

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Cenex Pipeline, LLC
Amend Certificate #202 and Route Permit #212
Siting Application**

Case No. PU-20-399

**Cenex Pipeline, LLC
Amend Certificate #202 and Route Permit #212
Siting Application**

Case No. PU-20-448

ORDER

February 3, 2021

Preliminary Statement

On March 14, 2018, in Case No. PU-17-97, the Commission issued to Cenex Pipeline, LLC (Cenex), a Certificate of Corridor Compatibility No. 202 and a Route Permit No. 212 designating a corridor and a route for the construction, operation, and maintenance of 149.7 miles of 10-inch diameter pipeline for the transmission of refined petroleum products in Williams, Mountrail, and Ward Counties, North Dakota.

On September 26, 2018, in Case No. PU-17-97, the Commission issued to Cenex First Amended Certificate of Corridor Compatibility No. 202 and First Amended Route Permit No. 212 for two route changes in Williams County.

On September 15, 2020, Cenex filed with the Commission a consolidated application to amend the designated corridor and route location in Section 29, Township 155N, Range 89W, Mountrail County for approximately 742 feet of pipeline adjacent to and outside the designated corridor with the furthest offset distance being approximately 75 feet outside the designated corridor, Case No. PU-20-399.

On September 15, 2020, Cenex filed with the Commission a request to waive or reduce procedures and time schedules required by law or regulations.

On September 17, 2020, Commission Staff issued a Notice of Noncompliance notifying Cenex that it did not file with the Commission, certifications and supporting documentation required under NDCC 49-22.1-15 before conducting construction activities associated with the route adjustment.

On September 29, 2020, Cenex filed with the Commission a response to the Notice of Noncompliance.

On October 7, 2020, the Commission issued a Notice of Filing and Opportunity for Hearing providing until November 6, 2020, for comments and requests for hearing.

On November 6, 2020, the North Dakota Parks and Recreation Department (NDPRD) filed comments on the Application.

On November 10, 2020, the North Dakota Department of Environmental Quality (NDDEQ) filed comments on the Application.

On November 17, 2020, Cenex filed with the Commission a consolidated application to amend the designated corridor and route in Williams County, Township 156, Range 98, Sections 35-36 where a segment of the pipeline was constructed outside the designated corridor, Case No. PU-20-448.

On November 17, 2020, Cenex also filed with the Commission in Case No. PU-20-448, an application to amend the designated route where constructed pipeline segments deviated from the designated route by twenty-one (21) feet or more but within the designated 200-foot corridor at the following locations:

- Williams County, Township 155N, Range 102W, Section 3
- Williams County, Township 156N, Range 96W, Section 34
- Williams County, Township 155N, Range 96W, Section 12
- Mountrail County, Township 155N, Range 94W, Section 26
- Mountrail County, Township 155N, Range 92W, Section 31
- Mountrail County, Township 155N, Range 90W, Section 31
- Ward County, Township 154N, Range 87W, Section 6
- Ward County, Township 154N, Range 86W, Section 6
- Ward County, Township 154N, Range 86W, Section 14
- Ward County, Township 154N, Range 86W, Section 13, two locations
- Ward County, Township 154N, Range 85W, Section 18
- Ward County, Township 154N, Range 85W, Section 8
- Ward County, Township 154N, Range 85W, Section 10
- Ward County, Township 154N, Range 85W, Section 11
- Ward County, Township 154N, Range 84W, Section 5, two locations
- Ward County, Township 155N, Range 84W, Section 35, two locations
- Ward County, Township 155N, Range 83W, Section 29

On November 17, 2020, Cenex filed with the Commission a request to waive or reduce procedures requiring a hearing in Case No. PU-20-448 and instead proceed by virtue of a notice and opportunity for hearing procedure.

On December 16, 2020, the Commission issued a Notice of Filing and Opportunity for Hearing in Case No. PU-20-448 providing until January 15, 2021, for comments and requests for hearing.

The Notice Filing and Opportunity for Hearing in Case No. PU-20-399 and the Notice Filing and Opportunity for Hearing in Case No. PU-20-448 (Notices) identified the

issues to be considered in the application for waiver of procedures and time schedules are:

1. Are the proposed facilities of such length, design, location, or purpose that they will produce minimal adverse effects and that adherence to applicable procedures and time schedules may be waived?
2. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?

The Notices identified the issues to be considered in the consolidated application for an amended certificate of corridor compatibility and an amended route permit are:

1. Will the location and operation of the proposed facility produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Is the proposed facility compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed facility location minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

The Notices stated that, if deemed appropriate, the Commission may determine the matter without a hearing.

On January 4, 2021, Cenex filed a response to the comments of the North Dakota Parks & Recreation Department and the North Dakota Department of Environmental Quality in Case No. PU-20-399.

No requests for hearing were received.

Discussion

Cenex requests that the Commission amend First Amended Certificate of Corridor Compatibility No. 202 and First Amended Route Permit No. 212 for the route changes enumerated in the Preliminary Statement above.

Cenex's January 4, 2021, response points out all of the NDDEQ's comments are addressed in Cenex's Construction and Environmental Program or Cenex's Storm Water Pollution Prevention Plan that were included in its application in Case No. PU-17-97. A Notice of Intent to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges associated with construction activity was filed with the NDDOH April 11, 2019.

Cenex's January 4, 2021, response points out that the comments of the North Dakota Parks and Recreation Department (NDPRD) are consistent with the NDPRD comments filed for the project in Case No. PU-17-97.

Cenex indicates that no exclusion or avoidance areas were crossed by the route changes nor are any exclusion or avoidance areas located within the amended corridor locations. Impacts to Shell Creek and the surrounding wetland were avoided using horizontal directional drilling and the route adjustment there was installed at depths greater than 65 feet below the Shell Creek bed.

Having considered this matter, the Commission finds the corridor designated by First Amended Certificate of Corridor Compatibility No. 202 and the route designated by First Amended Route Permit No. 212 issued on September 26, 2018, in Case No. PU-17-97 should be amended.

Therefore, the Commission makes the following:

The location, construction, and operation of the facilities will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

The facilities are compatible with the environmental preservation and the efficient use of resources.

The facility locations minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.

The project is of such design, location, and purpose that it will produce minimal adverse effects.

It is appropriate for the Commission to waive any procedures and time schedules as requested in the application.

Having considered this matter, the Commission issues the following:

Order

The Commission Orders:

1. Cenex Pipeline, LLC's request to amend First Amended Certificate of Corridor Compatibility No. 202 and First Amended Route Permit No. 212 issued on September 26, 2018, in Case No. PU-17-97 is granted.
2. Second Amended Certificate of Corridor Compatibility Number 202 is issued to Cenex Pipeline, LLC.

3. Second Amended Route Permit Number 212 is issued to Cenex Pipeline, LLC.

4. All applicable provisions and requirements in the Commission's March 14, 2018 Findings of Fact, Conclusions of Law and Order in Case No. PU-17-97 and the Commission's September 26, 2018 Order on Amended Certificate of Corridor Compatibility and Route Permit continue to apply except where altered by this Order.

PUBLIC SERVICE COMMISSION



Randy Christmann
Commissioner



Julie Fedorchak
Chair



Brian Kroshus
Commissioner

**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

**Second Amended
Certificate of Corridor Compatibility Number 202**

This is to certify that the Commission has designated a transmission facility corridor for Cenex Pipeline, LLC for the construction, operation, and maintenance of approximately 149.7 miles of 10-inch inside diameter pipeline and associated facilities in Williams, Mountrail, and Ward Counties, North Dakota, for the transportation of refined petroleum products.

This Certificate is issued in accordance with the Commission's March 14, 2018 Findings of Fact, Conclusions of Law and Order in Case No. PU-17-97, amended by the Commission's September 26, 2018 Order in Case No. PU-17-97, and amended by the Commission's February 3, 2021 Order in Case No. PU-20-399 and Case No. PU-20-448 and is subject to the conditions and limitations noted in those Orders.

Bismarck, North Dakota, February 3, 2021.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA

Second Amended
Route Permit Number 212

This is to certify that the Commission has designated a transmission facility route for Cenex Pipeline, LLC for the construction, operation, and maintenance of approximately 149.7 miles of 10-inch inside diameter pipeline and associated facilities in Williams, Mountrail, and Ward Counties, North Dakota, for the transportation of refined petroleum products.

This Permit is issued in accordance with the Commission's March 14, 2018 Findings of Fact, Conclusions of Law and Order in Case No. PU-17-97, amended by the Commission's September 26, 2018 Order in Case No. PU-17-97, and amended by the Commission's February 3, 2021 Order in Case No. PU-20-399 and Case No. PU-20-448 and is subject to the conditions and limitations noted in those Orders.

Bismarck, North Dakota, February 3, 2021.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner