

141 FERC ¶ 61,246
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Enbridge Energy, Limited Partnership

Docket No. IS13-17-000

ORDER ACCEPTING AND SUSPENDING TARIFF AND ESTABLISHING
TECHNICAL CONFERENCE

(Issued December 20, 2012)

1. On October 22, 2012, Enbridge Energy, Limited Partnership (Enbridge) filed FERC No. 41.3.0,¹ proposing an effective date of December 21, 2012. The tariff revises Enbridge's downstream Nomination Verification Procedure. The Commission accepts and suspends Enbridge's tariff record FERC Tariff No. 41.3.0 to become effective July 21, 2013, subject to the outcome of the technical conference established in this order.

Background

2. Enbridge proposes to revise its current downstream Nomination Verification Procedure, which is used to validate shipper nominations. The currently effective Nomination Verification Procedure limits shipper nominations to the highest volume delivered to each delivery facility during the 24-month period leading up to July 2010.² Enbridge states that its proposal replaces the historical 24-month period with a procedure based on the capability of each delivery facility to receive volumes from Enbridge. Enbridge states this process will reflect the evolving capabilities of delivery facilities. In determining the capability of the delivery facility, Enbridge plans to consider the physical capacity of the delivery facility, the operating status of the delivery facility, and nominated versus actual deliveries to the facility.

¹ Enbridge Energy, Limited Partnership, FERC Oil Tariff, [Pipeline Tariffs](#), [Rules and Regulations](#), FERC No. 41.3.0, 41.3.0.

² In July 2010, an oil spill at Enbridge's Line 6B near Marshall, Michigan, limited the available capacity for crude oil movements beyond Superior, Wisconsin.

3. Enbridge states that the proposed procedure was developed in consultation with its shippers. Enbridge states this new process will allow customers to nominate volumes that reflect facility capability and will ensure full capacity utilization of the Enbridge mainline. Enbridge believes this is the best method to validate nominations to delivery facilities.

Interventions and Protests

4. BP Canada Energy Trading Company and BP Products North America Inc. filed comments, and Marathon Petroleum Trading Canada LLC and Cenovus Energy Marketing Services Ltd. filed late comments. Imperial Oil and ExxonMobil Canada Energy; PBF Holding Company LLC and Toledo Refining Company LLC; Flint Hills Resources Canada, LP (FHR Canada); Suncor Energy Marketing Inc.; Phillip 66 Canada ULC; Pennzoil-Quaker State Canada Inc.; and United Refining Company filed protests. St. Paul Park Refining Co. LLC also filed a late protest. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2012)), all timely filed motions to intervene and any unopposed motions to intervene out-of-time filed before the issuance date of this order are granted. The Commission also accepts the late-filed comments and protest. Permitting late comments and intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties.

5. On November 15, 2012, FHR Canada filed a response to Enbridge's answer. Rule 385.213(a)(2) of the Commission's Rules of Practice and Procedure prohibits answers to answers unless otherwise ordered by the decisional authority. The Commission accepts FHR Canada's answer because it assisted with our decision-making process.

6. The protesters assert that Enbridge's proposal should be rejected or suspended pending further proceedings, such as a technical conference or hearing. They assert that the proposed revision is insufficiently specific and they raise concerns regarding Enbridge's proposed process for assessing the availability of capacity at downstream facilities. Among other concerns, they also question whether the proposed revision will favor facilities receiving supply primarily from the Enbridge mainline system as opposed to those facilities that also receive substantial supply from other sources.

7. On November 13, 2012, in response to the protests, Enbridge filed an answer. Enbridge states that due to the extent of the concerns expressed by shippers, it is not opposed to a suspension of seven months and a technical conference.

8. In its response, FHR Canada states it is concerned that all of the shippers concerns may not be resolved by the end of the seven month suspension period and that further proceedings may be necessary.

Commission Analysis

9. Based upon review of Enbridge's proposed FERC Tariff No. 43.1.0, the protests, and Enbridge's response to the protests, the Commission has determined that a number of issues require additional clarification that can best be addressed at a technical conference, after which a resolution may be reached or further process ordered if necessary. A technical conference is an informal, off-the-record proceeding in which the parties and the Commission's Staff can explore all the issues raised by the filing, gain an understanding of the facts, and obtain additional information regarding the positions of the parties. Following the technical conference, the parties will have an opportunity to file comments that will be included in the formal record of the proceeding.

10. The Commission will suspend Enbridge's filing for the full seven month period. Allowing the tariff to take effect as proposed on December 21, 2012, may lead to unjust and unreasonable results given the numerous questions raised regarding Enbridge's proposal. Accordingly, the Commission will accept Enbridge's filing and suspend it to be effective July 21, 2013.

The Commission orders:

(A) Enbridge's FERC Tariff No. 43.1.0 is accepted and suspended for seven months to be effective July 21, 2013, subject to the outcome of the technical conference established in this proceeding and further order of the Commission.

(B) The Commission's staff is directed to convene a technical conference to explore all the issues raised by Enbridge's filing and to report to the Commission within 180 days of the date of issuance of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.