

**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:

APPELLANT'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 19th day of June 2017, by the trial court.

The date notice of entry of the judgment or order was 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 challenge 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 trial court. The trial 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 trial court's decision was against the weight of the evidence.
 - b. Whether the trial court applied the appropriate standard of review with respect to the PUC's decision to grant certification under SDCL § 49-41B-27.

- c. Whether the trial court erred by failing the reverse to 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.
- d. Whether the trial court erred by affirming the PUC's decision that communications between PUC staff and TransCanada constituted privileged material not subject to discovery by Appellant.

Date: July 19, 2017

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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).