

**STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION**

Katie Sieben	Chair
Valerie Means	Commissioner
Matthew Schuerger	Commissioner
Joseph K. Sullivan	Commissioner
John A. Tuma	Commissioner

**In the Matter of the Application of Enbridge
Energy, Limited Partnership, for a Certificate
of Need for the Line 3 Replacement Project in
Minnesota From the North Dakota Border to
the Wisconsin Border**

**OAH 65-2500-32764
PL-9/CN-14-916**

**LABORERS' DISTRICT COUNCIL OF MINNESOTA AND NORTH DAKOTA'S
MEMORANDUM IN OPPOSITION TO PETITION FOR RECONSIDERATION OF ORDER
DENYING MOTION FOR STAY PENDING APPEAL FILED BY THE RED LAKE BAND OF
CHIPPEWA AND THE WHITE EARTH BAND OF OJIBWE**

Laborers' District Council of Minnesota and North Dakota ("LIUNA") submits this memorandum in opposition to the petition for reconsideration of the Public Utilities Commission's order denying the motion for a stay pending appeal filed by the Red Lake Band of Chippewa and White Earth Band of Ojibwe ("Movants").

The Movants' argument that the Commission supposedly "abused its discretion" in denying the motion for a stay is contrary to the applicable case law. The Minnesota Supreme Court has explained that in considering a motion for a stay pending appeal a court or agency "has broad discretion in deciding which of the various factors are relevant in each case, and that

[an agency] need only analyze the relevant factors.” *Webster v. Hennepin County*, 891 N.W.2d 290, 293 (Minn. 2017); *see also DRJ, Inc. v. City of St. Paul*, 741 N.W.2d 141, 144 (Minn. Ct. App. 2007). Here, the Commission properly exercised its broad discretion to decide which factors were relevant on the question of whether to grant a stay and analyzed the relevant factors in concluding that a stay should be denied.

Although the Movants argue that their particular view of the appropriate factors to consider and the outcome of balancing those factors must prevail, the case law is clear that such judgments are well within the sound discretion of the Commission. *See Hilton v. Braunskill*, 481 U.S. 770, 776-78 (1987) (noting that a stay motion “contemplate[s] individualized judgments in each case,” meaning that “the formula cannot be reduced to a set of rigid rules”), quoted in *Webster*, 891 N.W.2d at 293. As the Minnesota Supreme Court explained in *Webster*, “that is what the [agency] should do: identify the relevant factors, weight each factor, and then balance them, applying the [agency’s] sound discretion.” 891 N.W.2d at 293. The Movants cannot credibly dispute that the Commission identified the relevant factors, evaluated each of them, and balanced them applying its sound discretion in making its decision to deny the motion for a stay. Accordingly, the Commission should deny the petition for reconsideration.

Dated: December 22, 2020

CUMMINS & CUMMINS, LLP

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In the Matter of the Application for a
Certificate of Need for the Line 3
Replacement Project

MN PUC Docket No.
CN 14-916

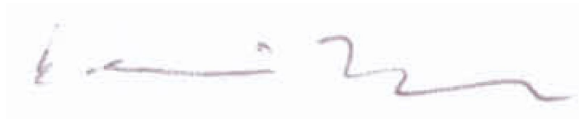
OAH File No.
11-2500-32764

CERTIFICATE OF SERVICE

I, Kevin Pranis, hereby certify that I have this day served a copy of the foregoing reply to requests for reconsideration for the Enbridge Line 3 Replacement Project on the attached list of persons in the method and manner indicated on the attached service list and as set forth below:

Via electronic service; or by depositing a true and correct copy in a proper envelope with postage paid, addressed to the person, in the United States Mail at St. Paul, Minnesota, according to the preference each person has indicated on the attached service list.

Dated this 22nd day of December, 2020

A handwritten signature in blue ink, appearing to read "Kevin Pranis", is written over a light blue horizontal line.

Kevin Pranis

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