

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

IN THE MATTER OF THE APPLICATION BY)	ORDER FOR AND NOTICE
TRANSCANADA KEYSTONE PIPELINE, LP)	OF HEARING
FOR A PERMIT UNDER THE SOUTH DAKOTA)	
ENERGY CONVERSION AND TRANSMISSION)	HP09-001
FACILITIES ACT TO CONSTRUCT THE)	
KEYSTONE XL PROJECT)	

On March 12, 2009, TransCanada Keystone Pipeline, LP, (Keystone or Applicant) filed a siting permit application (Application) for the South Dakota portion of the proposed Keystone XL Project (Project). The Project will transport crude oil starting in Hardisty, Alberta, Canada and ending in Port Arthur and East Houston areas of Texas. The proposed 36 inch diameter pipeline will have a nominal capacity of 900,000 barrels of oil per day. The proposed route will enter South Dakota at the Montana/South Dakota border in Harding County. It will extend in a southeasterly direction through portions of Harding, Butte, Perkins, Meade, Pennington, Haakon, Jones, Lyman, and Tripp counties. It will exit the state at the South Dakota/Nebraska border in Tripp County. The length of pipeline through South Dakota is approximately 313 miles. The Project also includes seven pump stations in South Dakota located in Harding (2), Meade, Haakon, Jones, and Tripp (2) counties along with 16 mainline valves. Mainline valves are proposed at each pump station and along the right-of-way with spacing intervals based upon the location of the pump stations, water bodies greater than 100 feet in width, high consequence areas and other considerations.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-41B, specifically 49-41B-1, 49-41B-2, 49-41B-2.1, 49-41B-4, 49-41B-11, 49-41B-12, 49-41B-13, 49-41B-15, 49-41B-16, 49-41B-17, 49-41B-17.1, 49-41B-21, 49-41B-22, 49-41B-26, 49-41B-33, 49-41B-38, and ARSD Chapter 20:10:22.

On June 30, 2009, the Commission issued an Order Setting Procedural Schedule. On October 8, 2009, the Commission issued an Order Setting Amended Procedural Schedule.

A hearing shall be held commencing at 9:00 a.m., on Monday, November 2, 2009, in Room 414, State Capitol, 500 East Capitol, Pierre, South Dakota, and shall continue commencing at 8:30 a.m. on November 3-6, 2009. The hearing is open to the public. All persons testifying shall be subject to cross-examination.

The issues to be considered by the Commission at the hearing are:

1. Whether the Application was filed generally in the form and content required by SDCL Chapter 49-41B and ARSD 20:10:22;
2. Whether the Application or any accompanying statements or studies required of the Applicant contain any deliberate misstatements of a material fact;
3. Whether the Project will comply with all applicable laws and rules;
4. Whether the Project will pose an unacceptable threat of serious injury to the environment or to the social and economic condition of inhabitants or expected inhabitants in the siting area;
5. Whether the Project will substantially impair the health, safety or welfare of the inhabitants;
6. Whether the Project will unduly interfere with the orderly development of the region with due consideration having been given the views of governing bodies of affected local units of government;

7. Whether a permit for the Project should be granted, denied, or granted upon such terms, conditions or modifications of the construction, operation, or maintenance of the Project as the Commission deems appropriate;
8. If granted subject to terms, conditions or modifications of the construction, operation, or maintenance of the Project, what terms, conditions or modifications of the construction, operation, or maintenance of the Project are appropriate;
9. What amount of coverage under the indemnity bond required by SDCL 49-41B-38 is a reasonable amount to insure that townships, counties, or other governmental entities whose property is crossed by the Project shall be adequately compensated for any damage beyond normal wear to public roads, highways, bridges, or other related facilities; and
10. What the form, terms, and conditions of the indemnity bond should be.

The hearing will be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights may be forfeited if not exercised at the hearing. If a party or their representative fails to appear at the time and place set for the hearing, the Final Decision will be based on the testimony and other evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. All persons testifying will be sworn and subject to cross-examination by the Commission Staff, the Commission and other parties. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission may then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission will determine whether a permit for the Project should be granted, denied, or granted upon such terms, conditions or modifications of the construction, operation or maintenance of the Project as the Commission deems appropriate. The Commission's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED, that a hearing shall be held at the time and place specified above on the issues as stated above.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 15th day of October, 2009.

CERTIFICATE OF SERVICE	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically.	
By:	<u>Aldine Kelso</u>
Date:	<u>10/15/09</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Dustin M. Johnson
DUSTIN M. JOHNSON, Chairman *dk*

Steve Kolbeck
STEVE KOLBECK, Commissioner

Gary Hanson
GARY HANSON, Commissioner