

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

IN THE MATTER OF THE PETITION OF)	ORDER FOR AND NOTICE OF
TRANSCANADA KEYSTONE PIPELINE, LP)	EVIDENTIARY HEARING
FOR ORDER ACCEPTING CERTIFICATION)	
OF PERMIT ISSUED IN DOCKET HP09-001)	HP14-001
TO CONSTRUCT THE KEYSTONE XL)	
PIPELINE	

On September 15, 2014, TransCanada Keystone Pipeline, LP (TransCanada) filed with the South Dakota Public Utilities Commission (Commission) a Petition for Order Accepting Certification under SDCL §49-41B-27 seeking an order accepting certification of the energy facility permit issued in Docket HP09-001 for construction of the Keystone XL Pipeline. On June 29, 2010, the Commission issued an Amended Final Decision and Order; Notice of Entry granting a permit to TransCanada for construction of the Keystone XL Pipeline. TransCanada now seeks an order accepting certification pursuant to SDCL 49-41B-27. The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-41B, specifically 49-41B-27, and ARSD Chapters 20:10:01, specifically 20:10:01:22.02, and 20:10:22.

On September 18, 2014, the Commission electronically transmitted notice of the filing and the intervention deadline of October 15, 2014, to interested individuals and entities on the Commission's PUC Weekly Filings electronic listserv. Applications for Party Status were received from forty-three persons, and on November 4, 2014, the Commission issued an Order Granting Intervention and Party Status to forty-two of the applicants. Three parties have since been granted withdrawal of party status. On December 17, 2014, the Commission issued an Order Granting Motion to Define Issues and Setting Procedural Schedule (Procedural Schedule) setting the matter for hearing on May 5-8, 2015. On April 3, 2014, the Commission issued an Order Granting in Part Motion to Amend Procedural Schedule extending the dates for filing certain pre-filed testimony and setting dates for other filings. On April 10, 2015, the Commission issued an Order Granting Reconsideration and Amending in Part Procedural Schedule affording Rosebud Sioux Tribe additional time until April 24, 2015, to file pre-filed testimony due to a problem that occurred with TransCanada's electronic service of a discovery response on Rosebud. On April 14, 2015, the Commission conducted a motion hearing on ten outstanding discovery motions and Jeff Jensen's request to withdraw as a party to the docket. Mr. Jensen's request to withdraw as a party was granted. The Commission's actions on Mr. Jensen's request to withdraw and the ten discovery related motions will be detailed in separate orders issued by the Commission.

Two of the motions considered by the Commission at its April 14, 2015, Commission meeting were TransCanada's Amended Motion to Preclude Certain Intervenors from Offering Evidence or Witnesses at Hearing and to Compel Discovery and Keystone's Motion to Preclude Witnesses from Testifying at Hearing Who Did Not File Prefiled Testimony. After hearing from the parties, the Commission voted unanimously to preclude the following parties from testifying or presenting evidence at the hearing due to their failure to respond or adequately respond to TransCanada's discovery requests: Rosebud Sioux Tribe - Tribal Utility Commission; Viola

Wain; Cheryl and Terry Frisch; Louis Grass Rope; Robert Allpress; Louis Genung; Jerry Jones; Cody Jones; Debbie Trapp; Gina Parkhurst; Joyce Braun; 350.org; Chastity Jewett; Dallas Goldtooth; Ronald Fees; John Harter; BOLD Nebraska; and Carolyn Smith. The Commission also voted unanimously to preclude witnesses for whom pre-filed testimony was not filed from testifying or offering evidence.

A hearing will be held commencing at 9:00 a.m. CDT, with marking of exhibits to begin at 8:00 a.m. CDT, on Tuesday, May 5, 2015, and continuing at 8:00 a.m. on May 6-8, 2015, in Room 414 of the State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota. All persons testifying will be subject to cross-examination.

At the hearing, each party will be permitted to present an opening statement summarizing the evidence that such party will offer into evidence and to briefly and concisely state the issues involved in the case. Argument will not be permitted in the opening statement. Opening statements will be limited to ten minutes in length.

The issue at the hearing is whether the Commission shall accept TransCanada's certification as conforming to SDCL 49-41B-27.

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. All persons testifying will be subject to cross-examination. The Commission's final decision will be based solely on testimony and evidence provided at the hearing. If a party or its representative fails to appear at the time and place set for the hearing, a decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of this hearing, the Commission will make a decision, including findings of fact and conclusions of law, on the issue set forth above. The Commission's Final Decision may be appealed by the parties to the Circuit Court and the Supreme Court as provided by law. It is therefore

ORDERED, that a hearing will be held commencing at 9:00 a.m. CDT, with marking of exhibits to begin at 8:00 a.m. CDT, on Tuesday, May 5, 2015, and continuing at 8:00 a.m. on May 6-8, 2015, in Room 414 of the State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota. It is further

ORDERED, that opening statements shall be limited to ten minutes in length. It is further

ORDERED, that the following persons will be precluded from testifying or presenting evidence at the hearing due to their failure to respond or respond adequately to discovery: Rosebud Sioux Tribe - Tribal Utility Commission; Viola Wain; Cheryl and Terry Frisch; Louis Grass Rope; Robert Allpress; Jeff Jensen; Louis Genung; Jerry Jones; Cody Jones; Debbie Trapp; Gina Parkhurst; Joyce Braun; 350.org; Chastity Jewett; Dallas Goldtooth; Ronald Fees; John Harter; BOLD Nebraska; and Carolyn Smith. It is further

ORDERED, that witnesses for whom pre-filed testimony was not filed will also be precluded from testifying or offering evidence at the hearing.

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 17th day of April, 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>4/17/15</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

[Signature]

CHRIS NELSON, Chairman

[Signature]

KRISTIE FIEGEN, Commissioner

[Signature]

GARY HANSON, Commissioner