

**STATE OF NORTH DAKOTA**  
**COUNTY OF BURLEIGH**

**IN DISTRICT COURT**  
**SOUTH CENTRAL JUDICIAL DISTRICT**

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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. )

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**CIVIL NO. 05-C-2303**

**ANSWER**

The North Dakota Public Service Commission ("Commission"), for its Answer to the Complaint of Capital Electric Cooperative, Inc. ("Capital Electric") alleges and states as follows:

1. The Complaint fails to state a claim against the Defendant upon which relief can be granted. The Defendant Commission answers the Complaint, but because there are no claims against this answering Defendant, the Commission informs the Court that it does not anticipate that it will actively participate in the legal proceedings before the Court
2. The Commission admits the allegations contained in paragraphs I, II, III and IV of the Complaint.

3. The Commission is without sufficient information to admit or deny the allegations contained in paragraphs V and VI of the Complaint and therefore denies the same and puts the Complainant to its proof therein.

4. The Commission admits the allegations contained in paragraphs VII, VIII, IX, X and XI of the Complaint.

5. The Commission admits the allegations contained in paragraph XII that it is a constitutional body under Article V, Section 2 of the North Dakota Constitution, and that it has only such powers and duties as are prescribed by law, not including powers to determine rights, status, or other legal relations affected by a municipal ordinance, contract or franchise, but denies that it lacks jurisdiction to determine rights, status, or other legal relations affected by a statute. Capital Electric in fact alleges in paragraph VII of the Complaint that it has filed a Complaint with the Commission requesting relief under specific statutes.

6. The Commission, upon information and belief, admits the allegations contained in paragraphs XIII and XIV.

Therefore, the Commission requests that the Court issue an order dismissing the Complaint of Capital Electric against the Commission.

Dated this 19th day of December, 2005.

Respectfully Submitted,  
North Dakota Public Service Commission

By:   
William W. Binek (ID# 02990)  
Chief Counsel  
Public Service Commission  
600 E. Boulevard Avenue, Dept 408  
Bismarck, ND 58505  
(701)328-4088