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July 6, 2018

Via Electronic Filing

Rosemary Chiavetta, Esquire
Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Pennsylvania State Senator Andrew E. Dinniman v. Sunoco Pipeline, L.P.
Docket Nos. C-2018-3001451 and P-2018-3001453**

Dear Secretary Chiavetta:

Attached for filing is Senator Andrew E. Dinniman's Answer in Opposition to Sunoco Pipeline, L.P.'s Motion for Certification of the Commission's June 15, 2018 Order for Interlocutory Appeal to be filed in the above-referenced matter.

Thank you.

Very truly yours,



Mark L. Freed
For CURTIN & HEEFNER LLP

MLF:jmd

Enclosure

cc: The Honorable Elizabeth Barnes (via email: ebarnes@pa.gov)
Bert Marinko, Office of Special Assistants (via email: rmarinko@pa.gov)
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|----------------------------|---|----------------------------|
| PENNSYLVANIA STATE SENATOR | : | |
| ANDREW E. DINNIMAN, | : | |
| | : | |
| Complainant, | : | Docket No.: C-2018-3001451 |
| | : | Docket No.: P-2018-3001453 |
| v. | : | |
| | : | |
| SUNOCO PIPELINE, L.P., | : | |
| | : | |
| Respondent. | : | |

**SENATOR ANDREW E. DINNIMAN’S ANSWER IN OPPOSITION
TO SUNOCO PIPELINE, L.P.’S
MOTION FOR CERTIFICATION OF THE COMMISSION’S JUNE 15, 2018 ORDER
FOR INTERLOCUTORY APPEAL**

Petitioner, Senator Andrew E. Dinniman (hereinafter “Senator Dinniman”), by and through his attorneys, Curtin & Heefner LLP, hereby answers in opposition to Sunoco Pipeline, L.P.’s (hereinafter “Sunoco”) motion for certification of the Commission’s Juned 15, 2018 Order for Interlocutory Appeal, and in support thereof states as follows:

I. INTRODUCTION

In its motion, Sunoco requests that the Commission voluntarily divest itself of jurisdiction to review the merits of Senator Dinniman’s complaint while Sunoco continues to undertake its dangerous construction of the Mariner East 2 (“ME2”) and 2X (“ME2X”). It asks the Commission to give up its jurisdiction despite the Commission’s finding that there is sufficient evidence in the record to support a finding of a danger to life and/or property. *See* Commission Opinion and Order, n. 11. Sunoco’s motion is a continuation of an elaborate shell game in which it attempts to run complainants from one jurisdiction to another, while at the same

time continuing to construct the pipelines. If the right to seek an appeal is granted, the construction of the pipelines may very well be completed before the appeal is resolved and returned to the Commission for further consideration. Regardless of the outcome of the appeal, or the damage caused by Sunoco as it continues construction, Sunoco will have achieved a *de facto* victory on the merits; it will have been permitted to complete construction without addressing the continuing harms caused by its construction practices.

With regard to standing, on or about May 21, 2018, Sunoco filed preliminary objections challenging, among other things, Senator Dinniman's standing to pursue the Amended Formal complaint. Senator Dinniman filed an answer to those preliminary objections, which are presently pending with Judge Barnes. It would be premature to certify an issue for interlocutory appeal before the administrative law judge and the Commission have had the opportunity to fully consider the issue. Furthermore, with regard to legislative standing, the Commission expressly stated that "we specifically do not decide the issue here." Opinion and Order at 21. There can be no "substantial difference of opinion," and no interlocutory appeal, on an issue that the Commission specifically declined to decide. In addition, the question of Senator Dinniman's standing is not a controlling question of law as to which there is substantial ground for difference of opinion. Sunoco attempts to create controversy regarding Senator Dinniman's standing by trying to shoe-horn this matter into the terms of a line of cases in which legislators claim an "institutional injury" and seek to vindicate the voting rights of "every member of the General Assembly." However, Senator Dinniman does not claim an "institutional injury" nor seek to vindicate the rights of "every member of the General Assembly." Rather, he brings this action in furtherance of his specific and unique legislative prerogatives and duties to represent his

district, which is directly and uniquely impacted by the construction of ME2/2X. He clearly has the standing to do so.

With regard to Sunoco's claim that Senator Dinniman was required to establish a clear and present danger and that he failed to do so, this claim is just plain wrong. As the Commission properly concluded, showing a "clear and present danger" is not required on a petition for interim emergency relief. *See* Commission Opinion and Order, n. 11; 52 Pa. Code § 3.6. Furthermore, the extent that such a showing is required, the Commission found that there is sufficient evidence in the record to support the finding of a danger to life and/or property. *Id.* This is clearly not a "controlling question of law on which there is a substantial ground for difference of opinion." Nor would resolution of this matter do anything to materially advance the ultimate termination of this matter.

Finally, Sunoco's claim that the Commission erred in not requiring a bond is entirely without merit. The Commission's rules clearly place the decision to require or not require a bond squarely within the discretion of the administrative law judge and the Commission. *See* 52 Pa. Code § 3.8(b). Furthermore, an "officer of the Commonwealth" such as Senator Dinniman is generally not required to post bond in order to obtain special relief. *See* Pa. R.C.P. 1531(b). This issue is not a "controlling question of law on which there is a substantial ground for difference of opinion." Nor would resolution of the question of whether or not Senator Dinniman is required to post a bond in furtherance of a petition for interim emergency relief materially advance the ultimate termination of this matter. Sunoco's motion must be denied.

1. Admitted in part and denied in part. It is admitted that on or about April 25, 2018, Senator Dinniman filed a formal complaint and a petition for interim emergency relief in the above-referenced matters. It is further admitted that these actions were brought by Senator

Dinniman in his legislative capacity. Amendments to the formal complaint and petition for interim emergency relief were filed with the Commission on or about April 30, 2018. The formal complaint and petition for interim emergency relief, and the amendments thereto, are documents that speak for themselves.

2. Admitted in part and denied in part. Admitted that on or about May 21, 2018, following two full days of hearing that resulted in almost 700 pages of transcript, Administrative Law Judge Elizabeth Barnes (“Judge Barnes”) issued an Interim Emergency Order, in which she found that “Senator Dinniman has demonstrated by a preponderance of the evidence, and meeting all four requirements, that he is entitled to emergency interim relief pursuant to 52 Pa. Code § 3.6.” Emergency Order at 22. By way of further response, the May 21, 2018 Emergency Order is a document that speaks for itself.

3. Admitted in part and denied in part. Admitted that on or about June 15, 2018, the Commission issued an Opinion and Order in which it found that Judge Barnes “correctly determined that Senator Dinniman met the requirements set forth in 52 Pa. Code § 3.6(b) and carried his burden of demonstrating his right to interim emergency relief with respect to ME2 and ME2X.” Commission Opinion and Order at 50. By way of further response, the June 15, 2018 Opinion and Order is a document that speaks for itself.

4. Denied. Sunoco’s motion is a document that speaks for itself.

5. Denied. Sunoco’s motion is a document that speaks for itself. By way of further response, as set forth in Senator Dinniman’s filing dated July 2, 2018, it is denied that Sunoco has filed the documentation required by the Commission’s June 15, 2018 Order to have the injunction against the construction of ME2 and ME2X lifted. Furthermore, contrary to Sunoco’s assertion, it does not appear that this motion is filed merely as a “protective appeal” related to the

interim emergency relief. Rather, the motion seeks to have the Commission divest itself of jurisdiction to review the merits of Senator Dinniman's complaint, after which Sunoco would be free to continue its dangerous construction of the ME2/2X pipelines without any review until the appeal was resolved and construction is likely completed.

II. ARGUMENT

6. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, it is denied that the issues set forth herein properly characterize the applicable law, that they involve controlling questions of law as to which there is a substantial difference of opinion, or that an immediate appeal from the Commission's order would materially advance the ultimate termination of this matter.

- a. With regard to Senator Dinniman's standing, Sunoco attempts to shoe-horn this matter into the terms of a line of cases in which legislators seek to vindicate the voting rights of "every member of the General Assembly." See *Markham v. Wolf*, 136 A.3d 134, 138-39 (Pa. 2016). In *Markham*, the court characterized petitioners' claims as "legislators claiming an institutional injury." *Id.* at 140. The court found that petitioners' claims were "not directly or substantially related to unique legislative prerogatives, but, rather, are generalized interests in the conduct of government common to the general citizenry." *Id.* at 146. In contrast, Senator Dinniman does not seek to vindicate the rights of "every member of the General Assembly" and does not claim an "institutional injury." Rather, he brings this action in furtherance of his specific and unique legislative prerogatives and duties to represent his district. The issues raised in this action are clearly matters

“touching upon his concerns” as a State Senator for the 19th Senatorial District.
See Corman v. NCAA, 74 A.3d 1149, 1161 (Pa. Cmwlth. 2013).

Furthermore, on or about May 21, 2018, Sunoco filed preliminary objections challenging, among other things, Senator Dinniman’s standing to pursue the amended formal complaint. Senator Dinniman filed an answer to those preliminary objections, which are presently pending with Judge Barnes. It would be premature to certify this issue for interlocutory appeal before the administrative law judge and the Commission have had the opportunity to fully consider the issue.

- b. With regard to Sunoco’s claim that Senator Dinniman was required to establish a clear and present danger and that it failed to do so, the Commission has properly concluded that a showing of a “clear and present danger” is not required on a petition for interim emergency relief. *See* Commission Opinion and Order, n. 11; 52 Pa. Code § 3.6. It further properly determined that, to the extent such a showing is required, there is sufficient evidence in the record to support a finding of a danger to life and/or property. *Id.* In addition, the question of whether Senator Dinniman established the necessary elements for interim emergency relief is not a “controlling question of law on which there is a substantial ground for difference of opinion.” Nor would resolution of this issue do anything to materially advance the ultimate termination of this matter.
- c. With regard to Sunoco’s claim that the Commission erred in not requiring a bond, the Commission’s rules place the decision to require or not require a bond squarely within the discretion of the administrative law judge and the

Commission. *See* 52 Pa. Code § 3.8(b). Furthermore, an “officer of the Commonwealth” such as Senator Dinniman is generally not required to post bond in order to obtain special relief. *See* Pa. R.C.P. 1531(b). In addition, this is not a “controlling question of law on which there is a substantial ground for difference of opinion.” Nor would resolution of the question of whether or not Senator Dinniman is required to post a bond in furtherance of a petition for interim emergency relief materially advance the ultimate termination of this matter.

A. Legal Standard

7. Denied. The averments of this paragraph constitute conclusions of law to which no response is required.

8. Denied. The averments of this paragraph constitute conclusions of law to which no response is required.

B. Senator Dinniman Has Standing to Pursue the Underlying Complaint and the Petition for Emergency Relief

1. Senator Dinniman’s Standing is Not Subject to a Substantial Difference of Opinion

9. Admitted that Sunoco challenged Senator Dinniman’s standing to bring his petition for interim emergency relief.

10. Admitted in part and denied in part. It is admitted that in its Opinion and Order, the Commission stated that “we specifically do not decide the issue [of Senator Dinniman’s legislative standing] here”. Commission Opinion and Order at 21. The remaining averments of this paragraph are denied.

11. Admitted that the Commission relied on Senator Dinniman's status as a resident and property owner to support his claims for standing. *See* Paragraph 13, below, which is incorporated herein by reference.

12. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, it is expressly denied that there is a substantial difference of opinion on the Commission's conclusions regarding Senator Dinniman's standing. The Commission expressly stated that "we specifically do not decide the issue here". There can be no "substantial difference of opinion," and no interlocutory appeal, on an issue that the Commission specifically declined to decide. Furthermore, there is little doubt that Senator Dinniman, who brings this action in furtherance of his specific and unique legislative prerogatives and duties to represent his district, has standing to pursue this matter.

13. Denied. It is denied that Senator Dinniman's status as a resident and landowner has no bearing on his legislative standing. On the contrary, his residence and land ownership, and his specific unique legislative duties and committee responsibilities -- including representing the residents of West Whiteland Township and representing the Senate Democratic Caucus on the Pennsylvania Pipeline Infrastructure Task Force -- all relate to his unique knowledge and experience that provide him with legislative standing. Sunoco's failure to acknowledge this fact arises from its effort to shoe-horn this matter into an inapposite line of cases concerning legislative standing to vindicate general legislative authority.

14. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, Sunoco's reliance on *Markham v. Wolf*, 136 A.3d 134 (Pa. 2016) is misplaced. *Markham* involved legislators who were seeking to vindicate the voting rights of "**every member** of the General Assembly." 136 A.2d at 138-39 (emphasis

added). The court characterized petitioners' claims as "legislators claiming an *institutional injury*". *Id.* at 140 (emphasis added). The court found that petitioners' claims were "not directly or substantially related to *unique legislative prerogatives*, but, rather, are *generalized interests* in the conduct of government common to the general citizenry." *Id.* at 146 (emphasis added). In contrast, Senator Dinniman does not seek to vindicate the rights of "every member of the General Assembly" and does not claim an "institutional injury." Rather, he brings this action in furtherance of his specific and unique legislative prerogatives and duties to represent his district. The issues raised in this action are clearly matters "touching upon his concerns" as a State Senator for the 19th Senatorial District. *See Corman v. NCAA*, 74 A.3d 1149, 1161 (Pa. Cmwlth. 2013).

15. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, Sunoco's argument regarding mootness is without merit. The case relied on by Sunoco, *In re Gross*, 382 A.2d 116 (Pa. 1978), addresses the issue of mootness "on appeal," not before the Commission, another administrative agency or a trial court. 382 A.2d at 119. In addition, the case addressed only two of the numerous circumstances upon which an issue can become moot. *Id.* at 119-20. It in no way limited the general legal principle of "mootness" to only those circumstances.

16. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, Senator Dinniman responded to and rebutted each and every challenge to his standing lodged by Sunoco. Senator Dinniman has clearly established standing to pursue his petition for interim emergency relief. As set forth in his briefs, Senator Dinniman:

- Is a member of the General Assembly as a Senator and represents the 19th Senatorial District, which includes West Whiteland Township (Petition, ¶ 11; N.T. 53). The 19th District includes West Whiteland Township (N.T. 54, 55);
- Is the representative of the individuals in the 19th District affected by the project;
- Is a member of the standing Senate Environmental Resources and Energy Committee;
- Is a member of the Joint Legislative Air and Water Pollution Control and Conservation Committee;
- Served as a Senate Democratic Caucus representative to the Pennsylvania Pipeline Infrastructure Task Force, a group of experts and stakeholders that recommended policies, guidelines and best practices to guide expansion of pipeline infrastructure in the Commonwealth. The recommendations of the Task Force, and Petitioner's participation therein, were topics of testimony throughout the hearing. (*See* N.T. 47-48, 50-51, 57-58, 135, 137-140, 142, 205, 211, 222, 389, 399, 431, 433, 485, 580);
- Is a member of the General Assembly with the authority to receive, review and comment upon the Governor's annual expenditure plan for the Environmental Stewardship Fund under 27 Pa.C.S. § 6104, which funds in part the Chester County Conservation District and its oversight of the watersheds and water supply of West Whiteland Township;
- Receives annual, mandatory reports from the Commission under the Pennsylvania Public Utility Code. 66 Pa.C.S. § 320;
- Served as a Chester County Commissioner, during which he was the Commission's representative on the Conservation District Board and was involved in the decision by the County to purchase a significant portion of land to protect and preserve the area water supplies. (N.T. 72); and
- Resides approximately two miles from ME1, ME2 and ME2X, and possesses knowledge of a local perspective on the potential effects essential to make a determination. N.T. 52-53.

17. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, Senator Dinniman's status as a resident and landowner, along with his specific legislative and committee responsibilities -- including representing the residents of West Whiteland Township and representing the Senate Democratic Caucus on the Pennsylvania Pipeline Infrastructure Task Force -- establish his unique duties, knowledge and experience that provide him legislative standing. The issues raised in this action

are clearly matters “touching upon his concerns” as a State Senator for the 19th Senatorial District.

18. Denied. It is expressly denied that the mere existence of a dissenting opinion demonstrates a “substantial difference of opinion” warranting interlocutory appeal in this matter.

2. Interlocutory Appeal of Senator Dinniman’s Standing Will Not Materially Advance the Ultimate Termination of This Matter

19. Denied. It is denied that the resolution of the Commission’s Order on interim emergency relief “will terminate this matter.” Furthermore, on or about May 21, 2018, Sunoco filed preliminary objections challenging, among other things, Senator Dinniman’s standing to pursue the Amended Formal Complaint. Senator Dinniman filed an answer to those preliminary objections, which are pending with Judge Barnes. It would be premature to certify this issue for interlocutory appeal before the administrative law judge and the Commission have had the opportunity to fully consider the issue.

20. Denied. The averments of this paragraph constitute conclusions of law to which no response is required.

21. Denied. See response to Paragraph 19, above, which is incorporated herein by reference.

22. Denied. See response to Paragraph 19, above, which is incorporated herein by reference.

C. The Commission Properly Found that Senator Dinniman Was Not Required to Show that Sunoco’s Construction of ME2 and 2X Present a Clear and Present Danger

1. The Commission’s Determination that Senator Dinniman Established a Clear Right to Immediate Relief is Not the Subject of Substantial Disagreement

23. Denied. On the contrary, after two full days of hearing that resulted in almost 700 pages of transcript, and two rounds of extensive briefing, both Judge Barnes and this Commission determined that Senator Dinniman made the requisite showing for emergency relief. There is no substantial disagreement regarding this issue.

24. Denied. There is no substantial disagreement on whether a petitioner seeking emergency relief must show a “clear and present danger to life or property.” Rather, as the Commission properly concluded, the Commission’s regulations make clear that a showing of “clear and present danger” is not required on a petition for interim emergency relief. *See* Commission Opinion and Order, n. 11. The elements for interim emergency relief are expressly stated in 52 Pa. Code § 3.6(b). An administrative regulation has the force of law. *See Borough of Bedford v. Com., Dept. of Environmental Protection*, 972 A.2d 53, 61 (Pa. Cmwlth. 2009). Furthermore, to the extent that a showing of “clear and present danger” is required, the Commission found that there is sufficient evidence in the record to support a finding of a danger to life and/or property. *See* Commission Opinion and Order, n. 11.

25. Denied. On the contrary, as Judge Barnes and this Commission properly found in their respective opinions, Senator Dinniman clearly proved by a preponderance of the evidence each and every element required to establish the issuance of the interim emergency order. By way of further response, it is expressly denied that the injunction was entered based only on past occurrences and speculation and without expert testimony. On the contrary, Senator Dinniman

provided compelling expert testimony from Dr. Ira Sasowsky regarding the dangers associated with Sunoco's construction activities in the volatile carbonate geology of West Whiteland Township. Judge Barnes found Dr. Sasowsky's testimony to be "credible" and "persuasive", in contrast to Sunoco's geologic expert, who Judge Barnes found was not convincing. Interim Emergency Order at 13. In addition, it is well settled that "the courts can best determine the appellant's probable future conduct by examining her past conduct." *Com. ex rel. Keer v. Cress*, 168 A.2d 788, 790 (Pa. Super 1961). *See also Com. v. Percudani*, 844 A.2d 35 (Pa. Cmwlt. 2004).

26. Denied. It is expressly denied that the mere existence of a dissenting opinion demonstrates a "substantial difference of opinion" warranting interlocutory appeal in this matter.

2. Interlocutory Review of Whether Senator Dinniman Established a *Prima Facie* Case for Emergency Relief Will Not Materially Advance the Ultimate Termination of this Matter

27. Denied. On the contrary, whether or not Senator Dinniman made the necessary showing to establish interim emergency relief has no bearing whatsoever on ultimate termination of the underlying action.

28. Denied. It is absurd to suggest that the proofs presented and findings made during an expedited proceeding for interim emergency relief that was limited to two days of hearing "are likely to be the same facts that will be relied on" following the opportunity for full discovery and a less constrained hearing schedule. Appellate review of Senator Dinniman's case on interim emergency relief will do nothing to advance the ultimate termination of the underlying matter.

29. Denied. It is denied that the Commonwealth Court needs to "clarify" what constitutes a "clear and present danger" justifying emergency relief. On the contrary, this

standard is well established. There are countless decisions of the Commission and its judges construing and applying the phrase in matters concerning petitions for *ex parte* emergency relief under 52 Pa. Code § 3.2. *See, e.g., In re: Sunoco Pipeline L.P. a/k/a Energy Transfer Partners Petition of the Bureau of Investigation And Enforcement of the Pennsylvania Public Utility Commission For the Issuance of an Ex Parte Emergency Order*, Docket No. P-2018-3000281 (Pa. PUC March 7, 2018); *Petition of Respond Power LLC For Issuance of Ex Parte Emergency Order*, Docket No. P-2016-2572934 (Pa. PUC October 27, 2016); *Rasier-PA LLC, Petition for Issuance of an Emergency Order*, Docket No. P-2016-2556598 (Pa. PUC July 21, 2016). Furthermore, there is no basis to delay the disposition of this matter, to the prejudice of Senator Dinniman, based on a claim that a matter may arise in the future, particularly where it is clear that the requirement to show a “clear and present danger” in furtherance of a petition for interim emergency relief is not required by the Commission’s regulations and where, even if it is required, Senator Dinniman has established the existence of a clear and present danger, as properly found by the Commission.

30. Denied. It is denied that Judge Barnes relied on uncorroborated hearsay, extra-record facts and unsupported allegations. On the contrary, despite this being a hearing on interim emergency relief, in which Senator Dinniman had only a limited amount of time to present his evidence, Senator Dinniman presented expert testimony and substantive admissible evidence in support of its claim for emergency relief. Furthermore, Sunoco’s request for interlocutory appeal does not, and cannot, seek certification of Judge Barnes’ order. Sunoco’s motion is directed to the Commission’s June 15, 2018 Order enjoining the construction of ME2 and ME2X in West Whiteland Township. What evidence Judge Barnes did and did not rely on was an issue for Commission review, not for interlocutory appeal to the Commonwealth Court.

D. The Commission Properly Determined that Senator Dinniman is Not Required to Post a Bond When Affirming the Order Granting Interim Emergency Relief

1. There Is Not a Substantial Disagreement Regarding Whether the Commission Should Have Required the Posting of a Bond in Affirming of the Order Granting Interim Emergency Relief

31. Admitted that 52 Pa. Code § 3.8(b) provides that “[a]n order following a hearing on a petition for interim emergency relief *may* require a bond to be filed . . .” (emphasis added). By way of further response, by its very terms, the bond requirement is within the discretion of the Commission. Furthermore, an “officer of the Commonwealth” such as Senator Dinniman is generally not required to post bond in order to obtain special relief. *See* Pa. R.C.P. 1531(b).

32. Denied. The Opinion and Order is a document that speaks for itself. It is denied that Sunoco has properly characterized the Commission’s reasons for not imposing a bond. Furthermore, where the damages could be great and petitioner may be unable to provide sufficient security, “the court may determine, based upon the balance of the equities, that the injunction should nevertheless issue.” *Christo v. Tuscan, Inc.*, 533 A.2d 461, 467 (Pa. Super. 1987). The nature of a preliminary injunction hearing makes the Commission’s primary duty the consideration of whether to grant an injunction; the amount of potential damages to the party whose conduct is sought to be enjoined is not the Commission’s primary concern. *See Green County Citizens United by Cumpston v. Greene County Solid. Waste Auth.*, 636 A.2d 1278 (Pa. Cmwlth. 1994).

33. Denied. It is denied that the Commission ignored any evidence or that there is any substantial question as to whether the Commission appropriately did any such thing.

34. Denied. It is denied that the Commission’s decision conflicts with any “longstanding Pennsylvania principle” or that the court erred in not requiring a bond. On the

contrary, by the very terms of 52 Pa. Code § 3.8(b), the decision to impose a bond is within the Commission’s discretion. Furthermore, Pa. R.C.P. 1531(b) – cited here by Sunoco – expressly excludes an “officer of the Commonwealth” such as Senator Dinniman from the requirement to post bond.

2. Interlocutory Review of the Commission’s Authority to Not Require Senator Dinniman to Post a Bond Will Not Materially Advance the Ultimate Termination of this Matter

35. Denied. It is expressly denied that interlocutory review of the Commission’s decision not to require a bond for interim emergency relief will in any way materially advance the ultimate termination of this matter, except by requiring him to post an excessive bond that would inappropriately deprive Senator Dinniman of his due process right to be heard.

36. Denied. It is denied that the purpose of a bond is to allow Sunoco to “focus on developing the record in front of ALJ Barnes” or that such a goal outweighs Senator Dinniman’s due process right to be heard.

37. Denied. It is denied that requiring a bond will “help the parties to evaluate the potential damages” or in any way foster settlement or otherwise materially advance the ultimate termination of the underlying matter.

III. CONCLUSION

38. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. By way of further response, Sunoco’s request is unwarranted, fails to meet the necessary requirements for obtaining a certification for interlocutory appeal, and is intended merely to divest the Commission of jurisdiction while Sunoco continues to dangerously construct ME2 and ME2X.

WHEREFORE, Senator Dinniman respectfully requests that this Honorable Commission deny Sunoco's request to certify its July 15, 2018 Order for interlocutory appeal, and grant such other relief as may be just and equitable.

Respectfully submitted,
CURTIN & HEEFNER LLP

By:



Date: July 6, 2018

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CURTIN & HEEFNER LLP

By:



Date: July 6, 2018

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