

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 GRANTING PETITION FOR INTERVENTION

[1] On March 21, 2024, Randall Waloch and Karla Waloch, Sargent County; Lugert Land Limited Partnership (Marvin Lugert and Jeanne Lugert), Richland County; and CarolLee Curruth and William Curruth, Dickey County filed a Petition for Intervention in the above referenced case.

[2] North Dakota Century Code § 28-32-28 addresses intervention in adjudicative proceedings and provides:

An administrative agency may grant intervention in an adjudicative proceeding to promote the interests of justice if intervention will not impair the orderly and prompt conduct of the proceeding and if the petitioning intervenor demonstrates that the petitioner's legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of statute or rule. The agency may impose conditions and limitations upon intervention. The agency shall give reasonable notice of the intervention to all parties. An administrative agency may adopt rules relating to intervention in an adjudicative proceeding.

[3] The North Dakota Public Service Commission (Commission) has adopted its own rules relating to intervention. The Commission's rule on intervention provides in part as follows:

Any person with a substantial interest in a proceeding may petition to intervene in that proceeding by complying with this section. An intervention may be granted if the petitioner has a statutory right to be a party to the proceeding; or the petitioner has a legal interest which may be substantially affected by the proceeding, and the intervention would not unduly broaden the issues or delay the proceeding. The commission may impose conditions and limitations on an intervention to promote the interests of justice.

1. Contents of petition to intervene. A petition to intervene must be in writing and must set forth the grounds for intervention, the position and interest of the petitioner

in the proceeding, what the petitioner would contribute to the hearing, and whether the petitioner's position is in support of or in opposition to the relief sought.

....

N.D. Admin. Code § 69-02-02-05.

[4] On March 26, 2024, SCS Carbon Transport LLC (Summit) filed a Response to the Petition to Intervene. Summit does not object to the Petition but objects to the purpose, or scope, of the matters to which Intervenor may address. Summit objects to the Intervenor addressing any issues outside the jurisdiction of Commission such as private easements, eminent domain, safety compliance with PHMSA construction and operation, and permanent sequestration and storage of carbon dioxide.

[5] On March 27, 2024, the Intervenor filed a Rely to Summit's Response. The Intervenor objecting to the limitations suggested by Summit and pointing out that the Commission did not limit the issues for further hearing.

[6] The Commission issued a Notice of Public Hearing on March 21, 2024 for three additional public hearings in the above referenced matter. The Notice indicates that the hearings are to:

address the proposed route adjustments and supplemental filings and deficiencies noted in the Commission's August 18, 2023 Order and include the following questions:

1. Will construction, operation, and maintenance of the facility at the proposed location produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Is the proposed facility compatible with environmental preservation and the efficient use of resources?
3. Will construction, operation, and maintenance of the facility at the proposed location minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

PSC Doc. 465.

[7] The Petition sets forth the grounds for intervention, the position and interest of the Intervenor, what the Intervenor can contribute to the hearing, and the Intervenor's position with respect to the relief sought by the applicant. The Intervenor has presented sufficient information to satisfy the statutory intervention requirements set forth in N.D.C.C. § 28-32-28 and N.D. Admin. Code § 69-02-02-05.

[8] Having considered the written submission of the Intervenor and the applicable statutory provisions and administrative rules, **IT IS HEREBY ORDERED:**

[9] The Petition to Intervene filed by Randall Waloch, Karla Waloch, Lugert Land Limited Partnership (Marvin Lugert and Jeanne Lugert), CarolLee Curruth, and William Curruth is **GRANTED.**

[10] The scope of issues to be addressed in this proceeding shall be limited as set forth in the Commission's March 21, 2024 Notice of Public Hearing.

Dated at Bismarck, North Dakota, this 10 day of April 2024.

State of North Dakota
Public Service Commission

By 
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Administrative Law Judge
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CERTIFICATE OF SERVICE

The undersigned certifies that the original of the **ORDER GRANTING PETITION FOR INTERVENTION** was sent by electronic mail and mailed, inside mail, at the State Capitol, on the 9 day of April 2024 to:

John Schuh
Special Assistant Attorney General
North Dakota Public Service Commission
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and that true and correct copies of the above document were sent by electronic mail on the 9 day of April 2024, to:

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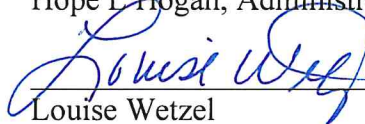
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Hope L. Hogan, Administrative Law Judge



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