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**South Dakota Public Utilities Commission Meeting**  
**April 14, 2015, at 9:30 A.M. CDT**  
**Room 413, Capitol Building**  
**Pierre, South Dakota**

#### MINUTES OF THE COMMISSION MEETING

Chairman Chris Nelson called the meeting to order. Present were: Commissioners: Kristie Fiegen and Gary Hanson; Commission Counsel: John Smith; Commission Advisor: Greg Rislov; Staff Attorney: Kristen Edwards; Staff Analysts: Darren Kearney and Brian Rounds; Executive Director: Patty Van Gerpen; and Staff: Katlyn Gustafson.

Also present were:

James Moore and Bill Taylor, Woods, Fuller, Schultz, and Smith, representing TransCanada Keystone Pipeline, LP; Matt Rappold, Rappold Law Office, representing Rosebud Sioux Tribe; John Harter, self; Bob Mercer, reporter; Travis Clark, Fredericks Peebles & Morgan LLP, representing Cheyenne River Sioux Tribe; Bruce Ellison, Ellison Law Office, representing Dakota Rural Action; Sabrina King, Dakota Rural Action; Paul Seamans, self; Paula Antoine, Sicangu Oyate Land Office Coordinator; Michael Good Shield, Rosebud Sioux Tribe; Franklin Wright, Rosebud Sioux Tribe; Royal Yellow Hawk, Rosebud Sioux Tribe, Treaty Office; Natalie Stiles, self; Mariel Wilcox, Rosebud Sioux Tribe Land Office; and Gary Dorr, self.

Joining the meeting by telephone were:

Thomasina Real Bird, Fredericks Peebles & Morgan LLP, representing Yankton Sioux Tribe; Cindy Myers, self; Kimberly Craven, Attorney, representing Indigenous Environmental Network; Bob Gough, Intertribal Council on Utility Policy; Nancy Hilding, self; Peter Capossela, attorney, representing Standing Rock Sioux Tribe; Jim White, TransCanada Keystone Pipeline, LP; Paul Blackburn, representing BOLD Nebraska; Robin Martinez, Martinez Madrigal & Machicao, LLC, representing Dakota Rural Action; Dallas Goldtooth, self; Cindy Myers, self; and Joye Braun, self.

#### Consumer Reports

##### **1. Status Report on Consumer Utility Inquiries and Complaints Received by the Commission (Consumer Affairs: Deb Gregg)**

The Commission received a total of 52 contacts since the last report was prepared for the March 31, 2015 Commission meeting.

4 of the contacts involved telecommunication services, 15 of the contacts involved electrical services, 3 of the contacts involved natural gas service, 5 contacts involved cell phone service, 11 contacts were related to the Do Not Call Registry, 1 contacts were related to the Dakota Access Pipeline, 1 contact was related to the Grain Warehouse Division and 12 contacts were related to issues not regulated by the PUC.

1,914 of the 1,916 complaints received in 2014 have been resolved.

551 of the 569 complaints received in 2015 have been resolved.

#### Administration

##### **1. Establishment of the Gross Receipts Tax Levy for the 2016 Fiscal Year (Finance Manager: Cindy Kemnitz)**

Ms. Cindy Kemnitz, Finance Manager, requested that the Commission establish the rate of .14% or \$250, whichever is greater, and assess the gross receipts tax as authorized in SDCL 49-1A-3.

Commissioner Hanson moved that by May 1, 2015, the Commission shall assess on each public utility and telecommunications company a tax for Fiscal Year 2015 equal to .14% of the company's calendar year 2014 intrastate gross receipts or \$250, whichever is greater and that the tax shall be paid on or before July 15, 2015. Motion carried 3-0.

### Hydrocarbon Pipeline

**1. HP14-001 In the Matter of the Petition of TransCanada Keystone Pipeline, LP for Order Accepting Certification of Permit Issued in Docket HP09-001 to Construct the Keystone XL Pipeline (Staff Analysts: Brian Rounds, Darren Kearney; Staff Attorney: Kristen Edwards)**

A lengthy discussion took place regarding docket HP14-001. An audio of the discussion can be found on the PUC website under Commission Actions, Commission Meeting Archives, 2015, April 14, 2015, recording located at: <http://puc.sd.gov/commission/media/2015/puc04142015am.mp3> (AM) and <http://puc.sd.gov/commission/media/2015/puc04142015pm.mp3> (PM). When received by the Commission, a transcript of the discussion will be able to be accessed on the PUC website at: <http://puc.sd.gov/Dockets/HydrocarbonPipeline/2014/hp14-001.aspx>

Commissioner Fiegen moved to grant Jeff Jensen's request to withdraw as a party to this docket. Motion carried 3-0.

Commissioner Hanson moved to deny the Motion to Stay filed by Dakota Rural Action, Rosebud Sioux Tribe, Standing Rock Sioux Tribe, Cheyenne River Sioux Tribe, and Indigenous Environmental Network. Motion carried 3-0.

Commissioner Fiegen moved to deny the Motion for Appointment of Special Master filed by Dakota Rural Action, Rosebud Sioux Tribe, Cheyenne River Sioux Tribe, and Indigenous Environmental Network. Motion carried 3-0.

Commissioner Nelson moved to grant Keystone's motion to limit participation of the seventeen intervenors who did not respond at all to discovery; to grant Keystone's motion to limit participation of three intervenors who did not adequately respond to discovery requests; to grant Keystone's motion to compel discovery from Yankton Sioux Tribe and Gary Dorr; to grant Keystone's motion to compel further discovery with respect to Cindy Myers; and to deny Keystone's motion with respect to any additional limitations on the participation of Yankton Sioux Tribe and Gary Dorr. Motion carried 3-0.

Commissioner Nelson moved to grant Keystone's Motion to Preclude Witnesses from Testifying at Hearing Who Did Not File Prefiled Testimony. Motion carried 3-0.

Commissioner Nelson moved to grant Standing Rock Sioux Tribe's Motion to Compel Keystone to produce documents and answer interrogatories from Standing Rock Sioux Tribe with respect to requests for production numbers 3 through 9, 11, 12, and 13, to the extent the documents exist, and interrogatories 15 through 18; and to deny Standing Rock Sioux Tribe's Motion to Compel with respect to requests for production numbers 10, 14, 15, and 16, and interrogatories numbers 19, 20, 30, and 51. Motion carried 3-0.

Commissioner Hanson moved to grant Dakota Rural Action's (DRA) Motion to Compel Discovery with respect to interrogatories 7, 57, and 76 and requests for production 9, 10, 12, 26, 28, 37, 38, and 56. Commissioner Nelson moved to amend the motion to include an order to compel Keystone to produce, by Friday, April 17, 2015, and to the extent such information exists, requests for production number 50 and interrogatory number 23. Amendment carried 3-0. Commissioner Nelson moved to amend the motion to include an order to compel Keystone to produce, by Friday, April 17, 2015, and to the extent such information exists, requests for production numbers 1, 13, 29, 30, 31, 33, 34, 42, 44, 53, and 55, and responses to interrogatories numbers 25, 48, 56, 58, 60, and 83. Amendment carried 2-1. Commissioner Hanson dissented. Motion carried 3-0.

**Commissioner Nelson moved to deny Gary Dorr's Motion to Compel Discovery and Preclude Keystone from Offering Witnesses or Evidence at Hearing.** Motion carried 3-0.

**Commissioner Nelson moved to deny Rosebud Sioux Tribe's Motion to Compel Discovery.** Motion carried 2-0, Commissioner Hanson dissenting.

**Commissioner Fiegen moved to deny DRA's Motion to Compel Discovery from Staff.** Motion carried 3-0.

**Commissioner Nelson moved to grant Yankton Sioux Tribe's Motion to Compel with respect to interrogatories 15 and 21 and requests for production numbers 2, 3, 4, 7, and 8.** Motion carried 3-0.

**Commissioner Nelson moved to deny Nancy Hilding's Motion to Have the Commission Rule on the Legality of Keystone's Discovery Requests to Intervenors.** Motion carried 3-0.

There being no further business, at the hour of 9:12 p.m. the South Dakota Public Utilities Commission meeting adjourned.

/s/Joy Lashley

Joy Lashley

Administrative Assistant

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April 14, 2015