

Summary

Late-Filed Exhibit T-3 regarding Keystone's status as a "common carrier" under the Interstate Commerce Act:

The Interstate Commerce Act ("Act" or "ICA"), at Section 1(1), provides that the provisions of the Act apply to "common carriers engaged in . . . [t]he transportation of oil . . . by pipe line" 49 U.S.C. app. § 1(1). Section 1(3)(a) of the Act provides that "[t]he term 'common carrier' as used in this chapter shall include all pipe-line companies . . . engaged in such transportation as aforesaid as common carriers for hire." 49 U.S.C. app. § 1(3)(a). Section 1(4) of the Act provides further that "[i]t shall be the duty of every common carrier subject to this chapter to provide and furnish transportation upon reasonable request therefor" 49 U.S.C. app. § 1(4). The cited portions of Section 1 of the Act are attached hereto. The Act, as it applies to oil pipelines, may be found in the 1982 supplement to Title 49 of the United States Code.

In The Pipe Line Cases, 234 U.S. 548 (1914), the Supreme Court confirmed that the Act, as it then existed, applied to any person engaged in the transportation of oil by means of pipelines. Subsequently, after Section 1(3) of the ICA was amended to read as it does currently, the Court reaffirmed that entities engaged in the interstate transportation of oil by means of pipelines shall be treated as common carriers under the Act. Valvoline Oil Co. v. U.S., 308 U.S. 141, 145-46 (1939). See also U.S. v. Champlin Ref'g Co., 329 U.S. 29, 32-34 (1951).