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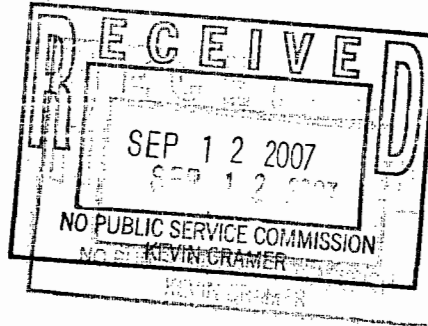
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September 12, 2007

MS MELONA A JEFFCOAT-SACCO
EXECUTIVE SECRETARY
PUBLIC SERVICE COMMISSION
600 EAST BOULEVARD, DEPT 408
BISMARCK ND 58505-0480



HAND DELIVERED

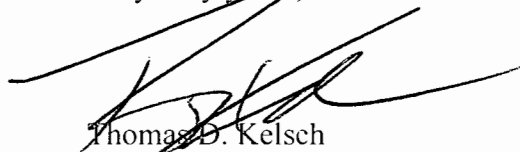
Re: TransCanada - Keystone Pipeline Project
Case No: PU-07-152
Our File No. 11815

Dear Ms. Jeffcoat-Sacco:

Enclosed for filing is an original and seven copies of the Memorandum Brief of Keystone in Support of Application for a Certificate of Public Convenience and Necessity, proposed Findings of Fact, Conclusions of Law and Order and Affidavit of Service.

If you have any questions, please feel free to contact me.

Very truly yours,



Thomas D. Kelsch

TDK:ls

Encs

c: TransCanada Keystone
Administrative Law Judge Wahl
William Binek

On May 2, 2007, the Commission issued a Notice of Opportunity for Hearing setting forth the issues to be considered and inviting interested parties to comment or request a hearing by June 22, 2007. On June 21, 2007, the Commission received a request for a public hearing from the Dakota Resource Council.

On May 2, 2007, the Commission issued a Notice of Filing and Notice of Hearing, determined that the Application was complete and waived the procedures set forth in N.D.C.C. Section 49-22-08 and 49-22-08.1 to allow for a single consolidation application for Corridor Certificate and Route Permit.

On June 21, 2007, Gary R. Seistico and Nicholas R. Delaney, Attorneys at Law, on behalf of the Dakota Resource Council, filed a request to postpone the hearings until completion of the Environmental Impact Study (EIS) and the related comment period. As an alternative, the Dakota Resource Council demands that the Commission's related comment period, after which the Dakota Resource Council would demand an additional hearing to discuss environmental related concerns.

On June 27, 2007, the Commission denied Dakota Resource Council's request to postpone the hearing scheduled for July 23, 2007 until the completion of the EIS, and denied Dakota Resource Council's alternative demand that the Commission's approval of the application be postponed until after completion of the EIS and related comment period.

On June 27, 2007, the Commission issued a Notice of Hearing scheduling a public hearing for July 23, 2007 at 9:00 a.m. C.D.T. at the Barnes County Courthouse, Valley City, ND 58072. The Notice identified the following issues to be considered:

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.

On July 17, 2007, the Commission moved the place of the scheduled hearing to the Valley City Auditorium located at 320 Central Avenue South, Valley City, North Dakota.

The hearing was held as scheduled on the morning of July 23, 2007. The hearing was recessed to the afternoon of July 23rd, for taking of public testimony and again recessed to 1:00 p.m. on July 24, 2007 in Park River for the completion of the public testimony.

The Commission received late filed exhibits T-3, T-4, T-5 and T-6 on August 1, 2007, as ordered by the Hearing Officer.

At the hearing Keystone called three witnesses, Dean Cowling, the project Director for Keystone, Mike Diller, the director of accounting for the North Dakota PSC, and Mike Makelky,

the director of the North Dakota Pipeline Authority a division of the North Dakota Industrial Commission.

The following exhibits were received:

- T-1. Qualifications and Resume of Dean Cowling,
- T-2. Letter from Mark Makelky to the North Dakota PSC dated 6-27-07,
- T-3. ICA Certification,
- T-4. EIA Report,
- T-5. CAPP Report,
- T-6. Corporate Bond Ratings,
- T-7. Applications for Corridor and Route, with appendices, and supplemental filings,
- T-8. Memo from Mike Diller to Illona Jeffcoat-Sacco dated 6-5-07,
- T-9. Statement by Mike Makelky dated 7-23-07.

The interveners did not call any witnesses, although the individual interveners testified as members of the public.

Statement of Facts

Mr. Cowling testified, either through direct testimony or through exhibits, as follows:

1. Keystone proposes to construct and operate the Keystone Pipeline in the state of North Dakota. (Tr. Pg. 24)
2. The Pipeline will cross approximately 218 miles of North Dakota from the Canadian border to the South Dakota border. (Tr. Pg. 24)
3. The purpose of the pipeline is to transport crude oil from Hardisty, Alberta, Canada, to Patoka, Illinois, with an extension to Cushing, Oklahoma. (Tr. Pg. 24)
4. Keystone's parent company is TransCanada Corporation, (TransCanada). (Tr. Pg. 23)
5. TransCanada has been rated by Standard and Poor's as A- (stable) and by Moody's Investor Services as A2 (stable), for the last ten years. (Ex. T-6)
6. TransCanada's 2006 annual financial report shows the following (in Canadian dollars):
 - a. \$ 25,909,000,000 in total assets;

- b. \$ 7,520,000,000 in gross revenues; and
 - c. \$ 1,079,000,000 in total net income. (Tr. Pg. 38)
7. The Keystone Pipeline serves a national interest by providing refineries and markets with access to a substantial and reliable incremental supply of Canadian crude oil to meet growing U.S. demand for petroleum products. (Tr. Pg. 25)
8. The need for the Keystone Pipeline is dictated by:
- a. Increasing Canadian crude oil supplies combined with insufficient export pipeline capacity.
 - b. Increasing crude oil demand in the U.S., coupled with decreasing domestic supply.
 - c. The opportunity to reduce U.S. dependence on foreign offshore oil through increased access to stable, secure Canadian crude oil supplies.
 - d. Demonstrated shipper interest in the Keystone Pipeline Project. (Tr. Pg. 26)
9. The Canadian Association of Petroleum Producers ("CAPP") reports that established crude oil reserves in the Western Canadian Sedimentary Basin (WCSB) are estimated at 179 billion barrels. Over 97 percent of those reserves are sourced from Canada's oil sands region. The Alberta Energy and Utilities Board ("AEUB") estimates that there are 175 billion barrels of established reserves recoverable from the oil sands. The Oil and Gas Journal has reported that Alberta has the second largest crude oil reserves in the world, second only to Saudi Arabia. (Tr. Pg. 27)
10. Existing crude oil pipeline export capacity out of the WCSB is insufficient to accommodate the forecasted crude oil supply growth. The Keystone Pipeline Project initially will provide 435,000 bpd of incremental export capacity to address this deficiency. (Tr. Pgs. 27-28)
11. TransCanada has received adequate shipper commitments to go forward with its plans for a proposed expansion of Keystone's capacity of 590,000 bpd, through the addition of incremental pumping capacity, and an extension of the proposed pipeline to Cushing, Oklahoma. (Tr. Pg. 28)
12. According to the Energy Information Administration ("EIA"), U.S. demand for petroleum products has increased by over 17 percent or three million bpd over the past 10 years and is expected to increase further. The EIA estimates that total U.S. petroleum consumption will increase by

approximately 5.3 million bpd over the next 20 years, representing average demand growth of approximately 265,000 bpd per year. (Tr. Pg. 28)

13. At the same time, domestic U.S. crude oil production continues to decline. According to CAPP, domestic crude production in the Petroleum Area for Defense District II ("PADD II") is declining at an average rate of about three percent per year. Over the past 20 years, PADD II crude oil production has decreased by over 600,000 bpd or 60 percent. (Tr. Pg. 29)
14. The Keystone Pipeline Project will provide the United States with access to secure and growing Canadian crude oil supplies. Access to incremental Canadian crude supplies will provide the United States with an opportunity to offset declines in domestic crude oil production and to decrease its dependence on offshore foreign crude oil supplies, consistent with national policies. (Tr. Pg. 29)
15. The Keystone Pipeline will provide the following economic benefits for North Dakota:
 - a. Keystone will acquire pipeline Right-of-Way easements from landowners in predominantly rural areas. Landowners will receive compensation for the easements as well as compensation for crop loss or other damages.
 - b. Construction will involve two spreads in North Dakota with 500-600 workers for each spread.
 - c. An additional 20 workers will be hired for construction of each pump station.
 - d. 10-15% of the workforce will be hired locally.
 - e. There will be a net positive impact on the local economy for the approximately 18 months of construction.
 - f. Capital construction costs are estimated to be approximately \$300 million dollars.
 - g. Food and lodging for construction will be approximately \$3.25 million dollars.
 - h. Construction materials and other supplies will be approximately \$750,000 dollars.
 - i. Based on 2005 property assessment and tax rate information, Keystone's North Dakota property taxes will be approximately \$5.2 million in the first year after construction, and will be continued to be paid over the lifetime of the pipeline.
 - j. Direct and contract employees will be hired locally for pipeline operations.

- k. Keystone will also pay sales and use taxes. (Tr. Pgs. 30-32)
- 16. Keystone Pipeline will ease current bottlenecks in oil pipeline infrastructure that currently exist in North Dakota and the surrounding area which inhibit area producers from readily accessing markets with their production. These bottlenecks have caused depressed prices for North Dakota crude oil. The Keystone Pipeline will play a role in resolving this problem by providing another transportation route for moving crude oil to refineries in the United State. (Ex. T- 2)
- 17. Keystone is fit, willing and able to provide the proposed pipeline service. (Tr. Pgs. 35-38, Ex. T-8)
- 18. TransCanada has the experience and capability to provide the proposed pipeline service. (Tr. Pgs. 35-38)
- 19. TransCanada has 36,500 miles of wholly owned pipeline. (Tr. Pg. 35)
- 20. TransCanada has more than 50 years of pipeline construction and operating experience. (Tr. Pg. 35)
- 21. TransCanada has developed significant expertise in large-diameter, cold weather pipeline design, construction, operation and maintenance. (Tr. Pg. 36)
- 22. TransCanada operates one of the largest, most sophisticated, remote controlled pipeline networks in the world with a solid reputation for safety and reliability. (Tr. Pg. 36)
- 23. TransCanada has skilled and expert people. (Tr. Pg. 36)
- 24. TransCanada has relationships with approximately 40,000 landowners. (Tr. Pg. 36)
- 25. Through its annual Customer Satisfaction Survey, TransCanada received feedback from customers served by its Canadian pipelines. The survey found that TransCanada maintained high levels of overall customer satisfaction. (Tr. Pg. 36)
- 26. Keystone has a pipeline Management Program that meets or exceeds federal requirements, and includes:
 - a. In-line inspection,

- b. Repair criteria, and
 - c. On-going monitoring. (Tr. Pg. 37)
27. Keystone has 24-hour monitoring 365 days a year through the use of a dedicated leak detection system. (Tr. Pg. 37)
28. As required by the United States Department of Transportation, Pipeline Hazardous Materials and Safety Administration (PHMSA), Keystone is developing a detailed Emergency Response Plan (ERP) that includes:
- a. Response equipment pre-positioned at manned locations.
 - b. First responders located along the route able to respond in compliance with 49 CFR Part 194.
 - c. Remediation of the area of any spill in coordination with federal and state agencies. (Tr. Pg. 37)
29. The ERP will be filed with PHMSA prior to Keystone commencing operations. (Tr. Pg. 38)

Mr. Diller testified as follows:

- 1. TransCanada as a public owned company traded under the symbol TRP on the New York Stock Exchange. (Ex. T-8)
- 2. According to Keystone's Siting Application (PU-06-421), the total estimated cost to construct the pipeline is \$2.1 billion, of which approximately \$277 million will be located in North Dakota. (Ex. T-8)
- 3. TransCanada has been a very successful company in every respect TransCanada reported shareholder equity of \$7.7 billion for the year ending 2006, and the market capitalization is around \$20 billion. (Ex. T-8)
- 4. Keystone through its parent company, TransCanada, has access to sufficient capital to provide services for a pipeline in North Dakota. (Ex. T-8)
- 5. There is no reason to deny Keystone a Public Convenience and Necessity as far as financial viability is concerned. (Ex. T-8, Tr. Pg. 115)

Mr. Makelky testified as follows:

- 1. Canada is the largest exporter of crude oil to the United States. (Ex. T-9)

2. Growing oil production in Canada has the potential to decrease the United States' dependence on crude oil from more unstable parts of the world. (Ex. T-9)
3. Pipeline projects such as Keystone are essential in order to move crude oil into the United States to ensure secure future supplies of energy. (Ex. T-9)
4. The Keystone pipeline would provide an additional benefit to North Dakota if its producers or pipeline companies are able to connect their facilities to it. (Ex. T-9)
5. Capacity bottlenecks on present pipeline infrastructure have created a situation where North Dakota crude oil has suffered price penalties of \$5.00 to \$30.00 per barrel. (Ex. T-9)
6. If the Keystone Pipeline is not constructed, the Canadian supply of oil would have to come to the United States other way, possibly placing further pressure on existing facilities that are in the western part of the state. (Tr. Pg. 126)
7. There are not very many present alternatives to the Keystone Pipeline in North Dakota. A majority of the pipelines are full to capacity. (Tr. Pg. 127)
8. There are very few crude oil pipelines in the area of North Dakota where Keystone is routed, two east-west pipelines and no north-south pipelines. (Tr. Pg. 130)
9. The Keystone pipeline will provide the benefit of relieving some capacity problems on other parts of the crude oil pipeline system. (Ex. T-9)
10. A majority of North Dakota crude oil is shipped through the Montana-Wyoming-Colorado-Nebraska pipeline infrastructure referred to as the "Guernsey Hub" which is filled to capacity with oil supplies from Canada. (Ex. T-9)
11. Construction of the Keystone Pipeline is expected to relieve some stress in the Guernsey Hub which will allow more production and increase mineral royalties paid to North Dakota citizens, and increase state tax revenues to help fund schools and other government functions across the state. (Ex. T-9)
12. According to U.S. Department of Transportation Statistics, pipelines are

the safest method of transporting petroleum products. (Ex. T-9)

13. Pipelines are also the most efficient and economical method of shipping the large quantities needed by this country on a daily basis. (Ex. T-9)
14. Proper construction techniques and adequate cathodic protective measures applied to the pipe along with regular monitoring will prevent damage to the pipe and its coating system. (Ex. T-9)
15. Proper pipeline patrol and inspection programs will minimize chances of third party mechanical damage to facilities further reducing the risk of failure. (Ex. T-9)
16. Appropriate emergency response and spill prevention/containment programs can minimize the effects of any leaks and prevent significant environmental damages on the remote chance that something does happen to the pipe. (Ex. T-9)
17. Keystone has committed to meeting or exceeding industry standards in all these regards. (Ex. T-9)
18. The North Dakota Industrial Commission, which is made up of the Governor, the Attorney General and the State Agricultural Commissioner, unanimously support the Keystone Pipeline Project. (Tr. Pgs. 132-133)

Legal Argument

The commission in its order for hearing listed the issues to be decided in determining whether a certificate of Public Convenience and Necessity should be issued as follows:

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.

I. Public convenience and necessity.

A. Keystone is Common Carrier

The Keystone pipeline will be a common pipeline carrier as defined by NDCC

Chapter 49-19. Keystone will be engaged in the business of transporting crude petroleum by pipeline, and as defined as a common carrier under federal law.

Section 1(3) (a) of the Interstate Commerce Act (ICA), provides that “[t]he term ‘common carrier’ as used in this chapter shall include all pipeline companies...engaged in such transportation as aforesaid are common carriers for hire.” 49 USC app. Ss1 (3) (a). Section 1(4) of the ACA 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 therefore...” 49 USC app. Ss1 (4).

In The Pipeline Cases, 234 US 548, (1914), the Supreme Court confirmed that the ICA, as it then existed, applies 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 US 41, 145-146, (1939), see also U.S. v. Champlain Ref’g. Co., 329 US 29, 32-34, (1951).

In addition, Dean Cowling testified that Keystone would accept the provisions of Chapter 49-19 NDCC. Cowling further testified that “Keystone is willing and able to entertain discussions with North Dakota producers concerning entering into interconnection agreements.”

B. Keystone Will Benefit the United States

Keystone will provide benefits to the United States, with access to secure and growing Canadian crude oil supplies. Access to incremental Canadian crude supplies will provide the United States with an opportunity to offset declines in domestic crude oil production and to decrease its dependence on offshore foreign crude oil supplies, consistent with national policies. Growing oil production in Canada has the potential to decrease the United States’ dependence on crude oil from more unstable parts of the world. Pipeline projects such as Keystone are essential in order to move crude oil into the United States to ensure secure future supplies of energy.

C. Keystone Will Benefit North Dakota

Keystone Pipeline will ease current bottlenecks in oil pipeline infrastructure that currently exist in North Dakota and the surrounding area which inhibit North Dakota producers from readily accessing markets with their production. The Keystone pipeline will provide benefit by relieving capacity problems on other parts of the crude oil pipeline system.

A majority of North Dakota crude oil is shipped through the Montana-Wyoming-Colorado-Nebraska pipeline infrastructure referred to as the "Guernsey Hub" which is filled to capacity with oil supplies from Canada. Construction of the Keystone Pipeline is expected to relieve some stress in the Guernsey Hub which will allow more production and increase mineral royalties paid to North Dakota citizens, and increase state tax revenues to help fund schools and other government functions across the state.

These bottlenecks have caused depressed prices for North Dakota crude oil. The Keystone Pipeline will play a role in resolving this problem by providing another transportation route for moving crude oil to refineries in the United States.

The Keystone pipeline will provide a benefit to North Dakota if its producers or pipeline companies are able to connect their facilities to it. Capacity bottlenecks on present pipeline infrastructure have created a situation where North Dakota crude oil has suffered price penalties of \$5.00 to \$30.00 per barrel.

D. Delay in issuing Certificate of Public Necessity and Convenience will Cost North Dakota

The Keystone Pipeline will have an immediate positive impact on the people of North Dakota. Any delay in issuing a Certificate of Public Convenience and Necessity, or delay in permitting the Corridor Certificate and Route Permit will cost the state of North Dakota and its citizens millions of dollars.

Capital construction costs in North Dakota are estimated to be approximately \$300 million dollars. Food, lodging and construction materials will be approximately another \$4 million dollars. Based on 2005 property tax formulas, Keystone's North Dakota property taxes will be approximately \$5.2 million in the first year after construction and will continue to be paid through the life of the pipeline.

More importantly, capacity bottlenecks on present pipeline infrastructure in North Dakota have created a situation in which North Dakota crude oil production has suffered price penalties in the range of \$5.00 to \$30.00 per barrel. North Dakota oil production is approximately 100,000 barrels per day, (bpd). At 100,000 bpd production rate this capacity bottleneck price discount is presently costing North Dakota producers and mineral owners \$500,000 to \$3 million per day or \$182.5 million to \$1.095 billion per year.

II. Keystone is Fit, Willing and Able to Provide Service.

Keystone has the financial resources to provide the service. Keystone's parent company is TransCanada Corporation, (TransCanada). TransCanada has been rated by Standard and Poor's as A- (stable) and by Moody's Investor Services as A2 (stable), for the last ten years. TransCanada's 2006 annual financial report shows the following (in Canadian dollars):

- a. \$ 25,909,000,000 in total assets;
- b. \$ 7,520,000,000 in gross revenues; and
- c. \$ 1,079,000,000 in total net income.

TransCanada as a public owned company traded under the symbol TRP on the New York Stock Exchange. TransCanada has been a very successful company in every respect TransCanada reported shareholder equity of \$7.7 billion for the year ending 2006, and the market capitalization is around \$20 billion. Keystone through its parent company, TransCanada, has access to sufficient capital to provide services for a pipeline in North Dakota.

Keystone has the experience and capability to provide the proposed pipeline service. TransCanada has 36,500 miles of wholly owned pipeline. TransCanada has more than 50 years of pipeline construction and operating experience. TransCanada has developed significant expertise in large-diameter, cold weather pipeline design, construction, operation and maintenance. TransCanada operates one of the largest, most sophisticated, remote controlled pipeline networks in the world with a solid reputation for safety and reliability. TransCanada has skilled and expert people.

III. Keystone Meets All Factors for Certificate of Public Convenience and Necessity.

49-03.1-04. Factors to be considered by commission in granting or denying a certificate. Before granting a certificate of public convenience and necessity, the commission shall take into consideration:

1. Need for the service.
2. Fitness and ability of applicant to provide service.
3. Effect on other public utilities providing similar service.
4. Adequacy of proposed service.
5. The technical, financial, and managerial ability of the applicant to provide service.

Although the Commission only indicated two issues in its Notice of Hearing, Keystone, in the application and at the public hearing with its testimony, addressed all of

the factors listed in Section 49-03.1-04 N.D.C.C. for granting a Certificate of Public Convenience and Necessity.

1. Need for Service.
In addition to Dean Cowling's testimony, Mark Makelky, the Director of the North Dakota Pipeline Authority, testified that there is a need for the Keystone Pipeline.
2. Fitness and ability of applicant to provide service.
In addition to Dean Cowling's testimony, Mike Diller, director of accounting for the Commission, testified that TransCanada has sufficient capital to service and provide services for a pipeline in North Dakota. Diller concluded and recommended to the commission that there is no reason to deny TransCanada a Certificate for Public Convenience and Necessity as far as financial viability is concerned.
3. Effect on other public utilities providing similar service.
Mark Makelky, the Director of the North Dakota Pipeline Authority, testified that there are very few crude oil pipelines in this area of the state, only two east-west pipelines and no north-south pipelines.
4. Adequacy of proposed services.
Dean Cowling testified concerning the type of proposed services and the ability of Keystone operates one of the largest, most sophisticated pipeline networks in the world with a solid reputation for safety and reliability. Mark Makelky, the Director of the North Dakota Pipeline Authority, testified that pipeline is the safest most efficient and environmental method of shipping large quantities of oil needed by this country. Makelky also testified that a pipeline can last for decades without significant deterioration of the pipe if due care is provided during construction to prevent damage to the pipe and its coating system and adequate cathodic protective measures are applied to the pipe with regular monitoring.
5. The technical, financial and managerial ability of the applicant to provide service.
This also was covered by Dean Cowling's testimony and Mike Diller's conclusion.

Conclusion

Keystone has shown through what was mostly uncontested testimony that it will provide a benefit to the people of the United States and to North Dakota. The North Dakota Industrial Commission, made up of the governor, attorney general and agriculture commissioner, agree that the Keystone pipeline will benefit North Dakota. PSC staff agrees the Keystone and its parent company, TransCanada, have the financial ability to provide the service.

All of the testimony from the public, which was opposed to Keystone, either related to siting issues, or was not supported by the record or other evidence. No viable reasons for denying the issuance of the certificate of Public Convenience and Necessity were presented to the commission.

Keystone respectfully requests the commission issue a certificate of Public Convenience and Necessity for the Keystone pipeline conditioned on Keystone obtaining its certificate of Corridor Capacity and Route Permit in case number PU-06-42.

Respectfully submitted,

TransCanada Keystone Pipeline, LP

By



Thomas D. Kelsch

Counsel for TransCanada Keystone Pipeline, LP

PO Box 1266

Mandan, ND 58554-7266

Dated: September 12, 2007

PUBLIC SERVICE COMMISSION

THE STATE OF NORTH DAKOTA

TRANSCANADA KEYSTONE PIPELINE, LP) CASE NO. PU-07-152
KEYSTONE PIPELINE)
PUBLIC CONVENIENCE & NECESSITY) OAH File No. 2007-0258

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

APPEARANCES

Commissioners Susan E. Wefald, Tony Clark and Kevin Cramer.

Thomas D. Kelsch and Todd D. Kranda, Kelsch Kelsch Ruff & Kranda. 103 Collins Avenue, Mandan, ND 58554 on behalf of the Applicant TransCanada, Keystone Pipeline, LP

Nicholas R. Delaney, Rinke Noonan US Bank Plaza, Suite 300, St. Cloud MN 56302 on behalf of Interveners, Dakota Resources Council, Ramona Klein, Merle and Linette Kratochvill, Janie and John Capp, and Mark Novak

William W. Binek, Chief Counsel, Public Service Commission, State Capitol, Bismarck, ND 58505, on behalf of The Public Service Commission

Al Wahl, Office of Administrative Hearings, 1707 North 9th Street, Bismarck, ND 58501
As Procedural Hearing Officer

PRELIMINARY STATEMENT

On April 11, 2007, TransCanada Keystone Pipeline, LP (Keystone) filed an application for a certificate of public convenience and necessity (PCN) under N.D.C.C. Chapter 49-03.1 to construct and operate the Keystone Pipeline in Cavalier, Pembina, Walsh, Nelson, Steele, Barnes, Ransom, and Sargent Counties of North Dakota. Approximately 218 miles of the crude oil pipeline is located in North Dakota.

On April 11, 2007, Keystone 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 in Cavalier, Pembina, Walsh, Nelson, Steele, Barnes, Ransom, and Sargent

Counties of North Dakota. The proposed corridor and route are shown on the attached map. (Case No. PU-06-421)

On May 2, 2007, the Commission issued a Notice of Opportunity for Hearing setting forth the issues to be considered and inviting interested parties to comment or request a hearing by June 22, 2007. On June 21, 2007, the Commission received a request for a public hearing from the Dakota Resource Council.

On May 2, 2007, the Commission issued a Notice of Filing and Notice of Hearing, determined that the Application was complete and waived the procedures set forth in N.D.C.C. Section 49-22-08 and 49-22-08.1 to allow for a single consolidation application for Corridor Certificate and Route Permit.

On June 21, 2007, Gary R. Seistico and Nicholas R. Delaney, Attorneys at Law, on behalf of the Dakota Resource Council, filed a request to postpone the hearings until completion of the Environmental Impact Study (EIS) and the related comment period. As an alternative, the Dakota Resource Council demands that the Commission's related comment period, after which the Dakota Resource Council would demand an additional hearing to discuss environmental related concerns.

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1. Whether public convenience and necessity will be served by construction and operation of the pipeline facilities.
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The following exhibits were received:

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FINDINGS OF FACT

1. Keystone proposes to construct and operate the Keystone Pipeline in the state of North Dakota.
2. The Pipeline will cross approximately 218 miles of North Dakota from the Canadian border to the South Dakota border.
3. The purpose of the pipeline is to transport crude oil from Hardisty, Alberta, Canada, to Patoka, Illinois, with an extension to Cushing, Oklahoma.
4. Keystone's parent company is TransCanada Corporation, (TransCanada).
5. According to Keystone's Siting Application (PU-06-421), the total estimated cost to construct the pipeline is \$2.1 billion, of which approximately \$277 million will be located in North Dakota.
6. TransCanada as a public owned company traded under the symbol TRP on the New York Stock Exchange.
7. TransCanada has been a very successful company in every respect TransCanada reported shareholder equity of \$7.7 billion for the year ending 2006, and the market capitalization is around \$20 billion.
8. Keystone through its parent company, TransCanada, has access to sufficient capital to provide services for a pipeline in North Dakota.

9. TransCanada has been rated by Standard and Poor's as A- (stable) and by Moody's Investor Services as A2 (stable), for the last ten years.
10. TransCanada's 2006 annual financial report shows the following (in Canadian dollars):
 - a. \$ 25,909,000,000 in total assets;
 - b. \$ 7,520,000,000 in gross revenues; and
 - c. \$ 1,079,000,000 in total net income.
11. Keystone has access to assets through its parent company to operate and provide services for a crude oil pipeline in North Dakota.
12. The Keystone Pipeline serves a national interest by providing refineries and markets with access to a substantial and reliable incremental supply of Canadian crude oil to meet growing U.S. demand for petroleum products.
13. The need for the Keystone Pipeline is dictated by:
 - a. Increasing Canadian crude oil supplies combined with insufficient export pipeline capacity.
 - b. Increasing crude oil demand in the U.S., coupled with decreasing domestic supply.
 - c. The opportunity to reduce U.S. dependence on foreign offshore oil through increased access to stable, secure Canadian crude oil supplies.
 - d. Demonstrated shipper interest in the Keystone Pipeline Project.
14. The Canadian Association of Petroleum Producers ("CAPP") reports that established crude oil reserves in the Western Canadian Sedimentary Basin (WCSB) are estimated at 179 billion barrels. Over 97 percent of those reserves are sourced from Canada's oil sands region. The Alberta Energy and Utilities Board ("AEUB") estimates that there are 175 billion barrels of established reserves recoverable from the oil sands. The Oil and Gas Journal has reported that Alberta has the second largest crude oil reserves in the world, second only to Saudi Arabia.
15. Existing crude oil pipeline export capacity out of the WCSB is insufficient to accommodate the forecasted crude oil supply growth. The Keystone Pipeline Project initially will provide 435,000 bpd of incremental export capacity to address this deficiency.
16. TransCanada has received adequate shipper commitments to go forward with its plans for a proposed expansion of Keystone's capacity of 590,000 bpd, through

the addition of incremental pumping capacity, and an extension of the proposed pipeline to Cushing, Oklahoma.

17. According to the Energy Information Administration ("EIA"), U.S. demand for petroleum products has increased by over 17 percent or three million bpd over the past 10 years and is expected to increase further. The EIA estimates that total U.S. petroleum consumption will increase by approximately 5.3 million bpd over the next 20 years, representing average demand growth of approximately 265,000 bpd per year.
18. At the same time, domestic U.S. crude oil production continues to decline. According to CAPP, domestic crude production in the Petroleum Area for Defense District II ("PADD II") is declining at an average rate of about three percent per year. Over the past 20 years, PADD II crude oil production has decreased by over 600,000 bpd or 60 percent.
19. The Keystone Pipeline Project will provide the United States with access to secure and growing Canadian crude oil supplies. Access to incremental Canadian crude supplies will provide the United States with an opportunity to offset declines in domestic crude oil production and to decrease its dependence on offshore foreign crude oil supplies, consistent with national policies.
20. The Keystone Pipeline will provide the following economic benefits for North Dakota:
 - a. Keystone will acquire pipeline Right-of-Way easements from landowners in predominantly rural areas. Landowners will receive compensation for the easements as well as compensation for crop loss or other damages.
 - b. Construction will involve two spreads in North Dakota with 500-600 workers for each spread.
 - c. An additional 20 workers will be hired for construction of each pump station.
 - d. 10-15% of the workforce will be hired locally.
 - e. There will be a net positive impact on the local economy for the approximately 18 months of construction.
 - f. Capital construction costs are estimated to be approximately \$300 million dollars.
 - g. Food and lodging for construction will be approximately \$3.25 million dollars.
 - h. Construction materials and other supplies will be approximately \$750,000 dollars.
 - i. Based on 2005 property assessment and tax rate information, Keystone's North Dakota property taxes will be approximately \$5.2 million in the first

- year after construction, and will be continued to be paid over the lifetime of the pipeline.
- j. Direct and contract employees will be hired locally for pipeline operations.
 - k. Keystone will also pay sales and use taxes.
21. Keystone Pipeline will ease current bottlenecks in oil pipeline infrastructure that currently exist in North Dakota and the surrounding area which inhibit North Dakota producers from readily accessing markets with their production. These bottlenecks have caused depressed prices for North Dakota crude oil. The Keystone Pipeline will play a role in resolving this problem by providing another transportation route for moving crude oil to refineries in the United State.
 22. Canada is the largest exporter of crude oil to the United States.
 23. Growing oil production in Canada has the potential to decrease the United States' dependence on crude oil from more unstable parts of the world.
 24. Pipeline projects such as Keystone are essential in order to move crude oil into the United States to ensure secure future supplies of energy.
 25. The Keystone pipeline would provide an additional benefit to North Dakota if its producers or pipeline companies are able to connect their facilities to Keystone.
 26. North Dakota produces approximately 100,000 bpd (barrels per day) of crude oil.
 27. Capacity bottlenecks on present pipeline infrastructure have created a situation where North Dakota crude oil has suffered price penalties of \$5.00 to \$30.00 per barrel.
 28. If the Keystone Pipeline is not constructed, the Canadian supply of oil would have to come to the United States other way, possibly placing further pressure on existing facilities that are in the western part of the state.
 29. There are not very many present alternatives to the Keystone Pipeline in North Dakota. A majority of the pipelines are full to capacity.
 30. There are very few crude oil pipelines in the area of North Dakota where Keystone is routed, two east-west pipelines and no north-south pipelines.
 31. The Keystone pipeline will provide a benefit by relieving capacity problems on other parts of the crude oil pipeline system.
 32. A majority of North Dakota crude oil is shipped through the Montana-Wyoming-Colorado-Nebraska pipeline infrastructure referred to as the "Guernsey Hub"

which is filled to capacity with oil supplies from Canada.

33. Construction of the Keystone Pipeline is expected to relieve some stress in the Guernsey Hub which will allow more production and increase mineral royalties paid to North Dakota citizens, and increase state tax revenues to help fund schools and other government functions across the state.
34. According to U.S. Department of Transportation Statistics, pipelines are the safest method of transporting petroleum products.
35. Pipelines are also the most efficient and economical method of shipping the large quantities needed by the United States on a daily basis.
36. Proper construction techniques and adequate cathodic protective measures applied to the pipe along with regular monitoring will prevent damage to the pipe and its coating system.
37. Proper pipeline patrol and inspection programs will minimize chances of third party mechanical damage to facilities further reducing the risk of failure.
38. Appropriate emergency response and spill prevention/containment programs can minimize the effects of any leaks and prevent significant environmental damages on the remote chance that something does happen to the pipe.
39. Keystone has committed to meet or exceed industry standards in all these regards.
40. The North Dakota Industrial Commission, which is made up of the Governor, the Attorney General and the State Agricultural Commissioner, unanimously support the Keystone Pipeline Project.
41. Keystone is fit, willing and able to provide the proposed pipeline service.
42. TransCanada has the experience and capability to provide the proposed pipeline service.
43. TransCanada has 36,500 miles of wholly owned pipeline.
44. TransCanada has more than 50 years of pipeline construction and operating experience.
45. TransCanada has developed significant expertise in large-diameter, cold weather pipeline design, construction, operation and maintenance.

46. TransCanada operates one of the largest, most sophisticated, remote controlled pipeline networks in the world with a solid reputation for safety and reliability.
47. TransCanada has skilled and expert people.
48. TransCanada has relationships with approximately 40,000 landowners.
49. Through its annual Customer Satisfaction Survey, TransCanada received feedback from customers served by its Canadian pipelines. The survey found that TransCanada maintained high levels of overall customer satisfaction.
50. Keystone has a pipeline Management Program that meets or exceeds federal requirements, and includes:
 - a. In-line inspection,
 - b. Repair criteria, and
 - c. On-going monitoring.
51. Keystone has 24-hour monitoring 365 days a year through the use of a dedicated leak detection system.
52. As required by the United States Department of Transportation, Pipeline Hazardous Materials and Safety Administration (PHMSA), Keystone is developing a detailed Emergency Response Plan (ERP) that includes:
 - a. Response equipment pre-positioned at manned locations.
 - b. First responders located along the route able to respond in compliance with 49 CFR Part 194.
 - c. Remediation of the area of any spill in coordination with federal and state agencies.
53. The ERP will be filed with PHMSA prior to Keystone commencing operations.
54. A need exists for the proposed Keystone pipeline facilities.
55. The Keystone crude oil pipeline will not have any adverse effect on other public utilities providing similar services.
56. The proposed Keystone pipeline meets adequacy of service standards.
57. Keystone has the technical, financial, and managerial ability to provide the services for the pipeline.

58. Public convenience and necessity will be served by the construction and operation of the Keystone pipeline facilities.

From the foregoing Findings of Fact, the Commission now makes its:

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this proceeding under North Dakota Century Code Chapters 49-03.1, Chapter 49-19, and Chapter 49-22.
2. The crude oil pipeline proposed by Keystone is an energy transmission facility as defined North Dakota Century Code 49-22-03 (12).
3. Keystone is a common pipeline carrier as defined by North Dakota Century Code 49-19-01 (1), in that Keystone will own, operate or manage a pipeline with this state for the transportation of crude oil petroleum, gas, to or for the public for hire, or engaged in the business of transporting crude petroleum.
4. Keystone is a common pipeline carrier as defined by North Dakota Century Code 49-19-01 (4), in that Keystone is made a common carrier by or under the terms of a contract with or pursuant of the laws of the United States.
5. Keystone has agreed to accept the provisions of Chapter 49-19 N.D.C.C.
6. Keystone has access to sufficient capital through its parent company to provide services in North Dakota.
7. There is no reason to deny Keystone a Public Convenience and Necessity as far as financial viability is concerned.

From the foregoing Findings of Fact, and Conclusions of Law, the Commission now makes its:

ORDER

The Commission orders:

1. Certificate of public convenience and necessity is issued to Keystone to construct and operate the Keystone pipeline, approximately 218 miles of 30-inch crude oil pipeline and associated facilities, in Cavalier, Pembina, Walsh, Nelson, Steele,

Barnes, Ransom and Sargent Counties, North Dakota.

2. This Certificate is conditioned upon Keystone's securing a certificate of Corridor Compatibility, and Route Permit from the ND PSC pursuant to NDCC Chapter 49-22, in case number PU-06-421.

PUBLIC SERVICE COMMISSION

Tony Clark
Commissioner

Susan E. Wefald
President

Kevin Cramer
Commissioner

