



Eagleview Corporate Center
747 Constitution Drive
Suite 100
Exton, PA 19341-0673
Tel (610) 458-7500 Fax (610) 458-7337
www.foxrothschild.com

SAMUEL W. CORTES
Direct No: 610.458.4966
Email: SCortes@FoxRothschild.com

March 29, 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 Certificate of Service regarding Glen Riddle Station, L.P.'s Response to Sunoco Pipeline L.P.'s Motion to Compel Responses to Interrogatories and Request for Production of Documents – Set II, 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

A Pennsylvania Limited Liability Partnership

California Colorado Delaware District of Columbia Florida Georgia Illinois Minnesota
Nevada New Jersey New York North Carolina **Pennsylvania** South Carolina Texas Washington

**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 II 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 II (“Motion to Compel II”). Although the parties were able to reach an agreement on the majority of the requests, two categories of disputed requests remain: requests calling for legal analysis; and requests calling for burdensome expert discovery beyond that permitted by the Commission’s regulations.

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 at approximately 4:00 p.m. on Friday, March 19, 2021, Sunoco served on GRS Set II. This required GRS to prepare its objections over the weekend of March 20-21, 2021. The parties conferred on the objections on Monday, March 22, 2021, and worked out many of the disputed requests. Two categories of disputed requests remain: requests calling for legal analysis; and requests calling for burdensome expert discovery beyond that permitted by the Commission’s regulations.

3. Denied. GRS denies the averments in this paragraph as characterizations of a written document that speaks for itself. GRS admits only that Attachment A appears to be an accurate representation of the Objections GRS served in response to Set II.

4. 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 overly burdensome and not within the scope of the Commission's regulations as set forth below.

Set II, No. 3

5. 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 Mr. Iacobucci failed to describe Sunoco's conduct that violates Commission regulations. GRS further denies that Mr. Iacobucci, a lay witness, is under any obligation to provide a legal analysis of Sunoco's obligations. GRS has set forth its position with respect to Sunoco's violations in both its Complaint and its Response to Sunoco's Preliminary Objections. As set forth in GRS's

objection, the interrogatory calls for a legal analysis of Sunoco's obligations under the Pennsylvania Utility Code, calling on GRS to explain how the relevant regulations impose certain requirements on Sunoco. Although GRS acknowledges that pursuant to 52 Pa. Code. § 5.342(c)(5), an objection will not be valid "if based solely on the claim that an answer will involve an opinion or contention that is related to a fact or the application of law to fact," this interrogatory does not call for the application of law to fact. Sunoco requests "facts" referred to in reaching the conclusion – but the conclusion sought is purely a legal analysis. By way of further response, GRS's position on Sunoco's communication obligations is set forth in its Complaint, Response to Sunoco's Preliminary Objections, and direct testimony.

6. 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 made the objection set forth in paragraph 6 because the request does not call for evidence – it calls for a legal analysis.

7. 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 has set forth Sunoco's regulatory obligations in its Complaint, Response to Sunoco's Preliminary Objections, and its Prehearing Statement. Mr. Iacobucci's statement is supported by the factual allegations set forth in his direct testimony. Again, the request seeks legal argument, not discoverable evidence or information leading to discoverable evidence.

8. 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 has set forth Sunoco's regulatory obligations in its Complaint, Response to Sunoco's Preliminary Objections, and its Prehearing Statement. Mr. Iacobucci's statement is supported by the factual allegations set

forth in his direct testimony. Again, the request seeks legal argument, not discoverable evidence or information leading to discoverable evidence.

9. 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 has set forth Sunoco's regulatory obligations in its Complaint, Response to Sunoco's Preliminary Objections, and its Prehearing Statement. Mr. Iacobucci's statement is supported by the factual allegations set forth in his direct testimony. Again, the request seeks legal argument, not discoverable evidence or information leading to discoverable evidence.

10. GRS denies the averments in this paragraph as characterizations of a written document that speaks for itself and conclusions of law requiring no response. Sunoco's request calls for the following: "Please state specifically the sections of the Public Utility Code or regulations thereunder that you reference, and identify and *explain how they impose the specific requirements* and facts you refer or rely upon in reaching your conclusion." Sunoco is asking GRS to provide an analysis of how the regulations GRS alleges Sunoco to have violated impose those requirements on Sunoco. This relates to Sunoco's argument that it is not required to comply with its Public Awareness Plan on GRS's property. [See Sunoco's Preliminary Objections, pp. 1, 5-6.] That Sunoco asks for the "facts" that support the *exclusively legal analysis*, does not convert this impermissible request into a permissible one. Sunoco did not request – as it seems to suggest here – a request for which facts demonstrate its failure to comply. Such a request may, or may not, have been permissible.

11. GRS incorporates its response to paragraph 10 as though set forth here in full.

12. GRS incorporates its response to paragraph 10 as though set forth here in full.

13. GRS incorporates its response to paragraph 10 as though set forth here in full.

14. GRS incorporates its response to paragraph 10 as though set forth here in full.

Set II, Nos. 10-20

15. Denied. GRS denies the averments of this paragraph as characterizations of a written document that speaks for itself and conclusions of law requiring no response. GRS denies that the information Sunoco seeks is “discoverable information.” As set forth above, discovery must be relevant to the subject matter involved in the pending action, and must not cause “unreasonable annoyance, embarrassment, oppression, burden or expense,” or “requiring the making of an unreasonable investigation.” See 52 Pa. Code § 5.321(c); see also, [Order Denying GRS’s Motion to Compel, Legal Standard, pp. 4-5.] By way of further response, 52 Pa. Code § 5.324(a)(1)(ii) limits expert interrogatories to “stat[ing] the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.” Id. As set forth in GRS’s objections to Sunoco’s Requests Nos. 10-20, GRS has already provided this information through direct testimony, as permitted by 52 Pa. Code § 5.324(a)(2). Although 52 Pa. Code § 5.324(a)(3) provides that “upon cause shown, the presiding officer may order further discovery by other means, subject to the restriction as to scope and provisions concerning fees and expenses as he may deem appropriate,” no such order has been issued, nor has Sunoco shown cause warranting issuance of such an order. As set forth in GRS’s objections to Sunoco’s Requests Nos. 10-20, GRS has already provided Mr. Culp’s curriculum vitae, and Sunoco will have the opportunity to file rebuttal testimony and engage in cross-examination at the time of the hearing.

16. Denied. GRS denies the averments in this paragraph as characterizations of a written document that speaks for itself. By way of further response, GRS incorporates its response to paragraph 15 as though set forth here in full.

17. Denied. GRS denies the averments in this paragraph as characterizations of a written document that speaks for itself. Sunoco's Requests Nos. 10-20 seek, among other things: (1) identification and detailed descriptions of every project Mr. Culp has worked on relating to fire safety, site design issues, structural design, geotechnical related design, and construction observation; (2) identification and each and every civil proceeding and/or Pennsylvania state agency proceeding in which Mr. Culp has ever been certified as an expert witness relating to the topics listed in Request No. 10, including the subject matter of each proceeding, and any and all exhibits, written statements, and/or documents given and/or submitted by Mr. Culp; and (3) detailed descriptions supporting Mr. Culp's direct testimony including, identification and detailed description of all applicable laws, regulations, ordinances, orders, and examples and references to specific projects Mr. Culp has worked on supporting Mr. Culp's direct testimony. Accordingly, contrary to Sunoco's argument otherwise, Sunoco's Requests Nos. 10-20 are overly broad and improperly seek voluminous information beyond the scope of the written testimony permitted pursuant to 52 Pa. Code § 5.324 without leave of the presiding officer. By way of further response, GRS has already provided the required information through direct testimony, as permitted by 52 Pa. Code § 5.324(a)(2). Although 52 Pa. Code § 5.324(a)(3) provides that "upon cause shown, the presiding officer may order further discovery by other means, subject to the restriction as to scope and provisions concerning fees and expenses as he may deem appropriate," no such order has been issued, nor has Sunoco shown cause warranting issuance of an order. As set forth in GRS's objections to Sunoco's Requests Nos. 10-20, GRS has already provided Mr. Culp's curriculum vitae, which details Mr. Culp's educational background and prior work experience. Further, Sunoco will have the opportunity to file rebuttal testimony and engage in cross-examination at the time of the hearing.

18. Denied. GRS denies the averments of this paragraph as characterizations of a written document that speaks for itself. By way of further response, GRS incorporates its responses to paragraphs 15 and 17 as though set forth here in full. Sunoco will have the opportunity to inquire further into Mr. Culp's qualifications at the time of the hearing if it chooses to ask those questions.

19. Denied. GRS denies the characterizations of Mr. Culp's direct testimony, which speaks for itself. By way of further response, GRS incorporates its responses to paragraphs 15 and 17 as though set forth here in full.

20. Denied. GRS denies the averments of this paragraph as characterizations of a written document that speaks for itself and conclusions of law requiring no response. By way of further response, and contrary to Sunoco's claim otherwise, GRS objected to Sunoco's Discovery Requests Nos. 10-20 because such requests improperly seek additional expert discovery that is beyond the scope of written testimony permitted under 52 Pa. Code § 5.324 without leave of the presiding officer. Pursuant to 52 Pa. Code § 5.324, expert interrogatories are limited to "stat[ing] the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion" Id. GRS has already provided this information through Mr. Culp's direct testimony, as permitted by 52 Pa. Code § 5.324(a)(2). GRS has also already provided Sunoco with Mr. Culp's curriculum vitae, which details Mr. Culp's educational background and prior work experience. Finally, Sunoco will have the opportunity to file rebuttal testimony, and engage in cross-examination at the time of the hearing. Accordingly, GRS's objections are proper in light of the unreasonable annoyance, oppression, burden, and expense, and unreasonable investigation Sunoco's Discovery Requests Nos. 10-20 would cause.

21. Denied. GRS denies the averments of this paragraph as characterizations of a written document that speak for themselves and conclusions of law requiring no response. GRS incorporates its response to paragraph 20 as though set forth here in full.

22. Denied. GRS denies the characterizations of Mr. Culp's direct testimony and a written document, which speak for themselves. By way of further response, GRS incorporates its responses to paragraphs 15, 17, and 20-21 as though set forth here in full.

23. Denied. GRS denies the characterizations of Mr. Culp's direct testimony and a written document, which speak for themselves. By way of further response, GRS incorporates its responses to paragraphs 15, 17, and 20-21 as though set forth here in full. The amount of detail

24. Denied. GRS denies the characterizations of Mr. Culp's direct testimony and a written document, which speak for themselves. GRS denies the averments in this paragraph as conclusions of law requiring no response. By way of further response, GRS denies Sunoco has shown cause warranting issuance of an order permitting discovery outside the scope of what GRS has already provided to Sunoco pursuant to 52 Pa. Code § 5.324(a)(3). Contrary to Sunoco's claim otherwise, and as set forth in GRS's responses to Sunoco's Requests Nos. 10-20, GRS has already provided Mr. Culp's curriculum vitae, which details Mr. Culp's educational background and prior work experience. Further, Sunoco will have the opportunity to file rebuttal testimony and engage in cross-examination at the time of the hearing.

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

Respectfully submitted,

FOX ROTHSCHILD LLP

March 29, 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 29, 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 II, 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
Hawke, McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
TJSniscak@hmslegal.com
WESnyder@hmslegal.com
kjmckeon@hmslegal.com
brbeard@hmslegal.com



Samuel W. Cortes, Esquire