

STATE OF SOUTH DAKOTA)
):SS
COUNTY OF HUGHES)

IN THE CIRCUIT COURT

SIXTH JUDICIAL CIRCUIT

IN THE MATTER OF PUBLIC UTILITIES
COMMISSION DOCKET HP14-001, ORDER
ACCEPTING CERTIFICATION OF PERMIT
ISSUED IN DOCKET HP09-001 TO
CONSTRUCT THE KEYSTONE XL
PIPELINE

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CIV. 16-38

STATEMENT OF ISSUES

COMES NOW the Cheyenne River Sioux Tribe (“Tribe”), by and through counsel Tracey Zephier and Travis Clark of Fredericks, Peebles & Morgan LLP, and hereby submits its Statement of Issues pursuant to South Dakota Codified Laws (“SDCL”) § 1-26-31.4. The Tribe challenges the Public Utilities Commission’s (“PUC”) *Final Decision and Order Finding Certification Valid and Accepting Certification Issued in Docket No. HP14-001* (“*Final Decision*”) dated January 21, 2016. The issues that the Tribe intends to raise on appeal are as follows:

1. Whether the PUC’s decision to recertify is arbitrary and capricious because TransCanada Keystone XL Pipeline LP (“Keystone”) failed to submit any substantive evidence during the evidentiary hearing upon which the PUC could base its decision to accept Keystone’s Petition for Certification submitted pursuant to SDCL§ 49-41B-27.
2. Whether the PUC’s rejection of Intervenor’s November 9, 2015 Motion to Dismiss is arbitrary and capricious because reasoning that condition number two

in the *Amended Final Decision and Order issued in Docket HP009-001*, dated June 29, 2010, remains prospective in nature renders the condition meaningless.

3. Whether the PUC's *Order Granting Motion to Define Issues and Setting Procedural Schedule* dated December 17, 2014 is arbitrary and capricious because the PUC's interpretation of SDCL § 49-41B-27 renders the statute meaningless and creates a permit that exists in perpetuity.

Respectfully submitted this 29th day of February, 2016.

FREDERICKS PEEBLES & MORGAN LLP

/S/

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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of February, 2016, the foregoing **STATEMENT OF ISSUES** was filed with the Office of the Clerk of Hughes County Circuit Court via the Odyssey File and Serve System; and a true and correct copy of the same was served upon the following via first class mail, postage pre-paid:

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