

May 26, 2026

VIA E-FILING

Ms. Sasha Bergman
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, MN 55101-2147

**Re: In the Matter of the Application of Enbridge Energy, Limited Partnership and Enbridge Pipelines (Southern Lights) LLC for a Certificate of Need for the Alberta Clipper Pipeline Project and Southern Lights Project
MPUC Docket No. PL-9/CN-07-465**

Dear Ms. Bergman:

Enbridge Pipelines (Southern Lights) LLC (Enbridge) respectfully submits the following documents:

1. Petition for Reconsideration;
2. Declaration of Chad Dechaine; and
3. Attachment A - Material Safety Data Sheet

These have been e-filed through www.edocket.state.mn.us. A copy of this filing is also being served upon the persons on the Official Service List of record.

Please let me know if you have any questions regarding this filing.

Sincerely,

FREDRIKSON & BYRON, P.A.



Christina K. Brusven
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**STATE OF MINNESOTA
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Katie Sieben
Joseph K. Sullivan
Hwikwon Ham
Audrey C. Partridge
John A. Tuma

Chair
Vice-Chair
Commissioner
Commissioner
Commissioner

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

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

**PETITION FOR
RECONSIDERATION**

INTRODUCTION

Enbridge Pipelines (Southern Lights) LLC (Enbridge) submits this petition for reconsideration of the Minnesota Public Utilities Commission’s (Commission) May 6, 2026 Order Requiring Environmental Assessment Worksheet (EAW) for Recertification Analysis and Varying Rule (Order).¹

In 2008, Enbridge received a certificate of need (CN) to construct approximately 175 miles of new 20-inch pipe from the Wisconsin/Minnesota border east to Enbridge’s Clearbrook Station, and to reverse Enbridge’s existing 18-inch pipe from Clearbrook to the Minnesota/North Dakota border to transport diluent from the United States to Canada.² This combined 18- and 20-inch diluent pipeline is referred to as Line 13 or the “Southern Lights Pipeline.”

¹ Order (May 6, 2026) (eDocket No. [20265-231540](#)).

² ALJ Report, *In the Matter of the Application of Enbridge Energy, Limited Partnership and Enbridge Pipelines (Southern Lights) LLC for a Certificate of Need for the Alberta Clipper Pipeline Project and Southern Lights Diluent Project*, MPUC Docket No. PL-9/CN-07-465 at 39 (“107. At the Clearbrook Station, Enbridge proposed to connect the newly constructed line to an existing pipeline – known as Line 13. The pumping direction of Line 13 would then be reversed

This March, Enbridge provided the Commission with notice that it plans to increase the annual average capacity on Line 13 by incrementally increasing the quantity of drag reducing agents (DRA)—a product that is currently used on Line 13 today. This increase will be accomplished without any construction in Minnesota. Under state law, a CN is required if an applicant seeks to construct a large energy facility in Minnesota, but when there is no construction in Minnesota, no approvals are necessary.³ The Commission’s Order in this matter acknowledges, “Enbridge [will] not physically construct any facilities in Minnesota,” but nonetheless concludes that the Commission has authority to determine whether recertification for the Line 13 is necessary in light of the proposed capacity increase.⁴ Enbridge respectfully argues that it would be legal error for the Commission to require an EAW and/or recertification of the CN when there is no construction in Minnesota and requests that the Commission reconsider its Order.

LEGAL STANDARD

A party may petition for reconsideration within 20 days of a Commission order.⁵ The Commission “may reverse, change, modify, or suspend” its original decision if “the original decision, order, or determination is in any respect unlawful or unreasonable.”⁶ Generally, the Commission will review petitions for reconsideration to determine whether the petition (i) raises

so as to permit the transportation of diluents north to an Enbridge terminal facility in Edmonton, Alberta, Canada. 108. The two projects together establish a pipeline circuit.”) (eDocket No. [5361433](#)).

³ Minn. Stat. § 216B.243, subd. 2.

⁴ Order at 3 (May 6, 2026) (eDocket No. [20265-231540](#)).

⁵ Minn. Stat. § 216B.27, subd. 1; Minn. R. 7829.3000, subp. 1.

⁶ Minn. Stat. § 216B.27, subd. 3; *see also* Minn. Stat. § 14.69 (providing that, on appeal, a reviewing court may affirm an agency decision unless, among other things, it is not supported by substantial evidence or is arbitrary or capricious).

new issues, (ii) points to new and relevant evidence, (iii) exposes errors or ambiguities in the underlying order, or (iv) otherwise persuades the Commission that it should rethink its decision.⁷

BACKGROUND

A. Procedural History and Facts.

Enbridge owns and operates Line 13, also referred to as the “Southern Lights Pipeline.” Line 13 transports diluent⁸ from Manhattan, Illinois north to an Enbridge Terminal in Edmonton, Alberta, Canada.⁹

In Enbridge’s June 27, 2007 CN application, the ultimate capacity for Line 13 was noted at 330,000 barrels per day (bpd) and the annual average capacity as 180,000 bpd.¹⁰ Enbridge also discussed the historical, and continued, injection of DRA to both allow for higher throughput at the same operating pressure and decreased power use.¹¹ The Commission granted Enbridge a CN

⁷ See, e.g., *In the Matter of the Formal Complaint and Request for Relief by the Minnesota Solar Advocates*, MPUC Docket No. E-002/C-23-424, Order Denying Petition for Reconsideration at 1 (Apr. 26, 2024) (eDocket No. [20244-206000-01](#)); *In the Matter of the Application of Minnesota Power for a Certificate of Need and Route Permit for a High Voltage Transmission Line for the HVDC Modernization Project in Hermantown, Saint Louis County*, MPUC Docket Nos. E-015/CN-22-607 and E-015/TL-22-611, Order Denying Petition for Reconsideration at 1 (Jan. 9, 2025) (eDocket No. [20251-213750-01](#)); *In the Matter of the Applications of Xcel Energy for a Certificate of Need and Route Permit for the Minnesota Energy Connection Project in Sherburne, Stearns, Kandiyohi, Wright, Meeker, Chippewa, Yellow Medicine, Renville, Redwood, and Lyon counties in Minnesota*, MPUC Docket Nos. E-002/CN-22-131 and E-002/TL-22-132, Order Denying Requests for Reconsideration of the Order Issued June 11, 2025 at 2 (Aug. 6, 2025) (eDocket No. [20258-221827-01](#)).

⁸ Diluent, also known as condensate, is a natural gas liquid used to blend heavy crude oil.

⁹ Informational Notice of Planned Annual Average Capacity Increase on the Southern Lights Pipeline (Line 13) (March 10, 2026) (eDocket No. [20263-228985-01](#)); ALJ Report, *In the Matter of the Application of Enbridge Energy, Limited Partnership and Enbridge Pipelines (Southern Lights) LLC for a Certificate of Need for the Alberta Clipper Pipeline Project and Southern Lights Diluent Project*, MPUC Docket No. PL-9/CN-07-465 (July 17, 2007) at 39 (eDocket No. [5361433](#)).

¹⁰ Revised CN Application, *In the Matter of the Application of Enbridge Energy, Limited Partnership and Enbridge Pipelines (Southern Lights) LLC for a Certificate of Need for the Alberta Clipper Pipeline Project and Southern Lights Diluent Project*, MPUC Docket No. PL-9/CN-07-465 (June 27, 2027) at Section 7853.0530, p. 13.

¹¹ Revised CN Application at Section 7853.0260, p. 3

for Line 13 on December 29, 2008.¹² On March 10, 2026, Enbridge provided Notice regarding its plans to increase the annual average capacity on Line 13 in Minnesota from 180,000 bpd to an annual average capacity of 215,000 bpd, a 19.44% capacity increase.¹³ The capacity increase will be accomplished by injecting additional DRA at existing skids on the pipeline, which will not require any physical construction in Minnesota.¹⁴ Importantly, DRA is already injected on the Line 13 today, and the pipeline already operates at the proposed increased capacity during numerous periods throughout the year. The proposed change would simply extend the number of days at which the pipeline operates at these higher capacities, resulting in an increase in Line 13’s annual average capacity.

In comments, the Fond du Lac Band of Lake Superior Chippewa and the Lac Courte Oreilles Band of Lake Superior Chippewa agreed that the capacity increase did not require a CN or recertification of the existing CN.¹⁵

The Minnesota Department of Commerce (Department) also commented on the proposed increase. Although the Department recommended that the Commission require recertification, the Department agreed with Enbridge that the CN statute did not apply, correctly observing that:

Minn. Stat. § 216B.243 states that no large energy facility shall be “constructed in Minnesota without the issuance of a certificate of need by the commission...” **Enbridge’s utilization of additional DRA to increase pipeline capacity does not fall under the requirements in Minn. Stat. § 216B.243**, as adding more DRA within existing facilities could not reasonably be considered

¹² Order Granting Certificate of Need (December 29, 2008) (eDocket No. [5674505](#)).

¹³ Informational Notice of Planned Annual Average Capacity Increase on the Southern Lights Pipeline (Line 13) (March 10, 2026) (eDocket No. [20263-228985-01](#)); Order (May 6, 2026) (eDocket No. [20265-231540](#)).

¹⁴ Informational Notice of Planned Annual Average Capacity Increase on the Southern Lights Pipeline (Line 13) at 2 (March 10, 2026) (eDocket No. [20263-228985-01](#)).

¹⁵ Public Comment, Fond du Lac Band of Lake Superior Chippewa (March 20, 2026) (eDocket No. [20263-229539-01](#)). Public Comment, Lac Courte Oreilles Band of Lake Superior Chippewa (March 24, 2026) (eDocket No. [20263-229583-01](#)).

“construction” as defined in Minn. R. 7853.0010, subp. 7.
**Therefore, the request to increase capacity does not require a
CN under this statute.**¹⁶

The Department did not identify statutory authority for “recertification” other than Minn. Stat. § 216B.243.

The Commission also received comments from the Three Waters Pipeline Resistance Team. The Three Waters Pipeline Resistance Team recommended recertification and additional environmental review, emphasizing the value of public comments in informing a Commission decision.¹⁷ The Three Waters Pipeline Resistance Team did not identify statutory authority for “recertification” other than Minn. Stat. § 216B.243.

The Commission heard the Notice on April 16, 2026, at the Commission’s regularly scheduled meeting.¹⁸ At the meeting, the Commission asked several questions about the composition of the DRA being used and asked to confirm whether it was the same chemical product that was used historically in Line 13. The DRA currently in use, which Enbridge is proposing to increase, is the same product that is currently used on Line 13 today, prior to the proposed change.¹⁹ Enbridge is not proposing a change in product, it is merely proposing an incremental increase in the quantity of DRA that represents less than 200 additional barrels of DRA per year.²⁰ The proposed DRA use represents a two parts per million increase in DRA

¹⁶ Comments of the Minnesota Department of Commerce at 2 (internal quotation marks omitted) (March 23, 2026) (eDocket No. [20263-229565-01](#)).

¹⁷ Public Comment, Three Waters Pipeline Resistance Team (April 14, 2026) (eDocket No. [20264-230419-01](#)).

¹⁸ Notice of Commission Agenda Meeting – Hybrid Format (April 3, 2026) (eDocket No. [20264-229972-0](#)).

¹⁹ Decl. Dechaine ¶5.

²⁰ *Id.* ¶4.

concentration.²¹ The material safety data sheet for the DRA is included as Attachment A to the Declaration of Mr. Chad Dechaine.

The Commission issued an Order on May 6, 2026, concluding that Minn. R. 7853.0800, subp. 3, applies to Enbridge’s proposed increase in capacity and requires the preparation of an EAW to inform the Commission’s decision regarding recertification, stating:

[T]he Commission is not persuaded that Enbridge has free reign to increase that capacity so long as Enbridge does not physically construct any facilities in Minnesota. Rule 7853.0800 is not limited to capacity increases resulting from physical construction and the Commission will not imply such a limitation here.²²

In reaching this conclusion, the Commission did not identify a statute that gives it authority to require recertification without physical construction in Minnesota.

B. Legal Context.

Pipelines are regulated by a shared system of state and federal regulation. In Minnesota, the Commission has authority to regulate pipeline routing, and to evaluate the need for large energy facilities that will be sited or constructed in Minnesota.²³ The dormant Commerce Clause places some limits on a state’s exercise of authority, including that a state law may not discriminate against interstate commerce, and a state may not control commercial activity occurring wholly outside the boundaries of the state.²⁴

At the federal level, the Pipeline Safety Act²⁵ gives exclusive authority to regulate the safety of hazardous liquid pipelines to the federal government.²⁶ The “Safety standard”—and thus

²¹ *Id.* ¶5.

²² Order at 3 (May 6, 2026) (eDocket No. [20265-231540](#)).

²³ Minn. Stat. Ch. 216G; Minn. Stat. § 216B.243.

²⁴ *See Healy v. Beer Inst.*, 491 U.S. 324, 326 n. 1 (1989).

²⁵ 49 U.S.C. § 60101 *et seq.*

²⁶ *See Couser v. Shelby County, Iowa*, 139 F.4th 664, 679 (8th Cir. 2025) (“Congress intended to preclude states from regulating in any manner whatsoever with respect to the safety of interstate transmission facilities.”)

the accompanying preemption provision—is interpreted broadly, and includes a “safety standard” applicable “to the design, installation, inspection, emergency plans and procedures, testing, construction, extension, *operation*, replacement, and maintenance of pipeline facilities.”²⁷ “Because Congress reserved for the federal government almost unbridled authority and discretion to regulate the safety of interstate pipelines, states have virtually no authority to make safety-related determinations.”²⁸ Here, Enbridge’s continued safe operation of Line 13, including the oversight of its operations at the proposed increased capacities, remains in the purview of the Pipeline and Hazardous Materials Safety Administration (PHMSA).²⁹

The federal government also has exclusive authority to regulate foreign affairs, and state action that interferes with that federal authority is preempted.³⁰ Under a 1977 treaty, the United States and Canada expressly stated that “[n]o public authority in the territory of either Party shall institute any measures ... which are intended to, or which would have the effect of, impeding, diverting, redirecting or interfering with in any way the transmission of hydrocarbon in transit” through pipelines.³¹

A restriction on Enbridge’s ability to increase capacity on Line 13 would have more than an incidental or indirect effect on foreign relations and therefore impermissibly intrudes on the

²⁷ 49 U.S.C. § 60102(a)(2) (emphasis added).

²⁸ *Enbridge Energy, LP v. Whitmer*, 813 F. Supp. 3d 777, 794 (W.D. Mich. 2025), *appeal docketed*, No. 26-1021 (6th Cir. Jan. 8, 2026); *see also ANR Pipeline Co. v. Iowa State Com. Comm’n*, 828 F.2d 465, 470 (8th Cir. 1987) (“Congress intended to preclude states from regulating *in any manner whatsoever* with respect to the safety of interstate transmission facilities.” (emphasis added)).

²⁹ The Commission inquired during the April 6, 2026 meeting as to which regulatory body has oversight over pipeline operations.

³⁰ *See Am. Ins. Ass’n v. Garamendi*, 539 U.S. 396, 413 (2003).

³¹ Agreement Concerning Transit Pipelines, Can.-U.S., art. II, cl. 1, Jan. 28, 1977, 1086 U.N.T.S. 344; *see also Enbridge Energy, LP v. Whitmer*, 813 F. Supp. 3d 777, 806 (W.D. Mich. 2025).

federal government's foreign affairs power.³² Enbridge seeks to increase its throughput capacity on Line 13 in response to market demands on both sides of the U.S.-Canada border. State action preventing an increase in capacity on Line 13 would directly and negatively impact U.S.-Canada energy trade relations.

Put together, the state has authority to regulate siting and construction within Minnesota through the CN and route permit process, with the federal government regulating safety, interstate commerce, foreign commerce, and foreign affairs.

ANALYSIS

A. The Legislature Gave the Commission Jurisdiction To Require A CN For Projects Requiring Construction in Minnesota.

All parties agree that Enbridge's proposed capacity increase does not include physical construction in Minnesota. The issue is whether the Commission has the jurisdiction to require recertification for Line 13 in the absence of physical construction. Enbridge respectfully maintains that the Commission does not, because a rule cannot extend an administrative agency's power beyond the boundaries set by the legislature.

The Commission was created by statute.³³ As a creature of statute, the Commission, "has only those powers given to it by the legislature."³⁴ The legislature uses statutes to "state[] what the agency is to do and how it is to do it."³⁵

³² See *Enbridge Energy*, 813 F. Supp. 3d at 805 (quoting *Gingery v. City of Glendale*, 831 F.3d 1222, 1230 (9th Cir. 2016)).

³³ Cf. Minn. Stat. § 216B.08.

³⁴ *Great Northern Railway Co. v. Public Service Comm'n*, 169 N.W.2d 732, 735 (1969); see also *In re Investigation into Commission's Jurisdiction over City of Hutchinson's Intrastate Nat. Gas Pipeline*, 707 N.W.2d 223, 226 (Minn. Ct. App. 2005) ("[T]he MPUC enjoys only the authority granted to it by the legislature").

³⁵ *People's Nat. Gas Co. v. Minn. Pub. Utilities Comm'n*, 369 N.W. 2d 530, 534 (Minn. 1985).

The Commission’s authority to require a new CN for Line 13 is derived from Minn. Stat. § 216B.243, which states:

No large energy facility shall be sited or **constructed** in Minnesota **without the issuance of a certificate of need** by the commission pursuant to sections 216C.05 to 216C.30 and this section and consistent with the criteria for assessment of need.³⁶

The statute governs the extent of the Commission’s jurisdiction. The legislature also delegated to the Commission the power to make rules in furtherance of Chapter 216B.³⁷

The Commission has defined “construction” by rule as a “significant **physical** alteration of a site to install or enlarge a large energy facility but not including activities incident to preliminary engineering or environmental studies.”³⁸ In other words, by the plain language of the Commission’s rules, construction requires a physical alteration.³⁹ Because all parties agree that the proposed capacity increase does not include physical construction, the jurisdictional prerequisite for a CN is not met.

In addition, the legislatively set bounds of the Commission’s jurisdiction make sense given the broader statutory scheme. As discussed, the state has authority to regulate siting and construction within Minnesota through the CN and route permit process, with the federal government regulating safety, interstate commerce, foreign commerce, and foreign affairs.

B. A Rule Cannot Expand the Commission’s Jurisdiction to Require a New CN in the Absence of Construction.

Despite the lack of construction in Minnesota, in its Order, the Commission concluded that a “recertification” may be necessary and ordered additional environmental review. The

³⁶ *Id.* subd. 2.

³⁷ *See* Minn. Stat. § 216B.08.

³⁸ Minn. R. 7853.0010, subp. 7.

³⁹ *Id.*

Commission's Order relies on Minn. R. 7853.0800 as the source of its authority to require recertification. In relevant part, Minn. R. 7853.0800 provides that:

Subp. 2. Changes not requiring recertification.

The following changes in a facility previously certified by the commission shall not require recertification:

A. capacity additions or subtractions of less than ten percent of the capacity approved by the commission;

B. pipeline length additions or subtractions of less than ten percent of the length approved by the commission; and

C. changes of less than two years in the in-service date.

Subp. 3. Procedure in case of other changes.

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

But “recertification” is not a process described in the statute, and the Commission’s rules point back to its authority under Minn. Stat. § 216B.243.⁴⁰ The Commission cannot obtain authority by its own rules.⁴¹ Thus, the Commission’s exercise of jurisdiction under Minn. R. 7853.0800 is still limited by Minn. Stat. § 216B.243, which requires “construction” to trigger the CN requirement.⁴² Any “recertification” must stem from the Commission’s authority to issue a CN in the first instance, which would require new siting or construction in Minnesota.

⁴⁰ Minn. R. 7853.0020.

⁴¹ See *Frost-Benco Elec. Ass’n v. Minn. Pub. Utilities Comm’n*, 358 N.W.2d 639, 643 (Minn. 1984) (“Authority is not obtained by the agency’s own acts or by its assumption of authority.”).

⁴² Further, as a practical matter, the approach from the Order would require Enbridge to provide notice and potentially require completing environmental review for any capacity reductions of greater than ten percent of the approved capacity, even when the reduction does not require construction in the state. That is plainly not what the Legislature intended in the CN statute.

The Legislature did not give the Commission authority to require certification or “recertification” for large energy facilities without physical construction in Minnesota.⁴³ Thus, the Commission’s Order extends its jurisdiction past the boundaries prescribed by the Legislature, which is legal error.⁴⁴ Here, the plain language of the statute sets the bounds of the Commission’s authority, and the Commission should not attempt to stretch the bounds of that authority given the lack of physical construction and relatively minor nature of the proposed activity.

Because there is no siting decision to be made or construction in Minnesota, a Commission action also risks exceeding limits on state authority. As discussed above, states regulate siting and construction, with the federal government regulating safety, interstate and foreign commerce, and foreign affairs. Any Commission action here, where the capacity increase does not involve construction in Minnesota, risks exceeding the limits of state authority.⁴⁵

C. The Proposed Capacity Increase is Not a Project Requiring Environmental Review Under MEPA.

Because Enbridge’s proposed activity falls outside the Commission’s statutory authority, there is no action for the Commission to take, and, thus, there is no impetus for environmental

⁴³ See Minn. Stat. § 216B.243.

⁴⁴ See *Frost-Benco Elec. Ass’n v. Minn. Pub. Utilities Comm’n*, 358 N.W.2d 639, 643 (Minn. 1984); *Great N. Ry. Co. v. Pub. Serv. Comm’n*, 169 N.W.2d 732, 735 (Minn. 1969) (“It is well settled that the powers of a state Commission are special and limited . . . and that any reasonable doubt of the existence of any particular power in the Commission should be resolved against the exercise of such power.”).

⁴⁵ See e.g., *Enbridge Energy, LP v. Whitmer*, 813 F. Supp. 3d 777, 794 and 806 (W.D. Mich. 2025) (“The text of the Pipeline Safety Act and the caselaw applying it leave no doubt that it is the exclusive responsibility and prerogative of the federal government to regulate interstate pipeline safety to the exclusion of any competing regulation by the states” and “Congress expressly intended for the federal government’s safety regulations [under the Pipeline Safety Act] to account for environmental protection.”), *appeal docketed*, No. 26-1021 (6th Cir. Jan. 8, 2026); *ANR Pipeline Co. v. Iowa State Com. Comm’n*, 828 F.2d 465, 469 (8th Cir. 1987) (“[C]ourts interpreting this language universally have held that the text and the legislative history of the NGPSA indicate an express intent by Congress to preempt state regulation of safety issues with respect to interstate pipeline facilities.”).

review here. The Minnesota Environmental Policy Act (MEPA) requires environmental review when there is “potential for significant environmental effects resulting from any major **governmental action.**”⁴⁶ A qualifying governmental action must be one where “the action [is] necessary to allow the project to proceed, either through a permit or other agency approval, the absence of which would block the project.”⁴⁷ When an agency has “no ability to prevent a certain effect due to its limited statutory authority over the relevant actions, the agency cannot be considered a legally relevant ‘cause’ of the effect.”⁴⁸ For example, in *In the Matter of Minnesota Power’s Petition for Approval of the Energy Forward Resource Package*, the Minnesota Supreme Court affirmed the Commission’s conclusion that MEPA did not require environmental review of Minnesota Power’s affiliated-interest agreements for a power plant constructed in Wisconsin.⁴⁹ The Court concluded that “[d]etermining if a project requires environmental review is ‘made by reference to the physical activity to be undertaken and not to the governmental process of approving the project.’”⁵⁰ Because the Commission’s approval of the affiliated-interest agreements was not necessary to authorize Minnesota Power to construct or operate the plant, the Court concluded that MEPA review was not required.⁵¹ Here, where the Legislature has granted the Commission authority only over construction of pipelines within the State, action by the Commission is not necessary to authorize the capacity increase, and MEPA review is not required.

⁴⁶ Minn. Stat. § 116D.04, subd. 2a(a) (emphasis added).

⁴⁷ *Matter of Minnesota Power’s Petition for Approval of EnergyForward Resource Package*, 958 N.W.2d 339, 347 (Minn. 2021).

⁴⁸ *Id.* at 348 (quoting *Department of Transportation v. Public Citizen*, 541 U.S. 752, 770 (2004)); see also Minn. R. 4410.0200, subp. 65 (defining a project as a “a **governmental action**, the results of which would **cause** physical manipulation of the environment, directly or indirectly” (emphasis added)).

⁴⁹ 958 N.W.2d at 349.

⁵⁰ *Id.* at 346 (quoting Minn. R. 4410.0200, subp. 65).

⁵¹ *Id.* at 347.

Further, even if the proposed capacity expansion could be considered a project, it qualifies for an EAW exemption under Minn. R. 4410.4600 subp. 2(A). Actions for “which no governmental decisions are required” do not require environmental review.⁵² When Enbridge provided its Informational Notice of Capacity Expansion to the Commission it did not request any action from the Commission, and a decision is not required because the Commission does not have the power to require a new CN in the absence of construction.⁵³

CONCLUSION

In conclusion, Enbridge respectfully asks the Commission to reconsider its decision extending its recertification authority over Enbridge’s proposed capacity expansion on Line 13 and find that recertification is not applicable where the proposed action does not require construction. Because there is no governmental action for the Commission to take, there is no trigger for environmental review. To undertake further review here is a legal error, and Enbridge respectfully asks the Commission to reconsider its decision to assert jurisdiction over this activity and require an EAW.

We have electronically filed this document with the Minnesota Public Utilities Commission. Copies have been served on persons on the attached service lists.

Dated: May 26, 2026

Respectfully submitted,

/s/ Christina K. Brusven

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⁵² Minn. R. 4410.4600 subp. 2(A).

⁵³ See Minn. Stat. § 216B.243.

**STATE OF MINNESOTA
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Katie Sieben
Joseph K. Sullivan
Hwikwon Ham
Audrey C. Partridge
John A. Tuma

Chair
Vice-Chair
Commissioner
Commissioner
Commissioner

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

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

**DECLARATION OF CHAD DECHAI
NE
IN SUPPORT OF PETITION FOR
RECONSIDERATION**

I, Chad Dechaine, state and allege as follows:

1. I am the Vice President of Business Development, for Enbridge Inc. Enbridge Inc. is the parent company of Enbridge Energy, Limited Partnership and Enbridge Pipelines (Southern Lights) LLC (Enbridge).
2. Enbridge is proposing a 19.44% increase in capacity of its "Southern Lights" Line 13 facilities (Line 13). The proposed increase in capacity would be accomplished by injecting additional drag reduction agent (DRA) at existing skids on the pipeline. No construction in Minnesota is required for the injection of additional DRA to enable the capacity increase.
3. Enbridge acknowledged the use of DRA in its application for a certificate of need for Line 13, and since construction, DRA has been injected into the Line 13 facilities.
4. Enbridge is proposing to increase capacity through an increase in DRA that will require less than 200 additional barrels a year of DRA.
5. The DRA currently in use, which Enbridge is proposing to increase, is the same product that is currently used on Line 13 today, prior to the proposed change. The proposed DRA

use represents a two parts per million increase in DRA concentration. DRA does not change the products moved in the pipeline.

6. The proposed capacity expansion would result in additional energy consumption of approximately 561 MWh per year in Minnesota, an approximately four percent increase. Enbridge purchases this electricity from Minnesota utilities.

7. Attached as Attachment A is a true and correct copy of the material safety data sheet for the DRA Enbridge uses for Line 13.

Pursuant to Minn. Stat. § 358.115, I declare under penalty of perjury under the law of Minnesota that the foregoing is true and correct, and that I am physically located outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

Executed on the 26 day of May, 2026, in the City of Calgary, Alberta,
Canada.


Chad Dechaine

1. Identification

Product identifier	LP 100
Other means of identification	None.
Recommended use	Flow Improver.
Recommended restrictions	Other uses are not recommended unless an assessment is completed, prior to commencement of that use, which demonstrates that the use will be controlled.

Manufacturer/Importer/Supplier/Distributor information

Manufacturer	LiquidPower Specialty Products Inc.
Address	2103 CityWest Blvd. Suite 1400 Houston, TX 77042
Telephone	1.713.339.8703 or 1.800.897.2774
e-mail	SDS@LiquidPower.com
Website	www.LiquidPower.com
Emergency telephone	+1 703.527.3887 +1 800.424.9300

2. Hazard(s) identification

Physical hazards	Not classified.
Health hazards	Not classified.
OSHA defined hazards	Not classified.
Label elements	
Hazard symbol	None.
Signal word	None.
Hazard statement	The mixture does not meet the criteria for classification.
Precautionary statement	
Prevention	Not assigned.
Response	Not assigned.
Storage	Not assigned.
Disposal	Not assigned.
Hazard(s) not otherwise classified (HNOC)	None known.
Supplemental information	None.

3. Composition/information on ingredients**Mixtures**

The manufacturer lists no ingredients as hazardous to health according to OSHA 29 CFR 1910.1200.

4. First-aid measures

Inhalation	Move to fresh air. Call a physician if symptoms develop or persist.
Skin contact	Wash off with soap and water. Get medical attention if irritation develops and persists.
Eye contact	Rinse with water. Get medical attention if irritation develops and persists.
Ingestion	Rinse mouth. Get medical attention if symptoms occur.
Most important symptoms/effects, acute and delayed	Direct contact with eyes may cause temporary irritation.

Indication of immediate medical attention and special treatment needed

Treat symptomatically.

General information

Ensure that medical personnel are aware of the material(s) involved, and take precautions to protect themselves.

5. Fire-fighting measures

Suitable extinguishing media

Water fog. Foam. Dry chemical powder. Carbon dioxide (CO₂).

Unsuitable extinguishing media

Do not use water jet as an extinguisher, as this will spread the fire.

Specific hazards arising from the chemical

During fire, gases hazardous to health may be formed.

Special protective equipment and precautions for firefighters

Self-contained breathing apparatus and full protective clothing must be worn in case of fire.

Fire fighting equipment/instructions

Move containers from fire area if you can do so without risk.

Specific methods

Use standard firefighting procedures and consider the hazards of other involved materials.

General fire hazards

No unusual fire or explosion hazards noted.

6. Accidental release measures

Personal precautions, protective equipment and emergency procedures

Keep unnecessary personnel away. For personal protection, see section 8 of the SDS.

Methods and materials for containment and cleaning up

Large Spills: Stop the flow of material, if this is without risk. Dike the spilled material, where this is possible. Absorb in vermiculite, dry sand or earth and place into containers. Following product recovery, flush area with water.

Small Spills: Wipe up with absorbent material (e.g. cloth, fleece). Clean surface thoroughly to remove residual contamination.

Never return spills to original containers for re-use. For waste disposal, see section 13 of the SDS.

Environmental precautions

Avoid discharge into drains, water courses or onto the ground.

7. Handling and storage

Precautions for safe handling

Avoid prolonged exposure. Ensure adequate ventilation. Observe good industrial hygiene practices.

Conditions for safe storage, including any incompatibilities

Store in a closed container. Store away from incompatible materials (see Section 10 of the SDS).

8. Exposure controls/personal protection

Occupational exposure limits

No exposure limits noted for ingredient(s).

Biological limit values

No biological exposure limits noted for the ingredient(s).

Exposure guidelines

Follow standard monitoring procedures.

Appropriate engineering controls

Use process enclosures, local exhaust ventilation, or other engineering controls to control airborne levels below recommended exposure limits.

Individual protection measures, such as personal protective equipment

Eye/face protection

If contact is likely, safety glasses with side shields are recommended.

Skin protection

Hand protection

Use suitable protective gloves if risk of skin contact. Suitable gloves can be recommended by the glove supplier.

Other

If prolonged or repeated contact is likely, chemical resistant clothing is recommended.

Respiratory protection

In case of inadequate ventilation, use respiratory protection.

Thermal hazards

Wear appropriate thermal protective clothing, when necessary.

General hygiene considerations

Always observe good personal hygiene measures, such as washing after handling the material and before eating, drinking, and/or smoking. Routinely wash work clothing and protective equipment to remove contaminants. Discard contaminated clothing and footwear that cannot be cleaned.

9. Physical and chemical properties

Appearance

Physical state	Liquid.
Form	Liquid.
Color	White.
Odor	Mild.
Odor threshold	Not available.
pH	10 - 12.4
Melting point/freezing point	32 °F (0 °C)
Initial boiling point and boiling range	212 °F (100 °C)
Flash point	Not applicable.
Evaporation rate	Same as water.
Flammability (solid, gas)	Not flammable.
Upper/lower flammability or explosive limits	
Explosive limit - lower (%)	Property has not been measured.
Explosive limit - upper (%)	Property has not been measured.
Vapor pressure	23.8 mmHg (25°C)
Vapor density	< 1 (Air=1)
Relative density	0.84 - 0.97 (25°C / 77°F)
Solubility(ies)	
Solubility (water)	Disperses completely.
Partition coefficient (n-octanol/water)	Property has not been measured.
Auto-ignition temperature	Property has not been measured.
Decomposition temperature	Property has not been measured.
Viscosity	50 - 200 cP 511s-1 (Non-Newtonian) (25°C)
Other information	
Explosive properties	Not explosive.
Kinematic viscosity	Property has not been measured.
Oxidizing properties	Not oxidizing.

10. Stability and reactivity

Reactivity	The product is stable and non-reactive under normal conditions of use, storage and transport.
Chemical stability	Material is stable under normal conditions.
Possibility of hazardous reactions	No dangerous reaction known under conditions of normal use.
Conditions to avoid	Contact with incompatible materials.
Incompatible materials	Strong oxidizing agents.
Hazardous decomposition products	No hazardous decomposition products are known.

11. Toxicological information

Information on likely routes of exposure

Inhalation	No adverse effects due to inhalation are expected.
Skin contact	Prolonged skin contact may cause temporary irritation.
Eye contact	Direct contact with eyes may cause temporary irritation.
Ingestion	Expected to be a low ingestion hazard.
Symptoms related to the physical, chemical and toxicological characteristics	Direct contact with eyes may cause temporary irritation.

Information on toxicological effects

Acute toxicity	Not expected to be acutely toxic.
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Skin corrosion/irritation	No information available on the mixture. However, none of the components are classified in respect of this hazard (or are present at a level below the concentration threshold for classification).
Serious eye damage/eye irritation	No information available on the mixture. However, none of the components are classified in respect of this hazard (or are present at a level below the concentration threshold for classification).
Respiratory or skin sensitization	
Respiratory sensitization	No information available on the mixture. However, none of the components are classified in respect of this hazard (or are present at a level below the concentration threshold for classification).
Skin sensitization	No information available on the mixture. However, none of the components are classified in respect of this hazard (or are present at a level below the concentration threshold for classification).
Germ cell mutagenicity	No information available on the mixture. However, none of the components are classified in respect of this hazard (or are present at a level below the concentration threshold for classification).
Carcinogenicity	No information available on the mixture. However, none of the components are classified in respect of this hazard (or are present at a level below the concentration threshold for classification).
IARC Monographs. Overall Evaluation of Carcinogenicity	Not listed.
NTP Report on Carcinogens	Not listed.
OSHA Specifically Regulated Substances (29 CFR 1910.1001-1053)	Not listed.

Reproductive toxicity	No information available on the mixture. However, none of the components are classified in respect of this hazard (or are present at a level below the concentration threshold for classification).
Specific target organ toxicity - single exposure	No information available on the mixture. However, none of the components are classified in respect of this hazard (or are present at a level below the concentration threshold for classification).
Specific target organ toxicity - repeated exposure	No information available on the mixture. However, none of the components are classified in respect of this hazard (or are present at a level below the concentration threshold for classification).
Aspiration hazard	Not an aspiration hazard.
Chronic effects	None known.
Further information	None known.

12. Ecological information

Ecotoxicity	The product is not classified as environmentally hazardous. However, this does not exclude the possibility that large or frequent spills can have a harmful or damaging effect on the environment.
Persistence and degradability	No data available.
Bioaccumulative potential	No data available.
Mobility in soil	This product is dispersible in water. Expected to be mobile in soil.
Other adverse effects	No other adverse environmental effects (e.g. ozone depletion, photochemical ozone creation potential, endocrine disruption, global warming potential) are expected from this component.

13. Disposal considerations

Disposal instructions	Waste material from this product should not be exposed to waste streams or sumps containing any concentration of hydrocarbon. This will cause formation of gelled substances that may plug pipes. Collect and reclaim or dispose in sealed containers at licensed waste disposal site.
Local disposal regulations	Dispose in accordance with all applicable regulations.
Hazardous waste code	The waste code should be assigned in discussion between the user, the producer and the waste disposal company.
Waste from residues / unused products	Dispose in accordance with local regulations. Empty containers or liners may retain some product residues. This material and its container must be disposed of in a safe manner.
Contaminated packaging	Since emptied containers may retain product residue, follow label warnings even after container is emptied. Empty containers should be taken to an approved waste handling site for recycling or disposal.

14. Transport information**DOT**

Not regulated as dangerous goods.

IATA

Not regulated as dangerous goods.

IMDG

Not regulated as dangerous goods.

Transport in bulk according to Annex II of MARPOL 73/78 and the IBC Code Not applicable.

15. Regulatory information**US federal regulations****TSCA Section 12(b) Export Notification (40 CFR 707, Subpt. D)**

Not regulated.

CERCLA Hazardous Substance List (40 CFR 302.4)

Not listed.

SARA 304 Emergency release notification

Not regulated.

OSHA Specifically Regulated Substances (29 CFR 1910.1001-1053)

Not listed.

Toxic Substances Control Act (TSCA)

All components of the mixture on the TSCA 8(b) inventory are designated "active".

Superfund Amendments and Reauthorization Act of 1986 (SARA)**SARA 302 Extremely hazardous substance**

Not listed.

SARA 311/312 Hazardous chemical No**SARA 313 (TRI reporting)**

Not regulated.

Other federal regulations**Clean Air Act (CAA) Section 112 Hazardous Air Pollutants (HAPs) List**

Not regulated.

Clean Air Act (CAA) Section 112(r) Accidental Release Prevention (40 CFR 68.130)

Not regulated.

Safe Drinking Water Act (SDWA) Not regulated.**US state regulations****US. Massachusetts RTK - Substance List**

Not regulated.

US. New Jersey Worker and Community Right-to-Know Act

Not listed.

US. Pennsylvania Worker and Community Right-to-Know Law

Not listed.

US. Rhode Island RTK

Not regulated.

California Proposition 65

California Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): This material is not known to contain any chemicals currently listed as carcinogens or reproductive toxins. For more information go to www.P65Warnings.ca.gov.

International Inventories

Country(s) or region	Inventory name	On inventory (yes/no)*
Australia	Australian Inventory of Industrial Chemicals (AICIS)	Yes
Canada	Domestic Substances List (DSL)	Yes
Canada	Non-Domestic Substances List (NDSL)	No

ATTACHMENT A

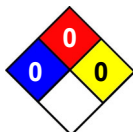
Country(s) or region	Inventory name	On inventory (yes/no)*
China	Inventory of Existing Chemical Substances in China (IECSC)	Yes
Europe	European Inventory of Existing Commercial Chemical Substances (EINECS)	Yes
Europe	European List of Notified Chemical Substances (ELINCS)	Yes
Japan	Inventory of Existing and New Chemical Substances (ENCS)	No
Korea	Existing Chemicals List (ECL)	Yes
New Zealand	New Zealand Inventory	Yes
Philippines	Philippine Inventory of Chemicals and Chemical Substances (PICCS)	Yes
Taiwan	Taiwan Chemical Substance Inventory (TCSI)	No
United States & Puerto Rico	Toxic Substances Control Act (TSCA) Inventory	Yes

*A "Yes" indicates that all components of this product comply with the inventory requirements administered by the governing country(s)

A "No" indicates that one or more components of the product are not listed or exempt from listing on the inventory administered by the governing country(s).

16. Other information, including date of preparation or last revision

Issue date	15-October-2024
Revision date	-
Version #	01
Further information	NFPA Hazard Scale: 0 = Minimal 1 = Slight 2 = Moderate 3 = Serious 4 = Severe
NFPA ratings	

**References**

HSDB® - Hazardous Substances Data Bank
IARC Monographs. Overall Evaluation of Carcinogenicity

Disclaimer

LiquidPower Specialty Products Inc. cannot anticipate all conditions under which this information and its product, or the products of other manufacturers in combination with its product, may be used. It is the user's responsibility to ensure safe conditions for handling, storage and disposal of the product, and to assume liability for loss, injury, damage or expense due to improper use. The information in the sheet was written based on the best knowledge and experience currently available.

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

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

CERTIFICATE OF SERVICE

Maia Martinez certifies that on the 26th day of May, 2026, she e-filed true and correct copy of the following documents on behalf of Enbridge Pipelines (Southern Lights) LLC (Enbridge) via eDockets (www.edockets.state.mn.us):

1. Petition for Reconsideration;
2. Declaration of Chad Dechaine;
3. Attachment A - Material Safety Data Sheet; and
4. Certificate of Service.

Said documents were also served as designated on the Official Service Lists on file with the Minnesota Public Utilities Commission and as attached hereto.

Executed on: May 26, 2026

Signed: /s/ Maia Martinez

Fredrikson & Byron, P.A.
60 South Sixth Street
Suite 1500
Minneapolis, MN 55402

#	First Name	Last Name	Email	Organization	Agency	Address	Delivery Method	Alternate Delivery Method	View Trade Secret	Service List Name
1	Sasha	Bergman	sasha.bergman@state.mn.us		Public Utilities Commission	121 7th Pl E Ste 350 St. Paul MN, 55101 United States	Electronic Service		Yes	Official 07-465
2	Mike	Bull	mike.bull@state.mn.us		Public Utilities Commission	121 7th Place East, Suite 350 St. Paul MN, 55101 United States	Electronic Service		Yes	Official 07-465
3	Generic	Commerce Attorneys	commerce.attorneys@ag.state.mn.us		Office of the Attorney General - Department of Commerce	445 Minnesota Street Suite 1400 St. Paul MN, 55101 United States	Electronic Service		Yes	Official 07-465
4	Charles	Drayton	charles.drayton@enbridge.com	Enbridge Energy Company, Inc.		7701 France Ave S Ste 600 Edina MN, 55435 United States	Electronic Service		No	Official 07-465
5	Sharon	Ferguson	sharon.ferguson@state.mn.us		Department of Commerce	85 7th Place E Ste 280 Saint Paul MN, 55101-2198 United States	Electronic Service		Yes	Official 07-465
6	John	Gasele	jgasele@fryberger.com	Fryberger Buchanan Smith & Frederick PA		700 Lonsdale Building 302 W Superior St Ste 700 Duluth MN, 55802 United States	Electronic Service		No	Official 07-465
7	Jacob	Glass	jacob.glass@enbridge.com	Enbridge		7701 France Ave S Edina MN, 55435 United States	Electronic Service		No	Official 07-465
8	Jon	Kingstad	kingstadlaw@pressenter.com	Law Firm of Jon Erik Kingstad		Lake Elmo Bank Bldg Ste 260 600 Inwood Ave N Oakdale MN, 55128 United States	Paper Service		No	Official 07-465
9	Eric	Lipman	eric.lipman@state.mn.us		Office of Administrative Hearings	PO Box 64620 St. Paul MN, 55164-0620 United States	Electronic Service		No	Official 07-465
10	John C.	Reinhardt		Laura A. Reinhardt		3552 26th Ave S Minneapolis MN, 55406 United States	Paper Service		No	Official 07-465
11	Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us		Office of the Attorney General - Residential Utilities Division	1400 BRM Tower 445 Minnesota St St. Paul MN, 55101-2131 United States	Electronic Service		Yes	Official 07-465
12	Kevin	Reuther	kreuther@mncenter.org	MN Center for Environmental Advocacy		26 E Exchange St, Ste 206 St. Paul MN, 55101-1667 United States	Electronic Service		No	Official 07-465
13	Jason	Risdall	jason.risdall@enbridge.com	Enbridge		11 East Superior St Suite 125 Duluth MN,	Electronic Service		No	Official 07-465

#	First Name	Last Name	Email	Organization	Agency	Address	Delivery Method	Alternate Delivery Method	View Trade Secret	Service List Name
						55802 United States				
14	Bruce	Savage	brucesavage@fdllband.org	Fond du Lac Band of Lake Superior Chippewa		1720 Big Lake Road Cloquet MN, 55720 United States	Electronic Service		No	Official 07- 465
15	Jennifer	Smestad	jsmestad@otpc.com	Otter Tail Power Company		215 South Cascade Street Fergus Falls MN, 56538- 0496 United States	Electronic Service		No	Official 07- 465
16	Melissa	Turner	melissa.turner@enbridge.com	Enbridge		7701 France Ave S Edina MN, 55435 United States	Electronic Service		No	Official 07- 465
17	Kevin	Walli	kwalli@fryberger.com	Fryberger, Buchanan, Smith & Frederick		380 St. Peter St Ste 710 St. Paul MN, 55102 United States	Electronic Service		No	Official 07- 465