

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

ISSUE DATE: May 6, 2026

DOCKET NO. PL-9/CN-07-465

ORDER REQUIRING  
ENVIRONMENTAL ASSESSMENT  
WORKSHEET FOR  
RECERTIFICATION ANALYSIS AND  
VARYING RULE

**PROCEDURAL HISTORY**

On March 10, 2026, Enbridge Pipelines (Southern Lights) LLC (Enbridge) filed a self-titled Informational Notice of Planned Capacity Increase on the Southern Lights Pipeline (Line 13).

By March 23, 2026, the following entities filed comments: Fond du Lac Band of Lake Superior Chippewa; Lac Courte Oreilles Band of Lake Superior Chippewa Indians; and the Department of Commerce Division of Energy Resources (Department).

On March 27, 2026, Enbridge filed reply comments.

On April 15, 2026, the Three Waters Pipeline Resistance Team filed comments.

On April 16, 2026, the Commission met to consider this matter.

**FINDINGS AND CONCLUSIONS**

**I. Background**

The instant proceeding was initiated on March 10, 2026, when Enbridge informed the Commission of Enbridge’s plans to increase the annual average capacity on Line 13, which is also known as the Southern Lights Pipeline. In 2008, the Commission granted a certificate of need for Line 13.<sup>1</sup> In reaching that decision, the Commission relied upon a finding that Line 13

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<sup>1</sup> *In the Matter of the Application of Enbridge Energy, Limited Partnership, and Enbridge Pipelines (Southern Lights) LLC for a Certificate of Need for the Alberta Clipper Pipeline Project and the Southern*

would operate with an annual average capacity of 180,000 barrels per day (bpd).<sup>2</sup> Enbridge now informs the Commission of its intention to increase Line 13's annual average capacity to 215,000 bpd, which represents a 19.44% increase.

Minnesota Rule 7853.0800 states the following:

**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 . . . .

**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.

**II. Comments**

Enbridge primarily argued that the Commission lacks jurisdiction over the proposed capacity increase because Enbridge can accomplish the increase without engaging in any physical construction in Minnesota. Instead, Enbridge explained that it planned to increase the capacity on Line 13 by injecting a drag reducing agent (DRA) at skids already installed on the pipeline. Citing Minn. Stat. § 216B.243, Enbridge argued that construction activity is a jurisdictional predicate for the Commission to act under its rules, including Rule 7853.0800. Accordingly, Enbridge contended that the Commission cannot and should not take any action at this time. To the extent that the Commission disagrees and concludes that Rule 7853.0800, subp. 3 applies here, Enbridge asked the Commission to confirm that the capacity increase is acceptable without recertification.

The Fond du Lac Band of Lake Superior Chippewa and the Lac Courte Oreilles Band of Lake Superior Chippewa Indians both agreed with Enbridge that the planned capacity increase does not require a Minnesota certificate of need and does not need to be recertified under Minnesota Rule 7853.0800. Neither tribe objected to the capacity increase.

The Department disagreed, concluding that Enbridge's planned capacity increase for Line 13 implicated Rule 7853.0800, subp. 3 because the increase exceeded the 10% threshold in Rule 7853.0800, subp. 2. In so doing, the Department ostensibly reasoned that Rule 7853.0800 was not limited to capacity increases that only result from physical construction activity.<sup>3</sup>

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*Lights Diluent Project*, Order Granting Certificate of Need, Docket No. PL-9/CN-07-465 (December 29, 2008).

<sup>2</sup> See finding 109 in the administrative law judge's Summary of Testimony at the Public Hearings, Findings of Fact, Conclusions and Recommendations, which was filed in this docket on July 17, 2008.

<sup>3</sup> The Department agreed that increasing Line 13's annual average capacity through the use of additional DRA could not be considered "construction" for purposes of implicating Minn. Stat. § 216B.243.

Accordingly, the Department recommended that the Commission evaluate whether to recertify the Line 13 certificate of need. The Department identified five topics for the Commission to consider in this analysis, focusing on changes that are materially different from Enbridge's original proposal.

The Three Waters Pipeline Resistance Team contended that the Commission is bound by Rule 7853.0800 here and the team generally supported a recertification process and environmental review for the proposed capacity increase. The Three Waters Pipeline Resistance Team asserted that there is a high probability of negative environmental impacts associated with Enbridge's proposed change because pipelines are prone to leaks. The Three Waters Pipeline Resistance Team also argued that the capacity increase could conflict with Minnesota's greenhouse gas emissions reduction goals and the needs of the natural environment.

### **III. Commission Action**

The Commission concludes that Rule 7853.0800, subp. 3 applies to Enbridge's proposed capacity increase. The Commission rejects Enbridge's cramped jurisdictional arguments. The certificate of need proceeding analyzed a pipeline that would operate with an annual average capacity of 180,000 bpd; the 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. Instead, the Commission will undertake the process of reviewing whether recertification is necessary in light of Enbridge's 19.44% capacity increase.

To be clear, the Commission has not determined whether Line 13 must be recertified. Instead, the Commission simply finds that Rule 7853.0800 applies to Enbridge's planned capacity increase. The Commission will require the preparation of an environmental assessment worksheet (EAW) to effectively perform the recertification analysis to facilitate a more fully informed decision on recertification. An EAW will help the Commission weigh whether the proposed increase to the annual average capacity of Line 13 has the potential for significant environmental impacts. More specifically, the Commission intends to review the material differences between Enbridge's original proposal for Line 13 and Enbridge's new increased capacity on Line 13.<sup>4</sup>

Because the Commission does not have the information it needs to resolve the recertification question, the Commission will vary Rule 7853.0800, subp. 3 to extend the 45-day time period for rendering a decision on whether to recertify Line 13. The Commission's rule on rule variances is Minnesota Rule 7829.3200, which allows a variance when: A) enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule; B) granting the variance would not adversely affect the public interest; and C) granting the variance would not conflict with standards imposed by law.

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<sup>4</sup> Indeed, Minn. R. 4410.1000 explains that an EAW assists an agency in assessing a project's potential for environmental impacts and, ultimately, determining whether to require an environmental impact statement (EIS). Accordingly, the Commission has not foreclosed the possibility of requiring an EIS to the extent that Enbridge has argued one is required here.

The Commission finds that the variance factors of Rule 7829.3200 are met here and, accordingly, the Commission varies the 45-day period in Rule 7853.0800, subp. 3, to allow time for the Commission to complete environmental review and issue a written order on the decision. Enforcing the 45-day provision would be excessively burdensome because more time is needed for the Commission and interested groups to appropriately assess whether to recertify Line 13. Additionally, granting the variance to omit the 45-day provision would not adversely affect the public interest here because an EAW can be promptly prepared to assess the environmental effects of the capacity increase. This process should appropriately balance the need for more time to review the issue with Enbridge's desire for speedy resolution. Finally, granting the variance would not conflict with standards imposed by law.

## ORDER

1. Prior to determining whether the proposed change is acceptable without recertification under Minnesota Rules part 7853.0800, subpart 3, the Commission requires an environmental assessment worksheet (EAW) to be prepared by the Commission's Energy Infrastructure Permitting staff, analyzing whether the proposed increase to the annual average capacity of Line 13 has the potential for significant environmental impacts. The EAW should examine the material differences from the original proposal, including any changes to environmental effects. Enbridge shall file in this docket the completed data portions of the EAW as required under Minn. R. 4410.1400.
2. The Commission delegates authority to the Executive Secretary to carry out all functions of Responsible Governmental Units set forth in Minn. R. 4410.1400 to 4410.1600.
3. The Commission finds that the variance factors of Minn. R. 7829.3200 are met and varies the 45-day time period in Minn. R. 7853.0800, subp. 3, as necessary to allow time for:
  - A. Commission staff to complete environmental review to inform a Commission decision on whether recertification is required, and
  - B. Commission staff to prepare a written order on the decision.
4. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Sasha Bergman  
Executive Secretary



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## **CERTIFICATE OF SERVICE**

I, Anne Redmond, hereby certify that I have this day, served a true and correct copy of the following document to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States mail at St. Paul, Minnesota.

**Minnesota Public Utilities Commission  
ORDER REQUIRING ENVIRONMENTAL ASSESSMENT WORKSHEET FOR  
RECERTIFICATION ANALYSIS AND VARYING RULE**

Docket Number **PL-9/CN-07-465**

Dated this 6th day of May, 2026

/s/ Anne Redmond

#	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