

139 FERC ¶ 61,255
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and, Cheryl A. LaFleur.

Enterprise Products Partners L.P., and
Enbridge, Inc.

Docket No. OR12-4-000

ORDER GRANTING REHEARING FOR THE PURPOSE OF RECONSIDERATION

(Issued June 28, 2012)

1. On May 7, 2012, the Commission issued an Order on Application for Market Power Determination in the above-captioned proceeding. The Order rejected the market power application of Enterprise Products Partners L.P., and Enbridge, Inc. (Enterprise/Enbridge) to charge market-based rates on its reversed Seaway pipeline.
2. Shortly before issuance of the Order, the Court of Appeals for the District of Columbia Circuit issued a decision in *Mobil Pipeline Co. v. FERC*, 676 F.3d 1098 (D.C. Cir. 2012) (*Mobil*), which addressed the Commission's policies and precedent when examining applications for market-based rate authority for oil pipelines. Since the Court's *Mobil* opinion issued shortly before the Commission's order on Enterprise/Enbridge's application, and no party filed for rehearing of that order, the Commission has determined that it shall, *sua sponte*, grant rehearing for the purpose of reconsideration of the effect of the Court's *Mobil* decision on the Commission's review of Enterprise/Enbridge's market-based rates application.
3. The Commission is re-opening the record to seek comments from the parties to this proceeding concerning the proper interpretation of the *Mobil* decision and how it should be applied in the subject proceeding, as well as its effect on the Commission's established rate regulations and policies for determining whether an oil pipeline can exercise market power in a particular market.

The Commission orders:

(A) Within twenty (20) days from the issuance of this Order, any party may file initial comments as described in the body of this Order.

(B) Within fifteen (15) days from the due date for initial comments, reply comments may be filed in response to arguments raised in the initial comments.

By the Commission. Commissioner Clark is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.