

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

<b>IN THE MATTER OF THE PETITION OF RC )</b>	<b>)</b>	<b>ORDER FOR AND NOTICE OF</b>
<b>TECHNOLOGIES FOR RESOLUTION OF )</b>		<b>EVIDENTIARY HEARING</b>
<b>DISPUTED RAILROAD CROSSING APPLICATION )</b>		
<b>)</b>		<b>TC18-059</b>

On November 2, 2018, the South Dakota Public Utilities Commission (Commission) received a Petition from RC Technologies Inc. requesting resolution of a disputed railroad crossing application pursuant to SDCL Ch. 49-16A. The crossing in dispute involves Sunflour Railroad, Inc. (Sunflour). According to the Petition, RC Technologies Inc. alleges to have sent a crossing application to Sunflour on October 29, 2018, and, asserting that the crossing application is now in dispute, seeks Commission resolution of the crossing application. SDCL § 49-16A-100.7 provides that within 60 days after the filing of a petition, the Commission must issue an order.

On November 8, 2018, the Commission electronically transmitted notice of the filing to interested individuals and entities on the Commission's PUC Weekly Filings electronic listserv. On November 28, 2018, Sunflour filed its Answer, and on November 29, 2018, Sunflour filed its Exhibit 1. Also on November 29, 2018, the Commission issued an Order Assessing Costs.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-16A. The Commission may rely upon any or all of these or other laws of this state in making its determination.

A hearing will be held by the Commission beginning at 11:00 a.m., CST, on Tuesday, December 11, 2018, in Room 413 of the Capitol Building, 500 E. Capitol Ave., Pierre, South Dakota.

At the hearing, each party will be permitted to present an opening statement summarizing the evidence that such party will offer into evidence and to briefly and concisely state the issues involved in the case.

The issue to be determined by the Commission is whether RC Technologies Inc. has the right to cross over or under the railroad right-of-way for the placement of facilities, and, if so, whether any conditions apply to such a crossing.

The hearing will be a quasi-judicial adversarial proceeding conducted pursuant to SDCL Chapter 1-26. At such formal hearing, all parties will have the opportunity to appear, present evidence, and cross-examine the other parties' witnesses and exercise all other rights afforded by SDCL Chapters 1-26, 49-1, 49-16A, and ARSD 20:10:01. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights will be forfeited if not exercised at the hearing. All persons testifying will be subject to cross-examination. The Commission's final decision will be based solely on the testimony and evidence introduced and received into evidence at the hearing. If a party or its representative fails to appear at the time and place set for the hearing, a decision may be issued by default pursuant to SDCL 1-26-20. As a result of this hearing, the Commission will make a decision, including findings of fact and conclusions of law, on the issue set forth above. The Commission's final decision may be appealed by the parties to the circuit court and the Supreme Court as provided by law. It is therefore

ORDERED, that a hearing will be held by the Commission beginning at 11:00 a.m., CST, on Tuesday, December 11, 2018, in Room 413 of the Capitol Building, 500 E. Capitol Ave., Pierre, South Dakota. It is further

ORDERED, that witnesses may appear telephonically if notice is given to the Commission and the other parties prior to December 5, 2018, at 5:00 p.m., CST, and no objection is received by December 7, 2018.

Pursuant to the Americans with Disabilities Act, this hearing is being held in physically accessible location. Please contact the Public Utilities Commission at (605) 773-3201 or (800) 332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 30th day of November 2018.

<b>CERTIFICATE OF SERVICE</b>
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 or by mail.
By: <u>Karen E. Cremer</u>
Date: <u>11/30/18</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Kristie Fiegen  
KRISTIE FIEGEN, Chairperson

Gary Hanson  
GARY HANSON, Commissioner

Chris Nelson  
CHRIS NELSON, Commissioner