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January 4, 2021

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

**Re: Glen Riddle Station, L.P. v. Sunoco Pipeline L.P.; Docket No. C-2020-3023129**

Dear Secretary Chiavetta:

Enclosed for electronic filing is an Answer to Sunoco's Preliminary Objections filed on behalf of Glen Riddle Station, L.P. If you have any questions with regard to this filing, please do not hesitate to contact me. Thank you.

Respectfully,

A handwritten signature in black ink, appearing to read 'Samuel W. Cortes', written over a light blue horizontal line.

Samuel W. Cortes

SWC:jcc  
Enclosure

cc: Per Certificate of Service

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**COMMONWEALTH OF PENNSYLVANIA  
BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GLEN RIDDLE STATION, L.P.,	:	DOCKET NO. C-2020-3023129
Complainant,	:	
	:	
v.	:	
	:	
SUNOCO PIPELINE L.P.,	:	
Respondent.	:	

**ANSWER TO PRELIMINARY OBJECTIONS OF SUNOCO PIPELINE, L.P., TO  
FORMAL COMPLAINT OF GLEN RIDDLE STATION, L.P.**

Pursuant to 52 Pa. Code § 5.101(f), Glen Riddle Station, L.P. (“GRS”), by and through its undersigned counsel, hereby files its Answer to the Preliminary Objections of Sunoco Pipeline L.P. (“Sunoco”) to the Formal Complaint of GRS (the “Complaint”). The Commission has the authority to remedy and abate Sunoco’s ongoing endangerment of the public, and in particular, the residents (the “GRS Residents”) and employees of GRS. See 66 Pa. C.S. §§ 701, 1501, 1505(a). Sunoco undoubtedly understands this fact. Yet, Sunoco brazenly asks the Commission find that Sunoco may recklessly endanger the health and safety of these individuals without answering to anyone for its conduct.

Sunoco suggests that no body is empowered to restrain its actions, which include, without limitation, compromising access to emergency responders, threatening to block the egress required to ensure safety during an emergency evacuation, needlessly risking exposure to dangerous, unmarked conditions, and allowing potentially dangerous structural issues to remain unabated, among many other ongoing serious safety concerns. Sunoco asks the Commission to find that – no matter the danger or risk to the public – Sunoco may do whatever it chooses on GRS’s property. Sunoco is wrong.

1. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Complaint, which speaks for itself. By way of further response, GRS denies that the Complaint should be dismissed, raises issues over which the Commission lacks jurisdiction, is legally insufficient, fails to state a claim on which relief can be granted, or has any legal defects. GRS further denies that it admits any failures with respect to its Complaint. The Commission has jurisdiction over the safety issues raised in the Complaint (raised in ¶¶ 44-117 and Exhibit P of the Complaint, the “Safety Issues”) and the Complaint alleges facts that could be construed as a violation by Sunoco of a statute, regulation, or order that the Commission has jurisdiction to administer by failing to operate in a reasonable and safe manner. See Baker v. Sunoco Pipeline, No. C-2018-3004294, Order Denying Preliminary Objections (Pa. P.U.C. 2019) (denying preliminary objections where complainant alleged facts “that could be construed as a violation by Sunoco of a statute, regulation or order which the Commission has jurisdiction to administer....”) Specifically, the Commission regulates public utilities engaged in the transportation or conveyance of natural or artificial gas, crude oil, gasoline, or petroleum products, materials for refrigeration, or oxygen or nitrogen, or other fluid substance, by pipeline or conduit for the public for compensation. 66 Pa. C.S. § 102. Section 501(a) of the Public Utility Code, 66 Pa. C.S. § 501(a), authorizes the Commission to execute and enforce the Public Utility Code. Section 102 of the Public Utility Code, 66 Pa. C.S. § 102, defines pipeline transportation services as public utility services. Section 701 of the Public Utility Code, 66 Pa. C.S. § 701, authorizes the Commission to hear and determine complaints against persons and corporations for a violation of any law or regulation that the Commission has jurisdiction to administer. Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501 (“Section 1501”), provides the Commission with original jurisdiction over claims of unreasonable or unsafe conditions with

respect to a public utility service. See id.; see also Baker v. Sunoco Pipeline, No. C-2018-3004294, 2019 WL 7403546, \*\*12-13 (Pa. P.U.C. 2019). Section 1505(a) of the Public Utility Code, 66 Pa. C.S. § 1505(a) (“Section 1505”), provides that when the Commission “finds that the service or facilities of any public utility are unreasonable, unsafe, inadequate, insufficient, or unreasonably discriminatory, or otherwise in violation of this part, the commission shall determine and prescribe, by regulation or order, the reasonable, safe, adequate, sufficient, service or facilities to be observed, furnished, enforced, or employed, including all such repairs, changes, alterations, extensions, substitutions, or improvements in facilities as shall be reasonably necessary and proper for the safety, accommodation, and convenience of the public.” 66 Pa. C.S. § 1505(a). “The Commission regulations include the requirement that the public utility ‘exercise reasonable care to reduce the hazards to which employees, customers, and others may be subjected to by reason of its equipment and facilities.’” 52 Pa. Code § 59.33(a). The regulations also require that hazardous liquid utilities have minimum safety standards consistent with the pipeline safety laws at 49 U.S.C. §§ 60101-60503 and the regulations at 49 CFR Parts 191-193, 195 and 199. 66 Pa. C.S. § 502 authorizes the Commission to use its equitable powers to restrain violations of the Public Utility Code, applicable regulations, and/or orders of the Commission, and to enforce obedience with respect to same. 66 Pa. C.S. § 502. Sunoco’s conduct and failure to take appropriate steps to address and/or rectify the Safety Issues constitute violations of the Public Utility Code.

2. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and is improperly attempting to characterize the Complaint, which speaks for itself. GRS further denies that the allegations regarding the violation of the public awareness regulations and Sunoco’s public awareness plan fail as a matter of law or are legally insufficient. GRS denies that “public awareness” applies only to operational pipelines and further denies that

the construction of “new pipelines” is the entire basis of the allegations in the Complaint. Even if the Commission were to find that the Complaint is based entirely on “new pipelines,” which it is not (as the work concerns existing lines as well), the Public Awareness Plan (defined below) applies to the Pipeline Project because Sunoco specifically adopted its Public Awareness Plan for its work on the Pipeline Project (defined below). [See Ex. B to the Complaint (Public Awareness Plan), generally]; see also August 18, 2018 Dinniman Order (defined below), at pp. 7, 10-14. Sunoco has admitted that the Public Awareness Plan and SOPs (both defined below) apply to its work on Sunoco’s Mariner East 2 pipeline project (the “Pipeline Project”), including, without limitation, its work on that Pipeline Project at the property known as the Glen Riddle Station Apartments in Middletown Township, Delaware County, Pennsylvania, Tax Parcel ID No. 27-00-00780-00 (the “Property”). [See Ex. B to the Complaint (Public Awareness Plan), generally]; see also August 18, 2018 Dinniman Order (defined below), at pp. 7, 10-14. As set forth in paragraphs 25-44 of the Complaint, in an action before the Commission commenced by State Senator Andrew E. Dinniman, at Docket Nos. P-2018-3001453 and C-2018-3001451 (the “Dinniman Action”), the Commission temporarily enjoined Sunoco from performing work on the Pipeline Project in Chester County, Pennsylvania. In the Dinniman Action, the Commission ordered Sunoco to submit a public awareness plan demonstrating how it intended to better communicate with four groups: affected public; emergency officials; public officials; and excavators. Dinniman v. Sunoco Pipeline, L.P., Nos. P-2018-3001453, C-2018-3001451 (Pa. P.U.C. June 15, 2018) (the “June 15<sup>th</sup> Dinniman Opinion and Order”). On June 22, 2018, Sunoco filed the required public awareness plan (the “Public Awareness Plan”) and certain of its standard operating procedures (“SOPs”) with the Commission pertaining to its work within Pennsylvania on the Pipeline Project. [See Public Awareness Plan, and relevant SOPs contained therein, a true and correct copy of which

is attached to the Complaint as Exhibit B.<sup>1</sup>] Sunoco acknowledged that it is bound by the terms of the Public Awareness Plan and SOPs for all of its work on the Pipeline Project. [See Ex. B to the Complaint (Public Awareness Plan), generally]; see also August 18, 2018 Dinniman Order, at pp. 7, 10-14.

Here, the Complaint alleges that the work being done on the Property by Sunoco is part of the Pipeline Project. [See Complaint, ¶¶ 12-16, and generally]. As set forth in the Complaint, Sunoco has alleged that its work on the Property is part of the Pipeline Project. See id.; see also, In Re: Condemnation By Sunoco Pipeline L.P. Of Temporary Workspace Easement And For The Transportation Of Ethane, Propane, Liquid Petroleum Gas, And Other Petroleum Products In Middletown Township, Delaware County, Pennsylvania, Over the Lands of Glen Riddle Station, L.P., No. CV-2020-003193 (the “Taking Action”). [Id.]

The Public Awareness Plan itself also demonstrates Sunoco’s intent for the Public Awareness Plan and SOPs to apply to the work on the Pipeline Project at the Property. The Public Awareness Plan requires, among other things, that Sunoco undertake certain activities, including group meetings, personal contacts, and the distribution of print materials, “*for any planned major maintenance/construction activity.*” [See Ex. B (Public Awareness Plan), at pp. 5-15, at Procedure No. HLA.17, 7.0-7.4.5 (emphasis added).] After Sunoco filed the Public Awareness Plan, the Commission reviewed Sunoco’s compliance with the directives set forth in its June 15, 2018 Order. See Dinniman v. Sunoco Pipeline, L.P., Nos. P-2018-3001453, C-2018-3001451 (Pa. P.U.C. August 18, 2018) (“August 18, 2018 Dinniman Order”). The Commission found Sunoco’s Public Awareness Plan and SOPs compliant with the Commission’s June 15, 2018 Order, while

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<sup>1</sup> The Public Awareness Plan contains Sunoco’s SOPs relating to, among other things, Sunoco’s communications with stakeholders, safety issues, and compliance. [Ex. B to the Complaint (Public Awareness Plan).]

recognizing that Sunoco’s “ongoing implementation of the outlined policies and notice requirements . . . is a separate and ongoing compliance matter” that is properly within the jurisdiction of the Commission. [Id., at pp. 24-25]; see also Baker, 2019 WL 7403546, at \*\*12-13 (holding that the Commission has jurisdiction over unsafe conditions relating to Sunoco’s Pipeline Project). In the Dinniman Action, Sunoco represented to the Commission that it would comply with the Public Awareness Plan and its SOPs for its work throughout Pennsylvania and that this compliance would resolve the serious safety and communication complaints at issue in the Dinniman Action. [See Ex. B (Public Awareness Plan), at p. 1, at Section 1.0, Purpose]; see also August 18, 2018 Dinniman Order, at pp. 7, 10-14. Additionally, through its Public Awareness Plan, Sunoco promised the Commission “continuous improvement in communications with a variety of key audiences in the communities where [] [Sunoco] operates pipelines.” [See Ex. B (Public Awareness Plan), at p. 1, at Section 2.0, Scope]; see also August 18, 2018 Dinniman Order, at pp. 7, 10-14.

Further, even if the Commission finds that the Public Awareness Plan does not apply to Sunoco’s work on the Pipeline Project at the Property, the Safety Issues are within the jurisdiction of the Commission regardless of the applicability of the Public Awareness Plan. GRS admits that 49 C.F.R. § 195.440 requires Sunoco to “implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute’s (API) Recommended Practice (RP) 1162 (incorporated by reference, see § 195.3),” and that Sunoco’s program “follow the general program recommendations of API RP 1162 and assess the unique attributes and characteristics of the operator’s pipeline and facilities.” § 195.440 Public awareness., 49 C.F.R. § 195.440. Additionally, Sunoco’s general safety obligations also extend to the Pipeline Project, including, without limitation, its work on that Pipeline Project at the Property 00780-00. [See Ex.

B (Public Awareness Plan), to the Complaint generally]; see also 49 C.F.R. § 195.440, 52 Pa. Code § 59.33(a).

3. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Complaint, which speaks for itself. GRS denies that it is “attempting to frame allegations as ‘safety concerns.’” To the contrary, the Safety Issues and communication failures set forth in the Complaint *are* safety concerns with immediate and potentially catastrophic consequences to the GRS Residents, the employees of GRS, and others. GRS admits that it has an “issue” with Sunoco’s occupancy of Temporary Easement and permanent easement (the “Easements”) and asserts that the “issue” is not Sunoco’s general occupancy and use of the Easements, as Sunoco alleges, but rather, Sunoco’s failure to conduct its activities in a reasonable and safe manner, and its failure to exercise reasonable care to reduce the hazards to which employees, customers, and others are subjected by reason of Sunoco’s personnel, equipment, and facilities. These are matters within the scope of the Commission’s jurisdiction as set forth in paragraph 1 above, which is incorporated by reference as though set forth here in full. GRS denies that the Complaint is impertinent or that it is aimed at asking the Commission to enforce Sunoco’s compliance with municipal ordinances. GRS raises Sunoco’s troubling disregard of the ordinances promulgated by Middletown Township, Delaware County, Pennsylvania (the “Township”), pertaining to the safety of the Township’s residents, to evidence Sunoco’s failure to comply with its legal obligations outlined in paragraph 1 above. By way of example and as set forth in the Complaint, Sunoco’s failure to comply with the Township’s Zoning Ordinance pertaining to parking puts the safety of the GRS Residents, employees, and public at risk by potentially forcing them to traverse a major PennDOT roadway by foot. [Complaint, ¶¶ 57-66.] Sunoco’s failure to ensure alternate access for emergency vehicles violates various Township



Zoning Ordinances *because* it endangers the safety of Township residents – including the GRS Residents, employees, and the public. [Id., ¶¶ 67-73.] Sunoco’s failure to show any attempt to comply with the ordinances in place to keep the Township residents safe is exactly the kind of dangerous action that the Commission regulates. See 66 Pa. C.S. §§ 1501, 1505(a). Plainly, the failure to comply with local ordinances enacted to provide for the public health, welfare, and safety is evidence of a failure to comply with the legal obligations set forth in paragraph 1, above. The Commission is the body authorized to regulate Respondent’s conduct with respect to safety issues at the Property as set forth in detail in paragraph 1 above. Id.

4. Denied. GRS denies these averments as conclusions of law requiring no response. By way of further response, the Complaint is not deficient for the reasons set forth in paragraphs 1-3 above, which are incorporated by reference as though set forth here in full.

5. Admitted in part and denied in part. GRS admits only that the Complaint raises allegations concerning Sunoco’s violations of requirements set forth in the November 17, 2020 Order of the Pennsylvania Secretary of Health and Governor Wolf’s November 23, 2020 Order relating to face coverings and social distancing. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Complaint, which speaks for itself. GRS further denies that the Complaint should be dismissed or that the Complaint raises issues over which the Commission lacks jurisdiction. The Complaint states a claim based on Sunoco’s failure to operate in a reasonable and safe manner in violation of Sections 1501 and 1505, as set forth in paragraph 1 above, which is incorporated as though set forth in full. Sunoco’s failure to take appropriate steps to ensure that its employees are adhering to the minimal government safety requirements set forth in the November 17, 2020 Order of the Pennsylvania Secretary of Health and Governor Wolf’s November 23, 2020 Order relating to preventative

measures like face coverings and social distancing is evidence of Sunoco's failure to operate in a reasonable and safe manner as required by Sections 1501, 1505 and 52 Pa. Code § 59.33(a), particularly given that the GRS Residents include those within the "high risk" category for adverse outcomes resulting from the contracting the novel coronavirus. See Baker and Blume v. SPLP, No. C-2020- 3022169, Initial Decision, at pp. 11-12 (Pa. PUC Dec. 8, 2020) ("[Sunoco's] decisions are generally subject to review by the [Commission] to determine whether Sunoco's services and facilities 'are unreasonable, unsafe, inadequate, insufficient, or unreasonable discriminatory, or otherwise in violation of the Public Utility Code.' As a regulated public utility providing intrastate pipeline transportation services under the Public Utility Code, Sunoco must furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall 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." Id. (citing 66 Pa. C.S. §§ 1501, 1505(a)).

6. Admitted in part and denied in part. GRS admits only that the Complaint raises allegations concerning Sunoco's improper handling of a leak that occurred at the Property and inadequate management of storm water. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Complaint, which speaks for itself. GRS further denies that the Commission lacks jurisdiction over these allegations. In addition to complying with the environmental statutes referenced in GRS's Complaint, Sunoco must also manage its construction activities in a safe and reasonable manner in accordance with Sections 1501 and 1505. Thus, paragraphs 87-108 and 112-117 of GRS's Complaint concerning Sunoco's improper handling of a leak that occurred at the Property and management of storm water concern violations of Sections 1501 and 1505. Specifically, Sunoco

failed to provide GRS with adequate information regarding a leak at the Property, depriving GRS of the ability to assure the GRS Residents that the leak did not pose a threat to health, safety, or the environment. Further, GRS's Complaint alleges violations of Sections 1501 and 1505 based on Sunoco's management of storm water while performing work at the Property. Specifically, GRS alleges that Sunoco's current management of storm water violates Sections 1501 and 1505 because it creates safety hazards for the GRS Residents. GRS's Complaint challenges Sunoco's construction of the Pipeline at the Property in a manner that is without consideration of the safety of GRS's Property and the GRS Residents.

7. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Complaint, which speaks for itself. GRS denies that the Complaint should be dismissed, is legally insufficient, fails to state a claim on which relief can be granted, or has any legal defects. GRS specifically denies that the Complaint constitutes an effort to "substitute [GRS's] preferences or discretion to micro-manage [Sunoco's] construction practices" and that its Complaint is legally insufficient under the doctrine of managerial discretion. To the contrary, GRS's Complaint alleges violations of Sections 1501 and 1505 based on safety issues relating to Sunoco's failure to operate its construction of the Pipeline at the Property in a reasonable and safe manner. See Baker and Blume, Docket No. C-2020-3022169, Initial Decision, at pp. 11-12 (Barns, J) ("[Sunoco's] decisions are generally subject to review by the [Commission] to determine whether Sunoco's services and facilities 'are unreasonable, unsafe, inadequate, insufficient, or unreasonable discriminatory, or otherwise in violation of the Public Utility Code). GRS incorporates paragraph 1 above by reference as though set forth here in full. By way of further response, the Commission is empowered to intervene where, as here, "there has been an abuse of managerial discretion, and the public interest has been

adversely affected thereby.” Metropolitan Edison Co. v. Pa. PUC, 437 A.2d 76, 80 (Pa. Commw. Ct. 1981) (discussing a utility company’s right to self manage except in circumstances where the utility abuses its managerial discretion or an arbitrary action of the utility is shown). Here, the Safety Issues raised in GRS’s Complaint, including those relating to the manner of Sunoco’s construction at the Property, constitute an abuse of Sunoco’s managerial discretion, are adverse to the public interest, and warrant the Commission’s intervention.

8. Admitted in part and denied in part. GRS denies these averments as conclusions of law requiring no response. By way of further response, GRS admits only that the Commission’s regulations allow a respondent to file preliminary objections in response to a pleading as set forth in 52 Pa. Code. § 5.101(a). GRS further admits, “Commission preliminary objection practice is analogous to Pennsylvania civil practice regarding preliminary objections.” Baker, No. C-2018-3004294, Order Denying Preliminary Objections (citing, Equitable Small Transportation Intervenors v. Equitable Gas Co., 1994 Pa PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994)). GRS further admits, “preliminary objections in civil practice requesting dismissal of a pleading will be granted only where the right to relief is clearly warranted and free from doubt.” Id. (citing, Interstate Traveler Services, Inc. v. Pa. Dept. of Environment Resources, 406 A.2d 1020 (Pa. 1979); Rivera v. Phila. Theological Seminary of St. Charles Borromeo, Inc., 595 A.2d 172 (Pa. Super. Ct. 1991)). By way of further response, preliminary objections before the Commission, unlike those filed in civil practice, are limited to the bases set forth in 52 Pa. Code § 5.101(a).

9. Admitted in part and denied in part. GRS denies the averments as conclusions of law requiring no response. By way of further response, GRS denies any implication in this paragraph that it is not entitled to relief based on the facts and law averred in the Complaint. GRS

admits that the Commission “must accept as true for purposes of disposing of the motion all well pleaded, material facts of the nonmoving party, as well as every inference from those facts.” Id. (citing, County of Allegheny v. Commw. of Pa., 490 A. 2d 402 (Pa. 1985); Commw. of Pa. v. Bell Telephone Co. of Pa., 551 A.2d 602 (Pa. Commw. Ct. 1988)). The Commission must view the Complaint in the light most favorable to GRS and dismiss the Complaint ***only if GRS would not be entitled to relief under any circumstances as a matter of law.*** Id. (citing, Equitable Small Trans. Intervenors v. Equitable Gas Co., 1994 Pa PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994) (emphasis added)).

10. Admitted in part and denied in part. GRS denies the averments as conclusions of law. By way of further response, GRS denies any implication in this paragraph that the Complaint is legally insufficient. GRS admits only that 52 Pa Code § 5.22(a)(4) contains the standard for legal insufficiency for complaints before the Commission.

11. Admitted in part and denied in part. GRS denies the averments as conclusions of law requiring no response. By way of further response, GRS denies any implication in this paragraph that the Commission lacks jurisdiction over the averments in the Complaint. GRS admits only that the Commission must act within its jurisdiction and that it is “created by statutory law, [and] derives its authority from legislative action.” City of Pittsburgh v. Pa. P.U.C., 43 A.2d 348 (Pa. Super. Ct. 1945) (citing, West Penn Rys. Co. v. Pa. P.U.C., 4 A.2d 545 (Pa. Super. Ct. 1939) By way of further response, the Commission has jurisdiction over the averments in the Complaint. Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501, provides the Commission with original jurisdiction over claims of unreasonable or unsafe conditions with respect to a public utility service. See id., see also Baker, 2019 WL 7403546, \*\*12-13 (Pa. P.U.C. 2019). Section 1505(a) of the Public Utility Code, 66 Pa. C.S. § 1505(a), provides that when the Commission

“finds that the service or facilities of any public utility are *unreasonable, unsafe*, inadequate, insufficient, or unreasonably discriminatory, or otherwise in violation of this part, *the commission shall determine and prescribe, by regulation or order, the reasonable, safe*, adequate, sufficient, service or facilities to be observed, furnished, enforced, or employed, including all such repairs, changes, alterations, extensions, substitutions, or improvements in facilities *as shall be reasonably necessary and proper for the safety*, accommodation, and convenience of the public.” 66 Pa. C.S. § 1505(a) (emphasis added). This includes construction work undertaken by the public utility. [See Ex. B (Public Awareness Plan), at pp. 5-15, at Procedure No. HLA.17, 7.0-7.4.] “The Commission regulations include the requirement that the public utility ‘exercise reasonable care to reduce the hazards to which employees, customers, and others may be subjected to by reason of its equipment and facilities.’” 52 Pa. Code § 59.33(a). The regulations also require that hazardous liquid utilities have minimum safety standards consistent with the pipeline safety laws at 49 U.S.C. §§ 60101-60503 and the regulations at 49 CFR Parts 191-193, 195 and 199. 66 Pa. C.S. § 502 authorizes the Commission to use its equitable powers to restrain violations of the Public Utility Code, applicable regulations, and/or orders of the Commission, and to enforce obedience with respect to same. 66 Pa. C.S. § 502.

12. Admitted in part and denied in part. GRS denies this averment insofar as it characterizes the Complaint, which speaks for itself. By way of further response, GRS denies any implication that the communication failures alleged in the Complaint do not constitute violations of 49 C.R.F. § 195.40 and/or Sunoco’s Public Awareness Plan. GRS further denies that any implication that communications between GRS and Sunoco in general that do not involve Sunoco meaningfully responding to the Safety Issues in any way satisfy Sunoco’s legal obligations. GRS denies that the Complaint sets forth a “plethora of communications” or any meaningful

communications regarding the Safety Issues. The circumstances pertaining to the lack of communications regarding the Safety Issues are set forth in the Complaint. [See Complaint ¶¶ 118-124.] Since the Complaint was filed, Sunoco's communication failures have persisted and, despite GRS's attempts, Sunoco has not demonstrated any genuine interest in resolving these communication failures. By way of further response, if Sunoco is making any representations regarding the communications between GRS and Sunoco, such representations constitute an improper "speaking demurrer" and the Commission should disregard the assertion. See Armstrong Cnty. Memorial Hosp. v. Dep't. of Public Welfare, 67 A.3d 160, 170 (Pa. Commw. Ct. 2013) (citing, Martin v. Dep't. of Transp., 556 A.2d 969, 971 (Pa. Commw. Ct. 1989) and explaining that "a demurrer cannot aver the existence of facts not apparent from the face of the challenged pleading.")

13. Denied. GRS denies this averment insofar as it characterizes the Complaint, which speaks for itself. By way of further response, GRS denies any implication that Sunoco's work on the Pipeline Project at the Property is somehow exempt from compliance with the law and regulations identified in the Complaint. GRS incorporates paragraph 2 above as though set forth here in full. GRS denies that Sunoco's work on the ME2 pipeline, which GRS has defined as the "Pipeline Project," is not covered by the Safety Awareness Plan or SOPs. To the contrary, Sunoco has expressly admitted that its work on the Pipeline Project is subject to the Safety Awareness Plan and SOPs as set forth in the Complaint and in paragraph 2 above, which is incorporated by reference as though set forth here in full. In fact, the Commission acknowledged that it has jurisdiction over such matters. See Dinniman, Nos. P-2018-3001453, C-2018-3001451, August 18, 2018 Dinniman Order, pp. 24-25.

14. Admitted in part and denied in part. GRS denies this averment insofar as it characterizes the Complaint, which speaks for itself. By way of further response, GRS admits only that the Complaint alleges that Sunoco has violated its own Public Awareness Plan and 49 C.F.R. § 195.440. GRS denies that this is the only violation of law that it alleges in the Complaint. GRS alleges Sunoco violated numerous legal obligations to operate in a safe manner, which include the communication failures as well as all of the other Safety Issues set forth in the Complaint.

15. Admitted in part and denied in part. GRS denies this averment as a conclusion of law requiring no response. By way of further response, GRS admits only that 49 C.F.R. § 195.440 is a regulation governing public awareness for hazardous liquid pipelines and that it applies to Sunoco's work on the Pipeline Project. Upon information and belief, it applies to Sunoco's pipelines generally. GRS denies any implication that 29 C.F.R. § 195.440 is the only regulation that pertains to public awareness regarding Sunoco's work on the Pipeline Project. Regulations set forth in the Complaint and paragraph 1 above relate to the safety of the impacted public, which may include, without limitation, the public's awareness of certain aspects of Sunoco's work on the Pipeline Project.

16. Admitted in part and denied in part. GRS denies this averment as a conclusion of law requiring no response. By way of further response, GRS admits only that 49 C.F.R. § 195 has various subparts, but denies that the titles or structure of those subparts bar relief in this case. 49 C.F.R. § 195(a) references § 195.3 which incorporates by reference "API Recommended Practice 1162, Public Awareness Programs for Pipeline Operators," 1st edition, December 2003, (API RP 1162), IBR approved for § 195.440(a), (b), and (c)." GRS denies any implication that the Public Awareness Program does not apply to Sunoco's work on the Pipeline Project as set forth



in paragraph 2 above, which is incorporated by reference as though set forth here in full. By way of further response, if the Commission were to find that Sunoco's work on the Pipeline Project at the Property is "new pipeline construction" as that term is used in the API RP 1162, GRS denies that API RP 1162 "expressly states it does *not* apply to new pipeline construction." (Emphasis in the referenced averment). API RP 1162, as Sunoco also avers, states that it is not "intended *to focus on* public awareness activities appropriate for new pipeline construction...." Id., p. 1, § 1.2 (emphasis added). API RP 1162 states that the reason it does not *focus on* new pipeline construction is because "communication regarding construction of new pipelines is highly specific to the type of pipeline system, scope of the construction, and the community and state in which the project is located." Id.

Here, as set forth in paragraph 2 above, Sunoco has adopted its Public Awareness Plan specifically for its work on the Pipeline Project in Pennsylvania. Further, API RP 1162 contemplates supplemental program enhancement where there are significant right-of-way encroachments or potential for third-party damage. Id., §§ 6.3.2. and 6.2.4. Although this appears in the context of encroachment by third-parties into the right-of-way, the guidance aims to reduce hazards associated with unsafe conditions in the right-of-way. GRS alleges unsafe conditions in the right-of-way in the Complaint. Additionally, as set forth in paragraphs 1 and 2 above, the Safety Issues and violations alleged in the Complaint are not governed exclusively by 49 C.F.R. § 195, nor is the Commission's authority to rectify them limited to enforcing the Safety Awareness Plan and SOPs.

17. Denied. GRS denies these averments as conclusions of law requiring no response. By way of further response GRS denies that its allegations regarding Sunoco's failure to follow its Public Awareness Plan or public awareness regulations in 49 C.F.R. § 195 fail to state a claim as

a matter of law. GRS also denies that the Safety Issues, communication failures, and violations alleged in the Complaint are governed or were alleged to be governed exclusively by 49 C.F.R. § 195. Further, the Commission's authority to address the Safety Issues, communication failures and alleged violations is not limited to enforcing the Safety Awareness Plan and SOPs.

18. Admitted in part and denied in part. GRS denies this averment insofar as it contains conclusions of law requiring no response and is improperly attempting to characterize the Complaint, which speaks for itself. By way of further response, GRS admits only that the Complaint alleges Sunoco's failure to comply with local municipal ordinances pertaining to, among other things, Sunoco's failure to ensure adequate parking for the GRS Residents and Sunoco's failure to ensure adequate access to the Property by emergency vehicles. [Complaint, ¶¶ 57-74, 75-78.] GRS additionally alleges Sunoco's failure to review certain inspections of the Property prior to construction. [Complaint, ¶¶ 109-111.] GRS further alleged that Sunoco failed to even notify the Township of the Temporary Easements, nor did Sunoco provide its work plans for the Property to the Township. [Complaint, ¶ 121.] GRS denies any implication that these allegations are impertinent.

19. Admitted in part and denied in part. GRS denies these averments as conclusions of law. By way of further response, GRS admits that the Commission does not adjudicate the validity and scope of easements. GRS denies that it is asking the Commission to adjudicate the validity or scope of the Easements. To the contrary, GRS is asking the Commission to exercise its jurisdiction to adjudicate the unsafe manner in which Sunoco is conducting its work both within – and often times outside of – the Easements.

20. Admitted in part and denied in part. GRS denies these averments as conclusions of law. By way of further response, GRS admits that the Commission must act within its jurisdiction

and that it is “created by statutory law, derives its authority from legislative action.” City of Pittsburgh, 43 A.2d at 348 (citing, West Penn Rys. Co., 4 A.2d at 545.) GRS denies that the Commission lacks the jurisdiction to adjudicate the matters raised in the Complaint for the reasons set forth in paragraphs 1, 2, and 3 above, which are incorporated by reference as though set forth here in full. GRS denies that it invites the Commission to adjudicate compliance with municipal ordinances or with GRS’s preferences. To the contrary, GRS asks the Commission to exercise its authority to remedy and abate Sunoco’s ongoing endangerment of the public, and in particular, the GRS Residents and employees of GRS. See 66 Pa. C.S. §§ 1501, 1505(a).

21. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Complaint, which speaks for itself. By way of further response, GRS denies that any of the averments in the Complaint have been “concocted” or “exaggerated.” Sunoco’s assertions regarding the veracity of GRS’s allegations are irrelevant to the Preliminary Objections and constitute an improper “speaking demurrer” such that the Commission should disregard the assertions. See Armstrong Cnty. Memorial Hosp., 67 A.3d at 170 (Pa. Commw. Ct. 2013) (citing, Martin, 556 A.2d at 971 (Pa. Commw. Ct. 1989) and explaining that “a demurrer cannot aver the existence of facts not apparent from the face of the challenged pleading.”) GRS also denies the implication that the Safety Issues raised in the Complaint do not constitute actual safety concerns. GRS denies that the basic safety and wellbeing of its GRS Residents, employees, and the public is something that must be negotiated for by contract or exclusively enforced by contract (although Sunoco *did* recognize its legal obligation to ensure compliance with all applicable environmental, health and safety laws, standards, and regulations). [Complaint, ¶ 24.] GRS denies that its Complaint is a collateral attack

on either the permanent or temporary easements (as those easements are described and defined in the Complaint).

Collateral estoppel bars a subsequent lawsuit where “(1) an issue decided in a prior action is identical to one presented in a later action, (2) the prior action resulted in a final judgment on the merits, (3) the party against whom collateral estoppel is asserted was a party to the prior action or is in privity with a party to the prior action, and (4) the party against whom collateral estoppel is asserted had a full and fair opportunity to litigate the issue in the prior action.” See Baker, No. C-2018-3004294, Order Denying Preliminary Objections (citing, Rue v. K-Mart Corp., 713 A.2d 82 (Pa. 1998); Stilp v. Com. of Pa., et al., 910 A.2d 775, 784 (Pa. Commw. Ct. 2006)). The permanent easement, as Sunoco recognizes, is a contractual obligation and not an action resulting in final judgment on the merits. As such, any allegation that this action is a “collateral attack” on the permanent agreement fails. Further, the Taking Action, which has not yet resulted in a final judgment on the merits, does not seek adjudication of the dangerous and flagrant Safety Issues set forth in the Complaint. As set forth in paragraph 1 above, which is incorporated by reference as thought set forth here in full, the Taking Action is not the appropriate forum to adjudicate the Safety Issues because they are within the jurisdiction of the Commission. The Safety Issues do not pertain to the scope of the Easements, but rather, to Sunoco’s endangerment of the physical safety of the GRS Residents, employees, and the public, by compromising their access to emergency responders, blocking egress required to ensure safety during an emergency evacuation, needlessly risking their exposure to dangerous, unmarked, conditions, and allowing potentially dangerous structure issues to remain unabated. [See Complaint, generally and at its Exhibit P.] Similarly, the Complaint does not seek to alter the scope of the easements – only to remedy and abate Sunoco’s dangerous conduct.

22. Admitted in part and denied in part. GRS denies these averments as inappropriately characterizing the Complaint and the permanent easement, which speak for themselves. GRS admits only that it alleges that Sunoco has created safety concerns through its use of the Property – both within and outside of the Easements. Specifically, GRS raises the Safety Issues, including, without limitation, Sunoco’s attempted use of the Property without communicating with or planning for the safety of the GRS Residents or employees. [See Complaint, generally and at its Exhibit P.] GRS denies that the permanent easement provides Sunoco with the right to operate in an unreasonable and unsafe manner, or that the Commission lacks jurisdiction to address the Safety Issues because of the permanent easement for the reasons set forth in paragraphs 1-3 above, which are incorporated by reference as though set forth here in full.

23. Denied. GRS denies these averments as inappropriately characterizing the Complaint and the permanent easement, which speak for themselves. By way of further response, GRS alleges that Sunoco has acted in blatant disregard for the safety of the GRS Residents, employees, and others by failing to fence off and, in some instances, even mark the work areas and leaving hazardous portions of its work area unenclosed over the weekend. [Complaint, ¶¶ 76-78.] GRS denies that the existence of the permanent easement permits Sunoco to operate in an unreasonable or unsafe manner, or that the Commission lacks jurisdiction to address the Safety Issues, including, without limitation, those set forth in paragraphs 75-78 of the Complaint because of the permanent easement for the reasons set forth in paragraphs 1-3 above, which are incorporated by reference as though set forth here in full.

24. Denied. GRS denies these averments as inappropriately characterizing the Complaint and the permanent easement, which speak for themselves. By way of further response, GRS alleges that Sunoco has acted in blatant disregard for the safety of the GRS Residents,

employees, and others by failing to fence off and, in some instances, even mark the work areas and leaving hazardous portions of its work area unenclosed over the weekend. [Complaint, ¶¶ 76-78.] GRS denies that the existence of the permanent easement permits Sunoco to operate in an unreasonable or unsafe manner, or that the Commission lacks jurisdiction to address the Safety Issues, including, without limitation, those set forth in paragraphs 75-78 of the Complaint because of the permanent easement for the reasons set forth in paragraphs 1-3 above, which are incorporated by reference as though set forth here in full.

25. Denied. GRS denies these averments as inappropriately characterizing the Complaint, which speaks for itself. By way of further response, GRS does not allege that Sunoco's use of the easement will result in violations of municipal ordinances – it alleges that the reckless and unsafe manner in which Sunoco operates both within and outside its Easements is actionable and properly addressed before the Commission.

26. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response. The Commission has jurisdiction set forth in paragraph 3 above, which is incorporated by reference as though set forth here in full.

27. Admitted in part and denied in part. GRS admits that paragraphs 79-86 of its Complaint concern Sunoco's failure to follow government mandated pandemic safety protocols. GRS denies that paragraphs 79-86 only concern Sunoco's failure to adhere to the government's face covering mandates. By way of further response, paragraphs 79-86 of GRS's Complaint also concern Sunoco's failure to adhere to the social distancing and other preventative directives set forth in Governor Wolf's November 23, 2020 Order.

28. Denied. GRS denies this averment as improperly attempting to characterize the Complaint, which speaks for itself. GRS further denies that the Complaint should be dismissed or

that the Complaint raises issues over which the Commission lacks jurisdiction. Contrary to Sunoco's claims, the Commission has jurisdiction over the safety issues raised in paragraphs 79-86 of GRS's Complaint, and the Complaint states a cause of action based on Sunoco's failure to operate in a reasonable and safe manner as set forth in paragraph 1 above, which is incorporated as though set forth here in full. Sunoco's failure to take appropriate steps to ensure its employees are adhering to the government safety requirements set forth in the November 17, 2020 Order of the Pennsylvania Secretary of Health and Governor Wolf's November 23, 2020 Order relating to face coverings and social distancing is evidence of Sunoco's failure to operate in a reasonable and safe manner as required by Sections 1501, 1505, and 52 Pa. Code § 59.33(a), particularly considering the high risk status of certain of the GRS Residents. See Baker and Blume, No. C-2020-3022169, Initial Decision, at pp. 11-12 (Pa. PUC Dec. 8, 2020) (“[Sunoco’s] decisions are generally subject to review by the [Commission] to determine whether Sunoco’s services and facilities ‘are unreasonable, unsafe, inadequate, insufficient, or unreasonable discriminatory, or otherwise in violation of the Public Utility Code. As a regulated public utility providing intrastate pipeline transportation services under the Public Utility Code, Sunoco is expressly required to furnish and maintain adequate, efficient, safe and reasonable service and facilities, and shall 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.’” (citing, 66 Pa. C.S. §§ 1501, 1505(a)).

29. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response. GRS further denies any implication that the Commission lacks jurisdiction for the reasons set forth in paragraph 28 above, which are incorporated by reference as though set forth here in full. By way of further response, GRS denies Sunoco's allegation because its

employees are outside and within the confines of its easement, and not within six feet of GRS or the GRS Residents that its employees are not required to adhere to the government safety requirements set forth in the November 17, 2020 Order of the Pennsylvania Secretary of Health and Governor Wolf's November 23, 2020 Order. By way of further response, GRS became aware of one instance of noncompliance by contractors on its Property and immediately addressed it in writing.

30. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response. GRS further denies that its Complaint seeks a determination by the Commission that Sunoco violated environmental laws and/or permitting issues. With respect to the Commission's jurisdiction over the safety issues raised in paragraphs 87-108 and 112-117, GRS's Complaint states a cause of action based on Sunoco's failure to operate in a reasonable and safe manner, over which the Commission has jurisdiction for the reasons set forth in paragraph 1 above, which is incorporated as though set forth here at length. Contrary to Sunoco's claims, GRS is not challenging any permitting decision of the Pennsylvania Department of Environmental Protection ("PADEP"). In addition to complying with the environmental statutes referenced in GRS's Complaint, Sunoco must also manage its construction activities in a safe and reasonable manner in accordance with Sections 1501, 1505, and 52 Pa. Code § 59.33(a). Thus, paragraphs 87-108 and 112-117 of GRS's Complaint concerning Sunoco's improper handling of a leak that occurred at the Property and management of storm water evidence of Sunoco's failure to operate in a reasonable and safe manner as required by Sections 1501, 1505, and 52 Pa. Code § 59.33(a). Specifically, Sunoco failed to provide GRS with adequate information regarding a leak at the Property, depriving GRS of the ability to assure the GRS Residents that the leak did not pose a threat to health, safety, or the environment. Further, GRS's Complaint alleges violations of



Sections 1501 and 1505 based on Sunoco's management of storm water while performing work at the Property. Specifically, GRS alleges that Sunoco's current management of storm water violates Sections 1501, 1505, and 52 Pa. Code § 59.33(a), because it creates safety hazards for the GRS Residents. GRS's Complaint challenges Sunoco's construction of the Pipeline at the Property in a manner that is without consideration of the safety of GRS's Property and the GRS Residents.

31. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response. GRS denies that the Commission should dismiss the Complaint or that the Complaint or raises issues over which the Commission lacks jurisdiction. With respect to the Commission's jurisdiction over the safety issues raised in paragraphs 87-108 and 112-117, GRS's Complaint states a cause of action based on Sunoco's failure to operate in a reasonable and safe manner in accordance with Sections 1501 and 1505, over which the Commission has jurisdiction as set forth in paragraph 1 above, which is incorporated here as though set forth in full. Here, Sunoco's failure to adequately communicate with GRS regarding a potentially hazardous leak and failure to address the safety concerns raised by its current plan for storm water management demonstrates Sunoco's failure to operate in a reasonable and safe manner in violation of Sections 1501, 1505, and 52 Pa. Code § 59.33(a), which fall within the exclusive jurisdiction of the Commission. See Baker and Blume, No. C-2020-3022169, Initial Decision, at pp. 11-12 (“[Sunoco’s] decisions are generally subject to review by the [Commission] to determine whether Sunoco’s services and facilities ‘are unreasonable, unsafe, inadequate, insufficient, or unreasonable discriminatory, or otherwise in violation of the Public Utility Code. As a regulated public utility providing intrastate pipeline transportation services under the Public Utility Code, Sunoco must furnish and maintain adequate, efficient, safe and reasonable service and facilities, and shall 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.” (citing, 66 Pa. C.S. §§ 1501, 1505(a)). Sunoco relies on Pickford v. Public Utility Com’n, which does not address whether a complainant can challenge a public utility’s unsafe implementation of permitted activities and in which the Pennsylvania Commonwealth Court determined that although the Commission lacks jurisdiction to regulate matters involving water quality and water purity, the Commission has jurisdiction over the quality of the service. 4 A.3d 707, 708-713 (Pa. Commw. Ct. June 29, 2010). Here, unlike in Pickford, the safety issues raised in GRS’s Complaint relating to the potentially hazardous leak – which Sunoco admits occurred – and Sunoco’s management of storm water relate to the quality of Sunoco’s work at the Property, constitute violations of Sections 1501, 1505 and 52 Pa. Code § 59.33(a), falling within the jurisdiction of the Commission, and are not a challenge to any PADEP permitting decision.

32. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Complaint, which speaks for itself. GRS denies the allegations contained in paragraph 32 of Sunoco’s Preliminary Objections for the reasons set forth in paragraph 31, which are incorporated by reference as though set forth here in full. By way of further response, GRS denies that its allegations contained in paragraphs 92-97 of the Complaint are exaggerations or that they constitute “hyperbole and grasping at straws,” or lack credibility. To the contrary, GRS requested Sunoco to provide information relating to the hydraulic leak – a leak it admits occurred at the Property – and alleges its failure to provide such information is adverse to the safety of GRS’s Property and the GRS Residents. Notwithstanding Sunoco’s assertion that the leak was “minor,” to date, Sunoco has failed to provide any information to GRS to confirm that the leak was in fact “minor,” consisted of hydraulic fluid, and posed no

threat to GRS's Property or the GRS Residents. Such conduct is unsafe regardless of Sunoco's compliance with the relevant and applicable environmental protection laws and, therefore, constitutes a violation of Sections 1501, 1505, and 52 Pa. Code § 59.33(a).

33. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Complaint, which speaks for itself. GRS further denies the allegations contained in paragraph 33 of Sunoco's Preliminary Objections for the reasons set forth in paragraph 31 which are incorporated by reference as though set forth here in full. By way of further response, GRS seeks compliance with Sections 1501 and 1505. Sunoco's storm water management at the Property poses a hazard to GRS's Property and the GRS Residents and constitutes a violation of Sections 1501, 1505 and 52 Pa. Code § 59.33(a).

34. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Complaint, which speaks for itself. GRS further denies that the Complaint should be dismissed, is legally insufficient, fails to state a claim on which relief can be granted, or has any legal defects. GRS further denies that it admits any failures with respect to its Complaint. GRS denies that the Complaint constitutes an effort to "micro-manage [Sunoco's] construction via a Commission Order" and that its Complaint is legally insufficient under the doctrine of managerial discretion. To the contrary, GRS's Complaint alleges violations of Sections 1501 and 1505 based on safety issues relating to Sunoco's failure to operate its construction of the Pipeline at the Property in a reasonable and safe manner. See Baker and Blume, Docket No. C-2020-3022169, Initial Decision, at pp. 11-12 (Barns, J) ("[Sunoco's] decisions are generally subject to review by the [Commission] to determine whether Sunoco's services and facilities 'are unreasonable, unsafe, inadequate, insufficient, or unreasonable discriminatory, or otherwise in violation of the Public Utility Code.')" GRS

incorporates paragraph 1 above as though set forth here in full. By way of further response, the Commission is empowered to intervene where, as here, “there has been an abuse of managerial discretion, and the public interest has been adversely affected thereby.” Metropolitan Edison Co., 437 A.2d at 80 (discussing a utility company’s right to self manage except in circumstances where the utility abuses its managerial discretion or an arbitrary action of the utility is shown). Here, the Safety Issues raised in GRS’s Complaint, including those relating to the manner of Sunoco’s construction at the Property, constitute an abuse of Sunoco’s managerial discretion, are adverse to the public interest, and warrant the Commission’s intervention.

35. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Complaint, which speaks for itself. GRS denies the allegations contained in paragraph 35 of Sunoco’s Preliminary Objections for the reasons set forth in paragraph 34 above, which are incorporated by reference as though set forth here in full. By way of further response, GRS specifically denies that its Complaint seeks to have the Commission order Sunoco to follow any rules that are not currently in existence and/or create rules outside of any purported rulemaking process. To the contrary, GRS’s Complaint alleges violations of Sections 1501, 1505 and 52 Pa. Code § 59.33(a), based, in part, on Sunoco’s failure to adhere to its own safety obligations which are currently in place and applicable to Sunoco’s work at the Property.

36. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and is improperly attempting to characterize the Complaint and permanent easement, which speak for themselves. GRS denies that it seeks relief relating to Sunoco’s general occupancy and use of the Easements, as Sunoco implies in these averments, but rather, Sunoco’s failure to conduct its activities in a reasonable and safe manner, and its failure to exercise

reasonable care to reduce the hazards to which employees, customers, and others are subjected by reason of Sunoco's personnel, equipment and facilities. GRS denies that Sunoco's obligations to operate in a safe manner must be bargained and paid for by GRS and could, as a result, be something that GRS "wants in addition to the agreement it agreed to..." (although, as set forth in the Complaint, Sunoco did agree to operate safely in the permanent easement). The matters alleged in the Complaint are within the scope of the Commission's jurisdiction as set forth in paragraph 1 above, which is incorporated by reference as though set forth here in full.

37. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response. GRS denies the allegations contained in paragraph 37 of Sunoco's Preliminary Objections for the reasons set forth in paragraph 34 above, which are incorporated by reference as though set forth here in full. By way of further response, GRS specifically denies that its Complaint seeks to have the Commission order Sunoco to follow any rules that are not currently in existence and/or create rules outside of any purported rulemaking process. To the contrary, GRS's Complaint alleges violations of Sections 1501, 1505 and 52 Pa. Code § 59.33(a), based, in part, on Sunoco's failure to adhere to its own safety obligations which are currently in place and applicable to Sunoco's work at the Property.

38. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response. GRS further denies the allegations contained in paragraph 38 of Sunoco's Preliminary Objections for the reasons set forth in paragraph 34 above, which are incorporated by reference as though set forth here in full. By way of further response, GRS specifically denies that its Complaint seeks to have the Commission order Sunoco to follow any rules that are not currently in existence and/or create rules outside of any purported rulemaking process. To the contrary, GRS's Complaint alleges violations of Sections 1501, 1505 and 52 Pa. Code § 59.33(a), based, in

part, on Sunoco's failure to adhere to its own safety obligations which are currently in place and applicable to Sunoco's work at the Property. Baker, No. C-2018-3004294, Opinion and Order, at p. 27 (Sept. 23, 2020) (upholding ALJ's decision that complainant had met his burden of proof to show Sunoco violated its public awareness program).

39. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response. GRS further denies the allegations contained in paragraph 39 of Sunoco's Preliminary Objections for the reasons set forth in paragraph 34 above, which are incorporated by reference as though set forth here in full. By way of further response, GRS specifically denies that its Complaint seeks to have the Commission order Sunoco to follow any rules that are not currently in existence and/or create rules outside of any purported rulemaking process. To the contrary, GRS's Complaint alleges violations of Sections 1501, 1505 and 52 Pa. Code § 59.33(a), based, in part, on Sunoco's failure to adhere to its own safety obligations which are currently in place and applicable to Sunoco's work at the Property.

40. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response. GRS denies the allegations contained in paragraph 40 of Sunoco's Preliminary Objections for the reasons set forth in paragraph 34 above, which are incorporated by reference as though set forth here in full. By way of further response, GRS specifically denies that its Complaint seeks to have the Commission order Sunoco to follow any rules that are not currently in existence and/or create rules outside of any purported rulemaking process. To the contrary, GRS's Complaint alleges violations of Sections 1501, 1505 and 52 Pa. Code § 59.33(a), based, in part, on Sunoco's failure to adhere to its own safety obligations which are currently in place and applicable to Sunoco's work at the Property. By way of further response, contrary to Sunoco's allegations, the Commission is empowered to intervene where, as here, "there has been an abuse

of managerial discretion, and the public interest has been adversely affected thereby.” Metropolitan Edison Co., 437 A.2d at 80 (discussing a utility company’s right to self manage except in circumstances where the utility abuses its managerial discretion or an arbitrary action of the utility is shown). Here, the Safety Issues raised in GRS’s Complaint, including those relating to the manner of Sunoco’s construction at the Property, constitute an abuse of Sunoco’s managerial discretion, are adverse to the public interest, and warrant the Commission’s intervention.

41. Denied. GRS denies that the Complaint should be dismissed, is legally insufficient, fails to state a claim on which relief can be granted, or has any legal defects. By way of further response, GRS denies the allegations contained in paragraph 41 of Sunoco’s Preliminary Objections for the reasons set forth in paragraph 34 of this Answer. GRS incorporates by reference its response to paragraph 34 as if set forth at length herein.

**REQUEST FOR RELIEF**

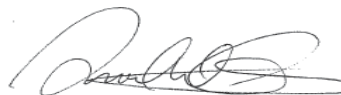
WHEREFORE, Complainant, Glen Riddle Station, L.P., respectfully requests that the Commission enter an order denying the Preliminary Objections filed by Sunoco Pipeline, L.P.

Respectfully submitted,

**FOX ROTHSCHILD LLP**

Dated: January 4, 2021

By:



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Samuel W. Cortes, Esquire  
Attorney ID No. 91494  
*Attorneys for Complainant*

**COMMONWEALTH OF PENNSYLVANIA  
BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GLEN RIDDLE STATION, L.P.,	:	DOCKET NO. C-2020-3023129
Complainant,	:	
	:	
v.	:	
	:	
SUNOCO PIPELINE L.P.,	:	
Sunoco.	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have, on this 4th day of January, 2021, served a true copy of the foregoing Answer to Preliminary Objections upon the persons listed below and by the methods set forth below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

**Via Email Only**

Thomas J. Sniscak, Esquire  
Whitney E. Snyder, Esquire  
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Samuel W. Cortes, Esquire