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October 29, 2013

Via Federal Express

Mr. Walter L. Thomas, Jr.
Commission Secretary
Alabama Public Service Commission
100 Union North Street, RSA Union
Suite 836
Montgomery, Alabama 36104

RE: Plains Mobile Pipeline Inc.
Docket No.: 32082

Dear Mr. Thomas:

Enclosed is an original and eleven copies of the Response to Petition to Intervene by Brenda Bolton. Please return a stamped-filed copy of the Response to us.

Thanks for your assistance.

Very truly yours,



Jarrold J. White

JJW/tds

Enclosure

BEFORE THE ALABAMA PUBLIC SERVICE COMMISSION

APPLICATION OF PLAINS MOBILE PIPELINE INC. FOR CERTIFICATE OF
INDUSTRIAL DEVELOPMENT REGARDING A NEW PIPELINE
IN MOBILE COUNTY, ALABAMA

Docket No.: 32082

RESPONSE TO PETITION TO INTERVENE BY BRENDA BOLTON

A. Procedural Objection.

The Petition should be denied because the petitioner Brenda Bolton has not, and cannot, show an actual interest in this proceeding. Rule 8 of the Commission's Rules of Practice requires that a petition set out forth the interest of the petitioner in the proceeding. Here, the only information provided by Bolton is that she is a full time Alabama resident. Plains declares and confirms that she is not a property owner along the route of the current or replacement pipeline. Thus, she is not affected by the proceeding and has no right to intervene and become a party. See Ala. Code 37-1-87; M.W. Smith Lumber Co. v. Alabama Pub. Serv. Comm'n, 24 So.2d 409 (Ala. 1946) (holding that an intervener must have a personal interest in the subject matter, and not a mere public interest); *Re: Intervention in Proceedings*, 2004 WL 41279 (Ala. P.S.C). Bolton's petition further fails to comply with the Commission's Rules of Practice in form and includes no mailing address for service purposes.

B. Response to Specific Objections.

I. Several of petitioner's objection (§1, 2, and 3) misstates the "permissible purposes" set out in § 10A-21-2.04 (a). That subsection describes the authority granted to industrial companies to condemn rights of ways for the purpose of constructing, among other things, pipelines. It then further describes the possible uses of such pipelines in terms of connecting the works of the condemning company "with" certain other instrumentalities of commerce. There are four such other instrumentalities in subsection (a), each preceded by the preposition "with." With a different structure to aid in understanding, what subsection (a) says is this:

- (a) Every mining, manufacturing, industrial company may acquire by condemnation rights-of-way under which it may erect or construct pipelines for the purpose of connecting any part of its lands, works or system
- with any other part thereof
 - with any public road, railroad, navigable water
 - with the mines, lands, works of any other such company
 - or with any shipping, storage or distributing point

So petitioner's argument that Applicant's New Pipeline does not comply with § 10A-21-2.04 because the line does not connect Applicant's operation with another of Applicant's operations is

plainly wrong. The statute contemplates that the condemning owner may connect its operation with all manner of instrumentalities of commerce by which the public economic benefit may be served. Here the Application plainly states that the New Pipeline will connect with a sister Plains company's facility. Moreover, any properties Plains needs to condemn pursuant to the Certificate will fill in gaps between ROW that Plains has already acquired so it will connect Plains' lands.

II. The second substantive objection of the intervention (§4) is that this is not an interstate pipeline. § 10A-21-2.04 is not limited to interstate pipelines, but because there are separate regulations concerning intrastate pipelines, Plains confirms that this is an interstate pipeline. The product transported through this pipeline all flows to Mississippi without any change in form or processing. This is consistent with the Pipeline Safety Act's definition of "interstate or foreign commerce" as "commerce between a place in a State and a place outside that State; or places in the same State through a place outside the State. 49 U.S.C. § 60101(a)(8).

III. The third objection raised by petitioner, and the first one that arguably is relevant to this proceeding, is that this project will not further industrial development. The problem for petitioner is that she relies upon extraneous, irrelevant, and incorrect information to support her position.

She also suggests a risk benefit analysis that is not supported by Alabama law or this Commission's prior proceedings.

An examination of the actual facts demonstrates that there can be no dispute that this project is in furtherance of industrial development. Plains will spend \$14 million dollars for the construction of the new line. It will create 40 construction jobs. Once completed, it will contribute approximately \$250,000 annually in additional property taxes. It will ensure the continued operation of two terminals which employ approximately 50 permanent workers in Mobile County.¹

IV. The fourth objection raised by petitioner is essentially her assertion that applicant is lying about this project, particularly with respect to the new line being a replacement for the current line. She also gets out her tin foil hat and theorizes that this is really a tar sands project intended to connect to a proposed facility of another company. These are nothing more than wild assertions without any basis in fact. Plains has unequivocally said that this is not a tar sands project. The purpose of this project is clearly set forth in verified documents filed with the Commission. There is simply no

¹ A cost benefit analysis is not appropriate and there is normally no rational way to perform one but this project represents the rare situation where essentially no argument can be made of a negative cost or risk associated with this project. The community will get a newer, safer pipeline on a route that diminishes the risk of third party strikes and that will minimize the impact to the community of future maintenance on the pipeline.

basis for the assertions made by petitioner other than an overactive imagination.

Conclusion

As set forth above, petitioner has no basis for intervention and has not presented any valid objections to Plains' application. The intervention is due to be denied and the application granted.



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CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing upon the following individuals by electronic mail and/or depositing same in the United States Mail, first class and postage prepaid, on this 29th day of October, 2013.

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