

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Sunoco Pipeline L.P. a/k/a/ :  
Energy Transfer Partners : Docket No. P-2018-3000281  
:  
Petition of the Bureau of Investigation and :  
Enforcement of the Pennsylvania Public :  
Utility Commission for the Issuance of an :  
*Ex Parte* Emergency Order :

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code § 5.101(a), you are hereby notified to file a written response to the enclosed Preliminary Objections within ten (10) days from service hereof or the Preliminary Objections may be granted. All pleadings must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served on counsel, 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

With a copy to:

Rich Raiders, Esq.  
321 East Main Street  
Annville, PA 17003

Dated: April 26, 2018

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Sunoco Pipeline L.P. a/k/a/ :  
Energy Transfer Partners : Docket No. P-2018-3000281  
:  
Petition of the Bureau of Investigation and :  
Enforcement of the Pennsylvania Public :  
Utility Commission for the Issuance of an :  
*Ex Parte* Emergency Order :

**ANDOVER HOMEOWNERS' ASSOCIATION, INC.'S PRELIMINARY OBJECTIONS TO SUNOCO'S  
"ANSWER" OPPOSING INTERVENTION, OR, IN THE ALTERNATIVE, REPLY THERETO**

COMES NOW Andover Homeowners' Association, Inc. ("Association"), pursuant to 52 Pa. Code § 5.101, and files Preliminary Objections to Sunoco Pipeline L.P. a/k/a Energy Transfer Partners' ("Sunoco") "Answer" Opposing Intervention, or, in the alternative, replies thereto pursuant to 52 Pa. Code § 5.63, and support thereof states as follows:

1. On or about March 7, 2018, the Pennsylvania Public Utility Commission ("Commission" or "PUC") Bureau of Investigation and Enforcement ("BIE") petitioned the Commission for an *Ex Parte* Emergency Order to suspend operations of Sunoco's Mariner East 1 ("ME1") pipeline pursuant to 52 Pa. Code § 3.2.
2. On or about March 26, 2018, the Association filed a Petition to Intervene in this matter.
3. On or about April 16, 2018, Sunoco filed an "Answer" (*sic*) opposing the Association's intervention.
4. In its "Answer," Sunoco alleges that the Association lacks standing to intervene.

**PRELIMINARY OBJECTION IN THE NATURE OF A MOTION TO STRIKE FOR FAILURE TO  
CONFORM TO PUC RULES—FAILURE TO PROPERLY CHALLENGE STANDING**

5. All above paragraphs are incorporated as if fully recited herein.

6. 52 Pa. Code § 5.101(a)(2) allows preliminary objections concerning a “[f]ailure of a pleading to conform to this chapter . . . .”
7. Sunoco's “Answer” fails to conform to PUC regulations in this chapter.
8. 52 Pa. Code § 5.101(a)(7) requires that any party challenging standing must file preliminary objections.
9. 52 Pa. Code §§ 5.101(a)(2) and (a)(4) require any challenge concerning a pleading that does not conform to PUC regulations must be challenged by preliminary objections.
10. 52 Pa. Code §§ 5.101(a) and (c) require that any such preliminary objections must be accompanied by a notice to plead and notice of the requisite time to respond to the preliminary objections.
11. Sunoco filed an “Answer,” instead of Preliminary Objections, to assert that the Association does not have standing in the instant matter.
12. Sunoco did not provide any notice to plead or any notice of the requisite time to respond with its “Answer.”

**WHEREFORE**, Andover Homeowners' Association, Inc. respectfully requests that the Commission strike Sunoco's purported “Answer” to its petition to intervene, grant the Association's petition to intervene, and grant such other relief as the Commission may find just and appropriate.

**PRELIMINARY OBJECTION IN THE NATURE OF A MOTION TO STRIKE FOR FAILURE TO CONFORM TO PUC RULES—SUNOCO’S FAILURE TO PROPERLY CHALLENGE STANDING**

13. All above paragraphs are incorporated as if fully recited herein.

14. In the alternative, and in addition to the Motion to Strike above, the Association asserts that the claims in Sunoco's "Answer" are without merit.
15. The Association has standing in this matter pursuant to 52 Pa. Code § 5.72(a).
16. Sunoco takes an unreasonably limited view of the standing requirements concerning persons who may be bound by Commission proceedings. *See, Penn. Pub. Util. Comm'n, Bureau of Investigation and Enforcement v. UGI Utilities, Inc.*, Docket No. C-2012-2308997.
17. The Commission allows intervention beyond Sunoco's purported three-part test, which claims that the intervenor must show (1) a direct, substantial, and immediate interest meeting the legal standard discussed above, (2) that it is not adequately represented by existing participants, and (3) that the petitioner may be bound by the action of the Commission in the proceeding. Sunoco "Answer," p.4.
18. The Commission's rules specifically allow intervention for various reasons, including "[a]nother interest of such nature that participation of the petitioner may be in the public interest." 52 Pa. Code § 5.72(3).
19. The Commission has wide discretion to allow intervention in its proceedings. *Penn. Nat. Gas Ass'n v. T.W. Phillips Gas and Oil Co.*, 75 Pa. PUC 598 (Pa. PUC 1991).
20. A Commission proceeding is an administrative law proceeding which generally operates with less formalities than are utilized in Pennsylvania civil practice.
21. Generally, Pennsylvania courts and the Commission have held that a person or entity has standing when the person or entity has a direct, immediate and substantial interest in the instant subject matter. *Application of Artesian Water Pennsylvania, Inc.*, Docket

No. A-2014-2451241; *Joint Application of Pennsylvania-American Water Co. and Evansburg Water Co. for Approval of the transfer, by sale, of the water works property and rights of Evansburg Water Co. to Pennsylvania-American Water Co.*, A-212285F0046/47 and A-21087F01 (Opinion and Order entered on July 9, 1988); *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 195-197, 346 A.2d 269, 282-84 (Pa. 1975); *Waddington v. Pa. Pub. Util. Comm'n*, 670 A.2d 199, 202 (Pa. Commw. 1995); *Landlord Service Bureau, Inc. v. Equitable Gas Co.*, 79 Pa. PUC 342 (Pa. Pub. Util. Comm'n. 1993).

22. In fact, the Association has a direct, immediate and substantial interest in the instant matter.

23. As set forth in its Petition to Intervene, the Association suffers several ME1 impacts:

- a. The Association's private property is encumbered with an ME1 valve site.
- b. The Association understands that this valve site may be one valve site downstream from the valve site servicing the segment crossing the Lisa Drive area.
- c. This valve site could be impacted should Sunoco continue to suffer incidents on ME1, where Sunoco may be required to take remedial or emergency steps to manage ME1 from the valve site on Association property.
- d. Sunoco proposes to further encumber the Association's private, residential property with its so-called Mariner East 2 ("ME2") and Mariner East 2X ("ME2X") pipelines and valve sites.

- e. Sunoco proposes that such construction of ME2 and ME2X on Association property will include horizontal directional drilling (“HDD”) operations, the very construction method which BIE found impacted the integrity of ME1.
- f. Sunoco has a long history of leaking hazardous liquids from its pipelines, including at least three leaks of hazardous, highly volatile liquids from ME1 during 2016-2017.
- g. Sunoco has a long history of failing to report public safety and environmental impacts of its projects, including sinkholes and pipeline releases.
- h. Sunoco has a history of receiving federal enforcement action for “probable violations” of rules relating to pipeline construction, including on the Permian Express II pipeline in April 2016 (this pipeline ruptured in August 2016) and on ME2 in January 2018.
- i. Sunoco has failed to credibly respond to numerous formal, written Resolutions and Proclamations of Concern from municipal governments and school districts near or crossed by ME1 in Delaware and Chester Counties. Supplement of Andover.
- j. The Association is concerned that Sunoco undertook ME2 construction without an adequate understanding of the complex geology in southeast Pennsylvania, and how such construction might impact the integrity of ME1.
- k. The Association is concerned that Sunoco undertook ME2 design and construction without adequately considering the risk (in terms of consequences and probability) associated with construction of a hazardous, highly volatile

liquids pipeline in close proximity to both ME1 and residential neighborhoods like the Andover subdivision.

- I. Moreover, Association Members do not live only in their residences; in fact, they live in their community. This community includes the Lisa Drive area of West Whiteland Township, which is an area containing numerous shops, restaurants, malls and other opportunities for shopping and leisure; and which contains in addition a popular public library and baseball fields.
  - m. The Association is concerned operation of Sunoco's ME1 pipeline, especially in proximity to ME2 construction, poses unacceptable risk to the Association, its property, its Members and its neighbors.
24. It is clear that the Association, hosting a significant segment of ME1 only a few miles from Lisa Drive, would be directly impacted if an incident on ME1 would occur.
  25. The Association's members frequently utilize the many resources within an expected radius of the Lisa Drive location, such as the AMTRAK/SEPTA rail line and the nearby shared Exton Station, Ship Road, US Route 30, and the variety of office and shopping offerings within proximity of Lisa Drive.
  26. Any catastrophic incident of the nature described by BIE in its filings with the Commission would directly impact Association members traveling along Ship Road, Route 100 and Route 30, or on the AMTRAK or SEPTA rail lines, all significant travel corridors in proximity to Lisa Drive.
  27. Given Sunoco's history of not reporting pipeline incidents, and the lack of any credible notification system either in or beyond the control of Sunoco. the Association is

concerned about the ability of its Members to even receive warning of an emergency involving ME1.

28. The Association is not aware of any of agency or entity, or any other authority governing pipeline safety (including Sunoco) having provided adequate or credible emergency notification or response answers regarding the variety of concerns expressed in the Resolutions/Proclamations of Concern filed in this docket by the Association.
29. In addition to concerns stemming from the proximity of ME1 and its associated block valve to residences within the Andover subdivision, Sunoco has not demonstrated that a hazardous, highly volatile liquids accident occurring on Lisa Drive would not affect Association property or the physical safety of its Members.
30. The Association clearly has a “direct, immediate and substantial interest in the subject matter of the proceeding,” in that Sunoco's conduct in the Lisa Drive area could directly impact Sunoco's valve site on Association property, Sunoco's abysmal compliance history could impact Association Members’ lives or property during ongoing phases of ME2 construction or operation, and the Commission's findings that ME2 construction has impacted the integrity of ME1.
31. The Association does not seek to expand the scope or delay this matter. However, even if the Commission were to find that the instant investigation should be focused solely on the pipeline segment crossing the Lisa Drive area, based on the Association's proximity to Lisa Drive and the “potential catastrophic results impacting the public (Emergency Order dated May 7, 2018, p. 2), the Association has a direct, immediate and substantial interest in the subject matter of this proceeding and should be granted intervention.

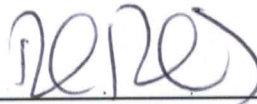


32. Sunoco's advances an unreasonably narrow view of the risks posed by ME2 construction near ME1 within southeast Pennsylvania's difficult geology through Chester and Delaware Counties. Sunoco concedes that this proceeding is "limited by the geography of the emergency condition." However, "the geography of the emergency conditions" may extend throughout southeast Pennsylvania, and Sunoco has offered no evidence that the collapses in the Lisa Drive area are isolated occurrences. Without such assurances, the Commission should not conclude that any such geographic limit does not include Association property or interests.

**WHEREFORE**, the Association respectfully requests that the Commission grant the Association's Petition to Intervene, and grant such other relief as the Commission finds to be just and appropriate.

Dated: April 26, 2018

Respectfully Submitted,



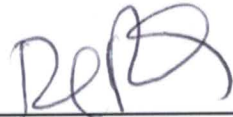
---

Rich Raiders, Esq.  
Attorney ID 314857  
321 East Main Street  
Anville, PA 17003  
215-808-5080  
[raiderslaw@gmail.com](mailto:raiderslaw@gmail.com)

**VERIFICATION**

I, Rich Raiders, hereby verify that the facts set forth in the foregoing Preliminary Objections are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: April 26, 2018

A handwritten signature in blue ink, appearing to read 'Rich Raiders', is written above a horizontal line.

Rich Raiders

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Sunoco Pipeline L.P. a/k/a/ :  
Energy Transfer Partners : Docket No. P-2018-3000281  
:  
Petition of the Bureau of Investigation and :  
Enforcement of the Pennsylvania Public :  
Utility Commission for the Issuance of an :  
*Ex Parte* Emergency Order :

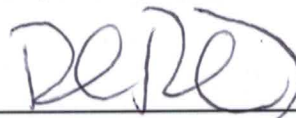
**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing Preliminary Objections upon the parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), upon the persons listed below by electronic mail:

Michael L. Swindler  
Deputy Chief Prosecutor  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105  
[mwindler@pa.gov](mailto:mwindler@pa.gov)

Thomas J. Sniscak, Esq.  
Hawke McKeon & Sniscak LLP  
100 North 10th Street  
Harrisburg, PA 17101  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)

Respectfully Submitted,



Rich Raiders, Esq.  
Attorney ID 314857  
321 E. Main Street  
Annville, PA 17003  
215-808-5080  
[raiderslaw@gmail.com](mailto:raiderslaw@gmail.com)

Dated: April 26, 2018