

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

IN THE MATTER OF TRANSCANADA
KEYSTONE PIPELINE, LP
FOR ORDER ACCEPTING CERTIFICATION
OF PERMIT ISSUED IN DOCKET HP09-001
TO CONSTRUCT THE KEYSTONE XL
PIPELINE

ROSEBUD SIOUX TRIBE'S
MOTION TO AMEND
PROCEDURAL SCHEDULE

HP14-001

Comes now, the Rosebud Sioux Tribe, by and through counsel, Matthew L. Rappold, and respectfully requests the Public Utilities Commission to amend the Procedural Schedule dated December 17, 2014, specifically to change the date upon which pre-filed testimony is due. In support of the motion, counsel states the following:

1. By Order dated December 17, 2014, the Public Utilities Commission established a procedural schedule for the above case and established April 2, 2015 as the deadline for filing and serving pre-filed direct testimony.

2. That the Rosebud Sioux Tribe and Keystone have each responded to the others Discovery requests, through answers, supplemental answers and objections. There are disputes between the parties regarding the provision of discovery which have not been resolved.

3. The parties are in continued ongoing good faith efforts to address and resolve mutual disputes between the parties.

4. To date counsel for the parties have only met to address Rosebud's concerns with Keystone's answers and objections to the First Set of Interrogatories and Request for Production of Documents.

5. Keystone attorneys and the Rosebud attorney did confer by telephone on March 13, 2015 in a good faith attempt to resolve first round discovery disputes. To date, these issues have not been resolved between the parties. Counsel for Rosebud continues to make good faith efforts to resolve the disputes amongst the parties without warranting the Public Utilities Commissions involvement, but realizes that this may not be possible based on past discussions with Keystone's attorneys.

6. That Rosebud has concerns with Keystone's Responses, Answers and Objections to Keystone's responses to Rosebud's Second Set of Interrogatories and Request for Production of Documents and has communicated those concerns to Keystone's attorneys as of March 25, 2015.

7. The procedural schedule does not provide for meaningful time to receive and review all discovery responses and formulate pre-filed direct testimony based on the same.

8. That the procedural schedule dated December 17, 2014 does not permit sufficient time for the parties to informally attempt to resolve discovery disputes or allow for the filing of motions regarding discovery responses, including but not limited to ruling on objections and other matters associated with discovery, prior to filing direct testimony.

9. On February 20, 2015, in their Second Set of Interrogatories and Request for Production of Documents Rosebud asked Keystone attorney's to provide electronic access to all of Keystone's discovery responses to each of the parties. Keystone attorneys indicated on March 10, 2015, in its answers to the same, that a way to access copies of all responses to discovery requests submitted to Keystone will be separately provided. To date, no such method to access all of Keystone's discovery responses has been provided to counsel for Rosebud.

10. Requiring the Rosebud Sioux Tribe to draft and file its pre-filed direct testimony prior to the resolution of all discovery issues with Keystone, violates the due process rights of the Rosebud Sioux Tribe under the Constitution and laws of the State of South Dakota as well as the Constitution of the United States.

11. Counsel requests that the PUC amend its order to include a date certain for resolution of all pre-trial discovery issues and then to set a deadline for filing pre-filed direct testimony at a reasonable time after that date, allowing for sufficient and meaningful time to review all discovery.

Wherefore, based on the above and foregoing, the Rosebud Sioux Tribe moves the Public Utilities Commission to issue an order amending the procedural schedule that permits ample time for the parties to complete the discovery process and resolve all disputes prior to filing pre-filed direct testimony.

Dated this 25th day of March, 2015.

RESPECTFULLY SUBMITTED:



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