

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

---

**IN THE MATTER OF THE APPLICATION  
BY SCS CARBON TRANSPORT LLC FOR  
A PERMIT TO CONSTRUCT A CARBON  
DIOXIDE TRANSMISSION PIPELINE**

---

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

**STAFF RESPONSE TO  
APPLICANT’S MOTION TO  
RECONSIDER**

**HP22-001**

Staff, through and by its attorney of record, hereby files Staff’s Response to Applicant’s Motion to Reconsider. On January 20, 2023, SCS Carbon Transport LLC (Applicant) filed a Motion to Reconsider Procedural Schedule. Staff opposes the Motion to Reconsider and respectfully requests the Public Utilities Commission (Commission) deny the Motion.

In the Motion to Reconsider, Applicant requests the Commission reconsider its Order Granting Motion for Procedural Schedule, which established several procedural dates, most notably setting the evidentiary hearing to commence on September 11, 2023. Applicant requests the Commission reconsider that schedule and instead adopt the procedural schedule proffered by Staff on December 9, 2022, resulting in an evidentiary hearing commencing on April 24, 2023.

Intervenors represented by Attorney Brian Jorde (Landowners) filed a Resistance to the Motion to Reconsider. Because Staff agrees with the arguments put forth by Landowners, we will not restate them in detail in this Response. Landowners stated in paragraph 9 of the Resistance that an April 24 hearing was not possible. Staff could not agree more.

While Staff has put a considerable amount of time into this docket and into conducting discovery, it would be reckless for us to subpoena witnesses and call them to the stand to testify to an application they have not had adequate time to vet. In order to accommodate an April 24

hearing, Staff would have less than a month to conduct additional discovery and file written testimony. Staff would be asking its witness to put their name to something they may not have had adequate time to consider.

Regarding the interpretation of application of SDCL 49-41B-24.1 when an extension request has been made, Commission Counsel gave an explanation at a prior Commission meeting, and Staff concurs with that explanation. However, in the Motion to Reconsider, Applicant made note of statements contained in a June 1, 2022, Staff filing, and it is important that those arguments be put into context. In the Motion, Applicant quotes Staff as stating “[T]he Commission lacks the authority to grant an extension beyond the twelve-month deadline upon its own motion or *upon the request of any party other than SCS Carbon.*”<sup>1</sup> *{emphasis added}* This is a correct recitation of Staff’s prior statement but taken somewhat out of context. In the June 1 filing, Staff proffered the argument in response to a motion by Landowners to Stay proceedings in this docket. The argument was that in the absence of a request for an extension from an applicant, the Commission does not have the authority to entertain a stay of proceedings that would extend the proceedings beyond twelve months. In that filing, Staff was not opining on the length of time for which an extension could be granted if an extension was requested by the Applicant under SDCL 49-41B-24.1.

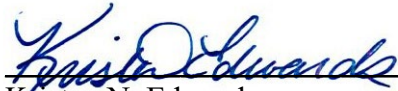
Currently, South Dakota appears to be the furthest along in the permitting proceeding among the affected states. For the reasons stated above and joining in those discussed by Landowners in their Resistance, Staff respectfully requests the Commission deny the Motion to reconsider. In addition, should the Motion to Reconsider be granted, Staff concurs with

---

<sup>1</sup> See Applicant’s Motion at page 2.

Landowners' assertion that the previously denied Renewed Motion to Dismiss should be reconsidered, as well. However, should the Renewed Motion to Dismiss be reconsidered, Staff reserves the right to determine its position at the appropriate time.

Dated this 30th day of January 2023.



\_\_\_\_\_  
Kristen N. Edwards

Staff Attorney

South Dakota Public Utilities Commission

500 East Capitol Avenue

Pierre, SD 57501

Phone (605)773-3201

[Kristen.edwards@state.sd.us](mailto:Kristen.edwards@state.sd.us)