

 **Raiders Law**

May 22, 2018

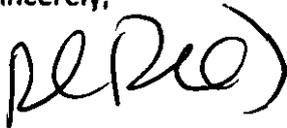
Rosemary Chivaetta
Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

RE: Files P-2018-3001453 and C-2018-3001451

Dear Ms. Chivaetta:

I am in receipt of your May 16, 2018 letter concerning the above-referenced Pennsylvania Public Utility Commission ("PUC") filings made on behalf of Andover Homeowners' Association, Inc.. Please find signed wet-ink copies of the three signature pages. My client provided a new signature page, which I hope meets the PUC's requirements. Please contact me with any further questions. Thank you.

Sincerely,



Rich Raiders, Esq.

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4. The Association's primary position regarding the issues in this proceeding is that it supports Senator Dinniman, including potential safety issues impacting Association Members, their families and their property.
5. Sunoco's repurposed Mariner East 1 (ME1) hazardous, highly volatile liquids pipeline crosses Association property less than 100 feet from residences in the Andover residential subdivision. Adjacent to ME1 is an existing hazardous liquids pipeline. Based on information inscribed on pipeline markers installed by Sunoco, both of these pipelines are shallowly buried on Association property at depths between 3-4 feet below grade.
6. Sunoco Pipeline L.P. ("Sunoco") has constructed on Association property above-ground valve sites for ME1 and the existing, adjacent hazardous liquids pipeline
7. ME1 leaked hazardous, highly volatile liquids at least three times during 2016 and 2017 (in Blair County, Berks County and Delaware County). *See*, Exhibit "A".
8. Sunoco's existing hazardous liquids pipeline adjacent to ME1 has leaked at least four times since 1987, including three times in Delaware County. Three recent leaks on this pipeline were not discovered by Sunoco, but were reported by landowners in Edgmont Township, Delaware County, approximately one mile from Association property. *See* Exhibit "A".
9. Sunoco proposes to construct on Association property two additional hazardous, highly volatile liquids pipelines, a 20-inch pipeline marketed as Mariner East 2 ("ME2") and a 16-inch pipeline marketed as Mariner East 2X ("ME2X").

10. On April 30, 2018, Pennsylvania State Senator Andrew Dinniman filed with the Pennsylvania Public Utility Commission (“Commission”) an Amended Complaint and Amended Petition for Interim Emergency Relief seeking, *inter alia*, that construction and operation of Sunoco’s Mariner East pipelines be prohibited in West Whiteland Township, Chester County. Senator Dinniman’s claims are based in part on concerns that have arisen during the construction of ME2 and ME2X related to the disruption of local geology and the effect of the geology on the integrity of both the new pipelines as well as the 1930s-era ME1. Senator Dinniman has also brought a claim challenging Sunoco’s claimed public utility status.
11. Commission regulations allow intervention where a person has an interest in the proceeding which may be directly affected and which is not adequately represented by existing parties, and as to which the person may be bound by the action of the Commission in the proceeding. 52 Pa. Code § 5.72(a)(2).
12. Intervention is also permitted where participation of the person may be in the public interest. 52 Pa. Code § 5.72(a)(3).
13. A “person” includes a corporation and an association. 52 Pa. Code § 1.8.
14. The Association meets the standards for intervention set forth in 52 Pa. Code § 5.72(a) and summarized in the preceding paragraphs.
15. In brief, and as the Association is prepared to demonstrate at a hearing on this matter, Association Members have a direct interest in the instant proceeding which is not represented by existing parties for at least two reasons:

- a. The West Whiteland Township area is well-developed commercially. It contains numerous shopping malls, restaurants, travel corridors, shopping areas and recreational facilities such as libraries and health clubs which are visited by residents, including children, from across Chester and Delaware Counties. Association Members visit and make use of these recreational and shopping opportunities, all of which are within the “potential impact radius” of an accident involving any of the Mariner East pipelines.
 - b. Sunoco has not released its risk assessment defining the radius of a maximum accident involving its Mariner East pipelines. Highly volatile liquids convert to colorless, odorless, heavier than air gas in the atmosphere, which can move downwind or downhill for long distances while remaining in combustible or explosive concentrations. Association Members are potentially at risk of personal injury or death, or property damage, from a Mariner East accident in West Whiteland, even while in the Andover subdivision, or while traveling on roadways between Andover and West Whiteland Township.
16. The Association will be bound and affected by PUC action in this matter.
17. Participation of the Association in this matter is clearly in the public interest because the Association’s participation will further public health, safety and welfare of Association Members, as well as other members of the public outside of Sen. Dinniman’s district, who could be affected by continuing Sunoco pipeline accidents in or beyond West Whiteland Township.

18. The Commission's actions in this proceeding regarding Senator Dinniman's claims will have a direct impact on the interests of the Association; however, unless the Association is permitted to intervene, the Association cannot be certain that its interests will be represented.
19. On belief and information, the Association understands that Sunoco has a history of receiving federal enforcement actions for failing to make required reports to the Pipeline and Hazardous Materials Safety Administration ("PHMSA").
20. The Association understands that Sunoco placed ME1 in reverse-flowed, repurposed service without fully complying with PHMSA Advisory Bulletin 2014-0040, Pipeline Safety: Guidance for Pipeline Flow Reversals, Product Changes and Conversion to Service, which PHMSA issued following a number of serious accidents on such pipelines.

The Commission's Responsibility and Authority to Protect Public Safety

21. All preceding paragraphs are incorporated by reference as though fully set forth herein.
22. Section 1505 of the Public Utility Code requires any operator holding a Certificate of Public Convenience ("CPC") to furnish "adequate, efficient, safe and reasonable service and facilities" for the transportation of commodities as regulated by the Commission. 66 Pa. C.S. § 1505.
23. Section 1505 of the Public Utility Code also requires operators to "make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for accommodation, convenience or safety of its patrons, employees, and the public." *Id.*

24. Section 1501 of the Public Utility Code requires that public utilities provide “efficient, safe and reasonable service and facilities.” 66 Pa. C.S. § 1501.
25. PUC regulations require that public utilities must use “every reasonable effort to properly warn and protect the public from danger.” 52 Pa. Code § 59.33(a).
26. The PUC may review reasonableness of a pipeline’s proposed or actual service.
Delaware Riverkeeper Network v. Sunoco Pipeline L.P., 179 A.3d 670, 682 (Pa. Commw. 2018); *citing* 66 Pa. C.S. § 1505.
27. The PUC may review potentially unsafe transportation systems. *Id.* at 693, *citing* 66 Pa. C.S. § 1505(a); 66 Pa. C.S. § 701.
28. The Commission may Order all required modifications to protect the “safety, accommodation, and convenience of the public.” 66 Pa. C.S. § 1505(a).
29. The Commission has the authority to enforce PHMSA’s safety standards at 49 CFR §§ 190, 191 and 195; 52 Pa. Code § 59.33(b).

Public Safety Concerns

30. All preceding paragraphs are incorporated by reference as though fully set forth herein.
31. Between 2006-2018, Sunoco reported to the federal government 295 hazardous liquids pipeline leaks. *See* Exhibit “B”.
32. On information and belief, Sunoco has demonstrated an inability to reliably detect leaks in its pipeline systems. For example: Sweetwater TX, 2016 (11 days between initial control room indications that the PEX II pipeline had ruptured and its confirmation); Tinicum, PA, 2000; Edgmont Township, PA, 1988, 1992 and 2015; Morgantown, PA, 2017 (third leak of highly volatile liquids from ME1 in less than one year).

33. On information and belief, Sunoco itself is unable to guarantee that ME1 will not experience additional leaks, or that ME2 or ME2X (if constructed) will not experience leaks.
34. On information and belief, the Commission is unable to guarantee that ME1 will not experience additional leaks, or that ME2 or ME2X (if constructed) will not experience leaks.
35. The Association believes, and therefore avers, that Sunoco acknowledges or would acknowledge that even small leaks of NGLs can have very serious consequences.
36. On information and belief, if leaks occur on ME1, ME2, or ME2X, it is possible that substantially the entire contents of the segment between block valves will volatilize and become released to the atmosphere, even if the block valves were to close instantly. This is an enormous amount of material, on the order of 500,000 liquid gallons for a six-mile segment on a 20-inch diameter pipeline.
37. On information and belief, Sunoco has in fact reported to PHMSA three separate leaks of hazardous, highly volatile liquids from ME1 during 2016-2017. One of these leaks involved a failure of the pipeline itself, while two occurred on new, above ground equipment. Sunoco failed to detect that one of these leaks was occurring, and all of them occurred in high consequence areas.
38. The hazardous, highly volatile liquids that Sunoco proposes to transport in its Mariner East system, so-called "natural gas liquids," ("NGL"), if released to the atmosphere, volatilize to gas which is colorless, odorless, heavier than air, and extremely flammable or explosive over a wide range of concentrations.

39. Past delayed-ignition accidents involving NGLs and other hazardous, highly volatile liquids have caused fatalities, injuries and property damage over very large areas. *See, e.g.,* NTSB accident reports for Franklin County, MO; San Juan, Puerto Rico; Brenham, TX; North Blenheim, NY. *See, Exhibit "G".*
40. Despite making numerous requests over a period of years for a credible notification system and evacuation guidance, the Association has been provided neither. The guidance provided by Sunoco (on-foot self-evacuation in the correct upwind or uphill direction) is not credibly possible for many Association Members while they are in unsafe proximity to Mariner East in West Whiteland Township or elsewhere, particularly at night or during inclement weather.
41. On or about March 31, 2018, on information and belief, new sinkholes and springs appeared in the immediate vicinity of ME1, in areas disturbed by Sunoco, in Edgmont Township, Delaware County. The Association believes these features may jeopardize the integrity of ME1 and the nearby partially-constructed ME2 and ME2X.
42. The Association hereby provides the following additional documents to supplement the record regarding its Petition:
- a. Proclamations/Resolutions of Concern regarding public and school safety from Thornbury Township, Middletown Township, Media Borough, Swarthmore Borough, Rose Valley Borough and Edgmont Township, Delaware County; Westtown Township, Chester County; and the Rose Tree Media School District. *See Exhibit "C".*

- b. Correspondence from the Pipeline and Hazardous Materials Safety Administration (PHMSA), confirming that Sunoco did not fully comply with Advisory Bulletin PHMSA-2014-0040, "Pipeline Safety: Guidance for Pipeline Flow Reversals, Product Changes and Conversion to Service" prior to reversing the flow and changing the materials transported in ME 1. Petitioner certifies that this is a true and correct copy of this correspondence. See Exhibit "D".
- c. Sunoco's report to the Pipeline and Hazardous Materials Safety Administration (PHMSA) of the hazardous, highly volatile liquids pipeline accident on ME1 which was discovered by a landowner on April 1, 2017. See Exhibit "E".
- d. PHMSA guidance on "Recognizing and Responding to Pipeline Emergencies," from <https://primis.phmsa.dot.gov/comm/EmergencyResponse.htm?nocache=601>, visited March 27, 2018. See Exhibit "F".

43. In the event that the Commission grants the instant Petition to Intervene, the Association intends to support the actions of Senator Dinniman; assert and defend the interests described above, and further support the public safety interests of Andover neighbors and the affected public including stakeholders (such as elementary schools) in high consequence areas (HCA) along the route of ME1, and proposed route of ME2 and ME2X.

THEREFORE, on the basis of the averments set forth above the Association respectfully requests the Commission enter an Order granting the instant Petition for Intervention pursuant to 52 Pa. Code § 5.75; order the production of a publicly available plan for the notification and

self-evacuation of the public as described in the letter from Thornbury Township, Delaware County to Sunoco dated August 29, 2016 and the Thornbury Township Proclamation of Concern dated September 21, 2016 (see Exhibit "C"); and any related relief the Commission deems appropriate.

Dated: May 8, 2018


Respectfully Submitted,



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VERIFICATION

I, Eric Friedman, am the President of the Andover Homeowners' Association, Inc. I hereby state that the facts set forth herein are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements made herein are subject to the penalties of 18 Pa. C.S. Section 4904 concerning unsworn falsifications to authorities.

Dated: May 8, 2018



Eric Friedman

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Dated: May 8, 2018



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