

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of )  
**WOLVERINE PIPE LINE COMPANY** to )  
construct, operate, and maintain a combination )  
12-inch and 16-inch outer diameter liquid )  
petroleum products pipeline system in Jackson, )  
Ingham, and Clinton counties. )  
\_\_\_\_\_ )

Case No. U-12334

At the March 7, 2001 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. Laura Chappelle, Chairman  
Hon. David A. Svanda, Commissioner  
Hon. Robert B. Nelson, Commissioner

**OPINION AND ORDER**

**I.**

**HISTORY OF PROCEEDINGS**

On March 3, 2000, Wolverine Pipe Line Company (Wolverine) filed an application, pursuant to 1929 PA 16, as amended, MCL 483.1 et seq.; MSA 22.1341 et seq., (Act 16) seeking authority to construct, operate, and maintain a 12- and 16-inch outer diameter (O.D.) liquid petroleum products pipeline system in Jackson, Ingham, and Clinton counties.

Pursuant to due notice, prehearing conferences were held on April 13 and May 10, 2000 before Administrative Law Judge Daniel E. Nickerson, Jr. (ALJ). Wolverine; the Commission Staff (Staff); Maria Gadaletto, James and Rose Flint, Nancy and Mark Theis, and John and Irene

Swierczynski, as trustees for the Swierczynski Trust (collectively, the Residents); Chester and Frances Lewis; United Dominion Realty Trust and AAC Funding Partnership II (United); Atlantic Development Company, general partner of Links Entertainment, LP (Links); and Ignacio and Maria Rodriguez participated in the proceedings. In addition, 21 members of the public provided oral statements of position on those dates and 75 interested persons ultimately submitted written statements, all in accordance with Rule 207 of the Commission's Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17207 (Rule 207).

On July 13, 2000, Wolverine and the Staff submitted a partial settlement agreement indicating that they had resolved their differences regarding a portion of Wolverine's application and requesting authority to immediately commence construction of that part of the proposed system. United and the Residents filed objections to the proposed settlement and, following oral argument on July 28, 2000, the ALJ elected not to make a separate ruling on the joint Wolverine/Staff request. Rather, he ruled that the most reasonable course of action would be to address all issues regarding the settlement agreement in the context of his Proposal for Decision (PFD). On August 10, 2000, Wolverine filed an application for leave to appeal the ALJ's ruling. The Residents filed a response in opposition to that application on August 24, 2000.

Evidentiary hearings were conducted on July 25, 26, and 28, 2000, at which time testimony was received from eight witnesses. At the close of the hearings, Links formally withdrew its intervention. The record consists of 724 pages of testimony and 40 exhibits, all of which were received into evidence.

On August 15 and 29, 2000, respectively, briefs and reply briefs were filed by Wolverine, the Staff, the Residents, Mr. and Mrs. Lewis, and United. The ALJ issued his PFD on October 6,

2000, in which he recommended, among other things, that the Commission deny Wolverine's application.

On October 30, 2000, Wolverine filed exceptions to the PFD. Pursuant to the schedule established by the ALJ, replies to exceptions were filed on or before November 13, 2000 by the Staff, the Residents, and Mr. and Mrs. Lewis. Finally, on February 5, 2001, Wolverine filed a motion to withdraw a portion of its application and, on February 16, 2001, Maria Gadaletto filed a response to that motion.

## II.

### **TESTIMONY AND POSITIONS OF THE PARTIES**

#### Wolverine

As described in its application, Wolverine's proposed pipeline system consisted of three parts. The first was a 20.9 mile-long, 16-inch O.D. line that would extend from Wolverine's Jackson Meter Station in Blackman Township, Jackson County (the Jackson station), to its Stockbridge Meter Station in Stockbridge Township, Ingham County (the Stockbridge station). The second was a 42.3 mile-long, 12-inch O.D. line that would run from the Stockbridge station to Wolverine's LaPaugh Meter Station in Bengal Township, Clinton County (the LaPaugh station). The third would consist of: (1) a 5,000 barrel interface mix tank, a sump tank with pumps, two mainline pumps, two tank booster pumps, a new control building, and associated flow meters, valves, and other ancillary equipment to be constructed as an upgrade to the Stockbridge station; (2) a sump tank with pumps, two mainline pumps, and associated flow meters, valves, and other ancillary equipment that would be used to upgrade the LaPaugh station; and (3) eight block valves,

three of which would be installed in the 16-inch pipeline segment and five of which would be located along the 12-inch pipeline segment.

As explained by Wolverine's General Manager, Leslie C. Cole, the route proposed in the application closely followed existing utility corridors. For example, Mr. Cole noted that the line running from the Jackson station to the Stockbridge station would parallel an electric transmission line corridor controlled by Consumers Energy Company. Similarly, he continued, "100% of the route of the proposed pipeline system between the Stockbridge station and the LaPaugh station" would be located within the same corridor as an existing 8-inch O.D. petroleum products pipeline that Wolverine purchased in late 1999 from the Total Petroleum/Ultramar Diamond Shamrock Corporation (Total/UDS). 3 Tr. 234. According to Mr. Cole, Wolverine's ownership of that 8-inch line (as well as its surrounding easements) was the predominant reason for the selection of the route proposed in its application. See, 3 Tr. 233.

With regard to the project's potential environmental impact, Wolverine relied on testimony provided by Steven J. Koster, a principal with Dell Engineering, Inc., the firm hired to perform the analysis set forth in Exhibits A-9A, A-9B, and A-10. According to Mr. Koster, construction of Wolverine's pipeline system "will not result in any significant environmental impact along the proposed route." 3 Tr. 359. This is because, Mr. Koster continued, (1) locating Wolverine's facilities within or adjacent to existing pipeline and utility corridors will minimize the effect on natural resources, (2) implementing Wolverine's suggested preventative measures, mitigation plans, and restoration proposals will adequately protect both the existing soil structure and nearby groundwater, and (3) adhering to Wolverine's plans when crossing rivers, streams, drains, and ditches will result in "no net permanent loss of wetlands." 3 Tr. 360.

Wolverine went on to note that, in response to public concern over the fact that part of the proposed 12-inch line would traverse heavily developed Meridian Township, it hired W. Kent Muhlbauer to perform a risk assessment of that portion running from I-96 to I-69. According to Mr. Muhlbauer, the “risk levels” for this section of the proposed system would be “significantly lower than what would be attributable to a pipeline meeting only minimum compliance with . . . federal regulations [imposed by the United States Department of Transportation, Office of Pipeline Safety] for liquid petroleum product pipelines along the same route.” 4 Tr. 392. The reason for this, he continued, was that Wolverine’s pipeline would be buried deeper, operated at lower stress levels, subject to better and more frequent integrity verification and visual route inspection, and equipped with better corrosion protection than typical pipelines. See, 4 Tr. 392-93.

Next, Wolverine asserted that construction of its proposed system would satisfy an important need. C. S. Woodburn, Wolverine’s Assistant Secretary, pointed out that a significant portion of the liquid petroleum products (e.g., gasoline, diesel fuel, and other distillates) previously consumed in Michigan had been provided by the Total/UDS refinery in Alma. Following the closure of that refinery, Mr. Woodburn stated, Wolverine’s 8-inch pipeline has become “the primary liquid petroleum products transportation facility supplying distribution centers in the southeastern and central Michigan markets.” 4 Tr. 447. Moreover, he noted that the 8-inch pipeline “does not possess sufficient capacity to supply the current and future needs of this service area.” Id. Thus, because its proposal will satisfy this need by effectively replacing the 8-inch pipeline with a line having twice the capacity, Wolverine asserted that its application should be granted.

Finally, it argued that the Staff and the intervenors were mistaken in believing that the Commission could entertain their “qualitative challenge of the pre-existing pipeline corridor route proposed in Wolverine’s application.” Wolverine’s initial brief, p. 33. In support of this argu-

ment, Wolverine asserted that the Commission lacked jurisdiction to perform any such review, evaluation, or analysis of its proposal. Rather, Wolverine continued, an applicant for authority to construct a liquid petroleum products pipeline need only satisfy the filing requirements set forth in Act 16 and Rule 601 of the Commission's Rules of Practice and Procedure, as amended, 1992 AACRS, R 460.17601 (Rule 601). Claiming that it satisfied all of those filing requirements, Wolverine concluded that there is nothing else that the Commission must consider in this proceeding.

### The Staff

Donald J. Mazuchowski, a petroleum engineer in the Commission's Gas Division, offered the Staff's testimony. Mr. Mazuchowski agreed with Wolverine that, due to the closure of the Total/UDS refinery in Alma, the "Mid-Michigan area is in need of more supply of liquid petroleum products." 4 Tr. 606. He went on to note that, from a public safety standpoint, shipping those products by pipeline "is preferred over other transportation modes such as rail or truck." 4 Tr. 607.

Although indicating that the Staff had no problem with the rest of Wolverine's proposal, Mr. Mazuchowski cited a number of concerns with regard to the proposed routing of the 12-inch line through such a "highly congested area" as that between I-96 and I-69. 4 Tr. 608. Specifically, he stated that Wolverine's decision to place its new line in such a densely developed area needlessly "increases the risk of third party damage" and heightens the potential for "significant adverse impacts if an accident occurs." Id. Among the issues that the Staff felt Wolverine failed to adequately address was the effect that this section of the proposed pipeline system could have on (1) Meridian Township's water wells and those of other nearby property owners, (2) the Ingham County Medical Care Facility and various other senior living facilities that are located in close

proximity to the line's route, (3) the Township's water treatment facility, part of which sits directly above the line's proposed path, (4) the Okemos shopping district, including the Meridian Mall, through which the route would pass, (5) schools and public safety offices located adjacent to the proposed pipeline, and (6) apartment complexes through which the line would run.

In light of those concerns, the Staff recommended that the Commission deny Wolverine's application. Instead of granting authority to locate the 12-inch pipeline in such a highly congested area, the Staff continued, the Commission should direct Wolverine to adopt one of the four alternative routes that were proposed in Mr. Mazuchowski's testimony, depicted on Exhibit S-37, and described on Exhibit S-38.

#### Remaining Intervenors

As was the case with the great majority of the Rule 207 participants, each of the remaining intervenors found fault with Wolverine's application. According to these parties, Wolverine failed to demonstrate adequate need for the project as a whole. They went on to assert that Wolverine failed to show, as required by Section 2b of Act 16, that the location and mode of construction of its facilities would "minimize the physical impact and economic damage" sustained by land owners along the proposed route. MCL 483.2b; MSA 22.1342b. Rather, they contended, Wolverine requested approval of an unnecessarily dangerous and disruptive route for its project, particularly with regard to the 12-inch pipeline between I-96 and I-69.

In support of their assertions that the proposed system would be inherently dangerous, these intervenors cited the results of liquid petroleum pipeline spills that occurred on June 7, 2000 in Blackman Township, Michigan, and on June 10, 1999 in Bellingham, Washington. Because the system described in Wolverine's application could produce a spill "as large and dangerous" as that

resulting from either of those two mishaps, they continued, routing it “through the urban portion of Meridian Township will bring a significant hazard to [the] people and businesses” located there. Initial brief of Mr. and Mrs. Lewis, pp. 7 and 11. These intervenors therefore argued that the Commission should either reject the application in its entirety or, at a minimum, require Wolverine to route its proposed pipelines through less densely developed areas.

### **III.**

#### **DISCUSSION**

##### **The PFD**

In his PFD, the ALJ disagreed with Wolverine’s assertion that the Commission lacks jurisdiction to conduct a qualitative evaluation of the proposed pipeline system. Specifically, he concluded that Act 16 grants the Commission “broad powers and authority to regulate the proposed pipeline,” including the ability to address “public interest and public safety concerns” raised by Wolverine’s proposal. PFD, p. 8. The ALJ further stated that although much of the project would constitute “an upgrade from the existing 8-inch pipeline” and that its construction “would have only minimal impact” on the environment (*Id.*, p. 10), the risks inherent in routing the 12-inch line through the densely developed area between I-96 and I-69 overshadowed the system’s potential benefit. Moreover, due in large part to the absence of a market study concerning liquid petroleum products, the ALJ concluded that Wolverine failed to adequately establish a need for its proposed system.

As for the Staff’s four alternative routes for the proposed 12-inch line, the ALJ noted that they have yet to be subjected to an environmental review and that the Staff failed to determine whether, and at what cost, Wolverine could obtain the easements necessary for their use. He therefore

concluded that the Staff's proposed alternatives must be rejected pending the completion of further studies.

For all of those reasons, the ALJ recommended that the Commission deny Wolverine's application. In so doing, the ALJ did not specifically address the settlement agreement that had been jointly submitted by Wolverine and the Staff.

#### Motion to Withdraw

As noted earlier, Wolverine recently filed a motion to withdraw a portion of its application. In that filing, Wolverine seeks to eliminate from consideration the portion of the system that represents "the primary subject matter of intervention, objection, and public concern;" namely, the part of the proposed 12-inch line between I-96 and the LaPaugh station. Motion to withdraw, p. 2. If granted, the application at issue in this case would be limited to Wolverine's request to build its proposed 16-inch O.D. pipeline between the Jackson and Stockbridge stations, to construct its proposed 12-inch O.D. line from the Stockbridge station to I-96, and to upgrade its facilities at the Stockbridge and LaPaugh stations.

Wolverine goes on to state that, following receipt of a Commission order on the remainder of its original application, it intends to file a new application seeking authority to construct "the balance of the 12-inch pipeline along a new route, designed so as to avoid the populated areas of Meridian Township." Id., p. 3. Moreover, Wolverine agrees not to begin construction of any part of the 12-inch line (including that proposed to run from the Stockbridge station to I-96) until the Commission approves the new application. See, Id., p. 4. Finally, Wolverine pledges that once it has secured all necessary approvals and has completed construction of its modified 12-inch

pipeline, it will “permanently discontinue use of the 8-inch pipeline through Meridian Township for hydrocarbon transportation service.” Id.

In her response to that motion, Mrs. Gadaletto states that she “in no way opposes the withdrawal of the portion of the application” requested by Wolverine. Response, p. 1. Rather, she merely expresses her continuing opposition to the remaining portion of the original application. Likewise, none of the other parties have expressed opposition to Wolverine’s motion to withdraw.

In light of the absence of opposition by the parties, as well as the facts developed on this record, the Commission finds that Wolverine’s motion should be granted. Testimony received in this matter supports Wolverine’s decision to pursue routing this portion of its 12-inch pipeline through some less densely developed area than that originally proposed in its application.

#### Unresolved Issues

As correctly noted by Wolverine, a majority of the disputes arising in this case concern the part of the proposed 12-inch pipeline between I-96 and I-69. Due to Wolverine’s withdrawal of that portion of its application, those disputes need not be addressed in the context of this order. Nevertheless, four unresolved issues remain. These consist of (1) whether the Commission possesses the jurisdiction assumed by the Staff and other intervenors, (2) whether a sufficient showing of need was offered in this case, (3) whether the remainder of Wolverine’s proposed pipeline system has been designed and routed in a reasonable manner, and (4) what action should be taken concerning the ALJ’s failure to rule on the contested settlement submitted by Wolverine and the Staff. Each of these issues will be addressed seriatim.

a. Jurisdiction

Wolverine excepts to the ALJ's conclusion that the Commission has jurisdiction to conduct the type of qualitative examination demanded by the other parties to this case. Although conceding that the Commission may "review and evaluate an application to construct, operate, and maintain a liquid petroleum pipeline," Wolverine continues to assert that the scope of that review is quite narrow. Exceptions, p. 4. Specifically, it claims that the only power granted to the Commission is to "determine whether or not the applicant . . . has satisfied each and every prerequisite specified in Act 16 and Rule 601." *Id.*, p. 5.

Wolverine further asserts that each of those prerequisites was satisfied by the filing of the application and its supporting documents. For example, Wolverine notes that its initial filing included "an explicit authorized acceptance of Act 16" and "a map showing the location of the pipeline and appurtenances." *Id.*, p. 7. This, Wolverine contends, is all that is required pursuant to Act 16. Similarly, it contends that it met all requirements imposed by Rule 601 by including in its application (1) the applicant's name and address, (2) the name of each city, village, and township affected, (3) the nature of the utility service to be furnished, (4) the name of each municipality from which a franchise or consent had been obtained, together with a copy of that franchise or consent, (5) a full description of the facilities to be constructed, including the manner in which the construction would be accomplished, and (6) the name of each utility with which the new pipeline is likely to compete.

Wolverine goes on to assert that unlike 1929 PA 9, as amended, MCL 483.101 et seq.; MSA 22.1311 et seq. (Act 9), which concerns the regulation of natural gas pipelines in Michigan, Act 16 does not specifically require an applicant to obtain a certificate of public convenience and necessity before constructing and operating a liquid petroleum pipeline. Nevertheless, Wolverine

continues, imposing the standards requested by the Staff and the intervenors--and applied by the ALJ in his PFD--would have that erroneous effect. According to Wolverine, the dramatic difference between the wording found in Acts 9 and 16 supports its claim that the framers of Act 16 intended it to establish a much less rigorous test than that arising under Act 9. For all of these reasons, Wolverine argues that the Commission must reject the ALJ's conclusion and find that it lacks jurisdiction to perform a qualitative analysis like that set forth in the PFD.

In response, the Staff, the Residents, and Mr. and Mrs. Lewis assert that Wolverine's position on the issue of jurisdiction is without merit. Based on Wolverine's interpretation of Act 16, they note, the Commission would be required to "rubber stamp" every request to build a liquid petroleum products pipeline--regardless of safety, need, and public inconvenience--so long as the corresponding application is properly completed. Staff's replies to exceptions, p. 1. This would mean, they continue, that pipeline operators could be "automatically entitled to build pipelines anywhere in the state including through hospitals, nursing homes, schools, [and] even the state Capitol without any qualitative review of the public interest by this Commission." The Residents' replies to exceptions, p. 2. According to these parties, such a result conflicts with the language of Act 16, the Legislature's intent in adopting that statute, and the Supreme Court's interpretation of its provisions, as expressed in Lakehead Pipeline Company v Dehn, 340 Mich 25, 64 NW2d 903 (1954). The Staff, the Residents, and Mr. and Mrs. Lewis therefore argue that Wolverine's exception must be rejected.

The Commission agrees with these parties and finds that Wolverine's exception is not well taken. As set forth in its title, the purpose of Act 16 is "to regulate the business of carrying or transporting . . . crude oil or petroleum or its products through pipe lines; . . . [and] to provide for the control and regulation of all corporations, associations and persons engaged in such business"

by the Commission. Turning to the statute itself, Section 1 states that pipeline companies like Wolverine “shall not have or possess the right . . . to locate, maintain, or operate [their] pipe lines, . . . or have or possess the right of eminent domain,” except pursuant to Act 16. MCL 483.1; MSA 22.1341. Section 2b requires pipeline companies to “make a good faith effort to minimize the physical impact and economic damage that result from the construction . . . of a pipeline.” MCL 483.2b; MSA 22.1342b. Finally, Section 3 specifically grants the Commission “the power to control, investigate and regulate” every petroleum pipeline operator doing business in Michigan. MCL 483.3; MSA 22.1343. Based on the above-quoted language, the Commission concurs with the ALJ’s conclusion that it has broad jurisdiction over the construction and operation of pipeline systems like that proposed by Wolverine. Inherent in that jurisdiction is the power to make a qualitative evaluation regarding whether a proposed system would be safe and in the public interest.

This conclusion is supported by the Supreme Court’s decision in Lakehead, supra. There, property owners claimed--among other things--that the Commission lacked authority to evaluate whether a proposed pipeline would be in the public interest and, therefore, the pipeline company had no basis for exercising the power of eminent domain under Act 16. The Court disagreed, finding instead that Act 16 granted the Commission sufficient authority to review and approve proposed pipelines, and to place conditions on their operations. See, 340 Mich at 41. The Court specifically noted that, in adopting Act 16, the Legislature “did not undertake to authorize condemnation proceedings other than for a public use benefitting the people of the State of Michigan. That was the basis for legislative action.” Id., at 37.

For these reasons, the Commission concurs with the ALJ that Act 16 provides ample authority to conduct a qualitative review of Wolverine's application and to determine whether construction of the proposed pipeline system is necessary, reasonable, and in the public interest.

b. Need

Wolverine further excepts to the ALJ's conclusion, set forth on pages 18 and 19 of the PFD, that it failed to establish a need for its proposed system. In support of this exception, Wolverine notes that several witnesses--including the one testifying for the Staff--confirmed that the recent closing of the Total/UDS refinery in Alma significantly reduced liquid petroleum supply options for distributors throughout southeastern and central Michigan. According to Wolverine, the record reflects that although it tried to satisfy this demand by using its newly-acquired 8-inch pipeline, that line lacks adequate capacity to meet the distributors' needs. Wolverine therefore contends that upon considering "all of the competent, material, and substantial evidence in the entire record," the Commission will be compelled to find that "the pipeline is indeed needed." Wolverine's exceptions, p. 19 [emphasis in original].

In response to this exception, the Residents and Mr. and Mr. Lewis contend that the ALJ correctly concluded that Wolverine failed to prove a need for its proposed pipeline system. Their contention is based primarily on the fact that Wolverine neither provided a "market study to show demand for the new pipeline" nor quantified "the amount of additional capacity it believed was needed in mid-Michigan." The Residents' replies to exceptions, p. 2. They therefore assert that the Commission should reject Wolverine's exception and adopt the ALJ's recommendation regarding the issue of need.

As for the Staff, it “believes that the additional capacity to be provided by the new line is needed.” Staff’s replies to exceptions, p. 3. Nevertheless, the Staff continues, it shares the ALJ’s concerns regarding Wolverine’s failure to adequately address this issue in the context of this case. Because Wolverine “has the burden of establishing the need on the record and has not done so,” the Staff concludes, “the application must be denied.” Id.

Based on its review of the record, the Commission agrees with Wolverine that a need for the proposed pipeline system has been established. As noted earlier in this order, Mr. Woodburn specifically testified that although the 8-inch pipeline has been used as a replacement source of supply following closure of the Total/UDS refinery in Alma, the existing line “does not possess sufficient capacity to supply the current and future needs of this service area.” 4 Tr. 447. This may have been a critical factor in the dramatic increase in Michigan gasoline prices last summer. He went on to point out that Wolverine’s proposal would help alleviate this supply problem by doubling the pipeline’s capacity to approximately 75,000 barrels per day. See, 4 Tr. 445. This assessment of the situation is supported by the Staff’s witness, Mr. Mazuchowski, who conceded that “there is a need for the project.” 5 Tr. 655. According to Mr. Mazuchowski, it is safer to transport gasoline, diesel, and other petroleum-based distillates by pipeline than by either rail or truck. See, 4 Tr. 607. Thus, because use of Wolverine’s proposed system would eliminate 250 to 350 tanker trucks from Michigan’s roads each day (3 Tr. 283), construction and operation of that system would benefit the public by enhancing safety.

Moreover, the Commission agrees with Wolverine that the ALJ may have placed too much emphasis on the absence of a market study. As noted on the record, market studies are more likely to be undertaken by the shippers requesting the delivery of various liquid petroleum products, and not by common carriers that, like Wolverine, are only hired to transport those products after the

order has been placed. See, 4 Tr. 483. Thus, although the submission of such a study may have proved helpful in addressing this issue, the Commission agrees with Wolverine that its absence is not fatal to the application.

The Commission therefore finds that, based on testimony regarding the lack of adequate pipeline capacity and the potential benefits to be gained by expanding that capacity, a sufficient showing of need was made in this case.

c. Reasonableness of the Remaining Pipeline System

The next issue to be addressed concerns whether the remainder of Wolverine's proposed pipeline system, beyond that for which the motion to withdraw has been granted, was designed and routed in a reasonable manner. According to Wolverine, the PFD was "skewed towards an analysis of the pipeline segment between I-96 and I-69." Wolverine's exceptions, p. 23. As a result, it contends, the ALJ failed to recognize that little dispute exists regarding the "vast majority of Wolverine's pipeline route." Id., p. 24. Wolverine therefore asserts that its request to construct and operate this portion of its proposed system should be approved. The Commission agrees with Wolverine's contention for the following three reasons.

First, as can be seen from a review of the "route maps" provided in this case, nearly all of Wolverine's new pipeline facilities--beyond those previously removed from consideration in this case--will be located in rural areas. Exhibit A-9B. Moreover, as specifically noted by Mr. Cole, those facilities will be constructed either in or directly adjacent to existing utility easements. See, 3 Tr. 232-34. As a result, the record indicates, their construction and operation should cause a minimum of inconvenience, and the potential for third-party damage should be significantly limited. See, 3 Tr. 360; 4 Tr. 608; and 5 Tr. 683.

Second, evidence received in this case reflects that Wolverine's proposed facilities will be constructed, operated, and maintained in a manner that meet or exceeds all federal safety requirements. Specifically, Mr. Woodburn prepared a document comparing the design specifications of the proposed system with the safety regulations set forth in 49 CFR Part 195. His comparison indicates that, among other things, Wolverine will (1) bury its pipeline at least 12 inches deeper than required, (2) use pipe with a wall thickness significantly in excess of that mandated by the federal code, (3) maintain twice the required clearance between its pipelines and all other underground structures, and (4) install higher quality valves and gaskets throughout the system. In addition, Mr. Woodburn testified that Wolverine will install a "warning mesh" above the line in all congested areas and test its system at pressures well in excess of those demanded by the federal code. 4 Tr. 446. Moreover, as noted by Mr. Cole, Wolverine plans to perform route inspections on a more frequent basis than required, voluntarily conduct internal pipe wall inspections, and utilize "redundant pressure control devices" that will be monitored around-the-clock. 3 Tr. 234.

Third, as noted earlier in this order and set forth in the comprehensive environmental review prepared by Mr. Koster, construction of the facilities still at issue in this case "will not result in any significant environmental impact." 3 Tr. 359. According to Mr. Koster's report, the manner in which Wolverine plans to construct its system should produce no noticeable harm to natural resources and will result in no loss of wetlands. See, Exhibit A-9A, pp. 1-2. Moreover, the report indicates that all anticipated effects on land use "will be primarily short-term and the result of construction activities," and that any problems experienced by residential and commercial property owners should likewise be relatively "minor." Id., p. 2.

Disagreement will always arise concerning to the precise location of facilities like those proposed in Wolverine's application. Nevertheless, the Commission finds the applicant's proposal

to be reasonable with regard to both the routing and type of construction of (1) the 16-inch O.D. pipeline from the Jackson station to the Stockbridge station, (2) the 12-inch O.D. line extending from the Stockbridge station to approximately I-96, and (3) all related facilities described in Wolverine's initial filing, including the block valves to be installed on those two pipeline segments and the significant upgrades proposed for both the Jackson and LaPaugh stations.

d. Application for Leave to Appeal

In its August 10, 2000 application for leave to appeal, Wolverine asserted that the ALJ erred in failing to recommend for immediate approval the partial settlement agreement submitted by Wolverine and the Staff on July 20, 2000. Moreover, in its exceptions, Wolverine objects to the ALJ's failure to address the partial settlement as part of his PFD.

In their partial settlement agreement, Wolverine and the Staff agreed that the proposed 16-inch O.D. pipeline between the Jackson and the Stockbridge stations, as well as the facility upgrades proposed for the Stockbridge and LaPaugh stations, were reasonable and in the public interest, and should be approved. Because this order grants that approval (along with approval to construct the portion of the 12-inch O.D. line running from the Stockbridge station to approximately I-96), the Commission finds that Wolverine's application for leave to appeal is moot and should be dismissed.

The Commission therefore FINDS that:

a. Jurisdiction is pursuant to 1929 PA 16, as amended, MCL 483.1 et seq.; MSA 22.1341 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1) et seq.; 1994 PA 451, MCL 324.101 et seq.; MSA 13A.101 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.;

and the Commission's Rules of Practice and Procedure, as amended, 1992 AACRS, R 460.17101 et seq.

b. Wolverine's February 5, 2001 motion to withdraw a portion of its application should be granted.

c. Wolverine provided a sufficient showing of need for its proposed pipeline system.

d. Wolverine's proposed system, exclusive of that portion subject to its motion to withdraw, is designed and routed in a reasonable manner.

e. Wolverine's request for authority to construct, operate, and maintain its proposed pipeline system, as amended in this order, should be approved.

f. Wolverine's August 10, 2000 application for leave to appeal is moot and should be dismissed.

THEREFORE, IT IS ORDERED that:

A. Wolverine Pipe Line Company's February 5, 2001 motion to withdraw a portion of its application is granted.

B. Wolverine Pipe Line Company is authorized to construct, operate, and maintain a 12- and 16-inch outer diameter liquid petroleum products pipeline system in Jackson, Ingham, and Clinton counties, as proposed in its application filed on March 3, 2000 and amended pursuant to its February 5, 2001 motion to withdraw, subject to the requirements of 1929 PA 16, as amended, MCL 483.1 et seq.; MSA 22.1341 et seq.

C. Within 60 days after construction of the facilities approved in this order, Wolverine Pipe Line Company shall file a map and description of its pipeline system as constructed.

D. Wolverine Pipe Line Company's August 10, 2000 application for leave to appeal is dismissed.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle  
Chairman

( S E A L )

/s/ David A. Svanda  
Commissioner, abstaining.

/s/ Robert B. Nelson  
Commissioner

By its action of March 7, 2001.

/s/ Dorothy Wideman  
Its Executive Secretary

D. Wolverine Pipe Line Company's August 10, 2000 application for leave to appeal is dismissed.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

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Chairman

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Commissioner, abstaining.

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Commissioner

By its action of March 7, 2001.

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petroleum products pipeline system in Jackson, )  
Ingham, and Clinton counties. )  
\_\_\_\_\_ )

Case No. U-12334

Suggested Minute:

“Adopt and issue order dated March 7, 2001 granting Wolverine Pipe Line Company’s motion to withdraw a portion of its application and authorizing it to construct, operate, and maintain a liquid petroleum products pipeline system in Jackson, Ingham, and Clinton counties, as set forth in the order.”