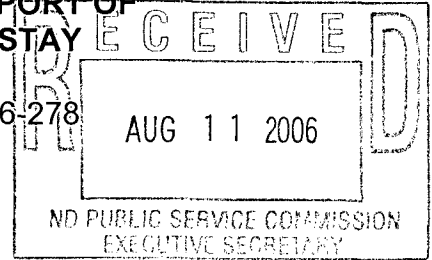


BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

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

**MONTANA-DAKOTA'S REPLY
BRIEF IN SUPPORT OF
MOTION FOR STAY**

Case No. PU-06-278



Montana-Dakota Utilities Co. ("MDU") submits the following reply brief in support of its motion for a stay of this proceeding pending appeal of the Commission's order in Case No. PU-05-551.

Capital Electric Cooperative's ("CEC") objection on procedural grounds is form over substance. CEC acknowledges the Public Service Commission ("PSC" or "Commission") has the right to continue this proceeding after it issues a notice of hearing but that CEC would nonetheless object to such a continuance. If the Commission determines a continuance or stay of this proceeding is appropriate, it makes no sense to engage in the exercise of setting a hearing only to continue the same simply to satisfy CEC's procedural objection.

CEC also argues there are factual differences between this and the Boulder Ridge proceeding that make a stay inappropriate. CEC first contends the order of the Bismarck City Commission of November 14, 2005 did not address the question of a franchise to provide electric service to Promontory Point III. MDU disagrees. In the absence of CEC obtaining an amendment to its existing limited franchise, which CEC has not sought, the City Commission's decision establishes that CEC's limited franchise

does not include this newly annexed area. More importantly, the PSC's proper consideration of the City's franchise in this proceeding remains in question until the Boulder Ridge appeal is decided. Accordingly, any factual differences alleged by CEC regarding which supplier holds a franchise from the City of Bismarck to serve Promontory Point III does not change the appropriateness for the Commission to await the outcome of the Boulder Ridge appeal for direction in its consideration of the franchise issues. Other factual differences between this and the Boulder Ridge case may be irrelevant if, as MDU contends, the issuance of a franchise is a threshold issue in consideration of interference and unreasonable duplication of services.

CEC also misstates the current situation in Promontory Point when it asserts MDU does not have facilities in Promontory Point III. MDU started extending its supply lines and distribution facilities to Promontory Point on May 26, 2006 with construction largely complete by June 15, 2006. The facilities were energized on August 7, 2006 and are currently available for the provision of electric service. See affidavit of Robert Copenhaver.

CEC's knee-jerk objection to MDU's request for a stay to allow for an effective and efficient resolution of this proceeding should be denied.

Dated this 10th day of August, 2006.

Respectfully submitted,

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

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