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Whitney E. Snyder
717.703.0807
wesnyder@hmslegal.com

501 Corporate Circle, Suite 302, Harrisburg, PA 17110 Phone: 717.236.1300 Fax: 717.236.4841 www.hmslegal.com

March 26, 2026

By Electronic Filing

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street – Second Floor North
Harrisburg, PA 17120

Re: Wilmer J. Baker v. Sunoco Pipeline, L.P.; Docket No. C-2026-3060914;
**SUNOCO PIPELINE, L.P.'S PRELIMINARY OBJECTIONS TO
FORMAL COMPLAINT**

Dear Secretary Homsher:

Enclosed for filing with the Pennsylvania Public Utility Commission is Sunoco Pipeline, L.P.'s Preliminary Objections to the Formal Complaint in the above-referenced proceeding. Copies have been served in accordance with the enclosed certificate of service.

If you have any questions regarding this filing, please contact me.

Very truly yours,

/s/ Whitney E. Snyder

Whitney E. Snyder (Attorney ID No. 316625)

Counsel for Sunoco Pipeline, L.P.

WES/das
Enclosure

cc: Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Wilmer J. Baker	:	
	:	
v.	:	Docket No. C-2026-3060914
	:	
Sunoco Pipeline, L.P.	:	

NOTICE TO PLEAD

You are hereby advised that, pursuant to 52 Pa. Code § 5.61, you may file a response within ten (10) days of the attached preliminary objections. Any response must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Sunoco Pipelines, L.P., and where applicable, the Administrative Law Judge presiding over the issue.

File with:

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Wilmer J. Baker	:	
	:	
v.	:	Docket No. C-2026-3060914
	:	
Sunoco Pipeline, L.P.	:	

**SUNOCO PIPELINE L.P.’S PRELIMINARY OBJECTIONS
TO THIRD FORMAL COMPLAINT OF WILMER BAKER**

Pursuant to 52 Pa. Code § 5.101, Respondent Sunoco Pipeline L.P. (SPLP) submits these Preliminary Objections to Wilmer Baker’s March 6, 2026 Formal Complaint (Complaint) in the above captioned proceeding and requests the Complaint be dismissed. The Complaint should be dismissed because it:

- fails to allege any action or inaction by SPLP that violates the Pennsylvania Public Utility Commission (“PUC” or “Commission”) regulations or orders or the Public Utility Code;
- improperly raises issues already adjudicated in Complainant’s two prior complaints at Docket Nos. C-2018-3004294 and C-2020-3022169 which are precluded under 66 Pa. C.S. § 316, collateral estoppel and res judicata; and
- raises issues beyond the Commission’s jurisdiction or statutory authority to address because they are untimely under 66 Pa. C.S. § 3314.

I. INTRODUCTION

1. Pursuant to 52 Pa. Code § 5.101(a)(4), the Complaint should be dismissed in its entirety because it is legally insufficient and fails to state a claim on which relief can be granted. Because Complainant's allegations nor any averment in the requested relief of the Complaint can be interpreted as an allegation of a violation of any law or regulation the Commission administers, or any Commission order, the Complaint is legally insufficient and should be dismissed. The Complaint also should be dismissed pursuant to 52 Pa. Code § 5.101(a)(4) as a legally insufficient collateral attack on the Commission's final orders at Docket Nos. C-2018-3004294 and C-2020-3022169. Moreover, pursuant to 52 Pa Code § 5.101(a)(1), the Complaint should be dismissed because the Commission lacks jurisdiction over claims involving DEP permitting and international steel commerce. Finally, pursuant to 52Pa. Code § 5.101(a)(4), the Complaint should be dismissed because the issues it raises are time-barred under 66 Pa. C.S. § 3314.

II. ARGUMENT

A. Legal Standard

2. The Commission's regulations allow a respondent to file preliminary objections to a complaint. 52 Pa. Code § 5.101. Preliminary motion practice before the Commission is similar to that utilized in Pennsylvania civil practice. *Equitable Small Transportation Interveners v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, PUC Docket No. C-00935435 (July 18, 1994) (citing Pa. R. Civ. P. 1017). A preliminary objection in civil practice seeking dismissal of a pleading will be granted where relief is clearly warranted and free from doubt. *Interstate Traveller Services, Inc. v. Pa. Dept. of Environmental Resources*, 406 A.2d 1020 (Pa. 1979).

3. In determining whether to sustain preliminary objections, all well-pleaded material, factual averments and all inferences fairly deducible therefrom are presumed to be true. *Marks v. Nationwide Ins. Co.*, 762 A.2d 1098, 1099 (Pa. Super. Ct. 2000), *appeal denied*, 788 A.2d 381 (Pa. 2001). The pleaders' conclusions of law, unwarranted inferences from facts, argumentative allegations or expressions of opinion should not be considered to be admitted as true. *Id.* The preliminary objections should be sustained if, based on the facts averred by the plaintiff, the law says with certainty that no recovery is possible. *Soto v. Nabisco, Inc.*, 32 A.3d 787, 790 (Pa. Super. Ct. 2011), *appeal denied*, 50 A.3d 126 (Pa. 2012).

4. It is well settled that the Commission may not exceed its jurisdiction and must act within it. *City of Pittsburgh v. Pa. Pub. Util. Comm'n*, 43 A.2d 348 (Pa. Super. 1945). Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967). Subject matter jurisdiction is a prerequisite to the exercise of the power to decide a controversy. *Hughes v. Pa. State Police*, 619 A.2d 390 (Pa. Cmwlth. 1992). As a creation of the legislature, the Commission possesses only the authority that the state legislature has specifically granted to it in the Public Utility Code. 66 Pa.C.S. §§ 101, et seq. Its jurisdiction must arise from the express language of the pertinent enabling legislation or by strong and necessary implication therefrom. *Feingold v. Bell*, 383 A.2d 791 (Pa. 1977).

B. Preliminary Objection 1: The Complaint Is Legally Insufficient Because It Fails to Allege Any Act or Thing Omitted to be Done in Violation of Law, Regulation or Commission Order

5. In order to be legally sufficient, a complaint must set forth “an act or thing done or omitted to be done or about to be done or omitted to be done by the respondent in violation, or claimed violation, of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission.” 52 Pa. Code § 5.22(a)(4); *see, e.g., James Drake v. Pennsylvania Electric Co.*, Docket No. C-2014-2413771, Initial Decision Sustaining Preliminary Objection and Dismissing Complaint, 2014 WL 2003281, *4 (May 7, 2014).

6. On its face, the Complaint wholly fails to allege any SPLP action or inaction that violates the Commission’s regulations, orders, or the Public Utility Code and therefore it should be dismissed.

7. The Commonwealth Court has made clear that “in order for the PUC to sustain a complaint brought under [66 Pa.C.S. § 1501], the utility must be in violation of its duty under this section. Without such a violation by the utility, the PUC does not have the authority, when acting on a customer’s complaint, to require any action by the utility.” *West Penn Power Co. v. Pa. PUC*, 478 A.2d 947, 949 (Pa. Cmwlth. 1984). *See also Lynde Blymier v. SPLP*, Docket No. C-2023-3040188, Initial Decision at 15-17 (dismissing as legally insufficient complaint that sought investigation and did not allege wrongdoing by utility), adopted (Order entered Dec. 21, 2023).

8. Paragraph 4 of the Complaint, where Complainant is to explain the problem, merely checks a box without further explanation. Complainant has not made assertions of fact elsewhere in the Complaint that SPLP violated the Commission’s regulations, orders, or the Public Utility Code.

9. Moreover, Mr. Baker's complaint is with his local Township, not SPLP. Mr. Baker's own exhibits show that in 2025 Township officials told him that no additional meetings were planned with SPLP. Had the Township requested a meeting, SPLP would meet with the Township consistent with its regulatory duties. No such request was made. It is axiomatic that the Complainant must prove that the Respondent is responsible for the issues raised in the complaint. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990). SPLP cannot control whether or how the Township is responsive to Mr. Baker. The Complaint fails to show there is any problem for which SPLP is responsible. The Complaint thus fails to state a claim entitling Complainant to any relief and should be dismissed. Therefore, the Complaint is legally insufficient and should be dismissed pursuant to 52 Pa. Code § 5.101(a)(4).

C. Preliminary Objection 2: The Complaint Is Legally Insufficient Because The Complaint Is An Improper Collateral Attack On Prior Orders Of The Commission.

10. The Commission has already considered and adjudicated and rejected the issues the Complaint seeks to raise again, and the Complaint should be dismissed because those prior findings are binding on the parties and Complainant is precluded from again causing SPLP the expense of meritless litigation by the legal doctrines of res judicata, collateral estoppel and 66 Pa. C.S. § 316.

11. Collateral estoppel applicable where: "(1) the issue decided in the prior adjudication is identical with the one presented in the later action; (2) there was final judgment on the merits; (3) the party against whom the plea is asserted was a party or in privity with a party to the prior adjudication; and (4) the party against whom it is asserted has had a full and a fair opportunity to

litigate the issue in question in a prior action.” *Lehigh Valley Power Comm. v. Pa. Pub. Util. Comm.*, 563 A.2d 548, 555 (Pa. Cmwlth. 1989) (affirming PUC dismissal of customer complaint based on collateral estoppel).

12. For the doctrine of res judicata to apply, four conditions must be met: “(1) identity of issues, (2) identity of causes of action, (3) identity of persons and parties to the action, and (4) identity of the quality and capacity of the parties suing or sued.” *Baker v. SPLP*, Docket No. C-2020-3022169, Dec. 8, 2020 Initial Decision at 12-16, *aff’d*, (Order entered Dec. 2, 2021) (citing *Day v. Volkswagenwerk Aktiengesellschaft*, 464 A.2d 1313 (Pa.Super. 1983)).

13. Moreover, “Section 316 of the Code, 66 Pa.C.S. § 316, precludes collateral attack on orders which have not been set aside, annulled or modified on judicial review”. *Id.*

14. Here, Mr. Baker filed two prior complaints, one in 2018 and one in 2020 which raised the same issues raised here. The 2018 complaint was fully litigated; the 2020 complaint was dismissed for failure to state a claim based on res judicata, collateral estoppel, and Section 316. *Baker v. SPLP*, Docket No. C-2020-3022169, Dec. 8, 2020 Initial Decision at 12-16, *aff’d*, (Order entered Dec. 2, 2021). Those decisions remain binding and preclude litigation of these repetitive claims through this Complaint proceeding.

15. In 2018, Mr. Baker filed a complaint against SPLP and a complete in-person hearing was held where Mr. Baker presented exhibits and witnesses. Briefing was submitted to the Administrative Law Judge.

16. Mr. Baker presented documents and witnesses on the following issues which the Commission found did not warrant relief:

- Request for alarm system or odorant

- SPLP's public awareness program (public notifications and emergency responder trainings and meetings)
- Imported pipe and steel type of pipelines
- Design and welds used on pipelines

See, e.g., Baker v. SPLP, C-2018-3004294, Dec. 18 2019 Initial Decision at Table of Contents, i., *aff'd* (Order entered Sept. 23, 2020).

17. The Complainant is thus barred by Section 316, collateral estoppel, and res judicata from addressing these previously fully adjudicated issues. The Complaint should be dismissed.

D. Preliminary Objection 3: The Complaint Is Legally Insufficient Because The Commission Lacks Jurisdiction Over Portions of the Complaint.

18. The Commission has already upheld rulings that it lacks jurisdiction over Mr. Baker's claims of violation of DEP-issued permits governing construction of a pipeline. *Baker v. SPLP*, Docket No. C-2020-3022169, Opinion and Order at 13 (Order entered Dec. 2, 2021).

19. This is yet another reason that claims related to Exhibit 14 and 15 should be dismissed.

20. The Commission has also already ruled that it "lacks jurisdiction over trade and import laws, which are within the federal jurisdiction of the U.S. Department of Commerce and the U.S. International Trade Commission. See 19 U.S.C.A. § 1330 et seq.". *Baker v. SPLP*, Dec. 2, 2021 Initial Decision at 13. Lack of jurisdiction is yet another reason the Complaint cannot raise claims of "steel dumping." *See* Complaint Exhibit 10.

E. Preliminary Objection 4: Issues Raised in the Complaint are Time-Barred Pursuant to 66 Pa. C.S. § 3314

21. Complainant raises issues that occurred and were litigated over five years ago which are well beyond the Commission's three year statutory authority to address Complainant's claims.

22. "No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained *unless brought within three years from the date at which the liability therefor arose*, except as otherwise provided in this part." 66 Pa. C.S. 3314.

23. The issues discussed in Section B were litigated over five years ago. The date at which the liability for those issues arose was well beyond the three years in which a claim must be brought.

24. The environmental issues raised are likewise time-barred. Exhibits 14 and 15 [pdf pages 74-80] are a Notice of Violation from DEP and report required by the NOV, both dated 2020. To the extent the Commission could address those issues, the time has long passed to do so. The Complaint should be dismissed.

III. CONCLUSION

WHEREFORE, SPLP respectfully requests the Complaint be dismissed with prejudice for the reasons stated herein.

Respectfully submitted,

/s/Whitney E. Snyder

Whitney E. Snyder, Esq. (PA ID No. 316625)

HMS Legal LLP

501 Corporate Circle, Suite 302

Harrisburg, PA 17110

Tel: (717) 236-1300

wesnyder@hmslegal.com

Attorney for Respondent Sunoco Pipeline, L.P.

Dated: March 26, 2026

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

BY FIRST CLASS MAIL:

Wilmer J. Baker
430 Run Road
Carlisle, PA 17015

/s/ Whitney E. Snyder
Whitney E. Snyder

Dated this 26th day of March, 2026.