**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Andover Homeowner’s Association :

:

v. :  C-2018-3003605

:

Sunoco Pipeline, L.P. :

**INTERVENTION ORDER**

Clean Air Council

On September 24, 2018, Clean Air Council (CAC) filed a Petition to Intervene in the case of *Andover Homeowner’s Association, Inc. v. Sunoco Pipeline, L.P.* at Docket No. C-2018-3003605. On October 9, 2019, Sunoco filed an Answer Opposing the Petition to Intervene.[[1]](#footnote-1) CAC argues it has members in Andover, the surrounding townships of Andover, and across the entire route in Pennsylvania. CAC had intervenor status in the *Senator Dinniman v. Sunoco Pipeline L.P.* proceeding until it was dismissed by Secretarial Letter dated September 19, 2019. CAC agues it has interests as an association of environmentally concerned individuals which may be directly affected and which are not adequately represented by existing parties and as to which the person may be bound by the action of the Commission in the proceeding. 52 Pa. Code § 5.72. CAC also claims its intervention is in the public interest pursuant to 52 Pa. Code § 5.72(a)(3). CAC has been an active litigant in the *Petition of Sunoco Pipeline, L.P. for a finding that a building to shelter the Walnut Bank valve control station in Wallace Twp., Chester County* *Pennsylvania is reasonably necessary for the convenience or welfare of the Public* at Docket No. P-2014-2411942.

Conversely, Sunoco argues CAC lacks standing to intervene as it has not shown how its interests are not adequately represented already by Andover. CAC has failed to show either a direct or substantial interest or a close causal connection between the challenged action and the asserted injury to qualify the interest as “immediate” rather than “remote.” *Commonwealth Telephone* (citing and quoting *William Penn Parking Garage v. City of Pittsburgh*, 464 Pa. 168, 202, 346 A.2d 269, 286 (1975); *Parents United for Better Schools, et al., v. School District of Phila.*, et al., 684 A.2d 689 (Pa. Commw. 1994); *Sierra Club v. Hartman*, 529 Pa. 454, 605 A.2d 309 (1992)).

52 Pa. Code § 5.72 states:

§ 5.72. Eligibility to intervene.

(a) Persons. A petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought. The right or interest may be one of the following:

. . .

(2) An interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.

(3) Another interest of such nature that participation of the petitioner may be in the public interest.

52 Pa. Code § 5.72.

I find Petitioner’s interest is related to the PUC’s jurisdiction and that CAC has a direct and immediate interest in the pipeline safety concerns that form the basis of the Complaint. Petitioner has previously litigated before this Commission and before similar agencies in other states and it has members who reside in Andover, Thornbury Township. These member have a direct, immediate and substantial interest in the instant proceeding.52 Pa. Code § 5.72(a). Although I agree these members are already represented by the Andover Homeowner’s Association, CAC has another interest of such a nature that participation may be in the public interest. Therefore, in accordance with 52 Pa. Code § 5.72(3), CAC will be granted Intervenor status.

CAC must take the case as it is, and cannot expand the scope of the proceeding. *See Com., et al. v. Energy Services Providers, Inc. d/b/a PaG&E, Order Granting Petition to Intervene*, Docket No. C-2014-2427656, 2015 WL 1957859 (Order entered Apr. 23, 2015) (Cheskis, J.) (“In granting intervention, however, Mr. Sobiech will be required to take the case as it currently stands. PaG&E is correct that intervenors generally take the record as they find it at the time of intervention.”). CAC cannot pursue issues beyond the scope of the Complaint.

Rosemary Fuller, Melissa DiBernardino, and East Goshen Township

Through a concurrent Consolidation Order, the Complaint of Andover against Sunoco Pipeline is being consolidated with Complaint proceedings involving these other petitioners. Rosemary Fuller is one of seven complainants at Docket Nos. C-2018-3006116 and P-2018-3006117. Melissa DiBernardino is a *pro se* complainant at C-2018-3005025. East Goshen Twp. is an Intervenor at Docket No. C-2018-3006116 . These proceedings have been consolidated due to the nearly identical nexus of law and fact alleged. Therefore, these petitions to intervene will be denied as moot as these individuals/entities already have either party or intervenor status. Intervention in the Andover complaint proceeding at Docket No. C-2018-3006116 is moot upon consolidation.

Range Resources – Appalachia, LLC

On September 5, 2018, Range Resources-Appalachia, LLC filed a Petition to Intervene. Petitioner has a significant financial interest in the continued safe operation of ME1. On September 25, 2018, Andover filed an Answer requesting the Petition to Intervene be denied. Range Resources – Appalachia, LLC is an Intervenor at Docket No. C-2018-3006116. These proceedings have been consolidated due to the nearly identical nexus of law and fact alleged. Therefore, the Petition to Intervene will be denied as moot as Range Resources – Appalachia, LLC already has intervenor status. Intervention in the Andover complaint proceeding at Docket No. C-2018-3006116 is moot upon consolidation.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Petitions to Intervene of Range Resources – Appalachia, LLC, Rosemary Fuller, Melissa DiBernardino, and East Goshen Township at Docket No. C-2018-3003605 are denied as moot due to this docket’s consolidation with Docket Nos. C-2018-3006116, P-2018-3006117, C-2018-3005025, C-2019-3006898, and C-2019-3006905.
2. That Clean Air Council is granted Intervenor status.
3. That Clean Air Council is directed to provide the list of names and addresses of its members living in Andover, Thornbury Township, Pennsylvania to Sunoco Pipeline, L.P. within ten (10) days of the date of issuance of this Order.

Date: October 21, 2019 /s/

Elizabeth H. Barnes

Administrative Law Judge

**C-2018-3003605 - ANDOVER HOMEOWNERS ASSOCIATION INC v. SUNOCO PIPELINE LP**RICH RAIDERS ATTORNEY321 EAST MAIN STREETANNVILLE PA 17003**484-638-6538*Accepts E-Service***

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1. On September 27, 2018 the Commonwealth Court stayed proceedings in this matter. Thus, SPLP’s answer in opposition to the Petition was stayed. After the Commonwealth Court ordered the Commission to dismiss State Senator Dinniman’s Complaint, which was consolidated with Andover’s Complaint, the Commission entered an order on September 19, 2019 that dismissed the *Dinniman* complaint and bifurcated the consolidated docket. SPLP timely filed its Answer within 20 days of that Commission Order. [↑](#footnote-ref-1)