

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

**TOWNSHIPS' MOTION FOR CLARIFICATION AND LIMITED
FURTHER RELIEF, OR IN THE ALTERNATIVE FOR
CERTIFICATION TO THE COMMISSION
(N.D.A.C. §§ 69-02-04-07, 69-02-04-10; N.D.C.C. §§ 28-32-24, 28-32-44)**

The Townships respectfully move for clarification and limited further relief following the March 13, 2026 Order Denying Petition to Intervene and Denying Motion to Accept Filings as Late-Filed Exhibits. In support, the Townships state as follows:

1. Through this motion, the Townships do not seek to reargue broad post-hearing intervention, to reopen the merits, or to delay final disposition. This motion is narrow. It seeks clarification of the record status and treatment of Township materials already received at the public hearings and limited further relief necessary to avoid uncertainty as the Commission prepares its final findings and reasons.

2. The March 13, 2026 order recognizes that Exhibits 1A through 3E, except Corwin Township's corresponding filings, are contained in hearing Exhibits 21 through 23, and further notes that Corwin Township's corresponding filings are identical in substance to those submitted by the other Townships. The order also recognizes that the email transmittal and acknowledgment materials documented prior submission of Township materials to the Commission.

3. At the same time, the March 13 order denied party status, denied acceptance of late-filed exhibits, and denied reopening. The Townships therefore seek clarification on the limited issue that remains practically important: whether the Township materials already received as public hearing handouts and reflected in hearing Exhibits 21 through 23 are part of the record before the Commission and must be included in the certified record on judicial review.

4. That clarification matters because North Dakota law provides that no information or evidence except that which has been offered, admitted, and made part of the official record may be considered by the agency, while also allowing relevant written evidence when doing so expedites the proceeding without substantial prejudice. N.D.C.C. § 28-32-24(2), (6). The

official agency record on review includes motions, pleadings, briefs, petitions, requests, intermediate rulings, and written statements, exhibits, memoranda, documents, or other information or evidence considered before final disposition. N.D.C.C. § 28-32-44(4)(d), (h).

5. The hearing officer also has authority to regulate the course of hearing, receive evidence, dispose of procedural matters not involving final determination, certify questions to the Commission, request or require briefs or memoranda, and take any other action necessary or appropriate to discharge the duties vested in the hearing officer. N.D.A.C. § 69-02-04-07(1)(e), (h), (i), (m), (n). The hearing officer may fix the time and order for filing briefs or memoranda of law. N.D.A.C. § 69-02-04-10.

6. The Townships therefore request the following limited relief:

a. Clarification that the Township materials contained in hearing Exhibits 21, 22, and 23, including the Limited Objections, Township Statements regarding Applicants' preemption request, and Questions for the Record submitted by Valley, Wano, Willowbank, and Russell Townships, are part of the record in this proceeding, are before the Commission, and must be included in the certified record on judicial review; and that Corwin Township's corresponding filings, identified in the March 13 order as

identical in substance, are likewise preserved in the agency record and must be included in the certified record on judicial review.

b. Clarification that the March 13, 2026 order, the Townships' February 4, 2026 petition and motion, the Townships' February 25, 2026 reply, and the responses thereto are part of the agency record in this proceeding and must be included in the certified record on judicial review;

c. Leave for the Townships to file, within a short period set by the hearing officer, a single post-hearing memorandum not to exceed ten pages, limited to two issues the Commission must address in its final order:

- (1) Applicants' request for supersession or preemption of local land use and zoning ordinances under N.D.C.C. § 49-22-16; and
- (2) the treatment, if any, of PU-24-91 in this docket as it relates to "need" and the findings with reasons required in PU-25-236; and

d. In the alternative, if the hearing officer concludes that any portion of this requested clarification or limited relief should be decided by the full Commission, certification of that question to the Commission under N.D.A.C. § 69-02-04-07(1)(i).

7. This motion does not seek new witness examination, discovery, travel, or reopening of the merits. It seeks only to eliminate uncertainty at the close of the case and to ensure that the Commission's final order proceeds on a clear understanding of what record materials are before the Commission and what materials must be preserved in the agency record for judicial review.

8. The requested clarification and limited further relief would not prejudice Applicants or Staff. The materials at issue have already been submitted to the Commission at the public hearings or through docketed filings. Chapter 49-22 expressly provides that at a public hearing any person may present testimony or evidence relating to the application, the criteria, and the statutory factors to be considered. N.D.C.C. § 49-22-13(1).

9. The Townships respectfully submit that this narrow motion is the most efficient way to avoid avoidable confusion at the final-order stage while honoring the limitations of the March 13 ruling.

WHEREFORE, the Townships respectfully request an order:

1. Clarifying that the Township materials contained in hearing Exhibits 21, 22, and 23 are part of the record in this proceeding, are before the Commission, and must be included in the certified record on judicial

review; and that Corwin Township's corresponding filings, identified in the March 13 order as identical in substance, are likewise preserved in the agency record and must be included in the certified record on judicial review;

2. Clarifying that the Townships' February 4, 2026 petition and motion, the February 25, 2026 reply, the responses thereto, and the March 13, 2026 order are part of the agency record in this proceeding and must be included in the certified record on judicial review;

3. Granting leave for the Townships to file a single limited post-hearing memorandum, on a short schedule set by the hearing officer, addressing only Applicants' preemption request and the treatment, if any, of PU-24-91 in this docket; or

4. In the alternative, certifying the foregoing question or questions to the full Commission under N.D.A.C. § 69-02-04-07(1)(i).

Dated: March 17, 2026

Respectfully submitted,

By: /s/ Douglas J. Nill
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