

Nebraska Public Service Commission

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August 25, 2017

CERTIFICATION

To Whom It May Concern:

I, Michael G. Hybl, Executive Director of the Nebraska Public Service Commission, hereby certify that the enclosed is a true and correct copy of the original order made and entered in the proceeding docketed OP-0003 on the 4th day of August, 2017. The original order is filed and recorded in the official records of the Commission.

Please direct any questions concerning this order to Nichole Mulcahy, Natural Gas Deputy Director, at 402-471-3101.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the Nebraska Public Service Commission, Lincoln, Nebraska, this 25th day of August, 2017.

Sincerely,

A handwritten signature in blue ink that reads "Michael G. Hybl".

Michael G. Hybl
Executive Director

MGH:da

Enclosure

cc: Service Lists: U.S. Mail and Email



SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. OP-0003
of TransCanada Keystone Pipeline,)
L.P., Calgary, Alberta, seeking) ORDER GRANTING IN PART AND
approval for Route Approval of the) DENYING IN PART MOTIONS ON
Keystone XL Pipeline Project) DEPOSITION TESTIMONY
Pursuant to the Major Oil Pipeline)
Siting Act.) Entered: August 25, 2017

BY THE HEARING OFFICER:

On February 16, 2017, TransCanada Keystone Pipeline, L.P., of Calgary, Alberta, ("TransCanada" or "Applicant") filed an Application with the Nebraska Public Service Commission ("Commission") seeking approval of a route for the Keystone XL Pipeline Project pursuant to the Major Oil Pipeline Siting Act, *Neb. Rev. Stat. §§ 57-1401 - 57-1413* ("Siting Act").

On March 31, 2017, the Hearing Officer entered orders granting petitions for formal intervention.¹ Formal Intervention was granted to numerous petitioners including Bold Alliance ("Bold") and the Sierra Club, Nebraska Chapter ("Sierra Club") and 36 other individuals expressing concerns with natural resources issues (collectively, "Natural Resources Intervenors").

On April 5, 2017, the Hearing Officer entered an order adopting a case management plan ("CMP") and giving notice of the public hearing in the above-captioned docket.

The Natural Resources Intervenors pre-filed the direct testimony of Thomas David Hayes and Joseph Trungale.

On July 24, 2017, prehearing motions seeking to strike certain portions of direct pre-filed testimony were filed by TransCanada, including objections to portions of both Mr. Hayes and Mr. Trungale's testimony. On August 2, 2017, the Hearing Officer issued an order ruling on the objections.²

On August 4, 2017, TransCanada and the Natural Resources Intervenors filed a Stipulation for the Use of Depositions for Cross-Examination and Re-Direct Testimony. In the Stipulation, the parties agreed that Hayes and Trungale would not need to be present at the evidentiary hearing and TransCanada would designate those portions of Hayes' and Trungale's deposition testimony that it

¹ Petitions for informal intervention were also granted in the March 31, April 5, and July 26, 2017 Orders

² See, Docket No. OP-0003, *In the Matter of the Application of TransCanada Keystone Pipeline, L.P., Calgary, Alberta, seeking approval for Route Approval of the Keystone XL Pipeline Project Pursuant to the Major Oil Pipeline Siting Act. Order Granting In Part, Denying In Part, Objections And Motions To Strike Direct Testimony*, (August 2, 2017) at p. 7.

intended to offer for cross-examination subject to any objections from Natural Resources Intervenors. The Natural Resources Intervenors would then offer the remaining portions of each deposition for purposes of re-direct, subject to any objections from TransCanada. All objections, except to form and foundation, would be submitted in writing with the deposition testimony at the hearing. The Hearing Officer would then rule after the hearing on the objections.

Hearing in the above-captioned docket was held on August 7 through August 10, 2017. Consistent with the Stipulation, Exhibit Nos. KXL-61 and KXL-62, the deposition testimony of Hayes and Trungale, were received into evidence subject to the objections set forth by TransCanada in Exhibit No. KXL-63, which was also received into evidence. The Natural Resources Intervenors set forth no further objections beyond those made at the time the depositions were taken.

O P I N I O N

With respect to the objections I now rule as follows:

Exhibit No. KXL-61, Hayes Deposition

With respect to the objections of Natural Resources Intervenors to the portions of Exhibit KXL-61 offered by TransCanada, those objections at 45:15-17 are sustained. The remainder are overruled.

With respect to the objections made by TransCanada to the remainder of the deposition, the following objections are sustained: at 5:14-6:17; 9:24-11:24; 13:3-16:8; 21:23, after "I did not" to 22:2; 52:6-54:3; 55:1-56:19; 77:19-22; and 78:19-21. The remaining objections to Exhibit No. KXL-61 are overruled.

Objections made by Natural Resources Intervenors to the portions of Exhibit No. KXL-61 they offered into the record are deemed waived.

Exhibit No. KXL-62, Trungale Deposition

Natural Resources Intervenors made no objections to the portions of Exhibit No. KXL-62 offered by TransCanada, accordingly they are received. With respect to the objections made by TransCanada to the remainder of Exhibit No. KXL-62, the following are sustained: at 7:14-14:5; 18:18-19:24; 38:8-41:23; 42:11-23; 43:17-50:24; 57:25-60:19; 61:22-62:17; and 62:23-63:22. The remaining objections are overruled.

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

Application No. OP-0003

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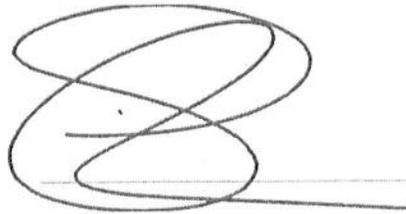
Objections made by Natural Resources Intervenors to the portions of Exhibit No. KXL-62 they offered into the record are deemed waived.

O R D E R

IT IS THEREFORE ORDERED by the Hearing Officer that the Objections regarding Exhibits Nos. KXL-61 and KXL-62 are hereby granted in part and denied in part, as found herein.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 25th day of August, 2017.

BY:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom, positioned above a thin horizontal line.

Judge Karen B. Flowers (ret.)
HEARING OFFICER

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