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November 22, 2019

VIA E-FILING

Mr. Dan Wolf
Minnesota Public Utilities Commission
350 Metro Square Building
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Re: Reply Comments, In re Application Of Enbridge Energy, Limited Partnership For A Certificate Of Need For The Line 67 Station Upgrade Project – Phase 2, MPUC Docket No. PL9/ CN-13-153

Dear Mr. Wolf:

Attached hereto for electronic filing is Enbridge Energy, Limited Partnership's Reply Comments under the above-captioned docket. A certificate of service is also attached.

Please contact me if you have any questions regarding this filing.

Very truly yours,

/s/ John R. Gasele

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Minnesota Public Utilities Commission**

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John Tuma
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Commissioner

<p>IN THE MATTER OF THE APPLICATION OF ENBRIDGE ENERGY, LIMITED PARTNERSHIP FOR A CERTIFICATE OF NEED FOR THE LINE 67 STATION UPGRADE PROJECT – PHASE 2</p>	<p>DOCKET No. PL9/ CN-13-153</p> <p>NEUTRAL FOOTPRINT PROGRAM REPLY COMMENTS</p> <p>November 22, 2019</p>
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INTRODUCTION

Enbridge’s neutral footprint compliance filing on October 1, 2019 presented Enbridge’s plan to comply with the Commission’s Order Clarifying Neutral Footprint Objectives and Requiring Compliance Filing, as issued on August 18, 2017 (the “Order”).¹ Enbridge’s modest proposal, filed on October 1, 2019, would provide needed procedural flexibility to Enbridge and create a simple annual reporting structure allowing Enbridge to meet its obligations under the Order for decades to come. The Minnesota Department of Commerce’s Reply Comments, filed on November 15, 2019 (the “Department Comments”), raise three issues with Enbridge’s plan. The Department’s comments address the amount of energy Enbridge must offset, raise concerns regarding nationally-recognized Renewable Energy Credit (“REC”) tracking systems, and oppose Enbridge’s streamlined reporting process. Enbridge requests that the Commission authorize the compliance plan proposed by Enbridge in its October 1, 2019 Neutral Footprint Program Compliance Filing for the reasons discussed in these reply comments.

¹ Order Clarifying Neutral Footprint Objectives and Requiring Compliance Filing, MPUC Docket No. PL-9/CN-13-153, August 18, 2017 (the “Order”).

REPLY COMMENTS

I. The Department seeks to expand the Commission’s Order by requiring Enbridge to offset more capacity than permitted for the Phase 2 project.

The Order requires Enbridge to retire RECs equivalent to the energy used for the Phase 2 Project, which is, any energy required to move more than 570,000 barrels per day on an annual average basis. The Phase 2 project expanded the capacity from 570,000 barrels per day (“bpd”) to 800,000 bpd.² Enbridge’s proposal provides an accurate baseline from which to establish that figure.³ As noted, Enbridge shipped less than the full capacity of the Phase 1 upgrade during the ten months that project was operational before the Phase 2 upgrade came online.⁴ This is a small sample, but is the only data that can be used to set a baseline for prior energy consumption. That baseline is critical because it will determine the number of RECs to be purchased by Enbridge for decades to come. Enbridge’s proposal uses the two months where the pipeline operated as close as possible to 570,000 bpd.⁵ The average of the power consumed to move those volumes provides a baseline figure that comes from actual, real-world operation of the pipeline.

The Department, on the other hand, urges use of the average power required over all ten months that the Phase 1 project was in operation.⁶ Using that figure would expand the scope of Enbridge’s kilowatt-for-kilowatt requirement and the scope of the Order. The Department’s calculation, if accepted by the Commission, would require Enbridge to purchase RECs to offset power consumed to move volumes below 570,000 bpd. The Order, as explained below, requires Enbridge to offset the power to operate the pipeline at capacities above 570,000 bpd only.

The Order applies only to the capacity of the Phase 2 project. As noted above, the Order states “the Commission directs Enbridge to calculate the incremental amount of nonrenewable energy *consumed by the Phase 2 project dating to the operational date of that project.*”⁷ The Order goes on, noting that, “In accepting Enbridge’s pledge to implement its Phase 2 project in a manner that maintained a carbon-neutral footprint, *the Commission understood this pledge to apply to the Phase 2 project from the very start of its operations—that is, from July 1, 2015.*”⁸

² Order, p. 1, 5.

³ Neutral Footprint Program Compliance Filing, MPUC Docket No. PL-9/CN-13-153, October 1, 2019, p. 2, Attachment A (the “October 1 Compliance Filing”).

⁴ October 1 Compliance Filing, p. 2.

⁵ *Id.*

⁶ Compliance Comments of the Minnesota Department of Commerce, Division of Energy Resources, MPUC Docket No. PL-9/CN-13-153, November 15, 2019, p. 5-7 (the “Department Comments”).

⁷ Order, p. 2 (emphasis added).

⁸ Order, p. 4 (emphasis added).

Ultimately, the Commission ordered Enbridge to “offset all the incremental increase in nonrenewable energy *consumed by the Phase 2 project* since the project became operational.”⁹ It is undisputed that the Phase 2 project increased the pipeline’s permitted capacity from 570,000 to 800,000 bpd.¹⁰

The discussion between Enbridge and the Commission at the time the Phase 2 project was authorized confirms that the kilowatt-for-kilowatt program only applies to Phase 2. The addition of the REC requirement occurred by motion at the end of the August 28, 2014 Commission hearing on Enbridge’s Certificate of Need application for the Phase 2 project. At that hearing, Commissioner Lange reviewed Enbridge’s neutral footprint commitment with respect to Phase 2, stating “those objectives should be applied to this project as well . . .”¹¹ At the time, Enbridge’s commitment consisted of “conserving an acre for every acre of natural habitat impacted, planting a tree for every tree that must be removed to build new facilities, and generating a kilowatt hour of renewable energy for every kilowatt hour the Phase 2 energy operations consume.”¹² Commissioner Lange went on to state that the motion was to mitigate the impacts of the Phase 2 project.¹³ Counsel for Enbridge then confirmed that the motion would apply only to Phase 2.¹⁴ Offsetting a portion of the energy required to operate a prior upgrade is not discussed anywhere in the Line 67, Phase 2 docket.

The Department’s calculation is based on a sentence in the Order that restates the general positions of the Department and Enbridge at the time of the Commission meeting that resulted in the Order.¹⁵ That sentence is as follows: “To measure the energy that the Phase 2 project consumes, the parties generally agree that Enbridge should compare its rate of energy consumption prior to July 1, 2015, when Phase 2 became fully operational, to its rate of consumption afterwards.”¹⁶ The Department interprets this sentence as the Commission’s actual order, and thereby claims that Enbridge must calculate all offsets based on whatever power

⁹ Order, p. 5 (emphasis added).

¹⁰ Order Granting Certificate of Need, November 7, 2014, MPUC Docket No. PL-9/CN-13-153, p. 1, 31.

¹¹ Transcript, August 14, 2014 Deliberations, MPUC Docket PL-9/CN-13-153, p. 234: 18-25, p. 235: 1-8.

¹² Transcript, August 14, 2014 Deliberations, MPUC Docket PL-9/CN-13-153, p. 235: 9-14.

¹³ Transcript, August 14, 2014 Deliberations, MPUC Docket PL-9/CN-13-153, p. 235: 22-25.

¹⁴ Transcript, August 14, 2014 Deliberations, MPUC Docket PL-9/CN-13-153, p. 236: 10-20 (Arshia Javaherian, Counsel for Enbridge, stating “I believe I understand it correctly, that we are talking about the pumps specific to this project which will create new kilowatt hours, as well as the land that we’re talking about just for this part of the project . . . So I just wanted to clarify that we’re just talking about the new – any new impacts.”).

¹⁵ Department Comments, p. 5.

¹⁶ *Id.*; Order, p. 3.

Enbridge consumed prior to Phase 2 entering service.¹⁷ That interpretation is incorrect. The final Order, and the record in this docket, make it clear that the Order applies only to the energy consumed by the Phase 2 upgrade project. Enbridge's proposed compliance method provides the baseline needed to calculate that figure.

Enbridge is fully committed to offsetting the power required to operate the Phase 2 upgrade on the terms understood by Enbridge and the Commission at the hearing that authorized the Phase 2 project, and as stated in the Order. The Order, supported by the record in this docket, applies only to the energy needed to transport the capacity permitted for the Phase 2 project. Enbridge is not required to offset the electricity used to transport capacity that Enbridge had the authority to transport in Minnesota under a prior Commission order.¹⁸ Enbridge's proposed compliance methodology complies with the Order and should be adopted by the Commission.

II. ERCOT, M-RETS, and NAR do not allow double counting, and Enbridge should be allowed to purchase RECs in all three systems.

Enbridge will purchase RECs each year to comply with the Order, regardless of the calculation used to establish the baseline. Enbridge's proposal would allow these RECs to be purchased within three well-established, reliable REC tracking and exchange systems. The Department, however, argues that Enbridge should not be able to utilize RECs purchased and retired in the ERCOT system or through the North American Renewables Registry ("NAR"). The Department's support for its position is that there is no evidence that RECs purchased and retired in one system cannot be retired in another system.¹⁹ Enbridge has no intent to double-count RECs, and ERCOT, NAR, and M-RETS have strong mechanisms to prevent double-counting.

The Department does acknowledge that each system utilizes unique, serialized tracking of RECs, and has previously acknowledged that REC tracking systems other than M-RETS prevent double-counting.²⁰ But the Department goes on to claim that it does not know if other systems, such as ERCOT or NAR, would allow RECs counted in another tracking system to also be counted in their system.²¹ Documents and information from ERCOT, NAR, and M-RETS demonstrate that double counting is not a risk.

¹⁷ Department Comments, p. 5.

¹⁸ The record of the Phase 1 expansion project contains no discussion of RECs. Order Granting Certificate of Need, August 12, 2013, MPUC Docket No. PL-9/CN-12-590.

¹⁹ Department Comments, 4.

²⁰ Department Comments, p. 4; Transcript, August 14, 2014 Deliberations, MPUC Docket PL-9/CN-13-153, p. 240: 11-19.

²¹ Department Comments, p. 4.

ERCOT, NAR, M-RETS, and other tracking systems exist only to provide reliable tools to track, ensure the validity, and prevent double-counting of RECs. M-RETS accepts transfers from NAR, which also accepts RECS from ERCOT.²² It is unreasonable to suggest that M-RETS would accept RECs from or export RECs to another tracking system if double counting was possible. Indeed, all three tracking systems have specific procedures to prevent double counting.

ERCOT requires all REC generators that participate in its tracking system to be certified by the Public Utilities Commission of Texas.²³ All certified REC generators must report production to ERCOT, which must be solely produced from and attributable to that generator.²⁴ The RECs are individually serialized for tracking.²⁵ Once a REC is retired, it is removed from the owner's account and the unique serial number is retired, which makes the REC unusable for any other purpose.²⁶ ERCOT maintains records of how each and every REC is retired.²⁷ This prevents double-counting within the ERCOT system.

NAR also prohibits double counting. Like ERCOT, NAR requires generation assets to be registered with NAR.²⁸ NAR also requires 100% of the power generated by the registered asset to be tracked by NAR. This is to ensure that double-counting does not occur.²⁹ NAR tracks each individual, serial-numbered REC until it is transferred out of the NAR system.³⁰ The REC serial number also identifies the registry in which the REC originated, so a REC moved to the NAR system from ERCOT, which is an allowed transfer, will be so identified.³¹ RECs in the NAR

²² *REC Imports & Exports*, M-RETS website (available online at <https://www.mrets.org/registries/>) (last visited November 19, 2019); (“The North American Renewables Registry tracks certificates originating from NAR. Certificates from ERCOT, MIRECS, M-RETS, NC-RETS, and WREGIS can be imported into NAR.”); *see also* NAR Imported Facilities Report (available online at <https://narenewables2.apx.com/myModule/rpt/myrpt.asp?r=113>) (last visited November 19, 2019).

²³ ERCOT Nodal Protocols, § 14.4 (1), November 1, 2019 (available online at <http://www.ercot.com/mktrules/nprotocols/current>) (last visited November 19, 2019); Substantive Rule 25 of the Public Utility Commission of Texas §25.173(e) (available online at <http://www.puc.texas.gov/agency/ruleslaws/subrules/electric/25.173/25.173.pdf>)

²⁴ ERCOT Nodal Protocols, § 14.5.1(1).

²⁵ Texas Rule 25, § 25.173(1)(3).

²⁶ ERCOT Nodal Protocols, § 14.10(1).

²⁷ ERCOT Nodal Protocols, § 14.10(1).

²⁸ NAR Operating Procedures, § 2.1, November 2018 (available online at <http://apx.com/wp-content/uploads/2018/11/NAR-Operating-Procedures-November-2018.pdf>) (last visited November 19, 2019).

²⁹ NAR Operating Procedures, § 5.1.

³⁰ NAR Operating Procedures, § 2.1.

³¹ NAR Operating Procedures, § 7.1, Table 1; *see also* NAR Frequently Asked Questions (available online at <https://apx.com/registries/nar-1/faqs/>) (last visited November 19, 2019) (“The North American Renewables Registry tracks certificates originating from NAR. Certificates from ERCOT, MIRECS, M-RETS, NC-RETS, and WREGIS

system are retired by moving them into a retirement sub-account. Once retired, the REC cannot be moved or transferred to any other account or account holder.³² NAR also allows account holders to generate retirement compliance reports that show certificates that have been retired, their date of retirement, and whether they have been imported from other registries.³³ RECs that are exported from NAR cannot be retired within the NAR system, rendering double-counting impossible.³⁴

M-RETS has similar protections. Just like ERCOT and NAR, a generator that utilizes the M-RETS system must report all of its generation output in M-RETS in order to prevent double-counting among registries.³⁵ M-RETS utilizes a very similar system to that of NAR. A retirement sub-account is used as a repository for RECs that are being retired.³⁶ A REC that is retired in M-RETS cannot be transferred to another party or another account; the retirement sub-account is, in the words of M-RETS, the “last resting place” for a REC.³⁷ Retired RECs cannot be withdrawn from the retirement sub-account.³⁸ The sub-account also shows the serial numbers, dates of retirement, and reason for retirement, and enables viewing of the characteristics, such as the vintage of retired RECs.³⁹ M-RETS allows RECs to be imported and exported among compatible registries.⁴⁰ RECs that originate in another tracking system are given a serial number that identifies its origin.⁴¹ M-RETS only allows RECs to be transferred to and from compatible tracking systems, where M-RETS is satisfied that the tracking system has appropriate standards regarding the security and integrity of the RECs, and is done through protocols established between M-RETS and other tracking systems.⁴² These protocols prevent double-counting

can be imported into NAR.”); *see also* NAR Imported Facilities Report (available online at <https://narenewables2.apx.com/myModule/rpt/myrpt.asp?r=113>) (last visited November 19, 2019).

³² NAR Operating Procedures, § 3.3.

³³ NAR Operating Procedures, § 11.

³⁴ NAR User Guide, p. 31 (available online at <https://apx.com/registries/nar-1/documents/>) (last visited November 19, 2019).

³⁵ M-RETS Operating Procedures, § 3.3, May 3, 2016, (available online at <https://www.mrets.org/wp-content/uploads/2014/03/Operating-Procedures-.pdf>) (last visited November 19, 2019).

³⁶ M-RETS Operating Procedures, § 4.2.

³⁷ *Id.*

³⁸ *Id.* at § 4.2.2.

³⁹ *Id.* at § 14.1.

⁴⁰ *Id.* at § 15.

⁴¹ *Id.* at § 15.1.

⁴² *Id.* at § 15.

between multiple tracking systems.⁴³ M-RETS also provides reporting tools that can be used to verify compliance.⁴⁴

ERCOT, NAR, and M-RETS systems all have procedures to prevent double-counting. RECs are serialized and tracked across all three systems. The system operators have procedures that prevent double-counting of RECs across the registries. It is impossible to purchase a REC in one system, export it to another, and then retire the same REC in both systems. There should be no concern about double counting.

Enbridge's request to utilize ERCOT, NAR, and M-RETS is reasonable. As noted in Enbridge's October 1, 2019 comments, Enbridge needs access to a large pool of RECs to ensure that it can economically comply with the kilowatt-for-kilowatt requirement over the decades that the Phase 2 upgrade will be operational.

III. Enbridge should not be required to consolidate RECs, and the shelf-life of RECs is recorded and can be reported.

The Department also requested that Enbridge clarify whether RECs would be consolidated into M-RETs, and address the shelf-life of a REC. The Order does not require Enbridge to consolidate RECs in one tracking system, but rather to demonstrate that double-counting is not possible. Enbridge believes it has met this burden with respect to M-RETS, ERCOT, and NAR. Enbridge does not believe that consolidation should be required since double counting is not possible, and because each system has compliance reporting capabilities. With respect to the shelf-life of a REC, the date of creation of a REC is included in the data associated with each serial numbered REC.⁴⁵

IV. Clarifying and simplifying the reporting schedule is logical and will benefit all parties.

Enbridge's comments filed on October 1, 2019 also included a request to simplify the reporting schedule moving forward by essentially combining two annual reports into a single compliance filing. The Department disagreed and requested that Enbridge be required to continue the dual reporting required by the Order. Enbridge can certainly comply with whatever reporting schedule the Commission prefers moving forward.

⁴³ *Id.* at § 15.4.

⁴⁴ *Id.* at § 17.3.1.

⁴⁵ NAR Operating Procedures, § 7.1, Table 1; M-RETS Operating Procedures, Appendix B-1, Line 59; ERCOT Nodal Protocols, § 14.3.2(3).

CONCLUSION

Enbridge is fully prepared to comply with the Order by purchasing RECs to offset the power needed to operate the Phase 2 project. Any requirement to offset power needed to operate earlier, fully-permitted expansions would lack support in the record of the prior proceeding.

Enbridge has demonstrated that ERCOT, NAR, and M-RETS are all equally reliable due to their robust controls over RECs generated and retired within their individual systems. There is no risk of double-counting, as verified by evidence from the registries themselves. ERCOT, NAR, and M-RETS are national systems that are relied on by numerous other states to demonstrate compliance with renewable energy portfolio standards or other offset requirements. Minnesota can and should afford these systems equal trust. Enbridge therefore requests that it be allowed to purchase RECs from these entities over the decades to come.

Enbridge also respectfully requests that the reporting requirements be streamlined.

Dated: November 22, 2019

Respectfully Submitted:

/s/ John R. Gasele

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MPUC Docket No. PL-9/CN-13-153

**STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION**

CERTIFICATE OF SERVICE

I, John R. Gasele, hereby certify that on the 22nd day of November, 2019, I served true and correct copies of the Reply Comments on all persons on the attached service list by electronic filing via e-dockets or U.S. mail, as indicated on the service list.

/s/ John R. Gasele
John R. Gasele

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