

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

IN THE MATTER OF THE PETITION OF)	ORDER GRANTING IN PART
TRANSCANADA KEYSTONE PIPELINE, LP)	KEYSTONE'S MOTION FOR
FOR ORDER ACCEPTING CERTIFICATION)	DISCOVERY SANCTIONS
OF PERMIT ISSUED IN DOCKET HP09-001)	
TO CONSTRUCT THE KEYSTONE XL)	HP14-001
PIPELINE	

On September 15, 2014, TransCanada Keystone Pipeline, LP (TransCanada) 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 Chapters 20:10:01, specifically 20:10:01:22.02, and 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 (Procedural Schedule). In the Procedural Schedule, the Commission ordered parties to file pre-filed testimony by April 2, 2015. That Order was later amended by the Commission to allow Rosebud Sioux Tribe until April 10, 2015, to file pre-filed testimony.

On March 23, 2015, the Commission received a Motion to Preclude Certain Intervenor (John Harter, BOLD Nebraska, Carolyn Smith, Gary Dorr, and Yankton Sioux Tribe) from Offering Evidence or Witnesses at Hearing from TransCanada. On March 25, 2015, TransCanada filed an Amended Motion to Preclude Certain Intervenor from Offering Evidence or Witnesses at Hearing and to Compel Discovery (Motion). The purpose of the amendment was to change the title of the Motion to more clearly reflect the relief sought by TransCanada. No substantive changes were made.

On March 27, 2015, the Commission issued an Amended Order for and Notice of Motion Hearing (Notice). The Notice required that all responses to the Motion be submitted by April 8, 2015. Responses were received by four parties.

On April 3, 2015, the Commission issued an Order amending to the Procedural Schedule, in which the Commission ordered that all pre-hearing motions would be heard on April 14, 2015.

At its regular Commission meeting on April 14, 2015, the Commission considered the Motion. After considering the Motion and all briefs submitted, as well as arguments presented at the meeting, the Commission voted unanimously to grant in part and deny in part the Motion.

It is therefore

ORDERED, that TransCanada's Motion is granted with respect to its request for an order compelling Cindy Myers to provide information regarding expert witness(es). It is further

ORDERED, that TransCanada's Motion, with respect to the seventeen intervenors¹ who failed to respond to requests for discovery, is granted. These parties may not present evidence or witnesses at the evidentiary hearing. It is further

ORDERED, that TransCanada's Motion, with respect to the five intervenors² who failed to adequately respond to discovery requests, is granted, with the exception of Yankton Sioux Tribe and Gary Dorr. Parties John Harter, BOLD Nebraska, and Carolyn Smith may not offer witnesses or evidence at the evidentiary hearing. It is further

ORDERED, that the objections of the Yankton Sioux Tribe and Gary Dorr are overruled. It is further

ORDERED, that TransCanada's motion to preclude is denied with respect to Yankton Sioux Tribe and Gary Dorr. It is further

ORDERED, that Yankton Sioux Tribe and Gary Dorr are compelled to respond to discovery requests from TransCanada by Friday, April 17, 2015.

Dated at Pierre, South Dakota, this 17th day of April, 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>4/17/15</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

[Signature]
CHRIS NELSON, Chairman

[Signature]
KRISTIE FIEGEN, Commissioner

[Signature]
GARY HANSON, Commissioner

¹ The seventeen intervenors are Rosebud Sioux Tribe--Tribal Utility Commission; Viola Waln; Cheryl and Terry Frisch; Louis Grass Rope; Robert Allpress; Jeff Jensen; Louis Genung; Jerry Jones; Cody Jones; Debbie Tripp; Gina Parkhurst; Joyce Braun; 350.org; Chastity Jewett; Dallas Goldtooth; and Ronald Fees.

² The four intervenors are John Harter, BOLD Nebraska, Carolyn Smith, and Gary Dorr.