Fredrikson & Byron, P.A.
Attorneys and Advisors

200 South Sixth Street, Suite 4000
Minneapolis, MN 55402-1425
Main: 612.492.7000
fredlaw.com

May 3, 2023

VIA E-FILING ONLY

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

Re: Compliance Filing – Request to Change Form of Financial Assurance

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:

Nexus Line, LLC ("Nexus") respectfully submits this filing requesting that the Minnesota Public Utilities Commission's ("Commission") approve a change in Nexus' decommissioning financial assurance from the current letter of credit to a guaranty.

Pursuant to Order Paragraph 9 of the Commission's March 3, 2022, *Order Approving Partial Permit Transfer Request* issued in the above-referenced docket ("Permit Transfer Order"), "Nexus Line, LLC shall notify the Commission, and obtain Commission approval, prior to changing the form of, terms of, or parties to the decommissioning financial assurance. Commission approval may be conditioned on, among other things, the permittee providing the Commission with an independent third-party analysis regarding the permittee's ability to fund the financial assurance."[1]

Here, Nexus provides notice of its intent to transition from a letter of credit to a guaranty on or before the letter of credit's initial expiration date of October 31, 2023. In this filing, Nexus provides a draft guaranty; an explanation of differences between the guaranty and the current letter of credit; a copy of Nexus' and its parent company, REMC Assets, LP's, audited financial statements for 2022 demonstrating it has the financial resources to fulfill Nexus' decommissioning obligations; and an explanation of the requested timeline for transitioning from letter of credit to guaranty.

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[1] Order Approving Partial Permit Transfer Request (March 3, 2022) (eDocket No. 20223-183401-01).

Fredrikson

History of Nexus' Financial Assurance Obligations

As a newly formed special purpose limited liability company, Nexus could not provide audited financial statements prior to permit transfer (and close of the related transaction with Great River Energy) that would otherwise be a normally accepted means of demonstrating independent, third-party verification of financial resources.[2] Consequently, Nexus proposed to use a different financial instrument, in the form of a letter of credit, to provide financial assurance that it could meet the obligations of the Decommissioning Plan it filed on October 8, 2021 (the "Decommissioning Plan").[3]

On March 4, 2022, Nexus took steps to name the Commission on an Irrevocable Standby Letter of Credit from a financial institution as set forth in the Decommissioning Plan.[4] On May 1, 2022, Nexus entered into an Irrevocable Standby Letter of Credit with BNC National Bank with an initial stated amount of $5 million dollars and an annual increased amount of $1 million dollars over the next 20 years, up to the net decommissioning costs provided in the Decommissioning Plan. The letter of credit has an initial expiration date of October 31, 2023, which will automatically extend in one-year increments unless BNC National Bank provides a non-renewal notice to the Commission and to Nexus.[5] The Letter of Credit essentially removed the necessity for an in-depth financial analysis of Nexus by the Commission, because it made cash available on demand by the Commission in the event that Nexus does not perform as required in the Decommissioning Plan.

Consistent with other decommissioning plans submitted to the Commission and the Permit Transfer Order, the Decommissioning Plan provides flexibility for Nexus to provide certain alternate forms of financial assurance in the future, with the understanding that any changes would need to be reviewed by the appropriate agencies first.[6][7]

Request to Transition to a Guaranty Form of Financial Assurance

As discussed in Nexus' *Response to the Order Requiring Additional Information* on October 8, 2021,[8] Nexus is prepared to provide a guaranty from REMC Assets, LP, its parent company, equal to the net decommissioning costs to provide assurance of Nexus' ability to meet its obligations to decommission the line. A draft of the guaranty is provided as **Attachment A** (the "Proposed Guaranty").

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2 Reply Comments (November 29, 2021) (eDocket No. 202111-180204-01).

3 Response to Order Requiring Additional Information – Attachment A (October 8, 2021) (eDocket No. 202110-178625-02).

4 Draft Irrevocable Standby Letter of Credit (March 4, 2022) (eDocket No. 20223-183476-01).

5 Compliance Filing--Letter Of Credit (May 2, 2022) (eDocket No. 20225-185452-03).

6 Response to Order Requiring Additional Information (October 8, 2021) (eDocket No. 202110-178625-01).

7 Compliance Filing-- Revised Decommissioning Plan (April 15, 2022) (eDocket No. 20224-184829-02).

8 Response to Order Requiring Additional Information (October 8, 2021) (eDocket No. 202110-178625-01).

Summary of Differences Between Guaranty and a Standby Letter of Credit

Both a standby letter of credit and a guaranty have a third-party promise to pay a beneficiary if a principal obligor fails to pay its obligation to the beneficiary. The traditional difference between a guaranty and a standby letter of credit is the degree to which the third party's obligation to pay is independent from the principal obligor. Under a guaranty, the guarantor's obligation is dependent on the underlying obligation. The guarantor may determine for itself whether the principal obligor has defaulted, raise defenses that the principal obligor would have to payment, and raise its own set of defenses to payment called "suretyship defenses." Under a standby letter of credit, on the other hand, the payor's obligation is independent of the underlying obligation—the issuing bank must pay the beneficiary regardless of the status of the underlying obligation.

Modern guaranty practice has, however, largely eliminated these differences. Many guaranties have guarantors waive defenses, including suretyship defenses, and, like a letter of credit, require that a beneficiary only present documentary evidence to receive payment from the guarantor. A guaranty that has these features would function nearly identically to a standby letter of credit.

One way the Commission might assess whether the Proposed Guaranty would provide similar support of Nexus's obligations as the current letter of credit would be to consider methodologies used by credit rating agencies, such as Moody's Investors Service ("Moody's"), to evaluate third-party credit support of securities. Moody's looks for particular terms in guaranties when deciding if it can substitute the guarantor's financial strength for the issuer's financial strength when making a rating determination.[9] The Proposed Guaranty satisfies all of the terms outlined by Moody's:

- <u>Guaranty is irrevocable and unconditional and promises full and timely payment of the underlying obligation</u>. The Proposed Guaranty provides that REMC Assets, LP would "unconditionally and irrevocably guarantee[] the full, prompt, and complete payments" of the guaranteed obligations. See section 2 of the Proposed Guaranty.

- <u>Guaranty is one of payment, not of collection</u>. The Proposed Guaranty would require payment by REMC Assets, LP when it receives a notice of demand under the Proposed Guaranty and would not require the Commission to pursue remedies against the Nexus first. See section 2 of the Proposed Guaranty.

- <u>Covers payments that have been rescinded or "clawed back"</u>. REMC Assets, LP would remain liable for the guaranteed obligations if payments are rescinded. See section 6 of the Proposed Guaranty.

[9] See, e.g., Moody's Investor Service, Guarantees, Letters of Credit and Other Forms of Credit Substitution Methodology 28–32 (July 7, 2022), https://ratings.moodys.com/documents/PBC_1314367.

- Waiver of defenses. The Proposed Guaranty would have REMC Assets, LP waive many common suretyship defenses. See section 7 of the Proposed Guaranty.

- Extends as long as the underlying obligation. The Proposed Guaranty would last until the Commission terminates the Proposed Guaranty or the guaranteed obligations are paid in full. See section 5 of the Proposed Guaranty.

- Restricts assignment of the guaranty. REMC Assets, LP would not be able to transfer its obligations under the Proposed Guaranty without the consent of the Commission. See section 11 of the Proposed Guaranty.

- Enforceable against the guarantor and governed by the law of a jurisdiction favorable to creditors. Minnesota law would govern the Proposed Guaranty. See section 11 of the Proposed Guaranty. Minnesota courts uphold clear and unambiguous guaranties and enforce waivers of suretyship defenses by guarantors.

The Commission can thus have reasonable confidence that the terms of the guaranty would allow it to rely on REMC Assets, LP's financial strength and ensure that Minnesota landowners and ratepayers are protected in the event of a decommissioning issue.

Financial Capacity and Comparison to North Dakota Regulations

REMC Assets, LP is financially capable of providing the guaranty, REMC Assets, LP's financial statements, which were audited by Deloitte & Touche LLP, are attached as **Attachment B**. While Minnesota does not outline specific financial requirements for guarantors in this scenario, the regulations regarding the mechanisms for financial assurance in North Dakota may be informative.[10]

North Dakota Administrative Code Chapter 69-05.2-12-05.1 provides that the North Dakota Public Service Commission can accept a self-bond if the applicant submits financial information in sufficient detail to show one of the following:

(1) The applicant has a current rating of "A" or higher for its most recent bond issuance as issued by Moody's Investors Service, Standard and Poor's Corporation, or an equivalent rating by any other nationally recognized statistical rating organization, as defined and approved by the United States securities and exchange commission, that is acceptable to the commission.

[10] Nexus references ND law here because ND has also approved a partial permit transfer for the ND portions of the HVDC System. *See* Amended Order, *In the matter of Great River Energy/Nexus Line, LLC Transfer Certificate #2 and Permit #1 Siting Application* (September 2, 2021), North Dakota Public Service Commission Docket No. PUC-21-326; First Reissued Route Permit Number 1 (May 2, 2022) (eDocket No. 21-326.31); First Reissued Certificate of Corridor Compatibility Number 2 (May 2, 2022) (eDocket No. 21-326.30).

(2) The applicant has a tangible net worth of at least ten million dollars, a ratio of total liabilities to net worth of 2.5 or less, and a ratio of current assets to current liabilities of 1.2 or greater.

(3) The applicant's fixed assets in the United States total at least twenty million dollars and the applicant has a ratio of total liabilities to net worth of 2.5 or less, and a ratio of current assets to current liabilities of 1.2 or greater.

Additionally, Chapter 69-05.2-12-05.1 provides that the total amount of the outstanding and proposed self-bonds for reclamation operations may not exceed twenty-five percent of the applicant's or third-party guarantor's tangible net worth in the United States.

Here, REMC Assets, LP passes the self-bond test because it has a tangible net worth of approximately $856 million dollars, a ratio of total liabilities to tangible net worth of 0.91, and a ratio of current assets to current liabilities of 1.54. It also satisfies the requirement that twenty-five percent of its tangible net worth in the United States— of approximately $214 million—be greater than the total amount of the outstanding and proposed self-bonds for reclamation operations—approximately $115 million.

While this test is not binding in Minnesota, it provides a useful barometer for assessing REMC Assets, LP's financial strength in this situation. REMC Assets, LP's performance on this test in combination with the strength of the terms of the Proposed Guaranty and REMC Assets, LP's financial position show that the Commission can rely on the Proposed Guaranty to provide similar financial assurances as the letter of credit it proposes to replace.

Timeline for Transition

Nexus plans to transition from a letter of credit to a guaranty by October 31, 2023, the renewal date for the current letter of credit. Accordingly, Nexus respectfully requests that the Commission act on and issue a written order consistent with this timeline. Given that the letter of credit renews annually, if an order is issued after this date, Nexus will need to pay the annual letter of credit fee and the letter of credit will remain in place until 2024.

Conclusion

In sum, with the guaranty form of financial assurance, Nexus is well-positioned to carry out the financial obligations associated with the Decommissioning Plan. Therefore, the Commission should approve Nexus changing the form of the decommissioning financial assurance to a guaranty.

In accordance with Minnesota Rules, part 7829.0500, and Minnesota Statutes Chapter 13, Nexus has designated Attachment B as **NONPUBLIC DOCUMENT – NOT FOR PUBLIC DISCLOSURE** because it contains commercially-sensitive financial information which, if released, would have a detrimental effect on REMC Assets, LP and its affiliates as they are privately-held companies and they take substantial steps to keep their finances nonpublic by securing their financial information and only sharing it under confidentiality or similar agreements. Disclosure of the financial data could adversely affect future contracting, financing, and other business relationships by providing competitors and others in the marketplace with valuable information not otherwise available to the public and not otherwise readily ascertainable and from which these persons would obtain economic value. Release of this information could negatively impact Nexus, REMC Assets, LP and its affiliates. Nexus is also filing a public version of Attachment B in this docket.

Sincerely,

FREDRIKSON & BYRON, P.A.

/s/ Christina K. Brusven

Christina K. Brusven
Direct Dial: 612.492.7412
Email: cbrusven@fredlaw.com

Attachment A

Proposed Guaranty

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REMC ASSETS, LP
GUARANTY

THIS GUARANTY (this "**Guaranty**") is effective as of the date executed by REMC Assets, LP, a North Dakota limited partnership (the "**Guarantor**"), in favor of the Minnesota Public Utilities Commission or its designee (the "**Beneficiary**") and acknowledged in writing by the Beneficiary.

WHEREAS, on March 3, 2022, the Minnesota Public Utilities Commission (the "**Commission**") issued an Order Approving Partial Permit Transfer Request ("**Order**") partially transferring the Construction Permit for Great River Energy's 400 kV high-voltage direct-current ("HVDC") transmission line, HVDC Converter Station, and associated HVDC facilities located in west central Minnesota (collectively referred to as the "**Project**") to Nexus Line, LLC, a North Dakota limited liability company (the "**Guaranteed Party**"), in MPUC Docket No. ET-2/TL-21-434.

WHEREAS, as a condition of approval, the Commission accepted Guaranteed Party's Decommissioning Plan (as defined below) for the Project, including its financial assurance provisions;

WHEREAS, Guarantor agrees to be fully and completely responsible for all of the Obligations (as defined below), pursuant to the terms, provisions, and conditions of this Guaranty;

WHEREAS, Guarantor expects it will derive benefits from the Project; and

WHEREAS, Guarantor assures the State that it has the financial resources to be fully and completely responsible for all of Guaranteed Party's Obligations, pursuant to the terms, provisions, and conditions of this Guaranty.

FOR VALUE RECEIVED, receipt of which is hereby acknowledged, Guarantor agrees as follows:

1. __**Definitions**__. For the purposes of this Guaranty, the following terms have the following meanings:

(i) "**Decommissioning Plan**" means the decommissioning plan provided by Guaranteed Party to Beneficiary on November 29, 2021, as may be further amended or supplemented pursuant to the Order.

(ii) "**Default**" means the failure or inability of the Guaranteed Party to pay any Obligations when due pursuant and according to the terms of its Decommissioning Plan with respect to the Project as determined by a final written order of the Beneficiary.

(iii) "**Notice of Demand**" means a written notice by the Beneficiary to the Guarantor after the occurrence of a Default setting forth a description of the applicable Obligations, the applicable Default, the remaining amount of Obligations required to be paid in connection therewith with respect to any Default, and containing a statement that the Beneficiary is giving a Notice of Demand pursuant to this Guaranty.

(iv) "**Obligations**" means any amount owing by the Guaranteed Party due to its failure to meet its obligations under its Decommissioning Plan with respect to the Project as determined by a final written order of the Beneficiary.

2. **Guaranty**. Guarantor hereby unconditionally and irrevocably guarantees the full, prompt, and complete payment of the Obligations; provided, however, that any payment by Guarantor hereunder shall satisfy the Obligations to the extent of such payment, and Guarantor shall only have payment obligations hereunder in the event of a Default with respect to any applicable Obligations and to the extent the Beneficiary complies with the terms of this Guaranty with respect to such Obligations. With respect to any Default, Guarantor shall pay any Obligations within 60 calendar days after a Notice of Demand is received by Guarantor with respect thereto. Except as stated below, this Guaranty shall not be transferable by the Beneficiary without the prior written consent of the Guarantor and the Guaranteed Party which shall not be unreasonably withheld. In addition, the Beneficiary may assign the proceeds of this Guaranty, or otherwise direct the payment thereof, to another person or entity, including but not limited to, a state agency or a county or local unit of government where the transmission line to be decommissioned is located, or to a contractor responsible for undertaking decommissioning, in each case as set forth in the Notice of Demand. By its acceptance hereof, the Beneficiary agrees that proceeds of this Guaranty shall be used solely to pay decommissioning and associated costs incurred as a result of the Guaranteed Party's failure to pay the Obligations and that any funds not used for such purpose shall be returned to the Guarantor.

3. **Expenses**. Guarantor agrees to pay reasonable out-of-pocket expenses, including reasonable attorneys' fees, collection costs, enforcement expenses, and court costs, incurred by the Beneficiary in any litigation, arbitration, mediation, agency, or other proceeding or action related to this Guaranty, but only to the extent that the Guarantor is found in such litigation, action, or proceeding to be in default or in breach of any of the terms of this Guaranty pursuant to a final non-appealable order or judgment by a court of competent jurisdiction.

4. **Limitations**. The liability of Guarantor under this Guaranty shall be and is specifically limited to payments of the Obligations expressly required to be made in accordance with this Guaranty and out-of-pocket expenses payable pursuant to Section 3 of this Guaranty. For the avoidance of doubt, this Guaranty does not create any new obligations of the Guaranteed Party or waive any applicable defenses pursuant to the terms of this Guaranty.

5. **Term**. This Guaranty will remain in full force and effect until the Beneficiary consents in writing to the termination of this Guaranty; provided that the Beneficiary agrees that this Guaranty shall automatically terminate and be of no further force or effect upon the acceptance by the Beneficiary and effectiveness of alternative financial assurances reasonably acceptable to the Beneficiary with respect to the Obligations.

6. **Nature of Guaranty**. Guarantor's obligations with respect to any Obligation are absolute and will not be affected by (i) any change in the name, ownership, objects, capital, constating documents, by-laws, or other organizational or governing documents of the Guarantor or Guaranteed Party, (ii) any sale, merger or re-organization of the Guarantor or Guaranteed Party, or (iii) any sale or transfer of all or any part of the Project; provided, however, that Guarantor's obligations under this Guaranty may (A) be assigned upon written approval of the Beneficiary, or (B) terminated as set forth in Section 5 hereof. If any payment to the Beneficiary for any Obligation is rescinded, set-aside, recovered, or must otherwise be returned for any reason (including, without limitation, by reason of the bankruptcy, insolvency, or reorganization of the Guaranteed Party), Guarantor will

remain liable hereunder for such Obligation as if such payment had not been made and such Obligations shall for the purpose of this Guaranty be deemed to have continued in existence. The Guarantor hereby waives all suretyship defenses of every kind and all payments required hereunder shall be made in accordance with the terms hereof. Notwithstanding the foregoing, in any action under this Guaranty, Guarantor reserves the right to assert all rights, counterclaims and defenses that Guaranteed Party may have against the payment of any Obligation, other than defenses (i) arising from the bankruptcy, insolvency, incapacity, dissolution or liquidation of Guaranteed Party, (ii) expressly waived in this Guaranty, (iii) arising from the lack of due authorization, execution or delivery by the Guaranteed Party of this Guaranty, (iv) previously asserted by the Guaranteed Party and successfully and finally resolved in favor of the Beneficiary by a court of competent jurisdiction and last resort, (v) that could have been previously asserted by the Guaranteed Party with respect to the Obligations but were not previously asserted by the Guaranteed Party, and (vi) based on any alleged indefiniteness in the time period applicable to performance of the Obligations. Nothing in this Guaranty prohibits or limits Guarantor from being named as a party in any action to determine Obligations before a Default has occurred, and Guarantor expressly agrees not to raise Default as a basis to be dismissed from any action to determine Obligations. Guaranteed Party, however, must be named in any action to determine Obligations. Guaranteed Party shall use good faith efforts to resolve actions to determine Obligations through settlement agreements with the Beneficiary.

7. **Consents, Waivers and Renewals**. Guarantor agrees that the Beneficiary may, without giving notice to or obtaining the consent of the Guarantor, (i) enter into agreements and transactions with the Guaranteed Party, (ii) amend or modify agreements with the Guaranteed Party, (iii) settle, release or compromise any of the Obligations (in full or in part), (iv) grant extensions of time and other indulgences, (v) take and give up collateral, (vi) release, surrender, cancel, or otherwise discharge to Obligations (in whole or in part, including with conditions), (vii) accept compositions, (viii) accept additional or replacement guarantors, accommodation parties, or sureties for any or all of the Obligations, (ix) perfect or fail to perfect any collateral, (x) release any undertaking, property or assets pledged as collateral to third parties, (xi) otherwise deal or fail to deal with the Guaranteed Party and others (including, without limitation, any other guarantors) and collateral, (xii) hold moneys received from the Guaranteed Party and others or from any collateral unappropriated, (xiii) apply such moneys against part of the Obligations and change any such application in whole or in part from time to time, and (xiv) make any election under Section 1111(b) or otherwise under the United States Bankruptcy Code (to the extent applicable), all as the Beneficiary may see fit, without prejudice to or in any way discharging or diminishing the liability of the Guarantor under this Guaranty, in each case, except to the extent that the same constitutes a discharge or release, whether full, partial, conditional or otherwise, of the Obligations to the Guaranteed Party. Except as provided in Section 2, the Beneficiary may resort to Guarantor for payment or performance of any of the Obligations whether or not the Beneficiary has previously resorted to any collateral security or proceeded against any other obligor principally or secondarily obligated for any of the Obligations. Guarantor hereby waives notice of acceptance of this Guaranty, and also presentment, protest and notice of protest or dishonor of any evidences of indebtedness guaranteed hereunder. For the avoidance of doubt, as of the date hereof, this Guaranty is unsecured and the Guarantor has not granted any lien, security interest, mortgage, or other encumbrance with respect to any of its assets to secure its performance hereunder.

8. **Demands and Notice**. If a Default occurs with respect to any applicable Obligations, and the Beneficiary elects to exercise its rights under this Guaranty with respect thereto, the Beneficiary

shall send a Notice of Demand to Guarantor pursuant to Section 1(iii) with respect to such Obligations. A Notice of Demand conforming to the requirements of this Guaranty will be sufficient notice to Guarantor to pay or perform under this Guaranty. Notices under this Guaranty will be deemed received if sent to the address specified below: (i) on the day received if sent by overnight express delivery, (ii) on the next business day if served by fax when sender has machine confirmation that the fax was transmitted to the correct fax number listed below, and (iii) four business days after mailing if sent by certified, first-class mail, return-receipt requested. The Beneficiary may change its address to which notice is to be given hereunder by providing notice of same to the Guarantor in accordance with this section. The Guarantor may change its address to which notice is to be given hereunder (including any Notice of Demand) by making a public filing with the Beneficiary.

To Guarantor:

REMC Assets, LP.
P.O. Box 837
Bismarck, ND 58502
Bismarck, ND 58504
Attn: Sander Kopseng
Fax: (701) 255-7952

With a copy to (which shall not constitute notice):

Fredrikson & Byron, P.A.
60 South Sixth Street, Suite 1500
Minneapolis, MN 55402
Attn: Christina Brusven
Fax: (612) 492-7077

To Beneficiary:

Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101
Attn: General Counsel
Fax: (651) 297-7073

9. **Representations and Warranties**. Guarantor hereby represents and warrants that (i) it is a limited partnership duly organized, validly existing and in good standing under the laws of North Dakota, (ii) the execution, delivery and performance by Guarantor of this Guaranty have been duly authorized by all necessary action and do not violate Guarantor's charter, limited partnership agreement, or other organizational documents, or any law, order or contractual restriction binding on the Guarantor, and (iii) this Guaranty constitutes the legal, valid and binding obligation of Guarantor, enforceable against it in accordance with its terms (except as enforceability may be limited by bankruptcy, insolvency, and other similar laws affecting enforcement of creditors' rights in general and general principles of equity).

10. **Further Assurances**. Upon request of the Beneficiary, the Guarantor will, within 90 days after the end of each fiscal year of the Guarantor, deliver to the Beneficiary a copy of Guarantor's consolidated financial statements for such fiscal year, audited by independent certified public accountants (including a balance sheet, income statement, statement of cash flows, and statement of shareholder's equity). Guarantor acknowledges and consents to suit in the courts of the State of Minnesota for specific performance or other relief by the Beneficiary upon any breach or failure

of Guarantor to comply with the terms of this Section 10.

11. **<u>Miscellaneous</u>**. Except as permitted pursuant to Section 2 or Section 6 hereof, or with the prior written consent of the Beneficiary, neither the Guarantor nor the Beneficiary may assign this Guaranty nor delegate its rights, interest or obligations hereunder. There are no representations, conditions, agreements or understandings with respect to this Guaranty or affecting the liability of the Guarantor or the Guaranteed Party other than as set forth or referred to in this Guaranty. Neither this Guaranty nor any of the terms hereof may be amended, supplemented, waived or modified, except by an instrument in writing signed by the Guarantor and the Beneficiary. Notwithstanding anything else herein set forth, this Guaranty constitutes the entire agreement between the parties hereto and supersedes and replaces any previous guaranty or other financial accommodations delivered by Guarantor for the benefit of the Beneficiary with respect to the Obligations outlined herein. Any invalidity or unenforceability of any provision or application of this Guaranty shall not affect other valid or enforceable provisions and applications thereof, and to this end the provisions of this Guaranty are declared severable. **THIS GUARANTY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF MINNESOTA.** Guarantor irrevocably submits and consents to the exclusive jurisdiction of the federal and state courts of Minnesota in any action, suit, or proceeding or arising out of or relating to this Guaranty and waives any objection to such jurisdiction on the grounds that it is an inconvenient forum or any similar grounds. Guarantor agrees that venue for any action brought by the State will be in Ramsey County District Court, and agreed that a final non-appealable judgment by a court of competent jurisdiction in any such action, suits, or proceeding shall be conclusive and may be enforced in other jurisdiction to the extend necessary for the enforcement of such judgement and in any other manner provided by law, and waives any right to claim that this Guaranty is not valid and enforceable by the Beneficiary. The Guarantor consents to the service of process in any action or proceeding relating to this Guaranty by notice to the Guarantor in accordance with the provisions of Section 8 hereof, provided that the foregoing shall not limit the right of the Beneficiary to serve process in any other matter permitted by law.

[Signatures follow on the next page.]

This Guaranty is executed by Guarantor's duly authorized representative as of the date written below.

GUARANTOR:

REMC ASSETS, LP

By: REMC Group, LLC
Its: General Partner

Per: ________________________________
Name: Stacy L. Tschider
Title: President

DATE: ____

ACCEPTED AND AGREED TO BY:

GUARANTEED PARTY:

NEXUS LINE, LLC

Per: ________________________________
Name: Stacy L. Tschider
Title: President

STATE:

MINNESOTA PUBLIC UTILITIES COMMISSION

Per: ________________________________
Name:
Title:

Attachment B

Audited Financials

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REMC Assets, LP and Subsidiaries

Consolidated Financial Statements as of and for the Year Ended December 31, 2022, Consolidating Supplementary Information as of December 31, 2022, and Independent Auditor's Report

REMC ASSETS, LP AND SUBSIDIARIES

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Deloitte.

Deloitte & Touche LLP
50 South 6th Street
Suite 2800
Minneapolis, MN 55402-1538
USA

Tel: +1 612 397 4000
Fax: +1 612 397 4450
www.deloitte.com

INDEPENDENT AUDITOR'S REPORT

To the Board of Directors
REMC Assets, LP
Bismarck, North Dakota

Opinion

We have audited the consolidated financial statements of REMC Assets, LP and subsidiaries (the "Company"), which comprise the consolidated balance sheet as of December 31, 2022, and the related consolidated statement of operations, equity, and cash flows for the year then ended, and the related notes to the consolidated financial statements (collectively referred to as the "financial statements").

In our opinion, based on our audit and the report of the other auditors, the accompanying financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2022, and the results of its operations and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

[NONPUBLIC DATA HAS BEEN EXCISED…

We did not audit the financial statements of The Falkirk Mining Company ("Falkirk"), a variable interest entity, which statements reflect total assets constituting [redacted] percent of consolidated total assets at December 31, 2022, and expenses constituting [redacted] percent of consolidated total operating expenses for the year then ended. Those statements were audited by other auditors, whose report has been furnished to us, and our opinion, insofar as it relates to the amounts included for Falkirk, is based solely on the report of the other auditors.

…NONPUBLIC DATA HAS BEEN EXCISED]

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Company and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for one year after the date that the financial statements are available to be issued.

Auditor’s Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor’s report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company’s ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control–related matters that we identified during the audit.

Report on Supplementary Information

Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole. The supplementary information listed in the table of contents on page 32-34 is presented for the purpose of additional analysis and is not a required part of the financial statements. This supplementary information is the responsibility of the Company's management and was derived from and relate directly to the underlying accounting and other records used to prepare the financial statements. Such information has been subjected to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with GAAS. In our opinion, based on our audit and as to the amounts included for the Falkirk, the report of the other auditors, such information is fairly stated in all material respects in relation to the financial statements as a whole.

Deloitte & Touche LLP

March 30, 2023

REMC ASSETS, LP AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEET
AS OF DECEMBER 31, 2022

[NONPUBLIC DATA HAS BEEN EXCISED...

ASSETS	*in thousands*
CURRENT ASSETS:	[redacted]
Cash and cash equivalents	
Restricted cash and cash equivalents	
Funds on deposit	
Receivables:	
Receivables	
Other receivables from prior owner	
Related parties (Note 9)	
Other receivables	
Inventories (Note 1)	
Derivative assets (Note 6)	
Prepaid expenses and other current assets	
Total current assets	
PROPERTY, PLANT, AND EQUIPMENT - NET (NOTE 1)	
OTHER ASSETS:	
Intangible assets - net (Note 1)	
Funds on deposit	
Other receivables from prior owner	
Other noncurrent assets	
Total other assets	
TOTAL ASSETS	

(Continued)

REMC ASSETS, LP AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEET
AS OF DECEMBER 31, 2022

LIABILITIES AND EQUITY	*in thousands*
CURRENT LIABILITIES:	[redacted]
Payables:	
Trade	
Related parties (Note 9)	
Interest	
Derivative liabilities (Note 6)	
Accrued expenses	
Partner distributions payable	
Current portion of long-term debt	
Asset retirement obligations (Note 5)	
Other current liabilities	
Total current liabilities	
LONG-TERM LIABILITIES:	
Derivative liabilities (Note 6)	
Long-term debt	
Asset retirement obligations (Note 5)	
Deferred income taxes	
Long-term obligations to prior owner	
Other long-term obligations	
Total long-term liabilities	
Total liabilities	
EQUITY:	
Partners' capital	
Noncontrolling interest	
Total equity	
TOTAL LIABILITIES AND EQUITY	

See notes to consolidated financial statements. (Concluded)

REMC ASSETS, LP AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF OPERATIONS
FOR YEAR ENDED DECEMBER 31, 2022

	in thousands
REVENUE:	[redacted]
Electricity	
Electricity and capacity derivative gains and losses	
Other revenue	
Total revenue	
OPERATING EXPENSES:	
Fuel	
Depreciation, amortization, and accretion	
Operations and maintenance	
General and administrative	
Total operating expenses	
OPERATING INCOME	
OTHER INCOME (EXPENSE):	
Bargin purchase gain	
Interest income	
Interest expense	
Other expense	
Total other income (expense)	
INCOME BEFORE INCOME TAXES	
PROVISION FOR INCOME TAXES	
NET INCOME	
LESS: NET LOSS ATTRIBUTED TO NONCONTROLLING INTEREST	
NET INCOME ATTRIBUTED TO REMC ASSETS, LP AND SUBSIDIARIES	

See notes to consolidated financial statements.

REMC ASSETS, LP AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF EQUITY
AS OF DECEMBER 31, 2022

in thousands	Partners' Capital	Noncontrolling Interest	Total Equity
BALANCE - DECEMBER 31, 2021	[redacted]		
Acquisition of noncontrolling interest			
Net income			
Distributions			
BALANCE - DECEMBER 31, 2022			

See notes to consolidated financial statements.

REMC ASSETS, LP AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED DECEMBER 31, 2022

	in thousands
OPERATING ACTIVITIES:	[redacted]
Net income	
Adjustments to reconcile net income to net cash provided by operating activities:	
Depreciation, amortization, and accretion	
Fuel cost - depreciation, depletion, amortization, and accretion expense	
Unrealized gain on derivatives	
Deferred income tax	
Gain on bargain purchase	
Changes in working capital:	
Receivables	
Inventories	
Prepaid expenses and other current assets	
Other noncurrent assets	
Funds on deposit	
Payables	
Accrued expenses and current liabilities	
Net cash provided by operating activities	
INVESTING ACTIVITIES:	
Purchase of property and equipment	
Acquisitions	
Other	
Net cash used in investing activities	
FINANCING ACTIVITIES:	
Issuance of long-term debt	
Payments on long-term debt	
Issuance of related-party long-term debt	
Payments on related-party long-term debt	
Payments on finance lease obligations	
Funds on deposit	
Repayments of long-term obligations to prior owner	
Distributions paid to noncontrolling interest	
Net cash provided by financing activities	
INCREASE IN CASH, CASH EQUIVALENTS, AND RESTRICTED CASH	
CASH, CASH EQUIVALENTS, AND RESTRICTED CASH AT BEGINNING OF YEAR	
CASH, CASH EQUIVALENTS, AND RESTRICTED CASH AT END OF YEAR	

See notes to consolidated financial statements.

REMC ASSETS, LP AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
AS OF AND FOR THE YEAR ENDED DECEMBER 31, 2022

Note 1 – Summary of Significant Accounting Policies

Nature of Operations – REMC Assets, LP and its subsidiaries (collectively, the "Company") are engaged in exempt wholesale electric generation and transmission service. REMC Assets, LP acquired the Coal Creek Station (electric generation) and the high-voltage direct current (HVDC) electric power transmission system from Great River Energy (GRE) effective May 1, 2022 ("acquisition date"). The Company also entered into certain other agreements at the time of the acquisition. The accounting policies that follow are related to the ongoing business operations of the Company and The Falkirk Mining Company ("Falkirk").

Basis of Presentation – The consolidated financial statements and disclosures are presented in accordance with accounting principles generally accepted in the United States of America (GAAP) and are prepared on the accrual basis of accounting. Consolidated subsidiaries include Rainbow Energy Center, LLC (REC); Nexus Line, LLC ("Nexus Line"); Rainbow Energy Solutions, LLC; Rainbow Data Solutions, LLC; and REC Leasing, LLC. The consolidation also includes Falkirk, a variable interest entity. All intercompany transactions and balances have been eliminated in consolidation.

[redacted]

[redacted]

Use of Estimates – The preparation of consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect certain reported amounts of assets and liabilities and disclosures. Actual amounts could differ from those estimates.

Risk and Uncertainties – The nature of the Company's businesses subjects them to several uncertainties and risks, including obtaining credit, future commodity market prices, operational risks, changes in laws and regulations, including environmental and greenhouse gas regulations, as well as fraud and cybersecurity attacks. Significant political and social pressure throughout the nation to decrease the carbon footprint poses an increased risk to the coal industry. These risks may negatively impact the Company and cause the actual results of operations, cash flows, financial position, or liquidity to fluctuate.

Financial Instruments – The Company's financial instruments consist primarily of cash, accounts receivable, accounts payable, accrued expenses, derivative instruments, and debt. The carrying amount of cash, accounts receivable, accounts payable, and accrued expenses approximate fair value due to their short maturity.

Cash and Cash Equivalents – Cash and cash equivalents include cash on hand, amounts on deposit at banks, cash management accounts, outstanding checks, and deposits in transit. The Company considers all highly liquid investments with a maturity of three months or less to be cash equivalents.

The Company maintains cash accounts at various financial institutions. Accounts are guaranteed by the Federal Deposit Insurance Corporation (FDIC). Cash accounts are insured up to the FDIC limits. The Company also participates in insured cash sweep (ICS) programs through their financial institutions. The ICS programs coordinate a network of banks to spread deposits exceeding the FDIC insurance coverage limit out to numerous banks to provide insurance coverage for all participating deposits. On occasion, deposits with financial institutions exceed the amount insured by the FDIC.

Restricted Cash and Cash Equivalents – Restricted cash and cash equivalents includes [redacted] in trust to provide a portion of the financial assurance required by the regulations established by the North Dakota Department of Environmental Quality (ND DEQ) and cash on deposit at BNC National Bank of [redacted] that is pledged as collateral.

Receivables – Receivables result primarily from the sale of electricity. Other receivables from prior owner consist of amounts that GRE is contractually obligated to reimburse the Company for and relate to [redacted] The allowance for doubtful accounts is regularly reviewed by considering such factors as historical experience, creditworthiness, the age of the receivables balance, and current economic conditions that may affect collectability. The Company has determined [redacted] for the year ended December 31, 2022.

Inventories – Materials and supplies inventories are stated at lower of average cost or net realizable value. Fuel inventories are carried at average cost and include coal, lime, oil, and fuel used for electric generation. As of December 31, 2022, inventories were reported at fair value and consist of the following (in thousands):

Materials and supplies	[redacted]
Fuel	
Other	
Total inventories	

Funds on Deposit – REC has [redacted] of current funds on deposit with the Midcontinent Independent System Operator (MISO) in accordance with the contract for the sale of electricity. Nexus Line has noncurrent funds on deposit with the Bank of North Dakota in a debt reserve fund of [redacted], the equivalent of [redacted] as required by the loan agreement entered into between Nexus Line and the North Dakota Transmission Authority (NDTA).

Long-Lived Assets – Long-lived assets to be held and used, which include property, plant, equipment, definite-lived intangible assets subject to amortization, and right-of-use assets, are reviewed for impairment whenever events or changes in circumstances indicate that the related carrying amount may not be recoverable. Impairment is recognized when the estimated undiscounted cash flows associated with the asset or group of assets is less than their carrying value. When impairment exists, an adjustment is made to write the asset down to its fair value and a loss is recorded. Fair values are determined based on quoted market values, discounted cash flows, or internal appraisals, as applicable. [redacted] for the year ended December 31, 2022.

Property, Plant, and Equipment – Property, plant, and equipment are stated at original cost or, in the case of business acquisitions, fair value. Significant additions or improvements extending asset lives are capitalized as incurred, while repairs and maintenance that do not improve or extend the life of the respective asset are charged to expense as incurred. Certain assets and their related accumulated depreciation amounts are adjusted for asset retirements and disposals with the resulting gain or loss included in cost of operations in the consolidated statement of operations. Property, plant, and equipment consist of the following as of December 31, 2022 (in thousands):

		Remaining useful life
Electric generation plant	[redacted]	[redacted] years
HVDC transmission system		5–38 years
Coal mine plant		[redacted] years
Land		
Other		
Construction work in progress		
Accumulated depreciation and amortization		
Property, plant, and equipment - net		

Depreciation and Amortization – Depreciation for financial reporting purposes is based upon the straight-line method at rates designed to amortize fair value of the properties over their estimated remaining useful lives. Coal mine plant is depreciated or amortized over the estimated useful lives using either the straight-line method or the units-of-production method based on estimated recoverable tonnage and is included in fuel expense in the consolidated statement of operations. Amortization of coal lands and leaseholds is calculated on the units-of-production method based upon estimated recoverable tonnage and is included in fuel expense in the consolidated statement of operations. Depreciation expense for the year ended December 31, 2022, equaled [redacted], which included [redacted] reported in fuel expense.

Asset Retirement Obligations (AROs) – The Company has identified certain AROs that are associated with decommissioning Coal Creek Station and the reclamation of coal mine lands at Falkirk. These obligations are recognized at fair value as incurred. Under the present value approach used to estimate the fair value of the AROs, accretion of the liabilities related to Coal Creek Station is included in operations and maintenance expense and accretion of the liabilities related to coal mine lands is included in fuel expense in the consolidated statement of operations. Accretion expense for the year ended December 31, 2022, equaled [redacted], which included [redacted] reported as fuel expense.

Intangible Assets – The Company recognizes specifically identifiable intangible assets, which include [redacted] These intangible assets have definite lives and are amortized on a straight-line basis, based on either the useful life of underlying assets or length of the applicable contract.

Intangible assets consist of the following as of December 31, 2022 (in thousands):

[redacted]

Amortization expense for the intangible assets was [redacted] for the year ended December 31, 2022. The amounts of estimated amortization expense for identified intangible assets for the next five calendar years and thereafter, as of December 31, 2022, are as follows (in thousands):

2023	[redacted]
2024	
2025	
2026	
2027	
Thereafter	
Total	

Debt Issuance Costs – Debt issuance costs are capitalized and are amortized as interest expense on a basis which approximates the effective interest method over the term of the related debt. Debt issuance costs are presented as a direct deduction from the carrying amount of the related debt.

Revenue Recognition – The Company recognizes revenue at the point in time that its performance obligations are satisfied. Performance obligations are satisfied when the customer obtains control of product, when the Company has no further obligations to perform related to the sale, when the transaction price has been determined, and when collectability is probable.

Electricity revenue consists of wholesale electric power sales from participation in MISO. All electricity revenues meet the criteria to be classified as revenue from contracts with customers and are recognized over time as energy is delivered.

Electricity and capacity derivative gains and losses are accounted for separately in accordance with derivative revenue guidance in Accounting Standards Codification (ASC) Topic 815, *Derivatives and Hedging*. For more information on derivatives, see Note 6.

Nexus Line entered into a transmission services agreement with REC on May 1, 2022, to provide transmission service to REC. Nexus Line transmission service revenue and REC transmission service expense for year ended December 31, 2022, equaled [redacted]. This amount is eliminated in the consolidated statement of operations.

Other income primarily includes [redacted]

Revenue included in the consolidated statement of operations for year ended December 31, 2022, is as follows (in thousands):

[redacted]

Business Combinations – The Company accounts for business combinations under the acquisition method of accounting and allocates the fair value of consideration transferred in a business combination to the assets acquired and liabilities assumed in the acquired business based on their fair values at the acquisition date. The allocation of the purchase price of a business combination is based on management estimates and assumptions, which utilize established valuation techniques. These techniques include the income approach, cost approach or market approach, depending upon which approach is the most appropriate based on the nature and reliability of available data. Under the income approach, the asset's fair value is equal to the present value of future economic benefits to be derived from ownership of the asset. The cost approach considers the cost to replace (or reproduce) the asset and the effects on the asset's value of physical, functional, and/or economic obsolescence that has occurred with respect to the asset. The market approach is used to estimate value from an analysis of actual transactions or offerings for economically comparable assets available as of the valuation date. Acquisition-related costs are recognized separately from the business combination and are expensed as incurred.

[redacted]

Recently Adopted Accounting Standards – In February 2016, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) No. 2016-02, *Leases (Topic 842)*, followed by related amendments (collectively, "the new lease standard"). The new lease standard supersedes the lease recognition requirements in ASC 840, *Leases (Topic 840)*. The Company adopted the new lease standard on January 1, 2022, using the modified retrospective approach. The Company elected the package of practical expedients to not reassess prior conclusions related to contracts containing leases, lease classification, and initial direct costs. The Company has elected the practical expedient under which nonlease components, such as asset maintenance costs included in payments, are not deducted from minimum lease payments for the purposes of lease accounting and disclosure. Other than the first-time recognition of operating leases on its consolidated financial statements, the implementation of the new lease standard did not have a significant impact on the Company's consolidated financial statements. See Note 3 for the Company's disclosures related to this guidance.

Recently Issued Accounting Standards – In June 2016, the FASB issued ASU No. 2016-13, *Measurement of Credit Losses on Financial Instruments*, which provides guidance on the measurement of credit losses on certain financial instruments. The new guidance introduces the use of a current expected credit loss (CECL) model for the measurement of credit losses on financial instruments within the scope of this guidance, which includes certain investments in debt securities, trade accounts receivable, and other financial assets. The CECL model requires an entity to measure credit losses using historical information, current information, and reasonable and supportable forecasts of future events, rather than the model required under current GAAP. The Company is in the process of evaluating the guidance and its impact on the consolidated financial statements and disclosures. The new standard will be adopted by the Company for fiscal year 2023.

Note 2 – Business Combination

[redacted]

[redacted]

[redacted]

Note 3 – Leases

The Company evaluates contracts that may contain leases, including power agreements and arrangements for the use of equipment, railroad cars, and vehicles. A contract contains a lease if it conveys the exclusive right to control the use of a specified asset. A contract determined to contain a lease is evaluated further to determine if the arrangement is a finance lease. The Company recognizes right-of-use assets and a corresponding lease liability at the lease commencement date.

In addition, leases with an initial term of 12 months or less are classified as short-term leases and are not recognized on the consolidated balance sheet. If a lease contains an option to extend and there is a reasonable certainty the option will be exercised, the option is considered in the lease term at inception.

The Company has entered an operating lease [redacted] The right-of-use asset for the operating lease in place at the acquisition date was capitalized based on its remaining payment obligation balances, discounted to present value based on the risk-free discount rate elected under the practical expedient.

[redacted]

Supplemental financial statement information related to operating and finance leases as of December 31, 2022, is as follows (in thousands):

Description	Classification	
Assets:		[redacted]
Operating leases	Other noncurrent assets	
Finance leases	Property, plant, and equipment - net	
Liabilities:		
Current:		
Operating leases	Other current liabilities	
Finance leases	Other current liabilities	
Noncurrent:		
Operating leases	Other long-term obligations	
Finance leases	Other long-term obligations	

The components of lease expense were as follows for the year ended December 31, 2022 (in thousands):

Description	Classification	Total
Operating lease cost	Cost of goods sold	[redacted]
Finance lease cost:		
Amortization of leased assets	Cost of goods sold	
Interest on lease liabilities	Cost of goods sold	
Short-term lease expense	Cost of goods sold	
Total lease expense		

Future minimum finance and operating lease payments for the next five calendar years and thereafter, as of December 31, 2022, are as follows (in thousands):

	Finance Leases	Operating Leases
2023	[redacted]	
2024		
2025		
2026		
2027		
Thereafter		
Total minimum lease payments		
Amounts representing interest		
Present value of net minimum lease payments		
Current maturities		
Noncurrent lease liabilities		

The weighted-average remaining lease terms and weighted-average discount rates are as follows:

Weighted-average remaining lease term (in years):	[redacted]
Operating leases	
Finance leases	
Weighted-average discount rate:	
Operating leases	
Finance leases	

The following details cash paid for amounts included in the measurement of lease liabilities for the year ended December 31, 2022 (in thousands):

Operating cash flows for operating leases	[redacted]
Operating cash flows for finance leases	
Financing cash flows for finance leases	

Note 4 – Debt

Nexus Line financed the acquisition of the HVDC transmission system by entering into a loan agreement in the principal amount of $150 million from the NDTA. The loan proceeds financed a portion of the costs of acquiring the HVDC transmission system, funded the bond reserve fund, and paid costs of issuing the debt. The loan is secured by all the tangible assets and transmission service contracts of Nexus Line. The note has an outstanding balance of [redacted] as of December 31, 2022. The loan has an interest rate of [redacted] The loan may be prepaid at any time. Nexus Line is subject to several customary covenants under the loan. [redacted] of this debt is included in the current portion of long-term debt on the balance sheet.

Debt maturities for the NDTA loan, including current maturities and excluding unamortized debt issuance costs, for the next five calendar years and thereafter, as of December 31, 2022, are as follows (in thousands):

2023	[redacted]
2024	
2025	
2026	
2027	
Thereafter	
Total	

[redacted]

[redacted]

REMC Assets, LP has entered into a letter of credit note ("LOC Note") in the principal amount of up to [redacted] secured by a junior mortgage on all the tangible assets of Nexus Line. The LOC Note allows the issuance of up to [redacted] in letters of credit (LOC). REMC Assets, LP currently has several LOCs, which total [redacted], but have not been drawn upon as of December 31, 2022. The LOCs have been established for various financial assurance purposes for the benefit of the North Dakota Public Service Commission (ND PSC), the Minnesota Public Utilities Commission (MN PUC) and the ND DEQ. REMC Assets, LP is subject to several customary covenants under the LOC Note.

Note 5 – AROs

An ARO is the result of a legal or contractual obligation associated with the retirement of a tangible long-lived asset that results from the acquisition, construction, or development and/or the normal operation of a long-lived asset.

The Company determined these obligations based on an estimated asset retirement cost adjusted for inflation and projected to the estimated settlement dates, and discounted using a credit-adjusted, risk-free interest rate.

The Company's AROs are primarily related to the environmental obligations for solid waste facilities closure and monitoring and future disposal of hazardous chemicals. The Company has recorded an estimated obligation of [redacted] as of December 31, 2022.

[redacted]

ARO liabilities of [redacted] are recorded in the balance sheet in other current liabilities and [redacted] as noncurrent AROs.

Nexus Line also has an obligation to retire its HVDC transmission system upon abandonment. The line transmits the energy from Coal Creek Station near Underwood, North Dakota to the Dickinson Substation in Buffalo, Minnesota. Nexus Line has not recorded a liability related to this obligation because the fair value cannot be reasonably estimated due to the retirement date being indefinite.

A reconciliation of the beginning and ending aggregate carrying amount of the AROs as of December 31, 2022, is as follows (in thousands):

Balance - beginning of year	[redacted]
Liabilities acquired on May 1, 2022	
Accretion expense	
Liabilities settled	
Balance - end of year	

The Company had no assets that are legally restricted for purposes of settling AROs.

Note 6 – Derivative Instruments

Derivative instruments, not designated as normal purchases or sales, are required to be recorded in the consolidated balance sheet as either an asset or liability measured at fair value. Changes in the fair value of derivative instruments that are entered into for trading purposes, not designated as hedges for accounting treatment, or that do not qualify for normal purchase and sale accounting would be recognized currently in earnings. Cash flows related to derivative instruments that are not designated or do not qualify for hedge accounting treatment are included in operating activities.

The Company's policy is to not offset fair value amounts for derivative instruments and, as a result, the Company's derivative assets and liabilities are presented gross on the consolidated balance sheet. Changes in the derivative instrument's fair value are recognized currently in earnings and are not designated as hedges for financial reporting purposes.

The fair value of the derivative instruments must be estimated as of the end of each reporting period and is recorded on the consolidated balance sheet as an asset or liability.

Gains and losses on the changes of fair value of these instruments, both realized and unrealized, are recognized in revenue on the consolidated statement of operations.

[redacted]

The effect of derivative activities in the consolidated statement of operations for December 31, 2022, is as follows (in thousands):

Net realized loss on commodity derivative instruments	[redacted]
Net mark-to-market gain on commodity derivative instruments	
Electricity and capacity derivative gains and losses	

The Company had the following outstanding notional volumes of commodity contracts as of December 31, 2022:

	Total
Electricity-MWh (000s)	[redacted]
Capacity-MWh/month (000s)	

Note 7 – Fair Value Measurement

The Company uses several different valuation techniques to measure the fair value of assets and liabilities, relying primarily on the market approach for pricing and other market information for identical and/or comparable assets and liability that are measured at fair value on a recurring basis.

Valuation techniques used need to maximize the use of observable inputs and minimize the use of unobservable inputs. Professional standards describe a fair value hierarchy based on three levels of inputs, of which the first two are considered observable and the last unobservable, that may be used to measure fair value, which are the following:

Level 1 – Inputs to the valuation methodology are unadjusted quoted prices for identical unrestricted assets or liabilities in active markets that the Company can access. This level primarily consists of financial instruments, such as exchange-traded derivatives.

Level 2 – Inputs to the valuation methodology include quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in inactive markets, inputs other than quoted prices that are observable for the asset or liability, and inputs that are derived principally from or corroborated by observable market data by correlation or other means. The Company uses the accessible active market quotes, plus or minus an observable differential and market data observed on industry trading exchanges for valuation of Level 2 assets and liabilities. This level primarily consists of nonexchange-traded derivative assets and liabilities, such as over-the-counter forwards, swaps, and options.

Level 3 – Inputs to the valuation methodology are generally unobservable. These inputs reflect management's best estimate of fair value using its judgment about the assumptions a market participant would use in pricing the asset or liability.

The asset or liability's fair value measurement level within the fair value hierarchy is based on the lowest level of input that is significant to the fair value measurement.

The carrying amounts of receivables, short-term funds on deposits, and restricted cash approximate fair values because of the short-term maturity of these instruments. The long-term funds on deposits approximate their fair value as they are equal to the amount paid and the amount of the deposit that will be applied to the future debt repayment obligations per the terms of the agreement.

As of December 31, 2022, the Company has treasury bills with a maturity date of [redacted] The carrying value equals [redacted]. The treasury bills are valued using Level 1 inputs. Pricing sources from third party industry standard data providers are used to determine a daily market value. The carrying amounts of the treasury bills approximate fair value because of the short-term maturity of these instruments.

The carrying amounts of payables and accrued expenses approximate fair value because of the short-term maturity of these instruments.

The Company's commodity contracts are recorded at fair value on a recurring basis and have a fair value asset balance equal to [redacted] and a fair value liability balance equal to [redacted] as of December 31, 2022, which was determined by Level 2 inputs due to the observability of forward power prices used to value the contract.

The Company performed a fair value assessment of the assets acquired and liabilities assumed in the business combination. For more information, see Note 2.

The Company's long-term debt is not measured at fair value on the consolidated balance sheet and the fair value is being provided for disclosure purposes only. The fair value was categorized as Level 3 in the fair value hierarchy and was based on discounted future cash flows using current market interest rates. The estimated fair value of the Company's Level 3 long-term debt on December 31, 2022, was as follows (in thousands):

Carrying amount	[redacted]
Fair value	

The methods used by the Company may produce a fair value calculation that may not be indicative of net realizable value or reflective of future fair values. Furthermore, while the Company believes their valuation methods are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the fair value of certain financial instruments could result in a different fair value measurement at the reporting date.

Note 8 – Income Taxes

The Company elected to be taxed as a partnership under the provisions of the Internal Revenue Code of 1986. Under those provisions, the Company does not pay US federal or state income taxes on its taxable income. Instead, the partners are liable for individual federal and state income taxes on their respective share of the Company's taxable income.

[redacted]

[redacted]

In the ordinary course of business, there is inherent uncertainty in quantifying the Company's income tax positions. The Company assesses its income tax positions and records tax benefits for all years subject to examination based upon management's evaluation of the facts, circumstances, and information available at the reporting date. For those tax positions where it is more likely than not that a tax benefit will be sustained, the Company will record the largest amount of tax benefit with a greater than 50% likelihood of being realized upon ultimate settlement with a taxing authority that has full knowledge of all relevant information. For those income tax positions where it is not more likely than not that a tax benefit will be sustained, no tax benefit has been recognized in the consolidated financial statements. Where applicable, associated interest and penalties will also be recognized. There were [redacted] and the Company [redacted]

Note 9 – Related-Party Transactions

The related-party transactions not eliminated in the consolidation consist of transactions with companies related through common control and management. The Company's related-party receivables and payables are transactions with [redacted] related-party receivables and payables are transactions with [redacted]

The consolidated balance sheet includes the following related-party balances as of December 31, 2022 (in thousands):

[redacted]

Note 10 – Supplemental Disclosure of Cash Flow Information

The following table provides a reconciliation of cash, cash equivalents, and restricted cash reported within the consolidated balance sheet that sum to the total of the same such amounts shown in the consolidated statement of cash flows (in thousands):

Cash and cash equivalents	[redacted]
Restricted cash and cash equivalents	
Restricted cash included in other assets	
Total cash, cash equivalents, and restricted cash shown in the consolidated statement of cash flows	

Supplemental cash flow information for year ended December 31, 2022, is as follows (in thousands):

Cash paid for interest	[redacted]
Cash paid for income taxes	
Noncash investing and financing activities:	
Capital expenditures included in accounts payable	
Partner distributions payable	

Note 11 – Employee Benefit Plans

Defined Contribution Plans – [redacted]

Defined Benefit Plan – [redacted]

[redacted]

[redacted]

Postretirement Medical Benefits – [redacted]

[redacted]

Note 12 – Commitments and Contingencies

MISO – REC is a market participant in MISO, and due to the nature of the market, various disputes and resettlements can take place. It is the opinion of management that these disputes and resettlements would not have a material effect on the consolidated financial statements.

Purchase Commitments – The Company has entered into various commitments largely consisting of operation and maintenance, materials and supplies, and information technology. The commitments under these contracts for the next five calendar years and thereafter, as of December 31, 2022, are as follows (in thousands):

2023	[redacted]
2024	
2025	
2026	
2027	
Thereafter	
Total	

Operation and Maintenance Agreement – The Company entered into an operation and maintenance agreement with GRE related to the HVDC transmission system. The estimated annual commitments for the next five calendar years and thereafter, as of December 31, 2022, is as follows (in thousands):

2023	[redacted]
2024	
2025	
2026	
2027	
Thereafter	
Total	[redacted]

Litigation – The Company is subject to various legal proceedings, claims, and litigation that arise in the ordinary course of operations. The Company accrues a liability for those contingencies when the loss is probable, and the amount can be reasonably estimated. The Company does not accrue a liability when the likelihood that the liability has been incurred is probable, but the amount cannot be reasonably estimated or when the liability is believed to be reasonably possible or remote. For contingencies where an unfavorable outcome is probable or reasonably possible and which are material, the Company discloses the nature of the contingency and an estimate of the possible loss. In the opinion of management, the amount of liability, if any, with respect to these actions [redacted]. As of December 31, 2022, the Company [redacted].

Guarantees – As normal course of business, the Company routinely enters into purchase and sale contracts. Such contracts often require guarantees to be issued by REMC Assets, LP on behalf of its subsidiaries. The guarantees provide or enhance the creditworthiness otherwise attributed to a subsidiary on a stand-alone basis and are associated with the underlying contract obligations between the subsidiary and a third party. Such guarantees are issued to support the subsidiaries performance or payment responsibilities that are contained in such contracts.

Reclamation Guarantee – [redacted]

HVDC Line Decommissioning Guarantee – Nexus Line is required by the MN PUC to cover future decommissioning costs of the HVDC Line and related assets. REMC Assets, LP provides an LOC as guarantee to the MN PUC for the decommissioning obligation. As of December 31, 2022, the value of the LOC is $5 million. No liability has been recorded in the consolidated financial statements related to this guarantee as of December 31, 2022.

Environmental Matters – REC is subject to a wide range of environmental laws and regulations in the ownership and operation of Coal Creek Station. These laws generally require that governmental permits and approvals be obtained before construction and maintained during the operation of the electric generation plant. The electric generation industry has been facing increasing scrutiny and stringent requirements regarding air quality, Greenhouse Gas emissions, combustion byproducts, water discharge and use, and threatened and endangered species. In general, future laws are expected to require the addition of emissions controls, or other environmental controls, or to impose additional restrictions on the operations of REC's facilities, which could have a material effect on the Company's financial position, results of operations, or cash flows.

State implementation of pollution control plans to improve visibility at Class I areas, such as national parks, under the Environmental Protection Agency's (EPA) Regional Haze Rule, could require the owners of power plants to incur significant new costs. The ND DEQ submitted its state implementation plan to the EPA in August 2022 and expects a decision on the plan sometime in 2023. The plan, as submitted, does not require additional controls for any generating units in North Dakota.

In 2018, the United States District Court vacated a section of the Coal Combustion Residual (CCR) rule pertaining to the definition of a lined CCR unit. Coal Creek Station was using this vacated section for compliance. Vacatur of the section resulted in Upstream Raise 91 being deemed an unlined unit. To address this vacatur by the United States District Court, the EPA created new rules that allowed facilities with operating unlined units to apply for either alternative capacity or alternative liner demonstrations. On November 30, 2020, Coal Creek Station submitted an application for an alternative liner demonstration to show that Upstream Raise 91's liner system is equally protective to human health and the environment as EPA's prescriptive liner. On January 25, 2023, the EPA issued a proposed decision on the Coal Creek Station 40 C.F.R. § 257.71(d)(1) to deny the alternate liner demonstration application for the Upstream Raise 91. The EPA collected comments on these proposals for 30 days, from February 8, 2023, to March 10, 2023. The Company requested and received a 30-day extension that extends the public comment period until April 10, 2023. [redacted] As this decision is a proposed decision at this point and subject to comment, no liability or adjustments to the Company's consolidated financial statements have been recorded as of December 31, 2022, related to the matter.

Note 13 – Subsequent Events

The Company has evaluated subsequent events between the consolidated financial statement date and March 30, 2023, the date which the consolidated financial statements were available to be issued, that would require recognition or disclosure in the consolidated financial statements. Other than those described in Note 12, no events were identified that require consideration as adjustments to, or disclosures in, the consolidated financial statements.

REMC ASSETS, LP AND SUBSIDIARIES
SUPPLEMENTAL CONSOLIDATING BALANCE SHEET
AS OF DECEMBER 31, 2022

in thousands	REMC ASSETS, LP	RAINBOW ENERGY CENTER, LLC (INCLUSIVE OF FALKIRK MINING COMPANY)	NEXUS LINE, LLC	RAINBOW ENERGY SOLUTIONS, LLC	RAINBOW DATA SOLUTIONS, LLC	REC LEASING, LLC	ELIMINATIONS	CONSOLIDATED REMC ASSETS, LP
ASSETS	[redacted]							
CURRENT ASSETS:								
Cash and cash equivalents								
Restricted cash								
Funds on deposit								
Receivables:								
Receivables								
Other receivables from prior owner								
Intercompany								
Related parties								
Other receivables								
Inventories								
Derivative assets								
Prepaid expenses and other current assets								
Total current assets								
PROPERTY, PLANT, AND EQUIPMENT—NET								
OTHER ASSETS:								
Investment in subsidiaries								
Note Receivable-intercompany								
Intangible assets - net								
Funds on deposit								
Other receivables from prior owner								
Other noncurrent assets								
Total other assets								
TOTAL ASSETS								

(Continued)

REMC ASSETS, LP AND SUBSIDIARIES

SUPPLEMENTAL CONSOLIDATING BALANCE SHEET

AS OF DECEMBER 31, 2022

in thousands	REMC ASSETS, LP	RAINBOW ENERGY CENTER, LLC (INCLUSIVE OF FALKIRK MINING COMPANY)	NEXUS LINE, LLC	RAINBOW ENERGY SOLUTIONS, LLC	RAINBOW DATA SOLUTIONS, LLC	REC LEASING, LLC	ELIMINATIONS	CONSOLIDATED REMC ASSETS, LP
LIABILITIES AND PARTNERS' EQUITY	[redacted]							
CURRENT LIABILITIES:								
Payables:								
Trade								
Intercompany								
Related parties								
Interest								
Derivative liabil ties								
Accrued expenses								
Partner distributions payable								
Current portion of long-term debt								
Asset retirement obligations								
Other current liabilities								
Total current liabilities								
LONG-TERM LIABILITIES:								
Derivative liabil ties								
Long-term debt								
Asset retirement obligations								
Deferred income taxes								
Long-term obligations from prior owner								
Other long-term obligations								
Total long-term liabilities								
Total liabil ties								
EQUITY:								
Partners' cap tal								
Noncontrolling interest								
Total equ ty								
TOTAL LIABILITIES AND EQUITY								

(Concluded)

REMC ASSETS, LP AND SUBSIDIARIES
SUPPLEMENTAL CONSOLIDATING STATEMENT OF OPERATIONS
FOR YEAR ENDED DECEMBER 31, 2022

in thousands	REMC ASSETS, LP	RAINBOW ENERGY CENTER, LLC (INCLUSIVE OF FALKIRK MINING COMPANY)	NEXUS LINE, LLC	RAINBOW ENERGY SOLUTIONS, LLC	RAINBOW DATA SOLUTIONS, LLC	REC LEASING, LLC	ELIMINATIONS	CONSOLIDATED REMC ASSETS, LP
REVENUE:	[redacted]							
Electricity								
Electricity and capacity derivative gains and losses								
Transmission								
Other revenue								
Total revenue								
OPERATING EXPENSES:								
Fuel								
Depreciation, amortization, and accretion								
Operations and maintenance								
Transmission								
General and administrative								
Total operating expenses								
OPERATING INCOME								
OTHER INCOME (EXPENSE):								
Bargain purchase gain								
Equity in earnings of subsidiaries								
Interest income								
Interest expense								
Other expense								
Total other income (expense)								
INCOME (LOSS) BEFORE TAXES								
PROVISION FOR INCOME TAXES								
NET INCOME (LOSS)								
LESS: NET LOSS ATTRIBUTED TO NONCONTROLLING INTEREST								
NET INCOME (LOSS) ATTRIBUTED TO REMC ASSETS, LP AND SUBSIDIARIES								

...NONPUBLIC DATA HAS BEEN EXCISED]

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

CERTIFICATE OF SERVICE

Alicia P. LaValla certifies that on the 3rd day of May 2023 she e-filed a true and correct copy of the following documents on behalf of Nexus Line, LLC via eDockets (www.edockets.state.mn.us):

1. Filing Letter – Request to Change Form of Financial Assurance Compliance Filing;
2. Attachment A Proposed Guaranty;
3. Attachment B Audited Financials;
4. Attachment B Audited Financials_NONPUBLIC; and
5. Certificate of Service.

Said documents were also served as designated on the Official Service List on file with the Minnesota Public Utilities Commission and as attached hereto.

Dated this 3rd day of May 2023

/s/ Alicia P. LaValla

Fredrikson & Byron, P.A.
200 South Sixth Street
Suite 4000
Minneapolis, MN 55402

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	200 S 6th St Ste 4000 Minneapolis, MN 554021425	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 St. Paul, MN 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 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_21-434_Official Service List
Lucas	Franco	lfranco@liunagroc.com	LIUNA	81 Little Canada Rd E Little Canada, MN 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 Saint Paul, Minnesota 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 Minneapolis, MN 55415-1291	Electronic Service	No	OFF_SL_21-434_Official Service List
Erik	Hatlestad	erik@cureriver.org	Cure River	117 1st St Montevideo, MN 56265	Electronic Service	No	OFF_SL_21-434_Official Service List
Kristin	Henry	kristin.henry@sierraclub.org	Sierra Club	2101 Webster St Ste 1300 Oakland, CA 94612	Electronic Service	No	OFF_SL_21-434_Official Service List
John	Ihle	ljihle@rrt.net	PlainStates Energy LLC	27451 S Hwy 34 Barnesville, MN 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	Lesher	dlesher@grenergy.com	Great River Energy	12300 Elm Creek Blvd Maple Grove, MN 55369	Electronic Service	Yes	OFF_SL_21-434_Official Service List
Ronald	Meier	rmeier@mcleodcoop.com	Mcleod Cooperative Power	3515 11th St East Glencoe, MN 55336	Electronic Service	No	OFF_SL_21-434_Official Service List
Peder	Mewis	pmewis@cleangridalliance.org	Clean Grid Alliance	570 Asbury St. St. Paul, MN 55104	Electronic Service	No	OFF_SL_21-434_Official Service List
Evan	Mulholland	emulholland@mncenter.org	Minnesota Center for Environmental Advocacy	1919 University Ave W Ste 515 Saint Paul, MN 55101	Electronic Service	No	OFF_SL_21-434_Official Service List
Duane	Ninneman	duane@cureriver.org	Clean Up the River Environment	117 South 1st St Montevideo, MN 56265	Electronic Service	No	OFF_SL_21-434_Official Service List
Carol A.	Overland	overland@legalectric.org	Legalectric - Overland Law Office	1110 West Avenue Red Wing, MN 55066	Electronic Service	No	OFF_SL_21-434_Official Service List
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_21-434_Official Service List
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-434_Official Service List
Beth	Soholt	bsoholt@cleangridalliance.org	Clean Grid Alliance	570 Asbury St Ste 201 Saint Paul, MN 55104	Electronic Service	No	OFF_SL_21-434_Official Service List
Cooper	Stewart	cooper@strongholdicf.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
Timothy	Sullivan	tsullivan@whe.org	Wright Hennepin Coop. Electric Assn.	6800 Electric Drive PO Box 330 Rockford, MN 55373	Electronic Service	No	OFF_SL_21-434_Official Service List
Sam	Villella	sdvillella@gmail.com		10534 Alamo Street NE Blaine, MN 55449	Electronic Service	No	OFF_SL_21-434_Official Service List