STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Montana-Dakota Utilities Co. a Division of MDU Resources Group, Inc. 2017 Natural Gas Rate Increase Application

Case No. PU-17-295

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

September 26, 2018

Appearances

Commissioners Randy Christmann, Julie Fedorchak, and Brian Kroshus.

Paul R. Sanderson, Evenson Sanderson, PC, 1100 College Dr., Suite 5, Bismarck, ND, 58501, as Counsel for Montana-Dakota Utilities Co.

Mitchell D. Armstrong, Special Assistant Attorney General, 122 East Broadway Avenue, Bismarck, North Dakota 58502, and John M. Schuh, Special Assistant Attorney General, 600 East Boulevard Ave., Dept. 408, Bismarck, ND 58505-0480, as Counsel for the Public Service Commission Advocacy Staff.

Illona Jeffcoat Sacco, Special Assistant Attorney General and General Counsel, Public Service Commission, 600 East Boulevard Ave., Dept. 408, Bismarck, ND 58505-0480, as Counsel for the Public Service Commission.

Andrew J. Unsicker, Maj, USAF, AFLOA/JACE-ULFSC, 139 Barnes Drive, Suite 1, Tyndall Air Force Base, FL 32403, as Counsel for the Federal Executive Agencies.

John B. Coffman, John B. Coffman, LLC, 871 Tuxedo Blvd., St. Louis, MO 63119-2044, as Counsel for AARP.

Patrick J. Ward, Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, ND 58503, as Procedural Hearing Officer.

Preliminary Statement

On July 21, 2017, Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. (MDU) filed an application to increase rates for natural gas service to provide additional annual revenue of $5.9 million or a 5.4% increase in 2018 test year annual revenue at current rates.

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Public Service Commission

On September 6, 2017, the Commission approved MDU's request for an interim rate increase of $4.6 million, 4.2% over current rates, which became effective for service on and after September 19, 2017. MDU must refund interim rate amounts in excess of final rates approved by the Commission, including interest.

On September 22, 2017, the Commission issued a Notice of Public Hearing, and Public Input Sessions scheduling Public Input Sessions to be held via interactive television on October 24 & 25, 2017, and a formal public hearing to begin February 28, 2018.

On October 19, 2017, separate Petitions to Intervene were filed by the AARP and the Federal Executive Agencies (FEA).

On November 14, 2017, the Petitions to Intervene of both AARP and the FEA were granted.

On January 16, 2018, MDU filed a Motion for Continuance asking the Commission to continue the hearing to permit investigation of the impact of the 2017 federal tax changes on this proceeding.

Also on January 16, 2018, Commission Advocacy Staff (Advocacy Staff) filed a response to MDU's motion, agreeing with and joining the motion, and asking that the rate suspension under N.D.C.C. §49-05-06 be extended to August 31, 2018.

On February 14, 2018, MDU filed a petition to reduce interim rates to conform to the federal Tax Cut & Jobs Act, Pub L. 115-97, H.R.1, 115th Congress, enacted December 22, 2017, (TCJA) which reduced the federal corporate income tax rate from 35 percent to 21 percent for the top bracket

Also on February 14, 2018, the Commission issued a Notice of Continued Public Hearing. The Commission agreed to continue the February 28, 2018, hearing to May 30, 2018 and extended the rate suspension to August 31, 2018. The Notice identified the following issues for hearing:

1. What rates and charges are necessary to provide a just and reasonable rate of return on MDU's property, used and useful, for the service and convenience of the public in North Dakota?

2. Are MDU's proposed rate schedules designed in such a manner that they result in a basis of charge to its customers that is just and reasonable without discrimination?

On February 27, 2018, the Commission granted MDU's petition to reduce interim rates to conform to the TCJA. The interim increase in annual revenue was reduced to $2.7 million.

On March 23, 2018, MDU provided the effects of the TCJA on its original request as part of its rebuttal testimony. The revenue deficiency was reduced to $3,575,388.

On May 30 and 31, and June 1, 2018, the continued hearing was held in the Commission Hearing Room, State Capitol, 600 E. Boulevard Avenue, 12th Floor, Bismarck, North Dakota, 58505.

On July 19, 2018, MDU, Advocacy Staff, and the FEA filed a Settlement Agreement between MDU, Advocacy Staff and the FEA that they state would resolve all outstanding expense, revenue, rate base, return, and rate design issues in this case, except for the implementation of the proposed System Safety and Integrity Program (SSIP) funding mechanism, Rate 94, for recovery of SSIP project costs. AARP was not a party to the Settlement Agreement.

On August 9, 2018, the Commission issued a Notice of Opportunity for Hearing on the Settlement Agreement, which provided until September 11, 2018 for receiving written comments and hearing requests.

On September 11, 2018, AARP filed its Objection to Non-unanimous Settlement.

Having allowed all interested persons an opportunity to be heard and having heard, reviewed, and considered all testimony and evidence presented, the Commission makes the following:

Findings of Fact

1. MDU is a Division of MDU Resources Group, Inc., a Delaware corporation, duly authorized to provide natural gas distribution service to retail customers in North Dakota.

2. The Settlement Agreement provided for implementation of a net increase in natural gas rates for retail customers in North Dakota to yield an annual revenue increase of $2.5 million, representing an overall increase in rates of 2.30%, effective upon a final order in this proceeding. This revenue increase is based upon a return on equity of 9.40 percent and a return on rate base of 7.236 percent.

3. As part of the settlement, MDU agreed that it would issue refunds to customers to reflect the difference in annual revenues collected under the interim increases approved effective September 19, 2017 and March 1, 2018 and the rates approved by the Commission effective as the date of the this order.

4. The Settlement was supported in its entirety by the FEA and Advocacy Staff. AARP did not join in the Settlement Agreement.

5. The Settlement Agreement provides for a return on equity of 9.40 percent effective upon a final order in this proceeding, resulting in an overall rate of return of 7.236 percent based on the following capital structure:

	Ratio	Cost	Return
Long Term Debt	43.036%	5.282%	2.273%
Short Term Debt	5.968%	2.831%	0.169%
Common Equity	50.996%	9.400%	4.794%
Total	100.000%		7.236%

6. Under the terms of the Settlement Agreement, MDU will amortize Excess Deferred Income Taxes (EDIT) as follows:

a) All plant related EDIT shall be amortized using the ARAM method; and
b) All non-plant related EDIT shall be amortized over three (3) years.

7. The Settlement Agreement proposes that a revenue increase of $2.5 million be allocated among the customer classes as follows:

Customer Class	**%**
Residential Service	2.53%
Firm General Service	2.33%
Air Force Delivery	0.0%
Small Interruptible	0.0%
Large Interruptible	0.0%
Overall	**2.30%**

8. The Settlement Agreement includes a proposed revenue increase to the customer classes based upon a class cost of service study prepared by MDU. The Commission agrees that this proposed revenue class allocation moves rates towards costs and should not result in any material rate shock or distribution inequities amongst the customer classes.

9. A class cost of service study can be performed in different ways, potentially reaching a variety of conclusions. The Commission has traditionally avoided mechanical application of the results of any class cost of service study, applying its own judgment after considering the evidence, arguments, and public policy to reach an appropriate rate design in a particular case.

10. The proposed allocation of revenues provides that Residential customers will be assigned an annual revenue increase of $1,474,080 and Firm General customers will be assigned an annual revenue increase $1,025,920. The average monthly increase for a Residential Service customer is estimated to be $1.27.

11. The Settlement Agreement proposes that the full revenue increase for the Residential Class be collected through an increase to the fixed basic service charge, which amounts to $0.6860 per day or $20.87 per month.

12. AARP objected to the proposal in the Settlement Agreement to recover all non-gas Residential Service customer revenues through a fixed customer charge. AARP expressed concerns that this rate design causes large volume customers to pay less than the cost of service and low volume customers to pay more than the cost of service and does not encourage customers to conserve energy while limiting the ability of low-income customers to reduce their bill by conserving energy.

13. The Commission finds that the proposal to recover all non-gas residential customer revenues through a fixed customer charge is consistent with the Commission's previous decision in MDU's most recent previous rate case, Case No. PU-15-90, in which the Commission adopted this rate design for MDU residential gas customers because of the numerous benefits it provides. The Commission's Findings of Fact, Conclusions of Law and Order in Case No. PU-15-90 found the following benefits:

- Utility profits are decoupled from sales volumes, thus eliminating any disincentive for the utility to promote conservation among residential customers.
- Residential billing is simplified by removal of both the distribution delivery volumetric charge and the Distribution Delivery Stabilization Mechanism.
- Seasonal differences in utility revenues and customer bills are stabilized as winter gas bills are lessened while summer bills are increased.
- The impact of significantly colder-than-normal weather on customer bills is mitigated without requiring the application of the Distribution Delivery Stabilization Mechanism.
- Fluctuations in the utility's earnings as the result of weather fluctuations and customer conservation are mitigated, improving budgeting and planning.
- Revenues are better matched to the system design and investment required to serve each residential customer with a typical service line, meter and regulator at the same average cost.
- Inequities and cross subsidies between high usage and low usage customers are reduced, particularly with respect to customers using natural gas as a backup energy source during peak periods.
- Customers receive a proper price signal as distribution costs are predominantly fixed.
- Monthly utility charges are more transparent and less confusing.

14. AARP has not shown that its concerns outweigh the numerous benefits or merit a change in Commission precedent of recovering non-commodity costs from Residential Service customers through a fixed monthly charge.

15. MDU has implemented a pipeline replacement plan to enhance system safety and reliability. MDU refers to this plan as its System Safety and Integrity Program (SSIP). As part of its SSIP, MDU is proposing a replacement program targeting early-vintage steel pipe, early-vintage plastic pipe, low-pressure systems and the relocation of associated inside meters, all of which have been identified as higher safety risks by MDU's Distribution Integrity Management Plan (DIMP) required under 49 C.F.R. Part 192, Subpart P. MDU testified that approximately twenty-five percent of MDU's entire natural gas system is over fifty years old and some of its existing natural gas facilities are in excess of 100 years old.

16. To fund its SSIP projects, MDU requested the implementation of a cost recovery mechanism in addition to regular tariffed rates. This mechanism, or rider, is proposed Rate 94. MDU contends that implementation of a cost recovery mechanism for the SSIP will assist with avoiding rate cases and providing customers with more gradual rate increases over time.

17. Under proposed Rate 94, MDU proposes to make annual filings with the Commission identifying a portfolio of SSIP projects and projected costs that MDU plans to undertake in the upcoming year. MDU proposes to then file a true-up of the actual costs of the SSIP projects the following year.

18. Under proposed Rate 94, MDU would not recover any costs until the SSIP projects were approved by the Commission. The revenue requirement for the SSIP projects would be allocated to the various rate classes, excluding the Minot Air Force Base and transmission level customers, based upon each class' respective revenue allocation established in this rate case.

19. Advocacy Staff and AARP opposed the proposed cost recovery mechanism, claiming MDU did not show it was necessary, reasonable, or prudent, and that it did not include sufficient ratepayer protections. Advocacy Staff's expert witness testified to the attributes that an acceptable accelerated recovery mechanism should have, including a filing fee for Commission use to assist in determining the prudency and reasonableness of the projects, a cap on the total annual cost recovery, a benchmark concerning company earnings to trigger further review, and a requirement that after a certain period the project costs be taken out of the recovery mechanism and put into base rates.

20. MDU's witnesses testified that MDU is agreeable to inclusion in Rate 94 of several of the ratepayer protection attributes identified by Advocacy Staff and AARP.

21. Advocacy Staff and AARP assert the proposed cost recovery mechanism includes overly broad tariff language that would provide MDU quicker cost recovery while shifting investment risk to customers. Advocacy Staff asserts that rather than employing the

SSIP, MDU should better determine and evaluate whether replacement projects are necessary and should then recover the costs of those replacements through traditional ratemaking procedures.

22. The Commission supports MDU's adoption of a proactive approach to identifying and replacing aging natural gas infrastructure.

23 MDU testified that its SSIP replacement plans are based on conclusions from its Distribution Integrity Management Plan.

24. The Commission will not approve MDU's proposed SSIP Rate 94 cost recovery mechanism, due to the lack of data provided by MDU to determine the reasonableness and prudency of replacement plans. Instead, MDU should work with Commission staff to file a detailed SSIP supporting MDU's accelerated infrastructure replacements.

From the foregoing Findings of Fact, the Commission makes the following:

Conclusions of Law

1. The Commission has jurisdiction in these proceedings.

2. The test year revenue increase amount proposed in the Settlement Agreement is necessary to provide a just and reasonable rate of return on MDU's property, used and useful, for the service and convenience of the public in North Dakota.

3. The rates proposed by Settlement Agreement are designed to result in a basis of charge to customers that is just and reasonable, and without unreasonable discrimination.

4. Proposed Rate 94 has not been shown prudent, just, and reasonable and should not be approved.

From the foregoing Findings of Fact and Conclusions of Law, the Commission makes the following:

Order

The Commission Orders:

1. The Settlement Agreement, attached to and made a part of this Order, is APPROVED.

2. Rate 94 is NOT APPROVED.

3. MDU shall file a detailed SSIP by May 1, 2019.

4. MDU shall file, for Commission approval, compliance rate schedules and an interim rate refund plan consistent with this Order and the Settlement Agreement.

5. Within ninety (90) days of the Commission's approval of MDU's refund plan, MDU shall issue refunds to customers to reflect the difference in annual revenues collected under the interim increase and the effective date of the compliance rates approved by the Commission in this Order. The refunds must be calculated in the manner provided in the Settlement Agreement and this Order.

PUBLIC SERVICE COMMISSION

Brian Kroshus **Commissioner**	**Randy Christmann** **Chairman**	**Julie Fedorchak** **Commissioner**

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission	)	**Case No. PU-17-295**
Montana-Dakota Utilities Co.	)	
2017 Natural Gas Rate Increase	)	
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SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. ("Montana-Dakota" or "Company"), the Advocacy Staff of the North Dakota Public Service Commission ("Advocacy Staff"), and Intervenor Federal Executive Agencies (collectively the "Settling Parties"). The Settling Parties agree this Settlement Agreement, if approved by the Public Service Commission ("Commission"), would resolve all outstanding expense, revenue, rate base, return, and rate design issues in this case between the Settling Parties in a manner consistent with the public interest and will result in just and reasonable rates for the Company's gas service in North Dakota. The settling parties did not reach an agreement on Montana-Dakota's proposed System Safety and Integrity Program ("SSIP") cost recovery mechanism and agree that the issue will be decided by the Commission.

PROCEDURAL HISTORY

1. On July 21, 2017, Montana-Dakota filed an application to increase its rates for natural gas service in North Dakota to provide additional annual revenue of $5,868,389, or a 5.4 percent increase over current rates. Filed with the Application were revised tariffs, direct testimony, exhibits and supporting statements.

2. Montana-Dakota concurrently submitted an Application and Notice for an

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

interim increase in gas rates in the annual amount of $4,561,074 to be effective within 60 days from filing.

3. The Commission suspended Montana-Dakota's general rate increase application by motion on August 16, 2017.

4. On September 6, 2017, the Commission issued an Order approving an interim rate increase of $4.6 million to become effective for service rendered on or after September 19, 2017.

5. On September 22, 2017, the Commission issued a Notice of Intervention Deadline, Notice of Public Input Sessions and Notice of Hearing, scheduling public input sessions for October 24 and 25, 2017, and scheduling the formal hearing for February 28, 2018. The Notice of Hearing also encouraged anyone interested in becoming a party to the proceeding to file a petition to intervene by November 10, 2017. The public input sessions were held as scheduled.

6. Petitions to Intervene were filed by the AARP and Federal Executive Agencies ("FEA"). On November 14, 2017, the Administrative Law Judge granted the petitions to intervene of AARP and FEA.

7. On January 12, 2018, Montana-Dakota filed a Motion for Continuance to allow it and the other parties the opportunity to consider the implications that the Tax Cuts and Jobs Bill Act of 2017 on the Application. As a result of the Tax Act, MDU reduced its annual revenue increase to $3,575,388, representing increases of $2,108,163 for Residential and $1,467,225 for Firm General, which constitutes a 3.3% increase over current rates. The Company proposed the requested increase be divided among the customer classes as follows:

Customer Class	Percent Increase
Residential	3.6%
Firm General	3.3%
Total	3.3%

On February 14, 2018, the Commission granted the Motion for Continuance and extended interim rates until August 31, 2018. The Commission set the Hearing for May 30, 2018.

8. On February 14, 2018, Montana-Dakota filed a request to update interim rates to reflect the 2017 Tax Cuts and Jobs Act requesting interim rates of $2,687,424. On February 27, 2018, the Commission issued an Order adopting Montana-Dakota's request for updated interim rates.

9. A hearing was held on MDU's Application beginning on May 30, 2018, and continuing through June 1, 2018.

10. Following the Hearing, settlement discussions were held between the Settling Parties pursuant to the Commission's Settlement Guidelines dated January 4, 1995. As a result of the settlement discussions, the Settling Parties reached this Settlement Agreement.

11. The Settlement Agreement is supported by the administrative record. Accordingly, the Settling Parties jointly recommend the Commission issue an Order approving this Settlement Agreement in its entirety, without conditions or modifications.

TERMS OF SETTLEMENT AGREEMENT

1. Overall Revenue Increase. The Parties agree to, and recommend the Commission approve, a net increase in Montana-Dakota's gas rates for retail customers

in North Dakota to yield an annual revenue increase of $2.5 million effective upon a final order in this proceeding. This represents an overall increase in rates of 2.30%.

2. Return on Equity. The Parties agree to, and recommend the Commission approve, a return on equity of 9.40 percent effective upon a final order in this proceeding resulting in an overall rate of return of 7.236 percent based on the following capital structure:

	Ratio	Cost	Return
Long Term Debt	43.036%	5.282%	2.273%
Short Term Debt	5.968%	2.831%	0.169%
Common Equity	50.996%	9.400%	4.794%
Total	100.000%		7.236%

3. Excess Deferred Taxes. The Parties agree to, and recommend the Commission approve, that the Company will amortize Excess Deferred Income Taxes (EDIT) as follows:

a) All plant related EDIT shall be amortized using the ARAM method; and

b) All non-plant related EDIT shall be amortized over three (3) years.

4. Revenue Allocation. The Settling Parties agree to the following allocation of revenues resulting in an increase by rate class as described below.

Customer Class	%
Residential Service	2.53%
Firm General Service	2.33%
Air Force Delivery	0.0%
Small Interruptible	0.0%
Large Interruptible	0.0%

Overall	**2.30%**

Residential customers will receive an annual revenue increase of $1,474,080 and Firm General customers will receive an increase $1,025,920. The average monthly increase for a residential customer will be $1.27.

5. Residential Basic Service Charge. The Parties agree to, and recommend the Commission approve, that all revenue increases for the Residential Class be collected through an increase to the fixed basic service charge, which amounts to $0.6860 per day or $20.87 per month.

6. System Safety and Integrity Program. The Parties did not reach any agreement regarding Montana-Dakota's proposed System Safety and Integrity Program ("SSIP") cost recovery mechanism for the pipeline replacement plan, Rate 94. The Parties agree the determination of whether to adopt the proposed Rate 94 will be an issue left for the Commission.

7. Compliance Tariffs. The Company shall file compliance tariffs reflecting the revenue requirement provisions and the revenue allocation denoted in this Settlement Agreement. The Company also agrees with Advocacy Staff's recommended changes noted below and will revise the provisions accordingly in its compliance filing, including:

- Rate 74 paragraphs 2 and 3 under Metering Requirements;
- Rate 100 Section III paragraph 4 - Access to Customer's Premises;
- Rate 100 Section IV paragraph 2 - Customer's Equipment;
- Rate 100 Section V paragraph 10(c) and (d) - Billing Adjustments; and
- Rate 100 General Provisions page 15 – remove "and materials at retail

prices."

The Settling Parties agree to all other tariff provision changes (notwithstanding specific charges) as proposed by the Company.

8. NSF Check Charge. The Parties agree to, and recommend the Commission approve, that Montana-Dakota will set the NSF Returned Check Charge at $15. The Company also agrees to file an electric tariff change so that the NSF check charge is the same for both gas and electric service.

9. Monthly Cost of Gas Adjustments. The Parties agree to, and recommend the Commission approve, revising the minimum filing threshold for its Rate 88 – Cost of Gas and Rate 99 – Cost of Gas Propane from 10 cents to 25 cents.In addition, Montana-Dakota agrees to work with Commission Staff prior to the annual surcharge filing in October 2019 to explore alternatives to the current process underlying the annual surcharge process.

10. The parties agree that upon execution of this Stipulation there are no outstanding issues related to the TCJA regarding Montana-Dakota gas distribution operations in North Dakota.

OTHER TERMS AND CONDITIONS

A. Basis of Settlement. It is agreed this Settlement Agreement is a negotiated settlement agreement subject to approval by the Commission. This Settlement Agreement does not establish any principle or precedent, nor adopt or recommend any specific type or amount of expense or rate base for this or any future proceeding, nor any principle or precedent regarding rate design methodology.

B. Effect of the Settlement Negotiations. It is understood and agreed that all offers of settlement and discussions related to this 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 otherwise.

C. Interim Rate Refund. Interim rates for the period beginning September 19, 2017 through December 31, 2017 shall be compared to the revenue requirement prior to the implementation of the TCJA; whereas interim rates for the period beginning January 1, 2018 through February 26, 2018 and the period February 27, 2018 through the date of implementation of final rates will be compared to the revenue increase granted in this proceeding. Since the base rate increase is less than the current interim increase collected from customers a refund will be due to customers. A refund plan will be submitted within 30 days of an entry of an Order in this case.

D. Applicability and Scope. This Settlement Agreement shall be binding on the Settling Parties, and their successors, assigns, agents, and representatives. Consistent with the Commission's settlement guidelines, this Settlement Agreement does not set policy or overturn precedent. This Settlement Agreement shall not in any respect constitute an agreement, admission or determination by any of the Settling Parties as to the merits of any specific allegation or contention made by the Settling Parties in this proceeding.

E. Effective Date. This Settlement Agreement shall be effective on the date of the Commission Order approving the Settlement Agreement. The revised rates and tariffs agreed to by this Settlement Agreement shall be effective on the dates specified herein.

F. Modification. If the Commission's Order modifies or conditions approval of this Settlement Agreement, it shall be deemed terminated if any Settling Party files a letter with the Commission within three (3) business days of notice of such Order stating that a condition or modification to the Settlement Agreement is unacceptable to such party.

G. Suspension. On August 16, 2017, the Commission approved a motion to suspend the rates filed in this case. The Settling Parties agree to suspend the rate, classification, contract, practice, or rule beyond the time it would otherwise go into effect, and beyond six months, pursuant to N.D.C.C. § 49-05-06 while the Commission considers this matter. Further, if the Commission's order modifies or declines this Settlement, the Settling Parties agree to extend the suspension until such time as these proceedings are concluded.

CONCLUSION

The Settling Parties agree the terms of this Settlement Agreement are a result of negotiations between the Settling Parties, are in the public interest and will result in reasonable gas rates. For these reasons, the Settling Parties urge the Commission to approve the Settlement Agreement.

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Dated this 18th day of July, 2018.

MONTANA-DAKOTA UTILITIES CO.

By: [signature]

Its: EVP Regulatory Affairs

Dated this 18th day of July, 2018.

NORTH DAKOTA PUBLIC SERVICE ADVOCACY STAFF

By: ______________________

Its: Advocacy Staff Counsel

Dated this 19th day of July, 2018.

FEDERAL EXECUTIVE AGENCIES

By: ______________________

Its: ANDREW J. UNSICKER, Major, USAF
Chief, Utility Law Field Support Center