

► [Commission Agendas](#) | [previous page](#)

---

### South Dakota Public Utilities Commission Meeting

July 21, 2015, at 9:30 A.M.

Room 413, Capitol Building

Pierre, South Dakota

**NOTE:** If you wish to join this meeting by conference call, please contact the Commission at 605-773-3201 by 5:00 p.m. CDT on Monday, July 20, 2015. Lines are limited and are given out on a first come, first served basis, subject to possible reassignment to accommodate persons who must appear in a proceeding. Ultimately, if you wish to participate in the Commission Meeting and a line is not available, you may have to appear in person.

**NOTE:** To listen to the Commission Meeting live please go to the PUC's website [www.puc.sd.gov](http://www.puc.sd.gov) and click on the LIVE link on the home page. The Commission requests persons who will only be listening to proceedings and not actively appearing in a case listen via the web cast to free phone lines for those who have to appear. The Commission meetings are archived on the PUC's website under the Commission Actions tab, Click on "Commission Meeting Archives," to access the recordings.

**NOTE:** Notice is further given to persons with disabilities that this Commission meeting is being held in a physically accessible place. If you have special needs, please notify the Commission and we will make all necessary arrangements.

### AGENDA OF COMMISSION MEETING

#### Administration

1. Approval of the Minutes of the Commission Meetings Held on June 11, June 23 and July 7, 2015 (Staff: Joy Lashley)

#### Consumer Reports

1. Status Report on Consumer Utility Inquiries and Complaints Received by the Commission (Consumer Affairs: Deb Gregg)
1. **EL14-058 In the Matter of the Application of Northern States Power Company dba Xcel Energy for Authority to Increase its Electric Rates (Staff Analysts: Brittany Mehlhaff, Patrick Steffensen, Eric Paulson; Staff Attorney: Karen Cremer)**

On June 23, 2014, the South Dakota Public Utilities Commission (Commission) received an Application for Authority to Increase Its Electric Rates (Application) filed by Northern States Power Company dba Xcel Energy (Xcel) for approval to increase rates for electric service to customers in its South Dakota service territory by approximately \$15.6 million annually or approximately 8.0% based on Xcel's 2013 test year. Xcel states a typical residential electric customer using 750 kWh per month would see an increase of \$8.49 per month, or 9.71%. The proposed changes may potentially affect approximately 87,000 customers in Xcel's South Dakota service territory. Xcel proposes an effective date of January 1, 2015. On June 26, 2014, the Commission electronically transmitted notice of the Application and the intervention deadline of September 12, 2014, to interested individuals and entities on the Commission's PUC Weekly Filings listserv. On November 12, 2014, Xcel filed its Notice of Intent to Implement Interim Rates effective for service on or after January 1, 2015. On June 1, 2015, a Joint Motion for Approval of Settlement Stipulation, Settlement Stipulation, Interim Refund Plan, and Staff Memorandum were filed with the Commission. On June 16, 2015, the Commission entered its Order Granting Joint Motion for Approval of Settlement Stipulation; Order Approving Refund Plan. On June 18, 2015, Xcel filed tariff pages implementing the final rates approved by the Commission. On July 1, 2015, Xcel filed a Revised Exhibit G to the Settlement Stipulation which restated the interim refund amount to more accurately represent the inclusion of

020126

the amounts approved to be moved from rider collection into base rates. Interim revenue collections for January through May 2015 were finalized and June 2015 forecasted amounts were made more current.

TODAY, shall the Commission approve the Revised Exhibit G to the Settlement Stipulation detailing the Revised Interim Refund Plan?

**2. EL15-013 In the Matter of the Application of Black Hills Power, Inc. for Approval of Tariff Revisions (Staff Analysts: Brian Rounds, Joseph Rezac; Staff Attorney: Karen Cremer)**

On April 15, 2015, the Commission received a filing by Black Hills Power, Inc. (Company) for approval of tariff revisions creating a new Meter Data and Privacy Policy. The policy filed was adopted by Black Hills Corporation on June 6, 2014, and the Company requests it be inserted in Section 5, Rules and Regulations, of its South Dakota Electric Rate Book. The Company requests an effective date of July 1, 2015. On June 23, 2015, the Commission deferred action on the request. On June 25, 2015, Chairman Nelson filed a letter listing several proposed revisions to BHP's tariff.

TODAY, shall the Commission approve the tariff revisions?

**3. EL15-024 In the Matter of the Application of Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. for Authority to Increase its Electric Rates (Staff Analysts: Brittany Mehlhaff, Patrick Steffensen, Eric Paulson, Joseph Rezac; Staff Attorney: Adam de Hueck)**

On June 30, 2015, the Commission received an application by Montana-Dakota Utilities Co. (MDU) for approval to increase rates for electric service to customers in its South Dakota service territory by approximately \$2.7 million annually or approximately 19.2% based on MDU's test year ending December 31, 2014. The Company states a typical residential electric customer using 854 kWh per month would see an increase of \$16.91 per month or 19.2%. The proposed changes may potentially affect approximately 8,600 electric customers in MDU's South Dakota service territory.

TODAY, shall the Commission suspend the imposition of the tariff for 180 days beyond June 30, 2015? AND, shall the Commission assess a filing fee for actual expenses related to the general rate case not to exceed \$250,000? AND, shall the Commission assess a filing fee for actual expenses related to the Transmission Cost Recovery Rider not to exceed \$50,000? AND, shall the Commission assess a filing fee for actual expenses related to the Environmental Cost Recovery Rider not to exceed \$50,000? AND, shall the Commission give the Executive Director authority to enter into necessary consulting contracts?

**Natural Gas**

**1. NG15-005 In the Matter of the Application of Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. for Authority to Increase its Natural Gas Rates (Staff Analysts: Brittany Mehlhaff, Patrick Steffensen, Eric Paulson, Joseph Rezac; Staff Attorney: Adam de Hueck)**

On June 30, 2015, the Commission received an application by Montana-Dakota Utilities Co. (MDU) for approval to increase rates for natural gas service to customers in its South Dakota service territory by approximately \$1.5 million annually or approximately 3.1% based on MDU's test year ending December 31, 2014. The Company states a typical residential natural gas customer using 72 dk on an annual basis would see an increase of \$2.21 per month or 4.64%. The proposed changes may potentially affect approximately 57,600 natural gas customers in MDU's South Dakota service territory.

TODAY, shall the Commission suspend the imposition of the tariff for 180 days beyond June 30, 2015? AND, shall the Commission assess a filing fee for actual expenses not to exceed \$250,000? AND, shall the Commission give the Executive Director authority to enter into necessary consulting contracts?

**Telecommunications****1. TC15-013 In the Matter of the Request of Northeast Nebraska Telephone Company for Certification Regarding its Use of Federal Universal Service Support (Staff Analyst: Joseph Rezac; Staff Attorney: Kristen Edwards)**

On June 9, 2015, the Commission received an application from Northeast Nebraska Telephone Company requesting the Commission grant a waiver of the Commission's ETC filing requirements pursuant to ARSD 20:10:32:56, on the grounds that the reporting requirements are unduly burdensome. On June 16, 2015, the Company responded to Staff's data request.

TODAY, shall the Commission grant the waiver and certify Northeast Nebraska Telephone Company?

**2. TC15-014 In the Matter of the Application of Interstate Telecommunications Cooperative, Inc. for an Amended Certificate of Authority (Staff Analyst: Patrick Steffensen; Staff Attorney: Adam de Hueck)**

On June 17, 2015, Interstate Telecommunications Cooperative, Inc. (ITC) filed an application for an Amended Certificate of Authority for local exchange service pursuant to SDCL 49-31-69. Pursuant to a service request from Mustang Pass, LLC, ITC requests to add new telephone service territory currently held by CenturyLink. CenturyLink does not object to ITC's request. ITC also requests the Commission waive ARSD 20:10:32:03 (1-8); (10-22); and (24).

TODAY, shall the Commission approve the request for waiver? AND shall the Commission approve the request for an Amended Certificate of Authority?

**3. TC15-016 In the Matter of the Request of Citizens Telecommunications Company of Minnesota, LLC for Certification Regarding its Use of Federal Universal Service Support (Staff Analyst: Joseph Rezac; Staff Attorney: Adam de Hueck)**

On June 22, 2015, the Commission received an application from Citizens Telecommunications Company of Minnesota, LLC (Citizens) requesting the Commission grant a waiver of the Commission's ETC filing requirements pursuant to ARSD 20:10:32:56, on grounds that the reporting requirements in support of ETC certification are unduly burdensome and unnecessary. Citizens also requests that the Commission issue a certification to the FCC and USAC indicating it is in compliance with 47 U.S.C. Section 254(e) and should receive all federal universal service support determined for distribution to Company. On June 30, 2015, and July 13, 2015, Citizens responded to Staff's data requests.

TODAY, shall the Commission grant the waiver and certify Citizens Telecommunications Company of Minnesota?

**4. TC15-018 In the Matter of the Filing by Sancom, Inc. dba Mitchell Telecom for Approval of Revisions to its Access Services Tariff No. 1 (Staff Analyst: Joseph Rezac; Staff Attorney: Adam de Hueck)**

On June 24, 2015, Sancom, Inc. dba Mitchell Telecom (Sancom) filed a request for approval of revisions to its Access Services Tariff No. 1. Sancom is submitting this filing to be in compliance with the Federal Communications Commission's November 11, 2011, Inter-carrier Compensation Reform Order (FCC 11-161). Sancom requests that the tariff revisions become effective on July 1, 2015. On July 1, 2015, and July 7, 2015, Sancom submitted new tariff pages.

TODAY, shall the Commission approve the proposed tariff revisions?

**5. TC15-019 In the Matter of the Filing by Interstate Telecommunications Cooperative, Inc. (operating in Milbank, South Dakota) for Approval of Revisions to its Access Services Tariff No. 1 (Staff Analyst: Eric Paulson; Staff Attorney: Adam de Hueck)**

On June 24, 2015, Interstate Telecommunications Cooperative, Inc. (ITC) filed a request for approval of revisions to its access services tariff. ITC is submitting this filing to be in compliance with the Federal Communications Commission's November 11, 2011, Inter-carrier Compensation Reform Order (FCC 11-161). ITC requests that the tariff revisions become effective on July 1, 2015. On July 1, 2015, and July 7, 2015, ITC submitted new tariff pages.

TODAY, shall the Commission approve Interstate Telecommunications Cooperative, Inc.'s tariff revisions?

**6. TC15-020 In the Matter of the Filing by Midcontinent Communications for Approval of Revisions to its Access Services Tariff (Staff Analyst: Joseph Rezac; Staff Attorney: Adam de Hueck)**

On June 24, 2015, the Commission received an application from Midcontinent Communications (Midco) requesting approval of revisions to its Access Tariff pages 3 and 44.1. The proposed tariff revision filing is done in compliance with the FCC's order in FCC 11-161. Midco requests an effective date of July 16, 2015.

TODAY, shall the Commission approve Midcontinent Communications' Revisions to its Access Services Tariff?

**Hydrocarbon Pipeline**

**1. HP14-001 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 (Staff Analysts: Brian Rounds, Darren Kearney; Staff Attorney: Kristen Edwards)**

On September 15, 2014, the Commission received a filing from TransCanada Keystone Pipeline, LP (Keystone) seeking an order accepting certification of the permit issued in HP09-001. The Commission issued an Amended Final Decision and Order granting a permit to Keystone on June 29, 2010. Because it has been at least four years since the permit was issued, Keystone now seeks an order accepting certification, per SDCL 49-41B-27. An intervention deadline of October 15, 2014, was set. The Commission granted intervention to several parties. On December 17, 2014, the Commission issued an Order Granting Motion to Define Issues and Setting Procedural Schedule. On May 5, 2015, the Commission issued an Amended Procedural Schedule, which included an order that all Motions in Limine be filed by July 10, 2015, responses to those motions be filed by July 17, 2015, and those motions be heard on July 21, 2015.

On July 9, 2015, the Commission received the following motions:

1. Staff filed a Motion for Judicial Notice. In its Motion, Staff requests the Commission take judicial notice of a) the evidentiary record in Docket No. HP09-001; b) the Final Environmental Impact Statement; c) the Final Supplemental Environmental Impact Statement; and d) SDCL Chapter 49-41B in its entirety.
  2. Rosebud Sioux Tribe (Rosebud) filed a Motion in Limine to Exclude Testimony. In its Motion, Rosebud seeks an order excluding the rebuttal testimony of Keystone witnesses: Heidi Tillquist, Meera Kothari, and Jeff Mackenzie.
- On July 10, 2015, the Commission received the following motions:
    3. Staff filed a Motion for Time Certain for Witness Testimony. In its Motion, Staff requests the Commission issue an order reserving August 3, 2015, for testimony of witnesses for Staff and Standing Rock Sioux Tribe who are traveling from out-of-state.
    4. Keystone filed Applicant's Motion Concerning Procedural Issues at the Evidentiary Hearing. In this Motion, Keystone requests an order from the Commission a) limiting parties with a common interest to one lawyer who may ask questions on cross-examination; b) requiring

parties who wish to give an opening statement to do so in writing; c) precluding friendly-cross examination; d) for those parties represented by counsel, limiting the conducting of cross-examination to counsel; e) limiting cross-examination to the scope of the direct examination; and f) while allowing for objections, precluding parties from arguing evidentiary objections unless directed by General Counsel for the Commission.

5. Keystone filed Keystone's Motion in Limine to Exclude Testimony of Kevin E. Cahill, Ph.D. Keystone argues testimony from this witness should be excluded as beyond the scope of this proceeding and not relevant to this proceeding.
6. Keystone filed Keystone's Motion in Limine to Preclude Rebuttal Testimony of Ian Goodman and Brigid Rowan. In its Motion, Keystone argues that the testimony is not responsive to the direct testimony of any other witness and is, therefore, improper as rebuttal testimony.
7. Keystone filed Keystone's Motion in Limine to Preclude Rebuttal Testimony of Jennifer Galindo and Wasté Win Young. In its Motion, Keystone argues that the proposed testimony is irrelevant and should be excluded.
8. Keystone filed Keystone's Motion in Limine to Preclude Testimony of Chris Saucosi. In its Motion, Keystone argues that the testimony of Chris Saucosi, filed as rebuttal testimony by Yankton Sioux Tribe, is insufficient to advise the Commission or the parties of his testimony and does not allow Keystone the opportunity to prepare for cross-examination.
9. Keystone filed Keystone's Motion in Limine to Preclude Testimony of Dr. Hansen and Dr. Oglesby. In its Motion, Keystone argues that an order precluding such testimony is consistent with the Commission's order dated May 28, 2015.
10. Keystone filed Keystone's Motion in Limine to Restrict Testimony of Leonard Crow Dog. In its Motion, Keystone requests an order precluding Leonard Crow Dog from testifying in the evidentiary hearing.
11. Keystone filed Keystone's Motion in Limine to Restrict Testimony of Yankton Sioux Witnesses Spotted Eagle and Un-Named Member of the B&C Committee. In its Motion, Keystone requests an order from the Commission striking certain portions of the direct pre-filed testimony of Faith Spotted Eagle and all of the proposed rebuttal testimony of Faith Spotted Eagle and Jason Cooke, a member of the Yankton Sioux Business and Claims Committee.
12. Keystone filed Keystone's Motion in Limine to Strike Paula Antoine's Rebuttal Testimony. Keystone requests an order prohibiting Paula Antoine from testifying at the evidentiary hearing and striking her pre-filed testimony from the record.
13. Keystone filed Keystone's Motion in Limine to Strike the Article by Linda Black Elk and Restrict Her Testimony. Keystone seeks an order striking the article entitled "Culturally Important Plants of the Lakota" and prohibiting Linda Black Elk from testifying at the evidentiary hearing.
14. Joint Motion in Limine to Exclude Evidence Pertaining to Keystone's Proposed Changes to Findings of Fact. The Motion was filed jointly by Yankton Sioux Tribe (Yankton), Cheyenne River Sioux Tribe (Cheyenne), Bold Nebraska, Rosebud, Indigenous Environmental Network, and Dakota Rural Action. In this Motion, movants seek an order excluding all evidence offered by Keystone in support of its Tracking Table of Changes.

TODAY,

1a) Shall the Commission take judicial notice of the evidentiary record in Docket No. HP09-001?

1b) Shall the Commission take judicial notice of the Final Environmental Impact

Statement?

- 1c) Shall the Commission take judicial notice of the Final Supplemental Environmental Impact Statement?
- 1d) Shall the Commission take judicial notice of SDCL Chapter 49-41B in its entirety?
- 2) Shall the Commission grant Rosebud Sioux Tribe's Motion in Limine to Exclude Testimony?
- 3) Shall the Commission grant the Motion for Time Certain for Witness Testimony?
- 4a) Shall the Commission grant the motion to limit parties with a common interest to one lawyer who may ask questions on cross-examination?
- 4b) Shall the Commission grant the motion requiring opening statements to be in writing?
- 4c) Shall the Commission grant the motion to preclude friendly cross examination?
- 4d) Shall the Commission grant the motion limiting the conduct of cross-examination by those parties represented by counsel to counsel?
- 4e) Shall the Commission limit cross-examination to the scope of direct examination?
- 4f) Shall the Commission preclude parties from arguing evidentiary objections unless directed by General Counsel for the Commission?
- 5) Shall the Commission grant Keystone's Motion in Limine to Exclude Testimony of Kevin E. Cahill, Ph.D.?
- 6) Shall the Commission grant Keystone's Motion in Limine to Preclude Rebuttal Testimony of Ian Goodman and Brigid Rowan?
- 7) Shall the Commission grant Keystone's Motion in Limine to Preclude Rebuttal Testimony of Jennifer Galindo and Wasté Win Young?
- 8) Shall the Commission grant Keystone's Motion in Limine to Preclude Testimony of Chris Saucosi?
- 9) Shall the Commission grant Keystone's Motion in Limine to Preclude Testimony of Dr. Hansen and Dr. Oglesby?
- 10) Shall the Commission grant Keystone's Motion in Limine to Restrict Testimony of Leonard Crow Dog?
- 11) Shall the Commission grant Keystone's Motion in Limine to Restrict Testimony of Yankton Sioux Witnesses Spotted Eagle and Un-Named Member of the B&C Claims Committee?
- 12) Shall the Commission grant Keystone's Motion in Limine to Strike Paula Antoine's Rebuttal Testimony and prohibit her from testifying at the evidentiary hearing?
- 13) Shall the Commission grant Keystone's Motion in Limine to Strike Article by

Linda Black Elk and Restrict Her Testimony?

14) Shall the Commission grant the Joint Motion in Limine to Exclude Evidence Pertaining to Keystone's Proposed Changes to Findings of Fact

**Items for Commission Discussion**

**Announcements**

1. An ad hoc commission meeting will be held Friday, July 17, 2015, at 9:00 a.m. CDT in Room 413 at the State Capitol Building, Pierre, S.D.
2. An evidentiary hearing for Docket **HP14-001** - 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 will be held July 27-31, Aug. 3-4, 2015, beginning at 9:00 a.m. CDT Monday, July 27 in Room 414 at the State Capitol, Pierre, S.D.
3. The next regularly scheduled commission meeting will be Wednesday, August 5, 2015, at 1:30 p.m. CDT in Room 413 at the State Capitol Building, Pierre, S.D.
4. Commission meetings are scheduled for August 20 and September 1, 2015.

/s/Cindy Kemnitz

Cindy Kemnitz

Finance Manager

[puc@state.sd.us](mailto:puc@state.sd.us)

July 14, 2015