BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION
SUITE 350
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ST. PAUL, MINNESOTA 55101-2147

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In the Matter of the Application of Enbridge Energy, Limited Partnership for a Certificate of Need for the Line 3 Replacement 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

RECOMMENDATIONS OF THE MINNESOTA DEPARTMENT OF COMMERCE, DIVISION OF ENERGY RESOURCES AS TO ENBRIDGE'S JULY 16, 2018 CERTIFICATE OF NEED FILING

July 30, 2018

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INTRODUCTION

The Minnesota Public Utilities Commission (Commission) issued an oral decision on June 28, 2018 on the proposed Line 3 Replacement Project. The Commission's grant of a certificate of need (CN) is contingent upon Commission review and approval of the modifications. Specifically, it is the Department's understanding that, but for the required modifications or conditions, the Commission determined that the record would not support a finding that, on balance, granting the CN would be more favorable to the public interest than would be the consequences of denying the CN.

On July 11, 2018 the Commission issued a Notice that required Enbridge Energy, Limited Partnership (Enbridge, the Company, or EELP) to submit a filing regarding five conditions to the Certificate of Need for the Line 3 Replacement Project by July 16, 2018. In its July 11, 2018 Notice, the Commission requested the Minnesota Department of Commerce, Division of Energy Resources (Department or DOC DER) to file recommendations for Commission approval or modifications of Enbridge's filing by July 30, 2018. The Notice also allowed other official parties to file comments by July 30, 2018.

The Commission's Notice directed Enbridge to file proposed terms and conditions for the following five modifications or conditions:

- Parental Guaranty[1] for Environmental Damages
- Landowner Choice Program
- Decommissioning Trust Fund
- Neutral Footprint Program

[1] The Notice spelled this term as "guarantee," which is a word that may be used interchangeably with the spelling, "guaranty." In its July 16 filing, Enbridge used the latter spelling of the word, as does DOC DER in this document.

- General Liability and Environmental Impairment Liability Insurance

At this time, the Department recommends that the Commission not approve the Company's filing dated July 16, 2018 (the July 16 filing). Further, the Department recommends modifications related to the terms and conditions proposed by the Company for each of the conditions as they relate specifically to the Line 3 Project. Also, as noted in its letter filed on July 20 with the Commission, the Department recommends that the Commission order Enbridge to propose a revised decommissioning trust fund proposal to which the Department intends to respond in a subsequent submission to the Commission. The Department recommends that the Commission not approve the Enbridge July 16 filing as it relates to the Neutral Footprint Program and order Enbridge to refile a revised proposal using the requirements and Company calculations pursuant to the Commission's August 18, 2017 filing in Docket No. PL9/CN 13-153. Finally, the Department requests additional opportunity to respond to the General Liability and Environmental Impairment Liability Insurance condition.

I. DISCUSSION OF DEPARTMENT RECOMMENDATIONS IN RESPONSE TO ENBRIDGE'S JULY 16 INITIAL FILING

A. Parental Guaranty

1. Parental Guaranty for Environmental Damages

On July 16, 2018, Enbridge filed proposed terms and conditions for a Parental Guaranty for Environmental Damages. A parental guaranty condition is an important protection for Minnesotans and the State of Minnesota, and is in the public interest. The Department understands that the Commission directed the Company to establish a parental guaranty by Enbridge, Inc. for the purposes of this Project to cover the remediation and environmental obligations of Enbridge Energy, Limited Partnership (EELP).

The Department recommends that the Commission modify Enbridge's filing to incorporate the Department's changes to the form of Enbridge, Inc.'s proposed guaranty. These changes are necessary to improve the protections afforded to the State and other beneficiaries, provide clarity, and simplify the process for making a claim on the guaranty. Clean and redlined versions of the Department's recommended revised form of guaranty are in Attachment A. Both versions also contain additional comments providing further detail on the reasons for the various recommended changes.

Recommended Changes to Better Protect the State and Other Beneficiaries:

Guaranty of Payment

It is the Department's understanding that the Commission's intent for requiring a parental guaranty as a condition to the CN is to ensure that Enbridge, as a corporate entity would be financially responsible and have a source of funding during the life of the new Line 3 to remediate a spill in the state of Minnesota. The guaranty proposed by Enbridge, Inc. however, is generally in the form of a guaranty of collection, rather than a guaranty of payment. A guaranty of collection is a form of guaranty that requires the beneficiary to first attempt to unsuccessfully collect from the primary obligor (here EELP), typically by suing and obtaining an uncollected judgment, before calling on the guaranty. A guaranty of payment is a form of guaranty that allows the beneficiary to proceed directly against the guarantor without first proceeding against the primary obligor if there is a default.

Guaranties of collection are appropriate where the guarantor has little or no direct interest in the transaction underlying the guaranty, and/or little or no control of the primary obligor. Such guaranties generally reflect the economic substance of a transaction in which the guarantor is typically offering the guaranty for non-financial reasons—for example an individual

guaranteeing the loan of a relative. In this case, Enbridge, Inc. controls EELP and is the ultimate economic beneficiary of the Line 3 project, and therefore, the guaranty should be structured as a guaranty of payment.

The Company's proposed structure for the parental guaranty imposes unnecessary, substantive, and procedural hurdles to the state of Minnesota and beneficiaries to effectively call on the guaranty. For example, if EELP is insolvent and defunct, beneficiaries would be required to sue and obtain a judgment against EELP, even if EELP had no resources to satisfy the judgment, before beneficiaries could proceed against Enbridge, Inc. The result would be needless delay and litigation costs for the state and beneficiaries in circumstances in which it might be important to quickly find a responsible source of funds to remediate a spill.

The Department recommends that the Commission modify Enbridge's filing so the guaranty is restructured as a guaranty of payment, allowing beneficiaries to proceed directly against Enbridge, Inc. The Department has proposed recommended changes to Sections 2 and 6, of the proposed parental guaranty agreement as well as to the definitions of "Obligations" and "Damages" and other miscellaneous related provisions, to bring the guaranty into the form of a guaranty of payment.

Contingent Assurance

The Department also recommends the Commission modify Enbridge's filing to require the Company to post an alternative form of security in the event its financial health deteriorates to a position that its guaranty no longer protects the State. The Department's recommended modification to require alternative security can be found in Section 10(b) of Attachment A.

The Department has separately described two possible forms of alternative security, a performance bond and letter of credit, that would be suitable for use in a trigger mechanism.

They are discussed in more detail below. The Department is also providing information about trust arrangements as a potential alternative to a parental guaranty. The complexity of a trust arrangement would likely require it be employed as an alternative to a guaranty from inception, rather than upon a later triggered event.

Waiver of Defense of for Temporal Indefiniteness

The Department recommends adding a term in the proposed guaranty in which Enbridge explicitly agrees to and recognizes the reasonableness of the guaranty's term for the life of the project. In some circumstances, Minnesota courts will restrict the duration of an indefinite guaranty to a time period the court deems reasonable. The reasonable term of the proposed guaranty here is at least the life of the Line 3 project. The Department has proposed additions in Section 7 addressing this issue.

Improved Standard Guaranty Waiver Terms

Enbridge, Inc.'s proposal does not contain certain waivers standard and common in guaranties of this type. The Department recommends the Commission modify Section 7 of the guaranty agreement to include additional standard waivers.

Financial Reporting

The Department recommends that the Commission modify Enbridge's filing to include terms in the guaranty requiring Enbridge, Inc. to make periodic financial reports to the Commission. These reports will allow for ongoing review of the financial viability of Enbridge, Inc., and give the State and other beneficiaries visibility on problems that may arise in this area. These recommendations are located in Section 10 of Attachment A.

Subrogation

The Department recommends the Commission modify Enbridge's filing to require a provision be added to the guaranty to address Enbridge Inc.'s right to subrogation in the event it makes payments under the guaranty. In some circumstances, guarantors have the right to step into the shoes of the primary obligor and receive the benefits of the underlying transaction if the guaranty is called. The Department recommends adding a provision into the guaranty making clear that Enbridge, Inc. can succeed to EELP interests only if it meets all the outstanding obligations of EELP. The Department's recommendations for modification are in Section 11 of Attachment A.

Recommended Modifications for Clarity

The Department recommends the Commission modify Enbridge's filing to define "Beneficiary" in Section 1 of the guaranty to better reflect its status as a defined term, and including the successors and heirs of the intended beneficiaries in the definition.

The Department has also made various other recommendations to improve the clarity of the guaranty on various points. These recommendations are provided in Attachment A.

Recommended Changes to Simplify the Process for Making a Claim

The Department recommends the Commission modify Enbridge's filing to include changes to the guaranty's provisions for making a claim to ensure the process is transparent and easily followed irrespective of the nature of the obligation that may give rise to a claim. These recommended modifications for the Commission are generally included in Sections 2 and 8 of Attachment A.

2. Potential Alternatives to a Parental Guaranty

The Department notes that the value of a guaranty is wholly dependent upon the financial strength of the guarantor, which is difficult to predict over periods as long as the anticipated lifespan of the proposed Line 3. The Department recommends the Commission consider the

long-term risks presented by reliance on Enbridge, Inc.'s continued solvency in evaluating the utility of its guaranty.

If the Commission deems appropriate, there are alternative forms of security that Enbridge, Inc. and EELP could provide that may better protect the State from the risks associated with relying on Enbridge, Inc.'s financial viability over the life of the proposed Line 3. These forms of security could be required at the outset, or upon some future event related to Enbridge, Inc.'s financial health.

Potential alternatives available to the Commission that may better insulate the State from risk include a performance bond, letter of credit, and trust arrangement.

a. Performance Bond

A performance bond is an instrument issued by an insurance company or a bank to guaranty the satisfactory completion of some obligation – typically, the completion of a construction project by a contractor. Although bonds are often issued by an insurance company, they are not insurance policies. Rather, a performance bond operates in much the same way as a parental guaranty, but is taken from a third-party to the transaction with less financial risk in the outcome of the project and whose financial health is typically regulated to insure solvency.

A performance bond is a tri-party agreement between the surety (who issues the bond), the principal (whose performance is being guaranteed), and the obligee (who is the beneficiary of the bond). If the principal fails to perform its contractual obligation with the obligee, the obligee is allowed to make a claim on the bond against the surety. The surety is generally entitled to assert the same contractual defenses that the principal would be entitled to pursuant to its underlying agreement with the obligee. In addition, the surety may be able to assert additional defenses, such as the failure of the obligee to comply with the notice and claim requirements set forth in the bond.

Most sureties will not agree to waive the same defenses that guarantors regularly waive in a parent guaranty. In most instances, if the principal asserts that it has a defense to the claim by the obligee, then the surety will rely on that defense, and the claim must be resolved in litigation. For that reason, a performance bond is most useful in situations where the principal has clearly defaulted and is unable or unwilling to complete performance (for example, if the principal is no longer doing business).

The primary benefit of a bond, compared to a parental guaranty, is that a surety company is more likely than a typical parental guarantor to maintain the required financial condition to satisfy its obligations under the bond over a long period of time. The United States Department of the Treasury maintains a list of sureties for issuing bonds on federal projects, which identifies in which state each surety is authorized to do business, and its underwriting capacity. That list can be used to identify an acceptable surety to provide a performance bond for the Line 3 Project.

Given the sophisticated nature of Enbridge Inc.'s business transactions, it is likely that Enbridge, Inc. and its related entities already have a relationship with a surety or sureties that are familiar with Enbridge's business and financial condition. Even so, it may take several months for Enbridge, Inc. to find an acceptable surety and for the surety to complete its underwriting analysis before a bond could be issued.

b. Letter of Credit

Like a performance bond, a letter of credit is a tri-party agreement. A bank issues a letter of credit on behalf of a buyer for the benefit of the beneficiary. A letter of credit is essentially a commitment by the bank to pay the beneficiary a certain amount that is owed by the buyer, provided the conditions of the letter of credit are satisfied. A standby letter of credit is a

secondary payment obligation that is called upon only when the buyer fails to make the required payment.

When a claim is made on a letter of credit, unlike with a surety and a performance bond, the bank that issued the letter of credit will not usually investigate the merits of the claim and will not be able to assert the underlying defenses of the buyer. Rather, the bank will only verify that the required documentation has been submitted by the beneficiary, and that the letter of credit has not expired, before making payment. Based upon the financial information provided by the Company, it appears that Enbridge would be able to obtain an acceptable letter of credit (at least in 2018).

A letter of credit can be made irrevocable, meaning that the bank cannot revoke the letter of credit without the agreement of the beneficiary. An irrevocable standby letter of credit would provide a relatively secure and simple way for the State of Minnesota to collect unpaid losses from an oil spill or similar event, provided the Applicant or Guarantor (if the Guarantor procures the letter of credit) is willing and able to meet the financial requirements imposed by the issuing bank.

However, it may not be possible, or practical, to name multiple beneficiaries on a single letter of credit. Thus, the State may need to be in a position where it serves as a claim-fund distributor of funds from the letter of credit to beneficiaries. Notwithstanding this issue, a letter of credit likely provides a faster and more certain method of payment on defaulted obligations from an oil spill or similar event than does relying solely on a parent guaranty and/or a performance bond.

Under normal circumstances, the process of obtaining a letter of credit is quick and easy—a buyer can usually obtain a standard letter of credit from its bank in a day or less. In this

case, however, where the letter of credit could be in excess of $1,000,000,000 and where it would have to be renewed annually for a number of years, the process will certainly take longer.

If the Commission were to modify the parental guaranty agreement to require either a performance bond or letter of credit only in the event that Enbridge's assets decline below a certain level, it may not be necessary to require the additional security to cover the full value of the losses from a catastrophic oil spill. Instead, the supplemental bond or letter of credit could be used to "top off" Enbridge's assets to make sure that the total amount of the loss could be covered between the Guaranty and the additional security.

c. Trust

A trust or trust fund can offer long-term financial resources for decommissioning or liability expenses in connection with the project. Such a fund offers the following benefits:

(1) It can remain in effect for a long period including after the original operator has experienced business transitions and the project may have a different operator.

(2) It can be funded largely independently of the operator and its access to credit (over time). We note that if the trust is to be funded by fee-based amounts contributed over time, initially it may need to be backed by a letter of credit or other security obtained by the operator.

(3) The fund should be mostly exempt from creditors of the operator. We note that if the trust were determined to be a grantor trust, which seems likely if Enbridge or EELP funds it, some amounts, such as the amounts to be distributed to the grantor for income taxes, may be available to creditors. Grantor trust status will need to be confirmed, possibly by a request for private letter ruling from the IRS.

(4) Assuming the operator and regulatory agency (which could be the Department of Commerce) can agree on a relatively simple process for ordering payments from the trust, the regulatory agency could expect to have significant control and ready access to the funds without risking becoming bogged down in disputes.

(5) The trust may be able to be amended to deal with unforeseen changes and developments.

Possible issues with a trust may include: difficulty finding a trustee that is acceptable to all parties and willing to take on the role; dealing with future successors and assigns of a

departing operator, including if the operator ceases doing business entirely and its assets are sold in a bankruptcy or liquidation proceeding; reaching agreement on a funding formula and administrative process that encompasses unknown potential claimants; dealing with a possible expiration of the trust, if the trust is formed under Minnesota law, at the end of the Rule Against Perpetuities period (essentially 90 years after creation); and amending the trust in the future to take into account unforeseen developments. It could also take some period of time, approximately a year or longer, to get a trust up and running.

B. Landowner Choice Program

1. Overview

On July 16, Enbridge provided a Landowner Choice Program proposal as a part of its filing ordered by the Commission. It is the Department's understanding based on the Commission's discussion of the Landowner Choice Program at its meeting of June 28, 2018, that the Commission expected Enbridge to address the following two issues in its Landowner Choice Program proposal:

1. That landowners have access to high-quality, unbiased information regarding the tradeoff between removing the existing Line 3 and abandonment-in-place; and

2. That Enbridge's process for assessing the technical and regulatory feasibility of removing the existing pipeline should be transparent.

The Department recommends that the Commission modify Enbridge's filing to address the terms and conditions of this Program and provide guidance for its implementation.

a. Access to high-quality, unbiased information

In its July 16, 2018, Landowner Choice Program proposal Enbridge identified and briefly described three separate entities that would have different, but related responsibilities regarding this program: (1) an independent liaison, (2) an independent third party engineer, and (3) a tribal monitor.

In order to help ensure that the landowners have direct access to accurate, unbiased information, the Department recommends that the Commission modify Enbridge's filing to include its commitment that the independent liaison coordinate directly with landowners along the existing Line 3 regarding all phases of plan implantation. This would ensure the liaison has direct interaction with landowners instead of acting as a liaison solely between Enbridge and the Commission and permitting agencies.

The Department recommends that the Commission modify Enbridge's filing to require that the liaison will oversee and work directly with the independent engineer in order to more efficiently provide timely, independent information regarding technical feasibility, permitting, and other issues to landowners as needed.

b. Process transparency

In order to ensure that Enbridge's process for assessing the technical and regulatory feasibility of removing the existing pipeline is transparent, the Department recommends that the Commission modify the July 16 filing to require a specific plan for the development and implementation of the Landowner Choice Program. The Department recommends that the Commission modify Enbridge's filing to include sections outlining the selection of the independent liaison and engineer; process development proposal, and process for implementation.

i. Independent liaison/engineer selection

The Department recommends that the Commission modify Enbridge's filing to state that the Request for Proposal (RFP) for a qualified third party contractor to act as both an independent liaison and engineer will be issued by the Commission or a designated state agency to ensure that the third party contractor acts as the liaison between Enbridge and landowners and between Enbridge, permitting agencies and the landowners. The Department recommends that the third party contractor possess both the communication and technical skills to provide landowners with transparent process information and independent engineering/environmental expertise to independently assess removal feasibility as well as permitting coordination and planning. The Department recommends that the Commission or designated state agency administer the contract and oversee the activities of the third party contractor and that Enbridge pay the costs of the third party contractor and contract administration.

ii. Process development

The Department recommends the Commission modify Enbridge's filing to include a requirement that the selected third party contractor liaison/engineer lead the coordination with technical entities (PHMSA, MNOPS, independent consultants, permitting agencies including USACE, DNR, MPCA, BWSR, etc.), and Enbridge to develop a protocol/checklist for transparent, efficient and consistent evaluation of requests for removal. The protocol would include a checklist or decision tree for stepping through an evaluation of technical and regulatory feasibility along with providing systematic and consistent information to landowners.

For landowners requesting removal where feasible, the selected third party contractor would also coordinate with the technical entities and Enbridge to develop generic protocols for environmental controls during removal and for restoration procedures consistent, for example, with the route permit construction environmental control plant (CECP) in this docket.

iii. Implementation

The Department recommends the Commission modify Enbridge's filing to include a requirement that the third party contractor liaison/engineer serve as a main point of contact for landowners in the execution of the program, from evaluation of removal feasibility and regulatory permitting and through construction and restoration.

Specifically, as Enbridge receives requests for removal, the liaison would be responsible for coordination between the landowner, technical entities (PHMSA, MNOPS, independent consultants, permitting agencies including USACE DNR MPCA BWSR etc.), and the company on:

- Assessment of whether removal is feasible and permittable (using checklist/protocol developed in process development phase)
- Tailoring of environmental control plans for specific segments identified for removal and restoration (using protocols developed in process development phase)
- Issues and questions prior to removal
- Issues and questions during removal
- Issues and questions during restoration

2. Completion date

The Department recommends that the Commission modify Enbridge's filing to include a required agreed upon, enforceable completion date. The approximate time of commencement of removal is identified in Enbridge's filing, but completion of removal is not. Attachment 2B, p. 3 of Enbridge's July 16 filing indicates that commencement of removal will begin on approximately Day 549 after the Line 3 Replacement project is placed into service, but no completion date is identified, Attachment 2B, p. 3 states: "Day 549 through Completion – Enbridge will execute removal of the segments of existing Line 3 designated for removal, assuming permits and/or authorizations are issued by the relevant government units and/or agencies, under the Landowner Choice Program."

The Department specifically recommends the Commission modify Attachment 2A of Enbridge's July 16 filing to include an enforceable completion date. Attachment 2A, p. 2, para 1 merely proposes that "Once landowners' choices are known, Enbridge will diligently pursue any required permits and other authorizations, and the removal work that is permitted will be completed in due course." The Company should agree to a final completion date, such as by removing the final period in Attachment 2A, p. 2, para 1 and adding, "and in any event, all activities related to the Landowner Choice program will be completed no later than January 1, 2026."[2]

3. Best efforts and dispute resolution

In its July 16 filing, Enbridge refers to its plans to pursue permits and authorizations, and complete removal by making "all reasonable efforts" (Attach. 2A p.6), "good faith" efforts (Attach. 2A, p. 3) "diligent" efforts (Attach. 2A pp. 2, 3) or simply "efforts" (Attach. 2B, p. 2) where "feasible", and to be "efficient, responsible" (Attach. 2A,p. 2). The Department recommends that the July 16 filing be modified to replace these descriptors with a commitment by Enbridge to use its "best" efforts to achieve specific outcomes.

The Department recommends the Commission modify Enbridge's filing to require the inclusion of an appropriate dispute resolution process, by agreeing that a landowner may, if it chooses, bring to the Commission for resolution any unresolved differences between a landowner and Enbridge regarding the Landowner Choice Program.

[2] Identification of a date for completion is important for purposes of enforceability. The date indicated here is based on information provided by the Company in its filing, and in its answer to a Department's IR. Enbridge Response to Department Information Request (DOC IR) No. 306, attached hereto as Attachment B.

The Department recommends the Commission modify Enbridge's filing to require that specific outcomes are required, at minimum, to constitute "best efforts" to comply, with respect to the following five undertakings, which could include the following terms and conditions:

1. Providing Notice/Communications to Landowners

   - Provide Introductory Letter – Enbridge Attachment 2B. **Letter will include a statement that informs landowners that the Landowner Choice Program may affect their property, and they may wish to seek legal counsel.**
   - Contact landowners by phone to arrange an in-person meeting with independent third party contractor liaison/engineer and Enbridge representative in-person meeting.
   - Enbridge's subject matter experts in consultation **with independent third party liaison/engineer** will answer questions that arise that may need a more involved or technical explanation to the landowner.
   - Landowners will have access to a representative from at least one independent, third-party engineering firm knowledgeable in matters relevant to deactivation-in-place or removal **until completion of the removal and restoration project on each landowner's property.**

2. Obtaining Landowner Participation

   - Landowners will have five years from the date that the Route Permit is issued to make their decision under the Landowner Choice Program.
   - A document reflecting each landowner's decision to deactivate in place or have the pipeline, in whole or in part, removed from their property will be placed in the appropriate county real estate records, at Enbridge's cost.

3. Obtaining Necessary Permits

   - Enbridge in consultation with the third party contractor liaison/engineer will identify all steps needed to effect the removal and restoration including the development of a protocol/checklist for transparent, efficient and consistent evaluation of requests for removal. The protocol would include a checklist or decision tree for stepping through an evaluation of technical and regulatory feasibility along with providing systematic and consistent information to landowners.
   - Enbridge in consultation with the third party contractor liaison/engineer will identify all permits and authorizations needed.
   - Enbridge in consultation with the third party contractor liaison/engineer will prepare a plan to obtain all necessary permits and authorizations.
   - Enbridge will execute the plan.

4. Effecting Removal and Restoration

- Enbridge in consultation with the third party contractor liaison/engineer should prepare the written plan showing the protocol/checklist for safe removal and restoration methods that minimize environmental impact.
- Enbridge in consultation with the third party contractor liaison/engineer will execute the plan.

5. Compensation

- Enbridge will compensate landowners as follows:_____ for deactivation in place no later than 20xx_____.
- Enbridge will compensate landowners as follows: _____ for temporary workspace and for any damages incurred during removal of the pipe and appurtenances no later than 20xx_____.

The Department recommends that the Commission modify Enbridge's filing to include a requirement that two times per year, and immediately upon completion of each of the above five milestones, Enbridge e-file a report to the Commission describing in detail its efforts to accomplish each milestone. The report should provide sufficient detail for the Commission to determine whether the Company is in compliance, and be subject to public comment.

4. Enforcement

The Department recommends the Commission modify Enbridge's "Landowner Choice Program" to include a provision or remedy if Enbridge fails to fulfill its commitments. Enbridge should agree to specific remedies and agree that the Commission has authority to determine whether the commitments have been fulfilled, and may order specific remedies in the event that Enbridge fails to perform.

5. Limitation on effect of Commission Order

The Department recommends the Commission modify Enbridge's filing to reflect that neither the Commission nor Company have the authority to deprive landowners of existing rights they may have. Enbridge's commitment should specify that its commitments and the Commission's issuance of a CN that is conditioned upon the commitments do not alter existing

rights a person or entity may have by virtue of their interest in property in or near existing Line 3 without their consent. Language in Enbridge's July 16 filing (e.g. Attach 2A, pp. 2-3), appears to bind future landowners even if a current landowner fails to participate in the Landowner Choice Program. The Department recommends that the filing be modified to remove this language because the Company's Landowner Choice Program cannot, without notice, deprive present landowners or subsequent owners of rights they may have under existing easements or other laws.

6. Landowner interests.

The Department recommends the Commission modify Enbridge's filing to clearly define "landowners" with respect to property interests of government agencies and tribes, including the various types of tribal interests in the property that may be affected, partial interests in property, and property that is transferred between the time of Enbridge's receipt of a landowner's choice and completion of the removal project.

At minimum, the Company's commitment should include coordination with each Tribe that may have a real estate property interest affected by the Landowner Choice Program.

C. Decommissioning Trust Fund

On July 16, Enbridge provided a proposal for a decommissioning trust fund. In response, the Department filed a letter with the Commission on July 20, 2018, recommending the following:

> The Department recommends that the Commission not approve the Enbridge July 16 compliance filing as it relates to the decommissioning trust fund condition and order Enbridge to propose a revised decommission trust fund proposal that: :
>
> - Is consistent with, and requires no changes to, existing Minnesota and federal law;

- Includes collections over the expected 50-year life of Line 3 project in Minnesota at least to equal approximately $1.5 billion (USD), as adjusted for inflation;

- Is not controlled by Enbridge Inc. or any present or future affiliated entity;

- Is established only for the purpose of deactivating, monitoring, and removing the pipeline together with remediation of the soil at the time Line 3 is taken out of service in Minnesota; and

- Includes other provisions as required by the Commission.

The Department intends to respond to Enbridge's subsequent decommissioning trust fund filing by the Company, in a later submission to the Commission.

D. Neutral Footprint Program

In Attachment 4 of its July 16 Filing, Enbridge provided a proposal for a Neutral Footprint Program. Enbridge stated its overall goal of the proposed Neutral Footprint as follows:

> As reflected in Enbridge's June 22, 2018 letter, Enbridge will purchase renewable energy credits ("RECs") in the amount equal to the incremental increase in total non-renewable electric energy usage on the Enbridge Mainline System after Line 3 Replacement is in service. The basic requirements of the REC purchase can be found at Ex. DER-6 at 15-16 (O'Connell Surrebuttal).[3]

Specifically, Enbridge proposes to calculate incremental energy due to this project as follows:

> **Post-project Energy Consumption – Baseline Energy Consumption = Incremental Energy Consumption**
> where
> (i) the Post-Project Energy Consumption is equal to the electricity used by the Enbridge Mainline System in Minnesota during the first partial calendar year immediately following the in-service date of the Project and then the full calendar year for each year thereafter; and
> (ii) the Baseline Energy Consumption is equal to the total electricity used by the Enbridge Mainline System (i.e., Lines 1, 2, 3, 4, 65 and 67) in Minnesota during the full 12 months

[3] The Department appreciates Enbridge's clarification in its response to the Department's information request that the reference to Ms. O'Connell's surrebuttal testimony should have been to pages 13–14.

> immediately preceding the in-service date of the Project (adjusting that 12 month period to exclude months impacted by construction of Line 3 Replacement, such as the line fill process). The first partial-year REC purchases will be calculated by pro-rating the average monthly electricity used to calculate the Baseline Energy Consumption.

It is the Department's understanding that the Commission is requiring a neutral footprint program proposal from Enbridge based on the requirements and the Company's calculation of incremental energy pursuant to the Commission's August 18, 2017 order in Docket No. PL9/CN-13-153 (Phase II Docket), which was not the methodology used in Enbridge's July 16 filing.

The Department recommends that the Commission not approve the Enbridge July 16 filing as it relates to the Neutral Footprint Program and order Enbridge to refile a revised proposal using the requirements and Company calculations pursuant to the Commission's August 18, 2017 filing in Docket No. PL9/CN 13-153.

Calculation Method

To illustrate the difference between the neutral footprint ordered by the Commission in the Phase II Docket and Enbridge's new proposal, the Department begins with Enbridge's reference to Ms. O'Connell's Surrebuttal Testimony, which states:

> I continue to recommend that the Commission require Enbridge to apply the Company's neutral footprint, as the Commission determined in its August 18, 2017 *Order Clarifying Neutral Footprint Objectives and Requiring Compliance Filing*:
>
> 1. To fulfill its kWh-for-a-kWh requirement, Enbridge Energy, Limited Partnership shall acquire renewable energy as defined in Minnesota Statutes section 216B.2422, subdivision 1 1(c), *to offset all the incremental increase in nonrenewable energy consumed by the Phase 2 project* since the project became operational.
>
> 2. Beginning no later than October 1, 2017, Enbridge shall make annual filings regarding its compliance with its neutral footprint objectives. Regarding Enbridge's kWh-

> for-a-kWh requirement, these filings shall include a calculation of (a) *the incremental increase in Enbridge's energy consumption due to the Phase 2 project* and (b) the share of that energy that comes from nonrenewable sources.
>
> 3. By November 1, 2020, and annually thereafter, Enbridge shall document—in a manner that precludes double-counting—that it has complied with the kWh-for-a-kWh requirement. Enbridge may rely on renewable energy credits from its own generators, or from a third party offering verifiable renewable energy credits. Verification shall be from the Minnesota Renewable Energy Trading System or another entity the Commission determines to be substantially equivalent to M-RETS. (*Emphasis added*)

The Department recommended that the Commission "require Enbridge to apply the neutral footprint approved in the second upgrade to Line 67 (Docket No. EL9/CN-13-153) to increased electricity use."[4]

As identified above, in the Phase II Docket, the Commission defined incremental energy as the "increase in nonrenewable energy consumed by the Phase 2 project." Accordingly, in the Phase II Docket, Enbridge's October 2017 compliance filing appropriately provided the amount of electricity used *solely for Line 67*, before and after implementation of Phase II.

Correspondingly, Enbridge's proposed project in the Line 3 proceeding is as follows:

> Enbridge proposes to build a new, 36-inch crude oil pipeline that would follow the same corridor of the existing 34-inch Line 3 crude oil pipeline from the Minnesota border with North Dakota to Clearbrook, Minnesota and then would use a different corridor from Clearbrook to Superior, Wisconsin (Project); running parallel to the existing Minnesota 6 Pipeline from Clearbrook to Park Rapids, where it then turns east and follows utility or road rights-of-way, where no crude oil pipeline exists. EERA Ex. ___ at ES-1 (FEIS 8 Executive Summary). In addition, if the Commission grants a certificate of need to Enbridge, the Applicant would abandon its existing 34-inch Line 3 from Hardisty, Alberta, Canada to its terminal in Superior, Wisconsin, according to

[4] Ex. DER-1 at 98, 115, 125 (O'Connell Direct); Ex. DER-6 at 13–14 (O'Connell Surrebuttal).

> requirements on the federal Pipeline and Hazardous Materials Safety Administration (PHMSA) and other commitments. Enbridge Ex. ____ Section 1 (Application). Enbridge refers to this proposed Project, including the increase in size from 34 inches to 36 inches, as a "replacement" of Line 3.[5]

There is no mention of changes to other aspects of Enbridge's Mainline System included in the Line 3 proposal. Thus, to be consistent with the Commission's decision in the Phase II Docket, the calculation of incremental energy in this proceeding should be based on the difference between the electricity used for the existing Line 3 and the electricity used for the new Line 3, over the life of the new Line 3.

Enbridge's proposed Neutral Footprint Program for the Line 3 Project is materially different than in the Phase II Docket, since the newly proposed calculation extends to Enbridge's entire Mainline System. As noted above, Enbridge proposes that "the Baseline Energy Consumption" would be "equal to the total electricity used by the Enbridge Mainline System (i.e., Lines 1, 2, 3, 4, 65 and 67) in Minnesota during the full 12 months immediately preceding the in-service date of the Project." Similarly, Enbridge proposes that "the Post-Project Energy Consumption" would be "equal to the electricity used by the Enbridge Mainline System in Minnesota."

Enbridge's newly proposed calculation of incremental energy would not identify increased electricity use due to building a new, larger Line 3 and shutting down the existing Line 3. Instead, it would encompass all changes in electricity use due to all factors affecting the Mainline System as a whole. As a result, the effects of adding new Line 3 and removing existing Line 3 could not be distinguished from other effects.

[5] Ex. DER-1 at 6 (O'Connell Direct).

The Department requested clarification from the Company on this matter.[6] In its response to the question about its proposed manner of calculating incremental energy, Enbridge responded as follows:

> **Request Number: 301**
> Topic: Enbridge's proposed calculation of incremental increase in electricity consumption
> Reference(s): Attachment 4 of 7/16/18 compliance filing
>
> **Request:**
> Enbridge's proposed Line 3 "replacement" project would cease operation of the existing Line 3 and install a new Line 3 pipeline that would not only be larger in size than the existing pipeline but would more than double its capacity and be capable of shipping heavy crude oil. Enbridge has been clear throughout this proceeding that it was not proposing any change to any other aspect of Enbridge's mainline system. However, Enbridge's proposed calculation of incremental electricity due to the installation of the new, larger Line 3 would be based on electricity used for Lines 1, 2, 3, 4, 65 and 67.
>
> a. Please fully justify Enbridge's proposal not to measure the difference between: a) the electricity used to ship primarily light oil at what Enbridge states is the lowest operating capacity on the existing Line 3 and b) the electricity used to ship all types of crude the new, larger Line 3 that would have a capacity more than twice the size of the existing Line 3.
> b. If any electric utility that serves the existing Line 3 or that is expected to serve the new Line 3 refuses to submeter the electricity used by either the existing line 3 or the new Line 3, please provide documentation of any and all such refusal(s).
>
> **Response:**
> 1. As stated in Enbridge's June 22, 2018 Letter to the MPUC, "the record demonstrates that the Project has been designed to improve the energy efficiency of the Enbridge Mainline System. Specifically, the Project as proposed will reduce electric energy consumption on the Enbridge Mainline System on a per barrel basis."[1] Mr. Glanzer further describes the energy efficiency benefits of Line 3 Replacement for the entire Enbridge Mainline System on page 16 of his Direct Testimony. Given that Line 3 Replacement was specifically designed to return the pipeline to

[6] Enbridge Response to DOC IR No. 301, attached to these comments as Attachment B.

> mixed service, in part, to optimize power consumption on the Enbridge Mainline System, and given that the mixed service nature of the line means that the percentage of lights and heavies transported will vary over time, Enbridge's commitment, which was accepted by the Commission, compares power use on the Enbridge Mainline System before and after Line 3 Replacement is in service to properly reflect the energy efficiency benefits the Project brings to the System, even without making any other facility changes on other pipelines.
>
> 2. Not Applicable.
> Footnote 1: June 22, 2018 Letter at 4 (citing EN-19 at 5 (Glanzer Direct)).

Enbridge's justification for its proposed calculation of incremental energy in its July 16 filing is that the Commission has already accepted Enbridge's newly proposed neutral footprint program. This argument appears to be inconsistent with the Commission's July 11, 2018 *Notice of Compliance Filing Requirements and Comment Period on Certificate of Need Modifications for the Proposed Line 3 Replacement Project*, however, which states in part: "The Commission's grant of a certificate of need is contingent on Commission review and approval of the modifications."

The Department recommends that the Commission not approve the Enbridge July 16 filing as it relates to the Neutral Footprint Program and order Enbridge to refile a revised proposal using the requirements and Company calculations pursuant to the Commission's August 18, 2017 filing in Docket No. PL9/CN 13-153. Consistent with the neutral footprint approved in the Phase II Docket, the calculation of incremental energy and RECs to be purchased by Enbridge should be based on the difference between:

a) a representative baseline level of electricity used for the existing Line 3 and

b) the annual electricity used for the new Line 3.

This calculation should be completed annually.

Enbridge's estimated Renewable Energy Credits

The Department requested Enbridge to provide the "expected amount of incremental electricity to be used in each year of operation of the new Line 3" for years one through five of the expected operational years of the new Line 3, both before and after making adjustments for the amount of renewable power on the systems of each utility expected to serve the new Line 3. Enbridge did not provide information for each of the years of operation, instead providing single-number estimates for the incremental electricity use under the two different stages of calculations and the two different methods of estimating incremental electricity use.

The limited data and lack of support for the numbers in Enbridge's responses[7] do not allow for verification of Enbridge's estimates of changes in electricity use. Moreover, given that Enbridge provided only one number for years one through five of operation of the new Line 3, the Commission does not have sufficient information to determine whether Enbridge's proposal reflects the Commission's determinations in the Phase II Docket as to annual changes in electricity use over time, which was discussed in the Commission's August 18, 2017 *Order Clarifying Neutral Footprint Objectives and Requiring Compliance Filing*, on pages 3-5:

> Enbridge argued that there is no systemic reason to expect the incremental amount of electricity consumed by its Phase 2 project to grow or shrink over time. Consequently Enbridge proposes to forgo the need to re-calculate Phase 2's incremental energy consumption each year, and instead assume that the incremental increase in the first year will be the same as the increase in all subsequent years.
>
> . . .
>
> **III. Commission Action**
>
> Enbridge may demonstrate compliance with the kWh-for-a-kWh requirement by—

[7] Enbridge's responses to information requests regarding the neutral footprint are included in Attachment B to these comments.

- showing that it has generated sufficient renewable energy to fulfill its obligations, or

- acquiring and retiring the appropriate amount of renewable energy credits from M-RETS or a substantially equivalent entity, or

- engaging in some combination of these strategies.

> Finally, the Commission agrees with Enbridge's interpretation of the November 7, 2014 order that Enbridge must acquire renewable energy or RECs to offset the Phase 2 project's consumption of *nonrenewable* energy. Enbridge need not offset the share of the energy it consumes from renewable sources. And if over time a utility increases the share of electricity it acquires from renewable sources, then Enbridge may take that change into account in calculating the amount of renewable energy it must acquire as offsets.
>
> By the same reasoning, the Commission will also direct Enbridge to measure and document in its annual filing the amount of energy consumed by the Phase 2 project. The record of this proceeding does not demonstrate how the energy consumed by the Phase 2 project will change over time as the physical plant ages and demand for pipeline transmission capacity changes, so the Commission will make no presumption on that question.
>
> Instead the Commission will direct Enbridge, beginning in October, to make annual filings reporting its progress in implementing all of its three neutral footprint objectives. And where the kWh-for-a-kWh requirement is concerned, this filing will provide a yearly opportunity for Enbridge to incorporate any changes in the amount of energy consumed and the percentage of that energy that came from renewable sources. (footnotes omitted)

Annual Report Filing

Enbridge requested that the annual reports on the neutral footprint for both the Phase II Docket and the instant Line 3 Docket be filed on April 1 each year. Since the compliance filings for the Phase II Docket are currently due on October 1 each year, Enbridge notes that a "partial year report will be needed to get Line 67 Phase 2 on a calendar year reporting timeframe." The Department recommends approval of Enbridge's request to change the reporting date for the Phase II Docket to April 1 each year and agrees with Enbridge that partial-year information would be needed to align the two reports. To help with this transition, the Department

recommends that the Commission allow Enbridge to file its next compliance filing in the Phase II Docket on April 1, 2019.

E. General Liability and Environmental Impairment Liability Insurance

On July 16, Enbridge provided a proposal for compliance with the Commission's general liability (GL) and environmental impairment liability (EIL) insurance conditions. The Department recommends that the Commission not approve the Enbridge July 16 filing at this time. Further, the Department recommends that the Commission modify the proposed terms and conditions to be consistent with previous DOC DER's insurance recommendations.[8]

1. Current GL and EIL policies under review

In its July 16 Filing, Enbridge did not provide any copies of Enbridge Inc.'s current General Liability (GL) umbrella policies[9] and also did not provide an alternative means by which parties may review key terms so as to confirm compliance with the insurance-related requirements for review.

On July 19 and 20, 2018 the Department issued discovery including requests for copies of Enbridge's currently effective GL policies and for the Company to confirm that the currently effective Enbridge Inc. GL insurance policies include specific types of coverage.

On July 25, 2018 in response to Department discovery, Enbridge provided copies marked Trade Secret of its currently effective GL insurance policies. On July 26, 2018 Enbridge provided responses to the rest of the Department's insurance-related discovery. The Department is reviewing this new information.

While these documents are under review, the Department recommends that the Commission not approve the compliance filing related to insurance. Further, the Department

[8] *See, e.g.*, DOC DER Public and Trade Secret Initial Briefs at 144–51, 163–94.
[9] *See* Enbridge July 16 filing, Public Attachment 5A at 1, 3-4 (Table 1).

requests an opportunity to make a later submission to the Commission regarding its recommendations related to the Commission's approval or modification of the Company's General Liability and Environmental Impairment Liability Insurance filing.

2. Market Availability

The Company includes as Table 1 in its July 16 filing, a chart that that provides a column summarizing the Department's recommended insurance requirements and a column summarizing Enbridge's plan for complying with each requirement.[10] In Enbridge's statements regarding many insurance recommendations, it conditions its compliance on words such as, "to the extent [the policies] are available in the marketplace on commercially reasonable terms."[11]

The Department concurs that for the Commission to require a certain type of insurance as a condition of a issuing a Certificate of Need, this type of insurance must be available in the marketplace. The Department's concern, however, is that Enbridge's statements regarding market availability in its July 16 filing unnecessarily limits its obligation to comply with the condition to whether the insurance is available *to Enbridge* in the marketplace on reasonable terms, as opposed to whether it is available *to pipelines generally* in the marketplace.[12]

Therefore, the Department recommends that the Commission modify the filing to define "market availability of insurance on commercially reasonably terms" to mean the type of insurance and terms that are available to pipelines generally in the marketplace; that insurance and its terms should be deemed to be terms that are commercially reasonable for the coverage available to Enbridge. Further, the Department recommends the Commission modify the July 16

[10] *See* Enbridge July 16 Filing, Public Attachment 5A at 1-4 (Table I).
[11] *Id.*
[12] *Compare* Enbridge July 16 Filing, Public Attachment 5A at 4 (Table I) (citing on page 170 of Mr. Dybdahl's trial testimony of Evid. Hearing Tr. 8B (November 14, 2017) at 170 (Dybdahl)) *with* Ex. Ex. DER-5 at 4, 15–16, 22 (Dybdahl Direct), Evid. Hearing Tr. 8B (November 14, 2017) at 113–114, 159, 163, 170–72 (Dybdahl) and DOC DER Initial Br. at 165, 192.

filing to require, that if Enbridge claims it is unable to secure the minimum coverages for GL and/or EIL insurance at commercially reasonable terms, the Company must demonstrate that the particular type of required insurance coverage is unavailable in the marketplace to Enbridge Inc.'s peer group of pipeline companies, as benchmarked by an international insurance brokerage firm with experience in insuring a threshold number of pipeline companies. If Enbridge shows that the required insurance is not available to pipeline companies generally, the Department recommends that the Commission determine that the insurance is unavailable to Enbridge.

3. GL Coverage Includes Enbridge-Affiliated Carriers

The Department recommends that the Commission, for the required GL and the EIL coverage, require that carriers affiliated with any Enbridge entity may provide insurance coverage only up to $50,000,000 for GL and up to $5,000,000 for EIL insurance, consistent with Department recommendations.[13]

4. Potentially Available EIL Providers

In Table 1, of its July 16 filing, Enbridge stated that, with the assistance of Marsh (its broker), it identified 14 potentially available EIL providers, but that only three of them "expressed interest in underwriting [an EIL] policy for a pipeline company."[14] On July 20, 2018, the Department issued discovery to understand the result of Enbridge's/Marsh's efforts to secure an EIL provider. The Department is reviewing the Company's July 26 responses. Based on information provided in first three columns of Table 2[15] and DOC DER's previous recommendations, the Department continues to recommend that the Commission require Enbridge to comply with the Department's EIL recommendations.

[13] Ex. DER 5 at 35–36 (Dybdahl Direct) (Appendix A).
[14] *See* Enbridge July 16 Filing, Public Attachment 5A at 3 (Table 1).
[15] *See* Enbridge July 16 Filing, Trade Secret Attachment 5A at 5–6 (Table 2).

5. Automatic Reinstatement Of Limits

As recommended by the Department, the insurance requirements for a new Line 3 include $100 million minimum coverage under GL and EIL policies must include either an automatic reinstatement of limits option or an annual aggregate of $200 million.[16] Enbridge states that for its GL coverage, it intends to choose the annual aggregate option (which is twice the per loss limit or $200 million) rather a reinstatement of limits.[17] If, for its GL coverage, Enbridge were to choose the reinstatement of limits coverage, the Department wishes to highlight that reinstatement of limits is needed only to apply to Line 3 and to apply only for the same policy period as the initial GL policy.[18] The reinstatement of limits provision would allow the initial GL policy limits to remain in place for Line 3 during the policy period even though the policy limits are exhausted by a spill on a pipeline other than Line 3 in the Enbridge Inc. pipeline system.[19]

As to future EIL coverage, Enbridge's Table 1 is somewhat unclear in that it refers to both GL and EIL regarding availability of reinstatement of limits policies, but refers solely to its Table 2 as a basis for its statements. Table 2 concerns EIL insurance information.[20] The Department reads the Company's statements to be that Enbridge does not expect to find EIL reinstatement of limits to be available in the EIL marketplace, and while it identified only one potential EIL provider who expressed a willingness to write a reinstatement of limits policy for

[16] *See, e.g.*, DOC DER Initial Br. at 186–88.
[17] Enbridge July 16 filing, Public Attachment 5A at 4 (Table 1).
[18] DOC DER Initial Br. at 164 (citing Evid. Hrg. Tr. Vol. 8B (Nov. 14, 2017) at 104–105, 168 (Dybdahl)).
[19] *See id.*
[20] Enbridge July 16 filing, Public Attachment 5A at 5–6 (Table 2).

EIL insurance, many carriers would not offer an annual aggregate of twice a per loss limit.[21] The Company does not expect to be able to purchase EIL insurance for Line 3.[22]

The Department, however, expects that such a potential level of EIL capacity will be sufficient in the future for Enbridge to obtain some or all of an annual aggregate of $200 million.

The Department recommends that the Commission allow Enbridge to use its GL aggregate coverage, as the Company presently intends to do, or to permit the Company to choose to provide an automatic reinstatement of limits policy that would need only to cover Line 3 as provided as an option in the Department's Initial Brief.[23]

Further, the Department recommends that the Commission require Enbridge purchase an annual EIL aggregate of $200 million as provided as an option in the Department's Initial Brief.[24]

6. Fluctuating Balance Of The Oil Spill Liability Trust Fund

The Department's insurance recommendations assumed a solvent Oil Spill Liability Trust Fund (OSLTF) which has a $1 billion per loss cap that, when combined with its recommendation for total recoverable insurance coverage of $200 million (GL and EIL), would ensure that a total of $1.2 billion would be available to protect the State of Minnesota in the event of a Maximum Probable Loss from Line 3 in today's dollars.[25] To the extent that there is less than $1 billion available from the trust fund, the Department recommended that the amount of insurance

[21] *See* Enbridge July 16 filing, Public Attachment 5A at 3 (Table 1 although it references Table 2). DOC DER assumes from Enbridge's reference to Table 2, which solely concerns EIL information, that Enbridge did not have difficulty identifying GL providers that would be willing to sell a GL automatic reinstatement of limits policy for application only to the new Line 3.
[22] Enbridge July 16 filing, Public Attachment 5A at 3 (Table 1).
[23] *See also* DOC DER Initial Br. at 184–86, 192–93.
[24] *See id.* at 186–88.
[25] DOC DER Initial Br. at 164.

required by Enbridge Inc. be increased so that the total funding amount would continue to equal $1.2 billion over the life of Line 3.[26]

In Table 1, Enbridge appeared to suggest that it would not necessarily comply with requirement that the Company increase the amount of its insurance in the event that total available funding from the OSLTF were to fall below $1 billion. Specifically, the Company indicated that it may have difficulty identifying the annual balance of the OSLTF, and that Enbridge "cannot make ad hoc adjustments to the $200 million in commercially reasonable insurance requirements based on the fluctuating balance of the OSLTF due to impacts by others unknown to Enbridge or to the extent that the balance is not publicly known or attainable.[27]

The Department continues to maintain its recommendation that the Company be required to increase the amount of its insurance in the event that total available funding from the OSLTF were to fall below $1 billion so as to maintain a total of $1.2 billion (with insurance) to be available in the event of a spill on Line 3. The Department is willing to discuss Enbridge's concern, but notes that information regarding the approximate fund balance, for instance, appears to be readily available. The administrator of the fund, the U.S. Coast Guard, told the Department recently that the primary OSLTF fund currently exceeds $6 billion.

7. Scenario Where The GL Minimum Could Be Reduced For Line 3 To Meet The EIL Minimum

Regarding its discussion of market availability in Table 1 of its July 16 compliance filing, Enbridge stated erroneously without citation that "Mr. Dybdahl recommended GL insurance be used as a substitute if EIL insurance is unavailable . . . ."[28] Mr. Dybdahl's testimony, however,

[26] DOC DER Initial Br. at 193 (citing Evid. Hrg. Tr. Vol. 8B (Nov. 14, 2017) at 98 (Dybdahl)).
[27] Enbridge July 16 filing, Public Attachment 5A at 3–4 (Table 1).
[28] Enbridge July 16 filing, Public Attachment 5A at 4 (Table 1).

provided the opposite: GL coverage could be reduced (only as to losses on Line 3) in order to ensure there is at least $100 million in EIL coverage on Line 3.[29]

The Department's Initial Brief summarized Mr. Dybdahl's recommendation for a potential future situation in which the only insurers able or willing to provide the required GL and EIL insurance coverage for Line 3 were the same carriers. In the case of identical carriers, the Initial Brief noted that insurers might choose not to participate on both the GL and the EIL policies. To address that situation, Mr. Dybdahl testified that the amount of GL insurance covering all of Enbridge Inc. operations could be reduced although only as to losses on Line 3, but that the $100 million EIL minimum would be required.[30]

Further, in the extreme event that there simply was no EIL insurance available to pipeline companies, or very little EIL coverage, which is not the case presently, then the Department's Initial Brief stated that Enbridge Inc. would be required to purchase whatever EIL insurance was available and, presumably, the Commission would require an increase in the amount of GL insurance so as to meet a minimum $200 million insurance amount.[31] The Department's recommendations anticipate that the current availability of EIL insurance for pipeline companies is not likely to collapse, based on current information.

The Department recommends the Commission not allow Enbridge to use GL insurance as a substitute for EIL insurance requirements absent a showing by Enbridge of extreme events akin

[29] In earlier trial testimony, Mr. Dybdahl agreed with Enbridge counsel that, if insurers faced stacking issues, one option would be a reduction of the current GL limits to $840 million together with a $100 million EIL policy (*id.* at 86, 163), and later clarified that the GL reduction would be only as to losses on Line 3. *Id.* at 165–166.
[30] DOC DER Initial Br. at 190 (citing Evid. Hrg. Tr. Vol. 8B (Nov. 14, 2017) at 164–166 (Dybdahl)).
[31] DOC DER Initial Br. at 192.

to an EIL insurance market collapse resulting in EIL coverage becoming unavailable for pipeline companies, generally.

8. Summary of Insurance-Related Recommendations

For the reasons explained above, the Department recommends that the Commission not approve the Enbridge July 16 Filing as it relates to the Commission's insurance conditions and order Enbridge to propose a revised Insurance proposal that is consistent with the Department's insurance recommendations.). Further, the Department recommends that the Commission require Enbridge to comply with the Department's recommendations identified in this section, and as provided in the Department's Initial Brief (including Appendix A of Mr. Dybdahl's direct testimony).

II. CONDITIONS MUST BE ENFORCEABLE IN ORDER TO OFFSET SIGNIFICANT POTENTIAL HARM TO THE PUBLIC OF GRANTING THE CN.

Lastly, DOC DER understands that the five modifications or conditions identified in the July 11 Notice were integral to the Commission's oral approval of the CN for the proposed Line 3 project. Those conditions, therefore, must be implemented by Enbridge and must be enforceable by the Commission.

The Company stated in its July 16 Filing that it intends to comply with the Commission's conditions. In filings prior to July 16, however, Enbridge advanced arguments that the Commission lacks authority to enforce conditions once the new Line 3 pipeline is constructed and in operation.[32] Therefore, relying on federal preemption to protect it from recourse, Enbridge could choose not to comply with the modifications or conditions that the Commission determined were integral to making the Certificate of Need in the public interest. This failure would undermine the Commission and the integrity of the Certificate of Need process. Further,

[32] *See, e.g.*, Enbridge's Exceptions to the ALJ's Report that repeatedly stated the Commission lacks jurisdiction over operational aspects of pipelines on pages 6, 8–10, 21, and 26.

if Enbridge does not comply with the conditions, public health and welfare, the environment, and the rights of Minnesotans would be in jeopardy.

Enbridge has the power to stipulate to significant consequences of noncompliance in order to demonstrate its ongoing commitment to the State and its citizens. The Department recommends that the Commission require Enbridge to agree to specific consequences of noncompliance with conditions that clearly would allow the Commission to enforce, over the operational life of a new Line 3, the very conditions that are central to the Commission's granting of the Certificate of Need.

The Department recommends that in addition to the conditions contained in the CN, that the Commission require either that construction of a new Line 3 not begin until legal uncertainties regarding the Commission's enforcement authority are resolved; or that construction may begin only in the event that Enbridge stipulates to accept specific material consequences of future Commission determinations that the Company is out of compliance with one or more of the Commission's five conditions over the operational life of the Line 3 pipeline. For example, Enbridge could choose to agree to waive any right it may have to object to a Commission determination of noncompliance, and to agree to accept without challenge to Commission jurisdiction or authority that each of the five conditions is a separate condition integral to the Commission's granting of the certificate of need. Enbridge also could agree that a specific consequence of a Commission finding that the Company is out of compliance with one or more conditions would be Enbridge's immediate payment to the State of Minnesota of a stipulated amount for each day of noncompliance.[33] Conceptually, the agreed-upon payment

[33] For example, a stipulated daily charge might be an amount substantially in excess of Enbridge's gross annual revenues for the previous calendar year, without reduction for expenses or other offsets, calculated as the average daily average of such gross revenues.

must exceed the daily net revenue that Enbridge expects to receive by breaching the condition. That way, the best interests of its shareholders would appear to be satisfied by Enbridge's compliance with the Commission's conditions.

CONCLUSION

For reasons stated herein, the Department recommends that the Commission not approve the Enbridge filing dated July 16, 2018. It further recommends that the Commission modify the filing to incorporate terms and conditions regarding enforceability of the conditions and provides recommendations to modify the Parental Guaranty and Landowner Choice Program. As noted in its letter filed on July 20 with the Commission, the Department recommends that the Commission order Enbridge to propose a revised decommissioning trust fund proposal to which the Department intends to respond in a subsequent submission to the Commission. The Department recommends that the Commission not approve the Enbridge July 16 filing as it relates to the Neutral Footprint Program and order Enbridge to refile a revised proposal using the requirements and Company calculations pursuant to the Commission's August 18, 2017 filing in Docket No. PL9/CN 13-153. Finally, based on recently received discovery responses, the Department requests additional time to respond to the GL and EIL insurance condition.

Dated: July 30, 2018

Respectfully submitted,

/s/ Peter E. Madsen

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ATTACHMENT A

ENBRIDGE INC.
GUARANTY

GUARANTY, effective as of the date executed by Enbridge Inc. (the "**Guarantor**"), in favor of each Beneficiary (as defined below).

Note 1: Definition of "Beneficiary" moved to §1 for clarity.

WHEREAS, Enbridge Energy, Limited Partnership, a Delaware limited partnership (including its successor and assigns, the "**Guaranteed Party**"), is a limited partnership in which the Guarantor has no direct ownership interest;

WHEREAS, the Guaranteed Party has requested, in Docket Numbers PL-9/CN-14-916 and PL-9/PPL-15-137, that the State, through the Minnesota Public Utilities Commission (the "**Commission**") approve a Certificate of Need and a Route Permit for the construction and operation of the Minnesota portion of a crude oil pipeline between Hardisty, Alberta and Superior, Wisconsin (the "**Project**");

Note 2: "Project" should not be defined with reference to construction under the Certificate of Need and Route Permit.

WHEREAS, the Guarantor expects it will derive benefit from the Project;

WHEREAS, the State, through the Minnesota Department of Commerce-Division of Energy Resources ("**Department**"), has recommended that any approval by the Commission of Guaranteed Party's application for a Certificate of Need must be conditioned on the Guaranteed Party's provision of financial and other assurances with respect to the Obligations (defined below);

WHEREAS, consistent with the Department's recommendation, the Commission has granted the Guaranteed Party's application for a Certificate of Need as modified to require the Guarantor provide this Guaranty;

WHEREAS, the Guarantor agrees to be fully and completely responsible for all of the Obligations; and

Note 3: Simplified for clarity.

WHEREAS, the Guarantor assures the State that it has the financial resources to be fully and completely responsible for all of the Guaranteed Party's Obligations.

FOR VALUE RECEIVED, receipt of which is hereby acknowledged, the Guarantor agrees as follows:

1. **<u>Definitions</u>**. For the purposes of this Guaranty, the following terms have the following meanings:

(i) "**Beneficiary**" means each of the following (i) the State of Minnesota, including all agencies and political subdivisions thereof (the "**State**"), (ii) and any person or entity, including any Tribe (as defined below), together with their respective successors, assigns, heirs and personal representatives, as applicable, in each case damaged or affected by an Occurrence; the foregoing

Note 4: Definition of "Beneficiary" expanded to include entities, heirs, successors and assigns, especially where individuals may be impacted by an

are collectively referred to herein as the "**Beneficiaries**".

(ii) "**Damages**" means (A) any amount the Guaranteed Party is required to pay to a Beneficiary as a result of an Occurrence pursuant and according to the terms of (I) a written settlement agreement between the Guaranteed Party and a Beneficiary or (II) a final non-appealable order or judgment by an agency, political subdivision, arbitrator, mediator, or court of competent jurisdiction or (B) any action the Guaranteed Party is required to take to remedy a Performance Default according to the terms of (I) a written settlement agreement between the Guaranteed Party and the State or (II) a final non-appealable order or judgment by an agency, political subdivision, arbitrator, mediator, or court of competent jurisdiction.

(iii) **"Default**" means any Payment Default or any Performance Default.

(iv) "**Notice of Demand**" means (A) a written notice by the State to the Guarantor after the occurrence of a Performance Default or (B) a written notice by any Beneficiary to the Guarantor after the occurrence of a Payment Default or other event or circumstance giving rise to an Obligation (other than as a result of a Performance Default), in each case setting forth a description of the applicable Damages or other monetary obligation or liability (if known), the applicable Default, the remaining amount of Damages or other monetary obligation or liability required to be paid in connection therewith with respect thereto (if known), and containing a statement that the Beneficiary is giving a Notice of Demand pursuant to this Guaranty.

(v) "**Obligations**" means (a) any and all Damages and (b) any and all monetary obligations and liabilities of the Guaranteed Party related to an Occurrence, in each case whether incurred at any time prior to or during the pendency of any receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar event or proceeding by or against the Guaranteed Party, regardless of whether allowed or allowable in such proceeding.

(vi) "**Occurrence**" means any release or other event that results in harm or damage to persons or property, including any harm or damage compensable under state or federal law, related to the Project, however occasioned, including, but not limited to, through accident, rupture, spill or other incident, whether willful, negligent or otherwise.

(vii) "**Pavment Default**" means the failure or inability of the Guaranteed Party to pay any Damages (a) when due pursuant and according to the terms of any applicable written settlement agreement between the Guaranteed Party and a Beneficiary or final non-appealable order or judgment by an agency, political subdivision, arbitrator, mediator, or court of competent jurisdiction or (b) if no payment term is provided pursuant to any such agreement, order or judgment identified in the foregoing clause (a), within 60 calendar days of

Occurrence.

Note 5: Expanded "Damages" and certain other definitions to ensure that a final non-appealable judgment or other settlement be reached prior to exercising rights under the Guaranty.

Note 6: This definition and the mechanics for provision of notice under §8 updated to ensure that Beneficiaries can easily avail themselves of process outlined, and also to ensure that a Notice of Demand can be given even if a Default has not yet occurred with respect to the Guaranteed Party.

Note 7: "Obligations" expanded to more comprehensively cover guaranteed activities (Damages as well as other monetary obligations) and add standard expansion of language related to bankruptcy and similar proceedings.

Note 8: Harm may result from activities beyond only a "release"; "Occurrence" definition expanded to incorporate other potential harm.

Damages being determined pursuant to Section 1(ii).

(viii) "**Performance Default**" means the failure or inability of the Guaranteed Party to (a) perform any required modifications included within the Certificate of Need or the conditions included within the Route Permit issued by the Commission to the Guaranteed Party for the Project, as reflected in [cite Commission Orders], including without limitation, implementation of the Landowner Choice Program for existing Line 3 and establishment of the Decommissioning Trust Fund for the Project, or (b) comply with state and federal law applicable to the Project, as determined pursuant to a final non-appealable order or judgment by the Commission, any other federal or state agency with applicable jurisdiction or authority, or a court of competent jurisdiction.

(ix) "**Tribe**" means any federally recognized Indian tribe in Minnesota with a reservation held in trust for it by the United States or land otherwise restricted against alienation.

Note 9: "Tribe" revised to more expansively and correctly identify tribal parties.

2. **Guaranty**. The Guarantor hereby unconditionally and irrevocably guarantees to each Beneficiary the full, prompt and complete payment and performance of the Obligations. No act or thing need occur to establish the liability of the Guarantor hereunder, and no act or thing, except full payment and discharge of all of the Obligations, shall in any way exonerate the Guarantor hereunder or modify, reduce, limit, or release the liability of the Guarantor hereunder. This is an absolute, unconditional and continuing guaranty. Any payment or performance by the Guarantor hereunder shall satisfy the Obligations to the extent of such payment or performance. With respect to any Payment Default, the Guarantor shall pay any Obligations within 60 calendar days after a Notice of Demand is received by the Guarantor with respect thereto. With respect to any Performance Default, the Guarantor shall commence performing any Obligations within 60 calendar days after a Notice of Demand is received by the Guarantor with respect thereto, or as soon as reasonably practicable (without undue delay and upon written notice to the applicable Beneficiary stating the grounds for such delay and the expected date for commencement of performance with respect thereto) thereafter given the nature of such Performance Default.

Note 10: Language offered by Enbridge in §2 was revised to (a) clearly establish that the rights afforded by the Guaranty are available to each Beneficiary, (b) ensure that an action against the Guarantor can be taken irrespective of the status of an action against the Applicant, and (c) incorporate other standard guaranty assurances, statements and waivers that are commonly received in guaranties.

3. **Expenses**. The Guarantor agrees to pay reasonable out-of-pocket expenses, including reasonable attorneys' fees, collection costs, enforcement expenses and court costs, incurred by the Beneficiaries in any litigation, arbitration, mediation, agency or other proceeding or action related to this Guaranty, but only to the extent that the Guarantor is found in such litigation, or other proceeding to be in default or in breach of, or to have otherwise acted in bad faith with respect to, any of the terms of this Guaranty.

4. **Limitations**. The liability of the Guarantor under this Guaranty shall be and is specifically limited to payments or performance expressly required to be

Note 11: Expanded to ensure that Beneficiaries

made in accordance with this Guaranty and out-of-pocket expenses payable pursuant to Section 3 of this Guaranty. For the avoidance of doubt, this Guaranty does not create any new obligations of the Guaranteed Party.

are clearly authorized to recover collection costs and enforcement expenses.

5. **Term**. This Guaranty will remain in full force and effect until: (i) all Obligations have been fully satisfied, performed, or extinguished, or (ii) such time the State [and each Tribe] consents in writing to the termination of this Guaranty.

6. **Nature of Guaranty**. The Guarantor's obligations with respect to any Obligation are absolute and will not be affected by (1) any change in the name, ownership, objects, capital, constating, organizational or other governing documents or by-laws of the Guarantor or the Guaranteed Party (and in each case, the Guarantor agrees to give written notice thereof to the Commission promptly thereafter), or (2) any amalgamation, sale, merger or re-organization of the Guarantor or the Guaranteed Party, or (3) any sale or transfer of all or any part of the Project or the assets or stock of the Guaranteed Party or Guarantor to an affiliated or non-affiliated entity. In the event of a sale or any transfer of assets or stock of the Guaranteed Party or the Project (or any part thereof) to a non-affiliated entity, the Guarantor shall remain fully obligated hereunder irrespective of such sale or transfer or, with the written approval by the Commission (which approval may only be provided if the Commission determines that such assignment is in the best interest of the State and each of the other Beneficiaries or potential Beneficiaries (taken as a whole) and may be subject to such conditions or requirements as the Commission may determine appropriate), the Guarantor's obligations hereunder may be assigned. If any payment to the Beneficiaries for any Obligation is rescinded, set aside, recovered, or must otherwise be returned for any reason (including, without limitation, the bankruptcy, insolvency, or reorganization of the Guaranteed Party or any other obligor), the Guarantor will remain liable hereunder for such Obligation as if such payment had not been made and such Obligations shall for the purpose of this Guaranty be deemed to have continued in existence. The Guarantor hereby waives all suretyship defenses of every kind and all payments required hereunder shall be made in accordance with the terms hereof. The Guarantor further waives any and all defenses, claims, setoffs and discharges of the Guaranteed Party, or any other obligor, pertaining to the Obligations, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Guarantor will not assert, plead or enforce against any Beneficiary any defense of waiver, release, discharge or disallowance in bankruptcy, statute of limitations, res judicata, statute of frauds, anti-deficiency statute, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to the Guaranteed Party or any other person or entity liable in respect of any of the Obligations, or any setoff available against any Beneficiary to the Guaranteed Party or any other such person or entity. The Guarantor expressly agrees that it shall be and remain liable for any deficiency remaining after foreclosure of any security interest

Note 12: Additional clarity incorporated into §6 to ensure that the Guarantor remains obligated and any assignment would be approved only in the best interest of the Beneficiaries. Certain language eliminated to clarify that no action need be taken against the Applicant (and fully resolved) prior to an action against the Guarantor under the Guaranty.

securing the Obligations, whether or not the liability of the Guaranteed Party or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The liability of the Guarantor shall not be affected or impaired by any voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all of the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar event or proceeding affecting, the Guaranteed Party or any of its assets. The Guarantor will not assert, plead or enforce against any Beneficiary any claim, defense or setoff available to the Guarantor against the Guaranteed Party. Nothing in this Guaranty prohibits or limits the Guarantor from being named as a party in any action to determine Damages or other Obligations before a Default has occurred, and the Guarantor expressly agrees not to raise Default (or lack thereof) as a basis to be dismissed from any action.

7. **Consents, Waivers and Renewals**. The Guarantor agrees that the Beneficiaries may, without giving notice to or obtaining the consent of the Guarantor, (a) enter into agreements and transactions with the Guaranteed Party, (b) amend or modify agreements with the Guaranteed Party, (c) settle, release or compromise any of the Obligations (in full or in part), (d) grant waivers, extensions of time and other indulgences, (e) take or give up security, (f) release, surrender, cancel or otherwise discharge the Obligations (in full or in part, subject to any conditions), (g) accept compositions, (h) delay enforcement of the Obligations or otherwise delay or fail to institute proceedings, file claims or give any required notices or otherwise protect any of the Obligations, (i) accept additional guarantors, accommodation parties or sureties for any or all of the Obligations, (j) perfect or fail to perfect any security, or otherwise see to the proper creation thereof, or modify, release, substitute, alter, exchange, terminate, surrender, cancel, release, or otherwise change any collateral security, (k) sell, collect, lease, release, or otherwise enforce or realize upon any undertaking, property or assets granted, pledged, encumbered, or charged by the Guaranteed Party or any pledgors or other third parties, (l) otherwise deal or fail to deal with the Guaranteed Party and others (including, without limitation, any other guarantors) and any security, (m) hold monies received from the Guaranteed Party and others or from any securities unappropriated, (n) apply such monies against part of the Obligations and change any such application in whole or in part from time to time, and (o) make any) any election under Section 1111(b) or otherwise under the United States Bankruptcy Code; in each case all as the applicable Beneficiary may see fit and without prejudice to or in any way discharging, impairing. or diminishing the liability of the Guarantor under this Guaranty. The Beneficiaries may resort to the Guarantor for payment or performance of any of the Obligations whether or not any Beneficiary has previously resorted to the Guaranteed Party or any collateral security and whether or not the Beneficiaries have proceeded against any other obligor obligated for any of the Obligations. The Guarantor hereby waives notice of acceptance of this

Note 13: §7 expanded to incorporate a wider standard range of actions which Beneficiaries can take without impacting or impairing the Guarantor's obligations under this Guaranty or requiring the consent of the Guarantor.

Guaranty, and also presentment, protest and notice of protest or dishonor of any evidences of indebtedness guaranteed hereunder, and the Guarantor further waives any and all defenses and discharges available to a surety, guarantor or accommodation co-obligor. The Guarantor acknowledges that the purpose of the Guaranty is to cover Obligations that may arise long after the date of this Guaranty, and that an essential purpose of the parties' agreement is that Guarantor shall be obligated on its Guaranty for at least the life (including the construction and operation) of the Project. The Guarantor acknowledges that the Beneficiaries would be deprived of the benefit of the bargain made through this Guaranty if the Guaranty were to be terminated while the Project is in operation. The Guarantor waives any defense it may have based on any alleged indefiniteness in the time period applicable to this Guaranty.

8. **Demands and Notice**. If a Default or any other event or circumstance giving rise to an Obligation occurs and any Beneficiary elects to exercise its rights under this Guaranty with respect thereto, such Beneficiary shall use reasonable efforts to send a Notice of Demand to the Guarantor with respect to such Obligations (but a failure to send a Notice of Demand shall not constitute a waiver of any rights or remedies available to such Beneficiary hereunder). A Notice of Demand will be sufficient notice to the Guarantor to pay or perform under this Guaranty. Notices under this Guaranty will be deemed received if sent to the address specified below: (i) on the day received if sent by overnight express delivery, (ii) on the next business day if served by fax when sender has machine confirmation that the fax was transmitted to the correct fax number listed below, and (iii) four business days after mailing if sent by certified, first-class mail, return-receipt requested. The State may change the address to which notice is to be given to the State hereunder by providing notice of same to the Guarantor in accordance with this section; the Guarantor may only change the address to which notice (including any Notice of Demand) is to be given by any party hereunder only by making a public filing with the Commission and only after such notice of address change has been duly and properly published in the State Register.

Note 14: Revised §8 to clarify that a failure to give a Notice of Demand does not prevent Beneficiaries from obtaining the benefits of this Guaranty. Further, a clear process must be established for any Guarantor address change to enable Beneficiaries to know the proper mailing address for any Notice of Demand.

To Guarantor:	Enbridge Inc. 200, 425 — 1st Street S.W. Calgary, Alberta, T2P 3L8 Canada Attn: Credit Department Fax: (403) 231-5780
To State Beneficiary:	Minnesota Department of Commerce 85 7th Place East, Suite 500 St. Paul, MN 55101 Attn: Commissioner Fax: (651) 539-1547

9. <u>Representations and Warranties</u>. The Guarantor hereby represents and warrants that (i) it is a corporation duly organized, validly existing and in good standing under the laws of Canada, (ii) the execution, delivery and performance by the Guarantor of this Guaranty have been duly authorized by all necessary action of the Guarantor and its governing board and shareholders, as applicable, and do not violate the Guarantor's constating documents, charter or by-laws or any law, statute, rule, regulation, judgment, award, order or contractual restriction binding on the Guarantor, (iii) the Guarantor has full power and authority to make and deliver this Guaranty, (iv) this Guaranty constitutes the legal, valid and binding obligation of the Guarantor, enforceable against it in accordance with its terms (except as enforceability may be limited by bankruptcy, insolvency, and other similar laws affecting enforcement of creditors' rights in general and general principles of equity), (v) the authorization, execution, delivery, and performance of this Guaranty do not require notification to, registration with, or consent or approval by, any United States or Canadian federal, state, provincial, or local regulatory body or administrative agency, and (vi) the Guarantor (i) is not insolvent, and shall not become insolvent as a result of the execution and delivery of this Guaranty, (ii) is not engaged in business or a transaction, or about to engage in business or a transaction, for which its property is an unreasonably small capital, and (iii) does not intend to incur, or believe that it will incur, debts that would be beyond its ability to pay as such debts mature. The Guarantor acknowledges and agrees that none of the State, the Commission, any Tribe or any other Beneficiary has (a) made any representations or warranties with respect to, (b) assumed any responsibility to the Guarantor for, and (c) any duty to provide information to the Guarantor regarding, the enforceability of any of the Obligations or the financial condition of the Guaranteed Party or any other obligor. The Guarantor has independently determined the creditworthiness of the Guaranteed Party and the enforceability of the Obligations and, until the Obligations are paid or performed in full, will independently and without reliance on the State, the Commission, any Tribe or any other Beneficiary continue to make such determinations. The Guarantor expects to derive substantial benefits from the Project and the events and matters resulting in or potentially resulting in the Obligations; none of the State, the Commission, any Tribe or any other Beneficiary shall have any duty to inquire into or confirm receipt of any such benefits, and this Guaranty shall be effective by the Beneficiaries without regard to the receipt, nature or value of any such benefits.

Note 15: Expanded §9 to include confirmation that there are no approvals or consents required, as well as to incorporate standard representations and warranties that are necessary to establish that the Guarantor is financially healthy, independently monitors the Guaranteed Party, and is not otherwise executing this Guaranty under circumstances that could render it void or unenforceable.

10. <u>Covenants</u>.

(i) <u>Reporting</u>. As soon as available and in any event (a) within [90] days after the end of each fiscal year of the Guarantor, the Guarantor will deliver to the Commission a copy of its consolidated and consolidating financial statements for such fiscal year, audited by independent certified public accountants (including a balance sheet, income statement, statement of cash flow, statement of shareholder's equity, and, if prepared, such accountants'

Note 16: Financial reporting has been incorporated into a new

letter to management), and (b) if and when filed by the Guarantor, the Guarantor will deliver to the Commission a copy of all Form 10-Q quarterly reports, Form 10-K annual reports, Form 8-K current reports, any other filings made by the Guarantor with the Securities and Exchange Commission, and any other information that is provided by the Guarantor to its shareholders generally.

[(ii) Collateral Security. If, at any time, the Guarantor's [_[tangible net income after taxes][tangible net worth][other financial status test or measure] fails to be at least $_____ [at any time][as of any quarter end][as of any fiscal year end]_], no later than [30] days thereafter the Guarantor shall obtain and deliver to the Commission collateral security for its obligations under this Guaranty in the form of either (a) a performance bond or (b) an irrevocable standby letter of credit, in each case for the benefit of and direct payment to the State (for further payment to the Beneficiaries, as applicable) without further consent or approval by the Guarantor, issued by a surety authorized to conduct surety business in the state of Minnesota that is listed in the current Department of Treasury Circular No. 570, with an underwriting limitation equal to or greater than $1,000,000,000, or a bank organized under the laws of the United States or any state thereof or any United States branch of a foreign bank having at the date of issuance combined capital and surplus of not less than $1,000,000,000, for a duration of no less than [____] and in an amount equal to an amount necessary to cover all Occurrence-related costs and Obligations (which is estimated to be $1,200,000,000 to $1,500,000,000 U.S. as of the date of this Guaranty),adjusted to reflect inflation as measured by the Consumer Price Index for All Urban Consumers ("CPI-U").

§10 in order to establish some method for determining financial health and solvency of the Guarantor on an ongoing basis to ensure that this Guaranty is actually backstopped by an entity with the resources to uphold its Obligations.

Note 17: To the extent that the financial health of the Guarantor deteriorates, consider incorporating a financial trigger which would require the Guarantor to deliver collateral security (which would provide a tangible source of payment for any Obligations) to backstop its Guaranty obligations.

11. Subrogation. The Guarantor will not exercise or enforce any right of contribution, reimbursement, recourse, subrogation or similar legal or contractual right to recover any sums paid hereunder from the Guaranteed Party or any other person or entity obligated with respect to the Obligations, or from any property of the Guaranteed Party or any such person or entity, unless and until all of the Obligations shall have been fully paid and discharged.

Note 18: Incorporated new §11 to ensure that the Guarantor does not interrupt any ongoing litigation, etc. between the Guaranteed Party and Beneficiaries to the extent it makes a payment under the Guaranty, unless the Obligations have been fully paid.

12. Miscellaneous. The Guarantor may not assign this Guaranty or delegate its rights, interest or obligations without the prior written consent of the Commission; provided that the parties hereto acknowledge and agree that all Beneficiaries hereof may not be known or determined as of the date hereof and the benefit of this Guaranty shall accrue to the successors, assigns, heirs and personal representatives of each Beneficiary. There are no representations, conditions, agreements or understandings with respect to this Guaranty or affecting the liability of the Guarantor or the Guaranteed Party other than as set forth or referred to in this Guaranty. Neither this Guaranty nor any of the terms hereof may be terminated, amended, supplemented, waived or modified orally, except by an instrument in writing signed by the party against which the enforcement of this termination, amendment or

supplement, waiver or modification shall be sought. Notwithstanding anything else herein set forth, this Guaranty constitutes the entire agreement between the parties hereto and supersedes and replaces any previous guaranty delivered by the Guarantor for the benefit of the Beneficiaries with respect to the Obligations outlined herein. Any invalidity or unenforceability of any provision or application of this Guaranty shall not affect other lawful provisions and application thereof, and to this end the provisions of this Guaranty are declared to be severable. THIS GUARANTY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF MINNESOTA. The Guarantor irrevocably submits and consents to the exclusive jurisdiction of the courts of Minnesota, federal, state, or tribal, in any action, suit or proceeding or arising out of or relating to this Guaranty and waives any objection which it may have to the laying of venue in such jurisdiction, including any claim that it is an inconvenient forum. The Guarantor agrees that venue for any action brought by the State will be in Ramsey County District Court, and agrees that a final judgment in any such action, suit or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law and waives any right to claim that this Guaranty is not valid and enforceable by the Beneficiaries. The Guarantor consents to the service of process in any action or proceeding relating to this Guaranty by Notice to the Guarantor in accordance with the provisions of Section 8 hereof. Nothing herein shall affect the right of any Beneficiary to serve legal process in any other manner permitted by law or affect the right of each Beneficiary to bring any action, suit or proceeding against the Guarantor or its property in the courts of other jurisdictions.

[Signatures follow on the next page.]

ENBRIDGE INC.
GUARANTY

GUARANTY, effective as of the date executed by Enbridge Inc. (the "**Guarantor**"), in favor of ~~the State of Minnesota including all agencies and political subdivisions thereof (the "State") and any person, including any Tribe (as defined below), damaged by an Occurrence (as defined below) (collectively, the "**Beneficiaries**" or, individually, "**Beneficiary**"~~each Beneficiary (as defined below).

Note 1: Definition of "Beneficiary" moved to §1 for clarity.

WHEREAS, Enbridge Energy, Limited Partnership, a Delaware limited partnership (including its successor and assigns, the "**Guaranteed Party**"), is a limited partnership in which the Guarantor has no direct ownership interest;

WHEREAS, the Guaranteed Party has requested, in Docket Numbers PL-9/CN-14-916 and PL-9/PPL-15-137, that the State, through the Minnesota Public Utilities Commission (the "**Commission**") approve a Certificate of Need and a Route Permit for the construction and operation of the Minnesota portion of a crude oil pipeline between Hardisty, Alberta and Superior, Wisconsin (~~as constructed pursuant to a Certificate of Need and Route Permit issued by the Minnesota Public Utilities Commission,~~ the "**Project**");

Note 2: "Project" should not be defined with reference to construction under the Certificate of Need and Route Permit.

WHEREAS, the Guarantor expects it will derive benefit from the Project;

WHEREAS, the State, through the Minnesota Department of Commerce-Division of Energy Resources ("**Department**"), has recommended that any approval by the Commission of Guaranteed Party's application for a Certificate of Need must be conditioned on the Guaranteed Party's provision of financial and other assurances with respect to the Obligations (defined below);

WHEREAS, consistent with the Department's recommendation, the Commission has granted the Guaranteed Party's application for a Certificate of Need as modified to require the Guarantor provide this Guaranty;

WHEREAS, ~~in the event that the Guaranteed Party is unable or unwilling to fully and completely fulfill its Obligations,~~ the Guarantor agrees to be fully and completely responsible for all of the ~~Guaranteed Party's unsatisfied~~ Obligations ~~that result from a Default (as defined below)~~; and

Note 3: Simplified for clarity.

WHEREAS, the Guarantor assures the State that it has the financial resources to be fully and completely responsible for all of the Guaranteed Party's Obligations.

FOR VALUE RECEIVED, receipt of which is hereby acknowledged, the Guarantor agrees as follows:

1. **Definitions**. For the purposes of this Guaranty, the following terms have the following meanings:

(i) "**Beneficiary**" means each of the following (i) the State of Minnesota, including all agencies and political subdivisions thereof (the "**State**"), (ii) and any person or entity, including any Tribe (as defined below), together with their respective successors,

Note 4: Definition of "Beneficiary" expanded to include entities, heirs, successors and assigns,

assigns, heirs and personal representatives, as applicable, in each case damaged or affected by an Occurrence; the foregoing are collectively referred to herein as the "**Beneficiaries**".

(ii) "**Damages**" means (A) any amount the Guaranteed Party is ~~legally liable~~required to pay to a Beneficiary ~~resulting from~~as a result of an Occurrence pursuant and according to the terms of (~~a~~I) a written settlement agreement between the Guaranteed Party and a Beneficiary or (~~b~~II) a final non-appealable order or judgment by an agency, political subdivision, arbitrator, mediator, or court of competent jurisdiction or (B) any action the Guaranteed Party is ~~legally liable~~required to take to remedy a Performance Default according to the terms of (~~a~~I) a written settlement agreement between the Guaranteed Party and the State or (~~b~~II) a final non-appealable order or judgment by an agency, political subdivision, arbitrator, mediator, or court of competent jurisdiction.

(~~ii~~iii) **"Default**" means any Payment Default or any Performance Default.

(~~iii~~iv) "**Notice of Demand**" means (A) a written notice by the State to the Guarantor after the occurrence of a Performance Default or (B) a written notice by any Beneficiary to the Guarantor after the occurrence of a Payment Default or ~~(B) a written notice by the State to the Guarantor after the occurrence~~other event or circumstance giving rise to an Obligation (other than as a result of a Performance Default), in each case setting forth a description of the applicable Damages or other monetary obligation or liability (if known), the applicable Default, the remaining amount of Damages or other monetary obligation or liability required to be paid in connection therewith with respect ~~to any Payment Default~~thereto (if known), and containing a statement that the Beneficiary is giving a Notice of Demand pursuant to this Guaranty.

(~~iv~~v) "**Obligations**" means (a) any and all Damages~~, or~~ and (b) any and all monetary obligations ~~incurred~~and liabilities of the Guaranteed Party related to an Occurrence, in each case whether incurred at any time prior to or during the pendency of any ~~insolvency of~~receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar event or proceeding by or against the Guaranteed Party, regardless of whether allowed or allowable in such proceeding.

(~~v~~vi) "**Occurrence**" means any release ~~from~~or other event that results in harm or damage to persons or property, including any harm or damage compensable under state or federal law, related to the Project, however occasioned, including, but not limited to, through accident, rupture, spill or other ~~similar~~ incident, whether willful, negligent or otherwise.

(~~vi~~vii) "**Pavment Default**" means the failure or inability of the Guaranteed Party to pay any Damages (a) when due pursuant and according to the terms of ~~the~~any applicable written settlement agreement between the Guaranteed Party and a Beneficiary or final non-appealable order or judgment by an agency, political subdivision, arbitrator, mediator, or court of competent jurisdiction or (b) if no payment term is provided pursuant to any such agreement, order or judgment identified in the foregoing clause (a), within 60 calendar days of Damages being determined pursuant to Section 1(~~i~~ii).

especially where individuals may be impacted by an Occurrence.

Note 5: Expanded "Damages" and certain other definitions to ensure that a final non-appealable judgment or other settlement be reached prior to exercising rights under the Guaranty.

Note 6: This definition and the mechanics for provision of notice under §8 updated to ensure that Beneficiaries can easily avail themselves of process outlined, and also to ensure that a Notice of Demand can be given even if a Default has not yet occurred with respect to the Guaranteed Party.

Note 7: "Obligations" expanded to more comprehensively cover guaranteed activities (Damages as well as other monetary obligations) and add standard expansion of language related to bankruptcy and similar proceedings.

Note 8: Harm may result from activities beyond only a "release"; "Occurrence" definition expanded to incorporate other potential harm.

(~~vii~~viii) "**Performance Default**" means the failure or inability of the Guaranteed Party to (a) perform any required modifications included within the Certificate of Need or the conditions included within the Route Permit issued by the Commission to the Guaranteed Party for the Project, as reflected in [cite Commission Orders], including without limitation, implementation of the Landowner Choice Program for existing Line 3 and establishment of the Decommissioning Trust Fund for the Project, or (b) comply with state and federal law applicable to the Project, as determined pursuant to a final non-appealable order or judgment by the Commission ~~or~~, any other federal or state agency with applicable jurisdiction or authority, or a court of competent jurisdiction.

(~~viii~~ix) "**Tribe**" means any federally recognized Indian tribe in Minnesota with a reservation ~~under the jurisdiction of~~held in trust for it by the United States ~~Government located in Minnesota.~~or land otherwise restricted against alienation.

Note 9: "Tribe" revised to more expansively and correctly identify tribal parties.

2. **Guaranty**. The Guarantor hereby unconditionally and irrevocably guarantees to each Beneficiary the full, prompt and complete payment and performance of the Obligations. No act or thing need occur to establish the liability of the Guarantor hereunder, and no act or thing, except full payment and discharge of all of the Obligations, shall in any way exonerate the Guarantor hereunder or modify, reduce, limit, or release the liability of the Guarantor hereunder. This is an absolute, unconditional and continuing guaranty. Any payment or performance by the Guarantor hereunder shall satisfy the Obligations to the extent of such payment or performance~~, and the Guarantor shall only have payment or performance obligations hereunder in the event of a Default with respect to any applicable Obligations and to the extent a Beneficiary complies with the terms of this Guaranty with respect to such Obligations~~. With respect to any Payment Default, the Guarantor shall pay any Obligations within 60 calendar days after a Notice of Demand is received by the Guarantor with respect ~~to such Obligations pursuant to Section 1(iii)~~thereto. With respect to any Performance Default, the Guarantor shall commence performing any Obligations within 60 calendar days after a Notice of Demand is received by the Guarantor with respect ~~to such Obligations pursuant to Section 1(iii)~~thereto, or as soon as reasonably practicable (without undue delay and upon written notice to the applicable Beneficiary stating the grounds for such delay and the expected date for commencement of performance with respect thereto) thereafter given the nature of such Performance Default.

Note 10: Language offered by Enbridge in §2 was revised to (a) clearly establish that the rights afforded by the Guaranty are available to each Beneficiary, (b) ensure that an action against the Guarantor can be taken irrespective of the status of an action against the Applicant, and (c) incorporate other standard guaranty assurances, statements and waivers that are commonly received in guaranties.

3. **Expenses**. The Guarantor agrees to pay reasonable out-of-pocket expenses, including reasonable attorneys' fees, collection costs, enforcement expenses and court costs, incurred by the Beneficiaries in any litigation, arbitration, mediation, agency or other proceeding or action related to ~~enforce its rights under~~ this Guaranty, but only to the extent that the Guarantor is found in such litigation, ~~arbitration~~ or other proceeding to be in default or in breach of, or to have otherwise acted in bad faith with respect to, any of the terms of this Guaranty.

Note 11: Expanded to ensure that Beneficiaries are clearly authorized to recover collection costs and enforcement expenses.

4. **Limitations**. The liability of the Guarantor under this Guaranty shall be and is specifically limited to payments or performance expressly required to be made in accordance with this Guaranty and out-of-pocket expenses payable pursuant to Section 3 of this Guaranty. For the avoidance of doubt, this Guaranty does not create any new obligations of the Guaranteed Party ~~or waive any applicable defenses~~

~~pursuant to the terms of this Guaranty~~.

5. **Term**. This Guaranty will remain in full force and effect until: (i) all Obligations have been fully satisfied, performed, or extinguished, or (ii) such time the State [and each Tribe] consents in writing to the termination of ~~the~~this Guaranty.

6. **Nature of Guaranty**. The Guarantor's obligations with respect to any Obligation are absolute and will not be affected by (1) any change in the name, ownership, objects, capital, constating, organizational or other governing documents or by-laws of the Guarantor or the Guaranteed Party (and in each case, the Guarantor agrees to give written notice thereof to the Commission promptly thereafter), or (2) any amalgamation, sale, merger or re-organization of the Guarantor or the Guaranteed Party, or (3) any sale or transfer of all or any part of the Project or the assets or stock of the Guaranteed Party or Guarantor to an affiliated or non-affiliated entity. In the event of a sale or any transfer of assets or stock of the Guaranteed Party or the Project (or any part thereof) to a non-affiliated entity, the Guarantor~~'s obligation with respect to the Obligations~~ shall remain fully obligated hereunder irrespective of such sale or transfer or, with the written approval by the Commission (which approval may only be provided if the Commission determines that such assignment is in the best interest of the State and each of the other Beneficiaries or potential Beneficiaries (taken as a whole) and may be subject to such conditions or requirements as the Commission may determine appropriate), the Guarantor's obligations hereunder may be assigned ~~upon written approval of the State, through the Commission~~. If any payment to the Beneficiaries for any Obligation is rescinded, set aside, recovered, or must otherwise be returned for any reason (including, without limitation, the bankruptcy, insolvency, or reorganization of the Guaranteed Party or any other obligor), the Guarantor will remain liable hereunder for such Obligation as if such payment had not been made and such Obligations shall for the purpose of this Guaranty be deemed to have continued in existence. The Guarantor hereby waives all suretyship defenses of every kind and all payments required hereunder shall be made in accordance with the terms hereof. ~~Notwithstanding the foregoing, in any action or demand for payment under this Guaranty, the Guarantor reserves the right to assert all rights, counterclaims and defenses that the Guaranteed Party may have against the payment of any Obligation, other than defenses (1) arising from the bankruptcy, insolvency, incapacity, dissolution or liquidation of the Guaranteed Party, (2) expressly waived in this Guaranty, (3) arising from the lack of due authorization, execution or delivery by the Guaranteed Party of this Guaranty, and (4) previously asserted by the Guaranteed Party and successfully and finally resolved in favor of the Beneficiaries by a court of competent jurisdiction and last resort~~The Guarantor further waives any and all defenses, claims, setoffs and discharges of the Guaranteed Party, or any other obligor, pertaining to the Obligations, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Guarantor will not assert, plead or enforce against any Beneficiary any defense of waiver, release, discharge or disallowance in bankruptcy, statute of limitations, res judicata, statute of frauds, anti-deficiency statute, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to the Guaranteed Party or any other person or entity liable in respect of any of the Obligations, or any setoff available against any Beneficiary to the Guaranteed Party or any other such person or entity. The Guarantor expressly agrees that it shall be and remain liable for any deficiency remaining after foreclosure of any security interest securing the Obligations, whether or not the

Note 12: Additional clarity incorporated into §6 to ensure that the Guarantor remains obligated and any assignment would be approved only in the best interest of the Beneficiaries. Certain language eliminated to clarify that no action need be taken against the Applicant (and fully resolved) prior to an action against the Guarantor under the Guaranty.

liability of the Guaranteed Party or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The liability of the Guarantor shall not be affected or impaired by any voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all of the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar event or proceeding affecting, the Guaranteed Party or any of its assets. The Guarantor will not assert, plead or enforce against any Beneficiary any claim, defense or setoff available to the Guarantor against the Guaranteed Party. Nothing in this Guaranty prohibits or limits the Guarantor from being named as a party in any action to determine Damages or other Obligations before a Default has occurred, and the Guarantor expressly agrees not to raise Default (or lack thereof) as a basis to be dismissed from any action. ~~to determine Damages. The Guaranteed Party, however, must be named in any action to determine Damages. The Guaranteed Party shall use good faith efforts to resolve actions to determine Damages through settlement agreements with the Beneficiaries.~~

7. **Consents, Waivers and Renewals**. The Guarantor agrees that the Beneficiaries may, without giving notice to or obtaining the consent of the Guarantor, (a) enter into agreements and transactions with the Guaranteed Party, (b) amend or modify agreements with the Guaranteed Party, (c) settle, release or compromise any of the Obligations~~,~~ (in full or in part), (d) grant waivers, extensions of time and other indulgences, (e) take ~~and give up securities, accept compositions, grant releases and discharges, whether full, partial, conditional or otherwise, perfect or fail to perfect any securities, release~~or give up security, (f) release, surrender, cancel or otherwise discharge the Obligations (in full or in part, subject to any conditions), (g) accept compositions, (h) delay enforcement of the Obligations or otherwise delay or fail to institute proceedings, file claims or give any required notices or otherwise protect any of the Obligations, (i) accept additional guarantors, accommodation parties or sureties for any or all of the Obligations, (j) perfect or fail to perfect any security, or otherwise see to the proper creation thereof, or modify, release, substitute, alter, exchange, terminate, surrender, cancel, release, or otherwise change any collateral security, (k) sell, collect, lease, release, or otherwise enforce or realize upon any undertaking, property or assets granted, pledged, encumbered, or charged by ~~any securities to~~the Guaranteed Party or any pledgors or other third parties ~~and~~, (l) otherwise deal or fail to deal with the Guaranteed Party and others (including, without limitation, any other guarantors) and ~~securities,~~any security, (m) hold monies received from the Guaranteed Party and others or from any securities unappropriated, (n) apply such monies against part of the Obligations and change any such application in whole or in part from time to time, ~~all as the~~and (o) make any) any election under Section 1111(b) or otherwise under the United States Bankruptcy Code; in each case all as the applicable Beneficiary may see fit~~,~~ and without prejudice to or in any way discharging, impairing. or diminishing the liability of the Guarantor under this Guaranty~~, in each case, except to the extent that the same constitutes a discharge or release, whether full, partial, conditional or otherwise, of the Obligations to the Guaranteed Party. Except as provided in Section 2, the~~. The Beneficiaries may resort to the Guarantor for payment or performance of any of the Obligations whether or not any Beneficiary has previously resorted to the Guaranteed Party or any collateral security ~~or~~and whether or not the Beneficiaries have proceeded against any other obligor ~~principally or secondarily~~ obligated for any of the Obligations. The Guarantor hereby waives notice

Note 13: §7 expanded to incorporate a wider standard range of actions which Beneficiaries can take without impacting or impairing the Guarantor's obligations under this Guaranty or requiring the consent of the Guarantor.

of acceptance of this Guaranty, and also presentment, protest and notice of protest or dishonor of any evidences of indebtedness guaranteed hereunder, and the Guarantor further waives any and all defenses and discharges available to a surety, guarantor or accommodation co-obligor. The Guarantor acknowledges that the purpose of the Guaranty is to cover Obligations that may arise long after the date of this Guaranty, and that an essential purpose of the parties' agreement is that Guarantor shall be obligated on its Guaranty for at least the life (including the construction and operation) of the Project. The Guarantor acknowledges that the Beneficiaries would be deprived of the benefit of the bargain made through this Guaranty if the Guaranty were to be terminated while the Project is in operation. The Guarantor waives any defense it may have based on any alleged indefiniteness in the time period applicable to this Guaranty.

8. **Demands and Notice**. If a Default or any other event or circumstance giving rise to an Obligation occurs ~~with respect to any applicable Obligations,~~ and any Beneficiary elects to exercise its rights under this Guaranty with respect thereto, ~~the~~such Beneficiary shall use reasonable efforts to send a Notice of Demand to the Guarantor ~~pursuant to Section 1(iii)~~ with respect to such Obligations (but a failure to send a Notice of Demand shall not constitute a waiver of any rights or remedies available to such Beneficiary hereunder). A Notice of Demand ~~conforming to the requirements of this Guaranty~~ will be sufficient notice to the Guarantor to pay or perform under this Guaranty. Notices under this Guaranty will be deemed received if sent to the address specified below: (i) on the day received if sent by overnight express delivery, (ii) on the next business day if served by fax when sender has machine confirmation that the fax was transmitted to the correct fax number listed below, and (iii) four business days after mailing if sent by certified, first-class mail, return-receipt requested. ~~Any party~~The State may change ~~its~~the address to which notice is to be given to the State hereunder by providing notice of same to the Guarantor in accordance with this section~~.~~; the Guarantor may only change the address to which notice (including any Notice of Demand) is to be given by any party hereunder only by making a public filing with the Commission and only after such notice of address change has been duly and properly published in the State Register.

Note 14: Revised §8 to clarify that a failure to give a Notice of Demand does not prevent Beneficiaries from obtaining the benefits of this Guaranty. Further, a clear process must be established for any Guarantor address change to enable Beneficiaries to know the proper mailing address for any Notice of Demand.

To Guarantor:	Enbridge Inc. 200, 425 — 1st Street S.W. Calgary, Alberta, T2P 3L8 Canada Attn: Credit Department Fax: (403) 231-5780
To State Beneficiary:	Minnesota Department of Commerce 85 7th Place East, Suite 500 St. Paul, MN 55101 Attn: Commissioner Fax: (651) 539-1547

9. **Representations and Warranties**. The Guarantor hereby represents and warrants that (i) it is a corporation duly organized, validly existing and in good standing under the laws of Canada, (ii) the execution, delivery and performance by the Guarantor of this Guaranty have been duly authorized by all necessary action of the Guarantor and

Note 15: Expanded §9 to include confirmation that there are no approvals or consents required, as well

its governing board and shareholders, as applicable, and do not violate the Guarantor's constating documents, charter or by-laws or any law, statute, rule, regulation, judgment, award, order or contractual restriction binding on the Guarantor, ~~and~~ (iii) the Guarantor has full power and authority to make and deliver this Guaranty, (iv) this Guaranty constitutes the legal, valid and binding obligation of the Guarantor, enforceable against it in accordance with its terms (except as enforceability may be limited by bankruptcy, insolvency, and other similar laws affecting enforcement of creditors' rights in general and general principles of equity)~~.~~, (v) the authorization, execution, delivery, and performance of this Guaranty do not require notification to, registration with, or consent or approval by, any United States or Canadian federal, state, provincial, or local regulatory body or administrative agency, and (vi) the Guarantor (i) is not insolvent, and shall not become insolvent as a result of the execution and delivery of this Guaranty, (ii) is not engaged in business or a transaction, or about to engage in business or a transaction, for which its property is an unreasonably small capital, and (iii) does not intend to incur, or believe that it will incur, debts that would be beyond its ability to pay as such debts mature. The Guarantor acknowledges and agrees that none of the State, the Commission, any Tribe or any other Beneficiary has (a) made any representations or warranties with respect to, (b) assumed any responsibility to the Guarantor for, and (c) any duty to provide information to the Guarantor regarding, the enforceability of any of the Obligations or the financial condition of the Guaranteed Party or any other obligor. The Guarantor has independently determined the creditworthiness of the Guaranteed Party and the enforceability of the Obligations and, until the Obligations are paid or performed in full, will independently and without reliance on the State, the Commission, any Tribe or any other Beneficiary continue to make such determinations. The Guarantor expects to derive substantial benefits from the Project and the events and matters resulting in or potentially resulting in the Obligations; none of the State, the Commission, any Tribe or any other Beneficiary shall have any duty to inquire into or confirm receipt of any such benefits, and this Guaranty shall be effective by the Beneficiaries without regard to the receipt, nature or value of any such benefits.

as to incorporate standard representations and warranties that are necessary to establish that the Guarantor is financially healthy, independently monitors the Guaranteed Party, and is not otherwise executing this Guaranty under circumstances that could render it void or unenforceable.

10. Covenants.

(i) Reporting. As soon as available and in any event (a) within [90] days after the end of each fiscal year of the Guarantor, the Guarantor will deliver to the Commission a copy of its consolidated and consolidating financial statements for such fiscal year, audited by independent certified public accountants (including a balance sheet, income statement, statement of cash flow, statement of shareholder's equity, and, if prepared, such accountants' letter to management), and (b) if and when filed by the Guarantor, the Guarantor will deliver to the Commission a copy of all Form 10-Q quarterly reports, Form 10-K annual reports, Form 8-K current reports, any other filings made by the Guarantor with the Securities and Exchange Commission, and any other information that is provided by the Guarantor to its shareholders generally.

Note 16: Financial reporting has been incorporated into a new §10 in order to establish some method for determining financial health and solvency of the Guarantor on an ongoing basis to ensure that this Guaranty is actually backstopped by an entity with the resources to uphold its Obligations.

[(ii) Collateral Security. If, at any time, the Guarantor's [[tangible net income after taxes][tangible net worth][other financial status test or measure] fails to be at least $_____ [at any time][as of any quarter end][as of any fiscal year end]], no later than [30] days thereafter the Guarantor shall obtain and deliver to the Commission collateral security for its obligations under this Guaranty in the form of either (a) a performance bond or (b) an irrevocable standby letter of credit, in each case

Note 17: To the extent that the financial health of the Guarantor deteriorates, consider

for the benefit of and direct payment to the State (for further payment to the Beneficiaries, as applicable) without further consent or approval by the Guarantor, issued by a surety authorized to conduct surety business in the state of Minnesota that is listed in the current Department of Treasury Circular No. 570, with an underwriting limitation equal to or greater than $1,000,000,000, or a bank organized under the laws of the United States or any state thereof or any United States branch of a foreign bank having at the date of issuance combined capital and surplus of not less than $1,000,000,000, for a duration of no less than [____] and in an amount equal to an amount necessary to cover all Occurrence-related costs and Obligations (which is estimated to be $1,200,000,000 to $1,500,000,000 U.S. as of the date of this Guaranty),adjusted to reflect inflation as measured by the Consumer Price Index for All Urban Consumers ("CPI-U").

incorporating a financial trigger which would require the Guarantor to deliver collateral security (which would provide a tangible source of payment for any Obligations) to backstop its Guaranty obligations.

11. **Subrogation**. The Guarantor will not exercise or enforce any right of contribution, reimbursement, recourse, subrogation or similar legal or contractual right to recover any sums paid hereunder from the Guaranteed Party or any other person or entity obligated with respect to the Obligations, or from any property of the Guaranteed Party or any such person or entity, unless and until all of the Obligations shall have been fully paid and discharged.

Note 18: Incorporated new §11 to ensure that the Guarantor does not interrupt any ongoing litigation, etc. between the Guaranteed Party and Beneficiaries to the extent it makes a payment under the Guaranty, unless the Obligations have been fully paid.

12. **Miscellaneous**. ~~Neither the~~The Guarantor ~~nor the Beneficiaries~~ may not assign this Guaranty ~~nor~~or delegate its rights, interest or obligations without the prior written consent of the ~~other party~~Commission; provided that ~~either party may transfer its interest to any parent or affiliate without the prior approval of the other party, but the transferor shall not be relieved of or discharged from any obligations hereunder by such transfer~~the parties hereto acknowledge and agree that all Beneficiaries hereof may not be known or determined as of the date hereof and the benefit of this Guaranty shall accrue to the successors, assigns, heirs and personal representatives of each Beneficiary. There are no representations, conditions, agreements or understandings with respect to this Guaranty or affecting the liability of the Guarantor or the Guaranteed Party other than as set forth or referred to in this Guaranty. Neither this Guaranty nor any of the terms hereof may be terminated, amended, supplemented, waived or modified orally, except by an instrument in writing signed by the party against which the enforcement of this termination, amendment or supplement, waiver or modification shall be sought. Notwithstanding anything else herein set forth, this Guaranty constitutes the entire agreement between the parties hereto and supersedes and replaces any previous guaranty delivered by the Guarantor ~~to the Beneficiaries~~ for the benefit of the ~~Guaranteed Party~~Beneficiaries with respect to the Obligations outlined herein. Any invalidity or unenforceability of any provision or application of this Guaranty shall not affect other lawful provisions and application thereof, and to this end the provisions of this Guaranty are declared to be severable. THIS GUARANTY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF MINNESOTA. The Guarantor irrevocably submits and consents to the exclusive jurisdiction of the courts of Minnesota, federal, state, or tribal, in any action, suit or proceeding or arising out of or relating to this Guaranty and waives any objection ~~to~~which it may have to the laying of venue in such jurisdiction ~~on the grounds~~, including any claim that it is an inconvenient forum ~~or any similar grounds~~. The Guarantor agrees that venue for any action brought by the State will be in Ramsey County District Court, and agrees that a final judgment in any such action, suit or proceeding shall be conclusive and may be

enforced in other jurisdictions by suit on the judgment or in any other manner provided by law and waives any right to claim that this Guaranty is not valid and enforceable by the Beneficiaries. The Guarantor consents to the service of process in any action or proceeding relating to this Guaranty by Notice to the Guarantor in accordance with the provisions of Section 8 hereof. Nothing herein shall affect the right of any Beneficiary to serve legal process in any other manner permitted by law or affect the right of each Beneficiary to bring any action, suit or proceeding against the Guarantor or its property in the courts of other jurisdictions.

[Signatures follow on the next page.]

ATTACHMENT B

Minnesota Department of Commerce
Division of Energy Resources
Information Request

Docket Number:	PL9/CN-14-916	☐Nonpublic ☒Public
Requested From:	Enbridge Energy	Date of Request: 7/19/2018
Type of Inquiry:	General	Response Due: 7/31/2018

Requested by:	Kate O'Connell
Email Address(es):	kate.oconnell@state.mn.us
Phone Number(s):	651-539-1815

Request Number: **299**
Topic: Enbridge's proposed "neutral footprint"
Reference(s): Attachment 4 of 7/16/18 compliance filing

Request:

In Attachment 4 of its July 16, 2018 filing, Enbridge's proposal stated that the "basic requirements of the REC purchase can be found at Ex. DER-6 at 15-16 (O'Connell Surrebuttal)." However, those pages of Ms. O'Connell's surrebuttal discuss Enbridge's attempts to improve its safety culture, as required by the Pipeline and Hazardous Materials Safety Administration. To ensure that Enbridge's proposal is clear, please clarify the reference in Enbridge's Attachment 4.

RESPONSE:

The correct reference is Ex. DER-6 at 13-14 (O'Connell Surrebuttal).

To be completed by responder

Response Date: July 20, 2018
Response by: Christy Brusven
Email Address: cbrusven@fredlaw.com
Phone Number: 612.492.7412

Minnesota Department of Commerce
Division of Energy Resources
Information Request

Docket Number:	PL9/CN-14-916	☐Nonpublic	☒Public
Requested From:	Enbridge Energy	Date of Request:	7/19/2018
Type of Inquiry:	General	Response Due:	7/31/2018

Requested by:	Kate O'Connell
Email Address(es):	kate.oconnell@state.mn.us
Phone Number(s):	651-539-1815

Request Number:	**300**
Topic:	Enbridge's proposed "neutral footprint"
Reference(s):	Attachment 4 of 7/16/18 compliance filing

Request:

Please list all of the electric utilities that:

1) Provide service to existing Line 3.
2) Are expected to provide service to the new Line 3.

RESPONSE:

1) Enbridge's existing Line 3 pump stations within Minnesota are electrically served by two Minnesota utilities. Otter Tail Power serves the Donaldson, Viking, Plummer, Clearbrook and Cass Lake stations. Minnesota Power serves the Deer River and Floodwood stations.

2) The pump stations on the Line 3 Replacement Project are expected to be electrically served by four Minnesota utilities. Otter Tail Power will service the Donaldson, Viking, Plummer and Clearbrook stations. Itasca-Mantrap Cooperative will service the new Two-Inlets station, and Crow Wing Cooperative will serve the new Backus pump station. The exact locations for the other two new pump stations are still being finalized for RSA-22 or RSA-21, but it is expected that both of these stations will be served by Lake Country Power Cooperative.

To be completed by responder

Response Date: July 20, 2018
Response by: Shane Henriksen
Email: shane.henriksen@enbridge.com
Phone: 218.464.4600

Minnesota Department of Commerce
Division of Energy Resources
Information Request

Docket Number:	PL9/CN-14-916	☐Nonpublic ☒Public
Requested From:	Enbridge Energy	Date of Request: 7/19/2018
Type of Inquiry:	General	Response Due: 7/31/2018
Requested by:	Kate O'Connell	
Email Address(es):	kate.oconnell@state.mn.us	
Phone Number(s):	651-539-1815	

Request Number: 301
Topic: Enbridge's proposed calculation of incremental increase in electricity consumption
Reference(s): Attachment 4 of 7/16/18 compliance filing

Request:

Enbridge's proposed Line 3 "replacement" project would cease operation of the existing Line 3 and install a new Line 3 pipeline that would not only be larger in size than the existing pipeline but would more than double its capacity and be capable of shipping heavy crude oil. Enbridge has been clear throughout this proceeding that it was not proposing any change to any other aspect of Enbridge's mainline system. However, Enbridge's proposed calculation of incremental electricity due to the installation of the new, larger Line 3 would be based on electricity used for Lines 1, 2, 3, 4, 65 and 67.

1. Please fully justify Enbridge's proposal not to measure the difference between: a) the electricity used to ship primarily light oil at what Enbridge states is the lowest operating capacity on the existing Line 3 and b) the electricity used to ship all types of crude the new, larger Line 3 that would have a capacity more than twice the size of the existing Line 3.
2. If any electric utility that serves the existing Line 3 or that is expected to serve the new Line 3 refuses to submeter the electricity used by either the existing line 3 or the new Line 3, please provide documentation of any and all such refusal(s).

Response:

1. As stated in Enbridge's June 22, 2018 Letter to the MPUC, "the record demonstrates that the Project has been designed to improve the energy efficiency of the Enbridge Mainline System. Specifically, the Project as proposed will reduce electric energy consumption on the Enbridge Mainline System on a per barrel basis."[1] Mr. Glanzer further describes the energy efficiency benefits of Line 3 Replacement for the entire Enbridge Mainline System on page 16 of his Direct Testimony. Given that Line 3 Replacement was specifically designed to return the pipeline to mixed service, in part, to optimize power consumption on the Enbridge Mainline System, and given that the mixed service nature of the line means that the percentage of lights and heavies transported will vary over time, Enbridge's commitment, which was accepted by the Commission, compares power use on the Enbridge Mainline System before and after Line 3 Replacement is in service to properly reflect the

[1] June 22, 2018 Letter at 4 (citing EN-19 at 5 (Glanzer Direct)).

energy efficiency benefits the Project brings to the System, even without making any other facility changes on other pipelines.

2. Not Applicable.

To be completed by responder

Response Date: July 26, 2018
Response by: Paul Eberth
Email address: paul.eberth@enbridge.com
Phone Number: 218.464.5600

Minnesota Department of Commerce
Division of Energy Resources
Information Request

Docket Number:	PL9/CN-14-916	☐Nonpublic ☒Public
Requested From:	Enbridge Energy	Date of Request: 7/19/2018
Type of Inquiry:	General	Response Due: 7/31/2018

Requested by:	Kate O'Connell
Email Address(es):	kate.oconnell@state.mn.us
Phone Number(s):	651-539-1815

Request Number:	**302**
Topic:	Enbridge's proposed calculation of incremental increase in electricity consumption
Reference(s):	Attachment 4 of 7/16/18 compliance filing

Request:

Enbridge's proposed calculation states that the Company proposes to adjust the 12-month baseline period to exclude months impacted by construction of the new Line 3, "such as the line fill process." Please fully describe:

1. Each expected impact of construction of the new Line 3, and
2. How Enbridge would estimate each of the effects of the construction of the new Line 3.

RESPONSE:

1. In addition to existing Line 3 purge and Line 3 Replacement line fill, Enbridge is not expecting additional impacts due to construction of the Project that will require adjustment to the 12-month baseline period.

2. During purge and line fill activities, existing Line 3 is expected to operate at a reduced flow rate and in start-stop operation, hence power consumed by the line will be lower. Since the operation of existing Line 3 during purge and line fill activities is different from its current operation, Enbridge proposes to exclude the power consumption for the purge and line fill duration from the baseline. At this time, Enbridge is unable to provide an estimate of the effects of the purge and line fill of the new Line 3 as these details have not been finalized yet.

To be completed by responder

Response Date: July 26, 2018
Response by: Paul Eberth
Email Address: paul.eberth@enbridge.com
Phone Number: 218.464.5600

Minnesota Department of Commerce
Division of Energy Resources
Information Request

Docket Number:	PL9/CN-14-916	☐Nonpublic	☒Public
Requested From:	Enbridge Energy	Date of Request:	7/19/2018
Type of Inquiry:	General	Response Due:	7/31/2018

Requested by:	Kate O'Connell
Email Address(es):	kate.oconnell@state.mn.us
Phone Number(s):	651-539-1815

Request Number:	**303**
Topic:	Enbridge's proposed "neutral footprint"
Reference(s):	Attachment 4 of 7/16/18 compliance filing

Request:

Please provide the expected in-service date of the new Line 3, along with the assumptions underlying that time period.

RESPONSE:

The in-service date for the Line 3 Replacement Project is expected during the latter part of Q4 2019. Since certain segments of the project route will likely utilize varying installation methods based on seasonality, assumptions related to construction progress and installation methods will vary based on the date(s) the PUC authorizes construction for a given segment, as well as the issuance dates for all associated Federal, State, and Local permits.

To be completed by responder
Response Date: July 20, 2018
Response by: Barry Simonson
Email Address:
barry.simonson@enbridge.com
Phone Number: 218.464.5600

Minnesota Department of Commerce
Division of Energy Resources
Information Request

Docket Number:	PL9/CN-14-916	☐Nonpublic ☒Public
Requested From:	Enbridge Energy	Date of Request: 7/19/2018
Type of Inquiry:	General	Response Due: 7/31/2018

Requested by:	Kate O'Connell
Email Address(es):	kate.oconnell@state.mn.us
Phone Number(s):	651-539-1815

Request Number:	**304**
Topic:	Enbridge's proposed "neutral footprint"
Reference(s):	Attachment 4 of 7/16/18 compliance filing

Request:

Please provide the expected date by which no crude oil will be shipped on the existing Line 3, along with the assumptions underlying that time period.

RESPONSE:

It is estimated that by Q4 of 2019, crude oil will no longer be shipped on the existing Line 3. This is the result of the Line 3 Replacement Project being brought in to service in this timeframe. The product that would have been shipped down the existing pipeline will be diverted into the replacement pipeline for line fill and operation. However, the final shipment of crude oil on existing Line 3 will depend on the completion and placement into service of the Line 3 Replacement pipeline. The existing Line 3 will not shut down prior to the Line 3 Replacement in-service date.

Additionally, the Consent Decree (Ex. EN-30, Schedule 1 (Eberth Rebuttal)) states that: "Within 90 days after Original US Line 3 is taken out of service, Enbridge shall purge remaining oil from Original Line 3…" Therefore, it is planned that by Q1 2020, oil will be removed from the original Line 3 pipeline.

To be completed by responder

Response Date: July 24, 2018
Response by: Paul Eberth
Email Address: Paul.eberth@enbridge.com
Phone Number: 218.464.5600

Minnesota Department of Commerce
Division of Energy Resources
Information Request

Docket Number:	PL9/CN-14-916	☐Nonpublic ☒Public
Requested From:	Enbridge Energy	Date of Request: 7/19/2018
Type of Inquiry:	General	Response Due: 7/31/2018

Requested by:	Kate O'Connell
Email Address(es):	kate.oconnell@state.mn.us
Phone Number(s):	651-539-1815

Request Number:	**305**
Topic:	Enbridge's proposed "neutral footprint"
Reference(s):	Attachment 4 of 7/16/18 compliance filing

Request:

Please provide the expected life of the new Line 3, along with the assumptions underlying that time period.

RESPONSE:

The anticipated physical life of the Line 3 Replacement pipeline can be indefinite, assuming contractors and inspection staff follow Enbridge's stringent construction specifications and procedures for quality. Additionally, operational practices for the Line 3 Replacement Project, including, but not limited to, cathodic protection maintenance, integrity management procedures, and ongoing foot/aerial patrols enhance the expected life of the Project into the future.

To be completed by responder
Response Date: July 20, 2018
Response by: Barry Simonson
Email: barry.simonson@enbridge.com
Phone: 218.464.5600

Minnesota Department of Commerce
Division of Energy Resources
Information Request

Docket Number:	PL9/CN-14-916	☐Nonpublic	☒Public
Requested From:	Enbridge Energy	Date of Request:	7/19/2018
Type of Inquiry:	General	Response Due:	7/31/2018

Requested by:	Kate O'Connell
Email Address(es):	kate.oconnell@state.mn.us
Phone Number(s):	651-539-1815

Request Number:	**306**
Topic:	Enbridge's proposed "landowner choice" program
Reference(s):	Attachment 4 of 7/16/18 compliance filing

Request:

Please provide the date by which Enbridge expects to complete its proposed "Landowner Choice" program, along with the assumptions underlying that time period.

RESPONSE:

The Reference above is to Attachment 4 of the July 16, 2018 compliance filing, however, the Landowner Choice Program description is Attachment 2A of that filing. As explained in that description, Enbridge is not able at this stage to make a determination as to when all activities under the Landowner Choice Program will be completed. Page 2 of the description states that landowners will have five years from issuance of the Route Permit to notify Enbridge, in writing, of their decisions. The letter further states that:

> [b]ecause the window of time for landowners to make a decision under the Landowner Choice Program is several years long, Enbridge will use its judgment in scaling, scheduling, staging, and completing removal construction activities in an efficient, responsible manner. At this point, because the scope(s) is/are not known, it is not possible to establish the schedule beyond the milestones discussed above.

Notwithstanding the fact that Enbridge has not made a determination as to the completion of the Landowner Choice Program, assuming that some landowners take until the end of the five-year period to make their decision, the permitting and construction scope(s) will be developed, permits will be sought, and then removal construction and restoration activities will be completed. Under this scenario, all removal construction activities would likely be completed within up to two years after the end of the five-year period.

To be completed by responder
Response Date: July 25, 2018
Response by: Barry Simonson
Email Address: barry.simonson@enbridge.com
Phone Number: 218.464.5600

Minnesota Department of Commerce
Division of Energy Resources
Information Request

Docket Number:	PL9/CN-14-916	☐Nonpublic ☒Public
Requested From:	Enbridge Energy	Date of Request: 7/19/2018
Type of Inquiry:	General	Response Due: 7/31/2018

Requested by:	Kate O'Connell
Email Address(es):	kate.oconnell@state.mn.us
Phone Number(s):	651-539-1815

Request Number:	**307**
Topic:	Enbridge's proposed "neutral footprint"
Reference(s):	Attachment 4 of 7/16/18 compliance filing

Request:

To help ensure that Enbridge's estimated REC calculations are clear, please provide the following estimates for years one through five of the expected operational years of the new Line 3.

These estimates should assume that the amount of crude oil currently being shipped on Enbridge's mainline system continues to be shipped in these future years:

The expected amount of incremental electricity to be used in each year of operation of the new Line 3, prior to any adjustment for the amount of renewable energy procured by utilities serving that new pipeline:

a. Under Enbridge's proposed calculation of incremental electricity,

b. Under a calculation that measures incremental electricity use as the difference between: i) the electricity used to ship primarily light oil at the current operating capacity on the existing Line 3 and ii) the electricity used to ship all types of crude on the new, larger Line 3, at its expected operating capacity.

RESPONSE:

The forecast volumes used for the response to parts a and b of this request are based on Mr. Neil Earnest's Unconstraint Enbridge Mainline Capacity forecast (DOC-DER IR 133B).

a. The expected incremental electricity that will be used in each year, for years one through five, of operation of the new Line 3 compared to existing Line 3 under Enbridge's proposed calculation of incremental electricity is 362 GWh.

b. The expected incremental electricity that will be used in each year of operation of the new Line 3 compared to existing Line 3 under the calculation methodology proposed in part b of this request is 438 GWh.

As stated in Request Number 301, the Project as proposed will reduce electrical energy consumption on the Enbridge Mainline System on a per barrel basis, which explains the difference in incremental electricity in parts a and b of this response.

To be completed by responder

Response Date: July 27, 2018
Response by: John Glanzer
Email Address: john.glanzer@enbridge.com

Minnesota Department of Commerce
Division of Energy Resources
Information Request

Docket Number:	PL9/CN-14-916	☐Nonpublic ☒Public
Requested From:	Enbridge Energy	Date of Request: 7/19/2018
Type of Inquiry:	General	Response Due: 7/31/2018

Requested by:	Kate O'Connell
Email Address(es):	kate.oconnell@state.mn.us
Phone Number(s):	651-539-1815

Request Number:	**308**
Topic:	Enbridge's proposed "neutral footprint"
Reference(s):	Attachment 4 of 7/16/18 compliance filing

Request:

To help ensure that Enbridge's estimated REC calculations are clear, please provide the following estimates for years one through five of the expected operational years of the new Line 3.

These calculations should assume that the amount of crude oil currently being shipped on Enbridge's mainline system continues to be shipped in these future years:

The expected amount of incremental electricity to be used in each year of operation of the new Line 3, after Enbridge's proposed adjustment for the amount of renewable energy procured by utilities serving that new pipeline, assuming that the utilities' systems procure 25 percent renewable electricity:

a. Under Enbridge's proposed calculation of incremental electricity,

b. Under a calculation that measures incremental electricity use as the difference between: i) the electricity used to ship primarily light oil at the current operating capacity on the existing Line 3 and ii) the electricity used to ship all types of crude on the new, larger Line 3, at its expected operating capacity.

RESPONSE:

Applying a 25 percent adjustment to the incremental electricity provided in parts a and b of Request Number 307 will result in an estimated electrical consumption of 272 GWh and 329 GWh, respectively.

To be completed by responder

Response Date: July 27, 2018
Response by: John Glanzer
Email Address: John.glanzer@enbridge.com