

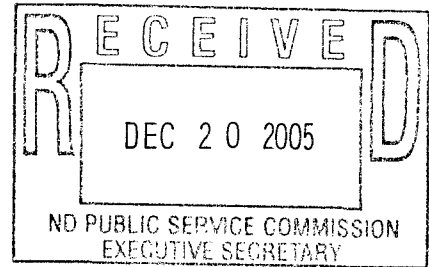
STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

IN DISTRICT COURT
SOUTH CENTRAL JUDICIAL DISTRICT

CIVIL NO. 05-C-2303

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.)

**DEFENDANT CITY OF BISMARCK'S
MOTION TO DISMISS OR IN THE
ALTERNATIVE FOR A MORE
DEFINITE STATEMENT**



Pursuant to Rule 12(b)(vi) of the North Dakota Rules of Civil Procedure the defendant City of Bismarck moves the Court to dismiss this action for failure to state a claim upon which relief can be granted. Alternatively, the City of Bismarck moves pursuant Rule 12(e) of the North Dakota Rules of Civil Procedure and Rule 3.2 of the North Dakota Rules of Court, for an order requiring plaintiff Capital Electric Cooperative, Inc. to provide a more definite statement regarding its alleged cause of action as to the City and as to the relief requested. This motion is supported by the attached brief and exhibits, and all of the materials thus far contained in the record.

Dated this 19th day of December, 2005.

SMITH BAKKE OPPEGARD PORSBORG WOLF

By: *Randall Bakke*

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Attorneys for Defendant,
City of Bismarck

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **DEFENDANT CITY OF BISMARCK'S MOTION TO DISMISS OR IN THE ALTERNATIVE FOR A MORE DEFINITE STATEMENT** was on the 19th day of December, 2005, mailed to the following:

ATTORNEYS FOR PLAINTIFF:

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