

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA**

In the Matter of the Application of Enbridge)
Pipelines (North Dakota) LLC for a)
Certificate of Site Compatibility and Route)
Permit for the Sandpiper Pipeline Project)
Mountrail, Ward, McHenry, Pierce, Towner,)
Ramsey, Nelson, Grand Forks and Williams)
Counties, North Dakota)

Case No. PU-13-187

**APPLICATION OF ENBRIDGE PIPELINES
(NORTH DAKOTA) LLC TO PROTECT
CONFIDENTIAL CRITICAL ENERGY INFRASTRUCTURE INFORMATION**

Applicant Enbridge Pipelines (North Dakota) LLC (“EPND”) submits this application to protect from disclosure certain confidential information concerning critical energy infrastructure being filed with the North Dakota Public Service Commission (“Commission”) as part of its siting application for the Sandpiper Pipeline Project (“Project”). Specifically, EPND seeks to protect the detailed design information required by the Commission in accordance with N.D.A.C. § 69-06-05-01(2)(q). The limited information for which protection is sought is exempt from N.D.C.C. Section 44-04-18 and, therefore, is entitled to protection from disclosure.

Consistent with the Commission’s guidelines for an application to protect information, EPND has filed in a sealed envelope labeled “CRITICAL ENERGY INFRASTRUCTURE INFORMATION – PRIVATE” a CD which contains the detailed GIS data required by the Commission for its proposed Sandpiper Pipeline route, as described in the Siting Application. *See* N.D.A.C. § 69-02-09-02.

The information contained on the CD and sought to be protected includes detailed design information and aerial imagery which shows the exact location of this Project and other existing energy infrastructure located within a close proximity of this new pipeline. EPND operates an

interstate common carrier pipeline which is considered critical energy infrastructure, as it plays an important role in the distribution of vital energy supplies to the refinery markets in the Midwest and beyond. The specific and detailed information contained on the CD would be of great benefit to anyone with a desire to disrupt the economy through an attack on this infrastructure, and thus, constitutes the treatment of Critical Energy Infrastructure Information under the USA Patriot Act of 2001 and other federal guidelines. Accordingly, distribution of detailed maps must be controlled and not released within the public domain without good cause shown.

The information contained on the CD also qualifies as being exempt from public disclosure pursuant to N.D.C.C. § 44-04-24. Section 44-04-24 provides exemption from public disclosure for, “all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, communications, or consultations or portions of any such plan relating directly to the physical or electronic security of a public facility, **or any critical infrastructure**, whether owned by or leased to the state or any of its political subdivisions, **or any privately owned or leased critical infrastructure** if the plan or a portion of the plan is in the possession of a public entity; ...” N.D.C.C. § 44-04-24(2)(b). Critical infrastructure is defined to include:

Public buildings, systems, including telecommunications centers and computers, power generation plants, dams, bridges, and similar key resources, whether physical or virtual, so vital to the state that the incapacity or destruction of these systems would have a debilitating impact on security, state economic security, state public health or safety, or any combination of those matters.

N.D.C.C. § 44-04-24(2)(a)

All of the information sought to be protected is detailed design information and imagery pertaining to what would be classified as critical infrastructure under both state and federal law. If publicly disclosed, it would provide detailed information on the precise location and design of

the critical infrastructure potentially putting it at risk. Any persons seeking to disrupt the operation of the critical infrastructure would then have easily accessible information critical to implementing any such plan of disruption. Intentional damage to EPND's Project could impact both economic security as well as threatening public health and safety if significant amounts of crude oil were released from the pipeline due to an intentional act. Requiring EPND to publicly disclose the GIS data and detailed design plans and aerial imagery would be contrary to state law and federal policy for the protection of such assets as set forth in the Critical Infrastructure Protection Act of 2001 (codified at 42 USC 5195c).

Accordingly, EPND respectfully requests that the Commission grant its application to protect the information contained on the enclosed CD and allow the siting application to be deemed complete as filed and enter an appropriate protective order limiting disclosure of the protected information.

Dated this 30th day of October, 2013.



Wade C. Mann
ND Bar ID# 05871
Crowley Fleck PLLP
400 East Broadway, Suite 600
Bismarck, ND 58501
(701) 223-6585