BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
600 North Robert Street
St. Paul, Minnesota 55101

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 Seventh Place East, Suite 350
St. Paul, Minnesota 55101-2147

In the Matter of the Application of
Minnesota Pipe Line Company, LLC
for a Certificate of Need for the
Minnesota Pipe Line Reliability Project

OAH Docket No. 68-2500-31889
MPUC Docket No. PL-5/CN-14-320

MINNESOTA PIPE LINE COMPANY, LLC INITIAL BRIEF

April 9, 2015

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INTRODUCTION

Minnesota Pipe Line Company, LLC ("MPL" or "Company") plays a unique and singular role in the Minnesota energy marketplace – to transport crude oil entirely within the State of Minnesota to the State's only two oil refineries. These two refineries, in turn, produce the vast majority of Minnesota's transportation fuels and other essential products, including asphalt and home heating fuels – products that remain essential to the State's economic health and social vitality. Only these two refineries ship crude oil on MPL's four pipelines (collectively, the "MPL System") and the MPL System provides the sole source of pipeline supply to them.

However, the MPL System currently operates at close to capacity. Thus, if any one of the pipelines experiences an outage or must be taken out of service for maintenance or inspection, inadequate capacity exists on the remainder of the MPL System to maintain adequate, reliable and efficient crude oil supply to the two refineries.

The Minnesota Pipe Line Reliability Project ("Project") addresses this concern by adding pumping capacity to the newest pipeline on the MPL System, MPL Line 4. MPL and the Department of Commerce Division of Energy Resources ("DOC-DER") agree that the Project will help ensure the continued adequacy, reliability and efficiency of energy supply in Minnesota and that it will do so in a manner more compatible with the natural and socio-economic environments than any alternative. No other party intervened and no person provided any evidence contradicting MPL and DOC-DER. As such, the Administrative Law Judge ("ALJ") should recommend and the Minnesota Public Utilities Commission ("Commission") should grant MPL a Certificate of Need for the Project.

I. BACKGROUND

A. MPL And The MPL System

MPL is unique compared to other pipeline companies operating in Minnesota. MPL owns a pipeline system located wholly in the State of Minnesota that transports crude oil from Clearbrook, Minnesota to the Flint Hills Resources ("FHR") Pine Bend Refinery in Rosemount, Minnesota and the Northern Tier Energy ("NTE") St. Paul Park Refinery ("SPPR") in St. Paul Park, Minnesota (together, the "Minnesota Refineries" or "Refineries").[1]

The MPL System is comprised of four pipelines, each of which originates at a crude oil terminal in Clearbrook, Minnesota. The first pipeline in the MPL System was installed in 1954. A second pipeline was built in the 1970s, and the third in the 1980s.[2] Finally, MPL Line 4 was added to the system in 2008.[3] The Company owns no other assets beyond the MPL System.

The MPL System receives crude oil for transport from Canadian and North Dakota sources through connections to the Clearbrook crude oil terminal. MPL is a common carrier pipeline and therefore offers transportation services from Clearbrook to the Twin Cities, to shippers of crude oil who request such service and comply with the terms in the applicable tariffs filed with the Federal Energy Regulatory Commission ("FERC").[4]

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[1] Exhibit (Ex.) 2, pp. 1-2; Ex. 25, p. 4 (O'Hair Direct).
[2] These three pipelines, MPL Lines 1, 2 and 3, are referred to in this Initial Brief as the "Legacy Pipelines."
[3] Ex. 2, p. 6; Ex. 25, p. 4 (O'Hair Direct).
[4] Ex. 2, p. 2; Ex. 25, p. 4 (O'Hair Direct). The Company's FERC tariffs are included in the record as Exhibit 3.

Currently, FHR and SPPR are the only two shippers on the MPL System and the MPL System is the only pipeline system that supplies the Minnesota Refineries.[5] The Minnesota Refineries use the crude oil supplied by MPL to produce most of the transportation fuels used in Minnesota. These refineries also contribute to fuel supplies used throughout the Upper Midwest.[6]

The MPL System is operated by Koch Pipeline Company, L.P. ("KPL"), with its regional northern operations based in Rosemount, Minnesota. KPL operates more than 4,000 miles of pipelines in Texas, Wisconsin, Minnesota, Missouri, Iowa and Illinois transporting crude oil, refined products, natural gas liquids, and chemicals.[7] KPL has coordinated and been responsible for the design, construction and operation of 16 pump station projects in the last four years, and currently oversees the maintenance and operation of more than 45 pump stations associated with the pipelines it operates.[8]

KPL has also developed programs and capabilities to maintain high standards, including a technologically advanced Pipeline Control Center for remote operations, a Pipeline Integrity and Reliability Program, and training and public outreach programs.[9] KPL has consistently ranked in the top quartile of the industry for environmental and safety performance.[10] For example, since 2010, KPL has had zero lost time incidents and

[5] Ex. 2, pp. 2, 6-7; Ex. 25, p. 5 (O'Hair Direct); Ex. 100, pp. 7, 11 (Otis Direct).
[6] Ex. 2, p. 1.
[7] Ex. 1, p. 2; Ex. 25, p. 5 (O'Hair Direct).
[8] *Id*.
[9] *Id.*, pp. 14-18.
[10] Ex. 2, p. 14.

one recordable injury while operating the MPL System.[11] In that same time period, there have been 10 reportable releases to land totaling just 5.82 barrels of crude oil.[12] KPL has numerous American Petroleum Institute and National Safety Council awards, as well as the Minnesota Governor's Award of Honor in Occupational Safety in 2010 through 2013.[13]

B. The Reliability Project

The proposed MPL Reliability Project ("Project") will increase the pumping capacity of the 305 mile-long MPL Line 4, the newest pipeline on the MPL System, from its current throughput capability of approximately 165,000 barrels per day to its original design capacity of approximately 350,000 barrels per day.[14] The Project was anticipated at the time MPL Line 4 was originally permitted, as documented in the Findings of Fact in that matter, which found that MPL Line 4 "will add capacity of approximately 165,000 bpd initially to the MPL System, with the ability to expand to a capacity of approximately 350,000 bpd with the placement of additional pump stations along the pipeline."[15]

The Project will not change the pipeline itself but would simply change the potential throughput capability.[16] The MPL Line 4 pipeline is already capable of handling the additional pumping capacity, so work on pump stations is the only

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[11] *Id*.
[12] *Id*.
[13] *Id*.
[14] Ex. 2, p. 2; Ex. 25, pp. 5-6 (O'Hair Direct); Ex. 100, p. 2 (Otis Direct).
[15] *In the Matter of the Application of Minnesota Pipe Line Company for a Certificate of Need for a Crude Oil Pipeline*, MPUC Docket No. PL-5/CN-06-02, Findings Of Fact, Conclusions and Recommendation, Finding 49, November 17, 2006.
[16] Ex. 2, pp. 2, 29; Ex. 25, p. 6 (O'Hair Direct); Ex. 100, pp. 2-3 (Otis Direct).

construction necessary to complete the Project.[17] The Project will upgrade the two existing pump stations on MPL Line 4 in Clearbrook and Albany, Minnesota and install six new pump stations along the current MPL Line 4 route.[18] The new pump stations will be located entirely on land owned by MPL and in rural areas in the counties of Hubbard, Wadena, Morrison, Meeker, McLeod and Scott.[19]

No new pipeline will be installed beyond that necessary to connect the pump stations to the existing MPL Line 4 infrastructure and no new pipeline right-of-way will be acquired for this Project.[20] The expected maximum operating pressure of MPL Line 4 will not change from its current 1,470 psig as a result of the Project. Rather the pump stations will allow the pipeline to maintain a more consistent pressure, increasing the pipeline's throughput capability.[21] Initial engineering for the pump stations indicates that primary pipe components for station work will be 24-inch diameter pipe, with the piping, valves, and other components all designed to match the existing line maximum operating pressure of 1,470 pounds per square inch.[22] Initial engineering for pumps themselves indicates that three 4,000 horsepower pumps will be required at each pump station.[23] The pump motors will be started with a variable frequency drive ("VFD") to increase efficiencies, with final motor efficiencies of approximately 97 percent expected.[24]

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[17] *Id*.
[18] Ex. 2, p. 2; Ex. 25, p. 6 (O'Hair Direct); Ex. 100, p. 3 (Otis Direct).
[19] Ex. 24, p. 3 (Baker Direct).
[20] Ex. 2, p. 2; Ex. 25, p. 6 (O'Hair Direct); Ex. 100, p. 3 (Otis Direct).
[21] Ex. 2, p. 7.
[22] Ex. 24, p. 3 (Baker Direct).
[23] *Id.*
[24] *Id*., pp. 3-4.

The facilities necessary to complete the work on the Project will be owned solely by MPL and located on land owned by the Company. As shown on the pumping station and MPL System maps submitted with the July 25, 2014 Application for a Certificate of Need ("Application"), the upgraded or new pump stations will be located on parcels ranging in size from 10 to 235 acres.[25] At the sites of the new pump stations, only approximately 5 to 7 acres will be utilized for the installation of the facilities.[26]

The Project represents an increased investment in Minnesota of approximately $125 million. Annual operating and maintenance costs for the MPL System will increase by $1 to 2 million after the Project's completion due to the personnel and material costs associated with maintaining six additional pump stations.[27] The Project will bring increased property tax benefits to the counties where construction will occur and will create about 40 to 50 new construction jobs. MPL also anticipates some permanent jobs will be created.[28]

For planning purposes, MPL targeted January 1, 2016 as a start date for construction with a full in-service date in the fourth quarter of 2017. The Company indicated that contingency plans may be employed to start construction sooner if the Certificate of Need is granted earlier in 2015, and that the construction schedule could be expedited by up to nine months.[29]

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[25] *See* Exs. 3-8.
[26] Ex. 2, p. 50.
[27] *Id*., p. 27.
[28] *Id*., p. 3.
[29] *Id.*, p. 29.

C. Procedural History And Public Comments

MPL sets forth the procedural history and a full summary of the public comments in this matter in its Proposed Findings of Fact, Conclusions of Law and Recommendation ("Proposed Findings"), filed concurrently with this Initial Brief, but will briefly address two of the public comments here.

In comparison to recent pipeline proceedings, the instant docket has received few public comments. Along with oral comments provided or questions asked by the public at the four public hearings, public comments were filed by: (1) MPL's shippers and the Minnesota Chamber of Commerce ("Chamber"), supporting the Project; (2) four members of the public (one of whom also testified at the public hearings), raising certain issues and asking certain questions, including issues or questions related to other pipeline projects; and (3) the Minnesota Pollution Control Agency ("MPCA") and the Minnesota Department of Natural Resources ("DNR"), related to the Comparative Environmental Report prepared by the Department of Commerce Energy Environmental Review and Analysis ("DOC-EERA").

Neither the MPCA nor DNR participated in this proceeding until filing public comments on March 20, 2015, and both agencies' comments reflect a lack of familiarity with the Project and the extensive record developed over the past eleven months. For example, the MPCA comments suggest that the Project may impact Clean Water Act Section 401 waters and wetlands, stating that "the mitigation of these wetlands/waters should take place, preferably in the same watershed at a replacement ratio equivalent to

or greater than the quality of the wetland impacted."[30] However, MPL has explained that the pump stations will be located on only a portion of the parcels on which they will be located, that none of the proposed pump stations will directly affect major lakes or streams, and that the "pump stations will be designed to avoid impacts to wetlands."[31] Table 7853.0610-G of the Application identifies the nearby wetlands and waterbodies for each of the pump station locations, and none of those will be directly impacted by the Project.[32] Moreover, specific measures to protect those nearby waterbodies and wetlands are discussed in Sections 7853.0620 and 7853.0630 of the Application[33] as well as in the Oil Spill Response Plan, Integrated Contingency Plan and Pipeline and Hazardous Materials Safety Administration ("PHMSA") Response Plan included in this record.[34]

The MPCA Comments also suggest that MPL "must evaluate the need for coverage under the National Pollutant Discharge Elimination System/State Disposal System ("NPDES/SDS") Construction Stormwater Permit; evaluate the types of erosion and sediment control Best Management Practices (BMPs) that may be needed; and evaluate the need for permanent stormwater treatment BMPs at the pumping stations."[35] MPL has already addressed each of these points in the record. MPL identified an NPDES/SDS in Table 7853.0230-A – List of Government Authorities of the Application and further discussed potential impacts associated with stormwater discharges for the

[30] MPCA Public Comments, March 20, 2015, p. 2.
[31] *See* Ex. 2, pp. 43, 55-56.
[32] *Id*., pp. 55-56.
[33] *Id*., pp. 60-65.
[34] *See* Exs. 103-105.
[35] MPCA Public Comments, March 20, 2015, p. 2.

proposed Project and the need for an NPDES/SDS Construction Stormwater Permit in Sections 7853.0620 and 7853.0630.[36] As the issues raised by the MPCA have already been addressed in the record, the MPCA Comments require no further action.

The DNR Comments similarly reflect a lack of familiarity with the record, including an apparent unawareness that the record includes addresses the Oil Spill Response Plan, the Integrated Contingency Plan and the PHMSA Response Plan, as the DNR suggests that topics such as spill prevention and spill response plans "should have been addressed."[37] As discussed above, the record does address these issues.

The DNR Comments also discuss two specific pump stations and suggest that new locations should be considered for these pump stations.[38] This eleventh hour notion of moving pump stations both misunderstands the record and, if acted on, creates a number of potential adverse consequences on the human and natural environments.

First, it is important to remember that at each site only a portion of the parcel will be used for the placement of the pump stations. For example, the St. Patrick pump station will be located on a 74 acre parcel of land owned by MPL, yet the pump station itself will only occupy approximately five acres.[39] The unused land at each site will provide a buffer between the pump station itself and the surrounding land uses and habitat. In addition, moving the pump stations to as yet unidentified locations would create unknown human and environmental impacts and would adversely impact the

[36] Ex. 2, pp. 4, 60-65.
[37] DNR Public comments, March 20, 2015, p. 1.
[38] *Id*., pp. 1-2.
[39] *See* Ex. 2, p. 28.

efficiency of the overall operation of MPL Line 4. Moreover, moving the pump stations to unidentified sites would necessitate new routing for the associated transmission lines, again creating unknown impacts.

As discussed further, below, the record demonstrates that the Project minimizes adverse impacts on the human and natural environments compared to the alternatives, in part by locating the pump stations on land owned by MPL and situated along MPL Line 4 in order to increase the efficiency of the overall operation of the MPL System. Therefore, the DNR comments suggesting exploration of new pump station locations should be rejected.

II. APPLICABLE LAW

Minnesota Statutes Section 216B.243 ("CON Statute") governs the granting of a CON for a large energy facility. Under a separate statute, a "large energy facility" is defined to include "any pipeline greater than six inches in diameter and having more than 50 miles of its length in Minnesota used for the transportation of coal, crude petroleum or petroleum fuels or oil, or their derivatives."[40] As such, Minnesota Statutes do not require and do not contemplate a CON for a project merely increasing the pumping capacity on a pipeline already fully permitted and approved.

However, in its Rules, the Commission has expanded the statutory requirements to also require a CON for "any project that, within a period of two years, would expand an existing large petroleum pipeline in excess of either 20 percent of its rated capacity or

[40] Minn. Stat. § 216B.2421, subd. 2 (4).

10,000 barrels per day, whichever is greater."[41] The Project meets that Rule threshold and, rather than raising objection to this Rule as exceeding the statutory requirements, MPL filed for a CON for the Project.

The CON Statute identifies the following factors for the Commission to evaluate in its need assessment for a new large energy facility:

> (1) the accuracy of the long-range energy demand forecasts on which the necessity for the facility is based;
>
> (2) the effect of existing or possible energy conservation programs under sections 216C.05 to 216C.30 and this section or other federal or state legislation on long-term energy demand;
>
> (3) the relationship of the proposed facility to overall state energy needs, as described in the most recent state energy policy and conservation report prepared under section 216C.18, or, in the case of a high-voltage transmission line, the relationship of the proposed line to regional energy needs, as presented in the transmission plan submitted under section 216B.2425;
>
> (4) promotional activities that may have given rise to the demand for this facility;
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> (5) benefits of this facility, including its uses to protect or enhance environmental quality, and to increase reliability of energy supply in Minnesota and the region;
>
> (6) possible alternatives for satisfying the energy demand or transmission needs including but not limited to potential for increased efficiency and upgrading of existing energy generation and transmission facilities, load-management programs, and distributed generation;
>
> (7) the policies, rules, and regulations of other state and federal agencies and local governments;
>
> (8) any feasible combination of energy conservation improvements, required under section 216B.241, that can (i) replace part or all of the energy to be provided by the proposed facility, and (ii) compete with it economically;

[41] Minn. R. 7853.0300 (D).

> (9) with respect to a high-voltage transmission line, the benefits of enhanced regional reliability, access, or deliverability to the extent these factors improve the robustness of the transmission system or lower costs for electric consumers in Minnesota;
>
> (10) whether the applicant or applicants are in compliance with applicable provisions of sections 216B.1691 and 216B.2425, subdivision 7, and have filed or will file by a date certain an application for certificate of need under this section or for certification as a priority electric transmission project under section 216B.2425 for any transmission facilities or upgrades identified under section 216B.2425, subdivision 7;
>
> (11) whether the applicant has made the demonstrations required under subdivision 3a [regarding use of renewable resources]; and
>
> (12) if the applicant is proposing a nonrenewable generating plant, the applicant's assessment of the risk of environmental costs and regulation on that proposed facility over the expected useful life of the plant, including a proposed means of allocating costs associated with that risk.[42]

By their terms, certain of these statutory factors do not apply to the Project. For example, factors (8) through (12) apply exclusively to natural gas or electric generation facilities, given their references to other provisions of Chapter 216B or explicit reference the electric transmission lines.

The CON Statute requires the Commission to adopt rules setting forth the criteria to be used in its determination of the need for large energy facilities, which the Commission has done for petroleum pipeline projects in Minnesota Rules Chapter 7853 ("CON Rules"). The Commission's CON Rules incorporate the applicable statutory factors into four criteria the Commission utilizes in determining if a CON must be granted. Those Rules provide that:

[42] Minn. Stat. § 216B.243, subd. 3.

A certificate of need shall be granted to the applicant on determining that:

A. the probable result of denial would adversely affect the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states, considering:

(1) the accuracy of the applicant's forecast of demand for the type of energy that would be supplied by the proposed facility;

(2) the effects of the applicant's existing or expected conservation programs and state and federal conservation programs;

(3) the effects of the applicant's promotional practices that may have given rise to the increase in the energy demand, particularly promotional practices that have occurred since 1974;

(4) the ability of current facilities and planned facilities not requiring certificates of need, and to which the applicant has access, to meet the future demand; and

(5) the effect of the proposed facility, or a suitable modification of it, in making efficient use of resources;

B. a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record by parties or persons other than the applicant, considering:

(1) the appropriateness of the size, the type, and the timing of the proposed facility compared to those of reasonable alternatives;

(2) the cost of the proposed facility and the cost of energy to be supplied by the proposed facility compared to the costs of reasonable alternatives and the cost of energy that would be supplied by reasonable alternatives;

(3) the effect of the proposed facility upon the natural and socioeconomic environments compared to the effects of reasonable alternatives; and

(4) the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives;

C. the consequences to society of granting the certificate of need are more favorable than the consequences of denying the certificate, considering:

(1) the relationship of the proposed facility, or a suitable modification of it, to overall state energy needs;

(2) the effect of the proposed facility, or a suitable modification of it, upon the natural and socioeconomic environments compared to the effect of not building the facility;

(3) the effects of the proposed facility or a suitable modification of it, in inducing future development; and

(4) socially beneficial uses of the output of the proposed facility, or a suitable modification of it, including its uses to protect or enhance environmental quality; and

D. it has not been demonstrated on the record that the design, construction, or operation of the proposed facility will fail to comply with those relevant policies, rules, and regulations of other state and federal agencies and local governments.[43]

As the Applicant, MPL bears the burden of demonstrating the need for the Project by a preponderance of the evidence.[44] Given the overlap between the CON Rules' criteria and certain of the statutory factors, this Initial Brief discusses the record support for the granting of a CON under the framework of the CON Rules.

III. THE RECORD ESTABLISHES THE NEED FOR THE PROJECT

MPL and DOC-DER, the only two parties in this proceeding, agree that MPL has met all four of the Commission's criteria for the granting of a CON and the ALJ should recommend and the Commission should grant a CON for the Project.[45] The record conclusively demonstrates that the Project meets each of the criteria for receiving a CON by establishing that: (1) denial would adversely affect the future adequacy, reliability and efficiency of energy supply to Minnesota and the region; (2) no more reasonable and

[43] Minn. R. 7853.0130 (emphasis added).
[44] *See* Minn. Stat. § 216B.243, subd. 3; Minn. R. 1400.7300, subp. 5.
[45] *See* Ex. 25, pp. 9-13 (O'Hair Direct); Ex. 101, p. 10 (Otis Direct).

prudent alternative has been demonstrated by a preponderance of the evidence; (3) the Project will meet State and regional needs in a manner compatible with the natural and socioeconomic environments; and (4) MPL will comply with all applicable federal, State and local policies, rules and regulations.[46]

A. The Project Supports The Future Adequacy, Reliability, Or Efficiency Of Energy Supply To MPL's Shippers, The State And The Region

The first of the four criteria established by the Commission for the granting of a CON calls for an examination of whether:

> the probable result of denial would adversely affect the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states.[47]

Under this criterion, the Commission considers: (1) an applicant's forecast of demand for energy; (2) its conservation programs; (3) its promotional practices; (4) the ability of current or planned facilities to meet the future demand; and (5) the facility's ability to make an efficient use of resources.[48] Given full consideration to these factors, the record conclusively demonstrates the adverse impact that denial of the CON would have on the future adequacy, reliability and efficiency of energy supply to MPL's shippers, the State and the region.

1. MPL's Forecast Supports The Need For The Project

MPL presented both historical crude oil demand data and forecast data in support of its Application.[49] Regarding the historical data, as Mr. Ottaway explained, MPL has

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[46] *See* Minn. R. 7853.0130.
[47] *Id*., subp. (A).
[48] *Id.*
[49] Ex. 2, pp. 19-25.

no contracts with the Minnesota Refineries.[50] Rather, the Refineries make monthly nominations under the provisions of MPL's FERC tariff.[51] MPL provided a history of the shipments pursuant to those nominations, which shows an increase in total volumes shipped on the MPL System from 110 million barrels per year and a per day peak of 395,000 barrels per day in 2009, to nearly 126 million barrels per year with a per day peak of 413,000 barrels per day in 2013.[52] In addition, at the request of the DOC-DER, MPL provided monthly nomination data from October 2009 through September 2014, corroborating this increased level of demand on the MPL System.[53] This increased level of demand has occurred due to the Minnesota Refineries' efforts to improve the efficiencies and utilization of their capacity, with the end result of the MPL System operating close to its capacity and without the pumping capacity needed to perform preventative maintenance, without potentially disrupting crude oil supplies.[54]

Looking forward, MPL contacted its shippers to request the level of their anticipated demand and also reviewed forecasts provided by the Canadian Association of Petroleum Producers ("CAPP") and the North Dakota Pipeline Authority ("NDPA") regarding the availability of crude oil supply.[55] Based on the information provided by its shippers, MPL forecasts steady to modestly increasing demand for crude oil on the MPL

[50] Ex. 22, p. 3 (Ottaway Direct).
[51] *Id*.
[52] *Id*.; Ex. 2, p. 19.
[53] *See* Ex. 10; and TRADE SECRET Ex. 11.
[54] Ex. 25, p. 9 (O'Hair Direct).
[55] Ex. 2, p. 24.

System.[56] Moreover, forecasts provided by CAPP and NDPA indicate no supply constraints that would impact MPL's ability to meet this level of demand.[57] MPL acknowledged that forecasts can be impacted by multiple events and that it does not project significant growth in demand necessitating further projects at this time.[58] However, the best information available indicates a clear need for the MPL System to continue operating at close to its existing capacity, necessitating this Project.

The DOC-DER thoroughly reviewed the historical and forecast information provided by MPL. As Ms. Otis noted, MPL's forecasted levels of demand track the historical trend and appear reasonable.[59] In addition, Ms. Otis reviewed planned improvements in utilization at the Minnesota Refineries, supporting MPL's forecast of modest growth in refinery demand from current levels.[60] Finally, Ms. Otis compared MPL's forecasts to forecasts available from the Energy Information Administration ("EIA")[61] as another means of corroborating the reasonableness of MPL's forecasts. Based on the entirety of this review, the DOC-DER determined that MPL's forecast of demand is reasonable.[62]

[56] *Id.*; Ex. 22, p. 4 (Ottaway Direct).
[57] Ex. 22, p. 4 (Ottaway Direct).
[58] *Id.*, pp. 4-5.
[59] Ex. 100, pp. 7-10 (Otis Direct).
[60] *Id*. at pp. 10-11 and Schedules LBO-1 and 2.
[61] Transcript Volume ("Tr. Vol.") 1, p. 52 (Otis).
[62] Ex. 100, p. 11 (Otis Direct).

2. Existing Or Expected Conservation Programs Cannot Eliminate The Need For The Project

Energy costs form a substantial component of MPL's overall cost structure.[63] For that reason, MPL continually explores ways to improve the energy efficiency of its system, including through energy conservation efforts.[64] Of course, those conservation and efficiency efforts, while providing overall societal benefits, do not eliminate the need for this Project itself.

Conservation can only eliminate the need for the Project if that conservation eliminates a need for crude oil deliveries to the Minnesota Refineries. Moreover, given the fact that this Project is necessitated by the current MPL System operating at close to capacity, conservation could only eliminate the need for this Project if that conservation led to a significant *decrease* in MPL's shippers' current levels of demand. Nothing in the record can support such a conclusion.

Certainly, it is possible that future advances in efficiency, technology or renewable fuels may impact future levels of demand for crude oil and the refined products developed from that crude oil.[65] However, MPL's shippers took those efforts and current State and federal conservation efforts into account when providing their forecasts of demand.[66] In addition, outside sources such as the EIA forecasts reviewed by the DOC-DER specifically state that they take into account the effect of conservation programs and

[63] Ex. 2, pp. 12-13; Ex. 28, p. 4 (Baker Direct).
[64] *Id*.
[65] Tr. Vol. 1, p. 17 (O'Hair).
[66] *Id*., p. 22 (Ottaway).

increased efficiencies when developing their forecasts.[67] Therefore, conservation efforts are already embedded in the forecasts presented in this proceeding and cannot eliminate the need for the Project.[68]

3. MPL's Promotional Practices Have Not Given Rise To The Project

No promotional activities have given rise to the need for the Project.[69] Rather, the Project is supported by MPL's shippers, the Minnesota Refineries, given their need to have continued access to stable and reliable crude oil supply.[70]

4. Current Facilities And Planned Facilities Not Requiring Certificates Of Need Cannot Meet The Need Met By The Project

The record contains no evidence of any other current or planned facility that can meet the need for increased pumping capacity on the MPL System. As discussed above, MPL is the only pipeline system currently supplying crude oil to the Minnesota Refineries. There are no "planned facilities not requiring certificates of need" that can meet the need met by the Project. Also, any new pipeline providing the incremental capacity of the Project would qualify as a new "large energy facility," triggering the need for a CON. In addition, the current MPL System is operating at close to capacity. No minor modifications to this current system can provide close to the additional pumping capacity provided by the Project.

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[67] *Id.*, p. 52 (Otis).
[68] *See id.,* pp. 17 (O'Hair), 22 (Ottaway) and 52 (Otis).
[69] Ex. 2, p. 11.
[70] *Id.*

5. The Project Makes For An Efficient Use Of Resources

The Project makes for an efficient use of resources by using available capacity on MPL's newest pipeline – MPL Line 4 – to maintain the overall reliability of the MPL System.[71] MPL Line 4 was originally designed to accommodate the Project. As noted by the Administrative Law Judge during the permitting of MPL Line 4, this newest pipeline on the MPL System "will add capacity of approximately 165,000 bpd initially to the MPL System, with the ability to expand to a capacity of approximately 350,000 bpd with the placement of additional pump stations along the pipeline."[72] Increasing the capability of MPL Line 4 to its originally designed capacity at this time will provide the flexibility to shift capacity as necessary to maintain reliable crude oil supplies to Minnesota Refineries, without adding a new pipeline or other new infrastructure.

The Project will also *improve the overall efficiency* of the MPL System and of crude oil supply to the Minnesota Refineries by making better use of MPL's existing pipeline assets and providing a shorter, more direct and more efficient route to the Refineries than the alternatives.[73] In fact, one of the goals of the Project is energy optimization of the entire MPL System relative to the System's throughput.[74] The record demonstrates that barrels shipped on MPL Line 4 use significantly less energy on a per barrel basis than barrels shipped on the Legacy System, due to the larger diameter pipes

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[71] Ex. 2, p. 9.
[72] *In the Matter of the Application of Minnesota Pipe Line Company for a Certificate of Need for a Crude Oil Pipeline*, MPUC Docket No. PL-5/CN-06-02, Findings Of Fact, Conclusions and Recommendation, Finding 49, November 17, 2006.
[73] Ex. 2, p. 9.
[74] Ex. 24, p. 4 (Baker).

and more efficient motors on MPL Line 4.[75] Given this, the Project is anticipated to reduce power consumption on a per barrel basis by approximately 37 percent.[76] Therefore, the record establishes that the Project will make an efficient use of resources, particularly when compared to the alternatives, as discussed in the next section of this Brief.

6. Denial Of The CON Would Adversely Affect The Future Adequacy, Reliability, Or Efficiency Of Energy Supply To MPL's Shippers And To The People Of Minnesota And Neighboring States

The record demonstrates that the existing MPL System that supplies the Minnesota Refineries operates at close to its current capacity.[77] Given this fact, any temporary planned or unplanned outage on any part of the MPL System threatens the supply of crude oil to the Minnesota Refineries, in turn threatening the supply of transportation fuels and other refined products to businesses and citizens of Minnesota and the region.[78]

As pipelines age, they require more frequent inspections and maintenance to ensure they remain in good working condition.[79] This work necessarily requires temporary outages,[80] and occasionally requires taking pipelines out of service for extended periods of time.[81] As MPL explained, the duration of the work necessary varies

[75] Ex. 2, p. 9; Ex. 24, pp. 4-5 (Baker Direct); Tr. Vol. 1, pp. 29-30 (Baker).
[76] *Id*.
[77] *See* Ex. 2, p. 2 and pp. 19-22 (Historical Energy Data); Ex. 25, p. 7 (O'Hair Direct).
[78] Ex. 2, p. 2; Ex. 25, p. 7 (O'Hair Direct).
[79] Ex. 25, p. 7 (O'Hair Direct); Ex. 100, p. 12 (Otis Direct).
[80] Ex. 100, p. 12 (Otis Direct).
[81] Ex. 2, p. 6.

based on the inspection method and the extent to which any repair work is required.[82] Therefore, MPL cannot predict with certainty the length or frequency of outages that may be expected on the Legacy System. However, to provide historical perspective, DOC-DER examined the history of planned and unplanned outages on the MPL System and found that the Legacy System experienced an overage of 216 hours of outages per year in the last five years.[83] In addition, the MPL System experiences unplanned events that cause slowdowns, if not outages.[84] For the twelve months ended November 2014, the MPL System experienced an average of 13.7 slowdowns per month, lasting an average of 17.2 hours and leading to significant loss of throughput.[85]

As an example of the type of inspection and maintenance work required to maintain a safe and reliable system, MPL discussed a recent hydrostatic test performed on a segment of the Legacy System.[86] These tests typically require six months to a year of planning and extensive preparation by Minnesota Refineries in order to minimize the risk of supply disruptions.[87] This recent test finished on schedule and under ideal circumstances, with planned refinery maintenance taking place during the test.[88] In this instance, the planned refinery outage reduced demand on the system, and helped allay a possible crude oil shortage.[89] Of course, not all outages can be planned or coordinated

[82] Ex. 25, p. 7 (O'Hair Direct).
[83] Ex. 100, p. 12 (Otis Direct).
[84] *Id*.
[85] *Id*., pp. 12-13 and Schedule LBO-3.
[86] Ex. 25, p. 8 (O'Hair Direct).
[87] *Id.*
[88] *Id.*
[89] *Id.*

with Minnesota Refinery schedules to prevent crude supply shortages. In addition, given the current capacity constraints on the MPL System, delays in planned restarts of a pipeline following an inspection, planned maintenance or an unplanned event that takes a pipeline segment out of service could result in a crude oil shortage.[90] Such a crude oil shortage, in turn, can impact the supply of transportation fuels and other refined products to the State and the region, seriously impacting local economies and people's daily lives.[91]

Refined products such as gasoline, diesel, jet fuel, and other petroleum-based products such as asphalt remain essential to the Minnesota and regional economy. The State has historically enjoyed a stable supply of these products due to the reliability of the MPL System and the two Minnesota Refineries that produce the majority of these products.[92] However, with the MPL System now operating close to capacity, it lacks the ability to idle portions of the system to perform preventative maintenance without potentially disrupting crude oil supplies to Minnesota Refineries.[93] The MPL System also lacks sufficient pumping capacity to send surplus volumes to the Minnesota Refineries when needed to respond to sudden increases in demand or to make up for supply disruptions.[94]

The Project addresses these concerns effectively and efficiently. MPL Line 4 is the Company's newest pipeline, designed and built to accommodate the higher

[90] *Id*.
[91] Ex. 2, p. 7.
[92] Ex. 25, p. 10 (O'Hair Direct).
[93] *Id*.
[94] *Id*.; Ex. 2, p. 6.

throughput made possible by this Project. With the Project, MPL will have the ability to shift volumes to its newest pipeline when needed to perform maintenance on the older pipelines on its system and to respond to planned or unplanned outages or slowdowns on these pipelines.[95] In addition, the Project provides the ability to transport surplus barrels to refineries when needed to satisfy a sudden increase in demand or to make up for prior production or pipeline slowdowns or disruptions.[96] Thus, increasing the pumping capacity of MPL Line 4 at this time to its designed capacity will improve the MPL System's ability to reliably and predictably supply the Minnesota Refineries. Without the Project, it will become increasingly difficult to maintain reliable crude oil supplies to Minnesota's Refineries.

DOC-DER agrees that the Project addresses State and regional energy supply needs. As Ms. Otis testified:

> [A]ny reliability problems on MPL's system that temporarily decrease throughput will directly impact the Minnesota Refineries by decreasing the amount of crude oil they can receive. . . . If the Minnesota Refineries are forced to cut production of refined petroleum products, the people who live in areas that depend on the Minnesota refiners for petroleum product supplies will experience higher prices in response to decreased supply. The people of Minnesota would be significantly affected, as the two Minnesota refineries produce the vast majority of the petroleum products [consumed] in Minnesota.[97]

After reviewing the historical and forecast information, considering the current constraints on the MPL System, and examining past instances when the Minnesota Refineries could not operate to their capability, DOC-DER concluded that decreased

[95] *Id*.
[96] *Id*.
[97] Ex. 100, pp. 14-15 (Otis Direct).

production at the Minnesota Refineries, which could be caused by constraints on the MPL System, "negatively impacts the people of Minnesota and surrounding states that depend on the Minnesota refiners for refined petroleum products."[98] For that reason, DOC-DER concluded that "MPL's customers (the Minnesota Refineries) and the people of Minnesota and surrounding states would experience negative consequences as a result of denial of the [CON] request."[99]

For all of the reasons set forth above, the record establishes the benefits of the Project with respect to the future adequacy, reliability and efficiency of energy supply to Minnesota and the region. Moreover, there is *no* evidence in this record to support a conclusion that the CON can be denied without adversely impacting the Minnesota Refineries and the people of Minnesota and surrounding states. Therefore, MPL has satisfied the first criterion for the granting of a CON.

B. The Record Does Not Demonstrate A More Reasonable And Prudent Alternative Than The Project

The second criterion used by the Commission in assessing need calls for the Commission to grant a CON if "a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record."[100]

To determine whether such a preferred alternative has been established, the ALJ and Commission examine: (1) the size, type, and timing of the proposed facility

[98] Ex. 100, pp. 16-17.
[99] *Id.*, p. 13.
[100] Minn. R. 7853.0130 (B).

compared to those of reasonable alternatives; (2) the cost of the proposed facility compared to the costs of reasonable alternatives; (3) the effects of the proposed facility upon the natural and socioeconomic environments compared to the effects of reasonable alternatives; and (4) the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives.[101] Again, the record conclusively demonstrates that no more reasonable and prudent alternative exists for MPL, its shippers, the State and the region. Indeed, no party or person proposed an alternative, beyond public comment suggestions that perhaps conservation could eliminate the need for the Project. As discussed above, however, conservation cannot eliminate the need for the Project.

In its Application and testimony, MPL examined the following alternatives: (1) a "no action" alternative; (2) trucking; (3) rail transport; (4) a new pipeline; and (5) the Wood River pipeline. In addition, the DOC-DER explored and examined the possibility that construction of storage tanks could provide an alternative to the Project.

Ultimately, both MPL and DOC-DER agreed that no alternative discussed in the record more reasonably and prudently satisfies the needs met by the Project, as each alternative fails under one or more of the factors set forth in the CON Rules. For example, the "no action" alternative fails to provide a reasonable alternative since, without additional capability to transport crude oil, if any of the MPL System pipelines is out of service for either planned or unplanned reasons, the remaining lines cannot meet

[101] *Id.*

the Minnesota Refineries' demands.[102] In addition, the DOC-DER examination of the storage alternative determined that storage fails to provide a feasible alternative for several reasons, including that MPL owns no land adjacent to the Minnesota Refineries on which to build such facilities and that it would not be cost effective to either acquire such land or build the number of tanks that would be required to match the increased pumping capacity provided by the Project.[103] MPL addresses the remaining alternatives in the context of the CON Rules factors.

1. The Project Provides The Appropriate Size, Type, And Timing Of Facility To Meet The Reliability, Adequacy And Efficiency Needs Met By The Project

The Project will increase the pumping capacity on MPL Line 4 by 185,000 barrels per day. As such, the Project allows MPL to continue meeting the demands of the Minnesota Refineries in an uninterrupted manner, even when it needs to temporarily take a pipeline out of service for maintenance or repair activities.[104] Moreover, while MPL does not anticipate a significant near-term increase in crude oil demand, it expects that both Minnesota Refineries will continue to become more efficient and improve their utilization rates, which will ultimately drive higher peak daily demand requirements, which can also be supported by the Project.[105] Finally, by enabling an increase in capability of 185,000 barrels per day, the Project better positions MPL to meet any

[102] *See* Ex. 100, p. 19 (Otis Direct).
[103] Ex. 100, pp. 18, 30 and Schedule LBO-11.
[104] Ex. 2, p. 32.
[105] *Id*.

"sprint capacity" needs of its shippers due to outages or slowdowns. As such, the Project is appropriately sized to meet the need.

In addition, by utilizing the newest pipeline assets on the MPL System, the Project enables continued reliable shipment of crude oil by pipeline, which statistics show is the safest manner of shipment available. As discussed further below, both truck and rail transport present significantly greater risk of accidents than does pipeline transport.[106] The Project is the right "type" of facility to meet the need.

Finally, assuming issuance of a CON, MPL anticipates commencing construction with a start date of no later than January 1, 2016 and a full in-service date no later than the fourth quarter of 2017, with the potential to shorten the construction schedule by up to nine months.[107] Therefore, the Project meets the identified need in a timely manner.

In contrast, truck and rail alternatives would provide unknown capacity, would increase safety and reliability risks, and have unknown timeline for completion.[108] For the trucking alternative, a fleet of over 1,000 trucks would be required and those trucks may not be available. For rail, over 2,000 rail cars would be required at a time when the area already experiences rail car shortages.[109] Moreover, for both truck and rail alternatives new loading and unloading facilities would need to be constructed, again

[106] Ex. 2, pp. 36, 38; Ex. 22, pp. 6-7 (Ottaway Direct); Ex. 100, p. 22 (Otis Direct).
[107] Ex. 2, p. 29.
[108] *See* Ex. 2, pp. 34-38; Ex. 22, pp. 6-7 (Ottaway Direct); Ex. 100, pp. 20-21 (Otis Direct).
[109] *Id*.

with an unknown timeframe.[110] Therefore, as to size, type and timing, neither trucking nor rail transport provides a more reasonable alternative than the Project.

The Wood River alternative also fails to provide to meet MPL's size, type and timing needs more reasonably than the Project. The Wood River Pipeline ("WRPL") is a 580 mile pipeline owned by KPL, originating in Illinois and terminating in the Twin Cities.[111] WRPL has a capacity of just 90,000 barrels per day and has not delivered crude oil to the Minnesota Refineries since 2013, due to lack of shipper demand over that pipeline.[112] As such, WRPL cannot provide increased transport capability comparable to the Project nor can it satisfy the system reliability needs or sprint capacity needs met by the Project.[113] More importantly, perhaps, shippers have already spoken by not nominating shipments on WRPL, leading to it being de-inventoried of crude oil.[114] WRPL does not provide as economic of transport of crude oil as the Project, given the significantly longer distance that crude oil must travel before it reaches the Minnesota Refineries and due to inferior pricing of the crude oil accessible to WRPL.[115] For all of these reasons, WRPL does not meet the size, type and timing needs of MPL, the Minnesota Refineries or Minnesota and the region more reasonably and prudently than the Project.

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[110] *Id*.
[111] Ex. 22, p. 9 (Ottaway Direct); Ex. 100, p. 23 (Otis Direct).
[112] *Id*.
[113] Ex. 22, p. 9 (Ottaway Direct); Ex. 100, p. 30 (Otis Direct).
[114] Ex. 22, p. 9 (Ottaway Direct).
[115] *Id*.

Finally, MPL and DOC-DER considered a new pipeline as an alternative.[116] While a new pipeline can provide a size and type of facility comparable to the Project, an entirely new pipeline fails to provide a more reasonable alternative for multiple reasons discussed below and would likely require significantly more time due to the required permitting and other factors associated with the construction of a new pipeline.[117]

2. The Project Cost Is Reasonable When Compared To Alternatives

The Project meets MPL's, the Minnesota Refineries' and State and regional needs more cost effectively than the alternatives. MPL estimates the Project will cost approximately $125 million to complete and will require an incremental tariff of no more the $0.25/barrel, keeping the total tariff rate between Clearbrook and the Minnesota Refineries below $2.00/barrel.[118] The Project yields such an economic result by making use of existing infrastructure that was designed and constructed to handle the Project's increased pumping capacity, thereby limiting the new investment necessary.

In contrast, both the truck and rail alternatives would require substantial new infrastructure and infrastructure improvements, including construction of new loading and unloading facilities, and road and rail upgrades.[119] Additionally, the truck and rail alternatives would add new variable costs, including maintenance and labor costs.[120] Given these new and increased costs, the record demonstrates that the trucking alternative

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[116] *See* Ex. 2, pp. 38-40; Ex. 22, p. 8 (Ottaway Direct); Ex. 100, pp. 23-25 (Otis Direct).
[117] Ex. 2, p. 39.
[118] Ex. 2, p. 35.
[119] Ex. 2, pp. 34-38; Ex. 22, pp. 8-9 (Ottaway Direct); Ex. 100, p. 20 (Otis Direct).
[120] *Id.*

would cost MPL's shippers between $7.50/barrel and $9.25/barrel and the rail alternative would cost them approximately $8.00/barrel, making these alternatives far more costly than the Project.[121]

The WRPL alternative also would add significant costs to the Minnesota Refineries, both because of the longer distance traveled by crude oil when it is transported over WRPL and because of the higher cost of crude oil accessible to that pipeline.[122] In fact, MPL estimated that transporting crude oil over WRPL could double or triple the costs to the Minnesota Refineries compared to the Project and the DOC-DER confirmed that the WRPL alternative would impose significantly higher costs.[123]

A new pipeline similarly adds excessive costs to the MPL System when compared to the Project. While the Project will cost an estimated $125 million, a new pipeline is conservatively estimated to cost $600 million.[124] These additional costs, of course, would impact the ultimate costs to the Minnesota Refineries and to consumers of the refined products they produce.

3. The Project Is More Compatible With The Natural And Socioeconomic Environments Than The Alternatives

The Comparative Environmental Review ("CER"), prepared by the DOC-EERA at the direction of the Commission, found that the Project was "clearly superior to any of

[121] Ex. 2, pp. 35, 38; Ex. 100, p. 22 (Otis Direct).
[122] Ex. 22, p. 9 (Ottaway Direct).
[123] Ex. 2, pp. 41-42; Ex. 100, pp. 29-30 (Otis Direct).
[124] Ex. 2, p. 39; Ex. 22, p. 8 (Ottaway Direct).

the alternatives presented by MPL in their CN Application."[125] Substantial evidence supports EERA's conclusion and *no* record evidence suggests a contrary conclusion.

As the Application and CER make clear, the potential environmental impacts of the Project are generally restricted to the areas within and surrounding the pump station locations themselves, on land owned in fee by MPL.[126] The construction and operation of these stations are the only changes necessary to the existing line.[127] No new pipeline would be installed, and the pump stations would be constructed directly adjacent the existing line, minimizing the amount of land impacted by the Project.[128]

All of the pump station properties are located in rural areas, meaning the Project impacts a limited number of local residents. Additionally, the proposed pump station sites will not directly impact major lakes or streams and the pump stations will be located within each parcel so as to avoid impacts to wetlands.[129] The record also demonstrates that these pump station sites: will not result in direct impacts to trunk highways, railroads, or airports; will not directly impact any national natural landmarks, national wilderness areas, national wildlife refuges, national wild and scenic rivers, national parks, national forests, national trails, or national waterfowl production areas; will not directly impact State critical areas, State wildlife management areas, State scientific and natural areas, State wild, scenic, and recreational rivers, State parks, State scenic wayside parks, State recreational areas, State forests, State trails, State canoe and boating rivers, State zoo, or

[125] Ex. 200, p. 22 (emphasis added).
[126] *Id*., p. 5.; Ex. 2, p. 52.
[127] *Id*.
[128] *Id*.
[129] Ex. 2, pp. 44, 51-60.

designated trout lakes; and will not directly impact any national historic sites and landmarks, national monuments, national register historic districts, registered State historic or archaeological sites, State historical districts, sites listed on the National Register of Historic Places, and any other cultural resources through which the route passes, as indicated by the Minnesota Historical Society.[130] Finally, the Project will have minimal impact on water or air resources and will not present significant noise issues given the rural location of the pump stations. MPL stated that it will address any localized noise concerns, if they arise.[131]

While being compatible with the natural environment, the Project *positively* impacts the socioeconomic environment.[132] The $125 million infrastructure investment in this Project will directly result in increased property tax benefits to the counties where the stations will be located. The Project will also create approximately 40 to 50 new construction jobs, creating work for local workers and providing additional input into the local economy from outside workers. MPL also anticipates adding a minimum of two new permanent positions at the existing station offices. These workers would be employed to observe and operate the system and to assist in emergency preparedness and response drills, and to oversee contractors performing maintenance work on the MPL System.

In addition to these positive impacts, the Project provides benefits to the State and regional economies by better ensuring a continued stable, reliable and efficient source of

[130] *Id.*; Ex. 200, p. 8.
[131] Ex. 2, pp. 47, 61-62; *See* Public Hearing Transcripts, Tab 4, pp. 30-31.
[132] Ex. 200, p. 7.

crude oil supply to the Minnesota Refineries. Given that MPL is the sole source for crude oil to the Refineries, and that the Refineries in turn are the source for most of the fuel and other refined products used in Minnesota, disruptions of delivery to the Refineries have a direct negative impact on end users due to fuel shortages and potential cost increases. The Project assists in alleviating those concerns by providing MPL the flexibility to shift volumes off of its Legacy System in order to perform maintenance, in the event of unplanned outages or slowdowns, and to increase efficiencies, all benefitting the State and the region.

In contrast to the Project, the trucking alternative would impose substantial impacts to the natural environment, including impacts associated with the construction of loading and unloading facilities, the increased risk of accident and substantial air emissions. Trucking also reduces the reliability of supply and would create significant traffic levels, imposing negative socioeconomic impacts.

The rail alternative would also require substantial construction of loading and unloading facilities and new rail lines. Moreover, rail transport also increases air emissions compared to the Project. As for socioeconomic impacts, the CER stated that:

> It is beyond the scope of this review to determine the extent of necessary rail build-out or the extensive human, economic and environmental impacts of significantly increasing the rail infrastructure in Minnesota. Considering the existing burden of transporting Bakken crude, the Minnesota Department of Transportation already anticipates the need to spend $244 million to make at-grade safety improvements at rail-highway crossings. Their recent study describes the problems of traffic delays, including emergency responder delays, and collision dangers from inadequate signaling and alerts. In some cases, these problems can only be solved by

> the high cost "grade separation" solution of building overpasses/underpasses to separate vehicle and train traffic on site.[133]

The new pipeline alternative would involve over 300 miles of new pipeline and new right-of-way acquisition, none of which is required by the Project. Obviously, such a major new construction effort would impose far greater impacts to the natural environment than the Project.

Finally, the WRPL alternative cannot provide the additional transport capability provided by the Project. Therefore, the WRPL alternative would either require supplemental truck or rail transport, creating the negative environmental and socioeconomic impacts discussed above or it would create greater risk of supply disruptions than the Project due to the lack of sufficient capacity. In either event, the WRPL alternative cannot meet the identified need in a manner more compatible with the natural and socioeconomic environments than does the Project.

4. The Project Will Perform Reliably And Will Enhance The Reliability Of The MPL System Compared To The Alternatives

The last factor the Commission examines regarding alternatives is "the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives."[134] Here again, no alternative can match or beat the reliability enhancements provided by the Project. As both MPL and DOC-EERA discussed, a variety of factors call the reliability of truck or rail transport into question, including the lack of necessary infrastructure, questionable equipment availability, increased risk of accident, weather,

[133] Ex. 200, p. 20 (emphasis added).
[134] Minn. R. 7853.0130 (B) (4).

and traffic congestion to name a few. In contrast, the Project utilizes the newest asset on the MPL System and increases the pumping capacity on that asset in order to allow for increased efficiencies and to enable MPL to meet the demands of the Minnesota Refineries even when some assets are taken out of service for planned or unplanned reasons. No alternative provides comparable reliability benefits as efficiently and cost-effectively as the Project.

5. No Alternative Better Meets The Identified Need Than The Project

As demonstrated by a consideration of the CON factors, the record conclusively demonstrates that the Project better meets the needs of MPL, the Minnesota Refineries, the State and the region than any alternative. Mr. O'Hair accurately summarized that:

> Compared to the alternatives, the Project will better ensure the safe and reliable delivery of crude oil to the only two refineries in Minnesota. Moreover, it will do so economically and in a manner more compatible with the natural and socioeconomic environment than the alternatives.[135]

The DOC-DER agreed, with Ms. Otis testifying that "none of the alternatives are superior to the Project."[136] As to impacts on the natural and socioeconomic environments specifically, the DOC-EERA found "the proposed Project clearly superior to any of the alternatives presented."[137] No record evidence rebuts these conclusions. As such, MPL has met the second criterion for the granting of a CON.

[135] Ex. 25, p. 11.
[136] Ex. 100, p. 49 (Otis Direct).
[137] Ex. 200, p. 22.

C. The Project Meets State And Regional Energy Needs In A Manner Compatible With Protecting The Natural And Socioeconomic Environments

For its third criterion, the Commission states that it will grant a CON when "the consequences to society of granting the certificate of need are more favorable than the consequences of denying the certificate."[138] In analyzing this question, the Commission considers: (1) the relationship of the proposed facility to overall state energy needs; (2) the effect of the proposed facility upon the natural and socioeconomic environments compared to the effect of not building the facility; (3) the effects of the proposed facility in inducing future development; and (4) socially beneficial uses of the output of the proposed facility.[139] This Initial Brief has already addressed these factors, as they overlap with the CON Rules' first two criteria. However, the key attributes of the Project will be highlighted again here.

1. The Project Fits The Overall State Energy Needs

As discussed in detail above, the Project fits Minnesota's and the region's overall energy needs by best assuring the continued adequacy, efficiency and reliability of crude oil supply to the Minnesota Refineries. The Project will increase the pumping capacity on the MPL System's newest pipeline – MPL Line 4 – enabling MPL to shift volumes to that pipeline from its Legacy System to perform maintenance and inspections, at times of unplanned outages or slowdowns and to improve the overall efficiency of the MPL System.

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[138] Minn. R. 7853.0130 (C).
[139] *Id*.

MPL is currently the only pipeline system supplying crude oil directly to the Minnesota Refineries. These Refineries produce the vast majority of transportation fuels and other refined products on which Minnesotans rely, such as heating fuels and asphalt. The Refineries also help meet regional demand, supplying refined products to surrounding states. However, the MPL System currently operates at close to capacity, meaning any planned or unplanned outages on the MPL System threaten the supply of crude oil to the Refineries. Such shortages in crude oil supply have the potential to impose severe negative impacts on the State and regional economies and on the people of Minnesota. Given the Minnesota Refineries' continued and modestly increasing demand for crude oil, as established in this record, the Project plays a key role in Minnesota's energy future. The DOC-DER agreed, stating that "denial of the CON would adversely affect the supply of refined petroleum products available to the people of Minnesota and surrounding states."[140]

2. The Project Has Less Negative Effect Upon The Natural And Socioeconomic Environments Than Not Building The Facility

The record establishes an ongoing and modestly increasing demand for crude oil from MPL's shippers, the Minnesota Refineries. The record also establishes that the current MPL System operates at close to capacity. Without the additional pumping capacity made possible by the Project, MPL cannot shift capacity to MPL Line 4 when needed to address planned or unplanned outages and the MPL System will lack sprint capacity when needed to address prior shortfalls due to outages or slowdowns. This lack

[140] Ex. 100, p. 48 (Otis Direct).

of current capacity has potentially severe consequences for the continued adequacy, reliability and efficiency of energy supply to the State and region. Simply put, both MPL and DOC-DER agree that "no action" is not an option as shortages of crude oil and, in turn, shortages of refined products, can cause substantial harm to the State and regional economies and to consumers of those refined products.

DOC-EERA agreed that taking no action "would likely have negative socioeconomic impacts."[141] As the CER states:

> If MPL could not supply the anticipated demand to the two Minnesota refineries, that could result in shortages. Fuel prices are in no small part supply and demand driven. Shortages or higher prices could hamper Minnesota businesses that rely on a steady supply of fuel. There would be direct and indirect impacts on Minnesota consumers as well. If other more expensive transportation solutions were required to maintain a reliable source of crude oil to the refineries, that would also raise fuel prices for all Minnesota consumers and businesses.[142]

DOC-EERA also agreed that, assuming the ALJ and Commission affirmed the continued demand for crude oil supply, if the Project does not move forward oil transportation alternatives will be required to meet the need.[143] As the CER states:

> [S]ince the status quo does nothing to address the stated need, the no action alternative would require MPL to identify other transportation systems to deliver product to the refineries. Any of these other alternatives may result in environmental impacts that are equal to or greater than those of the currently proposed Project. So, the no action alternative would not necessarily reduce or eliminate impacts to the natural environment.[144]

In fact, as discussed in Section III, B, 3, above, the alternatives to the Project (truck, rail, a new pipeline or re-activating the Wood River Pipeline) all impose greater

[141] Ex. 200, p. 10.
[142] *Id*.
[143] *Id*.
[144] *Id*.

environmental and socioeconomic costs that the Project. As the CER concluded, "EERA's analysis finds the proposed Project clearly superior to any of the alternatives presented."[145]

3. Consideration Of Induced Future Developments Supports The Project

The Project creates a number of positive socioeconomic impacts due to the development it will likely spur. Among those benefits, the Project will build local tax bases by approximately $125 million, create 40 to 50 construction jobs as well as some permanent jobs, and contribute to the State and regional economies by maintaining a safe, adequate, reliable and efficient source of crude oil to the Minnesota Refineries.

The need for new pump stations also drives a parallel need for electric power lines to the six remote pump station sites. The shortest distance that power lines will be constructed from is 3/4 of a mile, and the longest is approximately 18 miles and will be constructed in accordance with local or State permitting requirements, as appropriate.[146]

No other new or expanded utilities or public services are required as a result of the Project and any other induced development impacts are expected to be minimal.[147] For example, water will be needed for hydrostatic testing of the piping at each pump station prior to placing it into service. MPL estimates that an approximately 50,000 gallon one-time appropriation of water will be needed at each station and the appropriation will be conducted in accordance with all applicable regulations. In addition, it is possible that

[145] *Id.*, p. 22.
[146] Ex. 2, p. 67.
[147] *Id*.

small quantities of water may be needed for dust suppression purposes within the construction areas.[148]

Over the course of construction, daily local vehicular traffic will increase, but any increase is not expected to appreciably impact peak-hour traffic. Subsequent to construction, vehicular traffic at new sites resulting from this work is estimated to be approximately four visits per week by pickup truck type service vehicles.[149]

Finally, no farms will be affected by pipeline construction and no persons will have to relocate as a result of construction, as MPL Line 4 is already in place.[150]

As the DOC-DER concluded:

> [T]he effect of the proposed Project on inducing development would be minimal with the exception of the electric utility infrastructure that may be required to connect the new pump stations to the grid. No relocation of human populations would be necessary, and water and road use would be limited to the construction period and would appear to be minimal enough to be serviced by existing infrastructure.[151]

4. Society Will Benefit By The Construction Of The Project

For all of the reasons discussed above, the Project provides substantial overall benefits to society. It does so by assuring that the Minnesota Refineries will continue to have sufficient and reliable crude oil supplies to meet demand for transportation fuels and other products. These Refineries that depend on the MPL System also responsible for thousands of jobs and are a major source of community investment and the fuels and other products these refineries produce – gasoline, diesel, jet fuel, asphalt and other

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[148] *Id*.
[149] *Id*., p. 68.
[150] *Id*.
[151] Ex. 100, p. 44 (Otis Direct).

petroleum-based products – remain essential to the economy and modern life. The Project provides a critical means of maintaining adequate supplies of these products while also maintaining the long-term safety and reliability of the MPL System. Moreover, it achieves this result more efficiently, more cost effectively and with less impact to the natural environment than any alternative. As Ms. Otis testified, "the Project would provide a benefit to society (the people of Minnesota and surrounding states) by ensuring the adequacy of an essential feedstock used by the Minnesota Refineries to produce essential transportation fuels used by society."[152]

5. The Project Is Compatible With The Natural And Socioeconomic Environments

The record establishes that the Project can meet State and regional energy needs in a manner compatible with the natural and socioeconomic environments. In fact, the record establishes that the Project provides greater socioeconomic benefits and imposes less impact on the natural environment than alternatives. In the words of DOC-EERA, the Project is "clearly superior to any of the alternatives." The DOC-DER agreed, with Ms. Otis testifying on the CER that: "I accept its conclusion that the proposed Project would have the least effect on the natural and socioeconomic environments compared to the alternatives in the record. Thus, I conclude that the proposed Project satisfies Minnesota Rules part 7853.0130(C)."[153] No record evidence supports another conclusion. Thus, MPL has met the third criterion of the CON Rules for the granting of a CON.

[152] Ex. 100, p. 46 (Otis Direct).
[153] Ex. 102, p. 10 (Otis Surrebuttal).

D. The Project Will Comply With Relevant Policies, Rules, And Regulations Of Other State And Federal Agencies And Local Governments

The final criterion used by the Commission in determining need states that a CON will be granted if:

> it has not been demonstrated on the record that the design, construction, or operation of the proposed facility will fail to comply with those relevant policies, rules, and regulations of other state and federal agencies and local governments.[154]

Once again, the Project undeniably meets this criterion. The record presents a full list of the relevant regulatory authorities with respect to this Project and MPL has committed to pursue all necessary permits for the Project.[155] In addition, KPL, as operator of the MPL System, strives for excellence in regulatory compliance and emphasizes the need for such compliance throughout its operations.[156] As stated in the Application:

> MPL has proven through its relationship with KPL that it is able to successfully build, operate and maintain pipelines and associated facilities in the State of Minnesota and elsewhere with a high degree of safety, reliability, efficiency and integrity. KPL and MPL partner with local, regional and federal governments and agencies to maintain safe and efficient operation and maintenance of their pipelines and associated facilities. The design, construction and operation of the proposed pump stations will comply with all applicable policies, rules and regulations of other state and federal agencies and local governments.[157]

Once again, DOC-DER agreed, stating that:

> The record of this proceeding provides <u>no information</u> that the final design, construction or operation of the proposed Project will fail to comply with

[154] Minn. R. 7853.0130 (D).
[155] Ex. 2, pp. 4-5.
[156] *See id*., pp. 14, 18, 63.
[157] *Id*., p. 70.

relevant policies, rules, and regulations of other local, state and federal governments.[158]

E. Summary On Need

The CON Rules provide as follows:

A certificate of need shall be granted to the applicant if it is determined that:

> A. the probable result of denial would adversely affect the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states, . . .
>
> B. a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record by parties or persons other than the applicant, . . .
>
> C. the consequences to society of granting the certificate of need are more favorable than the consequences of denying the certificate, . . . and
>
> D. it has not been demonstrated on the record that the design, construction, or operation of the proposed facility will fail to comply with those relevant policies, rules, and regulations of other state and federal agencies and local governments.[159]

MPL has demonstrated that the Project meets each of these criteria. The DOC-DER, the only other party to this proceeding, agrees. As Ms. Otis testified:

> I concluded in my Direct Testimony that MPL had generally satisfied the criteria for a CON under Minnesota Rules part 7853.0130(A), (B), and (D). . . . I reserved my final conclusion as to whether or not the Applicant had satisfied Minnesota Rules parts 7853.0130(B)(3) and 7853.0130(C) (whether the consequences to society of granting the CON are more favorable than the consequences of denial). After reviewing DOC-EERA's Environmental Analysis, I accept its conclusion that the proposed Project would have the least effect on the natural and socioeconomic environments compared to the alternatives in the record. Thus, I conclude that the proposed Project satisfies Minnesota Rules part 7853.0130(C). I therefore

[158] Ex. 100, p. 48.
[159] Minn. R. 7853.0130 (emphasis added).

> recommend that the Commission approve MPL's request for a CON in this matter.[160]

Given the uncontroverted record evidence that MPL has satisfied each of the criteria under the CON Rules, the ALJ should recommend and the Commission should grant a CON for the Project.

IV. ATTACHING CONDITIONS TO THE GRANTING OF A CON

DOC-DER witness Ms. Otis concluded that MPL met all of the necessary rule criteria and therefore recommended the granting of a CON. Despite this conclusion, Ms. Otis nonetheless recommended, in her Surrebuttal Testimony, that the Commission condition the CON by requiring MPL to implement a "neutral footprint" action plan. Ms. Otis recommended that the Commission:

> condition its approval on requiring MPL to conserve an acre for every acre of natural habitat protected (sic), plant a tree for every tree that must be removed to build new facilities, and generate a kWh of renewable energy for every kWh of energy consumed by the project by purchasing green power or participating in other programs to offset the energy it consumes at the Project's pump stations.[161]

Ms. Otis subsequently refined her recommendation to state that the "renewable kWh" requirement she envisions would apply only to any incremental electric usage on the entirety of the MPL System when comparing total usage pre-Project and post-Project.[162] Ms. Otis further modified her recommendation to state that rather than

[160] Ex. 102, p. 10 (Otis Surrebuttal).
[161] *Id.*, p. 11.
[162] Tr. Vol. 1, pp. 46-47, 49-50 (Otis).

directly generating or purchasing renewable electricity, MPL could satisfy her recommended condition by purchasing renewable energy credits ("RECs").[163]

Ms. Otis states that her recommendation "is consistent with the Commission's recent order for a similar project" – the Enbridge Line 67 upgrade project, MPUC Docket No. PL-9/CN-13-153 ("Line 67 Docket").[164] However, given that the record conclusively establishes that MPL meets the necessary criteria for a CON, the Commission cannot simply layer on a new requirement that was discussed in a different proceeding. Moreover, the record developed in the Line 67 Docket bears little resemblance to the current record. Significantly, in the Line 67 Docket Enbridge itself introduced the "neutral footprint" concept by declaring it to be a voluntary effort the company was pursuing. The numerous factual differences between the record developed for the Line 67 Docket and the record developed for the Project make transposition of Enbridge's policy into a condition to be placed on MPL wholly inappropriate. Finally, Ms. Otis' recommended condition, if adopted in this and other CON proceedings, would set potentially harmful precedent and create unintended adverse consequences. For all of these reasons, her recommended condition must be rejected.

A. Neither Minnesota Statutes Nor Commission Rules Provide For Conditions To Be Attached To A CON When The Record Demonstrates That All Relevant Criteria Have Been Met

With or without a "neutral footprint" program, the record conclusively demonstrates that MPL has met all four CON Rule criteria for the granting of a CON.

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[163] *Id*., p. 41.
[164] *See id.* and Ex. 102, p. 5.

The DOC-DER agreed that society will benefit from the granting of a CON, with or without the "neutral footprint" condition attached, and the DOC-EERA found the Project to be "clearly superior" to the alternatives when considering socioeconomic and natural environmental impacts. As such, the ALJ and Commission have no basis to impose a program voluntarily adopted and agreed to by another applicant in another proceeding. Indeed, nothing in Minnesota law provides authority for the Commission to require additional actions by an applicant once that applicant has already established that its project passes muster under the Commission's criteria for granting a CON. In fact, as discussed in Section II, above, the CON Statute does not even contemplate a CON being required for an increase in the pumping capacity on an existing pipeline. While the CON Rules do expand the definition of a large energy facility to include such an increase in pumping capacity, the CON Rules explicitly state that the Commission "shall grant" a CON upon determining that the criteria have been met. MPL has met those criteria and a CON should be granted to the Project so that the State and region can realize the benefits it provides.

B. The Enbridge Line 67 Upgrade Project And The Record Developed In That Proceeding Are Substantially Different Than The Current Project And The Current Record

To the extent that the ALJ and Commission consider the "neutral footprint" condition at all, an examination of the numerous factual differences in the Line 67 record and the current record demonstrate that such a condition is misplaced with respect to the

Project. Enbridge operates internationally and across multiple states.[165] Line 67 is a 999 mile pipeline that runs from Alberta, Canada, through North Dakota and Minnesota, to Superior Wisconsin.[166] Line 67 is a part of and connected with Enbridge's Mainline System, a system of pipelines extending throughout the United States and Canada, forming the largest pipeline system in the world.[167]

The Line 67 upgrade project proposed to increase the capacity on Line 67 by 230,000 barrels per day to meet increased shipper demands and "to relieve the bottleneck of capacity that shippers are currently experiencing on the Enbridge system."[168] That increased demand came from a huge geographic region, stretching as far as Texas and the Gulf Coast.[169] Thus, the Line 67 upgrade project was designed to ship significantly *more* crude oil *through* the State of Minnesota, to *unspecified* out-of-state destinations.[170]

Since the project was designed to deliver significantly more crude oil to end users, and given the location of Line 67, the Commission specifically found that "if the Commission grants the Certificate of Need, then the production, transportation, and consumption of the Canadian oil sands crude oil will have environmental consequences."[171] However, the Line 67 record did not have the advantage of a CER

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[165] *See* Line 67 Docket, Order Granting Certificate of Need, November 7, 2014 ("Line 67 Order"), p. 4.
[166] *Id.*
[167] *Id.*, p. 5.
[168] *Id.*, pp. 5-6.
[169] *Id.*, p. 7.
[170] Tr. Vol. 1, p. 29 (Baker).
[171] Line 67 Order, p. 29.

prepared by the DOC-EERA that could assist the Commission in its consideration of those consequences.[172]

Given the nature of the Enbridge project, the Line 67 Docket was hotly contested, as demonstrated throughout the Line 67 Order. During the course of the proceeding, perhaps in an effort to diffuse some of the controversy regarding the environmental impacts that may be associated with its project, Enbridge testified that it has adopted a voluntary "neutral footprint" goal of offsetting any environmental costs associated with its new projects.[173] Enbridge acknowledged that its project would create certain negative environmental impacts, but the Commission stated that "Enbridge proposes to partially offset these environmental harms via its 'neutral footprint' program."[174] Given Enbridge's declared goals and intentions, and given the Commission's finding that granting the CON to Enbridge would have negative environmental consequences, the Line 67 Order simply held Enbridge to its stated intentions.

In contrast, the Project is designed to bolster the reliability and efficiency of the MPL System. The MPL System lies entirely within the State of Minnesota and provides the sole source of pipeline supply to Minnesota's two refineries – the only two shippers on the MPL System. MPL is not pursuing the Project in order to ship significantly higher volumes. Rather, the record demonstrates steady to modestly increasing demand from MPL's two shippers. In addition, given its reliability and efficiency focus, the Project is

[172] Tr. Vol. 1, p. 44 (Otis) (a review was done when Line 67 was originally constructed but no report was prepared for the Line 67 Docket).
[173] *Id.*, p. 6.
[174] *Id.*, p. 23.

expected to *reduce* MPL's total electric energy use.[175] As the record demonstrates, when MPL moves barrels from its Legacy System to MPL Line 4, it sees a reduction in electric use on a per barrel basis due to the larger diameter pipe and more efficient motors on MPL Line 4.[176] In fact, MPL anticipates a 37 percent reduction in energy use on a per barrel basis when it transfers volumes from the Legacy System to MPL Line 4.[177] Combining this fact with the fact that MPL does not forecast a significant increase in total throughput on the MPL System, means that the Project is expected to result in a reduction in overall energy use on the MPL System.[178] The current docket also benefits from the CER prepared by DOC-EERA which concluded that as to impacts to the natural and socioeconomic environments, the Project was "clearly superior to the alternatives." Given these facts, it is not surprising that the current docket shows little controversy and no record evidence contesting the need for the Project.

The record of this proceeding demonstrates that the Project is radically different than the Line 67 project in scope, purpose and impact. As such, a Commission decision to hold Enbridge to its voluntary goal regarding a "neutral footprint" program, made during the course of a fiercely contested proceeding, cannot be turned into a "requirement" on MPL or future CON applicants.

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[175] *Id.*
[176] *Id.*, pp. 29-30.
[177] *Id.*, p. 30.
[178] *Id.*

C. Conditioning Large Energy Projects As Recommended By The DOC-DER Sets Dangerous Precedent And Could Create Unintended Consequences

Despite concluding that the Project meets all of the criteria necessary for a CON, DOC-DER witness Ms. Otis recommends that the Commission require MPL to conserve an acre for every acre of natural habitat impacted, plant a tree for every tree that must be removed to build the Project and generate a kWh of renewable energy for every kWh of energy consumed by the Project. Such requirements, if imposed on all future large energy facilities seeking a CON, could chill development of necessary new infrastructure and create other adverse impacts. For these reasons too, Ms. Otis' recommendation should be rejected.

As discussed above, the DOC-DER bases its recommendation on the fact that Enbridge announced in another docket that it had adopted the policy goal of a "neutral footprint" for its new pipeline projects and that the Commission then chose to hold Enbridge to its stated goal. Of course, it is not just pipeline projects that can impact acreage, require tree removal, or consume other forms of energy during their construction or operation. Any new large energy facility can have such impacts.

Imposing the neutral footprint policy on new large energy facilities as recommended by DOC-DER could dramatically increase the cost of such projects. For example, a major new transmission line project could require "conservation" of hundreds of acres and planting of thousands or even tens of thousands of trees. The proposer of such a project would need to first determine if it could even comply with such a requirement. It is unclear how or where a proposer would acquire the necessary land to

"conserve" an acre for every acre impacted or where it would plant the thousands of trees necessary for compliance. Of course, even if the proposer could comply, the cost of compliance would then then be borne by customers. If the proposer determined that compliance was either infeasible or prohibitively expensive, needed infrastructure (infrastructure meeting all of the CON Rules criteria for a Certificate of Need) may never be built, adversely impacting the State and the public.

Creating new requirements such as the "neutral footprint" requirement for projects requiring a CON could also encourage pursuit of alternatives not requiring a CON, but that impose far greater environmental costs on society. For example, in the current docket, the DOC-EERA determined that the Project is "clearly superior" in its environmental impacts than either a trucking or rail alternative. However, no regulating authority has jurisdiction over trucking or rail such that it could impose a "neutral footprint" requirement on those alternatives. Thus, if MPL or its shippers determined that they did not wish to bear the cost of a neutral footprint requirement, they could avoid that cost entirely by choosing an unregulated alternative – an alternative that DOC-EERA has stated creates a greater negative impact on the environment.

In summary, the "neutral footprint" recommendation of the DOC-DER must be rejected for multiple reasons. First, neither the CON Statute nor the CON Rules provide for additional requirements to be placed on the proposer of a new large energy facility, when the proposer has already demonstrated that it meets all of the requirements for a CON. Second, the Enbridge Line 67 matter, on which DOC-DER witness Ms. Otis bases her recommendation, is a far different project, with far different underlying facts, making

transposition of Enbridge's neutral policy goal on to the current Project inappropriate. Finally, creating a new requirement of a neutral footprint policy could chill future development and could create unintended adverse consequences on the environment and on consumers.

CONCLUSION

The uncontroverted record of this proceeding demonstrates that MPL has met all of the criteria necessary for the granting of a CON. The preponderance of the evidence in the record demonstrates that: (1) the Project will help ensure the continued safe, adequate, reliable and efficient supply of crude oil to the Minnesota Refineries (2) denial of a CON would adversely impact the people of Minnesota and neighboring states; (3) no more reasonable and prudent alternative can meet the needs met by the Project; and (4) the Project provides benefits to society. MPL therefore respectfully requests that the Administrative Law Judge recommend to the Commission and that the Commission grant MPL a Certificate of Need for the Minnesota Pipe Line Reliability Project.

Dated: April 9, 2015

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