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May 10, 2023

Executive Secretary  
North Dakota Public Service Commission  
600 East Boulevard Ave. Dept. 408  
Bismarck, ND 58505-0480

**Re: Montana-Dakota Utilities Co.  
2022 Application for Increase in Electric Rates  
Case No. PU-22-194  
OAH File No. 20220225**

Montana-Dakota Utilities Co. herewith electronically submits the proposed Findings of Fact, Conclusions of Law, and Order approved by the Company, Public Service Commission Advocacy Staff, and Intervenors AARP, Walmart, Inc., and Marathon Petroleum Company LP, in this proceeding. If you have any questions, please let me know.

Sincerely,

Paul Sanderson

Attachment

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

Montana-Dakota Utilities Co.	)	
Increase in Electric Rates	)	Case No. PU-22-194
Approval	)	OAH File No. 20220225

**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

May \_\_\_\_, 2023

**APPEARANCES**

Commissioners Randy Christmann, Sheri Haugen-Hoffart, and Julie Fedorchak.

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

Mitchell D. Armstrong, Special Assistant Attorney General, 122 East Broadway Avenue, Bismarck, North Dakota 58502, on behalf of Public Service Commission Advocacy Staff.

John B. Coffman, John B. Coffman, LLC, 871 Tuxedo Blvd., St. Louis, MO 63119-2044, appearing on behalf of Intervenor AARP.

Julie A. Clark, Clark Energy Law, 3440 Youngfield St., Suite 276, Wheat Ridge, CO 80033, appearing on behalf of Intervenor Walmart Inc.

Stephen A. Campbell, Clark Hill, 500 Woodward Avenue, Suite 3500, Detroit, MI 48226, appearing on behalf of Intervenor Marathon Petroleum Company LP.

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 L. Hogan, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14<sup>th</sup> Street, Suite 303, Bismarck, North Dakota 58503 as Procedural Hearing Officer.

## PRELIMINARY STATEMENT

On May 16, 2022, Montana-Dakota Utilities Co. (Montana-Dakota) filed with the Commission an increase in rates for electric service. Montana-Dakota's proposed rates would result in an increase in its annual North Dakota electric service revenue of \$25,365,558 or 12.3 percent.

Montana-Dakota concurrently submitted an Application and Notice for an interim increase in electric rates in the annual amount of \$11,422,625 to be effective July 16, 2022.

The Commission suspended Montana-Dakota's general rate increase application by motion on June 8, 2022.

On June 30, 2022, Montana-Dakota submitted a revised interim increase in electric rates in the annual amount of \$10,922,625.

A Petition to Intervene was filed by AARP on June 30, 2022. On September 26, 2022, the Administrative Law Judge granted the petition to intervene of AARP.

A Petition to Intervene was filed by Walmart on July 5, 2022. On September 26, 2022, the Administrative Law Judge granted the petition to intervene of Walmart.

On July 14, 2022, the Commission issued an Order approving an interim rate increase of \$10,922,625 to become effective for service rendered on or after July 15, 2022.

A Petition to Intervene was filed by Marathon on August 8, 2022. On September 26, 2022, the Administrative Law Judge granted the petition to intervene of Marathon.

On December 14, 2022, the Commission issued a Notice of Public Hearing, scheduling the formal hearing for May 1, 2023. The issues to be considered at the hearing were:

1. What is the value of MDU's property, used and useful, for the service and convenience of the public in North Dakota?
2. What is MDU's rate of return on its property, used and useful, for the service and convenience of the public in North Dakota?
3. What is 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?
4. 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?

5. Are MDU's 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 8, 2023, the Commission issued a Notice of Public Input Sessions, scheduling public input sessions for April 5, 2023.

On April 5, 2023, two public input sessions were held as scheduled in the Commission Hearing Room in the State Capitol.

On April 26, 2023, Montana-Dakota, Advocacy Staff, AARP, Walmart, and Marathon filed a Settlement Agreement that would resolve all the issues in this proceeding. A copy of the Settlement Agreement is attached as Exhibit No. 1. The Settlement Agreement provides for implementation of a net increase in electric rates for retail customers in North Dakota to yield a net annual revenue increase of \$15,275,796 or an overall increase in rates of 7.4%, effective upon a final order in this proceeding. The revenue increase was based upon a return on equity of 9.75 percent and a return on rate base of 7.132 percent.

On May 2, 2023, the formal 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 its:

### **FINDINGS OF FACT**

1. Montana-Dakota is a Delaware corporation, duly authorized to provide electric service to retail customers in North Dakota.

2. The Settlement Agreement proposes a net increase in Montana-Dakota's electric rates for retail customers in North Dakota to yield an annual revenue increase of \$15,275,796 effective upon a final order in this proceeding. This represents an overall increase in rates of 7.4%. The change between the Company's request and the amount agreed to in the Settlement Agreement is attributable to the following adjustments:

<b>Original Filing (in 000s)</b>	<b>\$25,366</b>
ROE - Reduce from 10.5% to 9.75%	(3,083)
Incentive Compensation – 50%	(1,844)

Depreciation	(4,606)
Software	(166)
Advertising	(56)
Industry Dues	(125)
Insurance	(20)
Outage Management System Payroll	(150)
Personal Use of Company Vehicles	<u>(40)</u>
Total adjustments	(\$10,090)
<b>Settlement Revenue Requirement</b>	<b>\$15,276</b>
Settlement Rate Base	\$617.9 M

3. The Settlement Agreement proposes a return on equity of 9.75 percent effective upon a final order in this proceeding resulting in an overall rate of return of 7.132 percent based on the following capital structure:

	<u>Ratio</u>	<u>Cost</u>	<u>Required Return</u>
Long-Term Debt	44.587%	4.503%	2.008%
Short-Term Debt	4.603%	3.684%	0.170%
Common Equity	<u>50.810%</u>	9.750%	<u>4.954%</u>
Total	<u>100.000%</u>		<u>7.132%</u>

The Settlement Agreement proposes an earnings-sharing provision, whereby any of the Company's earnings above 10.0 percent will be shared with 70 percent refunded to customers and Montana-Dakota retaining 30 percent. The earnings-sharing will be based on MDU's annual report and earnings shall include any margin the Commission allows MDU to retain as a result of the Applied Blockchain Electric Service Agreement (ESA) (Case No. PU-22-371) or any future ESA/Rate 45 customer.

4. The Settlement Agreement proposes the following allocation of revenues resulting in an increase by rate class as described below:

<u>Rate Class</u>	<u>Overall Increase</u>
Residential Service	9.5%
Small General Service	9.7%
General Service	5.5%
Municipal Lighting	7.3%
Municipal Pumping	8.6%
Outdoor Lighting Service	2.5%
Total North Dakota Electric	<u>7.4%</u>

Residential customers will receive an annual revenue increase of \$7,901,896. The average monthly increase will be \$8.27 for a Montana-Dakota residential customer.

5. The Settlement Agreement proposes that a portion of the revenue increases for the Residential Class be collected through the fixed basic service charge, which amounts to \$0.501 per day or \$15.24 per month under Montana-Dakota's Residential Rate 60.

6. The Settlement Agreement proposes that within nine months of the Commission approving the settlement agreement in this case, Montana-Dakota will file with the Commission an application regarding its fuel and purchased power cost rider that provides an alternative allocation option of allocating these costs to the various classes using the E8760 allocation method.

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

### **CONCLUSIONS OF LAW**

1. The Commission has jurisdiction in these proceedings.
2. The rates proposed by the Settlement Agreement are necessary to provide a just and reasonable rate of return on Montana-Dakota's property, used and useful, for the service and convenience of the public in North Dakota.
3. The rates proposed by the Settlement Agreement are designed to result in a basis of charge to customers that are just and reasonable without discrimination.

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 this Order and made a part of this Order, is adopted and approved in its entirety.
2. Except as specifically modified by this Order, the Application of Montana-Dakota to increase its North Dakota electric service rates is adopted and approved in its entirety.
3. Montana-Dakota shall file, for Commission approval, compliance rate schedules consistent with this Order.

**PUBLIC SERVICE COMMISSION**

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**Sheri Haugen-Hoffart  
Commissioner**

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**Randy Christmann  
Chair**

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**Julie Fedorchak  
Commissioner**



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Dated today, May 10, 2023.

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By: /s/ Paul Sanderson  
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