



# Public Service Commission State of North Dakota

---

## COMMISSIONERS

Brian Kroshus  
Julie Fedorchak  
Randy Christmann

600 East Boulevard Avenue Dept. 408  
Bismarck, ND 58505-0480  
Web: [www.psc.nd.gov](http://www.psc.nd.gov)  
Phone: 701-328-2400  
ND Toll Free: 1-877-245-6685  
Fax: 701-328-2410  
TDD: 800-366-6888 or 711

December 21, 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,

Enclosed for filing in the above referenced matter please find the original copy of the following public document:

1. Direct Testimony of Victor Schock
2. Affidavit of Service.

Respectfully,

A handwritten signature in black ink, appearing to read "Brian Johnson".

Brian Johnson  
Special Assistant Attorney General Bar ID 07397  
North Dakota Public Service Commission  
600 East Boulevard Avenue Dept. 408  
Bismarck ND, 58505  
701-328-2407

Enclosure

12 PU-21-373 Filed 12/21/2021 Pages: 6  
Letter filing prefiled Direct Testimony of Victor Schock  
Public Service Commission  
Brian Johnson, Legal Counsel

BEFORE THE  
NORTH DAKOTA PUBLIC SERVICE COMMISSION

*Montana-Dakota Utilities Co.*

*Financial Incentive – Power Purchase Agreement, Rates, Case No. PU-21-373*

DIRECT TESTIMONY  
OF  
VICTOR SCHOCK

ON BEHALF OF THE  
NORTH DAKOTA PUBLIC SERVICE COMMISSION  
ADVOCACY STAFF

December 20, 2021

1 Q: Provide your name and qualifications.

2 A: My name is Victor Schock. I am a Public Utility Analyst for the North Dakota  
3 Public Service Commission (Commission). I have 17 years of accounting  
4 experience and seven years of utility regulatory experience.

5 I received a Bachelor of Science Degree in Accounting from Dickinson State  
6 University in 2007. I have testified before the commission on damage  
7 prevention, advanced determination of prudence, certificate of public  
8 convenience and necessity, and rate cases. Prior to my work with the  
9 commission I completed hundreds of financial reviews of both public and  
10 private companies as well as government entities in my work as a Credit &  
11 Collections Manager with Unisys Corporation.

12  
13 Q: What is the purpose of your testimony?

14 A: The commission has appointed me to advocacy staff (Staff) in this proceeding.  
15 As such, I will provide the commission with an analysis and recommendation  
16 concerning Montana-Dakota Utilities Co's (MDU) request for a Financial  
17 Incentive for two Purchased Power Agreements (PPA) the company executed  
18 with Minnkota Power Cooperative (Minnkota).

19  
20 Q: Please summarize your testimony.

21 A: Staff believes that the proposed financial incentive does not meet the  
22 requirements set out in North Dakota Century Code (NDCC) section 49-06-02  
23 and should therefore be denied.

24  
25 Q: What is the specific language of NDCC section 49-06-02?

26 A: The value of the property of a public utility, as determined by the commission  
27 for ratemaking purposes, is the money honestly and prudently invested therein  
28 by the utility including construction work in progress for new facilities that use  
29 lignite mined in this state to generate electricity, as well as additions or

1 modifications to existing lignite facilities, less accrued depreciation. The  
2 commission shall allow a public utility for those new or existing facilities utilizing  
3 lignite mined in this state as its primary fuel:

4 1. To recover its research and development costs incurred to develop  
5 lignite more cleanly, efficiently, or economically, including carbon  
6 dioxide capture and sequestration utilization and a reasonable rate of  
7 return on capital expenditures;

8 2. To recover its incremental costs of complying with federal  
9 environmental laws, including a reasonable rate of return on capital  
10 expenditures. The commission may allow these costs to be recovered  
11 by an environmental surcharge that may be added to existing rates;

12 3. To recover all costs resulting from a coal severance tax pursuant to  
13 chapter 57-61 and all costs resulting from a coal conversion tax pursuant  
14 to chapter 57-60. The commission shall allow the inclusion of these  
15 costs in the base rates and the inclusion in the automatic adjustment  
16 clause of any of these costs not in base rates; and

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

21  
22 Q: What are the specific requirements to qualify for a financial incentive under  
23 NDCC section 49-06-02(4)?

24 A: This section of law dictates that a PPA is eligible for a financial incentive  
25 provided that it:

26 1. Is for a dispatchable generating unit, plant or facility.

27 2. Is for an on-demand generating unit, plant or facility.

28 3. Is for a generation unit, plant or facility that has been deemed to protect grid  
29 reliability.

30

1 Q: Do you believe the two PPAs meet the first and second qualifications?

2 A: No. On page 4 of Darcy Neigum's testimony in this case, he states that that the  
3 energy provided by the PPA is on a firm basis. This makes the energy non-  
4 dispatchable and not on-demand. The details of the confidential PPAs  
5 themselves backup this fact.

6  
7 Q: Do you believe the two PPAs meet the third qualification?

8 A: No. In order to meet this qualification, the PPA must be from a unit, plant or  
9 facility that has been deemed to protect grid reliability. The use of the word  
10 deemed indicates that a party or agency must determine that a particular unit,  
11 plant or facility protects grid reliability. At this time, neither the North Dakota  
12 Public Service Commission, the Federal Energy Regulatory Commission, nor  
13 the North American Electric Reliability Corporation have deemed any particular  
14 unit, plant or facility to protect grid reliability. With that in mind, it would be  
15 inappropriate to assume that a unit, Milton R. Young Unit 1 in this case, has  
16 been deemed as such.

17  
18 Q: What other requirement should be considered before the Commission grants a  
19 financial incentive under this section of law?

20 A: In this particular case I believe MDU has overlooked the nature of an incentive.  
21 A financial incentive should by definition incentivize a particular action or  
22 activity. This section of law was the result of the North Dakota sixty-seventh  
23 legislative assembly Senate Bill 2206. This bill was introduced on January 14,  
24 2021. It was passed and subsequently signed by the North Dakota House of  
25 representatives on April 8, 2021 and by the North Dakota Senate on April 9,  
26 2021. It was signed by the North Dakota Governor on April 13, 2021 and  
27 became effective August 1, 2021. The two PPAs between MDU and Minnkota  
28 were executed by both parties in March and July of 2020, long before this new  
29 section of law was even contemplated. With that in mind, allowing MDU to

1 collect a financial incentive for these PPAs would serve only to provide MDU  
2 higher returns rather than incentivize anything.

3

4 Q: Does this conclude your testimony?

5 A: Yes it does.