

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Montana-Dakota Utilities Co.,  
A Division of MDU Resources Group, Inc.  
2016 Electric Rate Increase  
Application

Case No. PU-16-666

**AFFIDAVIT OF SERVICE BY ELECTRONIC MAIL**

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Geralyn R. Schmaltz** deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **2nd** day of **March, 2017**, she electronically mailed to **6** recipients, an electronic copy of:

- Staff Response to Application for Protection of Information

The electronic mails were addressed as follows:

Karl Liepitz,  
Senior Attorney  
MDU Resources Group, Inc.  
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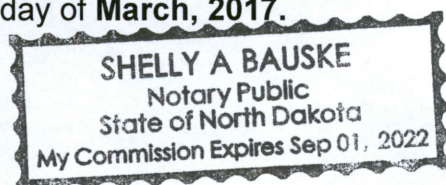
Patrick Ward  
Administrative Law Judge  
[pward@zkslaw.com](mailto:pward@zkslaw.com)

Each email address is the respective addressee's last reasonably ascertainable electronic mailing address.

Subscribed and sworn to before me  
this **2nd** day of **March, 2017**.



SEAL



  
Notary Public



Public Service Commission  
State of North Dakota

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COMMISSIONERS

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March 2, 2017

Mr. Darrell Nitschke  
Executive Secretary  
ND Public Service Commission  
600 E. Boulevard Avenue Dept. 408  
Bismarck, ND 58505-0480

Re: Case No. PU-16-666  
Montana-Dakota Utilities Co.,  
a Division of MDU Resources Group, Inc.  
2016 Electric Rate Increase  
Application

Dear Mr. Nitschke:

Enclosed is the original copy of the Staff Response to Application for Protection of Information for filing in the above captioned proceedings.

Thank you!

Best Regards,

John Schuh  
Legal Counsel

Enclosures

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

**Montana-Dakota Utilities Co.  
2016 Electric Rate Increase  
Application**

**Case No. PU-16-666**

**STAFF RESPONSE TO APPLICATION FOR PROTECTION OF INFORMATION**

On 10 February 2017, Montana-Dakota Utilities Co. (MDU) filed an application for protection of information in the captioned case requesting protection against public disclosure of certain information pursuant to N.D. Admin. Code §§ 69-02-09-01, 69-02-09-04 and N.D.C.C. §§ 44-04-18.4(1), 44-04-18.4(2), and 44-04-24.

North Dakota Administrative Code Section 69-02-09-03 requires that the Commission staff examine the application and make a recommendation to the Commission. Advocacy Staff has reviewed the information and request for protection of information and recommends that protection of information be denied as to request (A) and granted as to request (B) and (C).

(A) Information Request No. 3.5 requests information related to a Settlement Agreement entered into between the South Dakota Public Utilities Commission Staff and the Company that was designated as confidential information. This is information that is not readily ascertainable by proper means by other persons.

N.D.C.C. § 44-04-18 states that “[e]xcept as otherwise specifically provided by law, all records of government bodies . . . shall be open and accessible for inspection during reasonable office hours.” In order to deny an open records request, the Commission would need to provide specific legal authority for such denial. Advocacy

Staff has found no sound legal basis upon which the Commission may deny an open records request for this information. Accordingly, Advocacy Staff recommends a denial.

(B) Information Request No. 3.10 requests information related to electric transmission systems that are critical infrastructure systems exempt from public disclosure in accordance with N.D.C.C. § 44-04-24. This is information that is not readily ascertainable by proper means by other persons.

Advocacy Staff agrees that the Commission is exempt from providing this information and recommends that protection be granted.

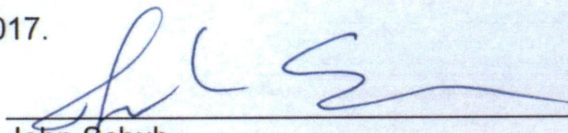
(C) Information Request No. 3.17 requests information related to requests for proposal and corresponding proposals for items associated with the Company's reciprocating internal combustion engine (RICE) generating station co-located with the Lewis & Clark generating station near Sidney, Montana. The information to be provided in response to this requests includes confidential pricing information as well as critical infrastructure data.

Advocacy Staff agrees that this information may be protected by the Commission as trade secret, and is also exempt under the critical infrastructure exemption.

### **Recommendation**

Advocacy Staff has reviewed the information and recommends that protection of information be denied as to request (A), and granted as to Requests (B) and (C).

Dated this 2<sup>nd</sup> day of March 2017.

  
\_\_\_\_\_  
John Schuh  
Advocacy Staff Counsel