

Received Date: 10/27/14
Document ID: 201410-104156
Docket #: 13-473
On Behalf Of: DOC-DER
Document Type: Letter

The Department of Commerce, Division of Energy Resources, Energy Regulation and Planning (DOC-DER) is responding to the Petition for a Separate Docket and Protective Order for Highly Sensitive Nonpublic Data of North Dakota Pipeline Company (NDPC), filed on October 15, 2014. The DOC-DER presents some observations intended to help Judge Lipman in his consideration of the petition by NDPC. It appears that the DOC-DER is looking at some very specific issues such as NDPC's delayed response to discovery requests and the differences between the Data Practices Act that guides the state agencies and the separate docket visible only to state agencies. DOC-DER could be suggesting this request by NDPC to be a way to delay providing the information requested by the DOC-DER. The DOC-DER repeatedly alludes to a lack of understanding of the reasons for such a request given the protections already offered by the Data Practices Act and, in fact, continues such language in its conclusion, "DOC-DER does not object to establishing a separate docket and, after Your Honor has an opportunity to review the Executed TSAs apparently at issue, to issue a Protective Order that is tailored to protected the information in keeping with the Data Practices Act and in light of the fact that access is contemplated only for public agencies at this point. Public agencies are subject to the Data Practices Act requirements."

Received Date: 10/27/14
Document ID: 201410-104168
Docket #: 13-473
On Behalf Of: DOC
Document Type: Notice of Appearance

The Minnesota Department of Commerce indicates that it will appear in the Certificate of Need proceedings with Assistant Attorney General Linda S. Jensen representing.

Received Date: 10/27/14
Document ID: 201410-104166
Docket #: 13-473, 13-474
On Behalf Of: NDPC
Document Type: Reconsideration

NDPC is requesting the Commission to reconsider its Order of October 7, 2014 which separated the certificate of need and route permit the proceedings, delayed the route permit proceedings until the CN application has been decided, and ordered the environmental review of six system alternatives in the CN proceeding. NDPC claims several procedural reasons to keep the dockets together and then includes an argument against the one year delay that will ensue, citing loss of revenue to the area and increase danger with continued oil shipment by rail.

Conclusion: NDPC respectfully requests that the Commission reconsider its decision to postpone the route permit proceedings until the Commission makes a final decision on the CN application. To avoid further unwarranted delays, NDPC requests that the Commission find that it is in the public interest to maintain the CN schedule set by the ALJ in the Seventeenth Prehearing Order and allow the route permit proceeding to restart at the conclusion of the CN evidentiary hearing. In addition, NDPC requests that the Commission reconsider its decision to require environmental review of six system alternatives in the CN proceedings, and instead adhere to the rules contained in Chapter 7853.

Received Date: 10/27/14

Document ID: 201410-104171, 201410-104172

Docket #: 13-473, 13-474

On Behalf Of: UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPE FITTING INDUSTRY OF THE UNITED STATES AND CANADA

Document Type: Reconsideration – Of the October 7, 2014 Order of the Commission

The United Association is asking the Commission to modify the October 7 Order to “allow the route permit proceeding to move forward when the record closes in the certificate of need matter” because this “better advances statutory standards favoring joint hearings and the objectives of the route proceeding, while preserving the goals of the Commission’s October 7 Order.”

The Association states that the separation creates unreasonable and harmful delay, claiming the Commission is going against statute and Rule by not being expedient.

They further state that the “Commission’s Decision Unreasonably Fails to Consider the Benefits of the Project and Harm that Delay will Cause in Assessing the Public Interest.” Their reasons are threefold. First, that the temporary workers won’t be able to provide for their families if the pipeline is delayed as significantly as the October 7 Order would have it. Additionally, the local communities will feel the loss of the increased property taxes and be unable to fund schools, libraries, police forces, and firefighters. Finally, they state that, since the oil is coming

out of North Dakota anyway, it's safer to get it into the pipeline and off the rails as quickly as possible.

Another point they make is that "Modifying the Proceedings' Schedule to Promote Expediency Serves the Public Interest Goals of Efficiency and Balance." By this they mean that by allowing the schedule to be modified according to their plan the Commission will protect "its goal of providing clarity and separate spaces for the public to present different issues" and "it also allows for the same conservation of resources." Additionally, this schedule also helps to "avoid a seemingly burdensome result in the precedent that it sets for future proceedings," which may alleviate concerns that further infrastructure projects might not come through MN because of the unpredictability of the process.

Last, the Association tells the Commission that "The Commission's Order Unreasonably Elevates Hypothetical Issues over Concrete Concerns." In this section the Association argues for their modification by comparing the "hypothetical future review of the proposed system alternatives over legitimate concerns about the delay and confusion that separation will cause."

Received Date: 10/27/14

Document ID: 201410-104174, 201410-104175

Docket #: 13-473, 13-474

On Behalf Of: UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPE FITTING INDUSTRY OF THE UNITED STATES AND CANADA

Document Type: Reconsideration – Members Letters in Support of Reconsideration

Seven letters from Minnesota members of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada which support a timely resolution of the Sandpiper pipeline matter and ask that the Commission reconsider its October 7, 2014 Order to minimize delay.

Received Date: 10/27/14

Document ID: 201410-104176-01, 201410-104178-01

Docket #: 13-473, 13-474

On Behalf Of: Friends of the Headwaters

Document Type: Reconsideration – Petition for Reconsideration and Amendment of October 7, 2014 Order of Commission

Friends of the Headwaters first states its goals and principles:

1. There is no need to build an oil pipeline through the most ecologically fragile part of Minnesota.
2. There is no need for a pipeline to run from Clearbrook to Superior.
3. If the applicant proves there is a need to transport its oil across Minnesota via pipeline, SA-04 and the other system alternatives/routes FOH has proposed are more reasonable and prudent than the applicant's proposal.
4. Prior to the Commission making a decision on the request for a certificate of need ("CON"), a full environmental impact statement ("EIS") must be prepared in order to comply with the Minnesota environmental policy act ("MEPA").

They then provide an analysis which includes the following points:

1. The Environmental Review Ordered By The Commission Does Not Meet The Requirements Of MEPA, Which Creates A Mandatory Standard For Environmental Review That Must Be Followed By All State Agencies.
2. The Order, When Viewed In Light Of The Most Recent Prehearing Order, Does Not Allow Adequate Time And Opportunity For Meaningful Public Participation.

Finally, they request relief:

The Friends of the Headwaters requests that the Commission:

1. reconsider the provisions of the Order that relate to environmental review;
2. find that granting a Certificate of Need for an oil pipeline constitutes a major governmental action that has the potential for significant environmental effects;
3. find that an Environmental Impact Statement must be prepared to comply with the Minnesota Environmental Policy Act; and
4. amend its Order to clarify that the EIS must be completed prior to the commencement of the Certificate of Need contested case proceeding, including prior to the filing of direct testimony.

Received Date: 10/27/14

Document ID: 201410-104176-02, 201410-104178-02

Docket #: 13-473, 13-474

On Behalf Of: Friends of the Headwaters

Document Type: Reconsideration – Exhibit A

This is a letter from Larry Hartman, dated 2/9/89, to EQB requesting approval of EQB Pipeline Routing Rules, Chapter 4415, as an Alternative Form of Environmental Review.

Received Date: 10/27/14

Document ID: 201410-104176-03, 201410-104178-03

Docket #: 13-473, 13-474

On Behalf Of: Friends of the Headwaters

Document Type: Reconsideration – Exhibit B

This is the EQB's approval of the pipeline routing process as an alternative environmental review, dated 2/16/89.

Received Date: 10/28/14

Document ID: 201410-104213

Docket #: 13-473, 13-474

On Behalf Of: The Greater North Dakota Chamber

Document Type: Comments (But this should read: Reconsideration – Petition)

The Greater North Dakota Chamber requests the Commission to reconsider and overturn its decision to postpone route permit proceedings until a decision is made in the certificate of need docket. They claim the decision to bifurcate is "unreasonable and unnecessary" and will be detrimental to the state of North Dakota because that state is already troubled with problems of too much oil to ship out and not enough ways to ship it. Also, the secondary benefits that would be received by pipeline workers, innkeepers, and gas stations will be delayed. If the Commission won't overturn the Order, then the Chamber would like to see the schedule staggered, with the route proceedings beginning just as soon as the certificate of need record is closed.

Received Date: 10/29/14

Document ID: 201410-104247

Docket #: 13-473, 13-474

On Behalf Of: MPCA

Document Type: Reconsideration – Comments

The MPCA offers comments on the request by NDPC to exclude SA-03 as modified from further consideration in the route proceeding using the following arguments:

1. The Commission may consider the Petition when the route proceeding resumes.
 2. The Commission has already considered this question; there are no new issues.
 3. The substantive issues raised by NDPC will be addressed in the route proceeding, concluding that “The procedures in Minn R. ch. 7852 and the Commission’s orders in these proceedings seek to ensure the identification and evaluation of system and route alternatives that may have less environmental impact than the proposed route. Consistent with the intent of the rules and the Commission’s decision in these proceedings, the Commission should not eliminate an alternative before it can be evaluated.”
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Received Date: 10/29/14

Document ID: 201410-104249, 201410-104251

Docket #: 13-473, 13-474

On Behalf Of: MPCA

Document Type: Letters

The MPCA is providing additional details regarding SA-03 as modified by Commerce in these letters. Twelve files contain maps of the system alternative and they are organized by county.
