

STATE OF SOUTH DAKOTA )  
 ) ss.  
COUNTY OF HUGHES )

IN THE CIRCUIT COURT  
SIXTH JUDICIAL CIRCUIT

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|-------------------------------------|--------------------------|
| IN THE MATTER OF PUBLIC UTILITIES ) | 32CIV16-000036           |
| COMMISSION DOCKET HP14-001, )       |                          |
| PETITION OF TRANSCANADA )           |                          |
| KEYSTONE PIPELINE, LP, FOR ORDER )  | <b>REQUEST FOR LEAVE</b> |
| ACCEPTING CERTIFICATION OF PERMIT ) | <b>FOR LATE FILING</b>   |
| ISSUED IN DOCKET HP09-001 TO )      |                          |
| CONSTRUCT THE KEYSTONE XL )         |                          |
| PIPELINE )                          |                          |

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TO: CLERK OF COURTS  
HUGHES COUNTY COURT

COMES NOW, the Intertribal Council On Utility Policy (COUP), by and through its attorney, Robert Gough, to Request Leave for Late Filing in the above-entitled action on the following grounds:

Intertribal COUP filed its Notice of Appeal in hard copy in person at the Hughes County Courthouse on February 19, 2015, paying the \$70 filing fee by check number 1277. By so doing, there was no record of our payment recorded in the Odyssey Electronic Filing System (“Odyssey”).

When the time came on February 29<sup>th</sup> to file the Statement of Issues on Appeal in the above referenced matter, the Odyssey system, which is itself dependent upon the SilverLight system designed by Microsoft, would not work properly on my MacBookPro computer due to inherent incompatibilities between Microsoft and Mac browsers, software and hardware.

After over 3 hours of trying to get the electronic systems to work, I called the Court Clerk and asked if there was an alternative means of electronically filing, who advised me that she would check into the matter. I also called the Odyssey contact number and, in consultation with Ms. Andrea Fleagle, I was able to sign into the Odyssey system. I was informed that there would be no additional payment required since Intertribal COUP had already paid the \$70 filing fee in this matter.

When I was ready to file on February 29<sup>th</sup>, the electronic pop-up notice kept appearing stating that “No Payment Account” had been set up, and was prohibited from completing the submission of my filing. I did what I could to load and submit my filings via the system, but was repeatedly prohibited from doing so. Alternatively, I sent out copies of my filings to the parties to whom I had previously served my Notice of Appeal on February 19<sup>th</sup> via email, however, I found no email for the Hughes County Court on the internet. I was not able to get the Odyssey system operating, with the establishment of a Payment Account until the morning of March 1st, after I received a follow-up call from Ms. Fleagle, who assisted me in working through the incompatibilities and in setting up the Payment Account.

Upon calling the Clerk of Courts immediately after my call with Ms. Fleagle shortly before 9 am to inform the Court of the situation, I was advised to file an explanation of the situation, and am hereby doing so by this Request for Leaver for Late Filing.

I hereby submit and certify that this Request for Leave for Late Filing was filed with the Clerk of Courts for Hughes County, Sixth Judicial District, on March 1, 2016 via the Odyssey system; and that service has been made upon all parties to the action as reflected in the attached certificate of service.

I respectfully request that this Request be granted by the Court on this 1st day of March 2016.



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Robert Gough  
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*Attorney for Intertribal COUP*

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 1st day of March, 2016, the foregoing Request for Leave for Late Filing was filed with the Office of the Clerk of Hughes County Circuit Court, via the Odyssey system and that a true and correct copy of the same was served upon the following via email or first class US Mail, postage prepaid:

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Robert Gough, *Attorney for Intertribal COUP*