

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Montana-Dakota Utilities Co., a Division of MDU  
Resources Group, Inc.  
Earnings Sharing Adjustment  
Application

Case No. PU-10-124

AFFIDAVIT OF SERVICE BY CERTIFIED & REGULAR MAIL

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

Cara DeSaye deposes and says that:

she is over the age of 18 years and not a party to this action, and, on the 31<sup>st</sup> day of **October, 2012**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, fully prepaid, securely sealed and containing a photocopy of:

**Settlement Agreement**

The envelope was addressed as follows:

Mr. Scott Skokos  
103 ½ S. Third Street Ste. 8  
Bismarck, ND 58504

**Cert. No. 7011 3500 0003 4574 6015**

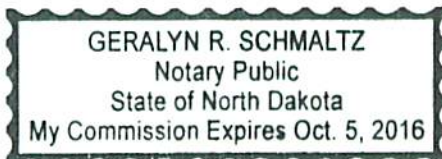
The address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me  
this 31<sup>st</sup> day of **October, 2012**.

  
\_\_\_\_\_

  
Notary Public

SEAL





# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

Brian P. Kalk  
Kevin Cramer  
Bonny M. Fetch

October 25, 2012

Executive Secretary  
Darrell Nitschke

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Bismarck, North Dakota 58505-0480  
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Executive Secretary  
North Dakota Public Service Commission  
State Capitol Building  
Bismarck, ND 58508-0480

Re: Electric Earnings Sharing  
Case No. PU-10-124

Enclosed is a Settlement Agreement on behalf of Montana-Dakota Utilities Co. and the commission's Advocacy Staff (collectively the "Parties"). The Parties believe that the Settlement Agreement resolves all outstanding issues for the 2011 Electric Earnings Sharing Adjustment as ordered by the commission on June 8, 2011 in Case No. PU-10-124.

A Notice of Opportunity for Hearing was issued by the commission on May 16, 2012 as to whether the application is fair and reasonable and in compliance with the commission's Order. No comments or requests for a hearing have been received. The Parties recommend that the commission schedule an Informal Hearing expeditiously so this matter can be closed and the refunds disbursed as soon as practical.

Advocacy Staff will likely submit its rationale for entering into this Agreement within the next week.

Sincerely,

A handwritten signature in black ink that reads "Mike Diller".

Mike Diller  
Director of Economic Regulation

Attachment

203 PU-10-124 Filed: 10/25/2012 Pages: 6  
Advocacy Staff Settlement Agreement Re: Electric  
Earnings Sharing

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

Montana-Dakota Utilities Co.  
a Division of MDU Resources Group, Inc.  
Electric Rate Increase Application

Case No. PU-10-124

**SETTLEMENT AGREEMENT**

This Settlement Agreement is entered into this 25<sup>th</sup> day of October, 2012, by and among the North Dakota Public Service Commission Advocacy Staff ("Staff"), and Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc., ("Montana-Dakota" or "Company") (collectively the "Parties"). The Parties agree this Settlement Agreement, if approved by the Public Service Commission ("Commission"), resolves the issues addressed herein in a manner consistent with the public interest.

**BACKGROUND**

On April 19, 2010, Montana-Dakota filed an application with the North Dakota Public Service Commission ("Commission") for an increase in its retail electric rates to provide an annual increase in revenue of \$15,396,303. Montana-Dakota's initial rate increase request was revised to \$11,519,000 following a partial Settlement Agreement between the Company and Staff dated June 15, 2010. In the partial Settlement Agreement, the Parties recommended approval of a return on equity ("ROE") of 10.75 percent in the Commission's final order and implementation of an earnings sharing mechanism to result in customer refunds if the Company's net income from electric utility service in North Dakota exceeded 10.75 percent. The Settlement Agreement provides that If the Company earns in excess of 10.75 percent ROE as reflected in the annual report of jurisdictional regulated electric earnings for any fiscal year prior to

either: (i) January 1, 2013; or (ii) the base period included in the Company's next electric general rate case (whichever occurs sooner); the Company will refund to customers revenues corresponding to 50 percent of earnings above 10.75 percent ROE. Earnings sharing credits would be applied to customer accounts as soon as practical after July 1; after the annual report of electric earnings for the given fiscal year has been filed with the Commission (typically on April 15). A refund would be administered as a one-time bill credit.

An interim rate increase of \$7,617,000 was approved effective June 18, 2010. The June 15, 2010 settlement agreement was modified by a second settlement agreement dated November 8, 2010 which resolved additional outstanding issues in the proceeding. On March 14, 2011, the Parties entered into a third settlement agreement recommending that Montana-Dakota be allowed to file rates to provide an annual test year revenue increase equal to the amount of the interim rate increase. By Order issued June 8, 2011, the Commission approved the three Settlement Agreements between the Parties including the recommended implementation of an earnings sharing mechanism.

On April 16, 2012, the Company submitted a proposed earnings sharing adjustment with schedules showing its return on equity for the twelve months ending December 31, 2011 exceeded 10.75 percent. The Company proposed to implement an earnings sharing refund to customers of \$1,280,682 through a two month bill credit. The Commission suspended the Company's proposed earnings sharing refund and issued a Notice of Opportunity for Hearing on May 16, 2012. No comments or requests for hearing were received in response to the Notice.

In consideration of the record evidence of this proceeding, and discussions by the Parties, the Parties agree to the following subject to approval of this Settlement Agreement by the Commission:

1. Revenue Requirement Increase. The earnings sharing adjustment of \$1,280,682 proposed by Montana-Dakota was calculated by normalizing certain non-recurring revenue and expense items for 2011. By this Settlement Agreement the Parties recommend utilization of actual earnings with limited normalizing adjustments for calculation of the earnings sharing adjustment. Utilization of 2011 adjusted earnings shown on Exhibit 1, page 1 hereto results in a 2011 earnings sharing amount of \$2,321,305.

2. Margin Sharing Adjustment. The 2011 earnings sharing adjustment should be offset by the recalculation of the margin sharing adjustment associated with the treatment of the Company's off-system sales margins for the years 2007 through July 2011 where amounts to be collected under the Margin Sharing Adjustment (MSA) were understated in periods where the actual off-system sales fell below the floor established in Case No. PU-399-03-296, as shown on Exhibit 1, page 3 hereto. This recalculation results in a margin sharing adjustment in favor of the Company in the amount of \$1,315,065. This margin sharing amount shall be included in the calculation of the earnings sharing adjustment for 2012.

3. Net Refund. The Parties recommend a net 2011 refund to Montana-Dakota electric customers of \$1,006,240, adjusted to accrue interest at the three month Treasury Bill rate through October 31, 2012, estimated at \$1,006,906. The Parties further recommend the refund be applied as a kwh bill credit to all North Dakota electric

customers based on projected electric sales over two months commencing November 2012 or as soon thereafter as this Settlement Agreement is approved and the bill credit

can be implemented by Montana-Dakota. The credit will be reflected as a separate line item on the bill to all of the Company's North Dakota electric customers. Any amount of the net refund that is over collected or under collected will be included in the Company's deferred fuel cost account.

4. Basis of Settlement Agreement. It is agreed this Settlement Agreement is

a negotiated settlement agreement subject to approval by the Commission. Except for the purpose of establishing the amount and procedure for the 2011 earnings sharing adjustment pursuant to the Commission's order in this proceeding, the Settlement Agreement does not establish any principle or precedent for this or any future proceeding.

5. Effect of the Settlement Negotiations. It is understood and agreed that all

offers of settlement and discussions related to this Settlement Agreement are privileged and may not be used in any manner in connection with proceedings in this case or otherwise, except as provided by law. In the event the Commission does not approve this Settlement Agreement, it shall not constitute part of the record in this proceeding and no part thereof may be used by any party for any purpose in this case or in any other.

6. Applicability and Scope. This Settlement Agreement shall be effective on

the date of the Commission Order approving the Settlement Agreement.

7. Modification. If the Commission Order modifies or conditions approval of

this Settlement Agreement, it shall be deemed terminated if either the Company or the