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South Dakota

PUBLIC UTILITIES COMMISSION

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July 11, 2023

Donald Hinson

[REDACTED]
Rapid City SD 57703

Mr. Hinson,

This is in response to your letter received in today's mail regarding the SCS Carbon Transport LLC permit request currently being reviewed by the Public Utilities Commission.

This pipeline siting permit application is docket HP22-001, filed by the company on Feb. 7, 2022. Many documents have been and continue to be posted in the docket, available online at PUC.SD.gov. You write that your concerns are for the waters of the eight water crossings and wind dispersal affecting people if the pipeline breaks. Your questions are among the issues that will be discussed during the evidentiary hearing process in September and will be reflected in filings made in the online docket.

Enclosed you will find a document titled **Pipeline Siting Information Guide**. This is posted on the commission's website. Here you can access all commission dockets as well as links to the state statutes and administrative rules governing the commission. All this is online as that is the most economical means for the commission to make its dockets easily accessible to the public, and the state legislature makes its laws available online as well. Below are excerpts from the Guide that may be helpful.

PUC Authority

The South Dakota Legislature gave the PUC authority to issue permits for certain pipelines. South Dakota pipelines within the commission's siting jurisdiction include those designed to transport coal, gas, liquid hydrocarbons, liquid hydrocarbon products, or carbon dioxide, for example. In considering applications, the commission's primary duty is to ensure the location, construction and operation of the pipeline will produce minimal adverse effects on the environment and the citizens. The commission determines these factors based on definitions, standards, and references specified in South Dakota Codified Laws and Administrative Rules. In pipeline siting cases, the commission has one year from the date of application to make a decision.

In rendering its decision, the commission may grant the permit, deny the permit, or grant the permit with terms, conditions or modifications of the construction, operation or maintenance as the commission finds appropriate and legally within its jurisdiction. The commission does not have authority to change the route or location of a project. The decision of the commission can be appealed to the circuit court and, ultimately, to the South Dakota Supreme Court.

The PUC is not involved in the easement acquisition process that occurs between applicants and landowners. Likewise, the PUC does not have a role in the eminent domain process, which is handled in the circuit court system. Landowners with concerns about these issues should seek advice from their personal attorney.

The commission strives to issue a reasoned decision and conditions, where appropriate, that uphold the law and discourage a potentially expensive and lengthy appeal process.

Applicant Responsibility

The applicant that seeks the PUC's approval must show its proposed project: • will comply with all applicable laws and rules; • will not pose a threat of serious injury to the environment nor to the social or economic condition of inhabitants or expected inhabitants in the siting area; • will not substantially impair the health, safety or welfare of the inhabitants; and • will not unduly interfere with the orderly development of the region with due consideration having been given to the views of the governing bodies of affected local units of government.

The commission cannot change a route or location of a siting project except to prohibit the route from being placed in areas that are not appropriate.

The decision on whether to issue a permit, deny a permit, or issue a permit with conditions will be based on whether a project complies with the criteria established in SDCL 49-41B-22. You may access the laws at SDLegislature.gov online, including the chapter that provides most of the laws governing the commission, Title 49, Public Utilities and Carriers; and the Administrative Rules including relevant Definitions in Article 20:10. You may also find helpful information as to jurisdiction and links posted on the commission's website at PUC.sd.gov under the **Energy** and **Pipeline Safety Program** tabs.

My fellow commissioners and I will gather a greater understanding of the facts of the pipeline project through the contested case evidentiary hearing process, scheduled for September 11-22 and 25-29. The final decisions of the commission may be appealed to the court system. In such an appeal, the court will evaluate whether the commission based their decision on the established facts and the applicable law.

Since commissioners will ultimately vote on the siting permit application, any communication with a commissioner about this docket must be done during a public, noticed meeting or made available via the online docket. As such, your letter and this response will be posted under Comments and Responses in the docket.

Thank you for writing. We both will learn more and will likely find answers to your concerns, including SCS Carbon Transport LLC's legal liability, during the upcoming evidentiary hearing. As such, I encourage you to follow along via the docket.

Sincerely,

A handwritten signature in blue ink that reads "Gary". The signature is written in a cursive style with a large, stylized "G" and "y".

Gary Hanson