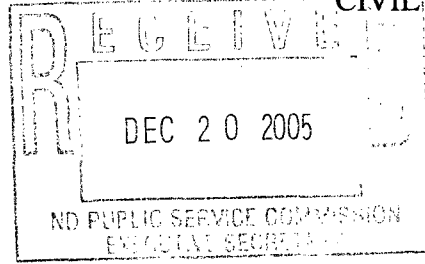


STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

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. )



**NOTICE OF MOTION**

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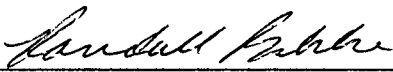
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TO: ALL PARTIES AND THEIR ATTORNEYS

PLEASE TAKE NOTICE that the defendant has submitted the attached **DEFENDANT CITY OF BISMARCK'S MOTION TO DISMISS OR IN THE ALTERNATIVE FOR A MORE DEFINITE STATEMENT** pursuant to Rule 3.2 of the North Dakota Rules of Court and Rule 12 of the North Dakota Rules of Civil Procedure. The motion will be decided on brief unless oral argument is timely requested. Upon the filing of the briefs, or upon expiration of the time for filing, the motion is deemed submitted to the court unless oral argument is requested on the motion. Defendant City of Bismarck does not request oral argument.

Dated this 19<sup>th</sup> day of December, 2005.

SMITH BAKKE OPPEGARD PORSBORG WOLF

By: 

Randall J. Bakke  
116 North Second Street  
P.O. Box 460  
Bismarck, ND 58502-0460  
(701) 258-0630  
ND State Bar ID No. 03898

Attorneys for Defendant,  
City of Bismarck

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **NOTICE OF MOTION** was on the 19<sup>th</sup> day of December, 2005, mailed to the following:

ATTORNEYS FOR PLAINTIFF:

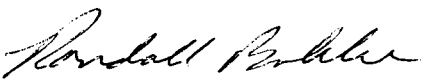
Carol K. Larson  
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William W. Binek  
Public Service Commission  
State Capitol  
Bismarck, ND 58505-0480

By 

RANDALL J. BAKKE