

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

IN THE MATTER OF THE APPLICATION)	REGULATORY DIVISION
of MONTANA-DAKOTA UTILITIES CO.,)	
a Division of MDU Resources Group, Inc.,)	DOCKET NO. D2012.9.100
for Authority to Establish Increased Rates for)	
Natural Gas Service)	ORDER NO. 7254b

FINAL ORDER

PROCEDURAL HISTORY

1. On September 26, 2012, Montana-Dakota Utilities Co. (MDU) filed its Application for Approval for Authority to Establish Increased Natural Gas Delivery Service Rates and Allocated Cost of Service and Rate Design (Application) with the Montana Public Service Commission (Commission or MPSC), seeking approval of increased natural gas delivery service rates for its Montana customers. MDU's proposed rates would provide an additional \$3,457,412 of annual revenue, a 5.9 percent overall increase. For residential customers the impact on the distribution portion of the bill would be a 7.9 percent increase in rates.
2. The Commission issued Procedural Order 7254 on November 21, 2012. Intervenor testimony was submitted by the sole intervenor, Montana Consumer Counsel (MCC).
3. On March 29, 2013, a Motion to Amend Procedural Schedule was received from MDU. On April 1, 2013, a Notice of Appearance of Counsel was received from the MCC, and on April 9, 2013, a Motion to Vacate Hearing and Suspend Procedural Schedule was received.
4. On April 11, 2013, Interim Order 7254a was issued. On June 21, 2013, the Commission re-established the Procedural Schedule with modifications, setting the hearing date to August 5, 2013.
5. On August 5 and 6, 2013, an evidentiary hearing was held in Billings, Montana. The Briefing Schedule concluded on October 28, 2013. On December 5, 2013, a Stipulation (attached) between the parties was filed with the Commission.

DISCUSSION AND FINDINGS OF FACT

Stipulation

6. For settlement purposes, MCC and MDU propose that a fair and equitable resolution of the issues and which would result the establishment of just and reasonable rates would be as described below:

- a. MDU should be authorized an overall annual increase in rates for natural gas service in Montana of \$1,525,000 (an increase of \$675,000 above the present interim rates of \$850,620) provided the rate increase is spread between rate classes as proposed in paragraph 6(c) below.
- b. Because of the substantial divergence between the parties, the parties present the agreed upon revenue requirement as a compromise settlement without a specified cost of equity, capital structure or weighted cost of capital.
- c. The increase specified in 6(a) above should be allocated between customer classes and rate schedules by increasing interruptible transportation service rates by 1.4% and applying the remaining revenue deficiency to the other rate classes as an equal percentage increase. The Base Rate for the Residential Class should be set at \$7.00 per month or \$0.23 per day. The Base Rates for the other customer classes are as proposed by MDU in its Application. The reasonableness of the proposed additional revenues is dependent upon the interclass allocation of that revenue requirement and rate design.
- d. MDU will withdraw its request for authorization to implement its proposed Rate 87 tariff, the distribution delivery stabilization mechanism (DDSM).

7. With respect to depreciation expense, the proposal of MDU on plant lives should be adopted and the MCC proposal on removal costs should be adopted. The new depreciation rates should be effective upon issuance of the Commission's final order in the docket. MCC retains the right to object to MDU's implementation of any depreciation rate adjustments between rate cases; and further does not waive any right to seek a true-up if necessary or appropriate for the related impact to ratepayers on rate base incurred as a result of MDU's unilateral adjustment of depreciation rates.

8. The Billings Landfill Gas Production Project will be a non-utility asset, and is not included in MDU's rate base. Any landfill gas from this project used to supply natural gas

service to MDU's Montana- jurisdictional gas customers will be reflected in MDU's gas cost tracking adjustment at the then current CIG index, plus a transportation factor of \$0.0312 per dkt. Royalty expenses will not be included.

9. MDU and MCC agreed that an important component of the agreed upon rate change is the timely implementation of the rates before the winter heating season and as such request that the Stipulation rates be in effect on and after December 15, 2013, either in an interim or final basis.

10. Neither party's position is accepted by the other party by virtue of their entry into the Stipulation. The various provisions of the Stipulation are inseparable from the whole of the agreement between the parties.

Discussion

11. The Commission finds that the Stipulation is a fair and equitable agreement that results in just and reasonable rates for MDU's natural gas customers.

12. One of the concerns the Commission had in this case was the adequacy of the supporting documentation for the depreciation study performed by MDU's witness. The Stipulation resolves the issue for this rate case and establishes rates on a going forward basis. MDU is strongly encouraged to ensure there is supporting documentation for any change in depreciation rates going forward. The testimony of MCC's witness should provide guidance to MDU to what will be expected for supporting documentation in its depreciation studies going forward.

CONCLUSIONS OF LAW

13. The Commission has full power of supervision, regulation, and control of public utilities. § 69-3-201, MCA.

14. A "public utility" includes a private corporation "that owns, operates, or controls any plant or equipment. . . for the production, delivery, or furnishing" of power to other persons. *Id.* at § 69-3-101. As a private corporation that provides natural gas service within the State of Montana, MDU is a "public utility."

15. As a public utility, MDU is required to furnish reasonably adequate service at just and reasonable rates. *Id.* at § 69-3-201 ("every unjust and unreasonable charge is prohibited and declared unlawful.").

16. Every public utility must file schedules with the Commission showing “all rates, tolls, and charges which it has established and which are in force at the time for any service performed by it within the state or for any service in connection therewith. . . .” *Id.* at § 69-3-301(1).

17. Other than rate schedules that adjust certain state and local taxes and fees, a public utility may not change any rate schedule except as approved by the Commission or upon the passage of 9 months. *Id.* at § 69-3-302.

18. Before the Commission approves a rate increase, “or before any change may become effective due to the passage of 9 months,” the Commission must provide notice of the proposed change and announce a hearing on the matter. *Id.* at § 69-3-303(1).

19. The revenues and rate design as proposed in the Stipulation are approved in this Order are just, reasonable and provide a fair resolution of the issues in this case.

ORDER

IT IS HEREBY ORDERED THAT:

20. The Stipulation proposed by MDU and MCC is approved.

21. MDU is authorized to collect an additional \$1,525,000 from its previously authorized final rates (an increase of approximately \$675,000 from the interim rates presently in effect) annually in natural gas delivery revenues as outlined in the discussion above and the attached Stipulation.

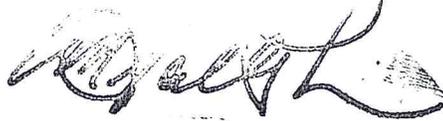
22. MDU shall adhere to and abide by all provisions included in this Order. All rate schedules shall comply with all determinations set forth in this Order.

23. MDU must file tariffs in compliance with this Order.

24. These rates are effective for service rendered on or after December 15, 2013.

DONE AND DATED this 12th day of December 2013 by a vote of 4 to 1. Commissioner Kavulla dissenting.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION



W. A. GALLAGHER, Chairman



BOB LAKE, Vice Chairman



KIRK BUSHMAN, Commissioner



TRAVIS KAVULLA, Commissioner (Dissent)



ROGER KOOPMAN, Commissioner

ATTEST: ✓

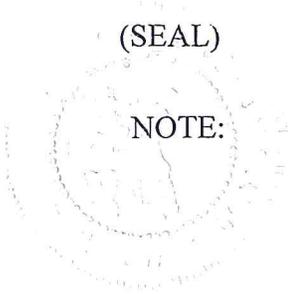


Aleisha Solem
Commission Secretary

(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.



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

IN THE MATTER OF THE APPLICATION)	REGULATORY DIVISION
of MONTANA-DAKOTA UTILITIES CO.,)	
a Division of MDU Resources Group, Inc.,)	DOCKET NO. D2012.9.100
for Authority to Establish Increased Rates for)	
Natural Gas Service)	ORDER NO. 7254b

DISSENTING OPINION OF COMMISSIONER TRAVIS KAVULLA

Stipulations often promote judicial economy. They can save parties time and money in reaching a conclusion to a contested proceeding. The stipulation we here consider, however, is a different animal altogether. In this proceeding, a stipulation was submitted more than 14 months after Montana Dakota Utilities applied for a rate increase. Hundreds of pages of testimony, thousands of pages of discovery, a long hearing, a full briefing of the issues, even a Commission public meeting scheduled to decide this matter: All of this grew the case file to its bursting point before the prospect of a stipulation was even disclosed. Ironically, this stipulation meant a *delay* of this proceeding's conclusion, and a waste of our time in the run-up to it.

A lengthy case file and serial delays imposed by parties have characterized this rate case. Nonetheless, the Commission could not be bothered to take care in evaluating the stipulation's merits. From the time it was filed with the Commission to when it was taken up for consideration, the stipulation was available to the Commission for less than a week. The haste is the result of the stipulation's purported imposition of a deadline of ten days on the entity that has been least responsible for delay: the Commission. The final order that has issued in this docket was not even available to commissioners when it was approved at a Commission meeting. Voting for something before reading it has become a sadly commonplace practice in much of government. It should not be at the Public Service Commission.

Interim orders frequently govern rates while the Commission considers the matter. So, too, should an interim order based on the stipulated revenue requirement and rate design have

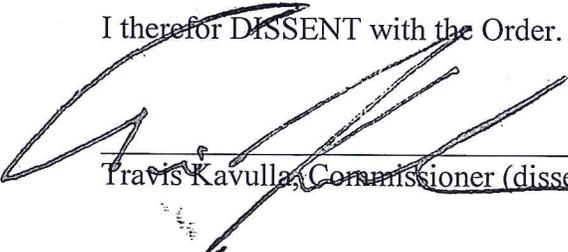
been issued in this proceeding.¹ MDU itself gestured the Commission toward this path. *See* Motion for Interim Order (Dec. 9, 2013). This would have effected the parties' stipulation, while giving the Commission time to consider the facts. Instead, the majority has reached a decision that one may *suspect* or *have a gut feeling* is reasonable (those are the words used in the Commission's deliberations on this matter), but which as yet lacks the analytical, quantitative support for the conclusion to be deemed reasonable *as a matter of fact*. The public expects us to do our homework. We have not here.

There are some positive outcomes contained within the stipulation. It provides for the removal of the Billings Landfill Facility, which has dramatically underperformed expectations, from rate base. *See* Stipulation (Dec. 5, 2013), ¶ 8. It does not ignore the subject of depreciation, but makes some forward progress in establishing a baseline for this topic, which has been a topic of heated controversy in MDU's recent rate proceedings. *Id.*, ¶ 7. In its one piece of dicta, the Order provides guidance on this topic which I also support. *See* Order 7254b, ¶ 12.

The stipulation leaves many other questions unaddressed, however. Those include capital structure, return on equity, and the inclusion of the customer billing system into rate base. It would have behooved the Commission to take its tentative judgment of what the outcomes of those issues would have been—since the evidence and arguments regarding those issues have been fully submitted, this would not have been hard to do—and compare the cumulative effect of those straw decisions against the stipulation's \$1,525,000 rate increase.

Analysis may have brought me to the same conclusion of the majority in due course, but I cannot join in the rush to judgment that marks this decision.

I therefore DISSENT with the Order.



Travis Kavulla, Commissioner (dissenting)

¹ A motion to issue an interim order in lieu of issuing a final order failed by a 3-2 vote. I am grateful for Commissioner Koopman's agreement that this was a reasonable course of action to pursue.

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

* * * * *

IN THE MATTER OF the Application of)	REGULATORY DIVISION
MONTANA-DAKOTA UTILITIES CO.,)	
A Division of MDU Resources Group,)	DOCKET NO. D2012.9.100
Inc., for Authority to Establish Increased)	
Rates for Natural Gas Service)	

STIPULATION

COME NOW, Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. (Montana-Dakota) and the Montana Consumer Counsel (MCC), and agree and stipulate as follows:

1. On September 26, 2012, Montana-Dakota filed with the Montana Public Service Commission ("Commission") an Application for authority to implement a general rate increase in the rates it is authorized to charge for natural gas service in Montana. The requested general rate increase was docketed as PSC Docket D2012.9.100.
2. The requested general rate increase would have raised an additional \$3,457,412 in annual revenues from MDU ratepayers. Montana-Dakota also requested authority to modify its existing rate design. Included in the Application was a request for approval of a Distribution Delivery Stabilization Mechanism ("DDSM"), proposed rate 87. All of the proposed changes in rates and rate forms were set forth in proposed tariff sheets using legislative annotation and submitted as part of Appendix B to the

Application. The Company was authorized to collect an additional \$850,620 from its ratepayers, on an interim basis, by Commission Order 7254a, entered on April 11, 2013.

3. The MCC intervened in the docket. The MCC pre-filed the testimony of its expert witnesses in this docket on February 25, 2013.

4. The interim rate increase was implemented on the basis of an equal percentage increase to all rate classes.

5. The positions of the parties are fully set forth in the documents on file with the Commission in this docket.

6. For settlement purposes, a fair and equitable resolution of the issues in this docket, one which would result in the establishment of just and reasonable rates, has been reached between MDU and MCC, as further described below:

A. Montana-Dakota should be authorized, in a final rate order entered in PSC Docket D2012.9.100, an overall annual increase in the rates it is authorized to charge its ratepayers for natural gas service in Montana in the amount of \$1,525,000 (an increase of approximately \$675,000 from current interim rates under Interim Rate Order 7245a), provided, the rate increase is spread between rate classes in conformity with Paragraph 6.C below. The settled revenue amount is derived solely for the purposes of this Stipulation based upon the unique issues and specific factual circumstances and evidence presented in this Docket, and is a compromise in aggregate between MDU and MCC that takes into consideration the specific rate making components not individually identified.

B. Because of the substantial divergence between the parties, as set forth in the record on file in this Docket with the Commission, in both their rate making methodologies, and the end results of those rate making methodologies, the parties present their agreed upon revenue requirement to the Commission as a compromise settlement in the aggregate, and without a specified cost of equity capital, capital structure, or weighted cost of capital.

C. The annual rate increase specified in Paragraph 6.A above should be allocated between customer classes and rate schedules by increasing interruptible transportation service rates by 1.4%, and applying the remainder of the revenue deficiency to the other rate classes as an equal percentage increase. The Base Rate for the Residential Class should be set at \$7.00 per month and charged on a daily basis at an effective daily charge of \$0.23 per day, and the Base Rate for the other customer classes established as proposed by Montana-Dakota in its Application in this docket. The resulting rate changes are set forth in Exhibit 1 to this Stipulation. The reasonableness of the proposed additional revenues set forth in Paragraph 6.A is dependent upon the interclass allocation of that revenue requirement, and the rate design, set forth in this subparagraph, being adopted by the Commission in its final order in this docket.

D. In order to achieve the settlement of issues set forth in this Stipulation, Montana-Dakota withdraws its requested authorization for a DDSM (proposed Rate 87).

7. With respect to depreciation expense, the proposal of Montana-Dakota on plant lives should be adopted, and the MCC proposal on removal costs should be adopted. The resulting depreciation rates are set forth in Exhibit 2. The new depreciation rates should be effective upon issuance of the Commission's final order in this docket. The MCC retains the right to object to the Company's implementation of any depreciation rate adjustments between rate cases; and further does not waive any right to seek a true up if necessary or appropriate for the related impact to ratepayers on rate base incurred as a result of the Company's unilateral adjustment of depreciation rates.

8. The Billings Landfill Gas Production Project ("Project") shall be deemed a nonutility asset, and denied inclusion in Montana-Dakota's rate base. Any landfill gas from the Project used to supply natural gas service to Montana-Dakota's Montana Commission jurisdictional gas customers shall be reflected in the Company's gas cost tracking adjustment at the then current CIG index, plus a transportation factor of 3.12 cents per Dkt. Royalty expenses shall not be added to the cost of gas provided from the Billings Landfill.

9. Attached to this Stipulation as Exhibit 3 are proposed tariffs implementing the various provisions of this Stipulation. If there is any conflict between the language in this Stipulation and the proposed tariffs, the proposed tariffs control.

10. Because of the length of the proceedings in this docket, an important component of the agreement of the parties is timely implementation of the agreed upon rate changes before the winter heating season. Accordingly, an integral part of the settlement agreement is the implementation of the agreed upon rates (in either another

interim order or the final rate order in this docket) for service rendered on and after December 15, 2013.

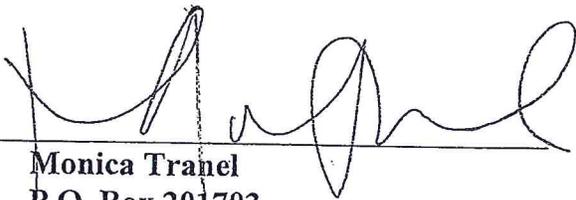
11. The parties to this Stipulation present it to the Commission as a reasonable settlement of the issues raised in this docket. Neither party's position in this docket is accepted by the other party by virtue of their entry into this Stipulation, nor does it indicate their acceptance, agreement, or concession to any rate making principle, cost of service determination, or legal principle embodied, or arguably embodied, in this Stipulation. Neither party shall use any part of this Settlement Agreement in any other proceeding before the Commission, and shall not advance any argument in any other proceeding that is predicated on any portion of this Settlement Agreement. By entering into and executing this Agreement the parties acknowledge that this Agreement is unique to the facts of this Docket, the parties agree and understand that they are entering into this Settlement as a resolution of the particular facts of this proceeding, and agree that they are not bound by their representations and settlement in this docket. The parties shall not use this Settlement or the advocacy of either party as evidence in any other proceeding without explaining that the Settlement was an aggregate compromise and not intended to be used as evidence in other proceedings of any particular position of a party. The parties further agree that approval of this Stipulation by the Commission shall not be deemed to work any estoppels upon any party or to otherwise establish or create any limitation on or precedent of the Commission.

12. The various provisions of this Stipulation are inseparable from the whole of the agreement between the parties to the Stipulation. The reasonableness of the proposed settlement set forth in this Stipulation is dependent upon its adoption, in its entirety, by the Commission. If the Commission decides not to adopt, in its entirety, the proposed settlement set forth in this Stipulation, then the entire Stipulation is null and void, no party to the Stipulation is bound by any provision of it, and it shall have no force or effect whatsoever.

Dated this 4th day of December, 2013

MONTANA CONSUMER COUNSEL

By



Monica Tranel

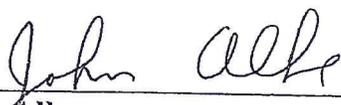
P.O. Box 201,703

Helena, MT 59620-1703

Attorney for the Montana Consumer Counsel

HUGHES, KELLNER, SULLIVAN & ALKE, PLLP

By



John Alke

40 W. Lawrence, Suite A

P.O. Box 1166

Helena, MT 59624-1166

Attorneys for Montana-Dakota Utilities