

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**



**Nodak Electric Cooperative, Inc.  
vs. Otter Tail Power Company.  
Complaint**

**Case No. PU-20-356  
OAH File No. 20200327**

**ORDER ON PETITION TO INTERVENE**

On December 3, 2020, Charles Olson, Mayor, Drayton, North Dakota submitted a Petition to Intervene. Nodak Electric Cooperative, Inc. (“Nodak”) and Otter Tail Power Company (“Otter Tail”) are in a dispute over the extension of service by Otter Tail to an area recently annexed into the corporate limits of the City of Drayton. The City of Drayton has a franchise agreement with Otter Tail and not with Nodak.

North Dakota Century Code § 28-32-28 addresses intervention in adjudicative proceedings and provides as follows:

An administrative agency may grant intervention in an adjudicative proceeding to promote the interests of justice if intervention will not impair the orderly and prompt conduct of the proceeding and if the petitioning intervenor demonstrates that the petitioner’s legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of statute or rule. The agency may impose conditions and limitations upon intervention. The agency shall give reasonable notice of the intervention to all parties. An administrative agency may adopt rules relating to intervention in an adjudicative proceeding.

The North Dakota Public Service Commission (“Commission”) has adopted its own rules relating to intervention. The Commission’s rule on intervention provides in part:

Any person with a substantial interest in a proceeding may petition to intervene in that proceeding by complying with this section. An intervention may be granted if the petitioner has a statutory right to be a party to the proceeding; or the petitioner has a legal interest which may be substantially affected by the proceeding, and the intervention would not unduly broaden the issues or delay the proceeding. The commission may impose conditions and limitations on an intervention to promote the interests of justice.

...

Contents of petition to intervene. A petition to intervene must be in writing and must set forth the grounds for intervention, the position and interest of the petitioner in the proceeding, what the petitioner would contribute to the hearing, and whether the petitioner's position is in support of or in opposition to the relief sought.

N.D. Admin. Code § 69-02-02-05.

The Petition sets forth clear grounds for intervention. This proceeding relates to the legal rights of City of Drayton as to franchise authority and will substantially affect the City of Drayton. The participation of the City of Drayton would not unduly delay the proceedings nor prejudice the rights of other parties. The parties to this proceeding do not object to the intervention.

The Petitioner has presented sufficient information to satisfy the statutory intervention requirements set forth in N.D.C.C. § 28-32-28 and N.D. Admin. Code 69-02-02-05.

Having considered the written submission of the Petitioner, it is hereby ORDERED that the Petition to Intervene of the City of Drayton in PSC Case No. PU-20-356 is **GRANTED**.

Dated at Bismarck, North Dakota, this 10<sup>th</sup> day of December 2020.

State of North Dakota  
Public Service Commission



By: \_\_\_\_\_

Timothy J. Dawson  
Administrative Law Judge  
Office of Administrative Hearings  
2911 North 14<sup>th</sup> Street – Suite 303  
Bismarck, North Dakota 58503  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the **ORDER ON PETITION TO INTERVENE** was mailed, inside mail, at the State Capitol, on the 10 day of December 2020, to:

John Hamre  
Public Service Commission  
600 East Boulevard Avenue  
Bismarck, ND 58505-0480

and that true and correct copies of the above document were mailed, regular mail, on the 10 day of December 2020, to:

Paul Sanderson  
Evenson Sanderson, PC  
1100 College Drive - Suite 5  
Bismarck, ND 58501

Kimberly Radermacher  
Radermacher Law Office  
P O Box 597  
LaMoure, ND 58458

Charles Olson  
City of Drayton  
122 South Main Street  
Drayton, ND 58225

and that true and correct copies of the above documents was mailed, inside mail, at the State Capitol on the 10 day of December 2020, to:

Brian Johnson  
Public Service Commission  
600 East Boulevard Avenue  
Bismarck, ND 58505

John Schuh  
Public Service Commission  
600 East Boulevard Avenue  
Bismarck, ND 58505

OFFICE OF ADMINISTRATIVE HEARINGS  
Timothy J. Dawson, Administrative Law Judge

  
\_\_\_\_\_  
Louise Wetzel