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June 3, 2021

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

**Re: *Meghan Flynn, et al. v. Sunoco Pipeline LP***  
***Docket Nos. P-2018-3006117, et al***

Dear Secretary Chiavetta:

Enclosed for electronic filing with the Commission, please find Exceptions of Intervenor Downingtown Area School District, along with the Certificate of Service, in the above-referenced matter.

Thank you.

Very truly yours,

  
Guy A. Donatelli

GAD/jls

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michael Flynn, Rosemary Fuller,	:	
Michael Walsh, Nancy Harkins,	:	
Gerald McMullen, Caroline Hughes,	:	Docket No. P-2018-3006117
and Melissa Haines,	:	Docket No. C-2018-3006116
<i>Complainants,</i>	:	Docket No. C-2018-3005025
v.	:	Docket No. C-2019-3006898
	:	Docket No. C-2019-3006905
Sunoco Pipeline, L.P.,	:	Docket No. C-2018-3003605
<i>Respondents.</i>	:	

**EXCEPTIONS OF INTERVENOR THE DOWNINGTOWN AREA SCHOOL DISTRICT**

Intervenor, the Downingtown Area School District, respectfully submits these Exceptions to the April 9, 2021 Initial Decision pursuant to the correspondence of Secretary Rosemary Chiavetta to all parties dated April 23, 2021, and in accordance with 52 Pa. Code §5.533.

Respectfully submitted,

**LAMB MCERLANE PC**

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Dated: June 3, 2021

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## I. INTRODUCTION

On April 9, 2021, the Honorable Elizabeth H. Barnes issued the Initial Decision in the above-captioned matter.<sup>1</sup> Intervenor Downingtown Area School District had sought relief for the benefit of the residents, students, families and staff of the district placed at risk as a result of Sunoco's pipeline operations within close proximity of its schools. The Downingtown Area School District sought to reduce, through its requested relief, the risks posed by the transportation of HVL's by Sunoco through its community and to secure information and planning assistance which would enhance the public safety concerns of the Downingtown Area School District. The Initial Decision appropriately identifies and orders a number of well-reasoned and enforceable measures which markedly increase the safety to the Downingtown Area School District community and its most at-risk population.

The Downingtown Area School District takes two exceptions with one area of the Initial Decision. It must be preliminarily noted that the Downingtown Area School District recognizes the public safety benefits the Initial Decision confers upon the District and other similarly situated municipalities. The Initial Decision, at Ordering Paragraphs 17 through 19 (pages 201-202), quite appropriately, provides the following relief:

*17. That Sunoco Pipeline, L.P. is directed to contact the West Chester Area School District, Twin Valley School District, Downingtown Area School District, and Rose Tree Media School District, within thirty (30) days of the date of entry of a Final Order for the purpose of scheduling public awareness/education meetings to be held in each School District.*

*18. That absent exigent circumstances, Sunoco Pipeline, L.P. is directed to appear at the scheduled meetings referenced in Ordering Paragraph Nos. 15 and 16, and discuss additional communications and training (including establishment*

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<sup>1</sup> All references in this submission refer to the non-proprietary version of the Initial Decision.

*of procedures for immediate, direct notifications to municipalities and school districts of any leak or breach of the Mariner East Pipelines) and that Sunoco is directed to provide such training as reasonably requested by those parties and institute such emergency notification procedures.*

19. *That within one hundred twenty (120) days of the Final Order in this proceeding, Sunoco Pipeline, L.P. shall file with the Commission with a copy to the Bureau of Technical Utility Services for review a written plan to enhance its public awareness and emergency notification plans, including but not limited to addressing: a) direct notifications to municipalities, counties, and School Districts in high consequence areas of any leak, breach or other pipeline emergency; b) supplemental program enhancements to emergency training programs; c) plan to internal or external audits to evaluate the effectiveness of its programs; and d) corrective action plans to address any insufficiencies or weaknesses revealed through its evaluations and audits, and that a copy of the plan shall be served upon the Commission's Bureau of Technical Utility Services and Bureau of Investigation and Enforcement.*

For ease of reference, these Ordering Paragraphs are referred to as “the Relief Provisions”.

The Downingtown Area School District respectfully suggests two clarifications: 1) that the financial responsibilities for the expenses incurred by the Relief Provisions place that obligation on Sunoco, and; 2) that the Relief Provisions require clear and identifiable benchmarks for compliance. The results of adopting these exceptions and modifying the Initial Decision will be increase clarity and certainty of compliance with these obligations and assure that the safety measures identified are carried out with objective fidelity.

## **II. EXCEPTIONS**

### **A. Exception 1**

Downingtown Area School District respectfully requests that that the financial responsibilities for the expenses incurred by the Relief Provisions be placed on Sunoco. While the

Initial Decision implies Sunoco’s financial responsibility to undertake the measures identified in the Relief Provisions, it does not directly order it. For reasons of certainty, the Initial Decision should be clarified to place the financial responsibility on Sunoco. The Downingtown Area School District is not seeking a “blank check” from Sunoco – rather, a recognition that the party creating the risk should not be creating additional costs for those affected. The following clarification should be adopted.

*\*All costs incurred by compliance with Ordering Paragraphs 17, 18 and 19 (and by incorporation Ordering Paragraphs 15 and 16) of this Order shall be borne by Sunoco Pipeline, L.P., including those additional costs incurred by the School Districts through participation in the events and procedures ordered by these paragraphs. The School Districts shall provide these additional costs to Sunoco within sixty (60) days of being incurred and shall not include fixed costs. Payment to the School Districts shall be made within sixty (60) days.*

#### **B. Exception 2**

The Downingtown Area School District respectfully requests that the relief ordered by the Relief Provisions require clear and identifiable benchmarks for compliance. The Relief Provisions are supported by all the evidence and are well-reasoned, However, time frames, frequency of contact and deliverables are not specified. The following clarifications should be adopted.

*\*The parties shall agree to a schedule for the implementation of all requirements of Ordering Paragraphs Nos. 17 and 18 (and by incorporation Ordering Paragraphs Nos. 15 and 16) of this Order. This schedule shall be completed no later than 10 days before the timeframes provided by paragraphs 17 and 18. The schedule shall include: 1) the number and general timing of the public awareness/education meetings to be held in each School District; 2) the number and general timing of meetings referenced in Ordering Paragraph Nos. 15 and 16; 3) the discussion topics for additional communications and training (including establishment of procedures for immediate, direct notifications to municipalities and school districts of any leak or breach of the Mariner East Pipelines); 4) the type, description and frequency of training as reasonably requested by the School Districts that Sunoco will provide; and; 6) the form and substance of the training curriculum and the emergency response plans to be developed.*

*\*As to Ordering Paragraph No. 19, no later than 20 days before the production of the filing Sunoco Pipeline, L.P. has been ordered to provide to the Commission (with a copy to the Bureau of Technical Utility Services) for review a written plan to enhance its public*

*awareness and emergency notification plans, Sunoco Pipeline, L.P. shall provide to the School Districts the same plan for the School Districts' review and comments.*

An Order can never account for every potential eventuality, however by placing an obligation to communicate and agree to expectations, the goals of the Initial Decision are enhanced measurably. And, as Ordering Paragraph 43 (page 204 of the Initial Decision) provides that the Pennsylvania Public Utility Commission retains jurisdiction over any enforcement issues arising from noncompliance, the development of a schedule and identification of deliverables should not be an added burden on any party.

### **III. CONCLUSION**

Intervenor the Downingtown Area School District respectfully suggests that these modifications to the Initial Decision make the Relief Provisions clear as to financial responsibility and results. They assure success and encourage all parties to engage in dialogue, use more than mere best efforts to implement conscientiously the public safety goals of the Initial Decision and avoid any potential that this step forward for the Downingtown Area School District families (and the communities of all public bodies) will be more than simply an aspirational but ultimately hollow exercise.

Respectfully submitted,

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Dated: June 3, 2021

**CERTIFICATE OF SERVICE**

I hereby certify that this day I have served a copy of the Downingtown Area School District's Exceptions upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a party).

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