

established a procedural schedule with an evidentiary hearing to commence September 11, 2023, and established November 15, 2023, as the deadline for a final decision. On August 3, 2023, the Commission issued an Order Granting Motion for Time Certain for Witness Testimony for certain Staff witnesses to testify beginning on September 19, 2023, and into September 20, 2023. On August 9, 2023, Applicant filed a Motion to Adopt Substitute Witness Testimony (Motion for Adoption). In its Motion, Applicant requests certain witnesses be permitted to adopt the testimony of a witness who has retired since filing prefiled testimony. On August 18, 2023, a Motion for Time Certain for Witness Testimony (SDTA Motion for Time Certain) was filed by the South Dakota Telecommunications Association (SDTA). In its Motion for Time Certain, SDTA requests its witness be permitted to testify on September 20 or 21 during the evidentiary hearing. On August 14, 2023, the Commission issued an Order for and Notice of Evidentiary Hearing. On August 18, 2023, Landowners represented by Mr. Jorde filed a Motion to Return Application and a Motion for a Time Certain to Testify for Certain Witnesses (Landowner Motion for Time Certain). The Landowner Motion for Time Certain requests the Commission issue an order setting aside September 16, 18, and 21 as dates for Intervening Landowners to present their witnesses and case. On August 21, 2023, the Commission issued an Order for and Notice of Motion Hearing on Less Than 10 Days' Notice. On August 21, 2023, Applicant filed a Motion for Order Preempting County Ordinances. On August 24, 2023, Staff filed a Response to Landowners' Motion to Return Application and Applicant filed an Objection to Landowners' Motion to Return Application. On August 25, 2023, the South Dakota Rural Electric Association (SDREA) filed a Motion for Time Certain (SDREA Motion for Time Certain). On August 28, 2023, Staff filed a Motion for Time Certain for Evidence on the Issue of County Preemption.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 15-6, and 49-41B, and ARSD Chapters 20:10:01 and 20:10:22. The Commission may rely upon any or all of these or other laws of this state in making its determination.

On August 29, 2023, at its regularly scheduled meeting, the following motions were heard:

1. Landowners' Motion to Return Application
2. Applicant's Motion to Adopt Substitute Witness Testimony
3. SDTA's Motion for Time Certain for Witness Testimony
4. SDREA's Motion for Time Certain for Witness Testimony
5. Landowners' Motion for Time Certain for Witness Testimony
6. Staff's Motion for Time Certain for Evidence on the Issue of County Preemption.

Having read the motions and responses filed in the docket, and having heard oral presentations, the Commission voted unanimously to deny Landowners' Motion to Return Application. Hearing no objection from the parties present, the Commission then voted unanimously to grant Applicant's Motion to Adopt Substitute Testimony. The Commission then voted unanimously to grant SDTA and SDREA's Motions for Time Certain for Witness Testimony and to Grant Landowners' Motion for Time Certain for Witness Testimony for one witness to testify on September 19, 2023, and to defer the remainder of Landowners' request for Time Certain for Witness Testimony. The Commission then voted unanimously to defer Staff's Motion for Time Certain for Evidence on the Issue of County Preemption. It is therefore

ORDERED, that Landowners' Motion to Return Application is denied. It is further

ORDERED that Applicant's Motion to Adopt Substitute Witness Testimony is granted. It is further

ORDERED that SDTA's Motion for Time Certain for Witness Testimony for its witness to testify on September 20, 2023, is granted. It is further

ORDERED that SDREA's Motion for Time Certain for Witness Testimony for its witness to testify on September 25, 2023, is granted. It is further

ORDERED that Landowners' Motion for Time Certain for Witness Testimony is granted for one witness to testify on September 19, 2023, and the remainder of Landowners' request for Time Certain for Witness Testimony is deferred. It is further

ORDERED that Staff's Motion for Time Certain for Evidence on the Issue of County Preemption is deferred.

Dated at Pierre, South Dakota, this 15th day of September 2023.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail.

By: Adam de Hueck

Date: 9/1/23

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Gary Hanson
GARY HANSON, Commissioner

Chris Nelson
CHRIS NELSON, Commissioner

Josh Haeder
JOSH HAEDER, Acting Commissioner