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December 16, 2020

Electronic Filing

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

Re: Britton, Docket No. C-2019-3006898 (consolidated)
Flynn, et al. v. Sunoco Pipeline L.P.,
Docket Nos. C-2018-3006116, P-2018-3006117
DiBernardino, Docket No. C-2018-3005025 (consolidated)
Obenski, Docket No. C-2019-3006905 (consolidated)
Andover, Docket No. C-2018-3003605

Flynn Complainants' Post-Hearing Brief and Appendix

Dear Secretary Chiavetta:

Please accept my Hearing Brief.

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

Very truly yours,

A handwritten signature in cursive script that reads "Rebecca Britton".

Rebecca Britton Pro Se

cc: Per Certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

R. BRITTON POST-HEARING BRIEF

- I hereby incorporate the post hearing briefs of The Flynn Complainants, The County of Chester, Uwchlan Township, the Downingtown Area School District, the Andover Association, Laura Obenski, Melissa DiBernardino and add the following as stated:

I. INTRODUCTION

In this case I am asking the Commission to protect me, my family and my community. Simply put, for the Commission to take its powers and duties with fidelity in the interest of balancing what is truly in the public and economic good of the Commonwealth. Economy building, corporate citizenship and questions of legality have all been eclipsed by morality in the case of Mariner East and running high transmission, high pressure NGL pipelines in communities like mine.

As alleged in my formal complaint' ("the Complaint"), Sunoco Pipeline L.P. ("Sunoco") has repurposed an 8-inch 1930s-era hazardous liquids pipeline , having failed with its initial plans to construct new 16-inch and 20-inch HVL lines, Sunoco now has almost completed two pipelines sometimes identified separately as Mariner East 2 ("ME2") and Mariner East 2X ("ME2X") or jointly as ME2, by cobbling together sections of new pipeline and a 1930s-era, 12-inch pipeline. The likelihood of injury, death, and property damage is significantly greater with these pipelines than in the case of non-HVL pipelines. With both ME1 and the cobbled-together ME2

workaround pipeline, Sunoco's provision of public utility service is unsafe and unreasonable, and therefore illegal.

There have now been 16 days of evidence in this proceeding. As a steward to my family and my community I have worked diligently and with fidelity to provide evidence of deficiencies in the public awareness program, the consequences of pipeline releases, the value of lost human lives, the failure of Sunoco's inadequate integrity management program and their lack of disclosure of risks to schools, townships and the county where I live. Not only proving that they have not complied with federal, state and local law; but showing that their lack of fidelity in the creation of emergency plans was not even a contested question in the proceedings. In fact their only legal argument to prove any other finding in this case is that the creation of these plans are on local government to pay for, create and the entire rescue operation should an emergency occur is on the local emergency responders and the Commonwealth. The entire cross-examination of Sunoco's witnesses revealed that they were spoon-fed cheery reports of Sunoco's regulatory compliance and regurgitated the same. Sunoco's disregard for our Commonwealth's laws, our first responders and the health and safety of its school children and citizens is abhorrent and their case lacked any redeeming or contrary information "allegations" to prove otherwise.

The truth of this matter is the complete absence of planning, care and the consistent actions proving over 5 years that Sunoco will not take the smallest of legal steps to comply with the law and be the corporate citizen that it should have been from planning onset. Sunoco could have been open and honest with those tasked with ensuring the health and safety of Pennsylvanians' and our vulnerable populations. Its pipes are corroded and unsafe. It fails to

follow its own safety protocols. It acts with impunity and considers fines just the cost of doing business all while not hesitating to take advantage of the perks of being classified as a public utility. Sunoco has made less than admirable attempts to comply with state and federal emergency planning requirements by simply “checking boxes or going through the motions”. These facts are unredeemable in the face of actual compliance. For the above reasons I find myself before the Commission.

2. CONCISE STATEMENT OF THE CASE

I have alleged that my home is downhill of the Mariner East Pipeline System and is approximately 450 feet from the easement that all known pipelines transmitting NGL’s reside in. Additionally, the planned construction of the 20 and 16 inch lines will reside in same easement, and, the in service 12 inch line. My 2 children will, and do, attend school, kindergarten through 12th grade in the probable impact zone of the various lines associated with the Mariner East Pipeline System. This includes Lionville Elementary, 1520 feet; Marsh Creek 6th Grade Center, 1005 feet; Lionville Middle School, 645 feet (this school is flanked by the 8 inch and 12 inch line on other side; and Downingtown East High School, 1150 feet. Marsh Creek Sixth Grade Center has the additional risk of the above ground valve station located in Upper Uwchlan along Dorlan Mill Rd. Finally, my family relies upon the Marsh Creek Lake Reservoir and Great Marsh to maintain our water supply. The 12 and 8 inch lines traverse this water resource. My family does not live solely in our dwelling; we live in our community, and have rights to the use of public lands and trails near, or in, the Marsh Creek State Park, Marsh Creek Lake Dam, and Marsh Creek Marsh. My children and

I face a compounded risk of multiple pipelines filled with NGL's essentially 24 hours a day. I have now alleged and proven that (1) Sunoco's public awareness program is illegally deficient; (2) Sunoco is building and operating the Mariner East pipelines in a manner that is unsafe, unreasonable, and needlessly close to vulnerable populations, including due to corrosion problems that may be extensive, contrary to the legal requirements for Pennsylvania public utilities; I have alleged and proven Sunoco has engaged in a pattern and practice of violating state and federal law in the construction and operation of Mariner East pipelines; and that an independent investigation must be performed to determine whether and to what extent the Mariner East pipelines should continue to operate in Chester County. I have alleged and proven that the pipeline system as is has only been looked at through the most favorable lenses for continued operations and that in fact that makes the Commonwealth solely responsible for any risks involved in continued operation while Sunoco reaps untold rewards.

Federal regulations and the American Petroleum Institute API 1162 guidance adopted by federal regulations call for pipeline operators to inform the public of harms that could be caused by the release of HVLs from pipelines. Sunoco's various public awareness flyers have been distributed over the years are not adequate to inform the public does not know they are in danger, lacks candidate information about when and how to evacuate and does not take into account the unique risks and imminent danger that exposure and lack of proper awareness exposes the greater community too.

Myself and other lay witnesses who live or work in close proximity to the Mariner East pipelines and are expected to rely on Sunoco's public awareness program to keep ourselves safe however, the facts are clear that this approach simply risks a catastrophe. Especially, given the

fact that, given the county, township and school districts involvement and participation in this case that exposure to this risk is wholly on us to prepare, mitigate and provide recovery for. Across the board, these parties have expressed legitimate fear of being unprepared to deal with a worst-case scenario and have made clear to the courts they have a responsibility to be ready for known risks when it comes to emergency planning. This is true for each and every citizen and each agency or entity in the State of Pennsylvania.

Sunoco gave evidence purporting to show that it meets part of its public awareness obligations by providing extensive training to emergency responders, making grants to emergency services and otherwise maintaining communication as needed. However this part in partial approach to being a good corporate citizen does not comply with the legal standard.

I have alleged, and now demonstrated, that Sunoco's operation of the ME1 pipeline and the workaround pipeline does not meet its obligation under 66 Pa.C.S. § 1501 to provide safe, adequate and reasonable service. There have been serious problems with corrosion on both 12 and 8 inch lines, as both government investigations and Sunoco's own records have shown. Sunoco contends it meets its obligation to furnish safe service through implementation of practices based upon quantitative risk analysis. The Commission has an obligation to understand these risks as imposed to High Consequence Areas and determine if these risks belong here. They must take into account our population size, the character of the community, the existing emergency services available and weigh the good of keeping this pipeline system running vs the possible bad(s) keeping in mind that community vitality both in the long and short term is ultimately as strong as the Commission's ruling.

In Chester and Delaware Counties, Sunoco's horizontal directional drilling (HDD) activities have caused major subsidence events and contaminated water supplies. Sunoco's integrity management practices have caused preventable leaks and threatened future pipeline mishaps. An un-contradicted consequence analysis has shown how a pipeline rupture on an HVL line is more dangerous than such a rupture on a natural gas line and also that a safe escape from such an event is most unlikely for a person within a certain radius from the leak.

I have introduced evidence in this case that there are 19,000 people all living within the boundaries of Uwchlan Township and all within the blast zone of Mariner East. I have shown the character makeup of the people who reside here, the physical makeup of the land and the way it has been developed since the 1930's. I have explained my concern for the commercial corridors, the schools proximity to the lines, the fact that Uwchlan Township only has about 5 or fewer officers on duty at any given time. That county hazmat services needs time to respond that is well after immediate risk exposure, that my fire dept is a volunteer organization. That my fire house is in the blast zone. That my community designated evacuation center is in the blast zone and I would have to travel the pipeline route to get there. The Flynn Complainants' have demonstrated that the statistical value of a lost human life is \$10 million dollars. Sunoco offered no evidence by way of rebuttal on any of these issues.

Evidence given by Dr. Mehrood Zamanzadeh ("Dr. Zee") demonstrated that the 8-inch ME1 pipeline and the 12-inch workaround segment are substantially the same from a physical standpoint. Historic problems on these ancient pipelines support significant concerns that the 12-inch line is sufficiently corroded as to warrant an investigation into that pipeline's condition and its likely future.

I contend that there can be no realistic pipeline awareness plan, even if flyers are amended to reflect the possibility of burns and fatalities based on a culmination of 16 days of hearings. Even if the PUC has approved Sunoco's HVL service at one time, and even if Sunoco has taken some steps to reduce the risk of untoward events, the fact remains that in a serious disaster, evacuees will burn or die and the only help we will receive is a recovery. I believe that is neither adequate nor reasonable and, risks a catastrophe; therefore, Mariner East service must cease operations in Chester County.

3. STATEMENT OF THE QUESTIONS INVOLVED

1. Whether service is safe, and reasonable to the public, without a SPLP created early warning system, like odorant, available to all affected public; or, an appropriate system, that is in line with PA Title 35. **Suggested Answer:** No.
2. Whether, service is safe, adequate and reasonable given the current SPLP provided public awareness program, Sunoco's public awareness plan and practices that violate the mandates of 52 Pa. Code § 59.33, 49 CFR § 195.440, and API RP 1162. **Suggested Answer:** No.
3. Whether the current Emergency Alert System limitations,if, this pipeline system is safe, adequate and reasonable for the public given the characteristics of NGL's. **Suggested Answer:** No.

4. Whether this pipeline system is safe, adequate and reasonable to the public given the current evacuation procedures, plans and lack of the ability to create them. **Suggested Answer: No.**
5. Whether this pipeline system is safe, adequate and reasonable for the public given the lack of awareness program for children, subjective nature of self evacuation, and the characteristics and properties of NGL's. **Suggested Answer: No.**
6. Whether the Mariner East Pipeline System is comparable under CFR 195.6, if, backup water supplies can be supported by SPLP for the many stakeholders, including my family, that depend on this important water resource. **Suggested Answer: No.**
7. Whether the service is safe, adequate and reasonable given the lack of study for "resource scarcity" to the reservoir and large populations that depend on the water resource. **Suggested Answer: No.**
8. Whether service is safe, adequate and reasonable to the public given the lack of study to dam encroachments. **Suggested Answer: No.**
9. Whether it is safe, adequate and reasonable to transmit NGL's through the state park given the mission of the park and the protections that is outlined by Title 17. **Suggested Answer: No.**

10. Whether it is safe, adequate and reasonable to transmit NGL's through our "environmentally sensitive area", known as, Marsh Creek Great Marsh Watershed.

Suggested Answer: No.

11. Whether the Mariner East Pipeline Segments constructed using HDD, is safe, adequate and reasonable; given the lack of regulations associated with HDD, lack of, on file mitigation plans at depths associated with this project and lack of mitigation thereof.

Suggested Answer: No.

12. Whether the valve at Dorlin Mill Rd is safe, adequate and reasonable to the students and staff given the standards set out in CFR §195 as listed in Number 34 of this complaint; and the lack of study and requisite approvals as outlined in school code. **Suggested Answer:** No.

13. Whether service is safe, adequate and reasonable to the public given lack of planning and mitigation as outlined in Title 35 §7503 and all its pertinent parts. **Suggested Answer:** No.

14. Whether given the Stafford Act requirements, and given the current PEMA hazard insurance policy is a safe, adequate and reasonable risk to the Commonwealth.

Suggested Answer: No.

15. Whether the Mariner East Pipeline System belongs in its current and planned route through the high consequence areas of Chester County Counties. **Suggested Answer:** No.

16. Whether Sunoco has acted so unreasonably, inadequately, or unsafely that it has violated applicable Pennsylvania statutes and regulations. **Suggested Answer:** Yes.

4. ARGUMENT

State, counties and political subdivisions must address “ALL” known hazards that threaten the communities in which they reside. An impact analysis should be developed outlining at-risk populations, critical facilities, economic and environmental impacts, and other related issues as it relates to Mariner East as dictated by law. Sunoco alone is responsible to be open and honest with the emergency response community and create a complete hazards analysis in conjunction with the state ensuring the community is prepared to respond to potential disasters caused by their infrastructure. The following are items that should be considered for inclusion in every county or municipal emergency management program as defined by law. 1) a mitigation plan that includes a hazard analysis and vulnerability impacts 2) a current EOP 3) a viable communication system 4) a warning system 5) evacuation plans 6) designated and viable mass care shelters 7) education program for citizens 8) trained response personnel 9) an exercise/drill schedule 10) an up to date resource manual 11) intrinsically safe equipment for response personnel.

Sunoco has eluded its responsibilities as a good corporate citizen and has rendered the General Assemblies unable to perform its mandates as well. They are responsible to look more closely

at the valve next to the Marsh Creek 6th Grade Center. The assembly should look into, IF, the nature and scope of these threats is appropriate for Pennsylvanians through the Homeland Security Act of 2002, TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION Under Secretary for Information Analysis and Infrastructure Protection shall be as follows: (1) To access, receive, and analyze law enforcement information, intelligence information, and other information from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities, and to integrate such information in order to— (A) identify and assess the nature and scope of terrorist threats to the homeland; (B) detect and identify threats of terrorism against the United States; and (C) understand such threats in light of actual and potential vulnerabilities of the homeland. (2) To carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States (including an assessment of the probability of success of such attacks and the feasibility and potential efficacy of various countermeasures to such attacks). Counsel themselves have acknowledged not being able to let me see confidential security information related to that above ground facility because of terrorist concerns.

While, pipeline safety law and regulations expressly authorize the location and operation of hazardous volatile liquid pipelines in high consequence areas, such as the urbanized and heavily populated areas in Delaware and Chester counties. See 52 Pa. Code § 59.33(b) (incorporating 49 U.S.C.A. §§ 60101-60503 and 49 C.F.R. Part 195 regulations as safety standards for

hazardous liquid public utilities); 49 U.S.C. § 60109; 49 C.F.R. §§195.1(a)(1), 195.450 and 195.452. Not one agency, state or federal, has studied the consequences to the community or created emergency plans as directed by state and federal law or reviewed the location of this pipeline and related infrastructure.

Until such a time the state has created Title 35 compliant emergency plans specific for Mariner East I am being denied my Pennsylvania State Constitutional Rights. Like, section 1, All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation.

The Pipeline System is a public utility and therefore this is the proper and only way to raise issues regarding maintaining adequate, efficient, safe, and reasonable service and facilities, and the PUC can order SPLP to make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public.

5. Conclusions

My burden of proof has been met. There is no substantive evidence anywhere on the public record proving to the courts that the Utility has made any attempt to comply with Title 35.

Relief

I have proven that Sunoco has broken the laws under the Commission's jurisdiction, and that the Commission has full authority to remedy this lawlessness that endangers the public. I ask that the commission fully explore its powers under according to 49 U.S. Code § 60112. Pipeline facilities hazardous to life and property. (a) General Authority.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide that a pipeline facility is hazardous if the Secretary decides that—

(1) operation of the facility is or would be hazardous to life, property, or the environment; or

(2) the facility is or would be constructed or operated, or a component of the facility is or would be constructed or operated, with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment.

(b) Considerations.—In making a decision under subsection (a) of this section, the Secretary shall consider, if relevant—

(1) the characteristics of the pipe and other equipment used in the pipeline facility, including the age, manufacture, physical properties, and method of manufacturing, constructing, or assembling the equipment;

(2) the nature of the material the pipeline facility transports, the corrosive and deteriorative qualities of the material, the sequence in which the material are [1] transported, and the pressure required for transporting the material;

(3) the aspects of the area in which the pipeline facility is located, including climatic and geologic conditions and soil characteristics;

- (4) the proximity of the area in which the hazardous liquid pipeline facility is located to environmentally sensitive areas;
- (5) the population density and population and growth patterns of the area in which the pipeline facility is located;
- (6) any recommendation of the National Transportation Safety Board made under another law; and
- (7) other factors the Secretary considers appropriate.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 1.54 (relating to service by a party). This document has been filed via electronic filing:

VIA ELECTRONIC FILING

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Rebecca Britton



Pro Se
December 16, 2020

VERIFICATION

I, Rebecca Britton, hereby state that the facts above set forth are true and correct (or 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 held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).



Rebecca Britton
Pro se
December 16, 2020