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Patricia Van Gerpen
Executive Director
Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501

RE: In the Matter of the Application of Dakota Access, LLC for an Energy Facility Permit to Construct the Dakota Access Pipeline; HP14-002
Our file: 0300

Dear Ms. Van Gerpen:

The South Dakota Association of Rural Water Systems (SDARWS) appeared as a party in the recently concluded evidentiary hearings in Pierre. The SDARWS was a late intervenor which changed its witnesses twice. Ultimately, SDARWS concerns were targeted and specific to the Lewis and Clark water pipeline, a member of the Association. The interest was a result of the waterline crossing Dakota Access must plan and execute across the Lewis and Clark pipeline which serves a significant population between Vermillion and Sioux Falls. Dakota Access writes to give the Commission and parties a status update on the matter.

Earlier this year, Dakota Access obtained an easement from the landowner for the crossing site. Lewis and Clark also has an easement on that land, which it contends is exclusive. Dakota Access takes issue with that characterization. Nonetheless all parties involved want to assure the crossing is successful, safe and done in a sound manner. Toward that end, meetings were held and many emails and calls were exchanged to "work out" the crossing details. Dakota Access and Lewis and Clark fully negotiated all issues, terms and conditions related to the crossing and appear to be in full agreement regarding crossing terms and conditions.

Subsequently, however, Lewis and Clark refused to execute the fully negotiated crossing agreement unless and until Dakota Access agreed to pay all fees, costs, and expenses associated with the SDARWS Counsel appearing at the two week PUC siting hearing.

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The total legal fees demanded by Lewis and Clark are encroaching upon \$40,000, and said to be rising. The agreement is only several pages in length and Dakota Access had thought it was negotiating the agreement in good faith (see attached). However and for reasonable and equitable concerns, Dakota Access will not pay those fees related to a third party (SDARWS) appearing at the siting hearing or the other erroneous and exaggerated legal fees. Agreeing to pay legal fees at a PUC hearing of the opposing parties would create a very bad precedent. Pursuant to law, Applicants currently pay the Commission's costs of the proceeding. Commission costs covered by siting Applicants include staff time, expert witnesses and review. To also pay intervenors is a step too far and one Dakota Access will not take.

Currently, at tremendous expense, Dakota Access plans to cross the Lewis and Clark pipeline under the terms of the Dakota Access easement with the landowner. Dakota Access plans to utilize the horizontal directional drill technique at the location. Doing so will not expose the Lewis and Clark facility and will eliminate any potential of interaction between the two pipelines. Dakota Access will construct and operate its facility and will provide for greater than 30 feet of separation between the two pipelines which will have no impact on the Lewis and Clark facility either during construction or operation.

As always, with any affected party, Dakota Access prefers to achieve an agreement between the parties, and regrets the existence of an impasse. Dakota Access does not seek to involve the PUC in a private disagreement over legal fees, costs and related expenses or their legitimacy and Dakota Access remains committed to safely cross the Lewis and Clark pipeline, in accordance with the requirements of law.

Very truly yours,

MAY, ADAM, GERDES & THOMPSON LLP

Brett Koenecke for

BRETT KOENECKE

BK/mnf

Enclosure