



Eagleview Corporate Center
747 Constitution Drive
Suite 100
Exton, PA 19341-0673
Tel (610) 458-7500 Fax (610) 458-7337
www.foxrothschild.com

SAMUEL W. CORTES
Direct No: 610.458.4966
Email: SCortes@FoxRothschild.com

July 11, 2022

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 Answer to the Petition for Reconsideration filed by Sunoco Pipeline, LP 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,

A handwritten signature in black ink, appearing to read 'Samuel W. Cortes', written over a light blue horizontal line.

Samuel W. Cortes

SWC:slb
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.	:	

**ANSWER OF GLEN RIDDLE STATION, L.P., TO THE
PETITION FOR RECONSIDERATION OF THE
JUNE 16, 2022 ORDER FILED BY SUNOCO PIPELINE, L.P.**

Pursuant to 52 Pa. Code § 5.572(e), Glen Riddle Station, L.P. (“GRS”), by and through its undersigned counsel, hereby answers the Petition For Reconsideration of the June 16, 2022 Order¹ (the “Petition”) filed by Sunoco Pipeline L.P. (“Sunoco”). The Commission must disregard the Petition as untimely because it was filed on July 5, 2022, **19** days after the Commission entered the Order on July 16, 2022. “Petitions for reconsideration, rehearing, reargument, clarification, supersedeas or others ***shall be filed within 15 days*** after the Commission order involved is entered or otherwise becomes final.” 52 Pa. Code § 5.572(e). In the event that the Commission considers the Petition, like its so-called Motion to Strike Portions of Glen Riddle’s Reply to Exception – which the Commission properly disregarded as an impermissible second attempt to reargue its position - Sunoco’s Petition, too, is a frivolous and wasteful rehashing of the same failed arguments Sunoco asserted in its Exceptions to Initial Decision (the “Exceptions”).

¹ The June 16, 2022 Order is referred to as the “Order”. All other defined terms not otherwise designated herein have the meanings ascribed to them in the Reply of Glen Riddle Station, L.P., to the Exceptions of Sunoco Pipeline, L.P., to the March 8, 2022 Initial Order (the “Reply to Exceptions”).

I. INTRODUCTION

As an initial matter, the Commission must disregard the Petition as untimely because it was filed on July 5, 2022, **19** days after the Commission entered the Order on July 16, 2022. “Petitions for reconsideration, rehearing, reargument, clarification, supersedeas or others ***shall be filed within 15 days*** after the Commission order involved is entered or otherwise becomes final.” 52 Pa. Code § 5.572(e). The use of “shall” in 52 Pa. Code § 5.572(e) renders it a mandatory, non-waivable, statutory obligation. In re Canvass of Absentee Ballots of November 4, 2003 General Election, 843 A.2d 1223, 1231 (Pa. 2004) (holding, the word “shall” in statutes carries an imperative or mandatory meaning).

Here, the “Post On Date” for the Petition, as set forth on the Commission’s docket, is July 5, 2022. [See Docket.] Although Sunoco attempted to submit the Petition on July 1, 2022, the Commission specifically stated that as a result of certain deficiencies, “it cannot be accepted for filing.” [See Secretarial Letter: [Sunoco] Verification Form Letter (entered July 1, 2022).] As a result of the filing rejection, the Commission must disregard the Petition.

If the Commission considers the Petition, it should be denied because Sunoco’s Petition is an impermissible attempt to have the Commission review and reconsider the same exceptions already decided against it (at least twice), and the Commission should deny it as such.

Although Sunoco recognizes that the standard for reconsideration of a Commission order is set forth in Duick v. Pa. Gas and Water Co., 56 Pa. P.U.C. 553 (1982), Sunoco ignores that the Commission expressly held in Duick that “[p] arties ... cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically decided against them ...” 56 Pa. P.U.C. at 559 (quoting Pa. Railroad Co. v. Pa. Public Service Comm’n, 179 A. 850, 854 (Pa. Super. Ct. 1935)). In accordance with Duick, the Commission applies the following two-

part standard when confronted with a request for reconsideration: (1) the Commission first asks, “whether a party has offered new and novel arguments or identified considerations that appear to have been overlooked or not addressed by the Commission in its previous order;” and, if so (2) the Commission evaluates “the new, novel, or overlooked allegation to determine whether modification is appropriate.” Interstate Gas Supply, Inc., et. al. v. Metropolitan Edison Co., Pa. Electric Co., Pa. Power Co. and West Penn Power Co., Nos. C-2019-3013805, C-2019-3013806, C-2019-3013807, and C-2019-3013808, 2022 WL 1135528, at *1 (Pa. P.U.C., Apr. 2022). “[P]etitions to reconsider, clarify, amend, or rescind a final agency action may only be ‘granted judiciously’ and ‘under appropriate circumstances’ because such action results in the disturbance of final agency orders.” Id. (citing City of Pittsburgh v. Pa. Dept. of Transp., 416 A.2d 461 (1980) (additional internal citations omitted)).

Here, Sunoco’s Petition fails the first part of the two-part Duick test. It raises nothing new or novel. Nor does it identify anything that the Commission overlooked. In fact, although “it is well settled that the Commission is not required to consider expressly or at length each contention or argument raised by the parties,” the Commission’s Order, which adopts the Initial Decision, addresses each of Sunoco’s purported objections. Id. (citing, Consolidated Rail Corp. v. Pa. P.U.C., 625 A.2d 741 (Pa. Commw. Ct. 1993)).

In fact, Sunoco asserted each of its arguments that it asserts once again in its Petition to the Commission – in fact, in the exact same order - in its Exceptions. [See Exceptions, generally.] GRS addressed each of the arguments in its Reply to Exceptions, and the Commission then denied the Exceptions and adopted the Initial Decision. [The Initial Decision, Sunoco’s Exceptions, GRS’s Reply to Exceptions, and the Order are incorporated here as though

set forth at length and shall be considered as part of GRS’s response to each numbered paragraph below.]

The chart below cites to the existing record in this case to demonstrate Sunoco’s failure to meet the first part of the Duick standard (the chart is referred to in the Answer paragraphs below as the “Duick Chart”):

Issue Sunoco Alleges The Commission Failed to Consider	Sunoco’s same argument in its Exceptions	<u>GRS’s Response</u>	<u>Order</u>
Petition III(A) ¶¶ 13-16 <i>Alleged violation of due process</i>	Exception Nos. 1, 2	Section II, pp. 2-11	pp. 24-29 and adopting the Initial Decision
Petition III(B) ¶¶ 17-20 <i>Alleged creation of new standards</i>	Exception No. 3	Section II, pp. 2-11	pp. 29-31 and adopting the Initial Decision
Petition III(C) ¶¶ 21-24 <i>Alleged lack of standing</i>	Exception No. 4	Section II, pp. 11-13	pp. 31-32 and adopting the Initial Decision
Petition III(D) ¶¶ 25-31 <i>Alleged failure to weigh evidence regarding sound levels</i>	Exception No. 5	Section II, pp. 13-17	pp. 33-34 and adopting the Initial Decision
Petition III(E) ¶¶ 32-34 <i>Alleged failure to weigh evidence regarding fire hazards</i>	Exception No. 6	Section II, pp. 17-19	pp. 35-36 and adopting Initial Decision
Petition III(F) ¶¶ 35-40 <i>Alleged failure to recognize that Public Awareness requirements do not apply to new pipelines</i>	Exception No. 7	Section II, pp. 2-11	pp. 36-37 and adopting Initial Decision
Petition III(G) ¶¶ 41-45 <i>Alleged failure to consider evidence of</i>	Exception No. 8	Section II, pp. 19-21	pp. 37-38 and adopting Initial Decision

<i>Sunoco communications with GRS</i>			
Petition III(H) ¶¶ 46-49 <i>Allegedly inappropriate application of civil penalty</i>	Exception No. 9	Section II, p. 21	pp. 39-40 and adopting Initial Decision
Petition III(I) ¶¶ 50-57 <i>Alleged failure to dismiss complaint as moot</i>	Exception No. 10	Section II, pp. 21-22	pp. 40-41 and adopting Initial Decision
Petition III(J) ¶¶ 58-60 <i>Alleged failure to recognize requirement of actual harm</i>	Exception No. 11	Section II, pp. 22-23	pp. 42-43 and adopting Initial Decision
Petition III(K) ¶¶ 61-63 <i>Alleged lack of jurisdiction</i>	Exception No. 12	Section II, pp. 2-11	p. 44 and adopting Initial Decision
Petition III(L) ¶¶ 64-66 <i>Alleged failure to dismiss for lack of proper verification</i>	Exception No. 13	Section II, pp. 23-25	pp. 45-46 and adopting Initial Decision

Sunoco’s rehashing of the same questions that the Commission already specifically decided against Sunoco is the exact conduct that Duick prohibits in a Petition for Reconsideration. Duick, 56 Pa. P.U.C. at 559 (“[p]arties ... cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically decided against them”). Sunoco and its counsel continue to ignore the law and to flout the Commission’s authority. This request for reconsideration is so frivolous and violative of settled law that it warrants the issuance of sanctions. At a minimum, the Commission should deny Sunoco’s Petition.

GRS responds to Sunoco’s specific averments as follows.

II. ANSWER²

Response to Introduction

1. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order should be reconsidered. The Commission fairly based the Order on the law and evidence and should not be reconsidered. See Introduction, above; Order; Initial Decision; and Reply to Exceptions. By way of further response, Sunoco’s arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a “second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco].” See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exceptions Nos. 1-3.

2. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order “overlooked” any evidence or legal principals pertaining to the sound levels. See Introduction; Duick Chart; Order, pp. 33-44; Reply to Exceptions Section II, pp. 13-17, all of which are incorporated here as though set forth in full. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco’s arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a “second motion to review and reconsider, to raise

² GRS files this Answer out of an abundance of caution and without waiver of its argument that the Commission should reject the Petition as untimely.

the same questions which were specifically decided against [Sunoco].” See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exceptions No. 5.

3. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order denied Sunoco due process, imposed *ex post facto* criteria, or in any way overlooked or misapplied the Commission’s authority. See Introduction; Duick Chart; Order, pp. 24-31; Reply to Exceptions Section II, pp. 2-11, all of which are incorporated here as though set forth in full. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco’s arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a “second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco].” See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exceptions Nos. 1-3.

4. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order should be reconsidered or that the Commission engaged in any arbitrary or discriminatory enforcement pertaining to construction noise and emergency responder access. See Introduction; Duick Chart; Order, pp. 24-31; Reply to Exceptions Section II, pp. 2-11, all of which are incorporated here as though set forth in full. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco’s arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a “second motion to review and reconsider, to raise the

same questions which were specifically decided against [Sunoco].” See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exceptions Nos. 1-3.

5. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order should be reconsidered or that it overlooked key evidenced pertaining to sound levels, emergency responder access, public awareness, or any other portion of the record/GRS’s claims. See Introduction; Duick Chart; Order, pp. 33-37; Reply to Exceptions Section II, pp. 2-19, all of which are incorporated here as though set forth in full. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco’s arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a “second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco].” See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exceptions Nos. 5-7.

6. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order overlooked any legal issues pertaining to standing, mootness, exposure to harm, or verification, or any other portion of the record/GRS’s claims. See Introduction; Duick Chart; Order, pp. 31-32, 40-43, 45-46; Reply to Exceptions Section II, pp. 11-13, 21-25, all of which are incorporated here as though set forth in full. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco’s arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words,

Sunoco presents the Commission with a “second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco].” See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exceptions Nos. 4, 10, 11, 13.

7. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order overlooked any points of law pertaining to jurisdiction, including, without limitation the Commission’s jurisdiction over noise and fire safety. See Introduction; Duick Chart; Order, p. 44; Reply to Exceptions Section II, pp. 2-11, all of which are incorporated here as though set forth in full. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco’s arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a “second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco].” See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exception No. 12.

8. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order overlooked any arguments or law pertaining to the application of the civil penalty. See Introduction; Duick Chart; Order, pp 39-40; Reply to Exceptions Section II, p. 21, all of which are incorporated here as though set forth in full. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco’s arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other

words, Sunoco presents the Commission with a “second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco].” See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exception No. 9.

9. Denied. GRS specifically denies that the Commission should reconsider its Order or award any relief sought by Sunoco. To the contrary, the Order was properly entered based on the evidence and legal arguments presented. By way of further response, Sunoco’s arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a “second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco].” Duick, 56 Pa. P.U.C. at 559.

Response to Legal Standard

10. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response. By way of further response, see Introduction, which is incorporated here as though set forth in full.

11. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response. By way of further response, see Introduction, which is incorporated here as though set forth in full.

Response to Request for Reconsideration

12. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. GRS specifically denies that the Order should be reconsidered or that it failed to consider any of Sunoco’s evidence, arguments, or caselaw. The Order is fairly based on the law and evidence and should not be reconsidered. See Introduction, above; Order; Initial

Decision; and Reply to Exceptions. By way of further response, Sunoco’s arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a “second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco].” See Duick, 56 Pa. P.U.C. at 559; Duick Chart; Exceptions, generally.

Response to Section III(A)

13. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order deprived Sunoco of due process, imposed *ex post facto* criteria, or in any way overlooked or misapplied the Commission’s authority. See Introduction; Duick Chart; Order, pp. 24-29; Reply to Exceptions Section II, pp. 2-11, all of which are incorporated here as though set forth in full. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco’s arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a “second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco].” See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exceptions Nos. 1-2.

14. Denied. GRS incorporates its response to No. 13, above, as though set forth here in full.

15. Denied. GRS incorporates its response to No. 13, above, as though set forth here in full.

16. Denied. GRS incorporates its response to No. 13, above, as though set forth here in full.

Response to Section III(B)

17. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order is arbitrary or constitutes discriminatory enforcement. GRS further specifically denies that the Order imposes newly created standards for utility construction See Introduction; Duick Chart; Order, pp. 29-31; Reply to Exceptions, Section II, pp. 2-11, all of which are incorporated here as though set forth in full. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco’s arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a “second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco].” See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exception No. 3.

18. Denied. GRS incorporates its response to No. 17, above, as though set forth here in full.

19. Denied. GRS incorporates its response to No. 17, above, as though set forth here in full.

20. Denied. GRS incorporates its response to No. 17, above, as though set forth here in full.

Response to Section III(C)

21. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order is wrong as a matter of law with respect to GRS's standing to obtain relief from the Commission. Contrary to Sunoco's assertion, the Commission properly evaluated whether GRS had standing to bring its claims, finding "[GRS] has clear standing as the property owner to file the Complaint," and whether the ALJ could *both* consider evidence and "render a determination regarding the issues presented," which, in this case, involved awarding relief. See Introduction; Duick Chart; Order, pp. 31-32; Reply to Exceptions, Section II, pp. 11-13, all of which are incorporated here as though set forth in full. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco's arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a "second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco]." See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exception No. 4.

22. Denied. GRS incorporates its response to No. 21, above, as though set forth here in full.

23. Denied. GRS incorporates its response to No. 21, above, as though set forth here in full.

24. Denied. GRS incorporates its response to No. 21, above, as though set forth here in full.

Response to Section III(D)

25. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, the Order is supported by substantial evidence with respect to the sound levels. See Introduction; Duick Chart; Order, pp. 33-34; Reply to Exceptions, Section II, pp. 13-17, all of which are incorporated here as though set forth in full. Sunoco's suggestion that the Order somehow disregarded its evidence and only summarily reviewed GRS's is belied both by the Order and the Initial Decision that the Order adopts. Order, pp. 33-34, Initial Decision, pp. 44-51. The Initial Decision undertakes a detailed analysis of GRS's evidence and Sunoco's purported objections. Id. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco's arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a "second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco]." See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exception No. 5.

26. Denied. GRS incorporates its response to No. 25, above, as though set forth here in full.

27. Denied. GRS incorporates its response to No. 25, above, as though set forth here in full.

28. Denied. GRS incorporates its response to No. 25, above, as though set forth here in full.

29. Denied. GRS incorporates its response to No. 25, above, as though set forth here in full.

30. Denied. GRS incorporates its response to No. 25, above, as though set forth here in full.

31. Denied. GRS incorporates its response to No. 25, above, as though set forth here in full.

Response to Section III(E)

32. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, the Order is supported by substantial evidence with respect to the fire hazards and related safety violations. See Introduction; Duick Chart; Order, pp. 35-36; Reply to Exceptions Section II, pp. 17-19, all of which are incorporated here as though set forth in full. Sunoco’s suggestion that the Order disregarded its evidence and only summarily reviewed GRS’s is belied both by the Order and the Initial Decision that the Order adopts. Order, pp. 35-36, Initial Decision, pp. 38-44. The Order, which Sunoco dismisses as containing a “one paragraph ‘analysis’” adopts the Initial Decision, which undertakes a 6-page detailed analysis of GRS’s evidence and Sunoco’s purported objections. Id. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco’s arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a “second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco].” See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exception No. 6.

33. Denied. GRS incorporates its response to No. 32, above, as though set forth here in full.

34. Denied. GRS incorporates its response to No. 32, above, as though set forth here in full.

Response to Section III(F)

35. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order failed to consider that no law, order, or regulation creates public awareness requirements for new pipelines. See Introduction; Duick Chart; Order, pp. 36-37; Reply to Exceptions Section II, pp. 2-11, all of which are incorporated here as though set forth in full. To the contrary, the Commission considered this exact argument and affirmed in the Order that “[t]here are several provisions of the Public Awareness Plan that pertain to construction of pipelines, not just operation of pipelines....” Initial Decision, Conclusions of Law, p. 89, ¶ 17; Initial Decision, pp. 60-63; Order, pp. 36-37. Additionally, Sunoco’s assertion that the Order and the Initial Decision misapplied the Flynn Case because that case uses the word “operator” is dishonest, at best. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco’s arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a “second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco].” See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exception No. 7.

36. Denied. GRS incorporates its response to No. 35, above, as though set forth here in full.

37. Denied. GRS incorporates its response to No. 35, above, as though set forth here in full.

38. Denied. GRS incorporates its response to No. 35, above, as though set forth here in full.

39. Denied. GRS incorporates its response to No. 35, above, as though set forth here in full.

40. Denied. GRS incorporates its response to No. 35, above, as though set forth here in full.

Response to Section III(G)

41. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order overlooked key evidence pertaining to the record of Sunoco's communications with GRS residents. See Introduction; Duick Chart; Order, pp. 37-38; Reply to Exceptions Section II, pp. 19-21, all of which are incorporated here as though set forth in full. Sunoco's suggestion that the Order somehow disregarded its evidence and only summarily reviewed GRS's is belied both by the Order and the Initial Decision that the Order adopts. Order, pp. 37-38, Initial Decision, pp. 60-69. The Initial Decision undertakes a 9-page detailed analysis of the evidence and arguments pertaining to the communications. Id. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco's arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a "second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco]." See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exception No. 8.

42. Denied. GRS incorporates its response to No. 41, above, as though set forth here in full.

43. Denied. GRS incorporates its response to No. 41, above, as though set forth here in full.

44. Denied. GRS incorporates its response to No. 41, above, as though set forth here in full.

45. Denied. GRS incorporates its response to No. 41, above, as though set forth here in full.

Response to Section III(H)

46. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order overlooked any legal issues regarding the civil penalty. See Introduction; Duick Chart; Order, pp. 39-40; Reply to Exceptions Section II, p. 21, all of which are incorporated here as though set forth in full. Sunoco brazenly (and frivolously) alleges, “the Order failed to address a crucial point – where 49 of the 51 violations affirmed by the Commission were never alleged in GRS’s pleadings, Sunoco lacked notice....” Petition, ¶ 46. The Order, however, specifically states, “Sunoco avers that Sunoco was not given notice of or a fair opportunity to be heard regarding the imposition of civil penalties and the application of the Rosi factors to forty-nine of the fifty-one violations found by the ALJ, where the Complaint did neither expressly set forth the violations ultimately found by the ALJ, nor expressly request penalties.” Order, p. 39. The Order then explains where Sunoco previously received notice *and* briefed its position on this issue repeatedly to the ALJ. Id. Sunoco’s argument here, like its others, is entirely lacking in any credibility and demonstrative of

an improper intent. By way of further response, Sunoco’s arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a “second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco].” See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exception No. 9.

47. Denied. GRS incorporates its response to No. 46, above, as though set forth here in full.

48. Denied. GRS incorporates its response to No. 46, above, as though set forth here in full.

49. Denied. GRS incorporates its response to No. 46, above, as though set forth here in full.

Response to Section III(I)

50. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order failed to consider Sunoco’s arguments pertaining to mootness. See Introduction; Duick Chart; Order, pp. 40-41; Reply to Exceptions Section II, pp. 21-22, all of which are incorporated here as though set forth in full. Sunoco alleges that the Commission’s finding that it can regulate Sunoco’s violations of the Public Utility Code that took place during construction even after construction has ended somehow conflicts with the Commission’s other findings that violations of the Public Utility Code are evaluated on a case-by-case basis. Petition, p. 30. Again, Sunoco’s intellectual dishonesty is palpable here. The Order, which adopted the Initial Decision, explained that whether construction was “active” was irrelevant to the Commission’s finding that a violation occurred

during the construction. Order, p. 41. This determination is entirely irrelevant to the Commission's ability to review violations on a case-by-case bases. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco's arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a "second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco]." See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exception No. 10.

51. Denied. GRS incorporates its response to No. 50, above, as though set forth here in full.

52. Denied. GRS incorporates its response to No. 50, above, as though set forth here in full.

53. Denied. GRS incorporates its response to No. 50, above, as though set forth here in full.

54. Denied. GRS incorporates its response to No. 50, above, as though set forth here in full.

55. Denied. GRS incorporates its response to No. 50, above, as though set forth here in full.

56. Denied. GRS incorporates its response to No. 50, above, as though set forth here in full.

57. Denied. GRS incorporates its response to No. 50, above, as though set forth here in full.

Response to Section III(J)

58. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order misinterprets Povacz v. Pa. Pub. Util. Comm'n., 241 A.3d 481 (Pa. Commw. Ct. 2020). See Introduction; Duick Chart; Order, pp. 42-3; Reply to Exceptions Section II, pp. 22-23, all of which are incorporated here as though set forth in full. Sunoco argues that the Commission overlooked the requirement in Povacz that a complainant demonstrate by “a preponderance of the evidence that the utility’s proposed conduct would create ‘a proven exposure to harm’”. Petition, pp. 30-31. Sunoco fails to acknowledge that the Commission did consider this requirement in the context of the rest of the Povacz decision, including, without limitation, that **“the occurrence of harm need not be certain, or even probable....”** Reply to Exceptions, pp. 22-23 (quoting Povacz, 241 A.3d 481, 493-94). Although the Commission does not quote the snippet that Sunoco claims it overlooked, the Commission clearly did not need to do so as GRS quoted the exact language in its briefing to the Commission. [Id.] The Commission, like the ALJ, undertook a detailed analysis of the Povacz case, and Sunoco’s assertions regarding the same, and held that even if inconvenience were the only issue raised by GRS, which it clearly was not, convenience is part of Sunoco’s obligations under 66 Pa. C.S. § 1501. Order, pp. 42-43. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco’s arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a “second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco].” See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exception No. 11.

59. Denied. GRS incorporates its response to No. 58, above, as though set forth here in full.

60. Denied. GRS incorporates its response to No. 58, above, as though set forth here in full.

Response to Section III(K)

61. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order improperly assesses the Commission's jurisdiction over sound and fire safety. See Introduction; Duick Chart; Order, p. 44; Reply to Exceptions Section II, pp. 2-11, all of which are incorporated here as though set forth in full. Sunoco wrongly argues that the Order provides "no reasoning" for finding that the Commission has jurisdiction over the sound and fire safety issues raised by GRS. Petition, p. 32. The Order adopts the Initial Decision, which found that the Commission has "irrefutable authority to exercise its jurisdiction," when community safety is at issue. Initial Decision, pp. 41, 88. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco's arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a "second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco]." See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exception No. 12.

62. Denied. GRS incorporates its response to No. 61, above, as though set forth here in full.

63. Denied. GRS incorporates its response to No. 61, above, as though set forth here in full.

Response to Section III(L)

64. Denied. GRS denies this averment insofar as it contains conclusions of law requiring no response and improperly attempts to characterize the Order and the record, which speak for themselves. By way of further response, GRS specifically denies that the Order failed to consider Sunoco's arguments pertaining to the verification of the Complaint. See Introduction; Duick Chart; Order, pp. 45-46; Reply to Exceptions Section II, pp. 23-25, all of which are incorporated here as though set forth in full. Additionally, Sunoco cites case law involving unverified complaints which, as the Initial Decision recognizes, is not the case here. Initial Decision, pp. 44-45. GRS briefed the support in the record for the verification it filed. Reply to Exceptions, pp. 23-25. The Order is fairly based on the law and evidence and should not be reconsidered. Id. By way of further response, Sunoco's arguments in its Petition are an impermissible rehashing of the same failed arguments made in its Exceptions; in other words, Sunoco presents the Commission with a "second motion to review and reconsider, to raise the same questions which were specifically decided against [Sunoco]." See Duick, 56 Pa. P.U.C. at 559; Duick Chart; and Exception No. 13.

65. Denied. GRS incorporates its response to No. 64, above, as though set forth here in full.

66. Denied. GRS incorporates its response to No. 64, above, as though set forth here in full.

REQUEST FOR RELIEF

WHEREFORE, Complainant, Glen Riddle Station, L.P., respectfully requests that the Commission enter an order denying the Petition for Reconsideration filed by Sunoco Pipeline, L.P.

Respectfully submitted,

FOX ROTHSCHILD LLP

Dated: July 11, 2022

By:



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

**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.,	:	
Sunoco.	:	

CERTIFICATE OF SERVICE

I hereby certify that I have, on this 11th day of July, 2022, served a true copy of the foregoing Answer to Preliminary Objections 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):

Via Email Only

Thomas J. Sniscak, Esquire
Whitney E. Snyder, Esquire
Kevin J McKeon, Esquire
Bryce R. Beard, Esquire
Hawke, McKeon & Sniscak LLP
100 North 10th Street
Harrisburg, PA 17101
tjsniscak@hmslegal.com
wesnyder@hmslegal.com
kjmkeon@hmslegal.com
brbeard@hmslegal.com

Diana A. Silva, Esquire
Manko, Gold, Katcher & Fox
401 City Avenue, Suite 901
Bala Cynwyd, PA 19004
dsilva@mankogold.com



Samuel W. Cortes, Esquire

**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.	:	

VERIFICATION

I, Raymond Iacobucci, am the sole member of RIC General Partner, LLC, the general partner of Glen Riddle Station, L.P. (“GRS”). I am also the sole member of AJI Properties Management LLC, which has a management contract with GRS. I am authorized to make this verification on behalf of GRS. I hereby state that the facts above set forth in the Answer to the Petition for Reconsideration are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

SIGNED VERIFICATION TO BE PROVIDED ON JULY 11, 2022

Dated: July 11, 2022



Raymond Iacobucci