

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Enbridge Pipelines (North Dakota) LLC
Beaver Lodge Loop Project – Williams, Mountrail &
Ward Counties
Siting Application**

Case No. PU-10-613

Findings of Fact, Conclusions of Law and Order

July 17, 2012

Appearances

Commissioners Brian P. Kalk, Kevin Cramer and Bonnie M. Fetch.

Brian Bjella, Attorney at Law, Crowley Fleck PLLP, 400 East Broadway, Suite 600, Bismarck, North Dakota 58501, on behalf of Enbridge Pipelines (North Dakota) LLC (“Enbridge”).

Mark E Gruman, Legal Counsel, Public Service Commission, 600 East Boulevard, Bismarck, North Dakota 58505.

Patrick Fahn, Director – Compliance and Competitive Markets Division, Public Service Commission, 600 East Boulevard, Bismarck, North Dakota 58505.

Preliminary Statement

On May 18, 2011, the North Dakota Public Service Commission (“Commission”) issued Findings of Fact, Conclusions of Law and Order (“Order”) granting to Enbridge Pipelines (North Dakota) LLC (“Enbridge”) Certificate of Corridor Compatibility No. 119 and Route Permit No. 129 for construction of the Beaver Lodge Loop (“Project”), being approximately 56 miles of 16-inch diameter steel pipe in Williams, Mountrail and Ward Counties, North Dakota, including the installation of new pumping station facilities and tankage at Enbridge’s Beaver Lodge and Stanley Station sites, as well as additional tankage at Enbridge’s Berthold Station site.

In its Order, the Commission provided in part: that construction along 61st Street NW between State Highway 8 and 82nd Avenue NW will not begin until Enbridge has submitted an Application for a Route Deviation in this area with sufficient materials showing that any modification to the route meets the requirements of the North Dakota Energy Conversion and Transmission Facility Siting Act and has received approval from the Commission to proceed.

On April 30, 2012, Enbridge submitted an application for a route change for the pipeline construction along 61st Street NW between State Highway 8 and 82nd Avenue

NW in Section 33, Township 156 North, Range 91 West, Mountrail County, North Dakota.

On May 10, 2012, Enbridge filed an Application for Amended Certificate of Corridor Compatibility, and Application for Amended Route Permit, and Application for Waivers of Procedures and Time Schedules.

On May 14, 2014, Enbridge filed a revised application for the route change.

In its Application for Waivers of Procedures and Time Schedules, Enbridge requests waiver of the following:

1. Procedures that require separate filings of applications for a certificate of corridor compatibility and a route permit.
2. Procedures that require separate notices of such applications.
3. Procedures that require separate hearings on such applications.
4. Procedures that require a public hearing on an application for a certificate of corridor compatibility.
5. Procedures that require a public hearing on an application for route permit.

On May 17, 2012, the Commission issued a Notice of Filings, Notice of Informal Hearing, and Notice of Opportunity for Hearing ("Notice") scheduling an informal hearing for June 20, 2012 at 1:45 p.m. CDT in the Commission Hearing Room on the 12th Floor of the State Capitol. The Notice further provided that comments and requests for a hearing must be received by June 15, 2012.

The Notice identified the following issues to be considered with respect to Enbridge's application for waiver of procedures and time schedules:

1. Are the proposed facilities of such length, design, location, or purpose that they will produce minimal adverse effects and that adherence to applicable procedures and time schedules may be waived?
2. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?

The Notice identified the following issues to be considered with respect to Enbridge's applications for an amended Certificate of Corridor Compatibility and an amended Route Permit:

1. Will the location, construction, and operation of the proposed facilities produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?

2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed facility locations minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

On June 13, 2012, the North Dakota Department of Health filed comments stating that it believes environmental impacts from the proposed construction will be minor and recommended certain construction methods to minimize fugitive dust emissions, to minimize adverse effects on water bodies, and to minimize construction activity noise. The North Dakota Department of Health indicated that Enbridge ND should contact the Department's Air Pollution Control Program prior to commencing construction.

On June 19, 2012, Enbridge filed an affidavit of Barry Simonson, Manager of Engineering and Construction for Enbridge, in support of the application.

On June 20, 2012, the Commission held the informal hearing as scheduled. No requests for hearing were received.

Having allowed all interested persons an opportunity to be heard, and having heard, reviewed, and considered all testimony and evidence presented, the Commission makes the following:

Findings of Fact

1. Exclusion and avoidance areas may be located within a corridor for a transmission facility, but at no given point shall such an area or areas encompass more than fifty percent of the corridor width unless there is no reasonable alternative. 69-06-08-02.
2. An exclusion area and must be excluded in the consideration of a route for a transmission facility. A buffer zone of a reasonable width to protect the integrity of the area shall be included. 69-06-08-02(1).
3. A county park or recreation area is an exclusion area in the consideration of a route for a transmission facility. 69-06-08-02(1)(c).
4. Enbridge states that no exclusion areas were identified.
5. An avoidance area shall not be considered in the routing of a transmission facility unless the applicant shows that under the circumstances there is no reasonable alternative. A buffer zone of a reasonable width to protect the integrity of the area shall be included. 69-06-08-02(2).

6. An area within five hundred feet of a residence, school, or place of business is an avoidance area in the consideration of a route for a transmission facility. 69-06-08-02(2)(e)

7. An area of recreational significance which is not designated as an exclusion area is an avoidance area in the consideration of a route for a transmission facility. 69-06-08-02(2)(i).

8. In determining whether an avoidance area should be designated for a facility, the commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative routes. Economic considerations alone shall not justify approval of these areas. A buffer zone of a reasonable width to protect the integrity of the area shall be included unless a distance is specified in the criteria. 69-06-08-02(2)

9. Enbridge states that the route would be located within 500 feet of four businesses; one of the businesses is the Mountrail County Fair Building. The area around the Mountrail County Fair Building is an area of recreational significance. No other avoidance areas were identified.

10. As the materials filed by Enbridge state, and as was further discussed at the informal hearing:

- The proposed route change would result in Enbridge's pipeline being installed parallel to an existing Hess pipeline;
- The proposed route change accommodates development plans by the Idaho Township, the City of Stanley and Mountrail County;
- Waivers have been obtained from three businesses and to allow construction within 500 feet of those businesses;
- A waiver has been signed by Mountrail County to allow construction within 500 feet of the Mountrail County fair building located south of 61st Street NW;
- No exclusion areas will be impacted by the requested corridor and route amendment;
- The route change will have no significant adverse impact on any of the Commission's selection criteria; and
- The City of Stanley, Mountrail County and Idaho Township have concurred with the requested corridor and route changes.

11. In accordance with the Commission's selection criteria, a corridor or route may be approved if it is demonstrated that any significant adverse impacts that will result from the location, construction and maintenance of the transmission facility will be of an acceptable minimum or managed at an acceptable minimum.

12. In the Affidavit of Barry Simonson it is stated that Enbridge acquired an easement from the City of Stanley, which at the time was the owner of the property on which the Mountrail County Fair Building is now located. That subsequent to Enbridge's acquisition of the pipeline easement from the City of Stanley, the City conveyed the land to Mountrail County, which then constructed the fair building.

13. That the June 19, 2012 Affidavit of Barry Simonson further indicates that Enbridge's Stanley Station is located approximately 660 feet north of the Mountrail County Fair Building, which station has been in operation since 1960. That due to the growth of the City of Stanley, the Stanley Station is now contained within an industrial/commercial area.

14. The June 19, 2012 Affidavit of Barry Simonson states that for operational purposes it is imperative that the pipeline go through the Stanley Station. Further, it was stated that the route change as requested is the best route from the perspective of all stakeholders, who collectively evaluated other route alternatives, and, for various reasons, determined that the other route alternatives were not adequate.

15. Enbridge submitted information in its Application and in testimony at the June 20, 2012 informal hearing concerning compliance with the Commission's Exclusion and Avoidance criteria as applied to this project's proposed corridor and route.

16. It has been demonstrated that the land on which the Mountrail County Fair Building is located is used for county fairground purposes, not for a "county park and recreation area". N.D. Admin. Code § 69-06-08-02(1)(c). As a result, it appears that this land is an "area of recreational significance not designated as an exclusion area", pursuant to N.D. Admin. Code § 69-06-08-02(2)(i). Please see N.D.C.C. § Chapter 11-28; N.D.C.C. § Chapter 4-02.

17. The project's proposed route demonstrates the management of adverse impacts by locating the route along the south side of 61st Street NW alongside Hess Corporation's pipeline, with the greatest distance practicable between the four businesses and the Mountrail County Fair Building; increased wall thickness and buried depth; therefore minimizing potential adverse impacts to the public.

18. The project's proposed route illustrates the orderly siting of facilities. It also incorporates the input from members of the public including the City of Stanley, Mountrail County, and Idaho Township.

19. The project's proposed route is not based solely on economic considerations. The extensive existing and planned commercial and industrial development in the area left little opportunity for alternative routes.

20. The evidence demonstrates that there is no reasonable alternative to the project's proposed route. The immediate area is congested and experiencing rapid growth, and growth is anticipated to continue. No member of the public requested a hearing. There is no reasonable alternative to the project's proposed route change.

21. As the materials filed by Enbridge state, and as was further discussed at the informal hearing, Enbridge will, for a distance of two miles through the construction area along 61st Street NW between State Highway 8 and 82nd Avenue NW:

- Use pipe with increased wall thickness [three miles commencing at the intersection of 84th Ave NW and 61st St. NW, thence in an easterly direction along 61st ST. NW ending at the intersection of 61st St. NW and North Dakota Highway 8]; and
- Will increase the depth of cover of the heavier wall pipe to 72 inches.

From the foregoing Findings of Fact, the Commission now makes its:

Conclusions of Law

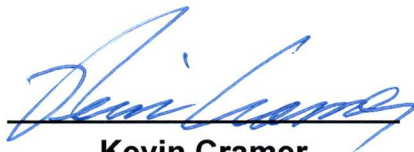
1. The Commission has jurisdiction over the applicant, Enbridge Pipelines (North Dakota) LLC, and over the subject matter of this application under North Dakota Century Code, Chapter 49-22.
2. Enbridge is a utility as defined in North Dakota Century Code, Section 49-22-03(13).
3. The proposed pipeline is a transmission facility as defined in North Dakota Century Code, Section 49-22-03(12).
4. The location, construction, and operation of the Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. The location, construction and operation of the Project are compatible with environmental preservation and the efficient use of resources.
6. The Project will minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.
7. The Project is of such design and location that it will produce minimal adverse effects, in accordance with North Dakota Century Code, Section 49-22-07.2.
8. It is appropriate for the Commission to waive those certain procedures and time schedules as requested in the application and provided under North Dakota Century Code, Section 49-22-07.2.
9. For the reasons stated above, there is no reasonable alternative for the proposed route.

From the foregoing Findings of Fact and Conclusions of Law, the Commission issues its:

Order

1. Enbridge's application for waiver of procedures and time schedules is granted.
2. Enbridge's request for amendments to the permitted corridor and pipeline route is granted, and Enbridge is issued Second Amended Certificate of Corridor Compatibility No. 119 and First Amended Route Permit No. 129. For purposes of the Certificate, the amended Corridor will consist of a 250-foot-wide area, centered on the pipeline route for the length of the route, and the land included within the Beaver Lodge, Stanley, and Berthold stations.
3. The amended corridor and amended route are subject to the conditions and limitations stated in the Findings of Fact, Conclusions of Law, and Order dated May 18, 2012, amended by the Commission's September 6, 2011 Findings of Fact, Conclusions of Law, and Order, and are subject to the conditions and limitations stated in this Order.
4. The authorizations granted by the Second Amended Certificate of Corridor Compatibility No. 119 and Second Amended Route Permit No. 129 are subject to modification by order of the Commission if deemed necessary to further protect the public or the environment.

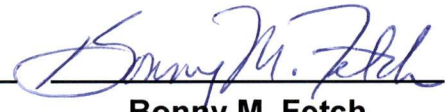
PUBLIC SERVICE COMMISSION



Kevin Cramer
Commissioner



Brian P. Kalk
Chairman



Bonny M. Fetch
Commissioner

**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

**Second Amended
Certificate of Corridor Compatibility Number 119**

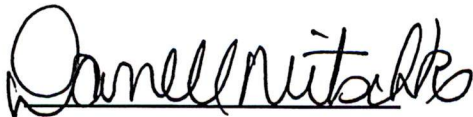
This is to certify that the Commission has designated a transmission facility corridor for Enbridge Pipelines (North Dakota) LLC for the construction of a 16-inch pipeline and new facilities and tankage at its Beaver Lodge and Stanley Pump Stations, all in Williams, Mountrail, and Ward Counties, North Dakota for the transmission of crude oil.

This certificate is issued in accordance with the Commission's May 18, 2011 Order, amended by the Commission's September 6, 2011 Order for an amended corridor, and amended by Order of this Commission dated July 17, 2012, all in Case No. PU-10-613, and is subject to the conditions and limitations noted in those Orders.

Bismarck, North Dakota, July 17, 2012.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

STATE OF NORTH DAKOTA

Second Amended Route Permit Number 129

This is to certify that the Commission has designated a transmission facility route for Enbridge Pipelines (North Dakota) LLC for the construction of a 16-inch pipeline and new facilities and tankage at its Beaver Lodge and Stanley Pump Stations, all in Williams, Mountrail, and Ward Counties, North Dakota for the transmission of crude oil.

This permit is issued in accordance with the Commission's May 18, 2011 Order, amended by the Commission's September 6, 2011 Order for an amended corridor, and amended by Order of this Commission dated July 17, 2012, all in Case No. PU-10-613, and is subject to the conditions and limitations noted in those Orders.

Bismarck, North Dakota, July 17, 2012.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner