

IN THE SUPREME COURT

STATE OF NORTH DAKOTA

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,

Supreme Court No. 20260059

Burleigh County District Court
Civil No. 08-2025-CV-02068

Appellants,

v.

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

Appellees.

**APPELLANTS' MOTION FOR LEAVE TO FILE NOTICE OF
SUBSEQUENT AGENCY ACTION RELEVANT TO PENDING APPEAL**

**Appeal from Burleigh County District Court judgment affirming
order of the North Dakota Public Service Commission**

Appellants move under N.D.R.App.P. 27 for leave to file the attached

Notice of Subsequent Agency Action Relevant to Pending Appeal. The proposed notice is attached as Exhibit A. A copy of the June 24, 2026 Public Service Commission order is attached as Exhibit B.

In support of this motion, Appellants state as follows:

[¶1] On June 23, 2026, oral argument was held in this appeal.

[¶2] On June 24, 2026, the Public Service Commission issued its Findings of Fact, Conclusions of Law and Order in PSC Case No. PU-25-236, the Chapter 49-22 siting docket for the same 345-kV Jamestown-to-Ellendale transmission line at issue in this appeal.

[¶3] Appellants seek leave to file the attached notice for the limited purpose of advising the Court of that subsequent agency action and its relevance to issues and relief already presented in the pending appeal.

[¶4] The proposed notice is not intended to initiate a separate appeal from the June 24, 2026 order, to reopen briefing generally, or to burden the Court with unnecessary supplemental argument. It is directed only to a significant subsequent event occurring after oral argument and before decision.

[¶5] Good cause exists to permit the filing because the subsequent agency action concerns the same Project at issue in this appeal and bears

directly on matters discussed at oral argument and on the relief already requested in Appellants' briefs.

[¶6] Appellants therefore respectfully request leave to file the attached Notice of Subsequent Agency Action Relevant to Pending Appeal.

Dated: July 8, 2026

Respectfully submitted,

By: /s/ Douglas J. Nill

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