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CELEBRATING OVER 80 YEARS

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April 19, 2019

Via Electronic Filing

Rosemary Chiavetta, Esquire
Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Docket Nos. P-2018-3006117 and C-2018-3006116
Meghan Flynn, et al. v. Sunoco Pipeline, L.P.**

Dear Secretary Chiavetta:

Attached for filing is Uwchlan Township's Prehearing Memorandum to be filed in the above-referenced matter.

A copy of the attached has been forwarded in the manner indicated on the attached Certificate of Service.

Thank you.

Very truly yours,



Mark L. Freed
For CURTIN & HEEFNER LLP

MLF:jmd
Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Meghan Flynn, Rosemary Fuller,	:	
Michael Walsh, Nancy Haskins,	:	Docket No. P-2018-3006117
Gerald McMullen, Caroline Hughes	:	Docket No. C-2018-3006116
and Melissa Haines	:	
	:	
	:	
v.	:	
	:	
Sunoco Pipeline, L.P.	:	

**UWCHLAN TOWNSHIP’S
PREHEARING MEMORANDUM**

Pursuant to the Prehearing Conference Order dated March 20, 2019, and Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, Uwchlan Township, by and through its counsel, respectfully submits this Prehearing Memorandum.

I. BACKGROUND

On or about November 19, 2018, Meghan Flynn, Rosemary Fuller, Michael Walsh, Nancy Harkins, Gerald McMullen, Caroline Hughes and Melissa Haines (collectively “Flynn Complainants”) filed a formal complaint alleging, *inter alia*, Mariner East 1 (“ME1”), Mariner East 2 (“ME2”), Mariner East 2X (“ME2X”) and the 12-inch “workaround pipeline”, owned and operated by Sunoco Pipeline L.P., a/k/a Energy Transfers Partners (“Sunoco”), are being operated and/or proposed to be operated without adequate emergency notification systems or legally adequate emergency management plans and that, as a result, the Flynn Complainants are at imminent risk of catastrophic and irreparable loss, including loss of life, serious injury to life, and damage to their

homes and property. The Flynn Complainants contend that Sunoco's actions constitute unreasonable, unsafe, inadequate and insufficient service which violates Section 1501 of the Pennsylvania Public Utility Code (Code). 66 Pa. C.S. § 1501. Concurrently with the filing of the Complaint, the Flynn Complainants filed a petition for interim emergency relief against Sunoco. The Complaint and Petition proceedings were consolidated.

The Flynn Complainants filed an amended complaint on November 19, 2018, further alleging, *inter alia*, that the highly volatile liquids ("HVL") pipeline mishaps that have occurred, together with data collected by the Commission's Bureau of Investigation and Enforcement, strongly suggest that Sunoco's integrity management program is not functioning in compliance with applicable law and that the valve sites for HVL pipelines are particularly high-risk areas.

On or about February 13, 2019, Uwchlan Township filed a petition to intervene in the Flynn matter. On or about March 4, 2019, Sunoco filed an answer opposing the intervention of Uwchlan Township. Uwchlan Township's petition to intervene was approved by the Second Interim Order issued by Administrative Law Judge Elizabeth H. Barnes, dated March 12, 2019.

Other matters related to the Mariner East pipeline project are also pending before the Commission. These other matters include formal complaints filed by Melissa DiBernardino (C-2018-3005025), Rebecca Britton (C-2019-3006898) and Laura Obenski (C-2019-3006905). On or about February 26, 2019, Laura Obenski filed a motion to consolidate her complaint with the Flynn matter. On or about March 18, 2019, Sunoco filed a motion to consolidate each of the above-referenced complaints with the Flynn complaint. These motions are pending before Administrative Law Judge Barnes.

II. SERVICE

Uwchlan Township will be represented in this proceeding by Curtin & Heefner LLP attorney Mark L. Freed. Uwchlan Township requests that the parties serve electronic copies of all documents and communications in this proceeding on the undersigned counsel as follows:

Mark L. Freed, Esq.
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III. SETTLEMENT OF THE CASE

Uwchlan Township has not engaged in settlement discussions regarding this matter.

IV. DISCOVERY SCHEDULE

Uwchlan Township adopts the schedule proposed by the Flynn Complainants.

V. OTHER PROPOSED DISCOVERY ORDERS

Uwchlan Township does not propose any additional orders with respect to discovery at this time.

VI. SITE VIEW

Uwchlan Township believes that a site view of the pipeline in proximity to residential dwellings, and various public assembly areas, such as schools, parks, businesses, life care facilities and retail shopping areas, will assist the Commission in this matter.

VII. PROCEDURAL SCHEDULE

Uwchlan Township adopts the schedule proposed by the Flynn Complainants.

VIII. WITNESSES

Uwchlan Township intends to present the testimony of lay and expert witnesses, as may be

necessary. Uwchlan Township’s witnesses will present testimony and necessary documents and explanatory exhibits that will assist in the presentation of Uwchlan Township’s case.

Uwchlan Township may call the following witnesses:

1. Scott Greenly, Uwchlan Township Assistant Manager
Uwchlan Township
715 North Ship Road
Exton, PA 19341
2. Dan Daley, Uwchlan Township Engineer
Edward B. Walsh & Associates, Inc.
125 Dowlin Forge Road
Exton, PA 19341
3. William Miller, Mayme Baumann and/or Kim Doan, Uwchlan Township Supervisors
Uwchlan Township
715 North Ship Road
Exton, PA 19341
4. John McNamara, Uwchlan Township Emergency Management Coordinator
Uwchlan Township
715 North Ship Road
Exton, PA 19341
5. Michael Holmes, Uwchlan Township Fire Marshall
Uwchlan Township
715 North Ship Road
Exton, PA 19341
6. Scott Alexander, Uwchlan Township Chief of Police
Uwchlan Township Police Department
717 North Ship Road
Exton, PA 19341

Witnesses may testify regarding communication with Sunoco; communication with Township residents; communication with federal, state, county and municipal government officials and emergency responders; and impacts of pipeline construction activities in and around Uwchlan Township.

Uwchlan Township reserves the right to call witnesses identified in the prehearing memoranda of Sunoco, the Flynn Complainants, Melissa DiBernardino, Rebecca Britton, Laura Obenski and the other intervenors.

Uwchlan Township has not yet determined, what, if any, expert witnesses it will call in this matter. In addition, discovery is ongoing. Uwchlan Township reserves the right to supplement this Prehearing Memorandum as additional witnesses and witness subject matters are identified during the course of this process, including during discovery.

IX. ISSUES AND SUB-ISSUES

The issues and sub-issues Uwchlan Township may address include:

1. **Protective Order:** Any protective order required of the parties should be properly tailored and limited to cover only information that is truly worthy of confidentiality protection. It should not unduly burden the parties' ability to review relevant documents.
2. **Public Awareness/Emergency Preparedness:** Sunoco's public awareness program is inadequate. Sunoco should be required to provide the parties with a specific comprehensive public education and emergency response plan designed to inform and educate the public and Township officials and staff on proper and effective disaster prevention and response.
3. **Mass Warning Systems:** Sunoco should be required to develop and install mass early warning notification systems at all potentially affected properties located within Uwchlan Township, which would provide immediate notice of a leak, potential explosion or other failure in the pipeline system.
4. **Pipeline Integrity Management:** Sunoco should be required to implement an integrity management program that operates in compliance with applicable law and standards.

Sunoco has refused and/or delayed sharing relevant portions of its written integrity management plan and risk assessment. Sunoco should also be required to fully and timely share relevant portions of such documents to allow Township officials and staff, and first responders, to properly and effectively undertake disaster prevention and response.

5. **Leak detection protocols:** Sunoco should be required to implement and follow reasonable, safe, adequate and sufficient leak detection protocols. It should be required to install leak detection technology to pinpoint the location of any pipeline integrity issue or release, and to timely communicate that information to first responders, governments and the public.

6. **Remaining Life Study of ME1 and the 12” pipe:** Sunoco should be required to conduct a remaining life study – including testing relating to the extent of corrosion, the adequacy of cathodic protection, and corrosion control -- on the entirety of ME1, the 12” line and any other repurposed or existing pipeline located in and around Uwchlan Township. Sunoco should also be required to correct identified deficiencies, conduct ongoing monitoring, and maintain appropriate records. Sunoco should be required to provide full remaining life studies to the parties hereto.

7. **Location of pipelines close to dwellings and public gathering places:** Sunoco’s facilities traverse, and are planned to traverse, Uwchlan Township unreasonably close to residential dwellings, and various public assembly areas, such as schools, parks, businesses, life care facilities and retail shopping areas. This proximity is particularly troubling given the lack of adequate emergency planning and public awareness information provided by Sunoco.

8. **Valve spacing - status of construction of valves:** A valve station is located on the border of Upper Uwchlan Township and Uwchlan Township. Uwchlan Township intends to address the risk of harm to Township residents and others resulting from valve placement.

9. **Horizontal Directional Drilling:** Given the significant damage caused by Sunoco's use of Horizontal Direction Drilling ("HDD"), including inadvertent returns and damage to aquifers and drinking water supplies, Sunoco should be prohibited from using HDD and other similar pipeline construction methods in and around Uwchlan Township.

Uwchlan Township reserves the right to address any other issues identified in Uwchlan Township's Petition to Intervene; Sunoco's answers, prehearing memorandum and other filings; the other intervenors' petitions to intervene and/or prehearing memorandum; the Flynn Complainant's complaint, as amended and/or prehearing memorandum; Melissa DiBernardino's complaint and/or prehearing memorandum; Rebecca Britton's complaint and/or prehearing memorandum; and Laura Obenski's complaint and/or prehearing memorandum.

Discovery is ongoing. Uwchlan Township reserves the right to supplement this Prehearing Memorandum as additional issues are identified during the course of this process, including during discovery.

X. EVIDENCE

Uwchlan Township plans to present lay witness testimony, expert testimony and documentary evidence as may be necessary on any or all of the issues enumerated above, and as listed in the topics to be presented through its witnesses. Such evidence will include:

1. Testimony, permit applications, permits, tariffs, inspection reports, correspondence, safety and compliance records, guidance documents, policies and procedures, photographs, videos, notices of violations, opinions, orders, consent orders and agreements, civil penalty assessments, consent assessments of civil penalties and other documents to, from or maintained by government entities, including, the Pennsylvania Public Utility Commission, the Pipeline and Hazardous

Materials Safety Administration, the Pennsylvania Department of Environmental Protection, and the Pennsylvania Environmental Hearing Board.

2. Testimony, correspondence, photographs, videos, and other documents of residents and other lay witnesses.

3. Testimony, photographs, videos, drawings, diagrams, charts, maps, data, reports, learned treatises, and other documents generated or relied upon by expert witnesses.

Uwchlan Township reserves the right to offer evidence identified in the prehearing memoranda of Sunoco, the Flynn Complainants, Melissa DiBernardino, Rebecca Britton, Laura Obenski, and the other intervenors.

Discovery is ongoing. Uwchlan Township reserves the right to supplement the evidence on which it intends to rely.

Respectfully submitted,

CURTIN & HEEFNER LLP

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Dated: April 19, 2019

CERTIFICATE OF SERVICE

Meghan Flynn, Rosemary Fuller,	:	
Michael Walsh, Nancy Haskins,	:	Docket No. P-2018-3006117
Gerald McMullen, Caroline Hughes	:	Docket No. C-2018-3006116
and Melissa Haines	:	
	:	
	:	
v.	:	
	:	
Sunoco Pipeline, L.P.	:	

I hereby certify that I have this day served a true copy of the foregoing Uwchlan Township’s Prehearing Memorandum upon parties identified below via email, unless otherwise indicated:

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Dated: April 19, 2019