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REPLY TO:
Center City

April 2, 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
COMPLAINANTS' SUPPLEMENTAL DISCOVERY MEMORANDUM

Dear Secretary Chiavetta:

Attached for electronic filing with the Commission is Complainants' Supplemental Discovery Memorandum in the above-captioned 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	:	
Rosemary Fuller	:	
Michael Walsh	:	
Nancy Harkins	:	C-2018-3006116
Gerald McMullen	:	P-2018-3006117
Caroline Hughes and	:	
Melissa Haines	:	
	:	
	:	
v.	:	
	:	
Sunoco Pipeline, L.P.	:	

COMPLAINANTS’ SUPPLEMENTAL DISCOVERY MEMORANDUM

Complainants, having been served with Respondent’s response in opposition to their Motion to Dismiss Objections and Compel Discovery, and desiring to reply briefly thereto, hereby submit the following additional argument.

A. Statute of Limitations Argument

Respondent contends that the chronological scope of Complainants’ discovery is constrained by a three year statute of limitations set out in 66 Pa.S.C. § 3314. That provision, however, is only one piece of Chapter 33, entitled “Violations and Penalties,” that does not apply to the instant matter.

Chapter 33 identifies eleven separate and distinct prohibited acts in §§ 3303 – 3313. The limitations provision in § 3314 clearly is a limitation on claims that a party has committed one of those specifically prohibited acts. Indeed, that obviously explains the language in § 3314 that refers to “prosecutions on account of *any matter or thing mentioned in this part.*” (Italics added).

This reading of § 3314 is bolstered further by §§ 3301 and 3302, which provide for civil and criminal remedies. Complainants in this proceeding nowhere seek damages or penalties against Sunoco. If further discovery were to support a claim under Chapter 33, a separate proceeding would have to be initiated that identified one or more of the eleven possible

violations as the basis for such a proceeding. That case would be subject to the § 3314 limitations. The instant case, however, is not.

B. Complainants' Alleged Failure to Comply with § 5.342(g)

§ 5.342(g) states, "The motion to compel must include the interrogatory objected to and the objection." The rule does not state what is meant by "the objection." Sunoco's objections are 39 pages long, most of which are repetitious.

By way of illustration, objections to 89 interrogatories are set out in Section G. The 89 interrogatories are identified. Lack of relevance, improper incorporation of pleadings, lack of standing, pendency of settlement, improperly suing as private attorneys general are the five objections, not counting Respondent's incorporation by reference of Section A, another section that is itself five pages long. Complainants' motion in response to Section G identifies and addresses all of these objections.

§ 5.342(g) does *not* state that a party's *explication* of objections must be repeated verbatim, nor does Respondent's response cite to any authority in support of its position.

C. Conclusion

For all of the reasons set forth above as well as the reasons set forth in Complainants' motion, Complainants ask the ALJ to dismiss Respondents' objections and compel Sunoco to serve full and complete responses to the subject interrogatories and document request.

Respectfully submitted,




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Attorney for Complainants

Dated: April 2, 2019

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: April 2, 2019

(PARTIES LIST UPDATED MARCH 28, 2019)

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