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To all parties in the Docket HP14-001:

I am writing this to explain to intervenors in the case about filing and serving discovery documents in a PUC case. We've had a few parties file their interrogatories and other discovery requests in the docket file and also in some cases sending them to the Commissioners. Although at some point parties may file discovery requests and responses as exhibits to a motion or pre-filed testimony or offer them into evidence at hearing, discovery documents are not to be filed with the Commission during the discovery process. With respect to discovery, filing, and other procedural rules, the Commission follows the Rules of Civil Procedure set forth in SDCL Chapter 15-6. ARSD 20:10:01:22.01 provides: "The taking and use of discovery shall be in the same manner as in the circuit courts of this state." SDCL 15-6-5(g) provides: "No depositions (except notices to take depositions), interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall be filed with the clerk of the court." In the case of the Commission, the clerk of the court is the PUC's docket filing system. Discovery requests should only be served on the person to whom the requests are directed.


Also, documents in the case should only be served on the persons on the service list at the addresses set forth in the service list. The service list is located near the top of the docket page for Docket HP14-001 located at:

<http://www.puc.sd.gov/Dockets/HydrocarbonPipeline/2014/hp14-001.aspx>

I also want to explain the relationship between the Commission and the Commission's Staff. This case is a case before the Commission. The Commission is not a party to the docket. It is the adjudicatory agency before whom this docket will be heard. The Commission's Staff is the party to the docket and operates independently of the Commission, which acts as the judge in the case. The Commission takes no part in the preparation of Staff's case and has no knowledge of what Staff's information is, what Staff's positions are going to be in the docket, what actions (such as motions) Staff will take, or what Staff will present in its pre-filed testimony or offer into evidence at hearing until it is filed in the docket or presented at hearing.

Therefore, while discovery may be served upon Commission Staff, discovery may not be sought from the Commission, because the Commission is not a party. SDCL 15-6-33(a) and 15-6-34(a) provide that interrogatories and requests for production may be served upon parties.

Thank you.


John J. Smith
Commission Counsel