

STATE OF NORTH DAKOTA

DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

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

Case No. 08-2025-CV-02068

Appellants,

v.

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

Appellees.

**MOTION FOR LEAVE TO FILE RESPONSE TO
APPELLEES' SUR-REPLY**

Appellants respectfully move for leave to file the attached [Proposed] Response to Appellees' Sur-Reply filed September 3, 2025. *See* N.D.R.Ct. 3.2 (additional briefing is within the Court's discretion, particularly where new arguments are raised in reply).

Grounds: The Sur-Reply introduces new points regarding (i) whether a ch. 49-03 CPCN may predetermine or constrain a ch. 49-22 siting record, (ii) the significance of *Nebraska Public Power*, and (iii) the scope of the stay and appropriate preservation terms. The proposed Response (four pages) addresses those points, clarifies the statutory framework, and confirms that Appellants' primary request is a stay of PSC proceedings under ch. 49-22; in the alternative, it proposes narrowly tailored terms to preserve a neutral 49-22 record and meaningful appellate review. Allowing the filing will assist the Court in resolving the pending stay motion at the September 8 hearing.

Dated: September 5, 2025

Respectfully submitted,

By: /s/ Douglas J. Nill
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