

**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 MOTION TO ) PRECLUDE CONSIDERATION OF ) ABORIGINAL TITLE OR ) USUFRUCTUARY RIGHTS )  HP14-001
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On September 15, 2014, TransCanada Keystone Pipeline, LP (TransCanada) filed with the South Dakota Public Utilities Commission (Commission) a Petition for Order Accepting certification 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 Chapter 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. On October 1, 2014, the Commission issued an Order Assessing Filing Fee. 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. 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 Order Amending Procedural Schedule, in which the Commission ordered that all substantive motions be filed by May 26, 2015, and be heard on June 11, 2015.

On May 26, 2015, the Commission received a Motion to Preclude Consideration of Aboriginal Title or Usufructuary Rights (Motion to Preclude Consideration). In its Motion, TransCanada sought an order precluding testimony concerning or consideration of alleged aboriginal title or usufructuary rights.

At its regularly scheduled meeting on June 11, 2015, the Commission considered the Motion to Preclude Consideration. The Commission heard arguments from the parties. Finding that the Commission does not have jurisdiction over aboriginal title or usufructuary rights, the Commission voted unanimously to grant the Motion to Preclude Consideration. It is therefore

ORDERED, that the Motion to Preclude Consideration of Aboriginal Title or Usufructuary Rights is granted.

Dated at Pierre, South Dakota, this 15<sup>th</sup> day of June, 2015.

<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:	_____
Date:	6/15/15 _____
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

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 CHRIS NELSON, Chairman

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 KRISTIE FIEGEN, Commissioner

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 GARY HANSON, Commissioner