



# Public Service Commission State of North Dakota

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## COMMISSIONERS

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October 27, 2021

Public Service Commission  
Attention: Steve Kahl  
600 East Boulevard Avenue, Dept 408  
Bismarck, ND 58505-0480

In re: Montana-Dakota Utilities Co.  
Financial Incentive – Power Purchase Agreement  
Rates  
Case No. PU-21-373

Dear Mr. Kahl,

On August 18, 2021 Montana-Dakota Utilities Co. (MDU) filed an application for rate treatment of a financial incentive related to a power purchase agreement (PPA) pursuant to North Dakota Century Code (NDCC) section 49-06-02(4).

Advocacy staff (Staff) conducted a review of MDU's application to ascertain if it meets the requirements of NDCC section 49-06-02.

NDCC section 49-06-02 states:

The value of the property of a public utility, as determined by the commission for ratemaking purposes, is the money honestly and prudently invested therein by the utility including construction work in progress for new facilities that use lignite mined in this state to generate electricity, as well as additions or modifications to existing lignite facilities, less accrued depreciation. The commission shall allow a public utility for those new or existing facilities utilizing lignite mined in this state as its primary fuel:

(4). To recover costs in rates, including a financial incentive set at a reasonable rate for power purchase agreements of a dispatchable on-demand generating unit, plant, or facility deemed to protect grid reliability.

In order to satisfy this provision of the law and become eligible for the financial incentive, a public utility must demonstrate that the PPA is:

1. For a Dispatchable generating unit, plant or facility
2. For an on-demand generating unit, plant or facility

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**Advocacy Staff recommendation regarding  
Application (docket No. 1)**

Public Service Commission Advocacy Staff

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3. For a generation unit, plant or facility that has been deemed to protect grid reliability.

As a result of this investigation, Staff does not believe MDU has demonstrated that the PPA meets the above criteria, and therefore should not be granted a financial incentive due to its lack of meeting the 3 requirements listed above and overall failure to show how this PPA meets the intention of the new law. On page 4 of Darcy Neigum's prefiled testimony, he states that the energy provided by the Milton R Young plant's PPA is on a firm basis. This in effect makes the energy non-dispatchable and not on-demand in that it must take and not able to be throttled up or down. Additionally, neither the Milton R Young plant nor this PPA has been deemed by this Commission or any other reliability authority to protect grid reliability. Finally, this PPA was executed between Minnkota and MDU on March 4, 2020 long before the law was passed and put into effect on August 1, 2021, and therefore was not incentivized in any way by it. An incentive by definition should cause something to happen that otherwise would not happen, this is clearly not the case for this PPA.

Based on this and the details contained within the filing, Staff recommends denial of MDU's request for a financial incentive for this PPA. However, we do not oppose MDU being permitted to recover the actual costs of this PPA in the fuel cost rider similar to other PPAs in the past.

Respectfully,



Victor Schock  
NDPSC Advocacy Staff

cc: Travis Jacobson [travis.jacobson@mdu.com](mailto:travis.jacobson@mdu.com) (via email)