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November 6, 2020

**VIA ELECTRONIC FILING**

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

Re: Application of Aqua Pennsylvania Wastewater, Inc. pursuant to Sections 1102, 1329 and 507 of the Public Utility Code for approval of the acquisition by Aqua of the wastewater system assets of the Delaware County Regional Water Quality Control Authority; Docket No. A-2019-3015173; **SUNOCO PARTNERS MARKETING & TERMINALS, L.P./ENERGY TRANSFER MOTION FOR COMPLETE REJOINDER OUTLINES AND REQUEST FOR EXPEDITED 2-HOUR RESPONSE PERIOD**

Dear Secretary Chiavetta:

Enclosed please find Sunoco Partners Marketing & Terminals, L.P./Energy Transfer's Motion for Complete Rejoinder Outlines and Request for Expedited 2-Hour Response Period.

Copies are being served on parties of record per the attached Certificate of Service. If you have any questions regarding this filing, please contact the undersigned.

Very truly yours,

*/s/ Thomas J. Sniscak*

Thomas J. Sniscak  
Kevin J. McKeon  
Whitney E. Snyder  
Melissa A. Chapaska

*Counsel for Sunoco Partners Marketing  
& Terminals, L.P./Energy Transfer*

Enclosures

cc: Per Certificate of Service

## **CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving the Surrebuttal Testimony of Sunoco Partners Marketing & Terminals, L.P./Energy Transfer in the manner and upon the persons listed below:

### **VIA ELECTRONIC MAIL ONLY**

Honorable Angela T. Jones  
Commonwealth of Pennsylvania  
Pennsylvania Public Utility Commission  
Office of Administrative Law Judge  
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/s/ Thomas J. Sniscak  
Thomas J. Sniscak, Esquire  
Kevin J. McKeon, Esquire  
Whitney E. Snyder, Esquire  
Melissa A. Chapaska, Esquire

Dated: November 6, 2020

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Aqua Pennsylvania	:	
Wastewater, Inc. pursuant to Sections 1102,	:	
1329 and 507 of the Public Utility Code for	:	Docket No. A-2019-3015173
approval of the acquisition by Aqua of the	:	
wastewater system assets of the Delaware	:	
County Regional Water Quality Control	:	
Authority	:	

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**NOTICE TO PLEAD**

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Pursuant to 52 Pa. Code §§ 5.403 and 5.243(e), you are hereby notified that, if you do not file a written response to the enclosed Motion within 2 hours from service of this notice, a decision may be rendered against you. Any Response to this Motion must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Sunoco Pipeline, L.P., and where applicable, the Administrative Law Judge presiding over the issue.

File with:

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

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Aqua Pennsylvania	:	
Wastewater, Inc. pursuant to Sections 1102,	:	
1329 and 507 of the Public Utility Code for	:	Docket No. A-2019-3015173
approval of the acquisition by Aqua of the	:	
wastewater system assets of the Delaware	:	
County Regional Water Quality Control	:	
Authority	:	

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**SUNOCO PARTNERS MARKETING AND TERMINALS L.P.'S  
MOTION FOR COMPLETE REJOINDER OUTLINES AND REQUEST FOR  
EXPEDITED 2-HOUR RESPONSE PERIOD**

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Pursuant to 52 Pa. Code §§ 5.403 and 5.243(e), Sunoco Partners Marketing and Terminals L.P. (Sunoco Partners), by its undersigned counsel, requests that Your Honor Order: (1) Aqua of Pennsylvania Inc. (Aqua) and the Delaware Country Regional Authority (DELCORA), (collectively Aqua/DELCORA) be required to provide rejoinder outlines by Noon on Saturday November 7, 2020 for witnesses Packer, Pillegi and Miller that specify each witnesses' position on the topic identified and the basis for such position; and (2) that Answers to this Motion be provided within two hours of the filing of this Motion, 4:00 P.M.

In support thereof, Sunoco Partners avers as follows:

1. On November 6, 2020 at 11:52 A.M., Aqua/DELCORA submitted rejoinder outlines that completely fail to provide the necessary detail to give Sunoco Partners notice of the content of the proposed oral rejoinder. The outlines in question are attached as **Exhibit A**. Rejoinder outlines were due at Noon today (Friday, November 6, 2020). The hearing in this matter begin at 10:00 A.M. on Monday morning and will start with Aqua/DELCORA proffering oral rejoinder testimony.

2. Aqua/DELCORA's outlines merely identify general topics. They do not give the witnesses' position on the topic or the witnesses' basis for that position.

3. In fact, the rejoinder outlines provided just list topics that were already contained in Sunoco Partners surrebuttal testimony. Rejoinder testimony is necessarily limited to responses to surrebuttal testimony, so these outlines provide no useful information, let alone the detail required to give Sunoco Partners notice of the content of the oral rejoinder testimony to be given at hearing. Sunoco Partners is prejudiced by the lack of detail in the outlines because it hinders its ability to prepare for cross-examination at hearing. The written testimony procedure is to avoid trial by ambush, and Aqua/DELCORA's rejoinder outlines violate this long-standing practice.

4. Sunoco Partners attempted to resolve this issue with counsel for Aqua prior to filing this Motion. Upon reviewing the outlines, Sunoco Partners sent an email to counsel for Aqua, Your Honor, and the Parties, requesting Aqua/DELCORA agree to provide more detailed outlines. This email was sent at 12:39 P.M. Sunoco Partners requested Aqua's counsel agree to its request within an hour and explained that otherwise it would be filing this Motion. Counsel for Aqua responded at 1:22 P.M. and disagreed that their outlines were not detailed enough. Counsel stated "It is obvious in regard to each of the listed topics that the witness disagrees with the SPMT witness." First, that is not obvious, and second, there is no indication at all of why the witness disagrees or what aspect of the SPMT witnesses' testimony that Aqua/DELCORA witness disagrees with. Sunoco Partners is not looking for detailed "Q&A" testimony, but instead basic information on the witnesses' position on the topics listed. These emails are attached as **Exhibit B**.

WHEREFORE, Sunoco Partners respectfully requests Your Honor Order:

1. Answers to this Motion be submitted within two hours of submission of this Motion (4:00 P.M.); and
2. Aqua/DELCORA to produce by Noon on Saturday, November 7, 2020 Rejoinder outlines that specify each witnesses' position on the topic identified and the basis for such position for witnesses Packer, Pillegi and Miller.

Respectfully submitted,

/s/ Whitney E. Snyder  
Thomas J. Sniscak, Esq. (PA ID No. 33891)  
Kevin J. McKeon (PA ID No. 30428)  
Whitney E. Snyder, Esq. (PA ID No. 316625)  
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*Attorneys for Respondent Sunoco Partners Marketing and Terminals L.P.*

Dated: November 6, 2020



**OUTLINE – PACKER – ORAL REJOINDER TESTIMONY**

**REJOINDER TO SPMT WITNESS WOODS**

Removal of the Western Regional Treatment Plant and the 26 outfall regulators from the Proposed Transaction.

**OUTLINE – PILEGGI – ORAL REJOINDER TESTIMONY**

**REJOINDER TO SPMT WITNESS WOODS**

State and Local Grants related to Executive Order.

Deduction of Cash Accounts from Beginning Trust Balance.

**Oral Rejoinder Outline – Jason Miller**

- Integration of Resource of Conservation and Recovery Act (RCRA), EPA and its regulations, Pennsylvania Department of Environmental Protection (PaDEP) and its regulations, National Pollutant Discharge Elimination System (NPDES) permits, RCRA Part B hazardous waste treatment permits, permits by rule, and relevant exemptions and exclusions.
- Summary of and response to concerns expressed in Surrebuttal Testimony of Sunoco Partners Marketing and Terminals, L.P. (SPMT) witness Kevin W. Smith.
- RCRA Part B permit to treat hazardous waste.
- Alternatives to SMPT obtaining a RCRA Part B permit
- Permit by Rule from PaDEP to treat hazardous waste.
- Relationship between RCRA and NPDES permit provided to Aqua by PaDEP.
- Aqua's efforts to manage the RCRA compliance process.
- SPMT reporting to DELCORA of hazardous waste in the Marcus Hook Industrial Complex wastewater discharges.
- SPMT on-site management of wastewater.
- Application of domestic sewage exclusion to on-site sewers and equipment at SPMT.
- Wastewater treatment unit exemption – Pa regulations.

**Whitney Snyder**

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**From:** Tom Niesen <tniesen@tntlawfirm.com>  
**Sent:** Friday, November 6, 2020 1:20 PM  
**To:** Whitney Snyder; Jones, Angela; pmcneal@pa.gov  
**Cc:** Stahl, Alexander R; Povilaitis, John F.; Seltzer, Alan M.; Wyatt, Thomas; Olesh, Matthew; Miller, Gina; McLain, Erika; OCADelcora@paoca.org; Gray, Steven; Adeolu Bakare ; Stark, Ken; kdk@petrikin.com; cgm@petrikin.com; cyndipantages@gmail.com; rschmucki@gmail.com; Thomas Sniscak; Kevin McKeon; Melissa A. Chapaska; Michelle M.; justin.weber@troutman.com; Ketelsen, Jason Thomas; Marc; rscott@robertwscottpc.com; scott.j.rubin@gmail.com; Mary M; susie01213@aol.com; pattyk6@icloud.com; pete@kiddertax.com; gm@treasurelake.us  
**Subject:** RE: PaPUC Docket No. A-2019-3015173 - Oral Rejoinder Outlines

Ms. Snyder – We believe the oral rejoinder outlines follow the usual protocol. It is obvious in regard to each of the listed topics that the witness disagrees with the SPMT witness. Otherwise, we would not be offering rejoinder testimony. The rejoinder obligation is an “outline” only and we believe what we have provided is sufficient. Your request for an explanation of the bases for the witness’ position seems to be more in the nature of written Q’s and A’s (in a non-Q and A format) rather than an “outline.” If you continue to feel that what has been provided is not sufficient or consistent with the requirement of an “outline” then we suggest a call with Judge Jones this afternoon to address the issue rather than the filing of a motion.

Regards,

Tom Niesen

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\* \* \*

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\* \* \*

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**From:** Whitney Snyder <WESnyder@hmslegal.com>  
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## EXHIBIT B

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**Subject:** RE: PaPUC Docket No. A-2019-3015173 - Oral Rejoinder Outlines

Mr. Niesen,

These outlines completely lack the necessary detail required to give us notice of your rejoinder testimony. We are requesting you provide outlines for Packer, Pillegi and Miller that at least explain as to each issue the witnesses' position and basis therefore by tomorrow at noon. Please let us know that you will be providing outlines with the requested detail within an hour or we will be filing a motion with Judge Jones.

Thank you,

Whitney E. Snyder | Partner

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**Sent:** Friday, November 6, 2020 11:52 AM

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**Subject:** RE: PaPUC Docket No. A-2019-3015173 - Oral Rejoinder Outlines

Hello Judge Jones – Clipped here are Outlines of the Oral Rejoinder Testimony of William Packer, John Pileggi, Michael DiSantis, Harold Walker, III, and Jason Miller.

Regards,

Tom Niesen

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## EXHIBIT B

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*\* \* \**