**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Glen Riddle Station, L.P. :

:

v. : C-2020-3023129

:

Sunoco Pipeline, L.P. :

**SECOND SCHEDULING ORDER**

On December 2, 2020, Glen Riddle Station, L.P. (Glen Riddle) filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against Sunoco Pipeline, L.P. (Sunoco), docket number C-2020-3023129. In its complaint, Glen Riddle averred that on or about May 13, 2020, Sunoco filed a Declaration of Taking in the Court of Common Pleas of Delaware County that concerned various portions of the Glen Riddle property that contains 124 residential dwelling units. Glen Riddle further averred that, in the taking action, Sunoco condemned temporary workspace easements and a temporary access road easement over their property for purposes of completing a pipeline project. Glen Riddle further averred that Sunoco is not complying with previous requirements of the Commission regarding a public awareness plan and standard operating procedures. Glen Riddle also identified several other alleged failures of Sunoco with regard to the property, including, parking and traffic safety concerns, unsafe work site, failure to follow government-mandated pandemic safety protocols, failure to communicate regarding a potentially hazardous leak, and structural and storm drainage concerns, among other things. Glen Riddle averred that Sunoco’s actions violated several provisions of the Public Utility Code and requested that the Commission enter an order enjoining or restraining Sunoco from engaging in further work at the property until the safety concerns are addressed. Glen Riddle attached multiple documents to its complaint in support of its position.

On December 23, 2020, Sunoco filed an answer and new matter in response to the complaint. In its answer, Sunoco admitted or denied the various averments Glen Riddle made in its complaint. In particular, Sunoco denied that it has not complied with the public awareness plan or standard operating procedures it is required to comply with. Sunoco also admitted or denied the various averments made by Glen Riddle with regard to the other alleged failures of Sunoco with regard to the property that were averred in the complaint. Sunoco provided significant detail in response to the averments made in the complaint and concluded by requesting that the complaint be dismissed with prejudice. Sunoco also attached multiple documents to its answer in support of its position.

In its new matter, which was accompanied by a notice to plead, Sunoco argued that the Commission lacks jurisdiction over Glen Riddle’s allegations regarding environmental law issues and permitting obligations, the validity and scope of easements and compliance with municipal ordinances and the Governor’s orders and regulations regarding Covid-19. Sunoco also argued that Glen Riddle has failed to state a claim upon which the Commission can grant relief. In part, Sunoco argued that Glen Riddle’s allegations regarding construction means and methods and relief seeking a work plan and schedule reflecting Glen Riddle’s preferences fail as a matter of law to state a claim upon which relief can be granted and should be dismissed.

Subsequently, multiple pleadings were filed and procedural matters occurred. This includes the filing of preliminary objections, establishment of an initial telephonic hearing, a motion for a prehearing conference and procedural schedule, the filing of a petition for interim emergency relief, the withdraw of the petition for interim emergency relief, a prehearing conference, the rescheduling of the prehearing conference, issuance of a scheduling order, the circulation of pre-served written testimony, the filing of a motion to compel by each party, the filing of a motion for a protective order that was contested and a motion in limine. Each of these procedural matters was responded to with the necessary order or hearing notice as appropriate. In addition, other motions have been filed that remain outstanding.

On April 9, 2021, however, counsel for Glen Riddle emailed the presiding officer to indicate that the parties had agreed to a prompt mediation in an effort to resolve the issues in this matter without having to pursue the hearing. Although at the time the parties had not agreed on the specific details of a stay, given the impending due date of additional pre-served written testimony, the parties requested that a limited stay of the proceeding would give the mediation the best chance of success. The parties agreed to a short extension of the litigation schedule while additional details of a more comprehensive extension were determined. A brief conference call was held with the presiding officer and counsel for the parties wherein the interim extension of the litigation schedule was informally approved.

Subsequently, on April 14, 2021, the parties again emailed regarding a more definitive extension of the litigation schedule so that the parties can pursue mediation. The parties requested that the schedule in this case will be modified to the following:

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| --- | --- |
| Sunoco Rebuttal Testimony due | May 12, 2021 |
| Glen Riddle Surrebuttal Testimony due | May 19, 2021 |
| All parties’ exhibits due | May 21, 2021 |
| Hearings | May 24, 2021 and May 27, 2021 |

The parties also requested that the hearings commence at 9:00 a.m. and noted the possibility that May 26, 2021 may be used a day for hearings, instead of May 27, 2021, if an existing schedule conflict is resolved.

The parties were informed informally that the proposed revisions to the litigation schedule were approved. The purpose of this order is to formally memorialize the revised procedural schedule.

Section 5.483 of the Commission’s regulations provides presiding officers with the authority to regulate the course of proceedings. 52 Pa.Code § 5.483(a). Presiding officers are required to conduct fair and impartial hearings and maintain order. 52 Pa.Code § 5.485(a). Furthermore, the Commission’s regulations are to be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding. 52 Pa.Code § 1.2(a).

In this case, good cause exists to approve the revisions to the procedural schedule. The parties have indicated that they are working toward a settlement through a private mediator. The parties should be given an opportunity to pursue such opportunity to resolve the matters complained of. Trying to litigate the complaint while also trying to mediate the complaint may inhibit the ability to resolve this case. Such a barrier is unnecessary where, although there are averments of safety raised in the complaint, the parties have agreed to pause litigation and focus on mediation. Extending the litigation schedule so that the parties can focus on mediation is reasonable.

The parties are commended for their efforts to resolve this complaint via a settlement. Commission policy promotes settlements. 52 Pa. Code §5.231(a). The parties are encouraged to continue settlement discussions amongst themselves and are reminded, that even if the parties are unable to settle this case, they may still resolve some of the questions or issues during their discussions. If the parties reach an agreement on all issues, the formal hearing now scheduled for May 24, 2021 and May 27, 2021 will not be necessary and will be cancelled. The parties are encouraged to avail themselves of the Commission’s mediation unit or the settlement judge process pursuant to the Commission’s regulations if necessary. 52 Pa.Code § 5.223(c); *see also*, 52 Pa.Code § 5.231(c).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the schedule for litigating this proceeding will be revised as follows:

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| --- | --- |
| Sunoco Rebuttal Testimony due | May 12, 2021 |
| Glen Riddle Surrebuttal Testimony due | May 19, 2021 |
| All parties’ exhibits due | May 21, 2021 |
| Hearings | May 24, 2021 and May 27, 2021 |

1. That all other aspects of the scheduling order issued in this case dated February 26, 2021 shall remain in effect.
2. That the parties are encouraged to continue to pursue settlement discussions.

Date: April 16, 2021 \_\_\_\_\_/s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Joel H. Cheskis

Deputy Chief Administrative Law Judge

**C-2020-3023129 - GLEN RIDDLE STATION, L.P. v. SUNOCO PIPELINE L.P.***updated 3/3/21*

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