

Phone: (215) 569-5793
Fax: (215) 832-5793
Email: Lewis@BlankRome.com

March 5, 2015

VIA ELECTRONIC FILING

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

Re: Sunoco Pipeline L.P.'s Petition for Leave to Withdraw Pleadings, Docket
Nos. P-2014-2411942, 2411950, 2411966, 2411968, 2411971, 2411975,
2411976, 2411977, 2411979

Dear Secretary Chiavetta:

Enclosed for filing in the above-referenced matters on this date is Sunoco Pipeline L.P.'s ("SPLP") Petition for Leave to Withdraw Pleadings, namely SPLP's Amended Petitions filed on Docket Nos. P-2014-2411942, 2411950, 2411966, 2411968, 2411971, 2411975, 2411976, 2411977, 2411979. Also enclosed is a Certificate of Service evidencing service upon the parties of record in the dockets relevant to SPLP's petition for leave to withdraw.

Thank you for your attention to this matter.

Respectfully,



Christopher A. Lewis, Esq.

Enclosures

cc: Certificate of Service List (w/encls.)

**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

	:	Docket No. P-2014-2411942
	:	
Petition of Sunoco Pipeline LP, for a	:	Docket No. P-2014-2411950
Finding That The Situation of	:	
Structures to Shelter Pump Stations and	:	Docket No. P-2014-2411966
Valve Control Stations is Reasonably	:	
Necessary for the Convenience or	:	Docket No. P-2014-2411968
Welfare of the Public	:	
	:	Docket No. P-2014-2411971
	:	
	:	Docket No. P-2014-2411975
	:	
	:	Docket No. P-2014-2411976
	:	
	:	Docket No. P-2014-2411977
	:	
	:	Docket No. P-2014-2411979
	:	

**SUNOCO PIPELINE L.P.’S PETITION
FOR LEAVE TO WITHDRAW PLEADINGS**

Sunoco Pipeline L.P. (“SPLP”), by its undersigned counsel and pursuant to 52 Pa. Code § 5.94 of the rules and regulations of the Pennsylvania Public Utility Commission (the “Commission”), hereby submits a petition for leave to withdraw its Amended Petitions in the dockets captioned above. The Amended Petitions, filed May 8, 2014, requested findings that structures in the named municipalities to shelter pump stations and valve control stations are reasonably necessary for the convenience and welfare of the public and, therefore, exempt from any local zoning pursuant to 53 P.S. § 10619 (“Section 619”) of the Municipal Planning Code (“MPC”). In support of its withdrawal request, SPLP submits as follows:

I. HISTORY OF THE PROCEEDING¹

1. On March 21, 2014, SPLP filed a petition containing 31 separate locations in its caption (the “Petition”). The Petition sought findings from the Commission that structures to shelter 18 pump stations and 17 valve control stations along SPLP’s Mariner East pipeline are reasonably necessary for the convenience or welfare of the public, and are therefore exempt from local zoning ordinances pursuant to Section 619 of the Municipalities Planning Code, 53 P.S. § 10619 (MPC Section 619). At SPLP’s request, the Commission’s Secretary treated the Petition as 31 separate petitions and assigned 31 docket numbers to the matters.

2. On May 8, 2014, SPLP filed 31 separate Amended Petitions for each of the 31 dockets.

3. On February 6, 2015, SPLP filed a Petition for Leave to Withdraw (“Withdrawal Petition”) in the following twenty-two (22) dockets:

2014-2411941 Wallace Township, Chester County
2014-2411943 Lower Swatara Township, Dauphin County
2014-2411944 East Wheatfield Township, Indiana County
2014-2411945 Fairview Township, York County
2014-2411946 North Middleton Township, Cumberland County
2014-2411948 Frankstown Township, Blair County
2014-2411951 Derry Township, Westmoreland County
2014-2411952 Loyalhanna Township, Westmoreland County
2014-2411953 Penn Township, Westmoreland County
2014-2411954 Hempfield Township, Westmoreland County
2014-2411956 Rostraver Township, Westmoreland County
2014-2411957 Allegheny Township, Blair County

¹ A more detailed history of the proceeding is set forth in SPLP’s Petition for Leave to Withdraw Pleadings filed on February 6, 2015, which pertains to those dockets listed in paragraph 3 herein.

2014-2411958 Union Township, Washington County
2014-2411960 North Strabane Township, Washington County
2014-2411961 Penn Township, Huntingdon County
2014-2411963 Chartiers Township, Washington County
2014-2411964 Shirley Township, Huntingdon County
2014-2411965 Upper Chichester Township, Delaware County
2014-2411967 Toboyne Township, Perry County
2014-2411972 Spring Township, Berks County
2014-2411974 Hampden Township, Cumberland County
2014-2411980 Salem Township, Westmoreland County

4. In the February 6, 2015 Withdrawal Petition, SPLP stated that it has obtained the necessary zoning approvals from the above-listed townships, or has determined that zoning exemptions are not required for the above-listed townships, or has elected not to enclose valve control stations, thereby rendering the Amended Petitions in those townships moot.

5. No party to these proceedings opposed the February 6, 2015 Withdrawal Petition.

6. On February 10, 2015, the parties attended a prehearing conference pertaining to all of the 31 dockets, except Docket No. P-2014-2411966, pertaining to West Goshen Township. By agreement of the parties, the prehearing conference for West Goshen Township was deferred pending settlement discussions among the parties to that docket. On February 13, 2015, Judges Barnes and Salapa issued a Notice scheduling the prehearing conference for Docket No. P-2014-2411966 for April 29, 2015.

7. On February 27, 2015, Administrative Law Judges David A. Salapa and Elizabeth H. Barnes granted SPLP's February 6, 2015 Withdrawal Petition and dismissed the above-listed dockets, concluding that the public interest would not be negatively impacted by the withdrawal,

and the withdrawal would conserve administrative hearing resources. Subsequently, the only remaining nine dockets pertaining to SPLP's Amended Petition are:

- 2014-2411942 Burrell Township, Indiana County
- 2014-2411950 Cambria Township, Cambria County
- 2014-2411966 West Goshen Township, Chester County
- 2014-2411968 Upper Uwchlan Township, Chester County
- 2014-2411971 Brecknock Township, Berks County
- 2014-2411975 West Cocalico Township, Lancaster County
- 2014-2411976 Londonderry Township, Dauphin County
- 2014-2411977 West Cornwall Township, Lebanon County
- 2014-2411979 Lower Frankford Township, Cumberland County

II. REQUEST FOR WITHDRAWAL

8. Section 5.94 of the Commission's regulations provides that a party requesting leave to withdraw its pleadings shall state the reasons for the withdrawal request. SPLP seeks leave to withdraw the remaining Amended Petitions because the Amended Petitions are now moot and there is no case and controversy relating to those dockets. Specifically, SPLP now seeks leaves to withdraw the following dockets:

- 2014-2411942 Burrell Township, Indiana County
- 2014-2411950 Cambria Township, Cambria County
- 2014-2411966 West Goshen Township, Chester County
- 2014-2411968 Upper Uwchlan Township, Chester County
- 2014-2411971 Brecknock Township, Berks County
- 2014-2411975 West Cocalico Township, Lancaster County
- 2014-2411976 Londonderry Township, Dauphin County
- 2014-2411977 West Cornwall Township, Lebanon County
- 2014-2411979 Lower Frankford Township, Cumberland County

9. Since the filing of the Amended Petitions, and since the filing of SPLP's February 6, 2015 Withdrawal Petition, SPLP has continued to work with the above-captioned townships, as well as all townships previously and currently implicated in this proceeding, to amicably settle and resolve whatever zoning exemptions and/or requirements might be required.

10. Since the filing of the Amended Petitions, SPLP has obtained approvals from the above-captioned townships or has decided to re-engineer the pump stations such that building enclosures for the necessary equipment would not be required.

11. Accordingly, SPLP's request to the PUC for any exemptions from local zoning requirements per Section 619 in the above-captioned townships and the Amended Petitions relating to these townships are both moot, and no case or controversy is presented any longer within the jurisdiction of the PUC *via* MPC Section 619 with respect to the aforementioned municipalities. As to these public utility facilities, there is no further relief that can be granted by the Commission under MPC Section 619. *White v. UGI Utilities, Inc.*, 2008 Pa. PUC LEXIS 101,*5-6 (Pa. PUC April 11, 2008) (Salapa, J.) (granting withdrawal of complaint where there no longer exists a controversy because "facts alleged in the complaint-appeal have been altered by subsequent events and any issues raised in those factual allegations have been rendered moot."); *The Peoples Natural Gas Co. v. Energy Pipeline Co.*, 1995 Pa. PUC LEXIS 167, *26 (Pa. PUC Dec. 12, 1995) ("With respect to changes in law and fact, we readily acknowledge that such changes may constitute grounds to obviate a case or controversy [and] a legal question can become moot on appeal as a result of an intervening change in facts or law." (citing *In re Gross*,

382 A.2d 116 (Pa. 1978)); *Zack v. AT&T Communications of Pennsylvania*, 2010 Pa. PUC LEXIS 68, *16 and n.8 (Pa. PUC Feb. 22, 2010) (recognizing that “the mootness doctrine require an actual controversy exist at all stages of review, not merely when the complaint is filed,” and dismissing the complaint because no further relief could be granted).

12. Further, withdrawal of the Amended Petitions is in the public interest because, as noted by the Commission, “[t]he public interest would not be served by requiring litigation of a [petition] that has already been resolved. This would result in an unnecessary burden and costs to the parties and the agency which would also not be in the public interest.” *PA Pub. Util. Comm’n v. Northern Lehigh Ambulance Serv., Inc.*, Docket No. C-2012-2318310, Opinion and Order issued October 25, 2013 (Barnes, J.). As Administrative Law Judges Salapa and Barnes stated in the February 27, 2015 Initial Decision granting SPLP’s February 6, 2015 Petition for Leave to Withdraw, “Granting the petition to withdraw will terminate litigation in [those 22] amended petitions, saving the parties the costs in time and money they would otherwise incur litigating the cases.” *February 27, 2015 Initial Decision Granting SPLP’s Request for Leave to Withdraw Amended Petitions*.

13. Moreover, the public interest will not be negatively affected by the withdrawal of these proceedings. First, as held by Administrative Law Judges Salapa and Barnes in the February 27, 2015 Initial Decision, if SPLP “has received authorization from local zoning boards and is complying with municipal ordinances and comprehensive plans, [then] the public interest will not be negatively impacted by granting [SPLP]’s petition for leave to withdraw.” *February*

27, 2015 Initial Decision Granting SPLP's Request for Leave to Withdraw Amended Petitions.

Second, to the extent that intervenors have asserted concerns relating to air and water quality and human health issues, these concerns will not be affected by the withdrawal of these proceedings because the Commission has explicitly held, and Administrative Law Judges Salapa and Barnes have repeatedly recognized, that those issues are beyond the limited scope of these MPC 619 proceedings.²

WHEREFORE, SPLP respectfully requests that the Commission grant its Petition for Leave to Withdraw its Amended Petitions filed on May 8, 2014 in the above-captioned dockets and mark those dockets closed.

Respectfully submitted,

BLANK ROME LLP



Christopher A. Lewis, Esq.
Michael L. Krancer, Esq.
Frank L. Tamulonis, Esq.
Melanie S. Carter, Esq.

² See *December 1, 2014 Prehearing Order #1 Granting Interventions* (ruling that “[SPLP]’s compliance with safety and environmental requirements in siting and construction [of] the Mariner East project and the pump and valve control stations were outside the scope of these petitions. Therefore, the interventions ... in these proceedings will be limited to issues arising from the shelter buildings.”); see *December 17, 2014 Order Denying Consolidation* (2014-2411966); *January 9, 2015 Order Striking Answer and New Matter of West Goshen Township*, Docket No. P-2014-2411966 (Stating that “the Commission directed that we decide whether the intervenors had presented evidence to rebut the presumption that Sunoco was a public utility and ... whether Sunoco’s proposed service was included within its existing public utility authority.” In so determining, the Administrative Law Judges stated, “the Commission directed that we should not address whether it is appropriate to place the valve control and pump stations in certain locations because these issues were outside the scope of the proceedings. Rather we were simply to determine whether Sunoco’s proposed buildings were reasonably necessary for the convenience or welfare of the public.”).

One Logan Square
130 North 18th Street
Philadelphia, PA 19103
(215) 569-5500
Counsel for Sunoco Pipeline, L.P.

Dated: March 5, 2015

CERTIFICATE OF SERVICE

I hereby certify that on March 5, 2015, I caused a true copy of the foregoing Petition for Leave to Withdraw Pleadings to be served upon the participants listed below by electronic mail in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Honorable David A. Salapa
P.O. Box 3265
Harrisburg, PA 17105-3265
dsalapa@pa.gov

Honorable Elizabeth H. Barnes
P.O. Box 3265
Harrisburg, PA 17105-3265
ebarnes@pa.gov

Tanya McCloskey, Esquire
Aron J. Beatty, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place – 5th Floor
Harrisburg, PA 17101-1921
tmccloskey@paoca.org

Johnnie Simms, Esquire
Bureau of Investigation and Enforcement
PA Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor West
Harrisburg, PA 17120
josimms@pa.gov

Aaron Stemplewicz, Esquire
925 Canal Street
Suite 3701
Bristol, PA 19007
aaron@delawareriverkeeper.org
**Representing Delaware River Keeper
Network**

John R. Evans, Esquire
Steven Gray, Esquire
Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101
sgray@pa.gov

Augusta Wilson, Esquire
Joseph O. Minott, Esquire
135 S. 19th St
Ste. 300
Philadelphia, PA 19103
awilson@cleanair.org
Representing Clean Air Council

Scott J. Rubin, Esquire
333 Oak Lane
Bloomsburg, PA 17815
scott.j.rubin@gmail.com
**Representing Concerned Citizens of West
Goshen Township**

Margaret A. Morris, Esquire
Reger Rizzo & Darnall
2929 Arch Street
13th Floor
Philadelphia, PA 19104
mmorris@regerlaw.com
Representing East Goshen Township

Kenneth R. Myers, Esquire
David J. Brooman, Esquire
Sireen I. Tucker, Esquire
High Swartz LLP
40 East Airy Street
Norristown, PA 19404
kmyers@highswartz.com
dbrooman@highswartz.com
stucker@highswartz.com
Representing West Goshen Township



Counsel to Sunoco Pipeline, L.P.