

Melissa DiBernardino
1602 Old Orchard Lane.
West Chester Pa 19380

March 23, 2020

VIA ELECTRONIC FILING

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

**Re: Melissa DiBernardino v. Sunoco Pipeline L.P.; Docket No.
C-2018-3005025**

Meghan Flynn. et al. v. Sunoco Pipeline L.P.; Docket Nos. C-2018-3006116 and
P-2018-3006117;

Reply to SPLP's Request for Delay

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is my Reply to
SPLP's Request for Delay.

If you have any questions regarding this filing please do not hesitate to contact me.

Sincerely,

Melissa DiBernardino
Pro se
March 23, 2020

March 23, 2020

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

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Melissa DiBernardino
1602 Old Orchard Lane
West Chester Pa 19380

:

Complainant

Docket No. C-2018-3005025

Consolidated
MEGAN FLYNN *et al*
v.

Docket Nos.C-2018-3006116

:

SUNOCO PIPELINE L.P.,
Respondent.

:

Reply to SPLP's Request for Delay

I, Melissa DiBernardino, a full party complainant was not contacted prior to SPLP counsel's March 17th email, claiming to have spoken with agreeing parties earlier. Upon receiving the email, I was surprised that any suspension of this proceeding would be coming from a party instead of Your Honor/ The PUC. While it seems obvious that this unprecedented situation is disrupting almost everything, all over, neither the President nor Governor is addressing anything passed a few weeks, let alone July. SPLP even states that they do not have any filings due within the time period of stay being requested. With that said; if, Your Honor, or the PUC feels differently than what was stated in the press release that makes it mandatory for e-filing as

opposed to paper filing - I believe this type of aggressive action should come from the Commission first. Not a party to the complaint.

To correct SPLP - Governor Wolf has since ordered “non life sustaining” business to shut down and the DEP has confirmed Mariner East Construction is included in these orders. Apparently, that news hasn’t made it to all of their work sites yet because they continue to work (while ignoring CDC guidelines on ‘social distancing’) in West Whiteland, Chester County.

As an opposing party to this motion, I did say in my email response that, unless construction was stopping during this stay; I was strongly opposed. Even though Governor Wolf has ordered the shut down, as I was requesting, I disagree with SPLP in stating that the PUC does not have the authority to stop the construction of Mariner East. Because of the unfortunate situation we are in and the emergency declarations filed by both the President and Governor, government officials and agencies have been given unique emergency powers. You can find examples of these powers being used by the PUC in **Exhibits A,B, C and D attached** in order to protect the public’s health and safety during the COVID-19 Pandemic.

Therefore:

I respectfully request that Your Honor deny SPLP’s request for a stay.

In the event that Your Honor grants SPLP’s request, I respectfully request, that Mariner East construction is suspended for the same length of time that the stay lasts. It is my belief that, if construction is allowed to start back up while our complaints are still suspended; it would further jeopardize our chances of due process prior to the completion of Mariner East Construction.

I respectfully request a conference call for all parties as soon as possible.

I respectfully request that, Your Honor, disregard today’s improper email, or as SPLP’s counsel has dubbed similar attempts - a “second bite at the Apple”. This email does not comply with the Commission’s procedural rules and regulations. Being that SPLP just recently filed an ‘Omnibus Motion for Adherence to Regulations and the Procedural Rules’, they must be aware of today’s blatant disregard of the procedures.

While I realize that everyone is in a somewhat panicked state of mind right now, I do not believe that making hasty decisions is a mistake at this time. Particularly when SPLP’s request will have a great impact to our complaints long term.

Lastly, I take great offense to SPLP's description of the public's pleas to Governor Wolf for help in stopping the spread of COVID-19 and overwhelming our healthcare system. While I hope and assume it was a panicked, knee jerk reaction on SPLP's part; I respectfully request that Your Honor will not tolerate such bully-like accusations and insults during this unprecedented and concerning time.

Respectfully,
Melissa DiBernardino

Exhibit A

4:49 ↗



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Press Releases

PUC Suspends Door-to-Door, In-Person Marketing Activities for Energy Suppliers During Governor's Proclamation of Disaster Emergency

March 16, 2020

HARRISBURG – Pennsylvania Public Utility Commission (PUC) Chairman Gladys Brown Dutrieuille today **signed an emergency order** suspending all door-to-door, in-person and public event sales activities by agents of competitive electric and natural gas suppliers in the Commonwealth's retail energy markets.

Under the unique circumstances presented by the COVID-19 pandemic, establishing a moratorium on activities of this nature for all customer classes – to help minimize non-essential personal social contact – is consistent with the Governor's Proclamation of Disaster Emergency and the requirements of the Public Utility Code.

"Section 1501 of the Public Utility Code provides that every public utility has a duty to furnish and maintain adequate, efficient, safe and reasonable service as is necessary for the accommodation, convenience and safety of its patrons, employees and the public," Chairman Dutrieuille stated. "Due to this unprecedented emergency, I find that door-to-door, public events and any in-person sales and marketing of competitive energy supply is not a necessity at this time, given the need to protect the public health and safety."

Pursuant to the Commission's regulations governing emergency relief, an emergency order will be issued only when there exists a clear and present danger to life or property or when the relief requested is uncontested and action is required prior to the next scheduled public meeting.

Chairman Dutrieuille also urged consumers to report any public sales and marketing activity by an agent of a competitive suppliers to the PUC's Bureau of Consumer Services at **1-800-692-7380** as well as alert their local utility. The complete list of regulations governing marketing and sales practices for Pennsylvania's retail residential energy markets is found at 52 Pa. Code, Chapter 111.

The Pennsylvania Public Utility Commission balances the needs of consumers and utilities; ensures safe and reliable utility service at reasonable rates; protects the public interest; educates consumers to make independent and informed utility choices; furthers economic development; and fosters new technologies and competitive markets in an environmentally sound manner.

For recent news releases and video of select Commission proceedings or more information about the PUC, visit our website at www.puc.pa.gov. Follow the PUC on Twitter – @PA_PUC for all things utility. "Like" Pennsylvania Public Utility Commission on Facebook for easy access to information on utility issues.

###

Docket No.: [M-2020-3019254](#)

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Exhibit B

4:47 ↖



AA

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Press Releases

PUC Prohibits Utility Terminations, Consistent with Governor's Proclamation of Disaster Emergency

March 13, 2020

HARRISBURG – Pennsylvania Public Utility Commission (PUC) Chairman Gladys Brown Dutrieuille signed an **emergency order** prohibiting electric, natural gas, water, wastewater, telecommunication and steam utility terminations. The moratorium will remain in place for as long as the Proclamation of Disaster, issued by Gov. Tom Wolf on March 6 related to the Coronavirus, is in effect.

Under the unique circumstances presented by the COVID-19 pandemic, establishing a termination moratorium for utility services under the PUC's jurisdiction is consistent with the Governor's Proclamation of Disaster Emergency and the requirements of the Public Utility Code. Under the order, terminations would be permitted in the event of a safety emergency.

"I believe that issuance of an emergency order is appropriate under the unique circumstances," said the emergency order signed by Chairman Dutrieuille. "It is beyond argument that the provision of public utility service is necessary for the safety of the public. This is especially the case under the current challenges that resulted in the Proclamation of a pandemic emergency."

Pursuant to the Commission's regulations governing emergency relief, an emergency order will be issued only when there exists a clear and present danger to life or property or when the relief requested is uncontested and action is required prior to the next scheduled public meeting.

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###

Docket No. M-2020-3019244

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Exhibit C

4:30



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Press Releases

PUC Permitting Modifications to Administrative Deadlines, Procedural Rules for the Commission's Filing and Service Requirements

March 20, 2020

HARRISBURG – Under the unique circumstances presented by the COVID-19 pandemic, Pennsylvania Public Utility Commission (PUC) Chairman Gladys Brown Dutrieuille today signed an **emergency order** permitting the modification of regulatory and statutory deadlines and procedural rules affecting filing and service requirements with the PUC as well as time periods established for the Commission to take final action on matters before it.

"Under current circumstances, it has become necessary to take additional measures to ensure continued operations during this period," Chairman Dutrieuille stated. "These measures are intended to prevent regulatory or statutory procedural rules, including those providing for the calculation of time periods for final Commission action, from interfering with the overall conduct of Commission business in the public interest during the emergency."

Chairman Dutrieuille added that today's emergency order is consistent with Gov. Wolf's **Proclamation of Disaster Emergency** which authorizes and directs the suspension of "the provisions of any regulatory statute prescribing the procedures for conduct of Commonwealth business, or the orders, rules or regulations of any Commonwealth agency, if strict compliance with the provisions . . . would in any way prevent, hinder, or delay necessary action in coping with this emergency."

Today's Emergency Order is the third such action initiated by the Commission since the Governor's Proclamation of Disaster Emergency on March 6th. On Monday, Chairman Dutrieuille signed an **emergency order prohibiting electric, natural gas, water, wastewater, telecommunications and steam utility terminations**; and then followed on Wednesday with an **emergency order suspending door-to-door and in-person sales and marketing activities by competitive energy suppliers and their agents**.

Pursuant to the Commission's regulations governing emergency relief, an emergency order will be issued only when there exists a clear and present danger to life or property or when the relief requested is uncontested and action is required prior to the next scheduled public meeting.

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###

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Exhibit D

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

*Re: Suspension of Regulatory and Statutory Deadlines;
Modification to Filing and Service Requirements*

EMERGENCY ORDER
Docket No. M-2020-3019262

On March 6, 2020, pursuant to subsection 7301(c) of the Emergency Management Services Code, 35 Pa. C.S. §§ 7101, et seq., Governor Tom Wolf issued a Proclamation of Disaster Emergency proclaiming the existence of a disaster emergency throughout the Commonwealth for a period of up to ninety (90) days, unless renewed by the Governor. Shortly thereafter, on March 11, 2020, the World Health Organization declared COVID-19 – the coronavirus – a pandemic.

The Proclamation of Disaster Emergency authorizes and directs the suspension of “the provisions of any regulatory statute prescribing the procedures for conduct of Commonwealth business, or the orders, rules or regulations of any Commonwealth agency, if strict compliance with the provisions . . . would in any way prevent, hinder, or delay necessary action in coping with this emergency.” <https://www.governor.pa.gov/wp-content/uploads/2020/03/20200306-COVID19-Digital-Proclamation.pdf>.

In response to the COVID-19 pandemic, the Commission has implemented telework for its entire staff. This means that the physical locations of the Commission, the Keystone Building in Harrisburg as well as satellite state office buildings in Philadelphia, Pittsburgh, and elsewhere across Pennsylvania, are not in use until further direction from the Commission. Obviously, this presents many challenges for the Commission, the regulated community, and the public. For example, the receipt and sending of all mail from the United States Postal Service and other couriers has been interrupted while the Commission has limited, or no, access to its physical facilities.

Under these circumstances, it has become necessary to take additional measures to ensure continued operations during this period. These measures are intended to prevent regulatory or statutory procedural rules, including those providing for the calculation of time periods for final Commission action, from interfering with the overall conduct of Commission business in the public interest during the emergency. For the benefit of the public, we encourage the cooperation of all persons having business before the Commission to assist with implementing measures necessary for continuing Commission operations during the effective dates of this Order and the COVID-19 disaster emergency.

Suspension/Extension of Deadlines

The Commission and the regulated community operate under reasonable statutory and regulatory deadlines necessary to ensure timely administration of the Public Utility Code. (See, e.g., 66 Pa C.S. Chapter 3, 52 Pa Code Chapters 1, 3, and 5). Given the

unprecedented nature of this emergency, the Commission is aware that some deadlines or obligations may hinder the public service mission of the Commission and its affected stakeholders.

Similar to other actions where we have delegated various duties to Commission bureaus, we now delegate the authority to determine the suspension, extension, waiver or change of any regulatory, statutory or procedural deadlines to individual Commission Bureau Directors whose bureaus are tasked with matters before the Commission. Each Bureau Director will make decisions regarding the necessity of modifying such deadlines. Modifications may result from a request by a party or the tribunal/bureau staff itself. These modifications will be treated as an action of staff and will be reviewable by the Commission pursuant to 52 Pa. Code § 5.44 (regarding petitions for reconsideration from actions of the staff).

In addition, stakeholders are advised that the Commission reserves the right during this emergency period to waive any statutory or regulatory deadline for action sua sponte, without request by any other party, in any proceeding in which it has determined that strict adherence to an established deadline will interfere with its ability to administer the Public Utility Code.

Suspension, extension, waiver or change of any regulatory, statutory or procedural deadlines shall not exceed ninety (90) days except upon expedited certification of the question by the Chief Administrative Law Judge or Bureau Director to the Commission.

For example, in pending rate case litigation, the Chief Administrative Law Judge is authorized to establish reasonable deadlines under the circumstances after consideration of the positions of the parties and the presiding Administrative Law Judge. The Chief Administrative Law Judge's decision would then be subject to review by the Commission. Similarly, in uncontested proceedings, e.g. the filing of an annual universal service report, the utility may request an extension of time to file the report. The Bureau Director is hereby authorized to grant a reasonable extension of time for the filing of that report subject to review by the Commission.

Under the Proclamation of Disaster Emergency, it is both necessary and appropriate to provide this flexibility to ensure operations continue as smoothly as possible and to prevent any regulatory statute or rule prescribing procedures for the conduct of Commission business from unreasonably interfering with the public interest.

Filing and Service Requirements During Emergency

The Commission is not currently sending or receiving mail from or to any of its principal places of business, including the Keystone Building in Harrisburg. In order to continue operations during this emergency, the Commission shall waive the requirement for paper filings and shall accept only e-filings of all documents. 52 Pa. Code § 1.4.

Any filings containing confidential or proprietary information should be emailed to the Secretary of the Commission at rchiavetta@pa.gov. Use of encryption with the prior consent of the Secretary is permitted.

In addition, service by the Commission on parties will be exclusively electronic and service on Commission staff, as a party or otherwise, also shall be exclusively electronic.

Finally, similar to prior delegations of matters involving routine, ministerial or non-policy making matters, we delegate to the Secretary of the Commission the authority to modify any procedural rules found in Chapter 1 of our regulations, to the extent necessary for the conduct of Commission business during this pandemic emergency.

Emergency Relief

Pursuant to the Commission's regulations governing emergency relief, an Emergency Order will be issued only when there exists a clear and present danger to life or property or when the relief requested is uncontested and action is required prior to the next scheduled public meeting. 52 Pa. Code § 3.1. Additionally, Commission regulations at 52 Pa. Code § 3.2 provide that, in

addition to the existence of an emergency, an emergency order is appropriate where the need for relief is immediate, there would be irreparable injury if relief is not granted, and the relief is not injurious to the public interest.

The issuance of an emergency order is necessary and appropriate under these unique circumstances.

THEREFORE, IT IS ORDERED:

- 1. Parties to proceedings before the Commission are encouraged to cooperate regarding the suspension, extension, waiver or change of any regulatory, statutory or procedural deadlines in connection with the performance of any obligation prescribed by the Public Utility Code or other applicable law.*
- 2. All statutory and regulatory deadlines may be suspended, extended, waived or changed during the pendency of the Proclamation of Disaster Emergency.*
- 3. Following the termination of the Proclamation of Disaster Emergency, all deadlines suspended may be extended by an additional thirty (30) days.*
- 4. All Bureau Directors are hereby delegated the authority to suspend, extend, waive or change a statutory or regulatory deadline which may hinder, rather than further, the mission of the Commission, after consultation with all interested parties, as deemed necessary and appropriate.*
- 5. Suspension, extension, waiver or change of any regulatory, statutory or procedural deadlines shall not exceed ninety (90) days except upon expedited certification of the question by the Chief Administrative Law Judge or Bureau Director to the Commission.*
- 6. A decision of a Bureau Director to suspend, extend, waive or change a statutory or regulatory deadline is subject to Commission review under 52 Pa. Code § 5.44.*
- 7. During the pendency of the Proclamation of Disaster Emergency, the Commission shall only accept e-filings in lieu of paper filings, for all documents. 52 Pa. Code § 1.4.*
- 8. All service upon the Commission or its staff, and service by the Commission, shall be performed electronically, consistent with this Order, until further notice.*
- 9. All filings containing confidential or proprietary information shall be filed with the Commission by e-mailing the Secretary at rchiavetta@pa.gov. Use of encryption with the prior consent of the Secretary is permitted.*
- 10. The Secretary of the Commission is authorized to modify any procedural rules in 52 Pa. Code Chapter 1, to the extent those rules are routine, ministerial or non-policy making, during the pendency of the Proclamation of Disaster Emergency.*
- 11. The Commission reserves the right during this emergency period to waive any statutory or regulatory deadline for action sua sponte, without request by any other party, in any proceeding in which it has determined that strict adherence to an established deadline will interfere with its ability to administer the Public Utility Code.*

Date: March 20, 2020

Gladys Brown Dutrieuille, Chairman

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