

145 FERC ¶ 61,050  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

St. Paul Park Refining Co. LLC

Docket No. OR13-28-000

v.

Enbridge Pipelines (North Dakota) LLC

ORDER ON COMPLAINT

(Issued October 17, 2013)

1. This order addresses a complaint filed by St. Paul Park Refining Co. LLC (St. Paul Park) against Enbridge Pipelines (North Dakota) LLC (Enbridge North Dakota). St. Paul Park alleges a 2008 uncontested settlement agreement instituting a surcharge for an expansion project is no longer fair and reasonable and the surcharge no longer has any regulatory basis. St. Paul Park requests that the Commission find the surcharge unjust and unreasonable, establish a new just and reasonable rate, and award reparations for all amounts in excess of the just and reasonable rate. For the reasons discussed below, the Commission dismisses St. Paul Park's complaint.

**Background**

2. Enbridge North Dakota owns a 950-mile common carrier oil pipeline that originates in the Bakken oil fields in western North Dakota and terminates at Clearbrook, Minnesota. The Enbridge North Dakota system connects to the Lakehead and Minnesota Pipeline systems that serve destinations in the upper-midwest United States and eastern Canada.

3. St. Paul Park owns and operates a petroleum refinery near St. Paul Park, Minnesota. St. Paul Park was formed in 2010 and on December 1, 2010, purchased the assets of the St. Paul Park refinery from Marathon Oil Company (Marathon).

4. Enbridge North Dakota built a series of expansions to meet demand from the Bakken region. Enbridge North Dakota increased the capacity into Clearbrook, Minnesota from 80,000 barrels per day (bpd) to 210,000 bpd, and created additional

export capacity of 225,000 bpd to serve connecting facilities at Berthold, North Dakota. The expansion projects relevant to St. Paul Park's complaint are the Phase 6 Expansion Project and the Beaver Lodge Loop Project.

5. Despite the expansions, the demand for transportation outpaced the capacity of the Enbridge North Dakota system and resulted in prolonged prorating. Enbridge North Dakota developed the Phase 6 Expansion in response to shipper requests. Enbridge North Dakota increased horsepower at twelve pump stations, installed measurement and station upgrades at Clearbrook, Minnesota, used a drag-reducing agent to enhance the capacity of the pipeline by facilitating flows, and installed tankage at Beaver Lodge, North Dakota. The Phase 6 Expansion Project added 40,000 bpd of capacity into Minot, North Dakota from the western end of the pipeline system and 51,000 bpd of capacity from Minot, North Dakota to the eastern end of the system at Clearbrook, Minnesota. The Phase 6 Expansion cost \$145 million.

6. On January 18, 2008, Enbridge North Dakota filed an offer of settlement seeking Commission approval of a mechanism to recover the costs of the Phase 6 Expansion Project. Under the terms of the settlement, the \$145 million in expansion costs would be recovered through a cost-based surcharge that would be trued-up annually to actual costs and throughput at the end of each year. The surcharge would be "applied to all volumes leaving the system at Clearbrook, Minnesota"<sup>1</sup> The surcharge would be recovered over seven years from the anticipated service date of 2010 through 2017.<sup>2</sup> According to the settlement, the use of a seven-year period would "permit recovery of the expansion costs during the time when increased production necessitating the expansion is forecast to occur."<sup>3</sup> The settlement was widely supported by shippers, producers, and government authorities in Montana and North Dakota. No party protested or filed adverse comments on the settlement. On October 20, 2008, the Commission approved the uncontested settlement finding it appeared fair, reasonable, and in the public interest.<sup>4</sup>

7. As part of its Bakken Expansion Program, Enbridge North Dakota constructed a new line from Beaver Lodge, North Dakota to Berthold, North Dakota known as the Beaver Lodge Loop. The Beaver Lodge Loop Project has a capacity of 225,000 bpd into Berthold, North Dakota of which 80,000 bpd is available to feed a rail terminal at Berthold, North Dakota. The rail terminal is operated by Enbridge Rail North Dakota

---

<sup>1</sup> January 18, 2008 offer of settlement in Docket No. OR08-6-000 at 7 (Phase 6 settlement).

<sup>2</sup> *Id.* at 6.

<sup>3</sup> *Id.* at 2.

<sup>4</sup> *Enbridge Pipelines (North Dakota) LLC*, 125 FERC ¶ 61,052 (2008).

LLC, an affiliate of Enbridge North Dakota. The Berthold Rail Facility has a takeaway capacity of up to 80,000 bpd. Enbridge North Dakota offered firm service on the Beaver Lodge Loop through open seasons held in 2010 and 2012 at rates set under the transportation service agreements offered in the open seasons. The costs of the Beaver Lodge Loop are recovered solely from the shippers that deliver to Berthold, North Dakota (both committed and uncommitted shippers) through rates charged for movements to Berthold, North Dakota as a delivery point. On November 22, 2010, the Commission approved the rate structure for the Beaver Lodge Loop as part of its approval of a petition for declaratory order on the Bakken Expansion Program.<sup>5</sup> The Beaver Lodge Loop went into service on February 13, 2013.

8. Enbridge North Dakota implemented the Phase 6 Expansion surcharge in 2010 and adjusted the surcharge in subsequent annual filings. Enbridge North Dakota filed its most recent Phase 6 Expansion surcharge on March 1, 2013. St. Paul Park protested the filing. St. Paul Park argued the surcharge was unsupported and unjustified and challenged the settlement agreement methodology in light of the completion of Enbridge North Dakota's affiliated rail terminal at Berthold, North Dakota. St. Paul Park claimed the addition of the Berthold rail terminal altered a key factual basis underlying the settlement, i.e., that with limited exception, all barrels would exit at Clearbrook, Minnesota and not at Berthold, North Dakota. St. Paul Park asserted there was no explanation why shippers on the western portion of the system exiting at Berthold, North Dakota should be exempt from the Phase 6 Expansion surcharge.

9. On March 28, 2013, the Commission accepted Enbridge North Dakota's tariff adjusting the Phase 6 Expansion surcharge to be effective April 1, 2013. The Commission determined the methodology for calculating rates was not before the Commission in the proceeding. The Commission stated if St. Paul Park objected to the methodology to recover the Phase 6 Expansion costs it could file a complaint.<sup>6</sup> On July 25, 2013, St. Paul Park filed the instant complaint against Enbridge North Dakota.

### **St. Paul Park's Complaint**

10. St. Paul Park argues the Phase 6 Expansion settlement is no longer fair and reasonable, and the surcharge derived from the settlement no longer has any regulatory basis. St. Paul Park contends the exclusion of volumes traveling on the Enbridge North Dakota system to the new Berthold Rail Facility from the Phase 6 Expansion surcharge alters one of the fundamental bases underlying the settlement and dramatically alters the calculation of the rates derived from the settlement. St. Paul Park submits recent studies show that the oil reservoir in the Bakken Formation is larger than previously thought and

---

<sup>5</sup> *Enbridge Pipelines (North Dakota) LLC*, 133 FERC ¶ 61,167 (2010).

<sup>6</sup> *Enbridge Pipelines (North Dakota) LLC*, 142 FERC ¶ 61,242 (2013).

therefore the accelerated cost recovery methodology in the settlement is not fair and reasonable. St. Paul Park asserts the Phase 6 Expansion surcharge has been wrongfully inflated through actions by Enbridge North Dakota which have reduced throughput volume and discouraged use of its pipeline. St. Paul Park argues Enbridge North Dakota should be required to justify its rates under one of the Commission's oil pipeline ratemaking methodologies.

11. St. Paul Park asserts the settlement assumes all barrels entering the Enbridge North Dakota system would exit at Clearbrook, Minnesota and be assessed the Phase 6 Expansion surcharge. St. Paul Park contends with the Berthold, North Dakota rail facility operational, it is subsidizing shippers moving barrels to Enbridge North Dakota's affiliated rail terminal over facilities that were upgraded in the Phase 6 Expansion. St. Paul Park submits the failure to assign volumes leaving the system at Berthold, North Dakota any portion of the Phase 6 Expansion costs is inconsistent with the settlement and unduly discriminates against shippers exiting at Clearbrook, Minnesota. St. Paul Park argues because volumes are being diverted to an affiliated rail facility at Berthold, North Dakota, it would not be just and reasonable for Enbridge North Dakota to recover from shippers a loss of pipeline revenue for which Enbridge North Dakota is responsible.

12. St. Paul Park contends Enbridge North Dakota set the seven-year settlement term to coordinate with peak production in the Williston Basin (i.e., Bakken Formation). St. Paul Park submits while Enbridge North Dakota's projections may have been reasonable in 2008, recent projections push peak production beyond 2017 to 2020 or later. St. Paul Park contends that given increased growth in production and expanded projections of the size of the Bakken Formation, Enbridge North Dakota's 2008 projection is not a just and reasonable basis for accelerating cost recovery over a seven-year period.

13. St. Paul Park argues Enbridge North Dakota is charging unloading and loading fees which discourage the use of the pipeline between Berthold, North Dakota and Clearbrook, Minnesota. St. Paul Park claims Enbridge North Dakota is charging higher fees to unload trucks onto the pipeline at Berthold, North Dakota than is charged at other upstream locations or by third parties. St. Paul Park asserts Enbridge North Dakota is charging a lower fee for loading rail cars at Berthold, North Dakota than is normally charged at other rail loading locations in the region. St. Paul Park concludes these disparities in fees reduce throughput on the Enbridge North Dakota system between Berthold, North Dakota and Clearbrook, Minnesota.

14. Based on the most recent surcharge filing, St. Paul Park contends from April 1, 2013, to December 31, 2013, its estimated injury is in excess of \$5.9 million. St. Paul Park argues its complaint presents *prima facie* evidence that the settlement is no longer fair and reasonable and the rates complained of are unjust, unreasonable and unlawful. St. Paul Park requests the Commission conduct a full investigation of the facts related to the complaint and set the complaint for discovery and hearing before an Administrative Law Judge.

**Public Notice and Interventions**

15. On July 26, 2013, the Commission issued a public notice of St. Paul Park's complaint. Enbridge North Dakota's answer, motions to intervene, and protests were due by August 14, 2013. Pursuant to Rule 214,<sup>7</sup> all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties.

16. On August 14, 2013, Enbridge North Dakota filed a motion to dismiss and answer in response to St. Paul Park's complaint. On August 29, 2013, St. Paul Park filed an answer to Enbridge North Dakota's motion to dismiss.

**Enbridge North Dakota's Motion to Dismiss and Answer**

17. Enbridge North Dakota states, for the past four years, it has calculated the Phase 6 surcharge according to the methodology agreed to by shippers in the 2008 settlement. Enbridge North Dakota states the surcharge has fluctuated depending on various factors, including capacity, volumes and costs. The initial surcharge in 2010 was \$0.6078. Enbridge North Dakota states in 2011 and 2012 the surcharge decreased to \$0.3993 and \$0.2257, respectively. Enbridge North Dakota submits the surcharge decrease resulted from the increase in capacity on the system from 160,000 bpd to 210,000 bpd through the sour removal project and total pipeline control project, without increasing tariff rates for shippers. Enbridge North Dakota states the rate-reducing effects of the expansion of capacity flowed through to the surcharge automatically under the terms of the Commission-approved settlement. In 2013, the surcharge increased to \$0.8269.

18. Enbridge North Dakota asserts the throughput to Clearbrook, Minnesota declined sharply in November 2012, before recovering in the past three months. Enbridge North Dakota argues there is no correlation between the monthly deliveries to Clearbrook, Minnesota and the Berthold, North Dakota Rail Facility. Enbridge North Dakota submits the decline in volumes to Clearbrook, Minnesota began several months before the Berthold Rail Facility commenced service. Enbridge North Dakota asserts that since the Berthold Rail Facility has been operating, volumes to Clearbrook, Minnesota increased substantially at the same time volumes to Berthold, North Dakota increased.

19. Enbridge North Dakota asserts the complaint should be dismissed for failure to show the Phase 6 surcharge violates the Interstate Commerce Act (ICA) or the Commission's rules. Enbridge North Dakota contends it correctly applied the terms of the Phase 6 settlement, which continue to be just, reasonable, and nondiscriminatory. Enbridge North Dakota submits St. Paul Park is collaterally attacking the Phase 6

---

<sup>7</sup> 18 C.F.R. § 385.214 (2013).

surcharge after it has been in effect and all shippers to Clearbrook, Minnesota (including St. Paul Park) have received its benefits. Enbridge North Dakota argues that even if the complaint were not barred as a collateral attack on the Phase 6 settlement, the St. Paul Park complaint is without merit.

20. Enbridge North Dakota asserts the 2008 settlement clearly applied the Phase 6 surcharge solely to Clearbrook, Minnesota shippers and there is no basis to revisit that aspect of the settlement. Enbridge North Dakota submits St. Paul Park ignores the explicit language of the settlement specifying “the Phase 6 Surcharge will be applied to all volumes leaving the System at Clearbrook, Minnesota.”<sup>8</sup> Enbridge North Dakota contends the settlement functions as intended because the surcharge is based on forecasted costs and volumes and fluctuates depending on various factors, including throughput on the system. Enbridge North Dakota argues that St. Paul Park is essentially claiming that that 2008 settlement terms are just and reasonable when the surcharge is reduced but not when the same methodology results in a higher rate.

21. Enbridge North Dakota submits the Berthold Rail Facility did not alter any of the premises of the Phase 6 settlement. Enbridge North Dakota asserts the settlement says nothing about future upstream expansions or new facilities, other than shippers to upstream destinations are not subject to the Phase 6 surcharge. Enbridge North Dakota contends the recent increase in the Phase 6 surcharge is related to the temporary shift in crude oil price differentials that has led to an increased use of rail shipments from the Bakken region generally (and not just from Berthold in particular). Enbridge North Dakota argues movements to the Berthold Rail Facility have constituted only a relatively small portion of the shift in volumes (with no correlation to volumes delivered at Clearbrook), and there is no reason to believe the Berthold Rail volumes would have gone to Clearbrook in the months at issue even if the Berthold Rail Facility did not exist. Enbridge North Dakota submits when there is a large price differential between crude oil prices in the midcontinent area and prices in the coastal regions (as existed in 2012 and the first half of 2013), shippers have an incentive to transport crude by rail carrier to the higher value markets so long as the differential exceeds the rail transport cost. Enbridge North Dakota states where the price differentials shrink (as has recently occurred), the incentive declines and shippers typically revert to pipeline movements of oil.

22. Enbridge North Dakota contends nothing in the Phase 6 settlement required Enbridge North Dakota to justify its throughput forecasts. Enbridge North Dakota asserts even if a justification were required, its forecast of 160,000 bpd of total throughput to Clearbrook in its 2013 tariff filing was not only reasonable, but conservative. In order to forecast throughput, Enbridge North Dakota states it assumed actuals for the months in which it had data, and then assumed the pipeline would operate at close to capacity for the remainder of the year. Enbridge North Dakota states the actuals to date for 2013 have

---

<sup>8</sup>Phase 6 settlement at 7.

fallen below the projection. Enbridge North Dakota asserts the data flatly contradict St. Paul Park's suggestion that Enbridge North Dakota's throughput estimate was unreasonably low and resulted in an inflated surcharge. Enbridge North Dakota states the surcharge is trued-up at the end of each year to actual volumes. Enbridge North Dakota states any discrepancy between the forecasted throughput and actuals for the year is factored into the surcharge calculation for the next year. Enbridge North Dakota states if the throughput forecast for 2013 turns out to be higher than actual throughput for the year, Enbridge North Dakota will not retain any of the over-recovery. Enbridge North Dakota states the discrepancy will be trued-up in the 2014 surcharge calculation, thereby returning any over-recovery to the shippers through a lower 2014 surcharge. Enbridge North Dakota submits the true-up eliminates any risk of harm to shippers resulting from Enbridge North Dakota's throughput forecast.

23. Enbridge North Dakota asserts the seven-year term of the Phase 6 surcharge was a key component of the Phase 6 settlement on which Enbridge North Dakota relied in making its \$145 million investment in the Phase 6 Expansion. Enbridge North Dakota contends St. Paul Park does not dispute that the projected life was reasonable at the time, and later circumstances should not be used to undo this critical aspect of the settlement methodology. Enbridge North Dakota submits the mere fact that recent studies suggest the projected reserve life of the Bakken reservoir may now be longer does not justify extending the settlement term, especially when the effect would be to extend the life of the Phase 6 surcharge beyond what was initially agreed to, thereby affecting other shippers in the future.

24. Enbridge North Dakota contends the loading and unloading fees charged to shippers on the system are imposed by entities other than Enbridge North Dakota, and over which Enbridge North Dakota has no control. Enbridge North Dakota states it charges a terminal fee of 20.92 cents to all barrels gathering into or truck unloading onto Enbridge North Dakota facilities at Berthold, regardless of whether the barrel ends up at Berthold Rail, Clearbrook, or other destinations.

25. Enbridge North Dakota asserts St. Paul Park's request for damages is contrary to Commission precedent. Enbridge North Dakota contends St. Paul Park has made no showing that the current surcharge rate is in any way inconsistent with the Phase 6 settlement or Enbridge North Dakota's tariff. Enbridge North Dakota states it is entitled to rely on the settlement methodology and tariff filing implementing the surcharge unless changed prospectively by the Commission, in which case an award of reparations is inappropriate. Enbridge North Dakota argues the Commission has established that even where it finds a settlement methodology unjust and unreasonable, any relief is prospective and reparations are unwarranted.<sup>9</sup> Enbridge North Dakota contends

---

<sup>9</sup> Citing *Trans Alaska Pipeline Sys.*, 65 FERC ¶ 61,277 (1993), *order on appeal sub nom, Oxy USA v. FERC*, 64 F.3d 679, 699 (D.C. Cir. 1995).

assuming that St. Paul Park's argument that the settlement is unjust and unreasonable has merit, any relief must be prospective because the existing methodology was approved by the Commission, and Enbridge North Dakota applied the methodology correctly in calculating the 2013 surcharge.

### **St. Paul Park's Answer to Enbridge North Dakota's Motion to Dismiss**

26. St. Paul Park asserts Enbridge North Dakota's motion to dismiss confirms important facts in St. Paul Park's complaint and does not provide a basis for dismissal or denial of reparations. St. Paul Park contends Enbridge North Dakota confirms that a basic premise of the settlement was that the Phase 6 expansion would primarily benefit shippers to the Clearbrook, Minnesota delivery point. St. Paul Park submits Enbridge North Dakota confirms that shippers to Berthold, North Dakota from origin points upstream of Beaver Lodge, North Dakota use the system to reach the Beaver Lodge Loop and benefit from the Phase 6 expansion of the system.

27. St. Paul Park argues Enbridge North Dakota confirms the new Berthold, North Dakota rail facility has the potential to divert throughput volumes from Clearbrook, Minnesota. St. Paul Park asserts Enbridge North Dakota confirms that shippers to Berthold, North Dakota who use the system to reach the Beaver Lodge Loop do not pay the Phase 6 surcharge and do not bear any of the Phase 6 Expansion costs. St. Paul Park contends Enbridge North Dakota confirms that shippers to Clearbrook, Minnesota continue to bear all of the Phase 6 Expansion costs.

28. St. Paul Park argues the Phase 6 settlement has become unjust and unreasonable in its implementation because shippers to Clearbrook, Minnesota are no longer the only significant beneficiaries of the Phase 6 expansion. St. Paul Park asserts an award of reparations is appropriate because the Commission has not approved, prescribed or declared the current Phase 6 surcharge just and reasonable. St. Paul Park claims that if the Phase 6 settlement is declared invalid, there is no regulatory justification for the surcharge. Moreover, St. Paul Park contends the current surcharge for 2013 was unjust and unreasonable as of the time it took effect on April 1, 2013. St. Paul Park again asks the Commission to (1) deny Enbridge North Dakota's motion to dismiss the complaint, (2) accept the complaint for investigation, and (3) refer the complaint to an Administrative Law Judge for discovery and hearing.

### **Discussion**

29. St. Paul Park alleges the 2008 uncontested settlement establishing the Phase 6 expansion surcharge is no longer fair and reasonable, and, as a result, the Phase 6 surcharge is now unjust and unreasonable. St. Paul Park asserts the settlement was premised on the inclusion of certain volumes in the surcharge calculation as well as a surcharge recovery period based on certain oil production projections. As it considers the

fundamental bases of the Phase 6 settlement no longer valid, St. Paul Park contends there is no longer any regulatory justification for the surcharge.

30. Enbridge North Dakota answers that it has correctly and reasonably applied the terms of the 2008 settlement, which remains just, reasonable, and non-discriminatory in its application. Enbridge North Dakota asserts St. Paul Park is collaterally attacking the Phase 6 surcharge after it has been in effect and all shippers to Clearbrook, Minnesota (including St. Paul Park) have received its benefits.

31. In order to determine if St. Paul Park's allegations are correct, we must first examine the plain language of the settlement itself. There is no reason to determine the intent of the settlement when the plain language is clear. The settlement states the Phase 6 surcharge applies "to all volumes leaving the System at Clearbrook, Minnesota."<sup>10</sup> Therefore, contrary to St. Paul Park's argument, the settlement does not indicate that shippers other than those exiting the system at Clearbrook, Minnesota are subject to the surcharge. Likewise, St. Paul Park's argument that certain shippers are intended beneficiaries of the expansion and should pay the Phase 6 surcharge is without merit. Indeed, Enbridge North Dakota has shown that shippers to Berthold are paying the costs of the Beaver Lodge Loop expansion and those shippers exiting at Clearbrook pay the Phase 6 Expansion costs.

32. St. Paul Park's assertion that the seven-year cost recovery period for the Phase 6 Expansion is no longer valid is also not supported by the settlement. The settlement states "the Phase 6 surcharge will run for 7 years instead of 5 years (reflecting the shippers' request based on anticipated Production profile)."<sup>11</sup> The settlement language demonstrates that the recovery period was based on what all parties at the time considered reasonable estimates, but which subsequently have been updated to more optimistic estimates, does not render the settlement or surcharge unjust and unreasonable. Enbridge North Dakota and the shippers each got what they bargained for and did not provide for any contingencies to change or update the surcharge recovery period in the event production estimates changed.

33. St. Paul Park's complaint fails to recognize that shippers are adequately protected from over-recovery by the yearly true-up mechanism which adjusts the surcharge to reflect actual costs and throughput. The surcharge has functioned as intended. The surcharge began in 2010 at approximately 60 cents, decreased to approximately 39 and 22 cents the following two years and has increased to 82 cents for 2013. St. Paul Park did not find fault with the settlement methodology in the years when rates decreased but now asserts that it is no longer valid when the surcharge has increased.

---

<sup>10</sup> Phase 6 settlement at 7.

<sup>11</sup> *Id.*

34. St. Paul Park asserts the construction of the Enbridge North Dakota-affiliated rail facility at Berthold, North Dakota altered a key factual basis of the settlement. St. Paul Park asserts Enbridge North Dakota is engaging in discriminatory practices by charging rail and truck loading and unloading fees that discourage the use of the pipeline to Clearbrook, Minnesota and divert volumes to Berthold North Dakota. St. Paul Park alleges Enbridge North Dakota is responsible for the throughput decrease to Clearbrook, Minnesota and therefore should absorb the loss in revenue rather than Clearbrook shippers.

35. The Commission finds there is no evidence that Enbridge North Dakota is engaging in discriminatory practices which would prompt the Commission to reconsider the validity of the Phase 6 settlement. Enbridge North Dakota has shown there is no clear correlation between increased volumes at Berthold and decreased throughput to Clearbrook. Throughput to Clearbrook began decreasing several months before the Berthold facilities began operation.<sup>12</sup> Further, the economics of crude price differentials dictate a shipper's choice of rail or pipeline transportation. When there is a large price differential between the mid-continent and coastal markets, shippers will transport by rail to the higher value coastal markets as long as the price differential exceeds the cost of rail transport. Enbridge North Dakota explains that such a price differential occurred in 2012 and the first half of 2013.

36. St. Paul Park also presents no evidence to substantiate its claims that Enbridge North Dakota is charging discriminatory fees that would discourage use of the pipeline between Berthold and Clearbrook.<sup>13</sup> Tariff charges, including a terminal fee, are charged uniformly to all shippers gathering into, or truck unloading into, the Enbridge North Dakota system at Berthold and at other origins,<sup>14</sup> regardless of destination. In addition, operators charge certain fees for truck and rail loading on the system that are the subject of private agreements to which Enbridge North Dakota is not a party.

---

<sup>12</sup> See Appendix.

<sup>13</sup>Complaint at 11-12: “[O]n information and belief... it appears that Enbridge is charging a higher fee to unload trucks onto the pipeline at Berthold than it is charging at other upstream locations [and] it appears that Enbridge is charging a lower fee for loading rail cars at Berthold than is normally charged at other rail loading locations in the regions. If this is the case... [d]iscovery is needed to confirm the disparities in fees and to quantify the impact.”

<sup>14</sup>FERC No. 72.27.0, Page 5.

37. The Commission for the reasons discussed above finds St. Paul Park's complaint lacks merit, and finds it does not warrant further Commission investigation, or alteration of the Phase 6 settlement.

The Commission orders:

St. Paul Park's complaint is dismissed.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

## APPENDIX

<b>Month</b>	<b>Enbridge North Dakota Deliveries in Barrels Per Day to Berthold Rail</b>	<b>Enbridge North Dakota Deliveries in Barrels Per Day to Clearbrook</b>
<b>January 2012</b>		204,067
<b>February 2012</b>		206,403
<b>March 2012</b>		194,877
<b>April 2012</b>		203,535
<b>May 2012</b>		208,996
<b>June 2012</b>		209,481
<b>July 2012</b>		187,435
<b>August 2012</b>		200,038
<b>September 2012</b>		177,341
<b>October 2012</b>		186,594
<b>November 2012</b>		148,132
<b>December 2012</b>		123,064
<b>January 2013</b>		93,198
<b>February 2013</b>		96,038
<b>March 2013</b>	14,008	96,416
<b>April 2013</b>	21,351	70,083
<b>May 13</b>	31,530	108,725
<b>June 2013</b>	34,183	123,036
<b>July 2013</b>	28,850	126,036