

Anderson, Lori D.

From: Binek, William W.
Sent: Wednesday, July 18, 2007 9:24 AM
To: Anderson, Lori D.
Subject: FW: TransCanada Keystone Pipeline-PC&N hearing, Case No. PU-07-152

William W. Binek
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From: Binek, William W.
Sent: Wednesday, July 18, 2007 9:21 AM
To: Wahl, Al; 'kranda@kelschlaw.com'; 'Thomas D Kelsch'
Cc: -Grp-PSC Commissioners; -Grp-PSC Public Utilities; 'ndelaney@rnoon.com'
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Mike Diller will appear in person at the hearing.

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From: Wahl, Al
Sent: Wednesday, July 18, 2007 8:59 AM
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Counsel, for consideration of the offer of testimony by telephone, please be advised that there are at least two problems with the procedure. First, obviously, the technical capability, and second, sometimes overlooked, compliance with N.D.C.C. § 28-32-35.

It is my practice that the party offering testimony by telephone must make the necessary arrangements to do so. The arrangements must comply with the requirements of the statute. For these hearings, I rather think that the required opportunity to hear includes all persons attending the

hearing, and in the circumstances of these hearings the requirement may necessitate special equipment and technical assistance.

If Mr. Diller's testimony will likely be offered by telephone, and if there may be any question about compliance with the statute, I recommend that a prehearing conference be requested to resolve any questions prior to the hearing. Regards, Al Wahl.

From: Binek, William W.
Sent: Wednesday, July 18, 2007 8:23 AM
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Cc: -Grp-PSC Commissioners; -Grp-PSC Public Utilities; Binek, William W.; Wahl, Al; ndelaney@rnoon.com
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Pursuant to your request, Mike Diller said that he will be available to testify at the hearing either in person or by telephone regarding his memorandum to the Commission relating to the financial ability of the applicant. We would appreciate having the option for Mr. Diller to testify by telephone if circumstances make it difficult for him to be at the hearing in person.

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