

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

**TransCanada Keystone Pipeline, LP
30-Inch Crude Oil Pipeline/Cavalier to Sargent
Counties
Siting Application**

Case No. PU-06-421

ORDER DENYING INTERVENTION

November 27, 2007

Background

On April 11, 2007, TransCanada Keystone Pipeline, LP (TransCanada) filed an application for a waiver of procedures and time schedules, and consolidated applications for a certificate of corridor compatibility and a route permit authorizing construction of approximately 218 miles of 30-inch crude oil pipeline and associated facilities (Keystone Pipeline) in Cavalier, Pembina, Walsh, Nelson, Steele, Barnes, Ransom, and Sargent Counties of North Dakota, Case No. PU-06-421.

On November 15, 2007 Richard Starke filed a request to intervene in the captioned proceeding. Starke states on his request that he would like to be awarded intervenor status "because there are many technical questions concerning the chemistry and fluids dynamics of the oil that you apparently have little knowledge of but must be known prior to your decision" Mr. Starke does not state what he would contribute to the hearing.

On November 20, 2007, TransCanada filed an objection to the request. TransCanada states that the initial hearings in the proceeding were held on July 23 and 24, 2007 and continued on September 5 and 6, 2007, and that Starke had notice of those hearings and appeared and participated in the hearings in Valley City and Bismarck. He now seeks to intervene in the reopened record with the very limited scope and focus of the "safety and public health issues relating to the water supply of the City of Fargo from Lake Ashtabula and the Sheyenne River." TransCanada states that the request was not filed ten (10) days before the hearings and that the request is in direct violation of Section 69-02-02-05 of the North Dakota Administrative Code.

TransCanada argues that Starke has not demonstrated good cause for his late and untimely request to intervene in this proceeding. TransCanada asserts that Starke has not alleged that material changes in fact or law have occurred since the prior hearings. TransCanada also asserts that Starke is not affected by the limited issue involved in the reopened proceeding.

Discussion

Section 69-02-02-05 of the North Dakota Administrative code provides in part that “[a]ny person with a substantial interest in a proceeding may petition to intervene in that proceeding by complying with this section. An intervention may be granted if the petitioner has a statutory right to be a party to the proceeding; or the petitioner has a legal interest which may be substantially affected by the proceeding, and intervention would not unduly broaden the issues or delay the proceeding.”

Subsection 1 of section 69-02-02-05 states in part that the petition to intervene must set forth the grounds for intervention and what the petitioner would contribute to the hearing.

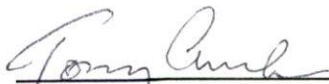
The issues that have been established for this reopened proceeding are limited to the “safety and public health issues relating to the water supply of the City of Fargo from Lake Ashtabula and the Sheyenne River. Mr. Starke has appeared and has testified as a landowner and member of the public in the previous hearings held in Valley City and Bismarck. Mr. Starke is not a resident of the City of Fargo and has not shown that he has any interest in the limited issues of this reopened proceeding. Mr. Starke has repeatedly sent rude, sarcastic and inflammatory e-mail messages to the Commissioners.

We find that Mr. Starke’s request fails to set forth any grounds for intervention and fails to state what he would contribute to the hearing. We also find that Mr. Starke’s request for intervention is untimely and unnecessary, and would likely unduly broaden the issues or delay the proceeding.

Order

The Commission orders that the request for intervention filed by Richard Starke is DENIED.

PUBLIC SERVICE COMMISSION



Tony Clark
Commissioner



Susan E. Wefald
President



Kevin Cramer
Commissioner

DISSENTING OPINION
Commissioner Susan E. Wefald

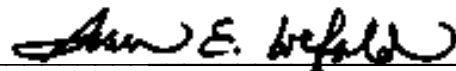
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I concur with the Commission's order to deny Mr. Starke intervention. However, the main reason I would deny Mr. Starke intervention is not mentioned in this order. Mr. Starke has not petitioned to intervene in this case in a timely manner. On November 7 I voted to deny late intervention to the City of Fargo for important procedural reasons, and these same procedural issues make it important to deny late intervention to Mr. Starke today.

Also, the present order lists a number of reasons Mr. Starke should be denied intervention. I agree with all of these reasons except for two. I do not agree that Mr. Starke should be denied intervention status because he is not a citizen of the city of Fargo. The Commission has granted intervention to other people who are not citizens of Fargo in this case. I also do not agree that Mr. Starke should not be granted intervention because he has written threatening communications to the Commission. Although it is unfortunate that Mr. Starke has not controlled his behavior in this regard, his behavior does not relate to his right to be granted or denied intervention.



Susan E. Wefald, Commissioner