

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

|                                                                                                                                                                                                           |                                                                                                                           |
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| <b>IN THE MATTER OF THE PETITION OF<br/>TRANSCANADA KEYSTONE PIPELINE, LP<br/>FOR ORDER ACCEPTING CERTIFICATION<br/>OF PERMIT ISSUED IN DOCKET HP09-001<br/>TO CONSTRUCT THE KEYSTONE XL<br/>PIPELINE</b> | <b>) ORDER GRANTING MOTION TO<br/>) DEFINE ISSUES AND SETTING<br/>) PROCEDURAL SCHEDULE<br/><br/>HP14-001<br/>)<br/>)</b> |
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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. On June 29, 2010, the Commission issued an Amended Final Decision and Order; Notice of Entry 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 October 1, 2014, the Commission issued an Order Assessing Filing Fee assessing a fee to cover actual expenses up to the remaining balance of the statutory maximum fee of \$660,700. On November 4, 2014, the Commission issued a Prehearing Scheduling Conference Order and an Order Granting Intervention and Party Status granting intervention to forty-two intervenors. On November 5, 2014, the Commission issued an Order for and Notice of Motion Hearing setting Keystone's Motion to Define the Scope of Discovery under SDCL § 49-41B-27 (Motion) for hearing on November 25, 2014. On November 14, 2014, the Commission issued an Order Changing Motion Hearing Date and Order for and Notice of Scheduling Hearing setting the Motion for hearing on December 9, 2014, and giving notice that on December 9, 2014, the Commission would hear from the parties regarding scheduling and take action on a procedural schedule for the docket.

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.

At its regularly scheduled meeting on December 9, 2014, the Commission considered the Motion and the procedural schedule that should be adopted for this proceeding. After hearing from the parties, a majority of the Commission, with Commissioner Fiegen dissenting, voted: to grant the Motion to the extent that discovery be limited to only discovery regarding any matter, not privileged, which is relevant to 1) whether the proposed Keystone XL Pipeline continues to meet the fifty permit conditions set forth in Exhibit A to the Amended Final Decision and Order; Notice Of Entry issued on June 29, 2010, in Docket HP09-001 (Decision), or 2) the proposed changes to the Findings of Fact in the Decision identified in Keystone's Tracking Table of Changes attached to the Petition as Appendix C; that it shall not be grounds for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence; and that parties shall identify by number and letter the specific Condition or Finding of Fact addressed. The Commission then unanimously voted to adopt the following schedule of proceedings in this docket:

|                                                                                  |                   |
|----------------------------------------------------------------------------------|-------------------|
| Yankton Sioux Tribe's Motion to Dismiss heard<br>at Commission's regular meeting | January 6, 2015   |
| Initial round of discovery served                                                | January 6, 2015   |
| Initial discovery responses served                                               | February 6, 2015  |
| Final discovery served                                                           | February 20, 2015 |
| Responses to final discovery served                                              | March 10, 2015    |
| Pre-filed direct testimony filed and served                                      | April 2, 2015     |
| Pre-filed rebuttal testimony filed and served                                    | April 23, 2015    |
| Evidentiary hearing                                                              | May 5-8, 2015     |

It is therefore

ORDERED, that discovery shall be limited to only discovery regarding any matter, not privileged, which is relevant to 1) whether the proposed Keystone XL Pipeline continues to meet the fifty permit conditions set forth in Exhibit A to the Amended Final Decision and Order; Notice Of Entry Issued on June 29, 2010, in Docket HP09-001 , or 2) the proposed changes to the Findings of Fact in the Decision identified in Keystone's Tracking Table of Changes attached to the Petition as Appendix C, that it shall not be grounds for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence, and that parties shall identify by number and letter the specific Condition or Finding of Fact addressed. It is further

ORDERED, that the parties shall follow the procedural schedule as set forth above.

Dated at Pierre, South Dakota, this 17th day of December, 2014.

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| <b>CERTIFICATE OF SERVICE</b>                                                                                                                                              |                    |
| 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>[Signature]</u> |
| Date:                                                                                                                                                                      | <u>12-17-14</u>    |
| (OFFICIAL SEAL)                                                                                                                                                            |                    |

BY ORDER OF THE COMMISSION:

[Signature]  
GARY HANSON, Chairman

[Signature]  
CHRIS NELSON, Commissioner

[Signature]  
KRISTIE FIEGEN, Commissioner,  
dissenting in part