

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

IN THE MATTER OF TRANSCANADA
KEYSTONE PIPELINE, LP
FOR ORDER ACCEPTING CERTIFICATION
OF PERMIT ISSUED IN DOCKET HP09-001
TO CONSTRUCT THE KEYSTONE XL
PIPELINE

ROSEBUD SIOUX TRIBE'S
STATEMENT IN SUPPORT
OF DAKOTA RURAL ACTION
AND ICOUP'S STATEMENTS
AND OBJECTIONS WITH
RESPECT TO SUBMISSION OF
WRITTEN TESTIMONY AND
RST OBJECTION TO REQUIRING
PREFILED TESTIMONY

HP14-001

Comes now, the Rosebud Sioux Tribe, by and through counsel, Matthew L. Rappold, and issues its statement in support of Dakota Rural Action (DRA) and Intertribal COUP's Statement and Objections with Respect to Submission of Written Testimony.

Dakota Rural Action and the Intertribal COUP filed their Statement and Objections with Respect to Submission of Written Testimony with the Public Utilities Commission on April 2, 2015. Both DRA and ICOUP objected to the PUC requirement for filing of pre-filed written testimony on the grounds that such requirement is not consistent with enumerated sections of South Dakota Codified law and is in excess of the PUC's statutory authority to promulgate rules regarding proceedings before the commission.

The Rosebud Sioux Tribe, through counsel, submits its statement that the Rosebud Sioux Tribe supports and joins in the objections made by DRA and ICOUP regarding PUC's Administrative Rule 20:10:01:22.06 as being a rule that is in excess of its statutory authority of SDCL 49-1-11 which provides that "the Public Utilities Commission may promulgate rules pursuant to SDCL 1-26 concerning.....(4) regulation of proceedings before the commission, including forms, notices, applications, pleadings, orders to show cause and the service thereof,

all of which shall conform to those used in South Dakota courts;... .” ARSD 20:10:01:01.2 requires the Commission to “use the rules of civil procedure as used in the circuit courts of the state in its proceedings.” Accordingly, SDCL 15-6 applies in its entirety to this proceeding. There is no rule of civil procedure that provides any basis to require any party to pre-file written testimony prior to any hearing. To the contrary, SDCL 15-6-43(a) provides that “in all trials the testimony of witnesses shall be taken orally in open court, unless otherwise provided by this chapter or by the South Dakota Rules of Evidence.” Not only is Administrative Rule 20:10:01:22.06 in excess of the PUC’s statutory authority it is also contrary to the spirit and intent of the South Dakota Rules of Civil Procedure.

The Rosebud Sioux Tribe hereby objects to the requirement to pre-file written testimony with the Public Utilities Commission. On this basis, to the extent that the Public Utilities Commission requires any party to submit written testimony prior to the hearing, the Public Utilities Commission has exceeded its statutory authority.

Dated this 6th day of April, 2015.

RESPECTFULLY SUBMITTED:

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