

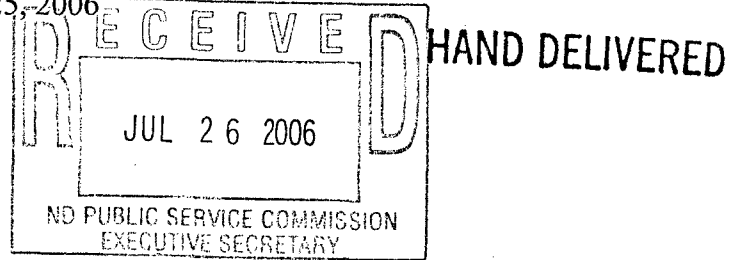


WILLIAM P. PEARCE
 PATRICK W. DURICK
 B. TIMOTHY DURICK
 GARY R. THUNE
 DAVID E. REICH
 JEROME C. KETTLESON
 LARRY L. BOSCHEE ••
 LAWRENCE BENDER, PC •
 JONATHAN P. SANSTEAD
 TIFFANY L. JOHNSON

ATTORNEYS AT LAW
 314 EAST THAYER AVENUE
 P.O. BOX 400
 BISMARCK, NORTH DAKOTA 58502

TELEPHONE (701) 223-2890
 FAX (701) 223-7865
 E-MAIL: law.office@pearce-durick.com

July 25, 2006



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

Re: *Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. v. North Dakota Public Service Commission.*
 Civil No. 06-C-1290

Dear Ms. Simenson:

At a hearing on July 25, 2006, Judge Jorgensen requested that the Franchise and the Acceptance of Franchise issued by the City of Bismarck to Montana-Dakota Utilities for an electric distribution system be filed with the Court. Please find attached Montana-Dakota's Request for Admission in Public Service Commission Case No. PU-05-551, which contains Exhibit 1, Resolution granting franchise, dated May 12, 1987; and Exhibit 2, Acceptance of Franchise, dated May 29, 1987. In addition, please find attached Capital Electric's Response to Montana-Dakota's Request for Admissions, in which it admits Exhibit 1, Resolution by the Bismarck Board of Commissioners is a genuine copy of the Resolution; and Exhibit 2 is a genuine copy of the Acceptance of Franchise.

I have also attached an Affidavit of Mailing indicating this letter and the attachments have been served as required by the Court.

Very truly yours,

PEARCE & DURICK

By

Jerome C. Kettleison
 Phone: (701) 333-0104
 Email: jck@pearce-durick.com

JCK/ef
 Enclosures
 cc. (w/encls.) Hon. Donald L. Jorgensen

HAND DELIVERED

*mdu
exhibit 1*

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

Capital Electric Cooperative, Inc.)
)
 Complainant,)
)
 vs.)
)
 Montana-Dakota Utilities Co., a)
 Division of MDU Resources Group, Inc.)
)
 Respondent.)

**MONTANA-DAKOTA'S REQUESTS
FOR ADMISSION**

Case No. PU-05-551

TO: COMPLAINANT CAPITAL ELECTRIC COOPERATIVE AND ITS ATTORNEYS

Pursuant to North Dakota Century Code 28-32-33 and Rule 36 of the North Dakota Rules of Civil Procedure, Respondent Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc., requests the Complainant Capital Electric Cooperative within 30 days after service of this request to make the following admissions for the purpose of this proceeding only and subject to all pertinent objections of admissibility which may be interposed at the hearing.

That each of the following documents exhibited with this Request is an authentic and genuine copy of:

Exhibit 1. Resolution of the Bismarck Board of City Commissioners adopted May 12, 1987.

Exhibit 2. Acceptance of Franchise by Montana-Dakota Utilities Co. dated May 29, 1987.

Exhibit 3. Resolution of the Bismarck Board of City Commissioners adopted May 25, 1993.

Exhibit 4. Letter from Dennis Schlenker, Investment/Finance Officer, City of Bismarck, dated November 15, 2005.

Exhibit 5. Findings, Conclusions Decision and Order adopted by the Bismarck Board of City Commissioners on November 14, 2005.

Your attention is directed to Rule 36 which provides that you may not give lack of information as a reason for failure to admit unless you state that you have made reasonable inquiry. Your attention is further directed to Rule 37 which provides:

"If a party fails to admit the genuineness of any document or the truth of any matter as requested under Rule 36, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, he may apply to the court for an order requiring the other party to pay him the reasonable expenses incurred in making that proof, including reasonable attorney fees."

Dated this 27th day of December, 2005.

Respectfully submitted,
Montana-Dakota Utilities Co., a Division of
MDU Resources Group, Inc.

Daniel S. Kuntz (ID# 03490)
Senior Attorney
MDU Resources Group, Inc.
918 East Divide Avenue
P.O. Box 5650
Bismarck, ND 58506-5650
(701)222-7612

Pearce & Durick
Patrick W. Durick (ID# 03141)
Jerome C. Kettleon (ID# 03095)
314 East Thayer
P.O. Box 400
Bismarck, ND 58502-0400
(701) 223-2890

By: 

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Capital Electric Cooperative vs.
Montana-Dakota Utilities Co.
Complaint

Case No. PU-05-551

AFFIDAVIT OF SERVICE BY FIRST CLASS MAIL

STATE OF NORTH DAKOTA

COUNTY OF BURLEIGH

Dorothy Vedvick deposes and says that:

she is over the age of 18 years and not a party to this action and, on the 27th day of December, 2005, she deposited in the United States Mail, Bismarck, North Dakota, one envelope with fully prepaid, securely sealed and containing a copy of:

Montana-Dakota's Requests for Admission

The envelope was addressed as follows:

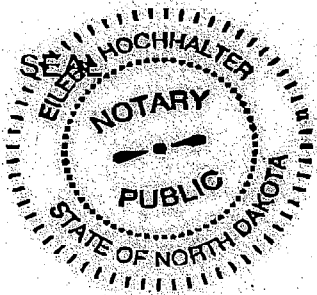
Carol K. Larson
Pringle & Herigstad, P.C.
2525 Elk Drive
P.O. Box 1000
Minot, ND 58702

The address shown is the respective addressee's last reasonably ascertainable post office address.

Dorothy Vedvick

Subscribed and sworn to before me
this 27th day of December, 2005.

Eileen Hochhalter
Notary Public



RESOLUTION

A Resolution granting to Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc., a Corporation, its successors and assigns, the franchise and right to construct, maintain and operate, within and upon, in and under the streets, alleys and public grounds of the City of Bismarck, North Dakota, an electric distribution system for transmitting and distributing electric energy for public and private use.

WHEREAS, pursuant to law the City has the power to grant a non-exclusive franchise for a term of no more than twenty years; and,

WHEREAS, pursuant to city ordinance the City may grant a franchise, by resolution, following public hearing; and,

WHEREAS, on the 12th day of May, 1987, a public hearing was held by the Board of City Commissioners; and,

WHEREAS, it is in the public interest that a franchise be granted to Montana Dakota Utilities Co., a division of MDU Resources Group, Inc., for an electric distribution system.

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota:

Article I. Definitions. As used herein, the following words and terms are defined as follows:

1. "City" means the City of Bismarck, North Dakota.
2. "Franchise" means all of the rights and obligations extended by City to Grantee herein.
3. "Grantee" means Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc.

Article II. Grant of Authority. There is hereby granted by the City to the Grantee, subject to the conditions contained herein, the right and privilege to occupy and use the streets, alleys and public grounds of the city as now, or hereafter constituted, for the purpose of constructing, maintaining and operating, within, upon, in and under the same, an electric distribution system for transmitting and distributing electric energy for public and private use.

Article III. Grantee's Obligations. Grantee shall maintain an efficient distribution system for furnishing electric energy for public and private use at such reasonable rates as may be approved by the Public Service Commission of the State of North Dakota and under such orders, rules or regulations as may be issued by any federal or state agency having jurisdiction thereof.

Article IV. Non-Exclusive Grant. This franchise shall not be exclusive and shall not be construed to prevent the City from granting to any other party the right to use the streets, alleys and public grounds of the City for like purposes.

Article V. Compliance With Laws and Ordinances. Grantee shall at all times during the life of this franchise comply with all applicable laws and ordinances of the City.

Article VI. Reservation of Rights. City reserves any right it may have, under its police power, or otherwise, to control or regulate the use of the streets, alleys and public grounds by Grantee, and to enact all ordinances necessary and proper in the exercise of that power. City also reserves the right, pursuant to state laws and rules and regulations of the Public Service Commission and the City's Home Rule Charter, as such charter may be amended from time to time, and City ordinances as such ordinances may be amended from time to time, to impose, by ordinance, a reasonable franchise tax for revenue purposes applicable to all franchises of like kind.

Article VII. Conditions on Street Occupancy.

1. All transmission and distribution structures, lines and equipment erected by the Grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places. Wherever feasible and practical, new transmission lines, and existing lines whenever they are modernized, upgraded or extensively rehabilitated, shall be placed underground, or they shall be constructed in a manner that causes minimum interference with the landscape or appearance of the city.

2. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the City Engineer, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed, in as good condition as before said work was commenced, and shall maintain the restoration in an approved condition for a period of six years.

3. In event that at any time during the period of this franchise the City shall lawfully elect to alter, or change the grade of, any street, alley or other public way, the Grantee, upon reasonable notice by the City, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

4. The Grantee shall not place poles or other fixtures where the same will interfere with any electric light, water hydrant or water main, or in such a manner as to interfere with the usual travel on said streets, alleys and public ways.

ACCEPTANCE OF FRANCHISE

MONTANA-DAKOTA UTILITIES CO., a Division of MDU Resources Group, Inc., a corporation, hereby accepts the terms and conditions of that certain Resolution _____ enacted by the governing body of the City of BISMARCK, BURLIEGH County, North Dakota, the same being an ordinance granting to said Company, its successors and assigns, a franchise to construct, maintain and operate, within and upon, in and under the streets, alleys and public grounds of said City, an electric distribution system for transmitting and distributing electric energy for public and private use, which ordinance was duly and finally passed, adopted and approved by the governing body of said City on the 12th day of May, 19 87.

Dated this 29th day of May, 19 87.

MONTANA-DAKOTA UTILITIES CO.
A Division of MDU Resources Group, Inc.

By Joseph R. Macchel
President

ATTEST:
[Signature]
Secretary

I, the undersigned, the duly elected, qualified and acting Auditor of the City of BISMARCK, State of North Dakota, do hereby certify that I received the within Acceptance of Franchise on this 1 day of JUNE, 19 87, and on said date duly filed the same in my office.

[Signature]
Auditor

(SEAL OF MUNICIPALITY)

M Dec 27 2005
LEGAL
REC'D

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

Capital Electric Cooperative, Inc.)
)
 Complainant,)
)
 vs.)
)
 Montana-Dakota Utilities, Inc., a)
 Division of MDU Resources Group,)
 Inc.)
)
 Respondent.)

CAPITALELECTRIC COOPERATIVE'S
RESPONSE TO MONTANA-DAKOTA'S
REQUESTS FOR ADMISSIONS

Case No. PU-05-551

Capital Electric Cooperative responds to Montana Dakota's requests for admission dated December 27, 2005, as follows:

1. The document exhibited with the request identified as Exhibit 1 is a genuine copy of a Resolution of the Bismarck Board of City Commissioners adopted May 12, 1987.
2. The document exhibited with the request identified as Exhibit 2 is a genuine copy of an Acceptance of Franchise by Montana-Dakota Utilities Co. Dated May 29, 1987.
3. The document exhibited with the request identified as Exhibit 3 is a genuine copy of a Resolution of the Bismarck Board of City Commissioners adopted May 25, 1993.
4. The document exhibited with the request identified as Exhibit 4 is a genuine copy of a letter from Dennis Schenkler, Investment/Finance Office, City of Bismarck, dated November 15, 2005.

5. The document exhibited with the request identified as Exhibit 5 is a genuine copy of Findings, Conclusions Decision and Order adopted by the Bismarck Board of City Commissioners on November 14, 2005.

It is noted that Rule 36 of the North Dakota Rules of Procedure entitles a party to request another to admit whether a document is "genuine." It is noted that Montana-Dakota requests Capital to admit that documents exhibited are "authentic and genuine." Capital understands the added word "authentic" as redundant and synonymous with "genuine." Capital does not admit that any of the exhibited documents is "authentic" in any sense other than that it is a genuine copy.

Dated this 24 day of January, 2006.

CAPITAL ELECTRIC COOPERATIVE, INC.

By: Ordean Lars Nygren
Ordean "Lars" Nygren, General Manager

Dated this 27 day of January, 2006.

PRINGLE & HERIGSTAD, P.C.

By: Carol K Larson
Carol K. Larson - #04406
Attorneys for Capital Electric Cooperative, Inc.
Pringle & Herigstad, P.C.
2525 Elk Drive
PO Box 1000
Minot, ND 58702-1000
(701) 852-0381

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Capital Electric Cooperative, Inc.)
)
 Complainant,)
)
 vs.)
)
Montana-Dakota Utilities, Inc., a)
Division of MDU Resources Group,)
Inc.)
)
 Respondent.)

**AFFIDAVIT OF SERVICE BY
UNITED STATES MAIL**

Case No. PU-05-551

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 27 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. Capital Electric Cooperative's Response to Montana-Dakota's Requests for Admissions.**

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

Daniel S. Kuntz, Senior Attorney
918 East Divide Avenue
PO Box 5650
Bismarck, ND 58502-5650

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

LaRae A Thomas
LaRae A. Thomas

SUBSCRIBED AND SWORN to before me this 27 day of January, 2006.

RUTH HEADRICK
Notary Public
State of North Dakota
My Commission Expires Oct. 25, 2011

Ruth Headrick
Notary Public
For the State of North Dakota
My Commission expires: 10-25-11

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

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

CIVIL NO. 06-C-1290

Plaintiff,

vs.

AFFIDAVIT OF SERVICE

North Dakota Public Service Commission,

Defendant.

STATE OF NORTH DAKOTA)

) ss.

COUNTY OF BURLEIGH)

Evelyn Froebe, being first duly sworn on oath, does depose and say: That she is over the age of eighteen years, and not a party to the above-entitled matter;

That on the 25th day of July, 2006, this affiant deposited in the mailing department of the United States Post Office at Bismarck, ND, a true and correct copy of the following document in the above-captioned action:

- (1) Letter of Jerome C. Kettleison to Debra Simenson, Clerk of the District Court, dated July 25, 2006, together with enclosures: Montana-Dakota's Request for Admission in Public Service Commission Case No. PU-05-551, which contains Exhibit 1, Resolution granting franchise, dated May 12, 1987; Exhibit 2, Acceptance of Franchise, dated May 29, 1987; and Capital Electric's Response to Montana-Dakota's Request for Admissions, in which it admits Exhibit 1, Resolution by the Bismarck Board of Commissioners is a genuine copy of the Resolution; and Exhibit 2 is a genuine copy of the Acceptance of Franchise.

That copies of the above document were enclosed and secured in an envelope with postage duly prepaid and addressed as follows:

William W. Binek
Special Assistant Attorney General
Public Service Commission
State Capitol
Bismarck, ND 58505-0480
Counsel for The Public Service Commission of North Dakota

Public Service Commission
State Capitol Building
600 E. Boulevard Avenue; Dept. 408
Bismarck, ND 58505-0480

Carol Larson
Pringle & Herigstad, P.C.
2525 Elk Drive
P.O. Box 1000
Minot, ND 58702-1000
Attorney for Capital Electric Cooperative, Inc.

Capital Electric Cooperative, Inc.
c/o Office Manager
4111 State Street
Bismarck, ND 58503

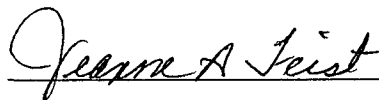
To the best of affiant's knowledge, information and belief, such address as given above were the actual post office address of the parties intended to be so served.

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



Evelyn Froebe

Subscribed and sworn to before me this 25th day of July, 2006.



Notary Public

