BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

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

ORDER GRANTING IN PART
AND DENYING IN PART
STANDING ROCK SIOUX
TRIBE'S MOTION FOR
DISCOVERY SANCTIONS OR
TO COMPEL

HP14-001

On September 15, 2014, TransCanada Keystone Pipeline, LP (TransCanada) filed with the South Dakota Public Utilities Commission (Commission) a Petition for Order Accepting Certification (Petition) under SDCL §49-41B-27 seeking an order accepting certification of the energy facility permit issued in Docket HP09-001 for construction of the Keystone XL Pipeline. On June 29, 2010, the Commission issued an Amended Final Decision and Order; Notice of Entry granting a permit to TransCanada for construction of the Keystone XL Pipeline. TransCanada now seeks an order accepting certification pursuant to SDCL 49-41B-27. The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-41B, specifically 49-41B-27, and ARSD Chapters 20:10:01, specifically 20:10:01:22.02, and 20:10:22.

On September 18, 2014, the Commission electronically transmitted notice of the filing and the intervention deadline of October 15, 2014, to interested individuals and entities on the Commission's PUC Weekly Filings electronic listserv. Applications for Party Status were received from forty-three persons, and on November 4, 2014, the Commission issued an Order Granting Intervention and Party Status to forty-two of the applicants. Three parties have since been granted withdrawal of party status. On December 17, 2014, the Commission issued an Order Granting Motion to Define Issues and Setting Procedural Schedule (Procedural Schedule). In the Procedural Schedule, the Commission ordered parties to file pre-filed testimony by April 2, 2015. That Order was later amended by the Commission to allow Rosebud Sioux Tribe until April 10, 2015, to file pre-filed testimony.

On March 25, 2015, the Commission received a Motion for Discovery Sanctions or to Compel (Motion) from Standing Rock Sioux Tribe (Standing Rock). In its Motion, Standing Rock requested an order from the Commission precluding TransCanada from introducing any testimony or evidence regarding compliance with state or federal law, which the tribe submitted should result in a dismissal of the Petition. In the alternative, Standing Rock requested that the time period for discovery be extended, the hearing be continued, and TransCanada be compelled to produce certain documents and answer certain interrogatories.

On April 3, 2015, the Commission issued an Order amending the Procedural Schedule, in which the Commission ordered that all pre-hearing motions would be heard on April 14, 2015.

At its regularly scheduled Commission meeting on April 14, 2015, the Commission considered the Motion. The Commission considered the Motion and briefs submitted, as well as arguments presented at the meeting.

It is therefore

ORDERED, that Standing Rock's request for sanctions is hereby denied. It is further

ORDERED, that Standing Rock's request to extend discovery and continue the hearing is denied. It is further

ORDERED, that Standing Rock's Motion to Compel is denied with respect to requests for production of documents numbers 10, 14, 15, and 16. It is further

ORDERED, that Standing Rock's Motion to Compel is denied with respect to interrogatories 19, 20, 30, and 51. It is further

ORDERED, that Standing Rock's Motion to Compel is granted with respect to requests for production of documents numbers 3, 4, 5, 6, 7, 8, 9, 11, 12, and 13, to the extent those documents exist. It is further

ORDERED, that Standing Rock Sioux Tribe's Motion to Compel is granted with respect to interrogatories 15, 16, 17, and 18. It is further

ORDERED, that all confidential documents produced by TransCanada will be viewable only by the attorneys for the parties to the Motion.

ORDERED, that TransCanada has until Friday, April 17, 2015, to comply with this Order.

Dated at Pierre, South Dakota, this 1744 day of April, 2015.

CERTIFICATE OF SERVICE

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, efectionically or by mail.

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Date:

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

CHRIS NELSON, Ch<u>airm</u>an

KRISTIE FIEGEN. Commissioner

GARY HANSON, Commissioner