

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

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.

Application No. OP-0003

MOTION FOR EXTENSION OF TIME TO SUBMIT EVIDENCE

Bold Alliance (Bold), the Sierra Club Nebraska Chapter (Sierra Club), the Ponca Tribe of Nebraska, the Yankton Sioux Tribe, and the Landowner Intervenor, formal intervenors in this matter, by and through their respective counsel of record, jointly move the Nebraska Public Service Commission for an extension of time from the current date of May 30, 2017 to submit written pre-filed testimony, exhibits, work papers, witness lists and other evidence in this matter. In support this motion the above-named formal intervenors state as follows:

1. On March 31st, the Hearing Officer entered an Order granting formal intervenor status to the above-named entities. Bold and Sierra Club were placed in the category of “Natural Resources” intervenors along with two other organizations and 36 individuals and permitted a single witness to represent the interests of all natural resources intervenors. The Ponca and Yankton Sioux Tribes were placed in the category of “Social and Cultural” intervenors and permitted a single witness to represent all their interests. Bold, the Sierra Club and the Yankton Sioux Tribe and the Ponca Tribe have objected to this arrangement, but such objections have been overruled by the hearing officer. The above-named formal intervenors continued participation in this proceeding should be deemed subject to continuing objections as set forth in the motions each organization or entity previously filed in this matter.

2. On May 10th, the Hearing Officer entered an Order granting the “Natural Resources” and “Social and Cultural” intervenors one additional witness for each category.

Although intervenors appreciate having additional opportunities to present evidence, the late date of the Order in relation to the pending May 30th deadline creates additional problems with locating expert witnesses and preparing testimony to present to the Commission by the current deadline, including but not limited to the following:

- a. There is insufficient time to locate an additional witness, provide time for that witness to review relevant materials and prepare testimony for that additional witness between May 10th and May 30th.
 - b. This is the end of the academic year; many potential experts are academics who are taking vacations or other leave at this time.
 - c. The Memorial Day holiday falls immediately before the current deadline, complicating the ability to locate and prepare witness testimony as many individuals have already planned recreational activities during that time period.
3. In responding to the Ponca Tribe of Nebraska’s First Set of Interrogatories and Requests for Document Production, the Applicant withheld information and documents on the grounds of confidentiality, but agreed that it would disclose such information and documents upon entry of a mutually agreeable protective order.
 4. In accordance with Applicant’s indication that it would respond to discovery after entry of a mutually agreeable protective order, on May 17th, the Ponca Tribe of Nebraska’s attorney, Brad S. Jolly, sent to Applicant a draft proposed Agreed Protective Order. On May 18th, the attorneys for Applicant indicated they are reviewing the draft proposed Agreed Protective Order.


5. Once the Ponca Tribe and Applicant have agreed upon the terms of the Agreed Protective Order, the Ponca Tribe and Applicant will require time to (a) prepare and file a stipulated motion to the Commission, (b) receive a signed Agreed Protective Order from the Commission, (c) allow the Applicant time to gather the information and documents, (d) allow the Applicant time to mail the information and documents to the Ponca Tribe's attorney, (e) allow the Ponca Tribe's attorney and witnesses to review the information and documents, and (f) permit the Ponca Tribe to prepare additional witness testimony and exhibits based on such information and documents.
6. Based on the current deadline, it will be impossible for the Applicant to provide discovery subject of the Agreed Protective Order and for the Ponca Tribe to prepare witness testimony and exhibits based on that discovery by the deadline currently set for May 30th.
7. The Yankton Sioux Tribe has not yet received responses to its discovery requests.
8. The Yankton Sioux Tribe anticipates that an Agreed Protective Order will be similarly required with respect to some of the Applicant's responses, and that it will be likewise impossible for the Applicant to provide discovery subject to a not-yet-entered Agreed Protective Order and for the Yankton Sioux Tribe to prepare witness testimony and exhibits based on that discovery by the deadline currently set for May 30th.
9. The Order of May 10th granted the Applicant four (4) additional working days to respond to intervenors discovery requests, while providing intervenors only one (1) additional working day to prepare evidence.

10. Intervenors have not yet received all discovery responses from the Applicant and need such responses to prepare witness testimony.
11. Based on the current schedule, the Applicant is not required to respond to discovery requests served on Applicant on the May 5th deadline until May 19th, leaving only six (6) working days to review discovery, provide it to witnesses, and prepare witness testimony and exhibits.
12. Extending the time for intervenors to present evidence would neither prejudice the Applicant nor delay the Commission's ability to hear this matter as currently scheduled.
13. Extending the time for intervenors to present evidence will allow intervenors to better coordinate exhibits after discovery is received and reduce duplication, thereby assisting the Commission in the strict and aggressive timeline in this matter.
14. Landowner Intervenors join in this motion.
15. Attorney for Intervenors Bold Alliance and Sierra Club, Kenneth C. Winston has contacted Applicant's attorney regarding this motion.

Wherefore, the above-named formal Intervenors respectfully request an order from the Commission based on principles of fairness, equity, due process, consistent with the intent and purpose of the Major Oil Pipeline Siting Act, granting Intervenors an extension until June 7th to submit written pre-filed testimony, exhibits, work papers, witness lists and other evidence in this matter.

Respectfully submitted this 19th of May 2017.

Bold Alliance
Sierra Club, Nebraska Chapter



By: _____

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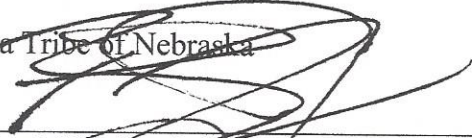
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CERTIFICATE OF SERVICE

Pursuant to 291 Neb. Admin Code § 015.0 (b), and the orders in this matter related to service, a true copy of the foregoing was served upon all parties of record to this proceeding or their attorneys of record on May 19, 2017 by email using the Commission's official service list.

A handwritten signature in blue ink, appearing to read 'K. C. Winston', written over a horizontal line.

Kenneth C. Winston