RECEIVED by MSC 4/30/2025 11:36:47 AM

**STATE OF MICHIGAN**
**IN THE SUPREME COURT**

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

/

Supreme Court Nos.: 168335, 168336, 168337, 168338, 168339, 168342, 168346

Court of Appeals No.: 369156 consolidated with Nos. 369159, 369161, 369162, 369163, 369165, 369231

MPSC Case No.: U-20763

**MICHIGAN LABORERS' DISTRICT COUNCIL'S**
**ANSWER TO LEAVES TO APPEAL TO SUPREME COURT**

**CERTIFICATE OF SERVICE**

Christopher P. Legghio (P27378)
Megan B. Boelstler (P79125)
Legghio & Israel, P.C.
306 S. Washington, Suite 203
Royal Oak, MI 48067
(248) 398-5900
cpl@legghioisrael.com
mbb@legghioisrael.com

Attorneys for Michigan
Laborers' District Council

RECEIVED by MSC 4/30/2025 11:36:47 AM

**MLDC ANSWER**

## TABLE OF CONTENTS

TABLE OF AUTHORITIES ..... i

COUNTERSTATEMENT OF QUESTIONS PRESENTED ..... ii

INTRODUCTION ..... 1

ARGUMENT ..... 2

I. THE MLDC ..... 2

II. SUMMARY OF MLDC'S SUPPORT FOR ENBRIDGE'S APPLICATION AND DENIAL OF APPELLANTS' LEAVES TO APPEAL ..... 3

A. Michigan Jobs and Talent Retention ..... 3

B. Michigan Commerce and Environmental Safety ..... 5

C. No Proper Basis for Leave to Appeal ..... 5

CONCLUSION ..... 6

## TABLE OF AUTHORITIES

**STATUTE**

Crude Oil and Petroleum, Act 16 of 1929, MCL 483.1, *et al.* ..... 5

**RULE**

MCR 7.305(B) ..... 2

RECEIVED by MSC 4/30/2025 11:36:47 AM

## COUNTERSTATEMENT OF QUESTIONS PRESENTED

MLDC concurs with Enbridge's Counterstatement of Questions Presented.

RECEIVED by MSC 4/30/2025 11:36:47 AM

## INTRODUCTION

Michigan Laborers' District Council ("MLDC") intervened in this case before the Michigan Public Service Commission ("MPSC") in support of Enbridge Energy, Limited Partnership's ("Enbridge") Application ("Enbridge Application") to locate the Line 5 replacement segment within the tunnel ("Tunnel Project").

The MLDC represents seven (7) local laborer unions, and approximately 13,000 construction workers who reside in Michigan. These laborers *currently* provide substantial labor on Line 5 and take pride in helping to ensure the safe, reliable provision of energy to our state.

MLDC intervened in the MPSC case, and responds now in the current proceedings, to protect the interest of its union members whose employment opportunities will be directly affected by the outcome. MLDC's interests are based on the employment, economic, employee safety, and environmental safety enhancements expected from the construction and maintenance of the proposed tunnel. In short, the MLDC supports the continuous and safe operations of Line 5.

The Michigan Court of Appeals ("Court of Appeals") upheld the MPSC decision, which was consistent with state policies, including consideration of environmental protection enhancements and public need. There are no grounds to warrant this Court's review of the Court of Appeals' decision in this matter.

So, MLDC hereby concurs with Enbridge's Answer to Application for Leave to Appeal and requests that the Court deny the Applications for Leave to Appeal by the Bay Mills Indian Community; Little Traverse Bay Bands of Odawa Indians; Grand Traverse Band of Ottawa and Chippewa Indians; Nottawaseppi Huron Band of the Potawatomi; the Environmental Law & Policy Center; Michigan Climate Action Network; For Love of Water ("FLOW"); and Matthew S. Borke ("Appellants").

RECEIVED by MSC 4/30/2025 11:36:47 AM

## ARGUMENT

Line 5 currently provides direct and indirect employment to MLDC members in Michigan and throughout the region. Enbridge's Tunnel Project will locate a replacement segment of the pipeline crossing the Straits of Mackinac within a tunnel. Enbridge's Application impacts whether and when the tunnel is constructed.

The MPSC correctly approved Enbridge's Application. The MPSC properly considered Enbridge's evidentiary presentations, including in the supplemental record, which make clear that housing the Line 5 replacement segment in a tunnel makes a safe crossing even safer with secondary containment that will prevent any product from reaching the Straits of Mackinac. And, the MPSC properly considered the public need of the Tunnel Project.

The Court of Appeals properly affirmed MPSC's approval. Appellants lack grounds under MCR 7.305(B) for further review, and their applications should be denied.

### I. THE MLDC

MLDC and its Michigan local union affiliates are part of the Laborers' International Union of North America, AFL-CIO ("LIUNA"), which represents more than a half-million construction trades workers and others throughout the United States and Canada.

Michigan Laborers'-represented workers are covered by collective bargaining agreements with employer associations and individual employers. The employers perform construction and other work throughout Michigan. The agreements govern wages, hours, and working conditions, provide for training and skills enhancement, and provide for retirement and healthcare benefits for Michigan workers and their families.

MLDC, with employers in labor-management trusts, sponsors four (4) training centers to ensure that Laborers'-represented workers have the skills needed by Michigan employers to

RECEIVED by MSC 4/30/2025 11:36:47 AM

provide state-of-the-art -- and *safe* -- construction and other work to meet the needs of Michigan business, industry, and government and, more broadly, the needs of Michigan residents.

Michigan MLDC members -- and their families -- have strong interests in supporting employment for Michigan residents, in the enhancement of the Michigan economy and the economic success of those who live, work, and do business in Michigan, and in the well-being of the Great Lakes and the Michigan environment valued by all who live and work in Michigan, and all who appreciate the beauty of the state and its unmatched recreational opportunities.

## II. SUMMARY OF MLDC'S SUPPORT FOR ENBRIDGE'S APPLICATION AND DENIAL OF APPELLANTS' LEAVES TO APPEAL

### A. Michigan Jobs and Talent Retention

Michigan Laborers'-represented workers currently perform approximately 10,000 to 15,000 work hours *each month* on Line 5 in Michigan.[1] Michigan Laborers take pride in this work and its support of energy infrastructure in the State. And, the work hours and jobs are important to the Laborers' livelihoods.

The Tunnel Project is expected to generate nearly two million work hours for roughly two hundred Michigan workers -- for a multi-year period. Those nearly two million work hours include job locations in the Upper Peninsula and northern portion of the Lower Peninsula where reasonably-compensated jobs -- especially jobs like this which include fringe benefits such as healthcare and retirement benefits -- are desperately needed.

Further, after the Tunnel Project is completed, Line 5, including the replaced section, will *continue* to provide hundreds of Michigan residents with jobs necessary to maintain the tunnel.

[1] Indeed, Michigan Laborers'-represented workers perform one to two *million* work hours per year on pipelines.

RECEIVED by MSC 4/30/2025 11:36:47 AM

These construction and maintenance jobs will add millions of dollars to Michigan workers' wages, pensions, and healthcare benefits and to the Michigan economy.

Given Michigan's seasonality, longstanding and sustainable jobs are a unique job opportunity for laborers and the construction industry alike. Line 5 and the Tunnel Project permit tenured laborers to maintain and build their skill set, while also providing on-the-job training for new-to-the-trade laborers. Job continuity also creates successful working relationships between employers and their workers, leading to promotional opportunities and known skilled work forces for future employment.

The Tunnel Project will also provide the MLDC with the ability to recruit new talent -- *i.e.*, apprentices -- as the allure of long-term, reasonably compensated jobs with benefits are critical to promoting the Michigan construction industry.

The jobs, MLDC anticipates, will have a synergistic effect, positively enhancing others not directly involved in the Tunnel Project -- Michigan businesses which will provide materials and services and employ workers who will provide goods and services to the construction and maintenance workers and their families, and contribute to the tax base. In addition, MLDC anticipates that the project will positively impact Michigan and regional and local governments, that will benefit from enhanced taxes, broadened employment, pension benefits and healthcare earned by private-sector labor, and an expanded trained and experienced workforce that will be available for future government road and infrastructure construction and maintenance.

Conversely, if the Tunnel Project is halted, nearly two million work hours to construct the tunnel may also be lost, much to the detriment of hard-working Michigan construction trade workers. So, too, will post-construction, maintenance work hours be lost. And, importantly, this is

RECEIVED by MSC 4/30/2025 11:36:47 AM

a unique job opportunity where there is no evidence that such work hours will be created elsewhere. An additional groundless appeal will again further delay this important work.

**B. Michigan Commerce and Environmental Safety**

Line 5 transports energy products through the Straits of Mackinac, destined for refineries in Michigan, Ohio, and Ontario. The refined energy products are in substantial part transported from the refineries back to Michigan locations, where they are used to meet the energy needs of Michigan businesses and residents. Line 5 promotes Michigan commerce and the well-being of Michigan residents and should be maintained and into the future Line 5 should be protected by the proposed tunnel.

Regarding environmental safety, MLDC understands that Line 5 has current vulnerability, including being susceptible to potential damage from anchors dropped by ships using the Straits. The Tunnel Project, MLDC understands, will reduce this vulnerability to nearly zero.

**C. No Proper Basis for Leave to Appeal**

Enbridge's Application met all legal requirements and standards pursuant to Act 16. Indeed -- as to the approval criteria that the construction of the replacement pipe segment will meet or exceed safety and engineering standards -- the use of the highly skilled and well-trained MLDC laborers will help ensure that construction meets all safety standards.

And, Enbridge's Application has a limited purpose -- to locate a replacement segment of Enbridge's Line 5 in a utility tunnel. As the ALJ has correctly found, as the MPSC correctly confirmed, and as the Court of Appeals upheld, the scope of this case has never wavered -- *i.e.*, that the scope is limited to the Line 5 replacement segment, not the entirety of Line 5. Remand Ruling, pp. 19, 20; ALJ's October 23, 2020 Ruling on Motion in *Limine*; MPSC April 21, 2022 Order; Court of Appeals Op. pp. 23-34.

RECEIVED by MSC 4/30/2025 11:36:47 AM

The Court of Appeals applied a deferential standard of review, properly refraining from acting as a fact finder. It properly limited the scope of the proceedings to the Tunnel Project. And, refused to extend MPSC's powers to those beyond its statutory authorizations. Further, the Court declined to consider arguments by a non-party who failed to intervene in the MPSC case.

So, there are insufficient grounds to warrant Leave to Appeal. This Court should therefore deny the Applications for Leave to Appeal.

## CONCLUSION

For the reasons above, and based on its unique perspective to these proceedings, the MLDC concurs with the Enbridge's Answer to Application for Leave to Appeal and requests that the Court deny Appellants' Applications for Leave to Appeal.

*/s/Megan B. Boelstler*
Christopher P. Legghio (P27378)
Megan B. Boelstler (P79125)
Legghio & Israel, P.C.
306 S. Washington, Suite 203
Royal Oak, MI 48067
(248) 398-5900
mbb@legghioisrael.com

April 30, 2025

Attorneys for Michigan
Laborers' District Council

RECEIVED by MSC 4/30/2025 11:36:47 AM

## CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2025, I caused the foregoing paper to be electronically filed with the Clerk of the Court using the MiFile TrueFiling system which will send notification of such filing to all counsel of record in the MiFile system.

*s/Megan B. Boelstler*
Megan B. Boelstler

## WORD COUNT CERTIFICATE

I certify that the foregoing paper contains 1,851 words as counted by Microsoft Word for Microsoft 365.

*s/Megan B. Boelstler*
Megan B. Boelstler