

*Via E-Filing*

Mr. Will Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101

**Re: 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, MPUC Docket No. ET-2/TL-21-434**

Dear Mr. Seuffert:

I write on behalf of the Minnesota Department of Commerce concerning the request of Nexus Line, LLC (“Nexus”) to change the form of Nexus’s financial assurance for its decommissioning obligations from an Irrevocable Standby Letter of Credit (letter of credit) provided by BNC National Bank and the Bank of North Dakota to a guaranty provided by Nexus’s parent, REMC Assets, LP (“REMC”), a North Dakota limited partnership. For the reasons discussed more fully below, the Department recommends that the Commission **DENY** Nexus’s request.

On July 1, 2021, Nexus and Great River Energy (“GRE”) jointly petitioned the Commission for approval of a partial transfer to Nexus of a permit relating to GRE’s 400 kV HVDC high voltage transmission line, which runs from near North Dakota’s eastern border to the Dickinson substation in Wright County, Minnesota, and related facilities (the “HVDC System”). The purpose of the requested transfer was to facilitate GRE’s sale of the HVDC System to Nexus. After the sale, GRE would continue to operate the HVDC System pursuant to an operating and maintenance (O&M) agreement with Nexus.

In support of the petition, Nexus and GRE provided a decommissioning plan projecting net decommissioning costs of \$24.6 million.<sup>1</sup> Additionally, as surety for the costs of decommissioning the line, Nexus offered to provide a letter of credit, in an initial amount of \$5 million and increasing by \$1 million per year for twenty years, up to the net amount of decommissioning costs provided for under the decommissioning plan. Nexus also stated that it intended to replace the letter of credit with a guaranty provided by REMC once REMC obtained an investment rating.

By its order dated March 3, 2022, the Commission approved the permit transfer, subject to conditions. The Commission accepted Nexus’s proposal to provide a letter of credit as surety for payment of decommissioning expenses and further required that Nexus obtain Commission approval for any change in the form of financial assurance.

The Commission’s rules permit the Commission to impose reasonable additional conditions on a permit in connection with its approval of a permit transfer. Minn. R. part 7850.5000 (2022). The Commission reasonably conditioned its approval of GRE’s transfer of its permit to Nexus on an appropriate decommissioning plan and

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<sup>1</sup> April 15, 2022 Compliance Filing – Decommissioning Plan.

financial assurances – a letter of credit from an established bank – to ensure that amounts necessary to satisfy decommissioning obligations will be available to the State of Minnesota should Nexus or its successors fail to perform their obligations or cease to exist.

A financial assurance is only so good as the financial wherewithal of the party providing the assurance. The Department opposes Nexus’s request, which would replace the financial certainty provided by an Irrevocable Standby Letter of Credit by BNC National Bank and the Bank of North Dakota, two regulated banks, for that of a privately held North Dakota limited partnership. Recognizing that decommissioning of the line will not take place until well into the future, the Department urges the Commission to take a commonsense approach that minimizes the risk resulting from unforeseen financial consequences. Although the proposed guaranty gives the Commission the ability to obtain a copy of REMC’s audited financial statements on an annual basis, should the financial statements become concerning, it may be difficult to reverse course and return to a letter of credit. Thus, the ability to review REMC’s financial statements offers only limited protection.

Granting Nexus’s request exposes Minnesota to increased risk that funds necessary to complete decommissioning will not be available when the time comes. Specifically, Minnesota will be taking on the risk that REMC will become bankrupt or otherwise insolvent and that its claim for funds for decommissioning will be in line with any number of other creditors. REMC’s structure as a limited partnership provides protection to the partners by limiting their liability to only the amount they originally invested. Collecting on a parental guarantee of a limited liability partnership could be challenging, if not impossible in the future. Nexus has not described any benefit to the public that would compensate for accepting this additional risk nor can the Department identify any such benefit.

Thank you for your consideration of this matter.

Sincerely,

/s/ Louise I. Miltich

Assistant Commissioner of Regulatory Affairs  
Minnesota Department of Commerce, Division of Energy Resources

c: Sara Payne, Minnesota Department of Commerce  
Nancy Campbell, Minnesota Department of Commerce  
Greg Mertz, Minnesota Attorney General’s Office

## **CERTIFICATE OF SERVICE**

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce**  
**Comments**

**Docket No. ET2/TL-21-434**

Dated this **28<sup>th</sup>** day of **July 2023**

**/s/Sharon Ferguson**

| First Name     | Last Name          | Email                             | Company Name   | Address   | Delivery Method    | View Trade Secret | Service List Name                   |
|----------------|--------------------|-----------------------------------|--|---|--------------------|-------------------|-------------------------------------|
| VJ             | Arganwal           | agarwalvj@gmail.com               |  | N/A   | Electronic Service | No                | OFF_SL_21-434_Official Service List |
| Christina      | Brusven            | cbrusven@fredlaw.com              | Fredrikson Byron   | 60 S 6th St Ste 1500<br>Minneapolis,<br>MN<br>55402-4400              | Electronic Service | No                | OFF_SL_21-434_Official Service List |
| Generic Notice | Commerce Attorneys | commerce.attorneys@ag.state.mn.us | Office of the Attorney General-DOC                                 | 445 Minnesota Street Suite 1400<br>St. Paul,<br>MN<br>55101           | Electronic Service | Yes               | OFF_SL_21-434_Official Service List |
| Sharon         | Ferguson           | sharon.ferguson@state.mn.us       | Department of Commerce   | 85 7th Place E Ste 280<br>Saint Paul,<br>MN<br>551012198              | Electronic Service | No                | OFF_SL_21-434_Official Service List |
| Lucas          | Franco             | lfranco@liunagro.com              | LIUNA  | 81 Little Canada Rd E<br>Little Canada,<br>MN<br>55117                | Electronic Service | No                | OFF_SL_21-434_Official Service List |
| Allen          | Gleckner           | gleckner@fresh-energy.org         | Fresh Energy   | 408 St. Peter Street Ste 350<br>Saint Paul,<br>Minnesota<br>55102     | Electronic Service | No                | OFF_SL_21-434_Official Service List |
| Sachiko        | Graber             | sachiko.graber@TNC.ORG            | The Nature Conservancy in Minnesota, North Dakota and South Dakota | 1101 West River Parkway Suite 200<br>Minneapolis,<br>MN<br>55415-1291 | Electronic Service | No                | OFF_SL_21-434_Official Service List |
| Erik           | Hatlestad          | erik@cureriver.org                | Cure River   | 117 1st St<br>Montevideo,<br>MN<br>56265                              | Electronic Service | No                | OFF_SL_21-434_Official Service List |
| Kristin        | Henry              | kristin.henry@sierraclub.org      | Sierra Club  | 2101 Webster St Ste 1300<br>Oakland,<br>CA<br>94612                   | Electronic Service | No                | OFF_SL_21-434_Official Service List |
| John           | Ihle               | ljihle@rrt.net                    | PlainStates Energy LLC   | 27451 S Hwy 34<br>Barnesville,<br>MN<br>56514                         | Electronic Service | No                | OFF_SL_21-434_Official Service List |
| Veda           | Kanitz             | vmkanitz@gmail.com                |  | N/A   | Electronic Service | No                | OFF_SL_21-434_Official Service List |

| First Name     | Last Name                      | Email                                | Company Name                                   | Address  | Delivery Method    | View Trade Secret | Service List Name                      |
|----------------|--------------------------------|--------------------------------------|--|--|--------------------|-------------------|--|
| Dan            | Leshner                        | dlesher@greenergy.com                | Great River Energy                             | 12300 Elm Creek Blvd<br>Maple Grove,<br>MN<br>55369                | Electronic Service | Yes               | OFF_SL_21-434_Official<br>Service List |
| Ronald         | Meier                          | rmeier@mcleodcoop.com                | Mcleod Cooperative Power                       | 3515 11th St East<br>Glencoe,<br>MN<br>55336                       | Electronic Service | No                | OFF_SL_21-434_Official<br>Service List |
| Peder          | Mewis                          | pmewis@cleangridalliance.org         | Clean Grid Alliance                            | 570 Asbury St.<br>St. Paul,<br>MN<br>55104                         | Electronic Service | No                | OFF_SL_21-434_Official<br>Service List |
| Evan           | Mulholland                     | emulholland@mncenter.org             | Minnesota Center for<br>Environmental Advocacy | 1919 University Ave W Ste<br>515<br>Saint Paul,<br>MN<br>55101     | Electronic Service | No                | OFF_SL_21-434_Official<br>Service List |
| Duane          | Ninneman                       | duane@cureriver.org                  | Clean Up the River<br>Environment              | 117 South 1st St<br>Montevideo,<br>MN<br>56265                     | Electronic Service | No                | OFF_SL_21-434_Official<br>Service List |
| Carol A.       | Overland                       | overland@legalelectric.org           | Legalelectric - Overland Law<br>Office         | 1110 West Avenue<br>Red Wing,<br>MN<br>55066                       | Electronic Service | No                | OFF_SL_21-434_Official<br>Service List |
| Generic Notice | Residential Utilities Division | residential.utilities@ag.state.mn.us | Office of the Attorney<br>General-RUD          | 1400 BRM Tower<br>445 Minnesota St<br>St. Paul,<br>MN<br>551012131 | Electronic Service | Yes               | OFF_SL_21-434_Official<br>Service List |
| Will           | Seuffert                       | Will.Seuffert@state.mn.us            | Public Utilities Commission                    | 121 7th PI E Ste 350<br>Saint Paul,<br>MN<br>55101                 | Electronic Service | Yes               | OFF_SL_21-434_Official<br>Service List |
| Beth           | Soholt                         | bsoholt@cleangridalliance.org        | Clean Grid Alliance                            | 570 Asbury St Ste 201<br>Saint Paul,<br>MN<br>55104                | Electronic Service | No                | OFF_SL_21-434_Official<br>Service List |
| Cooper         | Stewart                        | cooper@strongholdicf.com             |  | N/A  | Electronic Service | No                | OFF_SL_21-434_Official<br>Service List |

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|------------|-----------|----------------------|---|---|--------------------|-------------------|--|
| Timothy    | Sullivan  | tsullivan@whe.org    | Wright Hennepin Coop.<br>Electric Assn. | 6800 Electric Drive<br>PO Box 330<br>Rockford,<br>MN<br>55373 | Electronic Service | No                | OFF_SL_21-434_Official<br>Service List |
| Sam        | Villella  | sdvillella@gmail.com |   | 10534 Alamo Street NE<br><br>Blaine,<br>MN<br>55449           | Electronic Service | No                | OFF_SL_21-434_Official<br>Service List |