ANDREW E. DINNIMAN
STATE SENATOR
19TH DISTRICT

182 MAIN CAPITOL BUILDING
SENATE BOX 203019
HARRISBURG, PA 17120-3019
717-787-5709
FAX: 717-787-4384

ONE NORTH CHURCH STREET
WEST CHESTER, PA 19380-3006
610-692-2112
FAX: 610-436-1721

EMAIL: andy@pasenate.com
WEBSITE: www.senatordinniman.com
FACEBOOK: Senator Andy Dinniman
TWITTER: @SenatorDinniman

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August 28, 2019

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

Re: Comments on Docket No. L-2019-3010267

Dear Secretary Chiavetta,

Thank you for the opportunity to submit public comments on the Pennsylvania Public Utility Commission's (PUC) Advanced Notice of Proposed Rulemaking Order (Docket No. L-2019-3010267), regarding the amendment and enhancement of Chapter 59, the regulation of public utilities that transport petroleum and other hazardous liquids in interstate commerce.

While my comments should be considered as general in nature, my primary interest and concern spurs from my direct involvement as an elected official representing Pennsylvania's 19th Senatorial District. As State Senator representing a significant number of constituents who live, work, and commute along active pipeline routes currently regulated by the PUC, I have encountered an alarming number of instances that point to varying degrees of deficiencies in the current regulations.

For example, I represent households that have lost access to clean water, parents who are fearful of sending their children to a public school located less than 50 feet from a hazardous liquid pipeline, those with limited mobility unable to follow recommended emergency management procedures to escape upwind for a mile, townships unable to receive adequate information from pipeline companies regarding potential blast zones, and families who have been evacuated and evicted due to the formation of sinkholes directly caused by pipeline construction. Compiled, each of these individual experiences along the pipeline right-of-way have created a larger environment of significant distrust, justifiable fear, and outright anger directed toward pipeline companies and regulators, such as the PUC.

I am encouraged that the PUC has opened a public comment period for proposed rulemaking. However, I am concerned that any proposed changes to PUC regulations will

neglect to address the real and substantial damage from pipeline construction that has occurred and is continuing as I write these words. To date, my constituents have been extremely lucky that the many sinkholes that exposed an active Highly Volatile Liquids (HVL) pipeline in the densely populated West Whiteland Township and feet from the AMTRAK Keystone Line have not resulted in a catastrophic release of product. We are lucky that the explosion, or 'backfire' that occurred at a pumping station along State Route 202 did not result in the harm of thousands who use this vital transportation corridor each and every day. We have so far been extremely lucky that the many changes in construction drilling methods, the disregard of recommended pipeline spacing regulations, and general lack of communication from certain pipeline companies have not resulted in even more devastating lessons learned.

With this in mind, and before I engage in my individual public comments as State Senator for the 19th District in Chester County, I must once again strongly and urgently plea for the immediate termination of construction activity and operation of hazardous liquids pipelines under the jurisdiction of the PUC until such time that these concerns can be adequately addressed. In my view, the sheer fact the PUC has opened proposed rulemaking public comment reflects recognition of very real and substantial deficiencies in the current regulations. Further, it would be extremely negligent for the PUC to continue to place the public at risk following this recognition. The PUC's Bureau of Investigation and Enforcement previously suspended both construction and operation of a natural gas liquids pipeline following subsidence that jeopardized public safety. I argue that the Commission's own acknowledgment of regulatory deficiencies places the public at risk and action should be taken to mitigate this potential through a moratorium on pipeline construction and operation until such time that final rules are adopted.

1) Construction:

- **Pipeline Material**

Documentation has previously been submitted to the PUC through the formal complaint process demonstrating that the extended exposure of pipelines awaiting installation may have a detrimental impact to the integrity of individual pipeline segments. Uncapped and unprotected pipeline segments have been exposed to natural elements such as corrosion and UV deterioration for many months in Chester County. These impacts are compounded due to numerous delays in planned construction due to work stoppages following the development of sinkholes, almost daily inadvertent returns, and the contamination of private wells. While hydrostatic and internal corrosion inspection methods are in place, recent incidents in Berks County, Pennsylvania demonstrate that this data can be ignored, resulting in pipeline failure. As such, I recommend that the PUC establish strict regulatory practices to protect stored pipelines prior to construction and limit the period of time that a pipeline can remain exposed to natural elements. Further, I recommend that pipeline companies that have faced considerable construction delays submit to the Commission detailed information that lists the length of exposure and corrosion data reports prior to installation. If the pipeline has been installed, this information should be provided to the Commission prior to activation and operation of the pipeline.

- **Pipeline Siting**

The placement and location of pipelines allow pipeline companies to select routes based on corporate factors rather than community interests. As it stands, pipeline siting does not necessarily consider factors such as population centers, proximity to public gathering places, and environmentally sensitive areas. The PUC should enact procedures that provide regulatory oversight over pipeline siting to ensure public safety. Further, the PUC should encourage increased communication with other Commonwealth agencies such as the Department of Environmental Protection and County Emergency Management offices that have permitting authority and public safety responsibilities over pipeline matters and develop an approval process for all pipeline siting. This process should include public meetings and public comment periods prior to consideration of pipeline location approval.

- **Cover Over Buried Pipelines**

Along with corrosion, ground movement, and faulty installation, inadequate depth cover is listed as a major contributor of pipeline catastrophic failure. As such, I would recommend that all pipeline operators maintain a cover of 48 inches or greater. Further, I would recommend that when it is discovered that the depth of ground cover is less than 48 inches, the PUC require the immediate suspension of pipeline operations until such time that adequate ground cover is restored. Due to the increased risk associated with HVL pipelines, operators should be required to routinely provide to the Commission detailed information regarding the depth of ground cover in High Consequence Areas. This information should be accepted, reviewed, and approved by the Commission.

- **Underground Clearance**

Recent pipeline construction in Chester County demonstrated that pipeline operators are utilizing provisions in § 195.250 to justify installation of HVL pipelines far less than the recommended 12 inches of clearance. In this specific case, two HVL pipelines are being installed within the same sleeve, with less than an inch of separation. Without adequate clearance, there is an increased likelihood that the impact of an individual pipeline catastrophic failure will result in a failure of both pipelines. This issue is compounded when it occurs in densely populated communities that frequently have municipal infrastructure in close proximity to HVL pipeline right-of-ways. In order to avoid the potential for multiple catastrophic failures, the PUC should require adequate clearance under § 195.250 in all cases and without exception. Further, in the event that clearance is less than 24 inches from a municipal infrastructure, the Commission should require pipeline operators to meet with municipal officials to discuss the potential impacts to specific municipal infrastructure in the event of a catastrophic release. Any such discussions should take place prior to construction of any PUC regulated HVL pipeline.

- **Geological Survey of Pipeline Route**

Recent construction of HVL pipelines in High Consequence and Unusually Sensitive Areas have resulted in unnecessary and permanent impacts following inadequate due diligence associated with community infrastructure and geologic conditions. The PUC should require

extensive geologic surveys of conditions in all High Consequence and Unusually Sensitive Areas, including but not limited to sharing of geologic information with county and municipal officials, emergency management personnel, transportation and environmental organizations, and public community meetings. These discussions and information sharing should take place prior to any construction activity and be in addition to established permit requirements through the Department of Environmental Protection. Moreover, formal complaints brought before the PUC have demonstrated that geologic formation such as karst increases negative construction outcomes and increased risk of catastrophic failure of an operational HVL pipeline. The PUC should require additional geologic surveys associated with the increased sensitivity of such geology. Further, the PUC should mandate that pipeline operators avoid sensitive geology at all costs due to these increased risks.

- **Valves**

To varying degrees, the presence of valves along the pipeline system help minimize potential damage or pollution from accidental hazardous liquid discharge and are required under § 195.260 adjacent to large public water crossings, reservoirs holding water for human consumption, as well as certain pump stations and breakout tanks. The Commission should act to increase this requirement to protect not just environmental conditions and limit the loss of product, but also to protect public property and lessen individual harm by requiring automatic valves before and after transportation corridors, sites of public congregation (especially those sites dedicated to children, seniors, and the infirmed), economic districts, and municipal infrastructure networks. Construction of automatic valves should include adequate protection to discourage accidental or terroristic impacts that could prohibit the proper function or failure of valves. Such protection should include vehicle-proof barriers, camera systems, and security systems. Valves in high consequence communities should include the installation of real-time leak detection systems that communicate directly with emergency management personnel at the county and municipal levels.

- **Pipeline Location**

Current regulations require additional precautions during the installation of HVL pipelines when they are located less than 50 feet from private dwellings, industrial buildings, and places of public assembly. The PUC should engage in activities to eliminate this loophole to prohibit the construction of a HVL pipeline within 50 feet any location that persons work, congregate, or assemble.

2) <u>Operating and Maintenance:</u>

- **Pressure Testing and Maximum Operating Pressure**

Hydrostatic pressure testing has the ability to locate potential deficiencies in advance of catastrophic release. In the case of Natural Gas Liquids pipelines, there is no such thing as an insignificant pipeline deficiency. With this in mind, pipeline companies should be required to

notify local officials, emergency management personnel, and residents prior to any hydrostatic testing event. Those notified should be provided adequate information to identify any potential failures during pressure tests including the time and duration of the test, identifying features such as dye color that could indicate failure, and relevant contact information to raise awareness of potential testing failures. In the event the pipeline is located in a high consequence area or conducted on an antiquated pipeline constructed prior to 1970, the radius of public awareness should be expanded to increase potential public input. In the event that potential failure occurs and resulting evidence is collected, this material should be tested for indicators associated with the test and the results should be made public to the public as well as the PUC. Pipelines that contain older sections constructed prior to 1970 should be held to operate at a lower maximum operating pressure, even if sections of the pipeline have been replaced following the identification of deficiencies.

- **Line Markers**

Pipelines transporting natural gas liquids create increased risk to communities and environments along the pipeline route. As such, HVL pipeline line markers should include increased identifying characteristics that adequately notify the public of the product being transported and associated increased risks. To reflect these risks, basic warning information associated with best practices in the event of a pipeline failure should be included on or near line makers, especially in high consequence areas and in proximity to areas of public assembly.

- **Emergency Flow Restricting Devices**

Devices intended to restrict flow of natural gas liquids in the event of a catastrophic failure or other emergency should be required before and after transportation corridors, sites of public congregation (especially those sites dedicated to children, seniors, and the infirmed), economic districts, and municipal infrastructure networks. Due to the hazardous nature of the product transported by HVL pipelines, emergency responders have little recourse in the event of catastrophic failure. While limited, emergency flow restricting devices provide a degree of control during emergency situations and should be required in all areas that are of increased risk following a catastrophic failure.

- **Leak Detection and Emergency Reporting**

All HVL pipelines should be required to include Supervisory Control and Data Acquisition (SCADA) or alternative Real Time Notification systems. These systems should be routinely certified, with outcome of compliance checks regularly submitted to the PUC for approval. Any Real Time Notification system should include direct communication with the PUC and County Emergency Management personnel. Under current regulations, it is the responsibility of the pipeline company to report any detected leaks within a reasonable period of time. This discretion creates the possibility of reporting delays that, in an emergency, could result in significant loss of life and property. Due to the highly volatile nature of product being transported by HVL pipelines, direct communication between SCADA/Real Time Notification

systems and County Emergency Management offices should be required. Any reportable accidents should be made available to the public as quickly as possible.

- **Corrosion Control and Cathodic Protection**

Issues related to the accidental or willful misinterpretation of corrosion control and cathodic protection inspection reports recently elevated to the level of a formal complaint by the PUC against an HVL pipeline company. In this case, inspection data should have demonstrated potential corrosion issues following inadequate cathodic protection and, ultimately, resulted in pipeline failures discovered and reported by the public. With this in mind, any inspection data associated with tests to assess the adequacy of cathodic protection, including close- interval surveys, the frequency of testing, hydrostatic testing, in-line inspection, and pipeline pigging should be submitted to and approved by the PUC on a regular basis. The PUC should make available to the public positive and negative outcomes of these inspection reports.

3) **Additional Subject Areas for Public Comment:**

- **Communication with the Public**

Second only to real concerns of public safety in the event of catastrophic release of an HVL pipeline are complaints regarding the general lack of communication and transparency associated with the planning, construction, and operation of HVL pipelines in Pennsylvania. Pipeline companies have a responsibility to communicate with citizens, elected officials, and emergency management personnel. During the planning stages of pipeline development, many of my constituents were approached by uniformed land agents that provided limited or incorrect information regarding the pipeline project. Requests for representatives from pipeline companies to attend and present at public meetings were denied or ignored. General information regarding proposed pipeline projects was not provided and, in limited cases when information was distributed, it did not provide any real details that addressed specific community concerns. These complaints were not directed exclusively toward pipeline companies – many of my inquiries to the PUC were not adequately acted upon, requiring myself and others to file formal complaints through the PUC in order to solicit information. Communication should be a routine and required aspect of any pipeline project. Members from pipeline companies should meet with the public frequently during the development, construction, and operation of HVL pipelines in our Commonwealth. These meetings as well as any and all communication should be area specific in order to address real concerns regarding public safety, private property rights, and emergency management response. During the planning phase of a pipeline project, representatives from pipeline companies should be required to attend a minimum of three public meetings to present plans and answer community questions. Public meetings should be filmed and held at a facility large enough to accommodate all interested members of the public. In conjunction with community meetings, the PUC should host an open public comment period and follow all required public comment notification protocols. Any questions presented at these meetings or during the public comment period should be responded to by the PUC or representatives from the pipeline company prior to consideration of project approval. Pipeline companies operating HVL pipelines should be required to host or attend community meetings

within each County once annually, or upon the request of appropriate elected officials. Information presented at these meetings should include outcomes from pipeline inspection reports, emergency management response plans, and public awareness procedures. A public comment period should be established in conjunction with each of these meetings, with required response to any and all public comments or questions within a reasonable period of time. Pipeline companies operating HVL pipelines should be required to host at least one public community meeting in impacted County's following any and all reportable issues with the pipeline.

- **Communication with the Elected Officials**

Elected officials frequently serve as primary points of contact within the community and frequently receive questions, complaints, and concerns related to HVL pipelines with their elected jurisdiction. With this in mind, representatives from pipeline companies planning, constructing, or operating HVL pipelines should be required to respond to inquires from elected officials outside of established public comment periods. Representatives from pipeline companies planning, constructing, and operating HVL pipelines should be required to meet with elected officials once per year or upon request in order to address community concerns associated with HVL pipelines.

- **Communication with the Emergency Management Personnel**

Our first responders require adequate information regarding operating pipelines in order to provide an efficient and effective response in the event of the failure of an HVL pipeline. With this in mind, pipeline companies planning and constructing an HVL pipeline within a community should be required to meet with county and local emergency management personnel semi-annually or upon request to discuss such topics as emergency planning and emergency response coordination including periodic drills with utility/municipal coordination. Further, as the impact radius associated with proper emergency response is largely dependent upon specifics associated with a given pipeline, pipeline operators should be required to provide emergency management personnel details associated with the type of product being transported, the operating pressure of the pipeline, as well as any and all inspection reports submitted to the PUC.

- **Transparency**

It is my understanding that it is currently the responsibility and authority of pipeline operators to categorize any pertinent details associated with HVL pipelines as confidential. The PUC should act to develop comprehensive criteria defining confidential information associated with pipeline operation and regain authority and responsibility associated with categorizing confidential information. To allow pipeline companies to define confidential material creates an inherent public safety risk and runs counter to open governance ideals. Any information not categorized as confidential by the PUC should be available for public discussion in the interest of public safety.

- **Land Agent Regulation**

During the planning and construction phase of HVL pipeline development, many of my constituents were approached by individuals identified as 'Land Agents.' These land agents were tasked with meeting with members of the public, most often at the property owner's primary residence, in order to negotiate potential easement agreements to secure right-of-way necessary for pipeline construction. Often, my constituents reported forceful negotiations, categorized by bullying or threatening behavior by these land agents. Further, land agents were not required to provide any identifying information. Under current regulation, my constituents had no adequate method to hold inappropriate land agents accountable for their actions. The PUC should act to establish land agent requirements such as background checks and necessary clearances. Further, in the event a land agent acted inappropriately or provided incorrect information, residents should have a process to file a complaint against hostile land agents. Information regarding complaints against land agents acting inappropriately or providing faulty information should be made public. Finally, land agents should be required to restrict activity to reasonable hours and prevented from approaching private homes in the evenings or holidays, unless the property owner explicitly grants permission in advance.

- **Public and Private Water Resources**

In my district alone, over a dozen private wells have been rendered unusable following pipeline construction. This is unacceptable and directly due to a lack of due diligence on the part of pipeline operators and regulatory agencies, such as the PUC. Further, pipelines transporting HVL product currently are in direct proximity to many private and public wells throughout the Commonwealth. In the event of pipeline failure, these water resources face the potential of permanent contamination. With this in mind, PUC should require that pipeline operators identify any and all private and public wells along the pipeline route through a comprehensive process that mitigates the potential of misidentifying a water resource. Further, if private or public water resources are contaminated during construction or operation, the PUC should require the immediate suspension of any activity until such time that a full investigation into the cause can be determined. Finally, property owners of any public or private water resource located within one half mile of a HVL pipeline right-of-way should be notified prior to any activity on the right-of-way. This notification should occur no more than one month and no less than one week prior to any activity.

- **End of Life Study for Antiquated Pipelines**

As with all infrastructure, pipelines have a given end of service life. The importance of maintaining a consistent public awareness of the integrity of an HVL pipeline is compounded due to the highly volatile nature of the product being transported. With this in mind, the PUC should require pipeline operators maintain publicly available consistent end of life reports for antiquated pipelines transporting highly volatile product at high pressure. Consideration should be given to increasing the threshold for abandoning antiquated HVL pipelines located in high consequence or environmentally sensitive areas. For example, in my district alone, HVL pipelines from the 1930's are currently in operation and located within feet of private homes,

schools, and nursing homes. Due to the densely populated centers these pipelines traverse, in the event of catastrophic release hundreds if not thousands would be directly impacted. Due to this increased risk, the PUC should act to remove antiquated HVL pipelines from service due to their advanced age in order to protect public safety.

- **Formal Complaint Process**

A number of my constituents have filed formal complaints through the PUC following issues associated with HVL pipelines. Having filed a formal complaint myself, I can attest that the process is highly bureaucratic and burdensome, especially for a pro se complainant. The PUC should develop a separate process that does not restrict participation from citizens in the community unable or unwilling to hire legal representation.

I am encouraged that the PUC has initiated the necessary first steps to reform out of date and unsafe regulations regarding HVL pipelines. However, I must once again stress that future regulatory improvements do little to protect the public today and strongly urge the PUC to take necessary steps to initiate a moratorium on the construction and operation of HVL pipelines until such time that regulatory reform is finalized. Further, I am aware of the significant time and attention many of my constituents dedicated to crafting thorough and comprehensive comments to assist with the PUC rulemaking process. I trust that the PUC will not only take into consideration each public comment during the process, but also directly provide a sincere response in a reasonable timeframe that addresses each concern provided. I have heard from many in my district that past PUC action has not been in the best interest of the public. It is my hope that through this rulemaking process, the PUC keep the health and welfare of Pennsylvania citizens as the first and foremost concern.

Sincerely,

Andrew E. Dinniman
State Senator – 19th District