

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

Case No. PU-22-391
OAH FILE No. 20230002

ORDER ON MOTION TO SET TESTIMONY TIME LIMITS

[1] On May 11, 2023, SCS Carbon Transport LLC (Summit) filed a motion concerning the June 2, 2023 hearing scheduled to be held in Bismarck, North Dakota. Based on the number of witnesses the parties intend to call and the length of the other hearings held in this case, Summit requests the Commission set specific time limits for both direct and cross-examination of each witness. Summit proposed a limit for each witness of 20 minutes for direct testimony, 20 minutes of cross-examination, and 20 minutes for questions from the Commissioners and Commission staff and counsel.

[2] On May 18, 2023, Intervenor John H. Warford, Jr. as Trustee of the John H. Warford, Jr. Revocable Trust (hereinafter referred to as “Warford”) filed a response objecting to Summit’s motion and request for specific testimony time limits. Warford asserts that limiting the testimony of the Intervenors is unfair since no limits were set for Summit’s witnesses. Warford also objects to the suggestion that Intervenors pre-filed testimony asserting it is “less effective at revealing the truth about a matter” and more expensive to prepare.

[3] On May 19, 2023, Attorneys Steven Liebel and Brian E. Jorde, as counsel for multiple Intervenors,¹ filed a Joinder to Warford’s response to Summit’s motion.

¹ The Intervenors represented by Attorneys Liebel and Jorde are named in the Orders Granting Intervention found at Docket Nos. 82, 83, 168, 159, and 204.

[4] A prehearing conference was held on May 12, 2023 to discuss hearing procedures for the June 2, 2023 hearing. At the conclusion of the hearing, the undersigned Administrative Law Judge (ALJ) requested the parties submit in writing the number of witnesses and estimated time for testimony for each witness. Summit responded on May 19, 2023 indicating it did not intend to call any witnesses but may file written testimony to address matters raised by the Commission, Intervenors, and the public generally. Warford, through his counsel, responded on May 19, 2023 indicating he intends to call four, possibly five witnesses, and estimated time for direct testimony for all witnesses to be 185 minutes, including the potential fifth witnesses. Intervenor LiUNA responded on May 22, 2023 indicated it intends to call one witness and provided no estimate of the time for testimony. Attorney Jorde responded on May 22, 2023 on behalf of the group of Intervenors he represents and indicated he intends to call nine witnesses with additional witnesses possible. Attorney Jorde provided no estimate of time needed for these witnesses. The Commission, through its counsel, indicated at the May 12, 2023 prehearing conference it did not intend to call any witnesses.

[5] The Commission will allow additional public testimony at the June 2, 2023.

[6] While Summit's concerns about time management are reasonable, time management can be achieved by establishing an order for witness testimony and allowing public testimony in blocks throughout the day. The procedure for public testimony will follow that used for the May 9, 2023 hearing in Linton, North Dakota.

[7] Given the number of witnesses intending to testify, the parties are strongly encouraged to file with the Commission pre-filed testimony. *See* N.D.A.C. § 69-02-05-02.

IT IS HEREBY ORDERED:

[7] Public testimony will be allowed and heard in approximately one-hour blocks throughout the hearing.

[8] The order in which the Intervenors will present witnesses is as follows:

- Intervenor LiUNA;
- Intervenor group represented by Attorneys Liebel and Jorde; and
- Intervenor Warford.

Dated at Bismarck, North Dakota, this 24 day of May 2023.

State of North Dakota
Public Service Commission

By  _____

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Administrative Law Judge
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