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EXCERPT

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application
of Enbridge Energy Limited
Partnership...

Case No. U-17020

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MOTION HEARINGS

Proceedings held in the above-entitled
matter before Theresa A. Sheets, Administrative Law Judge
with MAHS, at the Michigan Public Service Commission,
525 West Allegan Street, Nisbet Room, Lansing,
Michigan, on Friday, August 24, 2012, at 10:05 a.m.

APPEARANCES:

MICHAEL S. ASHTON, ESQ.
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Lansing, Michigan 48933

On behalf of Enbridge Energy Ltd Partnership

GARY L. FIELD, ESQ.
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Okemos, Michigan 48864

On behalf of Intervenors

MICHAEL J. ORRIS,
Assistant Attorney General
6545 Mercantile Way, Suite 15
Lansing, Michigan 48911

On behalf of Michigan Public Service
Commission Staff

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Lansing, Michigan
Friday, August 24, 2012
10:05 a.m.

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(Hearing resumed pursuant to notice.)

JUDGE SHEETS: We are on the record in
Michigan Public Service Commission Case No. U-17020...

(Ruling on motion to compel discovery)

JUDGE SHEETS: All right. I do want
to -- and I do appreciate you clarifying that a little
bit. I think sometimes when we're going through the
proceeding, these types of proceedings, the difference
between the purpose of the Commission in obtaining a
certificate of necessity and condemnation, those two
issues are very different issues. What we are here for
before the Commission is for the certificate of public
necessity and convenience. I'm sure I'm getting those
words mixed up. Condemnation becomes a very different
issue, and the final outcome of these proceedings will
not involve any sort of condemnation because the
Commission -- that is outside the scope of the
Commission's authority.

Once a certificate is obtained at the
Commission, then if there is additional property or
property issues, that goes to circuit court, which is

1 beyond again the scope of these proceedings. That's
2 where the Uniform Condemnation Procedures Act kicks in.
3 Because there are frequently many people who attend these
4 hearings, and I think a lot of the counsel know the
5 difference and I know the difference, I just want to make
6 sure, and I appreciate you trying to clarify that, there
7 is a difference. We are not here under any form of
8 condemnation. This is not any sort of forum of
9 condemnation proceedings.

10 That being said, and I know that I
11 reiterate this standard frequently when I am having
12 hearings, but as Mr. Ashton pointed out, again the
13 factors that we're looking at here are the public need
14 for the proposed pipeline, whether the proposed pipeline
15 is designed and routed in a reasonable manner, and
16 whether the proposed pipeline meets or exceeds current
17 safety and engineering standards. That is the scope of
18 the entirety of these proceedings.

19 Now the question, the discovery request
20 that was made did ask for copies of consents obtained
21 pursuant to Michigan Constitution, which I read into that
22 being condemnation related property taking issues. But
23 even that aside, it asks for copies of those consents.
24 Enbridge has objected in large part based on the
25 Wolverine pipeline matter, which was Michigan Public

1 Service Commission Case U-13225, specifically their
2 July 23, 2002 opinion and order.

3 At this point I did go back and review
4 the Wolverine pipeline case. It appeared to me that in
5 the Wolverine pipeline case there was a city, I believe
6 it was City of Lansing, that was strenuously objecting to
7 that pipeline and strenuously objecting to providing
8 consents, and intervened as a party in the Wolverine
9 pipeline matter. And so the issue of consent became sort
10 of mixed in with all of the other issues related to the
11 approval of that particular pipeline.

12 As you did note, the basic outcome of
13 that -- it went through the Court of Appeals and the
14 Supreme Court -- is that the Company is going to be
15 required to get those consents. That is part of what
16 they have to do. And I think in the end, I don't think
17 anyone is saying that consents are ultimately not going
18 to be necessary before construction commences. However,
19 for the purposes of these proceedings, those consents,
20 even in Wolverine pipeline, were not required. Obviously
21 there was one city that was refusing to give its consent,
22 and that matter went through anyway. So while I
23 understand that obtaining consents might be an issue,
24 that ultimately has to be addressed because consents will
25 be necessary before construction commences, I think for

1 purposes of these proceedings, the motion to compel, it
2 doesn't, it doesn't tell me how this matter is any
3 different than Wolverine in terms of how consents are
4 relevant to this case.

5 In Wolverine it appeared that yes, it was
6 something that has to be done, but not within the
7 confines of these proceedings. And so what I don't have
8 before me is how I can distinguish the relevancy of those
9 consents in this case, how they would be relevant here
10 but were not in another case. And again that's just for
11 purpose of these proceedings. It doesn't mean that
12 they're ultimately not relevant, because the Company is
13 going to have to obtain those from municipalities. But
14 for purposes of these proceedings, the Wolverine pipeline
15 case basically said the argument about obtaining those
16 consents is better left for the circuit court, if I read
17 that correctly.

18 So, I do believe the Company's reliance
19 on the July 23rd, 2002, Opinion and Order of the
20 Commission is a valid basis for their objection. The
21 rules don't require consents prior to application
22 approval, they only require them prior to commencement of
23 the work. And so I am going to deny that motion to
24 compel at this time.

25 I do believe that the issue of requesting

1 that the local consents or municipalities' consents be
2 obtained prior to construction, I do believe that that is
3 something you can reserve for your briefing and argument
4 that will go to the Commission. As you are aware, I will
5 not be doing a PFD in this matter, so that will mean your
6 arguments will be made directly to the Commission in this
7 case.

8 All right. Anything further on that
9 matter?

10 MR. FIELD: Thank you, your Honor.

11 MR. ASHTON: No, your Honor. Thank you.

12 (End of excerpt.)

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C E R T I F I C A T E

I, Marie T. Schroeder (CSR-2183), do hereby certify that I reported in stenotype the proceedings had in the within-entitled matter, that being Case No. U-17020, before Theresa A. Sheets, Administrative Law Judge with MAHS, at the Michigan Public Service Commission, Lansing, Michigan, on Friday, August 24, 2012; and do further certify that the foregoing transcript, consisting of seven pages, is a true and correct excerpt of the proceedings.

Marie T. Schroeder, CSR-2183
33231 Grand River Avenue
Farmington, MI 48336

Dated: August 24, 2012