

March 23, 2026

Sasha Bergman  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce**  
Docket No. PL-9/CN-07-465

Dear Ms. Bergman:

Attached are the comments of the Minnesota Department of Commerce (Department) in the following matter:

*In the Matter of the Application of Enbridge Energy, Limited Partnership and Enbridge Pipelines (Southern Lights) LLC for a Certificate of Need for the Alberta Clipper Pipeline Project and Southern Lights Diluent Project.*

The **Department recommends recertification of Enbridge's Certificate of Need.** The Department is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ DR. SYDNIE LIEB  
Assistant Commissioner of Regulatory Analysis

DZ/FE/ad  
Attachment

## Before the Minnesota Public Utilities Commission

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### Comments of the Minnesota Department of Commerce

Docket No. PL-9/CN-07-465

#### I. INTRODUCTION

The Minnesota Public Utilities Commission (Commission) issued a Route Permit and Certificate of Need (CN) for Enbridge Energy’s Southern Lights Pipeline (Line 13) on December 29, 2008.<sup>1</sup> Line 13 is a 180,000 barrel per day (bpd) 16- to 20-inch diluent pipeline that originates in Illinois and terminates in Alberta, Canada, as shown by Map 1 (Attachment A). Diluent is a hydrocarbon product with similar physical properties to camping fuel and is blended with heavy crude petroleum for more efficient transportation by pipeline.<sup>2</sup>

On March 10, 2026, Enbridge Pipelines (Southern Lights) L.L.C. (Enbridge) notified the Commission that it plans to increase annual capacity on Line 13 in Minnesota from 180,000 barrels per day (bpd), the approved capacity in the CN, to 215,000 bpd.<sup>3</sup> Enbridge states in its notification that this change will not result in any new construction or components, such as pumping stations, in Minnesota, nor will it increase Line 13's maximum operating pressure. Instead, Enbridge will utilize a drag-reducing agent (DRA), which Enbridge identifies as a routine operational tool, to increase capacity.

#### II. PROCEDURAL BACKGROUND

December 29, 2008	The Commission grants a route permit and CN for The Southern Lights Diluent project. <sup>4</sup>
March 10, 2026	Enbridge notifies the Commission of its intent to increase pipeline capacity. <sup>5</sup>
March 13, 2026	The Commission issues its Notice of Comment Period in the present docket. <sup>6</sup>

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<sup>1</sup> In the Matter of the Application of Enbridge Energy, Limited Partnership and Enbridge Pipelines (Southern Lights) LLC for a Certificate of Need for the Alberta Clipper Pipeline Project and Southern Lights Diluent Project, Order Granting Certificate of Need, December 29, 2008, Docket No. PL-9/CN-07-465, (eDockets) [5674505](#), (hereinafter “Order Granting CN”).

<sup>2</sup> Enbridge Inc. *Diluent Pipeline Handout*. (November 2015). Available at:

[https://www.enbridge.com/~/\\_/media/Enb/Documents/Projects/Illinois/ENBDiluentHandout-NOV2015-L03.pdf](https://www.enbridge.com/~/_/media/Enb/Documents/Projects/Illinois/ENBDiluentHandout-NOV2015-L03.pdf)

<sup>3</sup> In the Matter of the Application of Enbridge Energy, Limited Partnership and Enbridge Pipelines (Southern Lights) LLC for a Certificate of Need for the Alberta Clipper Pipeline Project and Southern Lights Diluent Project, Enbridge, Informational Notice, March 10, 2026, Docket No. PL-9/CN-07-465, (eDockets) [20263-228985-01](#), (hereinafter “Enbridge Informational Notice”).

<sup>4</sup> Order Granting CN.

<sup>5</sup> Enbridge Informational Notice.

<sup>6</sup> *In the Matter of the Application of Enbridge Energy, Limited Partnership and Enbridge Pipelines (Southern Lights) LLC for a Certificate of Need for the Alberta Clipper Pipeline Project and Southern Lights Diluent Project, Notice of Comment Period*, March 13, 2026, Docket No. PL-9/CN-07-465, (eDockets) [20263-229226-01](#).

Topics open for comment:

- Does the applicant’s request to increase the annual average diluent capacity on Line 13 in Minnesota require a Certificate of Need (CN) under Minn. Stat. § 216B.243 and/or Minn. R. 7853.0030(D)?
- Does the applicant’s request to increase the annual average capacity on Line 13 in Minnesota require recertification under Minn. R. 7853.0800, subp. 3? In analyzing this question, please address whether the requested change to capacity, if known at the time of the need decision, could reasonably have resulted in a different decision under the CN criteria?
- If recertification is required, what process should the Commission use to determine whether recertification is appropriate?

### III. DEPARTMENT ANALYSIS

#### A. CN Requirement

Notice Topic 1: Does the applicant’s request to increase the annual average diluent capacity on Line 13 in Minnesota require a Certificate of Need (CN) under Minn. Stat. § 216B.243 and/or Minn. R. 7853.0030(D)?”

Minn. Stat. § 216B.243 states that no large energy facility shall be “constructed in Minnesota without the issuance of a certificate of need by the commission...”<sup>7</sup> Enbridge’s utilization of additional DRA to increase pipeline capacity does not fall under the requirements in Minn. Stat. § 216B.243, as adding more DRA within existing facilities could not reasonably be considered “construction” as defined in Minn. R. 7853.0010, subp. 7. Therefore, the request to increase capacity does not require a CN under this statute.

Minn. R. 7853.0030(D) requires a CN 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 10,000 barrels per day, whichever is greater.”<sup>8</sup> Enbridge states that the Commission’s rules requiring a CN for “certain” pipeline expansions are not triggered because there are no physical expansions of the pipeline and no construction activity in Minnesota. Minn. R. 7853.0030(D) does not qualify its standard to only physical expansion; it is any expansion that hits the 20 percent or 10,000 bpd threshold. Minn. R. 7853.0030(D) rule is applicable to this expansion; however, the proposed expansion is not more than a 20 percent increase from the 180,000 bpd originally approved by the Commission. Therefore, the proposal to increase capacity does not require a CN under this rule.

#### B. Recertification Requirement

Notice Topic Two: “Does the applicant’s request to increase the annual average capacity on Line 13 in Minnesota require recertification under Minn. R. 7853.0800, subp. 3? In analyzing this question, please

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<sup>7</sup> [Minn. Stat. § 216B.243](#) (2024).

<sup>8</sup> [Minn.R. 7853.0030\(D\)](#).

address whether the requested change to capacity, if known at the time of the need decision, could reasonably have resulted in a different decision under the CN criteria?"

Minn. R. 7853.0800, subp. 3 states:

If an applicant determines that a change greater or other than those specified in subpart 2 is necessary or desirable, it shall inform the commission of the desired change, accompanied by a written statement detailing the reasons for the proposed change. The commission shall evaluate these reasons and within 45 days of receipt of the application notify the applicant whether the proposed change is acceptable without recertification.<sup>9</sup>

Minn. R. 7853.0800, subp. 2 states that the following changes in a facility previously certified by the Commission shall not require recertification:<sup>10</sup>

- (A) capacity additions or subtractions of less than ten percent of the capacity approved by the commission;
- (B) pipeline length additions or subtractions of less than ten percent of the length approved by the commission; and
- (C) changes of less than two years in the in-service date.

The capacity approved by the Commission for the pipeline is 180,000 bpd.<sup>11</sup> The proposed increase to capacity is 35,000 bpd, an increase of 19.44 percent. As the change is a capacity addition of more than ten percent of the approved capacity, Minn. R. 7853.0800, subp. 3 requires the applicant to inform the Commission of the proposed change and reasoning for the change. On March 10, 2026, Enbridge informed the Commission of its proposal to increase capacity to 215,000 bpd.<sup>12</sup>

However, in reviewing the record and other documents needed to answer the questions in the Notice, the Department found conflicting statements regarding information about the pipeline's operating capacity. For example, Enbridge's publicly available 10-K filings to the United States Securities and Exchange Commission (SEC) indicate that between 2024 and 2025 the capacity of the Southern Lights Pipeline increased from 180,000 bpd to 198,000 bpd, a ten percent capacity addition.

2025 Enbridge Inc. 10-K filing: "The Southern Lights Pipeline is a single stream 2,560 kilometer (1,591 mile) 198 kbpd 16/18/20-inch diameter pipeline..."<sup>13</sup>

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<sup>9</sup> [Minn.R. 7853.0800, subp. 3.](#)

<sup>10</sup> *Id.*, at subp. 2.

<sup>11</sup> In the Matter of the Application of Enbridge Energy, Limited Partnership and Enbridge Pipelines (Southern Lights) LLC for a Certificate of Need for the Alberta Clipper Pipeline Project and Southern Lights Diluent Project, Enbridge, Certificate of Need Part 1 of 3, June 22, 2007, Docket No. PL-9/CN-07-465, (eDockets) [4407921](#), at 13 (hereinafter "Original Certificate of Need").

<sup>12</sup> Enbridge Informational Notice.

<sup>13</sup> United States Securities and Exchange Commission. *Enbridge Inc. Form 10-K*. (February 13, 2026). At 19. Available at: <https://www.sec.gov/ix?doc=/Archives/edgar/data/0000895728/000119312526049810/enb-20251231.htm>

2024 Enbridge Inc. 10-K filing: “The Southern Lights Pipeline is a single stream 180 kbps 16/18/20-inch diameter pipeline...”<sup>14</sup>

Further investigation found a November 11, 2024 application to the Canada Energy Regulator for line expansion for the Southern Lights Pipeline. The application was for a project that would, “...increase the annual average capacity on Line 13 by approximately ten percent (10%) to approximately 198 KBPD...”<sup>15</sup>

Under Minn. R. 7853.0800 “capacity additions or subtractions of less than ten percent of the capacity approved by the commission” do not trigger requirements to inform the Commission of the capacity addition. The expansion that occurred between 2024 and 2025 may be a ten percent increase and therefore may meet the threshold in Minn. R. 7853.0800 subp. 3 for informing the Commission. The Department recommends Enbridge explain the discrepancies in the 10-K SEC filings and its notification to increase Line 13’s capacity in Minnesota.

Minn. R. 7853.0800 does not prescribe a standard for the Commission to determine if recertification is required, nor does it prescribe what must be addressed in recertification. While Minn. R. 7849.0400(H) does define the scope of when recertification is appropriate, to “if and only if it determines that the change, if known at the time of the need decision on the facility, could reasonably have resulted in a different decision,” that standard is only for “large electric generating facilities and large high voltage transmission lines,” not petroleum facilities.<sup>16</sup>

In the absence of a standard in rule or statute, the Department recommends using the ten percent threshold in Minn. R. 7853.0800 as an opportunity to evaluate this change and recertify the CN in light of Enbridge’s proposal. In the original application, any expansion to capacity beyond 200,000 bpd was discussed very briefly as requiring “additional pumping horsepower over current design to meet this capacity.”<sup>17</sup> As proposed in the granted CN, any increase to capacity beyond 200,000 bpd would have required additional pumping facilities and design investment, this construction would have triggered a new CN under Minn. Stat. § 216B.243. Because reaching the proposed maximum capacity would require a future CN, the maximum capacity was not rigorously analyzed in the original application. The amount of DRA used in the present capacity expansion proposal is also different from any scenario analyzed in the original CN application.

As the current proposal for capacity expansion was not reviewed in the original CN, the Department recommends the Commission require recertification of the CN with the proposed capacity increase.

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<sup>14</sup> United States Securities and Exchange Commission. *Enbridge Inc. Form 10-K*. (February 14, 2025). At 20. Available at <https://www.sec.gov/ix?doc=/Archives/edgar/data/0000895728/000089572825000006/enb-20241231.htm>

<sup>15</sup> Canada Energy Regulator. *Line 13 Expansion Project-A9E8S5*. (November 6, 2024). Available at: [https://docs2.cer-rec.gc.ca/ll-eng/llisapi.dll/fetch/2000/90464/90552/441806/4493947/4496733/C32105%2D1\\_Line\\_13\\_Expansion\\_Project\\_%2D\\_A9E8S5.pdf?nodeid=4497963&vernum=-2](https://docs2.cer-rec.gc.ca/ll-eng/llisapi.dll/fetch/2000/90464/90552/441806/4493947/4496733/C32105%2D1_Line_13_Expansion_Project_%2D_A9E8S5.pdf?nodeid=4497963&vernum=-2)

<sup>16</sup> [Minn.R. 7849.0400\(H\)](#).

<sup>17</sup> Original Certificate of Need at 13.

C. *Process to Determine Recertification Requirement*

Notice Topic 3: “If recertification is required, what process should the Commission use to determine whether recertification is appropriate?”

The Department recommends narrowing the scope of recertification to only the areas that are materially different from the original proposal. These areas include:

- The chemical composition of the material being transported in the pipeline is different from originally proposed, as is the quantity of material. These changes should be evaluated to determine if there is an impact on pollution and safety requirements and mitigations for the pipeline.
- Updating changes to environmental effects, including possible cumulative effects and impacts to Minnesota’s Greenhouse Gas Emissions Reduction Goals, created by the proposal.
- Updated annual operating, maintenance, and associated cost changes created by the proposed change.
- Expected changes to operations, including changes to pipeline operating pressure at peak demand and power demand changes at stations.
- Any changes to forecasted market conditions created by the proposal or changes to forecasts that created the conditions for the proposal.

Any analyses resulting from recertification should be completed by the applicant within 60 days of the Order.

Contested cases are generally recommended when there are contested issues of fact, procedural concerns, or other significant unresolved issues for an Administrative Law Judge to address. The Department is not aware of any contested issues or procedural concerns that would merit referring the application to the Court of Administrative Hearings for contested case proceedings at this time.

If a contested case is not ordered the Department recommends the Commission provide a supplemental comment period of 90 days on the additional information.

**IV. DEPARTMENT RECOMMENDATIONS**

Based on the Department’s analysis of the information in the record, the Department has prepared the recommendations provided below.

A. *CN Requirement*

- The Department recommends that the Commission not require Enbridge file a CN for the proposed capacity increase.

*B. Recertification Requirement*

- The Department recommends that the Commission require recertification of the CN with the proposed capacity increase.

*C. Process to Determine Recertification*

- The Department recommends narrowing the scope of recertification to only areas that are materially different from the original proposal.
- The Department recommends analyses resulting from recertification be completed by the applicant within 60 days of the Order.
- The Department recommends that if a contested case is not ordered, then the Commission provide a supplemental comment period of 90 days.

**Attachment A**

Map 1: Southern Lights Pipeline (Line 13)<sup>18</sup>



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<sup>18</sup> Enbridge. *Enbridge's Energy Infrastructure Assets*. (Last updated February 12, 2026). At 60. Available at: [fs\\_energyinfrastructureassets.pdf](https://www.enbridge.com/fs_energyinfrastructureassets.pdf)

## **CERTIFICATE OF SERVICE**

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of people by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce**  
**Comments**

**Docket No. PL9/CN-07-465**

Dated this **23<sup>rd</sup>** day of **March 2026**

**/s/Sharon Ferguson**

#	First Name	Last Name	Email	Organization	Agency	Address	Delivery Method	Alternate Delivery Method	View Trade Secret	Service List Name
1	Sasha	Bergman	sasha.bergman@state.mn.us		Public Utilities Commission	121 7th Pl E Ste 350 St. Paul MN, 55101 United States	Electronic Service		Yes	7-4651
2	Mike	Bull	mike.bull@state.mn.us		Public Utilities Commission	121 7th Place East, Suite 350 St. Paul MN, 55101 United States	Electronic Service		Yes	7-4651
3	Generic	Commerce Attorneys	commerce.attorneys@ag.state.mn.us		Office of the Attorney General - Department of Commerce	445 Minnesota Street Suite 1400 St. Paul MN, 55101 United States	Electronic Service		Yes	7-4651
4	Charles	Drayton	charles.drayton@enbridge.com	Enbridge Energy Company, Inc.		7701 France Ave S Ste 600 Edina MN, 55435 United States	Electronic Service		No	7-4651
5	Sharon	Ferguson	sharon.ferguson@state.mn.us		Department of Commerce	85 7th Place E Ste 280 Saint Paul MN, 55101-2198 United States	Electronic Service		Yes	7-4651
6	John	Gasele	jgasele@fryberger.com	Fryberger Buchanan Smith & Frederick PA		700 Lonsdale Building 302 W Superior St Ste 700 Duluth MN, 55802 United States	Electronic Service		No	7-4651
7	Jacob	Glass	jacob.glass@enbridge.com	Enbridge		7701 France Ave S Edina MN, 55435 United States	Electronic Service		No	7-4651
8	Jon	Kingstad	kingstadlaw@pressenter.com	Law Firm of Jon Erik Kingstad		Lake Elmo Bank Bldg Ste 260 600 Inwood Ave N Oakdale MN, 55128 United States	Paper Service		No	7-4651
9	Eric	Lipman	eric.lipman@state.mn.us		Office of Administrative Hearings	PO Box 64620 St. Paul MN, 55164-0620 United States	Electronic Service		No	7-4651
10	John C.	Reinhardt		Laura A. Reinhardt		3552 26th Ave S Minneapolis MN, 55406 United States	Paper Service		No	7-4651
11	Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us		Office of the Attorney General - Residential Utilities Division	1400 BRM Tower 445 Minnesota St St. Paul MN, 55101-2131 United States	Electronic Service		Yes	7-4651
12	Kevin	Reuther	kreuther@mncenter.org	MN Center for Environmental Advocacy		26 E Exchange St, Ste 206 St. Paul MN, 55101-1667 United States	Electronic Service		No	7-4651
13	Jason	Risdall	jason.risdall@enbridge.com	Enbridge		11 East Superior St Suite 125 Duluth MN,	Electronic Service		No	7-4651

#	First Name	Last Name	Email	Organization	Agency	Address	Delivery Method	Alternate Delivery Method	View Trade Secret	Service List Name
						55802 United States				
14	Bruce	Savage	brucesavage@fdllband.org	Fond du Lac Band of Lake Superior Chippewa		1720 Big Lake Road Cloquet MN, 55720 United States	Electronic Service		No	7-4651
15	Jennifer	Smestad	jsmestad@otpc.com	Otter Tail Power Company		215 South Cascade Street Fergus Falls MN, 56538- 0496 United States	Electronic Service		No	7-4651
16	Melissa	Turner	melissa.turner@enbridge.com	Enbridge		7701 France Ave S Edina MN, 55435 United States	Electronic Service		No	7-4651
17	Kevin	Walli	kwalli@fryberger.com	Fryberger, Buchanan, Smith & Frederick		380 St. Peter St Ste 710 St. Paul MN, 55102 United States	Electronic Service		No	7-4651

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1	David	Bell	david.bell@state.mn.us		Department of Health	POB 64975 St. Paul MN, 55164 United States	Electronic Service		No	CN - CERTIFICATE OF NEEDS
2	Water Programs	Coordinator	waterprograms.bwsr@state.mn.us		Minnesota Board of Water and Soil Resources	520 Lafayette Road N St. Paul MN, 55155 United States	Electronic Service		No	CN - CERTIFICATE OF NEEDS
3	Randall	Doneen	randall.doneen@state.mn.us		Department of Natural Resources	500 Lafayette Rd, PO Box 25 Saint Paul MN, 55155 United States	Electronic Service		No	CN - CERTIFICATE OF NEEDS
4	Kate	Fairman	kate.fairman@state.mn.us		Department of Natural Resources	Box 32 500 Lafayette Rd St. Paul MN, 55155-4032 United States	Electronic Service		No	CN - CERTIFICATE OF NEEDS
5	Annie	Felix Gerth	annie.felix-gerth@state.mn.us			Board of Water & Soil Resources 520 Lafayette Rd Saint Paul MN, 55155 United States	Electronic Service		No	CN - CERTIFICATE OF NEEDS
6	Kari	Howe	kari.howe@state.mn.us		DEED	332 Minnesota St, #E200 1ST National Bank Bldg St. Paul MN, 55101 United States	Electronic Service		No	CN - CERTIFICATE OF NEEDS
7	Dean	Hunter	dean.hunter@state.mn.us		Minnesota Department of Labor & Industry	443 Lafayette Rd N St. Paul MN, 55155-4341 United States	Electronic Service		No	CN - CERTIFICATE OF NEEDS
8	Raymond	Kirsch	raymond.kirsch@state.mn.us		Public Utilities Commission	121 7th Place E, Suite 350 St. Paul MN, 55101 United States	Electronic Service		No	CN - CERTIFICATE OF NEEDS
9	Chad	Konickson	chad.konickson@usace.army.mil	U.S. Army Corps of Engineers		332 Minnesota St. Suite E1500 Saint Paul MN, 55101 United States	Electronic Service		No	CN - CERTIFICATE OF NEEDS
10	Stacy	Kotch Egstad	stacy.kotch@state.mn.us		MINNESOTA DEPARTMENT OF TRANSPORTATION	395 John Ireland Blvd. St. Paul MN, 55155 United States	Electronic Service		No	CN - CERTIFICATE OF NEEDS
11	Dawn S	Marsh	dawn_marsh@fws.gov	U.S. Fish & Wildlife Service		Minnesota-Wisconsin Field Offices 4101 American Blvd E Bloomington MN, 55425 United States	Electronic Service		No	CN - CERTIFICATE OF NEEDS
12	Stephan	Roos	stephan.roos@state.mn.us		Minnesota Department of Agriculture	625 Robert St N Saint Paul MN, 55155-2538 United States	Electronic Service		No	CN - CERTIFICATE OF NEEDS

#	First Name	Last Name	Email	Organization	Agency	Address	Delivery Method	Alternate Delivery Method	View Trade Secret	Service List Name
13	Jayme	Trusty	execdir@swrdc.org	SWRDC		2401 Broadway Ave #1 Slayton MN, 56172 United States	Electronic Service		No	CN - CERTIFICATE OF NEEDS
14	Jen	Tyler	tyler.jennifer@epa.gov	US Environmental Protection Agency		Environmental Planning & Evaluation Unit 77 W Jackson Blvd. Mailstop B-19J Chicago IL, 60604-3590 United States	Electronic Service		No	CN - CERTIFICATE OF NEEDS
15	Cynthia	Warzecha	cynthia.warzecha@state.mn.us	Minnesota Department of Natural Resources		500 Lafayette Road Box 25 St. Paul MN, 55155-4040 United States	Electronic Service		No	CN - CERTIFICATE OF NEEDS
16	Alan	Whipple	sa.property@state.mn.us		Minnesota Department Of Revenue	Property Tax Division 600 N. Robert Street St. Paul MN, 55146-3340 United States	Electronic Service		No	CN - CERTIFICATE OF NEEDS
17	Jonathan	Wolfgram	jonathan.wolfgram@state.mn.us		Office of Pipeline Safety	445 Minnesota St Ste 147 Woodbury MN, 55125 United States	Electronic Service		No	CN - CERTIFICATE OF NEEDS