

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

JUDGMENT
Supreme Court No. 20060199

Appeal from the district court for Burleigh County.

Capital Electric Cooperative, Inc.,

Plaintiff and Appellant

v.

City of Bismarck, North Dakota,

Defendant and Appellee

and

Montana-Dakota Utilities, Inc.,

**Defendant, Counterclaimant,
and Appellee**

a Division of MDU Resources Group, Inc.,

and

The Public Service Commission of North Dakota,

Defendant

This appeal having been heard by the Court at the January 2007 Term before Acting Chief Justice Carol Ronning Kapsner, Justice Dale V. Sandstrom, Justice Daniel J. Crothers, and Surrogate Judge Ronald E. Goodman, and Surrogate Judge William F. Hodny, sitting in place of Chief Justice Gerald W. VandeWalle and Justice Mary Muehlen Maring, disqualified;

and the Court having considered the appeal, it is ORDERED AND ADJUDGED the district court judgment that "denied" Capital Electric Cooperative its appeal from a Bismarck City Commission decision construing Bismarck's electric distribution franchises with Capital Electric and with Montana-Dakota Utilities Company to allow Montana-Dakota Utilities Company, not Capital Electric, to provide electric service to new customers in the Boulder Ridge First Addition in northwest Bismarck is REVERSED.

IT IS FURTHER ORDERED AND ADJUDGED that Capital Electric Cooperative, Inc., have and recover from Appellees costs and disbursements on this appeal under Rule 39, N.D.R.App.P., to be taxed and allowed in the court below.

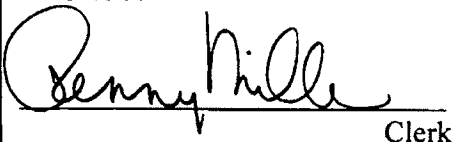
This judgment, together with the opinion of the Court filed this date, constitutes the mandate of the Supreme Court.

Dated: July 27, 2007.

By the Court:


Acting Chief Justice

ATTEST:


Clerk

seal