



Public Service Commission State of North Dakota

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February 7, 2022

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

via Hand Delivery

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

Dear Mr. Kahl:

Enclosed is a copy of the Advocacy Staff's Proposed Findings of Fact, Conclusions of Law and Order to be filed in the above captioned case.

Best Regards,

A handwritten signature in blue ink, appearing to be "BJ", written over a horizontal line.

Brian Johnson
Legal Counsel

Enclosure

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Montana-Dakota Utilities Co.
Financial Incentive – Power Purchase Agreement
Rates

Case No. PU-21-373

ADVOCACY STAFF’S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER

February 23, 2022

Commissioners Julie Fedorchak and Randy Christmann

Paul Sanderson, Evenson Sanderson, PC, 1100 College Drive, Suite 5,
Bismarck, ND 58501, appearing on behalf of Montana-Dakota Utilities Co.

Brian L. Johnson, Legal Counsel, Public Service Commission, State Capitol, 600
E. Boulevard Avenue, Bismarck, ND 58505, appearing on behalf of Public Service
Commission Advocacy Staff.

John M. Schuh, General Counsel, Public Service Commission, State Capitol, 600
E. Boulevard Avenue, Bismarck, North Dakota 58505, appearing on behalf of the Public
Service Commission Advisory Staff.

Hope Hogan, Administrative Law Judge, Office of Administrative Hearings, 2911
North 14th Street, Suite 303, Bismarck, North Dakota 58503 as Procedural Hearing
Officer.

Preliminary Statement

On May 4, 2020 and July 22, 2020 Montana-Dakota Utilities Co. (MDU) entered
into two PPA’s with Minnkota Power Cooperative (Minnkota) to become effective June
of 2021.

On August 1, 2021, North Dakota Century Code (N.D.C.C.) § 49-06-02 was
amended and reenacted adding section 4 which states: “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.

On August 18, 2021, MDU filed for Commission approval, a financial incentive
related to two power purchase agreements (PPA) with Minnkota for the purchase of
electric capacity and energy from the Milton R Young Unit 1 coal-fired electric
generation facility.

On December 15, 2021, the Commission issued a Notice of Hearing, scheduling a formal hearing for January 20, 2022.

The Notice identified the issues to be considered are:

1. Whether the purchase agreements are for power from a new or existing facility utilizing lignite mined in this state as its primary fuel, and
2. Whether the purchase agreements are for power from a dispatchable on-demand generating unit, plant or facility, and
3. Whether the purchase agreements are for power that will protect grid reliability, and if so,
4. What is a reasonable rate for the financial incentive for the power purchase agreements, and
5. Is it appropriate for the financial incentive to be included in the company's existing Generation Resource Recovery Rider – Rate 56?

On January 20, 2022, the public hearing was held as scheduled in the Commission Hearing Room, State Capitol, 600 E. Boulevard Avenue, 12th Floor, Bismarck, North Dakota 58505.

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 Delaware corporation, authorized to provide electric service to retail customers in North Dakota.
2. MDU proposes to collect \$13,330 from North Dakota customers for 2021, \$59,058 for 2022 and going forward as an incentive for signing the two PPAs over one year prior to the law authorizing incentives for PPAs took effect.
3. MDU proposes the use of its authorized return on equity of 9.65 percent along with its cost of short and long term debt resulting in an overall rate of return of 6.939 percent as its incentive rate, based on the following capital structure:

Long Term Debt	43.871%	4.647%	2.039%
Short Term Debt	6.310%	1.463%	0.092%
Common Equity	<u>49.819%</u>	9.650%	<u>4.808%</u>
Total	<u>100.000%</u>		<u>6.939%</u>

4. MDU proposes to recover the incentive through its Generation Resource Cost Recovery Rider. The average monthly increase for a residential customer would be 4 cents.

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

Conclusions of Law

1. The Commission has jurisdiction in these proceedings.
2. The purchase agreements are for power from a new or existing facility utilizing lignite mined in this state as its primary fuel.
3. The purchase agreements are for power from a dispatchable on-demand generating unit, plant or facility.
4. Milton R Young Unit 1 has not been deemed by this Commission or any other authority to protect grid reliability. Therefore the purchase agreements are not for power that will protect grid reliability.
5. Since the purchase agreements are not for power that will protect grid reliability, there is not a reasonable rate for a financial incentive for the power purchase agreements.
6. It is not appropriate for the financial incentive to be included in the company's existing Generation Resource Recovery Rider – Rate 56.
7. The purchase agreements and MDU's request do not meet the definition of incentive.

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

Order

The Commission Orders:

1. Montana-Dakota Utilities Co's request for a financial incentive related to two power purchase agreement with Minnkota Power Cooperative is denied with prejudice.
2. Montana-Dakota Utilities Co. may continue to recover the actual costs of the two power purchase agreements with Minnkota Power Cooperative in its Fuel and Purchased Power Adjustment Rate 58.

PUBLIC SERVICE COMMISSION

**Randy Christmann
Commissioner**

**Julie Fedorchak
Chair**

Vacant