

AGENDA
EAST GOSHEN TOWNSHIP
BOARD OF SUPERVISORS
Wednesday, April 16, 2014
7:00 PM

SPECIAL MEETING
SUNOCO PIPELINE

1. Call to Order
2. Pledge of Allegiance
3. Moment of Silence – Supervisor Carmen Battavio
4. Ask if anyone is recording the meeting
5. Public Comment – Hearing of Residents (Optional)
6. Chairman’s Report
 - a. Announce the Board met in executive session on April 8 to discuss a legal matter
 - b. Comp Plan Task Force Update - None
 - c. Friends of East Goshen Update – None
7. Public Hearings - None
8. Police/EMS Report
 - a. Westtown East Goshen Police – None
 - b. Goshen Fire Co - None
 - c. Malvern Fire Co. – None
 - d. East Goshen Fire Marshal - None
9. Financial Report –None
10. Old Business – None
11. New Business
 - a. Consider filing a petition to intervene in the Sunoco Pipeline L.P. matter before Pennsylvania Public Utility Commission.
12. Any Other Matter
13. Approval of Minutes - None
14. Treasurer’s Report - None
15. Review Action List - None
16. Correspondence, Reports of Interest - None
17. Dates of Importance

April 16, 2014	Board of Supervisors	7:00 PM
	Special Meeting – Sunoco Pipeline	
April 16, 2014	Planning Commission	7:00 PM
	Workshop	
April 17, 2014	Farmers Market	3-6:00 PM
	Last Indoor Market	
April 17, 2014	Openspace Rec Task Force	7:00 PM
April 18, 2014	Office Closed	
	Good Friday	
April 21, 2014	Commerce Commission	7:00 PM
April 21, 2014	Municipal Authority	7:00 PM

	Rescheduled from April 14	
April 22, 2014	Board of Supervisors	7:00 PM
April 22, 2014	Futurist Committee	7:00 PM
April 22, 2014	Friends of EGT	7:00 PM
April 26, 2014	National Take Back Day	10-2:00 PM
	WEGO at Giant (Thornbury Twp)	
April 28, 2014	Comp Plan Task Force	7:00 PM
April 30, 2014	Zoning Hearing Board	7:30 PM
	1131 N Chester Rd.	
	Dimensional Variance	

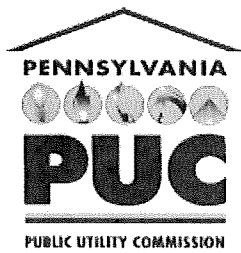
Deadline for Summer Newsletter articles to Nancy - April 28
 Newsletter mailing date approximately June 13

18. Public Comment – Hearing of Residents

19. Adjournment

The Chairperson, in his or her sole discretion, shall have the authority to rearrange the agenda in order to accommodate the needs of other board members, the public or an applicant.

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PENNSYLVANIA

PUBLIC UTILITY COMMISSION

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ABOUT PUC Consolidated Case View

The consolidated case view displays the case information (identified by Docket Number **P-2014-2411966**), any Daily Actions performed on the case, and lists all public documents associated with that case.

Case Summary

Docket Number P-2014-2411966		Active	
Applicant:	SUNOCO PIPELINE LP	Utility Code:	140001
Complainant:		Utility Name:	SUNOCO PIPELINE, L.P.
Respondent:		Utility Type:	Pipeline
Responsible Bureau:	ALJ	Efiling Confirmation Number (Case):	1541144
Date Filed:	3/24/2014	Date Posted:	3/24/2014
Case Description:	Sunoco Pipeline LP filed petition for a finding that the situation of structures to shelter pump stations and valve control stations is reasonably necessary for the convenience or welfare of the public and request for expedited consideration for West Goshen Township Chester County.		

Daily Actions

Action Date	Description	Posted Date
3/24/2014	Case Created - P-2014-2411966 - Sunoco Pipeline LP filed petition for a finding that the situation of structures to shelter pump stations and valve control stations is reasonably necessary for the convenience or welfare of the public and request for expedited consideration for West Goshen Township Chester County.	3/24/2014
3/24/2014	Document Published on Web - Document 'Petition for Expedited Consideration - Sunoco Pipeline LP' is made public	3/24/2014
3/26/2014	Assigned Responsible Bureau - ALJ	3/26/2014
3/26/2014	Document Published on Web - Document 'Sunoco Pipeline LP Publication Notice.doc' is made public	3/26/2014
3/27/2014	Document Published on Web - Document 'Secretarial Letter on lead P-2014-2411941 Publication waiver denied - Sunoco.doc' is made public	3/27/2014

4/2/2014 Document Published on Web - Document 'Ltr in Opposition to Exemption - Senators Dinniman & Rafferty Jr' is made public

4/2/2014

Public Documents

Document Name	Document Type	eFiling Confirmation Number	Date Received	Date Served	Reference Docket Number
<u>Petition for Expedited Consideration - Sunoco Pipeline LP</u>	Petition	1541144	3/24/2014		
<u>Sunoco Pipeline LP Publication Notice.doc</u>	Secretarial Letter	1541144			
<u>Secretarial Letter on lead P-2014-2411941 Publication waiver denied - Sunoco.doc</u>	Secretarial Letter	1541144		3/27/2014	
<u>Ltr in Opposition to Exemption - Senators Dinniman & Rafferty Jr</u>	Letter	1541144	4/2/2014		

Customer Hotline 1-800-692-7380 | [PUC Webmaster](#)

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March 21, 2014

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

VIA ELECTRONIC FILING

**RE: Petition of Sunoco Pipeline L. P. for a Finding That The Situation of Structures to Shelter Pump Stations and Valve Control Stations Is Reasonably Necessary for the Convenience or Welfare of the Public;
Docket No. P-2014-_____, et al.**

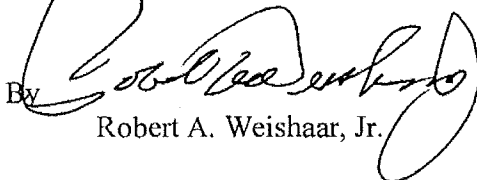
Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission is the Petition of Sunoco Pipeline L.P. (SPLP") for a Finding That The Situation of Structures to Shelter Pump Stations and Valve Control Stations Is Reasonably Necessary for the Convenience or Welfare of the Public.

The attached Certificate of Service lists the parties being served with a copy of this document. Thank you.

Sincerely,

McNEES WALLACE & NURICK LLC

By 
Robert A. Weishaar, Jr.

Counsel to Sunoco Pipeline L.P.

c: Certificate of Service

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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 52 Pa. Code § 1.54 (relating to service by a participant).

VIA FIRST CLASS MAIL

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Tanya McCloskey, Esquire
Aron J. Beatty, Esquire
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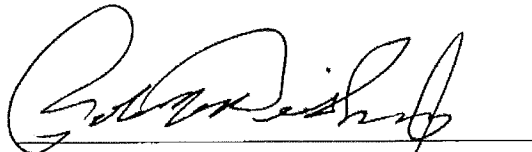
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Counsel to Sunoco Pipeline, L.P.

Dated this 21st day of March, 2014, at Harrisburg, Pennsylvania.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Sunoco Pipeline L.P. for a	:	Docket No. P-2014-_____
Finding That The Situation of Structures	:	(Salem Township, Westmoreland County)
to Shelter Pump Stations and Valve	:	Docket No. P-2014-_____
Control Stations Is Reasonably Necessary	:	(Burrell Township, Indiana County)
for the Convenience or Welfare of the	:	Docket No. P-2014-_____
Public	:	(East Wheatfield Township, Indiana County)
		Docket No. P-2014-_____
		(Cambria Township, Cambria County)
		Docket No. P-2014-_____
		(Allegheny Township, Blair County)
		Docket No. P-2014-_____
		(Penn Township, Huntingdon County)
		Docket No. P-2014-_____
		(Shirley Township, Huntingdon County)
		Docket No. P-2014-_____
		(Toboyne Township, Perry County)
		Docket No. P-2014-_____
		(Lower Frankford Township, Cumberland County)
		Docket No. P-2014-_____
		(Hampden Township, Cumberland County)
		Docket No. P-2014-_____
		(Londonderry Township, Dauphin County)
		Docket No. P-2014-_____
		(West Cornwall Township, Lebanon County)
		Docket No. P-2014-_____
		(West Cocalico Township, Lancaster County)
		Docket No. P-2014-_____
		(Spring Township, Berks County)
		Docket No. P-2014-_____
		(Brecknock Township, Berks County)
		Docket No. P-2014-_____
		(Upper Uwchlan Township, Chester County)
		Docket No. P-2014-_____
		(West Goshen Township, Chester County)
		Docket No. P-2014-_____
		(Upper Chichester Township, Delaware County)
		Docket No. P-2014-_____
		(Chartiers Township, Washington County)
		Docket No. P-2014-_____
		(North Strabane Township, Washington County)
		Docket No. P-2014-_____
		(Union Township, Washington County)

Docket No. P-2014-_____
(Rostraver Township, Westmoreland County)
Docket No. P-2014-_____
(Hempfield Township, Westmoreland County)
Docket No. P-2014-_____
(Penn Township, Westmoreland County)
Docket No. P-2014-_____
(Loyalhanna Township, Westmoreland County)
Docket No. P-2014-_____
(Derry Township, Westmoreland County)
Docket No. P-2014-_____
(Frankstown Township, Blair County)
Docket No. P-2014-_____
(N. Middleton Township, Cumberland County)
Docket No. P-2014-_____
(Fairview Township, York County)
Docket No. P-2014-_____
(Lower Swatara Township, Dauphin County)
Docket No. P-2014-_____
(Wallace Township, Chester County)

**PETITION OF SUNOCO PIPELINE L.P., AND REQUEST
FOR EXPEDITED CONSIDERATION**

Sunoco Pipeline L.P. ("SPLP"), in accordance with the provisions of 52 Pa. Code § 5.41 and 53 P.S. § 10619, hereby petitions the Pennsylvania Public Utility Commission ("Commission" or "PUC") to issue an order finding that: (1) SPLP is a public utility corporation, and (2) the situation of SPLP's buildings to shelter pump stations and valve control stations in 31 Pennsylvania municipalities is reasonably necessary for the convenience and welfare of the public and, therefore, that the buildings are exempt from any local zoning, subdivision, and land development regulations. SPLP also requests expedited consideration of the Petition. In support of this Petition, SPLP states as follows:

I. Background and Overview

1. SPLP's attorneys in this proceeding are:

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2. SPLP is a public utility corporation under the provisions of Section 619 of the Pennsylvania Municipalities Planning Code ("MPC").¹ SPLP owns and operates, or will own and operate, facilities within the Commonwealth for the interstate transportation of petroleum products, including ethane and propane, for the public.²

3. SPLP is currently engaged in developing a pipeline project called "Mariner East," which involves a combination of the construction of new pipeline facilities and the use of existing pipeline facilities that will transport ethane and propane. The origination point of Mariner East will be in Houston, Pennsylvania; the delivery point will be located in Claymont, Delaware, within the Marcus Hook Refinery complex.

4. The purpose of Mariner East is to increase transportation infrastructure in the Commonwealth for the movement of Marcellus Shale resources. The abundance of shale gas in Pennsylvania has revitalized local economies across the state, enhanced the country's energy supply portfolio, and redefined global energy markets. Although Marcellus Shale production has flourished in recent years, the full potential of Pennsylvania shale gas remains hampered by limited pipeline infrastructure for transporting shale gas and associated natural gas liquids.

¹ SPLP's classification as a public utility corporation under the MPC is further elaborated in Section II, *infra*.

² 53 P.S. § 10619.

Mariner East will use SPLP's existing pipeline infrastructure from Delmont, Pennsylvania to Claymont, Delaware, supplemented by construction of additional facilities from Houston, Pennsylvania to Delmont, Pennsylvania, to transport ethane and propane. As the Commission has recognized in an earlier proceeding, providing a commercial outlet for ethane and propane will enhance the production of natural gas from the Marcellus Shale region.³

5. As part of the construction of new pipeline facilities, SPLP will be required to construct pump stations at various locations to facilitate transportation of ethane and propane. These pump stations will be enclosed by metal housing. There is a total of 18 new pump stations along Mariner East for which SPLP seeks a Section 619 exemption. These new pump stations will be located in 18 different municipalities of the Commonwealth. Exhibit A provides a list of each of these pump stations and their locations. SPLP is requesting that each of these pump stations be assigned a separate docket number.

6. In addition, at various points along the new pipeline, SPLP also must construct valve control stations to ensure that ethane and propane are transported safely. Similar to the pump stations, the valve control stations will be located within metal housing. There will be a total of 17 new valve control stations along Mariner East for which SPLP seeks a Section 619 exemption. These new valve control stations will be located in 15 different municipalities of the Commonwealth. Exhibit B provides a list of each of these valve control stations and their locations. SPLP is requesting that each of these valve control stations be assigned a separate docket number.

³ See *Application of Sunoco Pipeline L.P. for a Certificate of Public Convenience to Abandon a Portion of its Petroleum Products Pipeline Transportation Service in Pennsylvania*, Opinion and Order, Docket No. A-2013-2371789 (August 29, 2013, as amended November 14, 2013) (holding that SPLP may abandon service in certain locations in order to develop the Mariner East project, based on SPLP's showing of the public benefits associated with Mariner East).

II. SPLP Is A Public Utility Corporation Under Pennsylvania Law

7. The Commission's jurisdiction to consider the instant Petition arises out of the MPC.⁴ Pursuant to this statute, the Commission considers whether exemption from zoning, subdivision, and land development ordinances is appropriate for any "public utility corporation." *Id.* Although the term "public utility corporation" is not defined in the MPC, the term has been clarified through appellate court decisions interpreting the MPC and the term is defined in other Pennsylvania statutes. Appellate precedent identifies certain characteristics and indicia of "public utility corporation" status under the MPC. As discussed in more detail below, SPLP is subject to regulation by the Federal Energy Regulatory Commission ("FERC") under the Interstate Commerce Act ("ICA") with respect to the interstate service it will be providing on Mariner East and, as such, meets all of the characteristics and indicia of a "public utility corporation" as that term applies to the MPC. The term "public utility corporation" in the MPC should also be interpreted consistently with its definition and use in other Pennsylvania statutes. As discussed in more detail below, the Pennsylvania Business Corporations Law ("BCL") includes a definition of "public utility corporation." SPLP meets that definition as well. Under Pennsylvania law, SPLP is a public utility corporation with respect to the interstate service it will be providing on Mariner East.

8. The term "public utility corporation" as used in the MPC is broader than the definition of "public utility" in Section 102 of the Public Utility Code because, among other things, the MPC term includes federally regulated entities whereas Section 102 of the Public

⁴ 53 P.S. § 10619.

Utility Code does not.⁵ In *WVCH Communications*, the Commonwealth Court found that an entity is a "public utility corporation," under the MPC, even if it is a federally regulated common carrier.⁶ The Commonwealth Court in *WVCH Communications* also identified several factors, as follows, that help determine whether the nature of the federal regulation is regulation as a "public utility corporation": (a) serves all members of the public upon reasonable request; (b) charges just and reasonable rates subject to review by a regulatory body; (c) files tariffs specifying its charges; and (d) modifies or discontinues its service with the approval of a regulatory agency.⁷ The Commonwealth Court did not determine whether a public utility corporation must meet all of these factors, as the subject entity in that case met none of the four factors.⁸

9. Because SPLP is a federally regulated common carrier under the ICA, SPLP is a public utility corporation under the MPC. SPLP meets all of the *WVCH Communications* factors that distinguish entities that qualify as a public utility corporation from those entities that do not. SPLP is subject to regulation under the ICA that qualifies, under Pennsylvania law, as public utility regulation. Section 1(4) of the ICA provides that it is "the duty of every common carrier subject to this chapter to provide and furnish transportation upon reasonable request therefor."⁹ Section 1(5) of the ICA requires that all charges shall be just and reasonable, and declares every

⁵ Although SPLP's status as a "public utility corporation" is the relevant inquiry for purposes of this proceeding, SPLP also remains a "public utility" relative to its regulation by the Commission under the Public Utility Code. See 66 Pa. C.S. §§ 102, 1101. SPLP is the current holder of multiple PUC Certificates of Public Convenience ("CPCs") authorizing shipments by pipeline in Pennsylvania. The PUC granted SPLP's request to abandon a part of its intrastate service, and suspend certain service segments, finding that SPLP demonstrated public benefits for transportation of natural gas liquids and petroleum products. PUC Order at Docket Nos. A-2013-2371789, P-2013-2371775 (August 29, 2013, as amended November 14, 2013). Notwithstanding these partial abandonments, SPLP continues to hold CPCs for other intrastate services in Pennsylvania, including CPCs for service along the same route where Mariner East will be located.

⁶ See *Pa. Pub. Util. Comm'n v. WVCH Commc'ns*, 361 A.2d 328, 330 (Pa. Commw. Ct. 1976).

⁷ *Id.*

⁸ *Id.*

⁹ 49 U.S.C. App. § 1(4).

unjust and unreasonable charge to be unlawful.¹⁰ Section 1(6) of the ICA requires that terms and conditions of transportation service be just and reasonable:

It is made the duty of all common carriers subject to the provisions of this chapter to establish, observe, and enforce just and reasonable classifications of property for transportation, with reference to which rates, tariffs, regulations, or practices are or may be made or prescribed, and just and reasonable regulations and practices . . . and every unjust and unreasonable classification, regulation, and practice is prohibited and declared to be unlawful.¹¹

Sections 2 and 3(1) of the ICA prohibit unjust discrimination and undue or unreasonable preferences, respectively.¹² Section 6(1) of the ICA requires that rates and charges applicable to oil pipeline transportation be in a tariff filed at FERC. The pipeline's rates and charges must be filed and published, and the pipeline may not charge a greater, lesser, or different compensation for transportation or any service other than the rates and charges specified in the tariff. The pipeline also may not extend to any shipper any privileges or facilities except those specified in the tariff.¹³ Section 6(3) provides that changes may be made to tariffs only upon 30 days' prior notice to the public and FERC.¹⁴ Under Section 15(7), FERC, on its own initiative or in response to a complaint, can suspend tariff filings for up to seven months and institute investigations into the lawfulness of the rates. At the end of the suspension period, rates may go into effect subject to refund.¹⁵ Section 13 provides that at any time after rates are effective, FERC may investigate the lawfulness of rates and practices on its own motion or in response to a complaint filed by any person or state regulatory commission. It may prescribe changes in rates if it finds the existing rates are unreasonable.¹⁶ Finally, a change in tariff provisions to

¹⁰ *Id.* § 1(5)(a).

¹¹ *Id.* § 1(6).

¹² *Id.* §§ 2, 3(1).

¹³ *Id.* § 6(1).

¹⁴ *Id.* § 6(3).

¹⁵ *Id.* § 15(7).

¹⁶ *Id.* § 13.

discontinue an ICA-jurisdictional service may be subject to FERC review upon protest by a shipper.¹⁷ As a result, FERC's regulation of SPLP under the ICA meets all the necessary indicia, under Pennsylvania law, to qualify SPLP as a public utility corporation under the MPC.

10. As noted above, the term "public utility corporation" is not defined in the MPC. However, the term is defined in another Pennsylvania statute — namely, Section 1103 of the BCL. Section 1103 of the BCL defines "public utility corporation" as:

Any domestic or foreign corporation for profit that (1) is subject to regulation as a public utility by the Pennsylvania Public Utility Commission or an officer or agency of the United States; or (2) was subject to such regulation on December 31, 1980, or would have been so subject if it had been then existing.¹⁸

Rules of statutory construction require that the term "public utility corporation" in the MPC be read and interpreted consistently with the term "public utility corporation" as used in the BCL.¹⁹

The definition in Section 1103 of the BCL is, therefore, relevant and persuasive in the context of this Petition. As evident from the plain language of Section 1103, the regulation that triggers public utility corporation status may be either state regulation by this Commission or federal regulation by "an agency of the United States," such as FERC. Committee Comments to Sections 1103 and 1511 of the BCL illustrate the legislature's intended broad scope of the definition of "public utility corporation." The Comments state, in relevant part, that "if the Federal Communications Commission ["FCC"] deregulates interexchange service, facilities for such service would still be entitled to the benefits of this section" as a public utility corporation.²⁰ The reference to "interexchange service" providers evidences the legislature's intent to include federally regulated common carriers within the definition of "public utility corporation."

¹⁷ See *Amoco Pipeline Co.*, 83 FERC ¶ 61156, 61672 (May 14, 1998) ("The Commission ... has jurisdiction to consider the proposed cancellation of individual movements as proposed by Amoco....").

¹⁸ 15 Pa. C.S. § 1103.

¹⁹ 1 Pa. C.S. § 1932.

²⁰ *Id.*

Interexchange service providers are regulated by the FCC as common carriers under the Communications Act of 1934 (as amended by the Telecommunications Act of 1996), just as SPLP, as a provider of interstate pipeline service on Mariner East, is regulated as a common carrier under the ICA.²¹ As evident from the Comment, the legislature intended that the term "public utility corporation" include entities that are federally regulated as common carriers. Second, the plain language in subpart (2) of the definition, coupled with the associated Comment, evidence the legislature's intent that "public utility corporation" be interpreted expansively so as to account for changes in regulation over time. Subpart (2) of the definition and the Comment make clear that the assessment of the nature of the regulation could occur either presently or as the entity was or would have been regulated as of December 31, 1980.²² Entities that were subject to regulation as a public utility on December 31, 1980 still qualify as a public utility corporation, even if they are no longer subject to such regulation as a result of deregulation in their industry.²³ The bottom-line is that the plain language of Section 1103, and the Committee Comments on that section, evidence clear legislative intent that the term "public utility corporation" must be read to include, rather than exclude, entities that are subject to federal regulation as common carriers.

²¹ 47 U.S.C.A. § 153 (defining common carrier "as any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy, except where reference is made to common carriers not subject to this chapter; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier").

²² See 15 Pa.C.S. § 1103(2).

²³ In 1992, Congress enacted regulatory reform for oil pipelines by directing FERC to streamline oil pipeline ratemaking procedures; however, the basic statutory standards and rate requirements remain. See Energy Policy Act of 1992 §§ 1801-1804, Pub. L. No. 102-486, 106 Stat. 2776 (codified in scattered sections of 15 U.S.C., 16 U.S.C., 26 U.S.C., 30 U.S.C., and 42 U.S.C.). In response to the 1992 statutory directive from Congress, FERC adopted regulations specifying a simplified and generally applicable ratemaking methodology for oil pipelines that uses an index system to establish ceiling rate levels. See 18 C.F.R. pt. 342. Although SPLP's current regulation by FERC meets all relevant standards under Pennsylvania law to qualify SPLP as a "public utility corporation," should the Commission find otherwise, that is not the end of the inquiry. The Commission would then need to assess the nature of SPLP's regulation, under the ICA, as that regulation existed as of December 31, 1980. SPLP reserves the right to present additional arguments and evidence if that circumstance arises.

11. Finally, SPLP qualifies as a public utility corporation under Pennsylvania Supreme Court precedent that provides other, more straightforward indicia of "public utility" status. For example, whether an enterprise is private or public does not depend on the number or types of persons served, but whether or not the service to be provided is open to all members of the public that may require the offered service.²⁴ The test for determining whether utility services are being offered "for the public" is "whether or not such person holds himself out, expressly or impliedly, as engaged in the business of supplying his product or service to the public, as a class, or *to any limited portion of it*, as contradistinguished from holding himself out as serving or ready to serve only particular individuals."²⁵ "The fact that only a limited number of persons may have occasion to use a utility's service does not make it a private undertaking if the general public has a right to subscribe to such a service."²⁶ The Court has also found that the provision of non-discriminatory service is the primary distinction between public utilities and entities that are not public utilities.²⁷ As concerns Mariner East, and as required under the ICA, the service is open to all members of the public, on a non-discriminatory basis, through FERC open season requirements.²⁸ Consequently, under the determinative factor set forth in *Drexelbrook*, *Waltman*, and *Lafferty*, SPLP's service on Mariner East qualifies under Pennsylvania law as public utility service.

12. After consideration of the standards enunciated in the MPC, *WVCH Communications*, the definition of public utility corporation in the BCL, and the additional support for public utility status under several Pennsylvania Supreme Court cases, SPLP clearly

²⁴ *Drexelbrook Associates v. Pa. PUC*, 418 Pa. 430, 435, 212 A.2d 237, 239 (Pa. 1965).

²⁵ *Waltman v. Pa. PUC*, 596 A.2d 1221, 1223-24 (Pa. Commw. Ct. 1991), citing *Drexelbrook*, 212 A.2d at 239 (emphasis in the original).

²⁶ *Waltman*, 596 A.2d at 1224; *Masgai v. Public Service Comm'n*, 124 Pa. Super. 370, 188 A. 599 (1936).

²⁷ See *Commw. v. Lafferty*, 426 Pa. 541, 550, 233 A.2d 256, 260 (Pa. 1967).

²⁸ See *Sunoco Pipeline L.P.*, 142 FERC ¶ 61,115 P 16 (2013)(FERC order describing SPLP's open season process for Mariner East).

qualifies as a public utility corporation based on FERC's regulation of SPLP's service on Mariner East under the ICA. SPLP respectfully requests that the Commission find that SPLP is a public utility corporation.

**III. The Situation Of The Buildings Along Mariner East Is
Reasonably Necessary For the Convenience Or Welfare Of The Public**

13. In addition to finding that SPLP is a public utility corporation, the Commission must also find that the situation of the buildings that are necessary for Mariner East are reasonably necessary for the convenience or welfare of the public. Section 619 of the Pennsylvania MPC, 53 P.S. § 10619, provides in relevant part:

This article shall not apply to any existing or proposed building, or any extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

14. It is well established under Pennsylvania law that uses and structures of public utility corporations may be exempt from local zoning, subdivision, and land development ordinances.²⁹ Under the provisions of 53 P. S. § 10619, an existing or proposed public utility corporation "building" may be subject to local zoning, subdivision, and land development regulations, unless the present or proposed situation of the building is found by the Commission to be "reasonably necessary for the convenience or welfare of the public."³⁰

15. This Petition involves the situation of buildings in 31 municipalities, each with individual zoning, subdivision, and land development requirements.³¹ The local ordinances in

²⁹ *Duquesne Light Co. v. Upper St. Clair Township*, 105 A.2d 287, 292 (Pa. 1954); *Newtown Twp. v. Phila. Elec. Co.*, 594 A.2d 834, 836 (Commw. Ct. 1991) (holding that approval of the building exemption for a utility provides exemption from zoning, subdivision, and land development ordinances).

³⁰ 53 P. S. § 10619.

³¹ Due to the number of implicated local ordinances, SPLP has not included with this Petition all of the relevant local ordinances. See *Re Trans-Allegheny Interstate Line Company*, 2008 WL 5786507 (Pa. P.U.C. 2008), 33. If the Commission would like a copy of these ordinances, SPLP will supplement this Petition.

these municipalities may impose restrictions on SPLP concerning construction of the buildings discussed herein. SPLP has been coordinating with each of the affected municipalities, and has initiated approval processes with the affected municipalities. SPLP pledges to continue its coordination efforts with the affected municipalities during the pendency of this Petition. However, without Commission exemption as requested herein, SPLP may be prevented by one or more municipalities from constructing the buildings for pump or valve control stations that are necessary for the completion and operation of Mariner East. To ensure that otherwise applicable local ordinances will not bar SPLP's efforts to provide service for the welfare and convenience of the public, SPLP is filing the instant Petition and contends that the proposed situation of the pump and valve control stations is reasonably necessary for the convenience or welfare of the public.

16. The Commission has held that buildings are reasonably necessary for the conveniences of welfare of the public when the buildings present public benefits, which may include "protection of sensitive measuring equipment, the protection for personnel performing maintenance on this equipment," among others.³² In addition, the Commission does not require that the site selected for the buildings be the "best possible site," but, instead, only that the site chosen be "reasonably necessary..." for the convenience or welfare of the public.³³

17. The pump stations are reasonably necessary to facilitate the transportation of ethane and propane through the Mariner East pipeline facilities. As ethane and propane travel through the pipeline, the ethane and propane will lose energy and, eventually, without the existence of pump stations, stop flowing. Pump stations are used to inject energy into the flow

³² *Petition of UGI Penn Natural Gas Inc. for a Finding that Structures to Shelter Pipeline Facilities in the Borough of West Wyoming, Luzerne County, To the Extent Considered To be Buildings under Local Zoning Rules, Are Reasonably Necessary for The Convenience or Welfare of the Public*, 2013 WL 6835113 (Pa. P.U.C. 2013), 13.

³³ See *id.*; see also *O'Connor v. Pa. Pub. Util. Comm'n*, 582 A.2d 427, 433 (Pa. Commw. Ct. 1990).

of ethane and propane through the pipeline. The pump stations are located at points along the pipeline where the energy for transporting ethane and propane drops below an acceptable level. SPLP has identified the minimum number of pump stations that will allow for an efficient flow of ethane and propane. Once an ideal location is identified for a pump station, the location is then refined to ensure site availability and an adequate electrical power source for the pump station, as the pumps themselves are electrically powered. Exhibit C contains a graph demonstrating that the locations of the pump stations are based on where the amount of fluid energy is dropping below sub-optimal levels. Each pump station has two structures that could be characterized as "buildings".³⁴ First, the structure surrounding the pump functions to reduce noise, protect the pump equipment from weather impacts, and allow for convenient maintenance of the pump equipment. In addition to this structure, each pump station has a power distribution center, which is a modular building that houses the electrical, control, and communication equipment.³⁵

18. Valve control stations similarly provide a safety enhancement for the Mariner East pipeline facilities by monitoring the temperature and pressure of the ethane and propane. The valve control stations are programmed to automatically segment (i.e., cut off) flows on the line if the controls detect a loss in pressure. To ensure safety of the public, valve control stations are located at the nearest available site upstream of large concentrations of population. A refined

³⁴ A picture of the housing for the pump stations is attached as Exhibit D. The housing for the valve control stations is similar in appearance.

³⁵ Although not relevant to this Petition because they do not involve "buildings," each pump station also includes a vapor combustion unit to contend with the loss of limited ethane and propane that converts into a gaseous state upon loss of pressure. The ethane and propane that travels through the pipeline remains in a liquid state as long as sufficient pressure is applied throughout the pipeline. During maintenance operations at the pump stations, however, reduction in pressure may cause the ethane and propane to convert into a gaseous state. The vapor combustion units ensure that these gases are not directly released into the atmosphere, which promotes safe and environmentally beneficial maintenance operations at the pump stations. The Pennsylvania Department of Environmental Protection ("DEP") has indicated that the emissions from these units have a *de minimis* environmental impact.

site selection process occurs based on available sites in combination with available electrical infrastructure. The alignment of these factors (i.e., location relevant to population concentration, adequate power source, and available land) determines the precise location of a valve control site. Each of the valve control stations has a single building that protects the valve control stations against weather impacts and allows for convenient maintenance at each site. This structure, known as a power distribution center but smaller in size than the power distribution centers for pump stations, houses the electrical, control, and communication equipment for the valve control site.

19. The construction of these pump and valve control stations is an integral and necessary part of the development of the Mariner East project, and these stations and the project itself will provide benefits to the public. First, the locations of both pump and valve control stations are reasonably necessary to ensure efficient and safe operation of the new pipeline facilities. Second, the pump stations ensure that the ethane and propane are flowing properly, which contribute to the overall safety and efficiency of the project. The valve control stations ensure that the pipeline facilities operate safely and prevent harm to the public and environment. Both types of stations are enclosed with metal housing to protect the equipment from the elements and to facilitate maintenance. Finally, as a whole, the Mariner East project results in increased infrastructure to enable the continued development of Marcellus Shale resources, by providing for an efficient outlet for natural gas liquids that are extracted during the process of extracting natural gas from Marcellus Shale wells.

20. In the context of SPLP's abandonment application proceeding last year, the Commission found that abandonment of existing services in order to facilitate construction of the Mariner East project was necessary for the public convenience and welfare. Specifically, the

Commission held that "there are significant public benefits to be gained by approving the Application and Petition and that there is minimal impact on customers."³⁶ The situation of pump station buildings and valve control site buildings is another and near-final step in the development of Mariner East. For essentially the same reasons it granted SPLP's application for abandonment, the Commission should grant the exemptions requested in this petition. For all of the foregoing reasons, SPLP submits that SPLP's situation of pump station and valve control site buildings is reasonably necessary for the convenience and welfare of the public.

IV. Request for Expedited Approval

21. In accordance with the above request, with consideration of the public benefits associated with Mariner East, in light of the notice being provided to the affected municipalities as indicated by the attached Certificate of Service, and in light of the fact that approval processes are already underway in the affected townships, SPLP respectfully petitions for waiver of the requirements of 52 Pa. Code § 5.14(d) requiring a Notice of the Petition to be published in the *Pennsylvania Bulletin* and in a newspaper of general circulation serving the affected service territory.

22. In addition, SPLP has already been in discussions with each of the affected municipalities regarding this Petition and regarding the municipalities' individual zoning requirements. Because each of these municipalities is aware of the potential impacts of this Petition, and many have conducted their own public input hearings, SPLP further submits that there is no need for additional public input hearings to further consider this Petition.

23. Finally, following waiver of the Notice requirement or expiration of any applicable notice-and-comment period, SPLP further requests that the Commission take all

³⁶ See *Application of Sunoco Pipeline L.P. for a Certificate of Public Convenience to Abandon a Portion of its Petroleum Products Pipeline Transportation Service in Pennsylvania*, Opinion and Order, Docket No. A-2013-2371789 (August 29, 2013, as amended November 14, 2013).

necessary and appropriate steps to enable approval of the Petition no later than the Commission's Public Meeting on June 19, 2014. If the order is not issued by this date, the Mariner East project may be delayed, depriving the public of the benefits described herein.

V. Conclusion

WHEREFORE, Sunoco Pipeline L.P. respectfully requests that the Pennsylvania Public Utility Commission find that, pursuant to Section 619 of the Municipalities Planning Code, 53 P.S. § 10619, SPLP is a public utility corporation and SPLP's situation of pump station and valve control site buildings is reasonably necessary for the convenience or welfare of the public, and, therefore, exempt from all applicable local zoning, subdivision, and land development regulations. SPLP also requests expedited consideration of this Petition.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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Counsel to Sunoco Pipeline L.P.

Dated: March 21, 2014

Exhibit A

List of Pump Stations and Locations

Station Name	Township	County
Delmont	Salem	Westmoreland
Blairsville	Burrell	Indiana
Cramer	East Wheatfield	Indiana
Ebensburg	Cambria	Cambria
Hollidaysburg	Allegheny	Blair
Marklesburg	Penn	Huntingdon
Mt. Union	Shirley	Huntingdon
Doylesburg	Toboyne	Perry
Plainfield	Lower Frankford	Cumberland
Mechanicsburg	Hampden	Cumberland
Middletown	Londonderry	Dauphin
Cornwall	West Cornwall	Lebanon
Blainsport	West Cocalico	Lancaster
Montello	Spring	Berks
Beckersville	Brecknock	Berks
Eagle	Upper Uwchlan	Chester
Boot	West Goshen	Chester
Twin Oaks	Upper Chichester	Delaware

Exhibit B

List of Valve Control Stations and Locations

Facility Name	Township	County
Houston - Mark West	Chartiers	Washington
Houston - Williams	Chartiers	Washington
West Pike St.	Chartiers	Washington
Ross Rd	North Strabane	Washington
Monongahela River West	Union	Washington
Youghiogheny River South	Rostraver	Westmoreland
Old Harmony Rd	Hempfield	Westmoreland
Old Chestnut Ln	Penn	Westmoreland
West Loyalhanna Dam	Loyalhanna	Westmoreland
W Conemaugh River	Derry	Westmoreland
Juniata River West	Frankstown	Blair
Raystown Lake West	Penn	Huntingdon
Conodoquist River West	N. Middleton	Cumberland
Old York Rd	Fairview	York
Middletown Jct EFRD	L. Swatara	Dauphin
Montello EFRD	Spring	Berks
Walnut Bank	Wallace	Chester

Exhibit C

Sunoco Logistics, L.P.
72.5 MBPD 67.33 Ethane/Propane Mix Energy Profile

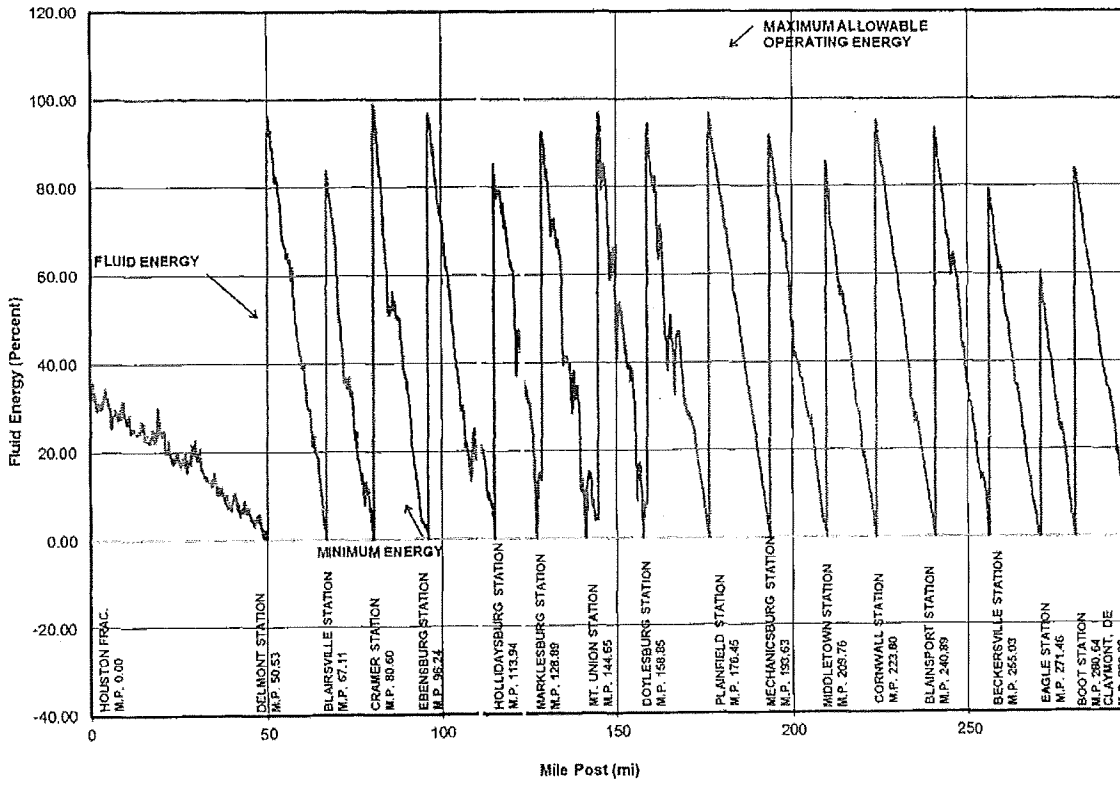
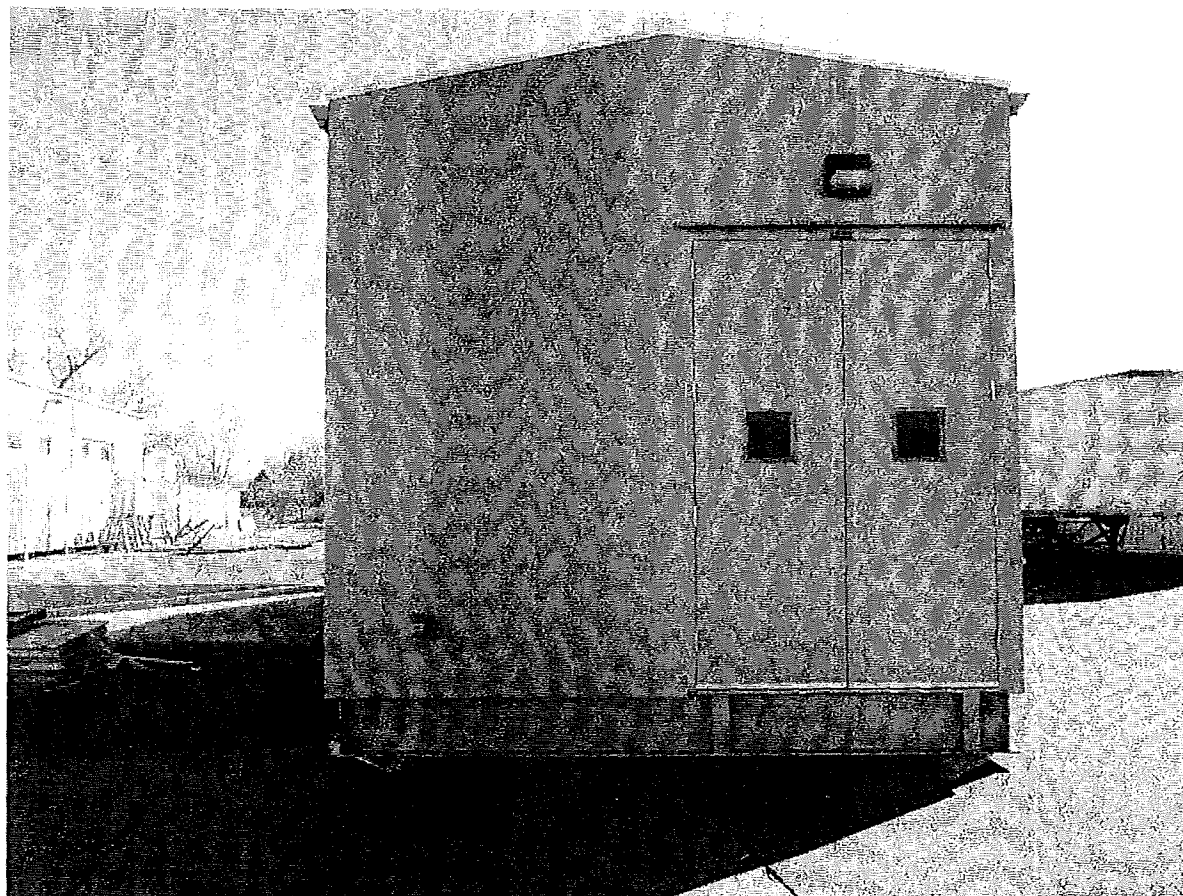


Exhibit D

Housing for the Pump Stations and Control Valve Stations



VERIFICATION

Matthew Gordon deposes and says that he is employed by Sunoco Partners LLC; that he is duly authorized to and does make this Verification on behalf of Sunoco Pipeline L.P.; that the facts set forth in the foregoing Petition are true and correct to the best of his knowledge, information and belief; and that this verification is made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

3-18-2014

Date

Matthew Gordon

Signature

March 18th 2014

George J. Thatcher

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

George J. Thatcher, Notary Public
Salem Twp., Westmoreland County
My Commission Expires Jan. 4, 2018

MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

NOTICE TO BE PUBLISHED

Petition of Sunoco Pipeline, L.P. for a Finding That The Situation of Structures to Shelter Pump Stations and Valve Control Stations Is Reasonably Necessary for the Convenience or Welfare of the Public in:

Wallace Township, Chester County (Docket No. P-2014-2411941)
Burrell Township, Indiana County (Docket No. P-2014-2411942),
Lower Swatara Township, Dauphin County (Docket No. P-2014-2411943),
East Wheatfield Township, Indiana County (P-2014-2411944),
Fairview Township, York County (Docket No. P-2014-2411945),
North Middleton Township, Cumberland County (Docket No. P-2014-2411946),
Frankstown Township, Blair County (Docket No. P-2014-2411948),
Cambria Township, Cambria County (Docket No. P-2014-2411950),
Derry Township, Westmoreland County (Docket No. P-2014-2411951),
Loyalhanna Township, Westmoreland County (Docket No. P-2014-2411952),
Penn Township, Westmoreland County (Docket No. P-2014-2411953),
Hempfield Township, Westmoreland County (Docket No. P-2014-2411954),
Rostraver Township, Westmoreland County (Docket No. P-2014-2411956),
Allegheny Township, Blair County (Docket No. P-2014-2411957),
Union Township, Washington County (Docket No. P-2014-2411958),
North Strabane Township, Washington County (Docket No. P-2014-2411960),
Penn Township, Huntingdon County (Docket No. P-2014-2411961),
Chartiers Township, Washington County (Docket No. P-2014-2411963),
Shirley Township, Huntingdon County (Docket No. P-2014-2411964),
Upper Chichester Township, Delaware County (Docket No. P-2014-2411965),
West Goshen Township, Chester County (Docket No. P-2014-2411966),
Toboyne Township, Perry County (Docket No. P-2014-2411967),
Upper Uwchlan Township, Chester County (Docket No. P-2014-2411968),
Brecknock Township, Berks County (Docket No. P-2014-2411971),
Spring Township, Berks County (Docket No. P-2014-2411972),
Hampden Township, Cumberland County (Docket No. P-2014-2411974),
West Cocalico Township, Lancaster County (Docket No. P-2014-2411975),
Londonderry Township, Dauphin County (Docket No. P-2014-2411976),
West Cornwall Township, Lebanon County (Docket No. P-2014-2411977),
Lower Frankford Township, Cumberland County (Docket No. P-2014-2411979), and
Salem Township, Westmoreland County (Docket No. P-2014-2411980)

The Petition for each of the municipalities requests an exemption from 53 P.S. § 10619 to allow for the construction of pump and valve control stations along a new pipeline that will transport liquid ethane and propane. Formal protests, comments, and petitions to intervene will be due by the close of business (4:30 p.m. EST) on April 21, 2014. All filings must be made with the Secretary of the Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the Petitioner. The Petition for each municipality will be published on the Commission's website (www.puc.pa.gov) or available for inspection at the Office of the Secretary in the Commission's Harrisburg office from 8:00 a.m. to 4:30 p.m., Monday through Friday.

Petitioner:

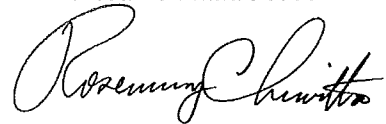
Sunoco Pipeline L.P.

Through and By Counsel:

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BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta", written in a cursive style.

Rosemary Chiavetta
Secretary



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

March 27, 2014

P-2014-2411941 et al

ADEOLU A BAKARE, ESQUIRE
TERESA K SCHMITTBERGER, ESQUIRE
MCNEES WALLACE AND NURICK
100 PINE STREET
POST OFFICE BOX 1166
HARRISBURG PA 17108

ROBERT A WEISHAAR JR, ESQUIRE
777 NORTH CAPITOL STREET
SUITE 401
WASHINGTON DC 2002

Dear Counselors:

Receipt is acknowledged of the thirty-one (31) Petitions for Exemption filed on behalf of Sunoco Pipeline, L.P. for a finding that the situation of structures to shelter pump stations and valve control stations is reasonably necessary for the convenience of the public. All thirty-one (31) P docket numbers relate to a corresponding municipality affected by the Petitions and are listed on the enclosed Notice of Publication.

Your request to waive publication is denied. Pursuant to 52 Pa. Code §5.14, the Commission will proceed with publishing the attached notice in the *Pennsylvania Bulletin*. This notice will appear in the Saturday, April 5, 2014 issue. Formal protests, comments, and petitions to intervene are due to be filed no later than the close of business (4:30 p.m. EST) on Monday, April 21, 2014. This is a 15 day protest period.

You are directed upon receipt of this letter to publish the enclosed notice once in a newspaper having a general circulation in each area involved and file proof of publication with the Commission on or before April 21, 2014. The newspapers of general circulation affecting the thirty-one (31) municipalities are: Pittsburgh Post Gazette, Johnstown Democrat Tribune, Altoona Mirror, Patriot News, Allentown Morning Call, and either the Philadelphia Daily News or the Philadelphia Inquirer.

This matter has been assigned to the Office of Administrative Law Judge and you will be advised of any further necessary procedure.

Sincerely,

Rosemary Chiavetta
Secretary

Enclosure

cc: Participants per Certificate of Service by Sunoco

PENNSYLVANIA PUBLIC UTILITY COMMISSION

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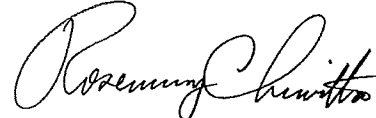
Sunoco Pipeline L.P.

Through and By Counsel:

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Facsimile: (717) 260-1688
Email: abakare@mwn.com
Email: tschmittberger@mwn.com

BY THE COMMISSION

A handwritten signature in cursive script, reading "Rosemary Chiavetta".

Rosemary Chiavetta
Secretary

RECEIVED

2014 APR -2 PM 1:27

PA.P.U.C.
SECRETARY'S BUREAU



CHAIRMAN'S OFFICE

RECEIVED

14 APR -2 AM 11:42

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PA PUC
OFFICE-LEGIS. AFFAIRS

2014 APR -2 AM 10:57

March 31, 2014

Robert F. Powelson, Chairman
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pa. 17120

P-2014-2411941
P-2014-2411968
P-2014-2411966

Chairman Powelson, Vice Chairman Coleman, Commissioner Brown, Commissioner Cawley,
Commissioner Witmer:

Sunoco Pipeline L.P. recently filed a petition with the Pennsylvania Public Utility Commission asking that the pump and valve stations it proposes to build on its Mariner East pipeline in Chester County and elsewhere be exempt from local zoning rules.

As you know, Sunoco is in the process of "repurposing" its Mariner East pipeline so that it can transport Marcellus Shale ethane and propane easterly to the Marcus Hook refinery in Claymont, Del. Its proposal requires the construction of 18 pumping stations in 18 different municipalities -- from Westmoreland County in western Pennsylvania to Delaware County on Maryland's border. Two pumping stations are proposed for Chester County: one in Eagle in Upper Uwchlan and one on Boot Road in West Goshen.

Sunoco's Mariner East pipeline project would also require the construction of 17 valve stations in 15 different municipalities -- this time between Washington County in western Pennsylvania and Chester County in southeastern Pennsylvania. Sunoco's proposed valve station in Chester County would be in Wallace Township.

Sunoco's petition seeking exemption from local ordinances conveniently fails to mention the Pennsylvania Supreme Court's December 2013 ruling affirming local governments' right to regulate pipelines, affiliated pumping and valve stations, and all other oil and gas operations.

In affirming such rights and striking down Act 13's language imposing one uniform ordinance for all Pennsylvania, the Court correctly stated that "The impact on the quality, quantity, and well-being of our natural resources cannot reasonably be assessed on the basis of a statewide average. Protection of environmental values, in this respect, is a quintessential local issue that must be tailored to local conditions."

The Court is right. Per the Constitution of Pennsylvania, residents and municipalities throughout Chester County and Pennsylvania have both the right and the obligation to enact local ordinances protecting their natural resources and quality of life.

We are confident you and fellow Pennsylvania Public Utility Commissioners will consider this matter and the concerns expressed. At the very least, we urge you to hold a public hearing in Chester County before any decision is made.

Respectfully,



Andy Dinniman
State Senator 19th District



John Rafferty Jr.
State Senator 44th District

Cc: Dominic Pileggi, State Senator for the 9th District
West Whiteland Board of Supervisors
West Goshen Board of Supervisors
Uwchlan Board of Supervisors
Wallace Board of Supervisors



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