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July 30, 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 THE MOTION OF GLEN RIDDLE STATION L.P. TO STRIKE RESPONDENT’S REJOINER TESTIMONY OR, IN THE ALTERNATIVE, TO ALLOW COMPLAINANT A MEANINGFUL OPPORTUNITY TO RESPOND.**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Sunoco Pipeline L.P.’S Answer to The Motion of Glen Riddle Station L.P. to Strike Respondent’s Rejoinder Testimony or, in the alternative, to allow Complainant a Meaningful Opportunity to Respond 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*

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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](mailto: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.’S ANSWER  
TO THE MOTION OF GLEN RIDDLE STATION L.P. TO STRIKE RESPONDENT’S  
REJOINDER TESTIMONY OR, IN THE ALTERNATIVE, TO ALLOW  
COMPLAINANT A MEANINGFUL OPPORTUNITY TO RESPOND**

Sunoco Pipeline L.P. (“SPLP”), by and through undersigned counsel, hereby submits this Answer to Motion of Glen Riddle Station, L.P. (“GRS”) to strike SPLP’s rejoinder testimony or, in the alternative, to allow GRS a meaningful opportunity to respond filed on July 12, 2021, in this proceeding. (“Motion”). In support thereof SPLP avers as follows:

**I. BACKGROUND**

**A. Corrected Procedural History.**

1. Initially,<sup>1</sup> SPLP notes that certain portions of the Motion grossly misstate the procedural history in an attempt to paint SPLP in a negative light or imply that SPLP was, in some way, untimely with the request to provide rejoinder testimony to protect SPLP’s due process rights. *See* Motion at 3-5. As correctly described below, SPLP was timely with all requests to provide responsive rejoinder testimony to ensure SPLP’s due process was protected by allowing SPLP to provide its side of the story to the new, never before raised allegations contained in GRS’s

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<sup>1</sup> SPLP is not required to and will not provide a paragraph-by-paragraph response to the Motion. *Compare* 52 Pa. Code § 5.61(b)-(c) (allegations in complaint may be deemed admitted if not specifically denied) *with* 52 Pa. Code § 5.103 (regarding response to motions and containing no similar provision).

voluminous surrebuttal testimony<sup>2</sup> containing the testimony of seven never before identified witnesses.

2. On June 14, 2021, GRS served its surrebuttal testimony which significantly expanded the scope of this proceeding, included new issues on new events that transpired, and added seven new witnesses (six of which were purported experts), over 130 pages of testimony, and over 70 new exhibits.<sup>3</sup>

3. Four business days later<sup>4</sup> on June 21, 2021, SPLP served its Motion in Limine to Strike GRS's surrebuttal which violated 52 Pa. Code § 5.243(e) and SPLP's due process or, alternatively, allow SPLP to respond through oral rejoinder testimony to remedy GRS's misconduct and allow Your Honor to hear both sides of the story on new events and never before raised allegations from GRS's new lay and expert witnesses. Due to the voluminous nature of GRS's surrebuttal, there was no delay by SPLP in filing the Motion in Limine within four business days of the receipt of GRS's surrebuttal testimony. Additionally, SPLP requested expedited treatment for GRS's response to the Motion to be due within four days, or by June 25, 2021, for SPLP's request to be resolved sufficiently prior to the hearings.

4. On June 23, 2021, GRS requested an extension of the expedited response period from June 25 to June 30,<sup>5</sup> effectively delaying the resolution of SPLP's request to provide rejoinder

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<sup>2</sup> In its direct case, GRS filed 37 total pages of testimony and 47 exhibits submitted by 4 witnesses and offered 1 purported expert witness. GRS's purported expert witness in direct, Jason Culp P.E., summarily addressed subjects and technical issues in 14 pages of direct testimony limited to description of the property (GRS St. No. 3 at 3), noise issue generally (*Id.* at 4-6), building structural concerns (*Id.* at 6-8), parking lot issue (*Id.* at 8-10), alleged hazardous leak (*Id.* at 10), stormwater concerns (*Id.* at 11-12), and fire hazard concerns (*Id.* at 13-14). In surrebuttal, GRS filed over 130 pages of testimony by 10 witnesses including offering 6 new purported expert witness on the subjects of construction noise impacts including medical opinions on standards, a water main break, contamination concerns, groundwater and hydrology, fire access, traffic impacts, vibrations and more plus 70 additional exhibits and videos.

<sup>3</sup> *Supra.*n. 2.

<sup>4</sup> SPLP notes that the Commission was closed for observance of Juneteenth on June 18, 2021.

<sup>5</sup> In contrast, when GRS after hours on Friday, May 14, 2021, requested a continuance or extension of the due date for its surrebuttal testimony, GRS requested SPLP answer the request within three (3) days, or effectively the next business day after a weekend. There SPLP filed its answer in 1-working day on Monday, May 17, 2021 to expeditiously resolve the matter due to pressing time constraints and did not arbitrarily seek an extension.

testimony until days before the hearings began on July 7, 2021. Ultimately, Your Honor granted GRS's request, and GRS filed its answer to SPLP's Motion in Limine June 30, 2021.

5. On July 2, 2021, Your Honor convened an off-the-record conference to discuss SPLP's June 21, 2021, request to provide its side of the story on new issues through oral rejoinder, as well as other hearing logistics. At that time, Your Honor indicated additional review of SPLP's request was needed, and that the parties would discuss at the off-the-record "dry-run" zoom practice session scheduled for July 6, and ultimately resolve the issue on the record at the July 7 hearing.

6. At the July 7, 2021, hearing, Your Honor heard on the record oral argument regarding SPLP's June 21, 2021, Motion in Limine. N.T. 10-32. Your Honor ultimately adopted a procedure where SPLP would provide written proffers of its rejoinder testimony to GRS and Your Honor by noon on July 9, 2021, as a resolution to SPLP's outstanding Motion in Limine. N.T. 29:18-24.

7. In compliance with Your Honor's order, on July 9, 2021, at 9:54 AM, SPLP provided its rejoinder testimony proffer, which identified five witnesses including Brian Magee, Ph.D., Scott Horn of Horn Plumbing and Heating Inc., Jayme Fye, David Amerikaner, and Joseph McGinn. Subsequently via email at 10:16 AM, Your Honor indicated that SPLP's estimated duration of the proposed rejoinder was not considered "efficient and brief" and that the amount or duration of testimony should be reduced which indeed it was at the next hearing on July 12, 2021.

8. At 1:00 PM on July 9, 2021, the parties convened an off-the-record conference to discuss procedural and time modifications to SPLP's rejoinder testimony. During the conference the parties agreed that SPLP would provide written rejoinder testimony statements for its witnesses Jayme Fye, David Amerikaner, and Joseph McGinn to cut down on the length of the hearing time

required for rejoinder and to only present the oral rejoinder of Brian Magee, Ph.D. and Scott Horn at the hearings. SPLP was ordered to provide the written testimony by 5:00 PM that same day, July 9, 2021.

9. At 4:56 PM on July 9, 2021, SPLP provide the written rejoinder testimony to Your Honor and GRS as well as the expert qualifications and Curriculum Vitae of Brian Magee, Ph.D., to substantially cut down on the time needed to present oral rejoinder testimony.

10. On July 12, 2021, at 7:33 AM, GRS served the instant Motion, seeking to strike all of SPLP's rejoinder testimony, grossly mischaracterizing the procedural history regarding SPLP's request for rejoinder testimony on the voluminous new material in GRS's surrebuttal, and requesting an opportunity for GRS's witnesses to respond to SPLP's rejoinder testimony.

11. Subsequently to the instant Motion on July 12, 2021, the evidentiary hearing commenced under Your Honor's proposed procedures. First, Brian Magee, Ph.D., presented oral rejoinder testimony explicitly limited to GRS's new allegations from its surrebuttal witness Norman Henry regarding the use of Calcimet during construction at the property and the new allegations from its surrebuttal witness Kevin Burns regarding alleged contamination from the May 26, 2021, water line incident. At no point during the Dr. Magee's rejoinder did counsel for GRS object that Dr. Magee was providing testimony not limited to the narrow surrebuttal topics of Norman Henry or Kevin Burns, and this testimony complied with Your Honor's order.<sup>6</sup> Second, Scott Horn provided oral rejoinder testimony on the repairs he made regarding the May 26, 2021, water line incident responsive to multiple GRS witness's surrebuttal testimony. Again, GRS did not object to this testimony as beyond the scope of GRS's surrebuttal testimony.<sup>7</sup> SPLP also moved

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<sup>6</sup> SPLP notes that this representation is based on counsel for SPLP's notes and recollection from the hearings that no substantial objections on this basis occurred as the transcripts for the July 12, 2021, hearing have not yet been received.

<sup>7</sup> *Supra* n. 6.

for the admission of its written rejoinder testimony of Jayme Fye, David Amerikaner, and Joseph McGinn into the record subject to cross examination.

12. After each presentation of oral rejoinder or offer of written rejoinder, Counsel for GRS cross examined each of SPLP's rejoinder witnesses about their rejoinder testimony. Subsequently, GRS presented significant "surrejoinder" testimony, as Your Honor labeled it, of its witness Stephen Iacobucci and its expert witnesses Norman Henry and Kevin Burns that was directly responsive to SPLP's rejoinder testimony. GRS, therefore, as the party with the burden of proof, had the last word on the issues in compliance with the Commission's regulations. 52 Pa. Code § 5.242.

**B. SPLP is not required to respond to GRS's mischaracterizations of the written and oral rejoinder testimonies offered into the record and the testimony identified in the Motion at pages 5-7 speaks for itself.**

13. In the Motion, GRS mischaracterizes each of SPLP's written rejoinder testimonies as offered by Jayme Fye, Davide Amerikaner, and Joseph McGinn. SPLP is not required to and will not respond to these substantial mischaracterizations of the written testimony in full, as the testimony of record speaks for itself.

14. However, GRS is incorrect that the written rejoinder testimony is duplicative of SPLP's rebuttal testimony as each addressed narrow topics responsive to GRS's voluminous surrebuttal testimony. Additionally, GRS attempts to incorrectly paint SPLP's rejoinder testimony as false. While the record speaks for itself, GRS cross examined each of these witnesses to pursue the veracity of their rejoinder testimony as well as provide its own surrejoinder on the record. That GRS argues without support that the testimony is incorrect or false is not a reason to strike the testimony, and such arguments should have been saved for briefing in this matter – not a premature motion to strike – as those arguments go to the weight of the evidence in Your Honor's decision.

15. Finally, GRS unabashedly misrepresents the discovery produced by SPLP in this matter when addressing the rejoinder testimony of Joseph McGinn in yet another unrestrained pursuit to warp the facts to mislead and bias Your Honor's decision. On page 7 of the Motion, GRS states "Yet, on June 22, 2021 Sunoco responded to GRS's Interrogatories requesting identification of all of Sunoco's communications with the residents and did not identify a single communication regarding rent relief. [See Sunoco's Answers to GRS's Interrogatory No. 2]." This statement is false, and GRS knew or should have known that this *say anything to win statement* was false. SPLP produced in discovery at Bates-stamped SPLP00037661-SPLP00037666 a confidential log of all the calls SPLP had received on its hotline to date from GRS residents. GRS knew or should have known that this log identified no fewer than 10 communications occurred with residents regarding rent relief through SPLP's advertised hotline. GRS's misrepresentations and continuing pursuit to misstate the facts to its benefit must not be tolerated.

## **II. LEGAL ARGUMENT**

### **A. GRS's motion filed before the hearings on July 12, 2021, is moot – GRS's due process was satisfied as GRS had the opportunity cross examine and provided responsive oral surrejoinder on the record to SPLP's narrow rejoinder testimony and Your Honor's ordered procedures complied with the Commission's regulations and due process.**

16. In the Motion, GRS argues at length that SPLP's narrow rejoinder testimony responsive to GRS's voluminous surrebuttal testimony violated GRS's due process, the Commission's regulations, and Your Honor's scheduling orders. *See* Motion at 7-10. However, GRS's Motion was both premature and is now moot and Your Honor's control of receipt of the evidence in this proceeding complies with the Commission's regulations and fundamental fairness and due process of both parties.

17. First, GRS argues that pursuant to 52 Pa. Code § 5.242, the party with the burden of proof shall open and close the case unless otherwise directed by the presiding officer. Motion at 7. GRS then goes on to argue Your Honor’s scheduling orders ruled that GRS would close the case after its surrebuttal testimony. Motion at 9. However, as both SPLP argued and Your Honor recognized, SPLP was not asking to provide the final word – GRS was always permitted to respond to SPLP’s rejoinder in surrejoinder on the record as the party with the burden of proof. *See* N.T. 21. Indeed, as referenced above and as Your Honor is aware, GRS did get the final word through oral surrejoinder of its witnesses. Therefore, there is no violation of 52 Pa. Code § 5.242 and such arguments were premature and are now moot.

18. Second, GRS cites various provisions from the Code, including 52 Pa. Code §§ 5.483, 5.223(a), and 5.403(b) for the argument that Your Honor should strike SPLP’s rejoinder in full and that Your Honor is bound by the previous orders establishing the testimonial schedule which did not allow SPLP rejoinder testimony. This argument is meritless, unsupported and ultimately a direct perversion of the Commission’s regulations. As Your Honor is aware, the Commission’s regulations at 52 Pa. Code § 5.403(a) provides that “the presiding officer shall have all necessary authority to control the receipt of evidence...” which without doubt “evidence” includes both SPLP’s rejoinder and GRS’s responsive surrejoinder testimony. Additionally, Your Honor is vested with the authority to “call for further admissible evidence” pursuant to 52 Pa. Code § 5.404(a) which Your Honor ultimately did when ruling to allow SPLP’s narrow rejoinder and GRS’s surrejoinder. N.T. 21. The rulings to allow SPLP’s narrow rejoinder and GRS’s surrejoinder comport with the Commission’s regulations, and GRS’s arguments to the contrary are both meritless and moot.



19. Finally, GRS argues that SPLP’s rejoinder on the narrow issues *GRS raised for the first time in surrebuttal* somehow violates GRS’s due process rights. GRS first cites *Mary Paul v. PECO Energy Co.* for the proposition that the admission of testimony after an identification deadline passed in a complaint proceeding violates due process. Motion at 8; citing *Mary Paul v. PECO Energy Co.*, Docket No. C-2015-2475355, Order on Petition for Reconsideration (Order entered March 14, 2019) (“*Paul*”). However, *Paul* deals with issues and due process considerations wholly distinct from the instant Motion. In *Paul*, the Complainant sought the admission of extra-record testimonial transcripts of a witness not part of the *Paul* proceeding where the prior testimony occurred in a separate, previously held Commission proceeding. *Paul*, Opinion and Order at 22 (Order entered June 14, 2018). In ruling on Complainant’s exceptions on this issue, the Commission held:

The Complainant argues in her Exception No. 2 that the ALJ erred by not allowing the testimony from Dr. Marino be admitted into the case. As noted, Dr. Marino had testified on September 15-16, 2016, as an expert in *Maria Povacz v. PECO*, Docket No. C-2015-2475023; *Laura Sunstein Murphy v. PECO*, Docket No. C-2015-2475726; and *Cynthia Randall and Paul Albrecht v. PECO*, Docket No. C-2016-253766.

Although our Regulation at 52 Pa. Code § 5.407 allows for admission of the records of other proceedings, **we stand by our previous pronouncement that in instances where a party seeks to admit evidence after the hearing, “admission of such extra-record testimony violates the principle of fundamental fairness and violates the due process rights of other parties who have no opportunity to cross examine a witness in a separate hearing.”** Thus, we agree with the ALJ that admission of Dr. Marino’s testimony would violate PECO’s due process rights under the circumstances, **as PECO did not have adequate time and the opportunity to conduct discovery or to prepare a response to Dr. Marino’s testimony as it applied to the Complainant in this proceeding.** For this reason, we shall deny Complainant’s second Exception.

*Paul*, Opinion and Order at 22 (Order entered June 14, 2018) (emphasis added). As shown above, *Paul* is far and distinct from the instant proceeding, and addressed issues related to extra-record testimony and 52 Pa. Code § 5.407 where a party attempted to wholesale admit testimony from a separate proceeding, without offering the witness as their own on the record, which violates due process. *Paul* has no bearing on the instant Motion as SPLP's rejoinder witnesses presented their testimony on the record and were subject to cross examination. Additionally, GRS had its witnesses provide responsive surrejoinder testimony to SPLP's narrow rejoinder which comports with due process.

20. GRS goes on to cite an Environmental Hearing Board ("EHB") decision and two Superior Court cases based on rulings under the Pennsylvania Rules of Civil Procedure that are inapplicable here. *See* Motion at 8-9. First, as the Commonwealth Court consistently holds and the Commission's rules and regulations make clear, Your Honor is not bound by the rules of civil procedure, and ultimately Your Honor has "... all necessary authority to control the receipt of evidence..." 52 Pa. Code § 5.403(a). "[T]he Pennsylvania Rules of Civil Procedure ... [including PA. R.C.P. 4003.5], do not apply to proceedings before administrative agencies and commissions." *McClellan v. Unempl. Compen. Bd. of Rev.*, 908 A.2d 956 (Pa. Cmmw. 2006); citing *McGlawn v. Human Relations Comm'n*, 891 A.2d 757, 775 n. 22 (Pa.Cmwlt.2006); *Freeport Area Sch. Dist. v. Com., Human Rels. Comm'n*, 18 Pa.Cmwlt. 400, 335 A.2d 873, 879 (1975), *aff'd as modified*, 467 Pa. 522, 359 A.2d 724 (1976).

21. Second, even if the cases cited were binding, which they are not, the cases cited by GRS do not support its request to strike SPLP's narrow rejoinder testimony on new issues raised for the first time in GRS's surrebuttal testimony. The first case, *Kiskadden v. Commonwealth of Pennsylvania, Department of Environmental Protection and Range Resources – Appalachia, LLC*,

*Permittee*, deals with a Motion to Strike Expert Reports of a Permittee as untimely and not filed in compliance with the agreed to deadlines by all parties in the proceeding where Permittee proceeded unilaterally in direct violation of prior orders and submitted its expert reports six weeks after the deadline for filing expert reports had passed. *Mr. Loren Kiskadden v. Commonwealth of Pennsylvania, Department of Environmental Protection and Range Resources - Appalachia, LLC, Permittee*, EHB Docket No. 2011-149-R, 2014 WL 4659475 (EHB Order entered Sept. 12, 2014). In its Motion, GRS cites this case for the proposition that allowing late filed expert reports from new experts testify would cause prejudice<sup>8</sup> while explicitly ignoring the procedural posture of the EHB's ruling, the offending party's unilateral disregard for prior procedural orders, and that the expert reports in question were submitted six-weeks beyond an agreed to deadline for expert report submission. *Id.* The holding in *Kiskadden* by the EHB has no bearing on the instant case and is far and distinct from the instant proceeding and posture where pre-filed written testimony was employed as encouraged by the Commission<sup>9</sup> and GRS unilaterally expanded the scope of this proceeding in surrebuttal in violation of 52 Pa. Code § 5.243(e).<sup>10</sup> GRS's cherry-picked quotes to this order significantly mischaracterize the posture of the EHB's ruling which should not be tolerated.

22. Finally, GRS cites two Superior Court cases for the premise that the rules of Pennsylvania Rules of Civil Procedure require the disclosure of expert witness opinions to prevent unfairness and surprise of expert opinions at trial. Motion at 9; citing *Jistarri v. Nappi*, 549 A.2d 210 (Pa. Super. Ct. 1998); *Clark v. Hoerner*, 525 A.2d 377 (Pa. Super. Ct. 1987). However, “[t]he Pennsylvania Rules of Civil Procedure ... [including PA. R.C.P. 4003.5], do not apply to

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<sup>8</sup> Motion at 9.

<sup>9</sup> See 52 Pa. Code § 5.412

<sup>10</sup> See SPLP June 21, 2021 Motion in Limine.

proceedings before administrative agencies and commissions.” *McClellan v. Unempl. Compen. Bd. of Rev.*, 908 A.2d 956 (Pa. Cmmw. 2006); citing *McGlawn v. Human Relations Comm'n*, 891 A.2d 757, 775 n. 22 (Pa.Cmwth.2006); *Freeport Area Sch. Dist. v. Com., Human Rels. Comm'n*, 18 Pa.Cmwth. 400, 335 A.2d 873, 879 (1975), *aff'd as modified*, 467 Pa. 522, 359 A.2d 724 (1976). Additionally, there was and can be no surprise as to the content of Dr. Magee’s expert testimony – Dr. Magee’s testimony was explicitly limited to responding to narrow issues regarding Calcimet use at the property and alleged contamination from the May 26, 2021 water line break that were raised by GRS’s experts Norman Henry and Kevin Burns for the first time in surrebuttal testimony and Dr. Magee’s Curriculum Vitae and testimony proffer were provided to GRS ahead of the hearings on July 9, 2021 per Your Honor’s order. Additionally, GRS raised no objections that the contents of Dr. Magee’s rejoinder testimony on the record went beyond the scope of GRS’s new surrebuttal allegations,<sup>11</sup> and therefore there is no unfairness as GRS’s own experts provided responsive surrejoinder testimony on the record.

23. In contrast to GRS’s misplaced due process concerns, as argued extensively in SPLP’s June 21, 2021, Motion in Limine, SPLP’s due process rights, not GRS’s, would be violated if SPLP was not permitted to respond to the new, never before raised allegations in GRS’s voluminous surrebuttal including the testimony of seven new witnesses, six of which are purported expert witnesses. As argued in SPLP’s June 21 Motion, GRS’s surrebuttal testimony patently violated 52 Pa. Code § 5.243(e), prior Commission rulings, and rulings of the Commonwealth Court. *See* SPLP June 21 Motion at 6-13. Your Honor, in recognition of SPLP’s due process rights, correctly allowed SPLP to provide narrow “second round” rejoinder testimony and ultimately satisfied GRS’s due process rights by allowing GRS to respond present “third round” oral

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<sup>11</sup> *Supra*.n. 6.

“surrejoinder” which GRS did or was able to do thus having three rounds of testimony to SPLP’s two and allowing GRS to open and close the evidentiary presentation. Therefore, GRS’s due process rights were protected in this proceeding and GRS’s argument and mischaracterizations to the contrary are again meritless and moot. GRS’s Motion to Strike SPLP’s rejoinder testimony must be denied.

**B. Good cause was show for SPLP to present narrow rejoinder testimony on new issues raised for the first time in GRS’s June 14 surrebuttal and SPLP’s rejoinder was timely.**

24. In the Motion, GRS argues that SPLP’s production of written rejoinder on July 9, 2021, and oral rejoinder on July 12, 2021 was “gamesmanship,” that SPLP chose to wait a month to present rejoinder when it should have earlier, and insinuating that SPLP concocted a plan to deny GRS due process. Motion at 9-10. However, these inflammatory remarks could not be further from the truth. As described above (*supra* paragraphs 2-12), SPLP filed its initial motion requesting to strike GRS’s supplemental direct testimony which violated 52 Pa. Code § 5.243 on June 21, 2021 – four business days after the receipt of GRS’s surrebuttal testimony. Ultimately, SPLP was not given the right or opportunity to provide rejoinder testimony by Your Honor until the on-the-record hearing on July 7, 2021, to which SPLP expeditiously complied with Your Honor’s order and produced proffers and written testimony on July 9, 2021. SPLP’s conduct in no way was “an unabashed display of gamesmanship” and GRS’s purely inflammatory remarks must be ignored. Motion at 10. SPLP’s written rejoinder and oral rejoinder on the record was timely in this proceeding.

25. Additionally, SPLP showed good cause under 52 Pa. Code § 5.223(a) for Your Honor to allow SPLP to provide rejoinder testimony as outlined in its June 21, 2021, Motion in Limine. In short, SPLP’s good cause can be summarized as a request for the record to be complete

AND for Your Honor to hear both sides of the story on the new, never before raised allegations in GRS's surrebuttal testimony – a simple and undeniable underpinning of fundamental due process.<sup>12</sup> Therefore, SPLP showed good cause to be permitted to provide rejoinder testimony, Your Honor had both the authority and discretion as to how many rounds of testimony each party should have with GRS having three and SPLP two, and GRS's arguments, exaggerations and mischaracterizations to the contrary must be dismissed. Therefore, the Motion must be denied.

**WHEREFORE**, SPLP respectfully requests the Motion be DENIED.

Respectfully submitted,

/s/ Thomas J. Sniscak

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Date: July 30, 2021

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<sup>12</sup> “Due process in matters before the Commission requires that a party be afforded reasonable notice of the nature of the allegations against it so that the party can prepare a suitable defense.” *Pocono Water Co. v. Pa. Pub. Util. Comm’n*, 630 A.2d 971, 973 (Pa. Cmwlth. 1993) (citing *Duquesne Light Co. v. Pa. Pub. Util. Comm’n*, 507 A.2d 433 (Pa. Cmwlth. 1986))

**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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Dated: July 30, 2021