

In The Matter Of:

*In the Matter of the Petition of Transcanada Keystone
Pipeline for Order Accepting Certification of Permit*

*Telephone Conference
November 13, 2014*

Pat Beck, Court Reporter

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Min-U-Script® with Word Index

1 BEFORE THE PUBLIC UTILITIES COMMISSION
2 OF THE STATE OF SOUTH DAKOTA
3 * * * * *

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

6
7 November 13, 2014
7 10:00 a.m.

8 * * * * *

9 T E L E P H O N E C O N F E R E N C E

10 * * * * *

11 APPEARANCES:

- 12 John Smith, PUC Staff
- 12 Karen Cremer, PUC Staff
- 13 Brian Rounds, PUC Staff
- 13 Leah Moore, PUC Staff
- 14 William Taylor, TransCanada Keystone Pipeline
- 14 James Moore, TransCanada Keystone Pipeline
- 15 Eric Antoine, Rosebud Sioux Tribe
- 15 Tony Rogers, Rosebud Sioux Tribe Utility Commission
- 16 Ronald Neiss, Rosebud Sioux Tribe Utility Commission
- 16 Daniel Gargan, Rosebud Sioux Tribe Utility
17 Commission
- 17 Mary Wynne, Rosebud Sioux Tribe Utility Commission
- 18 Thomasina Real Bird, Yankton Sioux Tribe
- 18 Peter Capossela, Standing Rock Sioux Tribe
- 19 Doug Crow Ghost, Standing Rock Sioux Tribe
- 19 Sabrina King, Dakota Rural Action
- 20 Bruce Ellison, Dakota Rural Action
- 20 Robert Martinez, Dakota Rural Action
- 21 Paul Blackburn, Dakota Rural Action
- 21 Tom Goldtooth, Indigenous Environmental Network
- 22 Kimberly Craven, Indigenous Environmental Network
- 22 Dallas Goldtooth, Indigenous Environmental Network
- 23 Tracey Zephier, Cheyenne River Sioux Tribe
- 23 Polly Annis, Cheyenne River Sioux Tribe
- 24 John Harter
- 24 Viola Waln
- 25 Byron Steskal

Cindy Myers

Pat L. Beck, Court Reporter
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1 APPEARANCES: (Continued)

2 Carolyn Smith

Robert Allpress

3 Nancy Hilding

Gary Dorr

4 Wrexie Lainson Bardaglio

Amy Schaffer

5 Gena Parkhurst

Ronald Fees

6 Bob Doss

Bonny Kilmurry

7 Terry Frisch

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1 MR. SMITH: This is John Smith. I'm the
2 Commission counsel, and as that I am the person who
3 arranged for this call. And, again, with this many
4 people on it's going to be tricky, so I would -- we
5 sent everybody some instructions here, and what we
6 would like is during the time when you're not
7 actually speaking to mute your phone, and you mute
8 it by pressing star six, and you turn it back on to
9 unmute using number sign six.

10 Okay. So I think what we'll start out
11 with is a roll call here, and if you have people
12 there. I mean, we'll start with Applicant. Do you
13 want to make your appearance here?

14 MR. TAYLOR: William Taylor for TransCanada.
15 James Moore, are you on the line?

16 MR. MOORE: Yes, I am.

17 MR. TAYLOR: James Moore also appears for
18 TransCanada. And we have a court reporter with us.

19 MR. SMITH: Okay. I'll note that to everybody.
20 We have Pat Beck -- is Pat in the room?

21 MR. MOORE: Yes.

22 MR. SMITH: And she's our court reporter for
23 this, and so I would urge everyone when you are
24 going to get on the line and say anything, please
25 identify yourself so that Ms. Beck knows who's

1 speaking, and that way our record will accurately
2 reflect who wanted and said what, if you would,
3 please.

4 Okay. Next we'll take staff. Would you
5 make your appearance, please?

6 MS. CREMER: Karen Cremer and Brian Rounds with
7 staff.

8 MR. SMITH: And Leah Moore is here, too, whom
9 you've heard speaking. She's our scheduling person.
10 And with that, why don't we go down the line of
11 party status people. And I think I've got a list
12 here in the order. And some of these, you know,
13 there's going to be multiple, probably, people on,
14 it could be, from some of these entities, tribes,
15 et cetera.

16 First, John Harter, are you on? John said
17 he had some issues because of the cold with his
18 livestock situation so he may not be able to be on.

19 Rosebud Sioux Tribe, Tribal Utility
20 Commission.

21 MR. ROGERS: Yes, we're here. This is Tony
22 Rogers. I'm the Director of the Rosebud Sioux Tribe
23 Utilities Commission. I also have -- with me is
24 Ronald L. Neiss, who is the President of the
25 Commission, and then also Commissioner Daniel T.

1 Gargan.

2 MR. SMITH: Thank you. Next is Elizabeth Lone
3 Eagle. Elizabeth Lone Eagle, are you on? Not
4 hearing anything.

5 Paul Seamans? Paul? Again, to make your
6 phone to get onto the phone call you press number
7 six. To unmute, number sign 6.

8 Okay. Paul Seamans, are you on?

9 Viola Waln or Waln?

10 MS. WALN: Good morning. This is Viola Waln.

11 MR. SMITH: Thank you. Cindy Myers?

12 Registered Nurse Myers?

13 MS. MYERS: This is Cindy. I'm here.

14 MR. SMITH: Okay, Cindy. Thank you. Bold
15 Nebraska.

16 MR. BLACKBURN: Mr. Smith, this is Paul
17 Blackburn. I am on the call today for Bold
18 Nebraska. I represented Dakota Rural Action in the
19 original SDPUC proceeding, and I'm sure you remember
20 me.

21 MR. SMITH: I do.

22 MR. BLACKBURN: I have not -- I've not entered
23 an appearance yet because it's not clear to me
24 whether, for practical purposes, I will be able to
25 represent in the long-term here, but I agreed to be

1 on today, and I appreciate the Commission's
2 indulgence to let me listen in and participate on
3 their behalf at least for this preliminary
4 conference.

5 MR. SMITH: Yeah. Thank you. And that's fine,
6 Paul. Good to talk to you again.

7 Okay. We'll move on here to Diana
8 Steskal. And as I understand it she's not going to
9 be on, if I remember right. And, Diana Steskal, are
10 you on? I don't think so.

11 Cheryl Frisch? Terry Frisch? Cheryl
12 Frisch or Terry Fisch -- Frisch. I'm not hearing
13 anybody.

14 Standing Rock Sioux Indian Tribe.

15 MR. CAPOSSELA: Good morning. This is Peter
16 Capossela, attorney for the tribe. Doug Crow Ghost,
17 the Water Resources Director for the tribe is also
18 on the line, and there may -- I don't know if
19 anybody else from the tribe is participating. But
20 good morning. Thank you.

21 MR. SMITH: Thank you. Okay. Byron Steskal.

22 MR. B. STESKAL: This is Byron Steskal. Can
23 you hear me?

24 MR. SMITH: I can. Thank you.

25 MR. B. STESKAL: Okay. Thank you.

1 MR. SMITH: Yup. Okay. Arthur Tanderup.
2 Arthur Tanderup? Not hearing anything. Lewis
3 GrassRope. Lewis GrassRope? Carolyn P. Smith?
4 Robert Allpress?

5 MR. ALLPRESS: Here. Present.

6 MR. SMITH: Okay. Thank you. Jeff Jensen.
7 Jeff Jensen? Amy Schaffer?

8 MS. SCHAFFER: Yes. Good morning. Amy is on.

9 MR. SMITH: Thank you, Amy.

10 MS. SCHAFFER: Pardon me?

11 MR. SMITH: I said thank you.

12 MS. SMITH: Hello. This is Carolyn Smith. I'm
13 on.

14 MR. SMITH: Okay. Thanks.

15 MS. SMITH: Thank you.

16 MR. SMITH: Louis Genung? Louis Genung? Nancy
17 Hilding. I understand you're on?

18 MS. HILDING: I'm on. Did you hear me?

19 MR. SMITH: Yeah, thank you. Gary Dorr? Gary
20 Dorr? Okay. Bruce, and I hope I can pronounce your
21 last name correctly here, I think it was Boettcher.

22 MS. SCHAFFER: He's not able to make it today.
23 This is Amy.

24 MR. SMITH: Okay. Okay. Thank you, Amy.
25 Rosebud Sioux Tribe. We've already -- let me see.

1 MR. ANTOINE: Good morning. This is Eric
2 Antoine for the Rosebud Sioux Tribe.

3 MR. SMITH: Okay. Thank you. Wrexie Lainson
4 Bardaglio.

5 MS. BARDAGLIO: Good morning. This is Wrexie.

6 MR. SMITH: Thank you. South Dakota Wildlife
7 Federation? South Dakota Wildlife Federation?
8 Cheyenne River Sioux Tribe.

9 MS. ZEPHIER: Good morning. This is Tracey
10 Zephier. Can you hear me?

11 MR. SMITH: Yes. Thank you.

12 MS. ZEPHIER: Okay. I'm calling on behalf of
13 the Cheyenne River Sioux Tribe.

14 MR. SMITH: Thank you.

15 UNIDENTIFIED FEMALE: -- also representing
16 Cheyenne River Sioux Tribe.

17 COURT REPORTER: What was that name?

18 MR. MOORE: Sorry. We didn't get the name.

19 MS. ANNIS: Polly Annis.

20 MR. SMITH: Okay. Thank you. Jerry Jones?
21 Jerry Jones? How about Cody Jones? Cody Jones?
22 Debbie Trapp? Debbie Trapp? Not hearing. Gena
23 Parkhurst.

24 MS. PARKHURST: I'm here.

25 MR. SMITH: Okay. Thank you. Sierra Club.

1 Sierra Club? I don't think they were going to be
2 able to be on. Joye Braun? Joye Braun? 350.org?
3 Anybody from 350.org? Not hearing anything.
4 Yankton Sioux Tribe?

5 MS. REAL BIRD: Good morning. This is
6 Thomasina Real Bird for the Yankton Sioux Tribe.

7 MR. SMITH: Thank you. Dakota Rural Action?

8 MR. ELLISON: Yes. Good morning, Mr. Chairman.
9 Bruce Ellison on behalf of Dakota Rural Action. I
10 would also like to introduce and to orally move for
11 the Pro Hac Vice admission of Robin Martinez. We
12 have submitted a motion for Pro Hac Vice to Judge
13 Brown in Fort Pierre, and we expect that order to be
14 granted today, possibly, or tomorrow, but I would
15 request that Mr. Martinez be able to participate.

16 MR. SMITH: Yeah, he may. Yes. That will be
17 fine.

18 MR. MARTINEZ: Good morning. This is Robin
19 Martinez.

20 MR. SMITH: How are you doing, Robin?

21 MR. MARTINEZ: Doing well. I think it's warmer
22 in Kansas City where I am than it is in South
23 Dakota.

24 MR. SMITH: It better be. I'll tell you.
25 Okay. Chastity Jewett? Chastity Jewett? Okay. I

1 think we've already had somebody from Indigenous
2 Environmental Network.

3 MR. GOLDTOOTH: Yeah. This is Tom Goldtooth
4 and also we have Kimberly Craven and Dallas
5 Goldtooth on the call.

6 MR. SMITH: Thank you. We've got Dallas.
7 Okay. And is RoxAnn Boettcher on?

8 MS. SCHAFFER: No, she is not. This is Amy.
9 She wasn't able to make it today.

10 MR. SMITH: Okay. Thanks, Amy. Bonny
11 Kilmurry.

12 MS. KILMURRY: This is Bonny.

13 MR. SMITH: Okay. Hi, Bonny.

14 MS. KILMURRY: Good morning.

15 MR. SMITH: Good morning. Ronald Fees? Okay.
16 And Intertribal Council on Utility Policy?

17 MR. DOSS: Good morning. Bob Doss, Secretary
18 of Intertribal Council.

19 MR. SMITH: Thanks. Okay. Okay. I think what
20 we'll do now is I'm going to ask if any people
21 during this -- our roll call here has come on the
22 line that we went past.

23 MR. HARTER: John Harter. I'm on.

24 MR. SMITH: Hi, John. Anybody else?

25 MR. DORR: This is Gary Dorr.

1 MR. SMITH: Hi, Gary. Let me see. You're down
2 here.

3 MS. KING: Again, this is Sabrina King with
4 Dakota Rural Action. I want to let other folks know
5 that I'm on the phone but I will just be listening.

6 MR. SMITH: Okay. Anybody else?

7 MR. FRISCH: This is Terry Frisch from
8 Atkinson, Nebraska.

9 MR. SMITH: Okay. Hi, Terry. Anybody else
10 who's got on since the roll call began? Okay.
11 Hello? Can you hear me?

12 MR. TAYLOR: We're all still here, John.

13 MR. SMITH: Okay, great. Okay. Everybody's
14 still there. With the phone system it's a little
15 tough. Let's move on. Nobody else has got on,
16 right, whose name I didn't call on the roll call?

17 Okay. Hearing none, I think what we'll do
18 then is move onto the substance here. And, again,
19 the purpose of this is not to decide anything with
20 respect to the substance of the case. That's for
21 the Commission. We're just trying to see if we can
22 reach some kind of agreement or at least a
23 reasonable consensus on what kind of a schedule we'd
24 like to see. And as is usually the case we will
25 turn to the, who is effectively, in one of our

1 cases, the plaintiff in the case, and that's the
2 Applicant, and get your views on schedule,
3 Applicant. And then we'll hear from staff about
4 what they think about it, and then we'll move on to
5 everybody else. Okay. Mr. Taylor. Would you like
6 to take off on behalf of the Applicant?

7 MR. TAYLOR: Thank you, Mr. Smith. William
8 Taylor for the Applicant TransCanada Keystone KXL
9 Project. One preliminary point, Mr. Smith, you may
10 like to explain that under South Dakota law groups
11 must be represented by lawyers.

12 MR. SMITH: Yup.

13 MR. TAYLOR: For purposes of this informal
14 discussion TransCanada will not object to the fact
15 that some of the groups appearing today are not
16 represented by lawyers, but by not making an
17 objection we do not waive that in the future.

18 MR. SMITH: Right. And, again, we're just
19 talking schedule here, so we're not talking legal
20 issues, Bill, so I'm thinking even though a couple
21 of them, although like Paul Blackburn, he is a
22 lawyer, he just hasn't got his Pro Hac in yet, I
23 guess, but he's a lawyer. And I guess there are a
24 couple others that may not be, but I think for this
25 purpose it's fine to proceed.

1 MR. TAYLOR: I agree. Just so that everybody
2 understands we're not waiving that point in the
3 future.

4 By way of schedule I would inform others
5 on the call that we had had some tentative
6 discussions regarding scheduling with Mr. Smith, and
7 with the PUC's attorney. And we have agreed with
8 Mr. Smith and the PUC's attorney, the staff
9 attorney, that a schedule that looks something like
10 this would be acceptable.

11 Discovery requests, proposed by parties,
12 would be filed with the PUC on or before December 5.
13 January 7 would be the response date for discovery
14 requests. So those discovery requests propounded on
15 December 5th must be answered by December 7th. On
16 January 21st --

17 MR. SMITH: December 7th?

18 MR. TAYLOR: I'm sorry, January 7. On
19 January 21st there's a Commission meeting scheduled.
20 There would be put on the agenda an omnibus hearing
21 for dealing with discovery requests. If there are
22 objections made to discovery requests or motions to
23 compel, those would be dealt with in the hearing on
24 January 21st.

25 On February 19th prefiled testimony would

1 be due by all parties. On March 12, rebuttal
2 testimony would be due by all parties. Hearing
3 would commence before the PUC in Pierre on
4 March 23rd, and can continue so long as it takes to
5 hear the application. Have I got those dates right,
6 Mr. Smith? I think I do.

7 MR. SMITH: The week of the 23rd, what we've
8 actually scheduled, because Monday is usually kind
9 of a tough day to start, Bill.

10 MR. TAYLOR: True enough.

11 MR. SMITH: We were thinking March 24th, and
12 that enables people not to have to blow their Sunday
13 traveling, et cetera.

14 MR. TAYLOR: True enough. I should have said
15 that.

16 MR. SMITH: Okay. That's a tentative -- some
17 tentative thoughts on that. One clarification. On
18 the discovery you've got -- you said filed. Now,
19 generally speaking, except for staff discovery in
20 certain cases, discovery is not routinely filed with
21 us. That's usually a matter between the parties,
22 and it only comes here if there's a motion to
23 compel, or another process, or at the point of
24 taking discovery answers as the plaintiff of
25 introducing prefiled testimony, or whatever, into

1 the record. Does that jive with your thinking,
2 Karen?

3 MR. TAYLOR: I should have said served.

4 MR. SMITH: Okay.

5 MR. TAYLOR: December 5 would be the deadline
6 for service of discovery.

7 MR. SMITH: Okay. Again, if parties want to
8 seek admission later of discovery responses, that's
9 the prerogative of the parties.

10 MR. CAPOSSELA: This is Peter Capossela with
11 Standing Rock.

12 MR. SMITH: Uh-huh.

13 MR. CAPOSSELA: I would just submit that that
14 is ambitious in light of the complexity of the issue
15 on whether there are any changes in the conditions,
16 especially at the front end with the filing and
17 discovery by December 5th. And so I would request
18 that that be reconsidered and set back a little bit
19 to give the intervenors an opportunity to review the
20 file and develop a discovery plan.

21 I don't say that for the purpose of
22 dragging it out unnecessarily, but that does seem
23 ambition at the front end, especially with respect
24 to the discovery.

25 MR. SMITH: Okay.

1 MS. HILDING: This is Nancy Hilding, a private
2 intervenor. Is it okay for me to just -- I mean, I
3 don't know the procedure right now. Can we just all
4 jump in or do we have to wait until we're called on,
5 or what is the procedure for talking to you right
6 now?

7 MR. SMITH: I think it's just jumping in.
8 That's really the only feasible way we can do it.

9 MS. HILDING: Well, I'm sorry, I'm not a
10 lawyer, and I don't know if this is set out in the
11 rules of practice in your administrative rules, but
12 have you discussed how service is going to be done?
13 Are we having to snail mail everything to all 49
14 people in envelopes with little stamps licked on
15 them, or are we sending things by e-mail over the
16 Internet? And have you figured out how service is
17 happening and what constitutes valid service and how
18 we're sending stuff to each other, and, you know, if
19 people are filing huge, gigantic documents that
20 cannot be sent by e-mail because they exceed the
21 capacity of what can be sent by e-mail. So have you
22 discussed how -- how service is happening and how
23 filing is happening with 49 parties, or 50, or
24 however many there are?

25 MR. SMITH: Well, there's 49 -- or 43 parties,

1 but there are -- well, plus staff and applicants, so
2 45 totally. But a number of the parties have
3 multiple people to be served, especially the tribal
4 entities. And here's the deal: A number of years
5 ago the Commission here went to electronic filing
6 and service, et cetera, and that -- that is the
7 norm.

8 Now, in this case we do have, my
9 recollection is four individuals for whom -- who
10 cannot be served electronically. There's four
11 people on the list who need to be served by mail.
12 And other than that all of the other people have --
13 we have electronic -- we have e-mail addresses for
14 them. And so as far as I'm concerned, unless people
15 object, we're assuming that we would deal with it
16 like we do all of our other proceedings and do all
17 of that kind of service of -- discovery service of
18 other documents and filing with the Commission by
19 e-mail. And, again --

20 MS. HILDING: Well, this is Nancy again.
21 You've just clarified that four people don't have
22 e-mails. So everything that we send to you by
23 e-mail we also have to put -- print out four of them
24 and snail mail them on the same day with date of
25 certificate of service that I sent this by Post

1 Office to those four people?

2 MR. SMITH: I think theoretically probably,
3 yes. Again, I mean it's possible that -- this is
4 Nancy, right?

5 MS. HILDING: Yeah. They're talking about when
6 we have to file stuff by. So if I'm having to snail
7 mail 49 things in an envelope, that takes longer
8 than hitting a button and e-mailing everyone.

9 MR. SMITH: Yeah. And in terms of filing with
10 the Commission, of course we do that via e-mail.

11 MS. HILDING: All right.

12 MR. SMITH: That is done via e-mail. I will
13 tell you with very voluminous documents you will
14 have to work with our person, Tina Douglas, who
15 handles that, if they're very voluminous, because
16 then we have to use special techniques for getting
17 those here electronically -- I can't remember what
18 you call that -- on a FTP server. They'll have to
19 be done via FTP server. And sometimes they've got
20 to be broken down into chunks if you've got --

21 MR. ROGERS: John?

22 MR. SMITH: Uh-huh.

23 MR. ROGERS: John, this is -- this is Tony
24 Rogers from the Tribal Utilities Commission. We
25 have our counsel listening in as well, Mary Wynne,

1 and she has concerns concerning the scheduling, that
2 it might just be too soon because of her and the
3 Commissions in Rosebud here, we do have hearings
4 that are coming up in the Rosebud Sioux Tribal
5 Court. And so just having this schedule here, we
6 just want you to know that it would probably be
7 conflicting with what we've got coming up, but we'd
8 honor it, but we just want to point out our concerns
9 that we consider it too early.

10 MR. ELLISON: Mr. Chairman? Bruce Ellison of
11 Dakota Rural Action. I guess I would like to join
12 in that. And I guess I need clarification, too, if
13 our initial discovery requests are due on
14 December 5th, and a response by TransCanada or other
15 parties is due on January 7th, that's when we're
16 going to get the bulk of materials. We may want to
17 do subsequent filing request for documents based
18 upon what we receive in discovery, and as currently
19 proposed, there's less than two weeks to review all
20 of the discovery to consult with experts and to
21 draft issues related to the discovery to be then
22 heard on the 21st of January.

23 We're expecting there's going to be a
24 tremendous volume of materials that we are going to
25 request. It is completely unrealistic that in less

1 than two weeks we're going to have to have gone
2 through them in detail, let alone that we be
3 prepared to file, in our view, motions as to any
4 inadequacies, failures to disclose.

5 So what I would like to propose is that we
6 have initial discovery requests served on
7 January 5th. That we have initial responses by KXL
8 or others by January 7th, that we get at least a
9 month to review these materials to file any
10 additional discovery requests, because unless we get
11 a response to our additional discovery requests we'd
12 be holding a hearing on discovery and then have to
13 come back and hold another hearing on discovery
14 after the subsequent requests.

15 So if we simply have more time to review
16 and to get this done in a reasonable and responsible
17 manner, we need a lot more time than this. So we're
18 not going to be talking about five or ten documents.
19 We're probably going to be talking about, I would
20 submit, thousands of pages of documents. And if
21 we're going to do this hearing in a responsible
22 manner, it seems to me that -- you know, KXL has had
23 all these documents for years. The PUC has reviewed
24 some of these documents. We understand that KXL is
25 trying to limit the scope of discovery, and that's

1 not the subject of this hearing.

2 But we need to know, really, a lot of the
3 things -- there are a lot of things that need to
4 come before I think that we would be in a position
5 to have a formal hearing to deal responsibly with
6 the discovery issues that would still be
7 outstanding, and I just can't see less than two
8 weeks after the initial response by KXL to be
9 anywhere close.

10 MR. SMITH: Okay.

11 MR. MARTINEZ: This is Robin Martinez. I would
12 second what -- what Bruce has said. When I look at
13 the scope of what we are getting into, I mean, we're
14 looking at all of the different conditions that were
15 placed upon Keystone XL from the 2010 order. You
16 know, realistically, you know, comparing this to
17 other civil types of -- civil disputes, you know,
18 you're looking at least, you know, six- to
19 nine-month period just for discovery. So the
20 schedule that you've got laid out is just, I think,
21 is unrealistically aggressive, and I just don't
22 think it's workable.

23 MS. HILDING: This is Nancy Hilding. Am I
24 still blinked in where you can hear me?

25 MR. SMITH: Yes.

1 MS. HILDING: This is the question of a private
2 intervenor. Is Keystone, or anybody else, and I
3 don't ask this to make a firm commitment, are they
4 going to do discovery against the 42 or 49
5 intervenors where we have to send stuff in?

6 MR. TAYLOR: William Taylor speaking for
7 Keystone. That is probable.

8 MS. HILDING: That is probable? So are you
9 going to ask us like what our interest is? I mean,
10 are we going -- do you have any idea what the burden
11 to us is of getting together documents to send to
12 you?

13 MR. TAYLOR: Is that a question?

14 MS. HILDING: I have a question. I mean, if
15 it's just you submitting stuff, but if it's me
16 having to gather things together I would like to
17 know, yeah. So I might have to gather things
18 together to respond to your discovery?

19 MR. TAYLOR: I don't think that private
20 intervenors will have to gather very much together.

21 MS. HILDING: But we would have to gather some
22 things? Like interrogatories? Do we have to
23 respond to interrogatories as part of discovery?

24 MR. TAYLOR: I think that our initial discovery
25 will be aimed at your contentions.

1 MS. HILDING: So that's like the
2 interrogatories?

3 MR. TAYLOR: Yes.

4 MS. HILDING: So you would be, as part of
5 discovery you would be sending us interrogatories
6 and we have to answer them, perhaps? You don't have
7 to make a commitment.

8 MR. SMITH: That's true.

9 MR. TAYLOR: If that's a question the answer is
10 yes.

11 MR. SMITH: Something, and I can't remember who
12 it was now, I think it might have been Bruce Ellison
13 who suggested January 5th as the initial discovery
14 response date. But then you said, Bruce,
15 January 7th for -- and that doesn't seem realistic
16 to me. That's only two days.

17 MR. ELLISON: No. I'm sorry. Perhaps I
18 misspoke, sir. I was understanding that the KXL was
19 proposing December 5th as the initial discovery
20 requests need to have been made by, and that it was
21 proposed that by January 7th would be the responsive
22 date to those discovery requests. So it's
23 December 5th and January 7th. That may not be
24 enough time. I'm not opposed to a longer period of
25 time to a response. I don't know how long it would

1 take the company to get things together to provide
2 discovery, but I'm happy to entertain a later date
3 for a response.

4 My -- my concern was that a January 7th
5 response date for the initial service of discovery
6 would leave too little time for review of those
7 documents in preparation of any appropriate motion
8 regarding discovery by January 21st.

9 So I'm suggesting those dates get pushed
10 significantly back, as Ms. Martinez pointed out,
11 that this process usually takes a long time.

12 And if I might, just for a moment, we look
13 at discovery, as I'm sure the PUC does, as like a
14 very important part of these proceedings. Although
15 it's a different company and a different energy
16 company and a different type of process, we just had
17 NRC proceedings pushed back in front of the uranium
18 mining issues for probably six months after we had
19 our final hearing because it came up around the time
20 of the hearing that the company had forgotten to
21 give us a bulk of materials that they had and were
22 providing to.

23 I would like to see a somewhat -- a
24 consistent of a serious discovery process, and we're
25 talking about timing now. So I'd just please ask

1 that, on behalf of Dakota Rural Action, that we have
2 sufficient time to look at whatever we get in
3 response to ask for additional questions. I can't
4 imagine that any lawyer on this call has not had a
5 discovery situation that once they get initial
6 response to that discovery by the other parties that
7 they haven't had other questions that they wanted to
8 ask. And so we have to allow for some of that in
9 this process as well as to allow us the time to
10 really be able to go through many, many thousands of
11 pages of documents.

12 MR. BLACKBURN: This is Paul Blackburn
13 speaking.

14 MR. SMITH: Pardon me?

15 MR. BLACKBURN: This is Paul Blackburn speaking
16 on behalf of Bold Nebraska. I wanted to point out
17 that the amount of time required to submit discovery
18 is about three weeks, and that's over the
19 Thanksgiving holidays. And, in comparison,
20 TransCanada is given approximately seven weeks, six
21 weeks, I believe, to seven weeks to respond to the
22 discovery. And given the complexities on these
23 issues and the scope, even for what TransCanada is
24 proposing for discovery, three weeks to formulate
25 discovery requests, especially if expert witnesses

1 need to be consulted is I think completely
2 unrealistic.

3 I just don't see how, John, especially if
4 the decision on this is made perhaps later this week
5 that practice really gives us a few weeks to work
6 with our clients to figure out the discovery that we
7 would like to submit.

8 I'd also point out that the discovery
9 during the initial Keystone XL hearing, discovery
10 responses were very voluminous, required a
11 significant amount of time just to look through
12 them. And so I support Dakota Rural Action's
13 request for more time to review.

14 And I would also ask whether the staff,
15 PUC staff will have any discovery against
16 intervenors this time because, again, during the
17 original proceeding in this matter the staff
18 discovery was actually more extensive than
19 TransCanada's discovery and required a significant
20 amount of time, even though they were ultimately
21 mostly withdrawn. Responding to those took a
22 significant amount of time. So I would like to know
23 whether the staff is planning discovery for all the
24 intervenors as well.

25 MR. SMITH: Ms. Cremer and Mr. Rounds, what do

1 you think? I don't know what your intentions are.

2 MS. CREMER: Again, this is Karen Cremer of
3 staff. Kristen Edwards is the attorney on this, but
4 she is currently on maternity leave and so I'm
5 really just filling in. But I would say it is
6 likely staff would have some questions, at least
7 round one; depending on the answers, maybe a second
8 round. But I have not talked to Kristen about that
9 so I don't know.

10 MR. SMITH: And it's been kind of brought up,
11 Karen, but is it your -- right here with the
12 schedule that Mr. Taylor suggested it looks like
13 it's just a one-round process. And is that -- I
14 mean, normally things --

15 MS. CREMER: In even our most simple dockets
16 staff almost always has a second round of questions.
17 And so I would have to agree, this seems like an
18 aggressive schedule. But it was, I think Mr. Taylor
19 said he talked to the other attorney and so I don't
20 know what's been agreed to. I don't -- I have not
21 been enlightened on that.

22 MS. SMITH: Excuse me. This is Carolyn Smith.
23 I would like to propose that we hold off with that
24 first date until April 13th.

25 MR. MARTINEZ: This is Robin Martinez. Which

1 first date are you talking about? Are you talking
2 about the deadline for actually filing discovery
3 requests?

4 MS. SMITH: The discovery requests served, it
5 was originally set proposed for December 5th. I
6 would like to propose we move to April 13th, 2015.

7 MS. HILDING: This is Nancy Hilding, a private
8 intervenor. There is a motion by TransCanada to
9 limit the discovery to a certain scope and a bunch
10 of argument. Is that -- in terms of that being
11 acted on to determine the scope of discovery, do we
12 all have to submit the discovery requests for
13 everything that we want, and then at the hearing on
14 the discovery request you decide what the scope of
15 the discovery is? So how does action on their
16 motion to limit discovery scope relate to the dates
17 of discovery requests? I'm sorry, I'm a private
18 intervenor. I'm clueless.

19 MR. SMITH: Yeah, I mean -- I think, first of
20 all, I have no idea what action the Commission will
21 take on that motion. But, yes, depending, you know,
22 on what the Commission decides, you know, what it
23 will -- what it could do is limit the scope of
24 discovery.

25 MS. CREMER: Mr. Smith, this is Karen Cremer of

1 staff. Have you come up with a date to hear that
2 motion yet?

3 MR. SMITH: Yes. There's been an order issued.

4 MS. HILDING: This is Nancy. I'm sorry, I
5 didn't see that. When is the hearing on that
6 discovery motion?

7 MR. SMITH: It's on November 25 -- or, yeah,
8 November 25th.

9 MS. HILDING: And is there some deadline where
10 we have to file counter-motions and arguments about
11 that before we come into a hearing?

12 MR. SMITH: Monday.

13 MS. HILDING: This Monday?

14 MR. SMITH: Yes.

15 MS. HILDING: So we have to file things. And
16 this is Nancy Hilding again. I'm a private
17 intervenor who is clueless. I assume that I go to
18 the administrative procedure rules for you guys, and
19 I look at your administrative practices, and that
20 will tell me what to do in a hearing. And if it's
21 not clear from that then I go to Title 15, or
22 whatever, civil procedures, and if you don't
23 specifically say something, that by default you go
24 to Title 15? I mean, how do I figure out what the
25 administrative procedures are in this contested case

1 hearing being a private person representing myself
2 pro se, or should I have a discussion with your
3 attorney off of this phone call because this is not
4 the topic of this phone call?

5 MR. SMITH: I think that would be something
6 appropriate to talk over with Ms. Cremer, or, again,
7 Ms. Edwards when she gets back from maternity leave,
8 and they can help you with that.

9 MS. HILDING: Okay. But we have to get
10 something in served to -- by e-mail to most of the
11 42 people, and then we have to do a certificate of
12 service to the four people whom need snail mail, and
13 we have to do this by Monday?

14 MR. SMITH: Well, the motion was filed. I
15 don't think I have the order in here.

16 MS. HILDING: I didn't see the order. I looked
17 this morning.

18 MR. SMITH: I thought we put it out but --

19 MR. DORR: It came out in e-mail. This is Gary
20 Dorr. It came out on the e-mail.

21 MS. HILDING: It wasn't on the PUC web page, I
22 didn't think.

23 MR. SMITH: Hmmm. It should be. I mean, it
24 should be on there. It's just an order -- yeah --

25 UNIDENTIFIED FEMALE: Yeah, it's listed under

1 orders.

2 MR. SMITH: It is on the web page under orders.

3 MS. HILDING: All right. Okay.

4 MR. ANTOINE: This is Eric Antoine with the
5 Rosebud Sioux Tribe. I'm looking at the calendar.
6 The pending motion to limit discovery by TransCanada
7 will be heard on the 25th. Depending on the
8 decision of the Commission, and giving time for that
9 decision to be distributed to the parties, the
10 intervenors, that leaves four days for the
11 intervenors, four business days for the intervenors
12 to prepare their discovery requests by December 5th.
13 First of all, that date is probably pretty
14 unrealistic.

15 MR. MARTINEZ: This is Robin Martinez again. I
16 am almost wondering if it might make sense to hold
17 off on developing any kind of a schedule until we
18 have a ruling on the motion to limit discovery.

19 MS. ZEPHIER: This is Tracey Zephier for
20 Cheyenne River Sioux Tribe. I was going to say the
21 exact same thing that Mr. Martinez just said. It
22 feels like we're putting the cart before the horse,
23 especially if we intervenors probably ought to be
24 concentrating our efforts on, you know, responding
25 to that motion to limit the scope of discovery that

1 was filed, which it sounds like there's a hearing on
2 Monday on that?

3 MR. MARTINEZ: Responses to be due on Monday,
4 yeah.

5 MS. HILDING: This is Nancy --

6 MR. CAPOSSELA: This is Peter Capossela with
7 Standing Rock. The organizational intervenors, in
8 particular, the tribes, may have procurement
9 requirements that take a little bit of time. And I
10 mentioned that in the context of the procurement of
11 experts. And so retaining experts to assist with
12 the proceeding will take a little bit of time. And
13 those -- it's reasonable that those experts be
14 retained prior to the discovery period. I'm a
15 little bit unclear about what the benefit is of
16 rushing discovery per the proposed schedule. There
17 are other factors beyond this proceeding in the
18 recertification of the South Dakota permit that
19 would go into Keystone's ability to move forward.

20 So it does seem reasonable to set out a
21 discovery schedule that's not so aggressive and not
22 so ambitious. It's unclear what the benefit of the
23 aggressive schedule is. But I know that, you know,
24 the Standing Rock Sioux Tribe is in a procurement
25 process now that by law cannot be concluded by the

1 time that the discovery schedule would kick in for
2 retaining expert witness assistance in the
3 proceeding.

4 So it seems like it's in the Commission's
5 interest to implement a more realistic or a less
6 aggressive schedule to enable the organizational
7 intervenors in any rate to procure expert
8 assistance.

9 MR. SMITH: Okay.

10 MS. HILDING: This is Nancy Hilding again
11 with -- still on the Monday deadline. If there has
12 been some order or e-mail sent out telling me the
13 names of four people I have to snail mail
14 certificate of service notices to, I have not seen
15 it. So how I can effectively meet the Monday
16 deadline if I have not been told who I have to snail
17 mail to and what their addresses are versus who I
18 e-mail to? How can I meet my legal obligation on
19 Monday to provide certificate of service? So, you
20 know, maybe you sent that out and I missed it.

21 But if you have it, you need to do that
22 ASAP so we know how to meet our service --
23 certificate of service requirements.

24 MR. SMITH: Here's the thing. On the website,
25 right, for the case -- Nancy, can you hear me?

1 MS. HILDING: Yes, I can.

2 MR. SMITH: John Smith, Commission Counsel. On
3 the web page in every docket, but in this one, too,
4 is at the very top, right under the title is a
5 button called service list. And that gives you the
6 entirety -- folks, if you're not actively on talking
7 can you please mute. We're getting quite a bit of
8 feedback here. But at the top of the page is the
9 service list. And that will tell you who you need
10 to serve.

11 MS. HILDING: Is that clear to everybody, in
12 all of these 42 people who may be kind of clueless
13 that we need to -- that we need to snail mail four
14 people?

15 MR. SMITH: I don't know if people -- I don't
16 know what -- who's looked at what on here. I mean,
17 it's on the docket page. It's the service list.
18 And that tells you who can be served electronically.
19 And we do have people, the two Joneses, and there's
20 two other people who can't receive by e-mail.

21 MS. HILDING: I'm not finished. This is me.
22 I'm clueless. If I send the e-mail, I press send
23 and it goes out to the appropriate people, and is it
24 my duty to see if it bounces back because they're
25 over quota today, or if I send it have I met my

1 service duty?

2 MR. SMITH: Well, I guess we can talk about
3 that. First of all, I don't know that service on
4 all the various intervenors is going to buckle your
5 case because I doubt if any of them are going to
6 really object if they can get what you've sent in at
7 some point. But, yeah, I mean, theoretically, if
8 you're serving by mail, and again pretty much --
9 this is my understanding, Mr. Taylor, unless you
10 disagree with that, but basically when you serve by
11 mail, if the service deadline is X, it needs to be
12 in the mail on or before that date.

13 MS. HILDING: But that's just four people we
14 have to serve by mail. Everybody else we can send
15 an e-mail to. If we press send by -- this is the
16 question. I'm sorry, I'm clueless. Does it have to
17 be sent by 12, you know, by midnight Central Time?
18 Midnight Pacific Time? What is -- and if I press
19 send by e-mail, have I met, or does it have to be
20 sent by 5:00 Central Time? What is the deadline for
21 service by e-mail? Maybe that's written out in some
22 rule of practice someplace. I just want to know.

23 MR. SMITH: Well, I don't know. In our own
24 filing system our rules are -- our deadline here is
25 5:00 Central Time because Pierre is in the Central

1 Time Zone. Now to be --

2 MS. HILDING: But is it -- that's received. To
3 be filed or served does it have to be received by
4 you by 5:00 Central Time, or does it have to be sent
5 by me by 5:00 Central Time?

6 MR. SMITH: Well --

7 MS. HILDING: I mean certificate of service.

8 MR. SMITH: -- for filing purposes here we
9 consider it, if it's time of sending to the PUC.
10 And, again, I'm talking filing, not serving. Okay.
11 At 5:00 is our -- because we're -- you know, we're
12 not open for business 24 hours a day. So we have a
13 5:00 cut-off for a filing deadline.

14 MS. HILDING: All right. So filing -- but
15 serving is 12:00 midnight that day then?

16 MR. SMITH: I think so.

17 MS. HILDING: Okay. Sorry, I'm a clueless
18 person.

19 MR. SMITH: And, again, the by mails, it's the
20 mailing date that is the date of service. And then
21 our law allows three days for that to occur.

22 MR. CAPOSSELA: This is Peter Capossela again.
23 I just wanted to make one more point with respect to
24 the schedule. A number of intervenors have
25 suggested that an order, a discovery order -- a

1 scheduling order be postponed until a decision is
2 rendered on TransCanada's motion to limit discovery,
3 and I would just suggest that even if that motion is
4 granted the schedule that has been proposed is too
5 aggressive.

6 MR. SMITH: Okay. Well, and I'm going to see
7 if I could ask Ms. Cremer of staff -- I mean, in a
8 way, and I don't want to prejudge things here, but I
9 don't think that's really a terrible suggestion to
10 basically wait until action is taken on that motion
11 so we know what we're dealing with here.

12 MR. CAPOSSELA: I agree with that, but the
13 point remains, and I just wanted to make that point.

14 MR. SMITH: Okay. Thank you.

15 MR. BLACKBURN: This is Paul Blackburn. I
16 would suggest -- this is Paul Blackburn. I think it
17 would be helpful if we didn't set the schedule today
18 for the hearing conference, to schedule it for a
19 hearing conference sometime after this Commission's
20 order on the scope of discovery --

21 COURT REPORTER: Paul? Paul? Paul? Can he
22 hear me?

23 MR. BLACKBURN: Yes.

24 COURT REPORTER: Paul, can you hear me? This
25 is the court reporter. I'm having a real hard time

1 hearing what you're saying. Could I have you start
2 over, please.

3 MR. BLACKBURN: I'll try to speak more close to
4 the phone. Given the schedule that the Commission
5 is likely to have for determining the scope of
6 discovery, I would suggest that the Commission
7 reschedule -- schedule a subsequent second
8 prehearing conference sometime after an order is
9 issued on discovery, and before that prehearing
10 conference, as a request of the parties, an
11 alternative schedule to the Commission for
12 consideration by the Commission, you know, at that
13 prehearing conference. The Commission could also
14 propose having an informal conference of the parties
15 in which the commission staff could or could -- may
16 or may not choose to participate in which, you know,
17 the parties could talk about their discovery
18 requests or the schedule proposals, the schedule
19 conflicts, and try to crystalize some of these
20 issues and perhaps come to an agreement with what
21 the schedule should be.

22 I think the way the schedule has been
23 proposed at this point is so unfair that, frankly,
24 the Commission is going to run into due process
25 problems. I just don't think it's possible to have

1 one to two weeks for discovery and have it be seen
2 as being reasonable, especially given the concerns
3 that we've had with not even knowing the scope of
4 discovery at this point. But the schedule really
5 should be considered a bit more fully before the
6 Commission sets what the schedule is. And I think
7 it's particularly appropriate here because this case
8 is essentially unprecedented. I'm not sure the
9 Commission has, perhaps has ever considered a
10 recertification proceeding. Thus, it's quite
11 difficult for any of us to anticipate the scope and
12 the nature of the proceeding exactly.

13 So I would suggest having that process
14 where the parties are invited to submit
15 counter-schedules, and then the Commission would
16 have before them what the parties have seen as
17 reasonable versus what staff and the Applicant would
18 view as reasonable.

19 MS. HILDING: This is Nancy Hilding again. I'm
20 sitting here on the telephone trying to type
21 everybody's suggested schedules down and get it
22 right. It's very confusing. So I think that, you
23 know, even if it's just an informal e-mail exchange,
24 that if before we finalize this, people could send
25 in their suggested dates by e-mail so we can look at

1 it in writing. It would be very much easier than
2 trying to figure this out over the telephone like
3 this.

4 MR. TAYLOR: Mr. Smith -- go ahead.

5 MS. HILDING: I have a question for this
6 November 25th thing. I'm sorry, I didn't see the
7 order. Will we be allowed to participate in that by
8 teleconference or do we have to drive to Pierre on
9 November 25th to participate?

10 MR. SMITH: No, it's going to be heard
11 electronically and you would be able to participate
12 by telephone. And the order -- I mean, I think we
13 confirmed service on everybody. So somewhere there
14 you should have it.

15 MS. HILDING: Okay. Can you -- this is me
16 being bad again. Can you tell me who all -- are all
17 of these service e-mails from the PUC, the orders
18 coming from the same person or can they come from
19 multiple people? Is there a way to search my
20 millions of e-mails to quickly find all the PUC
21 filings?

22 MR. SMITH: I believe the person they would be
23 served to you from would be Tina Douglas.

24 MS. HILDING: Tina Douglas. So if I figure
25 out -- if I search for her I can find all the stuff.

1 Thank you.

2 MS. REAL BIRD: This is Thomasina Real Bird --

3 MR. TAYLOR: This is William Taylor, please.

4 MR. SMITH: Or Joy Lashley. One of those two.
5 Joy Lashley or Tina Douglas. So it's either going
6 to be an "L" or a "D" you're looking for.

7 MR. DORR: I also have Melissa Saker mailing
8 me stuff from the docket filing. This is Gary Dorr.

9 MR. TAYLOR: This is William Taylor speaking.
10 Melissa Saker is a staffer in our law firm, and you
11 will receive e-mails from her with our service
12 documents.

13 Mr. Smith, can I be heard on the subject
14 of scheduling, please?

15 MR. SMITH: You may.

16 MR. TAYLOR: Thank you.

17 MR. SMITH: Mr. Taylor -- I guess Pat Beck
18 knows you're Bill Taylor because -- right?

19 MR. TAYLOR: It is Bill Taylor. The Keystone
20 filing was made some time ago. There is included
21 with the Keystone filing in the docket an
22 explanation of the conditions, and an explanation of
23 the conditions that Keystone believes may be an
24 issue in this proceeding.

25 This is not the first time the PUC has

1 heard a certification hearing. The issues are
2 limited. Discovery should be limited. Excuse me,
3 please. Excuse me, please. Mr. Ellison has made
4 the point that he believes there may be a second
5 round of discovery required. He believes that there
6 may be some action that needs to be taken after the
7 initial discovery responses are received.

8 We do have an omnibus hearing set for the
9 21st of January. It would be perfectly appropriate
10 if there are issues with discovery, or second round
11 of discovery required, for that to be heard in that
12 January hearing. This is not a retrial of the 2009
13 hearing that resulted in the 2010 order. This is a
14 certification that conditions have not changed.

15 We think it is perfectly and completely
16 appropriate to begin discovery on or before
17 December 5th, and to complete discovery, the first
18 round of discovery, by January 7th.

19 I appreciate the issues that may be
20 associated with retaining experts by other parties
21 to the proceeding, but the matter has been of
22 record, and people have intervened, and it's not our
23 responsibility to assure that they acquire any
24 experts if they want. It's their responsibility to
25 do that.

1 We do have a hearing set for November 25th
2 that will frame the scope of discovery. If you
3 prefer, Mr. Smith, I mean, this was intended to be
4 the informal conference to discuss people's views.
5 If you prefer we can put this to the Commission in
6 the form of a formal motion and have it heard on
7 November 25th, and we'd be happy to do that.

8 MR. SMITH: That's up to you, I guess. I mean,
9 it does occur to me that given the pendency of the
10 motion, I mean, I can see some common sense to
11 waiting until we know what the decision is on that
12 so we know kind of what we're dealing with here in
13 terms of scope, because, I mean, to me scope is
14 going to have a significant impact, right, on the
15 complexity -- it could have -- on the complexity of
16 discovery. And so, I mean, the suggestions that
17 have been made by a few people here that maybe we
18 ought to just shove this prehearing scheduling
19 conference off until after the 25th and then -- and
20 deal with it at that time when we know a little more
21 of where this is going if that makes any sense.
22 And, I don't know, Ms. Cremer, does staff have any
23 thoughts on that?

24 MS. CREMER: And that's kind of where my
25 question was going. And I apologize for not having

1 seen that order out there setting this for the 25th.
2 To me, at that point, too, possibly you could, in
3 the order, depending what the Commission does, if
4 they grant that, you could then set another deadline
5 a week later and then ask the intervenors --
6 (unintelligible) -- you might want to mute your
7 phone.

8 But, anyway, we can see if -- you can put
9 a date then in the order saying by December 3rd, or
10 whatever, all parties should exchange what they
11 believe the scheduling order should be, and that
12 would allow everyone to then comment. I can't
13 believe that everybody's going to have a suggestion,
14 but maybe they will. I think it makes things go a
15 little bit smoother and more quickly the next time.

16 MR. MARTINEZ: This is Robin Martinez. I would
17 actually really second the idea of making sure that
18 people, or that intervenors be afforded the ability
19 to go ahead and submit proposed schedules in
20 writing. I guess I was a little bit troubled from
21 the outset here that the counsel for Keystone
22 apparently consulted with PUC staff in terms of
23 coming up with a schedule without -- without really
24 circulating that out to -- you know, to the rest of
25 the parties in the case.

1 I think it's incumbent upon everyone here
2 and the Commission to make sure that whatever
3 business is conducted in these proceedings is
4 utterly and completely transparent.

5 MR. SMITH: Yeah --

6 MS. REAL BIRD: This is Thomasina Real Bird for
7 the Yankton Sioux Tribe. Can I make a statement?

8 MR. SMITH: Sure. Yup.

9 MS. REAL BIRD: Thank you, Mr. Smith. We
10 object to TransCanada's proposed discovery schedule.
11 I agree with many of my colleagues, and, in
12 particular, the suggestion made by Ms. Cremer that
13 this scheduling conference be postponed or continued
14 until after we find out what the Commission will
15 decide TransCanada's motion to limit discovery.
16 That does make sense.

17 Also, I am troubled, as Mr. Martinez
18 stated, with the initial statement that
19 TransCanada's counsel had discussed a discovery
20 schedule with PUC staff. I mean, we don't know if
21 that's ex parte. We hate for this process to lend
22 itself to that. But I would echo Mr. Martinez'
23 suggestion that all the discussions be kept
24 transparent when they are with PUC staff, and the
25 proposal that each party gets to submit a proposed

1 schedule maybe could lend itself to that
2 transparency. So we support that as well.

3 Also, the 25th hearing, we don't know if
4 the Commission will come out with an order that day
5 or the next, so I would just like any schedule
6 that's put forth as far as whether we submit a
7 schedule in writing be mindful of the Thanksgiving
8 holiday that week.

9 My client and many of the other parties
10 are government, so they're likely closed the
11 remainder of that week and maybe into that next
12 week. So it's incumbent of us to be mindful of
13 those governmental restrictions.

14 MR. GARGAN: Mr. Smith, if I might, my name is
15 Dan Gargan. I'm a commissioner for the Rosebud
16 Sioux Tribal Utility Commission. We actually have
17 our counsel, Mary Wynne, on a cell phone out of Pine
18 Ridge. So I'm passing along a couple of comments,
19 if I might.

20 MR. SMITH: Fire away.

21 MR. GARGAN: The Rosebud Sioux Tribal Utility
22 Commission will be filing a motion to expand time on
23 Keystone's motion to limit discovery because of the
24 shortened time. We saw the order on the 5th of
25 November with our response due by Monday, the 17th,

1 left 12 days on a shortened schedule. If you drop
2 out four weekend days it would only allow eight days
3 for the parties to respond to that request.

4 It's a voluminous record to go through
5 from the 2009 hearings, and we wanted to make sure
6 that we had sufficient time to respond to that
7 motion. We believe that limiting this discovery
8 will set the standard for the rest of the case.

9 We would also support, from the Rosebud
10 Sioux Tribal Utility Commission, that the matter of
11 a scheduling order be tabled until we get beyond the
12 Commission's order on the motion to limit discovery,
13 and we would also support that the parties submit
14 their own scheduling orders as recommendations to
15 the Commission. Thank you.

16 MR. SMITH: Okay. Well, we've heard that from
17 a lot of people. Any other thoughts, Ms. Cremer, on
18 this? I mean, I don't think that's a bad idea to
19 have that exchange.

20 And, again, it hits me, and, again, I'm
21 sure the Applicant isn't pleased with this, but it
22 strikes me as sensible to hold off on setting a
23 schedule until we have a decision on the motion
24 because it's just -- otherwise people are going to
25 spend -- if we're going to stay on a fairly

1 aggressive schedule, I mean, you're literally going
2 to be wasting a whole lot of time on things that --
3 that may not be pertinent, at least if the
4 Commission's order holds up. And I just don't know
5 that that makes sense. And so I'm kind of going
6 along with the idea that maybe it makes sense to
7 wait until after -- and I also think it's not a
8 bad -- I don't mind -- I like the idea of parties
9 submitting their proposals for schedule in writing.
10 That sounds -- that sounds fine to me.

11 I mean, the reason for this call and
12 getting this going was to begin this process. And,
13 again, you hope sometimes it can end. But,
14 honestly, following the filing of the motion I was
15 skeptical that we'd get there today, but I still
16 felt it would be useful to have a discussion and at
17 least begin talking about this stuff. And, I don't
18 know, any last thoughts, Ms. Cremer?

19 MS. HILDING: Nancy Hilding. Can I make a
20 thought here?

21 MR. SMITH: Sure.

22 MS. HILDING: All right. I'm a private
23 intervenor. I would like to agree with everybody
24 else that this is too aggressive, and I don't think
25 we should be submitting in writing our scheduling

1 proposals until after we have an order from you
2 about how you're limiting discovery or not, and we
3 should have a reasonable time, given Thanksgiving,
4 to respond to that.

5 I also have a question, because I'm a
6 clueless person, Keystone has said that they're
7 going to submit something in writing about
8 something, you know, to be considered, I thought
9 they said on the 25th. So if we have to respond to
10 everything on Monday, and they're submitting some
11 motion to be considered on the 25th, do we have to
12 respond to that by the 17th? You know, I'm a
13 clueless person. So if Keystone is submitting any
14 new motions we should have a reasonable amount of
15 time to respond to whatever new motions they're
16 submitting. And maybe that's in the rules of
17 practices and procedure, but I second that we need
18 more time.

19 MS. REAL BIRD: This is Thomasina Real Bird.
20 Would you clarify for me which order of the
21 Commission you referenced that may or -- may stand
22 up?

23 MR. SMITH: The order -- the order I'm talking
24 about has not been issued. I'm talking about the
25 order that the Commission will issue one way or

1 another regarding the pending motion to limit
2 discovery that has been noticed for hearing on
3 November 25th at the Commission's normal meeting.

4 MS. REAL BIRD: So there's no order to send
5 out, an impending order. I just wanted to make sure
6 I didn't miss the order because obviously we haven't
7 had the hearing. Thank you.

8 MS. HILDING: And you have to respond to that
9 by Monday, if you want to respond to their motion to
10 limit discovery, respond in writing by Monday.

11 MR. SMITH: Yes. We just went with the
12 statutory time frame is what we went with in 15.6.6,
13 yeah, that's what those response times are based on.
14 That's the way it is. I mean, that's the normal
15 dates that are specified under South Dakota statute.

16 MS. HILDING: This is in Title 15?

17 MR. SMITH: Yes, 15.6.6.

18 MS. HILDING: So sometimes we're following your
19 rules of practice and procedure, and sometimes we're
20 following Title 15, and you lawyers understand this.
21 Okay.

22 MR. SMITH: Our rules of practice and procedure
23 explicitly provide that we incorporate the Rules of
24 Civil Procedure, which is Title 15, and it's 15 --
25 unless there is a specific PUC rule that differs

1 from that. For example, we have the e-filing rule.
2 That's one example. And our intervention rules are
3 a little different, and so on, and so on, but except
4 for those, all our rules explicitly provide that the
5 Rules of Civil Procedure govern all other actions in
6 the case.

7 MR. ELLISON: Bruce Ellison for Dakota Rural
8 Action. You're not suggesting the Commission
9 doesn't have the authority to be somewhat flexible
10 under the specific circumstances that give rise to
11 modify some of those dates? In other words, even if
12 the statutes would allow for a certain period of
13 time generally for a response, that the PUC would be
14 convinced that that was inadequate due to the volume
15 of materials, et cetera -- am I correct in
16 understanding you have flexibility to modify that?

17 MR. SMITH: Yes.

18 MR. ELLISON: Thanks.

19 MR. SMITH: Yes, there is -- there is
20 flexibility. I mean, we can -- the Commission can
21 always, you know, on procedural issues do things,
22 you know, stretch things out, and whatever, grant
23 continuances, that kind of thing. But, you know, at
24 some point here if people want to achieve, like, for
25 example, I mean, if that November 25th date that the

1 Commission issue the order on, and people don't
2 like -- don't think that's reasonable, I mean, we
3 need to have -- people need to file something, a
4 motion requesting that it be delayed, you know,
5 because we -- we can't read people's minds here. If
6 people want something -- the Commission to do
7 something differently procedurally, we need -- we
8 need something, a motion or some kind of a filing
9 made to do that.

10 MS. HILDING: And so the deadline for that is
11 Monday?

12 MR. SMITH: I -- off the top of my head I can't
13 remember what the deadline -- I don't have the order
14 right here in front of me. I apologize. I should
15 have had it, but I don't.

16 MR. ELLISON: Mr. Chairman, Bruce Ellison --

17 MR. GARGAN: This is Dan Gargan from the
18 Rosebud Tribal Utility Commission. The deadline is
19 Monday, and it's a very shortened timeline, and
20 that's why we would encourage anybody who can't meet
21 that deadline that they file a motion to expand time
22 or to extend time.

23 MR. HARTER: John Harter. When do we have to
24 file that motion, too, because not all of us are
25 lawyers, and not all of us get to sit around and try

1 and take somebody else's property all day.

2 MR. SMITH: Motion would be filed with the
3 Commission, and it could be filed electronically.

4 MS. HILDING: And it has to be served on
5 everybody by e-mail except for four people you have
6 to serve it by snail mail, right?

7 MR. SMITH: Yup. There are four people who do
8 not have e-mail addresses available for service.

9 MS. HILDING: So on Monday you have to file it
10 so that they get it by 5:00, or you send it by 5:00
11 Central Time, and the same time you have to run to
12 the Post Office with four snail mails.

13 MR. SMITH: Yeah. You would have to put the
14 four state -- by that time, yeah, on Monday,
15 that's -- that would be the actual deadline. Now,
16 is there going to be any significant consequence if
17 that doesn't happen? I don't know that that's the
18 case. But technically, yes, your service should be
19 made that day on everybody.

20 UNIDENTIFIED MALE: Mr. Chairman --

21 MS. HILDING: But if you're filing something
22 with the PUC they have to receive it by 5:00 Central
23 Time, and if you're serving something on everybody
24 the deadline is midnight by e-mail and Post Office
25 by whatever time, I think. There's a difference

1 between serving and filing.

2 MR. SMITH: Yes. There is a difference, and
3 our filing cut-off time is 5:00. Otherwise, it's
4 considered filed the next day. Is somebody -- yeah.

5 MR. ELLISON: This is Bruce Ellison. I guess
6 what I'm trying to understand is if what -- Chastity
7 just said if Dakota Rural Action was November 25th
8 was on November 17, or a period of time, which I
9 would submit we do, wouldn't, for practical
10 purposes, can't we have like a 5-minute discussion
11 about that here right now rather than -- because I
12 would orally move at this point that we get at least
13 two weeks additional time to file a response to
14 KXL's motion and then to push the hearing date back
15 another week. That would more realistically give
16 time because we're just gearing up for this to -- to
17 most adequately address the issues that KXL raises
18 and that you will consider. Can I just orally move
19 for that now since we're all on the line and just
20 talk about that?

21 MR. SMITH: Well, I -- I don't know. I mean,
22 what's that?

23 MS. CREMER: Well, you can -- I'm not sure you
24 can make a motion because we're not in any sort of
25 a --

1 MR. SMITH: I think -- I would recommend,
2 Bruce, that that be done via a motion filing which
3 you don't need to be fancy. You know, I mean --

4 MR. ELLISON: I just figured since we were all
5 on the line that that would be more expeditious that
6 we could resolve --

7 MS. CREMER: But we're not all on the line.
8 This is Karen Cremer. And we're not all on the
9 line, and John is -- and Mr. Smith is in no position
10 to make decisions like that. Those are Commission
11 decisions.

12 MR. SMITH: No. Yes.

13 MS. CREMER: And Keystone has to have an
14 opportunity to respond to it, so...

15 MR. SMITH: Yeah, I can't make that -- because
16 we've issued an order, the Commission has, so I
17 can't change that unilaterally here.

18 MR. ELLISON: Yes, sir, I know.

19 MR. SMITH: That has to be done by -- I think
20 you need to make some kind of a filing with the
21 Commission. And, again, it will be up to the
22 Commission as to whether to -- the Commissioners,
23 whether to grant an extension or not, if that's what
24 the motion involves.

25 MR. DORR: This is Gary Dorr.

1 MR. SMITH: Hey, Gary.

2 MR. DORR: Mr. Chairman, I had a question about
3 the communication that's already been transmitted
4 between TransCanada and the staff. Is there a
5 record of that discussion that's already taken place
6 that we can see about what has been discussed with
7 the staff and TransCanada?

8 MR. SMITH: The only thing that's been
9 discussed -- I received an e-mail from Bill Taylor
10 with his suggested schedule dates.

11 MR. DORR: Can we see that for public record
12 then?

13 MR. SMITH: Sure.

14 MR. DORR: Thank you.

15 MS. HILDING: So this is Nancy Hilding,
16 clueless intervenor again. So what could happen on
17 the 25th is -- is -- is merely a discussion to
18 postpone, and then if you decide to postpone, then
19 it will be a procedural discussion rather than a
20 substantive discussion and the substance of the
21 motion will be discussed at a later date? Is that
22 the possible scenario?

23 MR. SMITH: If somebody files a motion for
24 extension, I mean, that may be something where the
25 Commission might want to take action to issue an

1 order doing that prior to then, you know.

2 Otherwise, we're in the awkward position
3 of having both a motion to extend time and the
4 substance, potentially, being heard on the same day.

5 MR. CAPOSSELA: This is Peter Capossela with
6 Standing Rock. I'm sorry, Mr. Smith, I didn't mean
7 to interrupt you. But would TransCanada stipulate
8 this morning to continuing the November 25th hearing
9 to give the parties a little bit more time to
10 respond to its motion?

11 MR. SMITH: Mr. Taylor?

12 MR. TAYLOR: No.

13 MR. SMITH: Okay.

14 MS. HILDING: This is Nancy Hilding. I would
15 like to say something. TransCanada keeps acting
16 like the order to limit discovery has been granted
17 and is implicit and assumed, and we should all
18 understand that. And I don't think until that is
19 substantively argued by both sides that that is, in
20 fact, the case. So they should not assume that we
21 all know that there is going to be limited discovery
22 because I don't think that's been decided yet, and I
23 don't think for them to assume that we understand
24 that is a proper assumption.

25 MR. SMITH: Okay. Well, I think -- I think

1 we're about at the end of the line here. My
2 assumption is we're -- I don't think we're going to
3 reach a concurrence here on schedule today. And so
4 what I would request is that any of the parties who
5 have suggestions that they wish to make concerning
6 extension of the November 25th motion hearing date,
7 and the process you wish to follow regarding
8 scheduling, that we might as well end this call, and
9 that whatever filings parties wish to make regarding
10 those things be done. Does that make sense?

11 MS. HILDING: No. This is Nancy again. So I
12 understand that we're supposed to make motions to
13 continue the 25th hearing if we want. But in terms
14 of how to go about scheduling things, I really don't
15 think we can know that until we know whether you're
16 going to limit discovery or not.

17 MR. SMITH: Well, I agree. I'm not saying
18 anything else. I'm just saying if you want to make
19 a motion that involves scheduling, or even just
20 communication, an exchange of proposed schedules, it
21 may not hurt to get that -- you know, that could be
22 done. It could be done now.

23 MS. HILDING: Are you saying that by -- we have
24 to formally file something by November 17th and
25 serve everybody with some concept of how to do

1 scheduling, or are you just saying that we're
2 exchanging informal e-mails about such a thing?

3 MR. SMITH: Oh, no. I mean, what I heard some
4 people say is that they make a request to the
5 Commission to do -- to do a scheduling process
6 involving people's exchange of their written
7 schedule suggestions. And, again, right now we
8 haven't decided it, but we're not really reaching an
9 agreement here on this. So what I'm thinking is
10 appropriate is between now and the 25th, if people
11 are going to make motions to continue that, I think
12 those should be gotten in so that we could -- we
13 could achieve that.

14 MS. HILDING: So you're not talking that we
15 should submit by the 25th an actual schedule, but we
16 should talk about the procedure for setting a
17 schedule?

18 MR. SMITH: Yes.

19 MS. SMITH: This is Carolyn Smith. Can you
20 hear me?

21 MR. SMITH: I can.

22 MS. SMITH: I would like a motion then by all
23 the parties on this line, or to the parties on this
24 line, that we continue that date and by voice, I
25 know it might be time-consuming, but by voice of

1 everyone on the line to say yea or nay and that be
2 counted.

3 MR. SMITH: Well, we could -- we could do that.
4 And in terms of a motion, though, that's actually
5 got to be -- unless we're in an actual hearing, a
6 motion has to be in writing.

7 MS. SMITH: I didn't understand that you said
8 that.

9 MR. SMITH: No. An actual motion for
10 Commission action has to be in writing.

11 (Unintelligible)

12 MS. HILDING: So everybody -- this is Nancy
13 again. So you're suggesting that everybody who
14 wants an extension send -- file with you and serve
15 on everybody else a motion for extension, you, by
16 5 p.m. on Monday, and everything else by midnight on
17 Monday?

18 MR. SMITH: Well, that's a filing, yeah, if
19 you're going to file it. And I think probably doing
20 it before that deadline would be in order. But what
21 I -- yes, I mean, not everybody, just one person
22 filing a motion, then it's all of a sudden a motion.
23 I mean, if one person files a motion to continue,
24 there's a motion to continue pending before the
25 Commission. You know, if other -- if all of the

1 people want to put in their two cents on supporting
2 it, or they want to offer their own motion, that's
3 something else here. But there are several persons
4 on the line who are lawyers and who know how to make
5 a motion, and if such a motion is made, does
6 everybody else need to make a motion? The answer is
7 no. You know, an alternative is to file your
8 support for the motion.

9 MS. HILDING: But we would have to do that by
10 5 p.m. on Monday, at least get it to you by 5 p.m.
11 on Monday?

12 MR. SMITH: Well, I would say if you want to
13 have your deadline, you know, continued, right.
14 Otherwise your -- you know, otherwise your response
15 to the motion that's pending is going to be due
16 unless the Commission were to take action to delay
17 action on it. And, again, that will have to be done
18 either by the Commissioners just signing a written
19 order or by us scheduling an ad hoc if they need to
20 discuss it.

21 MS. SMITH: Mr. Smith?

22 MR. SMITH: Yeah.

23 MS. SMITH: This is Carolyn again. I did not
24 receive that -- that original order that the
25 deadline was on November 25th. I just looked at

1 everything that I have, printed everything off, and
2 if you could just walk us through how you find that
3 on your website, or I can call your number later and
4 ask.

5 MR. SMITH: Okay. Well, you can do that. You
6 are showing up on the service on the address list.

7 MS. SMITH: Yes. I've gotten many of them, but
8 that particular one I don't see.

9 MS. HILDING: Can you tell us what date that
10 order was sent out so we can look for it better in
11 our e-mail. I mean, I get a million e-mails every
12 day. What date was that sent out?

13 MR. SMITH: Just a minute. It was sent --

14 MS. HILDING: Well, where is it on the website?

15 MR. SMITH: It was sent on November 5th. It's
16 under orders there near the top of the page.

17 MS. HILDING: So on the web page under orders.
18 Okay.

19 MS. SMITH: Is it under administration orders?

20 MR. SMITH: No. It's under orders.

21 MS. HILDING: November 5th, who sent it out?
22 Which staff person?

23 MR. SMITH: Joy Lashley.

24 MS. HILDING: Okay. Thank you.

25 MR. CAPOSSELA: This is Peter Capossela with

1 Standing Rock. I think it would be helpful for
2 TransCanada to be encouraged, notwithstanding
3 logistical issues of dealing with so many
4 intervenors, but if TransCanada would -- to be
5 encouraged to interact with the parties. These are
6 issues that are commonly resolved through discussion
7 amongst the parties rather than adversarial motions.
8 And there hasn't been any of that up to this point,
9 to my knowledge. So I think it would be helpful if
10 TransCanada tried to work cooperatively on these
11 procedural issues with the intervenors.

12 MS. HILDING: This is Nancy Hilding, intervenor
13 again. Is there a list somewhere of all the lawyers
14 who have filed to represent the different parties?
15 Would that be on your website someplace?

16 MR. SMITH: The list we would have would be the
17 service list.

18 MS. HILDING: All right. Thank you.

19 MR. CAPOSSELA: This is Capossela with Standing
20 Rock again. I would welcome any feedback that
21 Mr. Taylor might have on my suggestion that there be
22 discussion amongst the parties on these procedural
23 issues rather than doing it through adversarial
24 motions before the Commission.

25 MR. TAYLOR: What do you want me to say, Peter,

1 that I'll call you?

2 MR. CAPOSSELA: Just --

3 MR. TAYLOR: I don't mean to be -- I don't mean
4 to be -- to slight anyone. I've talked to Bruce
5 Ellison briefly about some of these issues. I don't
6 know you, but I'm happy to meet you. I have not
7 talked to Eric Antoine about these issues. I know
8 Eric. We've done business before. Happy to talk to
9 the lawyers. But a good deal of the problem is is
10 that we have a number of intervenors who are not
11 represented, and it is very, very difficult for me
12 to have a meaningful communication other than with
13 the lawyers. I'm perfectly happy to convene in
14 conference with the lawyers, if you'd like to, and
15 with any intervenors that would also like to
16 participate provided we have the understanding that
17 it's an apparent open exchange and discussion back
18 and forth.

19 MR. CAPOSSELA: Yes, sir. I appreciate the
20 difficulties in dealing with the number of parties
21 that are involved, but it seems that communications
22 on proposed scheduling orders directly with the
23 Commission in the absence of communications with the
24 opposing parties may not be the best way to do
25 business.

1 MR. TAYLOR: Frankly --

2 MR. CAPOSSELA: With as many parties that are
3 present.

4 MR. TAYLOR: I'm sorry for interrupting, but,
5 frankly, the idea of having this telephone
6 conference today was Mr. Smith's idea and something
7 that the PUC routinely does to attempt to find
8 consensus among interested parties on scheduling
9 orders, and Mr. Smith routinely chairs these
10 discussions.

11 In my judgment, for what it's worth,
12 having Mr. Smith initiate this conference today in
13 the hopes of arriving at some consensus was a good
14 idea. And it is the practice that the PUC has
15 followed for many years. Unfortunately, we didn't
16 arrive at a consensus today. Maybe we can arrive at
17 consensus at some time in the future, but I suspect
18 that given the number of competing interests that we
19 may -- it may require the Commission to make a
20 determination as to what's an appropriate scheduling
21 order.

22 MR. SMITH: That may be the case here.

23 MR. CAPOSSELA: Thank you. I'm happy to leave
24 it at that, but --

25 MR. SMITH: Okay.

1 MR. CAPOSSELA: -- I stand by the suggestion
2 that the parties can communicate on these procedural
3 issues rather than bringing everything to the
4 Commission.

5 MR. SMITH: Well, I think that's a good idea,
6 and, if you can, that's great. Are we -- I think
7 we've accomplished about all we can today. And,
8 again, if people need to discuss this, feel free to
9 call Ms. Cremer of staff.

10 MS. CREMER: I'm just going to interrupt here
11 for a minute. This is Karen Cremer of staff. I'm
12 leaving at noon today, and will be going to Mayo,
13 and won't be back until Monday. So don't call me
14 before Monday.

15 MR. SMITH: Okay.

16 MS. HILDING: What time is it your time right
17 now? You're 11:30?

18 MS. CREMER: Right.

19 MS. HILDING: Or you're 10:30 -- 11:30.

20 MS. CREMER: 11:30.

21 MS. HILDING: So we cannot discuss anything
22 with you until Monday at 8:00 a.m. Monday time?

23 MS. CREMER: Well, I don't know that there's
24 any -- I mean, call me in the next two minutes if
25 you want, or whenever this wraps up, but I have to

1 get on the road.

2 MS. HILDING: So what is your phone number?

3 MS. CREMER: Call the Commission number, 3201.

4 MR. SMITH: 773.

5 MS. HILDING: 3201. And you're an attorney who
6 is temporarily on this because the real attorney is
7 pregnant?

8 MS. CREMER: Well, I'm a real attorney, too,
9 but, yeah, we'll go with that.

10 MS. HILDING: All right. So when is the
11 pregnant attorney coming back to take the case?

12 MS. CREMER: She's working on it all along.
13 She just had the baby last week.

14 MS. HILDING: What is her name?

15 MS. CREMER: Kristen Edwards. We can discuss
16 all this offline. I don't -- we don't need to hold
17 everybody up here.

18 MS. HILDING: Okay. So in your absence, you
19 being gone to the Mayo Clinic, who do we talk to
20 over there?

21 MR. SMITH: Well, it depends on what it is. On
22 substance you would have to talk with one of the
23 staff people. And Brian Rounds, he's here, he's one
24 of the staff people. If it's just something
25 involving a pure procedural thing like that, you can

1 feel free to call me.

2 MS. HILDING: So who are you?

3 MR. SMITH: John Smith.

4 MS. HILDING: And you're there all the time?
5 You're paid staff?

6 MR. SMITH: Yes, I'm here all the time. I
7 won't be here tomorrow afternoon, but other than
8 that I'm here all the time. In fact, about 50 to 60
9 hours a week a lot of times.

10 MS. HILDING: Thank you.

11 MR. DORR: Mr. Chairman, this is Gary Dorr.

12 MR. SMITH: Uh-huh.

13 MR. DORR: Will you be posting that record
14 online or will you be e-mailing it to us?

15 MR. SMITH: What's that? The record?

16 MR. DORR: The record of conversation between
17 TransCanada and the PUC on the scheduling we spoke
18 about earlier.

19 MR. SMITH: Oh, I can -- I'll just put it
20 online. It's just -- all it is is a -- there's
21 nothing really there except Bill Taylor's proposed
22 dates.

23 MS. REAL BIRD: Mr. Smith, this it Thomasina
24 Real Bird. Will the transcript of this conference
25 be also provided to the parties?

1 MR. SMITH: It will be. I mean, the transcript
2 will be -- you know, I don't know, Ms. Beck, when
3 she'll be able to get it done. But, yes, it will be
4 a regular Commission filing and will be available
5 online, and it will be transmitted to the parties.

6 MS. REAL BIRD: Thank you.

7 MR. SMITH: Do they -- oh, wait a minute. Let
8 me see. Well, it will be available online. I'll
9 put it that way. One problem we have with
10 transcripts, folks, is -- and, again, a lot of times
11 our reporters will not niddle on that, but it
12 actually requires for parties, especially business
13 parties are required to pay the reporter for an
14 official copy of the transcript. But it is
15 available online -- it will be.

16 MR. MARTINEZ: Just a quick logistical
17 question, what format will that transcript be
18 available in? Is it going to be available in e-tran
19 or --

20 MR. SMITH: It's available -- it's a PDF. It
21 will be a PDF.

22 MR. MARTINEZ: Okay.

23 MR. SMITH: And there -- if you look on any
24 case that we send -- there's some beeping going
25 on -- you'll note the transcripts are always --

1 they're posted on the web page.

2 MS. HILDING: This is Nancy Hilding, intervenor
3 private, again. Is there some rule someplace about
4 if we file motions that they have to be typed in a
5 certain way in a certain font size, and, you know,
6 scanned in a certain way? Any rules about the
7 format of sending filings in?

8 MR. SMITH: Not really. Again, our normal --
9 the normal practice here is most people -- just run
10 a PDF. But, no, we're not going to niddle around
11 with that. If somebody files a motion that's
12 identifiable as a motion, we'll treat it that way.

13 MS. HILDING: So Microsoft Word or a PDF file,
14 doesn't matter. You don't have a restriction? I
15 mean, you guys can open Microsoft Word stuff?

16 MR. SMITH: Word. You know, PDF is what we
17 prefer. But, again, not everybody out there has a
18 PDF scanner so...

19 MS. HILDING: So a scanned document, or PDF, or
20 Word are acceptable, but you prefer PDF, if
21 possible?

22 MR. SMITH: Yeah. I mean, there's one reason
23 particularly why -- why I know we all prefer PDF is
24 because Word documents are susceptible of
25 alterations. And, you know, and so like PDFs are

1 the actual -- a document type that is specified for
2 filing here.

3 MS. HILDING: So you prefer that. Okay.

4 MR. SMITH: Yup. Definitely.

5 MS. HILDING: For security reasons. It's a
6 little harder to modify a PDF than a Microsoft Word.
7 It can be done but it's more work.

8 MR. SMITH: Yeah -- well, it's not just more
9 work. Yeah, you're right. That's just our normal
10 format. I mean, we've received documents that are
11 different than that, but that's the document format
12 that we use.

13 Okay. Is there anything else that needs
14 to be discussed? Otherwise, I'm assuming we're
15 going to receive a motion here from somebody
16 shortly, or relatively quickly, requesting a
17 continuance, and some of the other issues we've
18 talked about. And with that, unless there's
19 objection from anybody here, I think I'm going to
20 call the conference call to an end, and we will
21 proceed on with things leading to the 25th.

22 Okay? Well, thank you, everybody, for
23 participating, and we'll proceed from here.

24 (End of Proceeding.)

25

1 STATE OF SOUTH DAKOTA)

:SS

2 COUNTY OF LINCOLN)

3 CERTIFICATE OF TRANSCRIBER

4 I, Pat L. Beck, Registered Merit
5 Reporter and Notary Public within and for the State
6 of South Dakota:

7 DO HEREBY CERTIFY that I
8 transcribed the telephone conference of the
9 proceedings described on page 1 hereof, and that to
10 the best of my ability, knowledge, and belief, this
11 transcript contains a true and correct transcription
12 of said telephone conference.

13 I FURTHER CERTIFY that I am not
14 related by consanguinity or affinity within the
15 fourth degree to any party, his attorney, or an
16 employee of any of them; that I am not financially
17 interested in this action; and that I am not the
18 attorney or employee of any party.

19 To all of which I have affixed
20 my signature this 16th day of November, 2014.

21

22 _____
Pat L. Beck, Notary Public

23 Expiration Date: June 11, 2017

24 Iowa CSR: No. 1185

25

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