

December 7, 2005

Ms. Ilona A. Jeffcoat-Sacco  
Executive Secretary  
PUBLIC SERVICE COMMISSION  
600 E Boulevard Avenue, Department 408  
Bismarck, ND 58505-0480

**CAPITAL ELECTRIC COOPERATIVE, INC. V. MONTANA-DAKOTA UTILITIES, INC.  
CASE NO. PU-05-551**

At the request of the Commission's counsel, we enclose our further response to Montana-Dakota's "Motion to Dismiss or in the Alternative Motion for Continuance" dated November 23, 2005.

To summarize, Montana-Dakota's Motion to Dismiss should be denied because: 1) To grant the motion summarily is contrary to due process; 2) The PSC lacks jurisdiction to deny it has jurisdiction; 3) the issues presented by the motion are now before a court that has jurisdiction.

Having mentioned the pending action in district court for a declaratory judgment in the context of responding to Montana-Dakota's motion to the Commission, it seems appropriate to acknowledge that Capital's naming the Commission as a defendant in the court action is not to claim the Commission is an adversary. Rather, because Montana-Dakota has raised issues that are outside the Commission's jurisdiction, Capital is constrained to take appropriate action in response to Montana-Dakota's. The Commission is named as a party in the court action under the terms of NDCC 32-23-11. We presume the Commission will decide (without any input from either Capital or Montana-Dakota) whether to take an active role in the court proceedings or to inform the court the Commission will not actively participate.

Yours truly,

Carol K. Larson  
lat

cc William W. Binek  
Daniel S. Kuntz