

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION) HP 07-001
BY TRANSCANADA KEYSTONE PIPELINE,)
LP FOR A PERMIT UNDER THE SOUTH)
DAKOTA ENERGY CONVERSION AND)
TRANSMISSION FACILITIES ACT TO) **CERTIFICATION OF**
CONSTRUCT THE KEYSTONE PIPELINE) **GOOD FAITH**
PROJECT)

COMES NOW Brett Koenecke, counsel of record for TransCanada Keystone Pipeline, LP, in the above-captioned docket and certifies to the Commission that with respect to the Motion for a Protective Order Keystone has in good faith conferred and attempted to confer with other affected parties in an effort to resolve the dispute without court action. On August 25, 2007, counsel emailed a draft of the protective order to several affected parties in the litigation which was immediately rejected by WEB Water through email response from Curt Hohn by claiming that the draft protective order “amounts to a gag order imposed on the PUC,” “we can’t agree to it as written” and began to discuss the use of eminent domain and condemnation. Given the circumstances, it is apparent that no agreement can be reached on the draft protective order.

Dated this 4th day of October, 2007.

MAY, ADAM, GERDES & THOMPSON LLP

BY:  _____
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