

North Dakota Public Service Commission
INFORMAL HEARING
January 7, 2008

**Montana-Dakota Utilities, Co. and Capital
Electric Cooperative, Inc.
Service Area Agreement
Application**

Case No. PU-07-754
Filed 11/19/07

Summary of Proposal: Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. ("Montana-Dakota") and Capital Electric Cooperative, Inc. ("Capital Electric") filed a joint application for approval of a new Service Area Agreement to establish service areas and designate service locations to be served by Montana-Dakota and Capital Electric within the City of Bismarck, North Dakota. The Agreement further establishes expanded service areas surrounding Bismarck to be served by each supplier in the event of annexation. The Agreement provides that each supplier will continue to serve existing customers, but will not serve new customers, within the other supplier's agreed upon service area. The term of the Agreement extends through 12/31/2027 and may be cancelled by either party upon twelve months written notice after 12/31/2026. The Agreement provides that MDU will not continue to serve the Boulder Ridge First Addition, Promontory Point Third and Fourth Additions, or the Sonnet Heights Addition to the City of Bismarck.

Recommendation: I recommend the Commission approve the agreement.

Discussion: On December 6, 2007 the Commission issued a Notice of Filing, Notice of Informal Hearing and Notice of Opportunity for Hearing, which provided until January 7 for receiving written comments or hearing requests. No response has yet been received. The notice identified the issues to be considered in this proceeding as whether the Service Area Agreement complies with section 49-03-06 of the North Dakota Century Code and whether the approval of the Service Area Agreement is compatible with the public interest.

The parties contend that the Agreement complies with section 49-03-06 and is in the public interest because it will:

1. Avoid misunderstanding and disagreement over areas to be served by each party,
2. Accomplish the legislative intent of N.D.C.C. section 49-03-06 to encourage harmony and operational efficiency among electric providers, promote safety, discourage unreasonable duplication of electric facilities, assure adequate and reliable electric service and provide antitrust immunity to the electric providers, and
3. Provide both parties with equitable participation in the provision of electric distribution service within undeveloped areas annexed to the City of Bismarck during the term of the Agreement.

Prepared by: Jerry Lein