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STATE OF NORTH DAKOTA

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PUBLIC SERVICE COMMISSION

SCS Carbon Transport LLC
Midwest Carbon Express CO2 Pipeline Project
Siting Application

NORTH DAKOTA
PUBLIC SERVICE COMMISSION
Case No. PU-22-391
OAH File No. 20230002

**ORDER ON FEBRUARY 8, 2023 APPLICATION OF
SCS CARBON TRANSPORT LLC TO PROTECT INFORMATION
February 28, 2023**

Preliminary Statement

[1] On February 8, 2023, SCS Carbon Transport LLC (Summit) filed an Application to Protect Information with the Public Service Commission (PSC). Summit requests an order to protect certain “geographic information systems (GIS) data related to the location of proposed facilities, the proposed corridor and route, and the criteria evaluated, including, without limitation, the location of cultural, archaeological, historical, or paleontological sites (the “GIS data”) and to require any other persons or agencies who wish to view the protected information to comply with the rules and procedures set forth in NDAC § 69-02-09-07.”

Discussion

[2] On October 17, 2022, Summit filed a Consolidated Application for a Certificate of Corridor Compatibility and Route Permit. The consolidated application contained GIS data required under N.D.A.C. § 69-06-05-01(2)(q). The submitted GIS data contains “sensitive and confidential information relating the location of the proposed route and corridor and the location of cultural, archaeological, historical, or paleontological sites.” Summit proposes that the GIS data only be available to the Administrative Law Judge, the Commission, and the Commission’s siting analysts. Summit further requests that any party or agency granted authorization by the Commission to view the GIS data be required to comply with N.D.A.C. § 69-02-09-07.

[3] On February 24, 2023, PSC staff filed a Response to Application for Protection of Information. The response states that staff reviewed the application and found that it meets the criteria for Protection of Information. Staff recommends that the production of GIS data in this case be protected from public disclosure. Staff also reviewed Summit's request to waive submission of a public version of the information. Staff concludes that producing a public version would be difficult, if not impossible. Staff recommends a waiver of the requirement to produce a redacted public version of the protected information.

[4] Under N.D.A.C. § 69-02-09-01, a person may request protection from public disclosure of any information in an administration proceeding. The rule also sets the specific application requirements.

[5] Regarding the location of proposed facilities, corridor and route, N.D.C.C. § 44-04-18.4(70 allows for the protection of information regarding critical infrastructure as defined in N.D.C.C. 44-04-24, which allows for the protection of information regarding hazardous liquids and gases infrastructure.

[6] N.D.C.C. § 69-02-09-03 provides "the commission staff shall examine the information and application, and file and serve a response that includes a recommendation on whether the information qualifies for protection."

[7] Staff believes that the application satisfies the requirements of the law, which allows the Commission to grant protection of information in this proceeding. Specifically, staff found a carbon dioxide release could impact public health and safety.

[8] Summit's application satisfies the requirements of the PSC's rules and North Dakota Century Code for protection of the information which is the subject of this request.

IT IS HEREBY ORDERED:

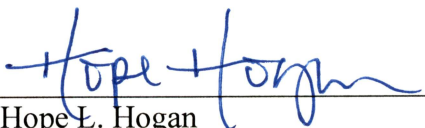
[9] The February 8, 2023 application of SCS Carbon Transport LLC for protection of information is **GRANTED**.

[10] The GIS data related to the location of the proposed facilities, the proposed corridor and route, and the criteria evaluated, including, without limitation, the location of cultural, archaeological, historical, or paleontological sites is protected from public disclosure and shall be available only to the undersigned Administrative Law Judge, the PSC, PSC legal counsel, and PSC siting analysts.

[11] The requirement to provide a redacted public version of the GIS data is waived.

Dated at Bismarck, North Dakota, this 28 day of February 2023.

State of North Dakota
Public Service Commission

By: 

Hope L. Hogan
Administrative Law Judge
Office of Administrative Hearings
2911 North 14th Street - Suite 303
Bismarck, North Dakota 58503
Telephone: (701) 328-3200

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CERTIFICATE OF SERVICE

The undersigned certifies that the original of the **ORDER ON FEBRUARY 8, 2023 APPLICATION OF SCS CARBON TRANSPORT LLC TO PROTECT INFORMATION** was mailed, inside mail, at the State Capitol, on the 28 day of February 2023, to:

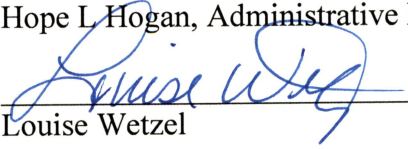
John Schuh
General Counsel
Public Service Commission
600 E Boulevard Avenue, Dept 408
Bismarck, ND 58505-0480

and that true and correct copies of the above document were mailed, regular mail, on the 28 day of February 2023, to:

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OFFICE OF ADMINISTRATIVE HEARINGS
Hope L Hogan, Administrative Law Judge



Louise Wetzel