

PUC Directs Further Hearings on Zoning Exemption Request by Sunoco Pipeline

October 02, 2014

HARRISBURG – The Pennsylvania Public Utility Commission (PUC) today remanded requests by Sunoco Pipeline L.P. for zoning exemptions to the PUC's Office of Administrative Law Judge (OALJ) for further proceedings. The Commission did not rule on the merits of the company's underlying zoning exemption requests.

The Commission voted 4-1 to approve a **joint motion** by PUC Vice Chairman John F. Coleman Jr. and Commissioner Pamela A. Witmer. Commissioner James H. Cawley issued a **dissenting statement**.

Commissioner Gladys M. Brown also issued a **statement**: "In reference to the remaining Preliminary Objections filed in this matter, as the ALJs have not yet ruled on their merits, the Commission's regulations require that these objections should also be remanded back to the ALJs for consideration. 52 Pa. Code § 5.101 (g). Dismissal of the remaining Preliminary Objections by the Commission without consideration by the ALJs is tantamount to a violation of the parties' due process rights. For this reason, I will partially dissent on the handling of these other Preliminary Objections."

The motion indicated that the issue to be addressed is whether the structures the company proposes to build around and over valve control and pump stations constitute "buildings" under Section 619 of the **Municipalities Planning Code** (MPC). If the structures are "buildings" then, the issue becomes whether the "buildings" are reasonably necessary for the convenience or welfare of the public, meaning they are exempt from local zoning ordinances under the MPC.

In addition to returning the zoning exemption proceeding to the OALJ, the Commission determined that Sunoco's long-standing status as a certificated public utility under the jurisdiction of this Commission remains unchanged and the company's existing certificate includes both propane and ethane service.

The Commission's motion also indicated that a review of the arguments in the case indicates that serious misconceptions exist about the specific issues being addressed in the filings.

"In this proceeding, the Commission has been asked to decide a very narrow question: whether enclosures (walls and a roof) that are built around and over a valve control or pump station should be exempt from municipal zoning regulation," the Commissioners said in the motion. "To answer this question, we must decide whether it is in the convenience or welfare of the public for Sunoco to enclose the planned facilities with walls and roofs, even if those enclosures may conflict with local zoning ordinances. Sunoco is not seeking (1) a certificate of public convenience; (2) authorization to build the Mariner East pipeline or any facilities attendant thereto (such as valve control or pump stations); (3) approval of the siting or route of the pipeline; or (4) a finding that the proposed pipeline complies with relevant public safety or environmental requirements. Those issues are outside the scope of this proceeding."

On May 8, 2014, the company filed **amended petitions** before the Commission seeking a finding that structures to shelter valve control stations and other facilities are "reasonably necessary for the convenience and welfare of the public." Such a finding would make the structures exempt from local zoning in the 31 municipalities in which they are being proposed. The 31 cases have been consolidated into one proceeding, a sample of which can be found on the PUC's **website**.

The Pennsylvania Public Utility Commission balances the needs of consumers and utilities; ensures safe and reliable utility service at reasonable rates; protects the public interest; educates consumers to make independent and informed utility choices; furthers economic development; and fosters new technologies and competitive markets in an environmentally sound manner.

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