



Gretchen Whitmer, Governor
Dan Scripps, Chair
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Katherine Peretick, Commissioner

NEWS RELEASE

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MPSC order denies bid to revisit public need for existing portions of Line 5, but permits arguments about potential impacts of greenhouse gas emissions related to tunnel application

The Michigan Public Service Commission today rejected arguments that the issue of whether there is a public need for the entirety of Line 5 should be revisited in Enbridge Energy Ltd.'s application to relocate a 4-mile segment of the pipeline to a tunnel beneath the Straits of Mackinac, finding that the matter has long been settled for the existing pipeline and limiting the scope of review to the new segment to be constructed. But the Commission's order ([Case No. U-20763](#)) agreed that greenhouse gas emissions are pollutants whose impact must be considered under the Michigan Environmental Protection Act (MEPA).

Today's order concerns several major contested issues in Enbridge's application to replace about four miles of pipeline and move it from the lakebed of the Straits to a tunnel 60-250 feet below the lakebed. The MPSC [has siting authority](#) for crude oil and petroleum pipeline projects under Public Act 16 of 1929.

The Commission in December 2020 [remanded for a rehearing](#) Enbridge's motion to limit the scope of the case to consider the impact of a November 2020 decision by Gov. Gretchen Whitmer and the Michigan Department of Natural Resources (DNR) to revoke and terminate the 1953 easement under which Enbridge built and operated Line 5 in the Straits. The Governor's November decision ordered the company to stop operating the pipelines no later than May 13, 2021. Michigan Attorney General Dana Nessel filed an action in Ingham County Circuit Court supporting the revocation. Enbridge has challenged the revocation in federal court.

The MPSC rejected intervenors' arguments that the Commission must examine in this case whether there is a public need for the 641 miles of Line 5 not at issue in Enbridge's application. The Commission found that the issue of public need for the pipeline has been a long-settled matter since the pipeline was first approved in 1953, and that such approvals under law and Commission precedent do not contain time limits on such determinations.

The Commission also found that the replacement of the four-mile segment of Line 5 in the Straits is not cause for a review of the entire pipeline system with which the segment

interconnects, so the case will be limited to the four-mile segment proposed to be replaced in the Straits.

The Commission also limited its MEPA review to the proposed four miles of pipeline. However, the Commission agreed with intervenors that the Line 5 application review must include an examination of the allegations of greenhouse gas pollution raised by intervenors under MEPA. The Commission found that greenhouse gas emissions are pollutants under MEPA and permitted parties to introduce evidence addressing greenhouse gas emissions “and any pollution, impairment, or destruction arising from the activity proposed in the application.” Finding that the construction of the new 4-mile pipeline segment could not be separated from the products flowing through it, the Commission will also allow evidence to be presented on the greenhouse gas emissions resulting from the fossil fuels being transported through the replacement segment.

Further, the Commission’s order permits parties in the case to submit evidence and arguments on the potential impacts and appropriate bases of comparison of any pollution attributable to the 4-mile segment were Governor Whitmer and the DNR to prevail in shutting down the existing pipeline sections crossing the bottomlands of the Straits. The Commission said it was not prejudging the issue but wants a full record on which to base potential decisions if the Straits portion of Line 5 is no longer operational.

Intervenors in the case are the Bay Mills Indian Community; Environmental Law & Policy Center; For Love of Water; the Grand Traverse Band of Ottawa and Chippewa Indians; the Little Traverse Bay Band of Odawa Indians; Mackinac Straits Corridor Authority; Michigan Climate Action Network; Michigan Department of Attorney General; Michigan Environmental Council; Michigan Laborers’ District Council; Michigan Propane Gas Association; National Propane Gas Association; National Wildlife Federation; the Nottawaseppi Huron Band of the Potawatomi, and Tip of the Mitt Watershed Council. MPSC Staff also is participating in the proceeding.

Additional background about Enbridge’s application and the Act 16 review process is available at the [MPSC’s Line 5 page](#).

REHEARING GRANTED BUT RELIEF DENIED IN U.P. BACK FORTY MINE CASE

The MPSC today granted a request by Alger Delta Cooperative Electric Association for a rehearing but denied the relief sought in the utility’s challenge of the Commission’s finding in January that Aquila Resources USA Inc., operator of the Back Forty Mine in the Upper Peninsula, [had the right to choose the provider of three-phase electric service](#) to its open-pit mine in Menominee County’s Lake Township ([Case No. U-20829](#)). Alger Delta had objected to Upper Michigan Energy Resources Corp.’s April 2020 notice of intent to serve the mine.

PILOT PROJECT FOR LOW-INCOME CUSTOMER PAYMENT ASSISTANCE APPROVED FOR DTE ELECTRIC AND DTE GAS

The MPSC approved a pilot payment stability plan project for DTE Electric Co. and DTE Gas Co. to benefit low-income customers of the two utilities ([Case No U-20929](#)). The

utilities aim to enroll up to 2,000 low-income customers at or below 200% of the federal poverty level who are in arrears to DTE Electric or DTE Gas, or both. Eligible customers with arrearages not exceeding \$1,500 and annual consumption at or below \$3,750 would be placed on a fixed maximum bill based on a percentage of their income, instead of a fixed credit amount as provided by the utilities' current assistance programs for low-income residential customers. Costs for the program, which is to begin in the first quarter of 2022 and run for two years, are to be deferred until reflected in future rate case proceedings.

MPSC APPROVES GREAT LAKES ENERGY CONNECTIONS' ELIGIBLE TELECOMMUNICATIONS CARRIER EXPANSION REQUEST

Great Lakes Energy Connections Inc. received approval from the MPSC today to expand its eligible telecommunications carrier designation to include additional U.S. Census blocks that the Federal Communications Commission awarded the company in the Rural Digital Opportunity Fund (RDOF) auction in December 2020 ([Case No. U-20326](#)) to improve access to broadband. FCC RDOF Auction winners must use money awarded in the auction to expand broadband and meet various broadband goals throughout the Census blocks while continuing to offer standalone voice service.

MPSC OKs AGREEMENTS BETWEEN DETROIT THERMAL AND OWNERS OF DETROIT'S FISHER BUILDING, FISHER THEATRE AND 7300 WOODWARD

The MPSC today approved 10-year steam service agreements between Detroit Thermal LLC and Nederlander Detroit LLC, owner of the Fisher Theatre ([Case No. U-21026](#)), and Fisher 2015 Acquisition LLC and 7300 Woodward LLC, the owners, respectively, of the landmark Fisher Building and 7300 Woodward Avenue in Detroit's New Center area ([Case No. U-20943](#)). Neither agreement affects the rates of other customers of Detroit Thermal, which generates steam used primarily for space and hot water heating and absorption cooling of more than 100 buildings in greater downtown Detroit.

To look up cases from today's meeting, access the [MPSC's E-Dockets filing system](#).

Watch recordings of the MPSC's meetings on the [MPSC's YouTube channel](#).

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