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April 1, 2021

Via Electronic Filing

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

RE: Glen Riddle Station, L.P. v. Sunoco Pipeline L.P.; Docket No. C-2020-3023129; **SUNOCO PIPELINE L.P.’S MOTION FOR LEAVE TO REPLY TO GLEN RIDDLE STATION, L.P.’S MARCH 31, 2021 ANSWER TO SUNOCO PIPELINE L.P.’S MOTION IN LIMINE FILED MARCH 22, 2021 AND REQUEST FOR ORAL RESPONSE AT THE APRIL 2, 2021 MOTIONS CONFERENCE**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Sunoco Pipeline L.P.’S Motion For Leave To Reply To Glen Riddle Station, L.P.’S March 31, 2021 Answer To Sunoco Pipeline L.P.’S Motion In Limine Filed March 22, 2021 And Request For Oral Response At The April 2, 2021 Motions Conference in the above-referenced proceeding. Copies have been served in accordance with the attached Certificate of Service.

This notice is served electronically pursuant to the COVID-19 Suspension Emergency Order dated March 20, 2020 and ratified March 26, 2020.

If you have any questions, please feel free to contact the undersigned counsel.

Respectfully submitted,

/s/ Thomas J. Sniscak

Thomas J. Sniscak
Whitney E. Snyder
Kevin J. McKeon
Bryce R. Beard
Counsel for Sunoco Pipeline L.P.

BRB/das

Enclosures

cc: Honorable Joel Cheskis (via email jcheskis@pa.gov)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GLEN RIDDLE STATION, L.P.	:		
	:	Docket No.	C-2020-3023129
v.	:		
	:		
SUNOCO PIPELINE L.P.	:		

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.103(c), you are hereby notified that Sunoco Pipeline L.P. (SPLP) has requested that the Administrative Law Judge order an oral response to this motion at the Motions Conference to take place on April 2, 2021 at 11:30am. SPLP also requests that the Administrative Law Judge direct that any written response, if requested by Complainant, may be filed on Monday, April 5, 2021. If so ordered by the Administrative Law Judge at the Motions Conference, any written response to the Motion for Leave must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Sunoco Pipeline, L.P., and where applicable, the Administrative Law Judge presiding over the issue.

File with:

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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GLEN RIDDLE STATION, L.P.	:		
	:	Docket No.	C-2020-3023129
v.	:		
	:		
SUNOCO PIPELINE L.P.	:		

**SUNOCO PIPELINE L.P.’S MOTION FOR LEAVE TO REPLY TO GLEN RIDDLE
STATION, L.P.’S MARCH 31, 2021 ANSWER TO SUNOCO PIPELINE L.P.’S
MOTION IN LIMINE FILED MARCH 22, 2021 AND REQUEST FOR ORAL
RESPONSE AT THE APRIL 2, 2021 MOTIONS CONFERENCE**

Pursuant to 52 Pa. Code § 5.103, Sunoco Pipeline L.P. (“SPLP”) moves for leave to submit a response to the Answer filed by Complainant Glen Riddle Station, L.P. (“GRS”) (“The GRS Response”) and request for expedited response on SPLP’s March 22, 2021 Motion in Limine.¹ Section I contains SPLP’s Motion for Leave to Reply and Section II contains SPLP’s Request for GRS’s Oral Response to this Motion at the April 2, 2021 Motions Conference scheduled by Your Honor and that a written response, if ordered by Your Honor, be filed by Monday, April 5, 2021. Included with this Motion is Attachment A, SPLP Reply to GRS’s Answer dated March 31, 2021.

¹ The full title of the Motion in Limine filed March 22, 2021 is “SUNOCO PIPELINE L.P.’S MOTION IN LIMINE TO (1) PRECLUDE GRS FROM VIOLATING YOUR HONOR’S SCHEDULING ORDER AND THE COMMISSION’S REGULATIONS BY SUPPLEMENTING GRS’ DIRECT TESTIMONY IN SURREBUTTAL OR (2) IN THE ALTERNATIVE, MOTION FOR MODIFIED PROCEDURAL SCHEDULE, AND (3) REQUEST FOR EXPEDITED 7-DAY RESPONSE PERIOD”

1. SPLP is moving for leave to reply to the Answer under 52 Pa. Code §1.2(c) for the following reasons:

- a. The GRS Response ignores the parties' agreement for production on a date certain, which SPLP honored, and this fact needs to be disclosed to Your Honor to set the record straight. Specifically, the GRS Response presents SPLP's production of discovery as a "Late Production" when in fact the production was timely under an agreement between counsel that each of their productions would be provided at a mutually agreeable date of March 9, 2021. This fact was omitted in the GRS Response.
- b. The GRS Response represents SPLP's March 9, 2021 production format, which is common and widely used, in a false light.
- c. The GRS Response conflates the reliefs requested in SPLP's Motion in Limine and incorrectly argues that SPLP seeks to bar GRS from utilizing any of SPLP's March 9, 2021 production.
- d. GRS could and should have requested a procedural extension in compliance with the Commission's regulations if it needs additional time to formulate written direct testimony. It did not.

2. Moreover, fairness requires that SPLP be granted leave to reply because a true and accurate recitation of the communications and emails between the Parties is necessary for Your Honor to rule in this dispute. It is clear that the GRS Response has ignored the written discovery agreement² among the parties on the mutual discovery production date of March 9, 2021. Further,

² This agreement appears as Exhibit A to the Response of SPLP which is submitted concurrently with this request for leave.

fairness requires that SPLP be allowed to correct inaccuracies in the GRS Response regarding SPLP's discovery production, the Commission's regulations and procedural rules alleged in the GRS Response.

WHEREFORE, SPLP respectfully requests that Your Honor consider the Reply attached hereto as Attachment A in ruling on SPLP's Motion.

I. REQUEST FOR ORAL RESPONSE AT THE APRIL 2, 2021 MOTIONS CONFERENCE AND WRITTEN RESPONSE, IF ORDERED, BY MONDAY, APRIL 5, 2021.

3. SPLP believes its Motion in Limine should be resolved prior to the nearing deadline for SPLP's rebuttal testimony on April 9, 2021 for the reasons previously raised. Accordingly, SPLP believes an expedited response to this Motion for Leave and Attachment A is reasonable and efficient given that the GRS Response was provided on March 31, 2021. SPLP hereby request that GRS prepare an oral response to this motion to respond at the April 2, 2021 Motions Conference, and, if ordered, prepare a written response by Monday, April 5, 2021.

WHEREFORE, SPLP respectfully requests Your Honor grant this motion for leave and allow Glen Riddle Station to first respond orally at the Motions conference on April 2, 2021 and, if ordered, file a written response by Monday, April 5, 2021.

Respectfully submitted,

/s/ Thomas J. Sniscak

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Whitney E. Snyder, Esq. (PA ID No. 316625)
Kevin J. McKeon, Esq. (PA ID No. 30428)
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Date: March 22, 2021

Attachment A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GLEN RIDDLE STATION, L.P.	:		
	:	Docket No.	C-2020-3023129
v.	:		
	:		
SUNOCO PIPELINE L.P.	:		

SUNOCO PIPELINE L.P.’S REPLY TO GLEN RIDDLE STATION, L.P.’S ANSWER TO MOTION IN LIMINE TO (1) PRECLUDE GRS FROM VIOLATING YOUR HONOR’S SCHEDULING ORDER AND THE COMMISSION’S REGULATIONS¹ BY SUPPLEMENTING GRS’ DIRECT TESTIMONY IN SURREBUTTAL OR (2) IN THE ALTERNATIVE, MOTION FOR MODIFIED PROCEDURAL SCHEDULE, AND (3) REQUEST FOR EXPEDITED 7-DAY RESPONSE PERIOD

I. INTRODUCTION

1. Sunoco Pipeline, L.P. (“SPLP”) filed a Motion in Limine contending that Glen Riddle Station, L.P. (“GRS”) should not be allowed to “supplement” through its rebuttal testimony all of its direct testimony in order to address information that was in GRS’s possession before it served its March 15, 2021 direct testimony, but that GRS did not include in its direct testimony. Even if GRS had a legitimate basis for claiming this alleged right to supplement – and it does not²– GRS should not be permitted to supplement its direct testimony in its closing testimony in violation of Your Honor’s scheduling order, the Commission’s regulations, and SPLP’s due process rights. *See* SPLP’s March 22, 2021 Motion in Limine (“Motion in Limine”). In the alternative, SPLP proposed that the litigation schedule be modified to allow GRS to file additional

¹ 52 Pa. Code § 5.243(e) (a party will not be able to introduce during a rebuttal phase evidence which should have been included in the party’s case-in-chief).

² GRS’s basis is that it lacked the time to review discovery responses it received from SPLP on March 9, six days in advance of its direct testimony due date of March 16, 2021. As set forth below, however, GRS waited until March 12 to even access the discovery responses SPLP provided via electronic file transfer. Moreover, it is GRS that advocated for the compressed procedural schedule that it now finds inconvenient and seeks to circumvent.

direct testimony and to address SPLP's due process concerns.

2. On March 31, 2021, GRS answered SPLP's Motion in Limine ("the GRS Response"). As explained herein, the GRS Response misrepresents the facts, and compels a response from SPLP to set the record straight.

II. ARGUMENT

A. The GRS Response ignores the parties' agreement for production on a date certain, which SPLP honored.

3. GRS claims that SPLP's discovery production was "twelve (12) days late (the "Late Production")" and therefore GRS was prejudiced by SPLP's alleged violation of 52 Pa. Code 5.349(d). See GRS Response at 2-4. GRS cites an email exchange dated February 25, 2021 as their "attempt" to resolve discovery disputes among the parties. *Id.*

4. Notably absent from the GRS Response is reference to the agreements reached between the parties on discovery that occurred *after* the February 25 email referenced in the GRS Response. By way of background, counsel for SPLP and GRS had a "meet and confer" to try to resolve certain aspects of GRS's objections to SPLP's Set I discovery on March 3, 2021. In that meet and confer, counsel for SPLP and GRS expressed a mutual desire for a discovery production extension due to the impacts that GRS's February 11, 2021 Petition for Emergency Relief had on both parties and their ability to gather responsive discovery while preparing for the scheduled emergency hearing. Counsel for GRS memorialized the mutual agreement via email dated March 3, 2021 stating in pertinent part: "**Additionally, we agree to exchange discovery on Tuesday, March 9, 2021. Thank you.**" See Exhibit A (emphasis added).³

³ Indeed, GRS's production of responses to SPLP Set I was originally due on March 1, 2021 but

5. The GRS Response is not simply “its version” of the events – it is false. As shown in Exhibit A, the agreement between the parties shows there was no “late production” but rather a production of discovery responses mutually agreed to occur on March 9, 2021.

6. Accordingly, contrary to GRS’s repeated references to SPLP’s “Late Production,” SPLP did not produce any discovery late – there was an agreed to extension of discovery *for both parties to serve their responses to each other’s Set I discovery* on March 9, 2021, on which date SPLP served its discovery responses. Your Honor should dismiss GRS’s allegations regarding the “late production” for what it is, and rule against the relief GRS seeks on that inaccurate basis.

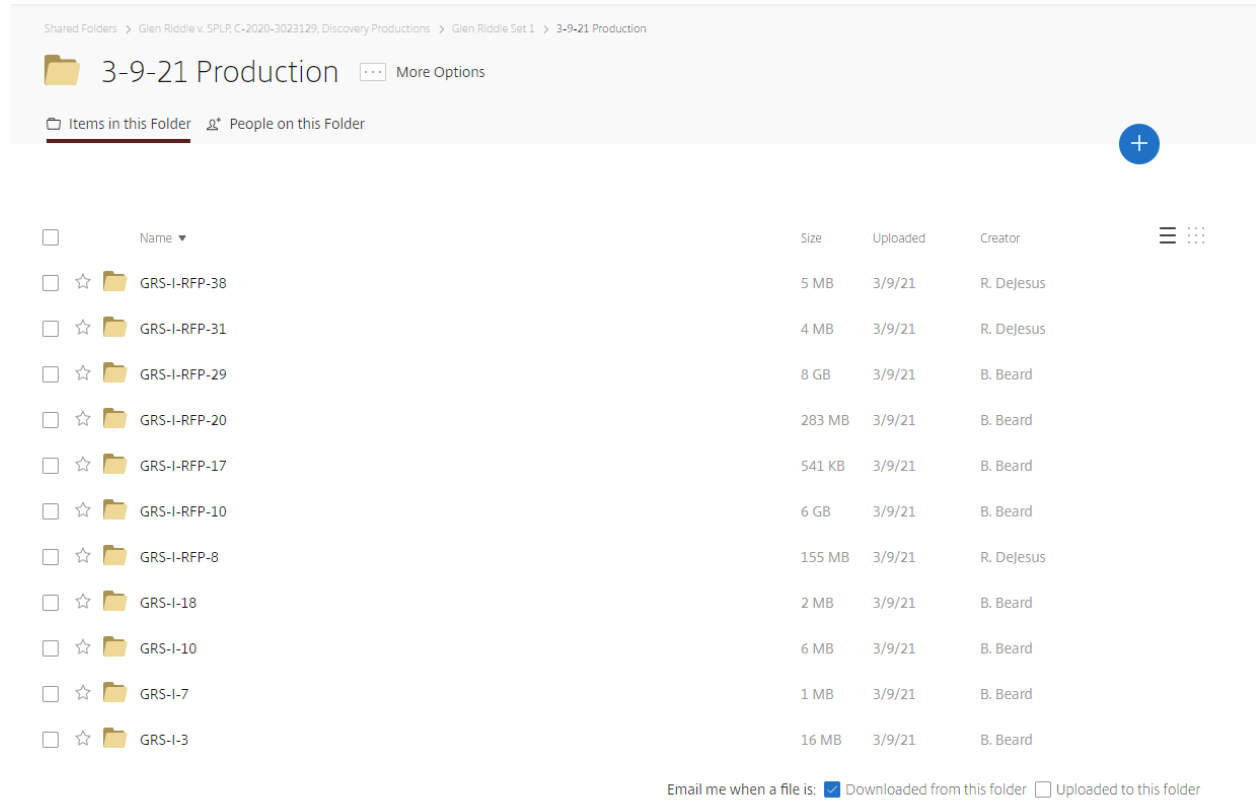
B. The GRS Response represents SPLP’s March 9, 2021 production format in a false light.

7. SPLP’s production format is widely accepted and commonly used means of the production of discovery through searchable PDF format. The GRS Response paints SPLP’s March 9, 2021 production as if it were done in an unmanageable, and unorganized format and that SPLP should have produced it in a format of TIFF files regardless of GRS not specifying how it would like discovery produced. See GRS Response at 2-3. GRS goes one step further and claims that “Sunoco’s conduct borders on bad faith” and that SPLP’s attempt to lay blame on GRS is “gamesmanship.” *Id.*

8. Contrary to GRS’s assertions, SPLP’s production was neither unmanageable nor was it in bad faith. First, that GRS failed to identify how it preferred SPLP to process and provide it discovery is a failure of GRS, not of SPLP, and the Commission’s regulations do not require SPLP to produce discovery in a specific format. Second, GRS was provided the discovery in a systematically labeled, folder-style format which provided clear and manageable indicators for

the March 3 agreement extended GRS’s production date until March 9, 2021.

GRS to review the discovery responsive to each of its interrogatories or requests for production. See below a screenshot of SPLP’s production folder which counsel for GRS accessed on March 12 at 9:40 am (See Motion in Limine, Exhibit 1):



9. That SPLP provided its discovery production in a systematically labeled and organized format, for the convenience of GRS’s counsel, which goes above and beyond the requirements of the Commission’s regulations shows SPLPs good faith efforts to aid GRS’s review. The argument that SPLP did not produce discovery in the undisclosed preference of GRS’s Counsel, here TIFF files, should be dismissed.

10. SPLP’s March 9, 2021 discovery production was done in good faith as shown above, and GRS’s argument that SPLP “engaged in gamesmanship” should be dismissed as wholly unsupported by the facts.

C. The GRS Response conflates the reliefs requested in SPLP's Motion in Limine and incorrectly argues that SPLP seeks to bar GRS from utilizing any of SPLP's March 9, 2021 production as it may use it for whatever purposes it may that are permitted at this stage of the proceeding.

11. The GRS Response next incorrectly assumes that SPLP's Motion in Limine seeks to bar GRS from utilizing any of SPLP's March 9, 2021 production in this proceeding. *See* GRS Response at 4-5.

12. SPLP's Motion does not seek to bar GRS from utilizing the information for whatever purposes it may that are permitted at this stage of the proceeding. What SPLP's Motion *does* argue is that GRS should not be allowed to file additional **direct testimony** in its closing testimony on discovery it had in its possession on March 9, 2021 before the direct testimony deadline of March 15, 2021, within a procedural schedule that prevents SPLP from having an opportunity to respond. That no longer is a permitted purpose. GRS's request to supplement is directly barred by Your Honor's order and 52 Pa. Code § 5.243(e), and would be particularly prejudicial here, where under the current procedural schedule, SPLP has no further opportunity to respond to the supplemental direct that should have been included in GRS's direct. Such an allowance would deny SPLP due process.

13. SPLP presented two reasonable options in its motion: 1) that Your Honor expressly bar GRS from its request to supplement its direct in closing testimony, or 2) amend the procedural schedule to allow GRS to serve supplemental direct testimony limited to issued arising out of SPLP's March 9, 2021 discovery production. SPLP's motion did not seek to "bar" GRS from utilizing the March 9, 2021 discovery in any way; SPLP simply seeks relief from GRS's proposal, which would deny SPLP the opportunity to respond to GRS's allegations.

D. The GRS could and should have requested a procedural extension in compliance with the Commission’s regulations, if it needs additional time to formulate written direct testimony.

14. GRS next argues that the March 9, 2021 production “placed GRS in an untenable position of seeking an extension of time to respond or simply reserving its right to supplement its direct during Surrebuttal testimony.” GRS Response at 5. This argument lacks any merit and if anything concedes it knew it could seek an extension or request relief before its Direct Testimony was due but it did not and instead decided to use the self-help—as opposed to relief allowed under the PUC’s regulations—of slipping it into a footnote. See Motion in Limine.

15. First, GRS’s position was not “untenable” and, as stated in SPLP’s Motion, that position was one of GRS’ own making. GRS received the discovery production on March 9 at 5:29 pm, but did not access it to even begin their review until March 12 at 9:40 am. *See* SPLP’s Motion in Limine; **Exhibit 1** (SPLP email/file transfer transmission of production and Sharefile activity log). That GRS waited 3 days to begin review of SPLP’s discovery production was their choice to make. Even with that, GRS had two business days (March 12 and March 15) to request a procedural schedule extension in order to address, if needed, SPLP’s discovery production in direct testimony.

16. Second, GRS cannot simply “reserve[e] its right to supplement its direct during Surrebuttal testimony.” GRS Response at 5. As discussed in SPLP’s Motion, this is explicitly barred by Your Honor’s February 26, 2021 Order, 52 Pa. Code § 5.243(e), and SPLP’s fundamental rights of due process and to avoid trial by ambush.

17. Your Honor should see the GRS Response for what it is – unreasonable arguments not based in law or fact that must be rejected – and Your Honor should grant SPLP’s Motion in Limine to preclude supplemental direct testimony or amend the procedural schedule in compliance with the Commission’s regulations and SPLP’s due process rights.

III. CONCLUSION

WHEREFORE, SPLP respectfully requests that Your Honor reject GRS's demonstrably false representations in its response to SPLP's Motion in Limine and grant the relief requested therein.

Respectfully submitted,

/s/ Thomas J. Sniscak

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Date: April 1, 2021

Exhibit A

From: [Beach, Ashley L.](#)
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
Date: Wednesday, March 3, 2021 5:31:42 PM

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

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the forgoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

VIA ELECTRONIC MAIL ONLY

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/s/ Thomas J. Sniscak _____

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Bryce R. Beard, Esq.

Dated: April 1, 2021