

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

Enterprise Products Partners L.P.)	Docket No. OR12-4-000
and Enbridge Inc.)	

**MOTION OF ENTERPRISE PRODUCTS PARTNERS L.P.
AND ENBRIDGE INC. FOR SUMMARY DISPOSITION
AND RESPONSE TO REQUESTS FOR SUMMARY DISPOSITION**

Pursuant to Rules 217 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.217 and 213, Enterprise Products Partners L.P. (“Enterprise”) and Enbridge Inc. (“Enbridge”) (collectively, “Petitioners”) hereby respectfully request that the Commission summarily grant their application for market-based rates in connection with the planned reversal of the Seaway Crude Pipeline Company (“Seaway”) system (“Application”), and deny the requests for summary disposition contained in the pleadings filed by the various protestants in this case.¹

¹ The protestants are (1) Suncor Energy Marketing Inc., Canadian Natural Resources Limited, Continental Resources, Inc., Denbury Onshore LLC, and Husky Marketing and Supply Company (collectively, “Suncor”); (2) the Canadian Association of Petroleum Producers (“CAPP”); (3) Cenovus Energy Marketing Services LTD, Encana Marketing (USA) Inc., and Nexen Energy Marketing U.S.A. Inc. (collectively, “Cenovus”); (4) Apache Corporation, Chevron Products Company and Noble Energy, Inc. (collectively, “Apache”); (5) the Domestic Energy Producers Alliance (“DEPA”); and (6) the Independent Petroleum Association of America (“IPAA”).

Protestants' requests to summarily dismiss the Application constitute motions for summary disposition pursuant to 18 C.F.R. § 385.217. *See, e.g.*, Suncor Protest at 2, 9 (seeking summary disposition pursuant to Rule 217); Apache Protest at 1, 3 (same). The Commission's rules permit answers to motions for summary disposition. *See* 18 C.F.R. § 385.213(a)(3) and (d)(1). To the extent this pleading is otherwise deemed a pleading for which leave to file must be sought, Petitioners respectfully request that the Commission grant them leave to file this response, which is intended to assist the Commission in making its decision and to respond to certain misstatements and inaccuracies in the protestants' pleadings.²

I. INTRODUCTION

Seaway is a common carrier pipeline that in recent years has provided south-to-north transportation of crude oil from origins on the U.S. Gulf Coast to its destination at Cushing. Seaway plans to reverse the flow of its line in order to provide north-to-south service from Cushing to an initial delivery point at Houston, Texas, and following construction of additional pipeline facilities, to an additional delivery point in the Beaumont/Port Arthur, Texas area. It is currently anticipated that Seaway will begin operating in north-to-south service by the second quarter of 2012. *See* Application, Statement I (Hurley) at 2-3.

² In addition to the protestants, several parties filed motions to intervene. Petitioners do not oppose those parties' requests to intervene in this proceeding.

On December 2, 2011, Petitioners sought authority to charge market-based rates on Seaway at the proposed Cushing origin and the proposed U.S. Gulf Coast destination (including both the Houston and Beaumont/Port Arthur delivery points). For the reasons set forth below, the Application fully complies with the Commission's requirements for filing market-based rates. The required market analysis also demonstrates that there are very low levels of market concentration in both the applicable origin and destination markets.

As discussed further below, if the destination market is defined appropriately to include the entire Gulf Coast refining area, the HHI is an extremely low 26. If the destination market is defined more narrowly to include the Houston to Lake Charles area, the HHI is still a very low 169. The statistical results also show significant competition in the Cushing origin market, where the effective capacity-based HHI is only 1,126 and the adjusted capacity-based HHI ranges from 909 to 1,003. In addition, in both the proposed origin and destination markets, Seaway will have a low market share and there is significant excess capacity. In fact, in all cases, the excess capacity held by competitors is more than sufficient to transport all of the crude oil that could be transported by Seaway after the reversal. Seaway also faces active competition from various competing proposals to move crude oil from Cushing to the Gulf Coast, including TransCanada's recently-announced 700,000 barrel per day ("bpd") Cushing-to-Port Arthur pipeline.

In sum, Seaway will lack market power in both the proposed origin and destination markets, and protestants fail to raise any issue of material fact to the contrary. The Application for market-based rates should therefore be granted.

II. THE REQUEST TO FILE INITIAL RATES PURSUANT TO MARKET-BASED RATEMAKING AUTHORITY IS ENTIRELY APPROPRIATE AND SHOULD BE GRANTED.

Certain protestants claim that the request to file initial market-based rates is procedurally improper and requires rejection of the Application. *See, e.g.,* Suncor Protest at 4-9 (claiming the Application should be “summarily dismissed” for failure to “comply with the Commission’s regulations governing initial rates for new service”); Apache Protest at 2 (asking the Commission to “rule summarily and reject the Application because it violates Section 342.2”). These arguments are entirely without merit.

When Petitioners filed the application for market-based rates, they asked the Commission to rule on the request by March 31, 2012, so that the Application would be granted prior to initiation of the new north-to-south service on Seaway. To the extent the Application was approved prior to start-up, Petitioners further requested that the Commission waive the provisions of 18 CFR § 342.2 to permit Seaway to charge initial market-based rates when the new service takes effect. Nothing about that request was procedurally improper or requires rejection of the Application.

Initial market-based rates are fully justified and consistent with Commission precedent if the Commission grants the application for market-based rates prior to start-up. *See Longhorn Partners Pipeline, L.P.*, 83 FERC ¶ 61,345 (1998), *reh’g denied*, 85 FERC ¶ 61,206 (1998); *Wolverine Pipe Line Co.*, 90 FERC ¶ 61,001 (2000). Protestants

attempt to distinguish *Longhorn* and *Wolverine* on the ground that the applicable markets in those cases were unchallenged. In fact, the application in *Longhorn* was protested on the very same ground raised by many of the protestants here, namely, that the pipeline would have a monopoly on transportation between its origin and destination because of the price differential between those two points. See *Longhorn*, 83 FERC at 62,380. As discussed further below, the Commission rejected that argument and approved the request for market-based rates. In any event, whether the market-based rate application is unchallenged or is granted notwithstanding a challenge, the Commission has previously permitted initial market-based rates where the application is approved prior to initiation of the service in question.

To the extent the application is not granted prior to start-up, Seaway will need to establish initial rates using either a cost-of-service filing or the agreement of an unaffiliated shipper as set forth in 18 CFR § 342.2. Simply requesting the opportunity to file initial market-based rates, however, provides no basis to reject the underlying market-based rate application. In *Shell Pipeline Company L.P.*, 103 FERC ¶ 61,236 (2003), for example, the Commission denied the request to file initial market-based rates, but did not reject the entire market-based rate application simply because the pipeline had sought waiver of the initial rate regulations. Instead, the Commission granted market-based rates with respect to certain uncontested markets and set the rest for hearing.

Nor is there any merit to the claim that the Application is deficient because certain information is not available prior to start-up (*e.g.*, historical receipt and delivery information). As noted above, the Commission has previously granted or set for hearing

applications that were filed prior to initiation of the service in question. *See Longhorn Partners Pipeline, L.P.*, 83 FERC ¶ 61,345 (1998); *Wolverine Pipe Line Co.*, 90 FERC ¶ 61,001 (2000); *Shell Pipeline Company L.P.*, 103 FERC ¶ 61,236 (2003). The Commission could not have acted on those applications as it did if the applications were necessarily deficient as protestants claim. Indeed, in no case has the Commission rejected an application for market-based rates simply because it was filed prior to start-up.

III. PROTESTANTS' CHALLENGES TO THE PRODUCT MARKET ARE WITHOUT MERIT.

As explained in the Application, the relevant product market is the transportation of “crude oil.” *See* Application at Statement B, Statement I (Schink) at 16. Certain protestants claim that the transportation of each different type of crude oil constitutes a separate product market. *See* Suncor Protest at 9-12; Apache Protest at 10; IPAA Protest at 5. That argument is without merit.

The Commission made clear in Order No. 572 that pipelines are not required to submit separate data and HHI calculations for different types of crude oil. *Market-Based Ratemaking for Oil Pipelines*, FERC Stats. & Regs. ¶ 31,007, at 31,189 (1994) (“Order No. 572”). In fact, the Commission has “not required a specific way to define the product markets,” except that the product market should be “distinguished between the transportation of crude oil and the transportation of refined products.” *Id.*

In *Mobil Pipe Line Company*, 133 FERC ¶ 61,192, at PP 27-29 (2010), the product market was held to be Western Canadian heavy sour crude.³ That determination was made *after hearing*, however, because the facts in that case showed that the pipeline in question moved that type of crude oil almost exclusively. The Commission has never held that the pipeline’s use of “crude oil” as the product market is a basis to reject the application or not to grant summary disposition in favor of the application where the measures of market concentration clearly show no market power in the relevant market. In fact, as discussed further below, in *Mobil* the Commission summarily found the Houston to Lake Charles destination market to be competitive in light of the extremely low HHI despite the challenge to the product market definition. *See, e.g., Mobil*, 133 FERC at P 16.

In the refined products context, the Commission has also approved product markets defined as the transportation of refined petroleum products generally rather than the transportation of specific individual products. *See, e.g., Buckeye Pipeline Company, L.P.*, 53 FERC ¶ 61,473, at 62,664 (1990).⁴ As the Commission explained, “[a]lthough

³ A petition for review of the *Mobil* decision is currently pending before the United States Court of Appeals for the District of Columbia Circuit. Oral argument in that case was held on November 17, 2011.

⁴ Most refined petroleum products cases since *Buckeye* have defined the product market as all “refined petroleum products.” *See, e.g., Williams Pipe Line Co.*, 71 FERC ¶ 61,291, at 62,126 (1995). In *Sunoco Pipeline L.P.*, the Commission found the pipeline’s definition of the relevant product market as “refined petroleum products” to be generally appropriate, but noted that in the contested New York market the pipeline lacked market power even if the product market was defined more narrowly as the transportation of

petroleum products are not generally substitutes in *use*, oil pipelines ... can easily substitute the *transportation* of one petroleum product for another.” *Id.* (emphasis added). In fact, the Commission found that “the substitution of the transportation of one petroleum product for the transportation of another petroleum product is nearly universal among pipelines.” *Id.* The logic of *Buckeye* applies with even greater force in the crude oil context, where different types of crude oil are generally substitutes both in transportation and in use.

The transportation of one type of crude oil can readily be substituted for another. As Dr. Schink explained, “[c]rude oil pipelines can transport all of the types of crude oil that are produced in their origin markets.” Application, Statement I (Schink) at 17. “Some crude oil pipelines move a single commingled stream (with monetary adjustments sometimes being made among shippers to account for differences in the quality of crude oil tendered to the pipeline).” *Id.* Other pipelines move different types of crude oil in separate batches. *Id.* Seaway plans to move both light sweet crude oil (*e.g.*, West Texas Intermediate or “WTI”) and heavy sour Canadian crude (*e.g.*, Western Canadian Select or “WCS”); however, Seaway will be able to transport any type of crude oil. *See* Application, Statement I (Hurley) at 4.

In addition to being substitutes for transportation purposes, different types of crude oil are also substitutes in *use*. As Dr. Schink explained, most modern refineries can process any type of crude oil and frequently adjust the specific mix of feedstocks to

reformulated gasoline. *See Sunoco Pipeline L.P.*, 114 FERC ¶ 61,036, at PP 19, 81 (2006).

maximize profits based on the relative price of different types of crude oil and the demand for various refined products. Application, Statement I (Schink) at 17-18; Statement B at 3-5. In fact, as CAPP indicates, “[r]efineries in the interior of North America have ... added coker capacity to use more heavy crude oils.” CAPP Protest, Pinney Aff. at 3. Refineries are therefore able to react to changes in price of a single crude oil product by adjusting their feedstock mix. *See* Statement B at 5.

Ultimately, the specific mix of crude oil types to be transported is dependent on the decisions of shippers, not the pipeline. Thus, if a pipeline were to attempt to exercise market power with respect to the transportation of one type of crude oil, shippers could move other types of crude oil on the line and refiners could adjust their blend of feedstocks. Suncor suggests that not all pipelines and refiners may be able to transport or use all types of crude oil (Suncor Protest at 10), but fails to substantiate that claim with any specific evidence. In any event, even if true, the ability of most shippers to switch products would discipline any attempt by the pipeline to exercise market power with respect to a particular type of crude oil.

In sum, the relevant product market should be defined as the transportation of crude oil generally, rather than the transportation of any particular type of crude oil. Protestants’ arguments to the contrary provide no basis not to grant the Application.

IV. THE COMMISSION SHOULD SUMMARILY GRANT THE APPLICATION WITH RESPECT TO THE GULF COAST DESTINATION MARKET.

As shown in Table 1 below, the destination market is highly competitive. If the market is defined to include the entire Gulf Coast refining area, the HHI is an extremely

low 26. If the market is defined more narrowly as the Houston to Lake Charles area the HHI is still a very low 169. Significantly, under either definition of the destination market, local crude oil production plus waterborne crude oil deliveries exceed the total quantity of crude oil processed by refineries located in the market. Thus, while there are also several inbound crude oil pipelines in addition to Seaway, the destination market would be highly competitive even if there were no competing pipelines. *See* Application at 3-4 and Statement G at 31-32, 54-55.

Table 1
Summary of Capacity-Based Analysis Results for the
Seaway Pipeline's Destination Market on the Gulf Coast

<u>Definition of the Destination Market</u>	<u>HHI</u>	<u>Seaway Market Share</u>	<u>Excess Capacity Ratio</u>	<u>Excess Capacity Held by Others Ratio</u>
Gulf Coast Area	26	4.6%	1.23	4.41
Houston to Lake Charles Area	169	6.5%	1.53	5.78

Sources: Application, Statement G, Tables G.1 and G.2.

The Commission has previously found the Houston to Lake Charles market to be a competitive crude oil destination market. *See Mobil Pipe Line Company*, 121 FERC ¶ 61,268, at P 16 (2007) (rejecting CAPP’s challenge to that market). In making that finding, the Commission relied primarily on the extremely low HHI (167 as calculated in that proceeding), which the Commission found to be “indicative of a large number of

competitors.” *Id.* The Commission further found that “there are a number of competing pipelines and that waterborne crude oil deliveries account for [a] significant portion of demand in the Houston to Lake Charles destination market.” *Id.* In citing the importance of waterborne deliveries, the Commission relied on *Williams*, where the Commission held that if a market has expandable waterborne capacity and 10 percent of its needs are presently met by waterborne means, then the market is likely competitive. *Id.* at P 16 n.10 (citing *Williams Pipe Line Co.*, 71 FERC ¶ 61,291, at 62, 138 (1995)). The Houston to Lake Charles destination plainly meets that test, since approximately two-thirds of the crude oil delivered to the market is delivered on tankers or barges. *See* Application, Statement D at 3-4.⁵

Certain protestants make various highly-generalized challenges to the destination market proposed in the Application. *See* Suncor Protest at 21-23; Apache Protest at 10-11; DEPA Protest at 3-4; IPAA Protest at 6. Those challenges are unavailing. Protestants fail to calculate alternative market concentration statistics for the destination market or present any other evidence in support of their claims. Nor do protestants suggest that the destination market, however defined, is anything other than highly competitive. The Commission previously rejected similar conclusory arguments in *Mobil*. *See*, 121 FERC at P 16 (approving application for market-based rates where

⁵ Since the Houston to Lake Charles destination market was found to be competitive, the Commission explained that it was “unnecessary ... to consider the broader Gulf Coast market to validate [the pipeline’s] lack of significant market power.” *Mobil*, 121 FERC at P 16.

challenger “fail[ed] to elaborate or provide any evidence in support of its assertion” that the pipeline had market power in the Houston to Lake Charles market).

Suncor and IPAA suggest that the Commission’s prior approval of market-based rates for the Houston to Lake Charles destination market does not support the same finding here, since they claim “it is not clear that all the alternatives which were considered to be good alternatives to [Mobil’s] service to Nederland/Port Arthur are also good alternatives to Seaway’s proposed service to Houston.” Suncor Protest at 22; IPAA Protest at 6 (similar claim). The Commission, however, did not confine its holding to Mobil’s Nederland/Port Arthur destination point or base its decision on an analysis of individual alternatives to that specific facility.⁶ Instead, as noted above, the Commission found the entire Houston to Lake Charles area to be competitive, primarily because of the extremely low HHI and the significant level of waterborne crude oil deliveries in the area. *Mobil*, 121 FERC at P 16. Those same considerations require approval of the Houston to Lake Charles destination market here, since Seaway will make deliveries to both Houston and to the Nederland/Port Arthur area supplied by Mobil.

As noted above, the HHI for the Houston to Lake Charles destination is extremely low. Moreover, as the Application explained, “[a] very large share of the crude oil supply for the Gulf Coast refineries is delivered by tankers from foreign crude oil production areas,” and “[b]arge movements from port facilities in Houston or Texas City

⁶ Nor did *Mobil* rely on a “delivered price analysis” to define the Houston to Lake Charles area market, contrary to the suggestion that such an analysis is required. Suncor Protest at 17, Sullivan Aff. at 20.

can supply refineries in the Beaumont-Port Arthur and Lake Charles areas.” Application, Statement A at 15, 21-22. These waterborne deliveries, as well as the pipeline linkages described in the Application (Statement A-16), make the Houston to Lake Charles area a single market, and protestants fail to make any showing to the contrary.

Suncor claims that the “smallest market principle” requires that the geographic market be defined as “the smallest market in which a possible market power concern arises,” suggesting that the destination market should perhaps be confined to the Houston area. Suncor Protest at 21. Suncor fails to cite any case in which the Commission has adopted that supposed principle. Nor does Suncor provide any evidence to support its suggestion that a Houston-only destination would be more appropriate than the Houston to Lake Charles area destination that the Commission previously approved. In any event, the Houston to Lake Charles area destination market is the smallest possible definition of the destination market, since it includes both the initial delivery point at Houston as well as the additional delivery point at Beaumont/Port Arthur for which market-based rates are requested.

Apache claims that because of the planned extension to Beaumont/Port Arthur, the “Application fails to specify the actual destination points against which to analyze an appropriate destination market.” Apache Protest at 11. CAPP also notes that certain destination market facilities are under construction. CAPP Protest at 3-4. Those arguments provide no basis to reject the proposed destination market. The Application makes clear that the pipeline’s initial delivery point will be at Houston, Texas, with an additional extension to be constructed to the Beaumont/Port Arthur area. *See*

Application, Statement I at 4-5 (Schink) and Statement I at 3 (Hurley). As noted above, it is entirely appropriate to seek market-based rates prior to initiation of service.

Moreover, both the Houston and Beaumont/Port Arthur destination points are within the Houston to Lake Charles area destination previously approved by the Commission.⁷

In the final analysis, the Gulf Coast is one of the most competitive crude oil markets in the United States, if not the world. Given the overwhelming evidence of competition in the destination market and the Commission's prior ruling on the issue, summary disposition is entirely appropriate and should be granted.

V. THE COMMISSION SHOULD SUMMARILY GRANT THE APPLICATION WITH RESPECT TO THE CUSHING ORIGIN MARKET.

The Cushing origin market is also highly competitive. As shown in Table 2 below, if only local crude production is considered, the effective capacity-based HHI is 1,126 and the adjusted capacity-based HHI is only 909. If both local and more remote crude oil production sources are considered, the effective capacity-based HHI remains at

⁷ CAPP suggests there are discrepancies between Tables C.1 and D.7 of the Application with respect to the refineries at the destination market. CAPP Protest at 16. There is no discrepancy; the tables simply show different things. Table D.7 lists all refineries in the Gulf Coast destination market, while Table C.1 lists the refineries that are potential customers of Seaway either because they will be directly connected to the Houston terminal or could be economically served through shipments from the Texas City barge dock. *See* Application, Statement C at 5 and Statement D at 32. CAPP takes issue with the claim that certain refineries can be served "economically." CAPP Protest at 15-16. The Application, however, identifies the applicable barge rates that support that statement. Application, Statement D at 42. CAPP neither disputes the accuracy of those rates nor argues that they would cause service to the applicable refineries not to be economical. In any event, CAPP fails to suggest that any of the issues would cause the destination market to be anything other than highly competitive.

1,126, and the adjusted capacity-based HHI increases to only 1,003. In addition, Seaway will have a modest market share and there is significant excess capacity whether local crude production alone is considered or both local and more remote production are considered. As described further below, the Commission has consistently granted requests for market-based rates where the HHIs are higher than they are here, even where the markets are challenged.

Table 2
Summary of Capacity-Based Analysis Results for the Cushing Origin Market

Market Statistic	Market Size Definition	
	Local Crude Oil Production Only	Local Crude Oil Production and Crude Oil Deliveries
Effective Capacity HHI	1,126	1,126
Seaway Pipeline's Effective Capacity Market Share	18.0%	18.0%
Excess Capacity Ratio	3.84	1.31
Excess Capacity Held by Others Ratio	4.45	1.34
Adjusted Capacity HHI	909	1,003
Seaway Pipeline's Adjusted Capacity Market Share	9.1%	11.1%

Sources: Application, Statement G, Tables G.14 and G.15.

A. The Application Appropriately Defined the Geographic Origin Market.

Protestants generally contend that the Application's definition of the geographic origin market is too large. *See* Suncor Protest at 12-13; CAPP Protest at 3, 11-12; Apache Protest at 10; DEPA Protest at 3-4; IPAA Protest at 5. Certain protestants further

suggest that the geographic definition of the origin market should be limited to the Tulsa, Oklahoma BEA. *See* CAPP Protest at 3, 11-12; *see also* Suncor Protest at 12.⁸ These arguments are without merit and provide no basis for not granting the Application.

The Commission does not require pipelines to file market-based rate applications “pursuant to any particular geographic market definition.” Order No. 572 at 31,188. While the Commission noted in Order No. 572 that it expected pipelines would generally use BEAs as their geographic markets, the Commission expressly declined to require BEAs and instead made clear that “the appropriate geographic markets should be determined in each proceeding based on its facts.” *Id.* Given the facts here, the geographic definition of the origin market used in the Application is fully justified.

BEA’s may be a logical starting point for analyzing refined petroleum products destination markets, which were the focus of the cases prior to Order No. 572. *See* Order No. 572 at 31,185, 31,188 & nn. 33 & 34 (citing *Buckeye Pipe Line Co.*, 53 FERC ¶ 61,473 (1990), *order on reh’g*, 55 FERC ¶ 61,084 (1991); *Williams Pipe Line Co.*, 68 FERC ¶ 61,136 (1994)). As Dr. Schink explained, however, the geographic definition of a *crude oil origin market* is dictated by the location and shape of the crude oil basin that produces the oil transported out of the origin market. *See* Application, Statement A at 13-14. As Dr. Schink explained, the “smallest geographic area for which crude oil production data are publicly available in the United States is at the county level.” *Id.* at

⁸ The term “BEA” refers to the United States Department of Commerce, Bureau of Economic Analysis Economic Areas. “BEAs are geographic regions surrounding major cities that are intended to represent areas of actual economic activity.” Order No. 572 at 31,184 n.31.

13. Thus, the origin market for a crude oil pipeline is properly “defined as the collection of counties that best approximates the geography of the crude oil basin for a crude oil production area.” *Id.*

The geographic origin market in the Application is therefore not simply “an arbitrary geographic area drawn on a map,” as Suncor claims. Suncor Protest at 13. Instead, Dr. Schink analyzed each of the specific counties in the crude oil production area around Cushing to determine the appropriate geographical extent of the origin market. Dr. Schink included only those counties in Oklahoma, Kansas and Northwest Texas that produce crude oil that can be transported to Cushing. *See* Application, Statement A at 13-14, 24-27. Counties with no reported crude oil production were excluded from the origin market. *Id.* at 25.

Despite generalized claims that the origin market was too broad, none of the protestants submitted any evidence showing that the counties selected were inappropriate. Nor did protestants present any evidence that the specific counties used by Dr. Schink do not produce crude oil or that the crude oil produced in those counties is not transported to Cushing. CAPP’s witness, Dr. John Morris, stated that “[t]he market would not extend to Texas,” and that “[t]he Kansas refineries also *may not be* part of the proper Origin Market.” CAPP Protest, Morris Aff. at 6 (emphasis added). Dr. Morris failed to give any reasons for his conclusions, however, other than that the “Commission has historically used a BEA as the Origin Market.” *Id.* As explained above, there is no requirement that BEAs be used here.

Dr. Schink further explained that a substantial amount of the crude oil at Cushing is transported into the area from production located outside the origin market (*i.e.*, from the Rocky Mountain area, from Western Canada, and from the Texas-New Mexico Permian Basin Area). Application, Statement A at 14, 27-30. Dr. Schink therefore calculated alternative market statistics for the origin market based on (1) crude oil production within the origin market, and (2) crude oil production within the origin market plus crude oil deliveries to the origin market from remote production areas. As shown above, both calculations show the origin market to be highly competitive. Again, despite generalized claims that the origin market is too large, none of the protestants disputes that crude oil at Cushing consists of both local production and crude oil produced at remote locations.⁹

B. The Application Appropriately Analyzed the Various Alternatives to Seaway at the Origin Market.

Protestants argue that there are no good alternatives to Seaway at the Cushing origin market. *See* Suncor Protest at 20 and Van Heyst Aff. at 2 (“there are no true

⁹ CAPP argues that the excess capacity ratio is overstated, because it claims the capacity of the existing Keystone pipeline from Hardisty, Alberta to Cushing should be 590,000 bpd, rather than the 155,000 bpd used in the Application. *See* CAPP Protest at 12-15. That point is contradicted by CAPP’s own June 2011 publication entitled “Crude Oil Forecast, Markets & Pipelines” (cited in the Application, Statement D at 21, and included herewith in relevant part at Attachment A), which reports that Keystone’s capacity to Patoka, Illinois is 435,000 bpd, while the capacity to Cushing is 155,000 bpd. TransCanada also reports that of the approximately 590,000 bpd total capacity of the line leaving Hardisty, there is a “nominal capacity to transport approximately 435,000 [bpd]” from Hardisty to Patoka, while the long-term volume commitments supporting the expansion to Cushing total 155,000 bpd. *See TransCanada’s Keystone Oil Pipeline to expand to 590,000 barrels per day*, July 3, 2007, <http://www.transcanada.com/3107.html> (included herewith at Attachment B).

alternatives to Seaway”); CAPP Protest at 7 and Morris Aff. at 3 (“no good alternatives to Seaway exist at Cushing”). Protestants claim that because of the price differential between the Gulf Coast and Cushing, the netback that shippers will be able to receive from shipping on Seaway will be higher than any other alternative. *See* Suncor Protest at Van Heyst Aff. at 4-7; CAPP Protest at Pinney Aff. at 2-7, Morris Aff at 7. Protestants therefore argue that Seaway has a 100 percent market share and an HHI of 10,000 (*i.e.*, a complete monopoly) in its origin market. *See* Suncor Protest at 20; CAPP Protest at 2. For the reasons set forth below, protestants’ arguments are without merit and provide no obstacle to granting the Application.

1. Netback Calculations Are Not Required to Support a Showing that the Pipeline Lacks Market Power.

As an initial matter, an application for market-based rates does not need a netback calculation in order to support a showing that the pipeline lacks market power. The Commission in Order No. 572 did not establish any one single method for analyzing good alternatives. *See* Order No. 572 at 31,191-92; *see also* *TE Products Pipeline Co.*, 92 FERC ¶ 61,121, at 61,466 (2000) (“the Commission did not require that good alternatives be justified in any particular way”). Where the HHIs and other traditional measures of competition (*e.g.*, market share, excess capacity) show that the markets are workably competitive, the Commission has summarily granted challenged market-based rate applications repeatedly without requiring the application to contain netback calculations. *See, e.g., Sunoco Pipeline L.P.*, 114 FERC ¶ 61,036, at PP 79-81; 85-86 (2006) (summarily granting market-based rates for challenged Detroit, New York and

Philadelphia destination markets where HHIs were at or below 1,800); *Colonial Pipeline Co.*, 92 FERC ¶ 61,144, at 61,536-38 (2000) (summarily granting market-based rates for challenged Jackson, Mississippi and Baton Rouge, Louisiana destination markets where HHIs were at or below 2,500); *Explorer Pipeline Company*, 87 FERC ¶ 61,374, at 62,390 (1999) (summarily granting market-based rates for various challenged markets where HHIs were at or below 1,800); *Longhorn*, 83 FERC at 62,380-81 (summarily granting challenged market-based rate application where HHIs for the Houston origin and El Paso destination markets were below 1,800). As noted above, the traditional measures of market concentration for Seaway are well within the range of those previously approved by the Commission prior to hearing and fully support granting the Application for market-based rates in the Cushing origin market.

2. *Mobil* Does Not Require Applications for Market-Based Rates to Contain Netback Analyses.

Protestants rely almost exclusively on the *Mobil* case, going so far as to argue that the Application should be dismissed for not containing a netback calculation similar to the one used in that case. *See, e.g.*, Suncor Protest at 13-21; CAPP Protest at 6; Cenovus Protest at 5-9; Apache Protest at 8-10; DEPA Protest at 7. *Mobil*, however, did not change the Commission's rules regarding what an application for market-based rates must contain with respect to showing good alternatives in a particular market. Contrary to protestants' suggestion, *Mobil* did not hold that an application cannot be summarily granted without a netback analysis, let alone that an application must be rejected on this

ground. On the contrary, *Mobil* reiterated that the Commission does “not require that good alternatives be justified in any particular way.” 121 FERC at P 21.

Mobil required that a netback be performed at hearing, but only *after* the protests had “raise[d] a reasonable doubt concerning the appropriateness of the geographic market definitions.” *Mobil*, 121 FERC at P 23. As explained above, protestants’ generalized assertions here fail to show that the geographic market definitions in the Application are improper or otherwise raise a reasonable doubt regarding those definitions. The HHI statistics for the Cushing market are well within the levels that the Commission has previously found to be sufficient to show that the pipeline lacks market power, even in the face of protests. In light of this substantial evidence of competition, there is no basis not to grant the Application, and *Mobil* does not hold otherwise.

It is also important to emphasize that the facts in *Mobil* were different from the situation here in several significant ways. As an initial matter, Seaway is a new entrant to the Cushing origin market, whereas the pipeline in *Mobil* was already providing the service for which market-based rates were requested. *See* 121 FERC at P 4. As discussed further below, since the Cushing origin is already competitive under established standards, a new entrant such as Seaway can only make the market more (not less) competitive.

Seaway will also face greater current and potential competition in its origin market than was the case for the pipeline *Mobil*. As an initial matter, the HHIs for Seaway’s origin market based on current competition (an effective capacity-based HHI of 1,126 and an adjusted capacity-based HHI ranging from 909 to 1,003) are somewhat lower than

the HHI of 1,394 for the Patoka, Illinois origin market at issue in *Mobil*. 121 FERC at P 23. More significantly, Seaway is currently facing strong active competition from proposed projects to move crude oil from Cushing to the Gulf Coast, whereas the pipeline in *Mobil* faced no direct competition at the time of its application for movements from Patoka to the Gulf Coast.

Seaway's competition includes not only the existing Mobil pipeline from Patoka to the Gulf but also active competing proposals such as TransCanada's Keystone XL project, Magellan's proposed Cushing-to-Houston pipeline, and Magellan's proposed Longhorn reversal. *See, e.g.*, Application, Statement E at 2-9; Statement I (Schink) at 36. Protestants attempt to discount the importance of these projects. *See, e.g.*, Suncor Protest at 24 (claiming the projects are "speculative"); DEPA Protest at 10 (contending there is "considerable uncertainty surrounding each of the potential competitive alternatives"). On the contrary, these projects constitute very real *existing* competition for Seaway as the proponents of the various projects seek to sign-up shippers to long-term volume commitments. For example, Cenovus Energy Marketing Services LTD stated that it is already "a committed shipper on the proposed TransCanada Keystone XL Pipeline." Cenovus Protest, Verified Statement of Richard Dembicki on Behalf of Cenovus Energy Marketing Services LTD at 1. TransCanada also recently announced that it will go forward with its Cushing-to-Port Arthur pipeline, which will have greater capacity than Seaway and begin service only approximately a year after the Seaway reversal. *See* Attachment C (TransCanada press release stating that pipeline will begin service in "mid to late 2013"); Attachment D (Washington Post article reporting that pipeline will

transport 700,000 bpd). These projects thus provide current competition that serves to constrain Seaway with respect to the rates it will be able to charge.¹⁰

In addition, because Seaway is a new entrant that has not yet begun service, Seaway does not have a rate on file for the proposed north-to-south service. Thus, unlike the pipeline in *Mobil*, Seaway cannot perform a netback using the filed rate as a proxy for the competitive transportation rate, as protestants claim is necessary. Protestants claim this is a fatal deficiency, but as noted above the Commission has never required that an application for market-based rates include a netback analysis (whether using the filed rate as the proxy for the competitive rate or otherwise). Indeed, the Commission has previously approved initial market-based rates prior to start-up where no filed rate was available and has summarily granted challenged applications for market-based rates based on traditional measures of market concentration. In *Mobil*, the Commission found that the pipeline's filed rate was an appropriate proxy for the competitive rate only after hearing based on the specific facts in that case. *See* 133 FERC at P 18. Protestants provide no justification for their apparent assumption that whatever rate is ultimately

¹⁰ Suncor argues that certain of the potential competitive alternatives “are at least partially owned by Enterprise or Enbridge and therefore, as affiliates, should be included with Seaway in performing a market power analysis.” Suncor Protest at 24. On the contrary, since Seaway is a 50/50 joint venture, it should be treated as a separate entity. As a joint venture that is equally owned by two different entities, there is no basis to assume that it will give preferential treatment to affiliates of either owner. In any event, the proposed TransCanada and Magellan projects are not affiliated with either of Seaway's owners.

filed for north-to-south service on Seaway will automatically constitute a proxy for the competitive rate.

In addition, as the Commission noted, *Mobil* was “only the second instance of an application for authority to charge market-based rates for a crude oil pipeline and present[ed] novel issues regarding transportation of heavy sour crude oil originating in Canada with deliveries to refineries in the U.S.” *Mobil*, 121 FERC at P 24. Here, Seaway plans to move both WTI and WCS and will be able to move all types of crude oil. Moreover, partly because of *Mobil*, market-based rate applications for crude oil pipelines are no longer unique. Thus, the issues are no longer sufficiently novel to justify failing to grant the Application here on that ground.

3. Protestants’ Netback Analyses are Flawed and Provide no Basis Not to Grant the Application.

As noted above, protestants’ contention that there are no good alternatives to Seaway rests entirely on their proposed netback analyses. Protestants claim that because the price of crude oil is currently higher on the Gulf Coast than at Cushing, no other alternative will give shippers as high a netback as Seaway. As explained below, protestants’ netback analyses are highly flawed and provide no ground not to grant the Application here.

- a. Protestants ignore the numerous current alternatives that make the Cushing origin market competitive even prior to the entry of Seaway.*

The major flaw in protestants’ approach is that they ignore the various alternatives that already make the Cushing origin market highly competitive. Cushing is a major

trading hub, and there are multiple existing means for selling crude oil to refineries in the Cushing area or for transporting crude oil out of Cushing, even prior to the Seaway reversal. As explained in the Application, there are currently three pipelines that transport crude oil out of Cushing: (1) the BP pipeline to Whiting, Indiana; (2) the Enbridge Ozark pipeline to Wood River, Illinois; and (3) the Occidental pipeline to West Texas, with a connection to a Holly pipeline to Artesia, New Mexico. *See* Application, Statement D at 5, 21. There are also eleven refineries in the Cushing origin market. *Id.* at 5-6, 22.¹¹ It is illogical to argue that a currently competitive market will become less competitive because of a new entrant such as Seaway. Instead, Seaway will plainly make the market more (not less) competitive. *See* Application, Statement H at 3-4.

There is no dispute that the supply of crude oil at Cushing has increased recently because of the substantial growth in crude oil production in the U.S. and Canada. The increased supply of crude oil at Cushing has in turn reduced the price that Cushing-area refineries are willing to pay relative to refineries in other locations (*e.g.*, the Gulf Coast) and has increased the demand for transportation out of Cushing. The relative level of

¹¹ CAPP claims the Application overstates the capacity of the HollyFrontier refinery in Tulsa. *See* CAPP Protest at 18. As noted in the Application, HollyFrontier owns two refineries in Tulsa, which had a total combined capacity of approximately 155,000 bpd as of January 1, 2011. *See* Application at Statement D, pages D-22 and 23 (citing the Energy Information Administration's 2011 Refinery Capacity Report). CAPP indicates that the HollyFrontier website currently states that the total capacity of its Tulsa refineries is now 125,000 bpd. *Id.* Even assuming HollyFrontier has reduced the capacity at its refineries by approximately 30,000 bpd, the effect on the market concentration analysis would be *de minimis*, and would in fact slightly reduce the HHI from 1,126 to 1,120. *See* Attachment E (showing results of modifying Tables G.14 and G.15).

supply and demand at Cushing, however, does not mean there is no competition among Cushing area refineries for crude oil. Nor does the increase in demand for transportation out of Cushing mean that there is no competition among the various existing transportation alternatives. Indeed, one of the main reasons for the concentration of supply at Cushing in the first place is because Cushing is a major trading hub with numerous alternatives for sale to refineries in the area or transportation out of Cushing to other markets. *See, e.g.,* CAPP Protest, Pinney Aff. at 2 (“Cushing is a major pipeline transportation and storage hub ... [with] numerous storage facilities and pipeline interconnections to various locations in the continental United States”).

Protestants do not dispute the existence of the current pipeline alternatives or the eleven refineries in the Cushing area. It therefore makes no economic sense to argue that Seaway will have an HHI of 10,000 in the origin market. Such a calculation assumes that, apart from Seaway, there are no methods for selling crude oil at Cushing or transporting crude oil out of Cushing, when plainly that is not the case.

b. Protestants rely on an improper “corridor analysis.”

Protestants are able to calculate an HHI of 10,000 only by ignoring all alternatives for transportation out of Cushing except for those to the Gulf Coast. For example, CAPP’s witness Dr. Morris explicitly states that, in his view, Seaway will have “market power in shipping crude oil *from Cushing to the Gulf Coast.*” CAPP Protest, Morris Aff. at 3 (emphasis added). That is nothing other than an impermissible “corridor analysis.”

DEPA suggests that the Commission permits a corridor analysis. *See, e.g.,* DEPA Protest at 5 n.1. On the contrary, it is well-established that market-based rate analyses

should be conducted for each separate origin and destination independently. In Order No. 572, the Commission rejected proposals to require “a market analysis of each point-to-point corridor.” Order No. 572 at 31,188. The Commission explained that “a point-to-point corridor analysis may exclude competitive alternatives to the relevant service and, in some instances, it could provide an inaccurate picture of market concentration.” *Id.* The Commission’s regulations therefore reject the corridor approach and require market-based rate applications to be based on separate analyses for each origin and destination market. 18 C.F.R. § 348.1(c). The Commission has indicated that a protestant could attempt to prove that a corridor analysis is appropriate in a specific case. *Id.* In the years following Order No. 572, however, the Commission has never adopted a corridor approach. In fact, it has repeatedly rejected it. *See, e.g., Longhorn*, 83 FERC at 62,380 (rejecting claim that pipeline had market power over transportation from the Gulf Coast to El Paso due to price differential between those two points), *reh’g denied*, 85 FERC ¶ 61,206, at 61,861(1998) (rejecting corridor analysis argument as a “collateral attack” on the Commission’s market-based ratemaking regulations); *Explorer Pipeline Company*, 87 FERC ¶ 61,374, at 62,388 (1999) (explaining that the Commission has “consistently rejected the use of corridor-based market analyses”).

Other protestants claim not to be conducting a corridor analysis, but instead contend that there are simply no “good alternatives” to Seaway because of the netback that will allegedly be available from moving crude oil to the Gulf Coast. As discussed further below, protestants’ netback analyses are overly-dependent on current price differentials. That leads protestants to assume that the only “good alternative” is the

current “best alternative,” and the path that currently achieves the highest netback is therefore the only route included in the protestants’ HHI analyses. That is simply an improper corridor analysis by another name.

c. Protestants’ reliance on historical price differentials leads to illogical results.

Protestants’ netback analyses rely exclusively on recent historical price differentials. Suncor uses the average differential for the period from January 2011 through January 2012. Suncor Protest, Van Heyst Aff. at 6. CAPP uses the average differential for the period from February 2011 through December 2011. CAPP Protest, Pinney Aff. at 3-7. Those parties fail to show that these historical price differentials generate an appropriate analysis of competitive alternatives at the Cushing origin market.

As an initial matter, neither Suncor nor CAPP explains how the historical averages that they use provide an accurate picture of what the market for transportation out of Cushing will be after Seaway’s new north-to-south service takes effect. In fact, the announcement of the Seaway reversal itself caused a significant decline in the price differential between Cushing and the Gulf Coast. *See, e.g.,* DEPA Protest at 9 n.2 (“Following the announcement of the [Seaway] reversal, the difference between the spot price of Brent crude oil and WTI fell to under \$10 per barrel after reaching a record of \$29.70 per barrel on September 22, 2011.”). The differential will almost certainly decline further after the reversal is complete. Indeed, it is not logical to assume that after the reversal the current refinery and pipeline alternatives at Cushing will simply cede the

market to Seaway without trying to compete for business (*e.g.*, by refineries in the Cushing area raising their purchase prices).

To the extent the differential is not eliminated by the reversal of the Seaway pipeline itself, one or more of the other proposed pipeline projects discussed above will likely enter the market until the differential is eliminated. Indeed, given the size of TransCanada's recently-announced 700,000 bpd Cushing-to-Port Arthur pipeline, it is unlikely that the differential will remain after that project goes into service in 2013. *See* Attachment D (Washington Post reporting the "move by TransCanada would alleviate the glut of oil at Cushing").

Even if some differential between Cushing and the Gulf Coast were to remain, that would not be a sufficient ground for failing to grant the Application. It would be economically inefficient to deny Seaway market-based rates simply because it was able to open up a new market for shippers where crude oil prices are higher than existing markets. As the Commission previously explained, "any price differential between the origin and destination markets does not confer monopolistic power upon [the pipeline], but rather it promotes competition." *Longhorn*, 83 FERC at 62,380; *see also Explorer Pipeline Co.*, 87 FERC ¶ 61,374, at 62,389, 62,394-95 (1999) (rejecting argument that pipeline would "be able to capture all or most of the differential between the price of petroleum products on the Gulf Coast and Chicago" as a reason not to grant market-based

rates).¹² In other words, the Seaway reversal did not create the price differential, but instead helps to reduce it. By reversing the pipeline to provide north-to-south service between Cushing and the Gulf, Seaway enhances competition in both markets. The reversal gives shippers at Cushing an additional alternative for disposing of their crude oil production, and gives refineries on the Gulf Coast access to additional (and currently cheaper) sources of supply. If the Commission were to deny market-based rates simply because the pipeline opens up routes to new markets where the product transported is able to command a higher price than existing markets, pipelines will be less likely to invest the capital necessary to open up routes to new markets and shippers will have fewer alternatives available to them. Such a policy would be highly anti-competitive and tend to discourage efficiency-enhancing pipeline infrastructure projects.

Ultimately, given the volatility in the price differential between Cushing and the Gulf Coast (as well as the volatility in crude oil prices generally), it makes no sense to focus on historic price differentials to the exclusion of traditional measures of market concentration that analyze the underlying structure of the market (*e.g.*, number of competitors, market shares, available capacity). That is especially the case here where those traditional measures show the Cushing origin market to be highly competitive.

¹² In *Mobil*, the Commission stated that the amount of the price differential should not necessarily be equated with the competitive rate in performing a netback analysis. 133 FERC at P 8. The Commission, however, did not claim to reverse its prior holdings in *Express* and *Longhorn* or indicate that the mere existence of a price differential was sufficient reason not to grant an application for market-based rates when the applicable markets were otherwise shown to be sufficiently competitive.

- d. CAPP fails to show that the former rate for south-to-north service on Seaway is a valid proxy for the competitive rate for north-to-south service.*

In addition to the deficiencies in protestants' netback analyses generally, CAPP errs by assuming that the prior rate on file for south-to-north transportation on Seaway is a valid proxy for the competitive rate for north-to-south service. *See* CAPP Protest at 10. On the contrary, there is no reason to assume that the two filed rates will be the same or even bear any relation to one another, especially given the costs involved in putting the pipeline to a new use. Nor is there any reason to assume that whatever rate is filed will be a reasonable proxy for the competitive rate. Protestants suggest that absent a current filed rate for north-to-south service, the application must simply be rejected. *See id.* at 4, 10-11. As explained above, however, that argument has no foundation in precedent or policy. Instead, the application should be granted based on the traditional measures of market concentration, which overwhelmingly show the existence of competition in the origin market.

- e. Suncor and CAPP fail to show that their proposed proxies for the price of WTI and WCS at the Gulf Coast are appropriate.*

Suncor and CAPP both conduct netback analyses that compare the price of WCS and WTI at Cushing with the price of proxies at the Gulf Coast. Both Suncor and CAPP use Mexican "Maya" crude oil as the proxy for WCS. Suncor Protest at 20; CAPP Protest at 9. As the proxy for WTI, Suncor uses Louisiana Light Sweet (Suncor Protest at 19), and CAPP uses Brent crude. CAPP Protest, Pinney Aff. at 2-6. Suncor and CAPP do not perform any analysis or provide any evidence to support their claims that the

proxies they use are good proxies for what the price for WTI or WCS would be at the Gulf Coast after Seaway is reversed. Nor do they address whether any adjustments would need to be made for differences in quality between WTI and WCS and the various proxies that they propose. Absent such an analysis, it is not appropriate to assume that the proxies used by Suncor and CAPP in their netback calculations yield accurate results or provide any justification for not granting the Application.

VI. PROTESTANTS HAVE NOT DEMONSTRATED A NEED FOR A HEARING OR FOR DISCOVERY.

As shown above, Protestants' pleadings have not raised any issue of material fact that would require the Commission to conduct a hearing before granting the Application. Nor have Protestants demonstrated any need for discovery. There is thus no basis for launching the costly, time-consuming and ultimately unnecessary proceeding that protestants suggest.

The proposed Seaway reversal is the type of infrastructure project that the Commission has recognized is important to "meet the nation's growing demand for energy." *Colonial Pipeline Company*, 116 FERC ¶ 61,078, at 61,470 (2006), *reh'g denied*, 119 FERC ¶ 61,183 (2007). Setting the application for hearing would send the wrong message regarding the Commission's commitment to energy infrastructure expansion and would tend to discourage pro-competitive projects such as the one at issue here. This matter instead should be decided by summarily granting the Application.

VII. CONCLUSION

For the reasons set forth above, Petitioners respectfully request that the Commission summarily grant the application for authority to charge market-based rates.

Respectfully submitted,

/s/ Steven H. Brose
Steven H. Brose
Steven Reed
Daniel J. Poynor
Steptoe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036-1795
(202) 429-6250

*Counsel for Enterprise Products
Partners L.P. and Enbridge Inc.*

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ATTACHMENT A



Crude Oil

June
2011

Forecast, Markets & Pipelines





4 | CRUDE OIL PIPELINES

Pipelines are an efficient method of transporting large volumes of crude oil over land. Recent decreased pipeline capacity connected to key markets proved that pipeline constraints have a severe impact on the netbacks realized by Canadian producers. Some excess pipeline capacity is essential for industry to manage in times of pipeline maintenance or to ensure flexibility to accommodate new market developments. As crude oil production in western Canada continues to grow, the petroleum industry recognizes the need for new pipeline capacity to both existing and new markets. This chapter reports on the status of and demand for crude oil pipelines into markets in the U.S. and world markets, including Asia, that can be accessed once Canadian supplies reach the west coast.

Figure 4.1 Canadian and U.S. Crude Oil Pipelines - All Proposals



The existing pipeline network provides access to the primary markets for western Canadian crude oil which include: western Canadian refineries; Ontario, the U.S. Midwest; PADD IV; and the West Coast. There is very limited access to the U.S. Gulf Coast. The major pipeline proposals currently being assessed are primarily expansions into the U.S. Gulf Coast and for exports off Canada’s west coast. Figure 4.1 shows all existing and approved pipelines to date.

4.1 Existing Crude Oil Pipelines Exiting Western Canada

There are five major pipelines that are directly connected to the Canadian supply hubs at Edmonton and Hardisty, Alberta – Enbridge Mainline, Enbridge Alberta Clipper, Kinder Morgan Trans Mountain, Kinder Morgan Express, and the TransCanada Keystone pipeline. Cumulatively, these pipelines provide a total pipeline capacity out of western Canada of 3.5 million b/d (Table 4.1). Although this capacity is currently constrained somewhat by the available takeaway capacity of connecting downstream pipelines, there will be excess capacity out of this region until 2015, based on CAPP’s forecasted growth in western Canadian crude oil supplies.

Table 4.1 Capacity of Major Crude Oil Pipelines Exiting the WCSB

Pipeline	Crude Type	Annual Capacity (thousand b/d)
Enbridge	Light	1,069
	Heavy	796
Express	Light/heavy (35/65)	280
Trans Mountain	Light/heavy (80/20)	300
Alberta Clipper	Heavy	450
Keystone	Light/heavy (25/75)	591
Total Capacity		3,486

Enbridge Pipelines

The Enbridge system delivers crude oil and other refined projects from western Canada to markets in western Canada, the U.S. Midwest and Ontario. It also receives crude oil from U.S. pipelines in the upper Midwest for delivery to markets in the U.S. Midwest and Ontario. Further downstream, it connects to various pipelines in the U.S. such as the Minnesota Pipeline and the Spearhead Pipeline, the latter providing access to the Cushing, Oklahoma pipeline and storage hub.

The North Dakota Pipeline connects to the Enbridge Lakehead Pipeline at Clearbrook, Minnesota and provides producers in Montana and North Dakota with access to markets in PADD II and Ontario. The North Dakota System Expansion Phase 6, which expanded capacity of the system by 51,600 b/d, was completed and placed into service on January 1, 2010 and increased capacity of the system to 185,000 b/d.

The Bakken Expansion program is designed to accommodate for the future increases in crude oil production from the Bakken and Three Forks formations. The initial program includes the Portal Link Reversal project in phase 1, which will increase capacity of the North Dakota system by 25,000 b/d, once operational in early 2011. This involves the reactivation and flow reversal of an existing pipeline between Berthold, North Dakota and Enbridge’s Steelman terminal in Saskatchewan.

The second phase would add another 120,000 b/d of capacity that would transport the crude oil north into Enbridge’s Saskatchewan System and then on to the Enbridge Mainline system, at the Cromer, Manitoba terminal. This phase could be operational by late 2012. Total incremental capacity from both phases would be 145,000 b/d while the ultimate expansion capacity of this program is up to 325,000 b/d with modifications and additional facilities.

Downstream of Superior, Wisconsin, Enbridge has a capacity of 1.88 million b/d including 400,000 b/d of capacity added in 2009 with the startup of the Southern Access pipeline, which terminates at Flanagan, Illinois. The full capacity of Southern Access is not currently used because Spearhead South and Spearhead North provide the only connection to the pipeline and the combined capacity of these pipelines is only 320,000 b/d.

Enbridge Alberta Clipper

The Alberta Clipper pipeline is a pipeline extending from Hardisty, Alberta to Superior, Wisconsin and essentially functions as an expansion to Enbridge's mainline system. This pipeline started operating in 2010 and has a capacity of 450,000 b/d, which can be further expanded to 800,000 b/d.

Kinder Morgan Trans Mountain Pipeline

The Trans Mountain system originates in Edmonton, Alberta and transports crude oil and petroleum products to delivery points in British Columbia, including the Westridge dock for offshore exports, and to a pipeline that provides deliveries to refineries in Washington State.

Trans Mountain is currently operating as a common carrier pipeline where shippers nominate for space on the pipeline without a contract. Since May 2010, the pipeline has been in steady apportionment. Excess demand for this space is expected to continue until there is additional capacity available to transport crude oil to the west coast for export. The available pipeline capacity depends on the amount of heavy crude oil transported. In 2010, about 27 per cent of the volumes shipped were heavy crude oil.

Of the current pipeline capacity of 300,000 b/d (assuming 20 per cent of the volumes being transported are heavy crude oil), 248,000 b/d is allocated to refinery and terminal locations in British Columbia and Washington State and 52,000 b/d is allocated to Westridge dock shippers. In November 2010, Kinder Morgan filed an application with the National Energy Board (NEB) proposing to change the allocation to 221,000 b/d to land locations and 79,000 b/d to the Westridge dock, of which 54,000 b/d would be underpinned by firm contracts. The NEB has scheduled an oral public hearing on this application to commence on August 22, 2011.

Kinder Morgan Express-Platte Pipelines

The Express Pipeline system is a batch-mode, common carrier pipeline system comprised of the Express Pipeline and the Platte Pipeline that connects Canadian and U.S. crude oil producers to refineries in PADD IV and the U.S. Midwest. The Express Pipeline is a 24-inch diameter pipeline with a capacity of 280,000 b/d that originates at Hardisty, Alberta and terminates at the Casper, Wyoming facilities on the Platte Pipeline. The Platte Pipeline is a 20-inch diameter pipeline that runs from Casper, Wyoming to

refineries and interconnecting pipelines in the Wood River, Illinois area. The Platte Pipeline has a current capacity of 150,000 b/d downstream of Casper, Wyoming and approximately 140,000 b/d downstream of Guernsey, Wyoming.

Express does not operate at capacity due to the lower available capacity on Platte, which limits the takeaway capacity on Express for Canadian crude oil. In recent years, increased U.S. domestic production from the Bakken shale formation has been competing for the limited capacity on the Platte pipeline. In 2010, Express receipts at Hardisty averaged 200,000 b/d.

TransCanada Keystone and Cushing Extension

In June 2010, TransCanada began operating the first phase of the Keystone pipeline system, which ran from Hardisty, Alberta to terminals in Wood River and Patoka, Illinois. Subsequently in February 2011, the Keystone Cushing Extension, which runs from Steele City, Nebraska to Cushing, Oklahoma went into service. The system can deliver a combined capacity of 591,000 b/d. Average throughputs in the fourth quarter of 2010 were 186,000 b/d.

4.2 Oil Pipelines to the U.S. Midwest

The U. S. Midwest is the largest market for western Canadian crude oil. The major market hubs in the U.S. Midwest from which oil is further distributed are found at Wood River/Patoka in Illinois and at Cushing, Oklahoma. Table 4.3 summarizes the crude oil pipelines delivering crude to the Midwest.

Each refinery centre in the region has connected pipeline capacity to Canadian crude oil in excess of the refining capacity in the area. In addition, with the recent start up of the Keystone Pipeline in 2010, there is an oversupply of crude oil flowing into the region, most notably at the Cushing hub, with no further crude oil pipeline infrastructure to transport either excess western Canadian crude volumes or domestic U.S. production to other more distant markets. A number of pipeline proposal projects have been designed to address this issue and are discussed in the following section, entitled Oil Pipelines to the U.S. Gulf Coast.

Table 4.2 Summary of Crude Oil Pipelines to the U.S. Midwest

Pipeline	Originating Point	End Point	Status	Capacity (thousand b/d)
Kinder Morgan Express-Platte	Guernsey, WY	Wood River, IL	Operating	145
Enbridge Spearhead	Flanagan, IL	Cushing, OK	Operating	190
ExxonMobil Mustang	Lockport, IL	Patoka, IL	Operating	91
TransCanada Keystone	Hardisty, AB	Patoka, IL	Operating	435
TransCanada Keystone Extension	KS/NE border	Cushing, OK	Operating	155

Minnesota Pipeline System

The Minnesota Pipeline system is connected to the Enbridge system at Clearbrook, Minnesota, which enables it to deliver crude oil from Canada to Northern Tier's refinery in St. Paul Park and the Flint Hills refinery in Rosemont. This is the primary route for Canadian crude destined for the Minnesota refineries. The system has a capacity 465,000 b/d from two pipelines running along the same route. One of the pipelines can be further expanded from 165,000 b/d to 350,000 b/d if needed.

Koch Wood River Pipeline

The Minnesota refineries are also connected to western Canadian crude oil supplies via one other route to the Enbridge system. This is the Wood River Pipeline that delivers western Canadian crude oil that arrives at the Wood River hub via the Express system.

Spearhead Pipeline

The Spearhead South Pipeline and Spearhead North Pipeline provide the only connections to Enbridge's Southern Access pipeline at Flanagan, Illinois. Spearhead South has a capacity of 190,000 b/d and delivers light and heavy crude oil from Canada to Cushing, Oklahoma. Spearhead North has a capacity of 130,000 b/d and delivers heavy crude oil to the Chicago area. Refineries in the Chicago area could access additional crude supplies that reach the Wood River / Patoka hub through the Chicag Pipeline, which has a capacity of 360,000 b/d.

4.3 Oil Pipelines to the U.S. Gulf Coast

The Gulf Coast is the largest refining region in the U.S. with the capacity to process a wide range of both light and heavy crude oil types. Currently, Western Canadian crude oil producers only have 96,000 b/d of pipeline capacity connected to refineries in the Gulf Coast although tanker shipments originating off the Trans Mountain Westridge dock can also be delivered. There are a number of pipeline projects to the Gulf Coast currently being proposed

that are targeted to be in service around 2013. These projects are designed to alleviate the current market access constraints on producers. In the meantime, rail transportation of crude oil out of the Midwest is increasing.

ExxonMobil Pegasus Pipeline

ExxonMobil's Pegasus Pipeline is currently western Canadian producers' only pipeline connection to refineries in the U.S. Gulf Coast. Pegasus Pipeline receives crude oil at Patoka, Illinois and delivers to Nederland, Texas. Canadian crude oil, primarily heavy sour crude oil, originating from Hardisty, Alberta arrives either through

- 1) the Enbridge system followed by a connection on the Mustang Pipeline, which has a capacity of 100,000 b/d or;
- 2) the Express/Platte system to Wood River, Illinois followed by a connection on the WoodPat Pipeline, which has a capacity of 250,000 b/d or;
- 3) the Keystone Pipeline.

Enterprise/ETP Cushing-Gulf Pipeline Proposal

Enterprise Products Partners and Energy Transfer Partners have formed a joint venture to build a 400,000 b/d crude oil pipeline that would originate at Cushing, Oklahoma and extend to Houston, Texas. Approximately 40 per cent of this proposed pipeline project would utilize existing facilities and could begin operations in the fourth quarter of 2012 depending on regulatory approval and firm commitments from shippers. This pipeline could transport both light and heavy crude and could be expanded. The pipeline would help move increasing supplies of U.S. domestic light crude oil expected from the Bakken crude oil producing regions in the Williston Basin or heavy crude oil from western Canada.

Table 4.3 Summary of Crude Oil Pipelines to the U.S. Gulf Coast

Pipeline	Originating Point	End Point	Status	Capacity (thousand b/d)
ExxonMobil Pegasus	Patoka, IL	Nederland, TX	Operating	96
Enterprise/ETP Cushing-Gulf	Cushing, OK	Houston, TX	Proposed - for 2013	400
Enbridge Monarch	Cushing, OK	Houston, TX	Proposed - for 2013	350
TransCanada Keystone XL	Hardisty, AB	U.S. Gulf Coast	Approved - for 2013	700
Keystone Cushing MarketLink	Cushing, OK	Port Arthur, TX	Approved - possibly Q1 2013	150
TransCanada Louisiana Access Option #1	Patoka, IL	New Orleans, LA	Proposed - for 2014	
TransCanada Louisiana Access Option #2	Port Arthur, TX	New Orleans, LA	Proposed - for 2014	

Houston to El Paso Pipeline Reversal

Magellan Midstream Partners is continuing to evaluate the reversal and conversion of its Houston to El Paso pipeline in Texas, to crude oil service. Specifically, the project entails the reversal of the pipeline segment from Crane, Texas to Houston. The 18-inch diameter pipeline currently transports refined petroleum products and would have a capacity of 200,000 b/d if put in crude oil service. Nearby pipeline infrastructure could still transport 60,000 b/d of refined products to the El Paso market.

West Permian crude oil competes with Canadian light and medium crude oil. With the recent start up of the Keystone Cushing Extension pipeline, more Canadian crude oil has been flowing into the US Midwest market, resulting in record inventory levels. With this project, crude oil from the Permian Basin of West Texas could be diverted to the Gulf Coast instead of the Cushing market where it would otherwise be destined. The pipeline could be operational by the end of 2012 or mid-2013, pending regulatory approvals.

Enbridge Monarch Pipeline

The Monarch Pipeline project would be a new 24-inch diameter pipeline that would transport light crude oil from Cushing, Oklahoma to a terminal north of Houston, Texas. This pipeline would have a capacity of 350,000 b/d and has a target in-service date of Q4 2013.

TransCanada Keystone XL and Louisiana Access options

If U.S. regulatory approvals are obtained, Keystone XL would transport crude oil from western Canada and domestic U.S. crude from the Bakken to the Gulf Coast and thus reduce congestion at Cushing, Oklahoma. TransCanada concluded a successful open season that obtained firm contracts of 65,000 b/d for its Bakken Marketlink from Baker, Montana, to Cushing, Oklahoma using capacity on the northern leg of Keystone XL.

The Cushing to Gulf Coast (Port Arthur, Texas) section, dubbed the Cushing Marketlink Project, is scheduled for in service in the first quarter of 2013, slightly ahead of the full project, with an initial capacity of 150,000 b/d. The total capacity of Keystone XL is 700,000 b/d, of which 380,000 b/d has been secured by long-term contracts. Keystone XL could be further expanded if needed.

Other options for expanded access are also being discussed that could be in place by 2014, including a lateral to Houston and Texas City refineries. Access to Louisiana refineries is possible by using existing facilities from Patoka, Illinois to New Orleans or building a new line from Port Arthur, Texas to New Orleans, Louisiana.

Table 4.4 Summary of Crude Oil Pipelines to the West Coast

Pipeline	Originating Point	End Point	Status	Capacity (thousand b/d)
Enbridge Northern Gateway	Bruderheim, AB	Kitimat, BC	Proposed	525
Kinder Morgan TMX2	Edmonton, AB	Kamloops, BC	Proposed	80
Kinder Morgan TMX3	Kamloops, BC	Sumas, BC	Proposed	240-300
Kinder Morgan TMX Northern Leg	Rearguard/ Edmonton, AB	Kitimat, BC	Proposed	400

4.4 Oil Pipelines to the West Coast

Kinder Morgan's Trans Mountain Pipeline is currently the only pipeline route to markets off the west coast. (Figure 4.2). There is strong interest from Canadian producers to increase access to the west coast to serve markets in California and Asia. Currently both Kinder Morgan and Enbridge have pipeline projects that could meet this demand.

Kinder Morgan TMX2, TMX3 and Northern Leg Expansion

The TMX2 expansion could increase capacity by 80,000 b/d by 2016, if there is sufficient market commitment by 2012. TMX includes a new line from Edmonton, Alberta to Kamloops, British Columbia. TMX3 includes a new line to the Washington State refineries and a second berth at the Westridge dock. TMX3 could provide an additional 240,000 b/d to 400,000 b/d of capacity depending on market demand.

Enbridge Northern Gateway

The Northern Gateway Project includes the construction of a new 36-inch diameter pipeline from Edmonton, Alberta to a deep water port at Kitimat, British Columbia. This batch pipeline is designed to provide 525,000 b/d of crude oil export capacity, which could be expanded to an ultimate capacity of 850,000 b/d. Crude oil would be loaded on tankers for delivery to PADD V and Asia. Enbridge submitted an application to the National Energy Board (NEB) at the end of May 2010. The NEB has scheduled a hearing on the project for January 2012.

4.5 Other Proposals

Enbridge Line 9 Reversal

Enbridge's Line 9 Pipeline, which extends from Montréal, Québec to Sarnia, Ontario has been flowing in westbound service since the late 1990s. Enbridge is proposing to reverse the portion of the line between Sarnia and Westover, Ontario to flow in a west to east direction. This would provide incremental western Canadian crude oil access to the Ontario market and is targeted to be in service by the second quarter of 2012. The current capacity of the pipeline is 240,000 b/d. Once reversed, about 50,000 b/d is expected to flow through the pipeline to Westover. Phase II reversal to Montreal may be developed at a later date if and when market conditions dictate.

Keystone East Options

TransCanada is proposing to extend its Keystone Pipeline System from Patoka, Illinois to delivery points in Lima, Ohio; Toledo, Ohio and Detroit, Michigan. This extension would have a capacity of 300,000 b/d and could in-service by 2017.

Railway Transport

Although pipelines transport almost all of the crude oil produced in western Canada to markets, both Canadian National Railway (CN) and Canadian Pacific Railway (CP) are using their railway networks to ship crude oil. CN has shipped bitumen to California; heavy oil to Chicago, Illinois and Detroit, Michigan; and Bakken crude oil to the U.S. Gulf Coast. Rail does not have the same reach access into production fields as pipe and rail cars are typically loaded and unloaded by truck. However, rail transport does not require long term commitments and provides options when pipeline constraints exist.

Table 4.5 Summary of Diluent Pipelines

Pipeline	Originating Point	End Point	Status	Capacity (thousand b/d)
Enbridge Southern Lights	Flanagan, IL	Edmonton, AB	Operating since July 2010	180
Enbridge Northern Gateway	Kitimat, BC	Edmonton, AB	Proposed	193

For CN, the Bakken trade alone is now filling 250 to 300 rail cars a month; altogether, the company is moving roughly a unit train worth of crude oil per week. A unit train typically consists of 80 to 150 cars; each car can hold 550 barrels, which translates into 10,000 b/d. CP moves 80 car unit trains every week out of the U.S. Bakken.

4.6 Diluent Pipelines

The diluent pipeline proposals address the potential demand by western Canadian heavy crude oil producers for additional diluent supply needed to transport growing volumes of bitumen production at the same time as local Canadian pentanes plus and condensate supplies decline.

Enbridge Southern Lights

The Southern Lights pipeline project includes a new diluent line which flows from Flanagan, Illinois (near Chicago) to Clearbrook, Minnesota, and the reversal of Enbridge's existing Line 13 from Clearbrook to Edmonton, Alberta.

The initial capacity of the diluent import line is 180,000 b/d, of which 77,000 b/d is for committed shippers. It can be expanded to 330,000 b/d with minor looping and to over 400,000 b/d with full looping. The pipeline has been in service since July 2010.

Enbridge Northern Gateway Diluent

As part of its Northern Gateway crude oil pipeline project, Enbridge is proposing a 193,000 b/d diluent import pipeline that would extend from Kitimat, British Columbia to Edmonton, Alberta. The National Energy Board has scheduled a hearing on this project for January 2012.

4.7 Pipeline Summary

The Keystone Pipeline and the Cushing Extension, provides 591,000 b/d of new pipeline capacity exiting the western Canada and connecting supplies to market hubs in Illinois and Oklahoma. These pipelines provide ample capacity to traditional U.S. Midwest markets. With the forecast of growing supplies, the industry is: strategically looking to expand its access to markets; focused on addressing the need for more capacity into the U.S. Gulf Coast; and increasing capacity pipeline capacity to the west coast. A number of pipeline projects are being proposed to provide both the market access and additional capacity that will be needed by Canadian producers in the future.

There are a number of new pipeline proposals from Cushing, Oklahoma to the Gulf Coast being proposed that would provide an outlet for the current oversupply of Canadian and U.S. crude that has been building in PADD II. There are also pipeline proposals to expand export capacity to the west coast to provide access to new markets with strong growth potential.

ATTACHMENT B



TransCanada's Keystone Oil Pipeline to expand to 590,000 barrels per day

CALGARY, Alberta - July 3, 2007 - TransCanada Corporation (TSX, NYSE: TRP) (TransCanada) today announced the proposed Keystone Oil Pipeline project has secured 155,000 barrels per day of additional firm contracts from Hardisty, Alberta to Cushing, Oklahoma with duration averaging 16 years. The commitments were obtained through the successful completion of a binding Open Season held to support an expansion to 590,000 barrels per day and extension of the pipeline to Cushing, Oklahoma. TransCanada has now secured long term contracts for a total of 495,000 barrels per day with an average duration of 18 years.

The Keystone Pipeline will have an initial nominal capacity to transport approximately 435,000 barrels per day of crude oil from Hardisty, Alberta to U.S. Midwest markets at Wood River and Patoka, Illinois when it enters service in late 2009. The expansion and extension would involve additional pump stations and the construction of a 473-kilometre (294-mile) pipeline from the Nebraska/Kansas border to Cushing, Oklahoma with an in-service date of late 2010. With the Keystone expansion and Cushing extension, the nominal capacity will increase to 590,000 barrels per day.

"This commitment from shippers clearly confirms the value of TransCanada's Keystone project as a cost-competitive way to link growing oil sands supply to U.S. energy markets," said TransCanada chief executive officer, Hal Kvisle.

"With this support, we expect to move to the next phase of the project, expanding the pipeline to the U.S. Gulf Coast. We plan to market capacity for this next expansion throughout the balance of 2007."

In February 2007, TransCanada received approval from the National Energy Board (NEB) to transfer a portion of its Canadian Mainline natural gas transmission facilities to Keystone Pipeline subject to the approval of a facilities application to construct and operate Keystone's Canadian facilities. An NEB public hearing on this application concluded on June 21, 2007. TransCanada has also submitted applications for U.S. regulatory approvals at federal and state levels. Provided that regulatory approvals are received, construction of the 2,969-kilometre (1,845-mile) Keystone Pipeline is expected to begin in early 2008.

To obtain additional information about the Keystone Pipeline or view a map of the proposed pipeline route, please visit the project web page at <http://www.transcanada.com/keystone/>.

With more than 50 years experience, TransCanada is a leader in the responsible development and reliable operation of North American energy infrastructure including natural gas pipelines, power generation, gas storage facilities, and projects related to oil pipelines and LNG facilities. TransCanada's network of wholly owned pipelines extends more than 59,000 kilometres (36,500 miles), tapping into virtually all major gas supply basins in North America.

TransCanada is one of the continent's largest providers of gas storage and related services with approximately 360 billion cubic feet of storage capacity. A growing independent power producer, TransCanada owns, or has interests in, approximately 7,700 megawatts of power generation in Canada and the United States. TransCanada's common shares trade on the Toronto and New York stock exchanges under the symbol TRP.

Note: All financial figures are in Canadian dollars unless noted otherwise.

FORWARD-LOOKING INFORMATION

This news release may contain certain information that is forward looking and is subject to important risks and uncertainties. The words "anticipate", "expect", "may", "should", "estimate", "project", "outlook", "forecast" or other similar words are used to identify such forward looking information. All forward-looking statements are based on TransCanada's beliefs and assumptions based on information available at the time such statements were made. The results or events predicted in this information may differ from actual results or events. Factors which could cause actual results or events to differ materially from current expectations include, among other things, the ability of TransCanada to successfully implement its strategic initiatives and whether such strategic initiatives will yield the expected benefits, the availability and price of energy commodities, regulatory decisions, changes in environmental and other laws and regulations, competitive factors in the pipeline and energy industry sectors, construction and completion of capital projects, access to capital markets, interest and currency exchange rates, technological developments and the current economic conditions in North America. By its nature, such forward looking information is subject to various risks and uncertainties which could cause TransCanada's actual results and experience to differ materially from the anticipated results or other expectations expressed. For additional information on these and other factors, see the reports filed by TransCanada with Canadian securities regulators and with the U.S. Securities and Exchange Commission. Readers are cautioned not to place undue reliance on this forward looking information, which is given as of the date it is expressed in this news release or otherwise, and TransCanada undertakes no obligation to update publicly or revise any forward looking information, whether as a result of new information, future events or otherwise, except as required by law.

-30-

For further information, please contact:

Media Inquiries:

TransCanada
Shela Shapiro
(403) 920-7859 or Toll Free (800) 608-7859

Investor & Analyst Inquiries:

David Moneta/Myles Dougan
(403) 920-7911 or Toll Free (800) 361-6522

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ATTACHMENT C



TransCanada Set to Re-Apply for Keystone XL Permit Proceeding with Gulf Coast Project

Calgary, Alberta - **February 27, 2012** - TransCanada Corporation (TSX, NYSE: TRP) (TransCanada) announced today it has sent a letter to the U.S. Department of State (DOS) informing the Department the company plans to file a Presidential Permit application (cross border permit) in the near future for the Keystone XL Project from the U.S./Canada border in Montana to Steele City, Nebraska. TransCanada would supplement that application with an alternative route in Nebraska as soon as that route is selected.

The company also informed the DOS that what had been the Cushing to U.S. Gulf Coast portion of the Keystone XL Project has its own independent value to the marketplace and will be constructed as a stand-alone Gulf Coast Project, not part of the Presidential Permit process. The approximate cost is US\$2.3 billion and subject to regulatory approvals, we anticipate the Gulf Coast Project to be in service in mid to late 2013.

"Our application will include the already reviewed route in Montana and South Dakota," said Russ Girling, TransCanada's president and chief executive officer. "The over three year environmental review for Keystone XL completed last summer was the most comprehensive process ever for a cross border pipeline. Based on that work, we would expect our cross border permit should be processed expeditiously and a decision made once a new route in Nebraska is determined."

TransCanada will continue to work collaboratively with the State of Nebraska on determining an alternative route for Keystone XL that avoids the Sandhills. TransCanada has been working on assessing the routing in Nebraska since November 2011, following the State Department's notice to delay a decision on a Presidential Permit until an adjusted route that avoids the Sandhills was developed.

U.S. crude oil production has been growing significantly in States such as Oklahoma, Texas, North Dakota and Montana. Producers do not have access to enough pipeline capacity to move this production to the large refining market at the U.S. Gulf Coast. The Gulf Coast Project will address this constraint.

"The Gulf Coast Project will transport growing supplies of U.S. crude oil to meet refinery demand in Texas," added Girling. "Gulf Coast refineries can then access lower cost domestic production and avoid paying a premium to foreign oil producers. This would reduce the United States' dependence on foreign crude and allow Americans to use more of the crude oil produced in their own country."

Reapplying for the Keystone XL permit is supported by words used in President Obama's statement January 18, 2012 when he said the denial of the permit was not based on the merits of the pipeline but rather on an imposed 60-day legislative timeline to make a decision on the project.

With respect to moving forward on an initiative like the Gulf Coast Project, President Obama stated: *"In the months ahead, we will continue to look for new ways to partner with the oil and gas industry to increase our energy security - including the potential development of an oil pipeline from Cushing, Oklahoma to the Gulf of Mexico."*

TransCanada's commitment is to treat landowners with honesty, fairness and respect. The company has negotiated over 99 per cent of voluntarily easements in Texas and close to 100 per cent in Oklahoma. Easements make up the

route of a pipeline and are similar to an easement for water, sewer and utility lines. Residents maintain ownership of the land and landowners receive a payment equal to or greater than the land's market value.

Keystone XL remains in the national interest of the United States as it would allow Americans to move closer toward achieving energy security and create thousands of much needed jobs. Building the Gulf Coast Project would be a positive step in creating approximately 4,000 jobs. From an energy security standpoint, the U.S. consumes 15 million barrels of oil each day and imports 10 to 11 million - forecasts suggest this will not change for decades. The Keystone XL project offers Americans a choice of receiving Canadian and U.S. oil through this pipeline system or continuing to import crude oil from unstable places such as the Middle East and Venezuela that do not share American values.

The U.S. manufacturing sector would continue to experience the economic benefits of the project, as TransCanada has contracts with over 50 suppliers across in the U.S. Manufacturing locations for our equipment include: Texas, Missouri, Pennsylvania, Michigan, Oklahoma, South Carolina, Indiana, Georgia, Maryland, New York, Louisiana, Oklahoma, Minnesota, Ohio, Arkansas, Kansas and California. There are hundreds of additional suppliers sub-contracted through our suppliers for our material and equipment.

With more than 60 years experience, TransCanada is a leader in the responsible development and reliable operation of North American energy infrastructure including natural gas and oil pipelines, power generation and gas storage facilities. TransCanada's network of wholly owned natural gas pipelines extends more than 57,000 kilometres (35,500 miles), tapping into virtually all major gas supply basins in North America. TransCanada is one of the continent's largest providers of gas storage and related services with approximately 380 billion cubic feet of storage capacity. A growing independent power producer, TransCanada owns or has interests in over 10,800 megawatts of power generation in Canada and the United States. TransCanada is developing one of North America's largest oil delivery systems. TransCanada's common shares trade on the Toronto and New York stock exchanges under the symbol TRP. For more information visit: <http://www.transcanada.com> and follow us on Twitter [@TransCanada](https://twitter.com/TransCanada).

FORWARD LOOKING INFORMATION This publication contains certain information that is forward-looking and is subject to important risks and uncertainties (such statements are usually accompanied by words such as "anticipate", "expect", "would" or other similar words). Forward-looking statements in this document are intended to provide TransCanada security holders and potential investors with information regarding TransCanada and its subsidiaries, including management's assessment of TransCanada's and its subsidiaries' future financial and operation plans and outlook. All forward-looking statements reflect TransCanada's beliefs and assumptions based on information available at the time the statements were made. Readers are cautioned not to place undue reliance on this forward-looking information. TransCanada undertakes no obligation to update or revise any forward-looking information except as required by law. For additional information on the assumptions made, and the risks and uncertainties which could cause actual results to differ from the anticipated results, refer to TransCanada's Management's Discussion and Analysis dated February 15, 2012 under TransCanada's profile on SEDAR at <http://www.sedar.com> and other reports filed by TransCanada with Canadian securities regulators and with the U.S. Securities and Exchange Commission.

- 30 -

Media Enquiries:

Terry Cunha/Shawn Howard
403.920.7859
800.608.7859

Investor & Analyst Enquiries:

David Moneta/Terry Hook/Lee Evans

403.920.7911
800.361.6522

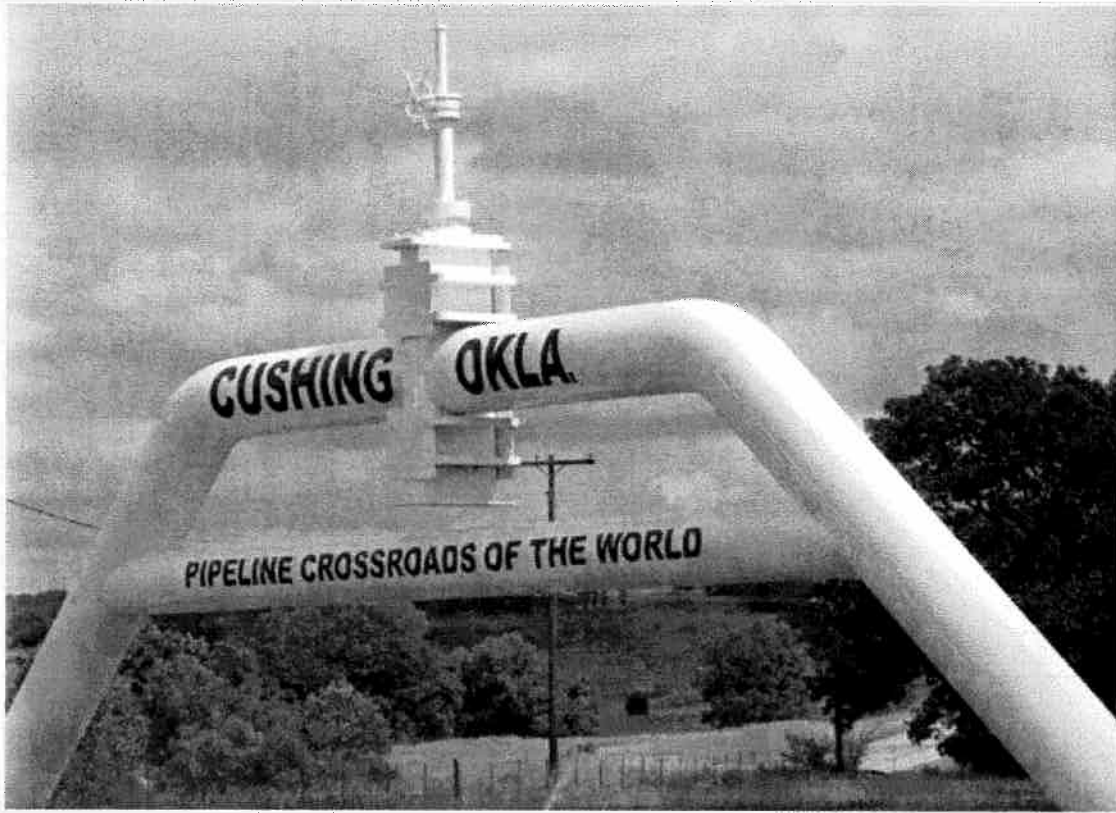
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Keystone XL Permit Proceeding with Gulf Coast Project**

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ATTACHMENT D

TransCanada to push ahead with part of Keystone pipeline



Matt Strasen/AP - The Canadian firm announced that it will push ahead with plans to extend a pipeline between Cushing, Okla., and Port Arthur, Texas.

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By Juliet Eilperin and Steven Mufson, Published: February 27

The Canadian firm hoping to build a massive oil pipeline from Canada to the U.S. gulf coast announced Monday that it will push ahead with plans to construct the segment running from Cushing, Okla., to Port Arthur, Texas, and will apply for a federal permit for the cross-border section of the pipeline.

The move by TransCanada would alleviate the glut of oil at Cushing, a major terminal, and address one of the main reasons for building the controversial Keystone XL pipeline. The \$2.3 billion pipeline will transport 700,000 barrels per day starting in mid- to late-2013. Plans for the segment of pipeline crossing the U.S.-Canada border would come “in the near future” the company said.

President Obama and congressional Republicans have feuded over whether to grant a federal permit for the pipeline extension. Obama rejected the permit last month when faced with a congressionally mandated deadline of Feb. 21, though he said he supported the idea of expanding shipping capacity between Cushing and the Gulf of Mexico.

In a statement Monday, White House spokesman Jay Carney said Obama welcomes TransCanada's plans for the southern pipeline segment, and he pledged that the new application for the cross-border section would receive a thorough assessment.

"Moving oil from the Midwest to the world-class, state-of-the-art refineries on the Gulf Coast will modernize our infrastructure, create jobs, and encourage American energy production," Carney said. He added that the administration would "take every step possible to expedite the necessary federal permits" for the segment.

As for the Keystone XL pipeline segment from Canada to Steele City, Neb., Carney blamed House Republicans for forcing a rejection in January "by not allowing sufficient time for important review or even the identification of a complete pipeline route." He stressed that Obama "in no way prejudged future applications" and that the administration would base its decision to provide a permit on the completion of the review.

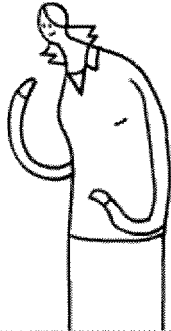


Loris Karklis/The Washington Post

Gallery



On Jan. 18, President Obama rejected a Canadian firm's application for a permit to build and operate the controversial Keystone XL pipeline, a massive project that would have stretched from Canada's oil sands to refineries in Texas. Here's a look at some of the key players in the pipeline plan and the protests against it.



TransCanada's Keystone XL proposal became entangled at the State Department, which handles cross-border pipeline proposals. But the segment of the pipeline from Oklahoma to Texas would not require State Department approval.

The company said that segment "has its own independent value to the marketplace and will be constructed as a stand-alone Gulf Coast Project, not part of the Presidential Permit process." The company predicted that 4,000 jobs would be created to build the segment.

Proponents say the full Keystone XL project would enhance the nation's energy supply and create short-term construction and manufacturing jobs. Foes, meanwhile, say the energy-intensive extraction of Alberta's oil sands will accelerate climate change and express concern that the oil could spill onto sensitive habitat along its route.

"A pipeline for tar sands from Oklahoma to the Gulf will raise U.S. oil prices, send tar sands overseas and be bad for our climate and waters — just like the full Keystone XL tar sands pipeline," said Susan Casey-Lefkowitz, director of international programs at the Natural Resources Defense Council.

Nebraska was in the middle of reevaluating an alternative route for the pipeline when Congress imposed a 60-day deadline for approval or denial of the permit and Obama rejected it, so that process is now on hold.

TransCanada said Monday that it is still working on an alternative route for the Nebraska segment so that it circumvents the environmentally sensitive Sandhills area.

All the major GOP presidential hopefuls have criticized Obama for blocking the pipeline and have pledged to approve it if elected president.

A Quinnipiac University poll released Feb. 23 showed that voters support the Keystone pipeline by 64- to 23-percent margin.

Sen. Richard Lugar (R-Ind.) issued a statement Monday blaming Obama for the firm's change in plans.

“Americans are screaming for more affordable oil supplies,” Lugar said. “The irony is that Democratic Senate leadership is calling for more oil from Saudi Arabia even as they continue to oppose oil from Canada. President Obama has turned his back on secure, affordable oil supplies of domestic oil from North Dakota and Montana, and from our vital ally Canada.”

Opponents of the pipeline argue that relieving the glut at the Cushing terminal, which the New York Mercantile Exchange uses as a benchmark, could increase crude oil prices nationwide.

But industry supporters of the pipeline said that relieving the bottleneck of crude oil at Cushing would benefit consumers by bringing more supplies to gulf coast refineries while leading to lower prices at the pump.

“The ability to bring oil from the Cushing hub to the Gulf Coast refinery complex will have tremendous benefits for drivers nationwide,” said Michael Whatley, executive vice president of the Consumer Energy Alliance, a group that includes major producers and industrial users of oil and gas.

ATTACHMENT E

Table 1
The Effects of Reducing HollyFrontier's Tulsa Refinery Capacity on the Competition Analyses
for Seaway Pipeline's Cushing Origin Market

Definition of the Origin Market/Scenarios	Effective Capacity- Based HHI	Seaway's Share of Effective Capacity	Effective Capacity- Based Excess Capacity Ratio
1. Local Crude Oil Production Only			
a. Seaway Application: Crude capacity of the HollyFrontier Tulsa refinery set equal to 155.3 MBD.	1,126	18.0%	3.84
b. Crude capacity of the HollyFrontier Tulsa refinery set equal to 125.0 MBD.	1,120	18.3%	3.78
2. Local Crude Oil Production and Crude Oil Deliveries to this Market			
a. Seaway Application: Crude capacity of the HollyFrontier Tulsa refinery set equal to 155.3 MBD.	1,126	18.0%	1.31
b. Crude capacity of the HollyFrontier Tulsa refinery set equal to 125.0 MBD.	1,120	18.3%	1.29

Sources: See Application, Statement G, Tables G.14 and G.15; See Table G.14 Modified and Table G.15 Modified below.

Table G.14 Modified
Capacity Based HHI [1] for the Cushing Origin Market:
Local Crude Oil Production Only
Crude Capacity of the HollyFrontier Tulsa Refinery Set Equal to 125 MBD.

Company	Asset	Location	Unadjusted Capacities (MBD) Col. 1	Effective Capacities (MBD) Col. 2	Share of Market (%) Col. 3	HHI Contribution Col. 4	Adjusted Capacities (MBD) Col. 5	Share of Market (%) Col. 6	HHI Contribution Col. 7
Reversed Seaway	Crude Oil Pipeline		375.0	375.0	18.3	334	49.4	9.1	83
BP	Crude Oil Pipeline		200.0	200.0	9.7	95	49.4	9.1	83
Enbridge	Crude Oil Pipeline		231.0	231.0	11.3	127	49.4	9.1	83
OXY	Crude Oil Pipeline		60.0	60.0	2.9	9	49.4	9.1	83
ConocoPhillips	Refinery	Ponca City, OK	198.4	198.4	9.7	93	49.4	9.1	83
HollyFrontier	Refinery	Tulsa, OK, EI Dorado, KS	263.0	263.0	12.8	164	49.4	9.1	83
CVR Energy	Refinery	Wynnewood, OK	70.0	70.0					
CVR Energy	Refinery	Coffeyville, KS	115.7	115.7					
CVR Energy Total			185.7	185.7	9.0	82	49.4	9.1	83
NCRA	Refinery	McPherson, KS	85.5	85.5	4.2	17	49.4	9.1	83
Valero	Refinery	Ardmore, OK	85.0	85.0					
Valero	Refinery	Sunray (McKee), TX	156.0	156.0					
Valero Total	Refinery		241.0	241.0	11.7	138	49.4	9.1	83
Alon USA Energy	Refinery	Big Spring, TX	67.0	67.0	3.3	11	49.4	9.1	83
WRB Refining	Refinery	Borger, TX	146.0	146.0	7.1	51	49.4	9.1	83
Total				2,052.6	100.0		542.9	100.0	
Local Area Crude Oil Production (Oklahoma, Kansas & Northwest Texas)					542.9				

Effective Capacity HHI	1,120
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Adjusted Capacity HHI	909
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Excess Capacity Ratio	3.78
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Notes:

[1]: Effective capacity HHI is the same as the unadjusted capacity HHI for this market. The effective capacity HHI uses local area crude oil production in Oklahoma, Kansas and Texas and an estimate of inbound deliveries from outside of the local area to measure the size of the market. None of the pipelines' capacities is greater than Cushing origin market supply of crude oil, so effective capacity equals unadjusted capacity (i.e., there are no adjustments).

[2]: The crude capacity for HollyFrontier was reduced by 30 MBD from 293.3 MBD to 263.3 MBD (this includes the capacity of the HollyFrontier EI Dorado, KS refinery). Crude capacity of the HollyFrontier Tulsa refinery was set equal to 125 MBD.

Table G.15 Modified
Capacity Based HHI [1] for the Cushing Origin Market:
Local Crude Oil Production and Crude Oil Deliveries to this Market
Crude Capacity of the HollyFrontier Tulsa Refinery Set Equal to 125 MBD.

Company	Asset	Location	Unadjusted Capacities (MBD)	Effective Capacities (MBD)	Share of Market (%)	HHI Contribution	Adjusted Capacities (MBD)	Share of Market (%)	HHI Contribution
			Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7
Reversed Seaway	Crude Oil Pipeline		375.0	375.0	18.3	334	176.6	11.1	123
BP	Crude Oil Pipeline		200.0	200.0	9.7	95	176.6	11.1	123
Enbridge	Crude Oil Pipeline		231.0	231.0	11.3	127	176.6	11.1	123
OXY	Crude Oil Pipeline		60.0	60.0	2.9	9	60.0	3.8	14
ConocoPhillips	Refinery	Ponca City, OK	198.4	198.4	9.7	93	176.6	11.1	123
HollyFrontier	Refinery	Tulsa, OK, El Dorado, KS	263.0	263.0	12.8	164	176.6	11.1	123
CVR Energy	Refinery	Wynnewood, OK	70.0	70.0					
CVR Energy	Refinery	Coffeyville, KS	115.7	115.7					
CVR Energy Total			185.7	185.7	9.0	82	176.6	11.1	123
NCRA	Refinery	McPherson, KS	85.5	85.5	4.2	17	85.5	5.4	29
Valero	Refinery	Ardmore, OK	85.0	85.0					
Valero	Refinery	Sunray (McKee), TX	156.0	156.0					
Valero Total	Refinery		241.0	241.0	11.7	138	176.6	11.1	123
Alon USA Energy	Refinery	Big Spring, TX	67.0	67.0	3.3	11	67.0	4.2	18
WRB Refining	Refinery	Borger, TX	146.0	146.0	7.1	51	146.0	9.2	84
Total				2,052.6	100.0		1,594.4	100.0	

Local Area Crude Oil Production (Oklahoma, Kansas & Texas)
and Estimate of Inbound Deliveries From Outside of the Local Area

1,594.4

Effective Capacity HHI	1,120
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Adjusted Capacity HHI	1,003
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Excess Capacity Ratio	1.29
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Notes:

[1]: Effective capacity HHI is the same as the unadjusted capacity HHI for this market. The effective capacity HHI uses local area crude oil production in Oklahoma, Kansas and Texas and an estimate of inbound deliveries from outside of the local area to measure the size of the market. None of the pipelines' capacities is greater than Cushing origin market supply of crude oil, so effective capacity equals unadjusted capacity (i.e., there are no adjustments).

[2]: The crude capacity for HollyFrontier was reduced by 30 MBD from 293.3 MBD to 263.3 MBD (this includes the capacity of the HollyFrontier El Dorado, KS refinery). Crude capacity of the HollyFrontier Tulsa refinery was set equal to 125 MBD.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document on each person designated on the official service list compiled by the Secretary for this proceeding.

Dated at Washington, D.C. on this 29th day of February 2012.

/s/ William E. Flynn

William E. Flynn

Steptoe & Johnson LLP

1330 Connecticut Avenue, N.W.

Washington, D.C. 20036-1795

(202) 429-8061