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REPLY TO:
Center City

March 29, 2019

Via Electronic Filing

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

Re: Meghan Flynn, et al. v. Sunoco Pipeline L.P., Docket No. C-2018-3006116

Melissa DiBernardiono v. Sunoco Pipeline L.P., Docket No. C-2018-3005025

Rebecca Britton v. Sunoco Pipeline L.P., Docket No. C-2019-3006898

Laura Obenski v. Sunoco Pipeline L.P., Docket No C-2019-3006905.

COMPLAINANTS' RESPONSE TO MOTIONS TO CONSOLIDATE

Dear Secretary Chiavetta:

Attached for electronic filing with the Commission is Complainants' Response to Motions to Consolidate in the above-referenced proceeding.

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

Very truly yours,


MICHAEL S. BOMSTEIN, ESQ.

MSB:mik

cc: Judge Barnes (Via email and First Class Mail)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN et al.	:		
	:		
Complainants,	:	Docket Nos.	C-2018-3006116
	:		P-2018-3006117
v.	:		
	:		
SUNOCO PIPELINE L.P.,	:		
	:		
Respondent.	:		

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

REBECCA BRITTON,	:		
	:		
Complainant,	:	Docket No.	C-2019-3006898
	:		
v.	:		
	:		
SUNOCO PIPELINE L.P.,	:		
	:		
Respondent.	:		

LAURA OBENSKI,	:		
	:		
Complainant,	:	Docket No.	C-2019-3006905
	:		
v.	:		
	:		
SUNOCO PIPELINE L.P.,	:		
	:		
Respondent.	:		

COMPLAINANTS' RESPONSE TO MOTIONS TO CONSOLIDATE

Complainants, by their attorney, Michael S. Bomstein, having been served with Sunoco's Motion to Consolidate Cases and been informed of Laura Obenski's motion, and desiring to oppose same, hereby responds as follows:

1. Admitted.
2. Denied as stated. Admitted only that the summary of the DiBernardino complaint is substantially correct.
3. Denied as stated. Admitted only that the summary of the Britton complaint is substantially correct.
4. Denied as stated. Admitted only that the summary of the Obenski complaint is substantially correct.
5. Denied as stated. Admitted that the four complaints involve some common questions of law and some common questions of law. Denied that consolidation of the matters is appropriate. By way of further answer, see Complainants' further responses below.
6. Denied as stated. Admitted only that Respondent has accurately cited § 5.81(a).
7. Denied as stated. Denied that respondent's citations completely represent the cited cases.
8. Denied as stated. Denied that respondent's citation completely represents the cited case.
9. Admitted.
10. Denied. After identifying eight relevant factors, Sunoco has left out most of them in its analysis.
11. Denied as stated. Admitted only that the stated issues are among these asserted by the Flynn Complainants.

10. Denied. After identifying eight relevant factors, Sunoco has left out most of them in its analysis.

11. Denied as stated. Admitted only that the stated issues are among these asserted by the Flynn Complainants.

12. Denied as stated. "Consolidation" can be for trial, or pretrial, or for all purposes. Complainants believe and aver that for final hearing and adjudication the ALJ could reasonably have all parties participate on some basis so that a subsequent hearing and adjudication would not be required. For pre-hearing purposes, however, Flynn Complainants believe and aver that the parties are situated very differently and that separate deadlines and orders would necessarily be required.

13. Denied as stated. The response to No. 12 above is hereby incorporated by reference thereto.

14. Denied as stated. The response to No. 12 above is hereby incorporated by reference thereto.

15. Denied as stated. Obenski inadvertently failed to furnish notice to Complainants' counsel, as a result of which Complainants have only just learned of Obenski's motion from Sunoco's instant motion. A copy of her email, acknowledging the error, is attached hereto as Ex. "A."

16. Denied as stated. The Second Interim Order was referring to judicial efficiency from joinder of the intervenors' claims.

17. Denied as stated. A joint prehearing schedule that accounts for the distinct needs of the Flynn Complainants' separate pleading, discovery, expert witness and hearing preparation issues is not opposed. The timeline is likely to be very different from that of the unrepresented

parties. While Sunoco cites the *Hartman* case for the proposition that a consolidation decision must factor in the possibility of prejudice to the opposing party (Motion at 4, ¶ 7), in fact this important issue remains unaddressed. In the instant proceeding, pleadings have not closed, discovery has barely begun, and until significant discovery is received Complainants are in no position even to work with potential expert witnesses. In this important respect, this case is very different from the cases of the other parties and not to account for this difference could well be prejudicial.

18. Complainants believe and aver that it would be impossible to make a reasonable decision regarding consolidation until such time as the ALJ has heard from pro se parties, intervenors, Complainants and Respondent regarding their prehearing requirements.

WHEREFORE, Complainants pray the Commission defer making any decision with respect to Sunoco's Motion and Obenski's Motion until after the prehearing conference currently set for April 24, 2019.

Respectfully submitted,



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Attorney for Complainants

Dated: March 29, 2019

PUC Cases > [Inbox x](#)

Michael Bomstein <mbomstein@gmail.com>

to ljobenski, Eric ▾

Ms. Obenski,

I just learned yesterday that you had filed a motion to consolidate.
I did not receive a copy via email or by any other means.

Can you do me a favor? Please look in your "sent" emails and see
if there's any indication you actually emailed it to me.

Thanks.

MSB



Laura Obenski

Good evening. You are correct, I did not email you a copy of the motion and that is my error. However, as a pro se complainant, I did reach out to Ms. Chiavetta

Michael Bomstein <mbomstein@gmail.com>

to Laura ▾

Thank you for the clarification. MSB

EX "A"


**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Meghan Flynn	:	
Rosemary Fuller	:	
Michael Walsh	:	
Nancy Harkins	:	C-2018-3006116
Gerald McMullen	:	P-2018-3006117
Caroline Hughes and	:	
Melissa Haines	:	
	:	
	:	
v.	:	
	:	
Sunoco Pipeline, L.P.	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the persons 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 via electronic and first-class mail:

SEE ATTACHED LIST



Michael S. Bomstein

Dated: March 28, 2019

(PARTIES LIST UPDATED MARCH 28, 2019)

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