

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE PETITION OF)	ORDER DENYING IN PART
TRANSCANADA KEYSTONE PIPELINE, LP)	AND GRANTING IN PART
FOR ORDER ACCEPTING CERTIFICATION)	APPLICANT'S MOTION
OF PERMIT ISSUED IN DOCKET HP09-001)	CONCERNING PROCEDURAL
TO CONSTRUCT THE KEYSTONE XL)	ISSUES AT THE EVIDENTIARY
PIPELINE)	HEARING
))
))
)	HP14-001

On September 15, 2014, TransCanada Keystone Pipeline, LP (TransCanada or Keystone) filed with the South Dakota Public Utilities Commission (Commission) a Petition for Order Accepting Certification under SDCL §49-41B-27 seeking an order accepting certification of the energy facility permit issued in Docket HP09-001 for construction of the Keystone XL Pipeline. On June 29, 2010, the Commission issued an Amended Final Decision and Order; Notice of Entry granting a permit to TransCanada for construction of the Keystone XL Pipeline. TransCanada now seeks an order accepting certification pursuant to SDCL 49-41B-27. The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-41B, specifically 49-41B-27, and ARSD Chapter 20:10:22.

On September 18, 2014, the Commission electronically transmitted notice of the filing and the intervention deadline of October 15, 2014, to interested individuals and entities on the Commission's PUC Weekly Filings electronic listserv. Applications for Party Status were received from forty-three persons, and on November 4, 2014, the Commission issued an Order Granting Intervention and Party Status to forty-two of the applicants. Three parties have since been granted withdrawal of party status. On December 17, 2014, the Commission issued an Order Granting Motion to Define Issues and Setting Procedural Schedule. On May 5, 2015, the Commission issued an Order Amending Procedural Schedule.

On July 10, 2015, the Commission received Applicant's Motion Concerning Procedural Issues at the Evidentiary Hearing (Motion). In its Motion, Keystone sought an order 1) limiting parties with a common interest to one lawyer who may ask questions on cross-examination; 2) requiring opening statements to be submitted in writing; 3) precluding friendly cross-examination; 4) limiting the conducting of cross-examination to counsel by parties represented by counsel; 5) limiting cross-examination to the scope of direct examination; and 6) precluding parties from arguing evidentiary objections unless directed by General Counsel for the Commission.

At its regularly scheduled meeting on July 21, 2015, the Commission considered the Motion. Finding that it is within the Commission's discretion to grant or deny the requests in the Motion, the Commission voted separately on each request in the Motion as follows: 1) the Commission voted unanimously to deny Keystone's request for parties with a common interest to be limited to one lawyer who may conduct cross-examination; 2) the Commission voted unanimously to deny Keystone's request for opening statements to be submitted in writing but to allow opening statements to be submitted in writing if a party so chooses; 3) the Commission voted unanimously to deny Keystone's request for preclusion of friendly cross-examination; 4) a majority of the Commission, with Commissioner Fiegen dissenting, voted to grant Keystone's request to limit the conducting of cross-examination to counsel for those parties represented by counsel; 5) the Commission voted unanimously to grant Keystone's request to limit cross-

examination to the scope of direct examination and issues effecting credibility; and 6) a majority of the Commission, with Commissioner Hanson dissenting, voted to deny Keystone's request to preclude parties from arguing evidentiary objections at the evidentiary hearing. It is therefore

ORDERED, that Keystone's request for parties with a common interest to be limited to one lawyer who may conduct cross-examination is denied. It is further

ORDERED, that redundant and repetitive questioning is precluded. It is further

ORDERED, that Keystone's request for written opening statements is denied. It is further

ORDERED, that opening statements will be allowed in writing at the option of the party. It is further

ORDERED, that parties choosing to submit opening statements in writing must do so by Friday, July 24, 2015, at 5:00 P.M. CDT. It is further

ORDERED, that Keystone's request for preclusion of friendly cross-examination is denied. It is further

ORDERED, that cross-examination is limited to new information and new questions. It is further

ORDERED, that Keystone's request to limit the conducting of cross-examination to counsel by those parties represented by counsel is granted. It is further

ORDERED, that cross-examination is limited to the scope of direct examination and issues effecting credibility. It is further

ORDERED, that Keystone's request to preclude parties from arguing evidentiary objections unless directed to do so by General Counsel for the Commission is denied.

Dated at Pierre, South Dakota, this 22nd day of July, 2015.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail.
By: <u>[Signature]</u>
Date: <u>7/22/15</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

[Signature]

CHRIS NELSON, Chairman

[Signature]

KRISTIE FIEGEN, Commissioner
Dissenting in part

[Signature]

GARY HANSON, Commissioner
Dissenting in part