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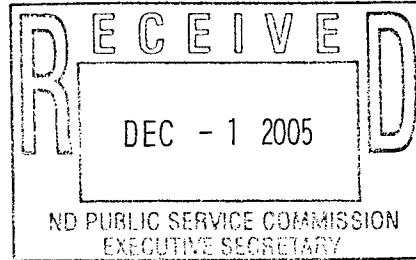
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(1919-2003)

November 30, 2005



William W. Binek
PUBLIC SERVICE COMMISSION
600 E Boulevard Avenue, Department 408
Bismarck, ND 58505-0480

DECLARATORY JUDGMENT

Dear Bill:

Enclosed please find a Summons and Complaint, and an Admission of Service, in connection with the Declaratory Judgment action initiated by Capital Electric. Please sign the enclosed Admission of Service and return same to our office in the envelope provided. If you are unwilling or unable to accept service, please advise by Monday, December 5, 2005, and we will commence personal service.

Yours truly,

Carol K. Larson
lat

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

Capital Electric Cooperative, Inc.)

Plaintiff,)

vs.)

The City of Bismarck, North Dakota)

and)

Montana-Dakota Utilities, Inc., a)
Division of MDU Resources Group,)
Inc.)

and)

The Public Service Commission of)
North Dakota)

Defendants.)

ADMISSION OF SERVICE

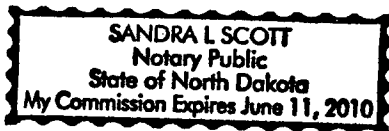
Docket Number _____

The Public Service Commission of North Dakota, by and through their attorney, William W. Binek, hereby admits service of the Summons and Complaint this 1st day of December, 2005.

Public Service Commission of North Dakota,
Defendant

William W. Binek
By: William W. Binek, Attorney

Subscribed and sworn to before me this 1st day of December, 2005.



Sandra L. Scott
Notary Public
For the State of North Dakota
My commission expires: _____

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

IN DISTRICT COURT
SOUTH CENTRAL JUDICIAL DISTRICT

Capital Electric Cooperative, Inc.)
)
Plaintiff,)
)
vs.)
)
The City of Bismarck, North Dakota)
)
and)
)
Montana-Dakota Utilities, Inc., a)
Division of MDU Resources Group,)
Inc.)
)
and)
)
The Public Service Commission of)
North Dakota)
)
Defendants.)

SUMMONS

Docket Number _____

THE STATE OF NORTH DAKOTA TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to appear and defend against the Complaint in this action, which is herewith served upon you, by serving upon the undersigned an Answer or other proper response within twenty (20) days after the service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

Dated this 30th day of November, 2005.

PRINGLE & HERIGSTAD, P.C.

By: Carol K. Larson

Carol K. Larson - #04406

Attorneys for Capital Electric Cooperative, Inc.

Pringle & Herigstad, P.C.

2525 Elk Drive

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(701) 852-0381

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

IN DISTRICT COURT
SOUTH CENTRAL JUDICIAL DISTRICT

Capital Electric Cooperative, Inc.)
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Plaintiff,)
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vs.)
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The City of Bismarck, North Dakota)
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Montana-Dakota Utilities, Inc., a)
Division of MDU Resources Group,)
Inc.)
)
and)
)
The Public Service Commission of)
North Dakota)
)
Defendants.)

COMPLAINT

Docket Number _____

I.

Plaintiff (herein "Capital") is a cooperative organized and operated under North Dakota Century Code Chapter 10-13 providing electric energy in North Dakota.

II.

The Defendant City of Bismarck (herein the "City") is a city under North Dakota Century Code Title 40.

III.

The Defendant Montana-Dakota Utilities, Inc. a division of MDU Resources Group,

Inc. (herein "Montana-Dakota") is a business corporation providing electric energy in North Dakota.

IV.

The North Dakota Public Service Commission (herein "Commission") is a constitutional body under Article V, Section 2 of the North Dakota Constitution and under North Dakota Century Code Title 49.

V.

Montana-Dakota holds a franchise to operate an electric distribution system in Bismarck, North Dakota granted by the City on May 12, 1987.

VI.

Capital holds a franchise to operate an electric distribution system in Bismarck, North Dakota granted by the City on May 23, 1993.

VII.

On September 28, 2005, Capital filed a complaint with the Commission under N.D.C.C. 49-03-01, -01.4 and -05, alleging that Montana-Dakota has extended its facilities within the corporate limits of Bismarck in violation of N.D.C.C. 49-03-01 and 01.3, and alleging that Montana-Dakota intends to provide electrical service to a development in Capital's service area and such service will unreasonably interfere or is about to unreasonably interfere with the service or system of Capital.

VIII.

On October 20, 2005, Montana-Dakota filed an answer and counterclaim to Capital's complaint, asserting Capital "... is not authorized by law or franchise to provide

electric distribution services to Part of Boulder Ridge First Addition to the City of Bismarck.”

IX.

On August 30, 2005, Montana-Dakota filed with the Board of Commissioners of the City of Bismarck a “Petition to Declare Franchise Rights” requesting the Board “to determine that: “1. Montana-Dakota is authorized under its electric distribution franchise to provide electric distribution service within Part of Boulder Ridge First Addition to the City of Bismarck’ as annexed to the City of Bismarck on April 12, 2005; and 2. CEC [Capital] is not authorized under its franchise to provide electric distribution service within ‘Part of Boulder Ridge First Addition to the City of Bismarck’ as annexed to the City of Bismarck on April 12, 2005.”

X.

On November 14, 2005, the President and City Administrator of the City executed a document titled “Findings, Conclusions Decision and Order” “In the matter of a Petition to Declare Franchise Rights Filed by Montana Dakota Utilities Co.,” wherein “the Board of City Commissioners Orders that the Petition of MDU is granted with respect to the provision of electric power services within part of Boulder Ridge First Addition to the City of Bismarck.”

XI.

The Board of Commissioners of the City of Bismarck performs the legislative functions of the city.

XII.

The North Dakota Public Service Commission is a constitutional body under Article

V, Section 2 of the North Dakota Constitution having only such powers and duties as are prescribed by law, not including powers to determine rights, status, or other legal relations affected by a statute, municipal ordinance, contract or franchise.

XIII.

The district court has judicial power and original jurisdiction of all causes including the power to determine rights, status, or other legal relations affected by a statute, municipal ordinance, contract or franchise, under the North Dakota Constitution, Article VI Sections 1 and 8, and North Dakota Century Code, section 27-05-06 and chapter 32-23.

XIV.

Capital is a person whose rights, status, or other legal relations are affected by statute, municipal ordinance, contract or franchise with respect to the provision of electric power services within the City of Bismarck.

Therefore, Capital requests judgment declaring its rights under its franchise to operate an electric distribution system in Bismarck granted by the City on May 23, 1993.

Dated this 30 day of November, 2005.

PRINGLE & HERIGSTAD, P.C.

By: Carol K. Larson

Carol K. Larson - #04406

Attorneys for Capital Electric Cooperative, Inc.

Pringle & Herigstad, P.C.

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