

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

|                                                                                                                                                         |                                                                          |
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| <b>IN THE MATTER OF THE APPLICATION OF )<br/>DAKOTA ACCESS, LLC FOR AN ENERGY )<br/>FACILITY PERMIT TO CONSTRUCT THE )<br/>DAKOTA ACCESS PIPELINE )</b> | <b>ORDER FOR AND NOTICE OF<br/>EVIDENTIARY HEARING<br/><br/>HP14-002</b> |
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On December 15, 2014, Dakota Access, LLC (Dakota Access or Applicant) filed an energy facility permit application (Application) with the South Dakota Public Utilities Commission (Commission) pursuant to SDCL 49-41B-4 to construct the South Dakota portion of the proposed Dakota Access Pipeline (Pipeline or Project). The Pipeline will begin in North Dakota and terminate in Patoka, Illinois, traversing 13 counties in South Dakota. The proposed 12- to 30-inch diameter pipeline will have an initial capacity of 450,000 barrels of oil per day with a total potential of up to 570,000 barrels per day. The proposed route will enter South Dakota in Campbell County at the North Dakota/South Dakota border and will extend in a southeasterly direction, exiting the state at the South Dakota/Iowa border in Lincoln County. The length of the Pipeline through South Dakota is approximately 272.3 miles. The Pipeline also would include one pump station in South Dakota, located in Spink County. Pursuant to SDCL 49-41B-24, the Commission has one year from the date of application to render a decision on the Application. Several parties have been granted intervention in this docket.

On January 8, 2015, Commissioner Fiegen filed a letter delivered to Governor Dennis Daugaard advising of a conflict of interest under SDCL 49-1-9 after learning of family ownership of land on the proposed Pipeline route. On January 14, 2015, Governor Daugaard filed a letter to Secretary of State Shantel Krebs appointing State Treasurer Rich Sattgast to serve as Acting Commissioner in place of Commissioner Fiegen pursuant to SDCL 49-1-9.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-41B, specifically 49-41B-1, 49-41B-2, 49-41B-2.1, 49-41B-4, 49-41B-11, 49-41B-13, 49-41B-15, 49-41B-16, 49-41B-17, 49-41B-17.1, 49-41B-22, 49-41B-24, and 49-41B-38, and ARSD Chapter 20:10:22.

On March 11, 2015, the Commission issued a Prehearing Scheduling Order. Per the Prehearing Scheduling Order, an evidentiary hearing was to take place September 29 through October 8, 2015. Due to scheduling conflicts, there will be no hearing on October 5, 2015; however, the Commission has added October 9, 2015, as an extra day to be utilized if necessary.

The issues to be considered by the Commission at the hearing are:

1. Whether the Application was filed generally in the form and content required by SDCL Chapter 49-41B-11 and ARSD 20:10:22?

2. Whether the Application or any accompanying statements or studies required of the Applicant contain any deliberate misstatements of a material fact?

3. Whether the Project will comply with all applicable laws and rules?

4. Whether the Project will pose an unacceptable threat of serious injury to the environment or to the social and economic condition of inhabitants or expected inhabitants in the siting area?

5. Whether the Project will substantially impair the health, safety or welfare of the inhabitants?

6. Whether the Project will unduly interfere with the orderly development of the region with due consideration having been given to the views of governing bodies of affected local units of government?

7. Whether a permit for the Project should be granted, denied, or granted upon such terms, conditions, or modifications of the construction, operation, or maintenance of the Project as the Commission deems appropriate?

8. If granted subject to terms, conditions, or modifications of the construction, operation, or maintenance of the Project, what terms, conditions, or modifications of the construction, operation, or maintenance of the Project are appropriate?

9. What amount of coverage under the indemnity bond required by SDCL 49-41B-38 is a reasonable amount to insure that townships, counties, or other governmental entities whose property is crossed by the Project shall be adequately compensated for any damage beyond normal wear to public roads, highways, bridges, or other related facilities?

10. What the form, terms, and conditions of the indemnity bond should be?

The hearing will be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights may be forfeited if not exercised at the hearing. If a party or its representative fails to appear at the time and place set for the hearing, the final decision will be based solely on the testimony and evidence provided, if any, during the hearing or a final decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. As a result of this hearing, the Commission will make decisions on the issues set forth above. The Commission will then enter findings of fact, conclusions of law, and a final decision regarding this matter. 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

It is therefore

ORDERED, that a hearing shall be held commencing at 1:00 P.M. CDT, with marking of exhibits to begin at 12:00 P.M. CDT, on Tuesday, September 29, 2015, and continuing at 8:00

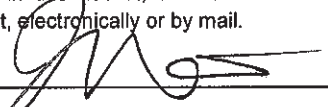
A.M. on September 30 – October 2, and October 6-9, 2015, in Room 414 of the State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota. It is further

ORDERED, that opening statements shall be limited to ten minutes in length. It is further

ORDERED, that testimony on direct examination shall be limited to a brief summary of prefiled direct testimony and information not reasonably available at the time of filing of direct testimony.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 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 20<sup>th</sup> day of August, 2015.

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| <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></u> |
| Date:                                                                                                                                                                                 | <u>8/20/15</u>                                                                            |
| (OFFICIAL SEAL)                                                                                                                                                                       |                                                                                           |

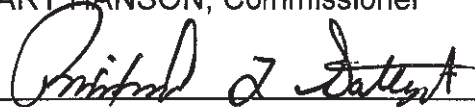
BY ORDER OF THE COMMISSION:



CHRIS NELSON, Chairman



GARY HANSON, Commissioner



RICHARD L. SATTGAST, Acting Commissioner