

**IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA**

IN THE MATTER OF PUC DOCKET
HP14-0001,
ORDER ACCEPTING CERTIFICATION
OF PERMIT ISSUED IN DOCKET
HP09-001 TO CONSTRUCT THE
KEYSTONE XL PIPELINE

FILE NO: _____

INTERTRIBAL COUP'S
DOCKETING STATEMENT

SECTION A.

TRIAL COURT

1. The circuit court from which the appeal is taken: Sixth Judicial Circuit
2. The county in which the action is venued at the time of appeal: Hughes
3. The name of the trial judge who entered the decision appealed: Honorable John L. Brown

PARTIES AND ATTORNEYS

4. Identify each party presently of record and the name and address of the attorney for each party.

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SECTION B.

TIMELINESS OF APPEAL

The Memorandum Decision was filed on the 20th day of June 2017, by the trial court.

The date notice of entry of the judgment or order was filed and served on the 20th day of June 2017.

State whether either of the following motions was made:

Motion for judgment n.o.v., SDCL 15-6-50(b):

YES NO

Motion for new trial, SDCL 15-6-59:

YES NO

NATURE AND DISPOSITION OF CLAIMS

State the nature of each party’s separate claims, counterclaims of cross-claims and the trial court’s disposition of each claim:

This case involves the appeal made by Appellant and other intervenors to TransCanada Keystone Pipeline, LP’s (hereinafter, “TransCanada”) petition for certification under SDCL § 49-41B-27 of the South Dakota Public Utility Commission’s (hereinafter, the “PUC”) Amended Final Decision and Order of June 29, 2010, for construction of the proposed Keystone XL Pipeline. Appellant and other intervenors appealed the PUC’s decision to grant certification under SDCL § 49-41B-27 to the Circuit Court. The Circuit Court affirmed the PUC’s decision.

- 5. Appeals of right may be taken only from final, appealable orders. See SDCL § 15-26A-3 and 4.

Did the trial court enter a final judgment or order that resolves all of each party’s individual claims, counterclaims, or cross-claims?

YES NO

If the trial court did not enter a final judgment or order as to each party’s individual claims, counterclaims, or cross-claims, did the trial court make a determination and direct entry of judgment pursuant to SDCL 15-6-54(b)?

YES NO N/A

6. State each issue to be presented for review. (Parties will not be bound by these statements.)
- a. Whether the Circuit Court applied the appropriate standard of review with respect to the PUC's decision to grant certification under SDCL § 49-41B-27.
 - b. Whether the Circuit Court erred in its failure to reverse the PUC's decision to grant certification under SDCL § 49-41B-27 due to a variety of procedural errors by the PUC, including exclusion of certain exhibits and witnesses of Appellant and other intervenors.
 - c. Whether the Circuit Court erred when it upheld the Commission's failure to make any findings with regard its permitting the TransCanada corporation 'to conduct their business in such manner as to infringe ... the general well-being of the state' or to the status of TransCanada as a common carrier with the right to use the police powers of the state to condemn property under eminent domain, as provided in the Constitution of the State of South Dakota Article XVII, Section 4.
 - d. Whether the Circuit Court erred when it upheld the Commission's decision to exclude testimony with regard to the impacts of the Keystone XL pipeline upon the climate of the state of South Dakota and potential infringement of the pipeline on 'the general well-being of the state' of South Dakota, as required by Article XVII, Section 4 .

Date: July 20, 2017



By:

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Attached is a copy of any memorandum opinion and findings of fact or conclusions of law supporting the judgment or order appealed from. See SDCL § 15-26A-4(2). Bruce Ellison