

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

**IN THE MATTER OF THE APPLICATION )  
OF BLACK HILLS POWER, INC. FOR A )  
PERMIT TO CONSTRUCT A 230 KV )  
TRANSMISSION LINE AND ASSOCIATED )  
SUBSTATION MODIFICATION FACILITY )  
PERMIT )**

**MOTION REQUESTING CONTINUANCE  
OR DENIAL OF APPLICATION**

**EL14-061**

On June 30, 2014, Black Hills Power, Inc. (BHP), a South Dakota corporation, filed with the South Dakota Public Utilities Commission (Commission) an Application of Black Hills Power, Inc. for a transmission line that identified a specific proposed alignment.

On August 21, 2014, Commission Staff commented that submitted map alignment is low resolution and difficult to read. Map scale and resolution was requested to be improved.

On October 2, 2014, BHP submitted a new alignment for the proposed transmission line that had not previously been published or aired before public in press, PUC docket or hearing.

This new alignment effectively represents a different application. It was submitted as a clarification of existing information, but significantly altered the location resulting in significantly different impacts to what was formerly submitted.

Because of the way that the information was presented, affected property owners were not aware of the alignment.

On October 7, 2014 Commission issued an order for and notice for an adversarial evidentiary hearing for November 6, 2014. The issues at the hearing will be as set forth in SDCL 49-41 B-22 as follows:

1. Whether the proposed transmission Project will comply with all applicable laws and rules;
2. Whether the Project will pose a threat of serious injury to the environment or to the social and economic condition of inhabitants or expected inhabitants in the siting area;
3. Whether the Project will substantially impair the health, safety or welfare of the inhabitants; and
4. Whether the Project will unduly interfere with the orderly development of the region with due consideration having been given to the views of governing bodies of affected local units of government.

It is represented that:

1. The proposed transmission Project fails to comply with the intent of legislative and judicial actions by failing to provide adequate opportunity for hearing and time for public response.

Similar to the misleading submission of a new alignment, known as "Final Route", as a response for clearer resolution mapping; BHP has repeatedly made representations to affected property owners that led them to erroneously conclude that neighboring property owners had approved the location of the Final Route across their lands. This representation had the effect of diffusing opposition and decreasing the opportunity for affected parties to protect their rights from infringement.

The recurrent misrepresentation of material facts that causes others to infer erroneous conclusions, and the submission of new information as clarification of previously submitted information renders other provided and submitted information suspect and subject to a much more thorough evaluation.

The opportunity for selection and retention of qualified legal and technical representation, and negotiation with BHP by affected property owners after the October 2, 2014 revelation of the new alignment has been delayed by actions of BHP in failing to respond to inquiries and requests for discussion in a timely manner.

2. The Project has not demonstrated the absence of a threat of serious injury to the environment.

The project has also demonstrated a serious injury to the social and economic condition of the inhabitants and expected inhabitants in the siting area as evidenced by the opposition to location by Michael Sweet and Vicki Leonard, as contained in the Commission e-Docket, as well as by others. This opposition is of the form of refusal to grant Right of Way Easements to BHP by deeded owners of impacted parcels.

The Project, as defined by the Final Route, will irreparably damage at least two unique residential building lots within the jurisdictional boundary of Rapid City abutting Sun Ridge Road; and adversely affecting the use and enjoyment of proximate public lands in the Black Hills National Forest.

3. The Project has not demonstrated the absence of substantial impairment to the health, safety or welfare of the inhabitants. In fact, it is believed that should proper time be provided to secure legal and technical counsel instead of the four weeks following definition of the Final Route, it is expected to be successfully demonstrated to the satisfaction of the Commission that a substantial impairment to health, safety, and the welfare of the inhabitants that justify denial of the application.
4. No representation of the views of the governing bodies have been offered to indicate the absence of undue interference of the Project impacts on orderly development of the region. In fact, it is believed that should proper time be provided to secure legal and technical counsel instead of the four weeks following definition of the Final Route, it is expected to be successfully demonstrated to the satisfaction of the Commission that Project impacts do cause undue interference on orderly development of the region that justify denial of the application.

Therefore,

It is requested that the Commission delay the Evidentiary Hearing scheduled for November 6, 2014 and reschedule at a date approximately four months after the October 2, 2014 submission by BHP of the completed application which includes the alignment known as the Final Route to provide suitable time for development and submission of materials for the Hearing so as to allow the Commission to make a well informed decision.

In the absence of granting a delay, it is respectfully requested that the application be denied.

#### **CERTIFICATE OF SERVICE**

I hereby certify that on the Fifth day of November, 2014, Black Hills Power, Inc.'s Motion Requesting Continuance in the above-referenced matter was e-filed with the South Dakota Public Utilities Commission. Copies were also e-mailed to the parties on the attached service list.

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