

From: PUC
Sent: Monday, July 24, 2023 8:33 AM
To: Doug Bierschbach [REDACTED]
Subject: HP22-001, HP22-002

Mr. Bierschbach,

This is in response to your July 21, 2023 email with questions about proposed CO₂ pipelines. The South Dakota Public Utilities Commission currently has two CO₂ pipeline permit applications under review. SCS Carbon Transport, LLC filed their application on Feb. 7, 2022, docket [HP22-001](#), and Heartland Greenway, LLC filed their application on Sept. 27, 2022, docket [HP22-002](#).

This [Information Guide to Siting Pipelines](#), posted in each docket explains the processing of siting dockets such as these by the commission. 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.

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.

There are a host of concerns and details that must be addressed regarding a requested permit for a CO₂ pipeline. As you will see by reviewing the documents posted thus far in each docket, many, many issues are being addressed by formal parties involved in these siting dockets. These issues are being dissected and will be robustly discussed and cross-examined during the evidentiary hearings for each docket. Commissioners will ask many questions, as will other parties involved in the docket being heard, ultimately assisting the commissioners in determining whether each will vote yes or not on a permit or consider conditions with a permit. I encourage you to follow along throughout this process in seeking answers to your questions.

My fellow commissioners and I will make a determination on each permit based on facts presented by parties to the docket. Our decision must be based on evidence. We must make a decision that is within the commission's legal jurisdiction as provided by the South Dakota Legislature, and one we believe will be upheld should our decision be appealed to circuit court.

Since commissioners have a decision-making role in docket matters, any communication with us about any open or imminent docket must be done in an open forum, such as a public meeting or hearing, with notice given to all parties or made available via the docket. Thus, your email and my response will be posted under Comments and Responses in each docket.

Thank you for writing, allowing me to explain the commission's jurisdiction and processing of siting permit applications.

Kristie Fiegen, Chairperson

South Dakota Public Utilities Commission

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