

## BOARD OF RAILROAD COMMISSIONERS

## STATE OF NORTH DAKOTA

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 In the matter of the application of the  
 Northern Power & Light Company of  
 Mobridge, South Dakota, for a Certi-  
 ficate of Public Convenience and  
 Necessity to furnish electric serv-  
 ice in the village of McKenzie,  
 North Dakota.  
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CASE NO. 2971.

FINDINGS AND ORDER

Upon consideration of the above entitled application at a regu-  
 lar meeting held at its offices at Bismarck, North Dakota, on the  
 16th day of August, 1928, the Board of Railroad Commissioners of the  
 State of North Dakota finds that public convenience and necessity re-  
 quire the construction and operation of an electric distribution  
 system in the village of McKenzie, North Dakota, as set forth in  
 said application of the Northern Power & Light Company; and, pursuant  
 to motion this day adopted,

IT IS ORDERED, that said application be, and the same is hereby  
 granted, and that certificate of public convenience and necessity  
 as prayed for be issued.

Dated at Bismarck, North Dakota, this 16th day of August, 1928.

30 PU-13-871 Filed: 5/15/2014 Pages: 12  
 Exhibit MDU-11

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

Attest:

MARY E. PARSONS,  
 Secretary.

BY THE COMMISSION:

FAY HARDING,  
 President.

O. W. McDONNELL,  
 Commissioner.

BEN C. LARKIN,  
 Commissioner.

# BOARD OF RAILROAD COMMISSIONERS

STATE OF NORTH DAKOTA

## Certificate of Public Convenience and Necessity

Certificate No. 86

Case No. 2971

THIS IS TO CERTIFY That public convenience and necessity require, and permission is hereby granted for the  
\_\_\_\_\_ construction and operation \_\_\_\_\_ of \_\_\_\_\_

an electric distribution ~~plant~~ system at McKENZIE, \_\_\_\_\_ North Dakota,

by the NORTHERN POWER & LIGHT COMPANY \_\_\_\_\_ This certificate is issued in accordance with the report and  
order of this Board, dated August 16, 1928, \_\_\_\_\_ in Case No. 2971, \_\_\_\_\_ and is subject to the condi-  
tions and limitations noted thereon.

CONDITIONS: This certificate is conditioned upon the said NORTHERN POWER & LIGHT COMPANY  
securing the consent, franchise, permit, ordinance, or other authority of the proper municipal or other public authority for  
the exercise of the rights and privileges granted herein.

Dated at Bismarck, North Dakota, this 16th \_\_\_\_\_

BOARD OF RAILROAD COMMISSIONERS

day of August, \_\_\_\_\_ 1928.

ATTEST:

Martinson  
SECRETARY

Fay Harding  
PRESIDENT

RESOLUTION AND ORDINANCE

BOARD OF SUPERVISORS, MCKENZIE TOWNSHIP, BURLEIGH COUNTY,  
NORTH DAKOTA:

WHEREAS, that portion of the Township known as the Village of McKenzie, North Dakota, is desirous of receiving electrical energy from the Northern Power & Light Company for the purpose of lighting, the streets, alleys and public places of the Village of McKenzie and furnishing and selling to the inhabitants thereof, and

WHEREAS, this Board believes that said service will be of material benefit to the Township,

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED BY THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF MCKENZIE, COUNTY OF BURLEIGH, STATE OF NORTH DAKOTA:

1. That Northern Power & Light Company, a Corporation of the State of Delaware, duly authorized and licensed to transact business in the State of North Dakota, its successors and assigns, be and it is hereby granted a right-of-way for the erection of an electric light system, and is hereby authorized, empowered and granted the right to erect, construct, extend, operate and maintain an electric transmission and distribution system, including poles, wires, guys, fixtures, sub-stations, appliances and appurtenances, thereto, upon, over and across those certain streets, alleys, highways and public grounds which are under the care and supervision of this Board, situated in the Township of McKenzie, County of Burleigh, State of North Dakota, and more particularly described as follows, to-wit: That portion of the Civil Township of McKenzie, situated on the Southeast quarter (SE $\frac{1}{4}$ ) of Section 28 and the Southwest quarter (SW $\frac{1}{4}$ ) of Section 28, Township 139 N., Range 77 W., known as the Village of McKenzie, Burleigh County, North Dakota; and the Northern Power & Light Company shall not be required to extend any lines beyond 300 feet from their lines when and as constructed unless Customer shall make satisfactory agreement with the Company.
2. All rates for electric light and power and for electric cooking shall be subject to the supervision of the Board of Railway Commissioners of the State of North Dakota.

Street Lighting - All Night Burning. All white way posts and special street lighting fixtures to be installed and maintained at the expense of the Township of McKenzie, Burleigh County, North Dakota.

100 Candle Power Lamp	- -	\$3.00	per month
250 " " "	- -	5.00	" "
400 " " "	- -	8.00	" "
600 " " "	- -	12.00	" "
Minimum charge	\$	<u>25.00</u>	per month.

The size and location of street lamps to be at all times designated by the Town Board or its lighting Committee. The Town Board may from time to time order such additional street lights as it may desire at the same rate per lamp as above described, provided however, that such additional lamps shall not be more than 300 feet from any lamp then in service. Broken and burned out street lamps to be paid for by the Town and the Company to install them. Provided however, that the Town shall have its police officers notify the Company of any of the lamps that require repairs or replacement, and no rebate shall be made for such lamps or lights that are out, until twentyfour hours have elapsed after such notice.

3. In case the Customer's service has been discontinued for non-payment of bills, a charge of Two Dollars (\$2.00) may be made by the Company, which charge, together with all outstanding and unpaid bills and indebtedness owing by such customer to the Company for electric energy, appliances, merchandise or labor and services furnished and supplied and/or sold to such customer, shall be paid before the Company shall be obligated to resume its service to said Customer.

4. Meters will be furnished without charge to all Customers, but the Company shall have the right to require a deposit from each person, firm or corporation requesting service of a sum equal to two (2) months' estimated bills for such party, or, at the option of the Company, the sum of Five Dollars (\$5.00) from each such party, before it shall be required to furnish or supply electric energy to any such person, firm or corporation, which amount shall be returned to such party upon payment for all electric energy furnished and supplied and the discontinuance of patronage.

5. Said poles, wires, guys, fixtures, sub-stations, appliances and appurtenances thereto, shall be so placed, erected, and established on said streets, highways and public grounds as will least inconvenience the public and as not to interfere with the use of said street, highways and public grounds for passage and travel by the public.

6. The Northern Power & Light Company shall indemnify and save harmless the Township of McKenzie and the Board of Supervisors thereof, from all damages which may be awarded against said township or said Board in favor of any person or persons, corporation or corporations, resulting from the erection, construction, operation and maintenance of said above described electric transmission and distribution systems, over, across or upon said streets, highways and public grounds.

7. Acceptance of this grant by Northern Power & Light Company shall be evidenced by a writing, which shall be filed with the Township Clerk within sixty (60) days after date of the enactment thereof, and in the event such written acceptance is not so filed within said period of time, this grant may, at the option of the Board of Supervisors, be declared null and void.

C. W. Thompson  
G. A. Hughes  
D. B. Luther  
Board of Supervisors.

Passed and Approved this

29 day of May,

1928.

ATTEST: M. A. Johnson

A1-

BILL OF SALE and  
ASSIGNMENT OF ELECTRIC FRANCHISE

This indenture made and entered into this 13 day of Aug 1934, by and between the Northern Power and Light Company, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware and duly authorized to transact business in the State of North Dakota, party of the first part, and North Dakota Power and Light Company, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware and duly authorized to transact business in the State of North Dakota, hereinafter called the second party;

WITNESSETH:

That whereas the first party owns an electric distributing system in the Village of McKenzie, McKenzie Township, Burleigh County, North Dakota, and have sold the same to the second party and desire by this instrument to convey to the second party said electric distributing system and all property appurtenant thereto or connected therewith;

Now, therefore, this indenture witnesseth that for and in consideration of the premises and for the sum of One Dollar (\$1.00) and other good and valuable consideration in hand paid to the first party by the second party, the receipt of which by the first party is hereby acknowledged, the first party has granted, bargained, sold, conveyed, assigned, transferred and set over to the second party all the property assets, rights, privileges, contracts and franchises of any and every kind and character of the first party of the electric distribution system in the Village of McKenzie, North Dakota, consisting of meters, transmission lines, substations, conduits, insulators, wires, poles, switchboards, transformers, etc., used in connection with said electric distributing system together with a certain franchise passed and approved on the 29th day of May, 1928, by the Board of Supervisors of McKenzie Township, Burleigh County, North Dakota, granting the franchise to the Northern Power & Light Company in that portion of the Civil Township of McKenzie situated on the Southeast Quarter (SE $\frac{1}{4}$ ) of Section Twenty-nine (29) and the Southwest Quarter (SW $\frac{1}{4}$ ) of Section Twenty-eight (28) Township One Hundred Thirty nine (139) N, Range Seventy-seven (77) W, known as the Village of McKenzie, Burleigh County, North Dakota.

To have and to hold the hereinabove described property, assets, franchises and privileges unto the second party, its successors and assigns forever.

The first parties covenant that they are the lawful owners by a good and absolute title of all of the above described property and have full right to convey the same and that the same are free and clear of all liens and encumbrances of whatsoever kind and nature and that they will forever warrant and defend the same unto the said second party, its successors and assigns against all lawful claims whatsoever.

The General Office and address of both parties hereto is Huron, South Dakota.

In Witness whereof, the said Northern Power and Light Company, a corporation, has caused this instrument to be executed in its corporate name by its officers duly authorized and its corporate seal to be hereto affixed all as of the day and year first above written.

NORTHERN POWER & LIGHT COMPANY

By E. J. Stike  
Vice-President

ATTEST:

K. L. Thaddeus  
Secretary

1

ASSIGNMENT OF ELECTRIC FRANCHISE

KNOW ALL MEN BY THESE PRESENTS, that Dakota Public Service Company, a Delaware Corporation, having its principal offices and post office address at Huron, South Dakota, ASSIGNOR, does hereby sell, assign, transfer, and set over unto Montana-Dakota Utilities Co., a Delaware Corporation, 831 Second Avenue South, Minneapolis 2, Minnesota, ASSIGNEE, that certain electric franchise granted to ASSIGNOR, or its predecessor in interest, by the Township of Mc Kenzie, Burleigh County, North Dakota, as evidenced by a Resolution passed by the governing body of said municipality on the 29th day of May, 1928, together with all right, claim, title, and interest therein and all rights, benefits, and privileges thereunder.

Dated this 19th day of October, 1945.

DAKOTA PUBLIC SERVICE COMPANY

By *R. M. Heskett*  
R. M. Heskett, President

Attest *W. L. Hayes*  
W. L. Hayes, Asst. Secretary

(CORPORATE SEAL)

ACCEPTANCE OF FRANCHISE

MONTANA-DAKOTA UTILITIES CO., a Delaware Corporation, 831 Second Avenue South, Minneapolis 2, Minnesota, hereby accepts all the terms, conditions, and provisions of that certain electric franchise granted to Dakota Public Service Company, a Delaware Corporation, having its principal offices and post office address at Huron, South Dakota, or its predecessors in interest by the Township of Mc Kenzie, Burleigh County, North Dakota as evidenced by a Resolution passed by the governing body of said municipality on the 29th day of May, 1928; said assignee agrees to abide by all the terms and provisions thereof.

Dated this 19th day of October, 1945.

MONTANA-DAKOTA UTILITIES CO.

By *Cecil W. Smith*  
Cecil W. Smith, Vice President

Attest *F. R. Gamble*  
F. R. Gamble, Asst. Secretary

(CORPORATE SEAL)

THIS IS TO CERTIFY that I have, this day, received and filed in my office, the original of the foregoing assignment of electric franchise and the acceptance thereof by Montana-Dakota Utilities Co., and that the foregoing is a true and correct copy of such original instruments.

Dated this 23 day of ~~SEPT~~ November, 1945.

*M. A. Johnson*  
Clerk-Auditor

*M. Kenzie*, No. Dakota

(Seal)  
(MUNICIPAL SEAL)  
*m.a.j.*

CERTIFIED TRANSCRIPT OF ELECTRIC FRANCHISE PROCEEDINGS

Ordinance No. 10

VILLAGE OF MCKENZIE, MCKENZIE TOWNSHIP, BURLEIGH COUNTY, N. D.

STATE OF NORTH DAKOTA )  
                                  ) SS.  
COUNTY OF                    )

I, the undersigned, as the recording officer of the Village of McKenzie of McKenzie Township, Burleigh County, North Dakota,

DO HEREBY CERTIFY: That attached hereto is a complete and exact transcript of all of the documents and proceedings relating to the granting of an electric franchise to MONTANA-DAKOTA UTILITIES CO. by the aforesaid municipality as evidenced by Ordinance No. 10 passed by the governing body of said municipality on the 19th day of April, 1948; that I have compared each of the attached copies of documents and proceedings pertaining thereto with the originals thereof, and that each attached copy is a true and correct transcript of the original instrument of which it purports to be a copy, namely:

(a) Application for electric franchise by MONTANA-DAKOTA UTILITIES CO.,

(b) Ordinance granting an electric franchise to MONTANA-DAKOTA UTILITIES CO.,

(c) Minutes of first meeting of the governing body of said municipality held March 23rd, 1948, at which meeting said ordinance was given its first reading,

(d) Minutes of second meeting of the governing body of said municipality held April 19th, 1948, at which meeting said ordinance was given its second reading and final passage,

(e) Acceptance of said electric franchise ordinance by MONTANA-DAKOTA UTILITIES CO.

(f) ~~Newspaper publication and Affidavit of Publication of an electric franchise ordinance.~~

(g) Certificate showing date of Election and Expiration of term of office of each member of the Governing Body.

I FURTHER CERTIFY: That the original of each of the above mentioned documents is on file in my office; and that insofar as I have knowledge or am informed, all legal requirements of the By-Laws of the governing body of said municipality and of the statutes of the State of North Dakota covering the granting of said franchise, have been legally and fully complied with.

IN WITNESS WHEREOF, I have hereunto subscribed my name as the recording officer of said municipality this 6th day of May,

N/A

EXTRACT OF MINUTES FOR FIRST READING

Pursuant to due notice and call, a Township Board meeting of the City of McKenzie, Burleigh County, North Dakota, was duly held at the regular meeting place on Thursday, the 13 day of March, 2008, at 7 o'clock P.M.

Those present were: Roger Boon Rod Knutson  
Emmet Higwood Ch. Barb Knutson Sec/Treas

Those absent were: NA

Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc., having applied for an electric distribution franchise and proposed Ordinance No. \_\_\_\_\_ having been prepared and submitted for consideration herewith, it was moved by \_\_\_\_\_, and seconded by \_\_\_\_\_, that said Ordinance No. \_\_\_\_\_, the full title of which Ordinance is:

"AN ORDINANCE 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 MCKENZIE, BURLEIGH COUNTY, NORTH DAKOTA, AN ELECTRIC DISTRIBUTION SYSTEM FOR TRANSMITTING AND DISTRIBUTING ELECTRICITY FOR PUBLIC AND PRIVATE USE."

be given first reading.

Thereupon the presiding officer of the meeting put the motion to vote and the following vote was recorded:

Voting Yes: 3

Voting No: 0

The presiding officer then declared the motion duly passed and the Clerk read the ordinance for the first time.

Emmet Higwood  
Mayor - Chairman

ATTEST: Barbara Knutson  
Clerk-Auditor

(Seal of Municipality)

EXTRACT OF MINUTES FOR SECOND READING AND FINAL PASSAGE

Pursuant to due notice and call, a \_\_\_\_\_ meeting of the City of McKenzie,  
Burleigh County, North Dakota, was duly held at the regular meeting place on \_\_\_\_\_  
the day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_m.

Those present were \_\_\_\_\_

Those absent were \_\_\_\_\_

Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc., having applied for an electric distribution franchise and proposed Ordinance No. \_\_\_\_\_ having been prepared and submitted for consideration in connection therewith, and said Ordinance having passed its first reading not less than seven days prior hereto, it was moved by \_\_\_\_\_, and seconded by \_\_\_\_\_, that said Ordinance No. \_\_\_\_\_, the full title of which Ordinance is:

"AN ORDINANCE 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 MCKENZIE, BURLEIGH COUNTY, NORTH DAKOTA, AN ELECTRIC DISTRIBUTION SYSTEM FOR TRANSMITTING AND DISTRIBUTING ELECTRICITY FOR PUBLIC AND PRIVATE USE."

be read the second time and given final passage, being thereby adopted, passed and approved.

Thereupon the presiding officer of the meeting, the Clerk having read the ordinance for the second time, put the motion to vote and the following vote was recorded: (for second reading and final passage)

Voting Yes: 5 Bd Members

Voting No: \_\_\_\_\_

The presiding officer then declared the motion duly passed and the Clerk read the ordinance for the first time.

ATTEST: Burleigh Auditor  
Clerk-Auditor

\_\_\_\_\_  
Mayor – Chairman

(Seal of Municipality)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE 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 MCKENZIE, BURLEIGH COUNTY

AN ELECTRIC DISTRIBUTION SYSTEM FOR TRANSMITTING AND DISTRIBUTING ELECTRICITY FOR PUBLIC AND PRIVATE USE.

BE IT ORDAINED BY

SECTION I. For convenience, herein, said municipal corporation is designated and referred to as "Municipality" and Montana-Dakota Utilities Co. is designated and referred to as "Grantee." Any reference to either includes their respective successors and assigns.

SECTION II. There is hereby granted to Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc., a corporation, Grantee, its successors and assigns, subject to the limitations herein stated, the right and franchise to occupy now and use the streets, alleys and public grounds of the Municipality 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 electricity for public and private use.

SECTION III. Grantee shall maintain an efficient distribution system for furnishing electricity for public and private use at such reasonable rates as may be approved by the Public Service Commission of the State of North Dakota [wherein said Municipality is located] and under such orders, rules or regulations as may be issued by a federal or state agency having jurisdiction thereof.

SECTION IV. This franchise shall not be exclusive and shall not be construed to prevent the Municipality from granting to any other party the right to use the streets, alleys, and public grounds of the Municipality for like purposes.

SECTION V. The Municipality reserves any right it may have, under its police power, or otherwise, to control or regulate the use of said streets, alleys, and public grounds by Grantee.

SECTION VI. Grantee shall indemnify and save and hold the Municipality harmless from any loss or damage due to the construction, installation, and maintenance of its distribution system, and its use of the streets, alleys, and public grounds of the Municipality.

SECTION VII. Grantee shall have the right to assign this franchise to any party, or corporation, but all obligations of Grantee hereunder shall be binding upon its successors and assigns.

SECTION VIII. Within thirty (30) days after Grantee is notified of passage and final approval of this Ordinance, Grantee shall file with the clerk or auditor of the Municipality its written acceptance of this franchise.

SECTION IX. This franchise shall continue and remain in full force and effect for a period of twenty (20) years from the date upon which this ordinance shall become effective as provided by law.

Passed the 13<sup>th</sup> day of March, 2008.

Approved this 18<sup>th</sup> day of March, 2008.

ATTEST: *Barbara Kautzer*  
Auditor

\_\_\_\_\_  
Mayor-Chairman

(Seal of the Municipality)

ND

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 Ordinance No. \_\_\_\_\_ enacted by the governing body of the City of McKenzie, Burleigh 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 electricity for public and private use, which ordinance was duly and finally passed, adopted and approved by the governing body of said City on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Dated this 2<sup>nd</sup> day of MAY, 2008.

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

By Dual L. Focher  
President



ATTEST:

[Signature]  
Secretary

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I, the undersigned, the duly elected, qualified and acting Auditor of the City of McKenzie, State of North Dakota, do hereby certify that I received the within Acceptance of Franchise on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, and on said date duly filed the same in my office.

[Signature]  
Auditor McKenzie Corp

(SEAL OF MUNICIPALITY)