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April 18, 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 Prehearing Conference Memorandum 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.	:	

**PREHEARING CONFERENCE MEMORANDUM OF PENNSYLVANIA STATE
SENATOR THOMAS H. KILLION**

Pennsylvania State Senator Thomas H. Killion (“Senator Killion”) in accordance with the Prehearing Conference Order dated March 20, 2019, hereby submits this Prehearing Conference Memorandum in the above-captioned proceeding and submits as follows:

I. THE NAMES, ADDRESSES, TELEPHONE NUMBERS AND E-MAIL ADDRESS OF ANY PERSON THE PARTIES WISH TO HAVE LISTED ON THE SERVICE LIST OR E-MAIL DISTRIBUTION LIST:

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II. SETTLEMENT

Senator Killion is willing to address settlement of all or part of the proceedings with the other parties.

III. DISCOVERY SCHEDULE

Senator Killion is in agreement with the discovery schedule proposed by counsel for Complainants.

IV. OTHER PROPOSED ORDERS WITH RESPECT TO DISCOVERY

Senator Killion does not propose any additional orders with respect to discovery.

V. SITE VISIT NECESSITY

Senator Killion does not believe that a site view is necessary to be conducted in this matter.

VI. LITIGATION SCHEDULE

Senator Killion is in agreement with the litigation schedule proposed by counsel for Complainants.

VII. WITNESSES

Senator Killion will provide testimony in support of the unique concerns relating to his senatorial district regarding the need for public awareness, adequate emergency preparedness, and the need for mass early warning systems.

Senator Killion also reserves the right to call additional witnesses as necessary, including any experts or witnesses so identified by any other party to this proceeding, and agrees to notify Administrative Law Judge Barnes and the parties promptly should Senator Killion determine that additional witnesses will be called.

VIII. LIST OF ISSUES AND SUB-ISSUES IN THIS PROCEEDING APPLICABLE TO SENATOR KILLION AND THE POSITION OF SENATOR KILLION IN REGARDS TO THE SAME:¹

3. **Petitions to Intervene**

Senator Killion reasserts the averments made in support of his Petition to Intervene filed in this matter and hereby incorporates the same as if set forth in full herein. Further, “standing to participate in proceedings before an administrative agency is primarily within the discretion of the agency.” *Pennsylvania Nat. Gas Ass’n*, 75 Pa. P.U.C. 598 (Dec 19, 1991). “In making its standing determination, the Commission may also consider whether a party’s participation before it will aid the Commission in reaching a decision.” *Application of Pennsylvania Power & Light Company*, 1976 WL 41688 (Pa. P.U.C.). Pursuant to the Commission’s rules and regulations administrative law judges “may through the exercise of discretion, control not only who participates but also what evidence may be adduced.” *Application of Pennsylvania Power & Light Company* at 13.

¹ The numerical designations of the issues addressed in Section VIII of this Memorandum correspond with the numerically listed issues and sub-issues identified in Paragraph 2 h.) (1-11) of the March 20, 2019 Prehearing Conference Order.

Senator Killion possesses a direct, immediate and substantial interest in his capacity as the elected representative of the 9th Senatorial District so as to afford participation in this matter. Despite Sunoco's assertion to the contrary in its Answer to Senator's Petition, the Pennsylvania Supreme Court's decision in *Markham v. Wolf*, 136 A.3d 134 (Pa. 2016) is inapposite to the facts at hand and does not act as bar to the Senator Killion's intervention in his legislative capacity. In *Markham*, a collective of state legislators sought intervention to challenge an executive order issued by Governor Wolf which the state legislators believed to be an unauthorized infringement on the collective's legislative authority. This collective sought to vindicate the voting rights of *every member* of the Pennsylvania general assembly. *Markham* stands for the proposition that legislators who only possess a generalized interest which is common to that of the general citizenry do not possess legislative standing.

By contrast, Senator Killion possess an immediate and substantial interest directly related to his legislative duties. Senator Killion has sought intervention in this matter to review the emergency preparedness plans of Sunoco in order to draft legislation to improve the safety of a specific public utility which affects the health, safety and economic stability of his constituents. Senator Killion's knowledge, experience and perspective pertaining to his senatorial district therefore places him in a position to offer unique information essential to the Commission's decision in this matter.

4. Public Awareness/Emergency Preparedness

It is Senator Killion's position that Sunoco's emergency preparedness and public awareness programs are insufficient and violate the governing federal regulations. Senator Killion will provide written testimony which demonstrates that Sunoco has failed to adhere to its statutory and regulatory obligations to provide public awareness and emergency response

programs to the citizens and municipalities which comprise his senatorial district. Senator Killion will further provide written testimony which details that the information provided by Sunoco has not outlined any response to address specific contingencies that directly affect emergency response planning.

5. Mass Warning Systems

It is Senator Killion's position that the public awareness plan of Sunoco is insufficient and otherwise inadequate in the absence of the installation of a mass early warning system at locations within Senatorial District 9 which present enhanced dangers, including, but not limited to, schools, places of public assembly and those locations with high concentrations of the elderly and infirmed. Senator Killion will present testimony to demonstrate that a mass early warning system which would reach, warn and allow governmental emergency responders the ability to evacuate the greatest number of affected persons in a safe manner must be installed by Sunoco to address the dangers the ME Pipelines present to the constituents of Senator Killion.

8. Remaining Life Study of ME1 and 12" pipe

It is Senator Killion's understanding that a Joint Petition for Approval of Settlement has been filed by the Bureau of Investigation and Enforcement and Sunoco in the Enforcement Action before the PUC at Docket No. C-2018-3006534. It is further understood that the Settlement Agreement stipulates that Sunoco shall be obligated to produce a remaining life study regarding ME1. It is further understood that a summary of the completed remaining life study shall be made publically available. Senator Killion takes the position that the full remaining life study should be provided to the parties to this proceeding and the same type of study should be required in a timely manner for the 12" pipeline. Senator Killion is amenable to complying with

measures which would protect the proprietary and confidential security information of Sunoco set forth in the study.

Respectfully submitted,

LAMB MCERLANE, PC

By: /s/ Guy A. Donatelli

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Attorneys for Senator Thomas H. Killion

Dated April 18, 2019

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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 Pennsylvania State Senator Thomas H. Killion’s Prehearing Conference Memorandum 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 Electronic Mail Service

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Dated: April 18, 2019

/s/ Guy A. Donatelli
Guy A. Donatelli, Esq.