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July 2, 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 ANSWER TO GLEN RIDDLE STATION,
L.P.'S MOTION TO DISMISS OBJECTIONS AND COMPEL RESPONSES
TO SET IV INTERROGATORIES**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Sunoco Pipeline L.P.'s answer to Glen Riddle Station, L.P.'s motion to dismiss objections and compel responses to Set IV interrogatories in the above referenced proceeding. Copies have been served in accordance with the attached Certificate of Service.

This answer is being 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

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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.	:		

**SUNOCO PIPELINE L.P. ANSWER TO GLEN RIDDLE MOTION TO DISMISS
OBJECTIONS AND COMPEL RESPONSES TO SET IV**

Pursuant to 52 Pa. Code § 5.342(g)(1) of the Pennsylvania Public Utility Commission’s (“PUC” or “Commission”) regulations, Sunoco Pipeline L.P. (“SPLP”) submits this Answer to Glen Riddle Station L.P. (“GRS”) Motion To Dismiss Objections and Compel Responses filed June 30, 2021 (“Motion”). In support of this Answer, SPLP respectfully asserts as follows:

I. INTRODUCTION

1. Your Honor has already denied GRS the discovery that it now seeks. On March 5, 2021, Your Honor entered an order Denying GRS’s Motion to Compel GRS Set I, No. 19 which requested:

19. Identify all monies that Sunoco has paid to the Township in addition to the \$1.8 million identified in the Letter Agreement between Sunoco and the Township dated September 26, 2016, and the purpose of each such payment.

Glen Riddle Station, L.P. v. Sunoco Pipeline L.P., Docket No. C-2020-3023129, Order Denying Motion to Compel Filed by Glen Riddle Station L.P. – Set I at 8-9 (Order entered March 5, 2021)(“March 5 Order”). In short, Your Honor denied GRS’s motion to compel as any payments made by SPLP to Middletown Township for any reason are irrelevant, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding.

2. GRS did not seek interlocutory review of this discovery order from the Commission under 52 Pa. Code § 5.304 after the March 5 Order.

3. On June 25, 2021, GRS served on SPLP Interrogatories and Request for Production of Documents Set IV including No. 10 which requests:

10. Identify all payments of money made by Sunoco or its affiliates to the Township from January 1, 2018, through the present.

4. On June 28, 2021, SPLP interposed the attached Objections to Set IV No. 10. *See* Attachment A. In the objections, SPLP contends Your Honor’s March 5 Order is controlling as Your Honor denied the nearly identical request finding such discovery was irrelevant and not reasonably tailored to lead to the discovery of admissible evidence regarding Sunoco’s alleged unsafe practices, was overly broad and unduly burdensome, and beyond the scope of discovery in this matter. March 5 Order at 8-9.

5. On June 30, 2021, GRS filed the above-referenced motion to compel. The Motion recognizes that Your Honor’s March 5 Order is controlling over the discovery sought again in Set IV No. 10. *See* Motion at ¶ 6. Despite this admission, GRS attempts to claim portions of SPLP’s independent expert Gregory Noll’s rebuttal testimony served on May 12, 2021, relies on statements or reports from Middletown Township personnel, and therefore concocts a theory that somehow the discovery sought “is relevant to the credibility of Mr. Noll’s Testimony.” Motion at ¶ 15. It is not. Mr. Noll’s independent expert opinions regarding the construction at the property have absolutely no relation to any monies paid by SPLP to Middletown Township. The Motion must be denied.

II. ARGUMENT

A. Your Honor's March 5 Order already denied GRS's same discovery pursued again in GRS-IV-10 seeking any monies SPLP paid to the Township as irrelevant, burdensome, and beyond the scope of discovery in this matter.

6. Your Honor's March 5 Order denied GRS the same discovery it now seeks again.

GRS-IV-10 provides:

10. Identify all payments of money made by Sunoco or its affiliates to the Township from January 1, 2018, through the present.

7. Your Honor's March 5 Order previously denied Glen Riddle's motion to compel

on this same discovery regarding GRS-I-19 which stated:

19. Identify all monies that Sunoco has paid to the Township in addition to the \$1.8 million identified in the Letter Agreement between Sunoco and the Township dated September 26, 2016, and the purpose of each such payment.

In denying GRS's Motion to Compel on GRS-I-19, Your Honor correctly held:

Furthermore, Glen Riddle's motion to compel argued that Glen Riddle is entitled to discovery regarding payments to the Township *related to Sunoco's unsafe practices*. But interrogatory I-19 is not limited to payments to the Township *related to Sunoco's unsafe practices*. Rather, the interrogatory inquires about *all monies*. This request is therefore overly broad and unduly burdensome. It is not clear that the request is reasonably calculated to lead to the discovery of admissible evidence. As a result, it is beyond the scope of discovery.

As a result, Glen Riddle's motion with regard to interrogatory I-19 will be denied.

See March 5 Order at 9 (Emphasis in original).

8. As is readily apparent, GRS-I-19 and GRS-IV-10 seek the same information – the identification of all payments of money made by Sunoco to Middletown Township. Your Honor's March 5 Order correctly held that all monies paid to the Township by Sunoco is overly broad, unduly burdensome, and is ultimately beyond the scope of discovery in this proceeding. The same

result applies here and Your Honor should deny GRS's second attempt at discovery that is in complete disregard to Your Honor's prior order.

9. Additionally, as SPLP argued when it opposed GRS-I-19, to the extent potential relevance could be imagined for GRS-IV-10, which there is none, the request is so open ended as to be a fishing expedition, not reasonably tailored to discover admissible evidence. *See, e.g., City of York v. Pa. P.U.C.*, 281 A.2d 261, 265 (Pa. Commw. Ct. 1971) ("*City of York*") ("Anything in the nature of a mere fishing expedition is not to be encouraged. Where the plaintiff will swear that some specific book contains material or important evidence, and sufficiently describes and identifies what he wants, it is proper that he should have it produced. But this does not entitle him to have brought in a mass of books and papers in order that he may search them through to gather evidence.") (quoting *American Car & Foundry Company v. Alexandria Water Company*, 70 A. 867, 869 (Pa. Super. Ct. 1908)). The Motion must be denied consistent with the March 5 Order.

B. GRS's argument that any payments made by Sunoco to Middletown Township affects the credibility of Sunoco's independent expert Gregory Noll's testimony lacks all merit and is not supported by GRS's own arguments and cited caselaw.

10. GRS argues that the rebuttal testimony of SPLP's independent expert, Gregory Noll reviewed and cited statements and reports from agents of Middletown Township. Motion at ¶ 7, 12, 13, 14. Therefore, GRS concocts a theory that any payments to the Township from SPLP, no matter their purpose, are "relevant to the credibility of Mr. Noll's testimony." Motion at ¶ 15. This argument entirely lacks merit and must be denied.

11. First, payments made by SPLP to *Middletown Township* cannot logically have affected the credibility of SPLP's independent expert Gregory Noll's testimony in this proceeding. Mr. Noll is not an employee of Middletown Township nor the recipient of any benefit weighing

on his credibility from any payments between SPLP and Middletown Township. GRS-IV-10 plainly does not seek information related to Gregory Noll's credibility.

12. Second, GRS's theory that because Mr. Noll reviewed Middletown Township's emergency responder practices at the site and Middletown Township's recommendations which SPLP implemented while forming his expert opinions, Mr. Noll opinions were somehow impacted by whether payments were made for any reason by SPLP to Middletown Township. This is provably false. Mr. Noll did not rely solely on Middletown Township's practices or recommendations when forming his expert opinions, he considered the information along with many other considerations in forming his opinions. Moreover, Mr. Noll does not rely on the Township for the truth of their conclusions. Instead, he observes that the Township reviewed the issues and concluded that SPLP was not creating a hazard. Mr. Noll's expert conclusions considered a multitude of items including his own personal view of the site, his own personal experience in emergency response, a review of GRS's witness testimony, and his review of Middletown Township's emergency responder practice at the site and Middletown Township's recommendations implemented by SPLP. The Motion should be denied.

- i. Whether SPLP made any payments to Middletown Township has no relation to and does not affect the credibility of the testimony of Gregory Noll cited by GRS.

13. GRS cites portions of Gregory Noll's testimony to support its argument and theory for why it is entitled to discovery on its second attempt, yet none of the testimony referenced has any implication on Gregory Noll's "credibility" resulting from whether any payments were made by SPLP to Middletown Township. As shown below, each section of testimony referenced regards Mr. Noll's opinions on the site based a multitude of items including his expert experience, personal visit to the property, prior training Mr. Noll provided to Middletown Township emergency responders, a review of GRS's witness Mr. Culp's testimony, review of Middletown Township's

emergency response practice activities at the property, and review of Middletown Township’s recommendations to SPLP regarding the layout of the site which SPLP implemented. None of the testimony cited implicates any credibility determination regarding Mr. Noll’s independent expert testimony that flow from irrelevant payments made between SPLP and Middletown Township outside the scope of this proceeding. As shown below, each citation GRS provides is demonstrably unrelated to whether any payments between SPLP and Middletown Township occurred:

Testimony cited by GRS in Motion to Compel	Topics of testimony
SPLP Statement No. 1-R at 7:14-22	Mr. Noll discusses training that he facilitated to Middletown Township through a tabletop exercise on April 24, 2019.
SPLP Statement No. 1-R at 9:5-17	Mr. Noll discusses his review of the site and ultimate independent conclusion that the emergency responders would not be limited by the sound walls based upon his own viewing of the site, conversations with the township emergency coordinator, Mr. Culp’s Dec. 8 correspondence, and Middletown Township’s December 10, 2020 recommendations to SPLP which SPLP implemented.
SPLP Statement No. 1-R at 10:14-11:2	Mr. Noll discusses Mr. Culp’s claim that the sound walls violate the International Fire Code. Mr. Noll opined this was not a valid concern as he reviewed Middletown Township’s emergency responder practice exercises at the site and Middletown Townships supervisory recommendations which SPLP implemented at the site.
SPLP Statement No. 1-R at 12:12-13:5	Mr. Noll discusses Mr. Culp’s reliance on the IFC Appendix D and how Mr. Culp’s reliance on Appendix D is misplaced as Middletown Township physically visited and tested their equipment at the site, that SPLP implemented recommendations made by Middletown Township, and that in the two emergency responses that occurred at the property to date, no access issues occurred.
SPLP Statement No. 1-R at 14:19-15:14	Mr. Noll ultimately opines that in his independent expert opinion emergency responders can safely respond to emergencies at the property, again noting the Middletown Township recommendations which were implemented by SPLP at the property and that his evaluation which included a site visit, google maps, conversations with Middletown Township emergency personnel, and Middletown Township’s December 10, 2020 recommendations the construction area, parking lot, and traffic patterns do not present fire safety risks or hazards.

14. As shown above, the independent expert opinions of Mr. Noll cited by GRS do not implicate any credibility considerations for Mr. Noll’s testimony and in no way allows such irrelevant discovery, that was previously denied, into whether SPLP made any payments to Middletown Township for any reason as such discovery is far outside the scope of this proceeding.

Mr. Noll did not rely solely on Middletown Township's practices or recommendations when forming his expert opinions, and simply considered this information among other things when forming his opinions. Moreover, Mr. Noll does not rely on the Township for the truth of their conclusions. Instead, he observes that the Township reviewed the issues and concluded that SPLP was not creating a hazard. Mr. Noll's expert conclusions considered a multitude of items including his own personal view of the site, his own personal experience in emergency response, a review of GRS's witness testimony, a review of Mr. Culp's December 8 correspondence, and his review of Middletown Township's emergency responder practice at the site and Middletown Township's recommendations implemented by SPLP. GRS' argument is meritless, and the Motion must be denied.

ii. The cases relied on by GRS in paragraph 16 of the Motion are irrelevant and have no bearing on the instant discovery dispute.

15. GRS cites and relies on two cases for its assertion that "The payment of money, potentially substantial amounts of money, **to a party or witness** is relevant to the credibility of that party or witnesses." Motion at ¶ 16 (emphasis added) (citing *Hatfield v. Cont'l Imports, Inc.*, 620, [sic] A.2d 446, 449-50 (Pa. 1992) and *Profit-Sharing Blue Stamp Co. v. Urban Redevelopment Auth. of Pittsburgh*, 241 A.2d 116, 118 (Pa. 1968)). Neither of these cases are relevant to GRS's argument to compel GRS-IV-10. In *Hatfield*, the Pennsylvania Supreme Court addressed the admissibility of a secret agreement into evidence, also termed a "Mary Carter agreement," for the purposes of showing the potential bias of the original defendants in the case. *Hatfield v. Contl. Imports, Inc.*, 610 A.2d 446 at 449 (Pa. 1992). The Court held that evidence of the agreement or existence of the agreement regarding potential bias of the defendant could be heard by the fact finder and remanded the proceeding to the trial court to review the agreement, balance the relevancy, and admit or exclude as much as it deems appropriate. *Id.* at 563. *Hatfield*

is wholly irrelevant and not binding on the instant discovery dispute and does not support GRS's assertions as Mr. Noll is neither a defendant or a party to a secret agreement who's credibility may be called into question. In *Profit-Sharing Blue Stamp Co.*, as GRS's own parenthetical admits, the Pennsylvania Supreme Court addressed the *cross-examination* of a building owner regarding a bond given by that building owner to the Authority to reimburse the Authority for loss as proper cross examination related to the building owner's credibility. *Profit-Sharing Blue Stamp Co. v. Urb. Redevelopment Auth. of Pittsburgh*, 241 A.2d 116 at 118 (Pa. 1968). This too has no bearing on the instant discovery motion and does not support GRS's assertions.

16. SPLP notes that even if GRS's argument were supported by the cases they cite, which they are not, the argument itself lacks all merit by their own admission. First, GRS-IV-10 does not seek the discovery of money paid "**to a party or witness**" as argued in the Motion. Motion at ¶ 16. Rather, GRS-IV-10 seeks SPLP to identify all payments made to Middletown Township since 2018, but Middletown Township is neither "**a party or witness**" to this proceeding. Any such payments are irrelevant and immaterial to this proceeding. By further explanation, GRS-IV-10 did not seek SPLP to identify what payments were made to Gregory Noll, "**a party or witness**" to this case which may or may not implicate that **witnesses** credibility. Under GRS's own argument, the Motion must be denied as there are no relation to the credibility of Gregory Noll's testimony and whether any payments were made by SPLP to Middletown Township for any reason.

C. GRS never sought interlocutory review of the March 5 Order under 52 Pa. Code § 5.304(c) and therefore the March 5 Order is determinative on the instant Motion.

17. As discussed above, Your Honor's March 5 Order denied GRS's discovery inquiring into any payments made by SPLP to Middletown Township. Pursuant to 52 PA. Code § 5.304(c), if GRS did not agree with Your Honor's ruling, GRS was required to file a Petition for

Certification within 3-days of Your Honor's March 5 Order and would have been required to prove that such review was necessary to prevent substantial prejudice or to expedite the proceeding regarding its discovery into any payments by SPLP to Middletown Township. See 52 Pa. Code § 5.304(c). It did not do so.

18. Rather than abiding by the Commission's discovery rules and regulations, GRS instead re-served the same discovery almost four months later. Therefore, because GRS did not seek interlocutory review of Your Honor's March 5 Order under the proper procedure described in 52 Pa. Code § 5.304, GRS's instant Motion must be denied as the March 5 Order is both final and determinative on the instant Motion.

III. CONCLUSION

WHEREFORE, Sunoco Pipeline L.P. respectfully requests that Your Honor deny Complainant Glen Riddle Station L.P.'s Motion to Compel as stated herein.

Respectfully submitted,

/s/ Thomas J. Sniscak

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Date: July 2, 2021

Attachment A



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June 28, 2021

Via Electronic Mail Only

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RE: Glen Riddle Station, L.P. v. Sunoco Pipeline L.P.; Docket No. C-2020-3023129;
**SUNOCO PIPELINE L.P.'S OBJECTIONS TO GLEN RIDDLE STATION,
L.P.'S SET IV INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS**

Your Honor, Mr. Cortes, and Ms. Beach:

Enclosed you will find Sunoco Pipeline L.P.'s objections to Glen Riddle Station, L.P.'s Interrogatories and Requests for Production of Documents, Set IV No. 10 served in Compliance with Your Honor's May 24, 2021, Order in the above-referenced proceeding.

The objections are being served electronically only 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/ Whitney E. Snyder
Thomas J. Sniscak, Esq.
Whitney E. Snyder, Esq.
Kevin J. McKeon, Esq.
Bryce R. Beard, Esq.
Counsel for Sunoco Pipeline L.P.

WES/das
Enclosures

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/ Whitney E. Snyder _____
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Bryce R. Beard, Esq.

Dated: June 28, 2021

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GLEN RIDDLE STATION, L.P.	:		
	:	Docket Nos.	C-2020-3023129
v.	:		
	:		
SUNOCO PIPELINE L.P.	:		

**SUNOCO PIPELINE L.P. OBJECTIONS TO COMPLAINANT’S SET IV
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS**

Pursuant to 52 Pa. Code § 5.342 and in compliance with Your Honor’s discovery modifications adopted in the May 24, 2021 Order,¹ Sunoco Pipeline L.P. (“SPLP”) submits these Objections to Interrogatory No. 10 of Complainant Glen Riddle Station’s (“GRS”) Set IV Interrogatories and Requests for Production of Documents (“GRS-IV-10”).² As explained below, SPLP objects to GRS-IV-10 because Your Honor previously denied GRS’s nearly identical request seeking SPLP to identify payments of money made by Sunoco to Middletown Township by Order dated March 5, 2021 finding such discovery was irrelevant and not reasonably tailored to lead to the discovery of admissible evidence regarding Sunoco’s alleged unsafe practices, was overly broad and unduly burdensome, and beyond the scope of discovery in this matter.³

Under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c) provides that a party is entitled to

¹ *Glen Riddle Station, L.P. v. Sunoco Pipeline L.P.*, Docket No. C-2020-3023129, Order Granting Further Continuance at 4 (Order entered May 24, 2021).

² SPLP notes that it orally communicated its objection to GRS at 11:59 AM on Monday, 6/28/21 in compliance with the May 24, 2021 discovery modifications. As of the time of this filing, GRS has not confirmed whether or not the GRS-IV-10 will be withdrawn or pursued further.

³ *Glen Riddle Station, L.P. v. Sunoco Pipeline L.P.*, Docket No. C-2020-3023129, Order Denying Motion to Compel Filed by Glen Riddle Station L.P. – Set I at 8-9 (Order entered March 5, 2021)(“March 5 Order”).

obtain discovery of any matter not privileged that is relevant to a pending proceeding and reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). In addition, under Section 5.323, discovery may not include disclosure of legal research or legal theories. 52 Pa. Code § 5.323(a).

GRS-IV-10 seeks information that has already been ruled as beyond the scope of discovery in this matter by Your Honor, and GRS's request flagrantly disregards the March 5 Order by seeking the denied discovery once again. Therefore, in accordance with the Commission's regulations, SPLP objects to Complainant Set IV, No. 10.

I. OBJECTION TO GRS-IV-10

GRS-IV-10 provides:

10. Identify all payments of money made by Sunoco or its affiliates to the Township from January 1, 2018, through the present.

SPLP objects to this request because it seeks information irrelevant to this proceeding and not reasonably tailored to lead to the discovery of admissible evidence. Pursuant to 52 Pa. Code § 5.321(c), a party may obtain discovery of any matter not privileged that is relevant to a pending proceeding and that is reasonably calculated to lead to the discovery of admissible evidence. *Id.* The information sought in GRS-IV-10 is not relevant to the issues to be addressed in this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. Whether SPLP paid monies to the Township has nothing to do with the allegations in this proceeding – whether SPLP's construction on Complainant's property and communications with Complainant comply with the Public Utility Code.

Additionally, Your Honor's March 5 Order previously denied Glen Riddle's motion to compel on this same discovery regarding GRS-I-19 which stated:

19. Identify all monies that Sunoco has paid to the Township in addition to the \$1.8 million identified in the Letter Agreement between Sunoco and the Township dated September 26, 2016, and the purpose of each such payment.

In denying GRS's Motion to Compel on GRS-I-19, Your Honor correctly held:

Furthermore, Glen Riddle's motion to compel argued that Glen Riddle is entitled to discovery regarding payments to the Township *related to Sunoco's unsafe practices*. But interrogatory I-19 is not limited to payments to the Township *related to Sunoco's unsafe practices*. Rather, the interrogatory inquires about *all monies*. This request is therefore overly broad and unduly burdensome. It is not clear that the request is reasonably calculated to lead to the discovery of admissible evidence. As a result, it is beyond the scope of discovery.

As a result, Glen Riddle's motion with regard to interrogatory I-19 will be denied.

March 5 Order at 9 (Emphasis in original). Through GRS-IV-10, GRS seeks a second chance at irrelevant, overly broad, and unduly burdensome fishing expedition which is not reasonably calculated to the lead to the discovery of admissible evidence.

II. CONCLUSION

WHEREFORE, Sunoco Pipeline L.P. objects to Glen Riddle Station L.P.'s Set IV, No.

10.

Respectfully submitted,

/s/ Whitney E. Snyder

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Counsel for Sunoco Pipeline L.P.

Date: June 28, 2021

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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Bryce R. Beard, Esq.

Dated: July 2, 2021