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February 12, 2020

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. OBJECTION TO FLYNN COMPLAINANTS'
NOTICE OF DEPOSITION FOR MATTHEW GORDON**

Dear Secretary Chiavetta:

Attached for electronic filing with the Commission is Sunoco Pipeline L.P.'s Objection to Flynn Complainants' Notice of Deposition for Matthew Gordon.

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.	:	Docket Nos.	C-2018-3006116 (consolidated)
	:		P-2018-3006117
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. OBJECTION TO FLYNN COMPLAINANTS' NOTICE OF DEPOSITION AND PRODUCTION OF DOCUMENTS FOR MATTHEW GORDON

Pursuant to 52 Pa. Code § 5.343(f), Sunoco Pipeline L.P. (SPLP) submits this Objection to the Notice of Deposition for Mr. Matthew Gordon (Notice) that Flynn Complainants served February 3, 2020. The deposition is noticed for one day, February 25, 2020.

SPLP objects to the overbroad scope of the deposition and requests that Your Honor require Flynn Complainants to provide no later than February 17, 2020 a more narrow and specific scope of inquiry so that SPLP and the witness can adequately prepare for the deposition. Pursuant to 52 Pa. Code § 5.343(c), a notice of deposition must include a brief statement for matters for which inquiry is being made. Flynn Complainants included the following statement which lacks requisite specificity in its "any and all things" fishing expedition approach:

The witness's knowledge of
(a) All subjects¹ upon which he furnished information in
respondent's Answers to Interrogatories,

¹ For instance, this request fails to identify with specificity what the alleged subjects are.

- (b) All documents furnished by Sunoco pursuant to information furnished by the witness,²
- (c) All matters alleged by Complainants in their Second Amended Formal Complaint.³

SPLP objects to the scope of this deposition because it is so broad, vague, and general that it deprives SPLP of the ability to adequately prepare for and object to the deposition. The Second Amended Complaint is a kitchen sink of broad allegations regarding four pipelines in two Counties. Complainants should be required to give notice to SPLP of specific areas of inquiry so SPLP can prepare instead of making a broad essentially generalized allegation.

Administrative Law Judge Vero recognized that depositions must include a narrow and specific scope such that the party and witness being deposed have adequate notice to prepare. *Application of Laurel Pipe Line Co., L.P.*, Docket Nos. A-2016-2575829 et al, August 8, 2017 Order (included as Attachment A). There, Laurel noticed a deposition of party PESRM with the subject matter, *inter alia*, of: PESRM finances and economics. Order at 1. PESRM objected that this scope was overly broad and unduly burdensome in the context of a business as complex and large scale as refining. Order at 2. Judge Vero agreed, ordering Laurel to specify the scope and bounds of its inquiry into PESRMS's finances and economics. Order at Ordering Paragraph 3. Your Honor should order Flynn Complainants to do the same as they failed to do so in their broad, generalized Notice.

² This provision is vague and does not identify with specificity which precise information it is referencing and instead of Complainants spending time and effort to identify areas on inquiry with specificity and put the witness and SPLP on notice for the same.

³ This request is another example of instead of identifying with specificity issues or documents Complainants instead resorts to a general referenced to their Second Amended Complaint, some of which Your Honor struck, including paragraphs 67-93.

Moreover, Complainants may intend to inquire into areas that they have not supported with competent and sufficient evidence as part of their direct case. As Your Honor ruled today, to the extent Complainants have not done so already, the opportunity to present such evidence has passed. February 11, 2020 Order Granting Sunoco Pipeline L.P.'s Omnibus Motion at Ordering Paragraph 4. Complainants have not moved for permission to supplement their direct testimony. Thus, at this point there is no reason to allow discovery into such subject matter areas and doing so creates an undue burden on SPLP. By not providing specific areas of inquiry, Complainants have deprived SPLP of the information required to object to further discovery via deposition on such topics.

Failure to specifically identify areas of inquiry also places an undue burden on SPLP to prepare for the deposition. Because the specific questions Flynn Complainants intend to direct to Mr. Gordon will not be known until the time of the deposition, it is unfair and burdensome for SPLP to attempt to prepare for this subject of the deposition whose scope and bounds are broad and generalized as opposed to sufficiently specific. The Commission's regulations specifically prohibit discovery that results in an undue burden on a party. Such burden is placed on SPLP by being deprived as to notice of what precise subjects and issues Complainants seek to address with Mr. Gordon. 52 Pa. Code Section 5.361(a)(1)-(4). The same legal standard and rationale are applicable to discovery conducted via oral deposition and as set forth in a Notice Deposition.

WHEREFORE, SPLP respectfully requests that the Order approving the deposition pursuant to 52 Pa. Code § 5.344, include a requirement that Flynn Complainants name with specificity and particularity the subject matter into which they will inquire at the deposition.

Respectfully submitted,



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Attorneys for Respondent Sunoco Pipeline L.P.

Dated: February 12, 2020

Attachment A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Laurel Pipe Line Company, L.P. :
For approval to change direction of petroleum : A-2016-2575829
products transportation service to delivery :
points west of Eldorado, Pennsylvania :

Affiliated Interest Agreement between : G-2017-2587567
Laurel Pipe Line Company, L.P. and :
Buckeye Pipe Line Company, L.P. :

ORDER

On July 27, 2017, Laurel Pipe Line Company, L. P. (Applicant or Laurel) served a Notice of Deposition and Request for Production of Documents on Philadelphia Energy Solutions Refining and Marketing, LLC (PESRM) and me.

The Notice of Deposition requested that PERM Witness John J. Sadlowski be made available for deposition at Post & Schell's offices in Harrisburg, PA on a day, or days, during the week of August 14, 2017, on the following subjects:

- (i) *the pricing of petroleum products sold by PESRM, including its margins on sales;*
- (ii) *the markets into which PESRM sells petroleum products, and the cost, availability and commercial feasibility of the transportation and/or exchange alternatives that PESRM or its customers have to reach such markets;*
- (iii) *how PESRM acquires crude supplies;*
- (iv) *crude supplies price volatility;*
- (v) *PESRM finances and economics;*
- (vi) *how and when PESRM determines to reduce or change refinery output;*
- (vii) *how PESRM has analyzed the results of the proposed reversal as well as the results of other projects proposed to bring refined petroleum products from the Midwest to Central or Eastern Pennsylvania; and*

(viii) *other matters, including issues raised by PESRM in its Direct Testimony and/or responses to Laurel's interrogatories and requests for the production of documents.*

Notice of Deposition, ¶ 5.

In addition, Laurel requests that at least one week, *i.e.* seven (7) calendar days, prior to the deposition, Ms. Salowski provide copies of correspondence, corporate minutes, investor disclosures, e-mail messages, studies, and analyses that exist related to the subjects identified in Paragraph 5 of the Notice of Deposition and which have not yet been provided to Laurel.

Laurel acknowledges that if the deposition of Mr. Sadlowski are conducted on August 14 or August 15, 2017, this will be a slightly shorter notice than the 20-day notice period provided by Section 5.343 of the Commission's regulations, 52 Pa.Code §5.343. As reason for taking Mr. Sadlowki's deposition prior to the expiration of the 20-day period, Laurel generally cites the litigation schedule in this proceeding. See Notice of Deposition, ¶ 7.

On August 3, 2017, PESRM filed timely objections to Laurel's Notice of Deposition and Request for Production of Documents, in which PESRM raised four separate grounds for objections. First, PESRM objected to subpart (v) of the subject of deposition, "PESRM finances and economics," as being overly broad and unduly burdensome in the context of a business as complex and large scale as refining. Second, PESRM argues that Laurel's Notice of Deposition fails to exempt from its request for production of documents any documents subject to a claim of privilege.

PESRM's third objection concerns Laurel's request that PESRM produce all documents related to the subjects of deposition at least one week prior to the deposition. According PESRM, Laurel has posed more than 311 interrogatories, including subparts, relating to the Direct Testimony by PESRM or Indicated Party witnesses, which must be answered during the same time frame documents responsive to the Laurel Notice must be located and provided. PESRM believes that under these circumstances, requesting that documents be

provided in advance of the twenty (20) days specified by Commission regulations¹ is unreasonable and burdensome pursuant to Section 5.361(a)(2) and (a)(4) of the Commission's regulations. 52 Pa. Code §5.361(a)(2) and (a)(4).

Lastly, PESRM objects to Laurel's request to commence the noticed deposition in advance of the minimum 20-day notice period provided for in 52 Pa.Code § 5.343, as well as the proposed location of the deposition. Notwithstanding this objection, PESRM can make its representative available on August 16 or 17, 2017, shortly after the days on which Laurel requests that the deposition commence and the same week it proposes for the deposition, provided that PESRM's witness is allowed to appear in counsel for Laurel's Philadelphia office, the vicinity where PESRM's representative lives and works.

After carefully considering the parties' respective positions, I shall sustain in part and overrule in part PESRM's objections to Laurel's Notice of Deposition.

THEREFORE,

IT IS ORDERED:

1. That the deposition of PESRM's witness, John J. Sadlowski, by Laurel Pipe Line Company, L.P. shall not be taken before August 16, 2017.
2. That the deposition of PESRM's witness, John J. Sadlowski, by Laurel Pipe Line Company, L.P. shall be taken in Post & Schell's offices in Philadelphia.
3. That Laurel Pipe Line Company, L.P. shall specify for PESRM the scope and bounds of its inquiry into PESRM's finances and economics by no later than August 10, 2017.

¹ See 52 Pa. Code § 5.349(d).

4. That PESRM shall produce all documents related to the subjects of John J. Sadlowski's deposition at least two days prior to the deposition.

5. That any documents subject to a claim of privilege shall be exempt from Laurel Pipe Line Company, L.P.'s request to PESRM for production of documents.

Date: August 8, 2017

Eranda Vero
Administrative Law Judge

A-2016-2575829 - APPLICATION OF LAUREL PIPE LINE COMPANY, L.P.

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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).

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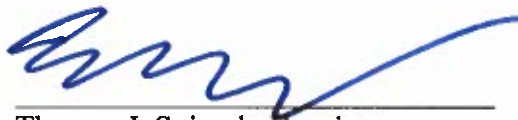
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Dated: February 12, 2020