STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Energy Transfer Crude Oil Company, LLC	**:**	
	:	
Application pursuant to Section 15-401 of	**:**	
the Common Carrier by Pipeline Law and	**:**	
Sections 8-503 and 8-509 of the Public	**:**	**14-0755**
Utilities Act for a Certificate in	**:**	
Good Standing and Related Authority to	**:**	
Construct and Operate a Petroleum	**:**	
Pipeline as a Common Carrier Pipeline	**:**	
and when Necessary to Take Private	**:**	
Property as Provided by the Law of	**:**	
Eminent Domain.	**:**	

<u>ORDER</u>

Dated: December 9, 2015

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Application pursuant to Section 15-401 of the Common Carrier by Pipeline Law and Sections 8-503 and 8-509 of the Public Utilities Act for a Certificate in Good Standing and Related Authority to Construct and Operate a Petroleum Pipeline as a Common Carrier Pipeline and when Necessary to Take Private Property as Provided by the Law of Eminent Domain.	:	**14-0755**

ORDER

By the Commission:

I. INTRODUCTION

On December 22, 2014, Energy Transfer Crude Oil Company, LLC ("ETCO" or "Applicant") filed with the Illinois Commerce Commission ("Commission") an Application for the issuance of a Certificate in Good Standing ("Certificate") pursuant to Section 15-401 of the Common Carrier by Pipeline Law ("CCPL"), 220 ILCS 5/15-100 et seq. ETCO seeks the entry of an order, pursuant to Section 8-503 (220 ILCS 5/1-101 et seq.) of the Public Utilities Act ("PUA"), authorizing it to construct, operate, and maintain approximately 31 miles of new 30-inch outside diameter crude oil pipeline originating from a point at the intersection of the proposed Dakota Access Pipeline near Patoka, Illinois, in Marion County, and extending southeasterly to a point approximately 4.0 miles north of Trunkline Gas Company, LLC's ("Trunkline") existing Johnsonville Compressor Station located in Wayne County, Illinois (the "new build" portion). ETCO seeks authorization to operate and maintain an additional approximately 97 miles of existing pipeline in crude oil transportation service from the connection of the new 30-inch pipeline at the Johnsonville Compressor Station to the Illinois/Kentucky border near Joppa, Illinois (the proposed new build and converted pipeline in Illinois is referred to herein as the "Project"). ETCO seeks the entry of an order authorizing it to replace certain sections of Trunkline's existing natural gas pipeline that will be converted to crude oil transportation service: (1) at the Lake of Egypt water crossing, from milepost 564.9 to milepost 565.40, (2) south of the Trunkline Joppa, Illinois, Compressor Station, from milepost 538.77 to milepost 538.93, and (3) at the Ohio River crossing, from milepost 537.98 to milepost 538.41. ETCO seeks, under Section 8-509 of the PUA, when necessary for the construction of said pipeline facilities, to enter upon, take or damage private property in the manner provided by the law of eminent domain.

With its Application, ETCO includes a list of the names and addresses of (1) the owners of all properties within a 3,960 foot wide notification corridor around the centerline of the proposed new build portion of the Project (1,980 feet on either side of the centerline), (2) landowners located along the three segments of the existing Trunkline pipeline in Illinois that will be replaced, and (3) landowners at locations along the existing Trunkline pipeline in Illinois where new mainline valve sites will need to be installed. It indicates that the landowner list consists of landowners of record as shown by the records of the tax collectors of the applicable county within 30 days prior to the filing of the Application.

Pursuant to due notice, a pre-hearing conference was held in this matter on January 29, 2015, before a duly authorized Administrative Law Judge ("ALJ") of the Commission at the office of the Commission in Springfield. Counsel for ETCO and the Commission Staff ("Staff") appeared and participated in the hearing. There were also appearances at the hearing by counsel on behalf of Cellular Properties, Inc., and Tower Realty Corp and on behalf of Oelze Equipment Company. Cellular Properties, Inc., and Tower Realty Corp. subsequently filed a petition to intervene on February 11, 2015, which was granted. An evidentiary hearing was held on June 30, 2015.

ETCO presents the testimony of Joey Mahmoud, Vice President of Engineering of ETCO and Senior Vice President of Engineering for Energy Transfer Partners, L.P. ("ETP"); Adam Broad, Senior Project Manager for ETP; Damon Rahbar-Daniels, Vice President of Commercial Operations for ETP; Todd Stamm, Senior Director – Pipeline Operations for Sonoco Logistics, L.P ("SXL"); and Tracey McDaneld, Right-of-Way Supervisor for KP Land Services. Staff presents the testimony of Mark Maple, Senior Gas Engineer in the Energy Engineering Program; and Rochelle M. Phipps, Senior Financial Analyst with the Finance Department.

On July 31, 2015, ETCO filed a motion to reopen the record for submission of additional testimony and additional hearings, which was granted on August 6, 2015. An evidentiary hearing on reopening was held on September 9, 2015. On reopening, ETCO offers the testimony of Mr. Rahbar-Daniels and Ms. Tracey McDaneld. Staff offers the testimony of Mr. Maple. ETCO and Staff filed an agreed draft order on September 29, 2015. On November 30, 2015, in response to an ALJ ruling, ETCO filed an updated list of the parcels for which it seeks eminent domain. The record was marked Heard and Taken on November 30, 2015.

As of November 30, 2015, 15 public comments were filed on e-Docket. A petition to deny pipelines eminent domain in Illinois ("Petition"), with 777 signatures, was filed with the Chief Clerk. The public comments requested that the Application be denied and voiced strong opposition to the grant of eminent domain to ETCO, a private entity.

II. BACKGROUND AND RELIEF REQUESTED

ETCO states that the total planned length of the ETCO Pipeline from Patoka, Illinois, to Nederland, Texas ("ETCO Pipeline Project"), is 745 miles. Approximately 128 miles of the ETCO Pipeline Project will be located in Illinois. It states the Project will consist of the approximately 31 miles of new build section and 97 miles of converted Trunkline pipeline. ETCO proposes to construct the new build section of 30-inch outside diameter mainline pipeline that will originate near the Patoka Hub in Patoka, Illinois, in Marion County, and run generally adjacent to an existing pipeline in a right-of-way corridor that extends southeastward for approximately 31 miles, passing through a portion of Clay County, to a point approximately four miles north of the existing Trunkline Johnsonville Compressor Station in Wayne County, Illinois. Mr. Broad testifies that from that point, the new section will be connected to an existing 30-inch and 24-inch outside diameter mainline pipeline, owned by Trunkline, which currently transports natural gas.

Mr. Broad indicates that the Federal Energy Regulatory Commission ("FERC") has authorized Trunkline to abandon the existing natural gas pipeline so that it can be converted to crude oil transportation service. He explains that ETCO will acquire the Trunkline natural gas pipeline and place it into crude oil transport service. He says the existing pipeline traverses Wayne, Hamilton, Franklin, Williamson, Johnson and Massac Counties in Illinois, before crossing the Ohio River into Kentucky. Mr. Broad states that after crossing Illinois, the ETCO Pipeline Project will traverse Kentucky, Tennessee, Mississippi and Arkansas, to a location near Buna, Texas. He says that from the location near Buna, Texas, the ETCO Pipeline Project will transition to a new mainline pipeline that will run in a southerly direction to the refining market in and around Nederland, Texas. According to Mr. Broad, Nederland, Texas is one of the largest regional refining markets in the United States ("U.S.").

ETCO plans to construct one new pump station and metering facilities at the origin of the Project near Patoka, Illinois. Mr. Broad indicates that the Project will also include three pump stations collocated within existing Trunkline Compressor Station sites along the existing natural gas pipeline. He testifies that any space required for the pump stations will be acquired in fee or leased. Mr. Rahbar-Daniels states that the initial capacity of the ETCO Pipeline will be approximately 400,000 barrels per day ("bpd"). He says that ETCO anticipates expansion of the capacity to approximately 570,000 bpd based on market conditions.

For the new build portion, ETCO requests approval of a 500-foot project route width around the centerline as permitted by Section 15-401(c) of the CCPL. The right-of-way width around the centerline of the route of the new build portion will be 50 feet. According to ETCO, the route determination for the new build portion of the Project from Patoka to the Johnsonville Compressor Station was predicated upon paralleling the existing Marathon Patoka–Owensboro 20-inch pipeline ("Marathon Pipeline") in order to minimize environmental and land use impacts. ETCO maintains that the vast majority of the new build portion will closely parallel the existing Marathon Pipeline right-of-way and that any deviations from the existing Marathon Pipeline right-of-way are due to the presence of residences, environmental concerns, and/or constructability issues.

III. FIT, WILLING, AND ABLE

A. ETCO

ETCO is a Delaware limited liability company with its principal offices at 3738 Oak Lawn Avenue, Dallas, Texas 75219. Mr. Mahmoud testifies that the membership interest of ETCO is owned 75% by ETCO Holdings LLC and 25% by Phillips 66 ETCO Holdings LLC. At the time of filing, ETCO Holdings LLC was owned 100% by ETP, which is a master limited partnership publicly traded on the New York Stock Exchange (“NYSE”). Energy Transfer Equity, L.P. (“ETE”), also a master limited partnership publicly traded on the NYSE, indirectly owns the general partner of ETP. ETP and ETE are referenced together as "Energy Transfer." Mr. Rahbar-Daniels testifies that during the course of this proceeding, SXL, a NYSE-listed publicly traded partnership, became part owner of ETCO Holdings LLC. Mr. Rahbar-Daniels testifies that this did not change the 75% direct ownership interest of ETCO Holdings LLC or 25% interest of Phillips 66 in ETCO.

ETCO states that its family of companies has a well-established and proven track record of safely and reliably designing, constructing, operating, and maintaining some of the largest logistical infrastructure projects in the U.S. to serve producers, refiners, marketers, end users, and other consumers in the oil and gas industry. Mr. Rahbar-Daniels testifies that the total cost of the ETCO Pipeline Project is projected to be approximately $890 million, subject to any adjustment in overall project scope. He says the Project is projected to be about 26% of the total cost, or an investment of approximately $230 million within Illinois.

Mr. Rahbar-Daniels states that ETCO’s equity owners have demonstrated a commitment to provide the estimated $890 million of capital needed to construct the ETCO Pipeline Project and place it into service. He indicates that ETP and Philips 66 have each issued a parental guaranty to support the commitment of its respective subsidiary with an equity interest in ETCO to meet the capital funding requirements for the ETCO Pipeline Project. ETCO provides financial statements to demonstrate that ETCO is capable of financing construction of the ETCO Pipeline Project and is committed to the Project.

Mr. Mahmoud testifies that the Energy Transfer Companies own and operate approximately 71,000 miles of crude oil, refined products, natural gas, and NGL pipelines. He states that Energy Transfer comprises the second largest pipeline company in the U.S. by volume transported and the second largest U.S. pipeline company measured by infrastructure. Mr. Rahbar-Daniels testifies that ETP is one of the largest and most diversified master limited partnerships and that it has ready access to significant financial resources. He indicates that ETP is actively traded on the NYSE with a market capitalization in excess of $22.9 billion as of January 16, 2015. He asserts that the total consolidated revenues for the twelve month period ending September 30, 2014 were $50.9 billion and consolidated assets were $48.6 billion. He testifies that ETP has strong relationships some of the world’s largest financial services firms and has access to a $2.5 billion revolving credit facility. He says ETP also has access to capital in the public and private capital markets. He states that ETP is rated as investment grade by Standard & Poor ("S&P"), Fitch Ratings, and Moody’s Investors Services ("Moody's").

Mr. Rahbar-Daniels testifies that Philips 66 has a market capitalization in excess of $33.6 billion as of January 16, 2015. He indicates that its total consolidated revenues for the twelve month period ending September 30, 2014 were $154.6 billion and consolidated assets were $49.7 billion. Mr. Rahbar-Daniels says that Phillips 66 has multiple sources of capital to fund its growth, including a $5 billion revolving credit facility, and that its financial position and access to capital are evidenced by its investment grade credit ratings by S&P and Moody's. Mr. Mahmoud testified that Phillips 66 is one of the largest refiners in the U.S. and worldwide.

Mr. Rahbar-Daniels testifies that SXL is rated investment grade by S&P, Moody's, and Fitch Ratings. He testifies that financing of the construction of the ETCO Pipeline will continue to be supported by the significant overall financial resources of ETP and Phillips 66 for 75% and 25%, respectively, of the ownership interests in ETCO. He states that ETP will continue to maintain its parental guaranty, without modification, in full support of ETCO Holding's financing obligations under the ETCO limited liability company agreement, notwithstanding ETP's transfer of a portion of its ownership interest to SXL. Mr. Rahbar-Daniels asserts that the ownership structure change will not affect ETCO's ability to safely and reliably operate the ETCO Pipeline Project, as SXL owns and operates an extensive pipeline network and it had already been planned that personnel and resources of SXL will be used to operate the ETCO Pipeline.

Mr. Broad testifies that DAPL-ETCO Construction Management, LLC ("DECM"), an ETP subsidiary, will manage and oversee the construction of the ETCO Pipeline Project. He states that DECM was formed as a single purpose entity to provide construction management services for the ETCO Pipeline Project (and the Dakota Access Pipeline) so that all of the construction management services for these pipelines can be captured and managed as a single entity. According to Mr. Broad, DECM will draw on the extensive resources, experience and expertise within the ETP companies. He testifies that engineering firms with extensive experience in the pipeline industry have been hired to perform the engineering work for, respectively, the new build portion of the Pipeline, the conversion of the existing natural gas pipeline in Illinois, and the pump stations. He states that only experienced, highly-qualified construction contractors will be hired for the Project. Mr. Broad provides an explanation of the processes that will be used to select the construction contractors.

Mr. Broad testifies that Energy Transfer's pipelines are designed, built and maintained in accordance with governmental requirements and industry codes and standards, and often exceed applicable requirements and standards. He states that the construction, installation, and conversion of the Project will meet all applicable Federal and state environmental protection statutes and regulations along the Project's route.

Mr. Broad testifies that the new build portion of the pipeline will operate at 1,440 pounds psig, with a .72 safety design factor for the mainline portions and .05 safety design factor at road and waterbody crossings, which will meet or exceed regulatory requirements. Mr. Broad explains that safety design factors are a part of the standard pipe sizing engineering calculations required to be performed in accordance with U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration ("PHMSA") regulations, at 49 C.F.R. Part 195, to ensure the correct wall thickness and grade of pipe are selected based on the maximum operating pressure for the pipeline. He states that the pipeline will be equipped with cathodic protection systems to prevent external corrosion. He indicates that the pipe material for the new build portion and replacement sections of the Project will be manufactured of high strength carbon steel which is appropriate for a crude oil pipeline, nominally 0.429 inch wall for the majority of the new pipe in non-sensitive areas and up to .625 inch wall in unusually sensitive areas, road crossings, and waterbody crossings.

Mr. Broad describes the manufacturing processes that will be used for the pipe that will be installed in the new build and replacement sections of the Project, including the application of fusion-bonded epoxy coatings at the factory, and inspection and integrity testing at the factory. He states that coating will be applied to all pipe welds. He states that the manufactured pipe will be transported by rail and truck to the installation locations in accordance with federal regulations and industry standards.

Mr. Broad describes the techniques that will be used to install the new pipeline in the field. He states that welding of the pipeline will be performed using automatic welding machines and every weld will be 100% x-rayed, after which the weld will be coated. He asserts that one hundred percent of field welds will be examined by non-destructive testing. Mr. Broad describes the minimum depths for the pipeline for various topography and ground conditions in his testimony. Mr. Broad testifies to the Agricultural Impact Mitigation Agreement ("AIMA") with the Illinois Department of Agriculture. He explains that the AIMA contains specific provisions for the pipeline installation depth. According to Mr. Broad, the AIMA provides that for new construction, and except for aboveground piping facilities, the pipeline will be buried with a minimum of five feet of top cover where it crosses cropland, pasture land or other agricultural soils classified as prime soils (unless otherwise agreed upon with the landowner), a minimum of three feet of top cover where it crosses pasture land or other agricultural land not compromised of prime soils, and a minimum of three feet of top cover where it crosses wooded or brushy land. The AIMA provides that where the route parallels an existing pipeline within a 100 foot perpendicular offset, the ETCO pipeline will maintain essentially the same top cover as the existing parallel pipeline, but not less than five feet. However, in those areas where (i) rock in its natural formation and/or a (ii) continuous strata of gravel exceeding 200 feet in length is encountered, the minimum top cover will be 30 inches.

Mr. Broad asserts that once the pipe has been lowered into the trench, it will be buried, cleaned, filled with water and hydrostatically tested to 125% of maximum operating pressure. He states that the pipeline will be rigorously tested and inspected for integrity in accordance with all federal and state regulations and industry standards. Mr. Broad says that ETCO will employ construction, safety, and agricultural inspectors not affiliated with its pipeline contractors to assure compliance with the contract specifications, incorporating all regulatory and industry requirements for pipeline construction. In summary, he testifies that the pipeline will go into service only after thorough inspection and review to verify compliance with all applicable federal and state statutes and regulations and all project construction standards and requirements.

Mr. Broad testifies that the design parameters (outside diameter, wall thickness, and grade) of the existing natural gas pipeline have been evaluated to ensure the pipe design is adequate for crude oil transport service and the pipeline operating pressure will be maintained at its current pressure when placed into crude oil service. He indicates that internal inspections have also been conducted to determine the mechanical integrity of the pipe. He states that in-line inspection tools will be installed and run through the entire existing pipeline, and hydrostatic testing will be used on the entire line being converted to ensure mechanical integrity. Mr. Broad testifies that ETCO will remove all existing mainline valves currently on the existing natural gas pipeline and install new mainline valves. As part of the conversion process, he says, leak detection will be installed on the existing pipeline and all mainline valves will be automated in order to be operated from a central control room. He states that launcher and receiver equipment will be installed to enable internal integrity inspection and testing of the pipeline. Mr. Broad testifies that remote controllable sectionalizing valves will be installed along the pipeline route, to allow rapid isolation of impaired segments in the event of an emergency.

Mr. Stamm testifies that the Operations Control Center ("OCC"), will be a state of the art control center which coordinates all operations throughout the system, including flow rate, pressure, and opening and closing of values, will employ modern pipeline monitoring and control technology to safely operate the ETCO Pipeline. Located in the Houston, Texas area, the OCC will also monitor devices that can alert operators to changes in operating parameters, providing a detection mechanism for response to emergency conditions. Mr. Stamm states that the OCC will be operated by personnel of the Energy Transfer companies 24 hours a day, seven days a week, and 365 days a year. Mr. Stamm asserts that strict operations procedures will be prepared and used to direct the OCC operators' actions in both normal and abnormal operations to reduce the risk of a release and to maintain safe operations.

Mr. Stamm testifies that once placed into service, the Pipeline right-of-way will be patrolled and inspected by air to watch for abnormal conditions or dangerous activities, such as unauthorized excavation, along the Project route. He states that the Pipeline will be maintained with strict adherence to the regulations of the PHMSA at 49 C.F.R. Part 195.

Mr. Stamm testifies that an emergency response plan will be prepared and in place prior to commencing transportation of crude oil. According to Mr. Stamm, DECM and qualified contractors will maintain emergency response equipment at strategic points along the route, will train personnel to respond to pipeline emergencies, and will have contracts in place with oil spill response organizations that have the capability to be mobilized to support remediation efforts if necessary. He states that DECM will coordinate with local emergency responders and will train local authorities in preventing and responding to any pipeline-related problems.

Mr. Stamm testifies that ETCO will implement Energy Transfer's extensive public education and outreach programs concerning public awareness of pipelines and pipeline safety matters, including damage prevention programs. He assures that the Project will be marked with signage and warnings, in accordance with federal regulations, to alert the public to the presence of underground lines and to provide information, contact numbers, and emergency data. He states ETCO will participate in the 811 One-Call System, the nationally recognized system to prevent damage to underground utilities by third parties such as excavation contractors.

B. Staff

Mr. Maple testifies that ETCO's Application was properly filed and that ETCO demonstrated it is fit, willing, and able to construct the Project. Mr. Maple summarizes the evidence submitted by the Applicant to demonstrate that ETCO is financially fit to construct the Project. Mr. Maple states that the Application also discusses various safety standards and procedures for the construction and operation of the Project that it will either meet or exceed. Based on his review, Mr. Maple agrees with the assertions by Mr. Rahbar-Daniels and in ETCO's Application that the Applicant is fit, willing, and able to construct and operate the Project.

Mr. Maple notes that ETCO must obtain a number of federal, state and local permits before starting Project construction. Additionally, he states that the Project must meet the minimum pipeline safety construction and maintenance standards contained in 49 C.F.R. § 195. Mr. Maple testifies that he is unaware of any issues or concerns from any federal, state, or local authorities that would keep ETCO from obtaining all of the permits or approvals that it needs to operate the pipeline.

Ms. Phipps testifies that she reviewed the information contained in the Application, Mr. Rahbar-Daniels' testimony, and the supplemental information provided by ETCO in support of its Application, and found no financial reason to dispute the Applicant's request in this proceeding.

Staff concludes that ETCO has demonstrated that is fit, willing and able to construct and operate the Project.

C. Commission Analysis and Conclusion

ETCO presents evidence to show that it is fit, willing, and able to provide the service in compliance with this Act, Commission regulations and orders, within the meaning of Section 15-401(b) of the CCPL, including that ETCO and its owners are capable of financing construction of the Project. Staff witnesses conclude that ETCO has shown that it is fit, willing, and able to construct, operate and maintain the Project. No party or witness disputes the assertions of ETCO that it is fit, willing, and able to construct and operate the Project. Based on its consideration of the record on this topic, the Commission concludes that (i) ETCO's Application was properly filed, and (ii) ETCO is fit, willing, and able to construct and operate the Project and to provide the proposed service, as required by Section 15-401(b).

IV. PUBLIC NEED/PUBLIC CONVENIENCE AND NECESSITY

A. ETCO

ETCO asserts that the proposed pipeline, in conjunction with the Dakota Access Pipeline, will deliver reliable supplies of crude oil from the Bakken/Three Forks production area of North Dakota to refinery markets in the Gulf Coast region of the U.S. In addition, ETCO states that the pipeline will provide a direct pipeline transportation link from the Patoka Hub to the Gulf Coast region.

1. Shipper Commitments

Mr. Rahbar-Daniels testifies that parties who have signed transportation services agreements with ETCO, as the result of a widely-publicized "open season" process, have committed shipper access for 90% (approximately 360,000 bpd) of the initial planned capacity of the Pipeline, with 10% of this capacity (approximately 40,000 bpd) reserved for walk-up shippers in accordance with the common carrier rules and regulations of the FERC.

2. Need for Project

Mr. Rahbar-Daniels testifies that the U.S. is in the midst of a fundamental reshaping of the supply dynamics in the crude oil market. He asserts that in the past several years, significant amounts of domestically produced crude oil has begun to be produced from oil formations in areas like the Williston Basin in North Dakota and Montana. Mr. Rahbar-Daniels says this new production from domestic sources has arrested the trend of declining domestic crude oil production in the U.S. and reduced the country's reliance on foreign and less reliable sources of crude oil. He describes the significant growth in crude oil production, and the significant estimated reserves, in the Bakken/Three Forks region of North Dakota.

Mr. Rahbar-Daniels asserts that there is currently insufficient outbound pipeline capacity to move the increasing volumes of crude oil being produced from the Bakken area of the Williston Basin to refinery markets such as on the Gulf Coast. He says that as a result, many producers and refiners use less efficient, more expensive transportation options such as railroad transportation to deliver crude oil from the Williston Basin. He testifies that the ETCO Pipeline Project, in conjunction with the Dakota Access Pipeline, will simplify the current high level of logistical complexity that producers and refineries face in seeking to move the crude oil in the producing regions to areas of market demand where it is needed. Mr. Rahbar-Daniels states that the Project will establish a direct link between the Patoka Hub and refineries in the Gulf Coast with direct access to the crude petroleum from the Bakken/Three Forks production area.

Mr. Rahbar-Daniels testifies that Illinois is among the top ten petroleum-consuming states in the nation, that demand in Illinois for petroleum and refined products for transportation, industrial, and home use has grown continuously since the mid-1990s, and that it remains strong. He states that refineries in the region currently lack sufficient aggregate refining capacity to meet consumer demand in the region. Mr. Rahbar-Daniels says that the region, including Illinois, receives significant volumes of refined products from refineries in the Gulf Coast region, which is home to one-half the total U.S. refining capacity. He states that the region that encompasses the Texas inland and Gulf Coast refining complexes, has a significant concentration of refineries, and the production capacity greatly exceeds the demand for refined petroleum products in the region. He asserts that the Texas inland and Gulf Coast region is a net exporter of refined petroleum products, to areas such as Illinois.

Mr. Rahbar-Daniels opines that there is a strong need for Illinois and the Midwest to have a stable and reliable source of crude oil and reliable, efficient transportation to Gulf Coast refineries. As a result of the concentration of domestic refining capacity in the Texas inland and Gulf Coast region and the distribution pipeline system, as well as the fungible nature of refined products, he says there can be supply distributions and shortages in certain regions, which can create nationwide adverse price impacts and supply shortages. Mr. Rahbar-Daniels asserts that preserving and enhancing the flow of Gulf-Coast-produced gasoline and other fuels into the Midwest is critical to the economy and productivity of the Midwest region. Therefore, he opines, Illinois and the Midwest have a strong need for stable and reliable sources of crude oil and reliable efficient transportation of the crude oil supplies to Gulf Coast refineries (as well as Midwest refineries).

Mr. Rahbar-Daniels asserts that the ETCO Pipeline Project will allow Illinois and the country to have access to cheaper, more reliable sources of refined petroleum products by accessing and being able to transport the crude oil from the Bakken and Three Forks formations to the Gulf Coast refinery markets. He states this will increase the ability to produce cheaper refined products to supply Illinois and the Midwest. This, he maintains, will stimulate the economy by providing jobs and increasing manufacturing and spending on secondary goods and services. Mr. Rahbar says this will stimulate every sector of the economy and thereby improve the U.S. economy and quality of life. He states, the ETCO Pipeline Project will provide U.S. refiners with a reliable and cost-effective pipeline option to obtain crude oil from the Bakken/Three Forks region. He asserts that, relative to other means of transporting large volumes of crude oil across long distances, pipelines offer the most safe, efficient, and price-competitive option.

3. Public Need on a Stand-Alone Basis

Mr. Broad testifies that the ETCO Pipeline is being built to supply refineries along the Gulf Coast with crude oil that could originate from storage tanks and supply sources located at or near to the Patoka Hub, as well as crude oil originating in the Bakken/Three Forks production area that is delivered to the Patoka Hub by the Dakota Access Pipeline. He indicates that, for example, the TransCanada Keystone Pipeline with a capacity of 500,000 barrels per day, the WoodPat Pipeline with a capacity of 315,000 barrels per day, and the Mustang Pipeline with a capacity of 100,000 barrels per day, all deliver into the Patoka Hub. Mr. Broad states that the Enbridge Southern Access Pipeline, with a capacity of 300,000 barrels per day, will also deliver into the Patoka Hub and is scheduled to be in service in late 2015. He asserts that construction of the ETCO Pipeline Project will facilitate both the shipment of domestic crude oil produced in the Bakken/Three Forks region and the shipment of crude oil from other regions that is transported to Patoka from other regions, to refineries in the Gulf Coast region, and thereby serve the public need.

Mr. Rahbar-Daniels maintains that construction of the ETCO Pipeline Project, even without the Dakota Access Pipeline in service, will increase the available markets for crude oil suppliers and shippers and will provide additional sources of supply for refineries in the Gulf Coast region. He opines that this will increase the liquidity of the market, and potentially lead to an increase in the storage and terminal capacity, at the Patoka Hub, with the end result that crude oil markets will function more efficiently. Mr. Rahbar-Daniels testifies that the availability of an additional transportation source capable of delivering crude oil into the Gulf Coast region will give refineries in that region, which produce a significant portion of the refined petroleum products consumed in Illinois and other Midwest states, additional sourcing opportunities, and will enable additional suppliers to compete for the business of supplying the Gulf Coast refineries.

Mr. Rahbar-Daniels asserts that during times of turnaround (e.g., periodic maintenance, retrofits, or seasonal conversion to produce different types or grades of refined products) or update (e.g., accidents or occurrences which necessitate an unplanned shutdown or reduction in operations at a refinery) at Midwest refineries that are currently supplied from Patoka, the availability of the ETCO Pipeline will provide a means for crude oil that would otherwise be delivered to the out-of-service refinery or refineries to be re-directed to the Gulf Coast refineries. He states that this will lead to a demand for and expansion of the storage and terminal facilities at Patoka, which will be additional economic activity and investment in Illinois.

Mr. Rahbar-Daniels concludes that overall, the market at Patoka will be more liquid and efficient with the ETCO Pipeline in service. He states that refineries in both the Midwest and Gulf Coast regions, as well as producers, will benefit by having a more robust and liquid market at the Patoka Hub as a result of the ETCO Pipeline. Mr. Rahbar-Daniels asserts that letters from shippers confirm their interest in the use of the ETCO Pipeline from Patoka, Illinois, to Nederland, Texas, even if the Dakota Access Pipeline is not yet placed into service. He states this is an indication of the shippers' recognition of the value to the market that the ETCO Pipeline will provide even on a stand-alone basis.

Mr. Broad testifies that, because Staff opines that both ETCO and Dakota Access (in Docket No. 14-0754) are fit, willing, and able to construct the respective pipelines, that there is a public need for both pipelines, and that both ETCO and Dakota Access should be granted Certificates, and because no other party in either docket has presented testimony that a Certificate should not be granted for either pipeline, there is no need to condition the granting of ETCO's certificate in good standing on Dakota Access' receipt of a certificate in Docket 14-0754.

Mr. Broad states that conditioning ETCO's Certificate on the issuance of a Certificate to Dakota Access in Docket No. 14-0754 would prevent ETCO from being able to begin construction of the ETCO Pipeline Project, even on properties for which ETCO has acquired easements through voluntary agreements with landowners, until the order in Docket No. 14-0754 is issued. Mr. Broad contends that this would waste valuable time in beginning construction of the ETCO Pipeline Project and getting the pipeline into operation. He opines that upon issuance of an order in this docket, ETCO should be authorized to begin construction of the Project on the properties for which ETCO has acquired easements from the landowners through voluntary negotiations. He notes any risk that the Project is not completed after money is expended on construction would be borne entirely by ETCO. In addition, under the terms of its easements, he states, ETCO would be obligated to restore the landowner's property after completing construction activities, regardless of whether or not the pipeline is ever placed into operation.

In support of ETCO's assertion that it should be granted a Certificate on its own merits, Mr. Rahbar-Daniels explains that the ETCO Pipeline will be a stand-alone interstate crude oil pipeline that will provide service from the Patoka Hub to the crude oil terminalling hub in Nederland, Texas, to meet the need for crude oil transportation service from the Midwest to the Gulf Coast to serve refineries in that region. According to Mr. Rahbar-Daniels, the ETCO Pipeline was originally conceived, and was being developed, as a stand-alone pipeline project. The Project was originally referred to as the Trunkline Crude Oil Pipeline project, due to the plan to convert the existing Trunkline natural gas pipeline for the project. On July 26, 2012, Trunkline filed its petition with the FERC for approval to abandon portions of the existing Trunkline natural gas pipeline from natural gas transportation, so that it could be converted to crude oil transportation service (FERC

Docket No. CP12-491-000). He states that ETCO presented the ETCO Pipeline Project as essentially a companion project to the Dakota Access Pipeline Project from North Dakota to the Patoka Hub in its Application to this Commission for a Certificate in part because, at the time the Applications were filed, ETCO assumed that the two cases would proceed on approximately the same schedule and that orders in the two cases would be issued at more or less the same time. ETCO, he explains, did not anticipate that the ETCO case would proceed such that an order could be issued ahead of the order in Dakota Access Docket No. 14-0754. He states, that development provides a significant opportunity to start construction and conversion of the ETCO Pipeline, complete it, and place it into crude oil transportation service significantly in advance of the Dakota Access Project.

Mr. Rahbar-Daniels testifies that, in addition to the four major pipeline systems currently delivering crude oil to the Patoka Hub, Illinois Extension Pipeline, L.L.C. is in the process of building the Southern Access Extension Pipeline (“SAX Pipeline”) to deliver additional crude oil to the Patoka Hub. He says the SAX Pipeline is anticipated to be in-service by late 2015. Mr. Rahbar Daniels explains that, according to Illinois Extension Pipeline, L.L.C., a significant percentage of the SAX Pipeline will be available for shippers other than the two parties that entered contracts for service on the pipeline system.

Mr. Rahbar-Daniels states that in addition to SAX Pipeline and the Dakota Access Pipeline there are additional proposals to expand the crude oil pipeline network. He testifies that there is evidence of market demand specifically for crude oil transportation service from the Patoka Hub to the Gulf Coast. For example, he explains that the Pegasus Pipeline provided crude oil transportation service of up to approximately 95,000 bpd from the Patoka Hub to Nederland, Texas, until it ceased operations on May 29, 2013 to address issues from a rupture of the pipeline. He also testifies that there is significant demand for crude oil to move to the Gulf Coast through upstream pipeline systems that deliver to the crude oil terminalling hub in Cushing, Oklahoma (the “Cushing Hub”), where the crude oil can then be transported on pipeline systems that connect the Cushing Hub to the Gulf Coast. According to Mr. Rahbar-Daniels, shippers on those upstream pipeline systems will gain the opportunity to route their crude oil to the Gulf Coast or other Midwest destinations through the Patoka Hub, instead of through the Cushing Hub, if there is a pipeline to connect the Patoka Hub to the Gulf Coast.

Mr. Rahbar-Daniels testifies that the volume of crude oil that would be shipped on the ETCO Pipeline on a stand-alone basis, if the Dakota Access Pipeline were not in service, would depend on many market factors, including differences in seasonal demand in different regions, the timing of new pipeline infrastructure projects delivering into the Patoka Hub, and the basis pricing differentials across regions. Nevertheless, he says, it is reasonable to anticipate that at least 150,000 bpd would be routinely transported by ETCO Pipeline. He explains that additional crude oil currently is being transported to the Gulf Coast refinery region through other pathways that could be routed through Patoka if the ETCO Pipeline were available for transportation service from Patoka to the Gulf Coast.

Mr. Rahbar-Daniels states that there are additional benefits to being able to proceed to construct the ETCO Pipeline and place it into service ahead of the Dakota

Access Pipeline. He explained that by placing ETCO in service earlier, the process of commissioning the pipeline and preparing the pipeline for service is decoupled from Dakota Access, making the overall process more manageable, more efficient, safer and ultimately more reliable to the shippers who have transportation services on both Dakota Access and ETCO. He states that risk factors are minimized by reducing the complications of starting up two major systems concurrently, thereby reducing risk factors such as weather, mechanical failure, labor availability, material access and overall performance of the technical staff and contractors.

4. Economic Benefits in Illinois

Mr. Broad testifies that ETCO anticipates that over 800 directly related construction jobs will be created in Illinois at the peak of the pipeline and pump station construction. According to Mr. Broad, the Project will use local professional services such as engineering, surveying, real estate and legal. He states that additional ancillary economic benefits for Illinois, such as an increased use of local restaurants, lodging, and other retail businesses by those employed on the Project, are anticipated. Mr. Broad testifies that some of the materials necessary for the Project are expected to be manufactured by or purchased from Illinois businesses.

Mr. Rahbar-Daniels testifies that the estimated $230 million investment in Illinois would be a very significant construction project. He maintains that it is in the public interest to allow ETCO to proceed with this major construction project as expeditiously as possible, rather than requiring commencement of construction activities to wait until after the proceedings in the Dakota Access case are completed. He asserts that receipt of an order granting a Certificate and Section 8-503 and 8-509 authority for the ETCO Pipeline, not conditioned on the receipt of Dakota Access's certificate order, will enable ETCO to commence making an investment of approximately $230 million in the Illinois economy much sooner than would otherwise be the case.

B. Staff

Mr. Maple testifies that ETCO has demonstrated a public need for the Project provided the Dakota Access Project in Docket No. 14-0754 is also approved. Mr. Maple agrees that there is a demand for petroleum and petroleum-based products in Illinois and the nation as a whole and that the proposed pipeline will help ensure that U.S. refineries have continued access to domestic crude oil, which benefit individuals as well as Illinois and the country as a while. He notes that ETCO has long-term contractual commitments from nine shippers which, on a whole, completely fills the 360,000 bpd capacity of the Pipeline set aside for committed shippers. He points out that these contractual commitments represent 90% of the capacity of the Pipeline and that the remaining 10% of capacity must be reserved for walk-up shippers in accordance with FERC regulations. He reasons that the fact that the ETCO Pipeline is completely subscribed shows there is a demand for the proposed pipeline.

Mr. Maple opines, based on the information presented in ETCO's Application and testimony, that the Project would serve the public convenience and necessity. He states that the Project, in conjunction with the Dakota Access Pipeline, would serve the public by facilitating the production of domestic crude, which will allow the U.S. to keep up with increasing demand and to reduce its reliance on foreign imports from politically unstable nations. He observes that every U.S. citizen uses petroleum products either directly or indirectly. Mr. Maple opines that the production and transportation of domestic crude also improves the economy, as it keeps dollars from going overseas. He states that adding interstate pipelines gives the U.S. a network of redundant supplies and shipping corridors in case of a pipeline shutdown or other unusual circumstances. Mr. Maple notes that the Project will reduce the amount of oil that will be shipped via railroad, which, he says, is less efficient and far more expensive than transporting oil by pipeline. He says that the increased use of rail transportation for crude oil has reduced the number of rail cars that can haul grain, causing grain farmers in some areas to have difficulty in getting their harvest to market in a timely, cost-effective manner. In addition, he states, there have been an increasing number of derailments of trains containing petroleum and petroleum products.

Initially, Mr. Maple recommended that ETCO's Certificate should be conditioned on the receipt of a Certificate by Dakota Access in Docket No. 14-0754. He stated that a public need has not been shown for the Project on a stand-alone basis but that a public need for the Project exists in conjunction with the Dakota Access Pipeline. He explained that the Dakota Access Pipeline in conjunction with the Project would bring additional supply to the market that had not been there previously, but, standing alone, the Project only moves oil from Illinois to the refining regions and does not assist in bringing new supplies to the Midwest. He noted that the shipper commitments for capacity on the ETCO Pipeline were tied to shipper commitments on the Dakota Access Pipeline and the lack of evidence demonstrating how the Project would lower the dependence on foreign imports or curtail price spikes if the Dakota Access Pipeline is not approved.

Mr. Maple conceded that there are several pipelines that bring supplies to the Patoka Hub, but stated that the record lacked evidence to suggest that there are more deliveries coming into Patoka than can be carried away from Patoka. He opined that it is quite possible that the Patoka Hub is at equilibrium, shipping out all of the product that is able to enter the Hub. Mr. Maple reasoned that the Project is being proposed in conjunction with the Dakota Access Pipeline and both have similar capacity, meaning everything that is brought into the Patoka Hub on Dakota Access is designed to be transported by the Project. He concluded that the public need for the Project would be created by the Dakota Access Pipeline. Therefore, initially, Mr. Maple recommended conditioning the ETCO Certificate on Dakota Access also being granted a Certificate.

After reviewing the ETCO testimony responding to his concerns, Mr. Maple concludes that ETCO has demonstrated that there is a stand-alone public need for the Project regardless of whether the Dakota Access Pipeline is ever constructed.

Mr. Maple notes Mr. Rahbar-Daniels' testimony that a new pipeline is being built by Spectra Energy and Spectra Energy Partners that will come online in 2017 and will bring 400,000 barrels per day of capacity into the Patoka Hub, which that could be transported on the Project. He relies upon Mr. Rahbar-Daniels testimony that the Pegasus Pipeline ceased operations in 2013 to conclude that there is likely current demand for the Project. He also notes that ETCO provided letters from several other companies that express interest in transporting products from Patoka, Illinois, to

Nederland, Texas. Mr. Maple concludes that ETCO demonstrated that there is a potential market for the Project's pipeline capacity, and thus a public need. He also notes other benefits, such as construction jobs, tax revenue, shipper flexibility, and a more robust pipeline infrastructure, which he believes to round out the support for a public need determination. Mr. Maple concludes that ETCO has demonstrated that there is a public need for the pipeline independent of the Dakota Access Project. He opines that ETCO independently meets the criteria necessary to obtain a Certificate and eminent domain authority.

C. Commission Analysis and Conclusion

Illinois courts have held that what constitutes public convenience and necessity is within the Commission’s discretion to determine in each case, and permits the consideration of a broad range of factors as applicable to the particular case. Commonwealth Edison Co. v. ICC, 295 Ill. App. 3d 311, 317 (2nd Dist. 1998). The determination whether the public convenience and necessity requires a Certificate is based on consideration of all the circumstances. ETCO requests a Certificate for the Project, the Illinois portion of the ETCO Pipeline Project consisting of about 745 miles of pipeline to be used for the transportation of crude oil. The Project is proposed to consist of about 128 miles of pipeline, of which 31 miles would be a new build section, originating near the Patoka Hub to near a Trunkline Compressor Station in Wayne County. ETCO proposes to acquire the Trunkline natural gas pipeline traversing Wayne, Hamilton, Franklin, Williamson, Johnson and Massac Counties in Illinois, and place it into crude oil transport service. From near Joppa, Illinois, the ETCO Pipeline Project would pass through Kentucky, Tennessee, Mississippi, Arkansas, and ultimately to the refining market in and around Nederland, Texas.

ETCO asserts construction of the ETCO Pipeline will facilitate both the shipment of domestic crude oil produced in the Bakken/Three Forks region and the shipment of crude oil from other regions that is transported to Patoka from other regions, to refineries in the Gulf Coast region. According to ETCO, the Project will increase the available markets for crude oil suppliers and shippers and will provide additional sources of supply for refineries in the Gulf Coast region. ETCO says there is insufficient pipeline capacity to move the increasing volumes of crude oil being produced from the Bakken area in North Dakota causing producers and refiners to use less efficient, more expensive transportation options. ETCO states the Project will allow Illinois and the country to have access to cheaper, more reliable sources of refined petroleum products, increasing the ability to produce cheaper refined products to supply to Illinois and the Midwest and stimulating the economy.

After examining the evidence and conducting its own analyses, Staff recommends that ETCO be granted a Certificate authorizing it to construct the Project and to operate as a common carrier by pipeline. Mr. Maple notes the shipper contracts and states the Project will help to ensure that U.S. refineries will have continued access to domestic crude oil and to reduce its reliance on foreign imports from politically unstable nations. Mr. Maple opines that the production and transportation of domestic crude oil improves the economy, and will help ensure that Illinois and the rest of the country have an adequate supply of oil, which can mitigate price spikes. He agrees that the Project will serve both a public need and the public convenience and necessity.

The Commission finds that ETCO has demonstrated that there is a public need for the Project and that it would promote the public convenience and necessity, by providing transportation for crude oil from the Patoka Hub to the Gulf Coast region. Based on its consideration of the entire record, the Commission finds that a public need for the proposed service to be provided by the ETCO Pipeline exists and that the public convenience and necessity require issuance of a Certificate authorizing ETCO to construct the Project and to place it into service and to operate as a common carrier by pipeline. The Commission concludes that a Certificate should be issued to the Applicant for the proposed Project in Illinois.

V. LOCATION AND ROUTING

A. ETCO

Mr. Broad testifies that the starting point of the ETCO Pipeline Project is at the existing Patoka tank farm hub near Patoka, Illinois and the planned ending point of the pipeline is at the terminal and refinery facilities near Nederland, Texas. He explains that there is a potential for additional market laterals to be constructed depending on market demand.

Mr. Broad testifies that the new build section of the Project will consist of a new 30-inch outside diameter mainline pipeline that will originate near the Patoka Hub in Patoka, Illinois, in Marion County, and run generally adjacent to an existing pipeline in a right-of-way corridor that extends southeastward for approximately 31 miles, passing through a portion of Clay County, to a point approximately 4 miles north of the existing Trunkline Johnsonville Compressor Station in Wayne County, Illinois. He says at that point, it will be connected to an existing 30-inch and 24-inch outside diameter mainline pipeline, which ETCO will acquire from Trunkline and place into crude oil transport service.

Ms. McDaneld testifies that ETCO requests a 50-foot wide permanent right-of-way easement around the centerline of the new build portion of the pipeline, and authority for additional temporary construction work space easements of up to an additional 100 feet along the new build portion; the temporary construction work space easements would revert to the landowner upon completion of construction. Mr. Broad testifies that ETCO anticipates that it will be able to locate the three replacement sections of the existing Trunkline pipeline, and to do the construction and installation work for the replacements, within the existing right-of-way for the easements for the Trunkline pipeline. However, he indicates that in case it is necessary to deviate the location of any of the replacement sections from the current location of the pipeline segment being replaced, or in case additional workspace is needed for the construction and installation of the replacement sections, ETCO seeks authority for 50 foot wide permanent easements and temporary construction easements of up to an additional 100 feet, at the locations of the replacement sections of the existing pipelines. He indicates that ETCO anticipates that it will be able to do the work to install the new mainline valves in the existing right-of-way provided by the existing easements at those locations. He states, however, that as a precaution, ETCO seeks authority for temporary construction easements of up to 100 feet in width at the locations where it will be replacing or installing mainline valves on the existing Trunkline pipeline.

Mr. Broad explains that, for the new build section from Patoka to the Johnsonville Compressor Station, the route is predicated on paralleling the existing Marathon Pipeline, in order to minimize environmental and land use impacts. He indicates the vast majority of the 31-mile new build portion will closely parallel the existing Marathon Pipeline right-of-way. He explains that any deviations from the existing Marathon Pipeline right-of-way are due to the presence of residences, environmental concerns and/or constructability issues. He states that the route has existing utility infrastructure and has been determined to be appropriate for utility infrastructure, rather than being run through properties that are devoted to other uses. He says that by paralleling the existing pipeline, there are likely to be fewer issues relating to access to the right-of-way of the new pipeline for construction, maintenance and inspection and surveillance purposes. Mr. Broad indicates that it may be possible for the new pipeline to use a portion of the right-of-way of the existing pipeline for temporary workspace, further reducing the environmental impacts. He says the route passes through properties for which the owners have previously granted easements for pipelines (or purchased the property subject to an easement granted by a previous owner).

Mr. Broad testifies that in developing the baseline route of the new build portion of the Project, ETCO used a sophisticated and proprietary Geographic Information System ("GIS") computer program maintained by an engineering firm with extensive experience in the pipeline industry. He states that the GIS program determines the most suitable baseline route using multiple publicly available and purchased datasets that provide information on engineering, environmental and land and other geographic and demographic features. He indicates these included both desirable features, including paralleling existing pipelines and existing linear utilities. He says it considers a broad range of undesirable features, including engineering, environmental, land, and other geographic and demographic features, that should be avoided or buffered around. Mr. Broad testifies that ETCO took all of these criteria into consideration to the extent depicted in the available data sets, to determine the most desirable baseline route of the Project.

Mr. Broad testifies that after developing the baseline route, ETCO coordinated with federal and state agencies such as the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, Illinois Department of Natural Resources, and Illinois Environmental Protection Agency; collected survey data including through survey permission obtained from landowners; collected additional datasets; and conducted a detailed, segment-by-segment analysis of the baseline route. He indicates that the information obtained through these activities was used to identify and incorporate modifications to optimize the baseline route. He presents a list of modifications that were incorporated for various reasons, including constructability reasons, environmental concerns, and concerns raised by landowners and governmental bodies.

B. Staff

Mr. Maple testifies that he evaluated the route development process. He states that ETCO's use of a proprietary computer program to develop a baseline route allowed it to consider far more data than was previously possible and to identify solutions that may have previously gone undiscovered. Mr. Maple indicates that he is satisfied with the breadth of data categories and found the weights that ETCO assigned to them were reasonable.

Mr. Maple states that he reviewed the entire proposed pipeline route and, where the proposed route deviated from a straight line, obtained explanations from ETCO regarding the necessity of the route deviation and why it was the best option. Mr. Maple provides no criticism of the proposed route. He observes that the route passes mainly though rural, undeveloped land and minimizes the impact on major roadways, high density population areas, and environmentally sensitive areas. He finds it prudent to repurpose the existing Trunkline pipeline, as ETCO proposes, rather than build an entirely new pipeline. He explains that repurposing the existing pipeline, which is approximately 75% of the total pipeline length in Illinois, will minimize the impact to landowners and the environment while also likely reducing construction costs. Mr. Maple testifies that he has not seen, nor can he recommend an alternative route which is better than the proposed route.

C. Commission Analysis and Conclusion

Having reviewed the record, the Commission finds that the GIS program used by ETCO identified a suitable baseline pipeline route that took into consideration information on engineering, environmental, land, and other geographic and demographic features. ETCO's objective of paralleling the right-of-way of the existing Marathon Pipeline as much and as closely as possible is a reasonable approach to minimizing the number of interactions with residences, businesses, other structures, and environmentally sensitive areas. The Commission notes that ETCO has requested approval of a 500 foot wide project route rather than a specific route. Mr. Maple found no reason to believe that there would be a superior route to the one selected by ETCO. No party has objected to the proposed route.

With regard to the location or routing of the proposed pipeline, Section 15-401(b) of the CCPL states in part:

> In its determination of public convenience and necessity for a proposed pipeline or facility designed or intended to transport crude oil and any alternate locations for such proposed pipeline or facility, the Commission shall consider, but not be limited to, the following:
>
> 1. any evidence presented by the Illinois Environmental Protection Agency regarding the environmental impact of the proposed pipeline or other facility;
>
> 2. any evidence presented by the Illinois Department of Transportation regarding the impact of the proposed pipeline or facility on traffic safety, road construction, or other transportation issues;

> 3. any evidence presented by the Department of Natural Resources regarding the impact of the proposed pipeline or facility on any conservation areas, forest preserves, wildlife preserves, wetlands, or any other natural resource;
>
> 4. any evidence of the effect of the pipeline upon the economy, infrastructure, and public safety presented by local governmental units that will be affected by the proposed pipeline or facility;
>
> 5. any evidence of the effect of the pipeline upon property values presented by property owners who will be affected by the proposed pipeline or facility;
>
> 6. any evidence presented by the Department of Commerce and Economic Opportunity regarding the current and future economic effect of the proposed pipeline or facility including, but not limited to, property values, employment rates, and residential and business development; and
>
> 7. any evidence presented by any other State agency that participates in the proceeding.

The Commission observes that none of the agencies or other persons or entities identified in the above list from Section 15-401(b) appeared in this proceeding to offer any of the enumerated categories of evidence.

Based on the record of this proceeding, the Commission finds that ETCO's proposed route for the new build portion of the pipeline is reasonable and it is hereby approved. Accordingly, the Commission approves the route proposed by ETCO as set forth on ETCO Exhibit 2.15. The legal description provided in ETCO Exhibit 2.15 is reproduced in Appendix A to this Order, and a map depicting the route of the pipeline in Illinois is reproduced in Appendix B to this Order.

Additionally, pursuant to Section 15-401(c) of the CCPL, ETCO is granted authority for a 500 foot project width for the new build portion of the ETCO Pipeline, consisting of 250 feet on either side of the centerline of the proposed route shown on ETCO Exhibit 2.15 and Appendices A and B to this Order. Approval of the proposed project width authorizes ETCO to make alterations to the approved route within the 500 foot project width without the need to obtain separate approval from the Commission for such alterations.

The request for 50-foot wide permanent right-of-way easements and an additional 100 foot temporary construction easement widths for the new build and for replacing or installing mainline valves on the existing Trunkline pipeline appears to be consistent with industry practice, are reasonable, and were not opposed by any party. Accordingly, ETCO's proposed permanent right-of-way easement width of 50 feet and its requested additional temporary construction work space easements are approved.

VI. SECTION 8-503

ETCO requests an order pursuant to Section 8-503 of the PUA authorizing construction of the proposed Pipeline. That section provides in part as follows:

> Whenever the Commission . . . shall find that additions, extensions, repairs or improvements to, or changes in, the existing plant, equipment, apparatus, facilities or other physical property of any public utility . . . are necessary and ought reasonably to be made or that a new structure or structures is or are necessary and should be erected, to promote the security or convenience of its employees or the public, or in any other way to secure adequate service or facilities, the Commission shall make and serve an order authorizing or directing that such additions, extensions, repairs, improvements or changes be made, or such structure or structures be erected . . . .

Having reviewed the record, the Commission notes that no party opposes a grant of authority under Section 8-503. The Commission finds that, the necessary showings under Section 8-503 have been made and that ETCO should be granted authority pursuant to Section 8-503 to construct the proposed pipeline in Illinois.

VII. SECTION 8-509

A. ETCO

ETCO requests an Order under Section 8-509 of the PUA authorizing it to acquire property for the Project through the law of eminent domain when necessary. It states that it has no desire to condemn the permanent easements and temporary workspace easements and other interests in land it requires for the Project, preferring to acquire the needed rights through good faith negotiations with landowners. However, ETCO asserts, in certain circumstances use of eminent domain may be necessary.

ETCO presents evidence to describe its outreach activities and its contacts with and negotiations with landowners for easements. Ms. McDaneld testifies that, prior to initiating contacts with landowners for the purpose of negotiating to acquire easements, ETCO engaged in public outreach activities in the vicinity of the new build portion of the proposed route of the Project, through a number of outreach activities, including mailings to landowners, holding open house meetings for the public, and meetings with local public officials.

Ms. McDaneld testifies that ETCO mailed a letter required by the Commission's regulations at 83 Illinois Administrative Code §300.30(a), to landowners before contacting them to initiate negotiations for the acquisition of easements. She testifies that KP Land right-of-way agents, representing ETCO ("KP Agents"), have been and will continue to follow the requirements promulgated at 83 Illinois Administrative Code §300.30(b) through (f) in contacting and negotiating with landowners. Ms. McDaneld testifies that KP Agents are trained and tasked to negotiate fully and fairly with landowners, preferably via face-to-face contact as much and as often as necessary to reach accord. She asserts that all offers are made in writing, with appropriate legal descriptions and property sketches identifying the extent and placement of the pipeline and/or temporary workspace easements. According to Ms. McDaneld, ETCO began contacting landowners for the purpose of negotiating to acquire easements on the new build portion of the Project in October and November 2014. She testifies that since November 2014, four KP Agents have been assigned to contacting and negotiating with landowners on the new build portion of the Project.

Ms. McDaneld states that ETCO instituted a land acquisition program for the Project similar to those successfully employed in past Energy Transfer pipeline projects. She explains that under this program, ETCO informs landowners along the new build portion of the proposed route about the Project and the interests in land that it seeks to acquire, soliciting their input and participation in the route planning process, and adjusting right-of-way locations and installations when possible to accommodate landowner interests and concerns. She states that ETCO's approach to compensating landowners for easements is to compensate landowners for the interests in land acquired, at compensation levels at or above fair market values. She testifies that ETCO will pay full fee value for both any fee interests in land and for permanent easements used for the right-of-way. She says that ETCO will pay 50% of fair market value for temporary workspace easements. Ms. McDaneld testifies that ETCO determined fair market value for purposes of compensation using a market study conducted for ETCO by Allen, Williford and Seale, Inc., Real Estate Appraisers, in Marion, Clay and Wayne Counties. She states that ETCO will compensate landowners fully for any non-restorable, incidental damages, such as loss of marketable trees and crop losses incurred during and after construction of the pipeline; and will restore any area affected by construction to reflect its pre-existing status as fully as possible, as per, for example, the agricultural impact mitigation procedures provided in the AIMA with the Illinois Department of Agriculture.

According to Ms. McDaneld, ETCO explains its offer of compensation to each landowner, explains that the offer is at or above fair market value and the basis of the fair market value on which the offer is based, and explains ETCO's proposal for compensating the landowner for crop losses and for other damages caused by construction and operation of the Project. She states that all landowners receive comparably-based offers. She says that ETCO provides the landowner with a property sketch showing the location of the easement on the property. Ms. McDaneld explains that ETCO considers and responds to landowner requests for route deviations and reviews these requests on a case-by-case basis.

Ms. McDaneld states that there are 160 parcels of property in total that will be crossed by the new build portion of the Project. She testifies that as of July 24, 2015, ETCO had successfully entered into contracts for easements with the owners of 132 of the parcels, or 82.5% of the total. Ms. McDaneld testifies that ETCO has made offers to the owners of all of the 28 remaining parcels. She indicates that ETCO is still negotiating with these landowners and easement agreements have not yet been finalized.

ETCO contends that there are remaining landowners whose responses to date indicate that they may be unwilling to negotiate with ETCO in good faith for an easement agreement on reasonable terms. Ms. McDaneld testifies that one landowner is declining to meet with ETCO or its land agent to discuss negotiation of an easement. She says that, as of July 24, 2015, there are 5 parcels for which, the landowners' may be unwilling to negotiate with ETCO in good faith for easement agreements on reasonable terms. She explains that either they have refused to meet or they have presented counter offers well above ETCO's offer. Ms. McDaneld reiterates that ETCO's offers for compensation for easements are based on 100% of fair market value as determined in a market study for each county performed by Allen, Williford and Seale, Inc.

Mr. Mahmoud testifies that ETCO does not intend to rely upon eminent domain to acquire easements unless absolutely necessary and as a last resort. He asserts that to ensure the pipeline is built in an efficient manner, and to meet the Project's objectives and commercial obligations to be completed in the fourth quarter of 2016, ETCO may have to employ eminent domain authority to acquire land from unwilling or hold-out landowners. Mr. Mahmoud reiterates that ETCO has secured long-term transportation service agreements from multiple shippers, and the full committed volume of the pipeline system has been subscribed. Mr. Mahmoud states that to meet the commercial in-service date and delivery expectations, ETCO must proceed at a fast pace on the Project. He asserts that although ETCO does not wish to rely on eminent domain, ETCO believes it is very important to have eminent domain authority in the event that a hold-out landowner will not negotiate in good faith and thereby would delay the overall Project and its in-service date.

Mr. Mahmoud testifies that there is an increased need for eminent domain authority on this particular Project due to the nature of the project route in Illinois, which consists of a new build portion of the pipeline and a conversion of an existing natural gas pipeline. He states the route for the new build portion of the Project is predicated upon paralleling the existing Marathon Pipeline, and in some areas using existing right-of-way, in order to minimize environmental and land use impacts. He claims the fact that the new build portion of the Project needs to be collocated with or constructed in parallel to the Marathon Pipeline potentially enhances the monopoly power of a "holdout" landowner, because ETCO's ability to route around that landowner's property is considerably diminished by the significant benefits of paralleling and using existing right-of-way of the Marathon Pipeline.

Mr. Mahmoud testifies that the sections of the existing Trunkline pipeline that are being replaced are relatively short segments that need to connect directly the segments of the existing pipeline at either end of the sections that are being replaced, in order to realize the benefits of using the converted natural gas pipeline located in existing right-of-way. He states that under these circumstances, ETCO is concerned that a landowner, by virtue of a refusal to deal, could block or cause great difficulty and expense to the Project if eminent domain authority were not granted. He states that the grant of eminent domain authority will remove the incentive to hold out and engage in uneconomic rent-seeking and diminish the potential monopoly power of a holdout landowner. Without the authority for eminent domain, ETCO believes it would be difficult or impossible to design and route the Project with any certainty of location, or in consideration of safety and environmental requirements. ETCO is concerned that if a landowner refuses to negotiate in good faith, and ETCO did not have eminent domain authority, ETCO would have to change the route of the new build portion of the Project, or construct less direct, more circuitous replacement sections of the existing natural gas pipeline. Mr. Mahmoud states that this would increase the construction time, increase costs, increase impacts on the environment, and potentially impact more landowners than would the optimum route.

Mr. Mahmoud concludes that, although ETCO does not anticipate or desire to have to use eminent domain authority, it is critical that ETCO have the option of using eminent domain in order to ensure that the Project is developed efficiently and on time.

Mr. Rahbar-Daniels testifies in order that ETCO can start construction of the Project in 2015, it is necessary that the grant of eminent domain authority is not conditioned on the issuance of a Certificate to Dakota Access. He explains that construction of the 31-mile new-build portion of the Project requires acquisition of easements on this entire segment, and therefore, even a few holdout landowners can prevent ETCO from starting and completing construction of the new-build portion of the pipeline. He testifies that if a grant of eminent domain authority is conditioned upon Dakota Access being granted a Certificate, ETCO's construction activities would not begin and its in-service date would not occur earlier, but instead would remain concurrent with the Dakota Access construction and in-service schedule transport service. In contrast to ETCO, he says, the Dakota Access Pipeline Project requires approximately 1,130 miles of new pipeline construction.

B. Staff

Mr. Maple indicates that, as he understands it, the Commission generally considers: (1) the number and extent of contacts with the landowners; (2) whether the utility has explained its offer of compensation; (3) whether the offers of compensation are comparable to offers made to similarly situated landowners; (4) whether the utility has made an effort to address landowner concerns; and (5) whether further negotiations will likely prove fruitful in reaching negotiated settlements, when evaluating whether a to grant eminent domain authority. Mr. Maple opines that ETCO has made the required showing for a grant of eminent domain authority with respect to its contacts with landowners and has adequately explained its offer of compensation to landowners. Based upon the testimony of Ms. McDaneld, Mr. Maple opines that ETCO's offers to landowners are comparable to offers made to other similarly situated landowners and that ETCO has made an effort to address landowner concerns.

Mr. Maple believes it is very likely in the short term that ETCO will continue to obtain additional easements along the route. However, he states, it is very possible that ETCO will encounter a stalemate in negotiations with certain landowners prior to obtaining 100% of the easements. Mr. Maple believes that a public need exists for the Project as a whole. He states that designing and constructing a pipeline can take several years and that ETCO has secured long-term transportation service agreements from multiple shippers for the full committed volume of the Project, from which Mr. Maple concludes that there is a time-sensitive component to it. Mr. Maple does not believe it is in the public's interest to compel ETCO to negotiate fruitlessly for years to obtain the last few easements if ETCO is able to meet the conditions to receive a certificate in good standing and Section 8-503 requirements.

Mr. Maple opines that ETCO has met the criteria necessary to obtain eminent domain authority and recommends that the Commission should grant eminent domain authority for the Project.

C. Commission Analysis and Conclusion

ETCO asserts that it has been actively engaged in good faith negotiations and easement acquisition activities and remains committed to working with individual landowners on the route to address particular concerns about the Project on their properties. It states that it considers and responds to landowner requests for route deviations and reviews these requests on a case-by-case basis. Staff opines that ETCO has made the required showing with respect to its contacts with landowners.

The Commission notes that many public comments and the Petition voice strong opposition to the grant of eminent domain authority to ETCO, a private entity. The Commission concludes that a grant of eminent domain authority for the Project is not accepted by the public.

The Commission must base its decisions on disputed issues of fact upon the evidentiary record in the proceeding. ETCO presents evidence that it has commenced negotiations with all of the landowners of the route and has either acquired or made offers to acquire all of the necessary easements. It explains the basis for its offers of compensation. ETCO presents evidence that it has entered into an AIMA and indicates it considers and responds to individual landowners' concerns.

As discussed above, the Commission finds that the Project is necessary for the public convenience and necessity. Based on its review of the evidentiary record, the Commission finds that ETCO should be granted eminent domain authority where necessary to acquire the easements needed to construct the Project. The grant of eminent domain authority is limited to the parcels upon which ETCO is unable to acquire the necessary easements through good faith negotiations, as identified in Appendix C of this Order. Accordingly, the Commission concludes that ETCO should be granted authority pursuant to Section 8-509 of the PUA to utilize eminent domain to acquire easements and other land rights, for permanent easements and additional temporary construction work space easements along the approved route of the Project (Appendix A and Appendix B to this Order), where ETCO has been unable to acquire such easements through negotiations and voluntary agreements with the landowners.

VIII. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record, is of the opinion and finds that:

(1) Energy Transfer Crude Oil Company, LLC is a Delaware Limited Liability Company authorized to conduct business in the State of Illinois;

(2) the Commission has jurisdiction over Energy Transfer Crude Oil Company, LLC and the subject matter hereof;

(3) the findings of fact and conclusions of law reached by the Commission are hereby adopted as findings of fact and conclusions of law for purposes of this Order;

(4) the Application was properly filed pursuant to Section 15-401 of the Common Carrier by Pipeline Law;

(5) pursuant to Section 15-401 of the Common Carrier by Pipeline Law, the Commission finds there is a need for, and the public convenience and necessity require, the construction and operation of the Project, a crude oil transportation pipeline, consisting of (a) a new 30 inch outside diameter pipeline, approximately 31 miles in length, from the Patoka Hub near Patoka, Marion County, Illinois, to a point in Wayne County, Illinois, approximately 4 miles north of the Johnsonville Compressor Station on the existing natural gas pipeline of Trunkline, and (b) approximately 97 miles of existing natural gas pipeline in Wayne, Hamilton, Franklin, Williamson, Johnson, and Massac Counties in Illinois, which will be converted to crude oil transportation service, with certain segments of the existing natural gas pipeline to be replaced, as described in the prefatory portion of this Order;

(6) as required by Section 15-401(b) of the Common Carrier by Pipeline Law, the Application was properly filed;

(7) as required by Section 15-401(b) of the Common Carrier by Pipeline Law Energy Transfer Crude Oil Company, LLC is fit, willing, and able to provide service in compliance with the Common Carrier by Pipeline Law and Public Utilities Act, Commission regulations, and orders;

(8) as further required by Section 15-401(b) of the Common Carrier by Pipeline Law, the public convenience and necessity require issuance of a certificate in good standing authorizing Energy Transfer Crude Oil Company, LLC to operate the Project described in this Order as a common carrier by pipeline, along the route depicted in Appendix A and described in Appendix B to this Order; the area to be covered by the Certificate should consist of a right-of-way of 50 feet in width along the center line of the route of the new build portion of the Project and around those segments of the existing pipeline to be converted for crude oil transportation and replaced, as described in the prefatory portion of this Order;

(9) the area to be covered by the Certificate generally should consist of a 500-foot wide project width for the new build portion of the pipeline to be constructed from Patoka to north of Johnsonville, Illinois (as described in Appendix A and depicted in Appendix B to this Order), as allowed pursuant to Section 15-401(c) of the Common Carrier by Pipeline Law; the 500-foot project width will be comprised of 250 feet on either side of the proposed centerline of the route;

(10) the Certificate should also authorize Energy Transfer Crude Oil Company, LLC to obtain additional temporary construction workspace easements of up to an additional 100 feet along the new build portion of the Project, at the

segments of the existing pipeline in Illinois being converted that Applicant has stated are to be replaced, and at those locations along the existing pipeline in Illinois at which mainline valves will be replaced or installed, with such temporary construction easements to revert to the landowner upon the completion of construction activities;

(11) the construction, operation and maintenance of the Project, as described in this Order, are necessary and ought reasonably to be made to promote the convenience of the public and to secure adequate service and facilities; pursuant to Section 8-503 of the Public Utilities Act and Section 15-401 of the Common Carrier by Pipeline Law, Energy Transfer Crude Oil Company, LLC should be authorized to construct, operate and maintain the Project, as described in this Order;

(12) in reaching its conclusions in this proceeding, the Commission has considered all evidence presented including that enumerated in Section 15-401(b) of the Common Carrier by Pipeline Law, to the extent such evidence was presented in this proceeding;

(13) pursuant to Section 8-509 of the Public Utilities Act, Energy Transfer Crude Oil Company, LLC is authorized to exercise eminent domain: (i) to obtain 50 foot wide permanent easements around the centerline of the route of the of the new build portion of the Project and at the segments of the existing pipeline that are to be replaced as described in the prefatory portion of this Order, and to obtain additional temporary construction work space easements of up to an additional 100 feet, along the new build portion of the Project, along the segments of the existing pipeline that are to be replaced, and at those locations along the existing pipeline where mainline valves will be replaced or installed, with such temporary construction easements to revert to the landowners upon completion of construction activities;

(14) the Section 8-509 eminent domain authority for permanent easements should be limited to those parcels through which Energy Transfer Crude Oil Company, LLC is unable to acquire an easement through good faith negotiations as identified in Appendix C; and

(15) any objections, motions, or petitions filed in this proceeding that remain unresolved should be deemed disposed of in a manner consistent with the ultimate conclusions contained in this Order.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that Energy Transfer Crude Oil Company, LLC should be, and is hereby, granted a Certificate in Good Standing pursuant to Section 15-401 of the Common Carrier By Pipeline Law to operate as a common carrier by pipeline and that said Certificate in Good Standing shall be the following:

Certificate in Good Standing

> IT IS HEREBY CERTIFIED that Energy Transfer Crude Oil Company, LLC is authorized pursuant to Section 15-401 of the Common Carrier by Pipeline Law to operate as a common carrier by pipeline within an area 50 feet wide, to be located within a project width area 500 feet wide, along a route extending from a point near Patoka, Illinois, to a point of intersection with an existing natural gas pipeline approximately 4 miles north of the Johnsonville Compressor Station in Wayne County, Illinois, as described in Appendix A and depicted in Appendix B to this Order, and from such intersection point extending approximately 97 miles in Wayne, Hamilton, Franklin, Williamson, Johnson, and Massac Counties in Illinois along the route of an existing natural gas pipeline to a crossing point of the Ohio River near Joppa, Illinois, as described in Appendix A and depicted in Appendix B to this Order..

IT IS FURTHER ORDERED that construction, maintenance and operation of the Project, as described in this Order and along the route described in Appendices A and B to this Order, are necessary and ought reasonably be made to promote the convenience of the public and to secure adequate service and facilities; pursuant to Section 8-503 of the Public Utilities Act and Section 15-401 of the Common Carrier by Pipeline Law, Energy Transfer Crude Oil Company, LLC, is authorized to construct, operate and maintain the Project along such route and as described in this Order.

IT IS FURTHER ORDERED pursuant to Section 8-509 of the Public Utilities Act that, in the manner provided for by the law of eminent domain, Energy Transfer Crude Oil Company, LLC is authorized to take and condemn 50 foot wide permanent easements upon the parcels identified in Appendix C and additional temporary construction workspace easements of up to an additional 100 feet, within the 500 foot wide project width and along the route of the Energy Transfer Crude Oil Company Pipeline from near Patoka, Illinois, to the point of intersection with an existing natural gas pipeline approximately 4 miles north of the Johnsonville Compressor Station in Wayne County, Illinois, as described in Appendix A and depicted in Appendix B to this Order, and at the following locations on the approximately 97 miles of existing natural gas pipeline that will be converted to crude oil transportation service: (i) at Lake of Egypt, from milepost 564.9 to milepost 565.40, (ii) from a point just south of the Joppa Compressor Station at milepost 538.77 to milepost 538.93, and (iii) at the Ohio River, from milepost 537.98 to milepost 538.41; and further to take and condemn temporary construction workspace easements of up to 100 feet in width at each location along the approximately 97 miles of existing natural gas pipeline at which mainline valves will be replaced or installed, with all such temporary construction workspace easements to revert to the landowner upon completion of construction activities at such location.

IT IS FURTHER ORDERED that any petitions, objections or motions filed in this proceeding that remain unresolved are hereby deemed disposed of in a manner consistent with the ultimate conclusions contained in this Order.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 9th day of December, 2015.

(SIGNED) BRIEN SHEAHAN

Chairman