Semmler, Kara

112000460

From:Curt Hohn [chohn@webwater.org]Sent:Monday, October 15, 2007 11:35 AMTo:Semmler, KaraCc:Smith, John (PUC); Van Gerpen, Patty; rrasmussen@sbslaw.net; KOENECKE@MAGT.COMSubject:RE: Objection to New Deadline Oct. 19, 2007 Set By "Staff" 9-12-07 Request

So the answer is NO. Thank you. The statement in your request (shown below) made it sound as though it did move the date up to 10/19/07. I know the difference between testimony and discovery...long before you enter law school.

"Responses should be received by the Commission on or before October 19, 2007, in the event you wish to participate in the formal judicial-type hearing process. In the event your responses are not received on or before October 19, 2007, any testimony you attempt to offer at the formal judicial-type hearing will be subject to objection."

From: Kara.Semmler@state.sd.us [mailto:Kara.Semmler@state.sd.us]
Sent: Monday, October 15, 2007 11:32 AM
To: Curt Hohn
Cc: John.Smith3@state.sd.us; Patty.VanGerpen@state.sd.us; rrasmussen@sbslaw.net; KOENECKE@MAGT.COM
Subject: RE: Objection to New Deadline Oct. 19, 2007 Set By "Staff" 9-12-07 Request

Interrogatories do not relate to testimony in any way.

The questions I sent are discovery, the scheduling order does not have discovery deadlines.

My answer to your question is, therefore: No, Staff is not changing any deadlines.

As you know, the deadlines are part of a Commission Order. The Order has not been changes, altered or amended in any way.

Again, your lawyer may be better able to explain the difference between testimony and discovery if you still have questions. I am also available for further explanation at 605-773-3201.

Kara Semmler

-----Original Message----From: Curt Hohn [mailto:chohn@webwater.org]
Sent: Monday, October 15, 2007 11:24 AM
To: Semmler, Kara
Cc: Smith, John (PUC); Van Gerpen, Patty; rrasmussen@sbslaw.net; KOENECKE@MAGT.COM
Subject: RE: Objection to New Deadline Oct. 19, 2007 Set By "Staff" 9-12-07 Request

I understand the discovery process Ms. Semmler and have been involved in the past. The question raised still stands, would respond please. Does the request you sent out date 9/12/07 attempt to change the deadline for interveners filing of testimony from Oct. 31, 2007 to Oct. 19, 2007.

Yes on no? Your answer will determine whether WEB instructs their legal counsel to file the necessary motion and/or other legal documents.

Curt Hohn

From: Kara.Semmler@state.sd.us [mailto:Kara.Semmler@state.sd.us] Sent: Monday, October 15, 2007 10:57 AM To: Curt Hohn



Cc: John.Smith3@state.sd.us; Patty.VanGerpen@state.sd.us; rrasmussen@sbslaw.net; KOENECKE@MAGT.COM Subject: RE: Objection to New Deadline Oct. 19, 2007 Set By "Staff" 9-12-07 Request

Mr. Hohn:

Based on the conversation I had with your lawyer, I understand your E-mail below was not intended to be filed as a Motion. I believe Mr. Rasmussen can help resolve your concerns through an explanation of the discovery process. As a result of my conversation with Mr. Rasmussen, I consider this issue resolved.

In the event you need further explanation of the legal process, please contact me at 605-773-3201

Kara Semmler

----Original Message----From: Curt Hohn [mailto:chohn@webwater.org]
Sent: Monday, October 15, 2007 10:05 AM
To: Semmler, Kara; Semmler, Kara
Cc: Smith, John (PUC); Van Gerpen, Patty; Reed Rasmussen; KOENECKE@MAGT.COM
Subject: Objection to New Deadline Oct. 19, 2007 Set By "Staff" 9-12-07 Request

The Scheduling Order for the hearing on TransCanada-Keystone Pipeline's permit application listed the following schedule,

Sept. 31, 2007	Applicant's Direct Testimony filed and served
Oct. 31, 2007	Interveners' and Staffs direct testimony filed and served
Nov. 14, 2007	Applicant's rebuttal testimony filed and served
Nov. 28, 2007	Interveners' rebuttal testimony filed and served
Dec. 3-14, 2007	Hearings – Room 412, State Capitol Building, Pierre, SD
Dec. 6, 2007 Pierre, SD 7 pm – 11 pm	Public Input Hearing, Rm 412 State Capitol Building,

We object to a statement made in the "Interrogatories and Requests for Documents" sent out by Kara Semmler, PUC Staff Attorney dated September 19, 2007 which in the first paragraph of page 1 makes the following statement;

"Responses should be received by the Commission on or before October 19, 2007, in the event you wish to participate in the formal judicial-type hearing process. In the event your responses are not received on or before October 19, 2007, any testimony you attempt to offer at the formal judicial-type hearing will be subject to objection. "

This is contrary to the Schedule for Hearing discussed, agreed upon and approved by the PUC which lists the **deadline for Interveners testimony as October 31, 2007** (we assume 5:00 pm close of business on that date). On the face of it, the request sent out by PUC Staff Attorney Ms. Semmler attempts to move up the time table and places unreasonable burden on the interveners, many of whom are farmers and busy right now trying to get their corn and soybean harvest in.

WEB is concerned that this staff request for information will confuse the interveners. The date agreed to was Oct. 31, 2007. If documents and testimony filed on that date are rejected by SDPUC staff or the Commission because of the above referenced "staff" request, please consider

this our objection in advance. Maybe her intent was to caution interveners that their testimony "may" be challenge if they fail to respond to this or any other request. I know that the PUC have told us that the Staff attorney assigned to this application is there to assist the interveners. I'm sorry, but given this and other developments, I find that hard to believe. What Ms. Semmler and PUC staff might do is use the funds and time available to explore whether all of the claims made by the applicant TransCanada are true, rather than question the interveners.
