

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Montana-Dakota Utilities Co.
Natural Gas Rate Increase
Application**

Case No. PU-399-02-183

ORDER GRANTING TRADE SECRET PROTECTION

August 28, 2002

On August 9, 2002, Montana-Dakota Utilities Co. (MDU) filed an application for a protective order limiting the disclosure of trade secret information included in responses to the certain information sought by the Commission Staff (Staff) as part of its First Data Requests. On August 22, 2002, MDU filed an application for a protective order limiting the disclosure of trade secret information included in responses to the certain information sought by the Staff as part of its Second Follow-Up Data Requests. MDU provides the general description of the nature of the information sought to be protected, as follows:

**RESPONSES TO NORTH DAKOTA PUBLIC SERVICE COMMISSION
STAFF'S FIRST DATA REQUESTS**

Request No. 2 -- The response is a page from an actuarial report by Towers Perrin on the performance of the health and welfare benefit plans for both bargaining unit and non-bargaining unit employees.

Request No. 3 -- The response is information concerning the amount of short-term borrowings by MDU and MDU Resources at the end of each month in 2000 and 2001 along with the weighted average cost of MDU's short-term borrowings.

**RESPONSES TO NORTH DAKOTA PUBLIC SERVICE COMMISSION
STAFF'S SECOND FOLLOW-UP DATA REQUESTS**

Request No. 2 -- The response is documentation relating to senior notes, commercial paper, revolving line of credit and term agreements.

Request No. 3 -- The response is the breakdown of year-end 2001, 2002, and 2003 "Subsidiary Portion of Balance" by specific subsidiary.

Request No. 4 -- The response is the data, workpapers, and allocation ratios by which policies and procedures outlined in Response No. 39, Attachment A are implemented.

MDU requests trade secret protection for MDU Resources subsidiary information. MDU states that such information is not publicly available and is treated as confidential business information. MDU believes that disclosure of the MDU Resources information would be of independent economic value to competitors and would create a competitive

disadvantage for MDU Resources if publicly disclosed to others because of the competitive nature of the businesses conducted by the various subsidiaries.

N.D.C.C. Section 47-25.1-01(4) defines "trade secret" as:

"Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

- a. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by other persons who can obtain economic value from its disclosure or use; and
- b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

On August 14, 2002 Staff filed its response to MDU's request for trade secret protection on responses to Staff's First Data Requests. On August 23, 2002, Staff filed its response to MDU's request for trade secret protection on responses to Staff's Second Follow-Up Data Requests. Staff noted that the information qualifies as trade secret and that MDU's application satisfies the requirements of the law that allows the Commission to grant trade secret protection and recommended granting the application. Staff noted that the Commission's process provides a means for interested parties to review trade secret documents upon signing a nondisclosure agreement.

Order

The Commission Orders:

1. MDU's application for trade secret protection filed August 9, 2002 is GRANTED.
2. MDU's application for trade secret protection filed August 22, 2002 is GRANTED.
3. The Commission, under N.D.A.C. § 69-02-02-11, suspends the requirements of N.D.A.C. § 69-02-09-07, to the limited extent necessary so that the materials which are hereby granted trade secret status may be supplied by Montana-Dakota Utilities Co. to Mr. Charles King outside the Commission office, for his inspection and review for purposes related to his engagement by the Commission as a consultant in this matter, after which he will return said materials to the Company.

PUBLIC SERVICE COMMISSION

Anthony T. Clark
Commissioner

Susan E. Wefald
President

Leo M. Reinbold
Commissioner