

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company/Montana-Dakota
Utilities Co. 345kV Transmission Line Siting
Application

Case No. PU-25-236

Wano Township, Willowbank Township,
Russell Township, Corwin Township,
and Valley Township

EXHIBIT A

**REPLY OF WANO TOWNSHIP, WILLOWBANK TOWNSHIP,
RUSSELL TOWNSHIP, CORWIN TOWNSHIP, AND VALLEY
TOWNSHIP IN SUPPORT OF PETITION TO INTERVENE AND
RELATED RELIEF**

Petitioners Wano Township, Willowbank Township, Russell Township, Corwin Township, and Valley Township (the Townships) submit this Reply in support of their Petition to Intervene and related relief. The Reply corrects mischaracterizations of the January 6, 2026 email concerning pro hac vice admission and narrows the remaining record-status dispute based on the positions now taken by the Commission and Applicants.

I. The January 6 email did not waive or foreclose future intervention.

The email does not say that. It states only that the pro hac vice filing email was not then intended as a request for intervenor status. The Townships did not represent that they would never seek intervenor status under N.D.A.C. § 69-02-02-05, and no rule requires an interested person to make any irrevocable election about future intervention at the pro hac vice stage.

II. Good cause exists for late intervention under the circumstances, and any participation going forward can be conditioned without delaying the proceeding.

N.D.A.C. § 69-02-02-05 allows intervention after the ten-day deadline upon good cause. The Supreme Court has explained that “good cause” in this context is a showing of good cause why intervention should be allowed late under the circumstances. *Minn-Kota Ag Prods., Inc. v. N.D. Pub. Serv. Comm’n*, 2020 ND 12, ¶ 42, 938 N.W.2d 118.

Those circumstances are present here. The Townships filed promptly to eliminate uncertainty about whether key Township submissions would be included in the formal evidentiary record, addressed in the Commission’s findings with reasons, and preserved for judicial review, or instead placed in a public input file outside the evidentiary record. The Townships also have

direct governmental interests in Applicants' requested findings regarding supersession and preemption of local land use and zoning regulation. Those interests are not represented by Applicants or Staff.

The evidentiary hearings have concluded. The Townships therefore request intervention with appropriate conditions on participation going forward to avoid delay and to promote the interests of justice, including written submissions only unless further order. The rules expressly allow conditions and limitations on intervention.

III. The record-status dispute can be narrowed based on the Commission's and Applicants' positions.

Both the Commission and Applicants now represent that most Township submissions are already in the record as hearing exhibits (including materials reflected in Docket Nos. 58, 59, and 85). The Townships welcome that clarification. The Townships therefore request an order that:

A. Confirms that the Townships' submissions contained within the public hearing exhibit handouts and received as hearing exhibits are part of the record in this docket and will be available for consideration in the Commission's final decision and for judicial review; and

B. Addresses any remaining gap, including Corwin Township's

identical filings and any transmittal and acknowledgment materials offered to show submission and service, by accepting them by incorporation, by designation as a late filed exhibit, or by another narrow method the hearing officer deems appropriate.

IV. The Townships' submissions should be accepted and considered as record-preserving briefing and objections directed to issues the Commission must decide and explain.

Applicants argue the Townships' submissions are "argument, not evidence." The Townships agree that portions are legal argument. That is the point. The Townships are preserving legal objections and requesting that the Commission address them in its findings with reasons, particularly on Applicants' requested preemption findings and on the proper treatment, if any, of prior determinations from other dockets as a substitute for the findings required in this siting docket.

To the extent the hearing officer concludes the Townships' submissions should not be treated as evidentiary exhibits, the Townships request that the Commission accept them as a memorandum or post-hearing brief for inclusion in the record for purposes of the Commission's final decision. The hearing officer has authority to request briefs and memoranda and to take other appropriate procedural action to discharge the duties of hearing officer.

V. Late filed exhibit and reopening requests remain a narrow backstop.

If the hearing officer determines a designation order is required to eliminate uncertainty, the Townships request the narrowest available procedure. If reopening is deemed necessary, the Townships request a limited remote procedure confined to authenticity and foundation for any identified documents not already included in the hearing exhibits.

CONCLUSION

For these reasons, the Townships respectfully request that the hearing officer: (1) grant the Petition to Intervene, with appropriate conditions on participation going forward given the close of hearings, (2) accept and consider this Reply and the Townships' submissions as part of the record, including as a memorandum or post-hearing brief if not treated as evidentiary exhibits, (3) enter a clarifying order confirming record status of Township submissions already contained in the hearing exhibits, and (4) accept any remaining Township filings by incorporation or by a narrow late filed exhibit designation, and deny reopening as unnecessary.

Dated: February 25, 2026

Respectfully submitted,

By: /s/ Douglas J. Nill

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