

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**In the Matter of Montana-Dakota Utilities Co.
Request to Approve an Electric Service
Agreement with APLD-ELN-01 LLC under
High Density Contracted Demand
Response Rate 45**

Case No. PU-22-371

APPLICATION FOR TRADE SECRET PROTECTION

Pursuant to N.D. Admin. Code § 69-02-09-01, Montana-Dakota Utilities Co. (“Montana-Dakota”) respectfully requests that the Administrative Law Judge (ALJ) issue a protective order under N.D. Admin. Code § 69-02-09-04 and N.D.C.C. § 44-04-18.4(1). The purpose of the requested protective order is to protect against public disclosure of confidential financial and trade secret information, as defined by N.D.C.C § 44-04-18.4(2)(b) and N.D.C.C § 44-04-18.4(2)(d).

1.

At the public hearing on these proceedings, Montana-Dakota will need to disclose information to the Commission the Company believes constitutes confidential financial and trade information. The Company requests protection for the margin-sharing agreement percentages and revenue contained within the settlement with Public Service Advocay Staff (“Advocacy Staff”) and Marathon Petroleum Company LP (“Marathon”) and the corresponding Company witness (Docket No. 55) and Advocacy Staff witness (Docket No. 53 and 59) testimony filed with the Commission. The settlement agreement and witness testimony contains confidential financial and trade secret information possessed by Montana-Dakota, as defined by N.D.C.C. § 44-04-18.4(2)(b) and (d). This confidential financial and trade secret information has been protected and not been previously publicly disclosed by Montana-Dakota or any other party. The terms of the settlement agreement and margin-sharing percentages are considered confidential financial and trade secret information, as it would cause a substantial competitive injury to Montana-Dakota in any future negotiations with third parties and would provide an economic advantage to its competitors and other businesses who receive the confidential financial and trade secret information. Montana-Dakota could also suffer substantial competitive injury if the confidential information was provided to other clients and could substantially impair future

business opportunities.

The Commission has previously granted an Order on Protection of Information in this docket protecting the Electric Service Agreement, including confidential pricing and cost information. See Docket No. 35. On February 17, 2023, Montana-Dakota also filed an Application for Trade Secret Protection seeking protection of the settlement agreement and margin sharing information with Dakota Valley Electric Cooperative (“Dakota Valley”) reached in cases PU-22-366 and PU-22-370. See Docket No. 29. No order has yet been issued on Montana-Dakota’s February 17th Application.

II.

Montana-Dakota requests an Order protecting its settlement agreement and margin-sharing information with Advocacy Staff and Marathon.

III.

Pursuant to N.D. Admin. Code § 69-02-09-01(5), redacted public versions of the settlement agreement and witness testimony is filed with this Application. In addition, the redacted public versions of the settlement agreement and witness testimony will be offered into evidence by Montana-Dakota at the hearing in this case.

IV.

In accordance with N.D. Admin. Code § 69-02-09-02, one copy of the trade secret material is provided via secure electronic mail delivery which indicates:

“PROTECTED INFORMATION – PRIVATE”.

Dated this 19th day of April, 2023.

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