

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Sunoco Pipeline, L.P. :
for a finding that a building to shelter the :
Blairsville pump station in Burrell Township, : P-2014-2411942
Indiana County, Pennsylvania :
is reasonably necessary for the :
convenience or welfare of the public :

Petition of Sunoco Pipeline, L.P. :
for a finding that a building to shelter the :
Ebensburg pump station in Cambria Township, : P-2014-2411950
Cambria County, Pennsylvania :
is reasonably necessary for the :
convenience or welfare of the public :

Petition of Sunoco Pipeline, L.P. :
for a finding that a building to shelter the :
Boot pump station in West Goshen Township, : P-2014-2411966
Chester County, Pennsylvania :
is reasonably necessary for the :
convenience or welfare of the public :

Petition of Sunoco Pipeline, L.P. :
for a finding that a building to shelter the :
Eagle pump station in Upper Uwchlan Township, : P-2014-2411968
Chester County, Pennsylvania :
is reasonably necessary for the :
convenience or welfare of the public :

Petition of Sunoco Pipeline, L.P. :
for a finding that a building to shelter the :
Beckersville pump station in Brecknock Township, : P-2014-2411971
Berks County, Pennsylvania :
is reasonably necessary for the :
convenience or welfare of the public :

Petition of Sunoco Pipeline, L.P. :
for a finding that a building to shelter the :
Blainsport pump station in : P-2014-2411975
West Cocalico Township, Lancaster County, :
Pennsylvania is reasonably necessary for the :
convenience or welfare of the public :

Petition of Sunoco Pipeline, L.P. :
for a finding that a building to shelter the :
Middletown pump station in : P-2014-2411976
Londonderry Township, Dauphin County, :
Pennsylvania is reasonably necessary for the :
convenience or welfare of the public :

Petition of Sunoco Pipeline, L.P. :
for a finding that a building to shelter the :
Cornwall pump station in : P-2014-2411977
West Cornwall Township, Lebanon County, :
Pennsylvania is reasonably necessary for the :
convenience or welfare of the public :

Petition of Sunoco Pipeline, L.P. :
for a finding that a building to shelter the :
Plainfield pump station in : P-2014-2411979
Lower Frankford Township, Cumberland :
County, Pennsylvania is reasonably necessary :
for the convenience or welfare of the public :

INITIAL DECISION GRANTING REQUEST FOR LEAVE TO WITHDRAW
AMENDED PETITIONS OF SUNOCO PIPELINE, L.P.

Before
David A. Salapa
Administrative Law Judge

Elizabeth H. Barnes
Administrative Law Judge

INTRODUCTION

Sunoco Pipeline, L.P. (Sunoco) filed 31 amended petitions seeking a Commission determination that buildings it wished to construct to shelter pump stations and valve control stations were reasonably necessary for the convenience or welfare of the public and therefore exempt from local zoning ordinances. There being no objection by any intervenor, this decision grants Sunoco's request to withdraw 9 of its amended petitions.

HISTORY OF THE PROCEEDING

On March 21, 2014, Sunoco filed a petition with the Pennsylvania Public Utility Commission (Commission), pursuant to 52 Pa.Code § 5.41 and 53 P.S. § 10619. The petition contained 31 separate locations in its caption. The Commission's Secretary treated the petition as 31 separate petitions and assigned 31 docket numbers.

These 31 petitions requested that the Commission find that the buildings to shelter 18 pump stations and 17 valve control stations along Sunoco's proposed Mariner East pipeline were reasonably necessary for the convenience or welfare of the public and therefore exempt from any local zoning ordinance. The petitions indicated that the Mariner East pipeline involved the construction of new pipeline facilities and use of existing pipeline facilities to transport ethane and propane. The Mariner East pipeline would originate in Houston, Pennsylvania and terminate in Claymont, Delaware. The petitions alleged that the purpose of the Mariner East pipeline was to provide additional transportation infrastructure to transport Marcellus Shale resources. According to the petitions, there is a need for additional infrastructure to transport natural gas and associated natural gas liquids.

As part of the construction of the Mariner East pipeline, Sunoco contends that it must construct pump stations in order to facilitate the transportation of ethane and propane. Additionally, Sunoco must construct valve control stations to ensure that the ethane and propane are transported safely. These pump stations and valve control stations will be enclosed in metal buildings. The buildings will protect the electrical, control, and communication devices for the pump and valve equipment from the weather. The buildings will lessen the amount of noise

from the operation of the pump and valve control equipment that reaches the area surrounding each station.

Notice of Sunoco's 31 petitions was published in the April 5, 2014 Pennsylvania Bulletin at 44 Pa.B. 2145, specifying a deadline of April 21, 2014, for filing formal protests, comments or petitions to intervene in the proceeding.

Several entities filed preliminary objections to Sunoco's petitions, contending that the Commission lacked jurisdiction over Sunoco's petitions.

By notice dated May 5, 2014, the Commission notified the parties that it had assigned Sunoco's 31 petitions to the Office of Administrative Law Judge (OALJ).

On May 8, 2014, Sunoco filed 31 separate amended petitions requesting that the Commission find that the buildings to shelter 18 pump stations and 17 valve control stations along Sunoco's proposed Mariner East pipeline were reasonably necessary for the convenience or welfare of the public and therefore exempt from any local zoning ordinance. The amended petitions alleged that the Mariner East pipeline would originate in Houston, Pennsylvania and deliver propane to the Marcus Hook Industrial Complex and Sunoco's Twin Oaks facilities, located in Delaware County.

The amended petitions alleged that Sunoco currently holds a certificate of public convenience to provide petroleum products transportation services for the segment of the Mariner East pipeline located west of Mechanicsburg, Cumberland County. A portion of the service on this segment had been discontinued and abandoned pursuant to Commission orders entered August 29, 2013 and October 17, 2013 at A-2013-2371789. According to the amended petitions, Sunoco would be seeking to resume intrastate transportation service along this segment so that it could ship propane by pipeline to the Twin Oaks facilities to allow further distribution to third party storage facilities or distribution terminals.

In addition, the certificate of public convenience to provide petroleum products transportation services for the segment of the Mariner East pipeline located east of

Mechanicsburg, Cumberland County had been suspended, pursuant to Commission orders entered August 29, 2013 and October 17, 2013 at P-2013-2371775. The amended petitions asserted that Sunoco would resume service to meet demand for the 2014-2015 winter season and would file a tariff supplement to implement service between Mechanicsburg and its Twin Oaks facilities. This would allow Sunoco to transport approximately 5,000 barrels per day of propane by pipeline from Mechanicsburg to Twin Oaks.

Sunoco would have to construct pump stations to facilitate the transportation of ethane and propane. In addition, Sunoco would have to construct valve control stations to ensure that the ethane and propane were transported safely. These pump stations and valve control stations would be enclosed in metal buildings. The buildings would protect the electrical, control and communication devices for the pump and valve equipment from the weather. The buildings would lessen the amount of noise from the operation of the pump and valve control equipment that would reach the area surrounding each station.

Notice of Sunoco's 31 amended petitions was published in the May 24, 2014 Pennsylvania Bulletin at 44 Pa.B. 3204-3215, specifying a deadline of June 9, 2014 for filing formal protests, comments, or petitions to intervene in the proceeding.

Several entities filed preliminary objections to Sunoco's amended petitions, contending that the Commission lacked jurisdiction over Sunoco's petitions.

On July 30, 2014, we issued an initial decision sustaining the preliminary objections of various parties and dismissing Sunoco's petitions because we concluded that Sunoco was not a public utility within the meaning of 53 P.S. § 10619 and therefore that the Commission lacked jurisdiction over Sunoco's petitions. Sunoco filed exceptions to our initial decision.

By order dated October 29, 2014, the Commission granted Sunoco's exceptions, reversed our initial decision, denied the other outstanding preliminary objections and remanded the matter to OALJ for further proceedings.

By notice dated December 1, 2014, the Commission scheduled an initial prehearing conference for these proceedings on February 10, 2015, at 9:00 a.m. in Hearing Room 3, Commonwealth Keystone Building in Harrisburg.

On February 2, 2015, the Clean Air Council (CAC) filed a motion to compel discovery pursuant to 52 Pa.Code §§ 5.342 and 5.349. The motion requests that the presiding officers issue an order compelling Sunoco to provide responses to CAC's interrogatories and requests for production of documents. On February 9, 2015, Sunoco filed an answer to the motion to compel.

By notice dated February 13, 2015, the Commission scheduled an initial prehearing conference for the proceeding at P-2014-2411966 on April 29, 2015, at 10:00 a.m. in Hearing Room 2, Commonwealth Keystone Building in Harrisburg.

On February 6, 2015, Sunoco filed a petition for leave to withdraw 22 of its amended petitions. This unopposed request was granted by an Initial Decision dated February 23, 2015, and became final by operation of law in a Final Order dated April 22, 2015.

On March 5, 2015, Sunoco filed a petition for leave to withdraw 9 of its amended petitions, pursuant to 52 Pa.Code §5.94. The 9 petitions are as follows:

P-2014-2411942 Burrell Township, Indiana County
P-2014-2411950 Cambria Township, Cambria County
P-2014-2411966 West Goshen Township, Chester County
P-2014-2411968 Upper Uwchlan Township, Chester County
P-2014-2411971 Brecknock Township, Berks County
P-2014-2411975 West Cocalico Township, Lancaster County
P-2014-2411976 Londonderry Township, Dauphin County
P-2014-2411977 West Cornwall Township, Lebanon County
P-2014-2411979 Lower Frankford Township, Cumberland County

The petition for leave to withdraw states that Sunoco has continued to work with the townships listed above to settle and resolve the issues presented in the amended petitions. The petition for leave to withdraw avers that Sunoco has obtained zoning approvals from some of the townships or has elected not to enclose the pump stations in some of the townships.

According to Sunoco, its actions have rendered the amended petitions moot. Since the amended petitions listed above have been rendered as moot, Sunoco no longer seeks an exemption from local zoning requirements in the above-listed townships. The petition requests that the Commission grant Sunoco's petition for leave to withdraw its amended petitions.

On March 16, 2015, we received a letter from Sunoco, which requested that the 10-day time period for objections to the petition for leave to withdraw be extended to April 17, 2015, in order to give the parties more time to amicably resolve their dispute. This request for an extension of the deadline pertained only to the proceeding at P-2014-2411966. None of the intervenors to the proceeding at P-2014-2411966 opposed the request for an extension of time. Since none of the intervenors objected to the request for an extension of time, by order dated March 18, 2015, we extended the deadline for filing objections to the petition for leave to withdraw the petition at P-2014-2411966 to April 17, 2015.

As of the date of this decision, none of the intervenors in these proceedings has filed an answer objecting to Sunoco's petition for leave to withdraw 9 of its amended petitions. Sunoco's petition for leave to withdraw is ready for decision. For the reasons set forth below, we will grant the petition for leave to withdraw.

FINDINGS OF FACT

1. On March 21, 2014, Sunoco filed a petition, with the Commission, pursuant to 52 Pa.Code § 5.41 and 53 P.S. § 10619.
2. On May 8, 2014, Sunoco filed 31 separate amended petitions.
3. On March 5, 2015, Sunoco filed a petition for leave to withdraw 9 of its amended petitions, pursuant to 52 Pa.Code § 5.94.
4. None of the intervenors in these 9 proceedings has objected to Sunoco's petition for leave to withdraw 9 of its amended petitions.

DISCUSSION

The Commission's Rules of Practice and Procedure at 52 Pa.Code § 5.94 permit parties to withdraw pleadings in a contested proceeding. The provision at 52 Pa.Code § 5.94(a) allows withdrawal of pleadings by a petition for leave to withdraw the pleading. The petition is granted only by permission of the presiding officer or the Commission. The presiding officer or Commission must consider the petition, any objections thereto, and the public interest in determining whether to permit withdrawal of the pleading.

Turning first to Sunoco's request to withdraw 9 of its May 8, 2014 amended petitions, the March 5, 2015 petition to withdraw states Sunoco has resolved the issues raised in the 9 petitions, rendering the amended petitions moot. Commission policy promotes settlements. 52 Pa.Code §5.231. The Commission has no interest in mandating that Sunoco continue litigation where it is not in the public interest to do so.

Turning next to any objections to the withdrawal of 9 of the May 8, 2014 amended petitions, none of the other parties to these proceedings has filed an answer to Sunoco's petition for leave to withdraw. Therefore, there are no objections to Sunoco's petition for leave to withdraw.

Turning finally to the public interest, Sunoco's amended petitions request a determination that buildings that it wishes to construct are reasonably necessary for the convenience or welfare of the public and therefore exempt from any local zoning ordinance. An exemption from local zoning ordinances could have an impact on land use planning, local comprehensive plans, and zoning ordinances which would impact the public interest. However, the petition for leave to withdraw states that Sunoco has obtained zoning approvals from some of the townships or has elected not to enclose the pump stations in some of the townships, rendering its amended petitions moot. To the extent that Sunoco has received authorization from local zoning boards and is complying with municipal ordinances and comprehensive plans or has elected not to enclose the pump stations in some of the townships, the public interest will not be negatively impacted by granting Sunoco's petition for leave to withdraw.

Having reviewed the petition to withdraw, any objections to the petition and the public interest, we conclude that the petition to withdraw should be granted. Granting the petition to withdraw will terminate litigation in 9 of the amended petitions, saving the parties the costs in time and money they would otherwise incur litigating the cases. Granting the petition to withdraw will not negatively impact the public interest and will conserve administrative hearing resources.

In addition, withdrawal of the 9 amended petitions, along with the previously granted withdrawal of 22 of Sunoco's amended petitions on April 22, 2015, terminates the litigation of all 31 of Sunoco's amended petitions. Therefore, CAC's motion to compel discovery responses, filed February 2, 2015 is moot. We shall deny the motion to compel on that basis.

Finally, since withdrawal of the petition at P-2014-2411966 terminates the litigation of that proceeding, the prehearing conference scheduled for April 29, 2015 is no longer necessary. We will therefore cancel the prehearing conference.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding.
2. The Commission's Rules of Practice and Procedure at 52 Pa.Code § 5.94 permit parties to withdraw pleadings in a contested proceeding by permission of the presiding officer or Commission.
3. In determining whether to permit withdrawal of the pleading, the presiding officer or Commission must consider the petition, any objections thereto and the public interest.
4. It is in the public interest to grant Sunoco's request for leave to withdraw

ORDER

THEREFORE,

IT IS ORDERED:

1. That the petition for leave to withdraw 9 of the May 8, 2014 amended petitions of Sunoco Pipeline, L.P. filed in the cases captioned above on March 5, 2015, is granted.
2. That the 9 amended petitions of Sunoco Pipeline, L.P. filed May 8, 2014 in the cases captioned above, are withdrawn.
3. That the Clean Air Council's motion to compel, filed February 2, 2015, is denied as moot.
4. That the prehearing conference scheduled for April 29, 2015 at Docket No. P-2014-2411966 is cancelled.
5. That the dockets at the following be marked closed:

P-2014-2411942 Burrell Township, Indiana County
P-2014-2411950 Cambria Township, Cambria County
P-2014-2411966 West Goshen Township, Chester County
P-2014-2411968 Upper Uwchlan Township, Chester County
P-2014-2411971 Brecknock Township, Berks County
P-2014-2411975 West Cocalico Township, Lancaster County
P-2014-2411976 Londonderry Township, Dauphin County
P-2014-2411977 West Cornwall Township, Lebanon County
P-2014-2411979 Lower Frankford Township, Cumberland County

