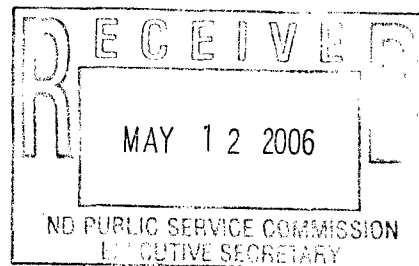


May 11, 2006

116 North 2nd Street
Bismarck, ND 58501

P.O. Box 460
Bismarck, ND 58502-0460
Phone (701) 258-0630
Fax (701) 258-6498

Debra Simenson
Clerk of District Court
Burleigh County Courthouse
P.O. Box 1055
Bismarck, ND 58502-1055



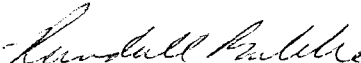
Re: Capital Electric v. City of Bismarck, et al.
Burleigh Co. Civil No. 05-C-2303

Dear Ms. Simenson:

Enclosed for filing in the above-reference matter, please find *City of Bismarck's Joinder in Defendant MDU's Motion to Dismiss Plaintiff's Amended Complaint and Notice of Appeal*.

Thank you for your assistance regarding this matter.

Very truly yours,


Randall J. Bakke

RJB:jmh
Enclosure

pc: Carol K. Larson (w/encl.)
Daniel S. Kuntz (w/encl.)
William W. Binek (w/encl.)
Jerome C. Kettleson (w/encl.)
Charles C. Whitman (w/encl.)

Sheldon A. Smith *
Randall J. Bakke ***
Scott K. Porsborg ***
Suzanne M. Schweigert *
Shawn A. Grinolds **
Mitchell D. Armstrong **
David R. Phillips *

Clerk.7

* Licensed in North Dakota

** Licensed in Minnesota

*** Licensed in South Dakota

Board Certified Civil Trial
Specialist by National Board
of Trial Advocacy

COPY

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

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.)

**CITY OF BISMARCK'S JOINDER IN
 DEFENDANT MDU'S MOTION TO
 DISMISS PLAINTIFF'S AMENDED
 COMPLAINT AND NOTICE OF
 APPEAL**

The City of Bismarck hereby joins in the motion of Montana-Dakota Utilities to dismiss plaintiff Capital Electric Cooperative, Inc's *Amended Complaint and Notice of Appeal*. The Court has previously addressed all allegations raised in Capital's *Amended Complaint* in the *Order on Appeal* dated March 14, 2006, and its *Memorandum Opinion and Order* dated January 30, 2006. Specifically, the March 14 *Order on Appeal* addressed "Capital's assertions both as set out in its [proposed] Amended Complaint and at the hearing." *Order on Appeal* at 7 (Mar. 14, 2006). The Court evaluated all allegations/causes of action raised in Capital's proposed *Amended Complaint and Notice of Appeal* in its order and held "Capital has not shown that the

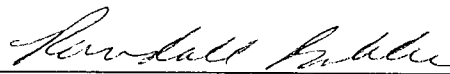
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Findings, Conclusions Decision and Order of the commission were arbitrary, capricious or unreasonable.” Id. at 13. Therefore, the Court denied Capital’s appeal. Id.

Capital Electric also filed a motion for reconsideration of the Court’s January 30 order. The motion was denied by Order dated April 10, 2006. In its Order denying reconsideration, the Court granted Capital’s motion to amend the complaint “although the motion has become largely moot because of the Court’s ruling on Capital’s appeal.” *Order re: Motion for Reconsideration* at ¶ 4 (Apr. 10, 2006). Based on all previous orders in this case, City joins MDU’s motion to dismiss and requests Capital’s *Amended Complaint and Notice of Appeal* be dismissed. Capital’s allegations have already been decided by the Court.

Dated this 11th day of May, 2006.

SMITH BAKKE PORSBORG & SCHWEIGERT

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 Appellee,
City of Bismarck

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **CITY OF BISMARCK'S JOINDER IN DEFENDANT MDU'S MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT AND NOTICE OF APPEAL** was on the 11th day of May, 2006, mailed to the following:

ATTORNEYS FOR PLAINTIFF:

Carol K. Larson
Attorney at Law
P.O. Box 1000
Minot, ND 58702-1000

ATTORNEY FOR MONTANA DAKOTA UTILITIES:

Daniel S. Kuntz
MDU Resources Group, Inc.
P. O. Box 5650
Bismarck, ND 58502-5650

Jerome Kettleon
Attorney at Law
P. O. Box 400
Bismarck, ND 58502-0400

ATTORNEY FOR PUBLIC SERVICE COMMISSION:

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

By 
RANDALL J. BAKKE