

# SCS Carbon Transport LLC, Case No. PU-22-391

March 27, 2023 Prehearing Conference

## ND PUBLIC SERVICE COMMISSION

<p style="text-align: right;">1</p> <p style="text-align: center;">STATE OF NORTH DAKOTA PUBLIC SERVICE COMMISSION</p> <p>SCS Carbon Transport LLC Midwest Carbon Express CO2 Pipeline Project Siting Application</p> <p style="text-align: right;">Case No. PU-22-391</p> <p style="text-align: center;"><b>TRANSCRIPT OF TELEPHONIC PREHEARING CONFERENCE</b> <b>March 27, 2023</b></p> <p style="text-align: center;">APPEARANCES</p> <p>LAWRENCE BENDER, Fredrikson &amp; Byron, P.A., on behalf of Applicant SCS Carbon Transport LLC</p> <p>BRIAN E. JORDE, Domina Law Group, on behalf of Intervenor/Landowners</p> <p>STEVE J. LEIBEL, Knoll Leibel LLP, on behalf of Intervenor/Landowners</p> <p>KEVIN PRANIS, on behalf of Intervenor Laborers District Council of Minnesota and North Dakota (LIUNA)</p> <p>ZACHARY PELHAM, Special Assistant Attorney General Advisory Counsel to the Public Service Commission</p>	<p>1 and see how many witnesses and anticipated length for</p> <p>2 testimony from the parties.</p> <p>3 So I believe we have our hearing starting at</p> <p>4 9 a.m. tomorrow morning. And the commissioners and</p> <p>5 staff are coming in by plane. So it's my understanding,</p> <p>6 due to restrictions with the state plane and pilot</p> <p>7 schedules and time, that the plane needs to leave</p> <p>8 Gwinner by 9 p.m. So I think in order for that to</p> <p>9 happen, we need to be concluding the hearing around, at</p> <p>10 the very latest, 8 to 8:15 tomorrow night.</p> <p>11 So, with that in mind, assuming that we go that</p> <p>12 full time, you know, we'll -- I'll plan on taking at</p> <p>13 least a morning break and an afternoon break that are</p> <p>14 usually 15 to 20 minutes and then two meal breaks, at</p> <p>15 least 30 minutes for those. So I think best estimate,</p> <p>16 we have about nine hours for testimony and public</p> <p>17 comment. Obviously, public comment is really going to</p> <p>18 depend how many people come to the hearing and how many</p> <p>19 people want to provide testimony. So I know that's</p> <p>20 impossible to predict today.</p> <p>21 And I think I just heard somebody join. Can I</p> <p>22 ask who just called in?</p> <p>23 MR. PRANIS: It's Kevin Pranis.</p> <p>24 ALJ HOGAN: Oh. Good afternoon, Mr. Pranis. I</p> <p>25 apologize. We started without you since I had everybody</p> <p style="text-align: right;">PAGE 3</p>
<p>1 ADMINISTRATIVE LAW JUDGE HOGAN: All right. It</p> <p>2 is 12:02 p.m. on March 27th, 2023. This is the time and</p> <p>3 date scheduled for a prehearing conference in PSC File</p> <p>4 No. PU-22-391. This is a siting application for SCC</p> <p>5 Carbon Transport LLC for the Midwest Carbon Express CO2</p> <p>6 pipeline project.</p> <p>7 I scheduled this prehearing conference to</p> <p>8 discuss tomorrow's hearing in Gwinner, North Dakota, so</p> <p>9 I'd like to keep the conversation specific to just</p> <p>10 tomorrow's hearing and not issues for this case.</p> <p>11 Appearing for our prehearing conference today</p> <p>12 are the following: on behalf of the Applicant is</p> <p>13 Attorney Lawrence Bender; on behalf of the Public</p> <p>14 Service Commission is Attorney Zach Pelham; on behalf of</p> <p>15 the intervenors are Attorneys Brian Jorde and Steven</p> <p>16 Leibel; and we also have PSC staff member Victor Schock.</p> <p>17 I really wanted to -- after the last hearing, I</p> <p>18 wanted to schedule this prehearing conference to just</p> <p>19 talk about the schedule for tomorrow and the available</p> <p>20 time we have for this hearing. And I apologize, I</p> <p>21 probably should have had this -- scheduled this last</p> <p>22 week so my apologies if this is so last minute.</p> <p>23 So just to kind of outline what we have</p> <p>24 available for hearing time tomorrow, I want to go</p> <p>25 through that, and then I just kind of want to go around</p> <p style="text-align: right;">PAGE 2</p>	<p>1 else on the line.</p> <p>2 MR. PRANIS: No, no, no. That's my fault.</p> <p>3 ALJ HOGAN: Okay. So, with that in mind --</p> <p>4 And, Mr. Pranis, I was just going through the</p> <p>5 schedule for tomorrow. And I guess the bottom line is I</p> <p>6 think we have about nine hours at most for tomorrow's</p> <p>7 hearing for testimony and public comment.</p> <p>8 So I'm going to start with you, Mr. Bender. Do</p> <p>9 you know how many witnesses you plan to offer tomorrow?</p> <p>10 MR. BENDER: Thank you, Your Honor. I haven't</p> <p>11 totally decided that issue yet. One of the things I'm</p> <p>12 considering doing, Your Honor, is because we put our</p> <p>13 case on for the most part in Bismarck, I know that the</p> <p>14 hearing here in Gwinner is to discuss some of the things</p> <p>15 that are going on in Dickey County and Sargent County,</p> <p>16 and then, of course, there were some questions that were</p> <p>17 asked by the commissioners having to do with the SHPO</p> <p>18 letter and the Geological Survey letter and the -- where</p> <p>19 we are on right of way acquisitions and also the coal</p> <p>20 mine.</p> <p>21 One of the things I considered doing is just</p> <p>22 putting on one witness, updating the Commission with</p> <p>23 respect to the SHPO letter, the Geological Survey</p> <p>24 letter, the right of way acquisition, and the coal mine,</p> <p>25 and then leave it to the intervenors to go forward. As</p> <p style="text-align: right;">PAGE 4</p>

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<p>1 you know, Your Honor, we presented our case for the most</p> <p>2 part, as I indicated, in Bismarck, but we have not heard</p> <p>3 from the intervenors. And it just seems to me that time</p> <p>4 might be better spent with the intervenors presenting</p> <p>5 their case and then, of course, the Commission having an</p> <p>6 opportunity to hear from the public.</p> <p>7 So what I'm saying, Your Honor, is that we can</p> <p>8 make it very short, but obviously if the Commission has</p> <p>9 questions or Commission staff has questions, we could</p> <p>10 respond to those, but we just don't think it makes much</p> <p>11 sense to spend a bunch of time going over what we went</p> <p>12 through in the long day in Bismarck.</p> <p>13 ALJ HOGAN: Yeah. And I tend to agree with you,</p> <p>14 Mr. Bender, but I'll let the other parties weigh in on</p> <p>15 that as well.</p> <p>16 Mr. Pelham, I assume you're not planning on</p> <p>17 calling any witnesses on behalf of the PSC tomorrow?</p> <p>18 MR. PELHAM: That's correct, we are not. Can I</p> <p>19 respond to Mr. Bender's statement?</p> <p>20 ALJ HOGAN: Yes, absolutely.</p> <p>21 MR. PELHAM: No. I think from the Commission's</p> <p>22 perspective, we are not opposed to what Mr. Bender is</p> <p>23 proposing. I would say, though, that I do think for</p> <p>24 purposes of members of the public that are attending in</p> <p>25 Gwinner tomorrow, that there needs to be a summation of</p> <p>PAGE 5</p>	<p>1 MR. JORDE: Well, so at this time at this</p> <p>2 particular hearing -- again, this might change, but our</p> <p>3 intent prior to noon today was Rose Dotzenrod, Ben</p> <p>4 Dotzenrod, and Shirley Waloch, W-A-L-O-C-H.</p> <p>5 Now, I preface that because, based on</p> <p>6 Mr. Bender's comments, and maybe a little clarification</p> <p>7 can help, but landowners, intervenors, of course, have</p> <p>8 no burden of proof. And given that these are all</p> <p>9 separate hearings, it seems like they would need to put</p> <p>10 on their case at each separate one. Otherwise, any</p> <p>11 person -- any intervenor testifying or participating</p> <p>12 and, frankly, anyone with public comment after the</p> <p>13 initial hearing would be disadvantaged to the fact that</p> <p>14 how could you prepare your cross-examination or give</p> <p>15 cross-examination, conduct cross-examination, or then</p> <p>16 even in the public comments make appropriate comments if</p> <p>17 you haven't heard what the pipeline company is, you</p> <p>18 know, claiming as their case in chief and putting it out</p> <p>19 there. So I think that's a potential problem.</p> <p>20 Now, if it's going to be short-circuited for the</p> <p>21 benefit of, I guess, the staff and the PSC in general</p> <p>22 because it's kind of like, well, we already heard this,</p> <p>23 that's one thing, but no one showing up at Gwinner heard</p> <p>24 anything that happened in Burleigh County. So I think</p> <p>25 that's a potential issue.</p> <p>PAGE 7</p>
<p>1 the project by a company witness and presented in that</p> <p>2 fashion, specific as to the counties that are covered</p> <p>3 for this particular hearing.</p> <p>4 So I would only offer that as an addition to</p> <p>5 what Mr. Bender had to say. At the same time, from the</p> <p>6 Commission's standpoint, it's not our role to instruct</p> <p>7 any party, intervenor or applicant, on the manner in</p> <p>8 which to conduct their case, but for purposes of my</p> <p>9 thoughts and my opinion on what's being discussed,</p> <p>10 that's what it is.</p> <p>11 Thank you.</p> <p>12 ALJ HOGAN: All right. Thank you.</p> <p>13 And I'm not sure on behalf of intervenors, Mr.</p> <p>14 Jorde, are you going to be lead counsel tomorrow?</p> <p>15 MR. JORDE: Well, based on some comments that</p> <p>16 were made, we might be reconsidering that.</p> <p>17 And so maybe if I can -- but I can address, if</p> <p>18 it's my time to address, any thoughts on behalf of</p> <p>19 intervenors, if that's your intention.</p> <p>20 ALJ HOGAN: Yes. And maybe -- I am recording</p> <p>21 this and I forgot to have you do this at the front end.</p> <p>22 I know that you guys are representing multiple</p> <p>23 intervenors. Could you maybe just for the purpose of</p> <p>24 the record indicate specifically who you will be</p> <p>25 representing tomorrow?</p> <p>PAGE 6</p>	<p>1 And based on, I guess, kind of what I'm hearing</p> <p>2 here and the fact that we're looking to set this</p> <p>3 continuance in Burleigh County, I think it is maybe more</p> <p>4 prudent that our three folks who are intending to show</p> <p>5 up maybe do so and simply provide testimony without</p> <p>6 counsel there, because unless they're going to go</p> <p>7 through, you know, the full presentation, it doesn't</p> <p>8 make any sense for us to be there. And so I -- I would</p> <p>9 -- anyhow.</p> <p>10 And if there's going to be an objection, well,</p> <p>11 these three folks have been recognized formally as</p> <p>12 intervenors and they can't participate without counsel</p> <p>13 present. Then we might have to move to withdraw their</p> <p>14 intervention status so the three of them can simply</p> <p>15 provide their comments and have their -- you know, have</p> <p>16 their say at this time.</p> <p>17 So that's, I guess, kind of how I'm looking at</p> <p>18 it now.</p> <p>19 ALJ HOGAN: Before this prehearing conference</p> <p>20 and this discussion, Mr. Jorde, was your plan to have</p> <p>21 all three intervenors testify tomorrow?</p> <p>22 MR. JORDE: Correct. They're ready to testify.</p> <p>23 I guess how I would modify that is, you know, of course,</p> <p>24 obviously the Q and A, the formality of that, at the end</p> <p>25 of the day, they just want to get their thoughts into</p> <p>PAGE 8</p>

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<p>1 the record.</p> <p>2 And so I would submit that it might be more</p> <p>3 appropriate -- and, again, this then could fit into the</p> <p>4 condensed schedule and then the plane schedule, and I</p> <p>5 understand there's some practical things we need to work</p> <p>6 around, but I would suggest they be allowed and would</p> <p>7 ask for Mr. Bender's stipulation that the three of those</p> <p>8 individuals be allowed to simply read into the record</p> <p>9 what would have otherwise been back and forth, back and</p> <p>10 forth. That will speed things along. And then they'll</p> <p>11 have had their say. That's what I would request.</p> <p>12 ALJ HOGAN: Okay. And before I go back to you,</p> <p>13 Mr. Bender, I just want to ask Mr. Pranis -- and I know,</p> <p>14 Mr. Pranis, you and I spoke during a break at the last</p> <p>15 hearing. It was my understanding that you planned to</p> <p>16 offer testimony or witnesses at one of the hearings, but</p> <p>17 then you ended up having to leave early from the</p> <p>18 Bismarck one so that didn't happen, which was okay</p> <p>19 because we ran out of time anyway.</p> <p>20 So I guess my question is, Mr. Pranis, were you</p> <p>21 planning on appearing tomorrow? And if so, are you</p> <p>22 planning to present witnesses tomorrow?</p> <p>23 MR. PRANIS: Yes, Your Honor. I plan to appear</p> <p>24 tomorrow and, with your permission, wanted to present --</p> <p>25 I have one witness, who is not me, and also wanted to</p> <p>PAGE 9</p>	<p>1 to conduct any cross-examination without him in the</p> <p>2 room, and I understand that.</p> <p>3 So if he would like to go forward with that and</p> <p>4 conditioned upon me having the opportunity to</p> <p>5 cross-examine at a later date -- and I may not, but just</p> <p>6 that opportunity -- I would stipulate to that.</p> <p>7 ALJ HOGAN: Okay. Mr. Pelham, any thoughts?</p> <p>8 MR. PELHAM: My only thought is even public --</p> <p>9 members of the public who provide testimony are</p> <p>10 questioned. So I don't know -- the procedure that we've</p> <p>11 got in place, I would think that there may be questions</p> <p>12 from the commissioners, I may have questions on them. I</p> <p>13 think if they testify, you know, just in the generic</p> <p>14 term as a member of the public and provide testimony,</p> <p>15 they'd be subject to questions. So I don't know that</p> <p>16 there's a procedure where they wouldn't be questioned or</p> <p>17 the potential for their questioning at the hearing.</p> <p>18 I don't know if Mr. Jorde's intention was to not</p> <p>19 allow them to be questioned. I don't know that, I</p> <p>20 didn't hear him say that, but maybe we can clarify on</p> <p>21 that point.</p> <p>22 ALJ HOGAN: Sure.</p> <p>23 Mr. Jorde.</p> <p>24 MR. JORDE: Yes. I think, you know, being</p> <p>25 questioned based on, you know, limited, do not go</p> <p>PAGE 11</p>
<p>1 present the report that we commissioned looking at</p> <p>2 economic impacts of that. I think Gwinner's as good a</p> <p>3 place as any to provide that. And I would be the</p> <p>4 primary witness --</p> <p>5 ALJ HOGAN: Okay.</p> <p>6 MR. PRANIS: -- of that if Your Honor is willing</p> <p>7 and other parties don't object to present -- to just</p> <p>8 briefly present myself and be available for questions --</p> <p>9 ALJ HOGAN: Okay.</p> <p>10 MR. PRANIS: -- rather than a separate witness.</p> <p>11 It would just be those two, and I don't anticipate those</p> <p>12 two taking more than 40 minutes at the most between</p> <p>13 them, maybe less. Likely a half hour.</p> <p>14 ALJ HOGAN: Okay. All right. Thank you.</p> <p>15 Then I'll go back to you, Mr. Bender. Do you</p> <p>16 have any response or thoughts regarding Mr. Jorde's</p> <p>17 comments?</p> <p>18 MR. BENDER: I don't believe I would have an</p> <p>19 objection to Mr. Jorde's clients appearing and reading a</p> <p>20 statement into the record, conditioned upon Mr. Jorde</p> <p>21 bringing those three individuals to some other hearing,</p> <p>22 be it in Bismarck or probably the last hearing we have</p> <p>23 in Bismarck, so in the event that they say some things</p> <p>24 that I may want to ask them questions of, that Mr. Jorde</p> <p>25 would be present. I suspect Mr. Jorde will not want me</p> <p>PAGE 10</p>	<p>1 outside the scope of what they specifically say is fine.</p> <p>2 I mean, I agree if you speak from a member of the</p> <p>3 public, you are subjected to questions potentially. So</p> <p>4 I guess I don't have a problem with that.</p> <p>5 I mean, in the spirit of things, I think what</p> <p>6 Mr. Bender was getting at, and which I respect and agree</p> <p>7 with, is he wouldn't go into a full-blown</p> <p>8 cross-examination necessarily. And so insofar as in the</p> <p>9 spirit of things, I would appreciate that is the</p> <p>10 process. I think the fact that they're speaking, they</p> <p>11 technically are open to questions. And I guess if there</p> <p>12 are any, they could be asked. So I would agree to that.</p> <p>13 ALJ HOGAN: Mr. Jorde, would your intent be to</p> <p>14 have your clients appearing for that continued Bismarck</p> <p>15 hearing then or what are your plans in that regard?</p> <p>16 MR. JORDE: That's a great question, and it's</p> <p>17 really dependent, Your Honor, on when that is, as you</p> <p>18 can certainly appreciate when you're dealing, you know,</p> <p>19 with your own constraints with staff and whatnot. Our</p> <p>20 folks, you know, it's end of March, there's going to be</p> <p>21 all sorts of things going on in terms of production</p> <p>22 agriculture. And so it's really -- kind of depends when</p> <p>23 that schedule is.</p> <p>24 But yes, short answer yes, we will be bringing</p> <p>25 certainly more than a handful of folks to that kind of</p> <p>PAGE 12</p>

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<p>1 conclusion of the Bismarck hearing. And these could be</p> <p>2 some -- I will tell you that this location is</p> <p>3 convenient, more convenient, for their time and expense</p> <p>4 and away from chores, and so that's why the three</p> <p>5 individuals that I mentioned would like to simply say</p> <p>6 their piece, and I would think that's maybe ten minutes</p> <p>7 each. This is not going to be lengthy.</p> <p>8 ALJ HOGAN: Okay. And just, you know, as we're</p> <p>9 talking about this and I'm thinking about that continued</p> <p>10 Bismarck hearing, I think we're going to have time</p> <p>11 issues with that hearing too.</p> <p>12 So, you know, Mr. Jorde and Mr. Leibel, just so</p> <p>13 you guys know, we're going to be limited on time for</p> <p>14 that continued hearing too. And I know Mr. Bakke wants</p> <p>15 to present witnesses too. So, you know, I know I</p> <p>16 started this prehearing by talking about nine hours and</p> <p>17 -- I mean, that's not nothing, that's quite a bit of</p> <p>18 time. So I guess my thought is please keep in mind that</p> <p>19 I don't want to pack everything into that Bismarck --</p> <p>20 that continued Bismarck hearing because I think we're</p> <p>21 going to have time issues there too.</p> <p>22 MR. JORDE: Your Honor?</p> <p>23 ALJ HOGAN: Yep.</p> <p>24 MR. JORDE: I'm sorry, go ahead.</p> <p>25 ALJ HOGAN: No, I was done. Go ahead.</p> <p>PAGE 13</p>	<p>1 are looking at one additional hearing day in Bismarck.</p> <p>2 So that's probably going to be similar to what we had at</p> <p>3 the last one where we're going to have a limited amount</p> <p>4 of time for that day and a number of witnesses to get</p> <p>5 in. So I'm not necessarily dictating anything, but I</p> <p>6 just want the parties to be aware of where we're at with</p> <p>7 that.</p> <p>8 MR. JORDE: Your Honor, again, Brian Jorde.</p> <p>9 In regards to that, and since we're all here,</p> <p>10 will there be a set order? Are the intervenors, should</p> <p>11 we be talking offline and coordinating to try to be as</p> <p>12 efficient as possible? Or what's the best practice for,</p> <p>13 frankly, any of these hearings but specifically the</p> <p>14 Bismarck one?</p> <p>15 ALJ HOGAN: Mr. Jorde, and I guess to all the</p> <p>16 parties, I think that's a good idea. My plan is, once</p> <p>17 we have a hearing date for that next -- for that last</p> <p>18 hearing, I plan on holding another prehearing conference</p> <p>19 because I think -- I mean, if we learned anything from</p> <p>20 the last hearing, having a game plan going in is</p> <p>21 probably a better idea than trying to do it on the fly</p> <p>22 on the day of the hearing. So my plan would be to have</p> <p>23 another prehearing conference to talk about scheduling</p> <p>24 for that day and the amount of time we're going to have,</p> <p>25 etcetera. So as much as the intervenors can get</p> <p>PAGE 15</p>
<p>1 MR. JORDE: This is Mr. Jorde.</p> <p>2 I -- you know, just as an aside, for instance,</p> <p>3 in South Dakota, the hearing there for Summit is taking</p> <p>4 place over 15 trial -- or 15 hearing days. I realize we</p> <p>5 currently have four set with the one additional --</p> <p>6 or one that's happened, three more, and then one</p> <p>7 additional follow-on day. We certainly try to do our</p> <p>8 best.</p> <p>9 You know, this is a pretty important docket to a</p> <p>10 lot of people and it's complex and never done before in</p> <p>11 the history of the state of North Dakota, nor has the</p> <p>12 Commission ever proceeded over this particular type of</p> <p>13 pipeline. And so I guess we would certainly advocate</p> <p>14 for -- to be flexible as the Commission can on allowing</p> <p>15 enough time for all that (indiscernible).</p> <p>16 ALJ HOGAN: Yep. And I totally get all that,</p> <p>17 Mr. Jorde. It's my understanding, and maybe Victor can</p> <p>18 -- or Mr. Schock can correct me if I'm wrong, but I'm</p> <p>19 pretty sure they're only looking at one additional</p> <p>20 hearing date.</p> <p>21 Mr. Schock, am I correct on that?</p> <p>22 MR. SCHOCK: Yes, you are correct.</p> <p>23 ALJ HOGAN: Okay. So I don't have any control</p> <p>24 over that. That's up to the PSC so I guess you can make</p> <p>25 your pitch to them, but as of now, I think the parties</p> <p>PAGE 14</p>	<p>1 together and talk about that before that prehearing,</p> <p>2 that would be helpful, I think.</p> <p>3 MR. PRANIS: Is there a reason why we're not</p> <p>4 doing prefiled testimony -- sorry. Kevin Pranis -- why</p> <p>5 we're not doing prefiled testimony for that Bismarck</p> <p>6 hearing?</p> <p>7 ALJ HOGAN: I don't know the answer to that.</p> <p>8 Mr. Schock, do you know?</p> <p>9 MR. SCHOCK: There's absolutely no problem with</p> <p>10 any prefiled testimony in any of these proceedings.</p> <p>11 MR. PRANIS: I mean, I found that that can cut</p> <p>12 down the time significantly because then the focus is on</p> <p>13 questions rather than reading through the testimony.</p> <p>14 ALJ HOGAN: Sure. Was there somebody else that</p> <p>15 had some comments?</p> <p>16 MR. JORDE: I'm sorry, this is the last thing</p> <p>17 for tomorrow, Your Honor. So just in the spirit of kind</p> <p>18 of the order and knowing the flow of things, given that</p> <p>19 we've reached an agreement that our three folks will</p> <p>20 show up, will they be able to go first after, obviously,</p> <p>21 Summit goes and then, you know, the staff? I mean,</p> <p>22 where will they be in line, just so I don't have them</p> <p>23 there for nine hours, if we can kind of narrow that</p> <p>24 down?</p> <p>25 ALJ HOGAN: Sure. And normally -- and it -- I</p> <p>PAGE 16</p>

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<p>1 think it makes sense to continue the normal procedure</p> <p>2 for tomorrow's hearing. So Summit will present its</p> <p>3 witnesses first. And then given what we've talked about</p> <p>4 today, Mr. Jorde, I think your clients would go next.</p> <p>5 And then we would move to public testimony. Well,</p> <p>6 actually --</p> <p>7 MR. JORDE: That's great. So we'll have --</p> <p>8 ALJ HOGAN: Go back. Mr. Jorde, your clients</p> <p>9 would go -- I'd call them first. Then I'd have Mr.</p> <p>10 Pranis present his witnesses, and then public testimony.</p> <p>11 MR. JORDE: Okay. Very good. So I'll need to</p> <p>12 have them there ready to go first thing in the morning,</p> <p>13 it sounds like.</p> <p>14 ALJ HOGAN: Yeah.</p> <p>15 MR. JORDE: Okay.</p> <p>16 ALJ HOGAN: Yeah. Because I don't anticipate,</p> <p>17 even if Summit's witnesses provide more -- you know, a</p> <p>18 summary or more information about the project than maybe</p> <p>19 originally thought, you know, I don't think it will be</p> <p>20 as lengthy as their testimony in Bismarck so...</p> <p>21 MR. JORDE: Okay.</p> <p>22 MR. BENDER: That's correct, Your Honor.</p> <p>23 ALJ HOGAN: Okay.</p> <p>24 MR. BENDER: I'm sorry, Your Honor. This is</p> <p>25 Lawrence Bender again.</p> <p>PAGE 17</p>	<p>1 One clarification on that. That's all correct.</p> <p>2 I would request the courtesy of having, say, ten days or</p> <p>3 two weeks or some advance notice rather than not knowing</p> <p>4 if questions want to be asked and then they make the</p> <p>5 trek and they're sitting there and it's, like "Oh, I</p> <p>6 didn't need to ask questions."</p> <p>7 So I mean I guess -- you know, you'll know after</p> <p>8 tomorrow if there's something you want to follow up on,</p> <p>9 Mr. Bender, and I'd appreciate it if you could give us a</p> <p>10 head's up, if that makes sense.</p> <p>11 MR. BENDER: I have no problem with that at all.</p> <p>12 I think that's a fair request.</p> <p>13 ALJ HOGAN: All right. Are there any other</p> <p>14 questions the parties want to discuss regarding</p> <p>15 tomorrow's hearing?</p> <p>16 Mr. Bender, did you have anything?</p> <p>17 MR. BENDER: I don't have anything further, Your</p> <p>18 Honor.</p> <p>19 ALJ HOGAN: All right. And Mr. Pelham?</p> <p>20 MR. PELHAM: Nothing further. Thank you.</p> <p>21 ALJ HOGAN: Mr. Jorde or Mr. Leibel.</p> <p>22 MR. JORDE: Brian Jorde.</p> <p>23 If, for instance, and I don't think we will, but</p> <p>24 say a fourth person comes and they want to say their</p> <p>25 piece, I would just respectfully request they be added</p> <p>PAGE 19</p>
<p>1 Even if we don't do it as abbreviated as I</p> <p>2 initially discussed at the beginning of this telephone</p> <p>3 conversation, it's still going to be relatively brief,</p> <p>4 an outline from one, possibly two witnesses about the</p> <p>5 project, you know, timing, cost, that sort of thing. I</p> <p>6 mean, I understand that the public is coming, they may</p> <p>7 not have heard what happened in Bismarck. We'll give</p> <p>8 them a flavor for the pipeline, I mean keeping in mind</p> <p>9 everything we've been talking about is in the</p> <p>10 application. So maybe they couldn't attend the Bismarck</p> <p>11 hearing, but they certainly had access to those</p> <p>12 materials.</p> <p>13 And, I mean, I can't control the Commission or</p> <p>14 the Commission staff or others from asking the public</p> <p>15 questions and, as a result of that, can't control</p> <p>16 questions that might be asked of Mr. Jorde's clients,</p> <p>17 but I do not intend to do any sort of full</p> <p>18 cross-examination.</p> <p>19 Mr. Jorde has been cooperating here today, and I</p> <p>20 trust him that he'll have those three people at the</p> <p>21 Bismarck hearing if at all possible. And if there's</p> <p>22 specific questions I want to ask them, I'm going to have</p> <p>23 an opportunity to do it there.</p> <p>24 ALJ HOGAN: All right.</p> <p>25 MR. JORDE: I just -- this is Brian Jorde.</p> <p>PAGE 18</p>	<p>1 at the end of the three that are there. I don't think</p> <p>2 that will be the case, but just in case, rather than</p> <p>3 having them sit there all day, that's what I would</p> <p>4 request.</p> <p>5 ALJ HOGAN: That's fine if there's some way you</p> <p>6 can let me know that they're part of your group versus,</p> <p>7 you know, just (indiscernible) from the public.</p> <p>8 MR. JORDE: We'll coordinate that.</p> <p>9 ALJ HOGAN: Okay.</p> <p>10 MR. JORDE: We'll coordinate that, Your Honor.</p> <p>11 And anyone I didn't mention, again, I don't think this</p> <p>12 is going to be the case, but they would go immediately</p> <p>13 after the third of the three I did mention --</p> <p>14 ALJ HOGAN: Okay.</p> <p>15 MR. JORDE: -- so they'd be ready.</p> <p>16 ALJ HOGAN: All right. Sounds good.</p> <p>17 Mr. Pranis, did you have anything else for</p> <p>18 today?</p> <p>19 MR. PRANIS: No, Your Honor.</p> <p>20 ALJ HOGAN: And, Mr. Schock, did I miss anything</p> <p>21 that we need to talk about before the hearing tomorrow?</p> <p>22 MR. SCHOCK: No. I think you covered</p> <p>23 everything. Thank you.</p> <p>24 ALJ HOGAN: All right. Well, I thank all of you</p> <p>25 for calling in today and making time for this</p> <p>PAGE 20</p>

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1 prehearing. I think this was helpful to talk about  
2 tomorrow's hearing and having a better game plan going  
3 into it. So thank you very much.

4 I will note for the record that it's 12:29 p.m.  
5 That will conclude our prehearing conference. And I'll  
6 be seeing most of you tomorrow.

7 MR. JORDE: Thank you.

8 MR. BENDER: Thank you, Your Honor.

9 ALJ HOGAN: Thank you. Bye-bye.

10 UNIDENTIFIED SPEAKER: Thank you.

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### CERTIFICATE OF TRANSCRIPTIONIST

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# SCS Carbon Transport LLC, Case No. PU-22-391

## March 27, 2023 Prehearing Conference ND PUBLIC SERVICE COMMISSION

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