

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION )	APPLICATION NO. OP-0003
OF TRANSCANADA KEYSTONE )	
PIPELINE, LP FOR ROUTE APPROVAL OF )	<b>KEYSTONE’S MOTION TO STRIKE</b>
THE KEYSTONE XL PIPELINE PROJECT )	<b>AND OBJECTIONS TO LANDOWNERS’</b>
PURSUANT TO THE MAJOR OIL )	<b>SECOND AMENDED PETITION OF</b>
PIPELINE SITING ACT )	<b>FORMAL INTERVENTION</b>
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)	
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Applicant TransCanada Keystone Pipeline, LP, (“Keystone”) objects to and moves the Nebraska Public Service Commission (“Commission”) to strike the Second Amended Petition of Formal Intervention by Certain Nebraska Landowners With Real Estate on the Proposed Pipeline Route (“Landowners’ Second Amended Petition”) which was submitted to the Commission for filing on June 27, 2017. The following supports Keystone’s objections, and necessitates the Commission strike the Landowners’ Second Amended Petition pursuant to Keystone’s request:

1. The Landowners’ Second Amended Petition is untimely, and it completely disregards the Commission’s rules governing formal intervention petitions and the Case Management Plan (“CMP”). Petitions for Formal Intervention were due on March 22, 2017, and the Landowners’ Second Amended Petition was submitted more than three months after that deadline. Permitting the Second Amended Petition in this instance would be directly contrary to Neb. Admin. Code Title 291, Ch. 1 § 015.01B, which requires such Petitions be filed within thirty (30) days from the date notice of the Application is published. It is also directly in violation of the CMP, which established a schedule in order to comply with the timing requirement of the Major Oil Pipeline Siting Act (“MOPSA”). Although Keystone denies all allegations in the Second Amended Petition and all prior Petitions for Intervention, allowing the Second Amended Petition to be filed would further unfairly prejudice and deprive Keystone of the opportunity to conduct any discovery it may deem necessary on the Landowners’ claims and

newly-requested relief because the deadline for written discovery (established in the CMP) has already passed, and the deposition deadline is in a mere matter of days.

2. Beyond being untimely, there is no need for the Landowners to file the Second Amended Petition, and that filing serves no purpose other than harassing Keystone and confusing the issues presented for consideration this proceeding. The Landowners were already granted formal intervenor status by virtue of the Hearing Officer's Order dated March 31, 2017, and the modifications made in the Second Amended Petition are not needed to show they are allegedly interested parties entitled to formally intervene under Neb. Rev. Stat. § 84-912.02 and Neb. Admin. Code Title 291, Ch. 1 § 015.01.


3. The Second Amended Petition also improperly seeks to expand the legal issues before the Commission and the relief being sought, and blatantly disregards the Hearing Officer's recent Order on the Landowners' motion to compel. The Hearing Officer's Order made clear that this proceeding is not a forum to litigate safety issues, eminent domain law or the terms of the easements Keystone proposed to landowners along the Preferred Route, and those exact issues are at the forefront of the Landowners' Second Amended Petition. Similarly, the Second Amended Petition attempts to litigate questions regarding the constitutionality of MOPSA which the Commission does not have jurisdiction to hear. It also requests relief (including, among other things, an order imposing requirements that Keystone add the Landowners to any liability insurance policy and post a \$200 million performance bond) that the Commission lacks authority to order. The Commission's review under MOPSA is limited to pipeline siting issues and a determination of whether the proposed route is in the public interest, and the Commission should not allow a Petition which addresses issues beyond that scope.

4. The Commission must follow the statutory and regulatory limitations on

intervention because this proceeding is on a statutorily-limited time frame and may not extend beyond November 23, 2017. See Neb. Rev. Stat. § 57-1408(2). This mandatory time constraint puts extra importance on the need to comply with the current schedule, and the requirement that petitions for intervention not impair the “orderly and prompt” conduct of the proceedings. See, Neb. Rev. Stat. § 84-912.02(1)(c).

WHEREFORE, Applicant TransCanada Keystone Pipeline, LP hereby respectfully requests the Commission grant its motion and strike the Second Amended Petition of Formal Intervention by Certain Nebraska Landowners With Real Estate on the Proposed Pipeline Route which was submitted on June 27, 2017.

TRANSCANADA KEYSTONE PIPELINE,  
LP

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## CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2017, that a copy of the foregoing was served by email to the individuals and entities listed below:

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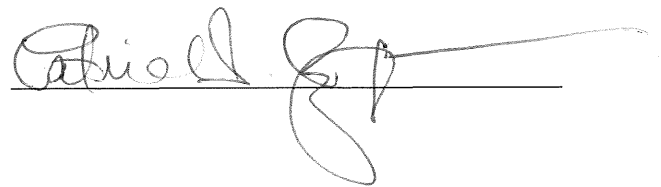
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A handwritten signature in black ink, appearing to read "Nichole Mulcahy", written over a horizontal line.