

July 16, 2018

VIA ELECTRONIC FILING

Mr. Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
Saint Paul, MN 55101-2147

Re: Certificate of Need Modifications – Compliance Filing

**In the Matter of the Application of Enbridge Energy, Limited Partnership for a
Certificate of Need for the Line 3 Replacement – Phase 3 Project in Minnesota from
the North Dakota Border to the Wisconsin Border
MPUC Docket No. PL-9/CN-14-916; OAH Docket No. 65-2500-32764**

Dear Mr. Wolf:

In accordance with the Minnesota Public Utilities Commission's ("Commission") decision on June 28, 2018 ("Decision") and subsequent July 11, 2018 notice, Enbridge Energy, Limited Partnership ("Enbridge") submits this compliance filing regarding the modifications made by the Commission to the Certificate of Need ("CN") for the Line 3 Replacement Project ("Project"). Enbridge provides an overview of each modification here, and additional detail is provided in the attachments hereto. Pursuant to the July 11, 2018 notice, official parties may file comments concerning this filing and the Department of Commerce, Division of Energy Resources ("DOC-DER") will file its recommendations on or before July 30, 2018.

1. Parental Guaranty and Financial Information.

Pursuant to the Commission's Decision, Enbridge is providing a revised draft of Exhibit EN-98 as Attachment 1A (the "Parental Guaranty"). A redline comparing the Parental Guaranty for the Project to Ex. EN-98 is provided as Attachment 1B. The Parental Guaranty complies with the Decision in that it:

- Provides a parental guaranty from Enbridge Inc. to pay for environmental damages arising from the construction or operation of the Project;

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- Has been revised to cover the nonperformance of any route permit conditions and CN modifications that are included in the Commission's order. See, e.g., Section 1(vii) and Section 2 of the Parental Guaranty. This includes, but is not limited to, nonperformance of obligations for removal of the existing Line 3 pipeline and the decommissioning of the replacement Line 3 pipeline; and,
- Clarifies that tribes are included as beneficiaries of the Parental Guaranty. See Introductory Paragraph and Section 1(viii) of the Parental Guaranty.

In addition, Attachment 1 provides a discussion of the financial assurances and financial reporting ordered by the Commission. Specifically, Attachment 1 includes:

- An explanation of how the proposed parental guaranty addresses the concerns raised by DOC-DER at the June 2018 Commission meeting (see Section II.A. of Attachment 1);
- Ongoing reporting and spill modeling requirements so that the State can determine ongoing ability of Enbridge's and the guarantor's at-the-ready financial resources and insurance coverage to respond to a full-bore pipeline rupture at maximum design capacity and with maximum drain down affect within a range of high consequence areas ("HCAs") in Minnesota, similar to that presently modeled for the Canadian National Energy Board ("NEB") (see Section B of Attachment 1 and Attachments 1C and 1D);
- A proposal that provides that, if at any time it is determined by the State that Enbridge's and guarantor's at-the-ready financial resources and insurance coverage fall short of the resources necessary to take care of such a full-bore spill, the State shall have the ability to require a financial assurance account or mechanism in addition to the guaranty to cover any identified deficit (see Section II.B.2.b of Attachment 1);
- An updated cost model for a full-bore pipeline rupture at maximum design capacity and with maximum drain down affect within a range of HCAs in Minnesota similar to that presently modeled for the NEB (see Section II.B. of Attachment 1 and Attachment 1C);
- A discussion of the implications of Enbridge's recent restructuring following the Federal Energy Regulatory Commission's order on master limited partnerships as it relates to the availability of ready resources to respond to the obligations in the proposed guaranty for both Enbridge and the guarantor (see Section II.B.2.a. and c. of Attachment 1); and,

- A discussion of Enbridge Inc.'s at-the-ready financial resources and insurance coverage available to Enbridge and the guarantor to respond to a catastrophic full-bore spill (see Section II.B.2.b. of Attachment 1 and Attachment 1D).

2. Landowner Choice Program.

As set forth in more detail in Attachments 2A and 2B, Enbridge has modified its Landowner Choice Program to:

- Establish an independent liaison to ensure the conditions of the Landowner Choice Program are being met and to act as a coordinator between other state agencies (see page 5 of Attachment 2A);
- Provide for a longer and more flexible time for landowners to decide the course of action after decommissioning pursuant to the Consent Decree. Specifically, the Landowner Choice Program has been modified to allow landowners up to five years to make a decision regarding removal of the existing Line 3 pipeline (see page 2 of Attachment 2A);
- Provide a process for landowners to obtain independent consultation, at Enbridge's expense, from engineering firms competent in the area of oil pollution remediation or pipeline removal prior to the landowner's decision to remove (see page 5 of Attachment 2A);
- Include the following language on transparency in permitting (see page 3 of Attachment 2A):

In those cases where permits are required for Enbridge to remove pipe as requested by a landowner under the Landowner Choice Program, Enbridge must keep any landowners apprised of material facts and communications regarding any permits required to be obtained for removal of pipe. Specifically, but without limitation, Enbridge will provide a copy of any permit application and written communications to the landowner when they are submitted to the agency. In addition, Enbridge will coordinate with landowners to give them the opportunity to participate in any substantive communications with the permitting agency, whether those communications are telephonic or in-person. Enbridge will also timely provide landowners with notice of final agency decisions on such permit applications. Enbridge shall further notify landowners requesting removal that removal is contingent upon Enbridge receiving all required permits from applicable permitting agencies.

- Include tribal monitors for removal activities in a manner similar to Section 4.4.5 of the Sample Route Permit (see page 5 of Attachment 2A).

3. Decommissioning Trust Fund.

The Commission approved a CN for the Project contingent upon the creation and funding of a trust fund for decommissioning of the Project, including costs of removal of the Project. In accordance with the Commission's Decision, Attachments 3A and 3B include a discussion of the terms and conditions of the decommissioning trust fund based on the decommissioning trust that the NEB directed Enbridge Inc. to fund for the decommissioning of Enbridge pipelines in Canada.

4. Neutral Footprint Program.

The Commission approved a CN for the Project contingent upon implementation of a Neutral Footprint Program that (i) acquires renewable energy credits to offset the implemental increase in nonrenewable energy consumed by the Enbridge Mainline System as set forth on pages 4-5 of Enbridge's June 22, 2018, filing; and (ii) carries out a tree replacement program that plants a new tree on public land in Minnesota for each tree removed in the construction of the Project. In accordance with the Commission's Decision, Attachment 4 describes the implementation of this Neutral Footprint Program.

5. Insurance.

The Commission approved a CN for the Project contingent upon Enbridge acquiring and maintaining General Liability ("GL") and Environmental Impairment Liability ("EIL") insurance policies as proposed by DOC-DER. In accordance with the Commission's decision, Attachment 5A describes Enbridge's compliance with the following DOC-DER recommendations:

- GL insurance with a \$100 million per loss limit including a "time element" exception to the pollution exclusion (see Table 1 of Attachment 5A);
- EIL insurance with a \$100 million per loss limit of liability (see Table 1 of Attachment 5A);
- Both the GL and EIL policies should include one automatic reinstatement of limits provision (guaranteed for Line 3) or an annual aggregate of twice the per loss limit (\$200 million) (see Tables 1 and 2 of Attachment 5A);
- These amounts of insurance should be increased by \$10 million for both GL and EIL policies every five years until the Project is decommissioned (see Table 1 of Attachment 5A);

Mr. Daniel P. Wolf
July 16, 2018
Page 5

- The state of Minnesota should be named as an Additional Insured under the GL and EIL policies (see Table 1 of Attachment 5A);
- Enbridge should provide the State of Minnesota with a certificate of insurance on an annual basis that details all endorsements to the policy as they may require (see Attachment 5B); and,
- The \$200 million in insurance requirements assumes that \$1 billion in payment is available from the U.S. Oil Spill Liability Fund; otherwise, Enbridge Inc. is required to increase its insurance requirements to meet the enduring \$1.2 billion funding level. The reinstatement of limits provision is required only as to the Project and, particularly for the future GL policy, would guarantee continuing coverage of the Project under Enbridge Inc.'s GL policy in the event that initial limits are exhausted during the policy period by a spill elsewhere on Enbridge Inc.'s system (see Table 1 of Attachment 5A).

In accordance with Minnesota Rules, part 7829.0500, Minnesota Statutes Chapter 13, and the Protective Order entered by the Commission on April 13, 2015, Enbridge has designated Attachments 5A and 5B as **NONPUBLIC DATA – NOT FOR PUBLIC DISCLOSURE** because they contain certain commercially sensitive information regarding Enbridge's insurance programs and market negotiations which, if released, would have a detrimental effect on Enbridge by providing potential competitors and others with valuable information not otherwise readily obtainable. Enbridge is also filing public versions of the above-referenced documents in this docket.

Enbridge appreciates the opportunity to make this compliance filing and looks forward to further comments on the filing and the Commission's thoughtful consideration of these issues. Enbridge is available to answer any questions the Commission or DOC-DER may have concerning this filing.

Sincerely,

/s/ Christina K. Brusven

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