

**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 XL PROJECT)

Docket No. HP 14-001

**STANDING ROCK SIOUX TRIBE
MOTION TO AMEND ORDER SETTING PROCEDURAL SCHEDULE**

COMES NOW the Standing Rock Sioux Tribe, by and through undersigned counsel, and moves for an Order amending the *Order Setting Procedural Schedule* entered herein on December 17, 2014, as follows:

Close of discovery	May 11, 2015
Pre-filed testimony	June 2, 2015
Rebuttal testimony	June 23, 2015
Filing of exhibits	June 23, 2015
Hearing	July 14-17, 2015

The proposed amended schedule is necessary because (1) the Standing Rock Sioux Tribe lacked sufficient time to procure expert witness assistance and for the Tribe's expert to prepare and submit testimony by April 2, 2015; and (2) TransCanada violated South Dakota law with respect to the requirements of discovery, *see SRST Motion for Discovery Sanctions on file herein*, and consequently, additional time is required and warranted for the Tribe's preparation for the hearing in this matter.¹

The undersigned hereby certifies that the Tribe initiated consultation and engaged in a teleconference with counsel for TransCanada on February 24, 2015, and made a good faith effort to negotiate a stipulation regarding discovery and scheduling, and avoid the filing of this motion. The undersigned further certifies this motion is filed for the exclusive purpose of obtaining sufficient time to present evidence at the

¹ The Tribe's *Motion for Discovery Sanctions* may obviate the need to conduct the hearing in any event.

hearing and assist the Commission in reaching a just and proper result, and not for undue delay or any other improper purpose.

Accordingly, the Tribe seeks an order amending the Scheduling Order and continuing discovery, the pre-filing of testimony and exhibits, and the hearing in this matter, as set out above. Such an order will not prejudice TransCanada in any respect, and will result in a more just and equitable process, that will remain in compliance with the one-year time frame prescribed in SDCL §49-41B-24, to the extent that time frame may apply to this proceeding. In any event, an order providing relief from the April 2, 2015 deadline is requested by the Tribe for the submittal of expert testimony; otherwise the Tribe's economist lacks sufficient time to prepare testimony. It is requested that this motion be heard on an expedited basis, at the meeting of the Commission on March 31, 2014.

This Motion is based upon the Affidavit of Peter Capossela, SDCL §§49-41B-1 – 49-41B-38, and the pleadings and papers on file herein.

DATED this 27th day of March, 2015

By: *Peter Capossela*
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Attorneys for Standing Rock Sioux Tribe

AFFIDAVIT OF PETER CAPOSSELA

I, Peter Capossela, under penalty of perjury, hereby state and affirm:

1. That I am counsel of record for the Standing Rock Sioux Tribe in *In re: Application of TransCanada Keystone Pipeline, LP for a Permit to Construct the Keystone XL Project*, HP 14-001.

2. The *Order Setting Procedural Schedule* was entered in this matter on December 17, 2014. I immediately consulted with Chairman Dave Archambault II about retaining expert witness assistance. Under his direction, the Standing Rock Department of Environmental Regulation diligently pursued the procurement of an expert witness, including consulting with the Tribal Finance office and identifying funds in the middle of the fiscal year; requesting the Tribal Environmental Commission to re-allocate revenue; soliciting proposals and engaging in a competitive procurement process as fast as is permitted by Tribal law; obtaining a recommendation from the Tribal Council Economics Committee to the full Tribal Council to retain EcoNorthwest, Inc.; and obtaining a Tribal Council motion approving such contract, at the regular Tribal Council meeting on March 3, 2015.

3. EcoNorthwest is diligently conducting its work, but has indicated that additional time is imperative for the preparation of expert testimony for the hearing in this matter.

4. The Motion to Amend Order Setting Procedural Schedule is filed for the sole purpose of providing a reasonable amount of additional time for the Standing Rock Sioux Tribe to prepare testimony in this matter, and for no improper purpose or to cause undue delay.

Dated this 27th day of March, 2015

By: Peter Capossela
Peter Capossela

STATE OF VIRGINIA)
 :
COUNTY OF FAIRFAX)

SUBSCRIBED and SWORN to before me
this 27th day of March, 2015

Nicholas A. Mandrides
NOTARY PUBLIC

My Commission Expires 01-31-2016



Nicholas A. Mandrides
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #287909
My Commission Expires
January 31, 2016

Certificate of Service

The undersigned hereby certifies that, on this day, I served the afore Motion to Amend and Affidavit via electronic mail to –

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The undersigned further certifies that, on this day, I served the afore Application for Party Status via U.S. mail with adequate postage affixed to –

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Dated this 27th day of March, 2015

By: 
Peter Capossela