



McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

Adeolu A. Bakare
Direct Dial: 717.237.5290
Direct Fax: 717.260.1744
abakare@mcneeslaw.com

February 21, 2025

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA ELECTRONIC FILING

RE: Monroe Energy, LLC, Lucknow-Highspire Terminals, LLC, Sheetz, Inc. and PBF Holding Company LLC v. Laurel Pipe Line Company, L.P.; Docket No. C-2025-3053018

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission is the Response of Complainants to the Preliminary Objections of Laurel Pipe Line Company, L.P. on behalf of Monroe Energy, LLC, Lucknow-Highspire Terminals, LLC, Sheetz, Inc. and PBF Holding Company LLC.

As evidenced by the attached Certificate of Service, all parties to this proceeding are being duly served with a copy of this document. Thank you

Very truly yours,

A handwritten signature in black ink, appearing to read 'Adeolu A. Bakare', written over a horizontal line.

Adeolu A. Bakare
MCNEES WALLACE & NURICK LLC

cc: Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants, listed below, in accordance with the requirements of Section 1.54 (relating to service by a participant).

VIA EMAIL

David B. MacGregor, Esq.
Anthony D. Kanagy, Esq.
Garrett P. Lent, Esq.
Alice W. Wade, Esq.
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
dmacgregor@postschell.com
akanagy@postschell.com
glent@postschell.com
alice.wade@postschell.com

Christopher J. Barr, Esq.
Post & Schell, P.C.
607 14th Street, N.W., Suite 600
Washington, DC 20005-2000
cbarr@postschell.com



Adeolu A. Bakare

Counsel to Lucknow-Highspire Terminals,
LLC and Sheetz, Inc.

Dated this 21st day of February, 2025, in Harrisburg, Pennsylvania.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Monroe Energy, LLC, Lucknow-Highspire	:	
Terminals, LLC, Sheetz, Inc. and PBF	:	
Holding Company, LLC,	:	
	:	Docket No. C-2025-3053018
Complainants,	:	
	:	
v.	:	
	:	
Laurel Pipe Line Company, L.P.	:	
	:	
Respondent.	:	

**RESPONSE OF COMPLAINANTS TO THE
PRELIMINARY OBJECTIONS OF LAUREL PIPE LINE COMPANY, L.P.**

AND NOW, Monroe Energy, LLC ("Monroe"), Lucknow Highspire Terminals, LLC ("LHT"), Sheetz, Inc. (Sheetz), and PBF Holding Company LLC ("PBF") (collectively "Complainants")¹ hereby respond to the Preliminary Objections of Laurel Pipe Line Company, L.P. ("Laurel" or "Respondent") pursuant to Section 5.101(f) of this Commission's regulations, 52 Pa. Code § 5.101(f), as follows:

I. INTRODUCTION

1. On or about February 11, 2025, Laurel filed with the Pennsylvania Public Utility Commission ("Commission" or "PUC") Preliminary Objections to the Complainants' Complaint filed on January 21, 2025 ("Complaint"). The Preliminary Objections argue that: (i) the

¹ Monroe, LHT, and Sheetz participated in the prior proceedings on Buckeye Pipe Line Company, L.P.'s ("Buckeye") efforts to reverse the flow of the Laurel Pipeline before the FERC and the PUC.

Commission lacks certificate and tariff jurisdiction over the initiation of interstate petroleum products transportation service that does not involve the abandonment of intrastate service; (ii) the Complaint fails to state a claim against Laurel under the Public Utility Code, 66 Pa.C.S. §§ 101 et seq. ("Code") regarding the bi-directional service extension; (iii) the Complaint fails to state a claim that diminution or alteration of westbound petroleum products transportation due to bi-directional service extension is an abandonment of service; and (iv) Laurel's proposed bi-directional service extension is consistent with Laurel's existing intrastate tariff on file with the Commission. As will be demonstrated below, these claims are meritless and the Preliminary Objections should be dismissed.

II. BACKGROUND

2. Laurel has been a public utility in Pennsylvania since it received a Certificate of Public Convenience ("CPC") from the Commission in 1957. Since that time, Laurel has owned and operated the Laurel Pipeline. For decades, Laurel provided solely single-direction (i.e., east-to-west) intrastate transportation of petroleum products across Pennsylvania, through a pipeline originating in the Philadelphia, Pennsylvania area and extending westward toward Pittsburgh to Midland, Pennsylvania, which is near the Ohio border. On November 14, 2016, Laurel filed an Application with the Commission requesting either approval to fully reverse flow on the Laurel Pipeline between its Coraopolis and Eldorado delivery points or a finding that approval is not required for the proposed reversal.² Administrative Law Judge ("ALJ") Eranda Vero issued a

² *Application of Laurel Pipe Line Co., L.P. for approval to change direction of petroleum products transportation service to delivery points west of Eldorado, Pennsylvania*, PaPUC Docket No. A-2016-2575829 (Application Filed Nov. 14, 2016) ("2016 Application").

Recommended Decision denying Laurel's Application on grounds that Laurel failed to meet the requirements to abandon east-to-west service on the segment of its pipeline between Eldorado and Coraopolis.³ The Commission then affirmed the Recommended Decision, prompting Laurel to file an appeal at the Commonwealth Court of Pennsylvania. While that appeal remained pending, Laurel's affiliate Buckeye filed a Petition for Declaratory Order at Federal Energy Regulatory Commission ("FERC") Docket No. OR18-22-000 on April 30, 2018 ("2018 PDO") seeking authorization to ship petroleum products from delivery points in Michigan, Ohio, and Pennsylvania eastwards to delivery points in Ohio and Pennsylvania utilizing bi-directional service between Laurel's Coraopolis and Eldorado delivery points. At the time, Laurel did not file a parallel request for PUC approval of the proposed bi-directional service. As a result, a group of interested shippers⁴ filed a Complaint at the PUC to address Laurel's failure to seek the requisite Commission approvals for implementation of bi-directional service on the Laurel Pipeline.⁵

3. Laurel eventually reached a settlement with the interested shippers that allowed for bi-directional service on the Laurel Pipeline between the Coraopolis and Eldorado delivery points.⁶ The 2019 Settlement incorporated a variety of additional commitments, including compliance with an Amended Capacity Use Agreement preserving 120,000 barrels per day ("bpd") of east-to-west capacity and allocating, depending on the segment, between 40,000 and

³ *Application of Laurel Pipe Line Co., L.P. for approval to change direction of petroleum products transportation service to delivery points west of Eldorado, Pennsylvania*, PaPUC Docket No. A-2016-2575829, *et al.* (Recommended Decision dated March 21, 2018) ("2018 RD")

⁴ The group of interested shippers that challenged Laurel's bi-directional proposal in 2018 included LHT, Sheetz, and Monroe Energy, each of which is also among the Complainants to the instant proceeding.

⁵ *Giant Eagle, Inc. et al. v. Laurel Pipe Line Company, L.P.*, Docket No. C-2018-3003365 (Complaint dated July 27, 2018 *as amended* August 8, 2018) ("2018 Complaint").

⁶ *Giant Eagle, Inc. et al. v. Laurel Pipe Line Company, L.P.*, Docket No. C-2018-3003365 (Joint Petition for Settlement dated July 31, 2019) ("2019 Settlement").

60,000 bpd of capacity for Buckeye's interstate shippers, all "subject to Laurel's operating procedures and scheduling requirements". For the segment between Coraopolis and Eldorado, the Amended Capacity Use Agreement provides Buckeye with 40,000 bpd of capacity and, for the segment between Eldorado and Sinking Spring, the Amended Capacity Use Agreement provides Buckeye with 45,000 bpd of capacity. The presiding ALJ approved this settlement on August 12, 2019, and the Commission issued its Final Order approving the same on August 29, 2019.⁷

4. Laurel remains the only intrastate petroleum products pipeline offering service from Philadelphia to Pittsburgh, Pennsylvania. Laurel's affiliate, Buckeye, is the only interstate petroleum products pipeline that provides service from points in the east outside of Pennsylvania to Pittsburgh, and Buckeye does so utilizing capacity leased from Laurel pursuant to an affiliated interest agreement that is subject to this Commission's jurisdiction.

5. The Complainants are a group of interested parties, including major retailers, refiners, and shippers that ship products on the Laurel Pipeline, either as the shipper of record or as the entity that injects product into the pipeline.

6. Despite the experience from the litigation and Commission-approved 2019 Settlement following Buckeye's prior attempt to circumvent Commission authority by filing the 2018 PDO at FERC, Buckeye filed a strikingly similar Petition for Declaratory Order at FERC, in Docket No. OR25-6-000, on December 20, 2024 ("2024 PDO"). The 2024 PDO seeks FERC

⁷ *Giant Eagle, Inc. et al. v. Laurel Pipe Line Company, L.P.*, Docket No. C-2018-3003365 (Order entered August 29, 2019) ("2019 PUC Order"); *Giant Eagle, Inc. et al. v. Laurel Pipe Line Company, L.P.*, Docket No. C-2018-3003365 (Recommended Decision issued August 12, 2019) ("2019 PUC RD").

declarations that would enable Buckeye and Laurel to extend existing bi-directional service further eastwards to Sinking Spring without PUC approval.

7. Laurel's decision to extend the existing bi-directional service to the Eldorado and Sinking Spring segment of the pipeline, which has heretofore provided only east-to-west flow, constitutes a partial abandonment of east-to-west intrastate petroleum products pipeline transportation service. The expansion of bi-directional service in the volumes Buckeye claims in the 2024 PDO exceed the volumes specified in the Capacity Use Agreement previously approved by the Commission as part of the 2019 Settlement. Extended bi-directional service exposes shippers to further disruptions in east-to-west service, and threatens the availability of east-to-west capacity because the volumes being contemplated exceed the capacity volumes leased to Buckeye for interstate service under the existing Capacity Use Agreement. These changes to existing service have not been reviewed or approved by (or even filed with) the Commission and thus are not consistent with the 2019 Settlement or the Commission's rules and regulations.

8. Despite Buckeye's clear decision to commence bi-directional service on an additional portion of the Laurel pipeline without Laurel submitting to any level of review by this Commission, Laurel argues in the Preliminary Objections that the Complainants' concerns are both premature and lacking in any factual support of adverse operational and economic impacts. Laurel asserts Complainants' concerns of future impacts are purely speculative. Laurel additionally argues that Buckeye's actions (and Laurel's inaction) are not PUC-jurisdictional as they do not constitute abandonment and do not require any tariff modifications. Laurel would have Complainants wait until completion of Buckeye's Phase 3 pipeline construction and commencement of the adverse impacts that Complainants now foresee before involving the

Commission. Laurel's efforts to avoid regulatory oversight should not be countenanced; Laurel's Preliminary Objections should be denied.

III. LEGAL STANDARDS OF REVIEW

9. The Commission's Rules of Administrative Practice and Procedure permit the filing of preliminary objections. 52 Pa. Code § 5.101.⁸

10. The grounds for preliminary objections are set forth in 52 Pa Code § 5.101(a):

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.
- (7) Standing of a party to participate in the proceeding.

11. The Commission's procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice.⁹

12. A preliminary objection in civil practice seeking dismissal of a pleading will be granted only where relief is clearly warranted and free from doubt.¹⁰ The Commission has adopted this standard.¹¹

⁸ See also *Equitable Small Transportation Interveners v. Equitable Gas Company*, Docket No. C-00935435 (Final Order entered July 18, 1994).

⁹ *Equitable Small Transportation Interveners*, Docket No. C-00935435 (July 18, 1994).

¹⁰ *Interstate Traveller Services, Inc. v. Pa. Dept. of Environmental Resources*, 406 A.2d 1020 (Pa. 1979); *Rivera v. Philadelphia Theological Seminary of St. Charles Borromeo, Inc.*, 595 A.2d 172 (Pa. Super. 1991).

¹¹ *Montague v. Philadelphia Electric Company*, 66 Pa. PUC 24 (1988).

13. The Commission may only dismiss a pleading without hearing if, in its opinion, a hearing is not necessary in the public interest.¹²

14. Thus, in resolving a preliminary objection, the Commission must assume that:

[a]ll material facts set forth in the complaint as well as all inferences reasonably deducible therefrom are admitted as true. The question presented by the demurrer is whether, on the facts averred, the law says with certainty that no recovery is possible. Where a doubt exists as to whether a demurrer should be sustained, this doubt should be resolved in favor of overruling it.¹³

15. Laurel bears a heavy burden to demonstrate any entitlement to relief under its Preliminary Objections. Because there are clear factual and legal disputes underlying the parties' positions and in all factual matters the Complainants' well-pled allegations of material facts and all inferences reasonably deducible therefrom must be accepted as true,¹⁴ summary resolution of the issues raised in the Complaint at this early stage of the proceeding via Preliminary Objections is inconsistent with the law.

IV. ARGUMENT¹⁵

A. PRELIMINARY OBJECTION NO. 1 – The Commission Lacks Certificate and Tariff Jurisdiction Over An Initiation Of Interstate Service That Does Not Involve The Abandonment of Intrastate Service.

16. The foundation of Laurel's claim that the Commission lacks jurisdiction over the initiation or expansion of bi-directional service on the Laurel Pipeline is that such service "does not involve the abandonment of intrastate service."¹⁶ It similarly claims that bi-directional service

¹² 52 Pa. Code § 5.21(d); *see also Lydine Dutton v. Cordia Communications Corporation*, Docket No. F-2010-2201413 (Initial Decision entered March 10, 2011; Order entered September 22, 2011) (citing 66 Pa.C.S. § 703(b)).

¹³ *McMahon v. Shea*, 688 A.2d 1179, 1181 (Pa. 1997).

¹⁴ Preliminary Objections at 9.

¹⁵ Complainants incorporate into the Argument paragraphs 1-15 as if set forth fully therein.

¹⁶ Preliminary Objections at 9.

does not contemplate or require a permanent cessation of service in one direction or the other; instead, it contemplates the establishment of an operational sequence that maintains service in two directions.¹⁷

17. Laurel misinterprets Commission precedent by claiming that there must be a permanent reversal of flow or cessation of service to constitute an abandonment of petroleum products pipeline service.¹⁸ Laurel overreads the Commission's prior orders. The Commission's previous holding that a permanent flow reversal does constitute abandonment does not mean that an alteration of service less than permanent flow reversal does not constitute abandonment. The Complaint does not allege that Laurel's proposed bi-directional service is a permanent reversal of east-to-west flow, only that expanding bi-directional service would sufficiently diminish flows to constitute an abandonment or otherwise necessitate Commission approval.

18. Laurel continues to claim an entitlement to initiating a new east-bound service and abandoning its existing certificated west-bound intrastate service based solely on its self-proclaimed and unproven claim that all of Complainants' existing pipeline transportation service will be preserved. Laurel's conclusory statements erroneously assume that the 2019 settlement creates a presumption favoring further extensions of bi-directional service. In fact, "[i]t is well-established that the terms and conditions of settlements are not relied upon as precedential."¹⁹ While the Commission issued a precedential ruling on the question of whether a full reversal is an abandonment of service, the Commission has not ruled on the question of whether the diminution

¹⁷ *Id.*

¹⁸ *Application of Laurel Pipe Line Company, L.P.*, Docket Nos. A-2016-2575829 and G-2017-2587567 (Opinion and Order entered July 12, 2018) ("2018 Final Order").

¹⁹ *Pennsylvania Public Utility Commission et al. v. Columbia Gas of Pennsylvania, Inc.*, 2022 PA PUC LEXIS 402 at *75.

of westbound service to accommodate bi-directional service can also constitute an abandonment of service. With its approval of the 2019 Settlement, the Commission only authorized Laurel to provide limited bi-directional service based on a settlement that involved a careful balancing of various interests and findings that are not duplicated under the present circumstances. The underlying question of whether a reduction in available jurisdictional westbound capacity requires Commission-approved changes to Laurel's certificate was not resolved in 2019, but is now back before the Commission via the Complaint.

19. Laurel's proposal to expand bi-directional service eastward raises complex operational concerns that must be addressed to determine the extent of westbound service impairment and whether that impairment constitutes an abandonment of jurisdictional service. In approving the 2019 Settlement, the Commission adopted the 2019 RD's finding that Laurel satisfied operational concerns raised in the 2018 Complaint by entering into a Stipulation with the Commission's Bureau of Investigation and Enforcement ("Stipulation") establishing operational standards and requirements adopted solely for the L718 pipeline segment between Coraopolis and Eldorado.²⁰ These standards and operational requirements included conducting hydrostatic testing on the L718 segment to confirm bi-directional operations could be conducted on the Laurel Pipeline without diminishing the availability of east-to-west capacity.²¹ In recommending approval of the 2019 Settlement, the 2019 RD specifically found that "the acceptance of this Stipulation will negate the need for I&E and Laurel to participate in evidentiary hearings, which would compel the extensive devotion of time and resources for the preparation,

²⁰ 2019 Settlement, Appendix D.

²¹ 2019 PUC Order; *see also* 2019 RD at 39.

presentation and cross-examination of witnesses, the preparation of Main and Reply Briefs, the preparation of Exceptions and Reply Exceptions and the potential of filed appeals."²²

20. The proposed extension of bi-directional service would impact the L720 and L724 segments of the Laurel pipeline between Eldorado and Sinking Spring, and the operational assurances that formed a critical component of the carefully constructed settlement resolution authorizing the existing bi-directional service have not been addressed at all with respect to those additional segments. Notably, the existing bi-directional service occurs on the L718 segment that is comprised of 18-inch pipe. Laurel has not provided any engineering analyses to show exactly how the expansion of bi-directional service over a combination of 18-inch, 20-inch, and 24-inch pipe – all designed to be telescoping to provide east-to-west service – will be accomplished without adversely impacting flows. As referenced in the Complaint, Laurel has failed to provide operational assurances, beyond unsubstantiated representations, that the proposed expansion of bi-directional service can accommodate the east-to-west capacity used by shippers and required to be maintained under the 2019 Settlement. Even the present bi-directional operation of the Laurel Pipeline on the L718 segment continues to present operational challenges for shippers, and shippers are legitimately concerned that adding bi-directional service on two additional segments will exacerbate those challenges.

21. Aside from abandonment, Complainants further aver that Laurel's proposed expansion of bi-directional service fails to comply with the 2019 Settlement and necessitates Commission approval of changes to the current Capacity Use Agreement. The amended Capacity

²² 2019 RD at 40.

Use Agreement was made part of the 2019 Settlement and required Laurel to preserve 120,000 bpd of east-to-west capacity while authorizing Buckeye to use up to 40,000 bpd of west-to-east capacity on certain segments of the Laurel Pipeline, and up to 45,000 bpd on the segment between Eldorado/Duncansville and Sinking Spring. While Laurel's Preliminary Objections repeatedly claim that the 120,000 bpd commitment will be honored for east-to-west flows, Laurel fails to address a discrepancy between the capacity leased to Buckeye under the Amended Capacity Use Agreement and the capacity Buckeye proposes to provide for west-to-east shippers if the 2024 PDO is granted. Where the Capacity Use Agreement allocates up to 45,000 bpd to Buckeye over certain segments that Buckeye will need to provide expanded bi-directional service, Buckeye's PDO represents that shippers will have access to 80,000 bpd of capacity for west-to-east shipments on the Laurel Pipeline through the Sinking Spring delivery point.²³

22. Accordingly, Buckeye's 2024 PDO presents, at a minimum, a material question of fact as to whether Buckeye's proposed bi-directional expansion complies with the 120,000 bpd capacity guarantee for east-to-west flows and whether Laurel requires Commission approval of a further amendment to the Capacity Use Agreement to increase Buckeye's allocated flows on the Laurel Pipeline. In fact, the precise nature of this conflict was anticipated in the 2019 RD adopted by the Commission, where the presiding ALJ observed that "[a]lthough the Settlement does not obligate Laurel and Buckeye to continue to file capacity agreements should they seek to extend bi-

²³ 2024 PDO at 11 ("In response to that increasing demand for Midwest-supplied refined products, Buckeye has developed and moved forward with Phase 3 of the Broadway project, offering up to 80,000 bpd of incremental capacity from receipt points in Michigan, Ohio, and western Pennsylvania to delivery points in eastern Pennsylvania and Upstate New York").

directional service in the future, the Complainants have reserved their rights to oppose future proposals that forego capacity agreements."²⁴

23. Finally, Complainants note that Laurel raised an identical preliminary objection when it initially proposed to implement bi-directional service in 2018. At that time, the presiding ALJ determined that "whether or not Respondent's initiation of bi-directional service on the Pittsburgh-Altoona section of the Laurel pipeline amounts to full or partial abandonment of service is a question of fact which may not be disposed of through preliminary objections."²⁵ The fact that Laurel has been permitted to implement limited bi-directional service based on specific findings approved through the 2019 Settlement does not change the circumstances surrounding a Complaint against an extension of bi-directional service on a segment of pipeline currently operating as a single directional line. The presiding ALJ should deny Laurel's Preliminary Objection No. 1 and proceed to develop a record on the factual allegations that Laurel's decision to expand bi-directional service impairs the availability of east-to-west capacity to the point of abandonment, requires modification of the existing Capacity Use Agreement, or otherwise violates Commission rules and regulations.

B. PRELIMINARY OBJECTION NO. 2 – The Complaint Fails to State A Claim Against Laurel Regarding The Bi-directional Service Extension.

24. The Complainants deny Laurel's implication that the Complaint fails to state a claim regarding the bi-directional service extension under Section 701 of the Code.²⁶ Laurel uses

²⁴ 2019 RD at 26.

²⁵ *Giant Eagle, Inc. et al. v. Laurel Pipe Line Company, L.P.*, Docket No. C-2018-3003365 (Order on Respondent's Preliminary Objection dated October 9, 2018) ("2018 Order on PO") at 6-7 citing *Ridge v. State Employees' Retirement Board*, 690 A.2d 1312 (Pa. Cmwlth. 1997) 1997 Pa. Commw. LEXIS 148.

²⁶ 66 Pa. C.S. § 701.

this section of the Code to argue the Complaint fails for a lack of ripeness because a complaint may only be filed once a complained of action or omission has occurred. Laurel claims that the diminution of service at issue in the Complaint is merely a future speculation that should be properly dismissed. This is simply a mischaracterization of Complainants' concerns. Buckeye's 2024 PDO stands as the commencement of its Phase 3 project; the Complaint is by no means speculative.

25. Laurel asserts that Complainants are asking the Commission to reach "purely hypothetical findings and conclusions regarding the Bi-directional Service Extension."²⁷ It classifies Complainants' claims as "entirely based upon a hypothetical set of facts regarding the alleged 'unreasonable service' and 'modifications' and/or 'abandonments' of service."²⁸ However, the Complaint references the actual impacts of Laurel affiliate Buckeye's recent change to the schedule for shippers to reformulate the Reid Vapor Pressure for gasoline shipped on the pipeline several weeks earlier than normal, which Complainants aver was caused by Buckeye's preparations to expand capacity for west-to-east service.²⁹

26. Similarly, the expansion of west-to-east capacity and commencement of bi-directional service on the L720 and L724 segments cannot be considered hypothetical following Buckeye's filing of the 2024 PDO at FERC. The contention that Laurel and Buckeye can take affirmative steps towards a bi-directional expansion, but Complainants must wait until Laurel and Buckeye have invested millions of dollars to implement bi-directional service before raising any

²⁷ Preliminary Objections at 17.

²⁸ *Id.* at 18

²⁹ Complaint at 3.

concerns is preposterous. The absurdity of the ripeness argument is underscored by the parallel laches argument advanced as a New Matter in Laurel's Answer to the Complaint. Laurel appears to believe that Complainants are simultaneously too early and too late in seeking relief from the Commission.

27. Based on the affirmative actions identified above, the ALJ should find the Complaint to be ripe for adjudication and deny Laurel's Preliminary Objection No. 2.

C. PRELIMINARY OBJECTION NO. 3 – Complainants Have Failed To State A Claim That Any Diminution Or Alteration Of Westbound Intrastate Petroleum Products Transportation Service Due To The Bi-directional Service Extension Is An Abandonment Of Service Under 66 Pa.C.S. § 1102(a)(2).

28. Laurel asserts that to constitute an abandonment, there must be an "intention to abandon together with external acts by which the intention is carried into effect."³⁰ It also cites Commission language permitting a common carrier public utility providing petroleum products transportation service to change its method of operation without first obtaining Commission approval.³¹ Laurel relies on a flawed assumption that the facts at issue here mirror the circumstances from *Harris*. To the contrary, key factual findings made by the Commission in *Harris* have been challenged by the Complaint and must be resolved through formal proceedings before the Commission.

29. Complainants incorporate by reference Paragraphs 16 through 23 of this Response as if fully set forth herein. As detailed therein, the Complainants have alleged that Laurel's proposed expansion of bi-directional service impairs the availability of east-to-west capacity to

³⁰ *Byerly v. Pa. Pub. Util. Comm'n*, 440 Pa. 521, 525-26, 270 A.2d 186, 189 (Pa. 1970).

³¹ See *Harris v. Nat'l. Transit Co.*, 1976 Pa. PUC LEXIS 50, at *4-5 (Order Entered Aug. 27, 1976) ("*Harris*").

the point of abandonment, requires modification of the existing Capacity Use Agreement, or otherwise violates Commission rules and regulations. Laurel argues that it is not required to seek any form of Commission approval on the premise that the Commission's decision in *Harris* entitles a common carrier to exercise managerial discretion to change its method of service.³² Laurel is mistaken, as the Commission in *Harris* framed the narrow nature of its ruling in that case by affirming that "[c]entral to the disposition of the instant case is the question whether a utility may change its method of operation *where it appears that the original method has become outdated or uneconomical*."³³ In *Harris*, the Commission held hearings to develop a record and to rule on the factual question of whether the change in service was a permissible exercise of managerial discretion or an impermissible abandonment of service.³⁴ Accordingly, *Harris* supports dismissal of Laurel's Preliminary Objection in favor of developing a record on whether the proposed extension of bi-directional service is an abandonment of service or a justified exercise of managerial discretion that does not rise to the level of abandonment of service.

30. Laurel's efforts to discredit the allegations in the Complaint through inane analogies should also be disregarded. Laurel suggests that Commission approval of the Complaint would have the absurd result of characterizing any diminution of service as an abandonment of service.³⁵ This claim is irrelevant as any potential for a Commission Order to set precedent has no bearing on the disposition of Laurel's Preliminary Objections because the Commission is not deciding the merits of the Complaint at this time. Further, the Complaint does

³² Preliminary Objections at 19.

³³ *Harris* at *3 (Emphasis added).

³⁴ *Id.* at *2.

³⁵ Preliminary Objections at 21.

not allege that any diminution of service constitutes an abandonment, but rather that the proposal to extend bi-directional service to Sinking Spring presents sufficient operational challenges to constitute an abandonment of service.

31. For the reasons set forth above, Laurel's Preliminary Objection No. 3 should be denied.

D. PRELIMINARY OBJECTION NO. 4 – Complainants Have Failed To State A Claim That The Bi-directional Service Extension Is Inconsistent With Laurel's Existing Intrastate Tariff.

32. Complainants deny Laurel's claim that the Complaint fails to state a legally sufficient claim that the bi-directional service extension is inconsistent with Laurel's existing tariff. Laurel claims the Phase 3 initiation constitutes a permissible change under its tariff in the method of operation of the Laurel Pipeline segment between Eldorado and Sinking Spring.³⁶ Laurel further claims that the additional service will have no impact on the volumes that shippers can continue to transport and that expansion of bi-directional service will only alter Laurel's pumping sequences and schedules.³⁷

33. Complainants incorporate by reference Paragraphs 16 through 23 as if fully set forth herein. Complainants have thoroughly pled that Laurel failed to seek the requisite PUC approvals to expand bi-directional service. Laurel's attempt to dismiss the Complaint by arguing that Complainants have not stated a claim that bi-directional service is inconsistent with Laurel's intrastate tariff reflects a misunderstanding of the scope of Section 1303 of the Code. Sections

³⁶ Preliminary Objections at 22.

³⁷ *Id.* at 24.

1302 and 1303 must be read in conjunction with Section 102 of the Code, which defines "tariff" as:

[a]ll schedules of rates, all rules, regulations, practices, or contracts involving any rate or rates, including contracts for interchange of service, and, in the case of a common carrier, schedules showing the method of distribution of the facilities of such common carrier.³⁸

The Commission has further confirmed that in interpreting provisions in Chapter 13 of the Code, the term tariff is to be read broadly as defined in Section 102.³⁹ Complainants have alleged that prior to implementation of any expansion of bi-directional service, Laurel must change its tariff and "[s]uch changes must include the rules, terms, and conditions under which bi-directional service is to be provided in a manner that does not impair service to the point of constituting abandonment."⁴⁰ Accordingly, Complainants claim that Laurel's expansion of bi-directional service conflicts with the 40,000 to 60,000 bpd of capacity allocated to Buckeye under the Capacity Use Agreement, which is a contract related to rates, raises an inconsistency between the proposed expansion of bi-directional service and Laurel's tariff. Complainants' argument that Buckeye's documented expansion of interstate west-to-east capacity to 80,000 bpd will impair the 120,000 bpd capacity guarantee set forth both in the Capacity Use Agreement and Rule 90 of Laurel's intrastate tariff also raises inconsistencies between the proposed bi-directional expansion and Laurel's tariff.

34. As Complainants have offered multiple claims of tariff violations resulting from the expansion of bi-directional service on the Laurel Pipeline, Laurel's Preliminary Objection No. 4 should be denied.

³⁸ 66 Pa. C.S. § 102.

³⁹ *Consolidated Communications Enterprise Services Inc. v. Omnipoint Communications Inc. d/b/a/ T-Mobile, et al.* 2012 Pa. PUC LEXIS 479, *80.

⁴⁰ Complaint at 17.

WHEREFORE, the Complainants hereby request that the Preliminary Objections of Laurel Pipeline Company, L.P. be denied in their entirety.

February 21, 2025

Respectfully submitted,



Adeolu A. Bakare
Robert A. Weishaar, Jr.
McNees Wallace & Nurick LLC
100 Pine Street
PO Box 1166
Harrisburg, PA 17108-1166
717.232.8000
abakare@mcneeslaw.com
bweishaar@mcneeslaw.com
*Counsel for Lucknow-Highspire Terminals, LLC
and Sheetz, Inc.*



Todd S. Stewart
HMS Legal LLP
501 Corporate Circle, Suite 302
Harrisburg, PA 17110
717.703.0806
tsstewart@hmslegal.com
Counsel for Monroe Energy, LLC



Randall S. Rich
Pierce Atwood LLP
1875 K Street, NW, Suite 700
Washington, DC 20006
202.530.6424
rrich@pierceanwood.com
*Attorneys for PBF Holding Company LLC
Pro hac vice pending*