

July 19, 2019

ELECTRONIC FILING

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

RE: Comments and Recommendations on Partial Exemption and Route Permit for the
Enbridge Energy, Limited Partnership Fond du Lac Line 4 Project
Docket No. PL-9/PPL-18-752

Dear Mr. Wolf,

Attached are comments and recommendations of Department of Commerce, Energy Environmental Review and Analysis (EERA) staff in the above matter.

Enbridge Energy, Limited Partnership submitted an Application pursuant to Minnesota Rule 7852.0600 for a partial exemption and pipeline routing permit for a 10-mile long 36-inch outside diameter pipeline project and associated facilities in St. Louis and Carlton Counties in Minnesota. The project is located entirely within the Fond du Lac Band of Lake Superior Chippewa Reservation.

EERA Staff recommends the Commission grant the partial exemption from pipeline route selection procedures and issue a pipeline routing permit to Enbridge Energy, Limited Partnership for the Fond du Lac Line 4 Project.

Staff is available to answer any questions the Commission may have.

Sincerely,

/s/ Louise I. Miltich

Louise I. Miltich
Environmental Review Manager

Enclosure

cc: John Wachtler
Michael Kaluzniak, Minnesota Public Utilities Commission

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

**Energy Environmental Review and Analysis
Completeness Comments and Recommendations**

Docket No. PL-9/PPL-18-752

Date: July 19, 2019

Staff: Louise Miltich | (651) 539-1853 | louise.miltich@state.mn.us

In the Matter of the Application of Enbridge Energy for a Pipeline Routing Permit and Partial Exemption for the Fond du Lac Line 4 Project in Saint Louis and Carlton Counties

Issues Addressed: Should the Commission grant the partial exemption from pipeline route selection procedures and issue a route permit for the Enbridge Energy, Limited Partnership Fond du Lac Line 4 Project?

Additional documents and information, including the site permit application, is available at the Department of Commerce Energy Environmental Review and Analysis (EERA) website: <https://mn.gov/eera/web/project/13512/> and can be found on eDockets by searching “18” for year and “752” for number: <https://www.edockets.state.mn.us/EFiling/search.jsp>.

This document can be made available in alternative formats, that is, large print or audio, by calling (651) 539-1530 (voice).

Introduction and Background

Enbridge Energy Limited Partnership (Enbridge or the Applicant) filed a Pipeline Routing Permit and Partial Exemption Application (Application)¹ with the Minnesota Public Utilities Commission (Commission) on February 25, 2019, to construct the Fond du Lac Line 4 Project (Project). The proposed Project involves replacing, relocating, and burying a 10-mile segment of Enbridge's existing, above-grade, 48-inch outside-diameter (OD) Line 4 pipeline. The Applicant proposes replacing the existing above-ground segment with 10 miles of new 36-inch OD pipeline, relocating it from the center to the outside of the existing Enbridge mainline corridor, and placing the pipe underground. The Project will be located in portions of St. Louis and Carlton Counties, entirely within the boundaries of the Fond du Lac Band of Lake Superior Chippewa

¹ Enbridge Energy, Limited Partnership (February 25, 2019) *Route Permit Application for the Minnesota Public Utilities Commission Enbridge Energy, Limited Partnership Fond du Lac Line 4 Project*, eDockets No. [20192-150595-01](#), [20192-150595-02](#), [20192-150595-03](#), [20192-150595-04](#), [20192-150595-05](#), [20192-150595-06](#), [20192-150596-01](#), [20192-150596-02](#), [20192-150596-03](#), [20192-150596-04](#), [20192-150596-05](#), [20192-150596-06](#), [20192-150596-07](#), [20192-150596-08](#), [20192-150596-09](#).

Reservation. The Project is to run parallel to the south side of the existing Enbridge mainline right-of-way for 100 percent of its length. Enbridge would remove the existing Line 4 segment after the Project has received regulatory approvals and is constructed, tested, and placed into service.

The Commission accepted the Application as complete on April 11, 2019,² after comments from EERA³ and revisions from the Applicant⁴. On April 26, 2019, the Commission issued a Notice of Public Information Meetings and Comment Period.⁵ Two public meetings, administered by an administrative law judge (ALJ), were conducted in the Project area. Public comments were accepted through June 14, 2019. On June 28, 2019 the ALJ issued a report summarizing input provided during the comment period.⁶ In coordination with EERA staff, the Applicant prepared proposed findings of fact, conclusions of law, and order detailing the proposed project, regulatory history, public and agency participation, considerations in designating pipeline route permit, construction activities, testing and restoration, pipeline routing, and standard and criteria for partial exemption.

As described below, EERA staff believes the Applicant's proposed findings of fact accurately reflect the record and support a determination that the project satisfies the factors set forth in Minn. Stat. § 216G.02 and Minn. R. Ch. 7852 for a partial exemption and issuance of a route permit. EERA staff recommends that the Commission grant a partial exemption from the pipeline routing procedures and issue a permit for the Enbridge Energy, Limited Partnership Fond du Lac Line 4 Project.

Regulatory Process and Procedures

In Minnesota, no person may construct a pipeline with a nominal diameter of six inches or more that is designed to transport hazardous liquids without first obtaining a route permit from the Commission,⁷ unless the pipeline is excluded or exempted from the Commission's routing authority.⁸ The proposed Project is a 36-inch OD pipeline designed to transport crude oil. As a result, the proposed Project requires a route permit from the Commission.

The pipeline routing permit requirements are found in Minnesota Rules, chapter 7852. Minnesota Rules, chapter 7852 identifies two possible processes for pipeline routing: the partial exemption from pipeline route selection procedures identified in Minnesota Rules, part 7852.0600 and the full pipeline route selection procedures identified in Minnesota Rules, parts 7852.0800-7852.3100. The partial exemption process is an abbreviated process with a shorter timeline than the full pipeline route selection process.

² Minnesota Public Utilities Commission (April 11, 2019) *Order Accepting Application, Establishing Review Process, and Granting Variances*, eDockets No. [20194-151887-01](#).

³ EERA (Mar. 11, 2019) *Completeness Comments and Recommendations* eDockets Document No. [20193-150985-01](#).

⁴ Enbridge Energy Limited Partnership (March 15, 2019) *Revised Application for Pipeline Route Permit and Partial Exemption, Enbridge Energy, Limited Partnership Fond du Lac Line 4 Project*, eDockets No. [20193-151161-02](#), [20193-151161-03](#), [20193-151161-04](#), [20193-151161-05](#), [20193-151161-06](#), [20193-151161-07](#), [20193-151161-08](#), [20193-151162-01](#), [20193-151162-02](#), [20193-151162-03](#), [20193-151162-04](#), [20193-151162-05](#), [20193-151162-06](#).

⁵ Minnesota Public Utilities Commission (April 26, 2019) *Notice of Public Information Meetings and Comment Period* eDockets No. [20194-152359-01](#).

⁶ Office of Administrative Hearings (June 28, 2019) *Report to the Commission* eDockets No. [20196-153980-01](#).

⁷ Minnesota Statute [216G.02](#), subdivision 1.

⁸ Minn. Stat. 216G.02, subd. 3(b) (7), Minnesota Rule 7852.0300

If the applicant does not expect the proposed pipeline and associated facilities to have significant impacts on humans or the environment, they can submit an application for a partial exemption from pipeline route selection procedures, as provided for in Minnesota Rules, part 7852.

Minnesota Statute 216G.02 Subdivision 3(b) (8) requires the Commission to decide whether to grant or deny the partial exemption within 90 days after Commission acceptance of the partial exemption application.

In deciding whether to grant or deny the partial exemption, the Commission shall consider any comments that are filed, the record of the public information meeting(s), and the information contained in the application relevant to the criteria for partial exemption in Minnesota Rules, part 7852.0700. In granting a partial exemption from the pipeline route selection procedures, the Commission must determine that the proposed pipeline and associated facilities will not have a significant impact on humans or the environment.

If the Commission does not grant the partial exemption, the applicant may file an application for review pursuant to the Pipeline Route Selection Procedures of Minnesota Rules, parts 7852.0800-7852.3100.

Pursuant to Minnesota Statutes 216E.10, subdivision 3(b), an applicant for a permit under chapter 216G will notify the Commissioner of Agriculture if the proposed project will impact cultivated agricultural land. The Department of Agriculture shall be the lead agency on the development of any agricultural mitigation plan required for the project.

EERA Staff Analysis and Comments

EERA staff worked with the Applicant in the preparation of their proposed findings of fact, conclusions of law and order. EERA staff believes the proposed findings of fact accurately reflect the project record and agrees with the Applicant's proposed Conclusions of Law. EERA staff has reviewed the minor revisions made by the Applicant to the sample permit EERA submitted into the record and supports these changes.

EERA staff has reviewed the record to date, including the impact analysis provided in the Application, agency comment letters, and the one citizen comment provided during the comment period. Based on this record EERA staff believes that with the implementation of the conditions included in the proposed route permit the project will not have a significant impact on humans or the environment.

EERA Staff Conclusions and Recommendations

EERA staff recommends that the Commission grant a partial exemption from the pipeline routing procedures and issue a permit for the Enbridge Energy, Limited Partnership Fond du Lac Line 4 Project consistent with the Sample Route Permit as modified by the Applicant.