

Service Date: August 26, 2002

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

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IN THE MATTER OF MONTANA-DAKOTA	)	UTILITY DIVISION
UTILITIES CO., Application for Authority to	)	
Increase Rates for Natural Gas Service in its	)	DOCKET NO. D2002.5.59
Montana Service Areas	)	ORDER NO. 6424c

PROTECTIVE ORDER

On June 11, 2002, the Public Service Commission (PSC) issued an interim protective order (*PSC Order No. 6424*) applying to preliminary PSC and Montana Consumer Counsel (MCC) staff audits in the above proceeding. The interim order required Montana-Dakota Utilities Co. (MDU) to apply for final protective order when the identity of protected information became known.

On July 18, 2002, MDU filed a motion for protective order. MDU requests protection of responses to PSC audit request 5, which asks for information including a consultant's report on performance of MDU's bargaining unit and non-bargaining unit employees' health and welfare benefit plans, and MCC-022 and -099, which ask for an actuarial report related to that performance report. MDU argues the reports pertain to all companies under the MDU Resources (parent company) umbrella, including MDU (utility), and the reports are not publicly reported by MDU Resources and are considered and treated by MDU Resources as confidential. MDU also requests protection of its responses to MCC-074, which requests monthly debt balances of MDU Resources and its subsidiaries, and MCC-075, which requests monthly consolidated balance sheets for MDU Resources and its subsidiaries. MDU argues the debt balances and balance sheets are not publicly disclosed by MDU Resources and are considered and treated by MDU Resources as confidential. MDU also argues SEC rules prohibit selective disclosure of the requested information. MDU also requests protection for its response to MCC-116, which requests a forecast of MDU's gas costs. MDU argues that it treats this information as confidential and public disclosure would destroy its ability to fairly negotiate gas purchase prices. MDU

requests a general protective order, arguing it is inefficient to file separate motions each time confidential information is to be filed (*e.g.*, in data responses).

The PSC determines that the information identified by MDU could be confidential and subject to protection from public disclosure pursuant to § 69-3-105, MCA , and Art. II, § 10, Mont. Const. Therefore, the PSC grants MDU's request and hereby orders that information submitted in accordance with this order be treated as "confidential information" under the terms of this order and PSC protective order rules, ARM 38.2.5001 through 38.2.5030. The PSC denies MDU's request for a general protective order.

Done and dated this 6th day of August, 2002, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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GARY FELAND, Chairman

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JAY STOVALL, Vice Chairman

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BOB ANDERSON, Commissioner

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MATT BRAINARD, Commissioner

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BOB ROWE, Commissioner

ATTEST:

Rhonda J. Simmons  
Commission Secretary

(SEAL)

NOTE: There is no reconsideration of the granting of a protective order. There is a procedure to challenge the provider's claim of confidentiality. See ARM 38.2.5008.

Montana Public Service Commission  
Protective Orders and Protection of Confidential Information

## Nondisclosure Agreement

(7-26-00)  
ARM 38.2.5012

Docket No. D2002.5.59, Order No.6424c  
Order Action Date: August 6, 2002

I understand that in my capacity as counsel or expert witness for a party to this proceeding before the commission, or as a person otherwise lawfully so entitled, I may be called upon to access, review, and analyze information which is protected as confidential information. I have reviewed ARM 38.2.5001 through 38.2.5030 (commission rules applicable to protection of confidential information) and protective orders governing the protected information that I am entitled to receive. I fully understand, and agree to comply with and be bound by, the terms and conditions thereof. I will neither use nor disclose confidential information except for lawful purposes in accordance with the governing protective order and ARM 38.2.5001 through 38.2.5030 so long as such information remains protected.

I understand that this nondisclosure agreement may be copied and distributed to any person having an interest in it and that it may be retained at the offices of the provider, commission, consumer counsel, any party and may be further and freely distributed.

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date of Signature

Business Address:

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\_\_\_\_\_  
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\_\_\_\_\_  
Employer

\_\_\_\_\_  
Party Represented