



September 10, 2018

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

RE: *Andover Homeowners' Association, Inc. v. Sunoco Pipeline L.P.*, Docket C-2018-3003605  
*Dinniman v. Sunoco Pipeline, L.P.*, Dockets C-2018-3001451 and P-2018-3001453  
Reply of Andover Homeowners' Association, Inc. to the Answer of  
Sunoco Pipeline L.P. to the Association's Complaint

Dear Secretary Chiavetta,

Please find the attached Reply to Sunoco Pipeline L.P.'s Answer to the Complaint of Andover Homeowners' Association, Inc. filed today by the Association. Copies have been served in accordance with the attached Certificate of Service.

Please contact me with any questions. Thank you.

Sincerely,

/s/

Rich Raiders, Esq.

Enclosure

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania State Senator Andrew E. Dinniman	:	
	:	C-2018-3001451
v.	:	
	:	P-2018-3001453
Sunoco Pipeline L.P.	:	
Andover Homeowners' Association, Inc.,	:	C-2018-3003605
Petitioner	:	
	:	
v.	:	
	:	
Sunoco Pipeline L.P.,	:	
Respondent	:	

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code § 5.61, you may file a response within twenty (20) days of the attached Answer to New Matter. Any response must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Andover Homeowners' Association, Inc., and where applicable, the Administrative Law Judge presiding over the case.

File with:

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

Respectfully Submitted,

/s/ Rich Raiders

Dated: September 10, 2018

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Reading, PA 19601  
rich@raiderslaw.com

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania State Senator Andrew E. Dinniman	:	
	:	C-2018-3001451
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	:	P-2018-3001453
Sunoco Pipeline L.P.	:	
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Petitioner	:	
	:	
v.	:	
	:	
Sunoco Pipeline L.P.,	:	
Respondent	:	

**ANDOVER HOMEOWNERS' ASSOCIATION, INC.'S ANSWER TO NEW MATTER RAISED IN  
SUNOCO PIPELINE L.P.'s ANSWER TO FORMAL COMPLAINT OF ANDOVER HOMEOWNERS'  
ASSOCIATION, INC.**

Pursuant to 52 Pa. Code §§ 5.62 and 5.63, Andover Homeowners' Association, Inc. ("Association") submits this Answer to New Matter raised by Sunoco Pipeline L.P. ("Sunoco") in its Answer to the Formal Complaint in the above captioned proceeding and requests that portions of the New Matter be stricken.

- 107. No answer required.
- 108. Denied. The Association does not seek any relief that would violate the *Public Utility Confidential Security Information Disclosure Protection Act*, 35 P.S. 2141.1 *et. seq.* Sunoco correctly cites that the procedures in 52 Pa. Code § 102.3 requires the Commission to separate filings and documents that may be publicly disclosed in the Right to Know Law and those requiring confidentiality as "Confidential Security Information." See, 52 Pa. Code § 102.3(b)(3). The regulated entity has the burden to identify what can and cannot be publicly released, subject to Commission oversight. 35

P.S. § 2141.3; 52 Pa. Code § 102.3(c). Another party may challenge the confidentiality designation. 35 P.S. § 2141.3(c); 52 Pa. Code § 102.4. Once the entity identifies records that should not be publicly disclosed, the Commission must comply with the constraints in 52 Pa. Code § 102.3(d) to protect confidential information. See generally, 35 P.S. § 2141.3(d). Sunoco does not aver that such a process would not apply. At the August 28, 2018 oral argument before Judge Barnes, the Association agreed with Judge Barnes that it will enter into a Protective Order per her suggestion.

109. Denied. Sunoco, as the gatekeeper of confidential information, can provide certain information to the public using the process described in Paragraph 108 above. Sunoco, with Commission oversight, is fully capable of suggesting what elements of its risk assessment could and should be redacted for public review.

110. Denied as described in Paragraphs 107-109 above. The Commission has jurisdiction to oversee what information is disclosed to the public, and is fully competent, through its actions or by its duly appointed Office of Administrative Law Judge, to provide Sunoco required protections while balancing the public's right to necessary information under Sunoco's 49 CFR § 195.440 public awareness program requirements. Admitted in that the Association is not requesting any action contrary to law under 35 P.S. § 2141.

111. Denied.

112. Denied. Sunoco's parent, Energy Transfer Partners, has publicly accepted that past results by a pipeline operator is an indicator of future performance. *See, Andover Homeowners' Association, Inc.'s Answer to Preliminary Objections, Docket C-2018-*

3003605 (Sep. 3, 2018). Standard industry practice, which will be documented and supported in the Association's direct testimony, will prove that Sunoco's allegations that its past performance is irrelevant is strictly and plainly false. Further denied in that Sunoco is required to operate a safe and efficient pipeline. The Association asserts that Sunoco's operating history suggests the risk associated with its pipeline operations should be carefully evaluated by the Commission.

113. Admitted in part and denied in part. Admitted that the Pipeline Hazardous Materials and Safety Administration ("PHMSA") sets performance standards for pipelines. Further admitted that the Public Utility Commission with PHMSA co-regulates pipeline operations in Pennsylvania. Denied in all other respects, including that no entity regulates pipeline siting and Sunoco has never demonstrated to any governmental regulator that natural gas liquid transportation services should be offered in densely populated areas of varying geology where Sunoco has been unable to install pipelines without a litany of violations of various law. *See, Delaware Riverkeeper Network v. Sunoco Pipeline L.P.*, 179 A.3d 670 (Pa. Commw. 2018). Further denied in that the Association directly alleges that Sunoco is not in compliance with at least 49 C.F.R. § 195.440, and may violate other applicable law.

Sunoco attached a now obsolete letter from Chairman Brown to the Governor of Pennsylvania dated February 2018. This letter is obsolete in that, at the time, no authority existed to allow the Public Utility Commission to regulate pipeline siting. The presumption in this letter was that Sunoco was the sole entity with siting authority, where the Commission had to accept whatever siting Sunoco selected. However, with

*Delaware Riverkeeper*, the Commission clearly has the authority to evaluate and regulate pipeline siting including *particularly* with respect to public safety. This letter is of interest only to the extent that it reflected a previous view now superseded by current case law. As Sunoco was the prevailing party in *Delaware Riverkeeper*, it is fully aware that the Commission has full preemptive authority to review all safety aspects of NGL transportation services by certificated companies. The Commonwealth Court suggested that any such challenge to pipeline safety is properly before the Commission. The Association asserts that the Commission should evaluate and assess the risk of NGL transmission pipelines in immediate proximity to densely populated suburban areas such as Thornbury Township and nearby areas frequented by Association Members. The Association believes that this Complaint is a question of first impression before the Commission to determine the safety aspects of a pipeline due to siting issues.

114. Denied.

*“Every public utility shall furnish and maintain adequate, efficient, safe and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees and the public.”*

66 Pa. C.S. § 1501; *see also*, *Romeo v. Penn. Pub. Util. Comm’n*, 154 A.3d 422, 425 (Pa. Commw. 2017); *King v. Pittsburgh Water & Sewer Auth.*, 139 A.3d 336, 350 (Pa. Commw. 2016). Sunoco admits that neither the Commission, nor any other entity, has reviewed its pipeline reversal processes and procedures. At no time has the Commission reviewed Sunoco’s unilateral siting decisions to determine if Sunoco’s siting allowed for safe service. Sunoco cannot cite to any evidence that the Commission has conducted a

detailed review of Sunoco's boilerplate public awareness program. The Association alleges that expert testimony offered in this matter will cast doubt on Sunoco's compliance with its general duty to operate a safe and efficient pipeline. Sunoco disregards its general duty to provide public safety in Commission and other law. *See e.g.*, 66 Pa. C.S. § 1501; 42 U.S.C. § 9412(r); 29 U.S.C. § 654.

115. Admitted in part and denied in part. Admitted that the Commission entered such an Order, and such an order would likely become law of the case for those issues that the Commission considered. Denied in that the Association's allegations surpass the Commission's order and are not precluded by this Order.

Specifically, Sunoco has correctly averred that the Association rejects Sunoco's public awareness program as ineffective and inadequate, and not protective of the public, especially, but not limited to, Association Members, their children, guests, licensees and others traveling or living in proximity to Association property. The Commission has not yet evaluated these details of Sunoco's public awareness program. For example, in Exhibit "C" of Sunoco's answer, it attaches a document that instructs the public to take care to avoid activating any ignition source. Which means (for example) that if an emergency responder were to try to call impacted residents (i.e., Reverse 911 systems in place in Delaware and Chester Counties), the call could not go through because Sunoco told the residents to disable their telephones as spark sources. The document advises residents to avoid activating "an electrical switch" such as garage door openers, which could cause a spark, even though many Association Members normally and regularly enter and exit their homes by this manner. The same document

instructs residents to “leave the area by foot immediately” and to “attempt to stay upwind.” However, residents and guests suffering from mobility issues may be required to use motorized equipment to evacuate, which would provide a banned ignition source, or simply be left behind. The document does not tell residents how to determine what is the upwind direction, nor what to do if they determine the upwind direction is toward the pipeline. The same document instructs residents to call 911 from “a safe location.” However, Sunoco provides no guidance whatsoever about how residents can identify “a safe location,” nor whether making a mistake and activating a telephone in an unsafe location might ignite a combustible vapor cloud. Further, the instructions state “**DO NOT** drive into a leak or vapor cloud while leaving the area.” Sunoco’s valve sites on Association property are less than 100 feet from a commercial kitchen and a state highway, both of which contain significant potential sources of ignition. The same document instructs residents to wait for first responders to address any petroleum fire. However, the Association asserts that no first responder will arrive in time to address many fires that could imperil life or property before a resident could reach safety. In fact, the Association asserts that, in the event of a significant release, first responders would likely just establish an exclusion perimeter to prevent entry, and would not even seek to rescue anyone inside the perimeter until the incident commander declares that first responders may safely enter.

Exhibit “C,” Sunoco’s “public awareness” brochure, does not account for variations in materials that could dramatically change how a neighbor may respond. Methane is lighter than air, ethane is heavier than air. The correct response in a butane



leak, seek higher ground, could become fatal in the event of an ethane leak if a person were to enter a rising ethane cloud. Were Sunoco to be transporting a mix of NGLs or different NGLs in different Mariner East pipelines, these instructions would be of no value, as the parts of the plume could be rising (ethane) and other parts of the plume could be falling (butane). In this case, Association Members would seem to have no viable escape route. The simple boilerplate material in Exhibit "C" does not address these varying materials properties at all. Nothing in Exhibit "C" describes how to respond in a situation where elevation can become a critical issue.

Further, the Commission has never evaluated if NGL pipelines should be placed in densely populated suburban neighborhoods, feet away from residences and places where people congregate such as schools, churches, restaurants and work places. Only recently has the law confirmed that the Commission has authority to enter such a siting inquiry. *See, Delaware Riverkeeper*, 179 A.3d at 670. The Association's challenge is predicated upon issues the Commission has not yet heard and which require expert testimony to fill out the record before the Commission about how to proceed with these alleged defects in Sunoco's 195 Manual and public awareness program.

116. Denied. Sunoco has not presented any credible emergency notification or self-evacuation plan that would provide Association members any viable plan of action if the valve site on Association property or the pipeline on or near Association property or near where Association members may encounter a pipeline accident were to be involved in an accident. This complaint centers on what the Association believes is an unworkable public awareness and emergency response plan that cannot fit into densely

populated suburban neighborhoods. The notification system Sunoco intends to use is that operated by Delaware County. The County's system is designed to light up hundreds or potentially thousands of landline phones, cell phones and other devices, geographically targeted to the exact area of the problem. But Sunoco advises not to use phones in the event of a release of combustible, heavier than air vapor. The logical conclusion from Sunoco's boilerplate public awareness publication is to turn off cell phones, the exact devices that would be used to notify neighbors of the danger. No one, to the Association's knowledge, has evaluated the likelihood that the use of such a system of notification might itself provide an ignition source. Beyond that, Sunoco's suggestion that affected residents should "leave the area on foot immediately" is not credible. Many Association Members have young children, some are elderly, and still others have limited mobility. As described above, first responders will likely not enter the impacted area to assist evacuation efforts. Further, nowhere does Sunoco assert if the municipal or county governments are offering consistent or inconsistent advice, which could further frustrate evacuation efforts. Sometimes it is dark out and sometimes Association property experiences inclement weather including freezing conditions, rain, snow and high winds. Association Members are, at times, asleep and are therefore, at times physically incapable of "leaving the area on foot immediately." Sunoco's public awareness program considers none of these factors.

**WHEREFORE**, the Association respectfully requests that the Public Utility Commission reject Sunoco's impertinent new matter and deny any request for costs and counsel fees.

Respectfully Submitted,

/s/ Rich Raiders

Dated: September 10, 2018

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Petitioner	:	
	:	
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	:	
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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing Andover Homeowners' Association's Answer to New Matter of Sunoco Pipeline L.P. in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

This document has been filed electronically on the Commission's electronic filing system.

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Dated: September 10, 2018

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