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February 8, 2019

**VIA ELECTRONIC FILING**

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

Re: Melissa DiBernardino v. Sunoco Pipeline L.P.; Docket No. C-2018-3005025;  
**SUNOCO PIPELINE L.P.'S PREHEARING CONFERENCE  
MEMORANDUM**

Dear Secretary Chiavetta:

Attached for electronic filing with the Commission is Sunoco Pipeline L.P.'s Prehearing Conference Memorandum in the above-referenced proceeding.

If you have any questions regarding this filing, please contact the undersigned.

Very truly yours,

Thomas J. Sniscak  
Kevin J. McKeon  
Whitney E. Snyder  
*Counsel for Sunoco Pipeline L.P.*

WES/das  
Enclosure

cc: Hon. Elizabeth H. Barnes, (Electronic and first class mail)  
Per Certificate of Service  
Thomas Casey

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MELISSA DIBERNARDINO	:	
	:	
Complainant,	:	
	:	
v.	:	
	:	Docket No. C-2018-3005025
SUNOCO PIPELINE L.P.,	:	
	:	
Respondent.	:	
	:	

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**SUNOCO PIPELINE L.P.’S  
PREHEARING CONFERENCE MEMORANDUM**

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**TO THE HONORABLE ELIZABETH H. BARNES**

Pursuant to Your Honor’s December 21, 2018 Order and 52 Pa. Code § 5.222(d), Sunoco Pipeline L.P. (SPLP) submits this prehearing conference memorandum.

**A. SETTLEMENT**

SPLP is willing to engage in settlement discussions with Complainant.

**B. ISSUES**

Complainant has the burden of proof in this proceeding to show that SPLP is in violation of law or a Commission regulation that has a discernable effect on Complainant, over which this Commission has jurisdiction, and as raised in the Amended Complaint. SPLP reserves its right to address additional issues as they may arise during this proceeding. SPLP’s position will be finalized in its evidence and briefs submitted under the schedule developed in this proceeding. SPLP notes that the Amended Complaint is unclear as to what issues Complainant intends to pursue and SPLP requests that a prehearing order be issued that clarifies what issues Complainant may pursue. SPLP submits this proceeding should be limited to the following issues.

1. Whether SPLP's construction practices for installation of ME2/ME2X in the vicinity of the St. Peters and Paul school in East Goshen Township are in violation of the law or applicable regulations.
  - a. SPLP's Position: No.
2. Whether SPLP's reversal and change of product of ME1 or the 12-inch pipeline are in violation of the law or applicable regulations.
  - a. SPLP's Position: No.
3. Whether SPLP's public awareness program or emergency response procedures are in violation of the law or applicable regulations.
  - a. SPLP's Position: No.

**C. DISCOVERY**

SPLP does not propose any modifications to the Commission's discovery regulations.

**D. OTHER PROPOSED ORDERS OF DISCOVERY**

SPLP does not propose any modifications to the Commission's discovery regulations.

**F. PROPOSED SCHEDULE FOR TESTIMONY, HEARING, AND BRIEFS.<sup>1</sup>**

SPLP is unable to propose a schedule at this time because it is unaware of the scope of the case Complainant intends to present. To the extent Complainant is presenting expert witnesses, SPLP requests that a schedule be developed for written testimony with a hearing for cross-examination. To the extent Complainant has a limited number of lay witnesses, SPLP is willing to participate in an in-person hearing without the use of written testimony. SPLP will work with the parties to address scheduling issues at the prehearing conference.

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<sup>1</sup> In prehearing conference order, Paragraph E was not included and is reflected here as such to match the order as written.

**G. WITNESSES.**

SPLP does not have the burden of proof in this proceeding and it cannot predict what specific witnesses it may need to present to defend against the Amended Complaint until Complainant and any aligned intervenor(s) present their testimony. SPLP entered testimony into the record in various proceedings already addressing the issues raised in this proceeding and may rely on and incorporate such evidence into this proceeding. SPLP identifies preliminarily, as potential witnesses:

- Mr. Joseph Perez, Vice President, Technical Services, Operations and Engineering Services, Energy Transfer and SPLP.
  - Topics: SPLP’s Public Awareness Program, Emergency Response materials, procedures, and training.
- Mr. Gregory Noll, Principal at GGN Technical Resources, LLC and Sunoco’s emergency management expert.
  - Topics: SPLP’s Emergency Response materials, procedures, and training.
- Mr. John Zurcher, Principal at Process Performance Improvement Consultants, LLC (P-PIC), Managing Director at The Blacksmith Group, and Sunoco’s expert witnesses regarding public awareness, hazard warnings, and pipeline safety.
  - Topics: SPLP’s Public Awareness Program, Emergency Response materials, procedures, and training, and issues regarding pipeline safety.
- Mr. Matthew Gordon, Senior Director of Operations, Energy Transfer and SPLP.
  - Topics: Pipeline construction.

SPLP will identify additional witnesses as necessary to respond to the witnesses and evidence submitted by Complainant and any intervenors aligned with Complainant. Depending

upon Complainant's testimony, SPLP reserves the right to identify and submit other witnesses subject to the form and time of presentation..

Each of these witnesses may present testimony regarding any of the above-stated issues or any other issue that may arise during the course of this proceeding. SPLP reserves the right to adopt any testimony of other witnesses, in whole or in part, to substitute witnesses, and to offer additional witnesses and exhibits as may be necessary, including but not limited to witnesses and evidence to address the testimony, exhibits, or evidence that may be presented by any party in this proceeding.

#### **H. ISSUES**

See Section B.

#### **I. EVIDENCE**

SPLP does not have the burden of proof in this proceeding and it cannot predict what specific evidence it may need to present to defend against the Amended Complaint until Complainant and any aligned intervenor(s) present their testimony. SPLP entered extensive evidence into the record in various hearings addressing similar issues that the Amended Complaint raises and may rely on that evidence and incorporate it into the record of this proceeding as necessary going forward.

SPLP intends to present the pre-filed testimony of the above-named witnesses along with any exhibits that witness may sponsor to support his or her testimony. SPLP reserves the right to adopt testimony of other witnesses, in whole or in part, to substitute witnesses, and to offer additional witnesses and exhibits, including but not limited to addressing the testimony, exhibits or other evidence that other parties in this proceeding may present.

## **J. PETITIONS TO INTERVENE**

Your Honor indicated that petitions to intervene would be considered at the prehearing conference. Mr. Thomas Casey filed the only petition to intervene in this proceeding. SPLP opposes his intervention. Mr. Casey does not raise an interest sufficient for intervention in this proceeding and raises issues outside the scope of the Amended Complaint. Mr. Casey's avers he should be allowed to intervene because SPLP has allegedly denied him "the ability to gain knowledge and understanding regarding [his] property with regards to the new 16" and 20" pipelines." As has been established in multiple proceedings, SPLP has a robust public awareness program that provides the necessary information to landowners such as Mr. Casey. Whatever additional information Mr. Casey is seeking is not something SPLP is required under law to provide and is not an adequate basis for intervening in this proceeding. Moreover, Mr. Casey is trying to raise concerns regarding allegations in a separate matter in which he has petitioned to intervene – the BI&E Formal Complaint at Docket No. C-2018-3006534. Mr. Casey cannot be allowed to raise such issues here, as the Amended Complaint contains no such allegations and there is another proceeding dealing with those allegations. SPLP requests Mr. Casey's petition to intervene be denied.

Respectfully submitted,

Thomas J. Sniscak / JLD

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Dated: February 8, 2019

*Attorneys for Respondent Sunoco Pipeline L.P.*

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the forgoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party). This document has been filed electronically on the Commission's electronic filing system and served via mail on the following:

**VIA ELECTRONIC MAIL AND FIRST CLASS MAIL**

Melissa DiBernardino  
1602 Old Orchard Lane  
West Chester, PA 19380



Thomas J. Sniscak, Esquire  
Kevin J. McKeon, Esquire  
Whitney E. Snyder, Esquire

Dated: February 8, 2019