

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

<b>IN THE MATTER OF THE PETITION OF )</b>	<b>ORDER GRANTING MOTION</b>
<b>TRANSCANADA KEYSTONE PIPELINE, LP )</b>	<b>TO PRECLUDE WITNESSES</b>
<b>FOR ORDER ACCEPTING CERTIFICATION )</b>	<b>FROM TESTIFYING AT</b>
<b>OF PERMIT ISSUED IN DOCKET HP09-001 )</b>	<b>HEARING WHO DID NOT FILE</b>
<b>TO CONSTRUCT THE KEYSTONE XL )</b>	<b>PREFILED TESTIMONY</b>
<b>PIPELINE )</b>	
<b>)</b>	
<b>)</b>	<b>HP14-001</b>

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 20:10:01:22.01, 20:10:01:22.06 and 20:10:01:22.07, 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) requiring parties to file pre-filed testimony by April 2, 2015. On April 3, 2015, the Commission issued an Order Granting in Part Motion to Amend Procedural Schedule, in which the Commission ordered that all pre-hearing motions would be heard on April 14, 2015. On April 10, 2015, the Commission issued an Order Granting Motion to Reconsider and Amending in Part Procedural Schedule to allow Rosebud Sioux Tribe until April 24, 2015, to file pre-filed expert witness testimony.

On April 6, 2015, TransCanada filed a Motion to Preclude Witnesses from Testifying at Hearing Who Did Not File Prefiled Testimony (Motion). In its Motion, TransCanada sought an order precluding testimony and evidence at the evidentiary hearing from any witnesses for whom the party intending to call or offer them at hearing failed to file prefiled testimony. The Motion does not seek preclusion of hearing testimony from witnesses for whom prefiled rebuttal testimony is filed by the April 27, 2015, deadline for rebuttal testimony. Prior to the filing of the Motion, Dakota Rural Action and Intertribal Council On Utility Policy filed objections to the filing of prefiled testimony (objections). Other parties joined in or supported the objections.

At its regularly scheduled Commission meeting on April 14, 2015, the Commission considered the Motion. After considering the Motion and all briefs submitted regarding this Motion, as well as arguments presented at the meeting, the Commission voted unanimously to grant the Motion subject to the condition that prefiled rebuttal testimony would be allowed to be filed by all parties until the April 27, 2015, deadline, including testimony and exhibits addressing information obtained as a result of any order to compel discovery granted by the Commission.

It is therefore

ORDERED, that TransCanada's Motion to Preclude Witnesses from Testifying at Hearing Who Did Not File Prefiled Testimony is hereby granted subject to the condition set forth above.

Dated at Pierre, South Dakota, this 23<sup>rd</sup> 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>4/23/15</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

[Signature: Chris Nelson]

CHRIS NELSON, Chairman

[Signature: Kristie Fiegen]

KRISTIE FIEGEN, Commissioner

[Signature: Gary Hanson]

GARY HANSON, Commissioner