

hearing. The movants' argument that the motion serves judicial economy is ironic (Joint Motion at 3), given that the motion could have been made at the outset of the case.

2. Final federal action is no more necessary now than it was when the permit was considered.

Nothing in South Dakota law requires that Keystone have in hand all permits, including the Presidential Permit, before it can be granted a permit under SDCL Ch. 49-41B. Thus, even though Keystone did not have a Presidential Permit in hand when it applied for a permit from the Commission in Docket HP07-001 and in Docket HP09-001, the proceedings went ahead and the Commission granted permits in both instances. The second condition in the Amended Decision and Final Order dated June 29, 2010, is that Keystone must obtain all applicable federal, state, and local permits, including the Presidential Permit. There is no reason to distinguish the Presidential Permit from the other required permits mentioned in Condition No. 2. Were the premise of the joint motion correct, the permit should not have been issued. The movants cite no authority supporting their motion. That all permits have not yet been granted is not a reason to stay the proceeding.

3. Proceedings before the National Energy Board of Canada do not support a stay.

The movants argue that the testimony of a former TransCanada employee, Evan Vokes, whom DRA has disclosed as a witness in this case, supports a stay because his allegations were investigated by the National Energy Board in Canada, and because a news report indicates that another TransCanada employee has more recently made allegations to the National Energy Board about TransCanada's safety practices. (Joint Motion at 4.) Exactly what those allegations are or how they relate to the Keystone XL Pipeline is not stated in the motion. There is no reason, however, for the Commission to stay proceedings and cede its authority in favor of a regulatory proceeding in Canada.

DRA intends to call Evan Vokes as a witness and has submitted his prefiled testimony. To the extent that his live testimony at the hearing is relevant, it will be subject to cross-examination, and can be judged by the Commission. That is a far more effective basis for the Commission to determine the issue in this case, which is whether Keystone can continue to meet the conditions on which the permit was granted, than staying this case in favor of a proceeding about which the Commission knows nothing more than what has been presented in the motion based on a news report.

Conclusion

The joint motion for a stay is one more effort to delay disposition of this case, and, thereby, the construction and operation of the Keystone XL Pipeline. Keystone respectfully requests that the motion be denied.

Dated this 9th day of April, 2015.

WOODS, FULLER, SHULTZ & SMITH P.C.

By /s/ James E. Moore

William Taylor

James E. Moore

PO Box 5027

300 South Phillips Avenue, Suite 300

Sioux Falls, SD 57117-5027

Phone (605) 336-3890

Fax (605) 339-3357

Email James.Moore@woodsfuller.com

Attorneys for Applicant TransCanada