


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October 19, 2007

ILLONA JEFFCOAT-SACCO  
ND PUBLIC SERVICE COMMISSION  
600 E BOULEVARD AVE  
BISMARCK ND 58505-0480

RE: Request for Extension of time for designation of Corridor and Route  
Case No. PU-06-421  
NDPSC  
TransCanada Keystone Pipeline, LP  
30-Inch Crude Oil Pipeline/Cavalier to Sargent Counties Siting Application

Dear Ms. Jeffcoat-Sacco:

At a special administrative meeting held on October 12, 2007, Commission staff requested an extension of time for the designation of a Corridor and Route for the TransCanada Keystone Pipeline, LP 30-Inch Crude Oil Pipeline/Cavalier to Sargent Counties Siting Application, (Keystone).

According to NDCC sections 49-22-08 and 08.1 the Commission shall issue its findings and reasons for its designation no later than six months after the filing of a complete application. The Commission deemed Keystone's application to be complete on May 2, 2007, therefore, the deadline for the Commission to issue its findings and designation in this case is November 2, 2007.

At the administrative meeting, Commission staff discussed an extension of time until the commission's first meeting in December, tentatively scheduled for December 12, 2007. The Commission has the power to extend the time for designating the corridor and route for just cause. Intervenors filed a written response indicating that they did not object to the extension.

Keystone will not require the Commission to show just cause for the extension, as long as the extension does not extend beyond November 21, 2007. However, Keystone submits that any extension of time for the Commission to issue its findings and designate the corridor and route should be as short as possible. As Keystone stated at the administrative meeting, even a month delay in issuing the certificates for corridor and route would have an adverse impact on the Keystone project. The corridor and route designation by the Commission is needed before certain required federal and state permit applications can be deemed complete,

reviewed, and permits issued.



Keystone suggested that a reasonable extension of time should be no later than November 21, 2007. As demonstrated below, any delay beyond November 21, 2007, would have an adverse impact on Keystone's schedules.

### **Current status of Keystones regulatory schedule.**

- Keystone's overall Federal regulatory schedule in both the United States and Canada is on schedule or slightly ahead of schedule:
- Keystone has already received approval in Canada both for the conversion of a section of existing natural gas pipeline to oil service (Section 74) and the permit to construct and operate new pipeline facilities (Section 52)
- Keystone's current Federal regulatory schedule in the United States is on schedule to allow for the construction of Keystone beginning in May 2008
- Other State, county and agency permits are on schedule to allow for the construction of Keystone beginning in May 2008.

### **Adverse Impact of delay in decision to Keystone Pipeline Project**

- Construction is scheduled to start in North Dakota in May of 2008. While Keystone has already obtained easements on approximately 73 % of the tracts in North Dakota, a number of landowners are waiting for the PSC to make a decision pertaining to Keystone's pending application. Until a PC&N certificate and route and corridor permit are approved, a number of land owners may choose not to negotiate with Keystone. Once the route and corridor has been approved, the only remaining issue to be resolved in voluntary easement acquisition is reasonable compensation to the landowners. Thus, issuance of a route and corridor permit should help to maximize voluntary easement acquisition.
- Keystone requires a route to finalize environmental and non environmental permits and prepare for construction. Permitting agencies may elect to withhold processing of permit applications until the PSC issues a route permit.
- Keystone's pipeline construction plan and spread lengths in North Dakota are based upon a full 2008 construction season from mid May to late November. This time window is needed for the construction contractors to complete the scope of work. A delayed construction start will result in not completing work in 2008, which has significant impacts to the landowners and to the project costs.
- Delays will result in not being able to complete reclamation on some landowners' property in 2008, thus inconveniencing them for a greater length of time and into a second year.
- For the reasons stated above, a delay in the issuance of a corridor certificate and route permit beyond November 21, 2007, is likely to significantly increase project costs. The potential impact to project costs in North Dakota could range from an estimated \$ 5 to 10 million for a two week delay to \$30 to \$50 million for a delay to January 1, 2008. The potential cost impacts increase exponentially as risks of not completing the work in 2008 increase.

### **PU-06-421 Record is Complete**

- The hearings on the corridor and route application were completed on September 5, 2007. All late filed exhibits were filed on time on September 19, and September 26, 2007. The final transcripts of the hearings in Bismarck were filed with the Commission on September 18, 2007.
- The Intervenors called only two witnesses at the hearing – State Department of Health

employees -- neither of whom opposed the Keystone project, or the corridor and route as proposed by Keystone.

- In the Intervenor's' Post Hearing Brief, they only argue two issues: pinhole leaks in the pipeline amounting to less than 1.5% of the total volume could take up to 90 days to detect, and crude oil poses significant risks to the environment and public and private water supplies. Therefore, the scope of the contested issues in this case is quite narrow.
- Moreover, the Intervenor's did not file proposed Findings of Fact, Conclusions of Law or a proposed Order, so there is no dispute as to the Findings of Fact or Conclusions of Law.
- The Intervenor's requested that Keystone's application for a corridor and route permit be denied, or in the alternative that the commission insert three conditions in the Permit and Corridor Certificate.
- Given the complete record and the small number of disputed issues between Keystone and the Intervenor's, Keystone submits that the Commission should be able to issue its findings and designation of the corridor and route for the Keystone Pipeline Project within a month or less.

While Keystone would not oppose a reasonable extension of time for the Commission to issue its findings and designation of a corridor and route, Keystone requests that Commission staff reevaluate the need for an extension, in view of the few contested issues the commission will need to decide after receiving the briefs and Keystone's proposed Findings, Conclusions and Order.

If the Commission believes that an extension is required, Keystone respectfully requests, for the reasons discussed above, that any extension be as short as possible and, in any event that a corridor certificate and route permit be issued no later than November 21, 2007.

#### **PU-07-152 Public Convenience and Necessity**

The hearing in PU-07-152, took three hours on July 23<sup>rd</sup> in Valley City. Keystone called three witnesses and the Intervenor's did not call any witnesses. While public testimony was heard in Valley City and Park River, the majority of the limited number of public comments dealt with siting issues rather than Public Convenience and Necessity, (PC&N) issues. The hearing was closed on July 24<sup>th</sup>. The parties filed their briefs and proposed findings of fact, conclusions of law and order, on September 12, 2007.

The Commission's notice for hearing on PC&N stated two issues;

1. Whether public convenience and necessity will be served by construction and operation of the pipeline facilities.
2. Whether the applicants are fit, willing and able to provide service.

There is no dispute that Keystone is fit, willing and able to provide service, Mike Diller Commission staff testified to this conclusion. The only issue challenged by the Intervenor's

October 19, 2007

Page 4

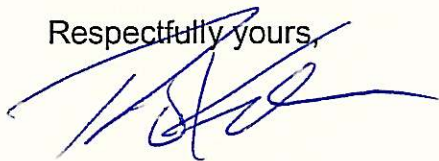
was whether public convenience and necessity served by the construction and operation of the pipeline facilities. Both Dean Cowling, the Keystone project director, and Mike Makelky, the director of the North Dakota Pipeline Authority a division of the North Dakota Industrial Commission, testified that public convenience and necessity would be served by construction and operation of the pipeline facilities.

In view of the brevity of the record, the absence of any evidence against a PC&N finding, and the length of time since the record was closed, Keystone submits that the Commission should be in a position to issue a PC&N certificate no later than November 2, 2007. Moreover, issuance of the PC&N certificate by that time will help to maximize the acquisition of easements on a voluntary basis.

Construction and operation of the Keystone Pipeline will have an immediate positive impact on the people of North Dakota in terms of direct economic benefits and benefits derived from easing the pipeline bottleneck currently depressing prices for North Dakota crude oil production. On the other hand, a delay in issuing a Certificate of Public Convenience and Necessity, or delay in issuing a Corridor Certificate and Route Permit will delay the recognition of millions of dollars in benefits by the state of North Dakota and its citizens. Accordingly, Keystone requests that the Commission issue Keystone its certificate of PC&N as soon as possible and in no event later than November 2, 2007. Keystone further requests that the Commission issue a Corridor and Route Permit as soon as possible and in no event later than November 21, 2007.

If you have any questions, please give me a call.

Respectfully yours,



Thomas D. Kelsch

TDK: dr

cc: William Binek

Al Wahl, Administrative Law Judge

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