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April 1, 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 INTERVENTION OF THORNBURY TOWNSHIP**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Sunoco Pipeline L.P.'s Answer Opposing Intervention of Thornbury 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
INTERVENTION OF THORNBURY TOWNSHIP**

Pursuant to 52 Pa. Code § 5.66,¹ Sunoco Pipeline L.P. (SPLP) submits this Answer Opposing Thornbury Township’s March 12, 2019 Petition to Intervene in this proceeding because the Petition is untimely and Thornbury Township has not shown its interests are not adequately represented.

1. On November 19, 2018 Complainants filed the Complaint and Petition.
2. On December 20, 2018 Complainants filed an Amended Complaint.
3. Thornbury Township filed a Petition to Intervene on March 12, 2019.

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”).

4. Thornbury Township's Petition is untimely. It was filed 113 days after the Complaint.

5. Thornbury Township does not allege its Petition 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. Thornbury Township's Petition was untimely because it was filed 113 days after the Complaint and Thornbury Township has not averred good cause for allowing untimely intervention.

8. The December 20, 2018 amendments to the Complaint did not extend the time for interventions. Even if there was a Commission regulation that extended the time for intervention based on an amendment to a pleading, which there is not, SPLP notes that Thornbury Township's Petition to Intervene would still be untimely, as it was filed 82 days after the Amended Complaint was filed. 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. 52 Pa. Code §§ 5.74 and 5.53.

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. Thornbury Township fails to even allege good cause for allowing it to intervene out of time in this proceeding. There is no good cause to allow Thornbury Township to intervene out of time and its Petition should be denied. Moreover, Thornbury Township knew about the Complaint and even filed a “Letter in Support” with the Commission regarding the Complaint dated January 14, 2019. This letter in support was added to the above referenced dockets on January 18, 2019. Therefore, Thornbury Township knew about, considered, yet actively chose to file a letter in support within the 60-day period described in 52 Pa. Code §§ 5.74 and 5.53, rather than filing a timely petition to intervene. Thornbury Township’s petition to intervene, in light of their interaction with and knowledge of the case, should be denied.

12. Thornbury 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.

13. Indeed, Thornbury Township merely states its interest “is not, and cannot be, adequately represented by any other party.” Petition to Intervene at ¶ 23. 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). Thornbury Township has not provided any reason or support for the notion that their interests are not adequately represented by existing participants. Accordingly, Thornbury Township’s Petition to Intervene should be denied on this basis as well.

14. SPLP notes that if Thornbury 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, Thornbury Township cannot pursue issues beyond the scope of the Amended Complaint.

WHEREFORE Sunoco Pipeline L.P. respectfully requests Thornbury Township’s Petition to Intervene be denied.

Respectfully submitted,



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Dated: April 1, 2019

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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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Certificate of Service

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