

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 REQUEST FOR EXTENSION TO RESPOND
TO PETITION FOR RECONSIDERATION**

[1] On August 18, 2023, SCS Carbon Transport LLC (Summit) filed a Petition for Reconsideration (Petition) which was served on all parties and filed with the Public Service Commission (Commission) via email.

[2] On August 24, 2023, Attorney Randall Bakke, counsel for Bismarck Intervenors sent an email to the undersigned Administrative Law Judge (ALJ) requesting an extension to respond to the Petition. Attorney Bakke indicated he requested a more detailed map of the proposed re-routes from Summit's counsel to assist in his response to the Petition. Attorney Bakke attached a copy of the request for the map. The date of the request was also August 24, 2023. Attorney Bakke further indicated that he would be out of the office from August 30, 2023 to September 18, 2023.

[3] On August 24, 2023, Attorney Derrick Braaten, counsel for Intervenor Emmons County, sent an email to the ALJ requesting that the proposed extension to the response deadline apply to all responding parties.

[4] Also on August 24, 2023, Kevin Pranis, representative of Intervenor Laborers District Council of Minnesota and North Dakota (LIUNA), sent an email joining Attorney Bakke's request for an extension and Attorney Braaten's request for one response deadline. Mr. Pranis also notes his opinion that the Petition is extraordinary in both the proposed changes to the project and extent of the record developed.

[5] Later on August 24, 2023, Attorney Knoll, counsel for the group of Intervenors represented by himself, Attorney Leibel, and Attorney Jorde, sent an email indicating their support for Attorney Bakke's extension request.

[6] Thereafter on August 24, 2023, Attorney Lawrence Bender, counsel for Summit, filed a response via email objecting to any extension to the response deadline. Attorney Bender argued that the Commission has 30 days to decide the Petition and the requested extension is past the 30-day deadline. Attorney Bender also states that currently there is no additional, more detailed map that Summit can share with the Intervenors as Summit is currently negotiating rights of way for the proposed re-route. Attorney Bender's response also indicated that Summit representatives have met directly with the Bismarck Intervenors to discuss route adjustments.

[7] The Administrative Agency Practice Act provides, in part, that a petition for reconsideration "is deemed to have been denied if the agency does not dispose of it within thirty days after the filing of the petition." N.D.C.C. § 28-32-40(4). Commission rules further provide, "within ten days after the service of the petition, any party to the proceeding may file with the commission an original and seven copies of the party's response. Failure is a waiver of any objection to the granting of the petition." N.D.A.C. § 69-02-06-02(4). The timelines set to consider a petition for reconsideration highlight the intent for an expeditious process.

[8] The Intervenors deadline to response to the Petition is August 28, 2023. Intervenors request for an extension was filed on the sixth day of the 10-day response period.

[9] The Petition must be addressed by the Commission within 30 days. A response extension to September 20, 2023 is not appropriate or feasible. However, a short extension is appropriate given the Petition request, complexities of the case, and size of the record.

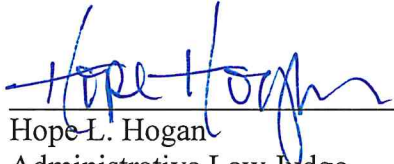
IT IS HEREBY ORDERED:

[10] Intervenors request to extend the response deadline to September 20, 2023 is **DENIED**.

[11] Any response to the Petition must be filed with the Commission and served on the other parties no later than close of business on August 31, 2023.

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

State of North Dakota
Public Service Commission



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

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. 20230003

CERTIFICATE OF SERVICE

The undersigned certifies that the originals of the: **ORDER ON REQUEST FOR EXTENSION TO RESPOND TO PETITION FOR RECONSIDERATION** were sent by electronic mail and mailed, inside mail, at the State Capitol, on the 28 day of August 2023, to:

John Schuh
Special Assistant Attorney General
Public Service Commission
jschuh@nd.gov

and that true and correct copies of the above document were sent by electronic mail on the 28 day of August 2023, to:

Lawrence Bender
Tyler Gludt
Fredrikson & Byron, P.A.
lbender@fredlaw.com
tgludt@fredlaw.com

Zachary Pelham
Special Assistant Attorney General
Pearce Durick PLLC
zep@pearce-durick.com

Randall J. Bakke
Bradley N. Wiederholt
Bakke Grinolds Wiederholt
rbakke@bgwattorneys.com
bwiederhold@bgwattorneys.com

Steven Leibel
David Knoll
Knoll Leibel LLP
steve@bismarck-attorneys.com
david@bismarck-attorneys.com

Brian E. Jorde
Domina Law Group
bjorde@dominalaw.com

Kevin Pranis
LIUNA Minnesota & North Dakota
kpranis@liunagroc.com

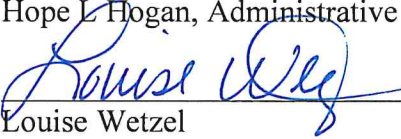
Brant M. Leonard
Fredrikson & Byron, P.A.
bleonard@fredlaw.com

Bret A. Dublinske
Fredrikson & Byron, P.A.
bdublinske@fredlaw.com

James Curry
Babst, Calland, Clements and Zomnir, P.C.
jcurry@babstcalland.com

Derrick Braaten
Braaten Law Firm
derrick@braatenlawfirm.com

OFFICE OF ADMINISTRATIVE HEARINGS
Hope L Hogan, Administrative Law Judge



Louise Wetzel