

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held December 8, 2022

Commissioners Present:

Gladys Brown Dutrieuille, Chairman, Statement
Stephen M. DeFrank, Vice Chairman, Statement, Conflict
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

Petition of Sunoco Pipeline, L.P. for a Refund and
Compliance Confirmation

C-2020-3023129

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) is the Petition of Sunoco Pipeline, L.P. (Sunoco) for a Refund and Compliance Confirmation. Sunoco filed its Petition subsequent to the Pennsylvania Public Utility Commission's Opinion and Order entered September 13, 2022,¹ granting, in part, reconsideration of the Commission's Opinion and Order entered June 16, 2022.² Through the *June 2022 Order*, the Commission imposed civil penalties totaling \$51,000 on Sunoco. This fine was reduced to \$3,000 via the *September 2022 Order*. Through its Petition, Sunoco seeks a \$48,000 refund and the issuance of a Secretarial Letter confirming that the \$3,000 fine has been paid. Through this Order, the Commission grants Sunoco's Petition for a Refund. However, the Commission denies as unnecessary Sunoco's request for the issuance of a Secretarial Letter.

¹ *Glen Riddle Station, L.P. v. Sunoco Pipeline, L.P.*, Docket No. C-2020-3023129 (Order entered September 13, 2022) (*September 2022 Order*).

² *Glen Riddle Station, L.P. v. Sunoco Pipeline, L.P.*, Docket No. C-2020-3023129 (Order entered June 16, 2022) (*June 2022 Order*).

BACKGROUND

Glen Riddle Station, L.P. (Glen Riddle) is the owner of a residential apartment community in Middletown Township, Delaware County. Sunoco was engaged in construction activity in the Glen Riddle community as part of the Mariner East Pipeline Project, a major pipeline construction project within the Commonwealth. On December 2, 2020, Glen Riddle filed a Complaint with the Commission, alleging, among other things, that Sunoco violated the Public Utility Code and Commission regulations by (1) creating fire hazards; (2) causing unreasonably high noise levels; (3) inadequately communicating with the public; (4) creating traffic hazards; (5) using a dangerous product at the property; and (6) causing a water line break.

On March 8, 2022, the Commission's Office of Administrative Law Judge (OALJ) issued an Initial Decision granting in part and denying in part Glen Riddle's Complaint. The Initial Decision, among other things, sustained the Complaint as to the allegations of fire hazards, noise levels, and inadequate communications with the public, and directed that Sunoco pay civil penalties totaling \$51,000 for violations of 66 Pa.C.S. § 1501 and 52 Pa. Code § 59.33. Sunoco filed Exceptions to the Initial Decision on March 28, 2022.

Through the *June 2022 Order*, the Commission denied Sunoco's Exceptions and adopted the OALJ's Initial Decision, including the \$51,000 civil penalty against Sunoco, and making the penalty payable by July 18, 2022. On July 1, 2022, Sunoco filed a Petition for Reconsideration of the *June 2022 Order* and a Motion for Extension of Time to pay the penalty until the Commission could rule on the merits of Sunoco's Petition for Reconsideration. On July 14, 2022, the Commission granted the Petition pending a decision on the merits. The Commission did not address Sunoco's Motion for Extension of Time until the *September 2022 Order*, through which the Commission denied the Motion. Accordingly, Sunoco paid the \$51,000 penalty in full on July 25, 2022.

Through the *September 2022 Order*, the Commission also granted Sunoco’s Petition for Reconsideration to the extent that it reduced the \$51,000 civil penalty to \$3,000. However, the *September 2022 Order* did not address the fact that Sunoco paid the full \$51,000 penalty in July. Accordingly, on September 22, 2022, Sunoco filed its request for a \$48,000 refund. Since then, Glen Riddle filed a Petition for Review of the *September 2022 Order* in the Commonwealth Court of Pennsylvania, and Sunoco subsequently filed a Cross-Petition for Review. These matters remain pending before the Commonwealth Court.

DISCUSSION

Under the Pennsylvania Rules of Appellate Procedure (Pa.R.A.P.), after a party seeks review of a quasi-judicial order, the government agency “may no longer proceed further in the matter.” Pa.R.A.P. 1701(a). However, the agency can, among other things, enforce the underlying order, unless the order has been superseded pursuant to Chapter 17 of the Rules of Appellate Procedure. Pa.R.A.P. 1701(b)(2). The “Official Notes” to Pa.R.A.P. 1701 state, “Generally an appeal does not operate as a *supersedeas* of an order of a government unit.”

A party appealing as of right may file an application to stay the underlying order after filing a petition for review. Pa.R.A.P. 1702(a). However, this generally requires the appealing party to post collateral. *See* Pa.R.A.P. 1733 – 1736. We have no indication that Glen Riddle has taken any steps toward seeking a stay of the Commission’s *September 2022 Order*. Specifically, regarding an order for the payment of money, it is subject to automatic supersedeas as long as the appellant files sufficient collateral. *See* Pa.R.A.P. 1731(a). Again, we have no indication that Glen Riddle has posted such collateral.

CONCLUSION

We have no indication that the *September 2022 Order* has been superseded or stayed; therefore, the Order remains in effect. As such, Sunoco's civil penalty in this proceeding is \$3,000. Because Sunoco paid the initial \$51,000 penalty in full in July 2022, Sunoco's request for a refund is hereby granted and the Commission's Fiscal and Assessments Division is directed to issue a \$48,000 refund to Sunoco. Further, the Commission hereby acknowledges that Sunoco has paid the \$3,000 fine. Accordingly, the Commission denies, as moot, Sunoco's request for Compliance Confirmation via Secretarial Letter; **THEREFORE,**

IT IS ORDERED:

1. That the Petition of Sunoco Pipeline, L.P. for a Refund and Compliance Confirmation is granted, in part, and denied, in part, consistent with this Opinion and Order.
2. That the Bureau of Administration's Fiscal and Assessment Division process a \$48,000 refund payable to Sunoco Pipeline, L.P.
3. That a copy of this Order be served on Glen Riddle Station, L.P., Sunoco Pipeline, L.P., and the Energy Association of Pennsylvania.

4. That this matter be marked closed upon the refunding of the \$48,000 to Sunoco Pipeline, L.P. in accordance with Ordering Paragraph No. 2 above.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive style with a large initial "R".

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: December 8, 2022

ORDER ENTERED: December 8, 2022