

From: PUC

Sent: Friday, August 29, 2014 11:50 AM

To: [REDACTED]

Subject: RESPONSE TO THOMAS RE BHP Line, EL14-061

Dear Mr. Thomas:

Thank you for your letter following the public input hearing for the Black Hills Power transmission line, held in Rapid City on August 25. I will address the six key concerns raised in your letter.

1) *“Which I found very strange that they [FERC] were not listed in the list of Governmental Organization and questioned that during the break to BHP. They failed to provide an reasonable explanation for their over site.”*

BHP identifies in their Application that the Common Use System (the transmission system this line will be part of) is under the jurisdiction of a FERC-approved Joint Open Access Transmission Tariff. In this role, FERC regulates the long term regional planning processes that determined the need for this line and the rates that the common use system owners charge customers for moving power on the transmission system. FERC does not, however, regulate the routing of this transmission line. FERC only has backstop siting authority for transmission lines in National Interest Electric Transmission Corridors, and no NIETCs have been identified through the Black Hills. As such, BHP will contact FERC if the utility needs to file for cost recovery of the transmission line.

2) *“Even the action by BHP and the Commission of notifying only those in a half mile area shows you do not understand the potential hazards.”*

The notification process the commission followed regarding the hearing and this filed siting permit is directed by state law. All landowners within a half mile of the proposed transmission route filed by the applicant are notified. As BHP filed in the docket, EL14-061, a copy of the public hearing notice was mailed to these individuals by certified return receipt mail on or before July 14, 2014. Here is a link to the proof of mailing document: <http://www.puc.sd.gov/commission/dockets/electric/2014/EL14-061/proofofmailing.pdf> The commission published the public input hearing notice in the July 30 and August 20 editions of the Rapid City Journal, also as directed by state law, and here is the filed document referencing that legal notice: <http://www.puc.sd.gov/commission/dockets/electric/2014/EL14-061/rapidcityjournal2.pdf> You will find proof of publication in the docket as well.

Here is the statute regarding notification: *49-41B-5.2. Notification of area landowners by mail--Publication of notice of proposed facility--Time for notification. The applicant shall notify, in writing, the owner of record of any land that is located within one-half mile of the proposed site where the facility is to be constructed. For purposes of this section, the owner of record is limited to the owner designated to receive the property tax bill sent by the county treasurer. The notice shall be mailed by certified mail. The applicant shall also publish a notice of the proposed facility. Notification shall be published in the official newspaper of each county in which the proposed site is located. The notice shall be published at least once each week for at least two consecutive weeks. The notice shall contain a description of the nature and location of the facility. Any notification required by this section shall state the date, time, and location of the public hearing and shall be made no later than thirty days prior to the date of the public hearing. However, the second published notice shall be made no later than twenty days prior to the date of the public hearing.*

All energy conversion and transmission facilities and pipeline siting projects have potential hazards associated with them. However, the commission carefully follows state law in noticing and processing these dockets to inform and engage the public which we serve.

This docket was filed with the commission on June 30, 2014. The intervention deadline is Aug. 29, 2014, so we are in the early stages of analyzing this filing. The commission must issue its legal order or decision on this permit application within six months of the docket filing date.

3) *“To run this line through areas where there is little industry to save money on the front side when it could be run in the areas it will end up serving makes no sense.”*

The commission’s authority on siting permits, according to state law, is to only make a decision to either approve, disapprove, or approve with conditions. The commission is not given the authority to determine a route for the line (see SDCL 49-41B-36: http://legis.sd.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=49-41B-36). That responsibility lies with the applicant, and many considerations are taken into account, including construction and overall project expenses. If you would like to understand why BHP is proposing this specific route, please refer to the Routing Study and Draft Environmental Impact Statement for the project in the docket.

4) *“I also noticed that there was not any representation of the Native American Community at your hearing. With the history of issues surrounding the Black Hills I found this to be very disturbing. The only conclusion that can be drawn here is they have not heard about this.”*

Again, the landowner notification and public notice process was followed as directed by law. However, the processing of this docket has just begun so there is time and opportunity for those interested to become involved in the process, including submitting written comments to the commission and applying for party status to become intervenors. It should also be noted that the Draft Environmental Impact Study provided another opportunity for the American Indian community and other concerned parties to participate in the routing process. [Appendix A of the EIS](#) provides a summary on public involvement and collaboration, which shows numerous American Indian tribes were on the distribution list for the EIS’s scoping letter and indicates that American Indian communities were contacted about the project.

5) *“I need to know why this commission believes a 36 mile blatant destruction serves the good of South Dakota?”*

You are apparently confused regarding the proponents of this docket. This docket was filed by BHP, not the commission. The commission has not advocated destruction of property. We are, in fact, always interested in the most responsible route with the least disruption to citizens and the environment. I have not drawn any conclusions on this docket regarding whether I will vote yes or no on the permit. Again, we have much more

analysis and work ahead of us, and I believe my fellow commissioners would concur that it is simply too soon for us to know how we will ultimately vote. When it comes time for each commissioner to make a decision on their vote for this docket, many considerations will be taken into account. We are charged with making a decision for the public good. The public includes the ratepayers who will help bear the costs and be served by the line, the affected landowners along the route, and the utility that owns the line.

6) *“I would ask a third party engineering firm to look at this proposal.”*

In processing siting dockets, the commission’s staff will analyze the filings of the applicant, ask follow-up questions and seek additional information in providing their analysis and possible recommendations to commissioners. Likewise, commissioners will each do their own independent analysis and follow-up, working with the support of commission advisors. The commission’s staff includes engineers, economists and attorneys, and they may seek outside, contracted experts in subject areas if needed. However, it is not common for commission staff to seek an engineering review of transmission line proposals by a third party. This is because staff reviews the transmission planning studies completed by the company, which are typically referenced in the company’s application regarding the need for the project per ARSD 20:10:22:10. If staff believes a more detailed review of the transmission planning studies is needed, then they may consult with a third party engineering firm at that time. Finally, it should be noted that any intervenor can complete its own third party engineering review and attempt to submit that review as evidence should the intervenor contest the case.

This document, posted on our web site, provides guidance as to the process the commission must follow in siting energy conversation and transmission facilities:

<http://www.puc.sd.gov/commission/Publication/sitinghandout.pdf>. The commission must comply with specific factors and a timeline directed by law in processing siting permits.

Your interest in this proposed transmission project is appreciated and I hope this information is helpful. Given that this is an open docket before the commission, your comments and my response will be posted in the online docket under Comments and Responses for the other commissioners and all interested in this permit to read. I encourage you to follow along as new filings are added to this docket:

<http://www.puc.sd.gov/Dockets/Electric/2014/el14-061.aspx>

Sincerely,

Gary Hanson, Chairperson
South Dakota Public Utilities Commission
www.puc.sd.gov