

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

IN THE MATTER OF:	)	<b>Docket HP 14-001</b>
	)	
PETITION OF TRANSCANADA KEYSTONE	)	<b>INTERTRIBAL COUP'S</b>
PIPELINE, LP FOR ORDER ACCEPTING	)	<b>MOTION TO JOIN THE</b>
CERTIFICATION OF PERMIT ISSUED IN	)	<b>YANKTON SIOUX</b>
DOCKET HP09-0001 TO CONSTRUCT THE	)	<b>TRIBE'S MOTION TO</b>
KEYSTONE XL PIPELINE	)	<b>DISMISS</b>

COMES NOW the Intertribal Council On Utility Policy (“Intertribal COUP”), Party-Intervener in this matter, by and through its secretary and legal counsel, Robert P. Gough, to join the Yankton Sioux Tribe’s Motion to Dismiss the TransCanada Keystone Pipeline LP’s Petition for Certification of the Keystone XL Pipeline and to move the Public Utilities Commission of the State of South Dakota (the “Commission”) to dismiss TransCanada’s Petition for Certification on the following grounds:

1. On December 1, 2014, Intervener, Yankton Sioux Tribe filed a *Motion to Dismiss* TransCanada Keystone Pipeline LP’s Petition for Certification of the Keystone XL Pipeline pending before the South Dakota Public Utility Commission;
2. TransCanada filed and received the PUC’s permission to proceed to build it’s “2009 Project” subject to 115 explicit Findings and 50 specific conditions granted in 2010, based upon information provided and evaluated through their 2009 filing (HP009);
3. Apparently, between 2010 and 2014, TransCanada developed a series of project modifications requiring “updated” changes in 30 of the 115 original permit Findings submitted as an “Appendix C – Tracking Table of Changes” with their 2014 Permit Application (HP0014);

4. In its Motion to Dismiss, the Yankton Sioux Tribe adroitly points out that in 2014, after failing to take any significant steps towards construction in the intervening four years of its “2009 Project”, TransCanada has now requested a Certification of the Permit of its “2009 Project” in its application for the significantly modified under the guise of “updates” resulting in its new and improved “2014 Project”;

5. TransCanada, a blatantly entitled, non-“American” company, has exquisitely presented the South Dakota Public Utility Commission with the vexingly questionable dilemma of certifying George Washington’s Axe:

*“... as in the case of the owner of George Washington's axe which has three times had its handle replaced and twice had its head replaced!” ~ Ray Broadus Browne, *Objects of Special Devotion: Fetishism in Popular Culture*, p. 134.*

6. TransCanada’s earlier Motion sought to impermissibly limit discovery by arguing to restrict both the authority of the PUC and the rights the Interveners under South Dakota Law for a thorough examination of TransCanada’s the “new and improved” “2014 Project” via this Certification petition for the 2009 Project under the 2010 Permit, wishing only focus on the closed book of the 2010 Permit. Yet they desire an approval of the substantially different “2014 Project”, as modified by the 30 changes in Findings presented in their Appendix C through a certification process for a Project that has no current underlying permit granted to it. Unfortunately TransCanada, the American Presidential Axe cuts both ways!

7. Despite TransCanada’s claims to the contrary and its repeated attempts to strictly limit discovery to the circumstances of the 2009 Project and subsequent 2010 Permit, based on its currently filed application for a modified “2014 Project”, the Intertribal Council On Utility Policy deems it both legally and logically proper and necessary to join in the Yankton Sioux Tribe's Motion to Dismiss for “failure to state a claim upon which relief can be granted pursuant to SDCL 15-6-

12(b)(5)", since the PUC is being asked to Certify the "2010 Permit" for substantially different "2014 Project" which was NOT the subject of the 2010 Permit process.

Therefore, based upon the foregoing, the Intertribal Council On Utility Policy respectfully moves the South Dakota Public Utility Commission to enter an order permitting Intertribal COUP to join in the Motion to Dismiss previously filed by the Yankton Sioux Tribe and to urge the SD PUC the either, A) proceed with the Certification process for the "2009 Project" under the 2010 Permit without consideration of any of the changed Findings proposed in Appendix C, or B) Dismiss the application for the new and improved "2014 Project".

WHEREFORE, The Intertribal Council On Utility Policy prays that the Commission deny TransCanada's Motion requesting a proscriptive defining of South Dakota's broad and liberal discovery procedures.

Dated this 5th Day of January 2015.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. P. Gough', with a long horizontal flourish extending to the right.

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