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December 2, 2019

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Filing Room
Harrisburg, PA 17120

Re: Meghan Flynn, et al., Docket Nos. C-2018-3006116 & P-2018-3006117 (consolidated)
Melissa DiBernardino, Docket No. C-2018-3005025 (consolidated)
Rebecca Britton, Docket No. C-2019-3006898 (consolidated)
Laura Obenski, Docket No. C-2019-3006905 (consolidated)
Andover Homeowner's Association, Inc.; Docket No. C-2018-3003605 (consolidated)
v.
Sunoco Pipeline L.P.

**SUNOCO PIPELINE L.P.'S ANSWER TO FLYNN COMPLAINANTS'
MOTION TO RECLASSIFY PUTATIVE CONFIDENTIAL DOCUMENTS**

Dear Secretary Chiavetta:

Attached for electronic filing with the Commission is Sunoco Pipeline L.P.'s Answer to Flynn Complainants' Motion to Reclassify Putative Confidential Documents in the above-referenced proceeding.

If you have any questions regarding this filing, please contact the undersigned.

Very truly yours,

Thomas J. Sniscak
Kevin J. McKeon
Whitney E. Snyder
Counsel for Sunoco Pipeline L.P.

WES/das
Enclosure

cc: Honorable Elizabeth Barnes (by email and first class mail)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|-----------------------|---|-------------------------|
| MEGHAN FLYNN, et al. | : | |
| | : | Consolidated Docket No. |
| Complainants | : | C-2018-3006116 |
| | : | |
| v. | : | |
| | : | |
| SUNOCO PIPELINE L.P., | : | |
| | : | |
| Respondent | : | |

Sunoco Pipeline L.P. Answer to Flynn Complainants’ Motion to Reclassify Putative Confidential Documents

Sunoco Pipeline L.P. (SPLP) submits this Answer to Flynn Complainants’ Motion to collaterally attack Your Honor’s decision regarding treatment of Extremely Sensitive Materials to protect the public or to reclassify putative confidential documents (Motion).¹

I. ARGUMENT

A. RELIEF REQUESTED

1. Flynn Complainants request that Your Honor: enter an order (a) setting forth how SPLP shall meet its burden to justify its confidentiality designations; and (b) setting the matter down for a closed hearing to take evidence. Motion at pp. 10-11. If Your Honor does not deny the Motion on the basis of the pleadings, SPLP agrees with this procedural request with one important caveat – the dispute regarding Confidential and Highly Confidential designations should only involve documents produced in discovery that Complainants intend to use as evidence in this proceeding and Complainants should identify particular documents they may use so SPLP can

¹ SPLP notes that it is not required to admit or deny allegations of a motion and that unlike an answer to a complaint, SPLP’s lack of admission or denial to any allegation cannot be deemed an admission.

respond accordingly. The purpose of discovery is to provide Complainants with information to litigate their Complaint:

A party may obtain discovery for the purpose of preparation of pleadings, or for preparation or trial of a case, or for use at a proceeding initiated by petition or motion, or for any combination of these purposes.

52 Pa. Code § 5.321(f). The Confidential or Highly Confidential nature of these documents during the discovery process in no way infringes on Complainants' ability to present their case. There is no reason to waste the parties' time on a dispute about documents that Complainants' have the right to review and do not even intend to use as evidence.

B. EXTREMELY SENSITIVE MATERIALS - ACCESS

2. Flynn Complainants argue that their counsel and experts should be able to obtain copies of information SPLP has designated pursuant to the Amended Protective Order as Extremely Sensitive Materials. Motion at pp. 2-9. Their arguments ignore the plain terms of the Amended Protective Order and the conduct of Flynn's counsel and experts in refusing to attempt to comply with the Amended Protective Order.

3. Regarding Extremely Sensitive Materials, the Amended Protective Order states:

Information deemed as "EXTREMELY SENSITIVE MATERIALS" will be provided for inspection or in-person review to the same persons constituting Reviewing Representatives under paragraph 6 of this Order. **"EXTREMELY SENSITIVE MATERIALS" will only be provided through in-person review** at either the offices of Manko, Gold, Katcher & Fox, 401 City Avenue, Suite 901, Bala Cynwyd, PA 19004 or upon request of a party to this action, at another location designated by Sunoco Pipeline, L.P. in the Harrisburg-metro or Pittsburgh-metro areas of the Commonwealth, between the hours of 9AM to 5PM, Monday – Friday. Request to view such information shall be made to Diana Silva via email (dsilva@mankogold.com) at least 72-hours prior to the requested viewing session. **Such review may be proctored and Reviewing Representatives are prohibited from reproducing such information in any form without the prior authorization of SPLP's counsel (including taking detailed notes or cell phone**

pictures). If a party determines that it is necessary to use “EXTREMELY SENSITIVE MATERIALS” as part of their presentation of evidence in this proceeding, such party shall request a copy from counsel for Sunoco Pipeline L.P., which permission shall not be unreasonably withheld and subject to that party confirming it understands and will abide by the terms of this Protective Order concerning use of such materials. Disputes over the designation of “EXTREMELY SENSITIVE MATERIALS” or the withholding of copies of “EXTREMELY SENSITIVE MATERIALS” to the parties must be presented to the presiding Administrative Law Judge for resolution following an expedited opportunity (5-day period) for the other Parties to comment. Resolution of disputes may involve at the discretion of the presiding officer an *in camera* review of the discovery materials in question.

Amended Protective Order at P 8 (emphasis added).

4. Thus, the Amended Protective Order only allows for a party to have access to a copy of Extremely Sensitive Materials if it is “necessary to use ‘EXTREMELY SENSITIVE MATERIALS’ as part of their presentation of evidence in this proceeding.”

5. As to the hazard assessments, Complainants present no affidavit that obtaining a copy of these materials is necessary to presentation of their evidence. They merely assert it is so. Motion at P 21.

6. As to the integrity management documents, Complainants present the Affidavit of Dr. Zee, and argue Dr. Zee and his colleagues absolutely require these documents in order to perform their pipeline integrity analysis and that they have only been “permitted to review these pages briefly.”

7. SPLP does not disagree that Complainants’ experts require some form of access to these materials. However, the assertion that Complainants counsel and experts have only been “permitted to review these pages briefly” is wrong. Instead, Complainants’ counsel and experts have chosen to only review these pages during one review session that lasted for approximately three hours. Complainants’ counsel also undertook another short review of certain documents. However, SPLP’s counsel has repeatedly offered additional review sessions. Complainants’ self-induced choice not to utilize the in-person review procedure allowed under the Amended Protective Order is neither a basis to reduce the balancing Your Honor’s Amended Protective

Order sets for allowing access and review versus protecting the public's safety, as the federal agency authorities recognized. A March 2019 U.S. Congressional Research Report summarizes the threats faced by pipelines and the importance of ensuring the security of pipeline infrastructure, explaining:

Ongoing threats against the nation's natural gas, oil, and refined product pipelines have heightened concerns about the security risks to these pipelines, their linkage to the electric power sector, and federal programs to protect them. In a December 2018 study, the Government Accountability Office (GAO) stated that, since the terrorist attacks of September 11, 2001, "new threats to the nation's pipeline systems have evolved to include sabotage by environmental activists and cyber attack or intrusion by nations." In a 2018 Federal Register notice, the Transportation Security Administration stated that it expects pipeline companies will report approximately 32 "security incidents" annually—both physical and cyber.

...

Congress and federal agencies have raised concerns since at least 2010 about the physical security of energy pipelines, especially cross-border oil pipelines. These security concerns were heightened in 2016 after environmentalists in the United States disrupted five pipelines transporting oil from Canada. In 2018, the Transportation Security Administration's Surface Security Plan identified improvised explosive devices as key risks to energy pipelines, which "are vulnerable to terrorist attacks largely due to their stationary nature, the volatility of transported products, and [their] dispersed nature." Among these risks, according to some analysts, are the possibility of multiple, coordinated attacks with explosives on the natural gas pipeline system, which potentially could "create unprecedented challenges for restoring gas flows."

Paul Parfomak, Cong. Research Serv., IN11060, *Pipeline Security: Homeland Security Issues in the 116th Congress* (2019). Further explaining pipelines vulnerability to outside attacks, the Government Accountability Office (GAO)'s December 2018 study on pipeline security found:

According to TSA, pipelines are vulnerable to physical attacks—including the use of firearms or explosives—largely due to their stationary nature, the volatility of transported products, and the dispersed nature of pipeline networks spanning urban and outlying areas. The nature of the transported commodity and the potential effect of an attack on national security, commerce, and public health

make some pipelines and their assets more attractive targets for attack. Oil and gas pipelines have been and continue to be targeted by terrorists and other malicious groups globally.²

At a congressional hearing regarding “how the Transportation Security Administration works with pipeline stakeholders to secure this critical infrastructure,” Sonya Proctor, Surface Division Director for the U.S. Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement further explained the substantial risk facing pipeline operations and the responsibility of pipeline owners and operators for protecting pipeline systems from these threats:

An attack against a pipeline system could result in loss of life and significant economic effects. To ensure we remain vigilant, TSA works closely with the pipeline industry which consists of approximately 3,000 private companies who own and operate the Nation's pipelines. Pipeline system owners and operators maintain direct responsibility for securing pipeline systems.³

Similarly, the self-induced reluctance to utilize additional in-person review or Complainants’ or its experts’ convenience do not show a need relief. Instead, it shows an unwillingness to comply with the Amended Protective Order and to collaterally attack said Order.

8. There is no reason Complainants’ counsel and experts cannot undertake additional in-person review sessions to prepare their testimony and evidence. SPLP believes that to the extent any Extremely Sensitive Materials are designated by Complainants for inclusion in the record, those materials can be referenced in Complainants’ testimony, and SPLP will enter them into the

² U.S. Gov’t Accountability Off., GAO-19-48, *Critical Infrastructure Protection Actions Needed to Address Significant Weaknesses in TSA’s Pipeline Security Program Management*, pgs. 10-11 (Dec. 2018), available at <https://www.gao.gov/assets/700/696123.pdf>.

³ *Pipelines: Securing the Veins of the American Economy: Hearing Before the Subcomm. on Transportation Security of the Committee on the H. Comm. on Homeland Security*, 114th Cong. 64 (2016) (statement of Sonya Proctor, Surface Division Director, Office of Security Policy and Industry Engagement, Transportation Security Administration, U.S. Department of Homeland Security), available at <https://www.govinfo.gov/content/pkg/CHRG-114hhrg22757/html/CHRG-114hhrg22757.htm>.

record to ensure proper procedures are followed to protect the confidentiality of these documents.

There is no “need” for Complainants to obtain copies of these documents.

C. **EXTREMELY SENSITIVE MATERIALS – CONFIDENTIALITY STATUS**

9. Flynn Complainants next argue that the Extremely Sensitive Materials should be re-classified. Specifically, that the hazard assessments should be made public and that the Integrity Management documents should be either Confidential or Highly Confidential. These arguments are without merit and an obvious attempt to side-step the procedures applicable to EXTREMELY SENSITIVE MATERIALS. To the extent Your Honor considers re-classifying any of these documents, SPLP requests a hearing.

10. Regarding SPLP’s hazard assessments, Motion at pp. 2-7, Flynn Complainants allege that these documents should be public because there are publicly available risk assessments, an unattributed and non-verifying expert allegedly asserts SPLP’s hazard assessments “could have been generated solely from publicly available records,” and that portions of a hazard assessment for a Canadian pipeline are publicly available. None of these arguments have any merit.

11. The Amended Protective Order allows SPLP to designate as Extremely Sensitive Materials:

those materials that are subject to protection under the Public Utility Confidential Security Information Disclosure Protection Act (35 P.S. §§ 2141.1 to 2141.6) and PUC Regulations at 52 Pa. Code §§ 102.1-102.4 and are of such an extremely sensitive security nature that the producing party is able to justify a heightened level of confidential protection with respect to those materials.

Amended Protective Order at P 4.

12. It cannot be disputed that SPLP’s hazard assessments fall within this category. The Confidential Security Information Disclosure Protection Act protects as CSI:

Information contained within a record maintained by an agency in any form, **the disclosure of which would compromise security**

against sabotage or criminal or terrorist acts and the nondisclosure of which is necessary for the protection of life, safety, public property or public utility facilities, including, but not limited to, all of the following:

(1) A vulnerability assessment which is submitted to the Environmental Protection Agency or any other Federal, State or local agency.

(2) Portions of emergency response plans that are submitted to the Department of Environmental Protection, the Pennsylvania Public Utility Commission or any other Federal, State or local agency dealing with response procedures or plans prepared to prevent or respond to emergency situations, except those portions intended for public disclosure, the disclosure of which would reveal vulnerability assessments, specific tactics, specific emergency procedures or specific security procedures. Nothing in this term shall be construed to relieve a public utility from its public notification obligations under other applicable Federal and State laws.

(3) A plan, map or other drawing or data which shows the location or reveals location data on community drinking water wells and surface water intakes.

(4) **A security plan, security procedure or risk assessment** prepared specifically for the purpose of preventing or for protection against sabotage or criminal or terrorist acts.

(5) (i) Specific information, including portions of financial statements, about security devices or personnel, designed to protect against sabotage or criminal or terrorist acts.

(ii) Nothing in this definition shall be construed to prevent the disclosure of monetary amounts.

Act of Nov. 29, 2006, P.L. 1435, No. 156, Section 2 (emphasis added).

13. Regarding SPLP's hazard assessments, as Mr. Metro stated under penalty of perjury that:

7) The requested records are "Confidential Security Information" within the meaning of The Public Utility Confidential Security Information Disclosure Protection Act (PUCSIDPA) (35 P.S. §§ 2141.1 -2141.8). In my professional opinion, disclosure of the requested records would compromise security against sabotage or criminal or terrorist acts, and non-disclosure is necessary for the protection of life, safety, public property or public utility facilities.

8) I based my opinion on the definition of "confidential security information" contained in PUCSIDPA and on that there are reasonable grounds to believe disclosure may result in a safety

risk, including the risk of harm to any person, or mass destruction.

9) In my professional opinion, release of the requested records would compromise security against sabotage or criminal or terroristic acts regarding pipeline facilities by illustrating the extent of the impact zone, including casualty and damage assessments at various ranges, regarding an accident (or sabotage event) on a pipeline. These Reports and Inspection Reports explicitly provides how such an assessment can be made (as well as the assessment for this particular pipeline); information which could clearly be used by a terrorist to plan an attack a pipeline (and particularly on these Sunoco pipelines, as they contains the specific operating parameters of the pipelines) to cause the greatest possible harm and mass destruction to the public living near such facilities.

10) In my professional opinion, release of the requested records would allow for awareness of the potential effectiveness of a sabotage act on a pipeline (and in particular on these pipelines) to harm the public and create mass destruction, thereby potentially inciting such acts and creating a great risk to public safety.

11) I arrived at my professional opinion that the requested records are Confidential Security Information in consultation with numerous other technical gas safety staff at the Commission, all of which agree with my professional assessment.

Affidavit of Paul J. Metro, Manager Office of the Safety Division, Pipeline Safety Section
Pennsylvania Public Utility Commission (April 15, 2019) (included as **Attachment A**).

14. Complainants present no expert affidavit to the contrary of Mr. Metro's statements, instead making baseless allegations about other publicly available information.

15. Notably, even if some of the information in the risk assessments were public, that does not mean the documents lose their confidentiality status. There is no such provision in the Amended Protective Order or the CSI Act. And for good reason. As Mr. Metro stated, this type of information could put the public at risk if released. Just because some information might be publicly available, that does not mean the public should be put at risk by releasing entire documents.

16. Moreover, SPLP's risk assessments are not based solely on publicly available information. While the Quest Consultants "risk assessment" Complainants reference in paragraph

11 of the Motion is publicly available, Complainants' own witness, Mr. Marx, admitted that the risk assessment (identified as Exhibit P-5 at the November 29, 2018 hearing) is generic:

Q. You were just saying that in the absolute worst-case scenario, using the absolute worst-case assumptions, something like that theoretically could happen; correct?

A. That's right.

Q. And that is true for any pipeline, any HVL pipeline. That's not unique to this pipeline other than its location; correct?

A. Well, its not unique in the sense that if you're comparing an HVL pipeline of the same diameter and pressure and flowing material, then it's not specific to the Mariner line.

N.T. 331:1-11. That risk assessments based on generic information may be publicly available is irrelevant to whether SPLP's hazard assessments are CSI and should remain Extremely Sensitive Materials.

17. Regarding the information Complainants obtained regarding a Canadian pipeline, that argument is irrelevant. The Amended Protective Order and CSI Act are the applicable law here in the United States. Canada's laws regarding disclosure of such information are irrelevant.

18. Complainants also raise various irrelevant arguments that the public should be entitled to this information. This is wrong for the reasons stated above. Moreover, this argument wholly ignores the purpose of discovery – which is for Complainants to obtain information necessary to present their case – not an opportunity for Complainants to obtain information to make it publicly available.

19. Regarding the Integrity Management documents, Complainants assert that SPLP's Integrity Management Plan “for the most part . . . simply mimic federal regulatory language contained in 49 CFR § 195” and that other related Integrity Management Materials “are nothing more than standard industry procedures” and “nothing in these procedures is proprietary or

confidential.” Motion at PP 25, 29. SPLP disagrees and considers its Integrity Management Plan and related materials as Extremely Sensitive Materials.

20. The Commission has already recognized the CSI and confidential nature of similar documents for the natural gas industry – distribution integrity management programs (DIMP):

The U.S. Department of Transportation’s Pipeline and Hazardous Material Safety Administration Regulations require that natural gas distribution companies have in place a written DIMP Plan. 49 C.F.R. § 192.1005. The Commission recognizes the confidential nature of these plans, including the possibility that some plans may contain confidential security information under the Public Utility Confidential Security Information Disclosure Act, 35 P.S. §§ 2141.1-2141.6. The Commission also recognizes that these plans are likely exempt from public disclosure pursuant to Section 708(b)(3) of the Right to Know Law. 65 P.S. § 67.708(b)(3). See, Natural Gas Pipeline Replacement and Performance Plans, Docket No. M-2011-2271982 (Secretarial Letter dated November 21, 2011).

Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. UGI Utilities, Inc., Opinion and Order at n. 6. C-2012-2308997 (Order entered Feb. 19, 2013).

21. If Your Honor intends to reconsider the confidentiality status of any of SPLP’s documents, SPLP requests a hearing on these issues.

D. CONFIDENTIAL AND HIGHLY CONFIDENTIAL MATERIALS

22. Complainants next argue that SPLP should be forced to justify the confidentiality status of each and every document it produced in discovery. That is absurd. SPLP was given a very short time frame to produce a large volume of materials and designated as Confidential and Highly Confidential over approximately 28,000 pages of information. This was for purposes of discovery, which Complainants are entitled to for litigation of their case,⁴ not to make SPLP’s

⁴ A party may obtain discovery for the purpose of preparation of pleadings, or for preparation or trial of a case, or for use at a proceeding initiated by petition or motion, or for any combination of these purposes. 52 Pa. Code § 5.321(f).

documents publicly available as they see fit. The Confidential or Highly Confidential nature of these documents during the discovery process in no way infringes on Complainant's ability to present their case. If there are specific documents Complainants (a) want to use as evidence, AND (b) believe should not be Confidential or Highly Confidential, then Complainants should communicate with SPLP regarding those documents and at that point SPLP believes it would be fair to have Your Honor resolve any remaining disputes. Instead, Complainants want SPLP to have to justify the confidentiality status of each and every document, many of which may not even become evidence in this proceeding. That is a waste of the parties and Your Honor's time.

23. Moreover, SPLP disagrees that it has "massively over-classified most documents furnished to date." Motion at p. 9. Complainants allege without reference to bates numbers, that they randomly selected various pages of SPLP's discovery production, reviewed them, and found nothing to be confidential. SPLP cannot specifically address this allegation because Complainant's do not identify what pages they reviewed.

24. SPLP has undertaken additional review of its Highly Confidential and Confidential document productions and provides the following initial justifications of confidentiality status:

- Alignment Sheets and Maps – these documents contain various location and infrastructure specific information that is clearly protected under the CSI Act and is Highly Confidential under the Amended Protective Order. To the extent any map may be similar to a publicly available map, Complainants can access such publicly available map via other means and use that as a public exhibit. That materials containing CSI may have been otherwise publicly released does not change their confidentiality status under the Act or the Amended Protective Order.

- **Operator Qualifications and Other Personnel Information** – these documents contain various personal information regarding contractors and employees (PII under the Amended Protective Order), sometimes containing social security numbers, medical test results, etc. If there are any records of this type Complainants intend to use for their case, SPLP is happy to work with Complainants on confidentiality status, such as utilizing redactions. However, to undertake wholesale review now of all of these documents is an enormous waste of the parties and Your Honor’s time.
- **Maintenance and Repair procedures, manuals, plans, pressure and integrity testing documents, and inspection reports** – SPLP believes these documents all fairly fall within the Highly Confidential category of information as CSI. These records and documents can show specific locational information, procedures, potential vulnerabilities that all could be used, particularly in conjunction with one another, to sabotage the security of SPLP’s pipelines.
- **Instrument Calibration and Mill Test Certificates** – SPLP may be willing to reconsider the confidentiality status of these documents. However, SPLP does not believe it is worthwhile to undertake a page by page review for confidentiality at the discovery phase unless Complainants indicate which specific documents they intend to use as evidence in this proceeding. If there are documents Complainants intend to use, they should identify such documents and SPLP will work with Complainants on confidentiality status and Your Honor can resolve any remaining disputes when they are ripe. There is no reason to waste time considering confidentiality status when a document is not likely to be used as evidence.

II. CONCLUSION

WHEREFORE, SPLP respectfully requests the Motion be denied. In the alternative, if the Motion is not denied on the basis of these pleadings, SPLP requests Complainants specifically identify documents they may use as evidence and believe should not be Confidential or Highly Confidential to narrow this dispute and that a hearing be held regarding these issues.

Respectfully submitted,



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Attorneys for Respondent Sunoco Pipeline L.P.

Dated: December 2, 2019

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF OPEN RECORDS

Eric Friedman

v.

Pennsylvania Public Utility Commission

:
:
:

OOB AP 2019-0502

AFFIDAVIT OF
PAUL J. METRO, MANAGER
OFFICE OF THE SAFETY DIVISION, PIPELINE SAFETY SECTION
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Before me, the undersigned notary public, this day, April 15, 2019, personally appeared Paul J. Metro, Manager of the Safety Division, Pipeline Safety Section of the Pennsylvania Public Utility Commission, to me known, who being duly sworn according to law, deposes the following:

I, Paul J. Metro, say that I am authorized to make this affidavit on behalf of the Pennsylvania Public Utility Commission (Commission or PUC), being an employee of the Commission as Manager of the Safety Division, Pipeline Safety Section, and having the responsibility for investigating, analyzing, and responding to pipeline safety issues in Pennsylvania, and having knowledge of the facts relevant to the present matter, the facts set forth are true and correct to the best of my knowledge, information and belief, and I expect to be able to prove the same at any hearing hereof, attest as follows:

- 1) In my capacity as Manager of the Safety Division, Pipeline Safety Section of the Commission, I oversee Commission investigations of gas and hazardous volatile liquid pipelines.
- 2) On or about April 1, 2017, the Commission commenced an official investigation of the "Mariner East 1" (ME1) pipeline under my oversight. The investigation is active and has been ongoing since that time. On December 13, 2018, the Commission's Bureau of Investigation and Enforcement (BIE) filed a Formal Complaint C-2018-3006534 against Sunoco Pipeline L.P. a/k/a Energy Transfer Partners (Sunoco) to continue this investigation. This proceeding is active and ongoing.
- 3) The Commission also has these additional investigations of Sunoco pipelines: March 2018 Investigation of ME1 ("Lisa Drive" Investigation of ME1); Investigation of "Mariner East 2" (ME2); and July 2018 Investigation of "Mariner East 2 - Bypass" (ME2-bypass). All of these investigations are active and ongoing.
- 4) The Commission records that "relate to the calculation or estimation of the range at which thermal or overpressure events related to accidents on hazardous, highly volatile liquids (HVL) pipelines may be experienced," (also described as "containing or related to calculations or estimates of blast radius (Sunoco's term) or "buffer zone" (PUC's term) regarding accidents or releases from HVL pipelines in the possession of the PUC, including (but not limited to)

information that was produced for PUC by an external source or that was developed internally”) (that is, the requested records), consist of the following, all filed with the Commission by Sunoco Pipeline L.P. a/k/a Energy Transfer Partners (and marked as Confidential by Sunoco). These records are part of the active and ongoing investigations of these pipelines. These records were produced to the Commission by Sunoco and are marked as confidential.

Hazard Assessment for ME1

Date: 12-17-2013

Pages: 56

Hazard Assessment for proposed ME2 Pipeline

Date 3-27-2017

Pages: 67

Hazard Assessment for Re-route of ME2 near Chester & Delaware County

Date: 10-5-2018

Pages: 33

5) In addition to the three reports indicated in paragraph four, the Commission has requested records in the form of Inspection Reports created by Commission Safety Staff in which there are references and reviews of these Hazard Assessments. These Inspection Reports are part of the active and ongoing investigations indicated above.

6) The Commission does not have any requested records other than records that are part of these Commission's investigations.

7) The requested records are “Confidential Security Information” within the meaning of The Public Utility Confidential Security Information Disclosure Protection Act (PUCSIDPA) (35 P.S. §§ 2141.1 – 2141.8). In my professional opinion, disclosure of the requested records would compromise security against sabotage or criminal or terrorist acts, and non-disclosure is necessary for the protection of life, safety, public property or public utility facilities.

8) I based my opinion on the definition of “confidential security information” contained in PUCSIDPA and on that there are reasonable grounds to believe disclosure may result in a safety risk, including the risk of harm to any person, or mass destruction.

9) In my professional opinion, release of the requested records would compromise security against sabotage or criminal or terroristic acts regarding pipeline facilities by illustrating the extent of the impact zone, including casualty and damage assessments at various ranges, regarding an accident (or sabotage event) on a pipeline. These Reports and Inspection Reports explicitly provides how such an assessment can be made (as well as the assessment for this particular pipeline); information which could clearly be used by a terrorist to plan an attack a pipeline (and particularly on these Sunoco pipelines, as they contains the specific operating parameters of the pipelines) to cause the greatest possible harm and mass destruction to the public living near such facilities.

10) In my professional opinion, release of the requested records would allow for awareness of the potential effectiveness of a sabotage act on a pipeline (and in particular on these pipelines) to

harm the public and create mass destruction, thereby potentially inciting such acts and creating a great risk to public safety.

11) I arrived at my professional opinion that the requested records are Confidential Security Information in consultation with numerous other technical gas safety staff at the Commission, all of which agree with my professional assessment.

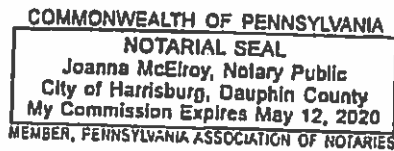


Paul J. Metro
Manager of the Safety Division
Pipeline Safety Section
Pennsylvania Public Utility Commission

Subscribed and sworn to before me this
April 15, 2019.

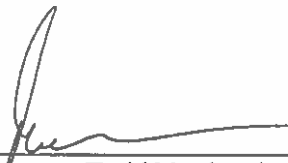


Notary Public



VERIFICATION

I, Todd Nardozzi, Sr. Manager – DOT Compliance, on behalf of Sunoco Pipeline L.P. and Energy Transfer, hereby state that the facts set forth in the foregoing document are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing in this matter. This verification is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



Printed Name: Todd Nardozzi
Title: Sr. Manager – DOT Compliance
Energy Transfer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the forgoing document upon the persons listed below in accordance with the requirements of § 1.54 (relating to service by a party).

VIA ELECTRONIC MAIL

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Dated: December 2, 2019