

April 12, 2022

Via Electronic Filing

Pennsylvania Public Utility Commission
Attention: Secretary Rosemary Chiavetta
400 North Street
Harrisburg, PA 17120

**RE: Proposed Rulemaking for Hazardous Liquid Safety Standards,
Docket No. L-2019-3010267
Uwchlan Township Comments**

Dear Secretary Chiavetta:

Kindly accept the following comments on the pending regulations related to the pipeline transport of petroleum products and hazardous liquids in intrastate commerce on behalf of Uwchlan Township.

One of the significant deficiencies in the current rulemaking is the lack of requirements related to the siting of Commission regulated petroleum products or hazardous liquids pipelines. The Commission clearly has authority to regulate the siting of such pipelines, and should do so.

The Commonwealth Court has held that a pipeline company's decisions are subject to review by the Commission to determine whether Sunoco's service and facilities "are unreasonable, unsafe, inadequate, insufficient, or unreasonable discriminatory, or otherwise in violation of the Public Utility Code" 66 Pa. C.S. § 1505(a), and that a company's "decisions as to the location of its facilities are within the jurisdiction of the PUC." *Delaware Riverkeeper Network v. Sunoco Pipeline L.P.*, 179 A.3d 670, 693 (Pa. Commw. Ct. 2018)(emphasis added). The Pennsylvania Supreme Court is in accord:

[T]he Legislature has vested in the Public Utility Commission exclusive authority over the complex and technical service and engineering questions arising in **the location**, construction and maintenance **of all public utilities facilities**.

Chester Cty. v. Philadelphia Elec. Co., 218 A.2d 331, 333 (Pa. 1966)(emphasis added). See also *Borough of Lansdale v. Philadelphia Elec. Co.*, 170 A.2d 565, 566–67 (Pa. 1961)(emphasis added) ("[N]o principle has become more firmly established in Pennsylvania

law than that the courts will not originally adjudicate matters within the jurisdiction of the PUC. Initial jurisdiction [of the Commission includes] ... **location of utility facilities**").

It is incumbent on the Commission to establish requirements and undertake an active review of the siting of such pipelines. The Federal Energy Regulatory Commission (FERC) has already undertaken this responsibility for interstate natural gas pipelines, and there is no reason that the PUC cannot do the same for pipelines within its jurisdiction.

In addition to the forgoing, Uwchlan Township also incorporates by reference the comments of the Chester County Commissioners, dated April 12, 2022; Clean Air Council, *et al.*, dated April 12, 2022; West Whiteland Township, dated November 4, 2021; and State Senator Carolyn Comitta, dated September 2, 2021.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Freed', written in a cursive style.

Mark L. Freed
For CURTIN & HEEFNER LLP