

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATION COMMISSION**

PBF Holding Company LLC and  
Toledo Refining Company LLC,

Docket No. OR12-14-001

Complainants

v.

Enbridge Energy, Limited Partnership,

Respondent

**ANSWER OF PBF HOLDING COMPANY LLC AND  
TOLEDO REFINING COMPANY LLC TO MOTION FOR SUMMARY  
DISPOSITION OF ENBRIDGE ENERGY, LIMITED PARTNERSHIP**

1. Pursuant to Rule 213, complainants PBF Holding Company LLC and Toledo Refining Company LLC (collectively “PBF”) hereby answer the motion for summary disposition (“Motion”) of respondent Enbridge Energy, Limited Partnership (“Enbridge”) for summary disposition of the complaint (“Complaint”) of PBF in this proceeding. As explained below, the Motion of Enbridge provides no basis for summary disposition of the Complaint.

**I. PROCEDURAL HISTORY**

2. On May 11, 2012, PBF filed a complaint against Enbridge under sections 1(6), 3(1), 13(1), 15(1), and 16(1) of the Interstate Commerce Act (“ICA”), 49 U.S.C. App. §§ 1(6), 3(1), 9, 13(1), 15(1), and 16(1). PBF’s complaint alleged that procedures and practices of Enbridge in apportioning capacity on its “Mainline” crude oil pipeline system constitute unjust and unreasonable classifications and practices that result in an

undue and unjust preference for shippers and users of heavy crude oil and undue and unjust discrimination against shippers and users of light crude oil in violation of the ICA, causing substantial ongoing injury to PBF.

3. On June 11, 2012, Enbridge filed an answer and motion to dismiss. In its answer and motion to dismiss Enbridge claimed that its prorationing procedure and operating practices were just and reasonable, that PBF failed to provide an alternate practice, and that PBF's complaint presented unsubstantiated allegations. On June 26, 2012, PBF filed an answer to the motion to dismiss. On July 3, 2012, Enbridge filed a motion for leave to reply and reply to PBF's answer. In its motion, Enbridge argued that PBF failed to demonstrate any undue discrimination or preference or to propose an alternative regarding apportionment that would be just and reasonable.

4. On August 9, 2012, the Commission issued an order and set the complaint for hearing and settlement procedures. 140 FERC ¶ 61,119 (2012) ("August 9 Order"). The Commission found that "PBF's complaint raise[d] issues about Enbridge Energy's allocation policies and practices that [could not] be resolved on the basis of the record at [that] point." August 9 Order at ¶ 48.

5. On November 16, 2012, the Chief Administrative Law Judge issued an order designating the Presiding Judge and establishing Track III procedural time standards. *See* Order of Chief Judge Terminating Settlement Judge Procedures, Designating Presiding Administrative Law Judge, And Establishing Track III Procedural Time Standards, issued November 16, 2012.

6. On February 15, 2013, PBF filed direct testimony of Mr. Robert E. Foti and Mr. Thomas O. Miesner. On April 9, 2012, Enbridge filed a motion for summary disposition. On April 18, 2013, Enbridge filed answering testimony.

## **II. DIRECT TESTIMONY OF PBF**

7. Mr. Foti testified that Enbridge's Mainline system includes two lines, Line 5 and Line 6 that supply crude oil to petroleum refineries located in the mid-western United States and eastern Canada. *See* Exhibit No. PBF-1 at 2. Mr. Foti testified that, generally, three refineries receive only light crude oil via Line 5 and six refineries receive both light and heavy crude oil via both Lines 5 and 6. *Id.* Mr. Miesner testified that Enbridge Lines 5 and 6 are large diameter crude oil pipelines which have the same origination and termination points (both originate at an Enbridge Tank Farm located in Superior, Wisconsin and terminate in Sarnia, Ontario). *See* Exhibit No. PBF-6 at 3.

8. Mr. Foti testified that PBF operates a petroleum refinery near Toledo, Ohio that is designed to process approximately 170,000 barrels per day ("B/D") of light crude oil. *See* Exhibit No. PBF-1 at 2. Mr. Foti testified that PBF's Toledo refinery does not process any heavy crude oil. *Id.* Mr. Foti testified that PBF relies on Enbridge's Line 5 to supply a substantial portion of the light crude oil required by the Toledo refinery. *Id.* at 3. Mr. Foti testified that PBF's Toledo refinery directly competes in the refined petroleum product markets with other refiners that are supplied by Enbridge's Mainline System. *Id.* Importantly, Mr. Foti testified that PBF competes with the six refineries that receive both light crude oil and heavy crude oil via Enbridge's Lines 5 and 6. *Id.*

9. Mr. Foti has explained how PBF is the real party in interest with respect to crude oil shipped to its Toledo refinery over the Enbridge system. *See* Supplemental Affidavit of Robert E. Foti attached to Answer of PBF to Enbridge Motion to Dismiss, filed June 26, 2012 (“Foti Supplemental Affidavit”); *see also* Exhibit No. PBF-1 at 3. Mr. Foti testified that PBF directs Morgan Stanley to acquire specific grades and quantities of crude oil required for processing at its Toledo refinery. *Id.* at ¶ 3; *see also* Exhibit No. PBF-1 at 3. Mr. Foti testified that PBF purchases crude oil from Morgan Stanley which is transported via the Enbridge Mainline system to its Toledo refinery. *Id.*; *see also* Exhibit No. PBF-1 at 3. Although Morgan Stanley is the shipper of record on Enbridge, PBF (a) determines the grade and quantity of crude oil to be shipped, (b) pays dollar-for-dollar transportation costs on Enbridge, (c) takes delivery and title to the crude oil as it leaves the Enbridge system, and (d) processes the crude oil at its Toledo refinery. *See* Foti Supplemental Affidavit at ¶ 4; *see also* Exhibit No. PBF-1 at 3. Thus, Morgan Stanley is merely an intermediary and financier and PBF is in the same position as other shippers on Enbridge’s Mainline system.

10. Mr. Foti testified that shippers submit monthly nominations for service on the Enbridge Mainline System by advising Enbridge of the origin point, delivery point, volume and grade of crude oil to be shipped. *See* Exhibit No. PBF-1 at 3-4. Mr. Foti testified that shippers do not specify which line is to be used for transporting crude to downstream delivery points—Enbridge unilaterally assigns nominations to Line 5 or Line 6. *Id.* at 4.

11. Mr. Foti and Mr. Miesner testified that Enbridge's current apportionment procedure is described in FERC Tariff No. 41.1.0, Rule 14 of the Rules and Regulations tariff for Enbridge. *See id.*; Exhibit No. PBF-6 at 5; *see also* Exhibit No. PBF-2. Mr. Foti testified that Rule 14 states that Enbridge will apportion tenders on a pro rata basis among *all shippers* on the basis of current tenders and current operating conditions on Enbridge's facilities. *See* Exhibit No. PBF-1 at 4 (emphasis added); Exhibit No. PBF-2 at 6. Further, Enbridge's Rule 14(b) states that:

Where blending of Crude Petroleum can achieve an increase in the capacity of the facilities of the Carrier, such increase in capacity shall be apportioned on a pro rata basis first to Shippers tendering such blends with any remaining increase in capacity apportioned on a pro rata basis to all other tenders. *See* Exhibit No. PBF-2 at 6.

Mr. Foti testified that Enbridge's apportionment policy, Rule 14, is silent regarding the effect of any apportionment on individual lines. *See* Exhibit No. PBF-1 at 4; *see also* Exhibit No. PBF-2 at 6.

12. Mr. Foti testified that beginning in January 2011, Enbridge applied a cap and verification process on its Mainline system that limited the nomination for each facility served by the system to the highest monthly volume delivered to that facility in any month during the 24-month period leading up to July 2010. *See* Exhibit No. PBF-1 at 4-5. Mr. Foti further testified that subsequent to adopting these processes, nominations on Enbridge for PBF's Toledo refinery have been capped at the level of the peak monthly volume delivered to the refinery during the 24-month period leading up to July 2010. *See id.* at 5.

13. Mr. Foti testified that from January 2011 through November 2011, Enbridge apportioned both Lines 5 and 6. *Id.* Mr. Foti also testified that, in contrast, beginning in December 2011 through July 2012, Enbridge only apportioned Line 5. *Id.* Then, in September 2012, Enbridge again apportioned both Lines 5 and 6. *Id.*

14. Mr. Foti testified that although Line 6 is physically capable of transporting Light Sour Blend (“LSB”) crude oil, and has done so, Enbridge has unilaterally made the determination to generally only transport this grade of crude oil on Line 5. *See* Exhibit No. PBF-1 at 5-7. Mr. Foti testified that this resulted in nominations on Line 5 being reduced anywhere from 16 to 27 percent from December 2011 through July 2012. *Id.* at 5-6; *but see* Exhibit No. PBF-6 at 6-8 (Mr. Miesner’s testimony includes information from Enbridge that indicates Enbridge moved LSB on Line 6B in January 2012 and July 2012.).

15. Mr. Foti testified that Enbridge’s apportionment policy has had the effect of imposing the full impact of apportionment on nominations of light crude oil for refiners that receive light crude via Line 5 and shielding refiners that receive heavy crude oil via Line 6 from apportionment. *See* Exhibit No. PBF-1 at 8-9. Mr. Foti testified that Enbridge’s current apportionment policy effectively provides a preferential reservation of capacity on Line 6 for heavy crude oil refiners resulting in a discriminatory burden on light crude oil refiners which absorb the full impact of apportionment on Line 5 to reserve capacity for heavy crude shippers on Line 6. *Id.*

### III. ANSWER

#### A. Enbridge Has Failed to Satisfy the Criteria for Summary Disposition.

16. Rule 217 of the Commission's Rules of Practice and Procedure states that a decisional authority may summarily dispose of all or part of a proceeding if it is determined that no genuine issues of material fact exist. 18 C.F.R. § 385.217 (2011). Commission precedent clearly states that the movant has a "heavy burden" in seeking summary disposition, and must clearly establish that there is no genuine issue of material fact for determination. *See Tennessee Gas Pipeline Co.*, 73 FERC ¶ 63,007, 65,041 (1995); *Northwest Pipeline Corp.*, 61 FERC 63,016, 65,103 (1992). The Commission has previously elaborated on the analysis that should be conducted when determining whether summary disposition is appropriate, explaining that:

[T]he proponent must [be] afforded a reasonable opportunity to present arguments and factual support (*written and oral*) . . . [A]nd, the Commission must find that a hearing is unnecessary and would not affect the ultimate disposition of an issue . . . .

*K N Interstate Gas Transmission Co.*, 86 FERC 61,229, 61,824 (1999) (emphasis added).

"Either there must be no *material* facts in dispute, or the facts presented by the proponent must be accepted in reaching the decision." *Coastal States Marketing Inc. v. Texas-New Mexico Pipeline Co.*, 25 FERC ¶ 61,164, 61,452 (1983) (emphasis in original).

Additionally, the Commission has stated that when reviewing a motion for summary disposition, "the inferences to be drawn from the evidence must be viewed in the light most favorable to the participants opposing the motion." *San Diego Gas & Electric Co.*,

135 FERC ¶ 61,177 at P 53 (2011); *Trans Alaska Pipeline System*, 52 FERC ¶ 63,024, 65,046 (1990).

17. Summary disposition is only acceptable “when the issues are clear-cut and simple, but less so when they are of broad import.” *Tennessee Gas Pipeline Co.*, 73 FERC ¶ 63,007, 65,041 (1995) (internal quotations and citations omitted). Moreover, even if summary disposition appears acceptable, the presiding judge “should have the freedom to allow the case to continue when it has any doubt as to the wisdom of terminating the action prior to a full trial . . . especially when policy considerations counsel caution.” *Id.* (internal quotations and citations omitted).

18. Moreover, it is wholly premature to consider a motion for summary disposition at this early stage of the proceeding. Discovery is still proceeding, and only portions of the pre-filed testimony have been filed with the Commission. The administrative record is devoid of any *evidence* and will continue to be until witnesses are sworn in at hearing and testimony and related documents are moved into evidence. As Presiding Judge Young found in denying a motion for summary disposition after direct testimony had been filed, “at this stage of the proceeding, there is no *evidence*” upon which the Motion can be ruled on. *See San Diego Gas & Electric Co.*, Order on Motions for Summary Disposition and for Leave to File Answer to Answer, Docket No. EL00-95-248, issued October 20, 2011. Whether PBF’s direct testimony and exhibits are sufficient to prove that Enbridge’s apportionment practices are unduly discriminatory is an issue to be determined at hearing. *See id.* Moreover, PBF’s opportunity to make a case against Enbridge is not limited to PBF’s direct testimony in any event. *See id.*

19. It is noteworthy that Enbridge's June 2012 Motion to Dismiss raised similar arguments to those raised by Enbridge here, and was rejected by the Commission. *See* P 4, *supra*. In the August 9 Order rejecting Enbridge's June 2012 Motion to Dismiss, the Commission determined that a hearing was necessary to investigate the issues raised in PBF's Complaint. In essence, Enbridge's instant Motion inappropriately asks the Presiding Judge to overrule the Commission's prior determination that a hearing was required on PBF's Complaint. Had Enbridge been dissatisfied with the Commission's determination that a hearing was necessary, it should have sought rehearing. Having failed to do so, it cannot now ask the Presiding Judge to correct its procedural deficiencies through an inappropriate, untimely, and unsupported Motion.

20. As shown below, PBF has demonstrated that it is similarly situated with other shippers of crude oil on Enbridge and does not have the burden to identify or justify an alternative apportionment practice. Therefore, looking at the facts and inferences drawn from the evidence in a light most favorable to PBF, it is clear that Enbridge has failed to meet its burden of proof in the instant Motion, just as it had failed to meet its burden of proof in the June 2012 Motion.

**B. PBF Is Similarly Situated with Other Shippers of Crude Oil on Enbridge's Pipeline.**

21. Enbridge's Motion states that because all shippers on Line 5 are apportioned equally and all shippers on Line 6 are apportioned equally, there is no undue preference. *See* Motion at 11-12. However, as demonstrated by the evidence and testimony outlined below, Enbridge unilaterally assigns crude shipments to each portion

of its Mainline system (Lines 5 and 6) and has demonstrated a preference for heavy crude shippers which is undue and discriminatory.

22. “Section 3(1) of the ICA, makes unlawful any ‘undue or unreasonable preference or advantage’ to any particular shipper.” *Texaco Pipeline Inc.*, 74 FERC ¶ 61,071, 61,201 (1996). In order to assert a claim for undue preference under Section 3(1), discrimination between similarly situated persons must be shown. *See Tipco Crude Oil Co. v. Shell Pipe Line Corp.*, 19 FERC ¶ 61,105, 61,197 (1982). When analyzing unjust discrimination under the ICA, the United States Supreme Court has used the following criteria to determine who is similarly situated: “contemporaneous service in the transportation of like kinds of traffic under substantially the same circumstances and conditions.” *Interstate Commerce Commission v. Baltimore & O.R. Co.*, 145 U.S. 263, 281-282 (1892) (analyzing ICA Sections 2 and 3 regarding railroad rates and quoting the lower court).

23. PBF and other shippers on Enbridge are similarly situated. Here, PBF is a shipper of crude oil on Enbridge’s pipeline. PBF, through Morgan Stanley, makes nominations for shipments which Enbridge receives. After receipt of nominations, Enbridge, not the individual shipper, decides which line will transport the shipper’s nomination. *See* Exhibit No. PBF-1 at 4; *see also* Enbridge Motion to Dismiss and Answer (June 11, 2012) (“June Motion”) at 6-9. In fact, Enbridge has admitted that it has shipped LSB crude oil on both Line 5 and Line 6B in the past. *See* June Motion at 18-19. Nor has Enbridge denied that PBF’s Toledo refinery is in direct competition with other refineries which receive heavy crude oil via Line 6B.

24. Therefore, PBF is similarly situated to other shippers of crude oil on Lines 5 and Line 6B of Enbridge's pipeline system. PBF's refinery at Toledo is in direct competition with other refineries which receive heavy crude oil via Enbridge's Line 6B. PBF and other shippers of crude on Enbridge's system request contemporaneous service (make nominations) for the transportation of like kinds of traffic (crude oil) under substantially the same circumstances and conditions (without control over which line the crude is transported).

25. Enbridge erroneously claims that several factors create differences between shippers on Lines 5 and 6. Enbridge claims that the lines have different lengths and capabilities, different routes and delivery points, that Line 5 generally transports light crude oil and Line 6B generally transports heavy crude oil (although Enbridge has admitted that Line 6B has transported light crude in the past) and that there are various operational differences in the lines. None of these factors describe differences in the shippers, instead each of these factors relates to the lines themselves. The shippers that nominate on Enbridge are similarly situated in that they make nominations for shipments and Enbridge has complete control over (a) the operation of the lines and (b) which line it elects to transport the shipper's crude on.

26. The Commission has found violations of Section 3(1) of the ICA in cases where the shippers are not identical, but are substantially similar. *See Texaco Pipeline Inc.*, 74 FERC ¶ 61,071 (1996); *see also Enbridge (U.S.) Inc. and ExxonMobil Pipeline Co.*, 124 FERC ¶ 61,199 at PP 29, 37 (2008) (finding undue preference under the ICA and stating "The fact that rates and terms for committed and uncommitted shippers [are

different] does not establish that they are not similarly situated.”). In *Texaco*, the Commission rejected a pipeline’s proposed tariff because it granted an “unreasonable preference by designating a portion of the pipeline for the exclusive use of a special class of shippers”, contract shippers vis-à-vis non-contract shippers. *Texaco Pipeline Co.* at 61,201-61,202.

27. The cases that Enbridge cites in its motion do not weigh against a finding that PBF and other shippers are similarly situated. *See Texas & P. Ry. Co. v. U.S.*, 289 U.S. 627 (1933); *ARCO Pipe Line Co.*, 66 FERC ¶ 61,159 (1994); *Kinder Morgan Pony Express Pipeline LLC and Hiland Crude, LLC*, 141 FERC ¶ 61,249 (2012); *Express Pipeline P’ship.*, 76 FERC ¶ 61,245 (1996).

28. In *Texas & P. Ry. Co.*, the United States Supreme Court analyzed the issue of whether rates between certain destinations were unduly preferential and prejudicial. *See* 289 U.S. at 630-631. The Court’s analysis and discussion of the ICA in *Texas & P. Ry. Co.* actually supports PBF’s position. There, the Court discussed the Congressional history behind the passage of the ICA, including Section 3, and stated that “[s]hippers similarly situated were put on unequal terms” and “[p]roducers and consumers at points of origin and destination were prejudiced by unequal treatment in the matter of rates *or service.*” *Texas & P. Ry. Co. v. U.S.*, 289 U.S. 627, 638 (1933) (emphasis added). Here, Enbridge’s apportionment practices are unduly discriminatory against PBF and other shippers of light crude in favor of heavy crude shippers. PBF competes with other refineries which receive shipments of heavy crude via Line 6B, and Enbridge has chosen

to shield those shippers from apportionment by generally assigning all shipments of LSB to Line 5.

29. The Commission's order in *ARCO Pipe Line Co.*, 66 FERC ¶ 61,159 (1994), provides no support for Enbridge's argument that PBF is not similarly situated as other shippers on its system. *ARCO* involved an issue where the pipeline was discontinuing all service to southbound shippers in order to reverse the flow of its pipeline to only move products northward. *See id.* at 61,313-314. Unlike, *ARCO*, Enbridge is not offering a different service by reversing its pipeline. It is offering the same service to shippers on Line 5 and Line 6B – eastbound pipeline transportation of crude oil.

30. Nor do *Kinder Morgan Pony Express Pipeline LLC and Hiland Crude, LLC*, 141 FERC ¶ 61,249 (2012) ("*Kinder Morgan*"), or *Express Pipeline Partnership.*, 76 FERC ¶ 61,245 (1996) ("*Express*"), support Enbridge's position. Unlike *Kinder Morgan* and *Express*, this case does not involve different treatment for shippers that have made a contractual commitment to use the pipeline. Here, PBF and the other shippers which receive crude oil via Enbridge's Mainline system are entitled to participate in the monthly nomination and apportionment process on even terms.

31. Finally, a prorationing procedure may not be structured "to favor certain shippers or types of shippers over others if all have made 'reasonable requests' for transportation on the pipeline." *Suncor Energy Marketing Inc. v. Platte Pipe Line Co.*, 132 FERC ¶ 61,242 at P 24 (2010). Here, PBF is similarly situated with other shippers on Enbridge. Like other shippers, PBF has made reasonable requests for transportation

on Enbridge's pipeline. Enbridge's current apportionment practice has produced an undue preference in favor of heavy crude shippers in violation of Section 3(1) of the ICA.

**C. PBF Does Not Have the Burden to Identify or Justify an Alternative Apportionment Practice.**

32. Contrary to Enbridge's Motion, PBF does not have the burden of identifying an alternative to the pipeline's apportionment practice or of demonstrating that the alternative is reasonable and non-discriminatory. Enbridge Motion at 13-14. In this regard, the precedents cited by Enbridge do not require that evidence that a practice is unduly discriminatory must include the identification or justification of a reasonable and non-discriminatory alternative practice. *Sea Robin Pipeline Co. v. FERC*, 795 F.2d 182 (D.C. Cir. 1986); *Trans Alaska Pipeline System*, 57 FERC ¶ 63,010 (1991); *Texas Gas Service Co. v. El Paso Natural Gas Co.*, 136 FERC ¶ 63,010 (2011). Rather, those precedents merely provide that the proponent of an alternative rate or practice has the burden of showing that the existing rate or practice is unjust and unreasonable and that the proposed alternative is just and reasonable.

33. The decision in *Sea Robin Pipeline Co.* provides no support for Enbridge's argument. In the first place, *Sea Robin* was decided under the Natural Gas Act, 15 U.S.C. § 717, *et seq.* (1982), not under the ICA. Secondly, that case involved an issue of just and reasonable rates, not an issue of discrimination or preference. In any event, the court in *Sea Robin* ruled that the proponent of a replacement rate had the burden to prove that the existing rate was unjust and unreasonable and that the replacement rate was just and

reasonable. The Court did not rule that a challenge against the existing rate must identify and justify a replacement rate.

34. Enbridge's reliance on the *Trans Alaska Pipeline System* ("TAPS") decision is also misplaced. In that case, the administrative law judge ("ALJ") considered whether a quality bank methodology established by settlement continued to yield just and reasonable results. The ALJ first concluded that the current methodology was no longer just and reasonable. 57 FERC at 65,062-65,063. The ALJ then adopted a replacement methodology which combined two of five proposed modified methodologies. *Id.* at 65,064-65,069. The ALJ reached his ruling that the current methodology was no longer just and reasonable without considering whether any of the five proposed modifications was just and reasonable.

35. Similarly, in *Texas Gas Services Co.*, the ALJ found that the evidence of the complainant and Commission Staff did not support their position that a natural gas postage stamp rate was unjust and unreasonable. In reaching that conclusion, the ALJ did not consider alternatives to the postage stamp rate. 136 FERC ¶ 63,010 at PP 331-358. Indeed, the ALJ expressly found that it was not necessary to consider questions related to alternatives to the postage stamp rate. *Id.* at P 358.

36. In summary, it is clear that a complainant is not required under Commission precedent to propose an alternative practice when it has alleged that a current practice is unduly discriminatory or preferential. As shown above, Enbridge has failed to cite to a single instance of Commission precedent where allegations of unduly discriminatory or preferential practices were required to be accompanied by an

alternative practice. Moreover, the plain text of section 13(1) of the ICA merely requires a complainant to allege a violation of the law and does not require that a complainant propose an alternative. ICA § 13(1). Therefore, it is clear that Enbridge has failed to meet its burden of proof with regard to its claim that PBF is required to propose an alternative practice.

#### IV. CONCLUSION

37. As shown above, Enbridge has clearly failed to meet its heavy burden of proof to demonstrate that summary disposition is appropriate. Enbridge has failed to prove that PBF is not similarly situated with other shippers on the pipeline. In addition, Enbridge has failed to meet its burden of proof with regard to its claim that PBF is required to propose an alternative practice. Therefore, for the reasons discussed above, the motion of Enbridge for summary disposition should be denied.

Respectfully submitted,

Jeffrey Dill  
Senior Vice President, General Counsel  
PBF Holding Company LLC  
One Sylvan Way  
2nd floor  
Parsippany, NJ 07054-3887  
973 455-7500  
jdill@pbfenergy.com

/s/Marcus W. Sisk, Jr.  
Marcus W. Sisk, Jr.  
Frederick G. Jauss IV  
Dorsey & Whitney LLP  
1801 K Street, N. W., Suite 750  
Washington, D. C. 20006  
202-442-3000  
sisk.marcus@dorsey.com  
jauss.fred@dorsey.com

Attorneys for PBF Holding Company LLC  
and Toledo Refining Company LLC

April 24, 2013

### **CERTIFICATE OF SERVICE**

I hereby certify that I have this 24th day of April 2013 served the foregoing Answer of PBF Holding Company LLC and Toledo Refining Company LLC to Motion For Summary Disposition of Enbridge Energy, Limited Partnership by email on each person designated on the official service list compiled by the Secretary of the Commission in these proceedings

/s/ Frederick G. Jauss IV  
Frederick G. Jauss IV