

route/project is improper. Questions 24-33 in Ms. Spotted Eagle's pre-filed direct testimony of April 2, 2015, are directed at aboriginal and usufructuary land rights. The testimony should be excluded.

The Commission routinely orders, pursuant to SDR 20:10:01:22.06, that testimony be prepared in written form and filed with the Commission in advance of the hearing. The Commission entered an order to that end in this proceeding in November of 2014 and has periodically amended the order since. As the Commission has observed, pre-filed testimony serves to expedite the hearing, give all parties notice of matters in consideration, shortens discovery, and allows preparation for trial and cross-examination.

On June 26, 2015, the Yankton Sioux Tribe filed unsigned statements by Ms. Spotted Eagle and by an unnamed member of the Yankton Sioux Business and Claims Committee¹ asserting that the witnesses "...can provide testimony. . ." on certain subjects. Neither statement contains a narrative of, or even an outline of the proposed testimony. The Yankton Sioux Tribe has not been excused from complying with the Commission's directive that rebuttal testimony be presented in writing and in a form that allows other parties to understand what the witness will say and offer as proof. The Tribe is perfectly able to reduce witness testimony to a narrative and timely submit it to the Commission and the parties for evaluation and study...it did so in Ms. Spotted Eagle's initial testimony. The June 26 submission does not afford the parties reasonable notice of the contents of Ms. Spotted Eagle and Mr. Cooke's planned testimony and is entirely improper in form and content. On those grounds, the rebuttal testimony should not be allowed.

For the forgoing reasons, Applicant respectfully requests the Commission enter its order striking questions 24-33 of Ms. Spotted Eagle's direct testimony, striking the proposed rebuttal

¹ The Yankton Sioux witness list, filed July 7, identified James Cooke as a member of the Tribe's Business and Claims Committee, who presumably is the unnamed witness in the June 26 filings. {01982815.1}

testimony of both Ms. Spotted Eagle and Mr. Cooke, and directly neither be permitted to testify in rebuttal.

Dated this 10th day of July, 2015.

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CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of July, 2015, I sent by United States first-class mail, postage prepaid, or e-mail transmission, a true and correct copy of Keystone's Motion in Limine to Restrict Testimony of Yankton Sioux Witnesses Spotted Eagle and Unnamed Member of the B&C Committee, to the following:

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