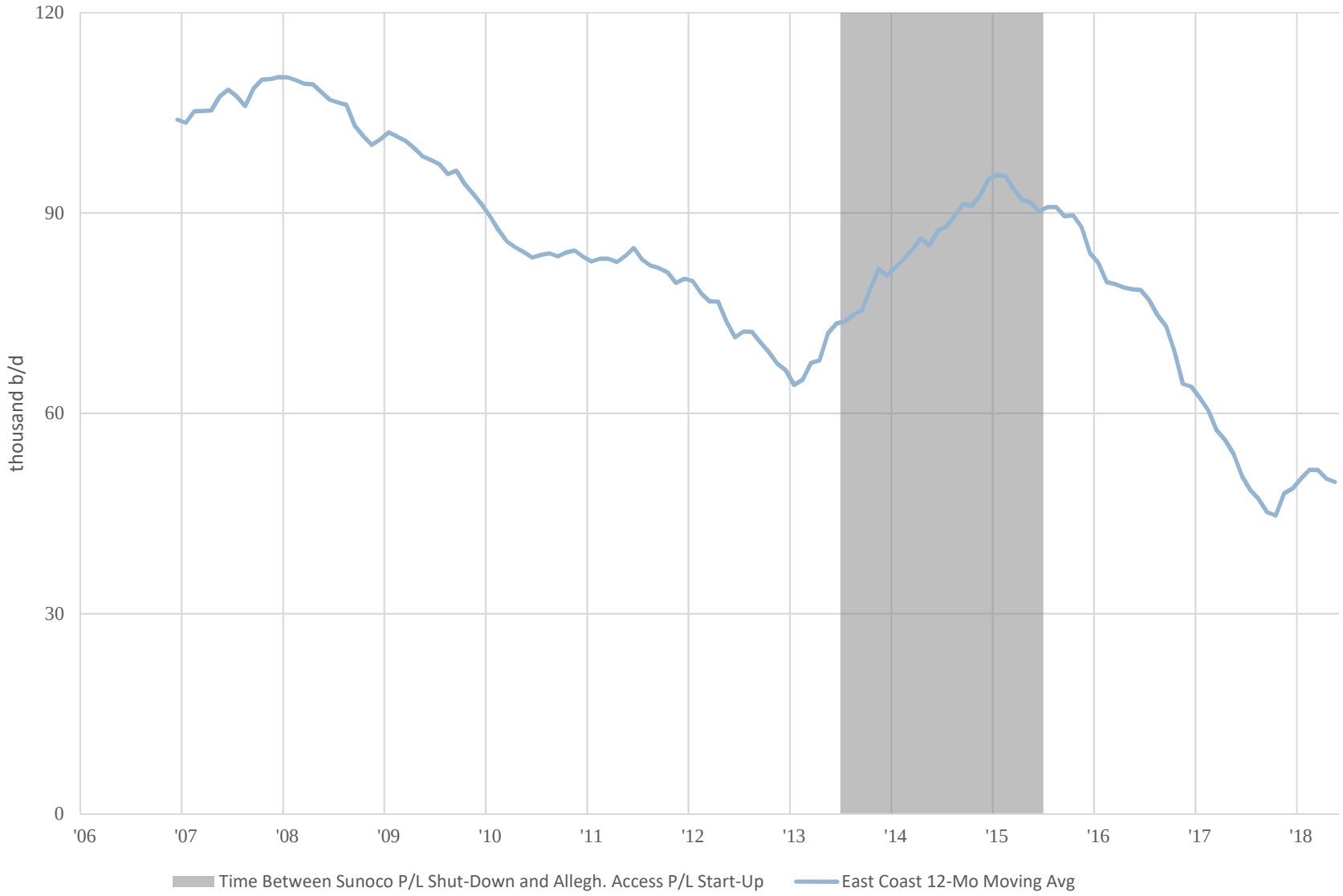
Robin Billger

My Commission expires 8-4-2021

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Robin L. Billger, Notary Public
Upper Macungie Twp., Lehigh County
My Commission Expires Aug. 4, 2021
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

Exhibit 1

Figure 1 Deliveries Laurel Pipe Line Company, L.P. into Pittsburgh, with 12-month Moving Average, 2006-May 2018



Includes intra and inter state movements into Pittsburgh from all East Coast origins.

Figure 1 Deliveries on Laurel Pipe Line, L.P. into Pittsburgh, with 12-month Moving Average, 2006-May 2018

Month	East Coast	Midwest	EC 12-Mo Avg	Sunoco/Allegh Gap
Jan-06	93	4		
Feb-06	84	5		
Mar-06	98	4		
Apr-06	109	3		
May-06	106	3		
Jun-06	109	1		
Jul-06	114	2		
Aug-06	120	6		
Sep-06	104	3		
Oct-06	111	3		
Nov-06	115	4		
Dec-06	85	7	104	
Jan-07	88	8	104	
Feb-07	105	5	105	
Mar-07	98	4	105	
Apr-07	110	3	105	
May-07	131	5	107	
Jun-07	122	1	108	
Jul-07	102	3	107	
Aug-07	102	5	106	
Sep-07	136	5	109	
Oct-07	126	6	110	
Nov-07	116	7	110	
Dec-07	88	7	110	
Jan-08	87	8	110	
Feb-08	100	11	110	
Mar-08	92	10	109	
Apr-08	109	8	109	
May-08	117	5	108	
Jun-08	108	5	107	
Jul-08	97	7	107	
Aug-08	98	6	106	
Sep-08	98	8	103	
Oct-08	108	7	102	
Nov-08	100	8	100	
Dec-08	98	9	101	
Jan-09	100	10	102	
Feb-09	92	9	101	
Mar-09	84	6	101	
Apr-09	97	6	100	
May-09	102	4	98	
Jun-09	101	5	98	
Jul-09	90	6	97	
Aug-09	80	8	96	
Sep-09	105	6	96	
Oct-09	83	8	94	
Nov-09	83	10	93	
Dec-09	79	13	91	
Jan-10	79	16	90	
Feb-10	68	16	87	

Figure 1 Deliveries on Laurel Pipe Line, L.P. into Pittsburgh, with 12-month Moving Average, 2006-May 2018

Mar-10	63	18	86	
Apr-10	86	12	85	
May-10	94	9	84	
Jun-10	91	8	83	
Jul-10	94	7	84	
Aug-10	83	9	84	
Sep-10	99	14	83	
Oct-10	91	13	84	
Nov-10	86	9	84	
Dec-10	68	19	83	
Jan-11	70	19	83	
Feb-11	73	17	83	
Mar-11	63	16	83	
Apr-11	80	6	83	
May-11	105	7	84	
Jun-11	105	11	85	
Jul-11	74	10	83	
Aug-11	72	7	82	
Sep-11	94	12	82	
Oct-11	83	16	81	
Nov-11	67	22	80	
Dec-11	75	21	80	
Jan-12	65	21	80	
Feb-12	51	17	78	
Mar-12	49	26	77	
Apr-12	80	17	77	
May-12	69	20	74	
Jun-12	78	20	71	
Jul-12	84	17	72	
Aug-12	71	16	72	
Sep-12	75	16	71	
Oct-12	66	13	69	
Nov-12	46	22	67	
Dec-12	63	22	66	
Jan-13	40	22	64	
Feb-13	60	21	65	
Mar-13	79	16	68	
Apr-13	85	17	68	
May-13	117	19	72	
Jun-13	95	13	73	
Jul-13	88	12	74	1
Aug-13	84	12	75	1
Sep-13	83	17	75	1
Oct-13	103	12	79	1
Nov-13	82	15	82	1
Dec-13	51	21	81	1
Jan-14	54	35	82	1
Feb-14	76	36	83	1
Mar-14	97	16	85	1
Apr-14	104	16	86	1
May-14	104	17	85	1
Jun-14	122	15	87	1

Figure 1 Deliveries on Laurel Pipe Line, L.P. into Pittsburgh, with 12-month Moving Average, 2006-May 2018

Jul-14	95	16	88	1
Aug-14	103	12	90	1
Sep-14	104	19	91	1
Oct-14	100	14	91	1
Nov-14	101	15	93	1
Dec-14	81	26	95	1
Jan-15	61	31	96	1
Feb-15	73	23	96	1
Mar-15	73	23	94	1
Apr-15	85	23	92	1
May-15	100	27	92	1
Jun-15	107	21	90	1
Jul-15	103	18	91	
Aug-15	103	17	91	
Sep-15	87	12	90	
Oct-15	102	9	90	
Nov-15	79	21	88	
Dec-15	34	27	84	
Jan-16	44	16	83	
Feb-16	39	18	80	
Mar-16	70	23	79	
Apr-16	79	7	79	
May-16	97	4	79	
Jun-16	105	5	78	
Jul-16	85	2	77	
Aug-16	76	8	75	
Sep-16	68	12	73	
Oct-16	58	17	69	
Nov-16	20	32	64	
Dec-16	29	38	64	
Jan-17	25	37	62	
Feb-17	16	48	60	
Mar-17	34	33	57	
Apr-17	61	16	56	
May-17	72	14	53.94	
Jun-17	65	13	51	
Jul-17	59	18	48	
Aug-17	60	17	47	
Sep-17	44	24	45	
Oct-17	52	36	45	
Nov-17	60	25	48	
Dec-17	38	27	49	
Jan-18	43	42	50	
Feb-18	32	32	52	
Mar-18	33	30	52	
Apr-18	45	37	50	
May-18	66	17	49.75	

Exhibit 2

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Docket No. A-2016-2575829

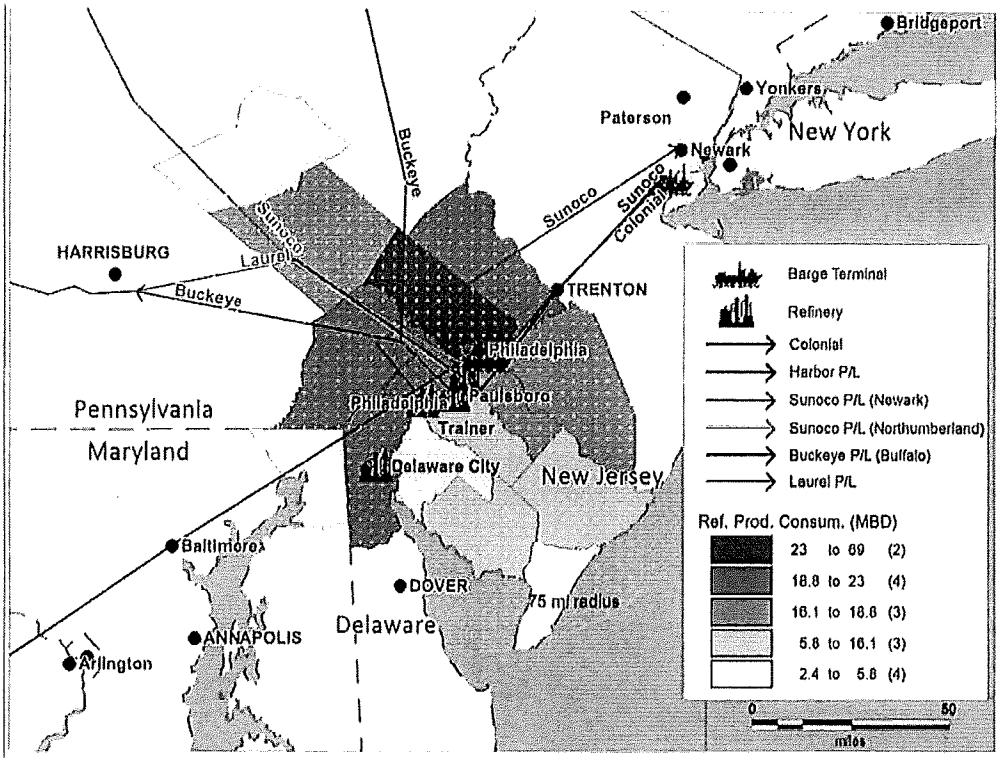
Laurel Pipe Line Company, L.P.

Statement No. 5

Direct Testimony of
MICHAEL J. WEBB

Dated: February 7, 2017

dispose of approximately half their production without using a single pipeline. In summary, the Philadelphia refineries have numerous options aside from Laurel to dispose of their production.



For this reason, it is reasonable to conclude that Laurel's proposal would impose little, if any, cost on the Philadelphia producers.

Q. Are there any other facts that suggest that Laurel's proposal will impose little if any cost on the Philadelphia suppliers?

A. Yes. All petroleum products (interstate and intrastate) sourced from Philadelphia area refineries and transported to the Pittsburgh destinations located west of Altoona must originate at Chelsea Junction, PA, Girard Point PA or Paulsboro, NJ. From October 2015 to September 2016 Laurel transported approximately 46,000 bpd from these origins to Pittsburgh destinations located west of Altoona.

This amount represents approximately 6.7 percent of the total amount of petroleum products produced at the four Philadelphia area refineries. Please note that this figure includes intrastate (PUC) and interstate (FERC) volumes. I cannot show PUC-only volumes and percentages without risking the disclosure of confidential business information as to local refinery output being transported to Pittsburgh area destinations, and so I am using volume and refinery capacity data from the three origins that represent PUC and/or FERC access points to Laurel from Philadelphia area refineries – data that is sufficiently aggregated as to be non-confidential. Given the numerous options the Philadelphia area refineries have to dispose of this relatively small amount of petroleum products, it is difficult to see how Laurel's proposal could impose significant costs on these refineries. They can simply sell the production they are transporting to Pittsburgh into the local market, into the New York market or into another water accessible market along the eastern seaboard.

Q. Is it not true that the alternative locations for deliveries formerly made to Laurel destinations in the Pittsburgh area west of Altoona are currently being supplied with petroleum products – *i.e.* is there really demand for these barrels at the alternative destinations that you have discussed?

A. Yes. However this product is likely generally more expensive, and therefore less efficiently supplied than the 35-45 MBD Line capacity from the Midwest. For example hundreds of thousands of barrels per day are brought into New York Harbor by water. To the extent barrels previously delivered to Pittsburgh could be transported up one of the alternatives to Laurel to New York, these potentially

Appendix B

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Buckeye Pipe Line Company, L.P.	**)**	
and	**)**	**Docket No. OR18-22-000**
Laurel Pipe Line Company, L.P.	**)**	

AFFIDAVIT
OF
MICHAEL J. KELLY

I. Identity and Qualifications.

1. My name is Michael J. Kelly, and I am employed by Buckeye Pipe Line Services Company ("BPLSC"). My business address is Five TEK Park, 9999 Hamilton Boulevard, Breinigsville, PA 18031.

2. I provide services to Buckeye Partners, L.P. ("BPL") and certain of its operating affiliates—including Laurel Pipe Line Company, L.P. ("Laurel") and Buckeye Pipe Line Company, L.P. ("Buckeye") (collectively, "Buckeye/Laurel") as the Director of Transportation Services. My current responsibilities relate to several operating pipelines controlled by BPL, including Laurel and Buckeye and those responsibilities include accountability for the Scheduling team and the Power and Hydraulics team. The Scheduling team has responsibility for both scheduling pipeline movements and providing analysis of product movements, including ticketing, inventory, and allocation of pipeline space. Among other duties, the Scheduling team receives nominations and acts as the customer interface with shippers. The Scheduling team also provides the schedules and daily running orders utilized by the Laurel and Buckeye field operations and control center to facilitate pipeline movements.

3. I assumed my current position in April 2014, and for the three and a half years prior to that I was manager of the Power and Hydraulics program, with responsibility for ensuring efficient power and hydraulic optimization for the Laurel and Buckeye system. I received my Bachelor of Science Mechanical Engineering from Pennsylvania State University. Additionally, I received my Masters of Business Administration from Pennsylvania State University. I also hold Certified Energy Manager (CEM) and Certified Energy Procurement Professional (CEP) certifications from the Association of Energy Engineers.

4. I have been closely involved in planning for the operational requirements and the planning necessary to provide the west-to-east service proposed in the Petition for Declaratory Order ("PDO") at issue in this proceeding, as well as the continued provision of the current east-to-west service by Buckeye and Laurel. I also sponsored testimony relating to Buckeye's operations and facilities in the application before the Pennsylvania Public Utility Commission ("PaPUC") in which Laurel proposed to terminate its east-to-west service, PaPUC Dkt. No. A-2016-2575829. To provide context for some of my discussion, I am attaching to this affidavit as "Exhibit 1" a map showing the Laurel system and adjacent portions of the Buckeye system.

II. Response to Miesner Affidavit – Summary.

5. I have reviewed and analyzed the "Affidavit of Thomas O. Miesner" filed with the protest in this proceeding on June 18, 2018 ("Miesner Affidavit" or "Miesner Aff."). The Miesner Affidavit includes a number of allegations concerning bi-directional pipeline operations and the results of the proposal by Buckeye and Laurel to provide both the proposed new service from the Midwest to Eldorado, near Altoona, Pennsylvania and the continuation of Buckeye and Laurel's existing service from East Coast origins to Coraopolis, Pennsylvania.

6. Mr. Miesner expresses a number of concerns and conclusions regarding the proposed service, the most important of which are that:

i. capacity for volumes nominated from the East Coast to points west of Eldorado would be significantly reduced, affecting the ability of shippers from the East Coast to continue to have access to destinations west of Eldorado; and
ii. the assumed operation of the east-to-west service on a primarily "virtual" (swap-based)[1] model would be unworkable because he assumes that the segment will be "primarily" operated physically from west-to-east.

7. Mr. Miesner's conclusions are simply wrong, and are easily shown to rely entirely on inaccurate premises. As I will discuss further below,

i. No reduction in capacity will occur for shippers seeking to transport volumes from east to west; and

ii. Mr. Miesner's conclusion hinges almost entirely on two false assumptions; in fact:

a. Laurel does not plan on operating the Coraopolis to Eldorado segment in a "predominantly" west-to-east physical direction, but will operate physically in both directions, as necessary to meet shipper nominations and operating circumstances; and

b. Laurel and Buckeye do plan to use so-called "virtual" movements to optimize operations on the segment, but only to the extent that such movements will permit efficient transportation to meet nominated and confirmed volumes, and Laurel plans to make physical deliveries in both directions to meet demand as well.

8. As I will further explain, Mr. Miesner's other concerns about the efficacy of physical reversals – that "linefill" is a major obstacle, and that too much time is needed to effect reversals – are also premised on factual assumptions that are incorrect and/or unrelated to the manner in which Buckeye and Laurel operate their systems, and plan to operate the proposed services.

[1] I will primarily use the term "virtual" to discuss this type of transportation in this Affidavit. However, this type of operation is also referred to as "swaps" (as in, product in different locations is "swapped" for purposes of making deliveries), and Buckeye also refers to using "virtual" transportation or "swaps" as "optimization" of operations. All of these terms discuss the same type of operational and accounting steps, which are described in detail below in Paragraphs 14 through 17.

9. Buckeye/Laurel's operational personnel have reviewed the operational requirements for providing both the proposed west-to-east service and the current east-to-west service, and have concluded that both services can and will be provided without any reduction in volume levels, using scheduling and optimization techniques that the Buckeye pipeline systems routinely use in performing other bi-directional services. Buckeye and Laurel and their affiliated pipelines operate numerous bi-directional pipeline segments, some longer than Mr. Miesner's asserted 25 mile length standard, and therefore have extensive actual experience in providing such services. None of the issues that Mr. Miesner discusses regarding loss of east-to-west capacity will be problems for Laurel and Buckeye.

10. Other allegations that Mr. Miesner raised regarding increased complexity and cost are expected to be minor and manageable – and I would note that even if costs rise and operations are more complex, those changes in no way prevent Buckeye/Laurel from providing all of the proposed and existing services. As I discuss below in detail, the proposed bi-directional operation of the segment between Coraopolis and Eldorado would result in some greater complexity for scheduling, although Mr. Miesner greatly overstates this point and does not accurately describe the process of bi-directional operation, at least as Buckeye and Laurel administer bi-directional services. Some operating costs might modestly increase, but operating costs may also decline due to other factors; and it is impossible to predict the net result at this point, except that the scope of the changed costs will not likely be very large.

11. In sum, Mr. Miesner's conclusions regarding the specific results of the proposed reversal, including his claims about adverse effects on the capacity available to east-to-west shippers, should be rejected.

III. Proposed Operation of the Coraopolis-Eldorado Segment to Provide Both Eastbound and Westbound Transportation.

12. Before addressing Mr. Miesner's statements and conclusions in detail, I will briefly summarize the manner in which Buckeye and Laurel would provide the proposed new eastbound service and the current westbound service on the Coraopolis-Eldorado segment.

A. Receipt and Assessment of Nominations and Scope of Optimization Via Swaps.

13. The first step will be Laurel and Buckeye's receipt on the 15th of each month of shipper nominations for the following month – specifying volumes, product types, origins and destinations. These will be received for volumes nominated from the Midwest to destinations east of Coraopolis (chiefly, Delmont, Greensburg and Eldorado) as well as for volumes nominated from East Coast origins to destinations west of Eldorado (chiefly, Delmont, Greensburg, and the cluster of nearby Pittsburgh destinations, Pittsburgh, Neville Island and Coraopolis – for the sake of simplicity, I will refer to Coraopolis for all three destinations).

14. The same team of scheduling personnel prepare schedules for both Buckeye and Laurel, and after confirming that there will be adequate capacity under the respective Laurel and Buckeye tariff provisions, the scheduling group will compare the volumes of different product types nominated to Coraopolis, Greensburg and Eldorado, to determine the extent to which it will be possible to optimize deliveries by the use of swaps.

15. That is, when shippers nominate equivalent volumes of the same product in opposite directions across the Coraopolis-Eldorado segment, Buckeye and Laurel can use Midwest volumes nominated for delivery to Eldorado to fulfill East Coast nominations for

volumes to Coraopolis. At the same time, Buckeye and Laurel would use the East Coast volumes nominated for delivery to Coraopolis to fulfill Midwest nominations to Eldorado. In both cases, the shippers would tender volumes of product to Buckeye or Laurel at the origin identified in their respective nominations. Each shipper's product would be transported and delivered to a destination closer to the origin at which it would be tendered than the destination specified in each shipper's nomination. Each shipper's product would then be delivered to the other shipper's account at that destination. Thus, less physical transportation would be needed, and in this case, all of the transportation on the Coraopolis-Eldorado segment would become unnecessary. Buckeye currently does this type of "virtual transportation," referenced as "optimization", at a number of points on the Buckeye system and on the Laurel system, and it will not be a new or unusual process.

16. To provide a more detailed, simplified illustration, the following example walks through each of the elements of a virtual movement on the Coraopolis-Eldorado segment, and schematic diagrams graphically show the difference in physical transportation that results.

- Shipper A in the Midwest wants to move "X" barrels of Ultra Low Sulfur Diesel (ULSD) to Eldorado
- Shipper B in the East Coast wants to move "X" barrels of ULSD to Coraopolis.
- Shipper A submits a nomination to Buckeye requesting transportation from the Midwest origin to Eldorado.
- Shipper B submits a nomination to Buckeye requesting transportation from the East Coast origin to Coraopolis.
- Buckeye/Laurel's scheduling team reviews the nominations for the month, and concludes that it will not be necessary to move the two shipments across the Coraopolis-Eldorado segment; instead, the decision is made to transport them by means of "swaps," or what is sometimes termed "virtual transportation."

- Shipper A tenders its shipment at an origin in the Midwest, and Buckeye/Laurel transport that shipment physically to Coraopolis.

- At Coraopolis, "X" barrels of the type tendered by Shipper A are delivered for the account of Shipper B.

- Shipper B tenders its shipment at an origin in the East Coast, which Buckeye/Laurel transport physically to Eldorado, for the account of Shipper A.

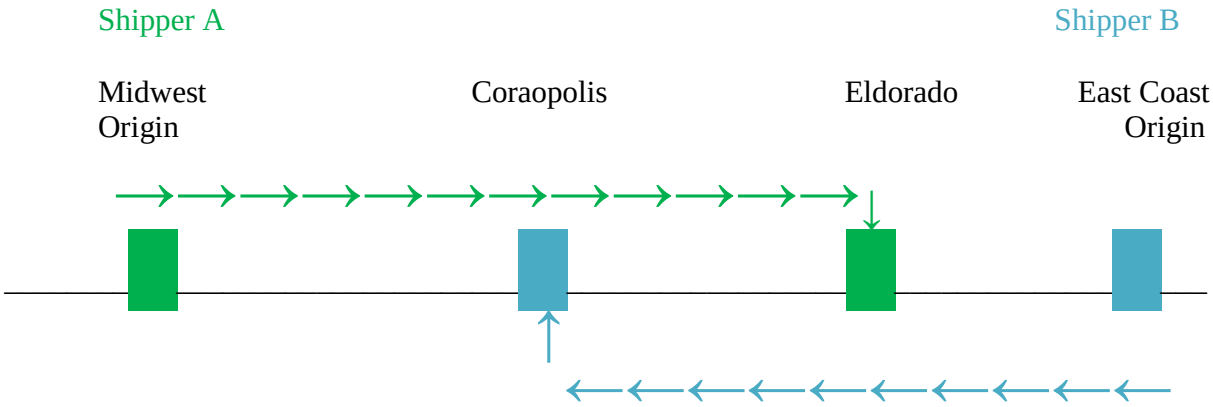
- At Eldorado, "X" volumes of the type tendered by Shipper B are delivered for the account of Shipper A.

- Both Shipper A and Shipper B receive "X" volumes of the type they nominated and tendered, at the destination specified in their nomination. Neither shipment is transported on the Coraopolis-Eldorado segment, reducing the need for physical utilization of the segment and significantly reducing miles of transportation for each shipment.

The transactions are represented schematically below:

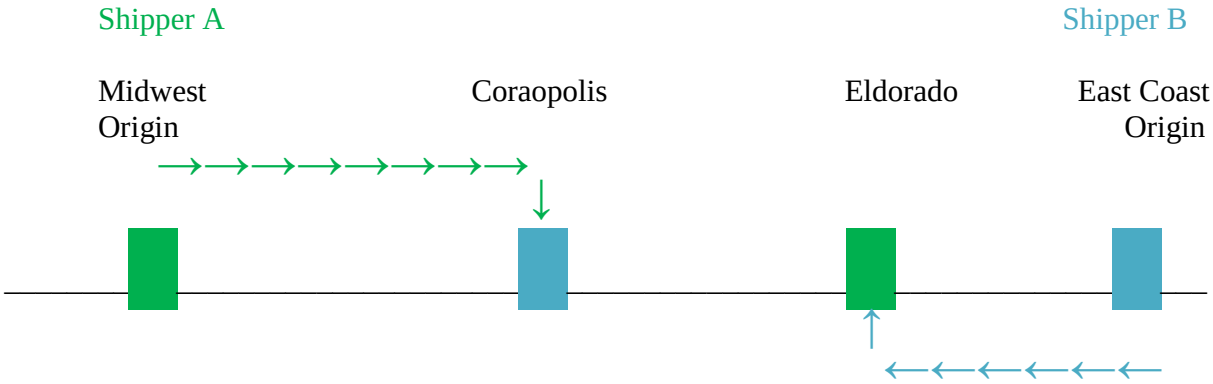
Scenario A – Physical transportation option:

Summary: Shipper A wants to deliver X barrels of ULSD to Eldorado, and Shipper B wants to deliver X barrels of ULSD to Coraopolis. X barrels tendered by Shipper A are physically transported from the Midwest to Eldorado, across the Coraopolis-Eldorado segment in west-to-east operating mode, where they are delivered for the account of Shipper A. X barrels tendered by Shipper B are physically transported from the East Coast to Coraopolis, across the Coraopolis-Eldorado segment in east-to-west operating mode, where they are delivered for the account of Shipper A.



Scenario B – Virtual transportation option

Summary: Shipper A wants to deliver X barrels of ULSD to Eldorado, and Shipper B wants to deliver X barrels of ULSD to Coraopolis. X barrels tendered by Shipper A are physically transported from the Midwest to Coraopolis, where they are delivered for the account of Shipper B. X barrels tendered by Shipper B are physically transported to Eldorado, where they are delivered for the account of Shipper A. No transportation takes place across the Coraopolis-Eldorado segment.



17. Buckeye/Laurel's optimization analysis will indicate to what extent such swaps can be used to reduce physical transportation, and how much physical transportation is needed in either direction. Buckeye plans to make physical deliveries from the Midwest to Eldorado every month, but the volume of physical movements from the Midwest or from the East will depend on the direction of the nominations and the distribution of different volumes of specific types of product nominated to different destinations, as well as the

degree of optimization. If, as Mr. Miesner assumes, the predominant flow of nominations is from the east to the west, the predominant physical flow is likely to be from the east to the west.

B. Process of Physical Reversal in Flow and Deliveries.

18. After the need for, and volume of, physically reversed flow is determined, the schedulers will create batch sequences in the Laurel and Buckeye cycles that will effectuate these deliveries, along with the deliveries being made as part of the optimization process.

19. Much of the scheduling is not significantly different than that done for segments of the system that are operating in one direction. However, the issue of linefill requires a further step in scheduling reversals. When a segment of pipeline is to be reversed, the line is full of products when it is shut down. On the Coraopolis-Eldorado segment of Laurel, the volume of linefill is approximately 160,000 barrels,[2] and – in the case of a multi-product line such as Laurel, the line will have a sequence of different products. Physically, the products in the line are, upon commencement of reversal, moved back in the direction from which they originated, to allow volumes from the other end of the pipeline to be delivered; *i.e.*, if the pipeline has been in east-to-west mode, upon reversal to switch to west-to-east mode, the 160,000 barrels of product in the pipeline between Coraopolis and Eldorado would need to be pushed back to Eldorado to permit new volumes originating west of Coraopolis to reach Eldorado. The same situation, in reverse, occurs when the system changes from a west-to-east direction to an east-to-west direction; the 160,000 barrels that had been in transit from Coraopolis toward Eldorado would be stopped, then pushed back to Coraopolis.

[2] This volume is not a large percentage of total throughput in a given month. For example, if volumes on this segment average 100,000 bbl./day, total deliveries would be 3,000,000 bbls. for a 30 day month, and 160,000 bbls. would only be approximately 5% of the total throughput.

20. To address this issue, the planned reversal is incorporated in the batch scheduling process, so that when the planned reversal takes place, the volumes in the line are scheduled for delivery to the destination towards which they are being moved following reversal. For example, when east-to-west transportation is stopped and reversed back eastward to Eldorado, the schedulers will have scheduled the 160,000 bbls. in the line to be delivered to shippers' designated terminals at Eldorado. Similarly, when west-to-east transportation is stopped and reversal is commenced, the 160,000 bbls. in the line will have been scheduled for delivery to shippers' designated terminals at Coraopolis, so when they are pushed westward back to Coraopolis, they are delivered as part of the scheduled batch sequence into terminals at Coraopolis. Thus, the need for "linefill" is resolved by ensuring that, when the reversals take place, the volumes in the line segment are slotted to be delivered back at the new destination. There is typically no need for the insertion of "linefill" whose only purpose is to act as linefill – the linefill is, as is usually the case on the Buckeye and Laurel systems, part of the active shipper inventory being delivered.[3] This approach is not hypothetical, but is the method of operation currently used by Buckeye and Laurel in the line segments that are bi-directional today.

21. The physical process of reversal is not complex and is not time consuming. The control center would remotely commence a controlled shutdown, which should normally take approximately 15 minutes. Then, the control center would remotely commence a controlled start-up, which should normally take another approximately 15 minutes. The reversal would be complete in less than an hour.

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[3] In the periodic instance where scheduled volumes are not tendered by the shipper or other operational changes interfere with the planned linefill procedure, Laurel and Buckeye can also use system transmix from to fill out the linefill sequence, and have done so in other uni-directional and bi-directional movements without operational difficulty in the past.

22. That, in summary, is the reversal process. As I noted above, Buckeye and Laurel have reviewed a range of scenarios, involving high west-to-east deliveries, and high east-to-west deliveries, and have determined that the proposed and existing services can be provided under a wide range of scenarios – including physical movement of 40,000 bbls./d from the Midwest to Eldorado in the same month as the physical delivery of more than 120,000 bbls./d of east-to-west volumes (which is the maximum westbound monthly volume in the past ten years, and is far in excess of recent historical volumes).[4] We fully expect that significant volumes will be delivered on this segment in bi-directional mode via virtual transportation, allowing (if necessary) higher volumes of both virtual and physical volumes. This assessment is based both on the projected demand and nominations and the experience with the Line 714 reversal, over whose bi-directional activity up to 50% or more of all nominations have been met by virtual deliveries of the kind discussed above in Paragraphs 14 through 17.

23. I am aware that some of Mr. Miesner's allegations are inconsistent with various aspects of the planned operational procedure outlined above, and I will explain below in detail why Mr. Miesner's criticisms are mistaken.

IV. Detailed Responses to Specific Claims in the Miesner Affidavit.

24. Before responding in detail to his contentions, I would note that it is not surprising that Mr. Miesner is mistaken regarding the crucial issues that undermine his conclusions, because his review is premised on a very narrow and limited base of information. Based on my review of his stated sources, it appears that Mr. Miesner does not for the most part

[4] The maximum monthly volume moved by Laurel east of Eldorado in the past ten years was 122,086 bbls./day in June 2014 – a usage peak that followed the shutdown of the Sunoco system. Since that time, two new major pipeline expansions have been built into Pittsburgh from the Midwest, Allegheny Access and Buckeye Pipe Line Transportation LLC's Broadway I.

derive his analysis from any specific knowledge of Buckeye or Laurel operations, nor that he appears to have examined independently the extensive operational and structural information on Laurel in the PaPUC record. Some of his statements are not incorrect, but those statements are typically of a generic pipeline nature and do not either relate to the specific reversal issues facing Buckeye/Laurel or contradict my discussion above.

25. **Traffic analogy**. At Paragraph 12, Mr. Miesner analogizes pipeline reversal to a stretch of road that only accommodates one-way traffic, holding up traffic sequentially as reversals take place. Traffic analogies can be useful at times in understanding pipeline operations, but this analogy is seriously flawed, because it leaves out features of pipeline operation that negate its conclusions. First, I would note that the premise is a two-way road that has a stretch reduced to sequential one-way traffic during repairs, with flaggers stopping traffic at each end; he cites this analogy to support the idea that bi-directional transportation will inevitably reduce throughput on a pipeline in a manner similar to the one-way stretch reducing traffic volume and capacity on a road. The analogy ignores the fact that pipelines can and will be making deliveries either at the ends of the segment or shortly upstream of them, even when the Coraopolis-Eldorado segment is being reversed. When the line switches from west-to-east to east-to-west mode, Buckeye and Laurel can make deliveries into Coraopolis from the west even as deliveries are being made into Coraopolis from the east. At Eldorado, deliveries can only be made from one direction at a time, but while deliveries are being made to Eldorado from the west, deliveries can be made into the Mechanicsburg destination upstream, leaving only the Mechanicsburg – Eldorado segment "idle." Moreover, even on a uni-directional pipeline, deliveries at full stream into a destination (such as Mechanicsburg) can cause the segment downstream of

the active delivery point to be "idle," without any involvement of bi-directionality. That is simply how pipelines work. Also, unlike cars, the transportation of barrels of petroleum can be optimized and obviated via swaps, because petroleum products are fungible, in contrast to cars. Therefore, the traffic analogy in Mr. Miesner's Paragraph 12 does not accurately represent the effects of the proposed operation of the segment.

26. **False Assumption as to Linefill**. At Paragraphs 13 and 14, Mr. Miesner speculates that operation of the segment bi-directionally will mean that a linefill volume will be "pushed back and forth" between Coraopolis and Eldorado (Paragraph 14), resulting in higher costs and lower throughput. This description of the role and function of linefill is inconsistent with the role of linefill as Buckeye and Laurel employ it on bi-directional segments; as discussed above in Paragraphs 19 and 20, the "linefill" that Mr. Miesner posits as being an incremental burdensome operational volume, instead consists of pre-staged delivery volumes that will be injected into either Coraopolis or Eldorado during the reversal, making the reversal process part of the ordinary delivery process. Although the pre-staging of these volumes would slightly increase average transit time, this is not a net cost of bi-directional activity, because there will be offsetting efficiencies, capacity enhancements and savings due to optimization through swaps; the net effect cannot be determined in advance.

27. In paragraph 16, Mr. Miesner alleges that bi-directional transportation is commonly limited to lines within plants and terminals. While it may be more common for such piping to be bi-directional than mainlines, it is simply untrue that mainline pipeline facilities do not operate bi-directionally, and as discussed in greater detail below in Paragraph 32, Buckeye operates several bi-directional mainline pipeline segments itself,

and has extensive experience with their operation, in apparent contrast to Mr. Miesner's lack of experience with this type of operation.

28. In Paragraph 17, Mr. Miesner makes several different erroneous statements, all of which require correction. In the first two sentences, he refers to the "need" to "evacuate" pipeline segments when reversals take place on multi-product lines to avoid "mixing or contaminating the grades." This reference is somewhat difficult to understand, for several reasons. First, as described above at Paragraphs 19 and 20, in a Buckeye-operated multi-product line, upon reversal lines are not "evacuated," the product is pre-staged for prompt delivery after the direction is reversed; the only effect is an increase in transit time. Second, there is no connection between bi-directional operation and "mixing or contaminat[ion]" of different products; all products are already in contact with other products during the earlier stages of the transportation, as part of a batch sequence, and that is true when in uni-directional or bi-directional operation. The result is the creation of transmix, and bi-directional transportation might produce slightly more transmix than would otherwise occur due to slightly longer transit time for those volumes, but that is not material nor is it a "contamination" issue. The existence of transmix is not caused by bi-directional operation.

29. At Paragraph 18, Mr. Miesner calculates, based on the PDO, that a full day would be "lost" in downtime because of the need to push linefill back during each reversal. This assertion is similarly mistaken, because is it premised on the incorrect premise that "linefill" is something that will be pushed back and forth in the segment. As discussed above at Paragraphs 18 and 19, the scheduling process would ensure that the "linefill" consists of pre-staged volumes slated for delivery to shippers' custody as soon as reversal

commences. The only "downtime" during a reversal would be at most the short period described above in Paragraph 21.

30. Mr. Miesner's conclusion of reduced westbound capacity in his Paragraph 19 is premised on the mistaken premises discussed above regarding inert, non-deliverable linefill and incorrect reversal times. He also ignores the impact on capacity of "virtual" deliveries, which effectively increase capacity by allowing deliveries at either end of the segment without any intervening physical transportation, as part of the total deliveries.

31. **"25" mile limit for bi-directional lines**. Mr. Miesner's Affidavit, Paragraphs 20 through 24 consists of a recitation of generic factors affecting pipeline capacity, and then factors and requirements for reversal, with an abrupt conclusion at Paragraph 25 that the previous factors would increase the capital and operating costs and complexity of operations for a bi-directional line. (He repeats again the irrelevant concern about deadweight linefill causing problems because it must be pushed out, stored and then pumped back again, Paragraph 23.). He concludes that to his knowledge, no petroleum product transmission line of more than 25 miles in length is regularly operated in bi-directional mode, and that the relevant Laurel segment is 100 miles in length. His apparent intended implication is that operation on the Coraopolis-Eldorado segment would be too costly and complex. Most of the discussion is irrelevant to the specific pipeline segment at issue, and the 25 mile "rule" is disproven by Buckeye's actual experience.

32. First, as to capabilities, there is no question that (a) the new pump stations on Laurel and appurtenant facilities were designed to move up to 40,000 bbls./day from Coraopolis to Eldorado, and none of Mr. Miesner's sponsors contested that fact in the PaPUC

proceeding; and (b) Laurel currently has the capability to move the East Coast demand from Eldorado to Coraopolis. As described exhaustively above, Mr. Miesner's recurring concern about the costs of dealing with inert linefill (here, putting into and out of special storage tanks at either end of the segment) are irrelevant, because the linefill will simply be volumes being delivered to shippers. So, the technical concerns regarding capability and requirements are moot.

Second, Buckeye is not speculating about its ability to operate a mainline segment in bi-directional mode. There are currently ten segments of pipelines on operating systems run by Buckeye personnel that are bi-directional in function, including the following:

a. **Line 714**. The segment of the Buckeye system between Sinking Spring and Macungie, Pennsylvania, which is 33 miles long, has since October 2016 been operated in a bi-directional manner – allowing East Coast originated volumes on Laurel to enter the segment at Sinking Spring and exit at Macungie, for transportation to upstate New York. Line 714 is physically reversed several times a month, each month.

b. **Line 160** (Peotone, Indiana). Line 160 on the Wood River Pipe Lines LLC ("Wood River") is a 38 mile long segment that is partially leased to Norco Pipe Line Company, L.L.C. ("Norco"), an affiliate of Buckeye. The service on Line 160 by Wood River is from south to north, and the service on the leased capacity to Norco is from north to south; that line is reversed several times per month.

c. **Line 211**. Buckeye's Line 211, a 48 mile long line in its Midwest system is periodically reversed to meet changing operational requirements.

Third, Mr. Miesner's 25 mile standard is completely arbitrary. Nothing in his analysis suggests that there is a barrier to reversing lines at any particular distance, and other than

the need to address linefill (which Buckeye and Laurel resolve by using the linefill as active shipper delivery inventory), nothing distinguishes a 25 mile reversal from a 100 mile reversal. Moreover, the benefits of optimizing deliveries via virtual transportation are also greater when the distance that virtual transportation can obviate is 100 miles, as well.

In addition, because Mr. Miesner raises here again the claim of increased costs, it is important to note both the limited nature of these potential costs, and his failure to consider the offsetting efficiencies. Bi-directional service may lead to slightly increased costs as to power (extra pumping for linefill volumes), as to transmix (again, due only to the longer time that the linefill volumes are flowing prior to delivery), and as to transit time (again, the slightly longer time to deliver linefill). As a percentage of overall costs, these incremental increases in costs related to linefill volumes are not likely to be material. More importantly, bi-directional service creates efficiencies, cost savings and increased capacity due to its facilitation of "optimization" or virtual barrels – and each of the virtual barrel deliveries includes savings in power (which Mr. Miesner acknowledges at his fn. 16), in reduced transit time, and in greater capacity. The net effect of the higher costs related to linefill and the lower costs related to virtual volumes is impossible to quantify in advance, but the overall net effect on costs is unlikely be great, and in any event has no bearing on whether Buckeye/Laurel will be able to assure delivery of the different services that they undertake to provide.

33. **"Week" long reversal requirement**. At his Paragraph 26, Mr. Miesner plucks a statement from the record in the PaPUC proceeding, to the effect that reversing the pipeline would take a "week," from which he concludes that bi-directional operation

would be impractical and would "severely constrain capacity," east-to-west. As discussed above, in Paragraph 21, the time required to reverse the pipeline *as projected here, in bi-directional mode,* will be a couple of hours or less. The "week" estimate was in a completely different context. At the PaPUC, the proposal was termination of the east-to-west service and commencement of west-to-east service only. The question of re-reversing the system was therefore in a different operational setting, and indeed under the proposed operational situation under review in the PaPUC proceeding, the pump stations needed to move in the east-to-west service were to have been shut down, and re-reversal would have required work to restart and test them; in addition, there would have been no staff assigned to monitor those new operations for pipeline safety purposes, requiring reassignment and review by the inspecting personnel. The assumed operations in the PDO proposal are quite different, with the currently active pump stations near Eldorado remaining in full operational readiness, and with all inspection personnel primed for changes in direction.

34. **"Primary direction of flow" fallacy**. Mr. Miesner states in his Paragraph 27 that OPIS and "speculators and industry insiders" have stated that the "primary direction of flow" on the Coraopolis-Eldorado segment would be west-to-east, causing him to conclude at Paragraph 28 that given the historical and projected greater movement of volumes from east to west, operating the segment primarily from west to east will result in reduced capacity from east to west. The premise of this claim is flatly incorrect, and thus the conclusion about capacity is incorrect as well.

35. Buckeye and Laurel have made no determination that the "primary" mode of transportation will be either east to west or west to east. As described above in

Paragraphs 14-17, there will be physical movements from west to east each month, but the nature and frequency of physical movements will depend on nominations of the shippers, which will in turn reflect their assessment of the markets.

36. **Predicted failure of "virtual movements."** Mr. Miesner cites press and "industry" reports that Buckeye/Laurel plan to make deliveries westbound primarily via "virtual" movements (*i.e.*, swaps not involving physical westbound transportation). Paragraph 32. He then walks through a somewhat lengthy explanation of how virtual movements work, as swaps, Paragraphs 33-36, and ultimately concludes in Paragraphs 35-40 that because Buckeye/Laurel's plan is to operate the segment "normally in an east-bound direction," virtual shipments cannot be sustained for west-bound volumes, because the size of the west-bound volumes possible via virtual movements is constrained by the smaller size of the Eldorado market versus the Pittsburgh market.

37. There is no need to consider this argument in detail, because its central premise is false. As discussed above, Paragraph 34, the "primary" direction of flow will depend on the nominations from both directions, and the possible scenarios include those in which the predominant flow is east to west. Consequently, Buckeye and Laurel's ability to make deliveries from east-to-west will not be constrained by the alleged virtual volume cap posited by Mr. Miesner.

38. **"Rate-related bias."** At Paragraphs 41 and 42, Mr. Miesner concludes that, based on unspecified differences in tariff rates, Buckeye may prefer to deny access to east-to-west volumes by favoring west-to-east physical operation. This speculation is inconsistent with the proposed method of operation, described above. I can also state as the

supervisor of the scheduling team that scheduling decisions are made independently of the tariff rates.

39. This concludes my affidavit.

VERIFICATION

Commonwealth of Pennsylvania)
)
Lehigh County)

Michael J. Kelly, being first duly sworn, says that he is the Michael J. Kelly, whose Affidavit in the above-referenced proceeding accompanies this verification.

Michael J. Kelly, further states that the Affidavit bearing his name is true, accurate and complete, to the best of his knowledge, information and belief.

Michael J. Kelly

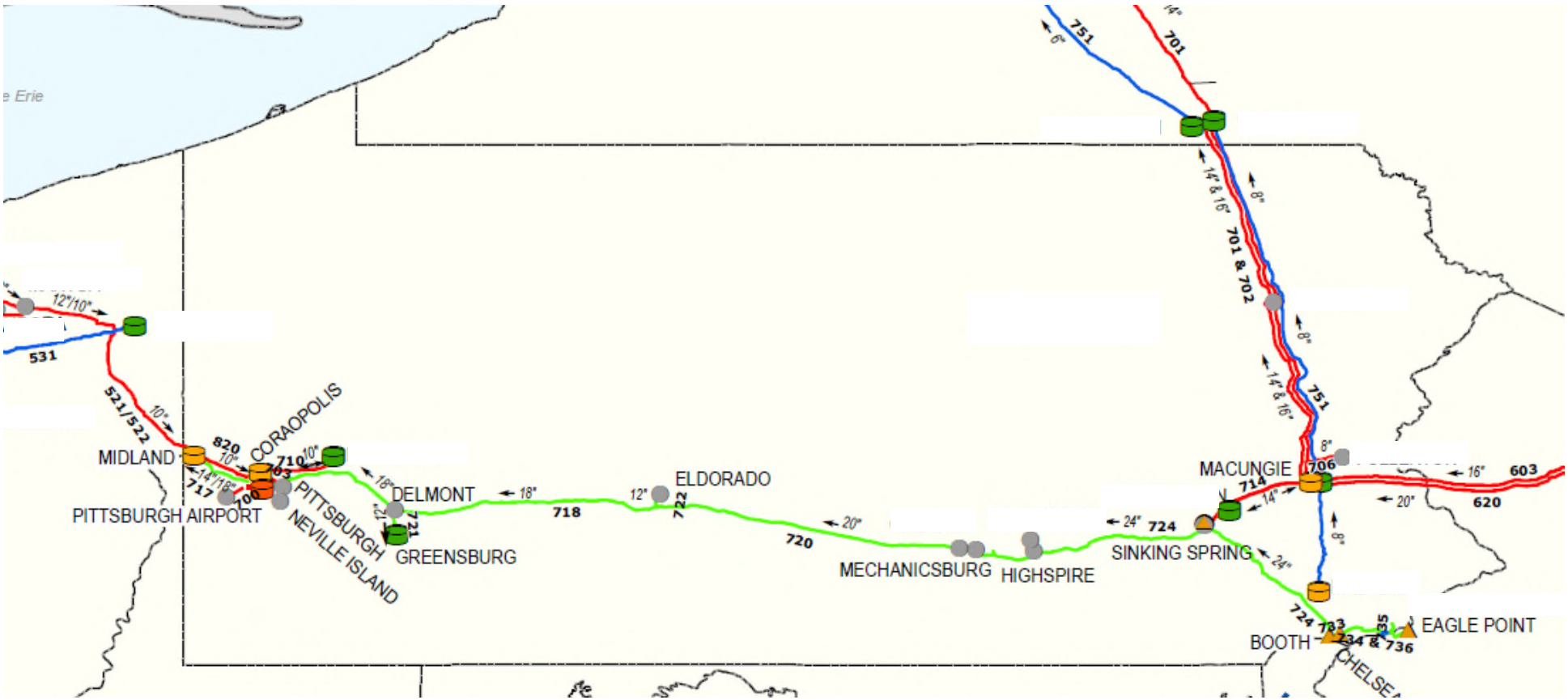
Subscribed and sworn to before me, the undersigned Notary Public, this 27th day of June, 2018.

Robin L Billger

My Commission expires 8-4-2021

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Robin L. Billger, Notary Public
Upper Macungie Twp., Lehigh County
My Commission Expires Aug. 4, 2021
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

Exhibit 1



Key:

- Green – Laurel
- Red – Buckeye Pipe Line
- Blue – Buckeye Pipe Line Transportation

Appendix C

Laurel Pipe Line Company
Valuation Docket No. 1403
324 I.C.C. 633

VALUATION DOCKET NO. 1403
(1960 REPORT)

LAUREL PIPE LINE COMPANY

Decided October 15, 1965

Final value for ratemaking purposes of the property of the Laurel Pipe Line Company, owned and used for common carrier purposes, found to be $52,664,400 as of December 31, 1960.

REPORT OF THE COMMISSION

ACCOUNTING AND VALUATION BOARD, MEMBERS DOMINGUS, HAGEN, AND GARRETT

BY THE BOARD:

Introductory.— This is a report on the initial valuation of the Laurel Pipe Line Company made by the Interstate Commerce Commission, pursuant to section 19a of the Interstate Commerce Act. This valuation is made as of December 31, 1960.

The Laurel Pipe Line Company, hereinafter called the carrier, was incorporated as the Laurel Pipe Line Company (Ohio) on March 18, 1957, under the General Corporation Act of the State of Ohio. On January 1, 1960, it merged under the provisions of an act of the Commonwealth of Pennsylvania with the Laurel Pipe Line Company (a Pennsylvania Corporation) which was incorporated March 21, 1957, under the corporate laws of the Commonwealth of Pennsylvania. The name of the emergent corporation was changed from Laurel Pipe Line Company (Ohio) to the Laurel Pipe Line Company. The carrier's corporate office is located at Cleveland, Ohio, and its general office at Camp Hill, Pa. On date of valuation it is controlled through ownership of the outstanding capital stock by Gulf Oil Corporation, Sinclair Pipe Line Company, and Texaco, Incorporated. The records do not indicate that the

carrier, itself, controls any common carrier corporation. Further information will be found in appendix 2.

Location and general description of property and operations.— The carrier is engaged in the transportation of refined petroleum products by pipeline. At a point near Chelsea in southeastern Pennsylvania, the carrier receives products into its system from the oil refineries of Gulf Oil Corporation at Girard Point, Pa.; Sinclair Refining Company at Marcus Hook, Pa.; and Texaco, Incorporated at Eagle Point, N. J. Products are transported westward from the Delaware River Valley refinery area to terminals and distribution points throughout the States of Pennsylvania and Ohio. The carrier's line terminates in the city of Cleveland, Ohio.

On the date of valuation the wholly owned and used trunklines aggregate 462.456 miles, including 446.516 miles of main lines and 15.940 miles of other lines. The property of the carrier was constructed in 1958 and 1959. Products were first received into the line on January 20, 1959, and the entire line was in operation when the products reached its most western terminal at Cleveland, Ohio, on March 25, 1959.

During the year ended December 31, 1960, the carrier received into its system 30,741,650 barrels and delivered out 30,723,077 barrels of refined petroleum products.

Capital stock and long-term debt.—The carrier has outstanding on date of valuation a total par value of $55,555,000 in stock and long-term debt, of which $5,555,000 represents common stock and $50,000,000 funded debt.

Results of corporate operations.—For the period February 1, 1959, to date of valuation, the aggregate operating expenses have been 82.33 percent of the operating revenues. No dividends have been declared.

Original cost to date.—The original cost of the common carrier property owned and used, including jointly owned and used, by the carrier on date of valuation, as detailed in appendix 2, is $52,140,434 including $346,320 for land and $3,639,020 for rights-of-way.

Investment in carrier property.—The investment of the carrier in carrier property, including land and rights-of-way, on date of valuation, is stated in its books as $52,458,648. If adjustment were made as indicated by our accounting examination, this amount would be decreased to $52,148,199. Further information will be found in appendix 2.

Cost of organization.—The investment of the carrier in cost of organization on date of valuation is stated in its books as $29,098.

An examination shows that under the present classification of accounts, outlays of $1,519 recorded in cost of organization account would be includible in other accounts. Of this, $475 representing expense applicable to funded debt would be transferable to discount on funded debt account and $1,044 representing expense of printing brochure would be transferable to operating expenses.

Cost of reproduction new and cost of reproduction new less depreciation.—The cost of reproduction new and cost of reproduction new less depreciation of all property other than land, rights-of-way, and material and supplies, owned and used and jointly owned and used by the carrier for common carrier service on date of valuation are as follows:

Classification	Cost of reproduction new	Cost of reproduction new less depreciation
Owned and used:		
In New Jersey	$1,851,888	$1,759,811
In Ohio	5,853,410	5,574,739
In Pennsylvania	40,784,121	38,705,355
Total	48,489,419	46,039,905

These amounts are classified in conformity with the Uniform System of Accounts for Pipe Line Companies and are detailed by primary accounts in appendix 1.

The prices used in arriving at cost of reproduction new were determined from a study of costs prevailing over a period of years both prior and subsequent to date of valuation.

Cost of land at time of dedication to public use and their present value.— The carrier owns and uses for common carrier purposes 293.22 acres of land, the original cost of which is $346,320. The area and present value of carrier lands, distributed by States, all of which are in trunkline service, are as follows:

State	Acres	Present value
New Jersey		
Ohio	30.46	$16,118
Pennsylvania	262.76	98,009
Total	293.22	114,127

Cost of rights-of-way at time of dedication to public use and their present value.—The carrier owns, through easements, certain

trunkline rights-of-way which it uses for common carrier purposes, the original cost of which, as supported by accounting records, and their present value, on date of valuation, distributed by States, are:

State	Original cost	Present value
New Jersey	$40,489	$39,679
Ohio	752,378	737,330
Pennsylvania	2,846,153	2,789,230
Total	3,639,020	3,566,239

Property held for purposes other than those of a common carrier.—The accounts of the carrier do not record, as such, any investment in miscellaneous physical property on date of valuation. However, the investment in carrier property account includes outlays aggregating $316,474 that are applicable to 378.30 acres of land classified as noncarrier, the present value of which has not been determined.

The investment in carrier property account also includes $576,734 applicable to material and supplies, of which $34,575 is held for maintenance and operations and is included in the working capital as shown in appendix 3. The remainder, $542,159, is held for noncarrier purposes.

Aids, gifts, grants, and donations.—The carrier reports that it has received no aids, gifts, grants, or donations, and none were found of record.

Final value.—After careful consideration of all facts herein contained, including appreciation, depreciation, going-concern value, working capital, and all other matters which appear to have a bearing upon the value reported, the value, for ratemaking purposes, as of December 31, 1960, of the property owned and used by the carrier for common carrier purposes is found to be $52,664,400.

The sum of $233,500 is included in the value above stated as owned and used on account of working capital, consisting of material and supplies and cash.

No other values or elements of value to which specific sums can now be ascribed are found to exist.

Appendixes.—Attached hereto and made a part hereof are appendixes 1, 2, and 3.

Appendix 1 gives a brief statement on the general location of the physical property along with a summary mileage statement. This appendix also contains an explanatory text on the physical characteristics of property and the classification of the cost of reproduction new and cost of reproduction new less depreciation, both set forth and classified in conformity with the Uniform System of Accounts for Pipe Line Companies.

Appendix 2 shows in detail the history and organization of the carrier, moneys received by reason of the issue of capital stock and other securities, the gross and net earnings, investment in carrier property, original cost to date of common carrier property, the general balance sheet statement, and other pertinent information.

Appendix 3 is a statement of the method for determining working capital.

Reference is made to appendix 4, *Ajax Pipe Line Corporation*, 50 Val. Rep. 1, which is hereby made a part hereof, for a statement of the methods employed and of the reasons for the differences between the various cost values reported.

The details respecting the figures here reported are on file in the records of the Commission. These details are referred to for greater particularity as to the matters herein stated.

An appropriate order will be entered.

APPENDIX I

MILEAGE AND GENERAL LOCATION OF PROPERTY

The mileage of trunk pipelines owned and used by the carrier was acquired by construction and is classified in the following table.

Classification	Trunklines—products		
	Line miles	Other lines	All lines
Wholly owned and used:			
In New Jersey	5.407	0.202	5.609
In Ohio	91.432	2.137	93.569
In Pennsylvania	349.677	13.601	363.278
Total	446.516	15.940	462.456

The trunk pipeline owned and used by the carrier for the transportation of refined petroleum products originates in the refinery area of Eagle Point, N. J., and extends in a westerly direction across the State of Pennsylvania to Aliquippa, Pa., and thence in a northwesterly direction to a terminal in Cleveland, Ohio.

PHYSICAL CHARACTERISTICS OF PROPERTY

Line pipe.—The steel line pipe used in the construction of the line was plain end, electric weld, and grade X-52. The diameter of the pipe varied as follows:

From—	To—	Diameter
		Inches
Eagle Point, N. J	Mechanicsburg, Pa	24
Mechanicsburg, Pa	Duncanville, Pa	20
Duncanville, Pa	Aliquippa, Pa	18
Aliquippa, Pa	Cleveland, Ohio	14

Line-pipe fittings.—Line-pipe fittings consist of valves, tees, ells, flanges, and other miscellaneous items.

Pipeline construction.—Pipeline construction includes clearing and grubbing the right-of-way; ditching and backfilling by machine; installing pipe, including hauling, unloading, stringing, lining-up, welding, lowering, and testing; installing casing under highway and railroad crossings; installing submarine river crossings; applying protective coating; installing fittings at stations, junctions, and terminals; installing cathodic protection; and other miscellaneous construction costs.

The terrain along the right-of-way varies considerably in surface features. The areas traversed by the pipeline vary from swamp and tidal flats to highly developed flat and rolling farmland; to suburban residential, commercial, and industrial areas; and to the crossing of the Allegheny mountain range in southern Pennsylvania.

The entire length of the pipeline was coated. Approximately 400 miles were coated with a primer; an enamel; and two outside wraps, one of fiber glass and the other of saturated felt. About 54 percent of this type of coating was applied in yard coating plants. The remaining 46 percent was applied by machine over the trench. Approximately 40 miles were yard coated with a somastic coating. An additional 6 miles were coated with either of the above type coatings plus a coating of concrete for use in crossing rivers, creeks, swamps, and tidal flat areas. All major river crossings were made by submarine method.

Buildings.—The buildings are either of brick and concrete block or prefabricated steel frame construction. Also included in the buildings account are sidewalks, roadways, grading and landscaping, sewers, culverts, fences, and other miscellaneous station improvements.

Pumping equipment.—Main line pumping units consist of United centrifugal pumps directly connected to General Electric motors.

Machine tools and machinery.—This account consists principally of cranes, hoists, and miscellaneous small tools.

Other station equipment.—Other station equipment includes service pipe and fittings, electrical equipment and wiring, meters, meter calibration tanks, small pumps and motors, injection units, oil and water sump units, strainer jet units, air compressors, prover tanks, skimmer tanks, product tanks, strainers,

instruments and gauges, fire fighting equipment, water wells, and other miscellaneous equipment.

Oil tanks.—The carrier owns 42 steel storage tanks that are distributed over its line in the States of Pennsylvania and Ohio. Twenty-three tanks are of the cone roof type with a capacity of 1,788,800 barrels. Nineteen tanks are of the floating or pontoon roof type with a capacity of 1,733,200 barrels. The total storage capacity of all tanks is 3,522,000 barrels.

Communication systems.—This account primarily includes microwave equipment and towers. A portion of the microwave system is jointly owned and used with the Atlantic Pipe Line Company and the Sinclair Pipe Line Company.

Office furniture and equipment.—Included with office furniture are typewriters, calculating machines, et cetera, located at its main office at Camp Hill, Pa., and at the various pump stations and terminals.

Vehicles and other work equipment.—This account includes portable work equipment and miscellaneous tools. The carrier does not own any vehicles.

Other property.—All overhead costs are included under other property.

ENGINEERING AND GENERAL EXPENDITURES

Engineering has been estimated at 1 1/2 percent on accounts 153 to 166, inclusive, but excluding allowance for general expenditures and interest.

General expenditures have been estimated at 1 1/2 percent on accounts 153 to 166, inclusive, and on allowance for engineering, but excluding allowance for interest.

Interest during construction has been estimated at the rate of 6 percent per annum for the construction period on accounts 153 to 166, inclusive, and on allowance for engineering and general expenditures. It has been estimated that a period of 8 months would be required to construct and place in operation the entire property.

Sales or use tax has been estimated at 1 1/2 percent on accounts 153 to 166, inclusive, for the State of Ohio.

COST OF REPRODUCTION

Cost of reproduction new and cost of reproduction new less depreciation owned and used including jointly owned and used

Primary account	Classes	State						All States	
		New Jersey		Ohio		Pennsylvania			
		Cost of reproduction new	Cost of reproduction new less depreciation	Cost of reproduction new	Cost of reproduction new less depreciation	Cost of reproduction new	Cost of reproduction new less depreciation	Cost of reproduction new	Cost of reproduction new less depreciation
	Trunklines								
153	Line pipe	$264,417	$253,840	$1,959,773	$1,881,383	$12,832,526	$12,319,226	$15,056,716	$14,454,449
154	Line-pipe fittings	83,067	78,912	189,683	180,199	2,318,413	2,202,492	2,591,163	2,461,603
155	Pipeline construction	1,295,430	1,230,658	2,227,051	2,115,699	13,128,883	12,472,439	16,651,364	15,818,796
156	Buildings	11,936	11,576	96,561	92,542	1,378,792	1,313,801	1,487,289	1,417,919
158	Pumping equipment	---	---	---	---	567,317	527,402	567,317	527,402
159	Machine tools and machinery	1,299	1,208	3,854	3,584	35,286	32,816	40,439	37,608
160	Other station equipment	75,233	69,697	228,338	211,820	3,011,626	2,798,021	3,315,197	3,079,538
161	Oil tanks	---	---	684,899	650,328	4,195,600	3,985,820	4,880,499	4,636,148
163	Communication systems	5,388	4,526	17,817	14,966	626,827	507,253	650,032	526,745
164	Office furniture and equipment	---	---	445	414	60,562	56,322	61,007	56,736
165	Vehicles and other work equipment	---	---	---	---	93,044	83,739	93,044	83,739
166	Other property and overheads	115,118	109,394	444,989	423,804	2,535,245	2,406,024	3,095,352	2,939,222
	Total	1,851,888	1,759,811	5,853,410	5,574,739	40,784,121	38,705,355	48,489,419	46,039,905

APPENDIX 2

INTRODUCTORY

The carrier, originally incorporated as the Laurel Pipe Line Company (Ohio), is a corporation of the State of Ohio, having its corporate office at Cleveland, Ohio, and its general office at Camp Hill, Pa. It is jointly controlled by the Gulf Oil Corporation, Sinclair Pipe Line Company, and Texaco, Incorporated, through ownership of the outstanding capital stock.

The records reviewed do not indicate that the carrier, itself, controls any other common carrier corporation.

The property of the carrier has been operated by its own organization during its entire life.

CORPORATE HISTORY

The carrier was incorporated March 18, 1957, under the General Corporation Act of the State of Ohio as the Laurel Pipe Line Company (Ohio) to acquire, construct, maintain, and operate, on its own behalf or for hire, tubing, pipes, conduits, and other facilities for transporting and storing of petroleum, oil, gas, and any and all refinements and byproducts thereof and similar products, and for other purposes.

The name was changed to Laurel Pipe Line Company effective January 1, 1960, under articles of merger of Laurel Pipe Line Company into Laurel Pipe Line Company (Ohio).

On January 1, 1960, the Laurel Pipe Line Company, which had been incorporated March 21, 1957, under the laws of the Commonwealth of Pennsylvania was merged into the Laurel Pipe Line Company (Ohio). Under the terms of the merger agreement all outstanding shares of Laurel of Pennsylvania were canceled; each share of common stock of Laurel of Ohio continued to be one share of common stock of the surviving corporation; and that for accounting purposes, there would be a pooling of interest and a consolidation of accounts of the constituent corporations.

HISTORY OF CORPORATE FINANCING

Syndicating, banking, and other financial arrangements.—The records of the carrier do not indicate any syndicating arrangements.

Capital stock.—The authorized capital stock of the carrier is $10,000,000, par value, shares $1,000 each, classified as common, of which $5,555,000 par value has been issued for cash, and is actually outstanding.

Funded debt.—The carrier has issued $50,000,000 of 5 percent secured notes due serially to July 1, 1985, as evidenced by indenture of trust to the Bankers Trust Company, Trustee. Notes are secured by a throughput agreement dated September 19, 1957, between the carrier and Gulf Oil Corporation, Sinclair Refining Company, and Texaco, Incorporated. The carrier incurred discount and expenses of $409,331 in connection with the issuance of the 5 percent secured notes.

RESULTS OF CORPORATE OPERATIONS

Income statement.— A condensed summary of the income accounts for the year 1960 and the period February 1, 1959, to date of valuation, follows:

	Year	Period
Operating income:		
Operating revenues	$5,900,464	$6,139,111
Operating expenses	4,577,848	5,054,380
Net revenue from operation	1,322,616	1,084,731
Pipeline taxes-other taxes	243,213	336,735
Total operating income	1,079,403	747,996
Other income:		
Interest income	110,056	2,012,475
Miscellaneous income	1,465	1,465
Total other income	111,521	2,013,940
Total income	1,190,924	2,761,936
Miscellaneous deductions from total income:		
Miscellaneous income charges	26,740	27,647
Bad debts	358	358
Total miscellaneous deductions	27,098	28,005
Income available for fixed charges	1,163,826	2,733,931
Fixed charges:		
Interest on long-term debt	2,500,000	4,791,250
Amortization of discount on funded debt	15,047	28,840
Total fixed charges	2,515,047	4,820,090
Income balance	*1,351,221	*2,086,159

*Deficit.

For the period February 1, 1959, to date of valuation, the aggregate operating expenses have been 82.33 percent of the operating revenues.

Surplus statement.— The balance in the earned surplus account on date of valuation, amounting to a deficit of $2,781,517 represents the debit balance of $2,086,159 transferred from income and the debit balance of $695,358 transferred over in the pooling of interest referred to in the chapter on corporate history.

INVESTMENT IN CARRIER PROPERTY

The investment of the carrier in carrier property, including land and rights-of-way, on date of valuation, is stated in its books as $52,458,648, all recorded money outlay, of which the following is a general analysis:

For property acquired in the pooling of interest from the predecessor company, at its cost, and by construction	$52,423,304
Construction work in progress	19,249

Acquisition adjustment, representing the difference between original cost at date of dedication to public use and purchase price of an undivided interest in jointly owned microwave system	$16,095
Total recorded on date of valuation	52,458,648

There is included in the foregoing analysis $310,910 representing the original cost of lands classified herein as noncarrier, which under the classification of accounts would be transferable to the miscellaneous physical property account. The carrier has recorded in its investment in carrier property account a net charge of $461, representing certain delayed debits and credits that are applicable to property owned as of that date.

If the investment in carrier property account were adjusted to give effect as of December 31, 1960, to the $461, recorded subsequently, and the $310,910 properly includible in the miscellaneous property account and if all of the items then contained therein were taken at their recorded values, the investment in carrier property account as of December 31, 1960, would be decreased by $310,449, or to $52,148,199.

ORIGINAL COST TO DATE

Original cost distributed by primary accounts and States, owned and used including jointly owned and used

Primary account	Classes	State			Unallocated	Total
		New Jersey	Ohio	Pennsylvania		
	Trunklines					
153	Line pipe	$243,170	$1,835,365	$12,125,003	----------	$14,203,538
154	Line-pipe fittings	84,220	192,398	2,350,794	----------	2,627,412
155	Pipeline construction	1,492,586	3,065,055	14,389,419	----------	18,947,060
156	Buildings	12,386	98,792	1,412,704	----------	1,523,882
158	Pumping equipment	----------	----------	601,195	----------	601,195
159	Machine tools and machinery	1,402	4,155	36,111	----------	41,668
160	Other station equipment	80,050	243,744	3,199,118	----------	3,522,912
161	Oil tanks	----------	842,928	5,011,885	----------	5,854,813
163	Communication systems	5,480	18,118	621,978	----------	645,576
164	Office furniture and equipment	----------	457	62,321	----------	62,778
165	Vehicles and other work equipment	----------	----------	96,681	----------	96,681
	Cost of organization	----------	----------	----------	$27,579	27,579
	Total (exclusive of land and rights-of-way)	1,919,294	6,301,012	39,907,209	27,579	48,155,094
151	Land	----------	53,320	293,000	----------	346,320
152	Rights-of-way	40,489	752,378	2,846,153	----------	3,639,020
	Total (land and rights-of-way)	40,489	805,698	3,139,153	----------	3,985,340
	Total (including land and rights-of-way)	1,959,783	7,106,710	43,046,362	27,579	52,140,434

Predecessor Company
Laurel Pipe Line Company

INTRODUCTORY

The Laurel Pipe Line Company was incorporated under the laws of the Commonwealth of Pennsylvania, March 21, 1957.

The Laurel Pipe Line Company was controlled by the Laurel Pipe Line Company (Ohio) on January 1, 1960, the effective date of the merger.

The pipeline property of this company was operated in common with the Laurel Pipe Line Company (Ohio), from the dates the various sections of line were completed to date of merger.

HISTORY OF CORPORATE FINANCING

Syndicating, banking, and other financial arrangements.—The records reviewed do not indicate any syndicating arrangements were made in connection with the issuance of the securities of this carrier.

Capital stock.— The authorized capital stock of the Laurel Pipe Line Company, was $500, par value, divided into shares of $10, par value, each, classified as common stock, all of which were issued to the Laurel Pipe Line Company (Ohio) for cash.

Nonnegotiable debt to affiliated companies.—As of date of merger, this carrier had incurred nonnegotiable debt to the Laurel Pipe Line Company (Ohio), its controlling company, aggregating $44,448,951. The considerations recorded as passed in incurring this debt were cash $42,675,000 and interest on notes payable $1,773,951.

Surplus statement.—The balance in the earned surplus account on date of merger, amounting to a deficit of $695,358, represents the debit balance transferred from income.

INVESTMENT IN CARRIER PROPERTY

The investment of this company in carrier property, including land and rights-of-way as of date of merger, was stated in its books as $45,403,419, all recorded money outlay.

RESULTS OF CORPORATE OPERATIONS

The results of corporate operations, as shown in the income and surplus accounts of the Laurel Pipe Line Company (Pennsylvania Corporation) are given below.

Income statement.— A condensed summary of the income accounts for the period February 1, 1959, to December 31, 1959, follows:

Operating income:	
Operating revenues	$4,433,355
Operating expenses	3,290,460
Net revenue from operations	1,142,895
Pipeline taxes-other taxes	41,408
Pipeline operating income	1,101,487

Miscellaneous deductions from total income:	
Miscellaneous income charges	$1,596
Income available for fixed charges	1,099,891
Fixed charges-interest on long-term debt	1,795,249
Income balance	*695,358

*Deficit.

GENERAL BALANCE SHEET

The general balance sheet statement as of December 31, 1960, follows.

ASSET SIDE

Investment:	
Investment in carrier property	$52,458,648
Cost of organization	29,098
Other investments	2,071
Total	52,489,817
Current assets:	
Cash	159,826
Demand loans and deposits	3,374,587
Special deposits	531
Revenue receivable	561,049
Accounts receivable	159,519
Material and supplies	576,734
Interest and dividends receivable	11,723
Total	4,843,969
Deferred debits:	
Working fund advances	740
Rents and insurance premiums paid in advance	49,826
Discount on funded debt	368,656
Other deferred debits	150,527
Total	569,749
Grand total	57,903,535

LIABILITY SIDE

Stock-capital stock	5,555,000
Long-term debt-funded debt unmatured	50,000,000
Current liabilities:	
Joint revenue payable	2,814
Wages payable	17,468
Accounts payable	44,106
Unmatured interest accrued	1,250,000
Taxes accrued	166,423
Other current liabilities	93,565
Total	1,574,376

Deferred credits and reserves:	
Liability for provident funds	$11,703
Accrued depreciation-carrier property	3.543,373
Total	3,555,076
Surplus:	
Unearned surplus	600
Earned surplus	*2,781,517
Total	*2,780,917
Grand total	57,903,535

*Deficit.

APPENDIX 3

ANALYSIS OF METHOD FOR DETERMINING WORKING CAPITAL

Working capital has been determined in accordance with the principles described in *Northhampton & B. R. Co.*, 149 I.C.C. 244, 263-272, under the method applied in *Muskegon Ry. & Nav.Co.*, 45 Val. Rep. 797-812, and other valuation cases. The basic data for such information contained herein were obtained from the carrier's annual report to the Commission for the year ended December 31, 1960, and from additional information supplied in response to a questionnaire sent to the carrier.

Material and supplies.– The balance in material and supplies account on date of valuation is $576,734. Allowing for such portion as is held for additions and betterments to the property and for purposes other than common carrier operations, the working capital in the form of material and supplies is found to be about $34,600.

Cash.–A consideration of operating revenues, operating expenses, and pipeline taxes, for the year ended on date of valuation, and balances in current operating asset and current operating liability accounts, and the account for taxes accrued and unpaid as of date of valuation, indicates that the cash earned in connection with service performed was received in advance of the payments to be made on account of performing such service, but not sufficiently so to provide a safe buffer fund of reserve cash on hand to take care of variations in the relation between cumulated receipts and cumulated payments due to seasonal or casual influences on traffic or expenses. Therefore, the invested cash working capital used is found to be about $198,900.

Laurel Pipe Line Company

FERC Cases

15 F.E.R.C. P62,210B

Federal Energy Regulatory Commission - Office Director

May 20, 1981

Docket No. SP81-13-000

Reporter

15 F.E.R.C. P62,210B * | 1981 FERC LEXIS 426 **

Laurel Pipe Line Company

Core Terms

tariff, notice, special permit, commerce, notation, clerical error

Action

[**1]

Order Granting Special Permission Under Section 6 of the Interstate Commerce Act

Panel: Before Oil Pipeline Board Members: Robert E. Scarbrough, Chairman; Leon Wahrhaftig, and Robert O. Foerster III.

Opinion

[*63367]

On May 13, 1981, Laurel Pipe Line Company (Laurel) filed a Special Permission Application requesting permission under Section 6 of the Interstate Commerce Act and Rule 58, Tariff Circular No. 20 (49 CFR 1300.58(a)) to file supplements to correct errors in FERC Tariff Nos. 116 through 120, 125 and 126 on short notice. An effective date of June 1, 1981, is requested for the supplements. Section 6(3) of the Interstate Commerce Act requires common carriers to issue changes in their tariffs on thirty days' notice to the Commission and to the public. That provision also permits the Commission to **[*63368]** allow changes upon less than thirty days' notice for good cause shown.

Laurel contends that its filing of April 29, 1981, proposed to become effective June 1, 1981, contains clerical errors. Laurel maintains that rates previously contained in FERC Tariff Nos. 116 through 120, 125 and 126, recently filed, omitted the notation referencing the respective tariffs that [**2] would show where the applicable rates may be found or what rates thereafter would apply. Laurel now proposes to file on five(5) days' notice, Supplement No. 1 to each tariff to correct the clerical error.

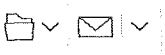
The failure to include a notation referencing the applicable tariffs is in violation of 49 CFR 1300.8(e), and is grounds for rejection. However, the Board finds that good cause exists for granting special permission under Section 6(3) of the Interstate Commerce Act, and that Laurel may publish its corrected tariffs on five days' notice.
The Board orders:

(A) Laurel is granted special permission under Section 6 of the Interstate Commerce Act to file its corrected tariffs (Supplement No. 1 to FERC Tariff Nos. 116 through 120, 125 and 126) on five days' notice, to become effective June 1, 1981.

(B) The permission granted above is subject to the conditions set forth below:

(1) Except as otherwise provided, this permission does not modify any outstanding orders of the Commission nor waive any of its rules relative to the construction and filing of rates; and

(2) Rates filed pursuant to this permission shall show the following notation: "Issued on five days' notice pursuant to FERC [**3] Special Permission No. SP81-13-000."



1979 FERC LEXIS 1631

Copy Citation

Federal Energy Regulatory Commission - Office Director

February 26, 1979

Valuation Docket No. PV-1403 (1977 Report)

Reporter

1979 FERC LEXIS 1631 * | 6 F.E.R.C. P62,071

Laurel Pipe Line Company

Core Terms

carrier, depreciate, valuation, common carrier, reproduce, protest, commerce, oil pipeline, trunk line, petroleum product, working capital, property value, original cost, single sum, classification, rights-of-way, barrel, refine, gulf

Action

[*1]

Valuation of the Owned and Used Properties of Laurel Pipe Line Company Used for Common Carrier Purposes as of December 31, 1977

Panel: Before Oil Pipeline Board Members: Leon J. Slavin, Kent H. Crowther and Robert O. Foerster III

Opinion

Jurisdiction over oil pipelines, as it relates to the establishment of valuations for pipelines, was transferred from the Interstate Commerce Commission to the Federal Energy Regulatory Commission (FERC), pursuant to Sections 306 and 402 of the Department of Energy Organization Act, 42 U.S.C. §§ 7155 and 7172, and Executive Order No. 12009, 42 Fed. Reg. 46267 (September 15, 1977).

The FERC, by order issued February 10, 1978, *FERC Statutes and Regulations* P30,007, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act. The Oil Pipeline Board takes this action pursuant to the above mentioned authorities.

Introductory - The Laurel Pipe Line Company, hereinafter called the carrier, was incorporated as the Laurel Pipe Line Company (Ohio) on March 18, 1957 under **[*2]** the General Corporation Act of the State of Ohio. The carrier's corporate office is located at Cleveland, Ohio, and its general office is located at Camp Hill, Pennsylvania. The carrier is controlled through ownership of the outstanding capital stock by BP Oil Corporation, Gulf Oil Corporation and Texaco Incorporated. The records do not indicate that the carrier, itself, controls any common carrier corporation.

Its property is operated by the Gulf Refining Company under an operating agreement dated January 1, 1965.

Additional data regarding corporate history, organization, operation, financial, other detail and elements of value will be found in the carrier's basic valuation report as of December 31, 1960, reported in 324 I.C.C. 633.

Location and general description of property and operations. - The carrier owns and operates trunklines in the States of New Jersey, Ohio and Pennsylvania used for the transportation of refined petroleum products. Its main trunkline extends from Eagle Point, New Jersey to Cleveland, ohio. Wholly owned and used trunklines aggregate 467.834 miles, including 451.326 miles of main lines and 16.508 miles of other lines.

During **[*3]** the year the carrier received into its system 51,105,596 barrels and delivered out 50,964,735 barrels of refined petroleum products.

Elements of value. - As of December 31, 1977, the elements of value of property owned and used by the carrier in common carrier service are as follows:

		Cost of reproduction except land and rights	
			Less
Classification	State	New	depreciation
Owned and used	N.J.	$3,869,686	$1,777,754
	Ohio	12,623,680	6,399,717
	Pa.	86,007,122	43,656,010
	Unal.		
Total		102,500,488	51,833,481

Classification	State	Original cost, except land and rights	Value of land	Value of rights-of way
Owned and used	N.J.	$1,911,381		$17,903
	Ohio	6,494,121	$34,870	355,425
	Pa.	42,440,022	191,032	1,329,705
	Unal.	27,579		
Total		50,873,103	225,902	1,703,033

Working capital is $621,200.

The original costs of land and rights-of-way owned and used by the carrier on December 31, 1977, are $348,008 **[*4]** and $3,704,017, respectively.

Reference is made to Appendix 4, *Ajax Pipe Line Corporation,* 50 Val. Rep. 1, which is hereby made a part hereof, for a statement of the methods generally employed and of the reasons for the differences between the various cost values reported.

In computing a single sum value, the Commission places primary emphasis on two elements of cost, namely cost of reproduction new and original cost to date. These two elements are weighted together based on each one's percentage to the sum of the two. The weighted figure is then depreciated to reflect the value of the property in its present condition by applying a condition percent factor derived from a ratio of cost of reproduction new less depreciation value to the cost of reproduction new value. The resultant depreciated value is increased by 6 percent to reflect an amount for going concern. To this increased value an amount is added for the present value of land, rights-of-way and working capital. This final figure is the total single sum value of the carrier's properties that are used and useful for common carrier purposes.

The details respecting the figures here reported are on file in the **[*5]** valuation records of the Commission. These details are referred to for greater particularity as to the matters herein stated.
The Board finds:

1. After careful consideration of all facts herein contained, including appreciation, depreciation, going-concern value, and all other matters which appear to have a bearing upon the values here reported, the values, pursuant to Section 19a of the Interstate Commerce Act, as of December 31, 1977, of the property owned and used by the carrier for common carrier purposes is $48,314,500.

2. No other values or elements of value to which specific sums can now be ascribed are found to exist.
The Board orders:

1. The property owned and used by the carrier as of December 31, 1977, is hereby valued at $48,314,500. On or before 30 days from the date of service of this order, any person entitled to do so under Section 19a of the Interstate Commerce Act may file with the Secretary of the FERC written protest concerning the finding in the said report, such protest to specify in detail the findings concerning which protest is made and the reasons for such protest.

2. If no protest is filed within the period specified and if no **[*6]** petition for leave to intervene has been filed as provided by the notice published by the Federal Energy Regulatory Commission on October 12, 1978, 43 Fed. Reg. 47000, and the proceeding is not reopened for any other reason, these findings will be the findings of the FERC, and the valuation as found will be final.

Footnotes

1980 FERC LEXIS 2176

Federal Energy Regulatory Commission - Office Director

January 17, 1980

Valuation Docket No. PV-1403 (1978 Report)

Reporter

1980 FERC LEXIS 2176 * | 10 F.E.R.C. P62,029

Laurel Pipe Line Company

Core Terms

carrier, depreciate, valuation, common carrier, reproduce, protest, commerce, oil pipeline, trunk line, petroleum product, working capital, property value, original cost, single sum, rights-of-way, register, barrel, refine, gulf

Action

[*1]

Valuation of the Owned and Used Properties of Laurel Pipe Line Company Used for Common Carrier Purposes as of December 31, 1978

Panel: Before Oil Pipeline Board Members: Andrew W. Battese, Chairman; Robert E. Scarbrough, Francis J. Connor and Morris R. Fitzgerald.

Opinion

Jurisdiction over oil pipelines, as it relates to the establishment of valuations for pipelines, was transferred from the Interstate Commerce Commission to the Federal Energy Regulatory Commission (FERC), pursuant to Sections 306 and 402 of the Department of Energy Organization Act, 42 U.S.C. §§ 7155 and 7172, and Executive Order No. 12009, 42 Federal Register 46267 (September 15, 1977).

The FERC, by order issued February 10, 1978, *FERC Statutes and Regulations* P30,007, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act. The Oil Pipeline Board takes this action pursuant to the above mentioned authorities.

Introductory. -- The Laurel Pipe Line Company, hereinafter called the carrier, was incorporated as the Laurel **[*2]** Pipe Line Company (Ohio) on March 18, 1957, under the General Corporation Act of the State of Ohio. The carrier's corporate office is located at Cleveland, Ohio, and its general office is located at Camp Hill, Pennsylvania. The carrier is controlled through ownership of the outstanding capital stock by BP Oil Incorporated, Gulf Oil Corporation and Texaco Incorporated. The records do not indicate that the carrier, itself, controls any common carrier corporation.

Its property is operated by the Gulf Refining Company under an operating agreement dated January 1, 1965.

Additional data regarding corporate history, organization, operation, financial, other detail and elements of value will be found in the carrier's basic valuation report as of December 31, 1960, reported in 324 I.C.C. 633.

Location and general description of property and operations. -- The carrier owns and operates trunklines in the States of New Jersey, Ohio and Pennsylvania used for the transportation of refined petroleum products. Its main trunkline extends from Eagle Point, New Jersey to Cleveland, Ohio. Wholly owned and used trunklines aggregate 467.834 miles, including 451.326 miles of **[*3]** main lines and 16.508 miles of other lines.

During the year the carrier received into its system 46,662,691 barrels and delivered out 46,607,928 barrels of refined petroleum products.

Elements of value. -- As of December 31, 1978, the elements of value of property owned and used by the carrier in common carrier service are as follows:

Classification	State	Cost of reproduction except land and rights Less New depreciation		Original cost ex-cept land and rights	Value of land	Value of rights-of-way
Owned and used	N.J.	$ 4,244,072	$ 1,910,639	$ 1,911,861	$ -	$ 17,496
	Ohio	14,059,549	6,920,041	6,549,800	34,870	339,972
	Pa.	95,423,594	46,897,104	42,484,982	191,032	1,271,892
	Unal.	-	-	27,579	-	-
Total	-	113,727,215	55,727,784	50,974,222	225,902	1,629,360

Working capital is $332,700.

The original costs of land and rights-of-way owned and used by the carrier on December 31, 1978, are $348,008 and $3,704,017, respectively.

Reference is made **[*4]** to Appendix 4, *Ajax Pipe Line Corporation,* 50 Val. Rep. 1, for a statement of the methods generally employed and of the reasons for the differences between the various cost values reported.

In computing a single sum value, the Commission places primary emphasis on two elements of cost, namely cost of reproduction new and original cost to date. These two elements are weighted together based on each one's percentage to the sum of the two. The weighted figure is then depreciated to reflect the value of the property in its present condition by applying a condition percent factor derived from a ratio of cost of reproduction new less depreciation value to the cost of reproduction new value. The resultant depreciated value is increased by six percent to reflect an amount for going concern. To this increased value an amount is added for the present value of land, rights-of-way and working capital. The final figure is the total single sum value of the carrier's properties that are used and useful for common carrier purposes.

The details respecting the figures here reported are on file in the valuation records of the Commission. These details are referred to for greater particularity **[*5]** as to the matters herein stated.

The Boards finds:

1. After careful consideration of all facts herein contained, including appreciation, depreciation, going-concern value, and all other matters which appear to have a bearing upon the values here reported, the value, pursuant to Section 19a of the Interstate Commerce Act, as of December 31, 1978, of the property owned and used by the carrier for common carrier purposes is $51,171,400.

2. No other values or elements of value to which specific sums can now be ascribed are found to exist.

The Board orders:

I. The property owned and used by the carrier as of December 31, 1978, is hereby valued at $51,171,400. On or before 30 days from the date of service of this order, any person entitled to do so under Section 19a of the Interstate Commerce Act may file with the Secretary of the FERC written protest concerning the finding in the said report, such protest to specify in detail the findings concerning which protest is made and the reasons for such protest.

2. If no protest is filed within the period specified and if no petition for leave to intervene has been filed as provided by the notice published by the Federal **[*6]** Energy Regulatory Commission on September 18, 1979, 44 Federal Register 54101 and the proceeding is not reopened for any reason, these findings will be the findings of the FERC, and the valuation as found will be final.

Footnotes

[*1] This amount represents the balance of cost of reproduction new after deducting physical and functional depreciation.

15 F.E.R.C. P62,157

Federal Energy Regulatory Commission - Office Director

May 08, 1981

Valuation Docket No. PV--1403-000 (1979 Report)

Reporter

15 F.E.R.C. P62,157 * | 1981 FERC LEXIS 808 **

Laurel Pipe Line Company

Core Terms

carrier, common carrier, depreciate, reproduce, protest, original cost, trunk line, valuation, commerce, r-o-w, petroleum product, working capital, single sum, rights-of-way, pipeline, refine, gulf

Action

[**1]

Valuation of the Properties of Laurel Pipe Line Company Owned and Used for Common Carrier Purposes as of December 31, 1979

Panel: Before Oil Pipeline Board Members: Robert E. Scarbrough, Chairman; Robert O. Foerster III, Francis J. Connor, and Morris R. Fitzgerald.

Opinion

[*63260]

Pursuant to the authority of the Interstate Commerce Act, particularly Section 19a, and the Department of Energy Organization Act, the Oil Pipeline Board takes the following action.

Introduction. The Laurel Pipe Line Company, hereinafter called the carrier, was incorporated as the Laurel Pipe Line Company (Ohio) on March 18, 1957, under the General Corporation Act of the State of Ohio. The carrier's corporate office is located in Cleveland, Ohio and its general office is located in Camp Hill, Pennsylvania. The carrier is controlled through ownership of the outstanding capital stock by BP Oil Incorporated, Gulf Oil Corporation and Texaco Incorporated. The records do not indicatethat the carrier, itself, controls any common carrier pipeline.

The carrier's common carrier properties are managed by the Gulf Refining Company under an operating agreement dated January 1, 1965.

Additional data regarding [**2] corporate history, organization, operation, financial matters, other details and elements of value will be found in the carrier's December 31, 1960 basicvaluation report, 324 I.C.C. 633.

Locations and general descriptions of properties and operations. The carrier owns trunklines in the States of New Jersey, Ohio and Pennsylvania used for the transportation of refined petroleum products. Its main trunkline is located between Eagle Point, New Jersey and Cleveland, Ohio. Wholly owned and used trunklines aggregate 468,815 miles, including 452.307 miles of main lines and 16.508 miles of other lines.

During the year 1979, the carrier received 41,966,219 and delivered 42,454,612 barrels of refined petroleum products.

Elements of value. As of December 31, 1979, the elements of value of properties owned and used by the carrier in common carrier service are:

		Cost of reproduction				
		*2except land and r-o-w n**	Original			
Classification	States	New	Less n* depreciation	cost ex-cept land and r-o-w n**	Value of land	Value of r-o-w n**
Owned and used	N.J.	$ 4,581,133	$ 1,977,697	$ 1,913,091	$ --	16,682
	Ohio	15,117,387	7,280,401	6,581,908	34,870	332,381
	Pa.	102,652,797	49,255,510	42,819,781	191,032	1,248,250
	Unal.	--	--	27,579	--	--
Total	--	$122,351,317	$58,513,608	$511,342,359	$225,902	$1,597,313

[**3]

[*63261]

Working capital is $711,000.

The original costs of land and rights-of-way owned and used by the carrier on December 31, 1979, are $348,008 and $3,716,575, respectively.

Appendix 4, Ajax Pipe Line Corporation, 50 Valuation Report 1, delineates the methods generally employed and the reasons for the difference between the various cost values reported.

The Commission places primary emphasis on three elements of cost in computing a single sum value, namely cost of reproduction new, cost of reproduction new less depreciation and original cost to date. The cost of reproduction new and original cost to date are weighted together based on each one's percentage to the sum of the two. This weighted figure is then depreciated by applying the ratio of cost of reproduction new less depreciation value to the cost of reproduction new value. The resultant depreciated value is increased by six percent to reflect an amount for going concern. To this increased value amounts are added for the **[*63262]** working capital and for [**4] the present values of land and rights-of-way. This final figure is the total single sum value of the carrier's properties that are used and useful for common carrier purposes. More detailed figures are on file for public review in the valuation records of the Commission.
The Board finds:

1. After careful consideration of all facts herein contained, including appreciation, depreciation, going-concern value, and all other matters which appear to have a bearing upon the values here reported, the value, pursuant to Section 19a of the Interstate Commerce Act, as of December 31, 1979, of the properties owned and used by the carrier for common carrier purposes is $53,918,000.

2. There are no other values or elements of value to which specific sums can be assigned.
The Board orders:

1. The properties owned and used by the carrier as of December 31, 1979, are hereby valued at $53,918,000. On or before 30 days from the date of service of this order, any person entitled to do so under Section 19a of the Interstate Commerce Act may file with the Secretary of the Federal Energy Regulatory Commission (FERC) written protest concerning this valuation, such protest to specify in detail the findings [**5] concerning which protest is made and the reasonsfor such protest.

2. If no protest is filed within the period specified and if no petition for leave to intervene has been filed as provided by the notice published by the FERC on September 2, 1980, 45 Federal Register 58183, and the proceeding is not reopened for any other reason, these findings will be the findings of the FERC, and the valuation as found will be final.

Laurel Pipe Line Company

Tariff Issued: October 29, 1992

Effective: October 20, 1992

Supplement No. 1 To:

F.E.R.C. No. 132*
F.E.R.C. No. 171*
F.E.R.C. No. 182*

*(Laurel Pipe Line Company series)

LAUREL PIPE LINE COMPANY, L.P.

ADOPTION SUPPLEMENT

Effective October 20, 1992, the tariffs enumerated above became the tariffs of Laurel Pipe Line Company, L.P., as per its Adoption Notice F.E.R.C. No. 1.

Issued in Compliance with 18 CFR 341.9(i)

ISSUED: OCTOBER 29, 1992 EFFECTIVE: OCTOBER 20, 1992

The provisions published herein will, if effective, not result in an effect on the quality of the human environment.

Issued by
C. Richard Wilson, President
Buckeye Pipe Line Company
General Partner of
Laurel Pipe Line Company, L.P.
P.O. Box 368
Emmaus, PA 18049

Compiled by
Karen A. Hite
Manager, Planning & Analysis
Buckeye Pipe Line Company
General Partner of
Laurel Pipe Line Company, L.P.
P.O. Box 368
Emmaus, PA 18049
(215) 820-8300

FERC No.182
(Cancels FERC No. 181)

LAUREL PIPE LINE COMPANY

LOCAL AND PROPORTIONAL TARIFF

APPLYING ON

THE INTERSTATE TRANSPORTATION OF PETROLEUM PRODUCTS

FROM

POINT IN NEW JERSEY AND POINTS IN PENNSYLVANIA

TO

POINTS IN PENNSYLVANIA

Governed by the Rules and Regulations published in Laurel Pipe Line Company's Tariff FERC No. 171 supplements thereto and reissues thereof.

The provisions published herein will, if effective, not result in an effect on the quality of the human environment.

ISSUED: APRIL 17, 1991 **EFFECTIVE: MAY 18, 1991**

Issued by
▲ C. RICHARD WILSON
President
P.O. Box 368
Emmaus, PA 18049

[N] Compiled by
KAREN A. HITE
Manager, Planning & Analysis
P.O. Box 368
Emmaus, PA 18049
(215) 820-8300

Rates, in Cents Per Barrel of 42 United States Gallons, Applying on PETROLEUM PRODUCTS

TO PENNSYLVANIA		FROM			
DESTINATION	COUNTY	EAGLE POINT, NJ (Gloucester County)	BOOTH, PA (Delaware County)	CHELSEA JUNCTION, PA (Delaware County)	GIRARD POINT, PA (Philadelphia County)
Carlisle	Cumberland	46.2	40.0	42.2	--
Coraopolis	Allegheny	66.1	59.9	62.1	--
Delmont	Westmoreland	60.9	54.7	56.9	--
Duncansville	Blair	52.9	46.7	48.9	--
Eldorado	Blair	52.9	46.7	48.9	--
Greensburg	Westmoreland	61.9	55.7	57.9	--
Highspire	Dauphin	41.1	34.9	37.1	--
Mechanicsburg	Cumberland	42.4	36.2	38.4	--
Montello	Berks	35.6	29.4	31.6	32.9
[C] Moon	Allegheny	[C]	[C]	[C]	--
Mount Union	Huntingdon	48.8	42.6	44.8	--
Mundy's Corners	Cambria	55.8	49.6	51.8	--
New Kingstown	Cumberland	43.3	37.1	39.3	--
Pittsburgh	Allegheny	65.4	59.2	61.4	--
Schaefferstown	Lebanon	37.5	31.3	33.5	--
Sinking Spring	Berks	35.6	29.4	31.6	32.9
Uwchland	Chester	32.4	26.2	28.4	29.7
Vinco	Cambria	56.0	49.8	52.0	--

Segregated Batch Handling Fee

All Segregated Batches of less than 75,000 barrels shall be assessed a handling fee calculated as follows:
Handling Fee = (75,000 - T) X $.05
Where T is the number of barrels shipped in the Segregated Batch.

EXPLANATION OF REFERENCE MARKS:

[C] Denotes cancelled

[N] Denotes new.

▲ Denotes change in wording which result in neither increases nor reductions in charges.

FERC No. 181
(Cancels FERC No. 180)

LAUREL PIPE LINE COMPANY

LOCAL AND PROPORTIONAL TARIFF

APPLYING ON

THE INTERSTATE TRANSPORTATION

OF PETROLEUM PRODUCTS

FROM

POINT IN NEW JERSEY AND POINTS IN PENNSYLVANIA

TO

POINTS IN PENNSYLVANIA

Governed by the Rules and Regulations published in Laurel Pipe Line Company's Tariff FERC No. 171 supplements thereto and reissues thereof.

The provisions published herein will, if effective, not result in an effect on the quality of the human environment.

ISSUED: AUGUST 25, 1988 **EFFECTIVE: SEPTEMBER 24, 1988**

Issued by
C.R. WILSON, President
P.O. Box 368
Emmaus, PA 18049

Rates, in Cents Per Barrel of 42 United States Gallons, Applying on PETROLEUM PRODUCTS

TO PENNSYLVANIA		FROM			
Destination	County	EAGLE POINT, NJ (Gloucester County)	BOOTH, PA (Delaware County)	CHELSEA JUNCTION, PA (Delaware County)	GIRARD POINT, PA (Philadelphia County)
(N) Carlisle	Cumberland	(N) 46.2	(N) 40.0	(N) 42.2	
Coraopolis	Allegheny	66.1	59.9	62.1	
Delmont	Westmoreland	60.9	54.7	56.9	
Duncansville	Blair	52.9	46.7	48.9	
Eldorado	Blair	52.9	46.7	48.9	
Greensburg	Westmoreland	61.9	55.7	57.9	
Highspire	Dauphin	41.1	34.9	37.1	
Mechanicsburg	Cumberland	42.4	36.2	38.4	
Montello	Berks	35.6	29.4	31.6	32.9
Moon	Allegheny	66.2	60.0	62.2	
Mount Union	Huntingdon	48.8	42.6	44.8	
Mundy's Corners	Cambria	55.8	49.6	51.8	
New Kingstown	Cumberland	43.3	37.1	39.3	
Pittsburgh	Allegheny	65.4	59.2	61.4	
Schaefferstown	Lebanon	37.5	31.3	33.5	
Sinking Spring	Berks	35.6	29.4	31.6	32.9
Uwchland	Chester	32.4	26.2	28.4	29.7
Vinco	Cambria	56.0	49.8	52.0	

Segregated Batch Handling Fee

All Segregated Batches of less than 75,000 barrels shall be assessed a handling fee calculated as follows:

Handling Fee = (75,000 - T) × $.05

Where T is the number of barrels shipped in the Segregated Batch.

EXPLANATION OF REFERENCE MARKS:

(N)Denotes new.

FERC No. 180
(Cancels FERC Nos. 172 & 173 & 178 & 179)

LAUREL PIPE LINE COMPANY

LOCAL AND PROPORTIONAL TARIFF

APPLYING ON

THE INTERSTATE TRANSPORTATION

OF PETROLEUM PRODUCTS

FROM

POINT IN NEW JERSEY AND POINTS IN PENNSYLVANIA

TO

POINTS IN PENNSYLVANIA

Governed by the Rules and Regulations published in Laurel Pipe Line Company's Tariff FERC No. 171 supplements thereto and reissues thereof.

The provisions published herein will, if effective, not result in an effect on the quality of the human environment.

ISSUED: JANUARY 1, 1988 **EFFECTIVE: FEBRUARY 1, 1988**

Issued by
▲ C.R. WILSON, President
P.O. Box 368
Emmaus, PA 18049

Rates, in Cents Per Barrel of 42 United States Gallons, Applying on PETROLEUM PRODUCTS

TO PENNSYLVANIA		FROM			
Destination	County	EAGLE POINT, NJ (Gloucester County)	BOOTH, PA (Delaware County)	CHELSEA JUNCTION, PA (Delaware County)	GIRARD POINT, PA (Philadelphia County)
Coraopolis	Allegheny	66.1	59.9	(N) 62.1	
Delmont	Westmoreland	60.9	54.7	(N) 56.9	
Duncansville	Blair	52.9	46.7	(N) 48.9	
Eldorado	Blair	52.9	46.7	(N) 48.9	
Greensburg	Westmoreland	61.9	55.7	(N) 57.9	
Highspire	Dauphin	41.1	34.9	(N) 37.1	
Mechanicsburg	Cumberland	42.4	36.2	(N) 38.4	
Montello	Berks	35.6	29.4	31.6	32.9
Moon	Allegheny	66.2	60.0	(N) 62.2	
Mount Union	Huntingdon	48.8	42.6	(N) 44.8	
Mundy's Corners	Cambria	55.8	49.6	(N) 51.8	
New Kingstown	Cumberland	43.3	37.1	(N) 39.3	
Pittsburgh	Allegheny	65.4	59.2	(N) 61.4	
Schaefferstown	Lebanon	37.5	31.3	(N) 33.5	
Sinking Spring	Berks	35.6	29.4	31.6	32.9
Uwchland	Chester	32.4	26.2	28.4	29.7
Vinco	Cambria	56.0	49.8	(N) 52.0	

Segregated Batch Handling Fee

All Segregated Batches of less than 75,000 barrels shall be assessed a handling fee calculated as follows:

Handling Fee = (75,000 - T) × $.05

Where T is the number of barrels shipped in the Segregated Batch.

EXPLANATION OF REFERENCE MARKS:

▲ To denote changes in wording which result in neither increases nor reductions in charges.

(N) Denotes new.

Appendix E

L718-Laurel Pipe Line Company, L.P. (“LPL”)

Subject to an appropriate order from the Federal Energy Regulatory Commission regarding Docket No. OR18-22-000, LPL’s 718 segment from Eldorado (DG) delivering to Delmont (DM), Greensburg (GR) and Pittsburgh (CP, CO, & NA) will be taken out of service for what is estimated to be twenty-five days (25) commencing on August 20, 2018 for scheduled maintenance and a hydro test.

LPL cautions that the service outage period represents LPL’s current best estimate.

LPL will work closely with our shippers to minimize the impact of the downtime and will provide updates via T4 if the anticipated duration materially shifts throughout this service outage.

Please direct questions to:

Dennis Shimer, Scheduling Manager - 610-904-4407

Mark Johnson, Program Manager, Scheduling and Assurance - 610-904-4142

All media inquiries should be directed to Travis Windle at Travis.Windle@fticonsulting.com

Appendix F

L718-Laurel Pipe Line Company, L.P. ("LPL")

As a result of discussions with certain shippers following LPL's June 25th announcement regarding the scheduled maintenance and hydro test on LPL's 718 segment, LPL provides this update:

Subject to an appropriate order from the Federal Energy Regulatory Commission regarding Docket No. OR18-22-000, LPL's 718 segment from Eldorado (DG) delivering to Delmont (DM), Greensburg (GR) and Pittsburgh (CP, CO, & NA) will be taken out of service for what is estimated to be thirteen days (13) commencing on August 17, 2018 for scheduled maintenance and a hydro test.

This shortened service outage period is the result of the reduction of the scope of work being undertaken during this outage, including the deferring of certain activities, as well as the reallocation of resources to be utilized for the scheduled maintenance and hydro test. LPL's revised plans reflect LPL's efforts to better address shippers' concerns and interests.

LPL cautions that the service outage period represents LPL's current best estimate.

LPL will continue to work closely with our shippers to minimize the impact of the downtime and will provide updates via T4 if the anticipated duration materially shifts throughout this service outage.

Please direct questions to:

Dennis Shimer, Scheduling Manager - 610-904-4407

Mark Johnson, Program Manager, Scheduling and Assurance - 610-904-4142

All media inquiries should be directed to Travis Windle at Travis.Windle@fticonsulting.com

Appendix G

L718-Laurel Pipe Line Company, L.P. ("LPL")

As a result of resolution today of a regulatory proceeding and discussions with certain shippers following LPL's July 8th announcement regarding the scheduled maintenance and hydro test on LPL's 718 segment, LPL provides this update:

Subject to an appropriate order from the Federal Energy Regulatory Commission regarding Docket No. OR18-22-000, LPL's 718 segment from Eldorado (DG) delivering to Delmont (DM), Greensburg (GR) and Pittsburgh (CP, CO, & NA) will be taken out of service for what is estimated to be thirteen days (13) commencing on September 15, 2018 for scheduled maintenance and a hydro test.

Due to the revision of the maintenance and hydrotest schedule, LPL has reassessed capacity for Cycles 23 and 24. It has been determined that no allocation of pipeline capacity is required for Cycles 23 and 24. In a previous T4 bulletin sent July 20th, 2018, LPL stated that no allocation information regarding Cycles 23 and 24 would be forthcoming via T4. However, with this reassessment of capacity, the T4 system will now provide the standard notice that allocation of capacity is not required for Cycles 23 and 24. Additionally, the capacity allocation notices emailed on July 20th, 2018 directly from the Scheduling team for Cycles 23 and 24 are now considered null and void.

LPL cautions that the service outage period represents LPL's current best estimate.

LPL will continue to work closely with our shippers to minimize the impact of the downtime and will provide updates via T4 if the anticipated duration materially shifts throughout this service outage.

Please direct questions to:

Dennis Shimer, Scheduling Manager - 610-904-4407

Mark Johnson, Program Manager, Scheduling and Assurance - 610-904-4142

All media inquiries should be directed to Travis Windle at Travis.Windle@fticonsulting.com

Appendix H

L718-Laurel Pipe Line Company, L.P. ("LPL")

As a follow-up to LPL's July 23rd announcement regarding the scheduled maintenance and hydro test on LPL's 718 segment, LPL provides this update:

Subject to an appropriate order from the Federal Energy Regulatory Commission regarding Docket No. OR18-22-000, LPL's 718 segment from Eldorado (DG) delivering to Delmont (DM), Greensburg (GR) and Pittsburgh (CP, CO, & NA) will be taken out of service for what is estimated to be thirteen days (13) commencing on November 1, 2018 for scheduled maintenance and a hydro test.

Due to the revision of the maintenance and hydro test schedule, LPL has reassessed capacity for Cycles 26 and 27. LPL has determined that no allocation of pipeline capacity is required for Cycles 26 and 27. Additionally, the capacity allocation notices emailed on August 22nd, 2018 for Cycles 26 and 27 are now null and void.

Additionally, LPL requests that all Shippers review and reduce nominations on Cycle 25, to the extent that they no longer need their current nominated volumes. In accordance with FERC Tariff 436.8.0 Item 90 (G) and PaPUC Tariff 79 Item 90 (G), LPL will waive any charges related to such reductions under this subsection for Cycle 25.

LPL cautions that this service outage period represents LPL's current best estimate.

LPL will continue to work closely with our shippers to minimize the impact of the downtime and will provide updates via T4 if the anticipated duration materially shifts throughout this service outage.

Please direct questions to:

Dennis Shimer, Scheduling Manager - 610-904-4407

Mark Johnson, Program Manager, Scheduling and Assurance - 610-904-4142

All media inquiries should be directed to Travis Windle at Travis.Windle@fticonsulting.com

VERIFICATION

I, DAVID W. ARNOLD, certify that I am the VICE PRESIDENT, DOMESTIC PIPELINES, MAINLINE GP LLC, AS GENERAL PARTNER OF MAINLINE L.P., AS GENERAL PARTNER OF BUCKEYE PIPE LINE COMPANY, L.P., and that in this capacity I am authorized to, and do make this Verification on their behalf, that the facts set forth in the foregoing document are true and correct to the best of my knowledge, information and belief, and that BUCKEYE PIPE LINE COMPANY, L.P. expects to be able to prove the same at any hearing that may be held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 24 SEPTEMBER 2018

David W. Arnold
Vice President, Domestic Pipelines
Buckeye Pipe Line Company, L.P.
By: MainLine L.P., its general partner
By: MainLine GP LLC, its general partner