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October 12, 2018

**VIA E-FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

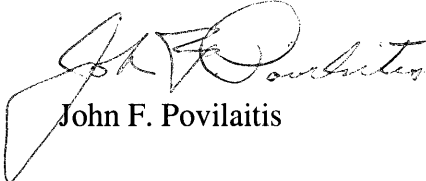
Re: Giant Eagle, Inc.; Guttman Energy, Inc.; Lucknow-Highspire Terminals, LLC;  
Monroe Energy, LLC; Philadelphia Energy Solutions Refining and Marketing, LLC;  
and Sheetz, Inc. v. Laurel Pipe Line Company, L.P., Docket No. C-2018-3003365

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Motion to Compel of Giant Eagle, Inc., Guttman Energy, Inc., Lucknow-Highspire Terminals, LLC, Monroe Energy, LLC, Philadelphia Energy Solutions Refining and Marketing, LLC, and Sheetz, Inc. ("Complainants") in the above-captioned proceeding.

Copies of this filing have been served as indicated in the attached Certificate of Service.

Sincerely,



John F. Povilaitis

JFP/tlg

Enclosure

cc: Administrative Law Judge Eranda Vero  
Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Administrative Law Judge  
Eranda Vero

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

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**NOTICE TO PLEAD**

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TO: David B. MacGregor	Christopher J. Barr
Anthony D. Kanagy	Jessica R. Rogers
Garrett P. Lent	Post & Schell, P.C.
Post & Schell, P.C.	607 14 <sup>th</sup> Street NW, Suite 600
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Harrisburg, PA 17101-1601	

You are hereby notified that the attached Motion to Compel ("Motion") requests that the response period for this Motion be shortened to seven (7) days from service of this Notice. If you do not file a timely written response to the enclosed Motion, the presiding Administrative Law Judge may rule on this Motion without further input.

**File with:**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
P.O. Box 3265  
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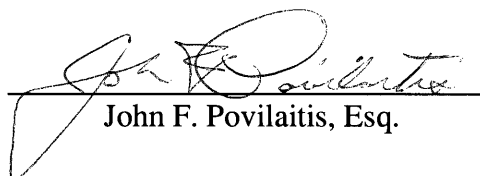
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Dated: October 12, 2018



John F. Povilaitis, Esq.

**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;	:	Docket No. C-2018-3003365
and Sheetz, Inc.	:	
	:	
Complainants,	:	
	:	
v.	:	
	:	
Laurel Pipe Line Company, L.P.	:	
	:	
Respondent	:	

**MOTION TO COMPEL AND FOR SHORTENED RESPONSE PERIOD**

AND NOW, Giant Eagle, Inc. Guttman Energy, Inc. Lucknow-Highspire Terminals, LLC, Monroe Energy, LLC, Philadelphia Energy Solutions Refining and Marketing, LLC, and Sheetz, Inc. (collectively, the “Complainants”) hereby move for an order determining that, based on information in a privilege log provided by Laurel Pipe Line Company, L.P. (“Laurel”) in discovery, pursuant to Section 5.103<sup>1</sup> of the Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code § 5.103, Laurel must provide to Complainants all allegedly privileged documents that are identified in that privilege log. The Complainants also move pursuant to Section 5.103(c) that the Presiding Officer shorten Laurel’s response period for this Motion to seven (7) days in consideration of the Complainants’ multiple efforts to discuss and resolve this dispute informally prior to filing this Motion, which acquainted Laurel with the legal basis for Complainants’ position. Set I of the Complainants’ discovery was a request for all Laurel

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<sup>1</sup> Although the Updated Privilege Log at issue was provided in response to written interrogatories propounded by the Complainants and was not an “objection” to discovery or submitted in response to a request for admissions, this Motion seeks relief in the nature of a Motion to Compel under 52 Pa. Code § 5.342(g) and a Motion to Determine the Sufficiency of a Response under 52 Pa. Code § 5.350(e), both of which are incorporated herein as the bases for this Motion, along with 52 Pa. Code § 5.103.

documents analyzing bi-directional service on the Laurel Pipeline. 52 Pa. Code § 5.103(c). The Complainants move as follows:

## **I. INTRODUCTION**

1. The Complainants<sup>2</sup> are a group of interested parties, including major retailers, as well as refiners and shippers that ship products on the Laurel Pipeline (as defined below), either as the shipper of record or as the entity that injects product into the pipeline.

2. Laurel has been a public utility in Pennsylvania since it received a Certificate of Public Convenience (“CPC”) from the Commission in 1957. Since that time, Laurel has owned and operated the Laurel Pipeline. Laurel has only provided single-direction (i.e., east-to-west) intrastate transportation of petroleum products across Pennsylvania, through the Laurel Pipeline, originating in the Philadelphia, Pennsylvania area and extending westward towards Pittsburgh to Midland, Pennsylvania, which is near the Ohio border. Laurel currently is the only intrastate petroleum products pipeline that provides service from Philadelphia west to Pittsburgh, Pennsylvania. Laurel’s affiliate, Buckeye Pipe Line, L.P. (“Buckeye”), is the only interstate petroleum products pipeline that provides east to west interstate service to Pittsburgh on the

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<sup>2</sup> The Complainants are largely the same companies that challenged Laurel’s application at the Commission seeking authority pursuant to Laurel’s intrastate CPC to abandon east-to-west pipeline service for delivery points west of the Eldorado, Pennsylvania delivery point. See, *Application of Laurel Pipe Line Co., L.P. for approval to change direction of petroleum products transportation service to delivery points west of Eldorado, Pennsylvania*, PaPUC Docket No. A-2016-2575829 (Application Filed Nov. 14, 2016) (“Application”). Commission Administrative Law Judge (“ALJ”) Eranda Vero issued a Recommended Decision denying Laurel’s Application. *Application of Laurel Pipe Line Co., L.P. for approval to change direction of petroleum products transportation service to delivery points west of Eldorado, Pennsylvania*, PaPUC Docket No. A-2016-2575829, *et al.* (Recommended Decision dated March. 21, 2018) (“Recommended Decision”). On July 12, 2018, the Commission entered an Order largely affirming the Recommended Decision in rejecting Laurel’s Application on grounds that Laurel failed to meet the requirements to abandon east to west service on the segment of its pipeline between Eldorado and Pittsburgh. (“Final Order”) On August 14, 2018, Laurel filed an appeal of the Final Order with the Commonwealth Court. The appeal challenges the Commission’s rejection of Laurel’s Application and the multiple grounds for that rejection. On August 24, 2018, several of the parties that are Complainants in this proceeding filed a cross-appeal of the Final Order with the Commonwealth Court. The cross-appeal challenges only the Commission’s determination that Laurel’s existing CPC was not specific to a particular direction for the certificated service on the Laurel Pipeline.

Laurel Pipeline and it does so via an Affiliated Interest Agreement with Laurel that is subject to this Commission's jurisdiction.

3. The Complainants filed a Formal Complaint in this proceeding on July 12, 2018 ("Original Complaint"), to which Laurel filed Preliminary Objections on August 1, 2018. Rather than respond to the Preliminary Objections, the Complainants exercised their right, under Section 5.91(b) of the Commission's regulations, 52 Pa. Code § 5.91(b), to file the Amended Complaint on August 8, 2018.

4. The Amended Complaint addresses Laurel's well-documented decision to commence operating the Eldorado to Midland segment of the Laurel Pipeline bi-directionally without this Commission's review or approval, despite the ALJ's and the Commission's prior rejection of Laurel's legal position that the Commission is preempted from considering impacts on existing intrastate public utility service. Laurel's decision is reflected in pleadings in a proceeding, currently pending before the Federal Energy Regulatory Commission ("FERC"), that was initiated by Laurel and its affiliate interstate pipeline service provider Buckeye without any prior filing with or approval of this Commission regarding continued provision of intrastate service in a new bi-directional context. Under a bi-directional regime, there will inevitably be times when the uni-directional (i.e., east to west) intrastate service currently provided by Laurel will not be available to customers because service is being provided from west to east to new customers on the Laurel Pipeline. This change to existing service has not been reviewed or approved by the Commission. Such a proposal is in effect a partial abandonment of east to west petroleum products pipeline transportation service that Laurel has been providing exclusively on the entire Laurel Pipeline since 1957. The effect of this bi-directional proposal and the filing at FERC is to deprive this Commission of its lawful jurisdiction over a regulated utility and its

lawful jurisdiction over a proposed abandonment of a portion of Laurel's existing certificated Pennsylvania intrastate public utility service. The current east to west capacity on the Laurel Pipeline will be diminished by the initiation of west to east service on the same pipeline that currently exclusively flows east to west. This diminution of service constitutes partial abandonment. At a minimum, because Laurel has never provided firm, tariff-based assurances and guarantees to the Complainants and all other users of the Laurel Pipeline that their east to west intrastate pipeline service will not be diminished under the claimed bi-directional service now being implemented, Laurel is proposing to provide unreasonable and inadequate service to the Complainants that will materially and adversely impact their businesses and operations. The discovery requests that are the subject of this Motion merely request the analysis and modelling that support Laurel's contention, in pleadings before this Commission, in pleadings before FERC, and in affidavits, that bi-directional service will have no impact on east-to-west deliveries on the Laurel Pipeline.

## **II. BACKGROUND**

5. The Complainants initiated discovery promptly in this proceeding by issuing Interrogatories and Requests for Production of Documents (collectively, "Interrogatories") to Laurel on August 17, 2018. The Interrogatories, consisting of two questions, are attached hereto as Appendix A and incorporated herein. The Interrogatories are intended to ascertain, among other things, the nature and extent of all analyses, investigations, studies, etc. conducted by Laurel in support of its proposed bi-directional service for the segment of the Laurel Pipeline between Coraopolis (near Pittsburgh) and Eldorado (near Altoona).

6. Laurel provided "answers" to the Interrogatories ("Answers") on September 12, 2018. The Answers are attached hereto as Appendix B and incorporated herein. The response to

Question No. 1 refers the reader to the response to Question No. 2. Included with the Answer to Question No. 2 is a Privilege Log purporting to claim that every such document allegedly responsive to the Interrogatories is protected from disclosure to the Complainants by a recognized privilege, i.e., Attorney Work Product Privilege (Doctrine) and/or Attorney Client Communication Privilege. In other words, in its September 12, 2018 submission, Laurel did not provide a single document to the Complainants in response to the Interrogatories.

7. Upon receipt of Laurel's September 12, 2018 submission, the Complainants immediately raised concerns and issues about Laurel's alleged answers to the Interrogatories as well as the completeness and lawfulness of the Privilege Log supplied by Laurel.

8. The Complainants timely provided to Laurel their view of the law applicable to privilege logs and a revised privilege log template designed to allow the Complainants the ability to test the privilege claims with respect to the various Laurel documents.

9. On September 21, 2018, Laurel provided to the Complainants Highly Confidential supplemental responses to Set I, Interrogatory No. 1, which marked the first time the Complainants received any actual responses to the Interrogatories that were first issued on August 17, 2018.

10. On October 5, 2018, Laurel provided to the Complainants a "supplemental response" to Set I, Interrogatory No. 2, which contained an updated privilege log for the documents claimed to be privileged and not available to the Complainants ("Updated Privilege Log"). The Updated Privilege Log is attached hereto as Appendix C and incorporated by reference herein. No documents whatsoever have ever been provided to the Complainants in response to Set I, Interrogatory No. 2.



11. As discussed further below, Laurel's withholding of documents for the reasons stated in the Updated Privilege Log does not comply with applicable law, and fails to provide the type of information necessary for the Complainants and possibly the presiding Administrative Law Judge to evaluate and ascertain if Laurel's claims of privilege are lawful and appropriate. Given Laurel's failure to comply with applicable law regarding the withholding of documents based on claims of privilege as stated in the Updated Privilege Log, the extended time since the Interrogatories were first issued, and the lack of any timely responses to Interrogatory Set I, No. 2, the Complainants request that Laurel be compelled to timely provide to the Complainants all of the documents claimed to be privileged as shown on the Updated Privilege Log.

### **III. ATTORNEY CLIENT AND WORK PRODUCT PRIVILEGES**

12. As noted above, Laurel claims in the Updated Privilege Log that certain allegedly responsive documents to the Set I Interrogatory No. 2 may be withheld from disclosure to the Complainants because the documents are protected by the Attorney Work Product Doctrine and/or Attorney-Client Communication Privilege.

#### ***A. Attorney-Client Privilege***

13. The attorney-client privilege is "one of the oldest of the privileges for confidential communications known to the common law."<sup>3</sup>

14. The Attorney-Client Privilege in Pennsylvania has long been codified by statute:

In a civil matter counsel shall not be competent or permitted to testify to confidential communications made by him to his client, nor shall the client be compelled to disclose the same, unless in either case this privilege is waived upon the trial by the client.

42 Pa.C.S. § 5928.

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<sup>3</sup> *Upjohn v. United States*, 449 U.S. 383, 389 (1981) (citing generally J. Wigmore, EVIDENCE § 2290 (1961)).

15. In 2011, the Pennsylvania Supreme Court confirmed that “the attorney-client privilege operates in a two-way fashion to protect confidential client-to-attorney or attorney-to-client communications made for the purpose of obtaining or providing professional legal advice.”<sup>4</sup>

16. The showing necessary to establish the privilege is settled:

[when] (1) legal advice of any kind is sought (2) from a professional legal adviser in his capacity as such, (3) the communications relating to that purpose, (4) made in confidence (5) by the client, (6) are at his insistence permanently protected (7) from disclosure by himself or by the legal adviser, (8) except the protection be waived.<sup>5</sup>

17. Under Pennsylvania law, “the party asserting the [attorney-client] privilege has the initial burden to prove that it is properly invoked.”<sup>6</sup> “Accordingly, if the party asserting the privilege does not produce sufficient facts to show that the privilege was properly invoked, then the burden never shifts to the other party, and the communication is not protected under the attorney-client privilege.”<sup>7</sup>

18. The attorney-client privilege serves laudable purposes and thus is “worthy of maximum legal protection.”<sup>8</sup> Nevertheless, the courts have found the privilege obstructs the truth-finding process and is to be construed narrowly.<sup>9</sup> The privilege “protects only those disclosures—necessary to obtain informed legal advice—which might not have been made absent the privilege.”<sup>10</sup>

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<sup>4</sup> *Gillard v. AIG Ins. Co.*, 15 A.3d 44, 59 (Pa. 2011).

<sup>5</sup> *In re Grand Jury*, 603 F.2d 469, 474 (3d Cir.1979) (citing J. Wigmore, EVIDENCE § 2292 at 554 (1961)); *see also In re Impounded*, 241 F.3d 308, 316 n.6 (3d Cir. 2001).

<sup>6</sup> *Joyner v. SEPTA*, 736 A.2d 35, 38 n.3 (Pa. Cmwlth. 1999).

<sup>7</sup> *Custom Designs & Mfg. Co. v. Sherwin-Williams Co.*, 39 A. 3d 372, 376 (Pa. Super, 2012) (internal citations and quotation marks omitted).

<sup>8</sup> *Haines v. Liggett Group Inc.*, 975 F.2d 81, 90 (3d Cir. 1992).

<sup>9</sup> *Westinghouse Elec. Corp. v. Republic of Phil.*, 951 F.2d 1414, 1423 (3d Cir. 1991).

<sup>10</sup> *Id.* at 1424 (quoting *Fisher v. United States*, 425 U.S. 391, 403 (1976)).

19. “In Pennsylvania, the attorney-client privilege is an absolute privilege; it is not a limited privilege that is inapplicable whenever a court determines that the case cannot be fairly decided if the privilege is invoked.”<sup>11</sup> Nevertheless, “[p]rotection under attorney-client privilege is subject to limits, exceptions, and waiver.”<sup>12</sup>

20. Importantly, the mere presence of an attorney on an email does not automatically permit the assertion of the attorney-client privilege. See *SEPTA v. Caremark PCS Health, L.P.*, 254 F.R.D. 253, 259 (E.D. Pa. 2008) (“[T]he attorney-client privilege does not shield documents merely because they were transferred to or routed through an attorney.” (internal citations and quotation marks omitted)); *Smithkline Beechaum Corp. v. Apotex Corp.*, 232 F.R.D. 467, 478 (E.D. Pa. 2005) (“What would otherwise be routine, non-privileged communications between corporate officers or employees transacting the general business of the company to not attain privileged status solely because in-house or outside counsel is ‘copied in’ on correspondence or memoranda.” (internal citations and quotation marks omitted)).

21. In addition, regardless of the privilege asserted, attachments to properly declared privileged emails are not themselves automatically privileged.<sup>13</sup>

#### B. *Attorney Work Product Doctrine*

22. In the seminal case of *Hickman v. Taylor*,<sup>14</sup> the United States Supreme Court first recognized the attorney work product doctrine based on the principle that allowing attorneys to prepare their cases without fear that their work product would be used against their clients advances the adversarial system.<sup>15</sup>

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<sup>11</sup> *Mueller v. Nationwide Mut. Ins. Co.*, 31 Pa. D. & C. 4th 23, 1996 WL 910155, at \*31 (Ct. of Com. Pleas of Allegheny County, May 22, 1996) (Wettick, J.).

<sup>12</sup> *Nationwide Mut. Ins. Co. v. Fleming*, 924 A.2d 1259, 1265 (Pa. Super. 2007), abrogated on other grounds by *Gillard*, 15 A.3d 33.

<sup>13</sup> *Leonen v. Johns-Manville*, 135 F.R.D. 94, 98 (D.N.J. 1990).

<sup>14</sup> 329 U.S. 495 (1947).

<sup>15</sup> *Id.* at 510–11.

23. The United States Supreme Court has referred to the work product doctrine as a “qualified privilege for certain materials prepared by an attorney ‘acting for his client in anticipation of litigation.’”<sup>16</sup> In *United States v. Nobles*,<sup>17</sup> the Supreme Court further opined that the attorney work product doctrine “shelters the mental processes of the attorney, providing a privileged area within which he can analyze and prepare his client's case.” Included within this category are trial preparation documents that reflect the fruits of the attorney’s endeavors, any compendium of evidence prepared by the attorney, and any of the attorney’s mental impressions, opinions or theories.<sup>18</sup>

24. The work-product doctrine is codified in Federal Rule of Civil Procedure 26(b).

25. The Third Circuit has stated that a document is created in anticipation of litigation when, “in light of the nature of the document and the factual situation in the particular case, the document can fairly be said to have been prepared or obtained because of the prospect of litigation.”<sup>19</sup> However, under the federal rules, those materials claimed to be covered by the attorney work product privilege may nonetheless be discovered if they are otherwise discoverable [i.e. relevant or likely to lead to relevant evidence] and the party shows that it has substantial need for the materials to prepare its case and cannot, without undue hardship, obtain their substantial equivalent by other means.<sup>20</sup> (emphasis added).

26. The Commission’s regulations at 52 Pa. Code § 5.323 not only adopt the attorney work product rules contained in Rule 4003.3 of the Pennsylvania Rules of Civil Procedure, but

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<sup>16</sup> *United States v. Nobles*, 422 U.S. 225, 237-38 (1975) (quoting *Hickman v. Taylor*, 329 U.S. 495, 508 (1947)). See also *Commonwealth v. Kennedy*, 876 A.2d 939, 945 (Pa. 2005).

<sup>17</sup> 422 U.S. 225, 238 (1975).

<sup>18</sup> *Id.* at 236–39.

<sup>19</sup> *Sullivan v. Warminster Twp.*, 274 F.R.D 147, 152 (E.D. Pa. 2011) (citing *United States v. Rockwell Int’l*, 897 F.2d 1255, 1266 (3d Cir. 1990)).

<sup>20</sup> Fed. R. Civ. P. 26(b)(3)(i) and (ii).

also make it clear (and unlike the federal rules) that merely because a document is prepared in anticipation of litigation or hearing by an attorney, a party may still obtain it in discovery:

§ 5.323. Hearing preparation material.

(a) *Generally.* Subject to this subchapter and consistent with Pa. R.C.P. 4003.3 (relating to scope of discovery trial preparation material generally), *a party may obtain discovery of any matter discoverable under § 5.321(b) (relating to scope) even though prepared in anticipation of litigation or hearing by or for another party or by or for that other party's representative, including his attorney, consultant, surety, indemnitor, insurer or agent.* The discovery may not include disclosure of the mental impressions of a party's attorney or his conclusions, opinions, memoranda, notes, summaries, legal research or legal theories. With respect to the representative of a party other than the party's attorney, discovery may not include disclosure of his mental impressions, conclusions or opinions respecting the value or merit of a claim or defense or respecting strategy, tactics or preliminary or draft versions of written testimony or exhibits, whether or not final versions of the testimony or exhibits are offered into evidence.

52 Pa. Code § 5.323(a) (emphasis added).

27. The attorney work-product doctrine provides even broader protections than the attorney client privilege.<sup>21</sup> However, it is not unbounded, as reflected in the federal rules and confirmed by the Commission's regulations at 52 Pa. Code § 5.323(a).

#### IV. PRIVILEGE LOGS

28. The logical corollary to Pennsylvania's rule that the party asserting a privilege has the burden to prove that it has been properly invoked, is that a privilege log must make clear the basis for and the facts relating to the claim.<sup>22</sup>

29. Federal Rule of Civil Procedure 26(b)(5) requires a party withholding otherwise discoverable material under a privilege claim to describe the nature of the documents in a

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<sup>21</sup> *Comm. v. Noll*, 662 A.2d 1123, 1126 (Pa. Super. Ct. 1995) (citing *In re Grand Jury Matter*, 147 F.R.D. 82, 86 (E.D. Pa. 1992)).

<sup>22</sup> *Joyner v. SEPTA, supra; Custom Designs & Mfg. Co, supra.*

manner that, without revealing information that is itself privileged, will enable other parties to assess the claim. To comply with this requirement, a privilege log must describe the basic information about each document claimed to be privileged including the date, author, recipients (and their capacities), subject matter and an explanation for why it is privileged.<sup>23</sup>

**V. LAUREL'S UPDATED PRIVILEGE LOG FAILS TO SATISFY APPLICABLE LEGAL REQUIREMENTS**

30. Whether the attorney-client privilege or the work product doctrine protects a communication from disclosure is a question of law.<sup>24</sup> Thus, the presiding Administrative Law Judge has the clear authority to determine the sufficiency of the bases for withholding documents as stated in the Updated Privilege Log provided to the Complainants by Laurel in furtherance of the ultimate question of whether such privileges/doctrines have been properly invoked.

31. Because there are clear limits on Laurel's ability to claim protection for documents under either the Attorney Client Privilege or Attorney Work Product Doctrine, especially where Laurel is in complete control of the studies and analyses it conducted in support of its bi-directional proposal and ultimately whether such change in operation of the Laurel Pipeline will diminish the Complainants' service, it is critical that all such privilege claims be thoroughly vetted and scrutinized to ensure that the Complainants receive all information they are entitled to receive in the discovery process.

32. The Updated Privilege Log falls short of Pennsylvania law described above, including the requirement that such privileges be construed narrowly and subjected to limits.

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<sup>23</sup> *Brooks v. General Casualty Co. of Wisconsin*, No. 06-CV-00996, 2007 BL 251091 at \*3-\*4 (E.D. Wis. Jan. 26, 2007). See also *Wei v. Bodner*, 127 F.R.D. 91, 96 (D.N.J. 1989) ("at a minimum, for each document asserted to be protected by these privileges, the defendants must provide both plaintiff and the Court with the date of the document, the name of its author, the name of its recipient, the names of all people given copies of the document, the subject matter of the document and the privileges asserted").

<sup>24</sup> *Levy v. Senate of Pennsylvania*, 65 A.3d 361, 367 (Pa. 2013).

The Instructions accompanying the Complainants' Interrogatories summarized the basic elements requested in any privilege log submitted by Laurel:

In addition to the requirements of paragraphs 20 and 21 below, if any Document covered by any Data Request is withheld for whatever reason, including any privilege, please furnish a list identifying the date, type, and nature all each withheld Document and the legal basis and rationale for withholding it from production.

33. This Instruction, especially in the context of paragraphs 20 and 21 cited therein,<sup>25</sup> evidenced the Complainants' desire to ensure that Laurel (i) provided answers to the Interrogatories to the greatest extent possible; (ii) specified with particularity any claimed inability to respond to the Interrogatories; (iii) specified the reasons for not providing a response; and (iv) provided the complete legal basis and rationale for withholding any information, not mere conclusory statements.

34. The Updated Privilege Log, while providing some additional material that was not included in the initial Privilege Log, still does not identify a defensible legal basis for Laurel's withholding of the documents identified in the Updated Privilege Log.

35. There is no way, based on the conclusory statements regarding the type of privilege asserted in the Updated Privilege Log, that any person reviewing it could determine that the privilege claims are valid and consistent with Pennsylvania law. Rather, it appears that the primary (if not sole) basis and rationale for the privilege claims is that the documents/analyses were "prepared at the request of internal counsel." This assertion does not

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<sup>25</sup> Paragraph No. 20- If you are unable to answer fully any Interrogatory, answer to the extent possible and specify the reasons for your inability to answer in full.

Paragraph No. 21 - In answering these Data Requests, furnish all information that is available to You, including information in the possession of your attorneys, agents, consultants, or investigators, and not merely such information of your own knowledge. If any of the Data Requests cannot be answered in full after exercising due diligence to secure the requested information, please so state and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information You have concerning the unanswered portions. If your answer is qualified in any particular, please set forth the details of such qualification.

support, and is not a proper basis for invoking, a privilege claim. First, the Updated Privilege Log does not specify the identity and title of the alleged “internal counsel” so there is no way to test or evaluate the veracity of this claim based on the identities of the individuals disclosed in the Updated Privilege Log.

36. Second, the fact that Laurel’s legal counsel may have been referenced in a document, or even the fact that Laurel’s legal counsel requested the document’s preparation, does not make the document privileged, either as attorney work product or a communication between client and counsel.

37. Third, as noted above, the proper assertion of the attorney-client privilege requires the seeking and provision of legal advice. Simply directing company personnel to conduct studies and analysis to assess the potential feasibility of bi-directional service does not constitute legal advice. Nor do those non-legal studies and analysis obtain any protection under the attorney-client privilege or work product privilege merely because they were prepared based on the suggestion of, or at the direction of, internal legal counsel. Not only must the client communication be made in confidence, the client must insist on such information being permanently protected. Here, Set I, Interrogatory No. 2 expressly sought any details, analysis, and studies supporting public statements about the alleged operational impacts and efficacy of bi-directional service that were contained in a public affidavit submitted by Michael Kelly, whose name appears in connection with every one of the documents identified as “privileged” on the Updated Privilege Log.

38. The Updated Privilege Log provides no information that would support Laurel’s withholding of the documents identified in the Updated Privilege Log. Given the absence of any supported assertions that the documents contain or are seeking legal advice, and given Laurel’s

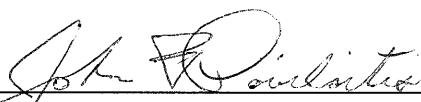


failure to carry its burden to prove entitlement to privilege, the Complainants respectfully request the issuance of an order compelling Laurel to produce all documents identified in the Updated Privilege Log.<sup>26</sup> This is especially true that the requested information is necessary to support the Complainants' case in this proceeding.

WHEREFORE, the Complainants hereby request that the Presiding Administrative Law Judge (i) set a seven (7) day response period for this Motion; (ii) find that the Updated Privilege Log submitted by Laurel Pipeline Company, L.P. to the Complainants in response to Interrogatory Set I, No. 2 does not justify Laurel's withholding of documents that are responsive to this question (iii) compel Laurel Pipeline Company LP to provide all the documents shown on the Updated Privilege Log to the Complainants within three (3) business days of an order; and (iv) grant the Complainants such other relief as may be just and reasonable under the circumstances.

Respectfully submitted,

Dated: October 12, 2018

  
\_\_\_\_\_  
Alan M. Seltzer (PA ID 27890)  
John F. Povilaitis (PA ID 28944)  
Buchanan Ingersoll & Rooney PC  
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E-mail: [alan.seltzer@bipc.com](mailto:alan.seltzer@bipc.com)  
*Counsel to Philadelphia Energy Solutions Refining  
and Marketing LLC*

---

<sup>26</sup> In fashioning its request in this way, Complainants are taking at face value Laurel's implied statement that it has no other documents that may be responsive to Complainant's Set 1, Question No. 2. Complainants reserve all rights to seek relief if any other documents responsive to Question No. 2 are later determined to be in Laurel's possession.

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*Counsel to Giant Eagle, Inc.*

# Appendix A

**Buchanan Ingersoll & Rooney PC**

**John F. Povilaitis**

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August 17, 2018

**VIA EMAIL AND FIRST CLASS MAIL**

David B. MacGregor  
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Garrett P. Lent  
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Christopher J. Barr  
Jessica R. Rogers  
Post & Schell, P.C.  
607 14<sup>th</sup> Street NW, Suite 600  
Washington, DC 20005-2006

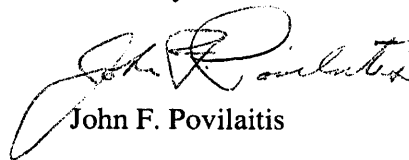
Re: Giant Eagle, Inc.; Guttman Energy, Inc.; Lucknow-Highspire Terminals, LLC;  
Monroe Energy, LLC; Philadelphia Energy Solutions Refining and Marketing, LLC;  
and Sheetz, Inc. v. Laurel Pipe Line Company, L.P., Docket No. C-2018-3003365

Dear Counsel:

Enclosed please find the Interrogatories and Requests for Production of Documents propounded by Giant Eagle, Inc., Guttman Energy, Inc., Lucknow-Highspire Terminals, LLC, Monroe Energy, LLC, Philadelphia Energy Solutions Refining and Marketing, LLC, and Sheetz, Inc. ("Complainants") on Laurel Pipe Line Company, L.P. – Set I in the above-captioned proceeding.

Copies have been served as indicated in the attached Certificate of Service.

Sincerely,



John F. Povilaitis

JFP/tlg

Enclosure

cc: Secretary Rosemary Chiavetta (letter and Certificate of Service only via efilng)  
Certificate of Service

**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;	:	Docket Nos. C-2018-3003365
and Sheetz, Inc.	:	
	:	
Complainants,	:	
	:	
v.	:	
	:	
Laurel Pipe Line Company, L.P.	:	
	:	
Respondent.	:	

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**INTERROGATORIES AND REQUESTS FOR  
PRODUCTION OF DOCUMENTS PROPOUNDED BY  
COMPLAINANTS ON  
LAUREL PIPELINE COMPANY, L.P. – SET I**

---

Pursuant to 66 Pa.C.S. § 333 and 52 Pa. Code §§ 5.341 *et seq.*, Giant Eagle, Inc.; Guttman Energy, Inc.; Lucknow-Highspire Terminals, LLC; Monroe Energy, LLC; Philadelphia Energy Solutions Refining and Marketing, LLC; and Sheetz, Inc. (“Complainants”) propound the following Interrogatories and Requests for Production of Documents on Laurel Pipeline Company, L.P. (“Laurel” or “Responding Party”) – Set I.

Dated: August 17, 2018

## **INSTRUCTIONS FOR PRODUCTION OF DOCUMENTS AND INTERROGATORIES<sup>1</sup>**

1. Please begin each response on a separate page. This requirement does not apply to subparts of responses.
2. For each Data Request, please identify the preparer or the person under whose direct supervision the response was prepared.
3. Please designate the Data Request(s) or any subpart(s) in response to which any document or narrative response is provided.
4. In producing Documents in response to these Data Requests, please produce Documents within your possession, custody, or control. Possession, custody, or control includes constructive possession such that you need not have actual physical possession.
5. If any document responsive to any of these Data Requests has been destroyed or is otherwise unavailable, please identify and describe (1) the subject matter and content of the document; (2) all persons involved in the destruction or removal of the document; (3) the date of the document's destruction or removal; and (4) the reasons for the destruction or other unavailability of the document.
6. Subject to instruction 7 below, please produce the Documents in single-page format with a unique Bates number for each page. For all electronic Documents with attachments (such as an e-mail with attachments), please electronically associate the attachment with the e-mail, with the attachment following the e-mail sequentially in the production. If You have any questions regarding form of production, please contact the undersigned so that they do not delay your production.
7. Notwithstanding instruction 6 above, for Documents that are in the form of spreadsheets, audio, database, and video files, and any other files that cannot be imaged, please produce them in native form with unique Bates numbers associated with the native Documents.
8. All produced Documents should be organized and labeled to correspond to these Data Requests or as the Documents are kept in the ordinary course of business.
9. Each of these Data Requests shall be considered to be continuing in nature. If You do not now have data or Documents responsive to a particular Data Request, but later obtain possession, custody, or control of such data or documents, please furnish such data and/or Documents immediately thereafter.
10. If You cannot respond to a Data Request completely, please provide the answer to the extent possible, explain why You cannot respond to the Data Request completely, and provide all information and knowledge in your possession, custody, or control regarding the incomplete response.
11. If any data or Document responsive to any Data Request is unavailable, please identify the data or Document, provide an explanation concerning why the data or Document is unavailable, and state where the data or Document can be obtained.

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<sup>1</sup> Capitalized terms not otherwise defined shall have the meanings specified in the Definitions Section of these Instructions.

12. If, in the course of responding to these Data Requests, You determine that any instruction, definition, or Data Request is ambiguous, contact counsel for the Complainants for any necessary clarification. In any such case, the response should set forth the language You feel is ambiguous and the interpretation you are using in responding to the Data Request.
13. In addition to the requirements of paragraphs 20 and 21 below, if any Document covered by any Data Request is withheld for whatever reason, including any privilege, please furnish a list identifying the date, type, and nature all each withheld Document and the legal basis and rationale for withholding it from production.
14. If You object to, or otherwise decline to answer all or any portion of any Data Request, please provide all Documents and information called for in that portion of the Data Request to which You do not object or decline to answer. If You object to any request on the ground that it is too broad (i.e., that it calls for Documents that You contend are not relevant to the subject matter of this proceeding), please provide such Documents as you believe to be within the proper scope of discovery. If You object to any Data Request on the ground that it would constitute an undue burden to provide a response, please provide such requested Documents as can be supplied without undertaking such undue burden.
15. For each Data Request, Identify and provide the names, job title and employer of all individuals responsible for providing the response and provide the certification of the response.
16. All Data Requests shall be construed inclusively, rather than exclusively, e.g., the words "and" or "or" shall be construed conjunctively or disjunctively, whichever makes the request more inclusive. The words "and" and "or" should be construed either conjunctively or disjunctively as necessary to include information within the scope of a Request, rather than to exclude information therefrom.
17. The singular form of a word includes the plural and vice versa.
18. Items referred to in the masculine include those in the feminine, and items referred to in the feminine include those in the masculine.
19. You shall answer each Data Request separately and fully.
20. If you are unable to answer fully any Interrogatory, answer to the extent possible and specify the reasons for your inability to answer in full.
21. In answering these Data Requests, furnish all information that is available to You, including information in the possession of your attorneys, agents, consultants, or investigators, and not merely such information of your own knowledge. If any of the Data Requests cannot be answered in full after exercising due diligence to secure the requested information, please so state and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information You have concerning the unanswered portions. If your answer is qualified in any particular, please set forth the details of such qualification.
22. For any requests with subparts, please provide a complete separate response to each subpart as if the subpart was propounded separately.



23. If information or documents responsive to any of these Data Requests has previously been provided in this proceeding in response to a discovery request by any participant, please provide a specific cross-reference. There is no need to make a duplicate response.

## DEFINITIONS FOR PRODUCTION OF DOCUMENTS AND INTERROGATORIES

1. "Complaint" means the Amended Complaint filed on August 8, 2018 before the Pennsylvania Public Utility Commission at Docket No. C-2018-3003365.
2. "Commission" or "PUC" means the Pennsylvania Public Utility Commission.
3. "Communication" means the conveyance of information or anything else (whether in the form of facts, ideas, comments, inquiries, or otherwise).
4. "CPC" means Certificate of Public Convenience.
5. "Document" means the original and all drafts of all written and graphic matter, however produced or reproduced, of any kind or description, whether or not sent or received, and all copies thereof which are different in any way from the original (whether by interlineation, date-stamp, notarization, indication of copies sent or received, or otherwise), including without limitation, any emails, paper, book, account, photograph, blueprint, drawing, sketch, schematic, agreement, contract, memorandum, press release, circular, advertising material, correspondence, letter, telegram, telex, object, report, opinion, investigation, record, transcript, hearing, meeting, study, notation, working paper, summary, intra-office communication, diary, chart, minutes, index sheet, computer software, computer-generated records or files, however stored, check, check stub, delivery ticket, bill of lading, invoice, record or recording or summary of any telephone or other conversation, or of any interview or of any conference, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter of which You have or have had possession, custody or control, or of which You have knowledge.
6. "Identify" when used with regard to a Document means to state the type of Document (e.g., letter, email, memorandum, Tariff provision, report, etc.), its date, its author(s), addressee(s) and recipient(s), and any file number or control number or Bates number assigned to the Document.
7. "Identify" when used with regard to a corporation or other form of business organization, means to state the full name of such corporation or business organization.
8. "Identify" when used with regard to an individual, means to state the individual's name, present or last known employer or place of business, and position or title of the individual during the relevant time.
9. "Laurel Pipeline" means, all pipelines and appurtenances owned or operated by Laurel and subject to the jurisdiction of the Pennsylvania Public Utility Commission.
10. "Person" means, without limiting the generality of its meaning, every natural person, partnership, association (whether formally organized or *ad hoc*), corporation, joint venture, or other legal business entity, as well as any governmental entity or agency.
11. "Western PA Destinations" means Midland, Coraopolis, Pittsburgh, Neville Island, Tioga Tank Farm, Pittsburgh Airport, Indianola, Delmont, Greensburg, and Eldorado.
12. "Related to" or "relating to" means relating to, referring to, reflecting, discussing, describing, evidencing, supporting, providing a basis for, or constituting.

13. *"You," "Your," or "Laurel"* means Laurel Pipeline Company, L.P., the Respondent in PUC Docket No. C-2018-3003365, pending before the Commission and Buckeye Pipe Line Company L.P., together with their attorneys, consultants, employees, identified witnesses, agents, representatives, officers and directors, and any other person acting on their behalf, including any affiliate, division, department, predecessor, corporation, general partner, or partnership through which they now conduct or have conducted business affairs.

**Interrogatories and Requests for Production of Documents  
to Laurel – Set I**

1. Identify, describe and provide all Documents showing each assessment, analysis, study, and/or investigation (and all conclusions thereof) of various operating scenarios conducted by or for Laurel and any affiliate of Laurel in connection with any bi-directional pipeline transportation service along the Coraopolis-Eldorado segment of the Laurel pipeline (Line 718) within the last five (5) years.
2. Re the July 17, 2018 Answer of Laurel Pipe Line Company, L.P. to the Petition for Interim Emergency Relief, Docket No. P-2018-3003368 (“Answer”): provide the active model, including all inputs, the analysis, and the results for the range of scenarios evaluated by Laurel or any affiliate of Laurel which are referenced in the Affidavit of Mr. Michael J. Kelly at paragraph 22 as part of the FERC Answer, Internal Appendix B, attached to the Answer.

**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;	:	Docket No. C-2018-3003365
and Sheetz, Inc.	:	P-2018-3003368
Complainants,	:	
	:	
v.	:	
	:	
Laurel Pipe Line Company, L.P.	:	
Respondent.	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the parties and in the manner listed below:

**Via First Class Mail and Email**

John R. Evans  
Office of Small Business Advocate  
300 North Second Street, Suite 202  
Harrisburg, PA 17101  
[jorevan@pa.gov](mailto:jorevan@pa.gov)

Timothy K. McHugh  
Pennsylvania Public Utility Commission  
Bureau of Investigation & Enforcement  
PO Box 3265  
Harrisburg, PA 17105-3265  
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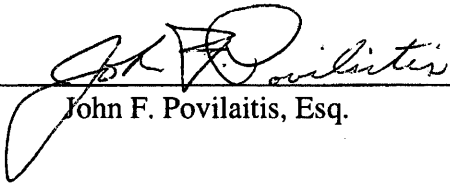
Christopher J. Barr  
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Anthony D. Kanagy  
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Laurel Pipe Line Company  
Five TEK Park  
9999 Hamilton Boulevard  
Breinigsville, PA 18031

Dated this 17<sup>th</sup> day of August, 2018.



---

John F. Povilaitis, Esq.

# Appendix B



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---

Garrett P. Lent

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File #: 162860

September 12, 2018

***VIA E-MAIL & REGULAR MAIL***

Alan M. Seltzer, Esquire  
John F. Povilaitis, Esquire  
Buchanan Ingersoll & Rooney PC  
409 N. Second Street, Suite 500  
Harrisburg, PA 17101-1357

**Re: Giant Eagle, Inc., et al. v. Laurel Pipe Line Company, L.P.  
Docket No. C-2018-3003365**

Dear Counsel:

Enclosed please find the responses of Laurel Pipe Line Company, L.P. to Complainants' Set I discovery in the above-referenced proceeding. A privilege log to Complainants' Set I discovery is also enclosed. Copies will be provided as indicated on the Certificate of Service.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Garrett P. Lent'. The signature is stylized with a large initial 'G' and 'L'.

Garrett P. Lent

GPL/skr  
Enclosures

cc: Certificate of Service



## 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

Timothy K. McHugh, Esquire  
Bureau of Investigation & Enforcement  
Commonwealth Keystone Building  
400 North Street, 2nd Floor West  
PO Box 3265  
Harrisburg, PA 17105-3265

John R. Evans  
Small Business Advocate  
Office of Small Business Advocate  
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Harrisburg, PA 17101

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Washington, DC 20005

Adeolu A. Bakare, Esquire  
McNees Wallace & Nurick LLC  
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P.O. Box 1166  
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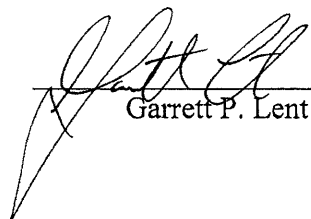
Alan M. Seltzer, Esquire  
John F. Povilaitis, Esquire  
Buchanan Ingersoll & Rooney, PC  
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Richard E. Powers, Jr., Esquire  
Joseph R. Hicks, Esquire  
Venable LLP  
575 7<sup>th</sup> Street, NW  
Washington, DC 20004

Date: September 12, 2018

  
Garrett P. Lent

Laurel Pipe Line Company, L.P.  
Response to Complainants' Set I Interrogatories  
And Requests for Production of Documents  
Dated September 12, 2018  
**Docket No. C-2018-3003365**

D.W. Arnold  
Page 1 of 1

- Q. 1. Identify, describe and provide all Documents showing each assessment, analysis, study and/or investigation (and all conclusions thereof) of various operating scenarios conducted by or for Laurel and any affiliate of Laurel in connection with any bi-directional pipeline transportation service along the Coraopolis-Eldorado segment of the Laurel pipeline (Line 718) within the last five (5) years.
- A. 1. Please see Laurel's response to Complainants-LAU-I-2. Laurel is continuing to review its files and will produce additional responsive, non-privileged documents, to the extent they become available.

Laurel Pipe Line Company, L.P.  
Response to Complainants' Set I Interrogatories  
And Requests for Production of Documents  
Dated September 12, 2018  
**Docket No. C-2018-3003365**

M.J. Kelly  
Page 1 of 1

- Q. 2. Re the July 17, 2018 Answer of Laurel Pipe Line Company, L.P. to the Petition for Interim Emergency Relief, Docket No. P-2018-3003368 ("Answer"): provide the active model, including all inputs, the analysis, and the results for the range of scenarios evaluated by Laurel or any affiliate of Laurel which are referenced in the Affidavit of Mr. Michael J. Kelly at paragraph 22 as part of the FERC Answer, Internal Appendix B, attached to the Answer.
- A. 2. Paragraph 22 of the Affidavit of Mr. Michael J. Kelly in the FERC Answer, Internal Appendix B attached to the Answer makes no reference to a model. Rather, Mr. Kelly stated that "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."

Pursuant to counsel's request and under its direction, Buckeye/Laurel evaluated a range of operating scenarios to determine whether or not bidirectional service could be provided over the segment of the L718 line located between Eldorado, Pennsylvania and Coraopolis, Pennsylvania. These informal evaluations were conducted during in-person meetings and considered the design parameters of existing and new assets. Based off these discussions, Buckeye/Laurel determined that bidirectional service could be provided over the segment of the L718 line located between Eldorado, Pennsylvania and Coraopolis, Pennsylvania.

Please see item numbers 1-7 in the attached privilege log.

**Laurel Pipe Line Company, L.P.**  
**Docket Nos. C-2018-3003365**  
**Document Production – Privilege Log**  
**September 12, 2018<sup>1</sup>**

<b>Doc No.</b>	<b>Date</b>	<b>Summary</b>	<b>Privilege</b>
1.	2/17/2018	Powerpoint prepared under direction of counsel regarding bidirectional.	Work Product
2.	2/17/2018	Powerpoint prepared under direction of counsel regarding bidirectional.	Work Product
3.	2/21/2018	Email and attachments to counsel regarding bidirectional.	Attorney Client Communication Work Product
4.	2/21/2018	Powerpoint attachment to 2/21/2018 email to counsel.	Attorney Client Communication Work Product
5.	2/21/2018	Excel attachment to 2/21/2018 email to counsel.	Attorney Client Communication Work Product
6.	03/2018	Powerpoint prepared under direction of counsel regarding bidirectional.	Work Product
7.	5/24/2017	Power prepared under direction of counsel regarding bidirectional.	Work Product

---

<sup>1</sup> Laurel is continuing to review the status of the item on this Document Production – Privilege Log. Laurel will supplement and revise this Document Production – Privilege Log as needed.

# Appendix C



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717-731-1985 Main Fax  
www.postschell.com

---

Garrett P. Lent

glent@postschell.com  
717-612-6032 Direct  
717-731-1979 Direct Fax  
File #: 162860

October 5, 2018

***VIA E-MAIL & REGULAR MAIL***

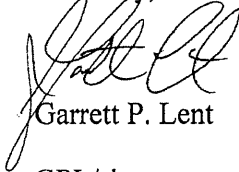
Alan M. Seltzer, Esquire  
John F. Povilaitis, Esquire  
Buchanan Ingersoll & Rooney PC  
409 N. Second Street, Suite 500  
Harrisburg, PA 17101-1357

**Re: Giant Eagle, Inc., et al. v. Laurel Pipe Line Company, L.P.  
Docket No. C-2018-3003365**

Dear Counsel:

Enclosed please find the supplemental response of Laurel Pipe Line Company, L.P. to Complainants' Set I, No. 2 discovery in the above-referenced proceeding, as well as an updated Privilege Log. Copies will be provided as indicated on the Certificate of Service.

Sincerely,



Garrett P. Lent

GPL/skr  
Enclosures

cc: Certificate of Service

## 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

Timothy K. McHugh, Esquire  
Bureau of Investigation & Enforcement  
Commonwealth Keystone Building  
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Alessandra Hylander, Esquire  
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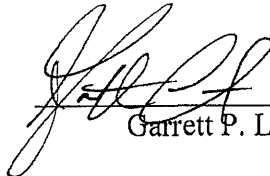
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Date: October 5, 2018

  
\_\_\_\_\_  
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Laurel Pipe Line Company, L.P.  
Supplemental Response to Complainants' Set I Interrogatories  
And Requests for Production of Documents  
Dated October 5, 2018  
**Docket No. C-2018-3003365**

M.J. Kelly  
Page 1 of 1

- Q. 2. Re the July 17, 2018 Answer of Laurel Pipe Line Company, L.P. to the Petition for Interim Emergency Relief, Docket No. P-2018-3003368 ("Answer"); provide the active model, including all inputs, the analysis, and the results for the range of scenarios evaluated by Laurel or any affiliate of Laurel which are referenced in the Affidavit of Mr. Michael J. Kelly at paragraph 22 as part of the FERC Answer, Internal Appendix B, attached to the Answer.
- A. 2. Laurel hereby supplements its September 12, 2018 response to Compl-LAU-I-2 and provides an updated privilege log that conforms to a format agreed upon by the parties. Please see item numbers 1-7 in the attached updated privilege log.



Giant Eagle, Inc.; Guttman Energy, Inc.; Lucknow-Highspire Terminals, LLC; Monroe Energy, LLC; Philadelphia Energy Solutions Refining and Marketing, LLC; v. Laurel Pipe Line Company, L.P. Docket No. C-2018-3003365  Complainants' Set I (September 12, 2018)					
PRIVILEGE LOG					
From/Author	To/Recipients	Document Type	Date	Document Description (Title/Subject, if any, and brief description of the content of the document)	Type of Privilege Asserted
Thomas R. Zeth	David Arnold Michael J. Kelly Mark Johnson Timothy Ernst	Powerpoint	2/17/2018	<u>Title:</u> Laurel Bi-Directional Scheduling Analysis PRIVILEGED AND CONFIDENTIAL  <u>Description:</u> Bi-directional scheduling analysis prepared at the request of internal counsel <u>Title:</u> Laurel Bi-Directional Scheduling Analysis mjk comments PRIVILEGED AND CONFIDENTIAL	Work Product
Thomas R. Zeth Michael J. Kelly	David Arnold Mark Johnson Timothy Ernst	Powerpoint	2/17/2018	<u>Description:</u> Bi-directional scheduling analysis prepared at the request of internal counsel	Work Product
Thomas R. Zeth	Patrick Monaghan David Arnold Michael J. Kelly Mark Johnson Timothy Ernst	Email	2/21/2018	<u>Title:</u> Laurel Scheduling Analysis (CONFIDENTIAL - ATTORNEY CLIENT COMMUNICATION)  <u>Description:</u> Email to counsel regarding work product and analysis prepared at the request of internal counsel <u>Title:</u> Laurel Scheduling Analysis (PRIVILEGED AND CONFIDENTIAL) (2018-02)	Attorney Client Communication Work Product
Thomas R. Zeth	Patrick Monaghan David Arnold Michael J. Kelly Mark Johnson Timothy Ernst	Powerpoint	2/21/2018	<u>Description:</u> Bi-directional scheduling analysis prepared at the request of internal counsel and attached to communication with internal counsel <u>Title:</u> Volume Scenarios for Analysis - PRIVILEGED AND CONFIDENTIAL (2018-02-21)	Attorney Client Communication Work Product
Thomas R. Zeth	Patrick Monaghan David Arnold Michael J. Kelly Mark Johnson Timothy Ernst	Excel	2/21/2018	<u>Description:</u> Bi-directional volumes analyses prepared at the request of internal counsel and attached to communication with internal counsel <u>Title:</u> Laurel Scheduling Analysis (PRIVILEGED AND CONFIDENTIAL) (2018-03)	Attorney Client Communication Work Product
Thomas R. Zeth	David Arnold Michael J. Kelly Mark Johnson Timothy Ernst	Powerpoint	3/1/2018	<u>Description:</u> Bi-directional scheduling analysis prepared at the request of internal counsel	Work Product



**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;	:	Docket No. C-2018-3003365
and Sheetz, Inc.	:	
Complainants,	:	
	:	
v.	:	
	:	
Laurel Pipe Line Company, L.P.	:	
Respondent.	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the parties and in the manner listed below:

**Via First Class Mail and Email**

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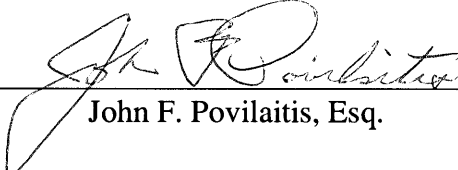
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Dated this 12<sup>th</sup> day of October, 2018.

  
\_\_\_\_\_  
John F. Povilaitis, Esq.