

Case Summary

Wano Township v. North Dakota Public Service Comm'n - No. 20260059

Preliminary statement of issues prepared by staff.

Wano Township and others (“Petitioners”) appeal from a district court judgment dismissing in part and affirming in part appeals from orders issued by the North Dakota Public Service Commission (“PSC”).

The PSC issued a certificate of public convenience and necessity (“CPCN order”) to Otter Tail Power Company and Montana-Dakota Utilities Co. for construction of an electric transmission line from Jamestown to Ellendale. The Petitioners sought to intervene, requesting the proceeding be reopened and the decision reconsidered. The PSC denied the petition as untimely. The Petitioners appealed to the district court. The court decided it lacked subject matter jurisdiction to decide issues related to the validity of the CPCN order because the deadline to appeal had expired. The court affirmed the PSC’s decision denying intervention.

On appeal, the Petitioners argue the PSC acted without authority when it issued the CPCN order under the Territorial Integrity Act, N.D.C.C. ch. 49-03. They assert the Energy Conversion and Transmission Facility Siting Act, N.D.C.C. ch. 49-22, instead governs. They claim the PSC is required to evaluate the public convenience and necessity of the project under ch. 49-22, and the PSC did not satisfy various notice and hearing requirements under that chapter. They also argue the CPCN order lacks the requisite findings and analysis for finality, and intervention is appropriate because they did not receive adequate notice.