BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION	)	
OF SOUTH DAKOTA INTERSTATE	)	**Staff's Response to Motion for**
PIPELINE COMPANY FOR AUTHORITY	)	**Commission Review**
TO INCREASE ITS NATURAL GAS	)	
RATES	)	**NG17-009**
	)	

COMES NOW, Staff of the South Dakota Public Utilities Commission (Commission) and hereby files this Reply to Motion for Commission Review (Motion). The Motion was filed by Montana Dakota Utilities Company (MDU) on July 11, 2017. In its Motion, MDU requests the Commission review the filings made by South Dakota Interstate Pipeline (SDIP) in its June 29, 2017 filing to determine what, if anything, is confidential. SDIP filed the entirety of the documents as confidential. MDU seeks a ruling that all documents are public. Staff agrees with MDU and requests all documents filed in NG17-009 at the time of this Response be declared public.

Staff has been in contact with both other parties and has requested that SDIP file a redacted public version of the documents. To date, SDIP has not made such a filing.

In its filing letter dated June 29, 2017, SDIP cited SDCL 15-6-26(c)(7) and ARSD 20:10:01:39 as bases for confidential treatment of the filing. SDCL 15-6-26(c)(7) provides protections to "trade secret or other confidential research, development, or commercial information" That statute provides for other procedural prerequisites, such as a filing that the movant has in good faith conferred or attempted to confer with other affected parties. However, Staff has no reason to believe such an effort was not made and believes this motion should go forward, as all parties will benefit from resolution of this question.

ARSD 20:10:01:42 places the burden on SDIP to prove that disclosure of the information would result in material damage to its financial or competitive position, reveal trade secret, or impair the public interest. Because no redacted, public version of the documents was filed, Staff must assume that SDIP intended for every piece of information contained in the filing, including testimony, is considered by SDIP to be propriety financial information. While Staff disagrees with any assertion that all information should be considered confidential financial information, rather than attempt to go through the filing piece by piece, Staff relies on the party with the burden of proof to do so. Therefore, we address the filing as a whole.

In order to establish good cause, SDIP must show that disclosure will result in a clearly defined and serious injury. *Bertelsen v. Allstate Ins. Co.*, 2011 SD 13, ¶57, 796 NW2d 685. A broad assertion that injury will result is not sufficient. *Id.* Therefore, it is incumbent upon SDIP to demonstrate to the Commission that it will suffer injury if the information is made public and specifically what that injury will be. In the face of a confidentiality challenge, merely stating that the filing contains financial information is not enough. Because no other applicant for a rate increase has filed such information as confidential, Staff fails to see how specific harm could result from disclosure.

While it may be likely that MDU could obtain all information in the docket by signing a nondisclosure agreement or through the discovery process, Staff does not believe that merely releasing the information to MDU sufficiently informs the public. While MDU may be the only direct customer of SDIP at this time, MDU may not be the only person or entity ultimately effected by the outcome of this docket.

Therefore, Staff respectfully requests the Commission grant the request for review and make all information filed on June 29, 2017 public. In the alternative, Staff requests the Commission schedule a hearing at the next regularly scheduled Commission meeting determine which, if any, information is confidential.

Dated this 28th day of July, 2017.

Amanda Reiss
Kristen N. Edwards
Staff Attorneys
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501
Phone (605)773-3201
Kristen.edwards@state.sd.us