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October 15, 2018

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

VIA ELECTRONIC FILING

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

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Prehearing Memorandum 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") (collectively, "Complainants") in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to this proceeding are being served with a copy of this document. Thank you.

Sincerely,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in blue ink, appearing to read 'A. Bakare', is written over a horizontal line.

Adeolu A. Bakare

Counsel to Guttman Energy, Inc.; Lucknow-Highspire Terminals, LLC; and Sheetz, Inc.

Enclosures

c: Administrative Law Judge Eranda Vero (via e-mail and First-Class Mail)
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

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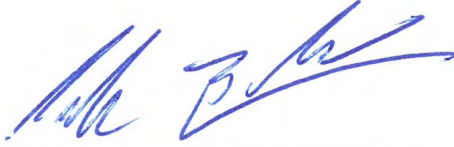
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Adeolu A. Bakare

Dated this 15th day of October, 2018, in Harrisburg, Pennsylvania.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**PREHEARING MEMORANDUM OF
GIANT EAGLE, INC.; GUTTMAN ENERGY, INC.; LUCKNOW-HIGHSPIRE TERMINALS,
LLC; MONROE ENERGY, LLC; PHILADELPHIA ENERGY SOLUTIONS REFINING AND
MARKETING, LLC; AND SHEETZ, INC.**

Pursuant to the Pennsylvania Public Utility Commission's ("PUC" or "Commission") October 9, 2018, Call-In Telephone Pre-Hearing Conference Notice and the Commission's regulations at 52 Pa. Code § 5.222(d)(1), 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, "Complainants") hereby submit this Prehearing Memorandum in the above-captioned proceeding.

I. HISTORY OF THE PROCEEDING

The Complainants filed a Complaint ("Original Complaint") and a Petition for Interim Emergency Relief before the PUC on July 12, 2018, in Docket Nos. C-2018-3003365 and P-2018-3003368, respectively. On July 18, 2018, the Commission's Bureau of Investigation and Enforcement ("I&E") filed a Notice of Appearance in the is proceeding. The Original Complaint and Petition for Interim Emergency Relief filed with the PUC arose from Laurel Pipeline Company, LP's ("Laurel") Petition to the Federal Energy Regulatory Commission ("FERC") to operate the Laurel pipeline bi-directionally (*i.e.*, petroleum products flow, at different times, from both east to west and west to east).¹ The Original Complaint and

¹ The Complainants, Laurel and I&E are collectively referred to as the "Parties."

Petition for Interim Emergency Relief (1) alleged concerns about the scheduling of hydrostatic testing² as a claimed prerequisite for initiating the aforementioned bi-directional service, and (2) averred that the effect of Laurel's bi-directional proposal at FERC is to deprive the PUC of its lawful jurisdiction over a regulated utility and its lawful jurisdiction over the abandonment of a portion of Laurel's existing certificated Pennsylvania intrastate public utility service.

Following a July 23, 2018, evidentiary hearing on the Complainants' Petition for Interim Emergency Relief in PUC Docket No. P-2018-3003368, the parties entered into a Settlement that resolved the matters in that Petition related to scheduling Laurel's proposed hydrostatic testing. The Settlement was approved in the Initial Decision issued by Administrative Law Judge ("ALJ") Eranda Vero on July 27, 2018. When Laurel filed preliminary objections to the Original Complaint, the Complainants exercised their right under 52 Pa. Code § 5.91(b) and filed an Amended Complaint on August 8, 2018 focusing on Laurel's bi-directional service.

On August 28, 2018, Laurel filed Preliminary Objections to the Complainants' Amended Complaint in PUC Docket No. C-2018-3003365, arguing that the Amended Complaint should be dismissed because (i) the PUC lacks jurisdiction over an initiation of interstate service that does not involve the abandonment of intrastate service; (ii) the Amended Complaint fails to state a claim against Laurel regarding the initiation of bi-directional service; and (iii) the Complainants have failed to state a claim that Laurel's proposal to initiate bi-directional service is inconsistent with its existing PUC-jurisdictional intrastate tariff.

On September 7, 2018, the Complainants filed a timely Response to Laurel's Preliminary Objections.

² A hydrostatic test is a way in which pressure vessels such as pipelines can be tested for strength and leaks.

On October 9, 2018, ALJ Eranda Vero issued an order overruling Laurel's Preliminary Objections and setting the Amended Complaint for hearing.³ In that order, the ALJ found that "[w]hether or not [Laurel's] initiation of bi-directional service on the Pittsburgh-Altoona section of the Laurel pipeline amounts to a full or partial abandonment of service is a question of fact which may not be disposed of through preliminary objections."⁴ The ALJ also held that Laurel's Preliminary Objections should be overruled because the Amended Complaint raised concrete concerns of actual harm that may result from instituting Laurel's proposed bi-directional service, and in addition, that the Amended Complaint raised questions of fact regarding whether Laurel's plan to initiate bi-directional service violates its existing intrastate tariff.⁵

Also on October 9, 2018, the PUC issued a Call-In Telephone Prehearing Conference Notice confirming that a telephonic prehearing conference for this proceeding had been scheduled for October 16, 2018.

II. SERVICE LIST

For purposes of service in the above-captioned proceeding, please direct all communications to:

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³ *Order on Respondent's Preliminary Objection*, Docket No. C-2018-3003365 (Oct. 9, 2018).

⁴ *Id.* at 7.

⁵ *Id.* at 11-13.

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III. ANTICIPATED ISSUES AND SUB-ISSUES

Based on the limited information Laurel has provided to date, the Complainants anticipate that this proceeding will need to address at least the following issues and sub-issues:

- (1) Does Laurel's proposed bi-directional service on the L718 pipeline segment violate Laurel's existing certificate of public convenience ("CPC") and Public Utility Code ("Code") Section 1501, 66 Pa. C.S. § 1501, which requires jurisdictional public utilities like Laurel to provide service that is "reasonably continuous and without unreasonable interruptions or delay?"

- (2) Does Laurel's proposed bi-directional service on the L718 pipeline segment violate Code Sections 1302 and 1303, 66 Pa. C.S. §§ 1302-1303, which require public utilities like Laurel to maintain, file and adhere to tariffs that reflect service offerings and rules associated with service and are modified pursuant to the tariff review process when service is changed?
- (3) Does Laurel's proposed bi-directional service on the L718 pipeline segment violate Code Chapter 11, 66 Pa. C.S. § 1101, *et seq.*, because Laurel must make the appropriate filings with, and obtain the approval of the PUC, to implement bi-directional transportation pipeline because such proposal constitutes a partial abandonment of Laurel's existing east to west tariffed intrastate petroleum products transportation service between Eldorado and Pittsburgh, Pennsylvania?

The Complainants anticipate the need for extensive additional discovery of Laurel's proposed bi-directional service. Indeed, they commenced discovery in August 2018, shortly after the Original Complaint was filed, notwithstanding Laurel's Preliminary Objections to that complaint. Through the course of discovery, the Complainants may identify additional issues that need to be addressed during this proceeding. Accordingly, the Complainants reserve their rights to raise further issues and to respond to all matters raised by other parties.

IV. PROPOSED SCHEDULE AND DISCOVERY RULES

The Complainants expect significant discovery in this proceeding due to the complexity of issues raised in the initial pleadings and because Laurel's proposal represents a fundamental change to the jurisdictional service it has been providing in the Commonwealth for more than 50 years. Particularly in light of ongoing discovery disputes arising from the Complainants' initial Set I Interrogatories and as detailed in the Motion to Compel and Shorten Response Period filed on October 12, 2018, the Complainants propose that the October 16, 2018, telephonic prehearing conference address only the limited scheduling necessary to allow parties to conduct thorough discovery and participate in a formal discovery conference regarding Laurel's proposed bi-directional service. The formal discovery conference is intended to shorten the overall time needed for discovery, limit the need for depositions and save the Parties and the Commission time and expense. The Complainants further propose that, after the initial

discovery period is completed, including a formal discovery conference, the parties will engage in settlement discussions for a defined period that is synchronized with the settlement discussions required by the October 3, 2018 Joint Stipulation and Settlement. At the conclusion of that settlement period, the Parties will provide an update to the ALJ that will address: (1) whether a settlement has been reached and (2) if no settlement is reached, a proposed procedural schedule for the balance of the proceeding. Accordingly, the Complainants propose the following schedule to govern the initial phase of this proceeding:

October 16, 2018	Telephonic Prehearing Conference
On or before January 14, 2019	Formal Discovery Conference
February 4, 2019	Parties Provide a Status Report to ALJ on Settlement Discussions and Proposals for Any Further Procedural Deadlines

The Complainants have advised Laurel of the proposed schedule noted above and anticipate further discussion between the parties.

At this time, the Complainants are not proposing to accelerate the Commission's standard discovery deadlines. However, the Complainants propose certain procedures for the Formal Discovery Conference (attached hereto as "Appendix A"). The Complainants reserve the right to propose additional discovery modifications as may become necessary.

V. PROPOSED WITNESSES

Consistent with the proposed schedule under which Parties will participate in informal discovery and settlement discussions before proceeding to formal litigation, the Complainants will address at a future point which company-specific witnesses and which of the Complainants' external consultants may be presenting testimony.

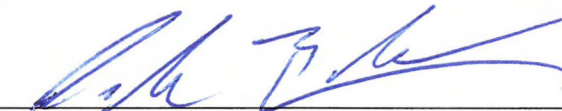
VI. POSSIBILITY OF SETTLEMENT

As evidenced by the proposed schedule, the Complainants are not only willing to participate in discussions with the other parties to amicably resolve the issues in this proceeding subject to Commission approval, but further recommend a defined period to encourage thorough discussions.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

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Dated: October 15, 2018

**COMPLAINANTS' PROPOSED PROCEDURAL RULES FOR DISCOVERY
CONFERENCE ON IMPLEMENTATION OF BI-DIRECTIONAL SERVICE ON THE
LAUREL PIPELINE 718 SEGMENT**

1. The subject of the Discovery Conference will be the implementation of bi-directional service on the 718 pipeline segment.
2. The objective of the Discovery Conference is to facilitate an early exchange of information in order to reduce the amount of written discovery required and potentially reduce or eliminate the need for individual depositions.
3. Each Party may be represented by counsel and their experts. Party representatives with commercial and operational responsibilities may attend and participate. Representatives unable to attend in person may participate by phone.
4. Laurel/Buckeye personnel with actual operational responsibilities on the 718 segment and any potential future bi-directional service will attend the Discovery Conference and be prepared to describe in detail the proposed plan for bi-directional service and explain how such service will not impair existing east to west intrastate transportation service on Line 718.
5. Non-attorney participants will be placed under oath.
6. Laurel/Buckeye will be prepared to address in detail all operational rules, requirements and standards by which the requests of shippers using east to west and west to east service will be met.
7. Equipment, displays, videos, etc. will be available for illustrating bi-directional operational issues or concepts.
8. Emphasis will be on party representatives and personnel discussing operational issues with each other, including responding to specific questions about how the entire 718 line will be operated in bi-directional mode.
9. The entire discussion will be transcribed.
10. The ALJ will be available during the Discovery Conference to mediate any discovery disputes.
11. The conduct of the Discovery Conference will be without prejudice to any party conducting such other discovery as may be necessary or appropriate.