

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

IN THE MATTER OF THE PETITION OF) TRANSCANADA KEYSTONE PIPELINE, LP) FOR ORDER ACCEPTING CERTIFICATION) OF PERMIT ISSUED IN DOCKET HP09-001) TO CONSTRUCT THE KEYSTONE XL) PIPELINE)))	ORDER GRANTING IN PART MOTION FOR RECONSIDERATION OF PARTIAL GRANTING OF MOTION <i>IN LIMINE</i> TO EXCLUDE EXHIBITS HP14-001
---	---

On September 15, 2014, TransCanada Keystone Pipeline, LP (TransCanada or Keystone) 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 Chapter 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. On May 5, 2015, the Commission issued an Order Amending Procedural Schedule. Per the Order Amending Procedural Schedule, parties were required to file witness lists and exhibit lists by July 7, 2015.

On July 7, 2015, Dakota Rural Action (DRA) and several other parties submitted exhibit lists. DRA's exhibit list identified approximately 1,073 exhibits it intended to introduce at the evidentiary hearing. On July 10, 2015, the Commission received Keystone's Protective Motion *in Limine* Regarding Dakota Rural Action's Exhibit List Dated July 7, 2015 (Motion). In its Motion, Keystone sought an order prohibiting DRA from offering any exhibit or testimony regarding exhibits not otherwise produced in discovery responses. The Commission considered the Motion on July 17, 2015. The Commission voted unanimously to grant in part and deny in part the Motion. On July 17, 2015, the Commission issued an Order Granting in Part and Denying in Part Motion *in Limine* (Order). In its Order, the Commission precluded DRA's introduction of 122 DRA exhibits. The Commission denied the Motion with respect to the remaining 951 exhibits.

On July 21, 2015, the Commission received Dakota Rural Action's Motion and Memorandum for Reconsideration of Partial Granting of Motion *in Limine* to Exclude Exhibits (Motion to Reconsider). In its Motion to Reconsider, DRA requests that the Commission reconsider its July 17, 2015 Order.

At an ad hoc meeting on July 23, 2015, the Commission considered the Motion for Reconsideration. Finding that its decision was correct in its Order Granting in Part and Denying in Part Motion *in Limine* that admission of certain of the excluded exhibits was necessary to prevent undue prejudice to Keystone, the Commission voted unanimously to grant the Motion for Reconsideration only as it relates to DRA exhibits 29-37, 39-65, and 1058-1062.

It is therefore

ORDERED, that DRA's Motion for Reconsideration is granted as it relates to exhibits 29-37, 39-65, and 1058-1062. It is further

ORDERED, that DRA's Motion for Reconsideration is denied with respect to the remaining exhibits.

Dated at Pierre, South Dakota, this 23rd day of July, 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>7/23/15</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

[Signature]
CHRIS NELSON, Chairman

[Signature]
GARY HANSON, Commissioner