

**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**

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**STAFF MEMORANDUM
REGARDING PARTY STATUS
APPLICATIONS

HP24-001**

Staff provides this memorandum in order to facilitate discussion as the initial applications for party status are heard on December 17, 2024. This memorandum will provide Staff’s initial position on those applications for party status filed through the date of this memo,¹ as well as provide guidance to those considering applying for party status.

SDCL 49-41B-17 provides, in relevant part, that the commission may grant party status to

(3) Each municipality, county and governmental agency in the area where the facility is proposed to be sited, if timely application therefore is made as determined by the commission pursuant to rule; and

(4) Any person residing in the area where the facility is proposed to be sited, or any directly interested person, if timely application therefore is made as determined by the commission pursuant to rule. An application for party status in a proceeding under this chapter must contain a detailed statement of the interests and reasons prompting the application.

Staff recommends that a presumptive two-mile distance be considered as the standard for considering direct interest, absent consideration on a case-by-case basis if additional detail is provided by an applicant for party status articulating a direct interest that is unique from the rest

¹ This memo was filed on the morning of Friday, December 13th. In this memo, Staff has considered all party status applications received through Thursday, December 12th. Staff believes it would be appropriate to defer consideration of any party status applications received after December 12th to the next available Commission meeting so that all involved have sufficient time for review.

of the public. Staff arrived at its two-mile recommendation based upon Staff's experience with similar dockets, taking into consideration factors including but not limited to safety,² economic impacts, and exposure to construction activities such as noise and traffic.

On November 21, 2024, Staff sent its first Data Request to Applicant. In response, Staff received a Dispersion Analysis, attached hereto as Attachment 1. Staff appreciates Applicant's willingness to provide this information publicly. Staff has not yet engaged an expert witness to review this Dispersion Analysis, however we are providing it here as it provides context and perspective that the Commission and general public may find informative.

Based upon our experience, Staff believes that it is fair to presume that those party status applicants within two miles of the project are directly impacted and, therefore, Staff has no objection to the commission granting party status to those within two miles.

Staff notes that the Commission received party status applications from at least two elected officials to date. It is Staff's interpretation that SDCL 49-41B-17(3) provides for intervention by the governmental entity, rather than specific elected members of the body. Therefore, in order to qualify for intervention, an elected official would need to qualify in their individual capacity as a resident in the area where the facility is proposed to be sited or directly interested person.

CONCLUSION

Absent a unique and articulated direct interest beyond these categories, Staff supports party status being granted to governmental units as contemplated by SDCL 49-41B-17(3) and those within two miles of the project.

² This recommendation should not be taken as directly correlating to a dispersion model or any specific, independent safety metric, rather it is a consideration of all safety concerns occurring during construction and operation.

Specifically, Staff recommends that party status be granted to the following directly interested persons pursuant to SDCL 49-41B-17(4): Kaley Nolz,³ Amanda Radke, Dakota Access, LLC, South Dakota Telecommunications Association, Jason Fauth, Debora Ross, Robert Ross, and Jane Payfer. Staff recommends that party status be granted to the Brookings County Commission pursuant to SDCL 49-41B-17(3).

Because Representative Krohmer, AGM Farms, LLC, and Brent Hoffman are not within two miles of the Project, Staff does not have sufficient information upon which to believe that either has a direct interest, distinct from the public at large.

Dated this 13th day of December 2024.



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³ Staff recommends granting party status to Representative Nolz in her individual capacity.