

STATE OF NORTH DAKOTA

COUNTY OF BURLEIGH

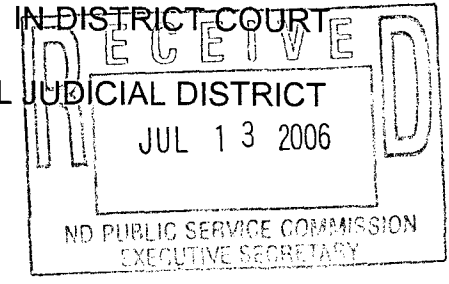
Montana-Dakota Utilities Co.,)
a Division of MDU Resources)
Group, Inc.)
Appellant,)

vs.)

The Public Service Commission of)
North Dakota)

and)

Capital Electric Cooperative, Inc.)
Appellees.)



SOUTH CENTRAL JUDICIAL DISTRICT

**AFFIDAVIT OF
ORDEAN "LARS" NYGREN
IN RESPONSE TO
APPELLANT'S MOTION FOR STAY**

Case No. 06-C-1177

AFFIDAVIT OF ORDEAN "LARS" NYGREN

I, Ordean "Lars" Nygren, being first duly sworn, makes the following statement on the basis of his personal knowledge and information.

I am the general manager of Capital Electric Cooperative, Inc., (herein referred to as Capital) one of the appellees in the matter before the court.

Contrary to the allegations on pages 3 and 7 of MDU's brief filed with its motion to stay the PSC Order in this case, Capital does have a franchise from the City of Bismarck to serve customers within Boulder Ridge.

On May 25, 1993, the Board of City Commissioners of the City of Bismarck issued a 20 year franchise to Capital to construct and maintain an electric transmission and distribution system within a limited geographic area of the City of Bismarck. Capital has

constructed and maintained an electric distribution system in areas annexed to Bismarck since May 25, 1993. Capital has substantial facilities within the corporate limits of Bismarck.

Before Capital commenced the proceeding in the North Dakota Public Service Commission that is the subject of the appeal now before the court, MDU filed with the Bismarck Board of City Commissioners a petition to declare franchise rights of MDU and Capital. Capital responded by filing a complaint in the District Court, Burleigh County, seeking a judgment declaring Capital's rights under its franchise to operate an electric distribution system in Bismarck. The court granted MDU's motion for dismissal of Capital's amended complaint, and Capital has appealed that decision to the North Dakota Supreme Court.

Capital is engaged in good faith litigation with MDU concerning Capital's rights under its franchise to construct and maintain its electric distribution system in Bismarck.

Capital is ready, willing and able to provide electric service in Boulder Ridge in the ordinary course of its business. Capital is ready, willing and able to:

- (1.) purchase from Montana-Dakota, at book value, the distribution facilities located in and used by Montana-Dakota to serve Boulder Ridge First Addition, to the extent compatible with Capital's system and not constituting an unnecessary duplication of Capital's facilities;
- (2.) use those facilities in connection with Capital's other facilities that are described in the PSC Order; and
- (3.) for Capital to begin providing service to users of electricity in Boulder Ridge in compliance with the Order of the North Dakota Public Service Commission on June 22, 2006.

Dated this 12 day of July, 2006.

Ordean Lars Nygren
Ordean "Lars" Nygren

STATE OF MINNESOTA)
COUNTY OF Becker) ss.

On this 12th day of July, 2006, before me personally appeared **ORDEAN "LARS" NYGREN**, known to me to be the person who is described in, and who executed the within instrument, and severally acknowledged that he executed the same.

Brenda J. Chisholm
Notary Public
For the State of Minnesota
My commission expires: 1-31-10

