

**STATE OF MICHIGAN**

**BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief.

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Case No. U-20763  
(e-file paperless)

**THE MICHIGAN PUBLIC SERVICE COMMISSION STAFF'S  
REOPENED RECORD REPLY BRIEF**

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## **I. Introduction**

Staff files this reply brief pursuant to the Commission's September 8, 2022 Order. As explained in Staff's initial reopened record brief, the Commission's July 7, 2022 Order reopened the record in this matter for the purposes of receiving additional evidence related to prongs (2) and (3) of its Act 16<sup>1</sup> analysis. (July 7 Order, pp 27, 47.) To that end, testimony and rebuttal testimony and accompanying exhibits were bound into the record on behalf of the parties, including Enbridge Energy (Enbridge), Bay Mills Indian Community (BMIC), the Mackinac Straits Corridor Authority (MSCA), and the Michigan Public Service Commission Staff (Staff). Initial briefs were submitted by Enbridge, BMIC, Staff, Michigan Propane Gas Association and National Propane Gas Association (MPGA, NPGA), and Michigan Laborers' District Council (MLDC). Staff reasserts and maintains all of the positions taken and explained in its initial brief in this matter. In this reply brief, Staff selectively responds to specific arguments made in certain parties' initial briefs. Staff's silence on any issue in this reply brief should not be construed as assent to any other parties' position on that issue.

Staff's reply brief will first respond to issues raised in BMIC's and Enbridge's initial briefs, and then briefly address initial briefs filed by the MPGA/NPGA and, and MLDC.

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<sup>1</sup> 1 Public Act 16 of 1929, MCL 483.1 *et seq.*

## II. Reply to BMIC and Enbridge

### A. **The BMIC's analysis of pipeline failures related to abnormal stress and girth welds is inapt because the pipeline failures it considers are related to root causes that will not be present with the Replacement Project.**

BMIC's reliance on comparisons to other pipeline failures should be accorded little consideration because missing from its analysis is any acknowledgement of the fundamentally different environmental conditions between those incidents and the Replacement Project. As BMIC asserts, pipeline movement and abnormal loading at girth welds are indeed "well-documented" causes for failures with grade X-70 pipe installed recently. (BMIC Initial Brief, p 4.) However, as noted by the same PHMSA Advisory Bulletins cited for that position, a "number of the failures were located in pipeline segments with concentrated external loading due to support and backfill issues" and in addition, "[m]any of the integrity issues with transition girth welds were present on pipelines being constructed in hilly terrain and high stress concentration locations such as at crossings, streams, and sloping hillsides with unstable soils." (BMC-55, ps. 1-2.) These environmental causes of grade X-70 pipe failures are not applicable to the Replacement Project as explained by witness Cooper in his Rebuttal on Remand testimony:

First, the replacement pipe segment in the Tunnel will not experience the same longitudinal strain as a pipeline buried in the ground. A buried pipeline is subject to strain created by ground movement and the interaction of thermal or pressure-related expansion and contraction of the pipe with frictional forces between the pipe and surrounding soil. **No such environment exists for the replacement pipe segment within the Tunnel.** The replacement pipe segment in the tunnel is not buried and is not subject to ground movement or frictional forces and the temperature in the tunnel will be

relatively stable. When the replacement pipe segment does expand or contract due to temperature or pressure changes, it will be on supports with rollers which will allow the replacement pipe segment to expand or contract freely toward or from the expansion loops located outside the tunnel. **This is an entirely different environment and does not impose the type of longitudinal stress and strain experienced by buried pipe.** [17 TR 2595-2596 (emphasis added).]

To then also compare the Keystone failure to the Replacement Project, as BMIC suggested in its initial brief, is to suggest similar conditions will be present in the environment for the proposed project. (BMIC Initial Brief, p 4.) Given that the conditions are far from similar, such a comparison must fail. While BMIC points to a girth welding flaw in the Keystone pipeline, as described in the Keystone pipeline publicly available updates (BMC-64) at the time the record was closed, it paints with too broad of a brush when considering the Replacement Project: the environmental conditions for the Keystone pipeline are not the same, or even remotely similar to the Replacement Project, and it cannot be concluded that the same external stresses on a buried pipeline will be present on a pipeline housed in an underground tunnel. (See Exhibit BMC-64, p 1.) As such, to the extent BMIC's position is reliant on these comparisons, it should be rejected.

**B. Staff supports a Commission recommendation to further evaluate exceeding the minimum OSHA standards for certain electrical equipment as described in Staff's initial brief.**

As discussed in Staff's initial brief, the Commission directed Enbridge to file evidence regarding the "feasibility of designing the electric equipment in the tunnel to a more stringent standard, such as Class 1, Division 1." (Staff Initial Brief, pp 16–18.) BMIC and Enbridge also addressed this topic in their initial briefs. Yet,

Staff's position, as presented in its initial brief and maintained here, is distinguishable from both.

In its initial brief, Enbridge explained the position articulated in its response to the Commission's ninth prong (3) information request regarding the "feasibility of designing the electric equipment in the tunnel to a more stringent standard." (July 7 Order, p 46.) Namely, Enbridge argues: that Class 1, Division 2 (as opposed to Class 1, Division 1) is the appropriate standard for the proposed project; that it is unclear whether it is even feasible to design all of the electrical equipment to the more stringent standard; and Class 1, Division 1 equipment could be bulkier and more time consuming to inspect, which could run counter to safety goals that seek to minimize occupancy in the tunnel. (Enbridge Initial Brief, pp 23–25.) Enbridge opposes a requirement that all equipment meet the Class 1, Division 1 standard. (Enbridge Initial Brief, p 24.) To be clear, Staff is not recommending the Commission impose such a requirement on all equipment in the tunnel. Instead, Staff's position recognizes there may be opportunities to exceed this standard for certain equipment as the design is finalized. BMIC's initial brief argues that Enbridge failed to provide a feasibility assessment for the use of Class 1, Division 1 equipment. (BMIC Initial Brief, p 6.) Specifically, BMIC criticizes Enbridge's response for lacking specific details regarding dimension of the various equipment or how much additional space, if any, Class 1, Division 1 equipment would be required. (*Id.* at 7.) BMIC points out Enbridge witness Dennis' testimony that a space-proving exercise would be required to determine whether larger Class 1,

Division 1 equipment would fit within the tunnel with sufficient egress and ventilation. (*Id.*; 16 TR 2184.) BMIC points out that no such exercise was conducted. (BMIC Initial Brief, p 7.)

As noted in its initial brief, Staff recognizes the applicability of the Class 1, Division 2 standard to the proposed project. (Staff Initial Brief, p 17.) However, the Commission reopened the record, in part, to determine whether the project “meets *or exceeds* current safety and engineering standards” and the record indicates that there may be opportunities to exceed the standard for some electrical equipment within the tunnel as the design is finalized and the equipment is purchased. (July 7 Order, p 27 (emphasis added); 16 TR 2187; Exhibit S-1, p 13.) Staff, therefore, maintains its support for a Commission recommendation that certain equipment be designed to the more stringent Class 1, Division 1 standard to the extent such equipment is feasible, beneficial, safe, and permitted by the applicable agreements and permitting authorities. (Staff Initial Brief, pp 17–18.)

**C. The record does not reflect an over-reliance on the Computational Pipeline Monitoring System (CPM).**

BMIC posits that there would be an over-reliance on the CPM system, despite significant evidence on the record that shows otherwise. (BMIC Initial Brief, p 7.) The CPM system is not a single method of detection, it is comprised of three systems, the Material Balance System, the Rupture Detection System, and the Automated Volume Balance System. (Exhibit A-30, pp 1-2.) Additionally, the tunnel will be equipped with complementary leak detection systems including



controller line monitoring, line balance calculations, visual surveillance, automated pressure deviation system, and external sensor-based leak detection. (*Id.* at 2-3.)

Witness Philipenko testified that, “this strategy encompasses multiple leak detection methods, each with a different focus and featuring differing technology, resources and timing.” (16 TR 2259.) The record does not reflect an over-reliance on any one of these leak detection methods. Further, BMIC implies that the only event that would trigger Enbridge’s shut-down procedures is a pressure loss of 45 psi for more than a minute; this is incomplete. (BMIC Initial Brief, p 8.) On the contrary, the record shows that the control center could be alerted of a potential release by any of the leak detection systems listed above. (Exhibit A-30, p 2.)

Witness Kuprewicz’ opinion that the project requires an automatic shut-down system is already met, as the record indicates, there are already automatic shut-off valves on each side of the Straits that would activate in the event of a threshold pressure loss without the need for human intervention. (16 TR 2264.) There is no evidence on the record showing that additional automatic shut-down systems would be necessary for safety.

**D. The reopened record does not indicate that methane is a likely source of fire or explosion.**

**1. The concentrations of methane shown by samples in the Geotechnical Data Report (GDR) would require 800 or 2400 years to accumulate to the Lower Explosive Limit (LEL) within the tunnel.**

As described in more detail in Staff’s initial briefs, low concentrations of methane were detected in samples in the GDR, however, Delve Underground

conservatively estimated that it would require 800 or 2400 years, depending on the flow rate of groundwater, for those concentrations to accumulate at the LEL within the tunnel. (17 TR 2572-73; Exhibit S-37, p 3.) While BMIC notes that the GDR indicates that certain samples failed to meet certain parameters for analysis, there is no evidence showing failure to meet these parameters impacted the concentrations of methane detected in the samples, let alone to a level significant enough to reduce the time requirement (800 or 2400 years) to a time frame that would be of reasonable concern. Further, Staff notes that the GDR falls within the purview of the MSCA and its experts as required by the Tunnel Agreement. (9 TR 1203, Exhibit A-5, p 11.) As with the first evidentiary phase of this case, Staff sought to avoid duplication of other state agency efforts in its participation in this case. (See Staff 2/18/2022 Initial Brief, p 71.) Lastly, it is worth noting that the gas detectors within the tunnel (once in operation) can detect methane in the unlikely event that methane accumulates in concentrations high enough to cause concern. (15 TR 2090.)

**2. There is no evidence that the Collingwood Utica Shale actually contains methane under the Straits, nor that any methane is currently migrating at least 1,300 feet vertically to the depth of the tunnel.**

The USGS report is a model, confined by parameters that make assumptions about the underlying geologic units, such as that “some portion of the oil and gas was retained within the organic-rich shales.” (Exhibit BMC-70, p1). The model is based on “several horizontal wells drilled into the shale of the Collingwood

Formation in the central part of the basin [that] produced shale gas, demonstrating that these shales have reached the thermal generation windows for oil and gas.”

(*Id.*) These horizontal wells, however, reach a depth well below the surface of the Straits, which is why one of the model parameters required “a minimum depth of 2,000 feet for the northern boundary of the Collingwood-Utica Shale Oil AU,” or the area underneath the Straits. (*Id.*) This is a minimum of 1,300 feet below the deepest area where the Replacement Project tunnel is proposed to be drilled, at about 600 to 700 feet. (Exhibit S-17, p 2.) This finding, that there is no methane at the depth of the Replacement Project, is also consistent with scientific research summarized by Dr. Vitton in his Rebuttal on Remand:

The fact that no methane was found in the samples in the main waterway is entirely consistent with known understanding of the geology of the Straits and the lack of oil and gas field or coalbeds in the Straits. **This lack of methane in the Straits is supported by scientific research.** [17 TR 2469-70.]

In fact, Dr. Vitton testified that because methane rises, and the lack of methane detected through the middle of the Straits per the GDR at shallower depths than 2,000 ft, it “would indicate that there are no gas deposits there...based on the geology.” (17 TR 2544). It is inaccurate to conclude that a modeled estimate proves that methane exists under the Straits without factual evidence to show that. As such, the BMIC’s reliance on Exhibit BMC-70 to disregard witness Vitton’s testimony is misplaced.

**E. The inclusion of polypropylene fibers into the tunnel concrete and designing for the RWS fire event complies the tunnel industry standard-of-practice and is appropriate for the design of the proposed project.**

BMIC claims that an explosion could result in a hydrocarbon-fueled fire and further states as a matter of fact, that fire in a concrete tunnel will result in explosive spalling. (BMIC Initial Brief, p 14.) This is apparently based on witness O'Mara's experience and knowledge of tunnel fires that have occurred prior to the year 2000.<sup>2</sup> (*Id.* at n 65; Staff Initial Brief, p 15.) Witness Adams provided a more accurate and current assessment of the state of designing for potential fires in tunnels. He explained that the inclusion of polypropylene fibers into the concrete mix typically has resulted in very little to no spalling observed. (17 TR 2577.) Witness Adams explained that the tunnel has been designed for the Rijkswaterstaat (RWS) fire event, which is the current "standard-of-practice." (*Id.* at 2570.) BMIC notes that the RWS Fire Curve consists of a test in which the concrete is subjected to a temperature of 1200 degrees Celsius for 180 minutes, and thus concludes that a fire of longer than 180 minutes is untested. (BMIC Initial Brief, p 15.) While it is true that the specific standard referenced in this portion of the testimony consists of a test duration of 180 minutes, there is no evidence to suggest that concrete has never been tested for a longer period of time, further, there is no evidence to suggest that a fire longer than 180 minutes would be

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<sup>2</sup> Staff notes that in testimony, witness O'Mara states, that it is well documented that fires exceeding 1200°C "**can** cause the surface of the concrete tunnel lining to experience violent or explosive spalling." (18 TR 2671 (emphasis added).)

significantly more damaging to the concrete. If the industry standard was to test for 240 or 300 minutes, one could certainly claim the potential for a fire lasting longer than that duration as well, and so on and so forth. The simple fact is that the RWS fire event has been determined by experts in the industry as the appropriate standard-of-practice in designing for potential fires in tunnels, thus, the current design for the proposed tunnel meets applicable engineering and safety standards.

**F. The record shows that it is not plausible for product to reach the Straits of Mackinac.**

BMIC makes an oversimplified claim that, “if product was being pumped at its operating pressure, the product would then escape the confines of the tunnel and migrate into the surrounding rock and sediment and ultimately reach the water of the Straits of Mackinac.” (BMIC Initial Brief, p 16.) BMIC’s claim that product would be forced out of the tunnel and migrate upward is based on several faulty assumptions as detailed in Staff’s initial brief. Most notably, witness O’Mara severely over-estimates the operating pressure of the pipeline, and drastically oversimplifies the hydraulic behavior of product releasing from the pipeline into the tunnel. (18 TR 2680-2681.) Any product that releases from the pipeline would instantaneously be reduced to the atmospheric pressure within the tunnel. (17 TR 2459.) Until the tunnel is full (estimated at two full days of continued pipeline operation) there would be no additional pressure on the geology surrounding the tunnel and product could not physically overcome the hydrostatic pressure. (Staff

Initial Brief, p 13.) The proposed tunnel, in this way, furthers the intended purpose of the project, which is to reduce the likelihood that product from the pipeline can reach the waters of the Straits when compared to the existing dual pipelines.

**G. The record clearly shows that the proposed project would substantially reduce the environmental risk currently posed by the dual pipelines.**

BMIC notes at the outset of its brief that when evaluating an application under Act 16, the Commission's conducts "a qualitative review" to "determine whether construction of the proposed pipeline system is necessary, reasonable, and in the public interest." (BMIC Initial Brief, p 2.) It's particularly surprising that BMIC later contends, in an absolute sense, that the proposed project would not reduce the environmental risk posed by the dual pipelines and that the tunnel project is "simply replacing one set of risks for another." (BMIC Initial Brief, p 17-18.) As a matter of qualitative review, there are numerous attributes of the proposed replacement project detailed throughout the record that clearly reduce the overall environmental risk (likelihood and/or consequence) when compared to the existing dual pipelines.

From a pipeline failure standpoint, the dual pipelines are exposed to forces that the replacement segment in the tunnel would not be. Among the highest contributors to this risk to the dual pipelines are anchor hooking, vortex-induced vibration from currents in the Straits, and spanning stress. (Exhibit ELP-24, p 28.) Additionally, the replacement segment will be visually inspected more efficiently and effectively and contains other design enhancements that are not present for the

dual pipelines. (9 TR 1239-1246; 8 TR 801.) Qualitatively, the record shows that the likelihood of a release would be reduced when comparing the dual pipelines to the proposed replacement pipeline.

Secondly, regarding the consequences of a release, a release from the dual pipelines would release product directly into the Straits of Mackinac, there is no dispute over that point. Despite what BMIC has attempted to show throughout this proceeding, a release from the proposed replacement pipeline would require an extraordinary chain of events, some of which Staff posits are implausible, for product to have any chance of reaching the Straits of Mackinac. Initially, a release must occur. Then, product must evade gas detectors (or gas detectors must malfunction) and accumulate in a portion of the tunnel at the LEL. (18 TR 2670.) At which point in time and location, an abnormal spark must occur to ignite the product. (*Id.* at 2676.) The ignition must then cause a fire to burn long and hot enough to damage the tunnel lining (despite concrete designed to withstand fire) to a point that would allow product to escape. (*Id.* at 2671, 17 TR 2570-71.) Then, the pipeline must continue to operate for two full days in order to fill the tunnel and reach a pressure that may overcome the surrounding hydrostatic pressure. (17 TR 2459, Exhibit S-16, pp 5-6.) Finally, the product must migrate through the geology upward, continuously overcoming downward water pressure, for a volume of product to eventually reach the waters of the Straits. (17 TR 2475.)

It strains the imagination to conclude that this implausible chain of events would ever be feasible. Furthermore, it is incomprehensible to conclude that such a

chain of a events following a rupture from the proposed replacement segment is equally likely to reach the Straits as a rupture from the dual pipelines.

Realistically, as the record shows, multiple events in this chain are implausible, which removes any question as to whether the environmental risk is substantially reduced when comparing the proposed replacement to the dual pipelines.

**H. Staff disagrees with BMIC that witness Godfrey and DNV lack credibility and that witness Godfrey's analysis should be accorded no weight.**

BMIC devotes significant portions of its brief disputing Enbridge's witness Godfrey's Probability of Failure analysis and underlying facts, but then goes further and asserts that witness Godfrey is "tipping the scales" and that due to his employment with DNV, his analysis could not be objective. (BMIC Initial Brief, p 22.) Staff disagrees with BMIC on this point and disagrees with the assertion that this witness could not impartially evaluate the technical facts and evidence in this case. BMIC rests its assertion on the fact that DNV maintains a business relationship with Enbridge and also on the fact that approximately seven years ago the State of Michigan terminated its contract with DNV in a related matter pertaining to a different DNV employee. (BMIC Initial Brief, p 23.) BMIC's assertion of a lack of objectivity and judgment on the part of witness Godfrey because of his employment status and the actions of a different employee pertaining to a different issue is based on speculation and conjecture and should be disregarded. Instead, Staff maintains that the focus should remain on facts and evidence in this case and on various witnesses' expert testimony and analysis.



### **III. Reply to MPGA/NPGA's and MLDC's Initial Briefs**

Both the MPGA/NPGA and the MLDC filed initial briefs in support of the Replacement Project. The MLDC points to the workhours and employment opportunities that would be created by the replacement project. (MLDC Initial Brief, pp 3-4.) The MPGA/NPGA present general summaries of witness Godfrey's and Dr. Vitton's testimony in support of the tunnel project. Staff is electing not to respond to the MLDC's brief as it contains little analysis of the record evidence, electing instead to reflect on the potential economic impact of the tunnel on the jobs and labor markets. Staff appreciates the position but, given the specific analysis and evidence requested by the Commission in its July 7 Order, does not believe such considerations are before the Commission at this time. Similarly, Staff asserts that the issues presented by MPGA/NPGA are adequately discussed in detail by Enbridge in its initial brief.

### **IV. Conclusion**

For the reasons explained in Staff's testimony, exhibits, initial brief and this reply brief, Staff continues to recommend the Commission approve Enbridge's application, consistent with Staff's recommendations. Staff maintains that the proposed project will "fulfill the alleged purpose of reducing the environmental risk to the Great Lakes posed by the dual pipelines." (July 7 Order, p 8.) Staff maintains that the reopened record, which addresses the topics set forth in the Commission's July 7 Order, including concerns raised by BMIC in the initial evidentiary phase, shows that the project is designed to meet or exceed the

applicable safety and engineering standards, and that the project will, overall, reduce the risk to the Great Lakes posed by the current dual pipelines. Therefore, Staff respectfully requests the Commission adopt Staff's recommendations and approve Enbridge's Application.

Respectfully submitted,

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**DATED: May 19, 2023**

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**Cherie A. R. Shea**, being first duly sworn, deposes and says that on **May 19, 2023**, she served a true copy of **Michigan Public Service Commission Staff's Reopened Record Reply Brief** upon the following parties **via email only**:

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Cherie A. R. Shea

Subscribed and sworn to before me  
this 19<sup>th</sup> day of **May, 2023**.

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Pamela A. Pung, Notary Public  
State of Michigan, County of Clinton  
Acting in the County of Eaton  
My Commission Expires: 5-7-2025