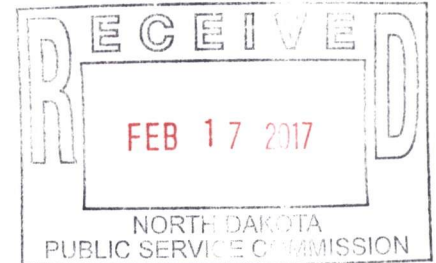


February 17, 2017

VIA HAND-DELIVERY

Mr. Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480



**Re: Dakota Access, LLC
Case No. PU-14-842**

Dear Mr. Nitschke:

Enclosed for filing in the above entitled matter, please find an original and ten (10) copies of the following documents:

1. Answer of Respondent Dakota Access, LLC; and
2. Certificate of Service.

Also enclosed is a CD containing the above-referenced documents in PDF format. Should you have any questions, please advise.

Sincerely,

/s/ Lawrence Bender

LAWRENCE BENDER

Enclosures

cc: John Schuh – via e-mail
Judge Tim Dawson – via e-mail

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Answer

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA**

Public Service Commission,)	
)	Case No. PU-14-842
v.)	
)	ANSWER OF RESPONDENT
Dakota Access, LLC,)	DAKOTA ACCESS, LLC
)	
Respondent.)	

Respondent, Dakota Access, LLC (“Dakota Access”), for its answer to the Complaint of the North Dakota Public Service Commission (“Commission”), states as follows:

1.

Dakota Access denies each and every allegation of the Commission’s Complaint except as herein admitted, qualified, or explained.

2.

With respect to the allegations contained in Paragraph I of the Complaint, Dakota Access states it is a foreign limited liability company organized under the laws of Delaware and authorized to do business in North Dakota, with its principal office located at 8111 Westchester Drive, Suite 600, Dallas, Texas 75225-6142, per the current North Dakota Secretary of State records. Dakota Access admits Corporation Service Company, 1709 N. 19th Street, Suite 3, Bismarck, North Dakota 58501 is the registered agent listed with the North Dakota Secretary of State. Except as so stated or admitted, Dakota Access denies any remaining allegations contained in Paragraph I of the Commission’s Complaint.

3.

With respect to the allegations contained in Paragraph II of the Commission's Complaint, Dakota Access admits Paragraph II quotes in part certain provisions of the North Dakota Century Code and the Certification Relating to Order Provisions – Transmission Facility Siting. Except as so admitted, and to the extent any further response is required to Paragraph II, Dakota Access denies the allegations.

4.

With respect to the allegations contained in Paragraph III of the Commission's Complaint, Dakota Access states the construction inspection report ("Report") filed on October 25, 2016 by Keitu Engineers & Consultants, Inc. ("Keitu"), PSC Docket No. 225, is a document which speaks for itself. Except as so stated, Dakota Access lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph III of the Commission's Complaint, and therefore, denies the same.

5.

With respect to the allegations contained in Paragraph IV of the Commission's Complaint, Dakota Access states that by e-mail dated October 25, 2016, Commission staff requested various information in response to the Keitu Report, and Dakota Access was given until October 27, 2016 to provide a response. Except as so stated, Dakota Access denies the allegations contained in Paragraph IV of the Commission's Complaint.

6.

With respect to the allegations contained in Paragraph V of the Commission's Complaint, Dakota Access states a response was submitted to the Commission on October 27, 2016, PSC Docket No. 227, which said responsive documents speak for themselves, and accordingly, no

further response is required. To the extent a further response is required, Dakota Access denies the allegations contained in Paragraph V of the Commission's Complaint.

7.

With respect to the allegations contained in Paragraph VI of the Commission's Complaint, Dakota Access states the letter dated October 28, 2016 from Commission Staff is a document which speaks for itself, and accordingly, no further response is required. To the extent a further response is required, Dakota Access lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph VI of the Commission's Complaint, and therefore, denies the same.

8.

Dakota Access lacks knowledge or information regarding the Staff investigation sufficient to form a belief about the truth of the allegations contained in Paragraph VII of the Commission's Complaint, and therefore, denies the same.

9.

Dakota Access lacks knowledge or information regarding the Staff investigation sufficient to form a belief about the truth of the allegations contained in Paragraph VIII of the Commission's Complaint, and therefore, denies the same.

10.

Dakota Access lacks knowledge or information regarding the Staff investigation sufficient to form a belief about the truth of the allegations contained in Paragraph IX of the Commission's Complaint, and therefore, denies the same.

11.

Dakota Access lacks knowledge or information regarding the Staff investigation sufficient to form a belief about the truth of the allegations contained in Paragraph X of the Commission's Complaint, and therefore, denies the same.

12.

Dakota Access lacks knowledge or information regarding the Staff investigation sufficient to form a belief about the truth of the allegations contained in Paragraph XI of the Commission's Complaint, and therefore, denies the same.

13.

Dakota Access lacks knowledge or information regarding the Staff investigation sufficient to form a belief about the truth of the allegations contained in Paragraph XII of the Commission's Complaint, and therefore, denies the same.

14.

Dakota Access admits Paragraph XIII of the Commission's Complaint sets forth the requirements for Dakota Access to respond to the Complaint of the Commission, with service of the same to be effectuated under the North Dakota Rules of Civil Procedure. However, given the filing of the motion to dismiss by Dakota Access and subsequent order denying the motion, Dakota Access further states that, pursuant to Rule 12(a)(2)(A) of the North Dakota Rules of Civil Procedure, Dakota Access has 14 days from Notice of the Commission's Order denying the Motion to Dismiss to serve an answer to the Commission's Complaint, along with the additional time for service in accordance with Rule 6.

15.

Dakota Access specifically denies each allegation, claim, prayer, and demand contained in Paragraphs 1 through 4 of the Commission's prayer for relief.

DEFENSES

16.

As a defense, Dakota Access alleges the Commission's Complaint fails to state a cause of action upon which relief can be granted.

17.

As a defense, Dakota Access alleges the Complaint fails to satisfy the burden of proof required under North Dakota Century Code Section 49-22-21 to allow for imposition of a penalty.

18.

As a defense, Dakota Access alleges the Commission's allegations, or some of them, are made with a complete absence of actual facts or law that a reasonable person could not have thought a court would render judgment in the Commission's favor requiring a finding that the Commission's claims for relief are frivolous and requiring an award to Dakota Access of reasonable actual and statutory costs, including reasonable attorney's fees as provided by N.D.C.C. § 28-26-01.

19.

As a defense, Dakota Access alleges imposition of a penalty based on the bare facts alleged, and without a finding of intentional or willful misconduct, would violate the Due Process clauses of the United States and North Dakota Constitutions.

20.

As a defense, Dakota Access alleges the Commission lacks jurisdiction to impose a penalty in this case based on the legal and factual framework alleged.

21.

As a defense, Dakota Access alleges the Commission's decision to impose a penalty, and to initiate this enforcement action, was arbitrary and capricious and contrary to law.

22.

As a defense, Dakota Access reserves, pending discovery, all defenses provided by the North Dakota Rules of Civil Procedure and the North Dakota Administrative Practices Act.

REQUEST FOR RELIEF

WHEREFORE, Dakota Access requests the following relief:

- a. That the Commission's Complaint be in all things dismissed;
- b. That the Commission find Dakota Access not to be in violation of the Commission's Orders;
- c. That no fine or penalty be imposed on Dakota Access;
- d. That Dakota Access be awarded attorneys' fees and costs incurred in defending the Commission's frivolous claims; and
- e. Such further and additional relief as justice may require.

Dated this 17th day of February, 2017.

FREDRIKSON & BYRON, P.A.

By: /s/ Lawrence Bender

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**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA**

**Dakota Access, LLC
Dakota Access Pipeline Project
Siting Application**

CASE NO. PU-14-842

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the following document:

- Answer of Respondent Dakota Access, LLC

was on the 17th day of February, 2017 served by placing the same in the United States mail, postage prepaid, properly addressed to the following:

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Bismarck, ND 58501

Tim Dawson, Director
Office of Administrative Hearings
2911 North 14th Street – Suite 303
Bismarck, ND 58503

The original and ten (10) copies of the foregoing document were also hand delivered to the North Dakota Public Service Commission on said date.

By: /s/ Lawrence Bender

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