

APH FARMS, et al.,

Appellants,

v.

NORTH DAKOTA PUBLIC SERVICE
COMMISSION, et al,

Respondents/Appellants.

**APPELLANTS' BRIEF IN
RESPONSE TO MARCH 16,
2026 ORDER REGARDING
ORAL ARGUMENT**

Case No. 08-2024-CV-03622

COMES NOW Appellants, by and through their counsel of record KNOLL LEIBEL LLP (Steven Leibel), and respectfully responds to the Court's March 16, 2026 order requesting supplemental briefing regarding oral argument.

1. Appellants contend oral argument should be granted for three reasons. First, the record in this case, which contains both the procedural history before the Public Service Commission and the evidence admitted during the various Commission hearings, is voluminous. Oral argument will provide the Court an opportunity to ask questions about various factual or procedural issues in the record as the matters are being discussed, as it will be a challenge for the Court and its staff to independently locate procedural occurrences or specific factual information. Second, this case presents some novel issues of first impression that will shape both current and future

administrative proceedings. Argument between attorneys can help expose the tensions between respective interpretations of the applicable law. Finally, this appeal presents hotly contested issues that have generated substantial press coverage and passionate public interest. Appellants respectfully state there is an inherent value in providing an open courtroom to North Dakotans to observe a legal debate regarding the issues that they hold dear.

2. The undersigned understands that there are two appellants that intend to participate in oral argument (the Landowner Appellants and Burleigh County) and two appellees (Summit and the Public Service Commission) participating in oral argument. Appellants agree with the Burleigh County regarding available time (2 hours per side) and its allocation (one hour per party unless otherwise agreed).

Dated this 25th day of March, 2026.

Respectfully submitted,

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