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

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IN THE MATTER OF THE PETITION OF

TO CONSTRUCT THE KEYSTONE XL

PROJECT,

TRANSCANADA KEYSTONE PIPELINE, LP FOR ORDER ACCEPTING CERTIFICATION

OF PERMIT ISSUED IN DOCKET HP 09-001

HP 14-001

## KEYSTONE'S MOTION IN LIMINE TO EXCLUDE TESTIMONY OF KEVIN E. CAHILL, PH.D.

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Applicant TransCanada Keystone Pipeline, LP ("Keystone") moves in limine that the Commission exclude the rebuttal testimony of Kevin E. Cahill, Ph.D. Cahill's testimony is not relevant to the issues in this docket under SDCL § 49-41B-27.

Cahill is a Project Director/Senior Economist for ECONorthwest. He proposes to testify that the Final Supplemental Environmental Impact Statement does not contain an adequate analysis of the socioeconomic impact of the Keystone XL Pipeline. Specifically, he was asked "to assess the methodology used by the State Department to determine the socioeconomic impact on the citizens of South Dakota," and to "comment on the extent to which the claims by the State Department reflect current conditions and knowledge with respect to the true socioeconomic impact of the Keystone oil pipeline on the citizens of South Dakota and the Standing Rock Sioux Tribe." (Cahill Rebuttal Expert Report, ¶ 26.) The balance of Cahill's report contains his critique of the State Department's work, and his conclusion that "the socioeconomic analyses conducted to date are grotesquely insufficient in this regard." (*Id.*¶ 85.)

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These opinions are not relevant to the issue in this case, which is whether, under SDCL § 49-41B-27, Keystone can continue to meet the conditions on which the permit was granted. Instead, Cahill's opinions concern Keystone's burden of proof under SDCL § 49-41B-22(2) ("The facility will not pose a threat of serious injury to the environment nor to the social and economic condition of inhabitants or expected inhabitants in the siting area."). The Commission has previously stated that the scope of this proceeding is more limited than was the initial permit proceeding in Docket HP09-001, and that this docket is not an opportunity to relitigate whether the permit should have been granted. Because Cahill's opinions are beyond the scope of this proceeding, his testimony is not relevant and should be excluded.

Keystone respectfully requests that its motion be granted.

Dated this 10<sup>th</sup> day of July, 2015.

## WOODS, FULLER, SHULTZ & SMITH P.C.

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