**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Giant Eagle, Inc.; Guttman Energy, Inc.; :

Lucknow-Highspire Terminals, LLC; :

Monroe Energy, LLC; Philadelphia Energy :

Solutions Refining and Marketing, LLC; : C-2018-3003365

and Sheetz, Inc. :

:

v. :

:

Laurel Pipe Line Company, L.P. :

**ORDER ON MOTION TO RECLASSIFY DISCOVERY RESPONSE**

**PROPRIETARY VERSION**

On March 19, 2019, Giant Eagle, Inc., Guttman Energy, Inc., Lucknow-Highspire Terminals, LLC, Monroe Energy, LLC, Philadelphia Energy Solutions Refining and Marketing, LLC, and Sheetz, Inc. (collectively, the "Complainants") filed a Motion to Reclassify Discovery Response (Motion). In particular, the Motion seeks an order determining that the Transportation Services Agreements ("TSAs") provided by Laurel Pipe Line Company, L.P. ("Laurel" or “Respondent”) as HIGHLY CONFIDENTIAL Attachment Compl-LAU-II-39 should also be produced in a redacted form, and that redacted document should be classified as a CONFIDENTIAL document.

In their Motion, the Complainants argue that the reclassification of the TSAs from HIGHLY CONFIDENTIAL to CONFIDENTIAL will to allow for review of the TSAs by limited company representatives that have been designated as Reviewing Representatives under the Protective Order and executed the Non-Disclosure Certificate attached to the Protective Order. According to the Complainants, the review of the “general terms and conditions” in the reclassified TSAs by limited company representatives is essential the Complainants if they are to assess the full impact of Laurel's proposed bi-directional service on east-to-west service since much of the west-to-east service will be governed by the TSAs.

In addition, the Complainants support their request for reclassification of the TSAs by arguing that they are merely requesting disclosure, on a CONFIDENTIAL basis, of the same pro forma terms and conditions that Laurel and Buckeye shared with interested shippers during the Open Season process.

On March 25, 2019, Laurel filed its Answer to the Motion arguing that the Complainants’ comparison of TSAs’ review during Open Season with the TSAs’ review during a litigated proceeding was flawed. Laurel pointed out that the former was conducted two and half years ago by potential shippers, whereas the latter would be conducted on the year service is proposed to commence and by “competitors of the Committed Shippers and … of other market participants that are not present in this case.” Answer ¶ 20. According to Laurel, the reclassification of the TSAs and the review of commercially sensitive information contained therein by Complainants’ personnel would give the Complainants unfair advantage over the competition.

Laurel objected to the Motion arguing that the Complainants have failed to demonstrate that there is an operational need for their request for reclassification of “all of the terms and condition set forth in the TSAs.” Answer ¶ 17. Laurel argues that many of the terms and conditions of the TSAs have no bearing on the operations of the subject pipelines, but instead concern the calculation of Committed Shippers’ payments under the TSAs or competitively sensitive conditions that must be satisfied to trigger the parties’ respective obligations under the TSA. In its Answer, Laurel provides a list of these TSA provisions as Appendix B and attaches a redacted version of the TSAs as Appendix A to the Answer.

By letter dated March 27, 2019 and in accordance with the provisions of 52 Pa. Code § 5.43, Complainants requested leave to file a reply to Laurel’s Answer. In their letter, the Complainants explain that they no longer contest the HIGHLY CONFIDENTIAL designation for Sections 1.01, 3.02, 3.03(e)(ii), 3.05, 3.07, 4.04, 6.02(b), and Exhibit B of TSAs. However, they reiterate their request for reclassification of Sections 6.03(b)-(c) and 6.04 of the TSAs.

In its Answer, Laurel defended the HIGHLY CONFIDENTIAL status of Sections 6.03(b)-(c) of the TSAs arguing that **[BEGIN HIGHLY CONFIDENTIAL]** they contain specific pre-operation conditions related to the timing of the initiation of service. This information is competitively sensitive and not available to the public. In response, Complainants argued that any conditions relevant to the timing of the Laurel’s bi-directional service must be made available to Complainants’ company representative to allow them to assess possible operational impacts of Laurel’s proposed service **[END HIGHLY CONFIDENTIAL].**

After carefully reviewing the content of Sections 6.03(b)-(c), I shall deny Complainants’ Motion for reclassification of these sections. I find that the classification of these sections as HIGHLY CONFIDENTIAL does not prejudice Complainants’ ability to assess the possible operational impacts of Laurel’s proposed service.

Regarding Section 6.04 of the TSAs, Laurel defended its HIGHLY CONFIDENTIAL status on the same basis as Sections 6.03(b)-(c). The Respondent added that **[BEGIN HIGHLY CONFIDENTIAL]** the provisions of Section 6.04 permit for the adjustment of volumes that are transported under the TSA and would provide market participants with information bearing upon potential changes to shipper specific volumes under the TSA. In response, Complainants argued that while the section references volume adjustments, it does not provide specific volume data or adjustments sufficient to warrant the HIGHLY CONFIDENTIAL designation **[END HIGHLY CONFIDENTIAL].**

After carefully reviewing the content of Section 6.04, I shall deny Complainants’ Motion for reclassification of this section. I find that the provisions of Section 6.04 control a very short period before the proposed line enters operation but have the potential of giving Complainants unfair advantage over the competition. On balance, a reclassification of this section as CONFIDENTIAL would be more prejudicial to Laurel and other market participants than the current classification affects Complainants’ ability to assess the operational impacts of Laurel’s proposed service

In view of the above, I shall grant, in part, and deny, in part, Complainants’ Motion for Reclassification and I shall instruct Laurel to provide the Complainants with copies of the TSAs containing redacted Sections 1.01, 3.02, 3.03(e)(ii), 3.05, 3.07, 4.04, 6.02(b), 6.03(b)-(c), 6.04 and Exhibit B to TSAs, consistent with **Appendix A to Laurel’s Answer**.

The redacted document shall be marked CONFIDENTIAL and be served on the Complainants within one business day of issuance of the Order.

THEREFORE,

IT IS ORDERED:

1. That the Complainants’ Motion for Reclassification of Discovery Response is granted in part, and denied, in part, consistent with the discussion, *supra.*
2. That the redacted Transportation Service Agreements appended to Laurel’s Answer as Appendix A shall be classified as CONFIDENTIAL.
3. That Laurel Pipe Line Company, L.P. shall provide Giant Eagle, Inc., Guttman Energy, Inc., Lucknow-Highspire Terminals, LLC, Monroe Energy, LLC, Philadelphia Energy Solutions Refining and Marketing, LLC, and Sheetz, Inc. with copies of the Transportation Service Agreements redacted consistent with Appendix A and marked CONFIDENTIAL within one business day of issuance of the Order.

Date: April 9, 2019 /s/

Eranda Vero

Administrative Law Judge

C-2018-3003365 GAINT EAGLE INC.;

LAUCKNOW-HIGHSPIRE TERMINALS, LLC;

MONROE ENERGY; PHILADELPHIA ENERGY

REFINING AND MARKETING, LLC;

AND SHEETZ, INC.

SERVICE LIST

ALAN M SELTZER ESQUIRE

JOHN F POVILAITIS ESQUIRE

BUCHANAN INGERSOL & ROONEY PC

409 N 2nd STREET STE 500

HARRISBURG PA 17101

ACCEPTS E-SERVICE

Counsel to Philadelphia Energy Solutions Refining and Marketing

ROBERT A WEISHAAR JR

MCNEES WALLACE & NURICK LLC

1200 G STREET NW

SUITE 800

WASHINGTON DC 20005

ACCEPTS E-SERVICE

ADEOLU A BAKARE ESQUIRE

MCNEES WALLACE & NURICK LLC

100 PINE STREET

PO BOX 1166

HARRISBURG PA 17108-1166

ACCEPTS E-SERVICE

Counsel to Lucknow-Highspire Terminals, LLC;

Sheetz, Inc.; and Guttman Energy, Inc.

KEVIN J MCKEON ESQUIRE

WHITNEY E SNYDER ESQUIRE

TODD S STEWART ESQUIRE

HAWKE MCKEON & SNISCAK LLP

100 NORTH TENTH STREET

HARRISBURG PA 17101

ACCEPTS E-SERVICE

Counsel to Monroe Energy, LLC.

JONATHAN D MARCUS ESQUIRE\*

DANIEL J STUART ESQUIRE

SCOTT D LIVINGSTON ESQUIRE

MARCUS & SHAPIRA LLP

100 OXFFORD CENTRE 35TH FLOOR

301 GRANT STREET

PITTSBURGH PA 15219

Counsel for Giant Eagle, Inc.

\*ACCEPTS E-SERVICE

DAVID B MACGREGOR ESQUIRE

ANTHONY D KANAGY ESQUIRE

GARRETT P LENT ESQUIRE

POST & SCHELL PC

17 N 2nd STREET 12th FLOOR

HARRISBURG PA 17101-1601

ACCEPTS E-SERVICE

Counsel for Laurel Pipe Line Company, LP

CHRISTOPHER J BARR ESQUIRE

JESSICA R ROGERS ESQUIRE

POST & SCHELL PC

607 14TH STREET NW

SUITE 600

WASHINGTON DC 20005-2006

\*ACCEPTS E-SERVICE

Counsel for Laurel Pipe Line Company, LP

STEPHANIE M. WIMER ESQUIRE

BUREAU OF INVESTIGATION & ENFORCEMENT

PA PUBLIC UTILITY COMMISSION

PO BOX 3265

HARRISBURG PA 17105-3265

ACCEPTS E-SERVICE

RICHARD E POWERS JR, ESQUIRE

JOSEPH R HICKS, ESQIURE

VENABLE LLP

600 MASSACHUSETTS AVENUE NW

WASHINGTON DC 20001