

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

IN THE MATTER OF THE PETITION OF)	ORDER GRANTING MOTIONS
TRANSCANADA KEYSTONE PIPELINE, LP)	TO JOIN AND DENYING
FOR ORDER ACCEPTING CERTIFICATION)	MOTIONS TO DISMISS
OF PERMIT ISSUED IN DOCKET HP09-001)	
TO CONSTRUCT THE KEYSTONE XL)	HP14-001
PIPELINE)	

On September 15, 2014, TransCanada Keystone Pipeline, LP (Keystone) filed with the South Dakota Public Utilities Commission (Commission) a Petition for Order Accepting Certification under SDCL §49-41B-27 (Petition) seeking an order accepting certification of the energy facility permit issued in Docket HP09-001 for construction of the Keystone XL Pipeline (Project). On June 29, 2010, the Commission issued an Amended Final Decision and Order; Notice of Entry (Decision) granting a permit to Keystone for construction of the Keystone XL Pipeline. Because it has been more than four years since the permit was issued and construction has not commenced, Keystone now seeks an order accepting certification pursuant to SDCL 49-41B-27. On November 4, 2014, the Commission issued an Order Granting Intervention and Party Status granting intervention to forty-two intervenors. On December 2, 2014, intervenor Yankton Sioux Tribe filed a Motion to Dismiss (Motion). At its regularly scheduled Commission Meeting on December 9, 2014, the Commission discussed scheduling for the Motion. All parties present agreed that the Motion could be heard on January 6, 2015, with responses to the Motion due December 29, 2014. No objections to the agreed upon schedule were filed. On December 17, 2014, the Commission issued an Order Granting Motion to Define Issues and Setting Procedural Schedule setting the Motion for hearing on January 6, 2015.

The Rosebud Sioux Tribe filed its own Motion to Dismiss and Request for Oral Argument on December 29, 2014. Motions to Join the Yankton Sioux Tribe's Motion to Dismiss were filed by the Standing Rock Sioux Tribe, the Cheyenne River Sioux Tribe, Dakota Rural Action, the Indigenous Environmental Network, the Rosebud Sioux Tribe – Tribal Utility Commission, and the Intertribal Council on Utility Policy. On December 29, 2014, Keystone filed its response in opposition to the Motion. Yankton Sioux Tribe filed its reply on January 2, 2015, arguing in support of its Motion.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-41B, and 15-6, specifically 15-6-12(b)(5).

At its regularly scheduled meeting on January 6, 2015, the Commission considered the Motion, as well as the Motions to Join in the Motion. The Commission voted unanimously to allow all moving parties to join in the Motion, as well as to consider the motion filed by the Rosebud Sioux Tribe together with the original Motion. The Commission allowed oral argument from all parties wishing to speak. After hearing from the parties, the Commission unanimously voted to deny the Motions to Dismiss, concluding that the Petition does not on its face demonstrate that the Project no longer meets the permit conditions set forth in the Decision and that a decision on the merits should only be made after discovery and a thorough opportunity to investigate the facts and proceed to evidentiary hearing if necessary.

It is therefore

ORDERED, that all of the intervenors' Motions to Join in the Motion are granted. It is further

ORDERED, that the Yankton Sioux Tribe's Motion to Dismiss is denied. It is further

ORDERED, that the Rosebud Sioux Tribe's Motion to Dismiss is denied.

Dated at Pierre, South Dakota, this 5th day of January, 2015.

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 or by mail.
By: <u>[Signature]</u>
Date: <u>1/9/15</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

[Signature]
GARY HANSON, Chairman

[Signature]
CHRIS NELSON, Commissioner

[Signature]
KRISTIE FIEGEN, Commissioner