

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

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

**FINDINGS OF FACT,
SUMMARY OF PUBLIC
TESTIMONY, CONCLUSIONS OF
LAW AND RECOMMENDATION**

This matter came before Administrative Law Judge Eric L. Lipman for an evidentiary hearing on April 8, 9, and 10, 2014. The hearing record closed on May 16, 2014, following the receipt of the last of the post-hearing briefs.

Enbridge Energy, Limited Partnership seeks a Certificate of Need authorizing it to expand the capacity of its Line 67 Pipeline. Specifically, the company seeks authorization to increase the accredited operating capacity of Line 67 from 570,000 barrels per day to 800,000 barrels per day (bpd). If authorized, the increased capacity would follow from the installation of four new pump facilities near existing pipeline stations and modifications to three other stations (the Project).

Kevin Walli and John R. Gasele, Fryberger, Buchanan, Smith and Frederick, P.A., and Arshia Javaherian, Senior Counsel, Enbridge Energy, Limited, appeared on behalf of Enbridge Energy Limited Partnership (Enbridge or the Company).

Paul C. Blackburn, Law Offices of Paul C. Blackburn, appeared on behalf of MN350 and the Sierra Club (MN350/Sierra Club).

Jon Erik Kingstad, Law Offices of John Erik Kingstad, appeared on behalf of Donald and Anna Dyrdal.

Frank Bibeau, Attorney at Law, and Peter Erlinder, International Humanitarian Law Institute, appeared on behalf of Honor the Earth.

Julia Anderson and Peter Madsen, Assistant Attorneys General, appeared on behalf of the Minnesota Department of Commerce, Energy Regulation and Planning Unit (DOC-DER).

Michael Kaluzniak and Tracy Smetana, Commission Staff, participated in the Public and Evidentiary Hearings as representatives of the Minnesota Public Utilities Commission (MPUC or the Commission)

STATEMENT OF THE ISSUE

Has Enbridge met the criteria set forth in Minn. Stat. § 216B.243 and Minn. R. ch. 7853 for a Certificate of Need for a pipeline?

SUMMARY OF CONCLUSIONS

The Administrative Law Judge concludes that Enbridge has demonstrated the need for the proposed facilities and that no party demonstrated that there was a safer, more affordable or more reliable alternative to the proposed facilities.

Based upon the submissions of the parties, and the contents of the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

Enbridge, the Mainline System and Key North American Pipelines

1. Enbridge is a limited liability partnership organized under the laws of the state of Delaware. Its primary business address in the United States is 1100 Louisiana, Suite 3300, Houston, Texas 77002.¹

2. Enbridge is a wholly-owned subsidiary of Enbridge Energy Partners L.P. a Delaware Master Limited Partnership (Enbridge Partners). Enbridge owns and operates the U.S. portion of the Enbridge Mainline System, which is commonly referred to as the "Lakehead System." Collectively, Enbridge Energy, Limited Partnership, Enbridge Partners, and their Canadian affiliate Enbridge, Inc. are all commonly referred to as "Enbridge."²

3. Enbridge owns and operates the 999-mile Line 67 pipeline.³

4. Line 67 is one of two pipelines in Enbridge's system that is dedicated to transportation of heavy crude oil from Enbridge's facilities in Hardisty, Alberta, Canada, to Enbridge's terminal and tank farm in Superior, Wisconsin.⁴

5. An Enbridge affiliate – Enbridge Pipelines, Inc. – owns and operates the Canadian pipeline system that interconnects and delivers crude oil into Enbridge's "Lakehead System." This interconnection occurs at the International Border near Neche, North Dakota. Together, the Canadian pipeline system and the Lakehead

¹ Ex. 1, § 7853.0230, at 1 (Enbridge Application).

² Ex. 1, § 7853.0230, at 2.

³ Ex. 1, § 7853.0230, at 1.

⁴ Ex 1, § 7853.0230, at 2.

System form the longest liquid petroleum pipeline in the world. As an operational unit, these two systems are referred to as the Enbridge Mainline System.⁵

6. As part of Enbridge's Mainline System, Line 67 transports heavy crude oil from the Western Canadian Sedimentary Basin (WCSB) into Minnesota.⁶

7. Crude oil that is produced in Western Canada is "landlocked," far from coastal seaports and historically has been transported to refineries by pipeline. There are four major pipelines that transport Western Canadian heavy crude oil from the locations where it is produced: the Enbridge Mainline, the Kinder Morgan Trans Mountain, the Spectra Express, and the TransCanada Keystone pipeline.⁷

8. The Keystone XL project is a proposed 1,179 mile pipeline that would run from Hardisty, Alberta to Steele City, Nebraska.⁸

9. The initial capacity of the Keystone XL project is 700,000 bpd. The design capacity of the project is 830,000 bpd, of which the developers hope to later transport 730,000 bpd of heavy crude oil.⁹

10. The Keystone XL is designed to serve a different sub-market than the Line 67. Its design does not include pipeline infrastructure to serve Midwest refineries.¹⁰

11. The Keystone XL Pipeline has not yet obtained the regulatory approvals in the United States in order to begin operations.¹¹

12. As of the conclusion of the evidentiary hearing in this matter, the in-service date for Keystone XL pipeline was not known.¹²

The Proposed Project and Operations on Line 67

13. In 2013, Enbridge received approvals from the Commission to increase the accredited capacity of Line 67 from 450,000 bpd to 570,000 bpd. Enbridge, the parties and the participants to this proceeding refer to this capacity increase as "Phase 1" of Enbridge's "upgrade project."¹³

⁵ Ex. 1, § 7853.0230, at 1, note 1.

⁶ Ex. 1, § 7853.0230, at 1-2.

⁷ Ex. 20, Report at 7-8 (Rennike Rebuttal).

⁸ Ex. 35, at 33 (Otis Direct).

⁹ Ex. 1, § 7853.0540, at 3; Ex. 35, at 33 (Otis Direct); HEARING TRANSCRIPT, Volume 1, at 109 (Earnest Testimony).

¹⁰ Ex. 13, at 9 (Curwin Rebuttal); Ex. 35, at 33 (Otis Direct).

¹¹ Ex. 13, at 9 (Curwin Rebuttal).

¹² HEARING TRANSCRIPT, Volume 3, at 53 (Demony Testimony).

¹³ See, MPUC Docket No. PL9/CN-12-590.

14. In its Certificate of Need Application, Enbridge proposes to increase the annual average capacity of Line 67 from the currently permitted capacity of 570,000 bpd to 800,000 bpd. Enbridge, the parties and the participants to this proceeding refer to the requested capacity increase as “Phase 2” of its “upgrade project.”¹⁴

15. This Project involves the installation of new pump facilities, including all valves and appurtenances, near existing Enbridge-owned facilities. Those facilities are located at Enbridge stations in Donaldson, Plummer, Cass Lake, and Floodwood, Minnesota, respectively.¹⁵

16. Enbridge also proposes to make modifications to its pumping stations in Viking, Clearbrook, and Deer River, Minnesota.¹⁶

17. All of the station upgrades referenced in the Application will be constructed upon land that Enbridge owns.¹⁷

18. No new pipeline construction will be required for the Project.¹⁸

19. Enbridge asserts that its proposed upgrades to Line 67 could be operational as soon as July 1, 2015.¹⁹

20. At Clearbrook, Minnesota, Line 67 connects to a third-party pipeline to supply crude oil to the Flint Hills, Pine Bend and Northern Tier St. Paul refineries in Minnesota.²⁰

21. At Superior, Wisconsin, Line 67 delivers crude oil to the Calumet Specialty Products Partners, L.P. refinery.²¹

22. Although Line 67 ends at Superior, Wisconsin, crude oil can be transported further on the Enbridge Mainline System. The Enbridge pipeline network continues on from Superior, Wisconsin, traveling east across the Upper Peninsula of Michigan. In addition, a different set of Enbridge pipelines travels from Superior southeast across Wisconsin to pipeline hubs near Chicago, Illinois and Cushing,

¹⁴ Ex. 1, § 7853.0240, at 1-2.

¹⁵ Ex. 1, § 7853.0230, at 3.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*, at 11.

²⁰ Ex. 1, § 7853.0230, at 2; Ex. 1, § 7853.0240, at 6.

²¹ *Id.*

Oklahoma. Eventually, the mainline network reaches refinery centers along the Gulf Coast of Texas.²²

23. The portion of Line 67 in the United States operates as interstate common-carrier liquids pipeline. It is subject to regulation by the Federal Energy Regulatory Commission (FERC) under the Interstate Commerce Act. Common-carrier pipelines in interstate commerce provide non-discriminatory service to shippers that request transportation services. Any limitation upon this service is contained in the applicable, FERC-approved tariff.²³

24. The rates charged for the transportation of crude oil from Western Canada along Enbridge's Mainline System are set pursuant to a FERC-approved settlement. Through July of 2021, the Competitive Toll Settlement sets the tolls charged for transportation of crude oil, including the transportation of heavy crude oil on Line 67, from Canada to the markets in the United States.²⁴

25. Enbridge dedicates two pipelines in Minnesota to transportation of heavy crude oil: Lines 4 and 67. Currently, the total permitted capacity of Lines 4 and 67 is 1,596,000 bpd.²⁵

26. As a common-carrier, Enbridge does not own the crude oil transported on Line 67. It transports specific volumes and types of crude oil to the destinations specified by the shippers.²⁶

27. Nominations are made for transportation services that will occur during the following month. Enbridge takes the total volumes of a specific grade or type of crude oil that was nominated by the shippers and compares it to the available capacity for that grade or type of crude oil on the Mainline System.²⁷

28. Refinery demand for heavy crude oil is not static. The amounts that are demanded can, and do, vary from month to month. Because of this variability, Line 67 does not operate at its full, accredited capacity every month of every year.²⁸

29. As part of its transportation operations, Enbridge verifies both that there is sufficient supply in the shipper's name at the point at which it would receive the oil and

²² Ex. 1, § 7853.0240, at 6-8.

²³ Ex. 1, § 7853.0230, at 2.

²⁴ See, Ex. 106 (Excerpt of Competitive Toll Settlement).

²⁵ Ex. 15, at 6 (Earnest Rebuttal).

²⁶ Ex. 1, § 7853.0230, at 2; Ex. 1, § 7853.0240, at 11; Ex. 29, FERC No. 41.6.0, at 8, ¶ 14(a) (Oil Pipeline Tariff Filing); HEARING TRANSCRIPT, Volume 1, at 87 and 89 (Earnest Testimony).

²⁷ Ex. 29, FERC No. 41.6.0, at 8, § 14(a) (Oil Pipeline Tariff Filing); HEARING TRANSCRIPT, Volume 1, at 186 (Curwin Testimony).

²⁸ HEARING TRANSCRIPT, Volume 1, at 120-22 (Earnest Testimony).

that there is sufficient capacity at the delivery point to receive the volumes of oil that have been nominated.²⁹

30. If the total volume that is nominated exceeds the available capacity of the system, Enbridge imposes an "apportionment" during that month.³⁰

31. When Enbridge apportions nominated shipments, every shipper that nominated volumes for transportation along the Mainline System has its deliveries reduced on a *pro rata* basis. Enbridge does not grant priority or preference to any particular shipper during an apportionment.³¹

32. Enbridge calculates the percentage of apportionment through the following formula: (Nominations – Available Capacity)/Nominations.³²

33. Enbridge likewise imposes a non-performance penalty upon shippers that tender less than 95 percent of an allocated volume at a time when the system is under apportionment. This non-performance penalty is a strong disincentive against leaving needed pipeline capacity unused at a time when other firms have requested service.³³

34. For shipments of heavy crude oil, Enbridge calculates its capacity for transportation based upon the accredited throughput for both Lines 4 and 67.³⁴

35. During the 24 months between February 2012 and February 2014, nominations for oil transportation service along Lines 4 and 67 were apportioned in five different months, including in the months of December of 2013, January of 2014 and February of 2014.³⁵

36. Typically, shippers receive notice that the Mainline System has been over-subscribed, and that all nominations will be proportionately reduced, approximately 10 days before the apportionment begins.³⁶

37. Following notice of an upcoming apportionment, the alternatives for shippers and refineries are: (a) accept less than the requested amount of crude oil for delivery; (b) choose to purchase or ship a different grade of crude oil, if that oil can be

²⁹ Ex. 29, FERC No. 41.6.0, at 4, § 6(c) (Oil Pipeline Tariff Filing).

³⁰ Ex. 29, FERC No. 41.6.0, at 8, § 14(a) (Oil Pipeline Tariff Filing).

³¹ HEARING TRANSCRIPT, Volume 1, at 89 and 185-86; Ex. 29, FERC No. 41.6.0, at 8, § 14(a) (Oil Pipeline Tariff Filing); HEARING TRANSCRIPT, Volume 2, at 38.

³² Ex. 15, at 6 (Earnest Rebuttal).

³³ Ex. 29, FERC No. 41.6.0, at 8, § 14(c) (Oil Pipeline Tariff Filing).

³⁴ Ex. 15, at 4 and 6 (Earnest Testimony); HEARING TRANSCRIPT, Volume 1, at 186.

³⁵ Ex. 15, at 4, (Earnest Rebuttal); see also Ex. 13, Attachment F (Enbridge Response to Department IR 21B, Attachment 21B, Schedule 1).

³⁶ Ex. 1, § 7853.0240, at 11; HEARING TRANSCRIPT, Volume 1, at 105 (Earnest Testimony).

processed by the destination refinery; or (c) supplement its pipeline shipments with crude oil that is received from another source, such as rail transportation.³⁷

The Procedural History of this Docket

38. On February 28, 2013, Enbridge filed a notice plan for the Project with the MPUC.³⁸

39. The Notice Plan was revised on April 9, 2013, and accepted by the MPUC on May 8, 2013.³⁹

40. Enbridge implemented the Notice Plan between May 29, 2013 and June 5, 2013.⁴⁰

41. Enbridge published notice of its intent to file an application requesting a CN for the Project in a series of local newspapers. While most of the notices were published between May 29, 2013 and June 5, 2013, one newspaper published the notice on July 2, 2013.⁴¹

42. On June 3, 2013, the Company sent a project-related notice by first class mail to local units of government near the project. Additional mailings to one township, one township supervisor, and to some corrected addresses for local governments were made on June 5, 14, and 21, 2013.⁴²

43. The Company sent a project-related notice by first class mail to landowners along the route of Line 67. It likewise sent a notice to those who owned parcels adjacent to the facilities involved in the project. The letter to landowners adjacent to the proposed facilities was mailed on June 4, 2013. The letter to landowners along the route of Line 67 was mailed on June 5, 2013.⁴³

44. Enbridge provided notice to individuals who had earlier expressed interest in receiving documents for Enbridge's Phase 1 project. The Company sent a project-related notice by first class mail to these persons on June 5, 2013.⁴⁴

³⁷ See, Ex. 15, at 21-23 (Earnest Rebuttal).

³⁸ Certificate of Need Notice Plan (February 28, 2013) (E-Dockets Document No. 20132-84295-01); see also, Minn. R. 7829.2560.

³⁹ Reply Comments and Revised Notice Plan (April 9, 2013) (E-Dockets Document No. 20134-85561-01); Order Approving Notice Plan, MPUC Docket No. PL-9/CN-13-153 (May 8, 2013) (E-Dockets Document No. 20135-86802-01).

⁴⁰ Notice Plan Compliance Filing, Public Version, at 1 – 4 (August 5, 2013) (E-Dockets Document No. 20138-89924-03).

⁴¹ Notice Plan Compliance Filing, Public Version, at 1, notes 1 and 3 (August 5, 2013).

⁴² Notice Plan Compliance Filing, Public Version, at 2 – 3 (August 5, 2013).

⁴³ Notice Plan Compliance Filing, Public Version, at 1 – 4 (August 5, 2013).

⁴⁴ Notice Plan Compliance Filing, Public Version, at 2 (August 5, 2013).

45. Enbridge filed its Application for the project with the MPUC on June 28, 2013.⁴⁵

46. On July 3, 2013, the MPUC established a comment period on the Enbridge application.⁴⁶

47. The Minnesota State Historic Preservation Office indicated in its comments that no historic properties will be affected by the project.⁴⁷

48. The Minnesota Department of Natural Resources stated in its comments that the "Floodwood station upgrade is located near a surficial drainage to the Floodwood River. This drainage path is an important reason to emphasize careful implementation of the Environmental Plan."⁴⁸

49. DOC-DER recommended that the MPUC declare the application complete pending the submission of additional information from the company.⁴⁹

50. On August 16, 2013, MN350 filed reply comments as to the completeness of Enbridge's application.⁵⁰

51. On August 16, 2013, the Dyrdals also filed comments as to the completeness of Enbridge's application on August 16, 2013.⁵¹

52. Enbridge filed an amended version of its application on August 16, 2013, as well as reply comments regarding completeness of the submissions.⁵²

⁴⁵ Application Cover Letter and Affidavit of Service (June 28, 2013) (E-Dockets Document No. 20136-88672-01). The Application was assigned MPUC Docket No. PL-9/CN-13-153.

⁴⁶ Notice of Comment Period on the Application of Enbridge Energy, Limited Partnership For A Certificate of Need for the Line 67-Phase 2 Upgrade Project (July 3, 2013) (E-Dockets Document No. 20137-88853-01).

⁴⁷ Minnesota State Historic Preservation Office Comment Letter (July 3, 2013) (E-Dockets Document No. 20137-88920-01).

⁴⁸ Minnesota Department of Natural Resources Comments (July 24, 2013) (E-Dockets Document No. 20137-89507-01); See also, Comments of Jamie Schrenzel (April 14, 2014) (the "new pump station would be near a ditch system that flows to the Floodwood River and then into the Saint Louis River, which leads to the unique habitat of the Saint Louis River Estuary and Lake Superior").

⁴⁹ Comments of the Minnesota Department of Commerce, Division of Energy Resources (July 24, 2013) (E-Dockets Document No. 20137-89504-01).

⁵⁰ MN350 Reply Comments Regarding Completeness (August 16, 2013) (E-Dockets Document No. 20138-90359-01).

⁵¹ Dyrdal Comments re Completeness (August 16, 2013) (E-Dockets Document No. 20138-90360-01).

⁵² See, Ex. 1 (Public Version of the Application); Ex. 2 (Trade Secret Version); Enbridge Reply Comments Regarding Completeness (August 16, 2013) (E-Dockets Document No. 20138-90363-02).

53. By way of an Order dated September 17, 2013, the Commission accepted the August 16, 2013 version of the Application. The Commission also referred the matter to the Office of Administrative Hearings for a contested case proceeding.⁵³

54. On September 17, 2013, Enbridge mailed copies of the Application on CD-ROM to a set of 23 libraries in Northern Minnesota.⁵⁴

55. On October 22, 2013, Administrative Law Judge Eric L. Lipman issued the First Prehearing Order, directing interested persons to confer on "a calendar of convenient filing dates and milestones for this proceeding."⁵⁵

56. A Prehearing Conference was held on November 5, 2013.⁵⁶

57. On November 14, 2013, the Administrative Law Judge issued the Second Prehearing Order. The Second Prehearing Order granted the Petitions for Intervention from MN350, the Sierra Club and DOC-DER. The Order also established a hearing schedule and additional procedures for the contested case.⁵⁷

58. On November 18, 2013, the Administrative Law Judge granted the Dyrdals's Petition for Intervention.⁵⁸

59. On December 4, 2013, Enbridge filed revised versions of Section 7853.0520 of its Application. The revised public and trade secret versions of this portion of the Application narrowed the range of trade secret protections claimed by the Company.⁵⁹

60. On January 9, 2014, Honor the Earth filed a Petition for Intervention.⁶⁰

61. On January 28, 2014, the Administrative Law Judge issued the Fourth Prehearing Order (Protective Order).⁶¹

⁵³ MPUC Notice and Order for Hearing, MPUC Docket No. PL-9/CN-13-153 (September 17, 2013) (E-Dockets Document No. 20139-91374-01).

⁵⁴ Public Hearing Notice Compliance Filing, Public Version, Exhibits 3a, 3b, 3c (E-Dockets Document No. 20144-97993-02),

⁵⁵ FIRST PREHEARING ORDER (October 22, 2013) (E-Dockets Document No. 201310-92846-01).

⁵⁶ SECOND PREHEARING ORDER (November 14, 2013) (E-Dockets Document No. 201311-93694-01).

⁵⁷ SECOND PREHEARING ORDER (November 14, 2013).

⁵⁸ THIRD PREHEARING ORDER (November 18, 2013) (E-Dockets Document No. 201311-93779-01).

⁵⁹ Ex. 4 (Public), Ex. 5 (Nonpublic).

⁶⁰ HONOR THE EARTH PETITION TO INTERVENE (January 9, 2014) (E-Dockets Document No. 20141-95294-01).

⁶¹ FOURTH PREHEARING ORDER (PROTECTIVE ORDER) (January 28, 2014) (E-Dockets Document No. 20141-95864-01).

62. MN350/Sierra Club, MN350/Sierra Club witness Mary Ellen Denomy, and counsel for the Dyrdals were granted access to trade secret materials under the terms of the Protective Order.⁶²

63. On January 29, 2014, the Administrative Law Judge granted Honor the Earth's Petition for Intervention.⁶³

64. The MPUC issued a Notice of Public Hearings on February 3, 2014, and a Revised Notice of Public Hearings on February 5, 2014.⁶⁴

65. On February 18, 2014, Enbridge mailed the Revised Notice of Public Hearings to local units of government near the project.⁶⁵

66. On February 20, 2014, Enbridge mailed the Revised Notice of Public Hearings to all landowners along the route of Line 67 and those abutting the proposed facilities to be constructed as part of the project.⁶⁶

67. Enbridge later identified twelve additional landowners. The Revised Notice of Public Hearings was provided to these landowners.⁶⁷

68. On February 20, 2014, Enbridge mailed the Revised Notice of Public Hearings to additional parties interested in the project.⁶⁸

69. Enbridge published the Revised Notice of Public Hearings in areas reasonably likely to be affected by the project. This publication occurred between February 25 and March 4, 2014.⁶⁹

70. Public hearings were held on March 18 - 20, 2014, as follows:

⁶² See, EXHIBIT A TO THE FOURTH PREHEARING ORDER (PROTECTIVE ORDER) (January 28, 2014) (E-Dockets Document No. 20141-95864-01).

⁶³ FIFTH PREHEARING ORDER (January 29, 2014) (E-Dockets Document No. 20141-95898-01).

⁶⁴ NOTICE OF PUBLIC HEARINGS (February 3, 2014) (E-Dockets Document No. 20142-96129-01); REVISED NOTICE OF PUBLIC HEARINGS (February 5, 2014) (E-Dockets Document No. 20142-96201-01).

⁶⁵ Public Hearing Notice Compliance Filing, Public Version, Exhibits 5a, 5a (E-Dockets Document No. 20144-97993-02).

⁶⁶ Public Hearing Notice Compliance Filing, Public Version, Exhibits 1a, 2a, 2c (E-Dockets Document No. 20144-97993-02); Public Hearing Notice Compliance Filing, Trade Secret Version, Exhibits 2b, 2d (e-filed April 4, 2014).

⁶⁷ Public Hearing Notice Compliance Filing, Public Version, Exhibit 2e (E-Dockets Document No. 20144-97993-02); Public Hearing Notice Compliance Filing, Trade Secret Version, Exhibit 2f (e-filed April 4, 2014).

⁶⁸ Public Hearing Notice Compliance Filing, Public Version, Exhibits 1a, 4a (E-Dockets Document No. 20144-97993-02).

⁶⁹ Public Hearing Notice Compliance Filing, Public Version, Exhibits 6a, 6b, 6c (E-Dockets Document No. 20144-97993-02).

- Hallock, Minnesota: March 18, 2014, beginning at 6:30 p.m.
- Thief River Falls, Minnesota: March 19, 2014, beginning at 10:00 a.m.
- Cass Lake, Minnesota: March 19, 2014, beginning at 6:30 p.m.
- Floodwood, Minnesota: March 20, 2014, beginning at 10:00 a.m.
- Duluth, Minnesota: March 20, 2014, beginning at 6:30 p.m.⁷⁰

71. On or around the date of the public hearings in Greater Minnesota, several parties requested relief by way of written motion:

(a) The Dyrdals contested Enbridge's Claims of Confidentiality and Trade Secret Privilege;

(b) The Dyrdals sought to compel responses to discovery;

(c) DOC-DER requested an opportunity to file surrebuttal testimony; and,

(d) MN350/Sierra Club requested a continuance of the Evidentiary Hearing.⁷¹

72. Honor the Earth joined the requests of the Dyrdals and MN350/Sierra Club.⁷²

73. Enbridge opposed the requests of the Dyrdals and MN350/Sierra Club.⁷³

74. A Prehearing Conference on the motions was held on March 26, 2014.⁷⁴

75. On March 27, 2014, the Administrative Law Judge issued the Seventh Prehearing Order. This Order:

⁷⁰ REVISED NOTICE OF PUBLIC HEARINGS, *supra*.

⁷¹ DYRDAL MOTION TO CONTEST CLAIMS OF CONFIDENTIALITY AND TRADE SECRET PRIVILEGE (E-Dockets Document No. 20143-97402-01); MEMORANDUM OF LAW IN SUPPORT OF DYRDAL MOTION TO CONTEST CLAIMS OF CONFIDENTIALITY AND TRADE SECRET PRIVILEGE (E-Dockets Document No. 20143-97402-02); MOTION TO COMPEL DISCOVERY (E-Dockets Document No. 20143-97509-01); MEMORANDUM IN SUPPORT OF DYRDAL MOTION TO COMPEL (E-Dockets Document No. 20143-97496-01); DOC-DER MOTION FOR SURREBUTTAL (E-Dockets Document No. 20143-97460-01); MN350/SIERRA CLUB REQUEST TO RECONVENE THE PREHEARING CONFERENCE AND MOTION TO RESCHEDULE THE EVIDENTIARY HEARING (E-Dockets Document No. 20143-97496-01).

⁷² LETTER FROM HONOR THE EARTH (E-Dockets Document No. 20143-97513-01).

⁷³ See, MEMORANDUM OF LAW OPPOSING THE MN350/SIERRA CLUB MOTION TO RECONVENE AND RESCHEDULE (E-Dockets Document No. 20143-97605-03); MEMORANDUM OF LAW OPPOSING THE DYRDAL MOTION TO CONTEST CLAIMS OF CONFIDENTIALITY AND TRADE SECRET PRIVILEGE (E-Dockets Document No. 20143-97605-02).

⁷⁴ SIXTH PREHEARING ORDER (E-Dockets Document No. 20143-97626-01).

- (a) established a deadline for surrebuttal testimony;
- (b) revised the deadlines for objections to the admissibility of pre-filed direct and rebuttal testimony, submission of exhibit lists, and objections to admissibility of pre-filed surrebuttal testimony;
- (c) rescheduled the evidentiary hearing to April 8 - 10, 2014; and,
- (d) adjusted the deadlines for submission of post-hearing briefs.⁷⁵

76. On April 1, 2014, the Administrative Law Judge issued the Eighth Prehearing Order. This Order established procedures for the public hearing to be held in St. Paul, Minnesota, on April 3, 2014.⁷⁶

77. A public hearing was held in St. Paul, Minnesota, on April 3, 2014. Over the course of four hours of public testimony, the Administrative Law Judge heard from 58 witnesses, received 19 exhibits and dozens of handwritten comments. Importantly, the presentations during the public hearing were equally divided between proponents of the project and opponents of the project.⁷⁷

78. Not all of those persons who enrolled on the hearing register and sought recognition on April 3 were able to provide oral testimony before the close of the public hearing. Those who did testify, however, represented a good cross-section of the views on the project and representation from communities that would have otherwise faced challenges in reaching the earlier set of public hearings in Greater Minnesota.⁷⁸

79. The Dyrdals filed an exhibit list on April 4, 2014, but did not pre-file or circulate copies of their proposed exhibits in advance of the evidentiary hearing.⁷⁹

80. Similarly, the Dyrdals did not pre-file, or offer, any direct, rebuttal or surrebuttal testimony as part of its case-in-chief.⁸⁰

81. On April 7, 2014, Enbridge objected to the exhibits proposed by the Dyrdals.⁸¹

⁷⁵ SEVENTH PREHEARING ORDER (E-Dockets Document No. 20143-97672-01).

⁷⁶ EIGHTH PREHEARING ORDER (E-Dockets Document No. 20144-97878-01).

⁷⁷ *Id.*; ST. PAUL PUBLIC HEARING TRANSCRIPT, at 3-6 and 223-24.

⁷⁸ See, ST. PAUL PUBLIC HEARING TRANSCRIPT and HEARING ROSTER.

⁷⁹ Compare, DYRDAL EXHIBIT LIST (E-Dockets Document No. 20144-97999-01) with SEVENTH PREHEARING ORDER, at 2 (E-Dockets Document No. 20143-97672-01).

⁸⁰ See, MASTER EXHIBIT LIST (E-Dockets Document No. 20144-98581-01).

⁸¹ OBJECTION TO THE DYRDAL EXHIBITS (E-Dockets Document No. 20144-98060-02).

82. On April 7, 2014, the Administrative Law Judge issued the Ninth Prehearing Order. This Order denied the Drydals' request to compel discovery and remove the trade secret designation of certain exhibits. The Order also required Enbridge to submit a redacted, public version of its responses to the DOC-DER's Information Request 21 – an item that was later denominated as Hearing Exhibit 25.⁸²

83. On April 7, 2014, copies of the transcripts of the Public Hearings were mailed to 23 public libraries in Northern Minnesota.⁸³

84. An evidentiary hearing was held on April 8, 9, and 10, 2014 in St. Paul, Minnesota.⁸⁴

85. The public comment period closed at 4:30 p.m. on April 14, 2014.⁸⁵

86. On April 22, 2014, copies of the transcripts of the Evidentiary Hearing were mailed to 23 public libraries in Northern Minnesota.⁸⁶

Assessing the Application for a Certificate of Need

87. Enbridge predicts that Line 67 will reach its current permitted capacity of 570,000 bpd on an annual basis by mid-2014. It further asserts that the volumes of crude oil that are nominated for shipment after that date will continue to increase.⁸⁷

88. A Certificate of Need is required for any project that will expand an existing large petroleum pipeline by more than 20 percent of its rated capacity, or 10,000 bpd, whichever is greater.⁸⁸

89. Because Enbridge proposes to expand the rated capacity of Line 67 by more than 20 percent, a Certificate of Need is required for the project.⁸⁹

90. Under Minn. R. 7853.0130, review of a Certificate of Need application involves inquiries into four key areas – namely, whether:

⁸² NINTH PREHEARING ORDER (E-Dockets Document No. 20144-98063-01); Ex. 25 (Response to DOC Information Request 21A).

⁸³ Letter from Shaddix & Associates, at 1-2 (April 7, 2014) (E-Dockets Document No.20144-98067-01).

⁸⁴ See, HEARING TRANSCRIPTS, (April 8 - 10, 2014).

⁸⁵ REVISED NOTICE OF PUBLIC HEARINGS, at 2, *supra*.

⁸⁶ Letter from Shaddix & Associates (April 22, 2014) (E-Dockets Document No. 20144-98586-01).

⁸⁷ Ex. 4, at 3 (Revised Section 7853.0520).

⁸⁸ Minn. R. 7853.0030, D; see also, Minn. Stat. § 216B.243, subs. 1 and 2.

⁸⁹ Ex. 1, § 7853.0240, at 1.

(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.

Additionally, within each of these broad areas, there are distinct sub-issues that the regulation obliges the Commission to address.⁹⁰

The Impact of the Proposed Facilities upon Regional Energy Supplies

Criteria A-1: Accuracy of the Forecast of Demand for Additional Heavy Crude Oil

91. Minnesota is one of 15 states within Petroleum Area Defense District, Number Two (PADD II).⁹¹

92. Within PADD II there are significant expansions of pipeline and refinery capacity underway. For example, the Flint Hills Resources refinery located in Rosemount, Minnesota, is expanding its capabilities to refine heavy crude oil. This expansion will permit it to refine an additional 36,000 bpd of heavy crude oil. Flint Hills Resources expressed its support for the project.⁹²

93. Additionally, the BP Whiting refinery, located in Whiting, Indiana, is expanding its capabilities to refine heavy crude oil. Following the "complete ramp up" of its plant expansion, the BP Whiting refinery will be able to refine an additional 268,000

⁹⁰ Minn. R. 7853.0130, subps. A, B, C, and D.

⁹¹ The states assigned to PADD II by the U.S. Energy Information Administration are: Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Ohio, Oklahoma, Tennessee and Wisconsin. See *generally*, Ex. 6, Appendix C (Earnest Direct).

⁹² Enbridge Ex. 12, at Attachment C (Curwin Rebuttal); DOC Ex. 37 at 22, LBO-S-5 and LBO-S-6 (Otis Surrebuttal); Ex. 52, at 13 (Denomy Direct).

bpd of heavy crude oil. The BP Whiting refinery likewise expressed support for the project.⁹³

94. These known increases in heavy crude refining capacity exceed the recently-upgraded capacity of Line 67 by an additional 184,000 bpd. The upgraded capacity of Line 67 following the completion of Phase 1 of the project is not sufficient to transport this additional amount of oil.⁹⁴

95. In 2012, Marathon Petroleum completed a \$2.2 billion upgrade and expansion project at its Detroit refinery.⁹⁵

96. In February 2013, a \$400 million upgrade to the BP-Husky Refining LLC Toledo refinery was complete.⁹⁶

97. Enhancements to the pipeline network downstream of Line 67 are likely to increase the demand for crude oil shipments on the Enbridge Mainline System.⁹⁷

98. The Flanagan South project involves the construction of a 36-inch pipeline from the Enbridge Flanagan terminal near Chicago, Illinois, to Cushing, Oklahoma. Upon completion, the pipeline will have an initial capacity of 430,000 bpd, with a design capacity to transport 600,000 bpd.⁹⁸

99. The only origination point for crude oil traveling onto the Flanagan South pipeline is the Enbridge Mainline System.⁹⁹

100. At the terminal in Cushing, Oklahoma, the Flanagan South pipeline will connect to the Seaway Pipeline. The Seaway pipeline extends from Cushing, Oklahoma, to a terminal near Houston, Texas.¹⁰⁰

101. The owners of the Seaway Pipeline are in the process of building a second line between Cushing and the Gulf Coast. This second line will substantially increase the capacity of the Seaway system. With this increase in capacity, shipments made on the Flanagan South pipeline could reach the Gulf Coast of Texas.¹⁰¹

⁹³ Enbridge Ex. 12 at Attachment D (Curwin Rebuttal); Enbridge Ex. 15 at 10-13 (Earnest Rebuttal); DOC Ex. 37 at 11-12 and 23 (Otis Surrebuttal).

⁹⁴ Ex. 15, at 12 (Earnest Rebuttal); DOC Ex. 37, at 22-23 (Otis Surrebuttal).

⁹⁵ Ex. 1, § 7853.0250, at 5.

⁹⁶ *Id.*

⁹⁷ Ex. 15 at 15-17 (Earnest Rebuttal).

⁹⁸ *Id.*, at 15.

⁹⁹ *Id.*, at 17.

¹⁰⁰ *Id.*, at 15.

¹⁰¹ *Id.*, at 15-16.

102. The global market for refined products is likely to be quite strong and increasing in the near-term.¹⁰²

103. When matched against their global competitors in the refining industry, U.S. refineries have a number of competitive advantages. The size, operational efficiency and the comparatively low cost of energy of refineries in the United States makes them well positioned to compete with other global refining centers.¹⁰³

104. In addition to considerable “downstream demand” for heavy crude oil within PADD II, and beyond, the hearing record makes clear that there will be significant new stocks of Canadian crude oil available for transport.¹⁰⁴

105. Laura Otis, a Rates Analyst with the Minnesota Department of Commerce, testified credibly that an additional 1.4 million bpd of Canadian crude oil will be available for transportation between 2012 and 2020. If one subtracts 120,000 bpd that can be carried as a result of the Phase I capacity upgrades to Line 67, and subtract another 730,000 bpd that could be transported by the Keystone XL pipeline, there remains over 500,000 bpd of heavy crude oil that would be available for transport.¹⁰⁵

106. The record contains significant and credible forecasts of increased, near-term demand for heavy crude oil within PADD II.¹⁰⁶

107. The record contains significant and credible forecasts of increased, near-term production of heavy crude oil by Canadian oil producers and that this oil will be available for transport along Enbridge’s Mainline System.¹⁰⁷

108. For most of this added production of heavy crude oil, it is far more likely that these materials will be exported to other locations than it is that it will be consumed by firms within Western Canada.¹⁰⁸

109. When Midwestern demand for heavy crude oil increases, alongside increasing supplies oil in Western Canada, the market pressures upon Enbridge’s limited transportation services are likely to increase. Increasing the capacity of Line 67 would forestall the rate and frequency of apportioned shipments along Line 67.¹⁰⁹

¹⁰² Ex. 19, at 9 (Cicchetti Rebuttal).

¹⁰³ Ex. 15, at 28 (Earnest Rebuttal).

¹⁰⁴ See, e.g., Ex. 7, at 31 (Muse Stancil Benefits Analysis).

¹⁰⁵ Ex. 37, at 17 (Otis Surrebuttal).

¹⁰⁶ Ex. 4 (Revised Section 7853.0520 - Public); Ex. 5 (Revised Section 7853.0520 - Trade Secret Version); Ex. 13 at 6 and Attachment A (Curwin Rebuttal); Ex. 15 at 28 (Earnest Rebuttal).

¹⁰⁷ Ex. 7, at 30 – 35 (Muse Stancil Benefits Analysis).

¹⁰⁸ Compare, e.g., Ex. 21, at 5-6 (Earnest Surrebuttal) and HEARING TRANSCRIPT, Volume 2, at 245 (Cicchetti Testimony) with Ex. 53, at 4-6 (Demony Rebuttal).

¹⁰⁹ Ex. 13 at 6 and Attachment A; Ex. 14 (Response to Department of Commerce Information Request 21A – Trade Secret Version); Ex. 15 at 19-20 (Earnest Rebuttal).

Criteria A-2: Effects of Conservation Programs

110. Given the regional and global demands for heavy crude oil, it is unlikely that conservation programs in Minnesota could reduce the demand for this type of oil by 230,000 bpd.¹¹⁰

111. Similarly, given the regional and global demands for heavy crude oil, it is unlikely that conservation programs in Minnesota could reduce the demand for heavy crude oil enough to significantly reduce apportionment along Line 67.¹¹¹

Criteria A-3: Effects of Promotional Practices on Demand for Energy

112. Demand for transportation services along Line 67 is a function of the broader market demand for refined petroleum products. Enbridge's services are sought-after by refiners and shippers when the markets for refined products – such as gasoline, diesel fuel, aviation fuel, heating oil and asphalt, among others – are strong.¹¹²

113. Projecting increases in both oil production and the market demand for refined products, shippers have asked Enbridge to expand its pipeline system.¹¹³

114. Moreover, Enbridge's shippers have agreed that Enbridge can recover the cost of the proposed project through the toll charges that are assessed to shippers for transporting crude oil.¹¹⁴

115. Enbridge has not undertaken activities to promote increased demand for crude oil or refined petroleum products.¹¹⁵

Criteria A-4: Ability of Existing Facilities to Meet Future Demand for Energy

116. The current 570,000 bpd limitation on Line 67 is not sufficient to meet current and expected peak demand for crude oil shipments. Under such circumstances, it is likely that the apportionment of nominated shipments of crude oil will occur with greater frequency and severity on Line 67 if additional capacity is not available.¹¹⁶

¹¹⁰ HEARING TRANSCRIPT, Volume 2, at 239-41 (Cicchetti Testimony).

¹¹¹ *Id.*

¹¹² See, Ex. 1, § 7853.0250 at 4.

¹¹³ Ex. 1, § 7853.0250 at 4; Ex. 1, § 7853.0240, at 1-9; Ex. 8, Exhibit A, Schedule 1 (Curwin Direct).

¹¹⁴ Ex. 8, at 5, and Attachment A, Schedule 1 (Curwin Direct).

¹¹⁵ Ex. 1, § 7853.0250 at 4.

¹¹⁶ See Ex. 7 at 3-4 (Muse Stancil Benefits Analysis); Ex. 13, Exhibit F, Enbridge Response to Department of Commerce IR21B, Attachment 21B, Schedule 1; DOC Ex. 37 at 11 and 22-23 (Otis Surrebutal).

117. Enbridge's shippers are knowledgeable and sophisticated parties. It is doubtful that these firms would underwrite capacity expansions on Line 67, through increased tolls, if a pipeline company could increase the amounts of heavy crude oil transported along this line without new infrastructure.¹¹⁷

118. The testimony of Mary Ellen Denomy does not point to a different conclusion. In pre-filed testimony, and later during the evidentiary hearing, Ms. Denomy reasoned that Enbridge could avoid apportionment along Line 67 if it was willing to transport both light and heavy grades of crude oil along Line 4. Line 4 is adjacent to Line 67 in Minnesota, and transports both heavy crude oil and "light, sour crude oil" from Clearbrook, Minnesota, to Superior, Wisconsin. As Ms. Denomy testified: "Enbridge may avoid constraints on any one of its pipelines by shifting capacity to other pipelines. As such, the Mainline System as a whole should not be considered apportioned when Enbridge voluntarily chooses to fully utilize a single pipeline while leaving substantial unutilized capacity on other pipelines."¹¹⁸

119. There are reasons to doubt that an additional 230,000 bpd of heavy crude oil capacity can be obtained by transporting additional barrels of heavy crude oil on Line 4 or shipping by alternating batches of light and heavy crude oil along this pipeline. In general, a pipeline has less capacity to transport heavy crude oil than light crude oil. Thus, there is not a 1-for-1 correlation between the excess capacity that may exist on Line 4, which does ship light crude oil, and the additional amounts of heavy crude oil that could be transported along this line. The capacity of Line 4 to ship additional barrels of heavy crude oil is substantially less than 230,000 bpd.¹¹⁹

120. Further, in order to utilize Line 4 for additional heavy crude oil shipments, it is likely that additional pumping stations, and a Certificate of Need proceeding like this case, would be required before any such shipments could occur.¹²⁰

121. While shipping alternating batches of light and heavy crude oil is possible, and is done today, it does create a series of operational difficulties for the transportation company. Pipelines that ship different types of crude oil are less efficient than those lines that are optimized for transportation of a particular type of oil.¹²¹

122. More importantly, shipping alternating batches of different types of crude oil results in mixture of the shipments (known as "interface contamination"), frustrating the later use of the oil for its intended purpose. For example, if a refinery that is designed to process light, "sweet" crude oil were to receive a shipment that had

¹¹⁷ Ex. 53, at 3 (Denomy Rebuttal); HEARING TRANSCRIPT, Volume 1, at 26 and 137 (Otis Testimony and Cicchetti Testimony).

¹¹⁸ Ex. 54, at 3 (Denomy Surrebuttal).

¹¹⁹ Compare, Ex. 15, at 33-34 (Earnest Rebuttal); Ex. 21, at 3 (Earnest Surrebuttal); Ex. 23, at 3-4 (Jurgens Surrebuttal) with HEARING TRANSCRIPT, Volume 3, at 61-62 (Denomy Testimony).

¹²⁰ Ex. 23, at 3 (Jurgens Surrebuttal); *see also*, Minn. R. 7853.0030 (D).

¹²¹ HEARING TRANSCRIPT, Volume 3, at 62 (Denomy Testimony).

significantly higher sulfur content, because of interface contamination from an adjoining shipment of heavy crude oil, the refiner would have difficulty processing the mixed liquid into jet fuel.¹²²

123. Similarly, refiners that ordinarily process heavy crude oil tend to have limited capability to process light crude oil. The crude oil distillation units that are designed to process heavy crude oil require substantial adjustment and modification in order to refine light, sweet crude oil.¹²³

124. In those cases where these adjustments and modifications are made, one of the results is under-utilization of equipment and infrastructure that was designed for the refining of heavy crude oil.¹²⁴

125. Refiners expect to receive from pipelines crude oil of the same quality that the oil had at the point of purchase. Moreover, refiners expect that the types of oil that arrive from pipelines will closely match the refining infrastructure at the receiving plant. So as to meet these marketplace expectations, Enbridge dedicates Line 67 to the shipment of heavy crude oil.¹²⁵

Criteria A-5: Contributions of the Facility to the Efficient Use of Resources

126. Line 67 was originally designed, sized, constructed and tested so as to facilitate a later upgrade to an 800,000 bpd capacity, with modest impacts to the surrounding environment.¹²⁶

127. The total design capacity of the pipeline is 880,000 bpd and it is common for pipeline operators to run pipelines at 90 percent of the line's total design capacity.¹²⁷

128. Enbridge has implemented a series of programs to minimize the energy utilized for safe and effective pipeline operation. Enbridge uses a computer control system and a series of variable frequency induction motor drives to calibrate the pressure and flow rates within the pipeline. By closely calibrating the pipeline pressure, Enbridge avoids waste or dissipation of needed energy within the pipeline.¹²⁸

¹²² Ex. 21, at 3 (Earnest Surrebuttal); Ex. 23, at 5 and Exhibit A.6, Response to MN350/Sierra Club Information Request 3.d (Jurgens Surrebuttal); Ex. 24, Enbridge Response to MN350/Sierra Club Information Request 3.k (Enbridge Responses to MN350/SIERRA Club Information Requests 3); Ex. 54, at 3-4 (Denomy Surrebuttal) (quoting Attachment MED-33, which is Enbridge's Response to MN350/Sierra Club Information Request 3.c); HEARING TRANSCRIPT, Volume 1, at 106-08.

¹²³ Ex. 21, at 4 (Earnest Surrebuttal).

¹²⁴ *Id.*

¹²⁵ *Id.*; HEARING TRANSCRIPT, Volume 1, at 106 (Earnest Testimony).

¹²⁶ Ex. 1, § 7853.0540, at 1; Ex. 13, at 4; Ex. 35 at 32 (Otis Direct); HEARING TRANSCRIPT, 167-68 (Jurgens Testimony).

¹²⁷ Ex. 1; § 7853.0230 at 11-12.

¹²⁸ Ex. 1; § 7853.0260 at 1-2.

129. Further, Enbridge tracks firm and non-firm power requirements for its pipeline operations and works closely with electrical utilities to plan for transmission and generation needs.¹²⁹

130. The proposed project will effectively use energy resources when moving large quantities of heavy crude oil.¹³⁰

Alternatives to the Proposed Facility

131. In pre-filed testimony, and later during the evidentiary hearing, MN350/Sierra Club urged adoption of a “no action” alternative. As these intervenors reasoned, additional demand for crude oil could be supplied through existing pipelines, planned pipelines, rail transportation and other energy sources.¹³¹

Criteria B-1: Size, Type and Timing of Facility in Comparison to Alternatives

B-1-A: Keystone XL

132. MN350/Sierra Club MN350/Sierra Club asserted that completion of the Keystone XL Pipeline could eliminate the need for the project “for years.”¹³²

133. As noted above, however, the in-service date for Keystone XL pipeline is not known. It is unlikely that the Keystone XL pipeline will be operational on or around July 1, 2015.¹³³

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ See e.g., Ex. 52, at 14 (Denomy Direct); Ex. 53, at 13 (Denomy Rebuttal); HEARING TRANSCRIPT, at 60 and 71-72 (Denomy Testimony).

¹³² Ex. 52, at 12 (Denomy Direct); Ex. 53, at 15 (Denomy Rebuttal).

¹³³ Compare, Ex. 54 at 22 (Demomy Surrebuttal) (“The permitting delays in the U.S. are not the impetus for these export pipelines, because the industry has been planning these projects since before delay of the Keystone XL became a political hot button Moreover, the only U.S. crude oil import pipeline project that has been subject to substantial delay is the Keystone XL Pipeline.”) and HEARING TRANSCRIPT, Volume 3 at 102-04 (Demomy Testimony) *with Keystone XL Pipeline Project Review Process: Provision of More Time for Submission of Agency Views* (U.S. Department of State, Office of the Spokesperson, April 18, 4014) (“On April 18, 2014, the Department of State notified the eight federal agencies specified in Executive Order 13337 *we will provide more time* for the submission of their views on the proposed Keystone Pipeline Project. Agencies need additional time based on *the uncertainty created by the on-going litigation* in the Nebraska Supreme Court which could ultimately affect the pipeline route in that state. In addition, during this time we will review and appropriately consider the unprecedented number of new public comments, approximately 2.5 million, received during the public comment period that closed on March 7, 2014. The agency consultation process is not starting over. The process is ongoing, and the Department and relevant agencies are actively continuing their work in assessing the Permit application. The Permit process will conclude once factors that have a significant impact on determining the national interest of the proposed project have been evaluated and appropriately reflected in the decision documents. *The Department will give the agencies sufficient time to submit their views.*”) (emphasis added) (<http://www.state.gov/r/pa/prs/ps/2014/04/224982.htm>).

134. Even if the Keystone XL had the necessary regulatory approvals and could begin operations in 2015, there is doubt that it could ship heavy crude oil to key refining centers in the Midwest. The better reading of the hearing record is that the Keystone XL pipeline is not a reasonable alternative to the proposed project.¹³⁴

B-1-B: Shipment of Heavy Crude Oil to Midwestern Refineries by Railroad

135. One possibility suggested by the Environmental Intervenors is to increase the number and frequency of railroad tank cars carrying crude oil to Midwestern refineries. A railroad tank car can hold 585 barrels of heavy crude oil.¹³⁵

136. To transport 230,000 bpd of crude oil by way of railroad tanker cars would require dispatching 786 rail cars each day through Minnesota – 393 cars loaded with crude oil and 393 empty cars returning to the loading facilities.¹³⁶

137. At present, the purchase of new tanker cars is subject to significant supply constraints and such cars are currently “back-ordered” for periods lasting between 15 and 18 months. Even with railcar manufacturers producing new cars at 100 percent of their capacity, there is currently a backlog of orders for 47,000 railway cars.¹³⁷

138. Additionally, to transport crude oil to the destinations that are nominated by oil shippers would require additional rail car loading and unloading facilities and the construction of new lateral rail service lines. There is no suggestion in the record that either these facilities, or the accompanying railway cars, would be available for service at an earlier date than an expanded Line 67.¹³⁸

B-1-C: Renewable Energy Products

139. While the record shows strong public support for an increasing use of renewable energy technologies in order to meet regional energy needs, Dr. Charles Cicchetti testified credibly that there are not widely-available renewable alternatives to liquid petroleum. As Dr. Cicchetti explained, renewable technologies are able to supplant demand for fuel-based electricity generation, but there are not practicable alternatives for liquid petroleum. This is because the key drivers of demand for liquid

¹³⁴ Ex. 35 at 33–35 (Otis Direct); Ex. 37 at 17 (Otis Surrebuttal); HEARING TRANSCRIPT, Volume 3 at 103-04 (Demony Testimony).

¹³⁵ Ex. 16, Attachment C (Earnest Rebuttal); Ex. 54 at 17 (Demony Rebuttal) (“[R]ailway exports are in fact a viable alternative to the Project and that the cost disadvantages and railcar capacity constraints presented by Enbridge and agreed with by the DOC witness may not be as significant as described by Enbridge Ultimately, though, railroad exports from Canada in fact are now a significant proportion of total exports and likely to grow, such that they should be considered to meet part of the future demand for crude oil imports from Canada.”).

¹³⁶ Ex. 20, at 19 (Rennicke Rebuttal).

¹³⁷ Ex. 1, § 78563.0540 at 6.

¹³⁸ Ex. 1, § 78563.0540 at 6; Ex. 13 at 9.

petroleum – namely, submarket demands for refined products such as gasoline, diesel fuel or asphalt – cannot now be met by renewable products.¹³⁹

Criteria B-2: Cost of Facility and Energy in Comparison to Alternatives

B-2-A: Costs of a Trucking Alternative

140. Using tanker trucks to carry 230,000 barrels of oil per day from Hardisty, Alberta, to oil terminals in the Midwest would be cost-prohibitive. Such an undertaking would require a fleet of 8,280 tankers trucks, costing approximately \$200,000 each. Thus the first year expenses for trucks and drivers of \$2,387,372,400. This sum is 15 times the \$159.3 million Enbridge proposes to expend on the proposed project.¹⁴⁰

141. More problematic, if one assumes a five-year useful life for tanker trucks that are constantly making the 2,300-mile circuit between Hardisty, Alberta to Superior, Wisconsin, the larger fleet would need to be replaced four times over the useful life of the project. Thus, the \$1,656,000,000 initial purchase costs for the fleet would recur at least four times.¹⁴¹

142. Ordinarily, crude oil is sent by truck only to locations that are relatively close to a refinery. Trucking is the most expensive transportation mode for moving crude oil over long distances.¹⁴²

B-2-B: Costs of a Rail Alternative

143. Using railroad cars to carry 230,000 barrels of oil per day from Hardisty, Alberta, to oil terminals in the Midwest would be less cost-effective than transporting the same amounts of oil by pipeline. For example, transporting a barrel of oil along the Canadian National railway between Edmonton, Alberta, and Chicago, Illinois, adds \$11.31 to the cost of the barrel. Similarly, transporting a barrel of oil along the Canadian Pacific railway between the same points, adds \$10.01 to the cost of the barrel.¹⁴³

¹³⁹ Compare, e.g., CASS LAKE PUBLIC HEARING TRANSCRIPT, at 39-40 (Hansen Testimony); DULUTH PUBLIC HEARING TRANSCRIPT, at 62 (LaForge Testimony); DULUTH PUBLIC HEARING TRANSCRIPT, at 76 (Crowley Testimony); DULUTH PUBLIC HEARING TRANSCRIPT, at 87 (Fisher-Merritt Testimony); DULUTH PUBLIC HEARING TRANSCRIPT, at 149 (Powers Testimony); DULUTH PUBLIC HEARING TRANSCRIPT, at 163 (DeWitt Testimony); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 51 (Ham Testimony); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 94 (Romano Testimony); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 110 (Hauser Testimony); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 120 (Hovey Testimony); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 147 (Ferber Testimony); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 210 (Nerbonne Testimony) with HEARING TRANSCRIPT, Volume 2, at 241-42 (Cicchetti Testimony).

¹⁴⁰ Ex. 1, § 7853.0540, at 3-5.

¹⁴¹ Ex. 1, § 7853.0540, at 5.

¹⁴² Ex. 6, at 11 (Earnest Direct).

¹⁴³ Ex. 16, Attachment C (Earnest Rebuttal).

144. The current Enbridge mainline toll between Edmonton and Chicago is \$4.31 per barrel. Accordingly, the cost advantage of moving oil by pipeline, instead of by rail, amounts to between \$5.70 and \$7.00 per barrel, depending upon which railway line is used.¹⁴⁴

145. Enbridge's estimate that Minnesota refineries would face cost increases of \$70 million each year if an expansion of Line 67 does not occur, is reasonable and well-grounded in the hearing record.¹⁴⁵

146. Accommodating an additional 786 railway trips to refineries and oil terminals in Minnesota would require significant capital investments, although no party submitted detailed pricing on the nature and scope of these expenses. It is clear from the record that shipping large volumes of crude oil by railway is not more cost-effective than transporting these same quantities through an expanded Line 67.¹⁴⁶

147. Further still, an increase of 786 railcar trips between area refineries and Alberta, Canada, would significantly burden Minnesota's railway corridors and diminish the access that agricultural and mining firms have to export markets.¹⁴⁷

148. The Department of Commerce, and the firms that nominate shipments of oil for transportation, conclude that expanding Line 67 is a preferable option to routing these same amounts by rail to their destinations.¹⁴⁸

Criteria B-3: Impacts upon Environment from the Facility in Comparison to Alternatives

149. In its application, Enbridge proposes a series of enhancements so as to marshal additional horsepower (and pipeline pressure) along Line 67. The project includes construction of four new pump buildings, improvements to existing pumping station sites, modifying existing pipes and installing new instrumentation.¹⁴⁹

150. Construction of four new pump station facilities will impact 15.8 acres of agricultural land, 2.98 acres of meadow wetlands and 2.1 acres of trees and shrubs.¹⁵⁰

151. Enbridge owns all of the land that will be impacted by construction of the project.¹⁵¹

¹⁴⁴ *Id.*

¹⁴⁵ See, e.g., Ex. 15 at 22 (Earnest Rebuttal).

¹⁴⁶ Ex. 16, Attachment C (Earnest Rebuttal); compare also, HEARING TRANSCRIPT, Volume 3, at 72-73 (Demony Testimony).

¹⁴⁷ Ex. 20, Report at 16-22, 24-30 and 34 (Rennicke Rebuttal); HEARING TRANSCRIPT, Volume 1, at 143.

¹⁴⁸ Ex. 35, at 39 (Otis Direct); HEARING TRANSCRIPT, Volume 2, at 56.

¹⁴⁹ Ex. 1, § 7853.0230, at 6-10.

¹⁵⁰ Ex. 18, at 2-3 (Turner Rebuttal).

¹⁵¹ Ex. 10, at 3 (Turner Direct).

152. Enbridge proposes to undertake some trench dewatering and hydrostatic testing, both of which will result in water discharges. Trench dewatering volumes will vary depending upon precipitation and ground water levels, but Enbridge estimates it will encounter between zero and 25,000 gallons of groundwater during construction. It pledges that it will conduct any trench dewatering activities in accordance with its Environmental Mitigation Plan and applicable permits.¹⁵²

153. Hydrostatic testing of new equipment will require use of between 21,000 and 28,000 gallons of water at each station. Like trench dewatering activities, Enbridge pledges to conduct these tests in accordance with its Environmental Mitigation Plan and any applicable permits.¹⁵³

154. Construction of the project will result in short-term increases in noise and fugitive emissions due to operation of construction equipment. However, Enbridge forecasts that the new emissions will not require a discharge permit nor will post-construction ambient noise levels increase because of enhancements to Line 67.¹⁵⁴

155. To counter-balance these impacts, Enbridge proposes to plant a tree for each tree that is removed in order to build the new facilities and to generate a kilowatt-hour of renewable energy for each kilowatt-hour of energy that is consumed in its pipeline operations.¹⁵⁵

156. Both the railway and truck alternatives would result in more emissions from transportation for each barrel of oil that is shipped.¹⁵⁶

157. Likewise, the disturbances from increased truck or rail traffic, traffic congestion and noise pollution, all make the railway and truck alternatives less desirable than the proposed project.¹⁵⁷

Criteria B-4: Reliability of the Facility in Comparison to Alternatives

158. The key objective of the project is to deliver larger quantities of heavy crude oil to refineries in the Upper Midwest (including Minnesota) and the Gulf Coast. Following delivery, this oil is converted into refined products that are shipped to consumers in Minnesota, the Midwest, and elsewhere in the world.¹⁵⁸

¹⁵² Ex. 1, § 7853.0620, at 1 and Table 7853.0620-1.

¹⁵³ Ex. 1, § 7853.0620, at 1-2 and Table 7853.0620-1.

¹⁵⁴ Ex. 1, §§ 7853.0620 at 2-3 and 7853.0630, at 1-6; HEARING TRANSCRIPT, Volume 1, at 161.

¹⁵⁵ Ex. 1; § 7853.0260, at 2-3; HEARING TRANSCRIPT, Volume 1, at 162.

¹⁵⁶ Ex. 35 at 36-37 (Otis Direct); see also, ST. PAUL PUBLIC HEARING TRANSCRIPT, at 194 (Underdahl Testimony).

¹⁵⁷ Ex. 35 at 37-38 and LBO-6 (Otis Direct); see also, HEARING TRANSCRIPT, Volume 3, at 72-73 (Demony Testimony).

¹⁵⁸ See, e.g., Ex. 7, at 3-4 (Muse Stancil Benefits Analysis).

159. Minnesota, and its sister states, benefit from maintaining a more secure supply of crude oil. Access to crude oil from Canada reduces the United States' dependence upon oil that is imported through ocean-going tankers. The oil that is received from countries outside of North America is subject to the special risks faced by all ocean-going vessels on the high seas. In addition, these supplies face the risks of sudden diplomatic and political conflict with OPEC-member nations in South America or the Middle East.¹⁵⁹

160. Likewise significant, there is a highly-integrated system for distributing refined petroleum products throughout the Midwest. Refined products from the crude oil that is transported along Line 67 are regularly and reliably available to Minnesotans from the refineries within the state and wider region.¹⁶⁰

161. Lastly, on a per ton-mile basis, the risks of casualty and a discharge of hazardous materials are significantly lower when crude oil is transported along a pipeline, such as Line 67, than when it is transported by truck or railway car. A high rate of safe deliveries of crude oil is a key component of energy reliability.¹⁶¹

162. During the public hearing and comment period, several commentators expressed concern over expanding crude oil shipments by rail or truck – options that they argued would increase traffic congestion and the risk of an oil spill.¹⁶²

163. No party put forward an alternative that contributed more to the reliability of regional energy supplies than the proposed project.¹⁶³

Consequences to Society from the Proposed Facility

Criteria C-1: Relationship of Facility to State's Overall Energy Needs

164. Because Enbridge operates its Mainline System as a common carrier, transportation of crude oil to Minnesota is burdened, and reduced in *pro rata* shares, as demand for oil increases at points East and South of Minnesota on the system. As Neil Earnest noted in his testimony, if the proposed expansion is not approved, and the Flanagan South pipeline later reaches 75 percent of its operating capacity (430,000 bpd), significant apportionment will likely result “upstream” on Line 67. Describing generally the magnitude of the effect, he testified that under a 25.9 percent

¹⁵⁹ Ex. 7, at 17-24 and 27-29 (Muse Stancil Benefits Analysis); Ex. 19, at 7-8 and 53 (Cicchetti Rebuttal).

¹⁶⁰ Ex. 7, at 4 and 14-24 (Muse Stancil Benefits Analysis).

¹⁶¹ Ex. 1, § 7853.0250, at 2.

¹⁶² See, e.g., CASS LAKE PUBLIC HEARING TRANSCRIPT, at 36 (David Testimony); FLOODWOOD PUBLIC HEARING TRANSCRIPT, at 53 (Kletcher Testimony); FLOODWOOD PUBLIC HEARING TRANSCRIPT, at 59 (Anderson Testimony); DULUTH PUBLIC HEARING TRANSCRIPT, at 147 (Powers Testimony); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 81 (Chastan Testimony); Comments of Chuck MacFarlane (April 10, 2014).

¹⁶³ See, Ex. 35, at 39 (Otis Direct).

apportionment, deliveries to Minnesota refineries would be trimmed by 62,000 bpd. Moreover, the severity of the shortages is likely to increase if, and when, the Flanagan South pipeline begins transporting 600,000 bpd.¹⁶⁴

165. While the proposed expansion will not eliminate the apportionment-producing effects of the new Flanagan South capabilities, it forestalls apportionment on Line 67 for a time, and then cuts its impact by nearly half when it reemerges.¹⁶⁵

166. Delaying apportionment, or reducing its severity, along Line 67 benefits Minnesota's refineries, consumers and energy sector.¹⁶⁶

167. Likewise important, the addition of 230,000 bpd bolsters the domestic "spare capacity" of oil. Spare capacity commodity stocks can respond quickly to disruptions in other sources of oil supply. Increasing the amounts of spare capacity contributes to the stability of prices following such disruptions and reduces both the severity and duration of sudden price shocks.¹⁶⁷

168. Dr. Charles Cicchetti testified credibly as to the benefit of reducing dependence upon sources of oil outside of North America and of the measurable benefit that follows from purchasing more oil from Canada. For petroleum consumers in Minnesota, he estimates that the project will result in significant reductions in price and supply volatility. Dr. Cicchetti calculates the Net Present Value benefit of these reductions to be \$1 billion each year. Dr. Cicchetti further calculated the Net Present Value benefit to Minnesota's gasoline consumers to be \$788 million each year.¹⁶⁸

169. For the region, the benefits of the project are even larger. Dr. Cicchetti calculated the Net Present Value benefit of the project to the states within PADD II to be approximately \$18.4 billion.¹⁶⁹

170. If the proposed project is approved, Minnesota consumers will likely pay less for petroleum products than they otherwise would without the added pipeline capacity. Additional capacity on Line 67 will likely contribute to longer periods of local price stability for petroleum products, and fewer price shocks of shorter duration than would occur without the project.¹⁷⁰

¹⁶⁴ See, Ex. 15 at 19, 20 and 23 (Earnest Rebuttal); HEARING TRANSCRIPT, Volume 2, at 43; *see also*, Ex. 7, at 23.

¹⁶⁵ Ex. 15, at 19-20 (Earnest Rebuttal).

¹⁶⁶ See, Ex. 1, § 7853.0240, at 4; Ex. 8, at 7; Ex. 13 at Attachments C, D and E (Curwin Rebuttal); Ex. 15 at 22-23 and Table 1 (Earnest Rebuttal); Ex. 19, at 6-7 and 10 (Cicchetti Rebuttal); Ex. 37, at 7 (Otis Surrebuttal).

¹⁶⁷ Ex. 19, at 10-21 (Cicchetti Rebuttal); HEARING TRANSCRIPT, Volume 2, at 99 – 102 (Cicchetti Testimony).

¹⁶⁸ Ex. 19, at 41-42 (Cicchetti Rebuttal).

¹⁶⁹ *Id.* at 51-52.

¹⁷⁰ *Id.* at 6-7; HEARING TRANSCRIPT, Volume 2, at 104-120 (Cicchetti Testimony).

171. During the public hearing and comment period, several commentators argued that purchasing a greater share of crude oil from Canada, a country with whom the United States has a wide-ranging, stable and cordial set of trade relations, would contribute to domestic energy security.¹⁷¹

172. Still other commentators expressed skepticism that the proposed expansion of Line 67 had a significant relationship to domestic needs for petroleum. These commentators argued that the real beneficiaries of the proposed expansion were oil-importing countries overseas. Thus, in the view of these commentators, Minnesotans would bear the environmental risks of shipping commodities that are destined for foreign consumers.¹⁷²

Criteria C-2-i: Impact Upon the Natural Environment

173. With respect to “the effect of the proposed facility, or a suitable modification of it, upon the natural ... environment[] compared to the effect of not building the facility,” Enbridge focuses its presentation on the likely impacts to the land, water and air in areas adjacent to pumping facilities. The focus of its presentation is, understandably, narrow; estimating only the externalities that are associated with new stations, additional equipment and operating a more robust pipeline.¹⁷³

174. The Environmental Intervenors, and thousands of public commentators, point to the environmental impacts of consuming an additional 230,000 bpd of heavy crude oil. These parties and participants argue that facilitating the processing of this amount of oil – however it may be transported into Minnesota – will be catastrophic to the natural environment; perhaps imperiling human civilization.¹⁷⁴

¹⁷¹ See, e.g., FLOODWOOD PUBLIC HEARING TRANSCRIPT, at 36 (Stone Testimony); DULUTH PUBLIC HEARING TRANSCRIPT, at 75 (Ridall Testimony); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 35 (Melandner Testimony); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 116 (Walsh Testimony).

¹⁷² See, e.g., CASS LAKE PUBLIC HEARING TRANSCRIPT, at 102 (Elwood Testimony); DULUTH PUBLIC HEARING TRANSCRIPT, at 93-94 (Jeatran Testimony); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 169 (Rust Testimony); Comments of Janice Andersen (April 14, 2014); Comments of Wayne Bailey (April 14, 2014); Comments of Gregory Halbert (April 14, 2014); Comments of Anne C. Jones (April 11, 2014); and Comments of Mary Keranen (April 2, 2014).

¹⁷³ See, Minn. R. 7853.0130 (C)(2); Ex. 9, at 2-3 (Jurgens Direct); Ex. 10, at 1-3 (Turner Direct).

¹⁷⁴ See, e.g., MN350/SIERRA CLUB'S POST-HEARING BRIEF, at 44 (“As testified to by Dr. John Abraham, Minnesota’s risks from climate change are equally [dire] including droughts, flooding, additional health risks and harm to our agricultural, forest products and tourism economies”); DULUTH PUBLIC HEARING TRANSCRIPT, at 103-32 (McSteen Testimony) (“No one here tonight was born at the time that we began our dependence on fossil fuels. And everyone here tonight is currently dependent on fossil fuels. We all drove a car, presumably, everyone here tonight drove a car. We are a part of a system that is taking us to the edge that is causing collapse.... [T]his is about accepting that we are in this together and that we have a fight of – we are fighting for the survival of humanity and for all we love.”); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 51 (Ham Testimony) (“Our carbon-based economy has led us to the brink of planetary destruction”); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 61-62 (Hasbrouk Testimony) (“I’d like to quote from a National Geographic article about the recent scientific report from the Intergovernmental Panel on Climate Change: ‘The 772 scientists who wrote and edited the report argue that world leaders

175. In this respect, the hearing record diverges, splitting into two very different directions. The record includes detail as to localized impacts of operating a more powerful pipeline and the global impacts of using, refining or burning petroleum products in general.¹⁷⁵

176. As to the environmental impacts of retrofitting and operating Line 67, the construction activities will be limited in scope and duration to a handful of sites. The new pump facilities will be installed at, or adjacent to, existing stations, which are industrial sites. No new pipe will be installed outside of these facilities.¹⁷⁶

177. Because the enhancements to Enbridge's equipment will occur at or near existing pipeline facilities, construction of the upgrades, and operating an expanded pipeline, will have modest impacts to other lands or uses.¹⁷⁷

178. Importantly, MN350 and the Sierra Club appear to agree that in comparison to extracting crude oil from the ground in Alberta, refining the oil, or burning gasoline that is made from such oil, Enbridge's role in *transporting* Canadian crude oil to Midwestern refineries results in the release of far fewer greenhouses gases into the atmosphere. The pre-filed testimony of the Intervenor's expert John Abraham suggests that between 60 to 80 percent of the total emissions from gasoline, for example, occur when the gasoline is used in motor vehicles. A far smaller percentage, on average, results in transporting crude oil from Canadian oil fields to refineries.¹⁷⁸

have only a few years left to reduce carbon emissions to avoid -- enough to avoid catastrophic warming, which would produce significant sea level rise and large scale shifts in temperatures that would dramatically disrupt human life and natural ecosystems.' ... That U.N. report should jolt us all awake. We are standing on the edge of hell and we need to stop burning fossil fuels now. Every thinking person on this planet has to do their part to reorganize our societies away from the suicide march that we are presently on and towards a restoration project for our water, land and, most urgently, our atmosphere."); see also, Comments of Betsy Allis (April 14, 2014); Comments of Carol Allis (April 14, 2014); Comments of Lane Ayers (March 30, 2014); Comments of Deanna Bathke (April 14, 2014); Comments of Harry Boyte (April 14, 2014); Comments of Nicholas Carter (April 10, 2014); Comments of Kathleen Chesney (April 7, 2014); Comments of Dianne Chirpich (April 10, 2014); Comments of Lisa M. Erickson (April 10, 2014); Comments of Jeanne Gregory (April 14, 2014); Comments of John Horton (April 6, 2014); Comments of David Howell (April 10, 2014); Comments of Carol K. Johnson (April 14, 2014); Comments of Donna Krisch (April 14, 2014); Comments of Sarah Kuhnen (April 11, 2014); Comments of Brett Lease (March 30, 2014); Comments of Maureen Moore (April 6, 2014); Comments of Theresa Olson (April 14, 2014); Comments of Vilayack Praseuth (April 7, 2014); Comments of Amarnauth Ramdeen (April 6, 2014); Comments of Darby Ringer (April 11, 2014); Comments of Maggie Rozyck (April 14, 2014); Comments of Akilah Sanders-Reed (April 14, 2014); Comments of Ash Stern (April 5, 2014); Comments of Ben Van Lierop (March 30, 2014); Comments of Elizabeth Weir (April 8, 2014); and Comments of Jerry Yanz (April 10, 2014).

¹⁷⁵ See generally, Section on Criteria C-2-i.

¹⁷⁶ See, Ex. 1, § 7853.0610, at 4-5; Ex. 1, § 7853.0640, at 7-8.

¹⁷⁷ Ex. 1, § 7853.0610 at 2, 7 and 8.

¹⁷⁸ See, Ex. 51, Attachment 7, at 7.00062 and 7.00063 (Abraham Surrebuttal) and Ex. 51, Attachment 13, at 7-8 (Abraham Surrebuttal) ("The differences between pathways are much smaller on a WTW basis than on a WTR or WTT basis due to the large-vehicle use component of GHG emissions included in the WTW results. Considering all the pathways in the present analysis, the vehicle-use phase (TTW)

179. Moreover, Mr. Abraham's pre-filed testimony suggests that, on average, the transportation of Canadian heavy crude oil to refineries results in the release of far fewer greenhouse gases than oil transportation operations in other oil producing nations – such as Angola, Ecuador or Saudi Arabia.¹⁷⁹

180. A key focus for the Environmental Intervenors is thus not a comparison between Enbridge's plans to transport 230,000 bpd and alternative modes of transporting this material, but rather between extracting Western Canadian crude oil from the ground and not pumping that oil at all.¹⁸⁰

181. Similarly, many of the public commentators who oppose granting a Certificate of Need point to the moral implications of using this amount of crude oil.¹⁸¹

emissions account for 60%–80% of the WTW emissions. These results corroborate general knowledge in the field that the majority of the WTW GHG emissions occur during the TTW phase when conventional internal combustion engine vehicles are assumed.”).

¹⁷⁹ See, Ex. 51, Attachment 7, at 7.00062 and 7.00063 (Abraham Surrebuttal).

¹⁸⁰ See, e.g., Ex. 50, at 4-5 (Abraham Direct) (“The Project will result in an increased capacity to transport crude oil from the Tar Sands Region to oil refineries.... Combustion of these fuels will result in greater future emissions of CO₂, the principle greenhouse gas, as well as other greenhouse gases, than would exist absent the Project.”); HEARING TRANSCRIPT, Volume 3 at 26-27 (Abraham Testimony) (“If you are serious about reducing our exposure to climate change costs, then we have to leave the dirtiest carbon in the ground. In fact, the opposing expert, Dr. Cicchetti, cited a Carnegie Study yesterday, and one of the three summary points at page of that document was let us not extract unconventional dirty fossil fuels.”); FLOODWOOD PUBLIC HEARING TRANSCRIPT, at 88-89 (Pearson Testimony) (A Goldman Sachs report suggests that there is “a window of opportunity now for Alberta to be getting those oil sands, tar sands out, because they expected that that window would close over the next 10 years if the capacity to get the oil out is not built. And that therefore it would, in fact, stay in the ground.”); see also, DULUTH PUBLIC HEARING TRANSCRIPT, at 87 (Fisher-Merritt Testimony); Comments of Harrison Beck (April 14, 2014); Comments of McKinley Johnson (April 7, 2014); Comments of Mary Ludington (April 14, 2014); Comments of Dylan Maxon (April 9, 2014); Comments of Judith Pryor (April 11, 2014); Comments of John Stuart (April 8, 2014); and Comments of Nicholas Turnman (April 9, 2014).

¹⁸¹ See, e.g., HALLOCK PUBLIC HEARING TRANSCRIPT, at 48 (Bragg Testimony) (“[I]t can't be denied that oil and the harvesting of fossil fuels, as us humans have started to ... initiate climate change. And so I don't see it as responsible continuing operations. I feel that is denying facts.”); FLOODWOOD PUBLIC HEARING TRANSCRIPT, at 89 (Pearson Testimony) (“I think this is something that we'll look back on some decades from now and say: ‘Oh, my god, how could we have not seen what the consequence was.’”); DULUTH PUBLIC HEARING TRANSCRIPT, at 77-78 (Crowley Testimony) (“This is a global issue ... and we have a moral responsibility here in Minnesota to take a stand that shows leadership and understanding of the critical moment we are facing in history”); DULUTH PUBLIC HEARING TRANSCRIPT, at 125-26 (Bol Testimony) (“If we think about during World War II and the Nuremberg Trials, we think about that the guards had some moral responsibility, they just can't say that they were following the process, they were following the orders”); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 63 (Hasbrouck Testimony) (“Facilitating the burning of fossil fuels is an immoral act once you know the consequences”); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 199 (Ahler Testimony) (“[A]s a society and as a planet, we cannot afford to extract or use this additional tar sands oil. Increasing the capacity of the Alberta Clipper pipeline would make us bad neighbors to the global community. We have a moral and ethical responsibility to consider all of our global neighbors in this decision, and this is clearly not in the interest of the global public.”); see also, Comments of Wilamette Brennaman (April 10, 2014); Comments of Nan Cocliss (April 6, 2014); Comments of Peter J. Frederick (March 30, 2014); Comments of Terrie Ten Eyck (April 14, 2014).

182. While the Commission could decide not to grant a Certificate of Need for this project on the grounds that Minnesota should not permit the transportation of heavy crude oil, there is real doubt that withholding approval for an expanded Line 67 will result in Canadian oil supplies “remaining in the ground.” This is because the price impact of denying the Certificate of Need will add approximately \$11 to the cost of a barrel of oil. As Dr. Cicchetti persuasively testified, however, Canadian oil producers will very likely continue to extract oil from Alberta so long as the Gulf Coast price point for a barrel of oil is at least \$50 per barrel – a level that is half the rate at which Canadian oil regularly trades now. Accordingly, while an \$11 price change on a \$100 barrel of oil may be very unwelcome to certain companies in the oil business such a spike is not likely to dissuade oil producers from extracting oil from Alberta or refiners from processing Canadian petroleum.¹⁸²

183. The Environmental Intervenors likewise argue that all of the greenhouse gas emissions that are associated with the extraction, refining and use of Alberta crude oil should be attributable to this project. As the Intervenors reason, these greenhouse gas impacts will occur because Enbridge transports heavy crude oil from tank farms in Canada to refineries in the United States.¹⁸³

184. Attributing all of the greenhouse gas impacts from the oil that Enbridge transports, to the project, is problematic – in terms of both causation and calculations. As a common carrier, Enbridge delivers crude oil between destinations along the Mainline System. It does not extract or refine the oil that it transports. This is important because the amounts of greenhouse gases released could, potentially, be very different depending upon how oil is extracted, where it is refined and how it is used.¹⁸⁴

185. The record does not support a conclusion that Enbridge has the market-power or the legal authority to direct the final destinations of nominated shipments.¹⁸⁵

186. The record does not suggest that Enbridge has the ability to direct how Canadian crude oil is extracted, where it is refined or how it is used.¹⁸⁶

¹⁸² Compare, Ex. 16, Attachment C with HEARING TRANSCRIPT, Volume 2 at 121 and 245-46 (Cicchetti Testimony).

¹⁸³ See, Ex. No. 50, at 5 (Abraham Direct) (“*The increased greenhouse gas emissions from the crude oil transported by the Project will increase the concentration of greenhouse gases in our atmosphere. This increased concentration of greenhouse gases will adversely impact our atmosphere and result in faster overall warming of our global climate as well as result in greater changes to Minnesota’s climate than would happen without the Project.*”) (emphasis added).

¹⁸⁴ See, e.g., Ex. 51, Attachment 7, at 7.00039, 7.00062 and 7.00063 (Abraham Surrebuttal); HEARING TRANSCRIPT, Volume 2, at 153-54 and 170-71 (Cicchetti Testimony).

¹⁸⁵ See, HEARING TRANSCRIPT, Volume 1 at 185 (Curwin Testimony) (“[A]s a common carrier we have to essentially provide equal opportunity to our system. Similarly situated shippers are entitled to the same access as each other that are similarly situated.”); HEARING TRANSCRIPT, Volume 2 at 38 (Otis Testimony) (“Enbridge’s Line 67 is a common carrier pipeline, Enbridge is required to treat every shipper nominating capacity on its mainline system equally”).

¹⁸⁶ See, Section on Criteria C-1, *supra*.

187. For these reasons, the better reading of the requirements of Part 7853 is to assess the environmental impacts at, or adjacent to, Line 67. The record establishes that the range of these impacts, at points near the pipeline, is temporary and modest.¹⁸⁷

Criteria C-2-ii: Impact Upon the Socioeconomic Environment

188. The cost of the project is estimated at \$159.3 million.¹⁸⁸

189. The project will benefit the localities immediately adjacent to the affected pumping stations, largely through the spin-off effects from construction-related activity and the higher personal property tax revenues garnered from the upgraded facilities.¹⁸⁹

190. The construction-related impacts include new, project-related demand for construction workers, skilled tradesmen, construction materials, fuel, equipment and services from local businesses.¹⁹⁰

191. Using the Regional Input-Output Modeling System, Enbridge estimated that approximately 2,400 person-years of temporary construction jobs will be created during the nine-month construction phase of the project.¹⁹¹

192. The Regional Input-Output Modeling System predicts total economic benefit of the project is estimated at \$360 million during the year of construction.¹⁹²

193. During the construction phase of the project, unemployment in the areas near the pumping stations would be reduced and payroll taxes would rise.¹⁹³

194. Enbridge expects to purchase some of the items needed for construction of the project locally, including consumables, fuel, equipment, and miscellaneous construction-related materials.¹⁹⁴

195. Local businesses would also benefit from the temporary demand for goods and services generated by the workforce's need for food, lodging and supplies.¹⁹⁵

¹⁸⁷ *Id.*

¹⁸⁸ Ex. 1, § 7853.0240, at 13.

¹⁸⁹ See, e.g., Ex. 1, § 7853.0240 at 11-13; THIEF RIVER FALLS PUBLIC HEARING TRANSCRIPT, at 53-54 (Grover Testimony).

¹⁹⁰ Ex. 1, § 7853.0240, at 14.

¹⁹¹ *Id.* at 12.

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

196. During the public hearings, among the most-energetic proponents of the project were tradesmen and local officials who live in communities that straddle the pipeline route. Each group hopes that the project would result in lower unemployment in higher-wage construction and engineering sectors, and that those who obtain work will in turn look to other local firms for goods and services.¹⁹⁶

197. Using its current tax schedules, Enbridge estimates that as much as \$2.23 million in additional property taxes will be paid in Minnesota starting in 2016.¹⁹⁷

198. Local property taxpayers would likely benefit from a larger local tax base, against which levies for school districts and local units of government could be made. During the public hearing in Thief River Falls, for example, local officials testified as to the relief that a broader and more diversified tax base means to homeowners in Clearwater and Marshall Counties.¹⁹⁸

199. Lastly, the projected \$360 million in economic benefits, and later purchases of crude oil, contributes to a positive trade relationship between Minnesota and the Canadian provinces.¹⁹⁹

Criteria C-3: Impact of the Facility Upon Future Development

200. The project will result in increased access to Canadian heavy crude for refineries in the United States; including refineries in Minnesota, Wisconsin, the Chicago area, the Detroit area, the Toledo area, eastern Canada and the United States Gulf Coast region.²⁰⁰

201. Refiners require access to reliable and economical supplies of raw materials in order to remain competitive and plan for expansions of their facilities.²⁰¹

202. Refiners in the Chicago area, the Detroit area, the Toledo area, eastern Canada and along the United States Gulf Coast have the capability to refine heavy crude oil or other grades of crude oil sourced from western Canada.²⁰²

¹⁹⁶ See, e.g., THIEF RIVER FALLS PUBLIC HEARING TRANSCRIPT, at 29 (Chastan Testimony); CASS LAKE PUBLIC HEARING TRANSCRIPT, at 46 (McMahon Testimony); FLOODWOOD PUBLIC HEARING TRANSCRIPT, at 39 (Britz Testimony); DULUTH PUBLIC HEARING TRANSCRIPT, at 35 (Barr Testimony); DULUTH PUBLIC HEARING TRANSCRIPT, at 69-70 (Rossetter Testimony); DULUTH PUBLIC HEARING TRANSCRIPT, at 119 (Bennett Testimony); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 40 (Poweleit Testimony); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 44 (Shew Testimony); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 110-11 (Cannata Testimony).

¹⁹⁷ Ex. 1, § 7853.0240, at 13.

¹⁹⁸ THIEF RIVER FALLS PUBLIC HEARING TRANSCRIPT, at 53-54 (Grover Testimony); THIEF RIVER FALLS PUBLIC HEARING TRANSCRIPT, at 56 (Bing Testimony); see also, ST. PAUL PUBLIC HEARING TRANSCRIPT, at 32-33 (Blazar Testimony).

¹⁹⁹ HEARING TRANSCRIPT, Volume 2, at 71, lines 1-9.

²⁰⁰ Ex. 1, § 7853.0250, at 5.

²⁰¹ *Id.*

203. Refineries along the United States Gulf Coast are configured to process the increased supplies that will be transported through existing pipeline systems via the expanded Line 67.²⁰³

204. Enbridge estimates that if the project is approved, in 2015 the project will yield economic benefits of 97 new jobs and another \$23 million in economic impacts. These estimates rise to 183 new jobs per year and an additional \$44 million economic impact for each year after 2015.²⁰⁴

205. The Minnesota Chamber of Commerce echoed the claims of regional refiners, asserting that better access to supplies of Canadian crude oil would drive expansions of local business, inside and outside of the oil industry.²⁰⁵

Criteria C-4: Socially Beneficial Uses of the Oil Transported by the Facility

206. The refineries that receive crude oil from Enbridge's Mainline System produce a wide range of industrial and commercial products – including transportation fuels, heating oil, asphalt and jet fuel.²⁰⁶

207. Following the development of these products, Midwestern refineries ship these materials to markets within Minnesota and PADD II and across the globe. Because the distribution system for these items is highly integrated, refined products produced from crude oil are readily available in each of these markets.²⁰⁷

208. The secondary markets for refined petroleum include manufacturers of medicines, health products and feed stocks.²⁰⁸

The Facility's Future Compliance with Law and Rules

Criteria D: Design, Construction or Operation of the Line and the Law

209. The project is subject to a number of federal, state and local permitting requirements.²⁰⁹

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ Ex. 1, § 7853.0240, at 13.

²⁰⁵ ST. PAUL PUBLIC HEARING TRANSCRIPT, at 31-33 (Blazar Testimony).

²⁰⁶ Ex 1, § 7853.0240, at 1-2 and 14; Ex. 7 at 1 (Muse Stancil Benefits Analysis).

²⁰⁷ Ex. 7 at 3-4 and 17-19 (Muse Stancil Benefits Analysis).

²⁰⁸ Ex. 35 at 47 (Otis Direct).

²⁰⁹ Ex. 1, § 7853.0230, at 14-5 and Table 7853.0230-2.

210. During the proceedings on its application to the Commission, Enbridge began the permitting process with these other units of government.²¹⁰

211. The design, construction and operation of the project are subject to regulation and oversight by the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA).²¹¹

212. Enbridge had its Incident Contingency Plan (formerly known as an Emergency Response Plan) reviewed by multiple agencies, including the PHMSA and the U.S. Environmental Protection Agency.²¹²

213. PHMSA approved Enbridge's Incident Contingency Plan in July of 2013.²¹³

214. With respect to predictions of Enbridge's future compliance with federal, state and local environmental standards, the public hearing record again diverges. Pointing to the 2010 pipeline spill in Kalamazoo, Michigan, many stakeholders questioned Enbridge's ability to safely transport heavy crude oil along Line 67.²¹⁴

215. Still other stakeholders expressed doubt as to whether such quantities of oil could ever be safely transported, particularly in areas near sensitive waterways.²¹⁵

216. In an effort to address this critique, tradesmen and engineers who worked on Enbridge sites in the past testified as to the company's rigor on environmental compliance.²¹⁶

²¹⁰ Ex. 1, § 7853.0230 at Table 7853.0230-2.

²¹¹ Ex. 1, § 7853.0270, at 2; *see also*, 49 U.S.C. 2001 *et. seq.*; 49 C.F.R. Part 195.

²¹² HEARING TRANSCRIPT, Volume 1, at 189-190 (Curwin Testimony).

²¹³ *Id.*, at 190 (Curwin Testimony).

²¹⁴ *See, e.g.*, CASS LAKE PUBLIC HEARING TRANSCRIPT, at 100-102 (Elwood Testimony); SAINT PAUL PUBLIC HEARING TRANSCRIPT, at 217-19 (Wahmhoff Testimony); Comments of Kendrick Alexander (April 14, 2014); Comments of Louis B. Asher (April 7, 2014); Comments of Harrison Beck (April 14, 2014); Comments of Kathleen O'Halloran Blake (April 14, 2014); Comments of Winston Cavert (April 9, 2014); Comments of Loni Coppin (April 9, 2014); Comments of Lisa M. Erickson (April 10, 2014); Comments of Sara Nelson-Pallmeyer (April 9, 2014); Comments of Lisa Wersal (April 7, 2014).

²¹⁵ *See e.g.*, ST. PAUL PUBLIC HEARING TRANSCRIPT, at 77-78 (Hollander Testimony); Comments of Hayat Ahmed (April 7, 2014); Comments of Tayler Bartell (April 14, 2014); Comments of Judith Britton (April 11, 2014); Comments of Angelina Chase (April 14, 2014); Comments of Jason Cooney (April 14, 2014); Comments of Amber Cogle Fienwald (April 11, 2014); Comments of Tega Foliui (April 14, 2014); Comments of Larry D. Hawke (April 14, 2014); Comments of Tawna Herdklotz (April 7, 2014); Comments of Katherine Korus (April 9, 2014); Comments of Ruthie Nowak (April 14, 2014); Comments of Wendy Parks (April 14, 2014); Comments of Steve Sandberg (April 14, 2014); Comments of Kevin Ray Smith (April 11, 2014); Comments of Mary Jane Sommerville (April 14, 2014); Comments of Rose Vennewitz (April 14, 2014); and Comments of Pader Vue (April 6, 2014).

²¹⁶ *See, e.g.*, THIEF RIVER FALLS PUBLIC HEARING TRANSCRIPT, at 30 (Chastan Testimony); THIEF RIVER FALLS PUBLIC HEARING TRANSCRIPT, at 43-44 (Skipton Testimony); CASS LAKE PUBLIC HEARING TRANSCRIPT, at 45 (Zeto Testimony); DULUTH PUBLIC HEARING TRANSCRIPT, at 38 (Weidman Testimony);

217. The best reading of the hearing record is that Line 67 can safely transport 800,000 bpd and that this result is best guaranteed through high standards in the permitted process and rigorous oversight of company compliance with conditions imposed by the Commission.²¹⁷

Based upon these Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The record contains significant and credible forecasts of increased, near-term demand for heavy crude oil within PADD II.²¹⁸
2. If the project is not approved, in the near-term, Lines 4 and 67 will enter into ever-increasing levels of apportionment. The shippers, refiners and residents of Minnesota and neighboring states would all be negatively impacted by increasing levels of apportionment on Lines 4 and 67.²¹⁹
3. There are no conservation programs, at either the state or federal level, which will eliminate the need for the project.²²⁰
4. The need for additional supplies of heavy crude oil exists now in the marketplace and was not created by Enbridge's promotional practices.²²¹
5. There are no existing or planned facilities that can satisfy the demand for crude oil that are met through an expansion of Line 67.²²²
6. Enbridge demonstrated that the proposed expansion of Line 67 is a cost-effective means of addressing the increased demands for heavy crude oil within Minnesota and the states of PADD II.²²³
7. No party demonstrated that there was a safer, more affordable or more reliable alternative to meet the demand for heavy crude oil than the proposed project.²²⁴

see also, DULUTH PUBLIC HEARING TRANSCRIPT, at 40 (Palmer Testimony); ST. PAUL PUBLIC HEARING TRANSCRIPT, at 140-141 (Sayles Testimony).

²¹⁷ See, Ex. 1, §§ 7853.0250 and 7853.0270.

²¹⁸ See, Minn. R. 7853.0130 (A)(1).

²¹⁹ See, *id.*

²²⁰ See, Minn. R. 7853.0130 (A)(2).

²²¹ See, Minn. R. 7853.0130 (A)(3).

²²² See, Minn. R. 7853.0130 (A)(4).

²²³ See, Minn. R. 7853.0130 (A)(5).

8. The proposed project will enhance the future adequacy, reliability, and efficiency of the energy supply needed by the state of Minnesota.²²⁵

9. The proposed upgrades to Line 67, and the later operations of an expanded pipeline, will have modest impacts upon the surrounding environment.²²⁶

10. The addition of 230,000 bpd will contribute to the stability of oil prices in Minnesota and reduce the severity and duration of future periods of price volatility.²²⁷

11. The project will benefit the localities immediately adjacent to the affected pumping stations, through the spin-off effects from construction-related activity and the higher personal property tax revenues garnered from the upgraded facilities.²²⁸

12. A wide range of industrial and commercial products – including transportation fuels, heating oil, asphalt and jet fuel – are the refined products that result from crude oil transported on Line 67. Additionally, the secondary markets for refined petroleum include manufacturers of medicines, health products and feed stocks.²²⁹

13. Enbridge established that it can construct and operate the proposed facilities in compliance with applicable federal, state and local permitting standards.²³⁰

14. Enbridge established that it can construct and operate the proposed facilities in compliance with applicable federal, state and local environmental standards.²³¹

15. Application of each of the factors listed in Minn. R. 7853.0130 supports the granting of the requested Certificate of Need.

²²⁴ See, Minn. R. 7853.0130 (B); *In re Application of the City of Hutchinson (Hutchinson Utilities Commission) for a Certificate of Need to Construct a Large Natural Gas Pipeline*, A03-99, slip op. at 11 (Minn. Ct. App. 2003) (unpublished) (“An applicant fails to meet this burden when another party demonstrates that there is a more reasonable and prudent alternative to the facility proposed by the applicant. This regulatory scheme is simply a practical way to prevent the issuance of a certificate of need when there is a more reasonable and prudent alternative to the proposed facility without requiring an applicant to face the extraordinary difficulty of proving that there is not a more reasonable and prudent alternative.”) (citations omitted).

²²⁵ See, Minn. R. 7853.0130 (C)(1).

²²⁶ See, Minn. R. 7853.0130 (C)(2).

²²⁷ See, Minn. R. 7853.0130 (C)(3).

²²⁸ *Id.*

²²⁹ See, Minn. R. 7853.0130 (C)(4).

²³⁰ See, Minn. R. 7853.0130 (D).

²³¹ *Id.*


Based upon these Conclusions of Law, the Administrative Law Judge makes the following:

RECOMMENDATION

The Minnesota Public Utilities Commission should:

1. **GRANT** the requested Certificate of Need.
2. **CONDITION** the Certificate of Need upon Enbridge's receipt of each of the required permits listed in Table 7853.0230-2 of the Revised Application.

Dated: June 12, 2014



ERIC L. LIPMAN
Administrative Law Judge

NOTICE

Notice is hereby given that exceptions to this Report, if any, by any party adversely affected must be filed under the time frames established in the Commission's rules of practice and procedure, Minn. R. 7829.2700 and 7829.3100, unless otherwise directed by the Commission. Exceptions should be specific and stated and numbered separately. Oral argument before a majority of the Commission will be permitted pursuant to Part 7829.2700, subpart 3. The Commission will make the final determination of the matter after the expiration of the period for filing exceptions, or after oral argument, if an oral argument is held.

The Commission may, at its own discretion, accept, modify, or reject the Administrative Law Judge's recommendations. The recommendations of the Administrative Law Judge have no legal effect unless expressly adopted by the Commission as its final order.



MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

600 North Robert Street
Saint Paul, Minnesota 55101

Mailing Address:
P.O. Box 64620
St. Paul, Minnesota 55164-0620

Voice: (651) 361-7900
TTY: (651) 361-7878
Fax: (651) 361-7936

June 12, 2014

See Attached Service List

**Re: 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-**

**OAH 8-2500-30952
MPUC CN-13-153**

To All Persons on the Attached Service List:

Enclosed herewith and served upon you is the Administrative Law Judge's **FINDINGS OF FACT, SUMMARY OF PUBLIC TESTIMONY, CONCLUSIONS OF LAW AND RECOMMENDATION** in the above-entitled matter.

If you have any questions, please contact my legal assistant Rachel Youness at (651) 361-7881 or rachel.youness@state.mn.us.

Sincerely,

s/Eric L. Lipman

ERIC L. LIPMAN
Administrative Law Judge

ELL:ry
Enclosure

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
ADMINISTRATIVE LAW SECTION
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

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-	OAH Docket No.: 8-2500-30952
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Rachel Youness, certifies that on June 12, 2014 she served a true and correct copy of the attached **FINDINGS OF FACT, SUMMARY OF PUBLIC TESTIMONY, CONCLUSIONS OF LAW AND RECOMMENDATION** by eService, and U.S. Mail, (in the manner indicated below) to the following individuals:

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 55102134	Electronic Service	Yes
Frank	Bibeau	frankbibeau@gmail.com	Honor the Earth	5124 County Road 118 Deer River, Minnesota 56836	Electronic Service	No
Paul	Blackburn	paul@paulblackburn.net		PO Box 17234 Minneapolis, MN 55417	Electronic Service	No
Tim	Bray	tim.bray@crowwing.us	Crow Wing County	16589 County Road 142 Brainerd, MN 56401	Electronic Service	No
Randall	Doneen	randall.doneen@state.mn.us	Department of Natural Resources	500 Lafayette Rd, PO Box 25 Saint Paul, MN 55155	Electronic Service	No
Donovan	Dyrdal	dyl-valley@hughes.net		13142 180TH ST NW Three River Falls, Minnesota 56701	Electronic Service	No
Peter	Erinder	proferinder@gmail.com	International Humanitarian Law Institute	325 Cedar St. Suite 305 St. Paul, MN 55101	Electronic Service	No
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 55102198	Electronic Service	Yes
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Burl W.	Haar	burl.haar@state.mn.us	Public Utilities Commission	Suite 352 121 7th Place East St. Paul, MN 551021247	Electronic Service	Yes
Arshia	Javaherian	arshia.javaherian@enbridge.com	Enbridge Energy	26 East Superior Street Suite 309 Duluth, MN 55802	Electronic Service	No
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Kevan	Walli	kwalli@fryberger.com	Fryberger, Buchanan, Smith & Frederick	380 St. Peter St Ste 710 St. Paul, MN 55102	Electronic Service	No