

Service Date: July 25, 1988

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

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IN THE MATTER of the Commission's)	UTILITY DIVISION
Investigation of Montana-Dakota)	
Utility Company's Gas Acquisition)	DOCKET NO. 87.2.6
Practices.)	ORDER NO. 5256a

ORDER VACATING PREVIOUS ORDERS
AND CLOSING DOCKET

BACKGROUND

On February 4, 1987, the Public Service Commission (Commission) issued an Order Initiating Investigation into Montana-Dakota Utilities Company's (MDU) gas acquisition practices. See Order No. 5256. On March 24, 1987, the Commission issued a Procedural Order in this Docket requiring MDU to respond to certain specific issues relating to its gas acquisition practices.

MDU resisted complying with the Procedural Order on due process grounds. After the Commission denied MDU's motions to alter the procedure outlined in the Procedural Order, MDU, in early May, 1987, sought a decree in State district court that the Commission Orders in Docket No. 87.2.6 were unlawful, and an injunction directing the Commission to adopt certain procedures consistent with MDU's understanding of due process requirements. A hearing on MDU's request for a decree and in junction was

originally set for early August, 1987, and then continued, at the request of the Commission, to October, 1987. On September 24, 1987, the district court granted the Commission's Motion to Vacate the hearing. The Commission made the Motion on the understanding that the Montana Consumer Counsel (MCC) was going to file a complaint with the Commission alleging imprudence in MDU's gas acquisition practices. The Commission's position was that, following the filing of such a complaint, the Commission would withdraw its investigation, making the legal issues raised by MDU in district court moot. If the MCC did not file a complaint, then the hearing in district court could be reset.

By the spring of 1988 the MCC had not yet filed the complaint anticipated since the fall of 1987. Therefore, the Commission decided it must once again act independently of the MCC. Before continuing the litigation referred to above, the Commission decided it might be productive to meet informally with officials of MDU and Williston Basin Interstate Pipeline Company (WBIP), MDU's wholesale gas supplier. Separate meetings were held with MDU and WBIP in the late spring of 1988.

On July 11, 1988, and again on July 12, 1988, at scheduled work sessions, the Commission met to consider what further action, if any, to take in this Docket. It was noted at this work session that the facts of MDU's gas acquisition practices may be changing in the near future as a result of a June 24, 1988, filing at the Federal Energy Regulatory Commission (FERC) by WBIP requesting open access gas transportation under NGPA Section 311.

Partially as a result of this development, the Commission decided that Docket No. 87.2.6 should be closed. The Commission remains concerned about MDU's gas acquisition practices, and its action in this Order should not be interpreted as a retreat from its efforts

to investigate those practices on behalf of MDU ratepayers. The Commission may, following a reassessment by staff, revive the investigation in another Docket.

CONCLUSION OF LAW

1. Montana-Dakota Utilities Company is a public utility, regulated in its Montana intrastate operations by the Montana Public Service Commission pursuant to Title 69, Montana Code Annotated (MCA).

2. Montana-Dakota Utilities Company is required to provide utility service at a just and reasonable cost and every unjust and unreasonable charge is prohibited and declared unlawful. 69-3-201, MCA.

3. The Montana Public Service Commission is empowered by statute to supervise, regulate, and investigate the operations of public utilities to ensure that charges for utility service are just and reasonable. 69-3-102, 69-3-103, 69-3-106 and 69-3-110, MCA.

ORDER

NOW THEREFORE IT IS ORDERED that Docket No. 87.2.6 is Closed.

IT IS FURTHER ORDERED that Order No. 5232, Docket No. 87.2.6, and the Procedural Order, Docket No. 87.2.6 (Service Date: March 24, 1987), are vacated.

Done and Dated this 22nd day of July, 1988 by a vote of 4-1.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

CLYDE JARVIS, Chairman

HOWARD L. ELLIS, Commissioner

TOM MONAHAN, Commissioner

DANNY OBERG, Commissioner

JOHN B. DRISCOLL, Commissioner
(Voting to Dissent)

ATTEST:

Carol Frasier
Commission Secretary

(SEAL)

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