

MONTANA-DAKOTA UTILITIES CO.

Before the North Dakota Public Service Commission

Case No. PU-22-194

Surrebuttal Testimony

of

Tara R. Vesey

1 **Q. Would you please state your name and business address?**

2 A. Yes. My name is Tara R. Vesey and my business address is 400
3 North Fourth Street, Bismarck, North Dakota 58501.

4 **Q. What is your position with Montana-Dakota Utilities Co.?**

5 A. I am the Regulatory Affairs Manager for Montana-Dakota Utilities
6 Co. (Montana-Dakota).

7 **Q. Are you the same Tara R. Vesey that previously offered direct and
8 rebuttal testimony in this proceeding?**

9 A. Yes, I am.

10 **Q. What is the purpose of your surrebuttal testimony?**

11 A. The purpose of my testimony is to address certain analysis
12 and recommendations in the surrebuttal testimony of Dr. Marie
13 Fagan, Chief Economist, London Economics International, LLC,
14 testifying on behalf of the North Dakota Public Service Commission
15 Advocacy Staff and Ms. Kavita Maini, Principal, KM Energy
16 Consulting, LLC, testifying on behalf of Marathon Petroleum
17 Company LP.

1 **Q. Please summarize Dr. Fagan's recommendations you will**
2 **address.**

3 A. I will address the following income statement and rate base
4 adjustments and recommendations by Dr. Fagan:

- 5 • A decrease of \$4,741,530 related to the proposed
6 depreciation rates;
- 7 • A decrease of \$4,093,577 in labor and benefits expenses
8 related to the following items:
 - 9 ○ \$1,391,439 related to long-term incentive;
 - 10 ○ \$2,258,988 related to short-term incentive; and
 - 11 ○ \$443,150 related to the new employees/promotions
12 associated with the Outage Management System;
- 13 • A decrease of \$868,050 related to Software Expenses;
- 14 • A decrease of \$226,557 related to Industry Dues;
- 15 • A decrease of \$225,084 related to insurance expense;
- 16 • A decrease of \$56,112 related to advertising; and
- 17 • A decrease of \$40,000 related to the personal use of
18 vehicles.

19 **Q. Please summarize Ms. Maini's recommendations you will**
20 **address.**

21 A. I will address the income statement recommended decrease
22 of \$4.7 million related to the proposed depreciation rates and the
23 E8760 allocation method to the fuel and purchase power rider.

1 **Income Statement and Rate Base Recommendations**

2 **Q. Ms. Maini and Dr. Fagan both indicated that Montana-Dakota**
3 **did not follow the Depreciation Study presented in Case No.**
4 **PU-16-66 and therefore do not have intergenerational**
5 **concerns. Do you agree?**

6 A. No. As is fully supported in the surrebuttal testimony of Larry
7 E. Kennedy, Montana-Dakota performs depreciation studies and
8 supports the implementation of the defined rates in an effort to
9 avoid intergenerational equity concerns.

10 Montana-Dakota did propose to implement the rates
11 approved in Montana Docket No. D2015.6.51. During the case
12 evaluation, the Montana Consumer Council (MCC) witness
13 performed a separate depreciation study based on the same
14 updated plant balance data. MCC's study considered differing
15 assumptions than those used in Montana-Dakota's Depreciation
16 Study but used consistent depreciation methods. In the spirit of
17 compromise, Montana-Dakota agreed to accept the MCC study for
18 a small subset of accounts which resulted in the rates included in
19 Docket No. D2015.6.51 and then used in Case No. PU-16-666.

20 Neither Ms. Maini nor Dr. Fagan have performed a
21 depreciation study. While Dr. Fagan pointed out Cost of Removal
22 assumptions that she did not agree with she did not provide
23 alternative depreciation rates, they both have simply indicated that

1 the existing rates should be included and have not considered
2 Montana-Dakota's investment since the last study. Arbitrarily
3 utilizing depreciation rates without logic is not supported by
4 Montana-Dakota.

5 **Q. Ms. Maini commented that Montana-Dakota did include the Big**
6 **Stone AQCS in the currently used Depreciation Study rates.**
7 **Do you agree?**

8 A. No. Montana-Dakota's previous depreciation study that
9 supports the rates used today was performed based on the plant in
10 service as of December 31, 2014. The Big Stone AQCS was
11 commercially operational as of December 29, 2015. Therefore,
12 although the AQCS was included in the plant in service for Case
13 No. PU-16-666, the depreciation study was based on an original
14 cost that did not include the AQCS.

15 **Q. Ms. Maini also asserted that the depreciation rates used for the**
16 **Big Stone station did not agree to those proposed. Do you**
17 **agree?**

18 A. No. Ms. Maini is incorrect. The testimony of Montana-
19 Dakota's depreciation witness, Mr. E. Robinson, supported the
20 depreciation rates that were proposed by the Company and
21 approve by the Commission.

1 **Q. Dr. Fagan argued that my previous statement regarding**
2 **ratepayer benefit to the current depreciation rates are**
3 **theoretical. Do you agree?**

4 A. No. As shown in the response to LEI Data Request Set 15,
5 DR 3.41 the expected customer savings over 50 years is
6 approximately \$35.2 million. This additional expense to the rate
7 payer is why Montana-Dakota no longer believes settlement rates
8 established in the previous rate case (Case No. PU-16-666) are
9 appropriate. Instead, the Company's proposed rates should be
10 accepted.

11 Mr. Kennedy fully supported and justified the depreciation
12 study and will continue to fully support the study in his rebuttal
13 testimony. This adjustment is without merit and should be rejected.

14 **Q. Dr. Fagan has now recommended three adjustments to labor.**
15 **Do you agree with her recommendations?**

16 A. No. Dr. Fagan has recommended the Company's labor
17 expense should be reduced to exclude costs associated with long-
18 term and short-term incentives (page 5 lines 22 through 27 and
19 page 6), and the Outage Management System (page 4 lines 1
20 through 22).

21 **Q. Dr. Fagan recommended disallowance for Long-Term and**
22 **Short-Term Incentives. Do you agree with her**
23 **recommendation?**

1 A. No. Dr. Fagan testifies that these costs are "...focused on
2 benefits to MDU and not its ratepayers" on page 6, lines 5 through
3 6.

4 Montana-Dakota's incentive compensation goals are based on the
5 following criteria:

- 6 1. O&M Expense
- 7 2. Customer Service
- 8 3. Cybersecurity

9 Maintaining these goals is fully for the support of the ratepayer.
10 Ratepayers benefit from the containment of costs, high quality customer
11 service, and the protection of technological data.

12 Also, as was discussed in my rebuttal testimony, Montana-Dakota
13 applies a 'Total Rewards' philosophy to determine the appropriate level of
14 employee compensation. Within this philosophy are three components:
15 base pay, incentive (at-risk) pay, and benefits. Incentive compensation is
16 "pay-at-risk."

17 This topic is more fully discussed in the surrebuttal testimony of Ms.
18 Kirsti Hourigan, but good business decisions are beneficial to customers in
19 totality and to disallow certain costs is an overreach. Dr. Fagan's
20 recommended adjustments of \$1,391,439 and \$2,258,988 must be
21 rejected.

1 **Q. Dr. Fagan continues to recommend disallowances for the**
2 **Outage Management System (OMS) and the labor costs**
3 **associated. Do you agree with her recommendation?**

4 A. No. Montana-Dakota continues to assert that the OMS is a
5 critical project for Montana-Dakota which is focused on the safety
6 and reliability of its electric system.

7 Dr. Fagan claims that the system is intended to be used to
8 meet the IEEE standard and SAIDI reporting. However, this system
9 is intended for much more than simply meeting reporting
10 requirements.

11 The OMS will allow for real time communication during
12 outages and major storm events. Although Montana-Dakota is
13 extremely proud of its response time during the ice storm that
14 affected North Dakota on the weekend of April 23, 2022, as stated
15 in the direct testimony of Mr. Daryl Anderson, the OMS would have
16 provided more centralized damage and repair tracking, customer
17 outage numbers could be seen in real time thus reducing
18 confusion, and follow-up maintenance damage could be managed
19 easier.

20 Dr. Fagan testifies that OMS costs are incurred with no clear
21 operational targets. The direct testimony of Mr. Daryl Anderson
22 clearly defines the goals and additional benefits expected for the

1 OMS, on pages 7 through 10. This is further discussed in the
2 surrebuttal testimony of Mr. Anderson.

3 The Company continues to support the inclusion of the OMS
4 in the rate base and labor costs and thus adjustments of \$443,150
5 from labor costs, and \$2,146,511 from rate base should be rejected.

6 **Q. Dr. Fagan has continued to recommend the disallowance of**
7 **\$868,050 of Software Expense. Do you agree?**

8 A. No. Dr. Fagan indicated that Montana-Dakota did not
9 provide justification for the \$2,326,127 expense in the revenue
10 requirement. Even though the Company provided clear information
11 directing Dr. Fagan to the Company's full support, once again, she
12 is only considering a portion of the information provided by
13 Montana-Dakota. Again, Montana-Dakota asserts that a full and
14 thorough review of the adjustment is necessary to make a
15 recommendation. She has agreed that the Company fully
16 supported a portion of the costs but refuses to review the remainder
17 of the support and, instead, suggests the associated costs should
18 be disallowed.

19 As shown on Workpaper Statement G, Schedule G-1, page
20 44, Montana-Dakota has taken the Projected 2022 costs, which are
21 shown in detail on Statement G, Schedule G-1, pages 45 through
22 47. The Projected 2022 costs are then compared to the average
23 software increases shown from 2018 through 2022, which is 13.08

1 percent. This calculation is used since the Company does not have
 2 a final decision on 2023 specifics, including but not limited to,
 3 software packages approved for purchase, annual maintenance
 4 agreement increases (which are based on various indices), and
 5 additional software patches or add-ons that may be necessary.
 6 Thus, the test year is based on the historical average.

7 Finally, as shown in the table below, Dr. Fagan’s
 8 recommendation is unreasonable when compared to the
 9 Company’s actual expenses. Furthermore, the Company’s
 10 Projected 2022 expense is very reasonable when compared to the
 11 Per Books 2022 expense.

	Montana-Dakota				Dr. Fagan 2023
	Per Books	Per Books	Projected		
	2021	2022	2022	2023	
Software Expense	\$1,893,027	\$2,033,805	\$2,057,071	\$2,326,137	\$1,458,087

12
 13 Montana-Dakota has provided full justification for its
 14 recommended Software Expense adjustment. Dr. Fagan’s
 15 recommendation is in error, is not reasonable, and should be
 16 rejected.

17 **Q. Dr. Fagan has indicated that industry dues are similar to**
 18 **advertising and thus are covered under ND Admin. Code 69-**
 19 **09-02-38 and should be disallowed. Do you agree?**

20 A. No. ND Admin. Code 69-09-02-38 defines advertising as
 21 “the commercial use, by an electric utility, of any media, including
 22 newspaper, printed matter, radio, and television, in order to transmit

1 a message to a substantial number of members of the public or to
2 the utility's electric customers.” There is no mention of industry
3 dues or a suggestion that advertising is a proxy for industry dues.

4 Montana-Dakota’s membership in the associations included
5 in this adjustment do not meet the definition of advertising included
6 in the statute. Therefore, the statute does not apply.

7 Furthermore, the Company’s involvement in these
8 organizations provide value to the rate payer. Montana-Dakota
9 continues to argue that some of the organizations listed promote
10 compliance with state and federal regulations applicable to electric
11 service in North Dakota.

12 For instance, the Lignite Energy Council Mission Statement
13 is “The Lignite Energy Council shall protect, maintain and enhance
14 development of our region’s abundant lignite resource.” Montana-
15 Dakota has historically supported this organization and its
16 dedication to the lignite industry in North Dakota. The Company
17 asserts that the information exchange and compliance guidance
18 offered by this organization are to the benefit of the ratepayer.

19 Additionally, the Edison Electric Institute (EEI) membership
20 provides safety, environmental and guidance on strategic business
21 initiatives to assist the Company in overcoming national challenges.
22 For instance, EEI provides key information sharing for topics
23 including, but not limited to, Environmental Issues, Health and

1 Safety Guidelines, Grid Security, Transmission Policy, and Rising
2 Energy Costs. For instance, EEI created a Spare Transformer
3 Program which allows for the sharing of transformer assets in the
4 event that Companies cannot meet their current needs during an
5 emergency. Additionally, EEI created a Mutual Assistance Program
6 that provides equipment and personnel to respond during
7 emergencies, such as hurricanes and snow events.

8 Furthermore, Montana-Dakota continues to follow the
9 precedent set in past cases and has included the industry dues
10 associated with providing gas and electric service in North Dakota
11 utilizing the same logic as presented in Electric Case Nos. PU-10-
12 124 and PU-16-666 and Gas Case Nos. PU-13-803, PU-15-090,
13 and PU-17-295.

14 Dr. Fagan correctly points out that these cases were based
15 on settlements which did not specifically address industry dues.
16 Montana-Dakota agrees that these settlements did not address
17 industry dues; however, a full review of the record does not support
18 Dr. Fagan's assertion that 'In most past rate case the Commission
19 has disallowed industry dues...'. In fact, she has not cited a single
20 case in North Dakota where the Commission has specifically
21 concluded that industry dues are similar to advertising, and were
22 disallowed from recovery. This is because the precedent set in
23 previous cases allowed for the inclusion of those expenses.

1 Dr. Fagan's recommendation should be rejected.

2 **Q. Dr. Fagan has indicated that Montana-Dakota did not justify**
3 **self-insurance costs and thus the insurance expense increase**
4 **should be disallowed. Do you agree?**

5 A. No. Dr. Fagan has previously indicated that Montana-
6 Dakota's 10% insurance increase was not justified. Montana-
7 Dakota has provided direct and rebuttal testimony pointing to the
8 "increase of 10.00 percent based on recent trends..."

9 In surrebuttal testimony, Dr. Fagan incorrectly indicated that
10 in LEI Data Request Set 13, DR 13.15, Montana-Dakota did not
11 justify the self-insurance value, and that is why the insurance
12 increase should be disallowed. However, a full and careful review
13 of the response to LEI Data Request Set 13, DR 13.15 shows that
14 Montana-Dakota did indicate that the five-year history of actual self-
15 insurance payouts was included in the analysis and thus shows the
16 2022 expenses to be in line with the projected 2022 expense
17 included in the case. This analysis (as requested by Dr. Fagan) is
18 shown in the table below, included in the response LEI Data
19 Request Set 13, DR 13.15, as footnote 1/.

Description	Per Books 2022	Per Books 2022	Pro Forma 2022
Directors & Officer's Liability Insurance	\$174,196	\$174,196	\$174,768
General Liability:			
Fiduciary Liability	12,798	12,798	12,498
Employment Liability	5,745	5,745	5,536
Excess Liability	1,100,759	1,100,759	1,135,947
Property - All Risk	479,048	479,048	467,181
Blanket Crime	6,314	6,314	6,355
Special Contingency	587	587	587
Hired and Non-owned Aircraft Liability	701	701	699
Self Insurance	54,408	260,113 1/	278,874
Coyote Insurance	200,395	200,395	232,485
Big Stone Insurance	186,375	186,375	215,346
	<u>\$2,221,326</u>	<u>\$2,427,031</u>	<u>\$2,530,276</u>

1/ Self Insurance updated to include 5 year average.

<u>Self Insurance - Five Year History:</u>	<u>ND Electric</u>
December 31, 2018:	\$184,761
December 31, 2019:	\$478,214
December 31, 2020:	\$279,189
December 31, 2021:	\$303,991
December 31, 2022:	\$54,408
Five Year Average:	\$260,113

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The Company has historically included self-insurance in the insurance expense in rate cases and Montana-Dakota has answered data requests related to insurance. In absence of a data request inquiring as to the details regarding the coverage of self-insurance, Montana-Dakota did not provide that information. In an effort to provide clarity, Montana-Dakota's self-insurance represents the Company's direct liability for individual claims up to \$500,000. Annual changes in costs are driven by the current and outstanding claims paid within a given year.

It is notable that Dr. Fagan has changed the rationale for the disallowance but did not change the amount of the disallowance. In her initial testimony she indicated that the Company did not support

1 the trend upon which the Company developed its projected
2 expense. When it was pointed out that the trend was supported in
3 direct testimony and Company exhibits, Dr. Fagan then falsely
4 indicated that the level of self insurance was not supported.
5 Ironically, the level of disallowance was exactly the same which
6 calls into question the validity of the recommendation.

7 The increase has been fully justified, is reasonable, and thus
8 Dr. Fagan's recommendation should be rejected.

9 **Q. Dr. Fagan has recommended that Institutional Advertising**
10 **Expenses should be disallowed based on ND Admin Code 69-**
11 **09-02-38. Do you agree?**

12 A. No. While the North Dakota Admin Code 69-09-02-38 does
13 indicate that institutional advertising shall be excluded for
14 ratemaking purposes, section 1(e) defines the 7 areas that
15 institutional advertising may be recovered as noted below:
16 e. "Institutional advertising", "political advertising", and "promotional
17 advertising" do not include:
18 (1) Advertising which informs electric customers how they can
19 conserve energy or can reduce peak demand for electric energy.
20 (2) Advertising required by law or regulations.
21 (3) Advertising relating to service interruptions, safety measures, or
22 emergency conditions.

- 1 (4) Advertising concerning employment opportunities with an
 2 electric utility.
- 3 (5) Advertising which promotes the conservation of limited
 4 resources, the use of more plentiful resources, or the use of energy
 5 efficient appliances, equipment, or services.
- 6 (6) Any explanation or justification of existing or proposed rate
 7 schedules, or notifications of hearings thereon.
- 8 (7) Advertising determined by the commission to benefit customers
 9 and serve the public interest.

10 In order to be consistent with the FERC Universal System of
 11 Accounts, Montana-Dakota does record these advertising
 12 expenses as institutional. However because some of them include
 13 at least one of the 7 areas of disallowance, these expenses should
 14 be allowed. An example of institutional advertising referencing “811
 15 - call before you dig”, a safety message, is shown below:



**There's no place like home,
so make yourself comfortable.**

MONTANA-DAKOTA
 UTILITIES CO.
 A subsidiary of Public Service Group, Inc.
In the Community to Serve®

1-800-638-3278
 montana-dakota.com

811
 Know what's below.
 Call before you dig.

We never know what challenges we'll face each day, but coming home should always be ... predictable. The lights turn on, room temperatures are just right and pushing the "on" button starts the appliances and electronics we use for everyday tasks. Montana-Dakota Utilities provides safe, reliable and affordable electric and natural gas services for our customers, powering the conveniences of home – day and night, hot or cold. Come on in, put your feet up and make yourself comfortable.

1 Furthermore, Montana-Dakota followed the precedent set in
2 cases as far back as 2002 and has included Institutional Advertising
3 expense associated with providing gas and electric service in North
4 Dakota utilizing the same logic as presented in Electric Case Nos.
5 PU-399-03-296, PU-10-124 and PU-16-666 and Gas Case Nos.
6 PU-399-02-183, PU-399-04-097, PU-13-803, PU-15-090, and PU-
7 17-295.

8 On page 7, line 5, In surrebuttal testimony, Dr. Fagan
9 indicated that "...ratepayers already know that MDU is their electric
10 utility" and thus the institutional advertising expenses should be
11 disallowed. Montana-Dakota agrees that its customers are
12 educated as and knowledgeable of the electric utility. Certainly,
13 advertising and community support is a key role in maintaining the
14 name recognition that Montana-Dakota currently has.

15 Montana-Dakota continues to believe that it is an important
16 part of each community in which it provides service and that it is
17 important to each community to have Montana-Dakota's presence in
18 order to retain a strong community focus.

19 As previously stated, Montana-Dakota did remove all
20 Promotional Advertising as well as those Institutional Advertising
21 expenses not associated with North Dakota Electric Operations.

22 Dr. Fagan's recommendation should be rejected.

1 **Q. Dr. Fagan has recommended some vehicle expense be**
2 **disallowed. Do you agree?**

3 A. No. Montana-Dakota continues to assert that the personal
4 use of Company vehicles is a miscellaneous employee benefit that
5 has a minimal cost associated. Furthermore, the employee
6 utilization of Company vehicles is a benefit to the customer during
7 emergencies.

8 This procedure is more fully justified in the surrebuttal
9 testimony of Mr. Eric P. Martuscelli and should be allowed.

10 **Q. Ms. Maini suggested that Montana-Dakota implement the**
11 **E8760 allocator method to the fuel and purchase power rider.**
12 **Is Montana-Dakota able to implement the tariff and procedural**
13 **changes required for the Fuel and Purchased Power**
14 **Adjustment?**

15 A. No. Although, as noted in the rebuttal testimony of Mr.
16 Amen, the Company is willing to consider the E8760 allocator;
17 however, implementation of this change is not viable within 90 days
18 of the conclusion of this rate case. Montana-Dakota continues to
19 support including this allocation factor change in the next North
20 Dakota Electric Rate Case.

21 **Q. Does this conclude your testimony?**

22 A. Yes.