

STATE OF NORTH DAKOTA

IN 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, )

Appellants, )

v. )

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

Appellees. )

Civil No. 08-2025-CV-02068

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**OTTER TAIL POWER COMPANY AND MONTANA-DAKOTA UTILITIES CO.'S  
REQUEST FOR EXTENSION OF TIME TO FILE APPELLEES' BRIEF**

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[¶1.] Appellees Otter Tail Power Company (“Otter Tail”) and Montana-Dakota Utilities Co. (“Montana-Dakota”) respectfully request an eleven-day extension of the current deadline to file their Appellees’ brief in this appeal.

[¶2.] On September 10, 2025, the Court Administrator for the South Central Judicial District filed a Notice – Briefing Schedule for the merits briefing on this administrative appeal. The Notice provides that “appellant’s brief must be submitted on or before **10/1/2025** (i.e. **21 days from date**

**of this letter)**” and the “appellee’s brief shall be served and filed within 10 days after service of the appellants’ brief.” (emphasis in original). Dkt. No. 93.

[¶3.] On September 22, 2025, the Public Service Commission filed a motion requesting that the Court extend the time to file the Commission’s brief until twenty-one days after Appellants file their brief. Dkt. No. 102. On September 23, Appellants filed a response opposing the extension. Dkt. No. 106.

[¶4.] Otter Tail and Montana-Dakota adopt the position stated in the Commission’s motion and likewise request that the Court extend the time to file their brief until twenty-one days after Appellants file their brief.

[¶5.] This extension request is not intended to cause delay. The reason for Otter Tail and Montana-Dakota’s request is to afford them the same amount of time as Appellants to prepare their Appellees’ brief and to allow them sufficient time to respond to Appellants’ arguments. Appellants suggest that the “Court has already exercised [its scheduling discretion under N.D.R.Ct 9.1] and found expedition warranted.” Dkt. No. 106. However, the Notice entered in this case appears only to be a form Briefing Schedule used for administrative appeals in the South Central Judicial District as opposed to a schedule designed specifically for this case. *See, e.g., Jessica Stockford v. N.D. Dep’t. of Health and Human Svcs.*, Case No. 08-2025-CV-01842 (2025) at Dkt. No. 32; *see also The Swenson Living Trust, et al. v. N.D. Indus. Comm’n et al.*, Case No. 08-2025-CV-00095 (2025) at Dkt. Nos. 95; 391.

[¶6.] Appellants have been free to begin preparing their merits brief since the date the North Dakota Public Service Commission issued its Order on Petition that is the subject of this appeal. The Commission issued that order on June 18, 2025, or 84 days before the Court even entered a briefing schedule in the appeal, and the appeal itself has been pending for over two months. In

that time, Appellants have taken no actions to expedite this appeal other than opposing Appellees' request for a short eleven-day extension of their briefing time. Good cause exists to justify the extension.

[¶7.] Appellants speculate they will suffer harm due to the filing of the siting application for the project at issue, but their allegations of harm mirror the arguments in their motion for stay and fail for the same reasons. Again, the siting proceeding is an independent proceeding and involves inquiries that are independent from the determination of need required for a CPCN. In any event, the Public Service Commission has not deemed the transmission line siting application complete or set any hearing dates in the siting proceeding at this time. Finally, the "protective relief" Appellants request from the Court likewise re-hashes the relief requested in Appellants' motion for stay and is neither warranted nor within the Court's jurisdiction to grant on an administrative appeal. As such, Appellants will suffer no harm from the eleven-day extension requested by the Appellees.

Dated this 24<sup>th</sup> day of September, 2025.

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