

Thompson, Pamela J.

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Filing Accepted

Envelope Number: 6287298

Case Number: 08-2025-CV-02068

Case Style: Wano Township, et al. vs. North Dakota Public Service Commission, et al.



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Filing Details	
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Case Style	Wano Township, et al. vs. North Dakota Public Service Commission, et al.
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Filing Attorney	Brian Johnson

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June 6, 2025

Via Electronic Mail & Hand Delivery

Mr. Steve Kahl
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480
ndpsc@nd.gov

In re: Otter Tail Power Company/Montana-Dakota Utilities Co.
345kV Transmission Line – Jamestown to Ellendale
Public Convenience & Necessity
Case No. PU-24-091
Our File No. 072879-000001

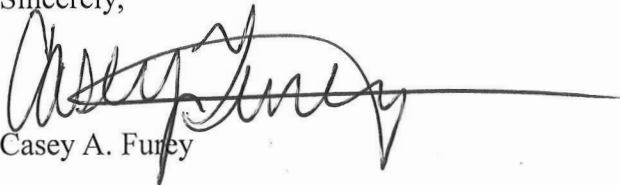
Dear Mr. Kahl:

On behalf of Otter Tail Power Company and Montana-Dakota Utilities Co., enclosed for filing in the above-referenced matter please find the following:

1. Notice of Appearance;
2. Otter Tail Power Company and Montana-Dakota Utilities Co.'s Response in Opposition to Amended Petition to Intervene, Rescind, and Reopen; and
3. Certificate of Service.

Please feel free to contact me if you have any questions. Thank you.

Sincerely,


Casey A. Furey

CAF/lh
Enc.

cc: Brian Johnson	(via email)	Matthew Olsen	(via email)
Erik Edison	(via email)	Robert M. Endris	(via email)
Steven J. Leibel	(via email)	Travis R. Jacobson	(via email)
Douglas J. Nill	(via email)	Allison Waldon	(via email)

BEFORE THE STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Otter Tail Power Company/Montana-Dakota Utilities Co.
345kV Transmission Line – Jamestown to Ellendale
Public Convenience & Necessity

Case No. PU-24-091

NOTICE OF APPEARANCE

[¶1] Notice is hereby given that Casey A. Furey and Erik J. Edison, Crowley Fleck PLLP, will be appearing in the above-entitled matter on behalf of Otter Tail Power Company and Montana-Dakota Utilities Co. All correspondence, notices, pleadings, and other material relevant to this matter should be served upon the undersigned.

Dated this 6th day of June, 2025.

By: _____


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STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Otter Tail Power Company/Montana-Dakota Utilities Co.
345kV Transmission Line – Jamestown to Ellendale
Public Convenience & Necessity**

Case No. PU-24-091

**OTTER TAIL POWER COMPANY AND MONTANA-DAKOTA UTILITIES CO.’S
RESPONSE IN OPPOSITION TO AMENDED PETITION TO INTERVENE,
RESCIND, AND REOPEN**

I. INTRODUCTION

Otter Tail Power Company (“Otter Tail”) and Montana-Dakota Utilities Co. (“Montana-Dakota”) submit this Response in Opposition to Petitioners’¹ Amended Petition to Intervene, Rescind, and Reopen (the “Petition”) the Commission’s November 20, 2024 Order (“Order”) in this proceeding. The Petition is untimely and fails to identify any facts that justify the relief sought. As such, the Petition should be denied. The Petitioners admit actual notice of the proceeding and failed to timely intervene. The Order concluded a proceeding that allowed for open access for interested parties, consideration of relevant evidence, and followed the statutory framework established by the legislative assembly and the North Dakota Public Service Commission’s (the “Commission”) regulations. The Petition fails to meet the basic requirements under the Commission’s rules for intervention, let alone reopening, and warrants denial.

II. BACKGROUND

On February 29, 2024, Otter Tail and Montana-Dakota filed a Joint Application for Certificate of Public Convenience and Necessity (“CPCN”) for a 345-kV transmission line from Jamestown, North Dakota to Ellendale, North Dakota (the “Project”). Dkt. 1.

On March 27, 2024, the Commission issued a Notice of Opportunity for Hearing (“Notice”) on the CPCN Application. The Notice identified the two issues to be considered in the proceeding: “1. Whether public convenience and necessity will be served by construction and operation of the facilities [and] 2. Are OTP/MDU technically, financially, and managerially fit and able to provide the service?” The Notice directed any comments and requests for hearings to be received by May 10, 2024 and expressly stated:

¹ The “Petitioners” referred to herein are a group of landowners from LaMoure County, Townships (located in Dickey, LaMoure, and Stutsman Counties), and other individuals and entities from Dickey, LaMoure, and Stutsman Counties. *See* Petition at p. 8.

Those interested are invited to comment on the application in writing. Persons desiring a hearing must file a written request identifying their interest in the proceeding and the reasons for requesting a hearing. **Comments and requests for hearings must be received by May 10, 2024.** If deemed appropriate, the Commission can determine the matter without a formal hearing.

Notice, Dkt. 4. In early April, 2024, the Notice was published in fourteen local newspapers. Dkt. No. 12.

On July 8, 2024, the Commission held an informal hearing on the CPCN Application. *See* Dkt. No. 14.

On August 19, 2024, the Commission held a work session in the proceeding. *See* Dkt. No. 16.

On October 14, 2024, Midcontinent Independent System Operator, Inc. (“MISO”) submitted comments to the Commission addressing the JETx Project, MISO’s long range planning and Tranche 1 Transmission Expansion plan. Dkt. No. 19.

On October 17, 2024, the Commission held a second work session in the proceeding. *See* Dkt. No. 21.

On November 20, 2024, the Commission issued the Order approving the CPCN Application. Dkt. No. 23.

On May 21, 2025, the Petitioners filed the Petition with the Commission. Dkt. No. 28.

On May 27, 2025, the Petitioners filed their Amended Petition. Dkt. No. 29.

The CPCN proceeding spanned approximately nine months from the time of application filing to the Order’s issuance. Now, six months after the Commission approved the CPCN Application in this matter, Petitioners attempt to intervene in the proceeding to reopen the proceeding and for the Commission to reconsider the issuance of the CPCN. The Petition should be denied because it is both untimely and fails to state any appropriate basis for the Commission to grant the relief Petitioners seek. As such, the Petition fails as a matter of law and Petitioners are not entitled to the relief sought.

III. DISCUSSION

As shown below, the Petition is untimely and fails to establish any good cause that would justify intervention after an order has already been issued. As a result of their failure to timely intervene or participate in the CPCN proceeding, Petitioners lack standing to reopen, rescind, or restart this proceeding. Even if they had standing to seek reopening of this proceeding, Petitioners fail to identify any compelling reason for doing so.

Petitioners' collateral attack on the Commission's Order appears to arise out of a misunderstanding of the CPCN proceeding process. Petitioners further fail to identify any deficiencies with the Order that would call its finality into question. Similarly, Petitioners' due process claims fail to identify any procedural defects that result in a lack of due process. In reality, Petitioners had notice of the CPCN proceeding but failed to intervene or otherwise participate in the time allowed by statute or rule. Finally, Petitioners end their lengthy brief with a laundry list of unsupported allegations. These allegations are either unrelated to factors to be considered in CPCN proceedings or fail to support the relief sought. Ultimately, Petitioners fail to establish any appropriate grounds that justify the Commission granting the relief sought by Petitioners. As such, the Petition should be denied in its entirety.

A. The Petition is Untimely, and no Good Cause Exists to Allow Late Intervention.

The Petitioners have failed to timely petition to intervene under the Commission's intervention rules and their Petition should be denied. North Dakota Administrative Code § 69-02-02-05 requires that "[a] petition to intervene in any proceeding must be filed at least ten days prior to the hearing, but not after except for good cause shown." N.D. Admin. Code § 69-02-02-05(2). As set forth above, the Notice period ran until May 10, 2024, and the Commission subsequently held an informal hearing on July 8, 2024. Petitioners seek to intervene over a full year from the running of the notice, nearly a full year after the Commission's July 2024 informal hearing, and six months after the final Order was issued in the proceeding.

It is undisputed that the Petitioners have failed to meet the explicit deadline provided in N.D. Admin. Code § 69-02-02-05. As such, the only way for Petitioners to escape the explicit deadline to seek intervention stated in N.D. Admin. Code. § 69-02-02-05 is to show good cause "as to why a petitioning intervenor should be allowed to intervene late under the circumstances." *Minn-Kota Ag Prods., Inc. v. N. Dakota Pub. Serv. Comm'n*, 2020 ND 12, ¶ 42, 938 N.W.2d 118.

Instead of addressing the good cause standard, Petitioners make an unsupported conclusion that the *Minn-Kota Ag* case supports their intervention; however, the Petition lacks any application of the *Minn-Kota Ag* court's analysis, or any statement as to why good cause exists to allow Petitioners to intervene after an order has been issued. The *Minn-Kota Ag* case provides important discussion of the public policy that favors broad participation in America's judicial and administrative processes. The *Minn-Kota Ag* opinion addresses intervention in administrative proceedings, and aptly illustrates the balancing of reasonable boundaries necessary for the efficient administration of justice. In that recent case, an interested person petitioned to intervene more than 100 days beyond the deadline (but pre-judgment), seeking standing to overturn the Commission's denial of a CPCN. *Id.* at ¶ 45. The ALJ's denial of party status in the administrative proceeding was upheld on appeal at both the District Court and the North Dakota Supreme Court. *Id.* at ¶¶46–47. In its decision, the *Minn-Kota* court noted that "[t]he most important consideration in deciding whether [to grant late intervention is] 'prejudice [to] the existing parties to the case' and '[i]f prejudice is found, the motion will be denied as untimely.'" *Id.* at ¶ 41 (quoting *Brigham Oil & Gas, L.P. v. Lario Oil & Gas Co.*, 2011 ND 154, ¶ 40, 801 N.W.2d 677).

The Petition should be denied because it is untimely, no good cause exists to support intervention, and because Otter Tail and Montana-Dakota will be prejudiced by allowing Petitioners to intervene in this proceeding after the CPCN has already been granted. As the court stated in *Minn-Kota Ag*, “even though liberally granted, post-judgment intervention is ‘unusual and not often granted.’” *Id.*; see also *Energy Transfer LP v. N. Dakota Priv. Investigative & Sec. Bd.*, 2022 ND 85, ¶ 16, 973 N.W.2d 394. The court went on to state that prejudice to the existing parties is the “most important consideration.” *Id.* The Administrative Practices Act and the Commission’s intervention rules further provide that intervention should not “impair the orderly and prompt conduct of the proceeding” nor should it “unduly broaden the issues or delay the proceeding.” N.D.C.C. § 28-32-28; N.D. Admin. Code § 69-02-02-05. The Petitioners stated their goals are to reopen, rescind, and restart the JETx CPCN process. Here, the Commission has already issued a final order and the prejudice to Applicants is obvious and substantial. Specifically, restarting the CPCN proceeding would necessarily result in additional costs to Applicants and significant delays to the Project.

Second, the CPCN process supports public policy favoring the orderly administration of proceedings before the Commission including determining the need for electric infrastructure. *Eckre v. Public Serv. Comm’n*, 247 N.W.2d 656, 664 (N.D. 1976) (vacating district court grant of a writ of mandamus to rescind and restart a CPCN proceeding). The notice period and the Commission’s action alternatives were set by the legislative assembly.² The purpose of issuing public notices is so that those interested can timely elect whether to participate in the process and not create undue delay so that all manner of utility infrastructure projects can move forward. The Petitioners acknowledge proper notice was made and that Petitioners chose not to intervene. The late intervention analysis could conclude with this fact alone.

Third, granting this untimely Petition to Intervene would set precedent in negating the Commission’s process for rendering need determinations not only for major infrastructure undertakings like the JETx Project, but also for customers needing new electric service in rural areas. For example, the same CPCN statute applies to extension of electric lines for retail service by public utilities. If the Commission were to adopt Petitioners’ argument that the CPCN Order is not final because of its form, then hundreds of landowners might be unpleasantly surprised to learn that their right to receive electric service is rescindable every time a new interested person requests a “do-over” of past decisions. The Commission should deny the Petition to Intervene.

B. The Motion to Reopen, Rescind, and Restart This Proceeding is Contrary to Law and Should Be Denied.

The Commission should deny the untimely Petition to Intervene for the reasons noted above. Doing so renders the remaining allegations in Petitioners’ Motion to Reopen, Rescind, and

² N.D.C.C. § 49-03-02(2). “Notwithstanding any other provision of this section, the commission may grant a certificate if an interested party, including any local electric cooperative, has not requested a hearing on an application after receiving at least twenty days’ notice of opportunity to request such hearing.”

Restart the CPCN proceeding moot as Petitioners lack legal standing to challenge the Commission's Order. As discussed below, party standing is a requisite for the requested relief.

Reopening is governed under Commission rule under N.D. Admin. Code § 69-02-06-01. "At any time after the conclusion of a hearing, but before the final order is issued or a rule is adopted, any party may file a petition to reopen the proceeding for the purpose of taking additional evidence." *Id.* Reopening is limited to *parties*, and the Petitioners are not a party to this case. Further, the deadline to petition for reopening is "before the final order is issued." As such, the deadline passed on November 20, 2024, when the Order was issued. Petitioners have no legal basis to support their reopening request.

Here, Petitioners request a "re-do" of a proceeding in which they were not a party and did not participate. Therefore, the Petition amounts to a veiled attempt to untimely challenge the merits of the Commission's decision under the guise of requesting intervention and requesting that the record be reopened. "[T]he *Bank of Rhame* test is used [] to assess a movant's standing to appeal the merits of an agency's decision. *Energy Transfer LP v. N. Dakota Priv. Investigative & Sec. Bd.*, 2022 ND 85, ¶ 10. In *Bank of Rhame*, the North Dakota Supreme Court stated, "any person who is directly interested in the proceedings before an administrative agency who may be factually aggrieved by the decision of the agency, and who participates in the proceeding before such agency" is a party and has standing to appeal from the decision of the agency. *Bank of Rhame*, 231 N.W.2d 801, 808 (N.D. 1975); *see also Energy Transfer LP* at ¶ 8. Petitioners did not participate in this matter prior to the Commission's Order being issued. Therefore, even if Petitioners had timely filed an appeal of the Commission's decision, under the *Bank of Rhame* test Petitioners lack standing to appeal the Commission's decision.

Likewise, even if they were a party to this proceeding, the timeframe for Petitioners to file a petition for reconsideration has long lapsed. Commission rule states a petition for reconsideration must be filed within fifteen days after notice of the Commission's decision. N.D. Admin. Code § 69-02-06-02. As discussed below, even if the Commission determines that the Petitioners have standing to file a petition to reopen, it should find that the assertions are meritless and therefore do not support the requested relief.

C. Petitioners' Collateral Attack of the Commission's Order is Unavailing.

Perhaps recognizing that their Petition is time-barred under statute and administrative code, Petitioners turn their attack to the Commission's findings. Specifically, Petitioners assert the Commission's Order is not final and therefore subject to challenge. This argument is without merit. Petitioners offer no legal authority to support their contention that a lack of lengthy findings of fact and conclusions of law renders the Commission's CPCN Order not final. Petitioners' attack on the Commission's holding appears to stem from their apparent confusion regarding the issues to be considered in a CPCN proceeding. Specifically, Petitioners state:

Importantly, the Commission's November 20 Order appears to have been issued solely under Chapter 49-03, which governs Certificates of Public Convenience and Necessity. At present, the record contains no indication that the Commission has

initiated the siting procedures required under Chapter 49-22 of the North Dakota Century Code.

Petition at p. 5.

The above statement, while mostly correct, highlights Petitioners' fundamental misunderstanding of the applicable statutory framework and differences between the CPCN process through N.D.C.C. ch. 49-03, and the siting of energy infrastructure through N.D.C.C. ch. 49-22. North Dakota Century Code Chapter 49-22 (the "Siting Act") governs the siting of jurisdictional electric transmission facilities and is triggered by an Application, not *sua sponte* by the Commission. The notice provisions and factors for consideration of a siting application under the Siting Act are not applicable to CPCN proceedings. In fact, the entire statutory framework under the Siting Act and the Commission's rules adopted pursuant to the Siting Act are not applicable to CPCN proceedings.

Contrary to what Petitioners mistakenly suggest, this is not a siting proceeding under N.D.C.C. ch. 49-22. It is a CPCN proceeding. The prerequisites to issuance of a certificate of public convenience and necessity are set forth at N.D.C.C. § 49-03-02. Consistent with the CPCN process, the Commission correctly described the issues to be considered in this proceeding as, "(1) Whether public convenience and necessity will be served by construction and operation of the facilities; [and] (2) Are OTP/MDU technically, financially, and managerially fit and able to provide the service?" See Dkt. Nos. 4, 23. The Commission properly processed the need determination through the CPCN process, while the siting proceeding has yet to commence.

Contrary to the Petitioners' assertions, the Commission made appropriate findings of fact and conclusions of law. See Dkt. No. 23. The Commission's "Discussion" section of the Order sets forth the factual basis for its order and concludes that "public convenience and necessity will be served by the construction and operation of the facilities and that OTP and MDU are technically, financially, and managerially fit to be able to provide the service." *Id.* No further findings or conclusions are required from the Commission in a CPCN proceeding. Petitioners' attack on the Commission's Order as lacking sufficient findings and conclusions appears to be based on a failure to distinguish the CPCN and siting processes. Petitioners' attack on the finality of the Commission's Order is without merit.

Generally, "[a]n administrative agency's findings of fact must be adequate for a reviewing court to understand the factual basis upon which the agency reached its conclusion." *Aggie Invs. GP v. Pub. Serv. Comm'n of N. Dakota*, 470 N.W.2d 805, 813 (N.D. 1991); see also *Matter of Boschee*, 347 N.W.2d 331, 337 (N.D. 1984)(stating, "[a]lthough the Commission's findings and conclusions in this case are not artfully drawn, we are able to understand the basis of the agency's decision"). Even when an agency's findings leave "much to be desired", courts will accept "them when they are not so vague and obscure as to make judicial review perfunctory." *Matter of Boschee*, 347 N.W.2d at 336 (quoting *Colorado Interstate Gas Co. v. Federal P. Com.*, 324 U.S. 581, 595, 65 S.Ct. 829, 835, 89 L.Ed. 1206, 1219 (1945)). As to when an agency order is considered final, the court will generally "consider an administrative agency decision to be final if it 'terminate[s] the issue,' leaving the agency with 'nothing more to decide.'" *Henry v. Sec. Com'r for State*, 2003 ND 62, ¶ 7, 659 N.W.2d 869, 871 (quoting *Ash v. Traynor*, 2000 ND 75, ¶ 3, 609

N.W.2d 96). The Commission’s own regulations provide that in “all collateral actions or proceedings, the orders and decisions of the Commission which have become final shall be conclusive.” N.D.C.C. § 49-05-08.

Here, the Commission’s findings are consistent with the CPCN standard and sufficient to allow a court to understand the basis for the Commission’s decision. Upon the issuance of the CPCN to Otter Tail and Montana-Dakota, there was nothing more for the Commission to decide. Therefore, the Commission’s Order was a final, appealable order. The Petitioners’ failure to timely appeal the decision is not an appropriate reason to reopen the CPCN proceeding.

D. The Petitioners Were Afforded Due Process.

Petitioners’ due process claims related to the Commission’s findings and conclusions in the Order are addressed above. Petitioners’ remaining due process claims are unsupported. As noted above, Petitioners admit the Commission provided notice and opportunity for hearing as required by North Dakota law. Petition at pp. 14–15. The Petition fails to point to any procedural deficiencies with the Notice or CPCN proceeding and instead say that they “did not recognize the Notice as pertaining to a major electric transmission line.” Petition at p. 14. The pleading does not, however, explain why the description “345-kV Transmission Line in Stutsman, LaMoure, and Dickey Counties” was insufficient to provide notice of the Project. Additionally, the Petition fails to acknowledge that Applicants held several broadly noticed public “open houses” during the past two years and had met with a number of local government administrators, including township members of the Petitioners, to raise awareness of the project and to solicit input from members of local communities. *See, for example*, Audio Recording of July 8 Informal Hearing at 21:11, Dkt. No. 14 (testimony that outreach to landowners began at least as early as August 2023) and Informal Hearing Presentation, Dkt. No. 17 at p. 11 (showing that outreach via public meetings began in the first half of 2023).

Furthermore, the Petition appears to center on the statutory elements found in the Siting Act, which proceeding has not yet commenced, rather than the CPCN statute which properly concluded last year. The Petitioners have not been denied due process to participate on those issues. Petitioners wrongly look to the concluded regulatory process to address issues that have yet to come before the Commission.

The North Dakota Supreme Court has previously held that landowners within a project corridor “are limited to the type of hearing and determination afforded by statute.” *See Eckre v. Pub. Serv. Comm’n*, 247 N.W.2d 656, 665 (N.D. 1976). Here, the Petitioners fail to identify any deficiencies with the Notice or the CPCN procedure. Simply put, Petitioners could have timely petitioned to intervene and/or requested a hearing in this matter but did not. Petitioners’ own failure to timely participate in this proceeding does not amount to a due process violation.

E. Petitioners’ Conclusory and Unsupported Allegations do not Support Reopening.

The Petition concludes with a laundry list of conclusory and unsupported allegations in an effort to divine grounds to reopen this proceeding where none exist. *See* Petition at pp. 42–49.

These allegations are not accompanied by any admissible evidence that would change the outcome of the CPCN proceeding. *Id.* For example, Petitioners assert that the Applicants withheld the true purpose and the identity of those immediately benefiting from the JETx Project. *See id.* at pp. 44–45. The Petitioners go on to suggest that Applicants colluded with these other private interests to disguise the JETx Project as a public necessity. *Id.* Neither is true and the Petitioners do not provide any support for this conspiracy theory.

Federal law requires transmission owners like Applicants to provide non-discriminatory “open access” to the interstate transmission grid, also known as the bulk electric system.³ Similar laws in North Dakota require Applicants to interconnect and serve retail customers in a non-discriminatory fashion. N.D.C.C. § 49-04-07. Applicants cannot discriminate in favor or disfavor of new requests for interconnection. And because early-stage projects in the MISO queue are considered trade secrets, Applicants are not at liberty to disclose the identities it learns through the federal process.⁴ The Petitioners misconstrue Applicants’ compliance as conspiracy.

Moreover, the “queue” of interconnection requests also includes a historic level of project concepts, some of which fail to achieve commercial operation. Some developers decide not to proceed with their prospective projects at various stages of development because project economics seemingly don’t pan out, others because they simply choose to invest elsewhere. An educated guess as to which projects will clear the milestones—even if informed by cross-referencing options for local real estate—is still just a guess as to specifically who, when, where, and how much. Publicly speculating on the winners and losers of prospective projects would be improper and unhelpful.

Petitioners assert the “Order rests on material misrepresentations and omissions.” Petition at § II, p. 42. Yet, what Petitioners purport to be “misrepresentations” are merely statements cherry-picked from different proceedings, analyzing different aspects of the Project, at different times, and before different audiences. Petitioners wholly fail to point to any statement that amounts to a misrepresentation, let alone a false statement that would justify reopening the proceeding. The alleged omissions cited by Petitioners are related to topics outside the scope of the CPCN proceeding, unripe issues to be considered during a forthcoming siting proceeding, or both. *See* Petition at p. 45 (potential future projects); *id.* at p. 46 (wildlife concerns); *id.* at p. 47 (transmission constraints); *id.* at p. 48 (local opposition and local permitting issues); *id.* at p. 49 (legislative changes).⁵

Finally, the Petitioners express concern that interests being served by the new transmission line are private rather than public and suggest the project is not eligible for the grant of a CPCN due to a private/public dichotomy. This argument simply misunderstands the nature of the public interest being served by the JETx Project specifically and the bulk electric system generally. It is like saying a fire station is not a public necessity if it will extinguish the fires of private residences.

³ *See*, generally, Federal Energy Regulatory Commission Order Nos. 888 889, and 890.

⁴ *See* MISO Tariff on the Generator Interconnection Process, Attachment X-Appendix 1-Interconnection Request for a Generating Facility at p. 32.

⁵ Similarly, Petitioners appear to misunderstand the effect of HB 1258 (2025), which amended the Siting Act (N.D.C.C. ch. 49-22)—not the CPCN provisions (N.D.C.C. ch. 49-03).

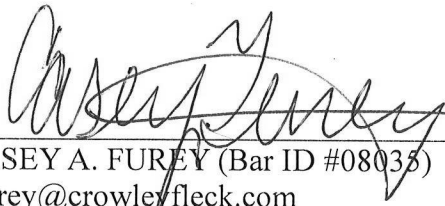
However, just as libraries, parks, and roads are filled with private citizens, the electric grid predominantly serves privately-owned businesses and homes. And due to the physical properties of electricity, the JETx Project will benefit the public by creating a high-voltage transmission loop between Jamestown and Ellendale that will enhance grid reliability in the region.⁶ Petitioners' laundry list of grievances with the Project do not amount to a justification for reopening the CPCN proceeding.

IV. CONCLUSION

The Petition should be denied as untimely and highly prejudicial to the existing parties. Upon denial of the Petition to Intervene, the Petitioners lack standing for their request to reopen, rescind, and restart the CPCN process. Even if the Commission finds standing, there have been no misrepresentations nor violations of due process to justify the Petitioners' request for a "do-over." While local participation in the Commission's regulatory processes is both desired and encouraged, it cannot be accomplished through violations of orderly due process established by the legislative assembly.

Dated this 6th day of June, 2025.

By: _____


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⁶ Petitioners rely heavily on the Dissent as justification for reopening the CPCN proceeding; however, the Commission speaks through its majority, and the Commission as a whole found that, "public convenience and necessity will be served by the construction and operation of the facilities and that OTP and MDU are technically, financially, and managerially fit to be able to provide the service." Dkt. No. 23.

BEFORE THE STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Otter Tail Power Company/Montana-Dakota Utilities Co.
345kV Transmission Line – Jamestown to Ellendale
Public Convenience & Necessity

Case No. PU-24-091

CERTIFICATE OF SERVICE

[¶1] I hereby certify that on the 6th day of June, 2025, a true and correct copy of the following documents:

1. **Notice of Appearance; and**
2. **Otter Tail Power Company and Montana-Dakota Utilities Co.'s Response in Opposition to Amended Petition to Intervene, Rescind, and Reopen**

were filed with the North Dakota Public Service Commission via electronic mail and hand delivery, and were served via electronic mail and hand delivery, upon the following:

Steve Kahl
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[¶2] I further certify that on the 6th day of June, 2025, a true and correct copy of the same were served via electronic mail upon the following:

Steven J. Leibel
Knoll Leibel LLP
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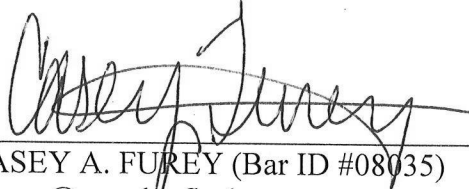
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