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March 20, 2019

Via Electronic Filing
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: In Re: Meghan Flynn, et al. v. Sunoco Pipeline, L.P.
Docket Numbers: C-2018-3006116; P-2018-3006117

Dear Secretary Chiavetta:

Enclosed for electronic filing with the Commission please find the Petition to Intervene of Pennsylvania State Senator Thomas H. Killion with regard to the above-captioned proceeding.

All parties of record have been served pursuant the attached Certificate of Service. If you have any questions or concerns, please do not hesitate to contact this office.

Thank you very much for your cooperation and assistance.

Respectfully,

LAMB MCERLANE PC

By: /s/ Guy A. Donatelli

Guy A. Donatelli

Counsel for Senator Thomas H. Killion

GAD/ajb
Enclosures
cc: Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In Re: Meghan Flynn, Rosemary Fuller	:	
Michael Walsh, Nancy Harkins, Gerald	:	Docket No. C-2018-3006116
McMullen, Caroline Hughes and	:	
Melissa Haines	:	Docket No. P-2018-3006117
Petitioner,	:	
	:	
v.	:	
	:	
Sunoco Pipeline, L.P.,	:	
	:	
Respondent.	:	

**PETITION TO INTERVENE OF PENNSYLVANIA STATE SENATOR THOMAS H.
KILLION**

Pursuant to 52 Pa. Code §§ 5.71-5.75, Pennsylvania State Senator Thomas H. Killion, (“Senator Killion”) hereby petitions to intervene in the above-captioned proceeding. In support thereof, Senator Killion submits as follows:

A. THE SENATOR

1. The Petitioner is a Pennsylvania State Senator with offices located in Harrisburg, in Delaware County, Pennsylvania at 4110 Edgmont Avenue, Brookhaven, Pennsylvania 19015, (610) 447-3163, and in Chester County, Pennsylvania at 780 E. Market Street, Suite 140, West Chester, Pennsylvania 19382, (610) 436-3320.
2. Senator Killion is a member of the General Assembly as a Senator and represents the 9th Senatorial District (“Senate District 9”) which is comprised of portions of both Chester and Delaware Counties.
3. Senate District 9, includes, but is not limited to, the following municipalities in Delaware County, Pennsylvania in which the Respondent Sunoco Pipeline, L.P.’s (“Sunoco”) pipelines are sited: Aston Township; Chester Township; Edgmont Township; Marcus

Hook Borough; Middletown Township; Thornbury Township, and; Upper Chichester Township.

4. Senate District 9, includes, but is not limited to, the following municipalities in Chester County, Pennsylvania in which Sunoco's pipelines are sited: East Goshen Township; Thornbury Township; West Goshen Township, and; Westtown Township.
5. Senator Killion resides in Middletown Township, Delaware County, Pennsylvania approximately less than 1 mile from the pipelines of Respondent Sunoco.
6. Senator Killion's attorneys in this matter are:

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7. Senator Killion petitions to intervene in the above-captioned proceeding.
8. Senator Killion requests to receive all documents electronically to the above-listed email addresses as allowed by 52 Pa. Code § 1.54(b)(3).

B. THE ABOVE-CAPTIONED PROCEEDING.

9. On November 19, 2018, Petitioners/Complainants Meghan Flynn, Rosemary Fuller, Michael Walsh, Nancy Harkins, Gerald McMullen, Caroline Hughes and Melissa Haines (collectively the “Flynn Complainants”) filed a Complaint against Respondent Sunoco at Docket No. C-2018-3006116, and concurrently therewith, a Petition for Interim Emergency Relief against Sunoco at Docket No. P-2018-3006117, which have been consolidated.¹ On December 21, 2018, Complainants filed an Amended Complaint.
10. The Flynn Complainants averred that their properties in Chester and Delaware Counties were in close proximity to the Mariner East 1 (“ME1”) pipeline and/or a work-around 12-inch diameter pipeline that circumvents stopped construction on the Mariner East 2 (“ME2”) and Mariner East 2X (ME2X).² At times, these Sunoco pipelines are referred to collectively as “the ME Pipelines”.
11. The Flynn Complainants also averred that ME1, ME2, ME2X and the work-around pipelines carrying or intended to carry HVLs are inherently dangerous and due to their location in Chester and Delaware Counties (high consequence areas), a pipeline rupture there would be catastrophic.
12. The Flynn Complainants further contend that ME1 and the work-around pipeline are being operated without an adequate public awareness program, emergency notification system, or credible emergency management plan in violation of 49 CFR § 195.440. The Flynn

¹ On December 11, 2018, Administrative Law Judge Elizabeth Barnes issued Order denying relief to the Flynn Complainants that would affect the temporary cessation of operations of ME1 and construction of the ME2 work-around pipeline and certified that Order to the Commission. On January 17, 2019, the Commission affirmed ALJ Barnes’ Order denying Complainants petition for interim relief.

² ME1 is currently operational. ME2 and ME2X are not currently operational. The work-around 12 inch pipeline is a 1930’s era pipeline that had been carrying petroleum products such as gasoline until Sunoco repurposed it to connect to ME2 in order to carry highly volatile liquids (HVLs).

Complainants contend that Sunoco is violating 49 CFR § 195.248 in that ME1 and the workaround pipeline are located within 50 feet of private dwellings or industrial buildings or places of public assembly without at least 4 feet of cover.

13. The Flynn Complainants' Complaint requested that the Commission enter an Order directing Sunoco: (a) to permanently cease operation of the 8-inch ME1 pipeline; (b) to permanently cease operation of the workaround pipeline, ME2, and ME2X; (c) to engage an independent contractor to conduct a remaining life study of ME1 and the 12 inch sections of the workaround pipeline to determine the forecasted retirement age of ME1, and; (d) grant such other and further relief as may be appropriate.

C. SENATOR KILLION'S INTEREST IN INTERVENTION

14. Senator Killion has a direct, substantial and immediate interest in this matter as the elected representative of Senate District 9.
15. Senator Killion does not seek intervention to vindicate some generalized legislative prerogatives, rather Senator Killion seeks intervention to address concerns regarding the construction and operation of the ME Pipelines which are unique to his Senatorial District and about which he possesses unique legislative duties, knowledge and perspective.
16. Sunoco's ME Pipelines and attendant facilities are sited within or traverse *no less than twelve (12) municipalities* within Chester and Delaware Counties which comprise Senate District 9.
17. The ME Pipelines sited within Senate District 9 are located within close proximity to County and municipal facilities, elementary and secondary schools, churches, retirement

communities and places of public assembly; all of which are within the ME Pipelines' "blast zone," which might extend to more than 2,000 feet from the ME Pipelines.

18. Senator Killion's obligation to improve upon the safety of a specific public utility operated within his district which affects the health, safety and welfare of his constituents extends to *all persons and municipalities within Senator Killion's district.*
19. While several municipalities, school districts and citizens who reside in Senate District 9 have petitioned for, and have received party status to this matter, no other party in the instant matter possesses an interest identical to the interest of Senator Killion, as said parties' obligations to ensure the safety and reasonableness of Sunoco's pipelines and facilities does not extend to the entirety of the geographic area encompassing the district.
20. Senator Killion, in his capacity as a Pennsylvania State Senator possesses an implicit power to be a litigant in matters touching upon his concerns and the concerns of his constituents.³
21. Standing to participate in proceedings before an administrative agency is primarily within the discretion of the agency⁴.
22. In making its standing determination, the Commission may also consider whether a party's participation before it will aid the Commission in its deliberations. The Commission's policy is to allow participation "by a party that could show its participation would aid the Commission in reaching a decision."⁵

³ See: *Corman v. Nat'l Collegiate Athletic Ass'n*, 74 A.3d 1149, 1161 (Pa. Cmwlth. Ct. 2013) (*quoting Pennsylvania Game Comm'n v. Dep't of Envtl. Res.*, 555 A.2d 812, 815 (Pa. 1989)).

⁴ See: *Pennsylvania Nat. Gas Ass'n*, 75 Pa. P.U.C. 598 (Dec. 19, 1991).

⁵ See: *Waddington v. Pennsylvania Public Utility Com'n*, 670 A.2d 199, 202 (Pa. Cmwlth. Ct. 1995); *Application of Pennsylvania Power & Light Company*, 1976 WL 41688.

23. Participation by Senator Killion in this proceeding is in the public interest as the ME Pipelines poses an imminent threat to the entirety of Senate District 9.
24. Senator Killion possesses a sufficient legal interest in this matter so as to permit the filing of this intervention.
25. Senator Killion's Intervention is timely pursuant to the prescripts of 52 Pa. Code. § 5.74.
26. Senator Killion's Intervention will not delay the orderly progress of the case, significantly broaden the issues or shift the burden of proof in the instant proceeding.

D. REQUESTED RELIEF

27. Senator Killion seeks intervention to request the following relief:
 - a. That the Commission order Sunoco to develop and install a mass early warning notification system at all potentially affected properties located within Chester and Delaware County which would provide immediate notice of a leak, potential explosion or other failure in the pipeline system;
 - b. That the Commission order Sunoco to provide a Chester County and a Delaware County specific public education or emergency response plan designed to inform and educate the public and the Commonwealth, County and Municipal Officials and Staff on proper and effective disaster prevention and response;
 - c. That the Commission order Sunoco to engage an independent expert to produce studies relating to the impact of the pipeline in Chester and Delaware Counties, including, but not limited to, a remaining life study of ME1 and the 12 inch workaroud pipeline; and
 - d. Such further relief as may become available during the proceedings on this Application.

WHEREFORE, Senator Thomas H. Killion respectfully requests that this Honorable Commission grant this petition to intervene, providing him with full-party status in this proceeding.

Respectfully submitted,

LAMB MCERLANE PC

By: /s/ Guy A. Donatelli
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Attorneys for Intervenor
Senator Thomas H. Killion

Dated March 20, 2019

VERIFICATION

I, Thomas H. Killion, hereby state that the facts set forth in the foregoing Petition to Intervene are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Dated: 3/20/19



Thomas H. Killion
State Senator
9th District

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Petitioner,	:	
	:	
v.	:	
	:	
Sunoco Pipeline, L.P.,	:	
	:	
Respondent.	:	

CERTIFICATE OF SERVICE

I hereby certify that this day I have served a copy of the foregoing Petition for Intervention upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a party).

Via First Class Mail

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Dated: March 20, 2019

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