

Service Date: April 29, 1981

DEPARTMENT OF PUBLIC SERVICE REGULATION  
MONTANA PUBLIC SERVICE COMMISSION

\* \* \* \* \*

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. 4635d

FINDINGS OF FACT

1. In the course of this proceeding the Commission provided for reimbursement of intervenor testimony under certain circumstances, pursuant to the Public Utility Regulatory Policies Act.

2. Intervenor Action for Eastern Montana requested reimbursement of consultant, legal and miscellaneous expenses.

3. By Order No. 4635 the Commission granted reimbursement for all expenses except legal fees. By that order, the Commission gave Action for Eastern Montana the opportunity to provide an itemization of legal expenses for its consideration. An itemization was forthcoming.

4. On March 30, 1981, at its regular business meeting, the Commission approved reimbursement of the legal expenses by MDU and authorized MDU to recover those expenses through increased rates.

5. On April 7, 1981, the Montana Legal Services Association requested an extension of time to respond to the objections raised by MDU.

6. On April 13, 1981, the Commission voted to treat MDU's objections as a motion for reconsideration and waived the rule requiring a Commission decision on such motions. The Commission also granted the motion for extension of time, making the response due on April 14, 1981.

7. On April 20, 1981, the Commission voted to approve the legal expenses submitted by Action for Eastern Montana, thus overruling MDU's objections.

8. The Commission found the reasoning of the Court in Dennis v. Chang, 611 F. 2d 1302 (1983) persuasive in its finding that reasonable fees did not have to be less than those paid to private counsel. There the Court found that such payments encouraged legal services to expend its limited resources on civil rights litigation rather than in other areas. Similarly, the Commission believes the reimbursement of expenses provision of PURPA was intended to encourage participation in electric rate structure proceedings by just such groups as Action for Eastern Montana and Legal Services, which have often been financially unable to participate in the very expensive ratemaking process. This purpose- is better fulfilled by granting reimbursement at the level authorized by this order.

#### 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 over the rates and charges for and the conditions under which utility service is rendered in Montana.

3. The federal Public Utility Regulatory Policies Act, the procedural order in this Docket and the Commission's rules allow reimbursement of reasonable intervenor expenses under the appropriate circumstances.

4. The legal fees for which reimbursement has been requested are reasonable.

5. Action for Eastern Montana has met the criteria for eligibility of expense reimbursement as set out in the authorities cited above.

#### ORDER

1. MDU shall remit to Action for Eastern Montana the amount of \$3,000 for legal expenses incurred in Action for Eastern Montana's participation in this docket.

2. MDU may submit to the Public Service Commission tariffs which reflect the reimbursement of expenses authorized in Ordering Paragraph No. 1.

Done and Dated this 27th day of April, 1981, by a vote of 4-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

---

Gordon E. Bollinger, Chairman

---

Howard L. Ellis, Commissioner

---

John B. Driscoll, 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.