BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
600 North Robert Street
St. Paul, MN 55101

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 Seventh Place East, Suite 350
St. Paul, MN 55101

In the Matter of the Application of Enbridge Energy for a Certificate Of Need and Routing Permit for the Line 3 Replacement Project
MPUC Dockets Nos. PL-9/CN-14-916 and PPL-15-137
OAH DOCKET Nos. 11-2500-32764 and 65-2500-33377

INITIAL BRIEF OF THE LABORERS DISTRICT COUNCIL OF MINNESOTA & NORTH DAKOTA
January 23, 2018
INTRODUCTION

The Laborers District Council of Minnesota and North Dakota (Laborers Union) represents more than 13,000 construction laborers and public employees, of whom some 12,000 reside in Minnesota. The overwhelming majority of our members work in the construction industry, and the approval of Enbridge’s proposed Line 3 Replacement pipeline would provide well-paid employment for thousands of union construction workers along with opportunities for new entrants to pursue family-supporting construction careers.

We do not consider the potential for jobs, no matter how needed or well-paid, to be sufficient cause for the Minnesota Public Utilities Commission to approve Line 3 Replacement or any pipeline project. Instead, we believe that the project should be approved because it meets a proven need for a safer, more reliable, and more efficient alternative to a deteriorating pipeline and crude rail movements that currently impose greater costs and pose greater environmental and safety risks than the proposed replacement, in addition to generating substantial socioeconomic benefits such as new jobs, career opportunities, and tax revenues.

Pipeline construction provides full-time employment to hundreds of Laborers Union members and additional work opportunities for many more. But all of our members depend on the reliable and affordable supplies of fuel and other petroleum products, which they use to make often long daily commutes to work, and which underpin the health of both Minnesota’s fuel-reliant construction industry and the state economy as a whole.

Further, for the cause of preventing spills is more important to our pipeline members than any single project, not only because they are exposed like other members of the public to the impact of spills, but also because public concern over spills is the single greatest challenge facing the pipeline industry. We believe the project is necessary precisely because it offers that most effective means to reduce spill risks without disrupting petroleum supplies.

CERTIFICATE OF NEED LEGAL OVERVIEW

The applicant’s burdens, as they apply to the Certificate of Need (CON) proceeding, are first to show that the proposed project meets a bona fide energy need such that denial would “adversely affect the future adequacy, reliability, or efficiency of energy supply to the applicant, the applicant’s customers, or to the people of Minnesota and neighboring states; and second to show that “the consequence to society of granting the certificate of need are more favorable than the consequences of denying the certificate” (emphasis added).

Assuming that the applicant can meet the burdens described above, it falls to parties that oppose the application to show, based on a preponderance of the evidence, that a more reasonable and prudent alternative is available, taking into account the size, type, timing, cost, and effects of said alternative compared to the applicant’s proposal. The application may also
be denied if the record shows that the project fails to meet federal, state, or local requirements, but no party has made such a claim, nor would it be supported by the record.

Enbridge could meet its burden merely by showing that denial would affect energy supply to just one set of stakeholders (e.g. customers) in just one manner (e.g. efficiency), as long as the approval delivers a net benefit to society. Nevertheless, we contend that the record supports the conclusion that denial would adversely affect two sets of stakeholders (customers and the people of Minnesota and neighboring states) across all three areas of impact, providing six distinct justifications for the Commission to approve the project when just one is needed.

The parties opposed to Line 3 Replacement, on the other hand, have failed to show, that any of the CON alternatives are feasible, nor that any is preferable to the applicant’s proposal. Beyond significant feasibility challenges, no party has shown that the alternatives would be preferable in terms of environmental impact, let alone that there exists a more reasonable, prudent, and beneficial option across all the decision criteria laid out by Minnesota Rules.

_Under Minnesota Rules 7853.0130(A), Enbridge has shown that the probable result of denial would adversely affect the future adequacy, reliability, and efficiency of energy supply to the applicant, to the applicant’s customers, and to the people of Minnesota and neighboring states._

**ADEQUACY**

The evidentiary record shows that the existing Enbridge system is not adequate to meet the needs of Enbridge customers or the broader crude oil and refined petroleum product markets. The record shows clear proof that apportionment, which prevents shippers from securing needed pipeline capacity on the Enbridge Mainline System, is real, significant and growing.

Enbridge witness Glanzer has presented unrefuted testimony of recent apportionment rates exceeding 25 percent despite Line 67 and other upgrades to the Enbridge Mainline System.¹ Enbridge witness Eberth indicates that apportionment rates are expected to equal or exceed current rates over the next 15 to 20 years.² The apportionment could be mitigated substantially simply by restoring Line 3 to full functionality as proposed by Enbridge.³

Shippers have corroborated Enbridge’s account in testimony and comments from refiners such as Flint Hills Resources (FHR), which has indicated that the company has been unable to obtain desired supplies of heavy crude oil through the Enbridge Mainline System, and is forced to rely instead on rail or other methods of transport.⁴

¹ Ex. EN-19 at 14 (Glanzer Direct).
² Ex. EN-37, Sched. 1 at 11 and 55 (Earnest Rebuttal).
³ Ex. EN-37, Sched. 1 at 13-14 (Earnest Rebuttal).
⁴ Ex. SH-2 at 4 (Kahler, Van Heyst, and Shahady Rebuttal).
Enbridge has also shown that the level of apportionment affecting Minnesota refiners is not solely determined by local demand but also impacted by downstream nominations. As a consequence, even if demand in Minnesota were flat or declining, local refiners would likely to continue to be constrained by high rates of apportionment. Further, Enbridge’s application relies on a wide range of forecasts to demonstrate the need for additional capacity to meet anticipated demand.

But the most important proof of the need for the project and the inadequacy of existing Line 3 can arguably be found in the support of key customers, who have indicated by word and deed that the project is vitally necessary. Many shippers, including Minnesota refiners FHR and Andeavor, have submitted testimony or comments into the record in which they describe the problems pipeline capacity constraints pose for their business, and the impact of apportionment on decisions regarding future investment and the use of rail transport.

Even as the construction of pipelines such as Dakota Access has helped to substantially reduce rail shipments of light crude oil from North Dakota’s Bakken formation, lack of pipeline capacity is driving up the volume of crude rail shipments from Canada. Daily crude oil shipments from Canada rose by more than 50 percent year-over-year between the first half of 2016 and the first half of 2017 according to testimony submitted by the Shippers Group.

Further, Enbridge customers have put their money where their mouths are, first by making an initial commitment to support the project financially in 2014, at a time of high oil prices; and second by reconfirming their commitment to the project at a point when oil prices had collapsed and shippers had an opportunity to exit the project based on a substantial delay in the in-service date. No credible explanation has been offered for why Enbridge customers would make financial commitments and accept higher tolls other than their stated goal of securing adequate, reliable, and efficient supplies of crude oil on the Enbridge Mainline System.

The capacity problems faced by FHR and Andeavor cannot be considered as merely private commercial matters given the fact that the refineries in question produce most of the transportation fuels consumed in Minnesota, not to mention commodities that range from asphalt to propane to components used in a wide range of manufactured products. Minnesota’s refineries have limited options when it comes dealing with apportionment since they are “landlocked”, in the words of Flint Hills Resources, and rely entirely on the Enbridge Mainline System for pipeline deliveries through the Minnesota Pipe Line.

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5 Ex. EN-69 at 1 (Earnest Summary).
6 Ex. SH-2 at 4 (Kahler, Van Heyst, and Shahady Rebuttal); Comment by Flint Hills Resources (Nov. 21, 2017) (Batch 25) (eDocket No. 201711-137585-01); Comment by Andeavor (Oct. 26, 2017) (Batch 8).
7 Ex. SH-1 at 7 (Shippers Direct).
8 Ex. SH-2 at 15 (Kahler, Van Heyst, and Shahady Rebuttal).
9 Ex. EN-56, Sched. 1 at 4 (Earnest Surrebuttal).
10 Comment by Flint Hills Resources at 1 (Nov. 21, 2017) (eDocket No. 201711-137585-01).
RELIABILITY

The deteriorated state of Existing Line 3 not only prevents the line from adequately meeting the need for heavy crude service, but also poses serious challenges to the reliability of Line 3 and the Enbridge Mainline System going forward. It is important to remember in this context that Minnesota Rules 7853.0130(A) does not ask the Commission to consider whether an energy supply system has operated reliably in the past, but whether it will do so in the future. Uncontested evidence submitted into the record by Enbridge and other parties indicates that Existing Line 3 will become increasingly vulnerable to disruption due to both scheduled maintenance and unanticipated events.

Enbridge witness Kennett has testified that the company expects continued safe operation of Existing Line 3 to require a staggering 7,000 integrity digs over the next 15 years – a more than seven-fold increase over the robust maintenance program that the company has maintained over the past 16 years.\(^\text{11}\) Shippers have testified that even planned maintenance contributes to apportionment and interruptions in supply.\(^\text{12}\)

Existing Line 3 is in a state of deterioration, which means not only that maintenance requirements will continue to escalate, but also that it will become increasingly difficult to predict and plan for maintenance needs.\(^\text{13}\) A punishing and increasingly hard-to-predict maintenance schedule exacerbates, in turn, the likelihood of a major outage that could have significant short- and long-term consequences to Enbridge customers and local consumers.

Construction firms are one example of local businesses that are highly vulnerable to price spikes and disruptions in fuel supplies, due to their heavy reliance on fuel for operations and the need to anticipate fuel prices in bids.\(^\text{14}\) Construction workers are similarly vulnerable to price spikes and disruptions due to both to the impact on construction employers and the fact

\(^\text{11}\) Ex. EN-68 at 2 (Kennett Summary).
\(^\text{12}\) Ex. SH-2 at 7 (Shippers Rebuttal).
\(^\text{13}\) Ex. EN-12 at 22 (Kennett Direct); Ex. LC-3 at 2 (Whiteford Rebuttal), “We don’t have to take the company’s word for it, because we have members with thousands of hours of hands-on experience inspecting and repairing Line 3 and the rest of the Enbridge system. We know that these problems will only grow over time, as Ms. Kennett’s testimony indicates, and that you can’t always predict how quickly pipelines will deteriorate as they near or pass the end of their useful life.”
\(^\text{14}\) Ex. LC-5 at 2 (Engen Summary). “MN LECET’s 800-plus participating contractors use and rely heavily on reliable and stable fuel sources for their fleet vehicles, heavy equipment operation, and transport of supplies and machinery... especially given the risk of price spikes that could make it difficult to accurately bid projects.”
that these workers are often forced to drive long distances to construction sites – at times more than 100 miles each way.\textsuperscript{15}

The construction industry is hardly unique in this respect: Minnesota farmers and agricultural economy, for example, depend on affordable supplies of gasoline, diesel fuel, and other petroleum-based products from local refiners.\textsuperscript{16} The presence of local refiners with access to crude oil supplies has historically helped Minnesota maintain below-average prices for gasoline and jet fuel, which provide substantial benefits to consumers, local businesses (especially those that rely heavily on transportation), and the state’s economy as a whole.\textsuperscript{17}

Approval of the proposed project would, on the other hand, greatly improve reliability: first, by greatly reducing the need for maintenance and the risk of outages on Line 3; and second, by adding flexibility to the ability of the Enbridge Mainline System to deliver heavy Canadian crude.

Finally, pipeline safety is a critical component of reliability, and there can be no question that denial of the application would adversely affect the safety of Line 3 by making it impossible for Enbridge to replace a deteriorating pipeline with far safer line that would be less susceptible to outages and spills than the existing line.

**EFFICIENCY**

The existing Enbridge system is clearly inefficient, based on the evidence in the record inasmuch as shippers cannot know with certainty their ability to execute shipments, and inasmuch as shippers are forced to use transportation modes such as rail that are less reliable, more costly, and more carbon-intensive than the proposed Line 3 Replacement.

The current situation also creates substantial inefficiencies for Enbridge, which must expend significant and growing resources on maintenance of a deteriorating pipeline that nonetheless operates at roughly half of its design capacity. Approval of the project would return the Enbridge Mainline System to a state in which the efficiency of deliveries can be maximized, and energy consumption (and associated carbon emissions) minimized. The FEIS, for example, concludes that direct and indirect carbon emissions, and associated social cost of carbon, are roughly 20\% lower for the proposed project compared to the rail alternative.\textsuperscript{18}

**ALTERNATIVES**

\textsuperscript{15} Ex. LC-5 at 3 (Engen Summary).
\textsuperscript{16} Comment by Minnesota Grain and Feed Association (Nov. 27, 2017) (Batch 18A) (eDocket No. 201711-137680-01); Comment by Minnesota Farm Bureau (Nov. 17, 2017) (Batch 14) (eDocket No. 201711-137475-01).
\textsuperscript{17} Comment by the Minnesota Chamber of Commerce at 4 (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01).
\textsuperscript{18} Ex. EERA-29 at 5-465 (FEIS) – Table 5.2.7-21.
Under Minnesota Rules 7853.0130(B), a more reasonable and prudent alternative to the proposed project has not been demonstrated by a preponderance of the evidence on the record by parties or persons other than the applicant.

No party to the Line 3 Replacement proceedings has demonstrated that there exists any feasible alternative to the proposed project, nor has any party demonstrated that any of the alternatives considered in the FEIS or the Certificate of Need proceedings is superior to the project. Parties opposed to the proposed project have not taken the opportunity to supply witnesses or other evidence to prove that any single alternative is both viable and preferable to proposed project, and perhaps as a consequence, the record needed to support a need alternative simply does not exist.

There is no evidence in the record that suggests Enbridge, its customers, or the public can rely on existing pipelines or proposed future pipeline to relieve apportionment on the Enbridge Mainline System and ensure adequate supplies of crude to area refineries. Enbridge does not have or have access to excess pipeline capacity to meet the well-documented needs of shippers, including refineries that supply fuel to Minnesota and the surrounding region.

While several proposed pipelines serving Western Canada have been raised as possible alternatives, none serve Minnesota, and none are even certain to proceed. The recent cancelation of TransCanada’s Energy East project provides a reminder that the Commission would be unwise to conclude that any proposed pipeline is not needed a based on proposed pipeline that may never be built.\(^{19}\) Further, in the unlikely event that another new pipeline were capable of relieving apportionment of heavy crude deliveries on the Enbridge Mainline System, there is no reason to believe that it would address the problem of a deteriorating pipeline that is badly in need of replacement.

Further, the evidence on the record, including the facts presented in the FEIS, show that all of the CON alternatives are associated with greater negative externalities than the applicant’s proposed project. Beyond the fact that it is little more than a line drawn on a map, and not a true alternative to the project as proposed, System Alternative SA-04 features dangerous proximity to karst topography, more than three times more water crossings, and would entail much greater cost, energy consumption, and carbon emissions.\(^{20}\) Non-pipeline alternatives studied in the FEIS such as truck and rail transportation look even worse, based on their social and environmental impacts, which include congestion and emissions impacts in populated areas and exposure of critical resources to potential spills.\(^{21}\)

\(^{19}\) Ex. EN-38 at 13 (Glanzer Rebuttal).
\(^{20}\) Ex. EERA-29 at 5-36, 5-284, 5-465 (FEIS)
\(^{21}\) Ex. EERA-29 at 5-465, 5-557, 10-147 (FEIS)
Under Minnesota Rule 7853.0130(C), the evidence on the record demonstrates that the consequences to society of granting the certificate of need are more favorable than the consequences of denying the certificate.

CONSTRUCTION

The evidence in the record supports the conclusion that the construction of the proposed Line 3 Replacement would deliver significant benefits in the form of economic growth, job creation, workforce development, and the generation of local and state tax revenues. At the same time, the evidence suggests that the negative impacts of construction would be minor and can be mitigated through proper planning and the implementation of industry best-practices during the construction process.

The most significant benefits that would accrue during the construction phase of the project are the economic activity and employment opportunities created by Enbridge’s proposed investment in construction of a new pipeline, an investment twice as large as the recently completed U.S. Bank stadium, which is expected to produce over 13,600 full-time equivalent jobs and $2.2 billion in economic output.22 For the construction industry, the project would translate into 4,000 to 6,000 jobs and $378M construction wages. 23 The jobs created by the project during the construction phase are expected, in turn, to generate $98M in state income tax revenues.24

Roughly half of the jobs will go to local workers under long-standing union agreements that have governed past successful projects such as Alberta Clipper.25 Based on past experience, these local workers can be expected to include:26

- Skilled pipeliners from Northern Minnesota who are regularly employed but will have an opportunity to work close to home.
- Skilled pipeliners from Minnesota who are currently unemployed or underemployed due to the lack of major pipeline projects in the area.27
- Skilled Minnesota construction workers from outside the pipeline industry who will benefit from the increased pay and benefits available to pipeline workers (largely due to

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22 Ex. EN-41 at 1 (Lichty Rebuttal); Ex. En-11 at 3 (Lichty Direct).
23 The estimates produced by Dr. Lichty and published in the FEIS are based on slightly different definitions of employment and produce different but comparable results. Ex. EN— at 2 (Lichty Summary); Ex. 41 at 3 (Lichty Rebuttal); Ex. EERA-29 at 5-572 (FEIS).
24 Ex. EERA-29 at 5-573 (FEIS).
25 Comment by International Union of Operating Engineers Local 49 (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01);
26 Comment by International Union of Operating Engineers Local 49 (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01).
27 Ex. LC-2 at 2 (Engen Direct) “With no current pipeline projects in the works, skilled Pipeline workers are ready to get back in doing the work they love and are highly skilled at doing.”
longer work hours), including many who will have the opportunity to pursue a career in the industry.

- Northern Minnesotans who lack construction experience but willing to work hard in pipeline construction positions with lower skill and experience requirements.\(^{28}\)

As workers move to L3R from other construction employers and projects, new opportunities will be created downstream in construction industry and in other industries. This is part of the “positive ripple effect” described by Dr. Lichty.\(^{29}\) It is also this movement which helps to create opportunities for workers who remain unemployed despite relatively low levels of unemployment statewide.\(^{30}\)

- Current construction workers will have the opportunity to move to higher-skilled and higher-paid positions to backfill positions left open by workers who left for the pipeline
- Construction workers who are unemployed or underemployed who will also have the opportunity to fill positions left open by workers employed on Line 3 Replacement
- Local workers new to the construction industry will also have opportunities in better-paid union construction jobs.
- The loss of local workers to non-pipeline construction will, once again, create openings that must be back-filled in lower-skilled non-construction occupations.

The movement of workers to higher-paid and higher-skilled work is a feature of large construction projects such as Line 3 Replacement. As the Minnesota Chamber of Commerce observes:

> By moving from lower-wage jobs to higher-wage jobs, pipeline workers would create an upward ripple effect as they freed up positions with lower skills requirements, thereby enabling workers with lower skills to move into those positions. Employers would then compete with each other to attract and retain employees to fill those newly-vacated positions, thereby catalyzing career growth and development for even more Minnesotans.\(^{31}\)

For example, an experienced union highway construction laborer leverages his skills to secure better-paid work on the Line 3 Replacement, allowing a less experienced laborer member of

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\(^{28}\) For example, Mr. Whiteford testified that he has personally recruited an estimated 200 individuals into pipeline employment in his role as a pipeline steward. Ex. LC-4 at 1 (Whiteford Summary); Comment by International Union of Operating Engineers Local 49 (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01) “Many pipeline employees got their start on a single large pipeline job such as Line 3 Replacement”; Comment by United Piping Inc. (Nov. 28, 2017) (Batch 26) (eDocket No. 201711-137705-02).

\(^{29}\) Ex. EN-11 at 4 (Lichty Direct).

\(^{30}\) Comment by International Union of Operating Engineers Local 49 (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01);

\(^{31}\) Comment by the Minnesota Chamber of Commerce at 4 (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01)
the crew to move up and creating an opening that could be filled by a new apprentice with no previous construction experience.

While the construction jobs created by the proposed project are frequently labeled, and sometimes denigrated, as “temporary jobs”, that characterization betrays a misunderstanding of construction employment. The FEIS better describes construction jobs as follows:

As construction jobs are typically permanent in nature and spatially temporary in the sense that workers move from project to project, permanent jobs may result from said construction.\(^{32}\)

As observed in the FEIS, the project has the potential to create and sustain permanent jobs in the form of continuous employment for a given employer, including the current workforce of L3R contractors, for whom the project facilitates continuation of employment; and workers newly hired by L3R contractors who are brought to the next project.

The project also has the potential to launch and sustain construction careers for new and current construction workers who may pursue those careers in the pipeline industry or more broadly in construction. In fact, large projects like Line 3 Replacement create unique opportunities for new entrants to the union construction workforce and the pipeline construction industry, including entrants from underrepresented groups.\(^{33}\)

Friends of the Headwaters witness Joseph argues that Minnesota’s current low unemployment rate limits both the pool of available workers and the project’s potential economic benefit, since he assumes that workers employed on the construction of Line 3 would necessarily have been employed at jobs that provide similar wages and benefits absent the project. But Dr. Joseph’s observations fail to account for a much larger pool of potentially available workers as well as the potential for upward mobility in the job market.

Dr. Lichty points to several groups of potential workers that could benefit directly or indirectly from the project, including discouraged workers who have given up seeking employment (4%) underemployed workers who cannot find full-time employment (7.1%); and marginally attached workers who are currently outside the formal economy.\(^{34}\) Dr. Joseph also neglects to

\(^{32}\) Ex. EERA-29 at 5-571 (FEIS).

\(^{33}\) Comment by International Union of Operating Engineers Local 49 (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01) “Pipeline construction unions are constantly recruiting young people and skilled construction workers that are not already in the union to join our ranks – a big project like Line 3 gets people excited about the possibility of a career in the construction” and “Just one example – recently Local 49 partnered with TERO programs in Northern Minnesota to train Native American Tribal Member that were interested in careers in heavy equipment.”

\(^{34}\) Ex. EN-41 at 7 (Lichty Rebuttal)
consider the potential for students who are currently attending or planning to attend post-secondary school to benefit from the project.\textsuperscript{35}

Dr. Joseph expresses skepticism in surrebuttal testimony and under cross-examination that workers not already employed could benefit from job opportunities created by the project due to his assumption that they lack the necessary qualifications.\textsuperscript{36} But it is precisely the project turnover and “highly mobile” character of construction employment described by Dr. Lichty and Mr. Barnett that makes it possible for construction workers to enter and leave the workforce or move between higher- and lower-paying sectors of the industry, and for new workers to enter the industry during periods of high demand.\textsuperscript{37}

Dr. Joseph attempts to extrapolates (wrongly) that benefits to those who move into pipeline construction would necessarily be limited because those eligible would, he assumes, already be employed in jobs that offer comparable wages and benefits.\textsuperscript{38} During cross-examination, however, Dr. Joseph admits that he lacks evidence or knowledge of construction employment conditions in the area where the project will be built.\textsuperscript{39} Dr. Joseph is also unable to substantiate his assertion that under low nominal employment rate employable workers will be fully employed and will earn comparable pay and benefits to those available if the project moved forward.\textsuperscript{40} As Dr. Lichty observes “Dr. Joseph draws a very specific conclusion from very general information that cannot support his assertion.”\textsuperscript{41}

Dr. Joseph’s analysis also ignores the fact that IMPLAN estimates are not predicated on high unemployment rates or on jobs being taken by previously unemployed workers. Quite the opposite, IMPLAN is a robust and widely-used economic modeling tool that accounts for

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\item \textsuperscript{35} Comment by United Piping Inc. (Nov. 28, 2017) (Batch 26) (eDocket No. 201711-137705-02). “Many UPI employees have included current and future college students who use pipeline construction earnings to pay for higher education.”
\item \textsuperscript{36} Evid. Hrg. Tr. Vol. 7A (Nov. 13, 2017) at 61 (Joseph), “The point, from what I recall of Dr. Lichty’s testimony there, he is saying that there are people that could work on the project... the issue then is do they have the skills to fill those positions.”
\item \textsuperscript{37} Ex. EN-41 at 7 (Lichty Rebuttal); Ex. UA-1 at 3 (Barnett Direct).
\item \textsuperscript{38} Evid. Hrg. Tr. Vol. 7A (Nov. 13, 2017) at 81 (Joseph), “[PRANIS:] “Again, you don’t testify about any evidence with regard to the income that the people that you believe will be shifting to these jobs are currently making?... [JOSEPH:] What I provide, what I rely upon is unemployment rate data. And that is strongly suggestive of a tight labor market, people are already employed, and therefore we can assume that they’re already working similar wage jobs.”
\item \textsuperscript{39} Evid. Hrg. Tr. Vol. 7A (Nov. 13, 2017) at 65 (Joseph).
\item \textsuperscript{40} Evid. Hrg. Tr. Vol. 7A (Nov. 13, 2017) at 81 (Joseph), “[PRANIS:] “Again, you don’t testify about any evidence with regard to the income that the people that you believe will be shifting to these jobs are currently making?... [JOSEPH:] What I provide, what I rely upon is unemployment rate data. And that is strongly suggestive of a tight labor market, people are already employed, and therefore we can assume that they’re already working similar wage jobs.”
\item \textsuperscript{41} Ex. EN-41 at 6 (Lichty Rebuttal)
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economic complexity and is designed to be used across a wide range of project types and economic conditions including circumstances in which many new jobs are filled by previously employed workers. 42

In fact, the movement of workers from previous lower-wage jobs to pipeline construction jobs that offer better wages and benefits is exactly the type of positive economic impact that IMPLAN is designed to account for and incorporate in its estimate of economic output. 43 As Dr. Lichty observes, “In short, the jobs-related benefits of a project such as this are real, regardless of current overall unemployment rates.” 44

Evidence provided by Laborers Union witness Whiteford and in public comment shows that:

- Pipeline construction entails jobs that require widely varying experience and skill, including entry-level positions that require no construction experience. 45
- Construction workers frequently move up the ladder into pipeline construction, expanding the pool of potential pipeline construction workers, and opening new opportunities down the ladder. 46
- The actual employment picture in Northern MN is less rosy than Joseph’s testimony implies. Specifically, in nine of the 12 counties crossed by the applicant’s proposed route report above-average unemployment rates according to state data submitted by the Minnesota Chamber of Commerce. 47 Further, most of the available jobs in Greater Minnesota aren’t full-time, and many don’t offer health benefits. 48
- Finally, compensation in Northern Minnesota is typically much lower than the wages paid to pipeline construction workers. Median household incomes in the 12 counties crossed by the proposed route range from $38,706 to $53,492. 49 Union pipeline positions offer much better pay and benefits. 50

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42 Ex. EN-11 at 5 (Lichty Direct); Evid. Hrg. Tr. Vol. 1B (Nov. 1, 2017) at 180 (Lichty).
44 Ex. EN-41 at 7 (Lichty Rebuttal)
45 Comment by Laborers Training Center (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01), “This project would provide ample opportunities for Laborers at a variety of different skill levels”; Comment by Michels Corp. (Nov. 15, 2017) (Batch 18A) (eDocket No. 201711-137680-01).
46 Comment by International Union of Operating Engineers Local 49 (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01)
47 Comment by the Minnesota Chamber of Commerce at 4 (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01)
48 Comment by the Minnesota Chamber of Commerce at 4 (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01)
49 Ex. EERA-29 at 5-561 (FEIS).
50 Comment by International Union of Operating Engineers Local 49 (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01) “The wages and benefits paid to union pipeline employees far exceed the average for (blue-collar) workers in Northern Minnesota - these are the kinds of careers that every leader in our country talks about creating, family health care,
The unfortunate reality is that Family-supporting blue-collar jobs are increasingly hard to find in Northern Minnesota, making Line 3 Replacement an unique opportunity.\textsuperscript{51} The FEIS anticipates that the project would have a “minor positive impact” on local unemployment and median household incomes based on employment of local construction workers and hiring of additional local labor for “non-technical work”.\textsuperscript{52} This conclusion understates the real impacts, first, because it does not fully account for the upward movement described above; and second, because it does not account for the long-term value of construction career openings that the project will create for local residents.

The jobs that would be created directly and indirectly by the project are exactly the kind of jobs that are of use to discouraged, underemployed, and marginally attached workers. Pipeline construction employment can represent an upward leap for workers who otherwise have limited prospects for family-supporting employment. As Whiteford observes, for many of the roughly 200 individuals that he has personally recruited to the industry, the job “the pipeline project was a lifeline to escape dead-end jobs.”\textsuperscript{53} Finally, the project has the potential to provide long-term benefits to workers for whom the project represents a first opportunity or “foot in the door” to the pipeline construction industry may go on to continue employment. The record demonstrates that the unions that will staff the project have the capacity to train and supply labor for the project and a track record of having done so in the past.\textsuperscript{54} Specifically, labor unions and union contractors have demonstrated their ability to recruit and supply local workforce for similar large pipeline construction projects, even in a low-unemployment environment.\textsuperscript{55}

Unions have ready supply of local members with pipeline construction experience.\textsuperscript{56} Union workers will also have access to sufficient union- and employer-provided training to ensure that

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\textsuperscript{51} Comment by United Piping Inc. (Nov. 28, 2017) (Batch 26) (eDocket No. 201711-137705-02).

\textsuperscript{52} Ex. EERA-29 at 5-572 (FEIS).

\textsuperscript{53} Ex. LC-4 at 3 (Whiteford Summary)

\textsuperscript{54} Comment by Laborers Training Center (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01); Comment by International Union of Operating Engineers Local 49 (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01).

\textsuperscript{55} Comment by Michels Corp. (Nov. 15, 2017) (Batch 18A) (eDocket No. 201711-137680-01),

\textquotedblleft While building the Dakota Access Pipeline, we managed to hire many local residents despite the unemployment rate of approximately 3% in North and South Dakota.\textquotedblright; Comment by United Piping Inc. (Nov. 28, 2017) (Batch 26) (eDocket No. 201711-137705-02); Comment by International Union of Operating Engineers Local 49 (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01),

\textquotedblleft Pipeline unions have successfully provided local workers for past large pipeline projects in low-unemployment labor markets – this is what we do, we supply labor\textquotedblright; Comment by United Piping Inc. (Nov. 28, 2017) (Batch 26) (eDocket No. 201711-137705-02); Comment by International Union of Operating Engineers Local 49 (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01),

\textquotedblleft Laborers Union locals in Northern Minnesota have a vast group of skilled Laborers who have worked on pipeline projects in the past 20 years.\textquotedblright;
they have the skills needed to meet Enbridge’s strict quality and safety requirements.\textsuperscript{57} A sample of comments submitted on this issue include:

- “We provide classroom and hands-on training to thousands of construction workers each year at our facility in Lino Lakes. That’s supplemented by project-specific training designed to ensure our members understand and can meet environmental, integrity, and safety requirement. New pipeliners are also mentored by experienced hands in the field.”\textsuperscript{58}

- “[W]e have the ability to deliver training in advance of major construction projects to ensure the availability of qualified and skilled workers.”\textsuperscript{59}

- For example, Michels Corporation, a leading national contractor based in Wisconsin that undertakes large pipeline projects reports working “successfully with union partners to recruit local workers” and providing on-the-job training in order to provide “unskilled individuals the opportunity to learn the construction trade”.\textsuperscript{60}

On the other hand, there is no credible evidence in the record of any negative social impacts associated with past large pipeline construction projects in Minnesota or elsewhere.

**OPERATIONS**

In addition to providing safe and reliable fuel supplies, the proposed project would have a number of ancillary benefits. First, it would generate substantial tax revenues for counties crossed by the pipeline. The project is estimated to generate over $19M in property tax revenues in its first year.\textsuperscript{61} This is important to counties where property taxes account for 40% of county revenues.\textsuperscript{62}

Second, the project would substantially reduce rail congestion/safety problems. Crude rail shipments pose a challenge to Minnesota’s agricultural economy due to its heavy reliance on rail to move agricultural inputs and commodities.\textsuperscript{63} Crude rail shipments also pose a safety

\textsuperscript{57} Comment by Laborers Training Center (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01), “On an annual basis we provide high quality safety and skill training to over 6,000 Construction Craft Laborers at the Laborers Training Center of North Dakota.”; Comment by United Piping Inc. (Nov. 28, 2017) (Batch 26) (eDocket No. 201711-137705-02); Comment by Teamsters National Pipeline Training Fund (Nov. 20, 2017) (Batch 17) (eDocket No. 201711-137577-01), cites specifics trainings provided to truck drivers “[p]rior to the construction of major pipeline projects”.

\textsuperscript{58} Ex. LC-4 at 1 (Whiteford Summary)

\textsuperscript{59} Comment by Laborers Training Center (Nov. 21, 2017) (Batch 18A) (eDocket No. 201711-137680-01

\textsuperscript{60} Comment by Michels Corp. (Nov. 15, 2017) (Batch 18A) (eDocket No. 201711-137680-01).

\textsuperscript{61} Ex. EN-__ at 1 (Eberth Summary).

\textsuperscript{62} Ex. EERA-29 at 5-563 (FEIS)

\textsuperscript{63} Comment by Minnesota Grain and Feed Association (Nov. 27, 2017) (Batch 18A) (eDocket No. 201711-137680-01).
hazard to urban and rural communities located along rail corridors in the event of a major derailment.  

Most important, however, is the reduction in spill risk that would be accomplished by replacing a deteriorating pipeline. Newer pipelines are much less susceptible to spills than vintage pipelines such as Existing Line 3. DOC EERA witness Etkin verifies that there have been improvements in pipeline construction materials, and methods as well as pipeline operations, leak detection systems, and spill response.  

Workers with pipeline construction experience can verify that current construction materials practices are vastly improved over those employed in the construction of Line 3. Modern pipelines are also much better engineered and routed in order to minimize risks in the event of spills.  

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64 Comment by Buzzle Township at 1 (Nov. 21, 2017) (Batch 25), ”Should an accident occur along one of these rail line corridors, the damage to life and property could be catastrophic. Ambulances and other emergency response teams are constantly getting stuck waiting for long oil trains too pass crossings. These emergency response vehicles then must travel several miles out of their way to avoid the train, reaching their emergency much later than they should.”


66 Ex. LC-4 at 2 (Whiteford Summary) “Having worked on old and new pipelines, I can personally attest to the significant advances in pipeline construction that have taken place since the 1960s. Better steel and advanced manufacturing techniques produce more durable pipe. Welds are X-ray inspected and welders held to higher standards. Coating materials are more reliable, the application better regulated, our workforce better trained, and the coating thoroughly inspected for flaws. Proper pipe handling is emphasized in training and monitored at every stage. Trenches are better engineered and constructed to maximize stability and prevent damage to pipe.”

67 Ex. LC-4 at 2 (Whiteford Summary) “I also know from my field experience that modern pipelines are routed and engineered much more carefully to minimize both construction and spill impacts, particularly around High-Consequence Areas. This means not only that the pipeline would be less likely to spill than existing Line 3, but also that a spill would be less likely to cause lasting environmental damage. These environmental benefits are beyond those laid out in the Final Environmental Impact Statement.”; Ex. LC-3 at 2 (Whiteford Rebuttal) “If you talk to retired pipeliners, as I’ve done, you would know that when Line 3 was originally built, the main job of the pipeline engineers was to get from Point A to Point B as quickly and cheaply as possible... Today the process is completely different. Environmental issue are front-and-center from the first stages of route evaluation to the staking of the right-of-way to final reclamation... As a simple example, 50 years ago it was customary for a pipeline to cut through wetland rather than boring underneath, which is the industry practice today. This means that wetlands along a 50 year-old right-of-way are more vulnerable to spills than wetlands along a new right-of-way.; Evid. Hrg. Tr. Vol. 6B (Nov. 9, 2017) at 95 (Etkin).”  

[PRANIS: W]ithin a given corridor, a pipeline corridor, the route is specifically adjusted to minimize the likelihood of both construction impacts and spill risks in a way that was not common at the time the original Line 3 was built... [ETKIN:] I would agree that that would be generally the way pipelines would be constructed in the future.”
Further pipelines are many times more reliable on a per-barrel basis than truck or rail which spill, respectively, 25 times and 50 times more oil as a percent of total volume shipped (0.006 percent compared to 0.154 percent and 0.309 percent). This has profound implications for the evaluation of spill risks associated with the proposed project and non-pipeline alternatives, because it means that 30,000 barrels per day of oil moving by rail can be expected to spill as much oil as 760,000 per day moving by pipeline. Finally, the proposed route is substantially reduces the exposure of critical resources compared to Existing Line 3 or the truck and rail alternatives.

**CLIMATE**

Climate impacts have been raised by various parties as a justification to reject Enbridge’s CON application for the Line 3 Replacement. The evidentiary record suggests, however, not only that the effect on carbon emissions will be negligible, but also that the project is most likely to reduce carbon emissions associated with the movement of Canadian heavy crude oil by increasing the efficiency of transportation.

The FEIS lays out a range of carbon-impact scenarios associated with construction and operation of the project as proposed by the applicant, ranging from a zero-impact scenario which assumes that the Line 3 Replacement will displace existing movements of Canadian heavy crude oil, to a no-displacement scenario which assumes that consumption of heavy crude would rise by 760,000 barrels per day once the replacement line is built.

During cross-examination, DOC EERA witness Militich made clear that the scenarios were hypothetical, and that the FEIS did not provide evidence or guidance to suggest which was most likely but rather left Commissioners to rely on the remainder of the evidentiary record. Ms. Militich also acknowledged that the baseline scenario presented in the FEIS (Existing Line 3) did not account for current or future rail shipments, and that net carbon emissions associated with the project could be negative if it displaced such rail shipments.

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68 Ex. EERA-29 at 10-142 (FEIS); Evid. Hrg. Tr. Vol. 11B (Nov. 17, 2017) at 57 (White). “[PRANIS:] The total amount of oil that we would anticipate from the movement of 760,000 barrels by rail would be significant higher on average, the total releases, than by pipeline according to the figures that are presented here; is that correct? [WHITE:] If you applied the historical percentage per mile transported and then the potential per barrel or per gallon of oil that is transported, the potential would be higher.”

69 Ex. EERA-29 at 5-451 (FEIS).

70 Evid. Hrg. Tr. Vol. 11A (Nov. 17, 2017) at 86 (Militich), “We’re just trying to present for the Commission... the suite of things that the Commission could conclude, based on what they learned through these hearings and through this proceeding.”

71 Evid. Hrg. Tr. Vol. 11A (Nov. 17, 2017) at 86 and 88 (Militich), “[PRANIS: T]hat scenario assumes that there are not other movements already happening at the same time that are incurring carbon; is that correct? [MILITICH:] Correct.”, “[PRANIS:] But there’s a potential for a
Fortunately, there is evidence in the record to guide the Commission’s determination regarding which scenario is most probable, and it points overwhelmingly toward displacement of existing and future rail shipments. The evidence includes not only the testimony of Enbridge witnesses Earnest and Rennicke, but also testimony and comments provided by shippers indicating that they have used, and will continue to use, rail to close gaps caused by apportionment and lack of pipeline capacity.

There is no credible evidence in the record, on the other hand, to support the notion that the existence of additional pipeline capacity will unleash hundreds of thousands of barrels per day of new consumption (no displacement), or lead to a shift in demand from light to heavy crudes (partial displacement).

On the other hand, even if there were evidence to support the suspect notion that some portion of the proposed additional pipeline capacity were linked to growth in consumption, the anticipated costs of any new emissions would have to be considered alongside benefits that are almost entirely neglected in the FEIS and in Ms. O’Connell’s testimony. As Ms. Militich acknowledges, the social cost of carbon calculations presented in the FEIS are simply cost calculations that do not account for any of the associated benefits. Nor are such benefits discussed elsewhere in the FEIS.

For example, Ms. Militich agrees that a real-world example the no-displacement scenario would be a hypothetical drop in gasoline prices that allowed families to take trips they could not otherwise afford. Yet the ability to hit the road for a visit to relatives or vacation, together with all of the associated economic activity, would represent a significant benefit that is never acknowledged, much less properly weighed, in the FEIS or Ms. O’Connell’s testimony.

small negative – not only a zero but actually a small negative in carbon is one of the possible scenarios here? [MILITICH:] Sure. Small enough that we were not able to characterize it, but I’ll give you that.”

72 Evid. Hrg. Tr. Vol. 11A (Nov. 17, 2017) at 104 (Miltich)