

The Commission met on **Thursday, September 9, 2021**, with Chair Sieben and Commissioners Means, Schuerger, Sullivan, and Tuma present.

The following matters were taken up by the Commission:

PT-5817/RW-21-268

In the Matter of a Petition of Connexus Energy for Resolution of a Dispute with BNSF Railway Company Regarding Fees and Additional Requirements Under Minnesota Statutes Section 237.045

Commissioner Tuma moved that the Commission take the following actions:

1. Deny BNSF's request for an OAH contested case hearing.
2. Determine that the issue of whether Connexus's proposed construction of electrical distribution lines would be located within a public right-of-way is moot with the payment of the one-time standard crossing fee of \$1,250 per crossing pursuant to Minn. Stat. 237.045 Subd. 6(a). As a result, this determination provides no precedent as to whether it is a crossing within a public right-of-way under Minn. Stat. 237.045 Subd. 6(c).
3. Determine that the facts on the record support finding that Connexus did provide a completed application on September 28, 2020 and that BNSF failed to demonstrate that they appropriately informed Connexus within 15 days that the application was not complete along with any specific additional information that would be necessary to make the application complete. In addition, BNSF failed to show that there were special circumstances.
4. Determine that BNSF did not notify Connexus in writing within 35 days that the proposed crossing will be a serious threat to the safe operations of the railroad or current use of the railroad right-of-way as required by Minn. Stat. 237.045 Subd. 5.
5. Order that BNSF may charge reasonable and necessary flagging expenses but only the actual expenses paid directly to flagging employees, as well as any time specifically dedicated to flagging by other employees at their regular hourly rate.
6. Direct that the proposed construction of the electrical distribution lines may begin immediately upon issuance of the Commission's written order.
7. Direct staff to open a separate docket and provide notice to interested parties to comment on:
 - a. Whether the Commission should open a formal investigation regarding the implementation of Minn. Stat. 237.045 for the purposes of improving its application;

- b. What should be the scope of any proposed investigation;
- c. What process should the commission use to conduct the investigation; and
- d. Any other information relevant towards improving the implementation of Minn. Stat. 237.045.

The motion passed 5—0.

ET-2/TL-21-434

In the Matter of the Petition to Transfer a Portion of the Route Permit for the HVDC Transmission Line System and Associated Facilities in Minnesota

Commissioner Tuma moved that the Commission take the following actions:

1. Require the Joint Applicants to provide additional information before the Commission makes a decision on the partial permit transfer request. The scope of the additional information shall include the following:
 - a. In the event the parties materially modify the O&M Agreement, Nexus Line, LLC shall explain how it will notify the Commission of the change.
 - b. In the event the O&M Agreement is terminated or a party provides notice of early termination of the O&M Agreement, Nexus Line, LLC shall explain how they will notify the Commission of the change in O&M providers and how it will demonstrate the ability of the new provider to perform.
 - c. Nexus Line, LLC shall submit a decommissioning plan to the Commission, and also provide financial information or other assurances to indicate it is able to meet this commitment.
 - d. Nexus Line, LLC shall submit to the Commission the procedures that will be used to receive and respond to complaints.
 - e. The Joint Applicants must file information regarding which generation resources GRE is currently using and is planning to use on the HVDC line, and how those generation resource utilization levels will change as a result of the transfer.
 - f. The Joint Applicants must file specific evidence demonstrating current compliance with each part of section 2 of the existing permit.

2. Require the Joint Applicants to make the required filing within 30 days of September 9, 2021. The Commission delegates to the Executive Secretary the setting of the schedule for reply and public comments.

The motion passed 4—1 with Commissioner Sullivan voting against the motion.

There being no further business, the meeting was adjourned.

APPROVED BY THE COMMISSION: January 5, 2022

A handwritten signature in black ink, appearing to read "Will Seuffert", with a long horizontal flourish extending to the right.

Will Seuffert, Executive Secretary