124 FERC ¶ 61,200
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 28, 2008

In Reply Refer To:
Enbridge Energy, Limited Partnership
Docket No. OR08-12-000

Enbridge Energy, Limited Partnership
1330 Connecticut Avenue, NW
Washington, DC 20036

Attention: Steven Reed
Attorney for Enbridge Energy, Limited Partnership

Reference: Approval of Offer of Settlement

Dear Mr. Reed:

1. On June 27, 2008, Enbridge Energy, Limited Partnership (Enbridge Energy),[1] with the support of the Canadian Association of Petroleum Producers (CAPP),[2] filed an

[1] Enbridge Energy states that it operates the U.S. portion of the Enbridge System, which is a major crude oil pipeline system providing transportation of Western Canadian oil to the U.S. Midwest and points in Eastern Canada and New York State. Enbridge Energy states that this portion, which is commonly referred to as the Lakehead System, is subject to the jurisdiction of this Commission. Enbridge Energy further states that the Canadian portion of the Enbridge System is operated by Enbridge Pipelines Inc. (EPI) and is regulated by the National Energy Board (NEB) in Canada. According to Enbridge Energy, EPI has received approval from the NEB for the Canadian aspects of this project. (*Enbridge Pipelines Inc., Alberta Clipper Project*, Docket No. OH-4-2007 (Feb. 2008). Enbridge Energy states that construction of the Canadian portion of the Alberta Clipper will commence in August 2008.

[2] Enbridge Energy states that CAPP producer members account for more than 95 percent of Canada's oil and gas production and that approximately 97 percent of the crude petroleum transported on the Enbridge System originates in Canada.

Offer of Settlement (Settlement) under the Facilities Surcharge mechanism previously approved by the Commission.[3] By this Settlement, Enbridge Energy seeks Commission approval to implement an additional component of the Facilities Surcharge to permit recovery by Enbridge Energy of the costs of a planned expansion of its mainline capacity from the international border near Neche, North Dakota, to Superior, Wisconsin (the Alberta Clipper Project). Enbridge Energy explains that this Settlement pertains to the recovery of costs associated with the expansion of mainline capacity on the Lakehead System. Enbridge Energy emphasizes that both parties seek Commission approval of the Settlement as a whole because they agreed to it as a package deal.

2. Flint Hills Resources, LP submitted comments stating that it does not object to the Settlement. No other persons filed comments or objections to the Settlement. The Commission finds that the subject Settlement is uncontested, and is approving it as it appears fair and reasonable and in the public interest.

3. Enbridge Energy explains that the proposed expansion of the Lakehead System in the U.S. is a significant part of the larger Alberta Clipper Project, but clarifies that the Commission is not being asked to determine any regulatory issues relating to the Canadian portion of the expansion project, which has been approved by the NEB. Because of substantial investment in new facilities to develop Western Canada's abundant crude oil resources, Enbridge Energy anticipates an increase in the supply of Canadian crude oil available for export to U.S. markets. According to Enbridge Energy, this will require significant transportation infrastructure expansion, and the Alberta Clipper Project will improve the pipeline system's upstream capability to balance the increased capacity available from the Southern Access Mainline Expansion between Superior, Wisconsin, and Flanagan, Illinois, which the Commission addressed in accepting a previous offer of settlement.[4] Because the Alberta Clipper Project involves a coordinated expansion of capacity in both Canada and the U.S., Enbridge Energy emphasizes that, on both sides of the border, the system will initially be able to transport an additional 450,000 barrels per day (bpd), with the potential for expansion up to 800,000 bpd.

4. Enbridge Energy states that the U.S. portion of the project includes approximately 325 miles of new 36-inch pipeline between the International Border and Superior, Wisconsin, along with three new pump stations at existing pump locations and five 250,000-barrel breakout tanks at Superior. Enbridge Energy estimates that the cost of the U.S. portion to be recovered through the Facilities Surcharge is approximately $1.1 billion in 2007 U.S. dollars (all of which will be incurred and recovered solely by

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[3] *Citing Enbridge Energy, Limited Partnership*, 107 FERC ¶ 61,336 (2004).

[4] *Citing Enbridge Energy, Limited Partnership*, 114 FERC ¶ 61,264 (2006).

Enbridge Energy). However, Enbridge Energy explains that the Canadian portion of the project will add approximately 665 miles of new pipeline from Hardisty, Alberta, to the International Border at a cost of approximately $2.0 billion in 2007 Canadian dollars (to be incurred and recovered by EPI). Enbridge Energy projects that the entire project will be completed and placed in service between January 1, 2010, and July 1, 2010.

5. Because the Alberta Clipper Project will enhance service to all shippers, Enbridge Energy states that it has agreed with CAPP that the costs associated with the expansion should be borne by shippers to all delivery points on the Lakehead System in accordance with Enbridge Energy's existing distance-based rate design, which is consistent with Commission precedent for oil pipelines.[5] Enbridge Energy emphasizes that, as a common carrier, it is open to all shippers nominating oil on the pipeline and that the project will help relieve existing capacity constraints, thereby benefitting the entire system and, further, that with the surcharge applicable across the system, all shippers will pay in accordance with their usage of the system.

6. Enbridge Energy details the specific terms of the surcharge calculation in Exhibit I attached to its filing. It states that, in general, it will recover the cost of service of the U.S. portion of the project through a surcharge that will be included in the Facilities Surcharge added to the indexed base rates and other existing surcharges currently in effect for Enbridge Energy. Enbridge Energy states that the surcharge will be calculated on a cost-of-service basis and trued-up annually in a manner similar to the treatment of current surcharges under the Facilities Surcharge Mechanism at such time as the Alberta Clipper facilities go into service, based on an estimate of the first year's projected costs and throughput volumes. Thereafter, continues Enbridge Energy, on April 1 of each succeeding year, Enbridge Energy will adjust the surcharge to true-up the prior year's costs and throughput volumes to actual data and to reflect the projected costs and throughput volumes for the then-current year in accordance with the term sheet. Enbridge Energy adds that the Alberta Clipper surcharge will remain in effect for fifteen years. Enbridge Energy states that CAPP has agreed to the terms of the cost-of-service calculation supporting the surcharge.

7. The Commission approves the Settlement, finding that it appears fair, reasonable, and in the public interest. Approval of the Settlement does not constitute approval of any other project beyond the scope of this proceeding. The Commission's approval of the

[5] *Citing SFPP, L.P.*, 102 FERC ¶ 61,089, at P 14-18, *order denying reh'g*, 104 FERC ¶ 61,163, at P 10-11 (2003); *Colonial Pipeline Co*., 116 FERC ¶ 61,078, at P 54-57 (2006), *order denying reh'g*, 119 FERC ¶ 61,183, at P 13-19 (2007); *Calnev Pipe Line L.L.C.*, 120 FERC ¶ 61,073, at P 13, 30 (2007).

Settlement does not constitute acceptance of, or precedent regarding, any principle or issue in this proceeding.

By direction of the Commission.

Kimberly D. Bose,
Secretary.