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August 16, 2019

Public Utility Commission  
Attn: Secretary Rosemary Chiavetta  
400 North Street  
Harrisburg PA 17120

Re: Docket No. L-2019-3010267 Advance Notice of Proposed Rulemaking Regarding Hazardous Liquid Public Utility Safety Standards at 52 Pa. Code Chapter 59

Dear Secretary Chiavetta:

During April 2018, Senator Andy Dinniman filed a formal legal complaint and a petition for interim emergency relief (C-2018-3001451) with the Pennsylvania PUC regarding the Mariner East pipeline project. Further, during 2019 Senators Dinniman and Killion introduced a legislative pipeline package that appears to be closely related to this complaint and petition. It appears that this rulemaking is a direct result of the Senator's concerns and actions regarding one particular pipeline project. As stated in the rulemaking, *"The time is ripe to move forward with specific proposals to enhance pipeline safety in Pennsylvania."* If that be the case, the question that must be asked is **why is the PUC moving forward to more stringently regulate regulated pipelines through this ANOPR while neglecting and omitting an entire class of pipelines from having any safety regulations whatsoever? -- The pipelines of which I am referring to are **Class 1 Area Natural Gas Gathering Lines**. This omission is a typical example of the lack of emphasis placed on natural gas gathering pipelines which is quite contrary to the PUC mission stated in the PUC testimony provided at the 2019 Senate Budget Hearing; *"The Commission is steadfastly committed to our **key public safety, consumer protection, economic, and quality of service regulatory oversight responsibilities**."* During 2015 a worker was killed as the direct result of a bad actor in the natural gas gathering pipeline industry not participating in *voluntary* PA One Call. This young man dreadfully suffered for months from burns that finally resulted in his death. Yet, it took the PA Assembly two years to mandate PA One Call for unconventional gathering lines while still exempting conventional gathering lines from this commonsense practice. Does a person need to be killed again? If it works in Texas, it works here right? Well, a three year old in Texas was killed and now they are moving forward with Class 1 Area gathering line regulations. Can we learn from the Stanton Pipeline Failure and little Delaney Tercero (2018) or will Pennsylvania need to experience our own version of Delaney's tragic death before anything is done?**

I live directly in the unregulated Class 1 Area gathering fields. I have been advising folks since 2009 that these gathering lines being installed within our communities are not regulated for safety purposes. Since 2011, I've been more formally advocating for their regulation on both the state and federal levels. I urged Senator Lisa Baker to introduce a bill to regulate Class 1 Area gathering lines and sadly it sat in committee through several sessions and has not been reintroduced this session. Frankly, that bill was insufficient to adequately protect the public living in Class 1 Areas. Additionally, I spoke at two international conferences of the Pipeline Safety Trust, the public watchdog on pipelines where I advocated for their regulation. I've met with many governmental and industry officials to explain the issues with lack of regulations on Class 1 Area gathering lines. I served on the Pennsylvania Pipeline

Infrastructure Task Force's Pipeline Safety and Integrity Work Group. And that's just a quick snippet of what I've done to advocate for the regulation of Class 1 Area natural gas gathering pipelines for over ten years; the point is a citizen should not have to devote so much time and energy to a public safety issue. It is common sense that infrastructure having a moderate to high safety risk needs to be regulated for safety purposes. Since the advent of unconventional drilling in Pennsylvania, even our neighboring state of Ohio has implemented regulations on Class 1 Area natural gas gathering pipelines.

As a pro-community unconventional natural gas development and pipeline safety advocate one thing I've learned is there are processes available to advocate for improved regulations. These processes are invaluable given the politicized nature of such issues related to the unconventional natural gas development and public health and safety. Unfortunately, the PUC doesn't operate in a similar manner to other Pennsylvania agencies and so it is practically impossible for a motivated and driven advocate such as me to avail myself to these procedures. They simple either do not exist or are much too difficult to approach. This is compounded by the fact that the PUC holds no regular public meetings that afford the public to speak and further, the PUC doesn't speak formally at hearings such as the annual appropriation hearings to inform PA Assembly members of the moderate to high safety risk unregulated natural gas gathering lines pose.

During 2011, the Marcellus Shale Advisory Commission issued their Report which included the below noted recommendation.

#### **9.1.7**

**The Public Utility Commission should be given statutory gas safety oversight of non-jurisdictional intra-state gathering systems, including mechanisms to establish safety standards regarding the design, construction and installation of such lines within Class 1 areas.**

This Report alone should have triggered action by the PUC to speak formally at appropriations hearings, or at the PA Assembly to authorize the PUC to enact adequate safety regulations, but alas, neither was done.

In March, 2012 the GAO Report *"Collecting Data and Sharing Information on Federally Unregulated Gathering Pipelines Could Help Enhance Safety"* was published. This Report noted that:

1. Construction Quality - the quality of installation procedures and construction materials is a **moderate or high safety risk for unregulated** gathering pipelines.
2. Maintenance Practices - the extent to which pipeline operators maintain their pipelines is a **moderate or high safety risk for unregulated** gathering pipelines.
3. Location - unknown or uncertain location of **unregulated gathering pipelines presents a moderate or high safety risk.**
4. Pipeline Integrity - limited knowledge about the integrity—the current condition—of **unregulated gathering pipelines is a moderate or high safety risk.**
5. And, Pennsylvania is not immune - land-use changes and the increased extraction of oil and natural gas from shale deposits are two changes in the operating environments that could **increase the safety risks for unregulated** gathering pipelines.

This Report alone should have at the very least triggered the PUC to speak formally at appropriations hearings, or at the most triggered the PA Assembly to authorize the PUC to enact adequate safety regulations, but alas, neither was done.

August, 2014 the GAO Report *"OIL AND GAS TRANSPORTATION; Department of Transportation Is Taking Actions to Address Rail Safety, but Additional Actions Are Needed to Improve Pipeline Safety"* was published. This Report noted that:

1. Gathering Line construction has increased significantly as a result of unconventional oil and gas exploration such as being experienced here in Pennsylvania.
2. As a result, companies building gathering pipelines in rural areas **are generally not subject to inspection and do not have to report the location and characteristics of much of the gathering pipelines being installed.**
3. Some **newly built gathering pipelines have larger diameters and higher operating pressures that more closely resemble transmission pipelines than traditional gathering pipelines.**
4. Pipelines of larger diameter and higher pressure are being constructed, including in areas closer to populations. Such construction could **increase safety risk**, since an incident occurring on one of these larger, high-pressure unregulated gathering pipelines could affect a greater area and be as serious as an incident involving a regulated transmission pipeline of similar diameter and pressure.
5. **Planning requirements do not apply to unregulated gathering pipelines.**
6. PHMSA has acknowledged the growing potential risk of federally unregulated gathering pipelines as more are constructed and at larger diameters and higher pressures, **but DOT has not proposed regulatory changes to address this risk.**
7. Parts of a single pipeline system can be classified as rural gathering pipelines and therefore be unregulated, while other parts of the same pipeline with the same characteristics are regulated.
8. In 2010, the **National Association of Pipeline Safety Representatives recommended** that PHMSA modify federal pipeline regulations to establish requirements for gathering pipelines in rural areas that are presently not regulated. The association stated that with the advent of new production technologies, there has been rapid development of gas production from shale formations such as the Barnett, Marcellus, and Bakken resulting in a significant amount of new gathering pipeline construction. Further, in these newer gas gathering systems, **it is not uncommon to find rural gathering pipelines up to 30 inches in diameter and operating at 1480 psi, which is the higher end of traditional transmission operating pressure.**

This Report reiterated the public safety issue; and it should have at the very least triggered the PUC to speak formally at appropriations hearings, or at the most triggered the PA Assembly to authorize the PUC to enact adequate safety regulations, but alas, neither was done.

February, 2016 the Pennsylvania Infrastructure Task Force's Pipeline Safety and Integrity Work-Group, of which I was a member along with PUC staff and industry, issued 11 recommendations most of which are applicable to Class 1 Area natural gas gathering lines. It's unfortunate that these recommendations haven't even been a ripple as a pebble dropped in a pond either triggering the PUC to speak formally at appropriations hearings, or for the PA Assembly to authorize the PUC to enact adequate safety regulations, but alas, neither was done.

Frankly, how exactly does the PA Assembly know that the PUC needs regulatory jurisdiction over Class 1 Area gathering lines when the PUC never formally informs them of the moderate to high safety risks here in the gathering fields? There are all kinds of problems to be solved by the Governor's proposed *Restore PA* program and I have yet to see where any money is proposed that would fund Class 1 Area gathering line oversight. Clearly, there is no acknowledgment by our state government of the fact that Class 1 Area gathering lines are a moderate to high safety risk at any level, either by what should be the jurisdictional agency, the PA Assembly who is the legislative arm to ensure public health and safety or

the Governor who continually promotes taxing the natural gas industry primarily to benefit downstate, beyond the shale issues rather than securing the public safety of rural residents living within Class 1 Areas.

When the PUC presented testimony during the Senate Budget Hearing (2019) an increase in funding was requested. In providing information regarding natural gas, nowhere is there a mention of the **at least 10,000 miles of unregulated gathering lines in Pennsylvania**. Not even a mention to the Committee to advise them of the moderate to high safety risk, that regulation needs to be considered and that the PUC needs to be given legislative authority to enact regulations. I wish I could write I was stunned when I read the testimony this winter to see such a huge omission; the fact is, I was tremendously disgusted that once again when the PUC had the opportunity to bring this moderate to high safety risk to light they utterly failed having made no attempt.

Most recently, I've been involved with the lengthy PHMSA - API Technical Guidance Group pre-rulemaking process to regulate gathering lines. While as part of the project I'm "pledged" to confidentiality, I feel I can reasonably and effectively state this process as is will in all likelihood **not** capture most of Pennsylvania's Class 1 Areas into the regulatory framework. Quoting Carl Weimer, Pipeline Safety Trust's Executive Director from the Trust's "Position Paper" submitted to PHMSA, December 2018; *"It should also be remembered that PHMSA's state partners, the state regulators, have been asking PHMSA for much stronger regulations on rural gathering lines since 2010. In Resolution 2010-2-AC2 NAPSR asked for all gathering lines in Class 1 areas be regulated with more stringent requirements, than what PHMSA has proposed, and much stronger than the even weaker API/GPA proposal. NAPSR asked that all Class 1 gathering lines: "Operating above 20% SMYS to be regulated as Type A gathering lines"*.

In July 2019, it became clear that Texas has recognized the federal government is not going to regulate Class 1 Area gathering lines anytime soon. Their action is most likely the result of the tragic death of little Delaney, the injuries her family suffered as well as the loss of their family home.

Carl Weimer, Pipeline Safety Trust's Executive Director has noted that the Texas *"draft rules align well with the best thinking nationally by creating a base of minimum rules for all pipelines including well understood requirements for:*

- *Damage Prevention Programs,*
- *Line Markers,*
- *Corrosion Control,*
- *Leak Surveys, and*
- *Public Education Programs."*

For over ten years we've heard from one governmental official to another comparing Pennsylvania to Texas. It's now time we follow Texas with consideration of this present ANOPR being *"The time is ripe to move forward with specific proposals to enhance pipeline safety in Pennsylvania."* **Therefore, this rulemaking proposal needs to be modified to include specifically all Class 1 Area natural gas gathering pipelines** that either are *"Operating above 20% SMYS to be regulated as Type A gathering lines"* or all natural gas gathering lines having a diameter of 6" and greater to be regulated as Type A gathering lines.

I have had conversations with various regulators who told me or spoke in presentations referring to pipeline matters of concern that it is unregulated Class 1 Area gathering lines that keep them up at night. Back in 2011, this may have given me comfort knowing that they had concerns; but I'd counter that in the ten years I've been involved with this issue, I'm perhaps the only one with insomnia because I

keep talking and writing about it. I am the one who is in the local Wal-Mart being approached to find out when or have the Class 1 Area gathering lines become regulated? I am the one continuing to receive phone calls from landowners considering whether or not to agree to an unregulated gathering line to be routed on their lands and near their family homes and livelihoods; should they agree to have such a line? I've witnessed gathering lines having been constructed with alternative unregulated construction methods such as Zap-Lok. I've talked with pipeline experts who advised me there are issues with Pennsylvania's repeated freeze and thaw cycles within seasons with consideration to the tensile strength of pipelines installed by such construction methods. I've had the conversations with pipeline construction workers who also happen to be first responders who are leery about the safety of the composite pipe being laid by the sub-contractor who is their employer. I've had the conversations with those who were working on installing a new gathering line and the excavator hit an existing unconventional gathering line that wasn't supposed to be there. I've had the calls from those advising me that the gathering line constructed on their property was maybe 18" deep. I've visited with families extremely worried about a repurposed north to south flowing distribution line becoming a south to north flowing high pressured gathering line. This repurposed line was originally installed prior to modern pipeline safety laws, many decades ago.

So, when little "Pennsylvania Delaney" is killed from a gathering line explosion and her family is badly burned, is this the PUC's satisfactory answer to the press/public?

- Well, the PUC doesn't have jurisdiction over Class 1 Area rural gathering lines.
- The PA Assembly never gave the PUC jurisdiction or we woulda/shoulda/coulda....
- It's the federal government's responsibility.
- We weren't aware of alternative construction materials or methods.
- PUC inspectors never came out; it's not the PUC jurisdiction.
- It's tragic. It shouldn't have happened.

**What will it take for Pennsylvania to finally act to regulate Class 1 Area gathering lines for safety purposes?** Will it take our own version of three year old Delaney and her family? Likely, if unregulated Class 1 Area gathering lines were found in downstate communities they would've been regulated immediately commencing the exploration of shale gas. I do recall how promptly a drilling moratorium was placed on that corner of the state while the rural Marcellus fields became nothing more than an experiment of what industry could get away with while regulators concerned but understaff moved at less than the speed required to protect public health and safety. The failure to regulate Class 1 Area gathering lines is nothing short of a tragic disaster in the making.

Let's be clear, woulda, coulda and shoulda's aren't any better than passing the buck. There's plenty of evidence. Gathering lines do fail; they have destroyed family homes, injured and killed residents in places like Texas, Oklahoma and yes, Pennsylvania (conventional low pressure gathering lines). That's a fact. The solution is simple. Before the PUC goes to great lengths to make **already regulated pipelines** more stringent it's about time emphasis is placed on the unregulated Class 1 Area natural gas gathering lines. *"The time is ripe to move forward with specific proposals to enhance pipeline safety in Pennsylvania."* I couldn't agree more. ***I implore the PUC - Let's get it done pronto! I recommend that the NOPR include regulations for Class 1 Area Gathering Lines regulated as noted above as the next step in this process.*** Any measure short of this inclusion is clearly aimed at further establishing a rural, expendable class of Pennsylvanians who have the unfortunate reality that their lives are less valued than their suburban and urban counterparts.

Thank you for the opportunity to submit a comment in this rulemaking process. I hope the PUC will sincerely and aggressively take prompt action on this moderate to high public safety risk before it's too late.

Best Regards,

A handwritten signature in black ink that reads "Emily Krafjack". The signature is written in a cursive style with a large initial 'E'.

Emily Krafjack

Cc: Senator Lisa Baker  
Representative Karen Boback  
Senator Gene Yaw  
Senator Andy Dinniman  
Senator Thomas Killion

Senator Robert Tomlinson  
Representative Brad Roae  
Representative Tina Pickett