

146 FERC 61,055
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

January 31, 2014

In Reply Refer To:
Enbridge Energy, Limited Partnership
Docket No. OR14-13-000

Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036

Attention: Steven Reed
Counsel for Enbridge Energy, Limited Partnership

Reference: Acceptance of Supplement to Facilities Surcharge Settlement

Ladies and Gentlemen:

1. On December 13, 2013, Enbridge Energy, Limited Partnership (Enbridge Energy) filed a Supplement to Facilities Surcharge Settlement (Supplement to Settlement)¹ to permit it to recover the costs of two new projects: (a) the Eastern Access Phase 2 Mainline Expansion (Project 19), and (b) the 2014 Mainline Expansion (Project 20). Enbridge Energy states that the Canadian Association of Petroleum Producers (CAPP) supports its filing.² Enbridge Energy seeks approval of the Supplement to Settlement by February 1, 2014, to become effective April 1, 2014. As discussed below, the Commission approves the Supplement to Settlement to become effective April 1, 2014.

¹ Enbridge Energy states that the Facilities Surcharge Settlement was approved by the Commission in *Enbridge Energy, Limited Partnership*, 107 FERC ¶ 61,336 (2004). According to Enbridge Energy, the Commission has approved 18 projects for inclusion in the Facilities Surcharge since 2004, most recently in Docket No. OR13-11-000, *Enbridge Energy, Limited Partnership*, 142 FERC ¶ 61,109 (2013).

² CAPP is an association representing producers of essentially all of the crude petroleum transported by Enbridge Energy. CAPP did not intervene in this proceeding, but Enbridge Energy attaches CAPP's letters of support for the projects. Enbridge Energy, Limited Partnership Supplement to Facilities Surcharge Settlement, (Appendices A and B).

2. Enbridge Energy states that, in the Facilities Surcharge Order, the Commission approved the Facilities Surcharge as a component of Enbridge Energy's U.S. tariff rates. Enbridge Energy explains that the Facilities Surcharge allows it to recover the costs associated with shipper-requested projects through an incremental surcharge added to the existing base rates and other Commission-approved surcharges already in effect. Enbridge Energy adds that the Facilities Surcharge is intended to be a transparent, cost-of-service-based tariff mechanism that it will true-up each year to actual costs and throughput, and, therefore, the Facilities Surcharge is not subject to indexing.

3. Enbridge Energy explains that it determines the projects to be included through a negotiating process with CAPP. Enbridge Energy states that the Facilities Surcharge framework was designed expressly to be open-ended; therefore, approval of this request is consistent with the Commission's intent when it approved the Facilities Surcharge framework.

4. Enbridge Energy states that Project 19, the Eastern Access Phase 2 follows up on the Eastern Access Phase 1 Mainline Expansion (Eastern Access Phase 1), which the Commission approved in 2013 as part of Project 18. Enbridge Energy explains that the Eastern Access Phase 1 project involved replacement of the segment of Enbridge Energy's Line 6B between Griffith, Indiana, and Stockbridge, Michigan, with a new 36-inch pipeline that increased the total capacity of that segment from 240,000 barrels per day (bpd) to 500,000 bpd. Enbridge Energy states that the Eastern Access Phase 2 project involves replacing the segment of Line 6 from Ortonville, Michigan, to the U.S./Canada border with a new 30-inch pipeline that similarly increases the capacity of that segment from 240,000 bpd to 500,000 bpd.³

5. Further, states Enbridge Energy, the Eastern Access Phase 2 project, which is estimated to cost \$513 million, also includes one new tank at the Griffith terminal and pump station additions between Stockbridge and the border. Enbridge Energy emphasizes that, like the Eastern Access Phase 1, the Eastern Access Phase 2 project is primarily a maintenance-driven project, which is designed to manage and maintain the future integrity of Line 6B while increasing available capacity to support demand. Further, states Enbridge Energy, replacement of this segment of Line 6B will alleviate the need to perform extensive integrity work on the existing segment, which currently is operating under pressure restrictions that limit its available capacity. Accordingly, continues Enbridge Energy, recovery of the costs of this project in the Facilities Surcharge is appropriate because it (a) ensures future reliable and safe deliveries of crude oil supply to the region; (b) provides a cost-effective solution that proactively addresses the future integrity needs of Line 6B; (c) minimizes impacts to landowners, local communities and the environment by reducing the number of future digs and repairs that

³ Enbridge Energy states that the segment of Line 6B between Stockbridge and Ortonville was previously replaced as part of another project. *Enbridge Energy, Limited P'ship*, 138 FERC ¶ 61,223 (2012).

otherwise would be needed on this segment of Line 6B; and (d) results in incremental capacity being made available to shippers. The target in-service date for the Eastern Access Phase 2 is the first quarter of 2014.

6. Enbridge Energy points out that the terms of the surcharge for the Eastern Access Phase 2 are the same as those for the Eastern Access Phase 1. Additionally, Enbridge Energy explains that the Eastern Access Phase 2 project is subject to the same capital cost risk-sharing mechanism that applies to the Eastern Access Phase 1. Enbridge Energy states that for Project 20, the settling parties seek Commission approval to supplement the Facilities Surcharge Settlement to permit the pipeline's recovery of the costs of the 2014 Mainline Expansions, which are estimated to be \$375 million including contingency, escalation, and AFUDC. Enbridge Energy explains that the project has two principal components, which are (a) an expansion to Line 61 (Southern Access) from Superior, Wisconsin, to Flanagan, Illinois, and (b) an expansion of Line 67 (Alberta Clipper) from the U.S./Canada border to Superior, Wisconsin. According to Enbridge Energy, Phase 1 of the Line 61 expansion includes the addition of one new pumping station, modifications to existing pump stations, and the addition of three new tanks at Flanagan that will increase the capacity of Line 61 from 400,000 bpd to 560,000 bpd. Additionally, Enbridge Energy states that Phase 1 of the Line 67 expansion includes pump station modifications and the addition of two new tanks at Superior that will increase the capacity of Line 67 from 450,000 bpd to 570,000 bpd. Enbridge Energy further states that the target in-service date for both the Line 61 and Line 67 Expansions is the third quarter of 2014.

7. Enbridge Energy states that, as with earlier projects added to the Facilities Surcharge, the surcharges for Projects 19 and 20 will be based on an annual revenue requirement calculation using factors agreed to through the Facilities Surcharge Settlement. Enbridge Energy explains that these surcharges are trued-up annually to actual costs and throughputs, so that over time, Enbridge Energy neither over-collects nor under-collects the actual amounts, net of the agreed-upon adjustments.

8. Enbridge Energy states that it intends to file a separate tariff incorporating these projects as part of its Facilities Surcharge rate filing that will be made on or around February 28, 2014, to be effective April 1, 2014. For that reason, Enbridge Energy seeks Commission action on the Supplement to Settlement by February 1, 2014.

9. Notice of the Supplement to Settlement was issued January 8, 2014, with interventions and protests due on January 15, 2014 and reply comments (as necessary) due January 21, 2014. Pursuant to Rule 214 of the Commission's regulations,⁴ all timely-filed motions to intervene and any unopposed motion to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this

⁴ 18 C.F.R. § 385.214 (2013).

stage of the proceeding will not delay or disrupt the proceeding or place additional burdens on existing parties. The filing is unopposed.

10. Inasmuch as this Supplement to Settlement is uncontested, and its approval would further the Commission's policy of favoring settlements as a means for parties to avoid litigation and thereby lessen the regulatory burdens of all concerned, the Commission accepts the Supplement to Settlement in that it appears to be fair, reasonable, and in the public interest. The Commission's acceptance of the Supplement to Settlement does not constitute acceptance of, or precedent regarding, any principle or issue in this proceeding.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

cc: All parties