SENATE

NORTH DAKOTA LEGISLATIVE ASSEMBLY

SENATOR CURTIS OLAFSON
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COMMITTEES:
Judiciary
Political Subdivisions,
Vice Chairman

November 5, 2007

North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

The Honorable Susan E. Wefald, President
The Honorable Kevin Cramer, Commissioner
The Honorable Tony Clark, Commissioner

RE: Case No. PU-06-421 TransCanada Keystone Pipeline Siting Application

I am writing today to express my concerns about the Motion for Intervention to Appear as a Party and Motion to Reopen the Hearing Records filed by the City of Fargo on October 24th, 2007. I will herein state a number of reasons why I believe the Commission should deny the request.

My first and foremost concern regarding the Motion is based on my review of North Dakota Administrative Code section 69-02-06-01, which I believe is the relevant rule that you must use in adjudicating this Motion. I'm sure you are well versed on the language contained in this section, so there is no need for me to quote the code. It is clear to me that Subsections 1 and 4 contain language which specifies that new and compelling evidence must exist in order to justify reopening a closed hearing. It is my understanding that the petitioner has not stated the existence of any new and compelling evidence in their Motion, and I am not aware that they are claiming that such evidence exists. If a decision is rendered by the Commission which could potentially be argued as one that contravenes the existing law, I am extremely concerned that this could have some very serious repercussions for the state of North Dakota. Those potential repercussions could confront the state in a number of very damaging ways and could have a negative impact on our state for a long time to come. I implore you to give very serious consideration to the legal issues involved in the decision before you, and the potential ramifications of a decision which could result in serious legal challenges to your decision.

Secondly, it is my understanding that the concerns that have been raised by the petitioner have already been raised by other citizens, and have been addressed in the hearing process. It is also my understanding that there already is a procedure in place for acceptance and consideration of the concerns raised in the Motion without formally reopening the proceedings, and that it is the intent of the Commission to follow those procedures as it relates to other information late-filed by other parties. If that is the case, then the petitioner should not be given preferential treatment and the Motion should be denied in the absence of containing significantly different or new information.

In addition to the legal and procedural concerns detailed above, the negative financial consequences resulting from a delay of this project are incalculable. The financial losses would be staggering for the project developer, which has invested heavily in our state, and has relied upon a reasonable presumption that a fair and timely hearing process would take place. Further, their planning was based on an expectation, which again, is reasonable, of a full construction season for the 2008 calendar year. Your obligation to act in the best interests of the citizens of North Dakota must include serious consideration of the certain, monumental, and irrecoverable loss of revenue to the state and its political subdivisions if this major project is unreasonably delayed.

I strongly urge you to deny the Motion filed by the City of Fargo and to move forward with the processing of the siting application in as expeditious a manner as is reasonably possible.

Thank you for allowing me the opportunity to submit my comments.

Sincerely yours,

Curtis Olafson

Senator Curtis Olafson

CC: Chuck Thacker
Kenneth Yantes
Andy Adamson
L.A. "Buster" Gray
Todd D. Kranda
Harold (Ole) Nowatzki

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Fax Cover Sheet

Attached please find two pages of a letter submitted via fax to the North Dakota Public Service Commission at 9:50 AM on November 5th, 2007.