130 FERC ¶ 61,231
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 23, 2010

In Reply Refer To:
Enbridge Pipelines (North Dakota) LLC
Docket No. OR10-9-000

Enbridge Pipelines (North Dakota) LLC
1330 Connecticut Avenue, NW
Washington, DC 20036

Attention: Steven Reed
Attorney for Enbridge Pipelines (North Dakota) LLC

Reference: Modification of Approved Settlement

Ladies and Gentlemen:

1. On January 29, 2010, Enbridge Pipelines (North Dakota) LLC (Enbridge ND) filed a Motion to Approve Modification of Previously Approved Offer of Settlement (Settlement). Enbridge ND states that the modification would result in a rate reduction for shippers.

2. Enbridge ND states that, on October 31, 2006, the Commission approved the Settlement that included, among other things, an agreed-upon surcharge to recover certain Phase 5 expansion project costs including the costs of a new feeder line between Alexander, North Dakota, and Beaver Lodge, North Dakota (Looping Surcharge).[1] According to Enbridge ND, it designed the original Looping Surcharge to last for five years, expiring on December 31, 2012. However, Enbridge ND asks the Commission to allow it to modify the term of the Settlement by extending the surcharge by four years, to end on December 31, 2016. Enbridge ND explains that, by extending the cost recovery period for the Alexander-Beaver Lodge expansion, shippers will pay a reduced Looping Surcharge from 2010 to 2012, the last two years of the original five-year recovery period. Enbridge ND attaches to its motion letters of support from 12 shippers and a connecting pipeline.

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[1] *Enbridge Pipelines (North Dakota) LLC*, 117 FERC ¶ 61,131 (2006).

3. Enbridge ND explains that it undertook the Phase 5 expansion project in 2006. Enbridge ND points out that, prior to the expansion, its 950-mile pipeline transported approximately 84,000 barrels per day (bpd) of crude oil from eastern Montana and western North Dakota to refineries in North Dakota and, via connecting pipelines, to destinations in the upper Midwest and eastern Canada. Enbridge ND states that the Phase 5 expansion consisted of two components: (1) a $26.7 million mainline expansion between Beaver Lodge and Clearbrook, Minnesota (which is not affected by the instant motion), and (2) a $38 million expansion of the Alexander-Beaver Lodge feeder line (the Looping Expansion). Enbridge ND adds that the costs associated with the Looping Expansion were recoverable under a separate surcharge over a five-year period, with the Looping Surcharge applying only to shippers on the Alexander-Beaver Lodge feeder line. Enbridge ND emphasizes that nine shippers using the affected feeder line at the time supported the Looping Surcharge.

4. Enbridge ND states that it submitted the Settlement on August 14, 2006, to implement the agreed-upon surcharges, including the Looping Surcharge. Enbridge ND explains that shippers sought the five-year depreciation period to ensure that Enbridge ND would recover the costs of the expansion during the period when crude oil production was expected to peak. Enbridge ND also states that it described the mechanics of the surcharges, noting that the depreciation rate used in calculating the surcharges was fixed at 20 percent annually to reflect the five-year term. Enbridge ND observes that it subsequently implemented the surcharges (without opposition) at the time the Phase 5 expansion facilities commenced service on January 1, 2008. In accordance with the Settlement, Enbridge ND updates the surcharges annually.

5. Enbridge ND further asserts that, since it implemented the Looping Surcharge, new production from the Bakken Formation in the Williston Basin has continued to increase. As a result, continues Enbridge ND, the need for full recovery of the costs of the Looping Expansion by the end of 2012 has lessened, and both Enbridge ND and the affected shippers no longer believe that it is necessary to limit the recovery period to the original five-year term. Instead, states Enbridge ND, they propose to extend the surcharge for an additional four years, until December 31, 2016. Enbridge ND explains that, concurrent with the change, it will adjust the depreciation rate used in calculating the surcharge to recover the remaining investment over the same period. This results in a revised depreciation rate of 14.3 percent for the Looping Expansion costs.

6. Enbridge ND emphasizes that this change will reduce the Looping Surcharge substantially from 2010 to 2012, while keeping the surcharge in effect for a longer period, thereby moderating the rate impact on shippers. For example, explains Enbridge ND, the current Looping Surcharge is $0.70 per barrel (bbl), while the proposed term extension will reduce this rate to an estimated $0.29 per bbl.

7. Accordingly, Enbridge ND seeks Commission approval to extend the term of the Looping Surcharge by four years and to reduce the annual depreciation rate to match the same period. Enbridge ND requests Commission action to permit it to implement the revised term and depreciation rate effective as of April 1, 2010, when Enbridge ND normally adjusts the surcharge under the Settlement.

8. Enbridge ND states that it served copies of the instant motion on all of its tariff subscribers, including shippers that supported the original Looping Surcharge. Additionally, the Commission issued notice of the motion providing for interventions and comments to be filed by March 5, 2010, and reply comments to be filed by March 12, 2010. No protests or adverse comments were filed.

9. The Commission approves the requested modification to the Settlement on the grounds that it appears to be fair, reasonable, and in the public interest. The Commission's approval of the modification to the Settlement does not constitute acceptance of, or precedent regarding, any principle or issue in this proceeding.

By direction of the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.