

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION ) HP 07-001  
BY TRANSCANADA KEYSTONE PIPELINE, )  
LP FOR A PERMIT UNDER THE SOUTH ) **RESISTANCE TO INTERVENOR**  
DAKOTA ENERGY CONVERSION AND ) **WEB WATER DEVELOPMENT**  
TRANSMISSION FACILITIES ACT TO ) **ASSOCIATION'S MOTION FOR**  
CONSTRUCT THE KEYSTONE PIPELINE ) **EXTENSION OF TIME TO FILE**  
PROJECT ) **DIRECT TESTIMONY AND TO**  
 ) **REQUEST TO MOVE THE**  
 ) **HEARING LOCATION**

COMES NOW the Applicant, TransCanada Keystone Pipeline, LP and files its resistance to the motion of Intervenor WEB Water Development Association for a two-week extension in which to file the direct testimony of Dr. Perry Rahn, Dr. Arden Davis, Dr. Robert Coppock, Joe Nease and Kevin Meader filed November 2, 2007.

TransCanada Keystone Pipeline, LP opposes the motion on the grounds that: 1) the Intervenor knew of the scheduling order, 2) the Intervenor swore under oath that it would comply with the scheduling order, 3) the Intervenor agreed to the scheduling order, 4) any change is prejudicial to the Applicant and 5) the Intervenor has failed to show good cause for the delay hereunder as required in the Commission's scheduling order.

Alternatively, should the Commission decide to grant WEB Water its requested relief, then and in that event Keystone asks that the Commission: 1) hold any other parties to the scheduling order which is in effect, 2) allow the Applicant to rebut the testimony of WEB Water and its expert witnesses two weeks after the date upon which this expert testimony is due, and 3) require the movant to file rebuttal testimony no later than the opening day of the hearings, December 3<sup>rd</sup>.

Keystone resists any movement of the hearing date or location. The location in Pierre is the most convenient for the Commissioners, staff, Applicant and the Intervenor as a whole.

See attached Affidavit of Counsel.

Dated this 5<sup>th</sup> day of November, 2007.

MAY, ADAM, GERDES & THOMPSON LLP

BY:  \_\_\_\_\_

BRETT KOENECKE

Attorneys for TransCanada Keystone Pipeline  
503 South Pierre Street  
P.O. Box 160  
Pierre, SD 57501  
(605) 224-8803

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

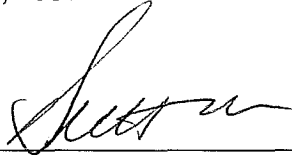
IN THE MATTER OF THE APPLICATION ) HP 07-001  
BY TRANSCANADA KEYSTONE PIPELINE, )  
LP FOR A PERMIT UNDER THE SOUTH ) **AFFIDAVIT OF COUNSEL FOR**  
DAKOTA ENERGY CONVERSION AND ) **TRANSCANADA KEYSTONE**  
TRANSMISSION FACILITIES ACT TO ) **PIPELINE, LP IN RESISTANCE**  
CONSTRUCT THE KEYSTONE PIPELINE ) **TO INTERVENOR WEB WATER'S**  
PROJECT ) **MOTION FOR EXTENSION**

State of South Dakota )  
)ss  
County of Hughes )

1. I am counsel for the Applicant in the above-captioned action.
2. The scheduling order imposed by the Commission is attached hereto as Exhibit A and incorporated as though fully set forth herein.
3. I was present at the regularly scheduled meeting of August 7, 2007 in which the Commission considered procedural aspects of the docket.
4. Through August and into September, the parties, including myself, with the assistance of Commission General Counsel John Smith, attempted to achieve agreement on a scheduling order for the docket based upon the orders made by the Commission at the August 7, 2007 meeting.
5. With respect to the timing and substance of WEB's testimony, by email transmission on Tuesday, August 28<sup>th</sup>, counsel for the movant indicated he didn't know "how much we are going to have to respond." By email transmission on August 29<sup>th</sup> I responded by stating that counsel could expect the lion's share of the initial testimony to be focused on the application and what is contained therein. A copy is attached as Exhibit B.
6. Ultimately, an agreement was reached at a September 10, 2007 scheduling conference held telephonically and in which Curt Hohn and his counsel participated. The parties participating in the phone call agreed to the schedule ultimately considered by the Commission on September 11, 2007 and for which order was entered on the 14<sup>th</sup> of September. See attached Exhibit D.

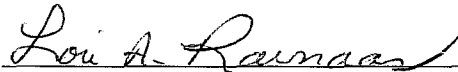
7. Further, in October, the movant was served with written discovery seeking the identities and substance of the testimony of expert witnesses in October. Movant responded with the following: "Unknown at this time. WEB will comply with the PUC's scheduling order regarding the filing of written testimony." See Exhibit C, the interrogatory answers of WEB Water.

Dated this 5<sup>th</sup> day of November, 2007.



\_\_\_\_\_  
BRETT KOENECKE  
Counsel for TransCanada Keystone Pipeline

Subscribed and sworn to before me this 5<sup>th</sup> day of November, 2007.



\_\_\_\_\_  
Notary Public  
My Commission Expires:

Lori A. Ravnaas  
My Commission Expires  
December 9, 2010

(SEAL)

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

<b>IN THE MATTER OF THE APPLICATION BY )</b>	
<b>TRANSCANADA KEYSTONE PIPELINE, LP )</b>	<b>SCHEDULING AND</b>
<b>FOR A PERMIT UNDER THE SOUTH DAKOTA )</b>	<b>PROCEDURAL ORDER</b>
<b>ENERGY CONVERSION AND TRANSMISSION )</b>	
<b>FACILITIES ACT TO CONSTRUCT THE )</b>	<b>HP07-001</b>
<b>KEYSTONE PIPELINE PROJECT )</b>	

On April 27, 2007, TransCanada Keystone Pipeline, LP, (Applicant) filed a siting permit application for the South Dakota portion of the Keystone Pipeline Project (Project). The Project will transport crude oil starting in Hardisty, Alberta, Canada and ending in Patoka, Illinois. The proposed 30 inch diameter pipeline will have a nominal capacity of 435,000 barrels of oil per day (bpd) with a possible expansion to 591,000 bpd. The proposed route will enter South Dakota at the North Dakota/South Dakota border in Marshall County and extend in a southerly direction, exiting the state at the South Dakota/Nebraska border in Yankton County. The length of the pipeline in South Dakota will be approximately 220 miles and it will cross the counties of Marshall, Day, Clark, Beadle, Kingsbury, Miner, Hanson, McCook, Hutchinson and Yankton. The Project also includes four pump stations in South Dakota located in Day, Beadle, Miner and Hutchinson counties along with 15 mainline valves with an average spacing of 15 miles between valves.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL 49-41B, specifically 49-41B-2, 49-41B-16 and 49-41B-17 and ARSD 20:10:01:39 through 20:10:01:43.

At its regularly scheduled meeting of August 7, 2007, the Commission considered whether to require parties who intend to present evidence in the case to file pre-filed testimony and whether to issue a scheduling order. The Commission heard comments and argument from Applicant, certain intervenors who appeared and Staff. The Commission decided to require parties who intend to present evidence in the case to file pre-filed testimony and to issue a scheduling order based upon hearing dates of December 3-14, 2007, with Commission Counsel to hold a scheduling conference among those parties who had appeared and commented on the schedule in an effort to reach agreement on the schedule for testimony. Following the Commission's August 7 meeting, on August 8, 2007, the North Dakota Public Service Commission issued a Notice of Hearing Continuation on Keystone for additional hearings to be held on September 5-6, 2007, and on August 10, 2007, the United States Department of State issued the Draft Environmental Impact Statement and Keystone Pipeline Public Comment Meeting Schedule scheduling public comment meetings throughout the Project area from September 4-20, 2007. On September 4, 2007, Commission Counsel filed a draft Scheduling and Procedural Order. Following e-mail notice to the parties who had participated in scheduling discussions at the August 7, 2007 Commission meeting, on September 10, 2007, a scheduling conference was held telephonically among the participating parties. The participating parties agreed to the following schedule for filing of pre-filed testimony. At its regularly scheduled meeting on September 11, 2007, the Commission considered the matter of how to proceed regarding a scheduling and procedural order. The Commission voted unanimously to approve the schedule agreed to by the participating parties and to provide for electronic service by and upon persons having the capability to send and receive electronic service, with parties having the right to request paper service of specific documents having particular characteristics or for other good cause.

It is therefore:

ORDERED that parties who intend to present evidence in this case must pre-file their testimony and supporting exhibits in writing with the Commission in accordance with the following procedural schedule.

ORDERED that the parties shall comply with the following procedural schedule except as the Commission shall otherwise order:

September 21, 2007	Applicant's Direct Testimony filed and served
October 31, 2007	Intervenors' and Staff's Direct Testimony filed and served
November 14, 2007	Applicant's Rebuttal Testimony filed and served
November 28, 2007	Intervenors' and Staff's Surrebuttal Testimony filed and served
December 3-14, 2007	Evidentiary hearing, Rm. 412, State Capitol Bldg., Pierre, SD – 9:30 a.m. on Dec. 3 and Dec. 10; following Commission meeting on December 4; and 8:30 a.m. all other days
December 6, 2007	Public Input Hearing, Rm. 412 State Capitol Bldg., Pierre, SD – 7:00 p.m. – 11:00 p.m.

If a party believes they will be unable to meet these deadlines due to circumstances beyond their control, they may move the Commission for relief from the deadline which the Commission will grant only if the Commission finds good cause has been demonstrated for the extension.

ORDERED that filing of testimony, exhibits, motions, other pleadings and other documents shall be through the Commission's E-Filing system to the extent possible.

ORDERED that all parties shall serve their testimony, exhibits, motions and other pleadings and filings with the Commission upon all persons listed on the E-Service and Mail Service Lists on the Commission's web page for Docket HP07-001, a copy of which shall be served upon all parties in conjunction with the service of this order. Service shall be made electronically via e-mail and e-mail attachment(s) by persons on the E-Service List upon all other persons on the E-Service List. Service shall be by first class mail upon persons on the Mail Service List and by persons on the Mail Service List upon all persons on both the E-Service List and the Mail Service List. Any person who is served electronically may request of the party making the service that one or more specified documents be provided in paper form due to the particular characteristics of the document or other good cause. Such documents shall be promptly mailed unless there is good cause for not doing so. Upon request by the affected party and for good cause shown, the Commission's administrative staff may transfer persons from the E-Service List to the Mail Service List or from the Mail Service List to the E-Service List and, upon request by the affected party, may remove persons from either service list. If the staff disputes the justification offered for not accepting electronic service or other action requested with respect to service, the matter shall be determined by the Commission. The Commission shall create, regularly update and make available on its web site both an E-Service List

and a Mail Service List. The E-Service List shall consist of all parties and their attorneys and other representatives who have provided e-mail addresses to the Commission or whose e-mail addresses are otherwise available to the Commission, such as from the Membership Directory of the State Bar of South Dakota. The Mail Service List shall consist of only (i) the attorney of record in this state of all parties who have made a specific request for personal service of the material as provided in SDCL 49-41B-17.1, and for whom an attorney, whose e-mail address is unavailable, has made an appearance or filing in this docket, (ii) all parties, not represented by an attorney, whose e-mail addresses are not available to the Commission and who have made a specific request for personal service of the material as provided in SDCL 49-41B-17.1, and (iii) all persons, or their attorneys of record, who have been placed on the Mail Service List by the Commission's staff or the Commission upon request as provided above.

ORDERED, that pursuant to ARSD 20:10:01:22.01, discovery requests and responses thereto shall be governed by SDCL 15-6-5(g) and are not subject to the filing and service requirements of this order except as such documents may become filings or evidence in the case pursuant to SDCL 15-6-5(g) or by order of the Commission.

Dated at Pierre, South Dakota, this 14th day of September, 2007.

<p style="text-align: center;"><b>CERTIFICATE OF SERVICE</b></p> <p>The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically.</p> <p>By: <u>Aleahnek J. Jurek</u></p> <p>Date: <u>09.14.07</u></p> <p style="text-align: center;">(OFFICIAL SEAL)</p>
--

BY ORDER OF THE COMMISSION:

Dustin M. Johnson  
DUSTIN M. JOHNSON, Chairman #F

Gary Hanson  
GARY HANSON, Commissioner

Steve Kolbeck  
STEVE KOLBECK, Commissioner

B

**Brett Koenecke**

---

**From:** Brett Koenecke  
**Sent:** Wednesday, August 29, 2007 8:44 AM  
**To:** 'Reed Rasmussen'  
**Subject:** RE: HP07-001 Draft Scheduling Order

Thanks for your note.

You can expect the lion's share of the initial testimony to be focused on the application and what is contained therein. Almost all of it, I'd say. If you wanted to get started, you could, by focusing on that.

Is WEB water your guys' only client in this? Or do you have more? I don't want to communicate with someone behind your back.

BK

Brett Koenecke  
 May, Adam, Gerdes and Thompson, LLP  
 Box 160  
 Pierre SD 57501  
 605-224-8803 Phone  
 605-224-6289 Fax

-----Original Message-----

**From:** Reed Rasmussen [mailto:rrasmussen@sbslaw.net]  
**Sent:** Tuesday, August 28, 2007 5:56 PM  
**To:** Brett Koenecke  
**Subject:** RE: HP07-001 Draft Scheduling Order

You're right it is 6 weeks. I obviously can't count. I'm still going to oppose your request because I don't know at to how much we are going to have to respond. I assumed Curt was in error when he said people had to come to Pierre before the hearing to swear to the accuracy of their written testimony but he insisted that what he was told. We will also be serving some written discovery in the near future & will undoubtedly want to take some depositions at some point. Let me know when you want to depose Curt

-----Original Message-----

**From:** Brett Koenecke [mailto:KOENECKE@MAGT.COM]  
**Sent:** Friday, August 24, 2007 10:11 AM  
**To:** Reed Rasmussen  
**Subject:** RE: HP07-001 Draft Scheduling Order

Reed,

Thanks for your note. (Our new spam filter is a bit tough!)

Don't you have six weeks under John's proposal? Five seems like plenty to me. And gives time for a bit of discovery for me, relative to those filings, and for you, relative to my rebuttal.

I'm not expecting anyone to come to Pierre and swear to their testimony until Dec. 3<sup>rd</sup> or some scheduled date thereafter. I frankly think your client, if it's Curt, should know that. The process is that witnesses appear, their counsel asks them some foundation, they're asked if they recognize their written testimony, if they have any corrections, additions or edits to make, and then the witness is offered for cross examination.

I expect to serve written discovery on parties shortly. I'll probably take some depositions, certainly



Curt Hohn's and that I expect will be videotaped. I don't know that I'll wait for his testimony to be filed, but I might.

Again, thanks for your note, and thanks for trying to penetrate our anti-spam fortress.

BK

Brett Koenecke  
May, Adam, Gerdes and Thompson, LLP  
Box 160  
Pierre SD 57501  
605-224-8803 Phone  
605-224-6289 Fax

-----Original Message-----

**From:** Reed Rasmussen [mailto:rrasmussen@sbslaw.net]  
**Sent:** Friday, August 24, 2007 9:28 AM  
**To:** Brett Koenecke  
**Subject:** FW: HP07-001 Draft Scheduling Order

Brett\_  
I tried to send this earlier but it came back as undeliverable.

-----Original Message-----

**From:** Reed Rasmussen  
**Sent:** Friday, August 24, 2007 6:16 AM  
**To:** 'John.Smith3@state.sd.us'  
**Cc:** 'KOENECKE@MAGT.COM'; 'Kara.Semmler@state.sd.us'; 'lilray@venturecomm.net'; Rod Tobin; 'Curt Hohn (chohn@webwater.org)'  
**Subject:** HP07-001 Draft Scheduling Order

John-  
We are opposed to Brett Koenecke's suggestion to move up the intervenor's direct testimony deadline by one week unless the applicant's date is similarly moved. We believe we are going to need the 5 weeks in which to adequately respond to the applicant's direct testimony. Therefore, unless the applicant's direct testimony date is moved to Sept 14, we are opposed to Brett's request.

I didn't attend the last meeting but Curt Hohn is under the impression that anyone who presents direct testimony on behalf of intervenors must personally appear in Pierre on or before Nov 2 to swear to the accuracy of their testimony. Is that true or can they just show up at the hearing in December & affirm the testimony at that time?

C

**SIEGEL, BARNETT & SCHUTZ, L.L.P.**

ATTORNEYS AT LAW

415 S. MAIN STREET - 400 CAPITOL BUILDING

P.O. BOX 490

ABERDEEN, SOUTH DAKOTA 57402-0490

TELEPHONE (605) 225-5420

FAX (605) 226-1911

Web Site: [www.sbslaw.net](http://www.sbslaw.net)

KAYMOND M. SCHUTZ  
HARVEY C. JEWETT  
JEFFREY T. SYEEN  
JOSEPH P. BARNETT  
REED RASMUSSEN  
GREGG C. MAGERA  
KATHRYN J. HESKINS  
JULIA M. DVORAK\*  
RODRICK L. TOBIN  
MATTHEW T. TOBIN

STAN SIEGEL (1928-1996)  
JOSEPH H. BARNETT (1931-1985)  
TERENCE A. O'KEEFE (1938-1999)

SIoux FALLS OFFICE  
300 NORTH DAKOTA AVENUE, SUITE 606  
P.O. BOX 1286  
SIoux FALLS, SOUTH DAKOTA 57101  
TELEPHONE (605) 335-6250  
FAX (605) 335-6749

[E-mail: [siegel@lawsf@sbslaw.net](mailto:siegel@lawsf@sbslaw.net)]

\*Also Licensed in North Dakota  
• Also licensed in Montana

October 24, 2007

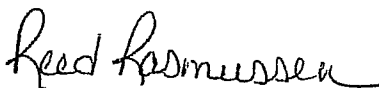
Mr. Brett Koenecke  
May, Adam, Gerdes & Thompson  
PO Box 160  
Pierre, SD 57501

Re: HP07-001 – In the Matter of the Application by TransCanada Keystone Pipeline,  
LP for a Permit under the South Dakota Energy Conversion and Transmission  
Facility Act to Construct the Keystone Pipeline Project

Dear Brett:

Enclosed please find WEB's Answers to TransCanada's Interrogatories.

Sincerely,



Reed Rasmussen  
of SIEGEL, BARNETT & SCHUTZ, L.L.P.  
[rrasmussen@sbslaw.net](mailto:rrasmussen@sbslaw.net)

RR(ko)

Enclosure

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

\* \* \* \* \*

IN THE MATTER OF THE  
APPLICATION BY TRANSCANADA  
KEYSTONE PIPELINE, LP FOR A  
PERMIT UNDER THE SOUTH  
DAKOTA ENERGY CONVERSION  
AND TRANSMISSION FACILITIES  
ACT TO CONSTRUCT THE KEYSTONE  
PIPELINE PROJECT

\* HP 07-001

\*

WEB WATER DEVELOPMENT  
ASSOCIATION, INC.'S ANSWERS TO  
TRANSCANADA PIPELINE'S  
INTERROGATORIES

\*

\*

\* \* \* \* \*

STATE OF SOUTH DAKOTA     )  
  )ss  
COUNTY OF BROWN            )

WEB Water Development Association, Inc. hereby responds to TransCanada Pipeline's Interrogatories as follows:

1. State the name of each person answering these interrogatories and include for each person their title and business address.

**ANSWER:** Curt Hohn, General Manager, WEB Water Development Association, Inc., PO Box 51, 38462 SD Highway 12, Aberdeen, South Dakota 57402

2. Please state the names of anyone authorized to speak on behalf of WEB with respect to the above captioned matter. Please state the names of everyone who will or may appear at the December hearings on the above captioned matter. For each such person, state the level of authority to speak which has been granted to each named person.

**ANSWER:** As its General Manager and CEO, Curt Hohn, has full authority to speak on WEB's behalf. WEB will be represented by Siegel Barnet & Schutz, L.L.P.

3. Describe generally the organizational structure of WEB. Please provide in detail the level of decision making authority granted to the Board of Directors by the members and to the general manager by the Board of Directors and/or the members, if any. Please provide a copy of your organizational documents and any resolutions granting decision making authority as requested above.

**ANSWER:** The WEB organizational structure includes a nine member Board of Directors elected by the membership. Six directors represent rural districts involving one or more counties and three directors represent municipalities and bulk use customers at large in three districts representing one or more counties. The Board meets monthly and oversees operational and policy issues, long range planning, projects and expenditures. The General Manager handles day-to-day operations and reports to the Board.

4. Please identify any witnesses, whether fact or expert, which you intend to call at the evidentiary hearing on the above-captioned matter. For each such witness, state the name, contact information, whether the witness is expert or fact, and include a general statement descriptive of the matters to which each witness will testify. For each expert, if any, please provide a resume or CV.

**ANSWER:** Unknown at this time. WEB will comply with the PUC's Scheduling Order regarding the filing of written testimony.

5. Please provide a detailed map showing the exact facility locations of the WEB Water plant. Please detail if you are able, each point at which the current route of the proposed Keystone Pipeline would cross WEB Water facilities. For each such crossing state with specificity the exact nature of the facility being crossed, the depth of cover, the size and type of pipe or other facility. For each crossing point, state the elevation above sea level at which the facilities exist. For each such crossing point, provide the document granting permission or access to the crossing point, be that easement, permit or deed or otherwise.

**ANSWER:** The route of the proposed Keystone Pipeline appears to be moving and adjusting almost on a monthly basis. The pipe route shown on the SD PUC website is no longer accurate based on what landowners are telling us. Therefore, at this point, we are unable to determine where the proposed Keystone Pipeline will cross WEB water facilities. If TransCanada can send us a map that they assure and "certify" will not change we will respond to this request. In general, WEB has a 12" PVC water line and up to 12 other PVC water lines ranging in size from 1-1/2" to 10" buried at an approximate depth of 6 feet from the top of the pipe to ground level. Actual pipe location and depth will need to be potholed and verified once the TransCanada-Keystone Pipeline route is confirmed and verified to us by TransCanada. WEB is willing to engage in negotiations with TransCanada concerning the areas where the TransCanada pipeline will cross WEB pipelines.

6. Please describe the terms and conditions upon which WEB Water would request Keystone contractors to excavate, uncover, unearth and expose the WEB Water facilities at the points detailed above.

**ANSWER:** See response to item 5 above. WEB would ask that TransCanada, at its own expense, call for a One Call utility locate before their project is put out for bid and hire a subcontractor with a vactor truck to "pothole" the exact location of all PVC water line, whether

public or private, to determine elevation and location. We want our water lines to be under the Keystone oil pipeline encased in a steel casing pipe. We don't want the 30" steel Keystone Pipe line bent to go under our water line because based on failures on other oil pipelines it appears that bend locations often result in leaks or failures.

7. Please state with specificity the objections, if any, which WEB Water has to the Keystone project. For each such objection outline a complete factual basis, any relevant law, rule or regulation applicable thereto and an expected or desired outcome if any. For each such objection, state the decision maker responsible for deciding said objection.

**ANSWER:** See Answers to Interrogatories 5 and 6. In general, WEB objects to the pipeline because it endangers WEB's pipelines and the water carried by those pipelines.

8. Please provide a copy of any and all writings which WEB Water, Curt Hohn as Manager of WEB Water or anyone else has mailed or emailed or otherwise disseminated to its members in connection with the Keystone project. For each, list the author or authors and all sources of information for all assertions of fact made therein.

**ANSWER:** General information regarding the Keystone project has been disseminated by WEB to its members through the WEB newsletter, copies of which it is believed TransCanada has previously obtained. To the extent this Interrogatory seeks correspondence exchanged between WEB and its counsel, it is objected to on the grounds of attorney/client privilege. Request for copies of other correspondence WEB or Curt Hohn may have sent to others regarding the TransCanada pipeline is objected to on the grounds of relevancy and confidentiality.

9. Please provide a copy of any and all writings disseminated to the general public by WEB Water concerning the Keystone project. For each, list the author or authors and all sources of information for all assertions of fact made therein.

**ANSWER:** See Answer to Interrogatory No. 8.

10. Do you allege that there are factual inaccuracies or errors in the application or any of the exhibits which Keystone filed with the PUC? If so, state each such inaccuracy or error with specificity and state any proposed correction for each?

**ANSWER:** Yes. The proposed TransCanada-Keystone Pipeline will not comply with all applicable laws and rules; will pose a threat of serious injury to the environment and to the social and economic condition of inhabitants or expected inhabitants in the siting area; will substantially impair the health, safety or welfare of the inhabitants; and will unduly interfere with the orderly development of the region. Specific information will be provided in the written testimony filed by WEB in accordance with the PUC Scheduling Order.

11. State the basis, whether factual, legal or both, for WEB's assertion, in its letter of September 14, 2007 to Roger Phillips, that it can deny or attach conditions to Keystone crossings of WEB facilities.

**ANSWER:** At four public meetings sponsored by the South Dakota Public Utilities, Buster Gray, Chief Engineer for TransCanada, stated and assured that TransCanada would honor any utility permit requirements. Mr. Robert Jones, Vice-President of TransCanada was present at all 4 hearings. WEB has a property right with its easement, which was secured prior to TransCanada coming into the area. WEB has prior rights to cross the land in question and the right to expect its facilities be protected.

12. State the basis for WEB's assertion on Page 11 of its September 2007 newsletter, that Keystone should be built with .78 inch thick pipe.

**ANSWER:** Greater level of protection for WEB water lines, greater protection for sensitive underground aquifers, greater protection for the environment and the sensitive eco system that will be crossed, and greater protection for adjacent landowners and general public safety. TransCanada has stated that once the Keystone Pipeline is in place it will operate for 50 years or more. Billions of dollars worth of oil energy will be pumped through the pipeline. Those involved with the project can well afford to build the pipeline with a pipe wall thickness that provides a level of protection and peace of mind for the landowners, counties, utilities and others who will be crossed and for the people of South Dakota in general.

13. State the basis for WEB's assertion on Page 11 of its September 2007 newsletter, that Keystone will "make \$38.5 million dollars a day in sales for TransCanada."

**ANSWER:** You have misquoted the statement on page 11 of the September 2007 newsletter. It did not state...."that Keystone will "make \$38.5 million dollars a day in sales for TransCanada.". You left out part of the sentence in Paragraph 2 of the document. The full statement explains how the amount was calculated. "Oil selling for \$65 per barrel will generate \$38.5 million per day (\$14 billion/year) in sales to TransCanada". The head line on page 11 reads as follows "Oil TransCanada Will Ship Will Sell For More Than \$38 Million Per Day". The calculation supporting that statement is shown below. The number of barrels and the cost per barrel came from either news statements or releases from TransCanada, oil industry news stories and stock analysis.

591,000 barrels of oil x \$65 per barrel = \$38,415,000

14. Please identify all underground commodity transmission facilities, whether crude oil, refined oil products, natural gas or other, which cross WEB underground facilities, or which are crossed by WEB facilities. For each facility, state the name and address of the owner, if you know. For each facility, state the age and size, if you know, and whether the facility predates the

WEB facility or whether the WEB facility predates. Please provide copies of all crossing agreements, if any exist. State with specificity any precautions or conditions which WEB has proposed or undertaken with respect to said facility or any which the owner or operator of the facility has proposed or undertaken in response to a WEB request or demand.

**ANSWER:** The major transmission pipelines of which WEB is aware that cross WEB's service area are the Northern Border pipeline, which moves natural gas, the Kanab pipeline, which moves gasoline, and Northwestern Energy Service and MDU pipelines, which move and distribute natural gas. These pipelines were in place before the WEB water lines were built. WEB objects to the remaining information sought in the interrogatory on the grounds of both relevancy and the facts would be overly burdensome for WEB to locate and provide such information to TransCanada.

15. Please identify any refined oil bulk facilities which are within one-half mile of WEB facilities. For each refined oil bulk facility, please provide a statement of the manner in which commodities are transported to the refined oil bulk facility. State with specificity any precautions of any sort which WEB has installed or uses with regard to testing for, preventing or protecting against leaks or spills.

**ANSWER:** This Interrogatory is objected to on the grounds it seeks irrelevant information not designed to lead to the discovery of relevant or admissible evidence.

16. State whether WEB uses, purchases, sells, handles or disposes of crude oil, refined oil products, or hazardous materials or commodities in the conduct of its business. State with specificity the types, amounts, vendors, purchasers, which WEB uses, purchases, sells or handles in the ordinary course of business.

**ANSWER:** This Interrogatory is objected to on the grounds it seeks irrelevant information not designed to lead to the discovery of relevant or admissible evidence.

17. State whether WEB officers, directors, managers or employees have spilled or leaked crude oil, refined oil products, or hazardous materials or commodities in the conduct of its business. For each spill, if any, no matter how small, provide the names and addresses of any witnesses, the dates and amounts, and copies of all reports submitted to any authority as a result.

**ANSWER:** This Interrogatory is objected to on the grounds it seeks irrelevant information not designed to lead to the discovery of relevant or admissible evidence.

18. Have WEB facilities been exposed to crude or refined oil pipeline spills, or natural gas pipeline leaks? If any, for each, please detail the date of the event, the general circumstances of each such event, the level of damage, if any, to WEB facilities, and the cost and

extent of remediation of WEB facilities. Please provide any documentation in your possession, and/or identify any documentation which exists to substantiate your answer, if any.

**ANSWER:** WEB is unaware of any of its facilities having been exposed to crude or refined oil pipeline spills or natural gas pipeline leaks.

19. Please provide copies of any studies or documentation in your possession or of which you have knowledge or have used or consulted in generating other documents which regard crude oil permeating through water or other pipelines, specifically including PVC pipe.

**ANSWER:** WEB is aware of a study conducted by the American Waterworks Association but does not have possession of a copy of such study.

Curt Hohn, being first duly sworn, on oath deposes and says:

That Curt Hohn is the General Manager and CEO of WEB Water Development Association in the above-entitled action; that he has read the foregoing INTERVENER WEB WATER DEVELOPMENT ASSOCIATION'S ANSWERS TO THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION STAFF'S FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS TO ALL PARTIES WITH INTERVENER STATUS by him/her subscribed and knows the contents thereof; that said Answers were prepared with the assistance and advice of counsel and employees of WEB Water Development Association upon whose advice they have relied; that the Answers set forth herein, subject to inadvertent or undiscovered errors, are based on, and therefore necessarily limited by, the records and information still in existence, presently recollected and thus far discovered in the course of the preparation of these Answers; that consequently WEB Water Development Association reserves the right to make any changes in the Answers if it appears that at any time that omissions or errors have been made therein or that more accurate information is available; that subject to the limitations set forth herein the said Answers are true to the best of their knowledge, information, and belief.

WEB WATER DEVELOPMENT ASSOCIATION

By: Curt Hohn  
Curt Hohn

Its: General Manager and CEO

Subscribed and sworn to before me this 23<sup>rd</sup> day of October, 2007.

Joni Gurecki  
Notary Public, South Dakota  
My Commission Expires: 8/29/2012

(Notarial Seal)

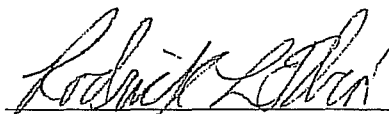


OBJECTION

Intervener WEB Water Development Association objects to Interrogatory Nos. 8, 9, 14, 15, 16 and 17 for the reasons stated therein.

Dated this 24 day of October, 2007.

SIEGEL, BARNETT & SCHUTZ, L.L.P.



Reed Rasmussen

Rodrick L. Tobin

Attorneys for Intervener WEB Water Development  
Association

415 S. Main Street, 400 Capitol Building

PO Box 490

Aberdeen, SD 57402-0490

Telephone No. (605) 225-5420

Facsimile No. (605) 226-1911

[rrasmussen@sbslaw.net](mailto:rrasmussen@sbslaw.net)

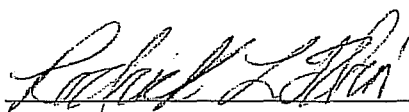
CERTIFICATE OF SERVICE

The undersigned, attorneys for Intervener WEB Water Development Association, hereby certifies that on the 24 day of October, 2007, a true and correct copy of the foregoing WEB WATER DEVELOPMENT ASSOCIATION, INC.'S ANSWERS TO TRANSCANADA PIPELINE'S INTERROGATORIES was mailed by first-class mail to the following:

Mr. Brett Koenecke  
May, Adam, Gerdes & Thompson  
PO Box 160  
Pierre, SD 57501

Dated this 24 day of October, 2007.

SIEGEL, BARNETT & SCHUTZ, L.L.P.



## MINUTES OF THE COMMISSION MEETING

Chairman Dustin Johnson called the meeting to order. Present were: Vice Chairman Gary Hanson; Commissioner Steve Kolbeck; Executive Director Patty Van Gerpen; Deputy Executive Director Heather Forney; Commission Attorneys Rolayne Wiest and John Smith; Staff Attorneys Karen Cremer and Kara Semmler; Staff Analysts Bob Knadle, and Ketih Senger; Consumer Affairs Supervisor Deb Gregg; and Administrative Secretary Demaris Axthelm.

Also present were: Brett Koenecke, May, Adam, Gerdes and Thompson, representing TransCanada Keystone Pipeline, LP; Rich Coit, South Dakota Telecommunication Association; Randy Houdek, Venture Communications Cooperative; and Darla Pollman Rogers, Rlter, Rogers, Wattier and Brown, representing Venture Communications Cooperative.

Joining the meeting by telephone were: Jason Smiley, Gunderson, Palmer, Goodsell and Nelson, representing Sprint Communications Company L.P.; Mary Sisak, Blooston, Mordkofsky, Dickens, Duffy and Pendergast, representing Swiftel Communications; Rod Tobin, Sigel, Barnet, Schutz, representing Web Water Development Assn. Inc.; and B.D.M. Rural Water System, Inc.

### Administration

1. **Approval of the Minutes of the Commission Meeting Held on July 11, 2007 (Staff: Demaris Axthelm)**

Chairman Johnson moved to approve the Commission Minutes of July 11, 2007. Motion passed 3-0.

### Consumer Reports

1. **Status Report on Consumer Utility Inquiries and Complaints Received by the Commission. (Consumer Affairs: Deb Gregg)**

Ms. Deb Gregg reported that the Commission had received a total of 73 contacts. Since the last report was prepared for the August 28, 2007, Commission meeting, 26 contacts involved telecommunications services; 18 contacts involved electricity issues; 4 contacts involved natural gas issues; 4 contacts involved cellular phone issues; 10 contacts involved Do Not Call Registry; and 11 contacts involved issues not regulated by the Public Utilities Commission. In 2007, 1,454 of the 1,678 complaints registered have been resolved informally. In 2006, 2,270 of the 2,466 complaints registered have been resolved informally.

### Hydrocarbon Pipeline

1. **HP07-001 In the Matter of the Application of TransCanada Keystone Pipeline, LP for a Permit under the South Dakota Energy Conversion and Transmission Facility Act to Construct the Keystone Pipeline Project. (Staff Analysts: Martin Bettmann/Bob Knadle/Nathan Solem, Staff Attorney: Kara Semmler)**

Mr. John Smith stated that on August 23, a draft schedule and procedural order was circulated to the parties and a scheduling conference was then held on September 10, 2007, attended by Reed Rasmussen, Curt Hohn, Brett Koenecke, Kara Semmler and John Smith. The parties reached agreement on a procedural schedule as follows: September 21, 2007 - Applicant's Direct Testimony filed and served; October 31, 2007 - Intervenors' and Staff's Direct testimony filed and served; November 14, 2007 - Applicant's Rebuttal Testimony filed and served; November 28, 2007 - Intervenors' and Staff's Surrebuttal Testimony filed and served; December 3-14, 2007 - Evidentiary hearing, Rm. 412, State Capitol Bldg., Pierre, SD at 9:30 a.m. on December 3 and 10; following the Commission meeting on December 4; and at 8:30 a.m. all other days; and December 6, 2007 - Public Input Hearing, Rm. 412 State Capitol Bldg., Pierre, SD from 7:00 p.m. – 11:00 p.m. Mr. Smith then stated that the issue of electronic service had been discussed among the participating parties and that the parties agreed electronic service should be used where possible to provide as much time as possible for review and response, but that parties should be able to request paper copies of documents that were problematic to receive or reproduce in electronic form.

**Commissioner Kolbeck moved to approve the scheduling and procedural order, including use of electronic service as outlined by Commission Counsel. Motion passed 3-0.**

### **Telecommunications**

- 1. TC06-181 In the Matter of the Petition of Venture Communications Cooperative for Suspension or Modification of Local Dialing Parity Reciprocal Compensation Obligations (Staff Analyst: Harlan Best, Staff Attorney: Kara Semmler)**

Ms. Darla Rogers, representing Venture Communications Cooperative (Venture), asked the Commission to delay the ruling on the joint motion and to consider the Joint Motion for Transfer along with Venture's Motion to Strike and Motion in Limine. Mr. Jason Smiley, representing Alltel, informed the Commission that Alltel would like to proceed with a hearing date. Mr. Rich Coit, South Dakota Telecommunication Association (SDTA) stated that he understood the concerns of Venture with respect to its Motion to Strike. Ms. Wiest stated that the Commission could not rule on the Motion to Strike prior to the Joint Motion for Transfer but stated that the matter could be deferred in order to give the parties additional time to try and work out their differences.

**Chairman Johnson moved that no action be taken in Docket TC06-181. Motion passed 3-0.**

- 2. TC06-191 In the Matter of EchoStar Satellite LLC Owning the Trademark Dish Network, Echosphere, LLC's Failure to Register as a Telemarketers and the Solicitations they made to those Registered on the Do Not Call List. (Staff Attorney: Kara Semmler)**

Ms. Kara Semmler stated that on August 30, 2007 the parties filed a joint motion for delay. Staff and EchoStar have entered into discussions concerning a potential solution and will come back to the Commission if the parties cannot come to an agreement.

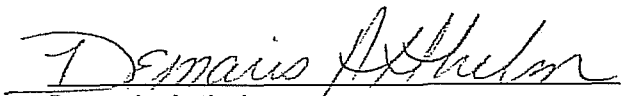
**Commissioner Kolbeck moved to grant the Joint Motion for delay in Docket TC06-191. Motion passed 3-0.**

3. **TC07-083 In the Matter of the Application of Global Capacity Group, Inc. for a Certificate of Authority to Provide Interexchange Telecommunications Services and Local Exchange Services in South Dakota. (Staff Analyst: Brian Rounds, Staff Attorney: Karen Cremer)**

Ms. Karen Cremer stated that on July 3, 2007, Global Capacity Group, Inc. ("Global Capacity") filed an application for a certificate of authority to provide resold and facilities-based/UNE local exchange and interexchange services. Global Capacity intends to provide resold local exchange and interexchange service and to provide local services utilizing unbundled network elements (UNE) or UNE replacement through a commercial agreement with Qwest. Ms. Cremer further stated that Global Capacity requested a waiver from ARSD 20:10:24:02(8) and 20:10:32:03(11). Global Capacity agreed to restrictions from offering any prepaid services and from collecting customer's deposits or advanced payments. Staff recommended that the Commission grant interexchange and local exchange authority to Global Capacity, subject to restrictions from accepting deposits or advance payments and from offering prepaid services and to comply with rural safeguards and approval of the waiver requests.

**Chairman Johnson moved to grant a Certificate of Authority to Global Capacity Group and the requested waivers, subject to restrictions from offering any prepaid services and collecting customer deposits or advanced payments and rural safeguards. Motion passed 3-0.**

There being no further business, at the hour of 10:10 am the South Dakota Public Utilities Commission Meeting adjourned.



Demaris Axthelm  
Administrative Secretary