BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

HP14-001 GARY DORR'S RESPONSE KEYSTONE'S AMENDED MOTION TO PRECLUDE CERTAIN INTER VENERS FROM OFFERING EVIDENCE OR WITNESSES AT HEARING AND TO COMPEL DISCOVERY

I am requesting that the Public Utilities Commissioners deny Keystone's motion to preclude me from offering evidence or witnesses at Hearing and to Compel Discovery.

In my letters to Keystone, I offered answers and supplemental answers to Keystone. I did identify some witnesses to Keystone prior to the deadline for witness and exhibit lists as set in the Order Amending Procedural Schedule (Witness and Exhibit Lists) HP14-001 dated April 2, 2015. That order gave a deadline of April 21, 2015 for filing and serving witness lists and exhibit lists. I am fully in compliance with that Order, as it is only now April 7, 2015. If I am in compliance with an order by the PUC, how can I be compelled to comply with this order by an additional request from Keystone? I notified Keystone that I have not yet completed this action and would do so by the PUC deadline. Additionally on April 6, 2015 I gave notice of two witnesses I would be calling and reserved my right to name more by the deadline. I am in a state of confusion as to how the PUC could set a deadline for witness lists after the final discovery deadline and then expect Interveners to comply with both Discovery and a published Order that are in conflict with each other. Ultimately I believe that the published Order should take precedence as everybody will be on the same timeline and nobody will be prejudiced. I believe that TransCanada should still have until April 21 to produce witness lists and exhibit lists. However I also disagree that I can comply with TransCanada's vague line of questioning when they are the ones that requested that the PUC enter an order that all parties shall identify by number and letter the specific Condition or Finding of Fact as addressed in their motion to define the scope of discovery dated 30 October 2014.

Additionally, in the Order Granting Motion to Define Issues and Setting Procedural Schedule Dated December 9, 2014, the PUC ordered "and that parties shall identify by number and letter the specific condition or finding of fact addressed." I think it is pretty obvious from Keystone's own motion and the PUC's own Order that Keystone did not comply when they requested discovery of me without identifying the number and specific condition or finding of fact being addressed. Additionally, Keystone went outside their own view of what should be questioned when they asked what other conditions I felt they could not meet. This opened the door to answering any finding or condition. This was in direct contrast to Keystone's own reply to support its motion to define the scope of discovery dated 4 Dec 2014 where Keystone said:

"(2) discovery must relate to what has changed since the permit was granted"

I regret not taking that opportunity to answer such a vague question which left the door wide open, but I felt that Keystone must comply with its own motion and since the PUC issued an Order, I felt it would have been improper on my part to partake in a line of questioning that was clearly not in compliance with the PUC Order dated Dec 9, 2014.

Conclusion

Based on the above evidence:

1. I request that this Amended Motion to Preclude Certain Interveners from offering evidence or witnesses at Hearing and motion to Compel be dismissed based on the fact that it would be in direct violation of the PUC's own order to compel me to answer questions that are in direct violation of the PUC's own order;
2. I request that this Amended Motion to Preclude Certain Interveners from offering evidence or witnesses at Hearing and motion to Compel be dismissed based on the fact that I am still in compliance with the order setting procedural schedule whereby I must present witness and evidentiary lists by April 21, 2015;
3. I request to be allowed to present evidence and witnesses at Hearing because of the fact that I am still on schedule despite a confusing order of operations present in this process.

Dated 7 April 2015

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