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May 5, 2023

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

**Re: Montana-Dakota Utilities Co.
Electric Service Agreement - Applied Blockchain Approval
Case No. PU-22-371
OAH File No. 20230055**

Montana-Dakota Utilities Co. herewith electronically submits the proposed Findings of Fact, Conclusions of Law, and Order 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.
Electric Service Agreement - Applied Blockchain
Approval**

Case No. PU-22-371

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.

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.

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 14th Street, Suite 303, Bismarck, North Dakota 58503 as Procedural Hearing Officer.

Preliminary Statement

On September 21, 2022, Montana-Dakota Utilities Co. ("Montana-Dakota") filed an application seeking Commission approval of an Electric Service Agreement ("ESA") between Montana-Dakota and APLD-ELN-01 LLC ("Applied") in accordance with the company's High Density Contracted Demand Response Rate 45. The ESA provides for the sale of electric power to Applied near the Company's Ellendale 345 kV substation near Ellendale, North Dakota. The Applied facility will be a 180-megawatt interruptible load forecasted to use approximately 1.4 billion kilowatt hours per year.

On October 27, 2022, the Commission issued a Notice of Opportunity for Hearing,

which provided until December 8, 2022, for receiving written comments and hearing requests.

The notice identified the issues to be considered 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 the just and reasonable rate of return on MDU's property, used and useful, for the service and convenience of the public in North Dakota?
3. 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?
4. 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 undue discrimination?
5. Whether the electric service agreement should be approved?

On December 8, 2022, Marathon filed comments with the Commission regarding the Application.

On January 24, 2022, Applied filed a letter in support of the application for the ESA.

On January 31, 2023, Montana-Dakota filed an Application to Establish Margin Sharing related to the ESA to benefit North Dakota customers, impacted parties, and the Company. In its application, Montana-Dakota sought to retain a portion of the margin for the company as well as impacted parties, and the remainder would be passed on to North Dakota customers, in addition to certain transmission related revenue that would be credited to customers within the Transmission Cost Adjustment Rate 59. The margin-sharing percentages have been determined to be confidential protected information. As part of the ESA, Montana-Dakota's North Dakota customers would not experience any increase in costs as a result of the ESA with Applied.

On February 3, 2023, Marathon Petroleum Company LP ("Marathon") filed a Petition to Intervene. Marathon had previously filed comments to the Application on December 8, 2022.

On February 17, 2023, the Commission held a work session on the ESA.

On February 22, 2023, the Commission issued an Interim Order approving the ESA on an interim basis subject to refund or additional charges pending the final outcome of the proceeding. Montana-Dakota was ordered to use regulatory accounting treatment

to track the revenues and expenses resulting from the ESA. The Commission also approved Marathon's Petition to Intervene.

On March 8, 2023, the Commission issued a Notice of Hearing, scheduling the formal hearing in this case for April 20, 2023.

The notice identified the issues to be considered were:

1. Does the ESA result in just and reasonable rate of return on MDU's property, used and useful, for the service and convenience of the public in North Dakota?
2. Is the ESA designed in such a manner that it results in a basis of charge that is just and reasonable without undue discrimination?
3. Whether the ESA should be approved?

On April 18, 2023, Montana-Dakota, Advocacy Staff, and Marathon entered into a Settlement Agreement jointly recommending the Commission approve the Settlement Agreement resolving all the issues in this proceeding.

On April 20, 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 ESA between Montana-Dakota and Applied provides for the sale of all electric power required by Applied's high density data center to be located near Montana-Dakota's Ellendale 345 kV substation near Ellendale, North Dakota. All electric power under the agreement is to be supplied by Montana-Dakota through a separately metered circuit and pursuant to the Company's High Density Contracted Demand Response Rate 45. The ESA is in effect for an initial period of five years and will then continue year to year until such time as either party cancels the agreement.
3. The ESA is designed in such a manner that it results in a basis of charge that is just and reasonable without undue discrimination.
4. The Settlement Agreement proposes a margin sharing agreement that

permits Montana-Dakota to retain a portion of the margin under the ESA and the remainder of the margin would be passed on to North Dakota customers, in addition to certain transmission related revenue that would be credited to customers within Transmission Cost Adjustment Rate 59. The margin-sharing percentages have been determined to be confidential protected information. The margin sharing agreement results in 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.

5. The Settlement Agreement proposes Montana-Dakota will file annually, no later than February 1, an annual Rate 45 margin sharing report. Within the report, the total margin collected under Rate 45 will be reported, along with the amount to be shared with the Company's North Dakota electric customers. The total margin sharing amount would then be allocated to the Company's various rate classes based on the transmission allocation factor from Montana-Dakota's most recent North Dakota general electric rate case. A per unit credit would then be determined by dividing each rate class's margin sharing amount by the forecasted volumes for each rate class. The Margin Sharing Credit will be reflected as a separate line item on each customer's bill based on the usage for that month. Montana-Dakota will provide a cost of money equal to the three-month Treasury yield on the unrefunded monthly balance.

6. The Settlement Agreement proposes Montana-Dakota will work with the Commission Staff to conduct a one-time informational MISO Market study regarding the area LMP pricing impacts of the 180 MW of data center load addition into the Ellendale area on ND ratepayers' fuel and purchased power costs. The details of the study will be worked out and agreed upon between Montana-Dakota and Commission Staff within 90 days of the Commission's order. The study may include commissioning a third-party study to model the MISO Market pricing impact of a 180 MW load addition in the Ellendale, ND, area, which can be used to help calculate potential impacts on ND ratepayers' fuel and purchase power costs. If Commission Staff deems a study to be necessary, Montana-Dakota and North Dakota customers will split the costs of the study up to \$50,000, with the funding dollars coming out of Montana-Dakota and North Dakota Customer's margin sharing. Any costs of the study over \$50,000 will be paid solely by Montana-Dakota. If the Commission orders any future studies on this issue, the Settling Parties agree the funding for any future studies will be allocated in the same manner as described in this paragraph.

7. The Settlement Agreement proposes that Montana-Dakota agrees the sales volumes, investment and costs associated with providing electric service to Applied Digital under Rate 45 shall be excluded from the jurisdictional allocation calculations. To the extent that the jurisdictional allocations are impacted by Applied Digital's Rate 45 sales volumes, investment or costs, Montana-Dakota will not seek regulatory recovery for the resultant change in the jurisdictional allocations. This provision does not preclude Montana-Dakota's ability to update its integrated system jurisdictional allocators to reflect any and all changes exclusive of the direct impact of Applied Digital. If Montana-Dakota is required to update its jurisdictional allocation calculations by another state based upon the direct impact of Applied Digital sales volumes, Montana-Dakota shall defend the position to exclude Applied Digital in the jurisdictional allocation calculation but is not

precluded from making a filing with the Commission to update the jurisdictional allocation factors or amend the ESA if ordered by another state.

8. The Settlement Agreement proposes MISO energy charges shall be settled separately from the MDU.MDU pricing node and use the MDU.ELLNDL_LD CP pricing node pricing. Montana-Dakota agrees it will pass through all identifiable MISO related costs to serving Applied, including revenue neutrality uplift and ancillary service charges.

9. The Settlement Agreement proposes that Montana-Dakota agrees that if the cost to disconnect and remove the facilities to serve Applied exceeds the value of salvage, the Company will not seek regulatory recovery of the incremental cost.

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

Conclusions of Law

1. The Commission has jurisdiction in these proceedings.
2. The ESA and margin-sharing agreement result in 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.
3. The ESA and margin sharing agreement are designed in such a manner that they result in a basis of charge that is just and reasonable without undue discrimination.

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

Order

The Commission Orders:

1. The ESA is adopted and approved in its entirety.

2. The Settlement Agreement, attached to this Order and made a part of this Order, is adopted and approved in its entirety.

PUBLIC SERVICE COMMISSION

Sheri Haugen-Hoffart
Commissioner

Randy Christmann
Chair

Julie Fedorchak
Commissioner

Brian Johnson
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Hope L. Hogan
Administrative Law Judge
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Dated today, May 5, 2023.

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By: /s/ Paul Sanderson
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