

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NEBRASKA

IN THE MATTER OF THE APPLICATION)
OF TRANSCANADA KEYSTONE)
PIPELINE, LP FOR ROUTE APPROVAL) APPLICATION NO. OP-0003
OF THE KEYSTONE XL PIPELINE)
PROJECT PURSUANT TO THE MAJOR)
OIL PIPELINE SITING ACT)

POST-HEARING BRIEF

ON BEHALF OF

UNITED ASSOCIATION OF JOURNEYMEN AND
APPRENTICES OF THE PLUMBING AND PIPE FITTING INDUSTRY
OF THE UNITED STATES AND CANADA, AFL-CIO

MIDWEST REGION OF THE LABORERS' INTERNATIONAL UNION
OF NORTH AMERICA

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS
LOCAL UNION NO. 265

SEPTEMBER 15, 2017

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I. INTRODUCTION

The United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO (“United Association” or “UA”), the Midwest Region of the Laborers’ International Union of North America (“LiUNA”), and the International Brotherhood of Electrical Workers Local Union No. 265 (“IBEW 265”) respectfully submit this Post-Hearing Brief in order to provide the Public Service Commission of the State of Nebraska (“Commission”) with a summary of the economic benefits of the Keystone XL Project (“Project” or “Keystone XL”), as proposed by TransCanada Keystone Pipeline, LP (“TransCanada” or “Applicant”). The Rules related to the approval of the Nebraska portion of the Project require that the Commission consider the economic and social impacts of the Project in determining whether it would serve the public interest. NEB. REV. STAT. ANN. § 57-1407(4). In this case, Keystone XL promises to provide significant socioeconomic benefits to the State of Nebraska, its localities, and its residents in many forms, including jobs, income to individuals, and local and State tax revenue. These benefits should be weighed accordingly in the Commission’s decision in favor of the Project’s approval.

II. FACTS

A. The Project

If approved, the Project’s Preferred Route would run for 275.2 miles through Nebraska and would include the construction of five (5) pump stations along the route. (OP-0003 Keystone XL Pipeline Application (hereinafter “App.”), pgs. 2, 24.) The total cost of the Project in Nebraska is projected to be over \$8 billion. (App. App’x H, pg. 8.) As discussed in greater detail below, the Project would create a significant number of jobs – both during and after

construction – and would generate hundreds of millions of dollars in tax revenue and total economic output for the State of Nebraska and its localities.

B. The Economic Intervenors

By Order of Hearing Officer Tim Schram on March 31, 2017, the United Association, LiUNA, and IBEW 265 (hereinafter, “Economic Intervenors”) were granted intervention in this proceeding, but were limited, collectively, to presenting evidence on “economic issues,” including “changes in business revenues, business profits, personal wages, and/or jobs, commerce, employment, or incomes and the orderly development of the area around the proposed route.” Order on Formal Intervention Petitions at 5, App. No. OP-0003, Mar. 31, 2017. As discussed below, the Economic Intervenors have extensive experience and knowledge of these topics as they relate to the proposed Project and its effects on the economy and individuals therein. Members of the Economic Intervenors would be employed on Keystone XL by construction contractors hired by TransCanada and not by TransCanada directly. (T1186:12-16.)

The United Association is an international labor organization representing approximately 370,000 plumbers, pipefitters, sprinkler fitters, service technicians, and welders. The United Association has two (2) local union affiliates in Nebraska and approximately 1,500 members who reside in Nebraska. (ECO-1 at 1:21-2:2.).

LiUNA is a regional labor organization representing approximately 47,000 laborers across the Midwest – including approximately 600 members who reside in Nebraska. LiUNA has one (1) local union affiliate headquartered in Nebraska with approximately 426 active members. A second local union affiliate – with headquarters in Iowa – has approximately 180 members who reside in Nebraska. (ECO 2 at 1:29-34.)

IBEW 265 is a Local Labor Organization headquartered in Lincoln, Nebraska representing approximately 371 members in the state of Nebraska. The Eleventh District Council of the IBEW, which includes the State of Nebraska and to which IBEW 265 is a member, represents over 32,000 members. Of those 32,000 members 2,030 belong to IBEW Local Unions headquartered in Nebraska. (ECO-2 at 1:36-40.)

Direct testimony submitted by the Economic Intervenors describes the rigorous training that members of all three labor organizations receive as well as the extensive experience that their members possess and their commitment to updating and upgrading America's infrastructure with an emphasis on safety and environmental protection. (*See* ECO-1 at 5:10-11:7; ECO-2 at 3:27-4:14, 4:21-23.) These skilled workers, whose socioeconomic well-being depends so much on projects like Keystone XL, would ensure that the Project is built using the best and most up-to-date techniques and according to the highest construction standards.

III. ANALYSIS

Under Nebraska's Major Oil Pipeline Siting Act ("MOPSA"), a pipeline application "shall be approved if [its] proposed route is determined by the Public Service Commission to be in the public interest." NEB. REV. STAT. ANN. § 57-1407(4). In making this public interest determination, the Commission is required to evaluate:

- (a) Whether the pipeline carrier has demonstrated compliance with all applicable state statutes, rules, and regulations and local ordinances;
- (b) Evidence of the impact due to intrusion upon natural resources and not due to safety of the proposed route of the major oil pipeline to the natural resources of Nebraska, including evidence regarding the irreversible and irretrievable commitments of land areas and connected natural resources and the depletion of beneficial uses of the natural resources;
- (c) Evidence of methods to minimize or mitigate the potential impacts of the major oil pipeline to natural resources;

- (d) Evidence regarding the economic and social impacts of the major oil pipeline;
- (e) Whether any other utility corridor exists that could feasibly and beneficially be used for the route of the major oil pipeline;
- (f) The impact of the major oil pipeline on the orderly development of the area around the proposed route of the major oil pipeline;
- (g) The reports of the agencies filed pursuant to subsection (3) of this section; and
- (h) The views of the governing bodies of the counties and municipalities in the area around the proposed route of the major oil pipeline.

NEB. REV. STAT. ANN. § 57-1407(4). With regard to MOPSA's requirement that the Commission consider "evidence regarding the economic and social impacts" of the pipeline, MOPSA § 57-1407(4)(d), the Nebraska Administrative Code adds that such evidence "may include but not be limited to estimates regarding tax paid by the carrier to local and state government along the route of the proposed pipeline and information regarding impact on employment in Nebraska," 291 NEB. ADMIN. CODE Ch. 9, 023.07D.

A. The Record Demonstrates that the Project Would Have a Positive Economic Impact in Nebraska.

As set forth above, in deciding whether to grant approval to a pipeline application, MOPSA and the Nebraska Administrative Code require that the Commission consider "evidence regarding the economic and social impacts" of the Project, which may include a range of economic considerations, including anticipated tax revenue and impact on employment. NEB. REV. STAT. ANN. § 57-1407(4); 291 NEB. ADMIN. CODE Ch. 9, § 023.07D. The record in this case is clear that the Project would be of significant socioeconomic value to the State of Nebraska and the Economic Intervenors' members – including approximately 2,500 who reside in Nebraska. In Nebraska alone, TransCanada expects to pay approximately \$203 million in property tax between 2018 and 2034 in addition to \$61.4 million in sales, use, income tax, and

other taxes and fees. (App. App'x H, pg. 5.) As discussed below, the Economic Intervenors further expect that the Project would create a significant number of jobs for their members and associated local revenue. The importance of all of these economic benefits cannot be understated and should be given due weight in the Commission's decision, as required by MOPSA.

1. The United Association Has Demonstrated That the Project Would Have a Positive Economic Impact.

The unrebutted testimony of David L. Barnett, International Representative assigned to the UA's Pipeline and Gas Distribution Department, based on his almost 40 years of experience in the pipeline industry, describes the income and benefits that UA workers could expect to gain from the Project and the types of associated economic benefit he would expect to see flow from the Project in the communities through which the Project would run. This unchallenged testimony shows that the Project promises to create clear economic benefits for UA members as well as for Nebraska and its localities and residents.

David Barnett estimates that the Project, in total, would net approximately \$95 million in wages to UA workers and approximately \$64 million in contributions to UA members' pension and health benefit funds, of which about \$30 million in wages and \$20 million in fringe benefit contributions would be earned on the Nebraska portion of the Project. (ECO-1 at 11:18-12:1.) On the Nebraska portion specifically, Barnett's projections show that approximately 564 UA members would be employed on the Project and that an average UA worker could expect to work approximately 1,800 to 2,200 hours over six to eight months and earn between \$40,000 and \$80,000 in wages, depending upon worker classification. (*Id.* at 11:14-18.) In addition to those earnings, UA members working on the Project would receive full health coverage for themselves and their families and contributions to pension and health funds for the entirety of their work on

the Project. (*Id.* at 12:5-9.) Work for UA members would not necessarily cease permanently at the end of construction, as maintenance and upgrade work could reasonably be expected in the future. (*Id.* at 12:11-12.)

David Barnett's testimony also discusses the increased demand for food, lodging, recreation, and other daily necessities that UA workers employed on the Project would create. Based on his extensive past experience, David Barnett estimates that UA members working on the Project would spend approximately \$1,000 per week in Nebraska on these daily needs, which would flow directly into the State and local economies. (ECO-1 at 13:1-6.) This infusion of business would help local businesses and create tax revenue, obvious economic benefits that will not come about if the Project is not approved.

2. LiUNA and IBEW Local 265 Have Demonstrated That the Project Would Have a Positive Economic Impact.

The unrebutted testimony of Bill Gerhard, Special Representative of the Midwest Region of the Laborers' International Union of North America (hereafter "LiUNA") describes the income and benefits that workers from both LiUNA and the International Brotherhood of Electrical Workers Local Union N. 265 (hereafter "IBEW") could expect to gain from the Project and the types of associated economic benefit that the State of Nebraska would expect to see flow from the Project in the communities through which the Project would run. This unchallenged testimony shows that the Project promises to create clear economic benefits for LiUNA and IBEW members, many of whom are Nebraska residents, as well as for Nebraska and its localities and residents.

As established in Mr. Gerhard's testimony LiUNA represents approximately 47,000 laborers across the Midwest – including approximately 600 members who reside in Nebraska. LiUNA has one (1) local union affiliate headquartered in Nebraska with approximately 426

active members. A second local union affiliate – with headquarters in Iowa – has approximately 180 members who reside in Nebraska. (ECO-2 at 1:29-34) For its part, the IBEW is a Local Labor Organization headquartered in Lincoln, Nebraska representing approximately 371 members in the state of Nebraska. The Eleventh District Council of the IBEW, which includes the state of Nebraska and to which IBEW 265 is a member, represents over 32,000 members. Of those 32,000 members 2,030 belong to IBEW Local Unions headquartered in Nebraska. (ECO-2 at 1:36-41.) These Nebraska residents would be direct beneficiaries of the work created by the Project.

TransCanada estimates that the Project in Nebraska would take approximately twenty-five (25) months to construct. While exact numbers are difficult to predict, LiUNA expects that each construction spread would create approximately 100 jobs for its members. (ECO-2 at 5:17-21.) As established by Mr. Gerhard's testimony, each individual employed performing the work within LiUNA's craft jurisdiction could expect to work approximately 600 to 2,500 hours on the Nebraska portion of the Project. (ECO-2 at 5:21-23.) Those workers would earn, on average, between \$35,000 and \$45,000. This would include not only wages, but also the contractor's contributions to a training program for the employees. These workers would also receive health benefits for themselves and their entire families as well as defined benefit pension contributions for the duration of the Project. (ECO-2 at 5:23-28.) As Mr. Gerhard's unrebutted testimony establishes, total projected wages for the Project to LiUNA members would be between approximately \$30 and \$40 million in addition to between \$12 and \$15 million in contributions to members' pension and health benefits. (ECO-2 at 5:28-31). Further, the Project would continue to provide jobs after its initial construction as work would be performed in order to maintain and upgrade the pipeline. (ECO-2 at 6:13-20.)

Mr. Gerhard's testimony also establishes the significant economic impact to individuals performing the work within the craft jurisdiction of the IBEW. The work created by the five (5) pump stations alone would create approximately eighty (80) jobs for IBEW members. (ECO-2 at 5:36-38.) IBEW members could expect to earn, on average, hourly wage rates between \$28.72 and \$32.49. In addition, IBEW members would receive contributions to a retirement plan and health benefits for themselves and their families. (ECO-2 at 5:38-41.) By way of comparison, on the recently-constructed Dakota Access Pipeline, IBEW members attained over 235,600 total hours of work. The Keystone XL pipeline project is substantially similar to the Dakota Access Pipeline except that it is larger and involves the construction of more pump stations. Due to this larger scale, it is reasonable to assume that IBEW members would see a significant increase in the amount of work hours generated by Keystone XL compared to the Dakota Access project. (ECO-2 at 5:42-6:3.) Further, as Mr. Gerhard's unrebutted testimony establishes, it is reasonable to anticipate that additional permanent jobs would be created for IBEW members as a result of the transmission/distribution demands in feeding the electrical power into the various valve and pump stations. (ECO-2 at 6:3-5.) Additional power generation capacity would be necessary based on the twenty-four hour a day operation and demands of running the valve stations, pump stations and receiver sites. (ECO-2 at 6:5-7.) These jobs are permanent in nature. This is because increases in electrical capacity and demand require much more service to transmission lines and additional upkeep and implementation to generation stations. (ECO-2 at 6:7-11.)

These construction jobs are vital to the Nebraska families who depend on a steady supply of construction jobs to provide complete incomes for themselves and their families. (ECO-2 at 6:26-30.) The very nature of construction work is that individuals are always building something

in order to make a permanent career. Thus, the work provided by the Keystone XL Project would be part of a continuum for these construction career professionals.

Mr. Gerhard's testimony also discusses the increased economic activity that would be brought to the state of Nebraska through the Project. Mr. Gerhard's un rebutted testimony discusses the increased demand for food, lodging, recreation, and other daily needs as workers construct the pipeline. Mr. Gerhard observed that a worker working on Keystone XL would spend approximately \$1,000 per week in Nebraska for the necessities of daily life. (ECO-2 at 6:42-7:4). It is reasonable to expect that this economic activity would increase demand for workers in the service sector and help spur local businesses. In the end, more jobs and more money flowing through local businesses helps create economic activity and tax revenue for the State of Nebraska that would not occur without the Keystone XL Project.

The socioeconomic benefits that the Project offers to Nebraska and members of the Economic Intervenors – job creation along with related economic benefits – are significant and tangible and should weigh in favor of the Project in the Commission's analysis of the public interest. Altogether, the Economic Intervenors expect that the Project would create approximately many hundreds of jobs for their members in Nebraska. These jobs would feature good pay and full benefits – exactly what is so needed in today's economy. Furthermore, the jobs created by the Project's construction should not be diminished because a number of them would be "temporary." To diminish the value of jobs on this basis would be to diminish the work of thousands upon thousands of American construction workers whose livelihoods depend upon so-called "temporary" jobs over the course of their careers.

IV. CONCLUSION

Accordingly, in evaluating the Project's contribution to the public interest under MOPSA, the Economic Intervenors respectfully request that the Commission afford due weight to the vast economic benefits the Project promises to create.

Dated: September 15, 2017

Respectfully submitted,

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Certificate of Service

Pursuant to 291 *Neb Admin Code* § 015.01(b), a copy of the foregoing was served upon the Nebraska Public Service Commission via U.S. Postal Service and electronic mail and all Intervenors of record to this proceeding or their attorneys of record via electronic mail on this 15th day of September 15, 2017, as follows:

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