

From: PUC
Sent: Thursday, August 24, 2023 4:59 PM
To: [REDACTED]
Subject: HP22-001, HP22-002

Mr. Hargreaves,

This is in response to your message regarding the proposed SCS Carbon Transport, LLC and Navigator Heartland Greenway LLC applications for siting permits, dockets [HP22-001](#) and [HP22-002](#). These are open dockets before the commission.

This [Pipeline Siting Information Guide](#) and [Guidelines](#) help explain the commission's processing of such dockets and why I cannot communicate with you about these outside of a public, noticed meeting or hearing. See excerpts from the former below.

Submit comments. *Members of the public are encouraged to submit written comments about an active siting case to the PUC. These informal public comments are reviewed and considered by the PUC commissioners and staff. Comments should include the docket number or siting project name, commenter's full name, mailing address, e-mail address and phone number. These comments should be emailed to puc@state.sd.us...*

Communicate on record. *Verbal communication between a commissioner and a person with an interest in a matter before the commission that does not occur in a public forum or as part of the official record should be avoided. Those who communicate in writing with a commissioner about an open or imminent docket matter should understand that their comments will become part of the official record and subject to review by all parties and the public. Likewise, comments made at a PUC public proceeding or submitted to the commission relative to a docket matter become part of the record, open to review by all parties and the public. Because commissioners have a decision-making role in docket matters, any discussion with a commissioner about an open or imminent docket must take place in an open forum, such as a public meeting, with notice given to all parties.*

This Guide goes on to explain that the commission does not have authority by law for easements or eminent domain. See excerpts below.

This guide is intended to offer a simple overview of the Public Utilities Commission's process in making a decision to approve or deny the construction of pipeline facilities specific to South Dakota Codified Laws Chapter 49-41B (www.sdlegislature.gov/Statutes/Codified_Laws) and South Dakota Administrative Rules Chapter 20:10:22 (www.sdlegislature.gov/Rules/RulesList).

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.

Since commissioners have decision-making authority on dockets, any communication with us about an open or imminent docket must be done in an open forum, such as a public meeting or hearing with notice given to the formal parties or made available via the docket. As such, your message and this response will be posted under Comments and Responses in the dockets. Any messages regarding open dockets should include the required information as the Guide explains and be emailed to PUC@state.sd.us.

Kristie Fiegen, Chairperson
South Dakota Public Utilities Commission
PUC.sd.gov