

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of Enterprise)	
Liquids Pipeline LLC for a Certificate of)	Case No. 12-0862-PL-ACE
Environmental Compatibility and Public)	
Need for the ATEX Express-Ohio Ethane)	
Pipeline Project)	

ENTERPRISE LIQUIDS PIPELINE LLC’S MOTION FOR WAIVERS

Enterprise Liquids Pipeline LLC (“ELP”) intends to file an application for a Certificate of Environmental Compatibility and Public Need pursuant to R.C. § 4906.04 for construction of the Ohio portion of its below-ground Appalachia-to-Texas liquid ethane pipeline¹ project, referred to as “ATEX Express-Ohio,” which will span approximately 261 miles. The vast majority (over 78%) of this Ohio pipeline segment will be collocated with and partially within preexisting pipeline and other utility corridors. Because of its extensive collocation with these preexisting corridors, the preferred route for the ATEX Express-Ohio pipeline clearly will be far superior to any alternate route in minimizing environmental impacts and disturbance to affected landowners, and will allow for the use of recently-developed environmental studies along much of the preferred route.

¹ Because the ATEX Express-Ohio pipeline will carry liquid ethane (a raw material feedstock to be used for the manufacture of ethylene) rather than “gas or natural gas” for energy purposes, it does not appear to constitute a “major utility facility” as defined under R.C. § 4906.01(B)(1)(c). Consequently, it is not clear that the ATEX Express-Ohio pipeline falls under the regulatory jurisdiction of the Ohio Power Siting Board, whose stated mission is “to support sound energy policies that provide for the installation of energy capacity and transmission infrastructure for the benefit of the Ohio citizens.” Notwithstanding this Motion for Waiver and ELP’s forthcoming application for a Certificate of Environmental Compatibility and Public Need, ELP reserves the right to contest OPSB’s jurisdiction and the need for such Certificate from the Board with respect to the ATEX Express-Ohio pipeline.

Pursuant to R.C. § 4906.06(A)(6) and O.A.C. § 4906-1-03, ELP hereby respectfully moves for waiver of the following requirements with respect to ELP's forthcoming application with respect to the ATEX Express-Ohio pipeline:

1. the requirement in R.C. § 4906.06(A)(6) that the application be filed "not less than one year ... prior to the planned date of commencement of construction," which the statute provides "may be waived by the board for good cause shown;" and
2. the requirement in O.A.C. § 4906-05-04(A) that the application include an alternate proposed route, as well as any related requirements with regard to such alternate proposed route under OPSB regulations (such as the alternate route-related requirements in O.A.C. Ch. 4906-15).

The grounds constituting good cause for such waivers are more fully set forth in the accompanying Memorandum in Support.

Respectfully submitted,

s/ Vincent Atriano

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**MEMORANDUM IN SUPPORT OF
ENTERPRISE LIQUIDS PIPELINE LLC’S MOTION FOR WAIVERS**

I. Project Background

Enterprise Liquids Pipeline LLC (“ELP”) is part of the largest publicly-traded energy partnership in the U.S., known as Enterprise Products Partners, LP (“EPCO”). EPCO has extensive experience in developing and operating large pipeline projects across much of the U.S., and currently manages over 50,000 miles of below-ground pipelines that carry a variety of natural gas liquids, such as propane, crude oil and other refined products. EPCO currently owns and operates the existing Texas Eastern Products Pipeline Company (“TEPPCO”) pipeline, which runs west to east across the entire state of Ohio. The TEPPCO pipeline was originally constructed by the U.S. Government in the 1940s, and carries propane, jet fuel and other natural gas liquids from Texas to the East Coast. EPCO and its predecessors have successfully operated this pipeline for many decades.

Liquid ethane is a by-product of the natural gas extraction process, and is used as a raw material feedstock for the manufacture of ethylene, which is a key component in the manufacture of various plastics. The ATEX Express pipeline will safely and efficiently transport liquid ethane produced from the Marcellus and Utica shale formations in Pennsylvania across Ohio to

ethylene manufacturing plants in the U.S. Gulf region of Texas and Louisiana. Current forecasts suggest over 300,000 barrels per day of liquid ethane will be produced from Marcellus and Utica shale formations.

The entire ATEX Express pipeline will span a total of 1,230 miles. It will have an initial capacity to transport 125,000 barrels per day (BPD) of liquid ethane, which could be expanded to 180,000 BPD. The pipeline itself will be of steel construction and 16” in diameter. It will have a design pressure of 1,480 PSIG. The pipeline will be constructed at a minimum depth of five feet below grade in agricultural areas and at least three feet below grade in non-agricultural areas, but may be deeper at some locations. Once constructed, the pipeline will be continuously monitored around the clock from control centers with the capability to operate the system remotely. It will be inspected regularly in accordance with federal requirements using a variety of methods, and also will be equipped with systems designed to prevent corrosion.

The Ohio portion of this pipeline (“ATEX Express-Ohio”), which is the subject of ELP’s forthcoming OPSB application, will be approximately 261 miles in length and will extend from Jefferson to Butler counties. It will be served by three pump stations to be located at existing EPCO facilities in Ohio. The pipeline’s preferred route will traverse a total of approximately 1,200 tracts in Ohio. ELP has already obtained landowner survey permission for over 91% of these tracts, and currently is in the process of conducting civil and environmental surveys along this preferred route. The ATEX Express-Ohio pipeline preferred route is shown on the map attached as Exhibit A.

Over 78% (204 miles) of the ATEX Express-Ohio pipeline will be collocated with and partially within preexisting pipeline and utility corridors currently occupied by the TEPPCO pipeline and/or other pipelines or utilities. *See Exhibit B.* Approximately 49% (127 miles) of

the pipeline will be collocated with the corridor of the existing TEPPCO pipeline, a proven pipeline route which has been successfully operated by EPCO and its predecessor companies for many years.

A significant portion (approximately 38% or 98 miles) of the ATEX Express-Ohio pipeline will be collocated with the corridor of the recently-constructed Rockies Express-East (“REX”) 42-inch natural gas pipeline, for which the U.S. Federal Energy Regulatory Commission (FERC) issued a certificate of public convenience and necessity on May 30, 2008. *See Exhibit B.* Although OPSB did not have regulatory jurisdiction over this FERC-jurisdictional pipeline, the Board did open a study or investigation case for this project (06-1142-GA-BIN) which remains open today. Consequently, OPSB staff is very familiar with the many environmental studies and assessments (including the Environmental Impact Statement under the National Environmental Policy Act or NEPA) prepared for this project. Because a significant portion of the ATEX Express-Ohio pipeline will lie within the impact study corridor of the REX project, many of the recent REX environmental studies and assessments can be relied upon in support of the ATEX Express-Ohio application with only minor updating or supplementation. This should significantly reduce the regulatory review burdens on OPSB staff (as well as on other relevant State and federal agencies) and streamline the ATEX Express-Ohio application review process.

In addition to its extensive collocation with the existing TEPPCO and REX pipelines as detailed above, 22 miles of the ATEX Express-Ohio preferred route is collocated with other pipeline or utility corridors. Only 57 miles (less than 22%) of the preferred route is not collocated with existing pipeline or utility corridors.

The preferred route for the ATEX Express-Ohio pipeline departs from these preexisting pipeline and utility corridors where necessary to avoid sensitive areas, communities or landowner objections. For example, a significant departure from the existing corridor was made near the Village of Granville to avoid a residential area developed after the TEPPCO pipeline was constructed. In addition, ELP anticipates that other minor departures from the existing corridor will be made during the course of OPSB staff review and consultation to avoid proximity to other sensitive areas or uses.²

Because the vast majority of the 261-mile ATEX Express-Ohio pipeline's preferred route is collocated with and partially within preexisting pipeline and utility corridors (except where necessary to avoid discrete sensitive areas or uses), it will be far superior to any alternate route in minimizing environmental impacts and the disturbance to affected landowners. Based upon ELP's preliminary assessment, there is no feasible alternate route which will provide this same level of collocation with preexisting pipeline and utility corridors or the same level of minimization of environmental impacts and landowner disturbance as the preferred route. Accordingly, ample good cause exists for a waiver from burdensome alternate route requirements under the OPSB regulations with respect to this project.

² ELP is aware of the February 6, 2010 letter to OPSB staff from John Forman, owner of Hunt-Forman Farm in Warren County, which preemptively objected to ELP's request for waiver of alternate route requirements based upon the assumption that the ATEX Express-Ohio pipeline preferred route would pass through this property. However, as demonstrated by the segment map attached as Exhibit C, the preferred route for ATEX Express-Ohio (indicated by the solid blue line) will in fact avoid Hunt-Forman Farm completely (this segment of the route will be collocated with the REX corridor). Consequently, this clarification should resolve Mr. Forman's objection.

II. Good Cause for ELP's Requested Waivers

A. Good Cause for Waiver of One-Year Filing Requirement Prior to Commencement of Construction Under R.C. § 4906.06(A)(6)

R.C. § 4906.06(A)(6) requires that OPSB applications for major utility facilities be filed not less than one year prior to the planned date of the commencement of construction. R.C. § 4906.06(A)(6) further provides that “[e]ither period may be waived by the board for good cause shown.”

In order to meet the needs of ELP's customers, who have begun making investments in manufacturing capacity and entering into supply relationships in reliance on the supply of liquid ethane feedstock to be transported by the ATEX Express pipeline, the project schedule requires that ELP commence construction of the ATEX Express-Ohio pipeline by no later than the first quarter of 2013 to take full advantage of the limited construction season in Ohio. If ELP were to miss this construction window, it will be unable to meet the project schedule. In addition to the hardship this would impose upon ELP's customers, such delay would greatly increase the project's cost and cause additional inconvenience to affected landowners by extending the construction period into an additional construction season.

ELP currently is in the process of conducting environmental and other surveys, studies and assessments along the entire 261-mile preferred route. Because of the need to undertake such studies prior to application submittal, ELP anticipates that it will not be in a position to submit its application to OPSB until August 2012. Under the one-year minimum filing period requirement in R.C. § 4906.06(A)(6), ELP would not be able to commence construction of the ATEX Express-Ohio pipeline before August 2013 despite prior issuance of a Certificate of Environmental Compatibility and Public Need by the Board. This would require ELP to miss a

large portion of the 2013 construction season and make it impossible for ELP to meet the project schedule.

Because the one-year filing requirement would cause unnecessary delay that in turn will impose hardship upon ELP's customers, greatly increase the project's cost, and cause additional inconvenience to affected landowners, good cause exists for waiver of this requirement as expressly permitted by R.C. § 4906.06(A)(6). Prior OPSB rulings have routinely granted waivers of the one-year filing requirement based upon such recognized good cause. *See, e.g., In the Matter of American Transmission Systems, Inc.*, Case No. 11-5856-EL-BTX (ALJ Entry Jan. 5, 2012); *In the Matter of Dominion East Ohio*, Case No. 08-289-GA-BTX (ALJ Entry Aug. 6, 2008); *In the Matter of Columbus Southern Co. & Ohio Power Co.*, Case No. 06-309-EL-BTX (ALJ Entry Aug. 11, 2006); *In the Matter of DEL-MAR Pipeline Company LLC*, Case No. 04-1542-GA-BTX (ALJ Entry Dec. 3, 2004); *In the Matter of American Transmission Systems, Inc.*, Case No. 04-0264-EL-BTX (ALJ Entry Aug. 12, 2004); *In the Matter of East Kentucky Power Cooperative Inc.*, Case No. 03-0132-EL-BTX (ALJ Entry Mar. 19, 2003); *In the Matter of Dominion East Ohio Gas Company*, Case No. 02-1124-GA-BTX (ALJ Entry May 31, 2002). Consequently, good cause exists for waiver of the one-year filing requirement in R.C. § 4906.06(A)(6) with respect to the ATEX Express-Ohio pipeline.

B. Good Cause for Waiver of O.A.C. § 4906-5-04(A) and Ch. 4906-15 Alternate Route Requirements

O.A.C. § 4906-1-03 provides:

The board or the administrative law judge may, for good cause shown, as supported by a motion and supporting memorandum, waive any requirement, standard, or rule set forth in Chapters 4906-1 to 4906-17 of the Administrative Code, except where precluded by statute.

O.A.C. § 4906-5-04(A) provides: “All certificate applications for gas ... transmission facilities shall include fully developed information on two ... routes,” designated as either the “preferred” or the “alternate” route. Each proposed route must be “a viable alternative on which the applicant could construct the proposed facility,” and the preferred and alternate routes may not have “more than twenty per cent ... in common.” *Id.*

In addition, OPSB regulations in O.A.C. Ch. 4906-15, which apply to applications for gas or natural gas transmission facilities, contains numerous alternate route-related requirements, such as:

- O.A.C. § 4906-15-03 (route alternatives analyses);
- O.A.C. § 4906-15-04 (technical data);
- O.A.C. § 4906-15-05 (financial data);
- O.A.C. § 4906-15-06 (socioeconomic and land use impact analyses); and
- O.A.C. § 4906-15-07 (ecological impact analyses).

O.A.C. § 4906-5-04(B) expressly provides that “[f]or good cause shown, the board or the administrative law judge may waive the requirement of fully developed information on the alternative site or route designated as alternate.” With respect to the ATEX Express-Ohio pipeline, there clearly exists good cause for complete waiver of all alternate route requirements, including the alternate route-related requirements under O.A.C. Ch. 4906-15.

As noted above, the preferred route for the ATEX Express-Ohio pipeline is highly unique because over 78% of its length (204 out of the total 261 miles) will be collocated with the pre-existing pipeline/utility corridor currently occupied by the existing TEPPCO pipeline system, the REX natural gas pipeline system, or other existing pipelines or utilities. The preferred route departs from these preexisting pipeline/utility corridors only where necessary to avoid sensitive

areas, communities or landowner objections. Consequently, the preferred route will be far superior to any alternate route in minimizing environmental impacts and the disturbance to affected landowners. As noted above, ELP's preliminary assessment revealed no feasible alternate route which can provide the same level of collocation with preexisting pipeline/utility corridors or the same level of minimization of environmental impacts and landowner disturbance as the preferred route.

As previously discussed, a significant portion of the ATEX Express-Ohio pipeline (98 miles or approximately 38%) will be collocated with the newly-constructed REX natural gas pipeline system. Consequently, a significant portion of the construction activities to be undertaken on this portion of the ATEX Express-Ohio pipeline will be within the environmental impact study/clearance area of the REX pipeline. As a result, many of the environmental studies and assessments conducted in connection with the REX project (including relevant portions of the comprehensive NEPA Environmental Impact Statement) can be relied upon in support of the ATEX Express-Ohio application with only minor updating or supplementation. Because the staff of OPSB (as well as other relevant State and federal agencies) already are very familiar with these REX environmental studies and assessments (including the NEPA Environmental Impact Statement for that project), this should significantly reduce the regulatory review burdens with respect to the ATEX Express-Ohio OPSB application.

Collocation of the ATEX Express-Ohio pipeline with the existing pipeline/utility corridors under the preferred route provides many clear advantages from an ecological and socioeconomic perspective. Because these corridors currently are being maintained to service the TEPPCO, REX or other pipelines or existing utilities, the need for additional land-clearing

activities is significantly reduced, thereby minimizing ecological and environmental impacts to native fauna and migratory bird habitat.

Another significant benefit of the preferred route is that it incorporates the use of three existing EPCO facilities in Ohio for location of the needed pumping stations (*see* Ex. A) rather than requiring new construction of such infrastructure on greenfield property. An alternate route that does not incorporate these existing locations would require construction of at least three new pumping stations on undeveloped property, each of which would require roughly three to five acres of land. These new pumping stations would in turn require the additional construction of electric utility infrastructure to serve them. Consequently, by avoiding the need for such new infrastructure construction, the preferred route avoids 15 acres or more of additional direct impacts. This feature of the preferred route significantly reduces impacts to affected landowners and nearby residents, and avoids impacts to environmentally-sensitive areas from new construction. Furthermore, the preferred route's incorporation of such existing infrastructure streamlines the project, which in turn allows for a more cost-effective and shorter construction period.

As the Board has recognized in its prior rulings, a preferred route that provides for collocation with preexisting pipeline, utility or infrastructure corridors results in significant minimization of adverse environmental impacts, and typically makes such a preferred route superior to alternate routes. *See, e.g., In the Matter of Dominion Resource Services Co.*, 2009 Ohio PUC LEXIS 229, *26, Case No. 08-289-GA-BTX (“Staff evaluated all the materials presented in the application and concurs with Dominion that the alignment of the preferred route within existing infrastructure corridors makes it the superior route.”); *In the Matter of DEL-MAR Pipeline Co., LLC*, 2005 Ohio PUC LEXIS 254, *21, Case No. 04-1542-GA-BTX (“In Staff’s

view, construction of the project along the preferred route is most consistent with sound land use planning, given that the impacts are confined primarily to an existing pipeline right-of-way.”).

The preferred route for ATEX Express-Ohio reflects the shortest possible route which takes maximum advantage of preexisting pipeline/utility corridors and existing pump station infrastructure. Even so, the preferred route still spans approximately 261 miles and traverses approximately 1,200 separate tracts. Any alternate route necessarily would add significant length to the project, impacting more land and affecting additional landowners. The Board has recognized that minimizing the length of a proposed pipeline project is a significant factor in minimizing potential environmental impacts. *See, e.g., In the Matter of Cincinnati Gas & Electric Co.*, 2002 Ohio PUC LEXIS 86, *25, Case No. 01-520-GA-BTX (“Staff found that the applicant’s revised preferred route adequately addresses the avoidance or minimization of significant social and ecological impacts. The revised preferred route is considerably shorter than the alternate route, thus reducing overall impacts.”); *In the Matter of Duke Energy Madison, LLC*, 1999 Ohio PUC LEXIS 58, *16, Case No. 98-1603-EL-BGN (Board noted that the route with a shorter length of interconnection produces less impact to neighboring landowners).

Because the vast majority of the ATEX Express-Ohio pipeline preferred route is collocated with already proven and established pipeline/utility corridors, this route clearly would be far superior to any viable alternate route that could be developed in terms of minimizing and avoiding environmental impacts. ELP’s preliminary consideration of possible alternate routes suggests that there is no such viable alternate route that even remotely compares to the many clear advantages of the preferred route (greatest level of collocation with existing pipeline/utility corridor; shortest distance; incorporation of existing pump stations and other infrastructure; reliance on recent existing environmental studies and assessments; minimization of impacts to

landowners, communities and sensitive environmental areas; cost-effectiveness and shortest construction schedule; streamlined regulatory review; etc.). In light of the preferred route's clear superiority to any alternate route, the resources needed to develop, study and evaluate an alternate route (in terms of the time required, the expense to ELP and the regulatory review burdens that an alternate route would impose on OPSB staff and other relevant State and federal agencies) clearly would not be justified.

Finally, because it would add significant length to the project, an alternate route potentially would affect hundreds more landowners. This in turn could entail numerous additional public informational meetings pursuant to O.A.C. § 4906-5-08(B) and greatly increase the number of notice letters to "each property owner and affected tenant" required under O.A.C. § 4906-5-08(C)(3). The additional number of property owners and tenants who potentially would be affected by an alternate route could lead to a large number of additional petitions for intervention in the Board proceeding relating to the ATEX Express-Ohio pipeline under O.A.C. § 4906-7-04, which could make the proceeding unreasonably broad and unwieldy. Because the preferred route would be clearly superior to any such alternate route, however, these exceptional administrative and procedural burdens clearly would not be justified or necessary.

For all of the foregoing reasons, good cause clearly exists for a complete waiver of all alternate route requirements in O.A.C. § 4906-05-04(A) and O.A.C. Ch. 4906-15 with regard to the ATEX Express-Ohio pipeline.

Respectfully submitted,

s/ Vincent Atriano

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Enterprise Liquids Pipeline LLC's Motion for Waivers and Memorandum in Support were filed electronically and served upon the following persons via regular U.S. mail, postage prepaid on March 7, 2012:

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Ed Steele, Public Utilities Administrator
Ohio Power Siting Board
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Bill Wright
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s/ Vincent Atriano

Vincent Atriano, Trial Attorney

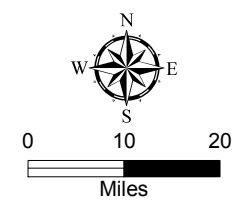
Enterprise Liquids Pipeline Company
ATEX Express Proposed Pipeline

Exhibit A
Collocated and Non-collocated Segments
with Existing Utility Corridor

-  Pump Station
-  Collocated Segment
-  Non-collocated Segment
-  River / Stream
-  County Boundary
-  State Boundary









OHIO MILEAGE

Collocated Length (Miles)	204
Noncollocated Length (Miles)	57
Total Length	261



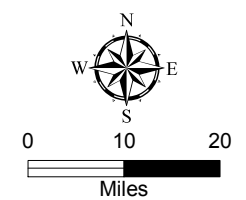
Enterprise Liquids Pipeline Company
ATEX Express Proposed Pipeline

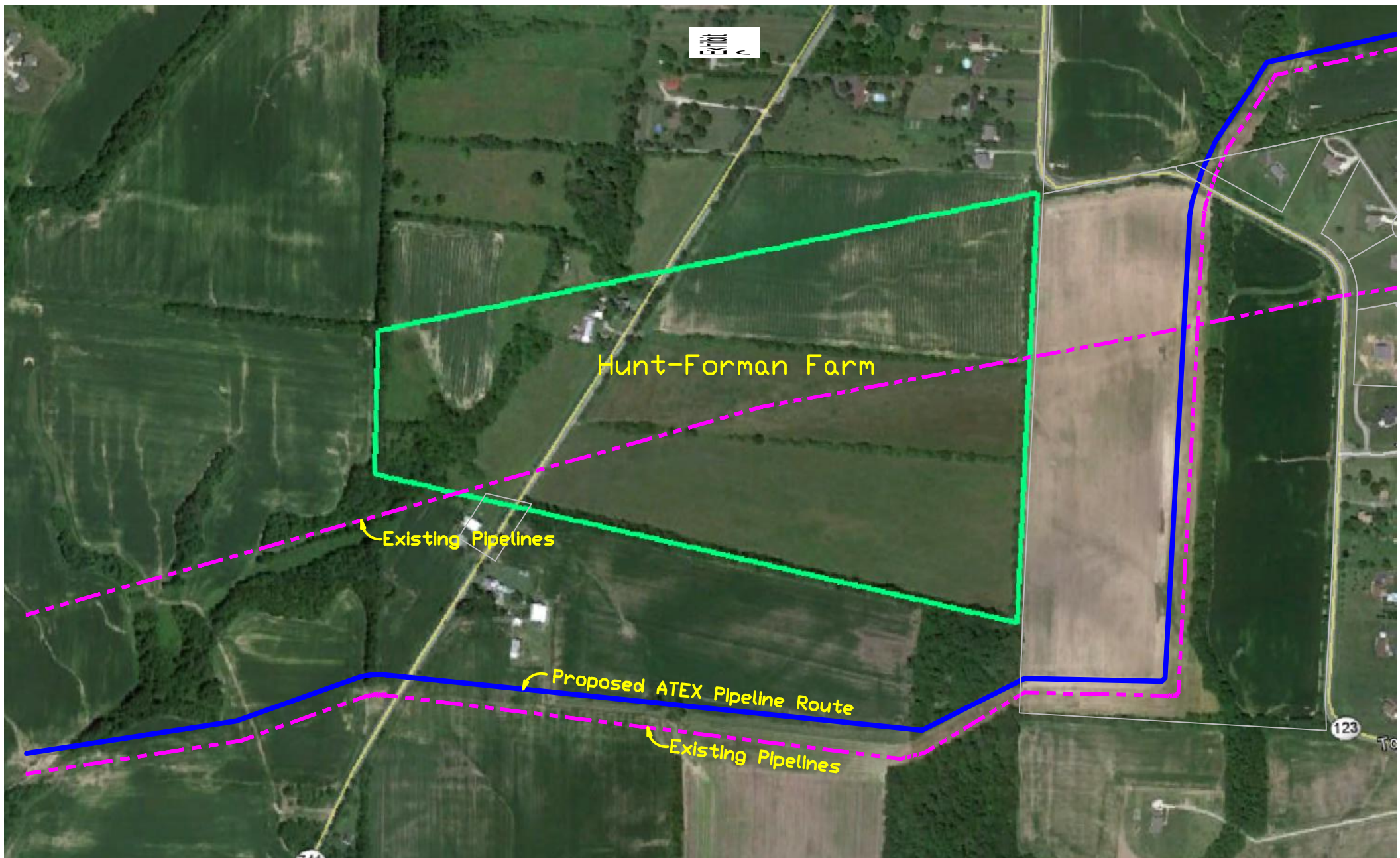
Exhibit B
Collocated and Non-collocated Segments
with Rockies Express Pipeline (REX),
Texas Eastern Pipeline (TEPCO),
and Other Utilities

-  Pump Station
-  Collocated Segment (REX)
-  Collocated Segment (TEPCO)
-  Collocated Segment (Other)
-  Non-Collocated Segment
-  River / Stream
-  County Boundary
-  State Boundary

OHIO MILEAGE

Collocated with REX	98
Collocated with TEPCO	127
Collocated with Other Utilities	22
Noncollocated Length (Miles)	57





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3/7/2012 5:10:24 PM

in

Case No(s). 12-0862-PL-ACE

Summary: Motion for Waivers electronically filed by Mr. Vincent Atriano on behalf of Enterprise Liquids Pipeline LLC