

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

**IN THE MATTER OF THE APPLICATION OF)
DAKOTA ACCESS, LLC FOR AN ENERGY)
FACILITY PERMIT TO CONSTRUCT THE)
DAKOTA ACCESS PIPELINE)**

**ORDER GRANTING IN PART)
AND DENYING IN PART)
YANKTON SIOUX TRIBE'S)
MOTION TO COMPEL)**

HP14-002

On December 15, 2014, the South Dakota Public Utilities Commission (Commission) received an energy facility permit application (Application) from Dakota Access, LLC (Dakota Access) pursuant to SDCL 49-41B-4 to construct the South Dakota portion of the proposed Dakota Access Pipeline (Pipeline). The Pipeline will begin in North Dakota and terminate in Patoka, Illinois, traversing 13 counties in South Dakota. The proposed 12- to 30-inch diameter pipeline will have an initial capacity of 450,000 barrels of oil per day with a total potential of up to 570,000 barrels per day. The proposed route will enter South Dakota in Campbell County at the North Dakota/South Dakota border and will extend in a southeasterly direction, exiting the state at the South Dakota/Iowa border in Lincoln County. The length of the Pipeline through South Dakota is approximately 272.3 miles. The Pipeline also would include one pump station in South Dakota located in Spink County. Pursuant to SDCL 49-41B-24, the Commission has one year from the date of application to render a decision on the Application. Several parties have been granted intervention in this docket.

On January 8, 2015, Commissioner Fiegen filed a letter delivered to Governor Dennis Daugaard advising of a conflict of interest under SDCL 49-1-9 after learning of family ownership of land on the proposed Pipeline route. On January 14, 2015, Governor Daugaard filed a letter to Secretary of State Shantel Krebs appointing State Treasurer Rich Sattgast to serve as Acting Commissioner in place of Commissioner Fiegen pursuant to SDCL 49-1-9.

On March 3, 2015, Commission Counsel held a telephonic prehearing scheduling conference with those parties who appeared either in person or telephonically. The participating parties tentatively agreed on a procedural schedule covering discovery, pre-filed testimony, witness and exhibit lists, and an evidentiary hearing. Commission Counsel circulated a draft procedural schedule reflecting the agreed schedule for review to the parties prior to issuance of the Scheduling Order. No objections to such agreed schedule were received. On March 11, 2015, the Commission issued a Prehearing Scheduling Order.

On May 5, 2015, the Commission received a Motion to Compel Discovery (Motion) from Yankton Sioux Tribe (Yankton). In its Motion, Yankton requested an order from the Commission compelling Dakota Access to provide certain information and answer certain interrogatories. Yankton also requested costs and attorney's fees associated with the Motion.

At its regularly scheduled Commission meeting on May 12, 2015, the Commission considered the Motion. The Commission considered the Motion and briefs submitted, as well as arguments presented at the meeting. A majority of the Commission, with Commissioner Hanson dissenting, voted to overrule Dakota Access' objections and grant the Motion with respect to interrogatories 10, 19, and 20 and requests for production of documents numbers 3 and 4. The

Commission further voted unanimously that any confidential information provided pursuant to the Commission's order to compel will be covered by a protective order, which will mirror that issued by the Commission on April 17, 2015, in Docket HP14-001, as amended by the Commission's Order Denying in Part and Granting in Part Joint Motion to Vacate or, in the Alternative, to Clarify or Amend Protective Order issued on May 4, 2015, in Docket HP14-001.

The Commission unanimously voted to deny Yankton's request for attorneys' fees and expenses.

It is therefore

ORDERED, that Yankton's Motion to Compel is granted with respect to request for production number 3. It is further

ORDERED, that Yankton's Motion to Compel is granted with respect to request for production number 4 to the extent that Dakota Access must provide all applications, correspondence with government agencies, and related memorandums. It is further

ORDERED, that Yankton's Motion to Compel is granted with respect to Interrogatories 10, 19, and 20. It is further

ORDERED, that any information which is denoted as confidential by the providing party shall be treated by receiving parties as confidential information and subject to the provisions of the protective order issued by the Commission and shall remain confidential until otherwise ordered by the Commission pursuant to ARSD 20:10:01:39 through 20:10:01:43. It is further

ORDERED, that Yankton's Motion to Compel is denied with respect to all other interrogatories and requests for production of documents. It is further

ORDERED, that Yankton's request for attorney's fees and costs is denied.

Dated at Pierre, South Dakota, this 13th day of May, 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: Rolayne Wiest

Date: 5-13-15

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Chris Nelson
CHRIS NELSON, Chairman

Gary Hanson
GARY HANSON, Commissioner, dissenting
in part

Richard L. Sattgast
RICHARD L. SATTGAST, Acting Commissioner