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July 20, 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 with the Pennsylvania Public Utility Commission is Complainant's Motion to strike certain of Sunoco Pipeline L.P.'s testimony, 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,

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. | : | |

NOTICE TO PLEAD

TO: Sunoco Pipeline L.P.

Pursuant to 52 Pa. Code § 1.15(b) and 52 Pa. Code § 5.202(c), you are hereby notified that Glen Riddle Station, L.P., has filed a Motion to Strike Certain Testimony at the above-referenced docket to which you may file an answer. Your failure to answer will allow the ALJ to rule on the Motion without a response from you, thereby requiring no other proof. All pleadings such as an Answer to this Motion must be filed with the Secretary of the Pennsylvania Public Utility Commission, Rosemary Chiavetta.

FOX ROTHSCHILD LLP

July 20, 2021

By:



Samuel W. Cortes, Esquire
Attorney ID No. 91494
Attorneys for GRS

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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| GLEN RIDDLE STATION, L.P., | : | DOCKET NO. C-2020-3023129 |
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| Respondent. | : | |

ORDER

AND NOW, this _____ day of _____, 2021, upon consideration of the Motion of Complainant, Glenn Riddle Station, L.P., to strike the testimony of Respondent, Sunoco Pipeline L.P., it is hereby ORDERED and DECREED that Complainant’s Motion is GRANTED.

It is FURTHER ORDERED that the following portions of Sunoco Pipeline L.P.’s testimony are hereby stricken:

- Rejoinder Testimony of Attorney Amerikaner:
 - p. 5:18-21;
 - p. 7:15-18;
 - p. 17:7-13; and
 - p. 19:9-12.

- Rebuttal Testimony of Attorney Amerikaner:
 - p. 3:22-23;
 - p. 4:1-2; and
 - p. 4:10-11.

BY THE COURT:

J.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
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| GLEN RIDDLE STATION, L.P., | : | DOCKET NO. C-2020-3023129 |
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| | : | |
| v. | : | |
| | : | |
| SUNOCO PIPELINE L.P., | : | |
| Respondent. | : | |

**MOTION OF GLENN RIDDLE STATION, L.P. TO STRIKE CERTAIN OF
SUNOCO PIPELINE L.P.’S TESTIMONY**

Glenn Riddle Station, L.P. (“Complainant”), by and through its undersigned counsel, Fox Rothschild LLP, files this Motion to strike certain of Sunoco Pipeline L.P.’s (“Sunoco” or “Respondent”) testimony, which identifies (inaccurately) confidential settlement communications. In support, Complainant respectfully states as follows:

I. BACKGROUND

1. On July 12, 2021, Respondent called as a fact witness its legal counsel, David Amerikaner, Esquire, (“Attorney Amerikaner”), to testify in this matter.
2. Attorney Amerikaner offered the following testimony:
 - “On September 25, 2020, I received a letter from GRS Counsel setting forth the terms of a proposed settlement agreement between the parties to resolve the eminent domain action, which requested monetary compensation.” Rejoinder Testimony of David Amerikaner, p. 5:18-21.
 - “The letter was purportedly intended to ‘put [Sunoco Pipeline] on notice’ regarding millions of dollars of losses allegedly suffered by GRS as a result of the anticipated construction. This letter demanded payment of at least \$4 million, among other demands, to GRS by Sunoco Pipeline.” Rejoinder Testimony of David Amerikaner, p. 7:15-18.
 - “On several occasions in December 2020, after the Complaint in this Proceeding was filed, GRS Counsel sent emails in which they threatened to file an Emergency Petition for Interim Relief with the PUC. On several other occasions, GRS Counsel

informed me that it would withhold filing an Emergency Petition for Interim Relief if Sunoco Pipeline paid money to GRS as settlement for disputed claims regarding use of the Temporary Easements during construction, or Sunoco Pipeline responded to GRS's requests for counter-proposals to its earlier monetary settlement demands." Rejoinder Testimony of David Amerikaner, p. 17:7-13.

- "These demands fluctuated over time and were not clearly defined, but the demands ranged between \$2.8 million for payment for using the Temporary Easements for four months to more than \$17 million in alleged business losses." Rejoinder Testimony of David Amerikaner, p. 19:9-12.
- "I had a conference call with GRS counsel on May 19, 2020 during which we discussed compensation that GRS would demand to convey the Temporary Easements to Sunoco Pipeline in order to negate the need to file a declaration of taking for the Temporary Easements." Rebuttal Testimony of David Amerikaner, p. 3:22-23; p. 4:1-2.
- "The GRS counsel was focused on negotiating compensation for use of the Temporary Easements during construction." Rebuttal Testimony of David Amerikaner, p. 4:10-11.

II. LEGAL ARGUMENT

3. The Administrative Law Judge should strike the above-indicated portions of Attorney Amerikaner's testimony because, on their face, they reference, albeit inaccurately, confidential settlement discussions by and between Complainant and Respondent.

4. A statement made during settlement negotiations is not admissible. 52 Pa. Code § 5.231(d); James Munro v. PECO Energy Co., No. C-2010-2214718, 2012 WL 2454212, at *8 (Pa. P.U.C. June 21, 2012) (holding that statements made during settlement negotiations are confidential and inadmissible when offered against the party who made the statement).

5. Here, counsel for GRS engaged in certain confidential settlement discussions with a goal of obtaining a settlement that would allow GRS to relocate its residents after it became apparent that Sunoco was not interested in working or even communicating in good faith with GRS.

6. Attorney Amerikaner testified to discussions, albeit inaccurately, that he admits were part of “settlement” discussions. Rejoinder Testimony of David Amerikaner, p. 17:7-13.

7. Sunoco’s reference to alleged statements made during settlement negotiations, although factually inaccurate, is improper and inadmissible. James Munro, 2012 WL 2454212, at *8.

WHEREFORE, for the reasons stated above, Complainant requests that the Commission enter an order striking the following portions of Attorney Amerikaner’s testimony:

- Rejoinder Testimony of Attorney Amerikaner:
 - p. 5:18-21;
 - p. 7:15-18;
 - p. 17:7-13; and
 - p. 19:9-12.
- Rebuttal Testimony of Attorney Amerikaner:
 - p. 3:22-23;
 - p. 4:1-2; and
 - p. 4:10-11.

Respectfully submitted,

FOX ROTHSCHILD LLP

Dated: July 20, 2021

By:



Samuel W. Cortes, Esquire
Ashley L. Beach, Esquire
Attorney ID Nos. 91494; 306942
Attorneys for Complainant

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

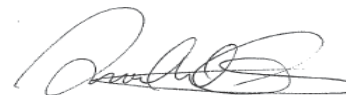
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CERTIFICATE OF SERVICE

I hereby certify that, on July 20, 2021, I served a true and correct copy of the foregoing Motion to Strike, 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

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Samuel W. Cortes, Esquire