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March 8, 2021

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd 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 the Response of Glen Riddle Station, L.P., to Motion of Respondent, Sunoco Pipeline, L.P. ("Sunoco"), to Compel Responses to Interrogatories and Request for Production of Documents Set I, in the above-referenced matter. 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.	:	

**RESPONSE OF GLEN RIDDLE STATION, L.P., TO THE MOTION TO COMPEL
RESPONSES TO INTERROGATORIES AND REQUEST FOR
PRODUCTION OF DOCUMENTS SET I OF SUNOCO PIPELINE L.P.**

Complainant, Glen Riddle Station, L.P. (“GRS”), by and through its undersigned counsel, hereby files this Response to the Motion of Respondent, Sunoco Pipeline, L.P. (“Sunoco”), to Compel Responses to Interrogatories and Request for Production of Documents Set I (“Motion to Compel”). Further, based on the ruling in the Order denying the Motion to Compel Filed by GRS (“Order Denying GRS’s Motion to Compel”), GRS also objects to producing a privilege log, any draft documents, handwritten notes, or any other materials contained within Sunoco’s definition of “documents.”

ANSWER

1. Admitted.
2. Denied. GRS denies the averments in this paragraph as characterizations of a written document that speaks for itself. GRS admits that Attachment A appears to be an accurate representation of the Objections GRS served in response to the discovery requests referenced in paragraph 1 (the “Sunoco Discovery Requests”).
3. Denied. GRS denies the averments in this paragraph as characterizations of a written document that speaks for itself and conclusions of law requiring no response. By way of

further response, GRS denies that the requests to which it continues to object seek discoverable and relevant information regarding the matters at issue before the Commission. Under the Commission's regulations, a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action. See 52 Pa. Code § 5.321(c); see also, [Order Denying GRS's Motion To Compel, Legal Standard, pp. 4-5 (describing the legal standard for discovery before the Commission and explaining that "[d]iscovery is not permitted...if it is sought in bad faith; would cause unreasonable annoyance, embarrassment, oppression, burden or expense, relates to a matter which is privileged; or would require the making of an unreasonable investigation by the deponent, a party or witness.")] The requests to which GRS continues to object are not relevant to the subject matter of the pending action. To the contrary, Sunoco appears to be seeking to use this proceeding to obtain information that is relevant only to the matter pending in the Court of Common Pleas of Delaware County, Pennsylvania, captioned 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"). The Taking Action involves an inquiry into the damages incurred by GRS as a result of Sunoco's condemnation of temporary workspace easements and a temporary access road easement over GRS's property known as the Glen Riddle Station Apartments in Middletown Township, Delaware County, Pennsylvania, Tax Parcel ID No. 27-00-00780-00 (the "Property"). The matter before the Commission is exclusively focused on the safety concerns posed by Sunoco's work on the GRS's property.

Set I, No. 4 - RESOLVED

4.-8. Denied. GRS denies the averments in this paragraph as characterizations of a written document that speaks for itself and conclusions of law requiring no response. By way of further response, **GRS agrees to respond to Set I, No. 4.** GRS is attaching as Exhibit A the email communication it sent to counsel for Sunoco following the meet and confer discussion that occurred on Wednesday, March 3, 2021, memorializing the agreements reached on that call. Counsel for Sunoco did not respond to Exhibit A.

Set I, No. 9 and RFP 12 – NOT RESOLVED

9. Denied. GRS denies the averments in this paragraph as characterizations of a written document that speaks for itself. GRS further specifically denies the characterization of Mr. Iacobucci's statement to the DELCO Times, which speaks for itself. [See https://www.delcotimes.com/news/pipeline-foes-stage-protest-at-glen-riddle/article_a40a336a-6313-11eb-a4f4-8f51c9cbe8df.html.] GRS denies that the protest obstructed Sunoco's work on the Property, nor was it intended to obstruct Sunoco's work on the Property. As set forth in the article that Sunoco includes in its Motion to Compel, one of the co-organizers of the event stated that the purpose of the protest was for "expressing our concerns about the health and safety being jeopardized by the pipeline construction." [Id.] Other protestors expressed concerns regarding the safety of their children, including, without limitation, that the children do not have a place to take screen time breaks from their virtual learning as a result of Sunoco's work and that because of noise and other safety issues they "haven't been able to open [their] windows or curtains since Thanksgiving." [Id.] Although there is a reference to members of the "Mama Bear Brigade" (a group unaffiliated with GRS) being arrested at a different protest entirely unrelated to GRS – there is no mention of arrests at the protest that took place on the Property, nor is GRS aware of any.

The protest was peaceful and there would have been no reason for arrests to be made. GRS denies Sunoco's allegation on this basis. Further, communications between GRS and "various anti-pipeline activists" are irrelevant to the matters before the Commission – the safety of Sunoco's work on the property. Sunoco's request for this information is a fishing expedition attempted to distract from its own safety failures. As the Commission recognized in the Order Denying GRS's Motion to Compel, the Commission does not allow such "fishing expeditions." [See Order Denying GRS's Motion to Compel, p. 10.] Sunoco's misrepresentation of the peaceful events on January 30, 2021, is evidence of this improper purpose.

10. Denied. GRS denies the averments in this paragraph as characterizations of a written document that speaks for itself. GRS further specifically denies the characterization of Mr. Iacobucci's statement to the DELCO Times, which speaks for itself. [See https://www.delcotimes.com/news/pipeline-foes-stage-protest-at-glen-riddle/article_a40a336a-6313-11eb-a4f4-8f51c9cbe8df.html.] Sunoco's statement that Mr. Iacobucci supports the interruption of public utility construction is a blatant misrepresentation of Mr. Iacobucci's statement and the truth. Mr. Iacobucci expressed gratitude for attention being drawn to the safety issues created by Sunoco via a peaceful protest that did not impact Sunoco's work on the Property. Sunoco has not, nor could it possibly, support its bald faced misrepresentation that there was a disruption of public utility service as a result of 9 year old children holding signs regarding how they want their playground returned to them. Moreover, the implication that Sunoco's work on the property is aimed at providing a public utility service to the residents of the Commonwealth is absurd. Sunoco is providing a service that will result in the manufacture of plastics abroad. Sunoco's averments in this paragraph are made in bad faith. GRS incorporates its response to paragraph 8 above as though set forth here in full.

Set I, No. 10-11 – NOT RESOLVED

11. Denied. GRS denies the averments in this paragraph as characterizations of a written documents that speak for themselves. The requests at issue seek information “related to a rent abatement program for Glen Riddle Residents,” and the identity of “the apartment manager or other manager for the Property and any leasing agents.” As set forth above, discovery must be relevant to the subject matter involved in the pending action. See 52 Pa. Code § 5.321(c). GRS has not made any claims regarding its rent abatement, or leasing. [See Complaint, generally.] GRS has not even referenced its contractual obligations to its residents, but rather, has focused exclusively on the only matter over which this Commission has jurisdiction – the safety of the residents relating to Sunoco’s work on the Property. [Id.] This is the type of fishing expedition that the Commission does not allow. [See Order Denying GRS’s Motion to Compel, p. 10.]

Additionally, the Commission’s jurisdiction is limited to the safety of Sunoco’s operations, as stated in the Order Denying GRS’s Motion to Compel:

[the Commission] possesses only the authority that the state legislature has specifically granted to it in the Public Utility Code. 66 Pa.C.S. §§ 101, *et seq.* Its jurisdiction must arise from the express language of the pertinent enabling legislation or by strong and necessary implication therefrom. Feingold v. Bell, 383 A.2d 791 (Pa. 1977)... To the extent that the complaint avers issues regarding the awareness plan and standard operating procedures pertaining to activities within the easement, the Commission has jurisdiction to hear those averments since they were part of a Commission order. The complaint articulates several issues regarding safety that may have occurred within the easement. Certainly, the Commission has jurisdiction to hear claims that a utility is providing unsafe service....

[Id., pp. 6-7.] The Commission does not adjudicate matters pertaining to the scope and validity of easements. [Id.] Similarly, the Commission does not have jurisdiction over a dispute regarding the contractual relationships between GRS and its tenants or what rent abatements, if any, GRS has made because of Sunoco’s work. Whether GRS has provided rent abatements, or any other

contractual concessions, is not a matter relating to the safety of Sunoco's services. To the contrary, it is a matter that will be resolved in the Taking Action.

12. Denied. GRS incorporates its response to paragraph 11 as though the same were set forth here in full. GRS further denies the averments of this paragraph as containing conclusions of law to which no response is required.

Set I, Nos. 12, 14, and 15 – 15 RESOLVED; 12 and 14 NOT RESOLVED

13. Denied. GRS denies the averments in this paragraph as characterizations of a written document that speaks for itself. **GRS agrees to respond to Set I, No. 15.** GRS continues to object to Set I Nos. 12 and 14. [See Exhibit A.] Set I, Nos. 12 and 14 seek the identity of “all tenants who have vacated Glen Riddle Apartments in the last six months,” and ask GRS to “identify and describe the vacancy rate or number or vacant units at their building as of September 1, 2020, October 1, 2020, November 1, 2020, December 1, 2020, January 1, 2021, and February 1, 2021.” [Id.] Again, like the requests addressed in paragraphs 11 and 12, above, these requests seek information pertinent only to the Taking Action. Whether 1 resident or residents in all 124 residential dwelling units vacated GRS as a result of Sunoco's work on the Property, Sunoco's obligations to operate safely under the Commission's regulations are the same. Whether residents have the means or other ability to relocate does not “explore the veracity” of the impact of Sunoco's work on these residents. Sunoco's suggestion that it does is absurd and is not grounded in the realities of the economic resources available to the residents. These interrogatories are targeted at the financial impact of Sunoco's work on the Property and not its safety and, as a result, they are not relevant to the subject matter involved in the pending action. See 52 Pa. Code § 5.321(c).

14. Denied. GRS incorporates its response to paragraph 13 as though the same were set forth here in full. GRS further denies the averments of this paragraph as containing conclusions of law to which no response is required.

Set I, RFP 1 - RESOLVED

15.-16. Denied. GRS denies the averments in this paragraph as characterizations of a written document that speaks for itself and conclusions of law requiring no response. **GRS agrees to respond to Set I, RFP No. 1 to the extent that it has not made other targeted objections to the interrogatories at issue.** [See Exhibit A.] GRS and Sunoco also agreed to resolved Sunoco's similar objection on this basis. GRS deems this objection resolved.

Set I, RFP 10 - RESOLVED

17.-18. Denied. GRS denies the averments in this paragraph as characterizations of a written document that speaks for itself and conclusions of law requiring no response. **GRS agrees to respond to Set I, RFP No. 10 to the extent that the communications with the Township are regarding the safety of Sunoco's work on the Property.** [See Exhibit A.] GRS understands that RFP No. 10 is resolved on this basis. [See Exhibit A.] As stated, the request calls for all communications between GRS and the township regarding the property or any payments made to the township. This request goes well beyond what is relevant to the subject matter involved in the pending action. See 52 Pa. Code § 5.321(c).

Set I, RFP 11 – RESOLVED

19-20. Denied. GRS denies the averments in this paragraph as characterizations of a written document that speaks for itself and conclusions of law requiring no response. **GRS agrees to respond to Set I, RFP No. 11 to the extent that the communications submitted through the**

portal (or any of GRS resident portals) concern Sunoco's work on the Property. It is GRS understands that RFP No. 11 is resolved on this basis. [See Exhibit A.]

Set I, RFP 13 - RESOLVED

21.-23. Denied. GRS denies the averments in this paragraph as characterizations of a written document that speaks for itself and conclusions of law requiring no response. **GRS agrees to respond to Set I, RFP No. 13.**

Set I, RFP 14-17 – NOT RESOLVED.

24. Denied. GRS denies the averments in this paragraph as characterizations of a written document that speaks for itself and conclusions of law requiring no response.

25. Denied. GRS denies the averments in this paragraph as characterizations of a written document that speaks for itself and conclusions of law requiring no response. GRS denies that its lease, applications for tenancy, and rules that apply to tenants and GRS marketing are related to the subject matter before the Commission. GRS incorporates its responses to paragraphs 3, 11, and 12 above as though set forth here in full.

WHEREFORE, GRS respectfully requests that the Commission deny Sunoco's Motion to Compel.

Respectfully submitted,

FOX ROTHSCHILD LLP

March 8, 2021

By:



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.,	:	
Respondent.	:	

CERTIFICATE OF SERVICE

I hereby certify that, on March 8, 2021, I served a true and correct copy of the foregoing Response to Sunoco’s Motion to Compel Responses to Interrogatories and Request for Production of Documents Set I, 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):

Email

Thomas J. Sniscak, Esquire
Whitney E. Snyder, Esquire
Kevin J. McKeon, Esquire
Bryce R. Beard, Esquire
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Samuel W. Cortes, Esquire

EXHIBIT A

Chernesky, Jean C.

From: Beach, Ashley L. <abeach@foxrothschild.com>
Sent: Wednesday, March 03, 2021 5:31 PM
To: Bryce Beard
Cc: Kevin McKeon; Thomas Sniscak; Whitney Snyder; Cortes, Samuel W.; Chernesky, Jean C.; Kuebler, Tara L.
Subject: Meet and Confer Regarding GRS's Objections to Sunoco's Discovery Requests

Bryce,

Thank you for the meet and confer phone call. I am glad that we were able to resolve certain of the discovery disputes. We reached the following agreements:

GRS will respond to the following interrogatories: 4 and 15

GRS will respond to RFPD 1 by producing documents relevant to the interrogatories to which it has not objected.

GRS will respond to RFPD 10 with correspondence regarding the safety of Sunoco's work on GRS's property and continues to object to the balance of the request.

GRS will respond to RFPD 11 with all submissions made through a GRS resident portal that are related to Sunoco's work on GRS's property.

GRS will respond to RFPD 13.

GRS continues to object to the balance of the requests for the reasons set forth in its objections.

Additionally, we agree to exchange discovery on Tuesday, March 9, 2021. Thank you.

Best regards,

Ashley

Ashley Beach

Partner

Fox Rothschild LLP

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