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February 25, 2019

VIA ELECTRONIC FILING

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

Re: Meghan Flynn, et al. v. Sunoco Pipeline L.P.; Docket Nos. C-2018-3006116 and P-2018-3006117; **SUNOCO PIPELINE L.P.'S ANSWER OPPOSING PETITION TO INTERVENE OF WEST WHITELAND TOWNSHIP**

Dear Secretary Chiavetta:

Attached for electronic filing with the Commission is Sunoco Pipeline L.P.'s Answer Opposing Petition to Intervene of West Whiteland Township 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: Per Certificate of Service
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN	:		
ROSEMARY FULLER	:		
MICHAEL WALSH	:		
NANCY HARKINS	:		
GERALD MCMULLEN	:		
CAROLINE HUGHES and	:		
MELISSA HAINES	:		
	:	Docket Nos.	C-2018-3006116
Complainants,	:		P-2018-3006117
	:		
v.	:		
	:		
SUNOCO PIPELINE L.P.,	:		
	:		
Respondent.	:		

**SUNOCO PIPELINE L.P.’S ANSWER
OPPOSING PETITION TO INTERVENE
OF WEST WHITELAND TOWNSHIP**

Pursuant to 52 Pa. Code § 5.66,¹ Sunoco Pipeline L.P. (SPLP) submits this Answer Opposing West Whiteland Township’s (Petitioner) February 4, 2019 Petition to Intervene in this proceeding because the Petition is untimely, and Petitioner has not shown its interests are not adequately represented.

1. Complainants filed the Complaint and Petition in this proceeding on November 19, 2018.

¹ SPLP notes that it is not required to specifically answer the allegations within a petition to intervene, and any such allegations are not deemed admitted by SPLP’s non-response. Compare 52 Pa. Code § 5.66 (“party may file an answer to a petition to intervene within 20 days of service, and in default thereof, may be deemed to have waived objection to the granting of the petition. Answers shall be served upon all other parties.”) with § 5.61(b)(3) (as to form of answers to complaints, answers must “Admit or deny specifically all material allegations of the complaint”).

2. Complainants filed an Amended Complaint in this proceeding on December 20, 2018.

3. West Whiteland Township filed a Petition to Intervene on February 4, 2019.

4. West Whiteland Township's Petition was filed 77 days after the filing of the Complaint and Petition.

5. West Whiteland Township does not allege in its Petition that it was timely filed.

6. 52 Pa. Code §§ 5.74 and 5.53 require a petition to intervene in a proceeding be filed within 60 days of the initiating pleading in a proceeding, absent "good cause shown."

7. West Whiteland Township's Petition was untimely because it was filed 77 days after the Complaint and Petition in this proceeding.

8. The December 20, 2018 amendments to the Complaint did not extend the time for interventions. There is no Commission regulation that extends the time for intervention when an amendment to a pleading is filed. A petition to intervene is due 60 days from an initiating complaint/petition. 52 Pa. Code §§ 5.74 and 5.53. Clearly, the petition should be denied.

9. In contrast, the Commission's regulations expressly extend the answering time period when an amended pleading is filed to require an answer within 20 days of the amended pleading. 52 Pa. Code § 5.65(a). The presence of a specific Commission regulation that extends the time for an answer in the event of an amended pleading coupled with the absence of any Commission regulation regarding intervention and amended pleadings means that the Commission has not changed the time period for intervention in the event of an amended pleading. *See, e.g., Popowsky v. Pennsylvania Public Utility Com'n*, 869 A.2d 1144, 1159 (Pa. Cmwlth. 2005) (the inclusion of a specific matter in a statute implies the exclusion of other matters).

10. To allow untimely intervention, the petition to intervene must show good cause. 52 Pa. Code § 5.74.

11. West Whiteland Township fails to even allege good cause for allowing it to intervene out of time in this proceeding. It makes no allegation it was unaware of the Complaint as it certainly was aware.

12. There is no good cause to allow West Whiteland Township to intervene out of time and its Petition should be denied.

13. West Whiteland Township's Petition to Intervene should also be denied because it has failed to show that its interests are not already adequately represented in this proceeding. 52 Pa. Code § 5.72 (a)(2); *see generally* Petition to Intervene.

14. West Whiteland Township merely states "no other party to this proceeding possesses an interest identical to that of the Township." Petition to Intervene at ¶ 22. However, 52 Pa. Code § 5.72(a)(2) expressly provides that to intervene, petitioner must possess "an interest which may be directly affected **and which is not adequately represented by existing participants.**" *Id.* (emphasis added). Accordingly, West Whiteland Township's Petition to Intervene should be denied on this basis as well.

15. SPLP notes that if West Whiteland Township is nonetheless granted intervenor status, late filed intervenors must take the case as it is, and cannot expand the scope of the proceeding. *See Com., et al. v. Energy Services Providers, Inc. d/b/a PaG&E, Order Granting Petition to Intervene*, Docket No. C-2014-2427656, 2015 WL 1957859 (Order entered Apr. 23, 2015) (Cheskis, J.) ("In granting intervention, however, Mr. Sobiech will be required to take the case as it currently stands. PaG&E is correct that intervenors generally take the record as they find

it at the time of intervention.”). Even if intervention is allowed, West Whiteland Township cannot pursue issues beyond the scope of the Amended Complaint.

WHEREFORE, Sunoco Pipeline L.P. requests West Whiteland Township’s Petition to Intervene be denied.

Respectfully submitted,



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Attorneys for Respondent Sunoco Pipeline L.P.

Dated: February 25, 2019

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 on the following:

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Dated: February 25, 2019