



Public Service Commission

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May 8, 2025

Mr. Cary Stephenson
Associate General Counsel
Otter Tail Power Company
215 South Cascade Street
Fergus Falls, MN 56538

RE: Jurisdictional Determination regarding whether a Certificate of Public Convenience and Necessity is required for the Abercombie Solar Project.

Dear Mr. Stephenson,

Thank you for your March 10, 2025, request regarding the jurisdictional determination for a Certificate of Public Convenience and Necessity (CPCN) for the Abercombie Solar Project in Richland County, North Dakota. Following our recent administrative discussion, the Commission has asked me to provide the following response.

Your company plans to build, own, and operate a 295.1 MW solar energy facility on 3,464 acres of privately owned land in Abercrombie Township, under an agreement with Otter Tail Power. The project includes a 530-foot 230 kV tie line to connect to Minnkota Power Cooperative's Frontier-Wahpeton 230 kV transmission facility. The project, developed by Flickertail Solar Project, LLC (a Savion, LLC, subsidiary), is under an asset purchase agreement for its development assets, including interconnection rights, and falls under the North Dakota Public Service Commission's siting jurisdiction.

You've stated that the transmission line does not require siting and won't conflict with other utilities or cooperatives. Additionally, you argue that a CPCN is not needed since the project won't serve North Dakota customers, won't be included in the North Dakota rate base, and won't recover costs from North Dakota customers. You cited Minnesota Power's facilities in North Dakota as a comparable example and distinguished your project from Xcel and Otter Tail's transmission lines, likening it to a merchant generator or utility generation not serving North Dakota customers.

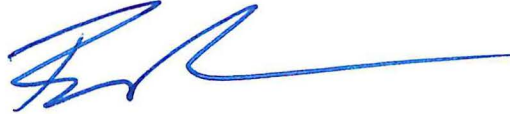
Under N.D.C.C. Section 49-03-01, an electric public utility must obtain a CPCN before constructing or operating a public utility plant or system. The law defines an electric public

utility as a privately owned supplier of electricity serving the general public. As your company is recognized as such under North Dakota law, it carries both the privileges and obligations of operating in the state.

While we understand your request for clarification, especially given the guidance in Case No. PU-21-380 regarding new renewable energy projects through 2030 and your intent to allocate costs and benefits to non-North Dakota customers, the law does not provide exemptions for North Dakota public utilities in this context.

Based on the information provided, the Commission has determined that a CPCN is required to construct and operate the Abercombie Solar Project. We thank you again for contacting us. If there are any other areas that we may be of assistance or questions you may have, please do not hesitate to contact us.

Best Regards,

A handwritten signature in blue ink, appearing to read 'Brian Johnson', with a long horizontal flourish extending to the right.

Brian Johnson
Special Assistant Attorney General