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ROGER O. HERIGSTAD
(1919-2003)

January 12, 2006

CLERK OF DISTRICT COURT
BURLEIGH COUNTY COURTHOUSE
PO BOX 1013
BISMARCK, ND 58502-1013

**CAPITAL ELECTRIC COOPERATIVE, INC. vs.
THE CITY OF BISMARCK, and
MONTANA-DAKOTA UTILITIES, INC., A DIVISION OF MDU RESOURCES GROUP,
INC., and THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA
DOCKET NUMBER 05-C-2303**

Enclosed for filing in connection with the above referenced matter are the following documents:

1. Reply to Counterclaim; and
2. Affidavit of Service by United States Mail.

If you have any questions on the enclosed, please do not hesitate to contact me.

Yours truly,

Carol K. Larson

lat

Enclosures

cc w/ encl: Lars Nygren
Daniel S. Kuntz
William W. Binek
Randall J. Bakke

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)

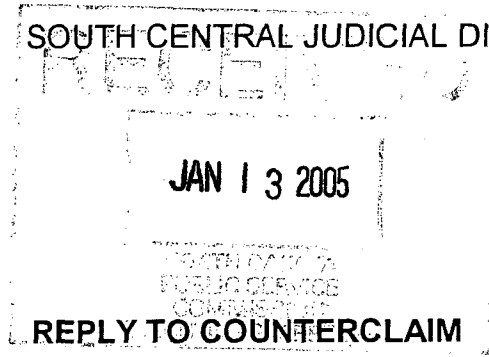
and)

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

and)

The Public Service Commission of)
North Dakota)

Defendants.)



Docket Number 05-C-2303

The Plaintiff, Capital Electric Cooperative, Inc., (herein Capital) responds to the Counterclaim of the Respondent, Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc. (herein MDU).

1. The counterclaim fails to state a claim on which relief can be granted.
2. The allegations of the counterclaim are denied except as herein admitted, qualified or explained.
3. Capital admits MDU holds a 20 year franchise but denies the franchise is "unlimited."
4. Capital lacks knowledge or information sufficient to form a belief as to the allegation

of paragraph B of the counterclaim, and therefore denies the same.

5. Paragraphs C, D, E, I, M, N, and O of the counterclaim present legal arguments that require no response in a pleading. In addition, the legal arguments stated paragraphs M, N and O lack substantial merit, under Cass County Electric Cooperative v Northern States Power Co., 419 N.W.2d 181 (ND 1988) and Northern States Power Co. v Public Service Commission, 452 N.W.2d 340 (ND 1990).
6. Capital admits the allegation of paragraph H.
7. Capital specifically denies the allegations of paragraphs K and P of the counterclaim.

THEREFORE, Capital requests the Court to issue its order and judgment dismissing the counterclaim.

Dated this 12 day of January, 2006.

PRINGLE & HERIGSTAD, P.C.

By: Carol K Larson
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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.)

**AFFIDAVIT OF SERVICE BY
UNITED STATES MAIL**

Docket Number 05-C-2303

STATE OF NORTH DAKOTA)

) ss.

COUNTY OF WARD)

LaRae A. Thomas, being first duly sworn, deposes and says:

That she is a citizen of the United States of America, of legal age, and is not a party to nor interested in the above entitled action; that on the 12th day of January, 2006, this Affiant served by depositing in the mailing department of the United States Post Office at Minot, North Dakota, a sealed envelope with postage thereon duly prepaid, containing a true and correct copy of the following documents in the above entitled action:

1. Reply to Counterclaim.

That said envelopes were addressed to the following person at his known address as follows:

Jerome C. Kettleison
Attorney at Law
PO Box 400
Bismarck, ND 58502-0400

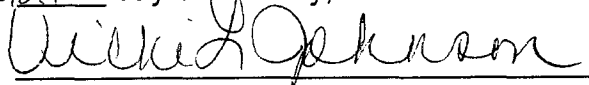
William W. Binek
PUBLIC SERVICE COMMISSION
600 E Boulevard Avenue, Department 408
Bismarck, ND 58505-0480

Randall J. Bakke
Smith Bakke Porsborg & Schweigert
116 North 2nd Street
PO Box 460
Bismarck, ND 58502-0460

That the above provisions were duly mailed in accordance with the provisions of the North Dakota Rules of Civil Procedure.


LaRae A. Thomas

SUBSCRIBED AND SWORN to before me this 24th day of January, 2006.


Notary Public
For the State of North Dakota
My Commission expires: _____

