

Service Date: February 18, 1981

DEPARTMENT OF PUBLIC SERVICE REGULATION
MONTANA PUBLIC SERVICE COMMISSION

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In the Matter of the Application of)	UTILITY DIVISION
MONTANA-DAKOTA UTILITIES)	
COMPANY for authority to establish)	DOCKET NO. 6695
increased rates for electric service in)	
the State of Montana.)	ORDER NO. 4635c

APPEARANCES

FOR THE APPLICANT:

Joseph R . Maichel, Attorney at Law, 400 West 4th Street, Bismarck, North Dakota 58501, appearing on behalf of Montana-Dakota Utilities Company

INTERVENORS:

Richard Ganulin, Attorney at Law, Montana Legal Services, 510 1st Avenue North, Great Falls, Montana 59401, appearing on behalf of Action for Eastern Montana

James C. Paine, Montana Consumer Counsel, 34 West Sixth Avenue, Helena Montana 59620

FOR THE COMMISSION:

Eileen E. Shore, Staff Attorney

BEFORE:

GORDON E. BOLLINGER, Chairman
CLYDE JARVIS, Commissioner
THOMAS J. SCHNEIDER, Commissioner
JAMES R. SHEA, Commissioner
GEORGE TURMAN. Commissioner

FINDINGS OF FACT

PART A

General

1. Montana-Dakota Utilities Company (MDU or Applicant) is a public utility furnishing electric and gas service to consumers in the State of Montana.

2. In conformance with the Procedural Order of August 7, 1979, the docket was split. Phase I considered the revenue requirement and natural gas rate design, and Phase II considered electric rate design and merchandising service issues. This order disposes only of issues raised in Phase II.

3. Through Order No. 4635, served on April 23, 1980, MDU was authorized to submit rate schedules designed to increase natural gas revenues by \$1,653,000 and electric revenues by \$1,180,000. Through Order No. 4635a, served on October 8, 1980, the Commission amended the natural gas revenues increase to reflect an additional \$9,000 of gas royalty expenses which were being paid currently, as opposed to the rest of the adjusted amount, which was not.

4. A Notice of Public Hearing for Phase II was given on March 14, 1980.

5. On April 8, 1980 at 10:00 a.m., pursuant to the notice, a hearing was held in Room 106, Miles Community College, Miles City, Montana to determine how any increase in electric revenues the Commission determined to be necessary would be allocated among residential, commercial and other classes.

PURPOSE OF PHASE II:

ELECTRIC RATE DESIGN

and the

PUBLIC UTILITIES REGULATORY POLICIES ACT

6. Phase II of Docket No. 6695 has two interrelated purposes. The first is to determine a rate design which spreads MDU's revenue requirements between the various customer classes and establishes a rate structure which avoids inter-

class and inter-customer subsidization; to determine a rate structure which conveys economically rational price signals to customers, in order to encourage the best use of society's energy resources; to minimize disruptions caused by escalating energy costs and changing load patterns; and to provide MDU with the revenue necessary to maintain its financial integrity and enable it to raise the capital required to provide reliable service to its Montana ratepayers.

The second purpose of Phase 11 is to consider certain rate design standards, as specifically required of the Commission by the Public Utility Regulatory Policies Act of 1978 (PURPA). The last section of this Order explicitly addresses each of the rate design standards and actions taken by the Commission with regard to each.

7. MDU proposes to maintain the current rate structure, simply increasing the component charges (customer, energy, and demand) appropriately to produce the needed level of class revenues, as indicated by MDU's embedded cost of service study. The Company proposes to continue offering optional time-of-day (TOD) rates for residential customers, also modified appropriately for new revenue levels, although apparently with little enthusiasm or expectation of their acceptance by MDU's customers. Under the Company's proposal, the non-TOD residential rate would continue to be a two-block declining rate, although the energy component is claimed to be flat.

8. The Montana Consumer Counsel (MCC), on the other hand, bases its proposed rate structure on the marginal costs of the bulk power supply system and embedded costs for the rest of the system. MCC would offer both TOD and non-TOD rates to residential customers, but only TOD to general service and industrial customers.

9. Action for Eastern Montana (AEM) initially proposed a flat rate for the residential customers, but in its rebuttal testimony recommended an inverted block structure for residential rates, with the first block for a lifeline quantity of

300 kwh charged at something less than incremental energy cost, and the second block charged at incremental cost. AEM performed no cost of service study and therefore proposes no specific rates.

Cost of Service

10. MDU bases its rate design on a cost of service study employing average embedded costs rather than marginal costs. Applicant's cost of service study assigned production and transmission demand-related costs to customer classes on the basis of an unweighted average of (1) peak demand and (2) average demand. Energy costs were allocated to customer classes by kwh at generation. Clearly, rates derived from such a cost allocation methodology reflect only past historical circumstances rather than expected future conditions.

Lowell Gamble, Assistant Treasurer of MDU, explains how MDU's cost of service study was used in developing its rate structure proposal:

Starting from rates which have been approved by this Commission in previous proceedings, I analyzed the results of the cost of service study and endeavored to make rate changes which would reflect more nearly the cost of service. Recognizing that it would be inappropriate to change rates drastically all at once, I tempered the proposed increases so that the rate pattern would ultimately reach the goal of cost-of-service over a period of time. First, I considered a uniform increase to all rates. ... Second, I considered bringing the rate structure to a level where each class produced the same rate of return.... Thereupon I adopted an average of the two considerations... We would prepare to move closer to the average cost-of-service for each class.

11. MCC bases its rate design on a hybrid cost of service study utilizing marginal costs for the bulk power supply system (generation and essential transmission) and average costs for the remainder of the system (other transmission, distribution, and customer services). Energy costs are based on

hourly system lambdas of the MDU system and capacity costs are based on the Glendive combustion turbine peaking unit. This study reflects MDU's current operating conditions.

12. AEM performed no cost of service study, but does endorse marginal costs as the proper basis for rate design.

13. The Commission finds that a marginal cost analysis is clearly a more appropriate basis for setting rates than is an average cost analysis. Marginal cost-based rates provide more accurate price signals to consumers than do rates derived solely from historic, average costs. The marginal cost analysis presented by Dr. Wilson better reflects MDU's current operating conditions than does the Company's cost-of-service study based on fully embedded costs.

14. The Commission is extremely disappointed by MDU's failure to provide any information whatsoever regarding the marginal costs of providing service. Since this phase of Docket No. 6695 was intended specifically to consider the ratemaking standards mandated by the Public Utility Regulatory Policies Act, since MDU was explicitly asked to address those standards, and since PURPA clearly requires the Commission to consider marginal costs as a basis for rates, MDU's average cost of service study is glaringly inadequate as a response to the Commission's directive.

15. Dr. Wilson's hybrid cost of service study is helpful to the Commission, as far as it goes. He estimates the marginal cost of the bulk power supply function, but utilizes MDU's estimates of the average cost of all other parts of the system. Although he believes "that the average costs of the other components are a satisfactory approximation to the marginal costs," the Commission would much prefer to have before it a thorough marginal cost study rather than a partial one.

Moreover, the Commission finds that a cost study should employ a longer time perspective than has been employed in either study presented in this docket. Dr. Wilson testified that: "The proper basis for today's MDU rate structure is long-

run marginal cost that results from the realistic assumption that additions to output will result by expanding the existing stock of generating capacity." (p. 36)

He then showed that, whether or not the utility system is presently in equilibrium (i.e., has the proper mix of baseload and peaking plant): "The cost of meeting peak demand will never exceed the annual carrying cost of the generation technology with the lowest fixed cost per KW. " That is, the long-run incremental cost of capacity is essentially the current carrying cost of a peaking unit.

On the other hand, the marginal energy cost determined by Wilson is a short-run marginal cost -- "the additional cost that would be imposed on an electric supply system if one additional kilowatt-hour of electricity were generated." Such an addition (of one kwh) to output does not require, and does not contemplate, the expansion of the existing stock of generating capacity, and thus does not seem to fit Dr. Wilson's own definition of long-run marginal costs. Dr. Wilson's marginal cost study, therefore, understates the true long-run incremental cost of energy relative to that of capacity.

16. The Commission accepts Wilson's marginal cost analysis as clearly the best one available to it in this docket. accurately reflect present realities than do Wilson's marginal costs more the fully embedded costs of MDU's study and should be used as a starting point for the design of rates.

17. The Commission finds the Wilson method of assigning class cost responsibilities to be the best presented in this docket. The Commission also agrees with Dr. Wilson that the Company's class revenue responsibility has many weaknesses:

One serious shortcoming inherent in the Company's average cost study is its failure to allocate baseload plant capital costs, above those related to the provision of peaking capacity, on the basis of an energy allocation vector.... The Company's average cost study allocates 58 percent of power production demand related costs on the basis of contribution to peak demand, and 42 percent on

the basis of energy. But I have already shown that marginal generation costs are only 50 percent of embedded generation costs.... A second defect of the Company's cost allocations to customer classes is the use of an average cost study which underemphasizes the importance of energy costs in the process of determining the cost responsibility of a group of customers. At the margin, energy is expensive compared to the average cost of energy. The Company's average cost study, which allocates the average cost of energy rather than the marginal cost of energy, thus understates the cost responsibility of customers who use relatively more energy than other customers.

18. Dr. Wilson's exhibit (J.W.-13) summarizes the total costs of serving each class at the company proposed total cost of service of \$15,936,000 and consistent with his marginal cost determinations. The Commission granted cost of service is \$14,840,000. Revising exhibit -(J.W.-13) yields the following table of functional costs by customer class.

TOTAL COST OF SERVING EACH CUSTOMER CLASS
AT COMMISSION GRANTED COSTS OF SERVICE
AND CONSISTENT WITH MARGINAL COST DETERMINATIONS
(\$000'S)

(TABLE here)

19. Each functional cost in the preceding table was adjusted by a uniform percentage, equal to the ratio of total costs at the Commission granted cost of service to total costs at Company proposed costs. The cost of the bulk power supply, based on Commission granted costs and consistent with marginal determinations, is \$9,983,000, which is only one-half of one percent greater than the cost resulting from the direct application (i.e., not adjusted for revenue constraint) of marginal costs to bulk power supply.

20. According to the Company's cost of service study, the average cost of the Power Supply system is \$10,720,000 (1978 data, from Exhibit_ (J.W.-12) j

page 23), at the Company's proposed total cost of service. However, at the Commission granted total cost of service, the average cost of the power supply system is only \$9,982,731 -- essentially equal to the cost based on Wilson's marginal cost analysis. That is, the total cost of service based on Wilson's marginal costs is essentially equal to the total cost of service based on average costs for the revenue level allowed by the Commission.

Residential Customer Charge

21. MDU proposes to raise the residential customer charge from \$4.00 to \$6.00, even though its cost of service study shows customer costs to be \$7.72. (Tr. 73)

22. MCC proposes to increase the customer charge from \$4.00 to \$4.85, although its cost study produces a customer cost of \$6.61.

23. AEM estimates the customer cost to be \$2.30, and furthermore argues for a minimum bill rather than a customer charge.

24. Customer costs, by definition, are those costs which vary with the number of customers. Parts of the distribution system costs should not be included in a customer charge because they do not truly vary with the number of customers. AEM witness Coyle calculates the customer cost at \$2.30, as opposed to customer costs of \$7.72 calculated by MDU and \$6.61 calculated by MCC. Coyle argues:

The \$2.30 is substantially below the existing customer charge and less than half of the proposed charge. In each step of /my/ calculations, moreover, I have used Company assumptions or a very conservative assumption of my own, so that the figure calculated is a generous one. Hence the existing customer charge is too high, and should be rolled back. (p. 18)

25. Dr. Coyle further states that this \$2.30 charge should be in the form

of a minimum bill rather than a customer charge.

A "customer" charge is frequently defended by arguing that if a customer used no electricity in a month, the utility would still have a cash outlay for meter reading, customer billing, accounting, and collecting, and that this should be paid by each customer each month. But this contingency could be covered more equitably by a minimum bill, rather than a customer charge. (p. 19)

Declining Block Rates

26. MDU proposes to continue a declining, two-block rate for the residential class and argues that "declining block rates can be justified from the standpoint of cost-of-service." (Gamble, p. 13)

27. The Company also proposes to continue both its 3-block, declining rates for General Service customers and the industrial rate form, which consists of a demand charge and a flat energy rate.

28. MCC proposes a residential rate with a customer charge and a flat energy rate. MCC's general service and industrial rate forms both have a customer charge, flat demand rate, and flat energy rate.

29. AEM proposes a two block, inverted rate structure for the residential rate schedule. AEM witness Coyle also recommends elimination of all declining block rates on the MDU system. He notes that PURPA specifically disallows a declining block rate which pertains to the energy component. The law states:

The energy component - of a rate, or the amount attributable to the energy component in a rate, charged by any electric utility for providing electric service during any period to any class of electric consumers may not decrease as kilowatt-hour consumption by such class increases during such period except to the extent that such utility demonstrates that the costs to such utility of providing electric service to such class, which costs are attributable to such energy component, decrease as such consumption increases during such period.

30. MDU claims that although it has proposed a continuation of the declining block rate for their residential and general service customers, the energy component of the bill remains constant and does not decline as energy consumption increases.

31. The Commission finds that declining block rates are not cost justified at this time. Accordingly, the Commission orders flat energy rates for all customer classes and rate schedules. The move to flat rates for the General Service class is simply a continuation of the Commission move from six blocks to three in the previous MDU rate case.

Time-of-Day Rates

32. MDU proposes to continue its current, optional TOD residential rate, modified to a customer charge of \$7.60 and an on-peak energy charge 3.85 times greater than the off-peak rate. The on-peak period is from 10:00 a.m. to 10:00 p.m. and the off-peak period from 10:00 p.m. to 10:00 a.m. MDU also proposes optional TOD rates for the General Service (both demand metered and nondemand metered) and Industrial Schedules.

33. MCC proposes mandatory TOD rates for General Service (both demand metered and nondemand metered), and Industrial schedules. He also proposes an optional non-TOD rate only for Residential customers. MCC uses the same peak-period as does MDU.

34. AEM opposes TOD pricing, recommending instead an inverted rate structure for residential customers.

35. The essential issue contested in this docket by the intervenor parties in testimony by expert witnesses is whether the residential rate form should be:

- (a) a TOD rate utilizing a customer charge and a flat energy charge, or
- (b) a minimum bill, a lifeline quantity in an initial energy block priced

below incremental cost, and a second (final) block priced at incremental cost.

36. AEM witness Coyle argues that, in the long run, TOD promotes higher consumption of energy and resources, albeit during the off-peak period, and thus does not support the conservation goal of PURPA. (p. 5). In other words, Coyle opposes time-of-day rates because, in his view, they are anti-conservation.

The Time-of-Day rate is a promotional rate. It sets a low price for the off-peak period, which will introduce new uses for electricity and generally stimulate usage, as Dr. Wilson notes. (Coyle Rebuttal Testimony, p. 4)

37. Coyle is concerned that TOD rates will increase off peak consumption so greatly over time that additional baseload plants will have to be built, thus making consumers worse off in the long run.

The TOD rate is a regulatory time bomb, set to go off in the not too distant future. When the valley of the load curve is filled in by new load, the pricing will have to be revised to have more level prices, as well as load around the clock. Utility customers, having been induced by the TOD rates to make certain equipment decisions, will later have to be told by the regulators that the rate structure is being revised once again. (Coyle Rebuttal Testimony, p. 8)

38. MCC witness Wilson, by contrast, states that: "All of the improvements in efficiency that result from marginal cost-based time-of-use rates, in fact, result in conservation of total resources." (p. 26)

39. The conflict between the views of Wilson and Coyle obviously stems from differences in the definition of "conservation" each implicitly uses. Clearly, conservation means reduced consumption to Dr. Coyle, whereas it connotes efficient use of resources to Dr. Wilson.

The Commission does not believe these definitions are mutually exclusive and that it should, to the degree possible, encourage both wise use and lower total

consumption.

40. The Commission finds a great deal of merit in Dr. Coyle's concern for not promoting increased energy consumption. Increased electric consumption means increased consumption of nonrenewable fuels -- oil, natural gas, and coal on the MDU system -- and the Commission recognizes the desirability of not wasting those resources. To the extent that rates now do not fully or accurately reflect costs, the institution of cost-reflective rates would be expected to both decrease consumption and foster greater efficiency .

41. In arguing for the inverted rate structure as an alternative to TOD rates, Coyle states that any inducement to consume which may result from the below-cost price in the lifeline block is entirely offset by the effect of the higher unit rate in the tailblock. Therefore, he asserts, the inverted rate is not, unlike the TOD rate, anti-conservation (Coyle's implicit definition of conservation).

42. MCC witness Wilson asserts that rates should vary with the time of day. The marginal cost study conducted by Dr. Wilson certainly demonstrates that costs on the MDU system do 'depend on time of use. Wilson testifies that:

The structure of rates should reflect the time-varying structure of the marginal costs of producing the different types of service offered by MDU. These rates should account for the marginal cost of meeting peak demand, and of providing energy during peak and off-peak periods.... the resulting rate structure should be designed to reflect the time-varying structure of marginal costs to the maximum extent possible.

43. MDU also opposes TOD rates. MDU currently has a voluntary residential TOD rate program and advocates that the TOD rates not be extended to other classes. MDU witness Gamble testifies that the public does not want time-of-use rates.

At the time this testimony was written, we were just in the process of filing the time-of-day rate which is

presently in service. Prior to that we had an experimental rate, in which we charged the customer for the additional cost of time-of-day metering. It did not prove satisfactory and there were very few people who took advantage of it.

44. Wilson, in contrast, maintains that TOD rates accurately reflect the nature of costs on the MDU system and will induce the optimal amount of conservation. Dr. Wilson admits the TOD rate is not for everybody. The estimated cost of a "good" TOD meter (\$187 installed) would certainly be prohibitive for many residential customers. Dr. Wilson suggests that "There certainly would be a level of consumption below which the cost of obtaining a time-of-day meter would serve as a barrier to many customers. " Wilson suggests that TOD rates be instituted for the largest customers first.

The Commission finds the current test of TOD rates on the MDU system quite inadequate. It is desirable to gather more information from such tests to allow both the Commission and MDU to more accurately anticipate the extent and patterns of load shifts and possible increases in overall consumption that may result from TOD rates. Such knowledge is particularly important if mandatory TOD rates are to be contemplated in future rate cases.

45. Wilson examined the time varying nature of costs on the Montana-Dakota Utilities system and testified to the appropriate peak and off-peak periods.

The peak period must be relatively long on workdays to avoid peak shifting problems. Load shifting is desirable only to the extent that it smooths the load curve by chopping off the peaks and filling in the valleys. If, instead, demand is shifted from the old peak hour of the day into an hour when demand generally exceeds 90 percent of the daily peak, the effect is to move the peak from one hour of the day to another, not to reduce the peak demand. And if the peak is merely shifted but not reduced, there is no cost saving for the system as a whole.

46. Both MDU and Wilson determined that peak periods are on weekdays from 10:00 a.m. to 10:00 p.m. Off-peak periods are all other times.

47. The Commission finds that the cost of providing electric service does vary by time-of-day and that rates should reflect those variations. The Commission further finds that marginal costs are the appropriate measure of the cost of service. The determination of marginal costs for the MDU system has not been explored as fully as it should be if marginal costs are to be the basis for mandatory TOD rates for any MDU customers.

48. The Commission favors rates which accurately reflect the costs of service, as it has made clear in this and other orders. However, in view of Dr. Coyle's concerns about the possible long-run effects on required additional capacity resulting from relatively low off-peak rates, increased off-peak usage promoted by the Commission deems it best to move cautiously on TOD rates. Both efficiency and conservation goals are achieved if the price signals sent to consumers are accurate reflections of the costs of service.

49. The Commission needs to know much more about the likely impacts of mandatory TOD rates on MDU's ratepayers. For example, if TOD rates were ordered for large customers, school districts would probably be subject to the mandatory TOD rate. Both the Commission and ratepayers need to have a better idea of who will be most affected.

50. The Commission requests MDU and other parties to provide a thorough analysis of the likely impacts of TOD rates in future rate cases. MDU should design and conduct a meaningful experiment to determine what effects are caused by TOD rates. The Commission is simply unable to adequately assess the costs and benefits of a broadly based TOD rate from the record in this docket.

Seasonal Rates

51. Both MDU and MCC maintain that the summer and winter peaks on the MDU system are essentially balanced, and that seasonal rates are not required.

52. AEM does not address the matter of seasonal rates.

53. The Commission accepts the judgment of both MDU and MCC that seasonal rates are not appropriate for MDU and declines to implement the seasonal rates standard of PURPA at this time.

The Commission is not satisfied with the evidence presented on this issue. The parties simply concluded that because the summer and winter peaks are similar, a seasonal rate is not cost justified. The Commission is not convinced that this fact alone disposes of the issue; the fact that the peaks might be similar is not dispositive of the issue of whether costs vary by season. Parties, especially MDU, should make a genuine attempt to comprehensively explore seasonal rates in future Commission proceedings.

Interruptible Rates

54. MDU asserts that all its customers request noninterrupted electric service at this time. MDU has not designed an interruptible rate for consideration by the Commission.

55. MCC maintains that the TOD rates it proposes obviates the need for "further time-related rate design features such as an interruptible discount."

56. AEM recommends that the Commission explore the benefits of interruptible rates, but makes no specific proposal for such a rate.

57. The Commission is not satisfied with the parties' treatments of the question of interruptible rates. The Commission cannot determine whether MDU should offer "an interruptible rate which reflects the cost of providing interruptible service" (PURPA, Sec. 111(d)(5)) if neither MDU nor any other party has made an attempt to estimate that cost. Interruptible service may be assumed to hold great

potential as a means of diminishing the need for additional capacity. However, the Commission is unable to assess the validity of that assumption because of the inadequacy of the record on this subject.

The Commission finds that the evidence on this record is inadequate in its failure to address the issue of whether interruptible rates are cost effective; because of this dearth of information, the Commission cannot implement this standard at this time.

Load Management

58. MDU has made an in-house management study which concludes that the total amount of load available to control is only 4.75 megawatts (Kroeber, p. 16). MDU does not testify to the costs and/or benefits of any specific load management techniques or possibilities.

59. MCC simply states that its proposed TOD rates will encourage optimal demand and energy conservation, thus contributing in time to the attainment of economically prudent load management objectives. (Wilson, p. 77)

60. AEM recommends active pursuit of the load management option (Coyle, p. 9), but offers no further specific testimony.

61. As with the interruptible rates standard in the previous section, the Commission is very much handicapped in meeting its responsibilities to consider the load management standard. The failure of all parties to address this topic prevents the Commission from properly considering the standard. Here, too, the Commission finds that implementation at this time is impossible because of the inadequate record presented in this docket. The Commission is unable to assess at this time the costs and benefits of implementing the load management standard.

Residential Rate Schedule and Lifeline

62. The Commission is required by the Public Utility Regulatory Policies Act of 1978 to determine whether a lifeline rate should be instituted. The Act recognizes that the Commission may go beyond cost-of-service to judge the appropriateness of a lifeline rate. The law requires that:

If any state regulated electric utility ... does not have a (lifeline) rate in effect 2 years after the date of enactment of this Act, the State regulatory authority having ratemaking authority with respect to such State regulated electric utility ... shall determine ... whether such rate should be implemented by such utility.

63. AEM witness Coyle supports a lifeline rate. His argument is that marginal costs are greater than average costs and that an inverted rate should be instituted to meet the revenue requirement with the first block below incremental cost and the second block equal to incremental cost. However, Dr. Coyle provided no cost of service study or any other data to show by what dollar amount marginal costs are greater than average costs. Thus, even the key assumption underlying his recommendation for an inverted (lifeline) rate is unsupported by any evidence in the record.

64. Both the Montana Consumer Counsel and MDU believe a lifeline rate for electricity is not economically justifiable. Wilson's marginal cost estimates contradict Coyle's assumption that incremental costs are greater than average embedded costs. For just this reason, Dr. Wilson does not support a lifeline rate. Wilson also argues that the inverted rate proposed by Coyle is "not even an attempt to reflect cost conditions or to achieve economic efficiency. (Tr.- 207)

65. MDU witness Gamble also objects to a lifeline rate on the grounds that it is not a cost based rate. This, and some other objections were made clear in a reply to a question from AEM attorney Ganulin:

Lifeline rates are not a conservation rate. Anything that is furnished below cost is not going to be conducive to conservation. What I'm concerned about in such a rate

structure as that, is that the end block will be priced high ... and maybe there will be some conservation. And if there is ... that represents a revenue loss to the utility. And it must be countermanded somehow by increased rates. Then you start with an endless round of rate proceedings. (Tr. 20)

66. Many public witnesses gave their opinions regarding lifeline rates for both gas and electric service at satellite hearings conducted throughout the MDU service area. The following represents a sample of the comments:

Mr. Manthey testified on behalf of the senior citizens of Glendive. He presented a petition that said: "We are very much in favor of a proposed lifeline rate." The petition contained 138 signatures.

Mr. Mandigo, vice president of Senior Citizens district 2, testified: "We are in full accord with the concepts of lifeline proposals set forth. ... We also believe in fairness to individuals, small income users, and/or senior citizens and others on limited, fixed incomes."

Mr. Meeds, representing Holiday Lodge of Glendive, testified: "It would seem that if the purpose of lifeline rates is to save the energy we already do that ... And yet, we find that some people would contend that we're wasteful because we are large users ... To hang the cost of increases on one very small segment of the population is unfair and discriminatory."

Rachel Rivers of Colstrip testified: "I am thinking about elderly citizens more than anything ... there is lots of people trying to make ends meet, people with kids, and there are all kinds of people who don't have an awful lot ... The companies tell us, you know, what their needs are, but we don't get around to doing that. When people go to the grocery store they will cut down on their meat we live on hamburger and stale weiners."

The overwhelming majority of people testified in favor of a lifeline rate and against any base rate (customer charge).

67. It must be noted, however, that the majority of the public testimony was received during Phase I of the hearing which dealt with the issues of revenue requirement and natural gas rate design. It is not possible to distinguish the testimony on "lifeline" for natural gas from that for electricity.

68. The Commission has adopted a lifeline rate structure for service to MDU's residential and other firm class natural gas customers, but in that instance an inverted rate served to meet the revenue constraint because marginal costs exceeded the average cost of service. That is, total revenue from marginal-cost based rates would have exceeded the Company's allowed revenue level. The Commission adopted a combination volumetric and inverted lifeline method, based upon marginal cost principles, as the best technique of record to satisfy the revenue constraint while providing strong energy conservation and equity signal.

69. The record evidence in this case does not support the proposition that marginal costs exceed average costs for MDU's electric system. While the Commission has very substantial concern about the marginal cost method which yields this result, there is no evidence which contradicts it in this docket. Based upon the proposed rate design advocated by the direct testimony of AEM and the recommendations of Dr. Wilson advocating a flat energy rate for the non-TOD option, the Commission accepts the \$2.30 minimum charge and flat rate as the best evidence on residential rate design. The minimum bill includes consumption of 0 to 50 kwh.

70. The Commission is placed in a dilemma by the testimony of Dr. Coyle. Intuition would suggest that marginal electric costs would exceed average costs. Dr. Coyle simply asserted that as fact without any cost study to support that conclusion. As in the case of natural gas, the Commission is not hesitant about moving to innovative rate reforms given a sound evidentiary basis. No such evidence exists on this record. The dilemma is compounded by the differing "recommendations" of Dr. Coyle between direct, rebuttal, and cross-examination.

71. The Commission very seriously considered adoption of a lifeline rate in this Docket. However, it did not do so in part because the testimony supporting a lifeline rate was not supported by a recommendation regarding the differential to be made between lifeline and nonlifeline rates and did not adequately address the amount of energy to be included in the lifeline rate.

General Service Class

72. For the General Service schedule, the demand and customer charges suggested by Dr. Wilson are approximately twice their current levels. The Commission finds such a change far too drastic for implementation in a single rate case.

73. In addition, the Commission believes the Dr. Coyle's argument in supporting a minimum bill as opposed to a customer charge is persuasive for general service as well as residential customers. Therefore, the current \$10 charge should remain at its current level and should be converted to a minimum bill amount. (See Finding 25) The demand charge should be \$3 per kw at both primary and secondary voltage levels. As previously discussed (Finding 31), energy rates should be converted from declining block rates to flat rates.

74. This rate moves in the direction Dr. Wilson has suggested, but does so at a pace which lessens disruptions to consumers. The Commission does believe, however, that the direction in which rate structures are moving, and will likely move in the foreseeable future, should be made clear to ratepayers so they can make rational decisions regarding investment in energy-using equipment and processes.

Industrial Class

75. As in the case of the General Service category, the customer and demand charges proposed by Dr. Wilson are dramatic increases. To moderate the

impact, the Commission orders a \$20 customer charge, rather than the \$26 proposed by Wilson, and a demand charge of \$5 per kw of billing demand at both primary and secondary voltage levels.

Municipal and Other Classes

76. The Commission granted revenue responsibility for the municipal and other classes was determined to be \$926,000. Currently, many of these classes are covered by declining block rates. These should be eliminated. The Commission finds a flat rate is the only justifiable rate for these classes .

77. Montana-Dakota Utilities proposed customer charges of \$10. 50 for Municipal Electric Service, Irrigation Power, Feed Grinding, Commercial Cooking and Heating, and a \$10.00 customer charge for Oil Field Power. The Commission finds the correct customer charge for all these classes is \$10, as it is for the General Service class.

78. For one class, Optional Airport Runway Lighting, MDU has proposed a \$20.50 customer charge. The industrial customer charge of \$20 is appropriate for this class.

79. Demand charges for the Industrial and General Service Customers were increased approximately 50 percent. The demand charges of the municipal and other classes should also be raised by the same percentage.

COMMISSION ACTIONS REQUIRED BY PUBLIC UTILITIES REGULATORY POLICY ACT

80. The Public Utilities Regulatory Policy Act (PURPA), one of the five parts of the National Energy Act, requires, among other things, that each regulatory commission evaluate certain rate structure "standards" in terms of their leading to attainment of the goals of:

- (a) conservation of energy supplies by the utilities,

- (b) efficiency in the use of utilities of the facilities and resources, and
- (c) equitable rates for consumers, as well as
- (d) other goals deemed appropriate by the Commission.

Definitions

81. The five standards established in Section III of PURPA are summarized by the Department of Energy as follows:

1. Cost of Service Standard: Rates to each class of consumer shall be designed to the maximum extent practicable to reflect the costs of providing service to that class, including the cost consequences of both additional kilowatt-hour usage and peak kilowatt demand;
2. Declining Block Rates Standard: Declining block energy charges that are not cost-based shall be eliminated;
3. Time-of-Day Rates Standard: Time-of-day rates shall be established, if cost-effective, where costs vary by time-of-day;
4. Seasonal Rates Standard: Seasonal rates shall be established where costs vary by season;
5. Interruptible Rates Standard: Interruptible rates based on the costs of providing interruptible service shall be offered to commercial and industrial customers.

82. In the Commission's view, the three objectives articulated by PURPA -- namely, conservation of energy, efficient use of facilities and resources, and equitable rates -- all dictate that the prices charged for various electric services ideally should equal the costs of providing those services. Furthermore, the cost of service standard effectively subsumes the second, third, fourth, and fifth standards in that the latter standards simply refer to specific ways in which the costs of services may vary, which variations should be reflected in the design of rates. Accordingly, the rates ordered by the Commission herein are designed to

reflect the costs of providing services to each customer class, including the way in which those costs vary by time of day and the way they differ by customer, energy, and demand components.

Cost of Service Standard

83. The Commission, in this Order, has implemented the Cost of Service Standard. All of the parties to this docket agree that rates should be cost-based. Marginal costs appropriately identify differences in (a) cost-incurrence due to time of use of service, and (b) customer, demand, and energy components of cost.

84. Two cost-of-service studies were presented to the Commission -(a) one employing only average costs and (b) the other marginal costs for the bulk power supply system and average costs for the rest of the system. The Commission chose to implement both time of day and nontime of day rates based on the cost of service study employing marginal costs.

85. The theoretical and practical advantages and disadvantages of embedded costing measures relative to those of marginal costing measures were not well debated in this docket. The Applicant addressed PURPA issues, including the cost of service standard, only cursorily. Fortunately for the record, the Montana Consumer Counsel's witness provided a discussion of the merits of marginal costs as a basis of establishing economically rational rates. Thus, although the record is not rich, it is adequate enough to provide reason for the Commission to implement the cost of service standard based on marginal cost principles.

86. Dr. Wilson's hybrid marginal cost of service analysis establishes the marginal costs of the elements of MDU's system most sensitive to time patterns of use and to differences in demand and energy components of cost. There is no evidence in the record which refutes Dr. Wilson's statement that the average costs of the components outside the bulk power supply system are likely to be

satisfactory approximations to the marginal costs of those components.

87. The rates ordered herein are intended to further the goals of PURPA which have been this Commission's goals for a substantial period prior to passage of that law. The rates deviate from marginal costs only to the extent that:

- (a) the average costs used in Wilson's study differ from the corresponding marginal costs,
- (b) Wilson's determination of marginal energy costs is not sufficiently long-run in perspective, and
- (c) the Commission did not move all the way to the indicated costs, so as to avoid drastic rate changes at this time and rate fluctuations over future rate cases. Thus, the rates implemented by the Commission are based upon the marginal costs of providing service.

88. The customer, demand, and energy components of the cost of service to each customer class have been identified. However, demand costs have been explicitly recovered in the rate schedules only for demand-metered General Service (approximately 4.5 percent of General Service bills, and 24 percent of kwh consumption) and for all Industrial customers . Although no witness presented testimony regarding the costs and benefits of establishing demand rates for Residential and presently un-demand-metered General Service customers, the Commission finds that the benefits, in terms of better information to the consumer and to the utility, would not exceed the additional metering costs at this time. That is, the goals of PURPA and of this Commission would not be significantly furthered by expanding the number of demand-metered customers.

Declining Block Rates Standard

89. In this order, the Commission has begun to implement the declining block rates standard for MDU. None of the rates ordered herein have an energy component which decreases as consumption increases; all rate schedules feature

a flat energy charge.

90. The record in this docket firmly supports the Commission decision. No party proposed a rate form featuring a declining block rate for energy. Applicant did propose a block rate for the residential customer, but asserted that the declining nature of the rate was simply to recover both customer costs not fully included in the customer charge and demand costs, not to reflect any declining costs of energy.

Time-of-Day Rates Standard

91. The Commission believes that, in concept, TOD rates based on marginal costs fosters the attainment of all three PURPA objectives. In practice, of course, those objectives will be attained to the extent that marginal costs are accurately determined. Precisely because the record in this docket inadequately addresses the determination of marginal costs for the MDU system, the Commission declines to fully implement the standard at this time. However, the Commission intends to examine implementation of this standard in the next rate cases; parties, especially MDU, should prepare testimony which gives the Commission an adequate factual basis for such consideration.

As previously discussed, the current optional time-of-day rate for MDU customers should be continued.

Seasonal Rates Standard

92. All parties to this proceeding agree that the costs of service on the MDU system do not have a significant seasonal characteristic. Therefore, the Commission declines to implement the seasonal rates standard, at this time. (See discussion in Finding 53)

Interruptible Rates Standard

and

Load Management Standard

93. Little testimony regarding these standards was presented in this proceeding. MCC witness Wilson simply asserted that adoption of his TOD rates would obviate the need for interruptible rates and would, in time, "contribute to the attainment of economically prudent load management objectives. "

94. In his rebuttal testimony, Dr. Coyle agreed that "to the extent that either alternative, load management or time of day rates, were utilized first and succeeded in sufficiently shifting loads or creating new off-peak loads to achieve optimality of the load curve, there would be no cost justification for later introducing the other. " (p. 11) Coyle recommends load management over time of day pricing because it allows the utility's management to reduce peak loads with certainty and it does not promote energy consumption as time of day rates do.

95. Coyle also argues that time of day rates might not effect savings in installed capacity for several years because management might fear the occurrence of a needle peak. However, on cross-examination, Wilson said that "the problem of needle peaks has largely been one of speculation. There hasn't been, to my knowledge, good evidence, or really any evidence, that has been obtained through all of the experiments that have been run in the actual implementation of time-of-use rates, that needle peaks actually do occur. " (Tr. 217)

96. Unfortunately, neither Dr. Coyle or any other witness presented any evidence as to the benefits and costs or the effectiveness of load management techniques. The Commission correspondingly declines at this time to implement interruptible rates or a load management program.

Lifeline

97. The Commission declines to implement the Lifeline Rate Standard at this time because of an inadequate factual basis upon which to base such rates.

98. The following schedules and any resulting rates appearing in this order are for exemplary purposes only. The tariffed rates computed by MDU shall comply with all findings and determinations in this order.

**TOTAL COST OF SERVING EACH CUSTOMER CLASS
AT COMMISSION GRANTED COSTS OF SERVICE
AND CONSISTENT WITH MARGINAL COST DETERMINATIONS
(\$000's)**

	<u>TOTAL JURIS</u>	<u>RESI- DENTIAL</u>	<u>GENERAL SERVICE</u>	<u>MUNIC- IPAL</u>	<u>INDUS- TRIAL</u>	<u>DIRECT</u>
Generation	2,776	1,098	917	57	704	
Transmissi on	114	45	37	3	29	
Energy	7,093	2,278	2,184	256	2,376	
Transmissi on	1,132	448	374	23	287	
Primary	618	223	243	25	128	
Secondary	453	193	197	21	41	
Customer	2,437	1,442	927	40	27	
Direct	<u>217</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u>217</u>
Total	14,840	5,727	4,879	426	3,592	217

**MONTANA-DAKOTA UTILITIES COMPANY
MONTANA JURISDICTION
RESIDENTIAL CLASS
(NON-TOD)**

	<u>(\$000's)</u>
Total Revenue Requirement	5,727
Less: Other Revenue (2.5%)	<u>-143</u>
	5,584
Less: Customer Revenue (\$2.30 * 19,054 * 12)	<u>-526</u>
	5,058
Less: Amount Based on Energy Usage (117,936,651 kwh * .042887) #1	<u>-5,058</u>
	0

#1: 117,936,651 + 129,312,277 - 11,375,626

Consldtd (Total Energy Consumption) (Less Than 50 kwh Factor.)

MONTANA-DAKOTA UTILITIES COMPANY
MONTANA JURISDICTION

VERIFICATION OF RESIDENTIAL CLASS REVENUES
AT APPLICATION OF MARGINAL COST BASED
NON-TIME-OF-USE RATES

Function	<u>Billing Units</u>	<u>Charge Per Unit</u>	<u>Revenue (\$000's)</u>
Customer Charge (Minimum Bill)	19,054	2.30	526
Amt Charged for Energy Usage	117,936,751	.042887	<u>5,058</u>
Total			5,584

MONTANA-DAKOTA UTILITIES COMPANY
MONTANA JURISDICTION

VERIFICATION OF RESIDENTIAL CLASS REVENUES
AT APPLICATION OF MARGINAL COST BASED
TIME-OF-USE RATES

Function	<u>Billing Units</u>	<u>Charge Per Unit</u>	<u>Revenue (\$000's)</u>
Customer	19,054	2.30	526

Peak Period Energy	57,209,274	.056657	3.241.3
Off-Peak Period Energy	<u>72,103,003</u>	.025196	<u>1,816.7</u>
Total	129,312,277		5,584

**MONTANA-DAKOTA UTILITIES COMPANY
MONTANA JURISDICTION**

**VERIFICATION OF GENERAL SERVICE CLASS
REVENUES AT APPLICATION OF MARGINAL
COST BASED NON-TIME-OF USE/NON-DEMAND RATES**

Function	<u>Billing Units</u>	<u>Charge Per Unit</u>	<u>Revenue (\$000's)</u>
Customer Charge	4,078	10.00	489
Amount Based on Energy Usage	124,194,162	.03436	<u>4,267</u>
Total			4,756

**MONTANA-DAKOTA UTILITIES COMPANY
MONTANA JURISDICTION**

**VERIFICATION OF GENERAL SERVICE CLASS
REVENUES AT APPLICATION OF MARGINAL
COST BASED NON-TIME-OF-USE DEMAND RATES**

Function	<u>Billing Units</u>	<u>Charge Per Unit</u>	<u>Revenue (\$000's)</u>
Customer	4,078	10.00	489
Demand	454,062	3.00	1,362
Amount Based on Energy Usage	<u>124,194,162</u>	.02331	<u>2,905</u>
Total	124,194,162		4,756

**MONTANA-DAKOTA UTILITIES COMPANY
MONTANA JURISDICTION**

**VERIFICATION OF GENERAL SERVICE CLASS
REVENUES AT APPLICATION OF MARGINAL
COST BASED NON-TIME-OF-USE DEMAND RATES**

Function	<u>Billing Units</u>	<u>Charge Per Unit</u>	<u>Revenue (\$000's)</u>
Customer	4,078	10.00	489
Peak Period Energy			
Primary	3,936,761	.04923	193.8
Secondary	51,008,552	.05123	2,13
Off-Peak Period Energy			
Primary	4,961,590	.01923	95.4
Secondary	<u>64,287,259</u>	.02123	<u>1,365.8</u>
Total	124,194,162		4,756

**MONTANA-DAKOTA UTILITIES COMPANY
MONTANA JURISDICTION**

**VERIFICATION OF GENERAL SERVICE CLASS
REVENUES AT APPLICATION OF MARGINAL
COST. BASED TIME-OF-USE, NON-DEMAND RATES**

Function	<u>Billing Units</u>	<u>Charge Per Unit</u>	<u>Revenue (\$000's)</u>
Customer	4,078	10.00	489
Demand			
Primary	30,129	3.00	90
Secondary	423,933	3.00	1,272
Energy			
Primary	4,961,590	.021465	191
Secondary	<u>64,287,259</u>	.023595	<u>2,714</u>

Total	124,194,162	4,756
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MONTANA-DAKOTA UTILITIES COMPANY
MONTANA JURISDICTION

VERIFICATION OF GENERAL SERVICE CLASS REVENUES
AT APPLICATION OF MARGINAL COST BASED TIME-OF-USE DEMAND
RATES

Function	<u>Billing Units</u>	<u>Charge Per Unit</u>	<u>Revenue (\$000's)</u>
Customer	89	20.00	489
Demand			
Primary	154,718	5.00	193.8
Secondary	88,138	5.00	2,13
Amount Based on Energy Usage	141,087,231	.016061	<u>2,266</u>
Total			3,502

**MONTANA-DAKOTA UTILITIES COMPANY
MONTANA JURISDICTION**

**VERIFICATION OF INDUSTRIAL CLASS REVENUES
AT APPLICATION OF MARGINAL COST BASED NON-TIME-OF-USE**

Function	<u>Billing Units</u>	<u>Charge Per Unit</u>	<u>Revenue (\$000's)</u>
Customer	89	20.00	21
Demand			
Primary	154,718	5.00	774
Secondary	88,138	5.00	441
Energy			
Peak Period	39,891,453	.0176	702.1
Primary	9,912,340	.02019	200.1
Secondary			
Off-Peak Period			
Primary	73,115,496	.01486	1,086.6
Secondary	<u>18,167,942</u>	.01526	<u>277.2</u>
Total	141,087,231		3,502

Customer Services

99. MDU has traditionally offered merchandising services in the form of sales and servicing of appliances as well as utility-related services. Because of this combination of services, confusion has occasionally arisen as to what should be classified as a merchandising service and what should be classified as a utility service. Under the laws and legal decisions of the state of Montana the Commission has jurisdiction over utility services; however, it has no jurisdiction over the merchandising services offered by MDU.

100. In response to Commission initiative, MDU submitted testimony as

to what it considered merchandising services and what it considered utility services. It further submitted testimony as to the charges which should be levied for the utility services which are under the jurisdiction of the Commission. A summary of this breakdown is submitted in the form of Exhibit JFS No. 3, sponsored by MDU employee John F. Stewart.

According to the testimony submitted by MDU, the Company bases its distinction between utility and merchandising (nonutility) services on whether the service is offered "by others in the community who are in the plumbing, heating or electric wiring business."

101. The Commission takes a somewhat different view. The Commission finds that appliance repair should be considered a merchandising service; other services should usually be considered utility related. This is not to say, however, that the Commission necessarily approves of the range of services presently offered by MDU, which seems to place the utility in direct competition with plumbing, heating and electric wiring businesses; on the contrary, the Commission has before expressed concern that MDU may be unfairly competing with such businesses, and continues to encourage MDU to delete services offered by other businesses which do not have the advantages inherent in MDU's status as a public utility.

102. Once utility services are separated from merchandising services, the issue remains of whether services found to be utility-related should be charged to the individual customer or whether they should be subsumed in MDU's overall cost of service and provided to individual customers without charge. In making this distinction, the Commission has generally classified services which benefit the utility, encourage energy conservation or constitute basic safety measures as services to be rendered without charge; all other services are considered as services to be rendered at the utility's labor and equipment cost. Included in the latter category also are services which are rendered at substantial expense whose

benefits inure primarily to the individual customer.

103. Based on Stewart's testimony and Exhibit No. 3, and in view of the criteria noted above, the Commission finds that Exhibit JFS No. 3, with the following exceptions is an accurate summary of utility services as opposed to merchandising services, and correctly distinguishes between chargeable and nonchargeable utility services.

a. Item 20 of Exhibit 3 lists as a nonchargeable utility expense "moving meter from inside to outside at Company request. " (Emphasis added) Item 28 of the same Exhibit lists as chargeable-utility "moving meter from inside to outside at customer request. " (Emphasis added) The Commission finds that moving a meter from inside a premises to outside should be a nonchargeable utility expense regardless of who requests that move. The Commission makes this finding on the basis of its belief that a meter which is available for meter readings at all hours is an advantage to the utility, in that it eliminates the need for repeated visits by the meter reader or an estimated meter reading. The Company should, therefore, delete Item 28 and amend Item 20 to read: "Moving meter from inside to outside."

b. By prior Order No. 4635b, the Commission disallowed the proposed charge listed as Item 27 of Exhibit JFS-3. This item classifies reconnection for seasonal or temporary customers as a chargeable utility expense. The Company should, therefore, move Item 27 from the "chargeable-utility" category to the "nonchargeable-utility" category. For the same reasons, Item 31 should be deleted, and amend Item 8 to read "Relighting of pilots and adjusting burners on appliances."

c. The Commission finds that Item 36 of JFS-3, "Installation of gas service line (on customer's premises)" is utility-related, since delivery of gas is obviously an integral part of the utility's service. Similarly, the Commission finds that Item 45 of JFS-3, "Installation of replacement service line owned by customer, " should be considered a utility service. Because these services involve substantial

costs, with benefits primarily to the individual customer, they should be chargeable to the customers requesting them. Therefore, Item 36 should be moved from the "chargeablemerchandise" category to the "chargeable-utility" category, and should be amended to read, "Installation, replacement or relocation of gas service line. " Items 45 and 46 should be eliminated.

d. The Commission finds that Item 43 of Exhibit JFS-3, "Pressure test house piping installed by MDU," should be considered a utility service. It is the Commission's understanding that such a test is required before MDU institutes service to a dwelling and is a safety measure. This charge should, therefore, be moved from the "chargeable-merchandise" category to the "nonchargeable-utility" category. The category should be amended to read "Pressure test house piping, " and should include Item 25, "Pressure test house piping installed by others." Item 25 should be eliminated.

104. The Commission finds that the testimony of John Stewart, which states that MDU's policy to convert indoor meters to outdoor meters at the rate of one (1%) percent per year should be altered to encourage the more rapid conversion of gas meters to outdoor locations. The Commission suggests that MDU seriously consider a conversion rate of five (5%) to ten (10%) percent per year to convert indoor meters to outdoor meters, given the convenience of such meters to the utility and the avoidance of the need for estimated bill difficulties which consume both MDU's and the Commission's time.

COMPENSATION FOR CONSUMER INTERVENORS IN PURPA - RELATED PROCEEDINGS

105. The Procedural Order in this Docket was amended to allow for reimbursement of expenses to consumers, as required by the federal law entitled The Public Utility Regulatory Policies Act of 1978, P.L. 95-617.

106. On February 27, 1980, Intervenor Action for Eastern Montana

submitted a request for reimbursement of its expenses. The requested reimbursement totalled \$3,636.36. On March 19, 1980, the Commission made a preliminary determination of eligibility for Action for Eastern Montana for reimbursement of costs.

107. Subsequent to this determination, Action for Eastern Montana, through its Attorney, Richard Ganulin, submitted an amended petition for reimbursement of expenses. The amended petition asked that the petition for reimbursement of expenses be amended to include attorney's fees of \$3,000.

108. The Commission finds that the testimony sponsored by AEM, through its expert witness Eugene Coyle has substantially contributed to the adoption of the rate design found appropriate in this proceeding. Therefore, the Commission further finds that AEM, under the amended procedural order allowing for reimbursement of expenses, should be reimbursed by the utility for its expenses in appearing in this docket. The Commission finds that the cost amounting to \$3,636.36 is just and reasonable for expenses incurred to represent Intervenor's participation and interest in this docket, and that this sum should be paid by MDU to AEM.

109. The Commission finds that the claimed legal expenses of \$3,000 are not sufficiently itemized. The Commission also finds that the amended additional expenses are not supported by any allegation that there would be substantial hardship were those expenses not reimbursed. Therefore, by its Ordering Paragraph No. 5 the Commission will afford AEM the opportunity to itemize the \$3,000 claimed expense contained in its amended request. With its itemization, AEM should also address, in affidavit form, why, but for an award of fees and costs, participation would be a significant financial hardship to them.

110. If the Intervenor AEM chooses to submit the requested supplemental information within the time allowed, the Commission will make its determination within 20 days of receipt of that supplemental information as to whether AEM is

entitled to reimbursement of legal expenses.

CONCLUSIONS OF LAW

1. The Montana-Dakota Utilities Company is a public utility furnishing electric and natural gas service to consumers in the State of Montana.
2. This Commission has jurisdiction of the rates and charges for and the conditions under which utility service is rendered in Montana.
3. The Commission acts in its legislative capacity when it allocates utility costs to the various customer classes.
4. In establishing a rate structure the Commission may take into consideration both cost factors and noncost factors.
5. The objectives of conservation, efficiency and equity are promoted by the rate structure approved in this order.
6. The rate structures authorized by the Commission, based upon analysis of the entire record, are just, reasonable, and not unjustly discriminatory.

ORDER

IT IS HEREBY ORDERED BY THE PUBLIC SERVICE COMMISSION THAT:

1. MDU shall remit to Action for Eastern Montana the amount of \$3,636.36 for expenses incurred in AEM's participation in this docket.
2. MDU may submit to the Public Service Commission tariffs which reflect the reimbursement of expenses found to be reasonable in Ordering Paragraph No. 1.
3. Intervenor Action for Eastern Montana is ordered to submit within 20 days of the service date of this order an itemization and justification for its legal expenses in the amount of \$3,000.00 as detailed in Finding of Fact No. 107.
4. MDU shall file tariffs reflecting the changes found necessary in

Finding of Fact No. 103.

5. MDU is ordered to file an amended Exhibit JFS-3 to reflect Finding of Fact No. 103. Those items classified as utility services shall be filed as a tariff. Amended Exhibit JFS-3 shall be used by the Company and the Commission as a guideline for resolving future complaints regarding utility and merchandising services.

6. Within 45 days from the service date of this order, MDU shall file a report with the Commission that outlines steps it has taken and will take to carry out the experiment discussed in Finding No. 50.

7. MDU is ordered in its next electric rate case to correct the deficiencies in its testimony concerning PURPA related issues, as extensively discussed in this order.

8. MDU shall file tariffs which reflect the findings of this order.

9. All motions and objections not specifically ruled upon are denied.

DONE AND DATED this 9th day of February, 1981, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

GORDON E. BOLLINGER, Chairman

JOHN B. DRISCOLL, Commissioner

HOWARD L. ELLIS, Commissioner

Thomas J. Schneider, Commissioner

ATTEST:

Madeline L. Cottrill
Secretary

(SEAL)

NOTE: You may be entitled to judicial review of the final decision in this matter. If no Motion for Reconsideration is filed, judicial review may be obtained by filing a petition for review within thirty (30) days from the service of this order. If a Motion for Reconsideration is filed, a Commission order is final for purpose of appeal upon the entry of a ruling on that motion, or upon the passage of ten (10) days following the filing of that motion. cf. the Montana Administrative Procedure Act, esp. Sec. 2-4-702, MCA; and Commission Rules of Practice and Procedure, esp. 38. 2.4806, ARM