

STATE OF NORTH DAKOTA

DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

Wano Township, Willowbank
Township, Russell Township, Corwin
Township, Valley Township, Mike
and Patty Bartel, Richard and Susan
R. Long, Steven and Julia Nelson,
Phyllis P. Otterness and Patricia A.
Vick, Brandon and Tausha
Schweigert, Shockman Farm
Partnership, LLLP, Debra Sue
Wald, Lucas and Jill Wald, Tim
Leppert, Orr Farms, Steve M. and
Sandra J. Rupp, David A. and
Denette M. Schweigert, Allen D. and
Inna N. Swiontek, David and Holly
Wald, Weston Wald, and Willowbank
Hutterian Brethren Association,

Appellants,

v.

North Dakota Public Service
Commission, Otter Tail Power
Company, and Montana-Dakota
Utilities Co.,

Appellees.

**NOTICE OF APPEAL AND
SPECIFICATIONS OF ERROR**

Case No. 08-2025-CV-02068

**TO: NORTH DAKOTA PUBLIC SERVICE COMMISSION; NORTH
DAKOTA ATTORNEY GENERAL DREW WRIGLEY; OTTER
TAIL POWER COMPANY; AND MONTANA-DAKOTA UTILITIES
CO.**

PLEASE TAKE NOTICE that Appellants/Petitioners hereby appeal under N.D.C.C. §§ 28-32-42 and 28-32-46, from the final Order of the North Dakota Public Service Commission issued on June 18, 2025, in Case No. PU-24-91. That Order denied Petitioners' requests to:

1. Intervene in the above-referenced proceeding; and
2. Rescind the Commission's Order dated November 20, 2024, granting a Certificate of Public Convenience and Necessity to Otter Tail Power Company and Montana-Dakota Utilities Co.

This appeal is taken pursuant to N.D.C.C. § 28-32-42(1), which provides that “[i]f a reconsideration has been requested as provided in section 28-32-40, the party may appeal within thirty days after notice of the final determination upon reconsideration has been given as required by sections 28-32-39 and 28-32-40.” Petitioners’ amended petition sought reconsideration and reopening under N.D. Admin. Code § 69-02-06-01, invoking the Commission’s continuing jurisdiction under N.D.C.C. § 28-32-40(5) and its ongoing authority under §§ 28-32-39 and 28-32-40(5). The Commission’s June 18 denial constitutes the final determination on that request. Accordingly, this appeal is timely and properly before the Court.

Petitioners seek judicial review and reversal of the Order on the grounds that:

- The Commission lacked jurisdiction to approve the proposed 345kV transmission line under N.D.C.C. ch. 49-03, as such facilities are subject to exclusive siting and permitting requirements under N.D.C.C. ch. 49-22;
- The Commission failed to require a formal siting application, public notice, environmental review, alternatives analysis, or reasoned findings of fact, as mandated by statute;
- The November 20, 2024 Order does not constitute a final, reviewable agency action under N.D.C.C. § 28-32-39(1)–(2), as it lacks the findings, conclusions, and legal analysis required by law;
- The Commission erred in denying Petitioners’ motion to intervene, despite the fact that Petitioners include directly affected landowners, townships with zoning authority, and North Dakota ratepayers whose legal rights and financial interests are substantially impacted by the proposed transmission line;
- The Applicants submitted no competent evidence demonstrating a genuine public necessity for the proposed transmission line under N.D.C.C. ch. 49-03. The Commission's November 20, 2024 Order contains no findings or analysis of public need, and the record shows that the project is primarily designed to serve private wind generation interests and out-of-state markets. As a result, the issuance of a Certificate of Public Convenience and Necessity was legally unsupported and materially misleading;
- The Commission’s conduct and procedures violated Petitioners’ procedural and substantive due process rights under Article I, Sections 9 and 12 of the North Dakota Constitution, as well as the Fourteenth Amendment to the United States Constitution.

Petitioners respectfully request that the Court declare the Commission’s November 20, 2024 Order, null and void, reverse the June 18, 2025 Order denying the petition, and remand with instructions that the

Commission vacate the November 20, 2024 Order and all related actions taken under PSC Case No. PU-24-91, including the grant of a Certificate of Public Convenience and Necessity. Any future proceedings concerning the proposed transmission line must comply with the statutory framework applicable to high-voltage transmission facilities under North Dakota law.

The June 18, 2025 Order referenced above is attached as Exhibit 1, and the underlying November 20, 2024 Order is attached as Exhibit 2.

Dated: July 15, 2025

Respectfully submitted,

By: /s/ Douglas J. Nill

Douglas J. Nill (ND # P00392)

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