

From: PUC

Sent: Wednesday, August 16, 2023 4:53 PM

To: gklems@msn.com

Cc: John P. Peterson (petersonlaw@midconetwork.com) <petersonlaw@midconetwork.com>

Subject: HP22-002

Rep. Karla Lems,

This is in response to your message sent to Chairperson Fiegen regarding the Navigator Heartland Greenway, LLC docket open before the commission, [HP22-002](#). As relayed via the [Pipeline Siting Info Guide](#) posted in the docket and on the commission website home page, communication with commissioners about an open docket is not appropriate without proper notice or in a public forum. Further, as an intervenor in HP22-002, represented by counsel, communication regarding the docket should be done via docket filings by your attorney.

Please refer to the [Commission Counsel Email to All Parties](#) and [Intervenor Guide](#), both posted in the docket on Feb. 6, 2023, with excerpts below.

Remember: This proceeding is akin to a lawsuit. From this perspective, Navigator is suing for a permit and the Public Utilities Commissioners are the judges. Every step and application of law that the commission takes in this contested administrative law proceeding is a professionally bound quasi-judicial administrative action done under the Administrative Procedures Act. This is conducted in the spirit and methods of the state's judicial branch of government in effort to comply with the separation of powers within the legislative,

administrative, executive, and judicial systems. Reliance on and use of civil rules of procedure and evidence are requisites for the commission and you. A prohibition on ex-parte communication with hearing examiners and/or commissioners is in effect. So, you should not engage in direct conversation, whether that is verbal or electronic (email, for example), with them about the case outside of a public meeting with all parties present.

If you are represented by an attorney in this proceeding, that attorney should be the person who will make filings and communications on your behalf.

Attorneys, please make sure it finds your clients as they are not individually listed on the service list.

As such, your message to Chairperson Fiegen and this response will be posted in the docket. Your questions concerning the docket should be handled by your attorney on your behalf. Attorney John Peterson, who is representing you according to your Party Status Application, is copied here.

In response to the questions you posed, complete maps are available in the docket. The maps relied upon for the evidentiary hearing are found in [Exhibit N1](#), which was admitted into evidence at the evidentiary hearing. Regarding the plume modeling, it is PUC staff's understanding that you executed a Non-Disclosure Agreement at the evidentiary hearing, so you should now have access to that information through your attorney, who will be able to opine as to the completeness of the information. All plume modeling information received by PUC staff was also filed with the commission as exhibits at the evidentiary hearing.

Thank you for your understanding and complying with the proper procedure.

South Dakota Public Utilities Commission Staff
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