

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

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

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**STAFF’S RESPONSE TO  
APPLICANT’S MOTION TO STRIKE  
TESTIMONY AND EXHIBITS OF  
CINDY MYERS**

**HP14-001**

By filing this response, Staff in no way intends to become involved in the underlying issue of whether the exhibits should be admitted or stricken. However, because of the frequency with which individuals appear pro se before the Commission on various dockets, it is important to note the controlling law on that issue in order to protect Staff’s rights as a represented party.

With respect to the question of whether the same standard concerning presentation of evidence should apply to individuals who are representing themselves as to those represented by legal counsel, the South Dakota Supreme Court has set clear direction on this issue. The Court has stated that “to grant such indulgence would be to work injustice in the name of justice for it would allow those who freely elect to act as their own counsel liberties not accorded to those who seek out members of the bar to represent them.” *Oesterling v. Oesterling*, 354 NW2d 735, 736 (SD 1984) (internal citations omitted).

The Court went on to state that “parties who appear pro se may not capitalize on their unfamiliarity with the law; they are bound by the same rules of evidence and procedure that bind attorneys and a trial judge is not required to act as counsel for a litigant.”

Therefore, the same rules of evidence must apply to all parties. However, Staff takes no position at this time as to what those rules are and how they apply to the testimony and exhibits

at issue. Staff greatly appreciates the work Ms. Myers put into this hearing and the timeliness with which she makes her filings.

Dated this 16th day of October, 2015.



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