Service Date: January 3, 1983

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF The Application Of MONTANA-DAKOTA UTILITIES COMPANY For Authority to Establish Increased Rates For Gas Service.	))))	UTILITY DIVISION DOCKET NO. 82.6.40 ORDER NO. 4918a

FINDINGS AND DISCUSSION

1. On June 18, 1982, the Montana-Dakota Utilities Company (MDU, Company, Applicant) filed an application with the Commission seeking a general rate increase for gas service. MDU requested a $6,951,673 annual increase in revenues.

2. Included in the June 18th filing was a request for interim relief in the amount of $4,317,825. On July 12, 1982, the Commission granted an interim. increase of $2,599,807. (Order No. 4918)

3. Hearings on MDU's request for permanent relief were set for December 7, 1982.

4. On November 26, 1982, the Company filed supplemental testimony and exhibits, revising its requested increase to $6,885,369. Included in the revisions were a $1.51 million decrease due largely to decreased cost of capital and a $1.44 .million increase due to the loss of off-system sales to Colorado Interstate Gas Company. (CIG)

5. On December 2,1982, the Montana Consumer Counsel (MCC) filed

an objection to MDU's November 26th filing.

6. MCC contended that the MDU filing should be rejected in its entirety or alternatively that the November 26 filing be considered an amendment requiring a continuance of the hearing date. MCC urged that the amendment constituted a new filing and that the nine month (Section 69-3-302, MCA) period should commence on November 26, 1982. The Commission acted on December 3, 1982, to continue the hearing date in this Docket to March 8, 1983. This three month extension was necessary to provide all parties herein adequate opportunity to review the Company's revised testimony and exhibits.

7. On December 9, 1982, MDU filed an application for additional interim relief in the amount of $3,129,000, which would result in a total interim level of $5,728,807. The additional request consists of two basic components: (1) $1,357,000 to cover expected changes in off-system sales to CIG; and (2) $1,772,000 "to cover the deficiency in MDU rates established by the MCC."

8. This Commission has attempted to grant utilities speedy rate relief to the extent reasonable and fair to all parties. To that end, the Commission has adopted and applied interim increase rules (38.5.50., et. seq., ARM) which attempt to identify conventional and noncontroversial portions of the requested increase based upon a "make whole" approach consistent with the last general rate case. Since immediate relief is a desired goal (less than one month in this case), the Commission has chosen to forego full development of the case prior to a decision on interim increase requests. A more conservative approach is thus necessary.

9. Intermingled with the above considerations is the desirability of having only one interim rate increase per docket to avoid repeated unpredictable and rapidly fluctuating rates. With these imperatives in mind, the Commission has determined that the fairest approach for all parties is to consider a single interim increase immediately upon filing of an application.

10. MDU now requests the Commission to abandon its single interim policy, citing the three month extension in this Docket as a unique and extenuating circumstance. This action, however, would set undesirable precedent and encourage other utilities to seek multiple interims as each case developed. As explained above, the Commission's interim policy was intended to avoid this situation. MDU is premature in justifying such a departure from established practice on the basis of the three month extension in this Docket, since any possible change in the Company's position with regard to MCC "conceded" levels will not occur until the original nine-months expires on March 18, 1983.

ll. Even were the Commission to abandon its balanced interim policy, the Company's application would be unacceptable. MDU seeks to increase its interim revenues to a minimum level calculated by MCC witnesses based upon the original testimony and exhibits. It is quite possible that those calculations will be changed by the revised testimony and exhibits. Another flaw inherent in this approach is the notion that the commission should set a lower parameter in rate cases, based upon the MCC's recommended revenue level, below which the Commission and other parties may not venture. The Company, however, has the burden of supporting its application in its entirety, and the Commission will not prejudge the merits of that application. In addition, the company is aware that the Commission's current rules

governing interim increases (§§38.5.50l, et. seq., ARM) were intended to replace the former practice of basing interim increases on the consumer Counsel's testimony. The policies reflected in this change would be frustrated by granting the Company's request. Those policies, to which the Company acceded, responded to the utilities' professed need for speedier interim relief.

12. The second element of MDU's interim increase request relates to the claimed $1.44 million loss of revenues occasioned by changes in off-system sales to CIG. Consideration of this item is particularly inappropriate on an interim basis.

13. Due to the immediate and uncontested nature of interim revenue increases, they are necessarily based upon clearly measurable expense items and methodology adopted in past Commission orders. Neither of these guidelines is met by the Company's application.

14. Automatically accepting revenue requests to offset loss of off-system sales volumes does not comply with methodology or policy established in past Commission orders. Quite the contrary. In MDU Docket No. 80.7.52, Order No. 4734, the Commission stated:

> 71. As regards supply/demand issues, of special concern to the Commission at this time is the Company's position in relation to excess deliverability and take or pay requirements. * * * It is the Commission's under standing that this excess deliverability is to be siphoned off in the form of off-system sales contracted at system incremental prices. It is the intention of this Commission to monitor the company's supply/demand scenario with the express purpose of preventing any possibility of the Company entering a take or pay situation having the potential to adversely

affect the welfare of the ratepayer. (pp. 34-35)

15. MDU argues in its brief that since the Commission immediately passed through savings to the ratepayers due to CIG off-system sales, it is only fair and equitable that the increases requested be similarly rapid. The analogy is inaccurate. Off system sales to CIG were viewed as a solution to MDU's questionable take or pay posture and excess gas supply and deliverability problem discussed above. Approval of rate reductions based on the CIG contract forestalled further consideration of alternative rate making treatment of MDU's acquisition policy and the resulting excess supply of gas.

16. Loss of off-system sales to CIG has become a major issue in this Docket. Following are only a few examples of questions raised by the parties:

-- Would MDU have contracted to take the output from certain gas plants had it known of CIG's reduced purchases?
-- Would certain plant additions have been needed to serve MDU's markets absent the CIG sale? '
-- Will MDU be forced to pay for gas not taken by CIG?
-- What recourse does MDU's contract with CIG provide, and what remedies is MDU pursuing?
-- Will MDU attempt to reduce its obligations to producers in view of the reduced take by CIG?

The issues surrounding MDU's $1.44 million interim request are far from clear, nor are they of a routine nature.

17. Finally, the Commission finds the request for additional interim relief entirely inappropriate in view of the fact that the supplemental testimony, in its entirety, advocates a net reduction in MDU's request for a permanent rate increase. The Commission fails to see how such testimony can serve as the basis for an additional interim increase. Rather it relies upon the Consumer Counsel "conceded level" theory which the utilities

strongly opposed and which the Commission discarded in favor of the immediate "make-whole" rule described above.

18. It should also be noted that an alternative to extending the hearing date in this Docket would have been to have proceeded on MDU's original testimony and exhibits, and to consider the CIG issues as a separate application. In that case, nine months would have run out August 27, 1983. The Commission's action has actually expedited consideration of these issues by over two months.

CONCLUSIONS OF LAW

1. Applicant, Montana-Dakota Utilities Company, is a corporation providing gas service within the State of ,Montana, and as such is a "public utility" within the meaning of 69-3-101, MCA.

2. The Montana Public Service Commission properly exercises jurisdiction over the Applicant's, Montana operations pursuant to Title 69, Chapter 3, MCA.

3. Section 69-3-304, MCA, provides, in part, "The Commission may, in its discretion, temporarily approve an increase pending a hearing or final decision."

4. The additional revenues requested hererein are not appropriate to provide interim relief to Montana-Dakota Utilities company.

ORDER

NOW THEREFORE, IT IS ORDERED that the application of

Montana-Dakota Utilities Company for additional interim rate relief in the amount of $3,129,000 in this Docket be DENIED.

DONE IN OPEN SESSION this 3rd day of January, 1983, by a vote of 5-O .

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

THOMAS J. SCHNEIDER, Chairman

CLYDE JARVIS, Commissioner

HOWARD L. ELLIS, Commissioner

JOHN B.DRISCOLL, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Madeline L. Cottrill
Commission Secretary
(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.