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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

RE: MONTANA-DAKOTA UTILITIES COMPANY; NORTH CENTRAL FARMERS
ELEVATOR NEAR BOWDLE, SOUTH DAKOTA
Docket No: EL06-011
Our file: 0069

Dear Clerk Fedderson:

Enclosed is a Statement of Issues on Appeal. Please file the enclosure.

With a copy of this letter, I am sending copies of the Statement of Issues on Appeal to the parties to the appeal. Thank you very much.

Yours truly,

MAY, ADAM, GERDES & THOMPSON LLP

BY: 

DAG:mw

Enclosure

cc/enc: Martin Bettmann/Nathan Solem, ✓ Sarah Greff, Paul Erickson, Keith Hainy, Carlyle Richards, Darla Pollman Rogers, Margo D. Northrup, Don Ball, and Dan Kuntz

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SOUTH DAKOTA PUBL.
UTILITIES COMMISSIO

STATE OF SOUTH DAKOTA) IN CIRCUIT COURT
) SS
COUNTY OF HUGHES) SIXTH JUDICIAL CIRCUIT

IN THE MATTER OF THE PETITION OF) DOCKET NO. EL06-011
MONTANA-DAKOTA UTILITIES CO. FOR)
APPROVAL TO PROVIDE ELECTRICAL)
SERVICE FOR THE NEW NORTH CENTRAL) **STATEMENT OF ISSUES**
FARMERS ELEVATOR TO BE LOCATED) **ON APPEAL**
NEAR BOWDLE, SOUTH DAKOTA)

Pursuant to SDCL § 1-26-31.4, Montana-Dakota Utilities Co. ("Montana-Dakota"), a Division of MDU Resources Group, Inc., provides the Statement of Issues on Appeal in this matter, as follows:

1. The Public Utilities Commission ("Commission") erred in granting the motion for summary disposition because disputed questions of material fact should have been resolved in favor of Montana-Dakota, precluded summary disposition and required a hearing on the merits.

2. The Commission erred in concluding as a matter of law that Montana-Dakota was precluded from providing service to the new customer at a proposed new location with a minimum demand of 2,000 kilowatts or more for the exclusive reason that it was located in FEM Electric's service territory, without considering that within the guidelines of SDCL § 49-34A-56 the Commission may allow a supplier from outside the assigned service area to provide service.

3. The Commission erred as a matter of law in refusing to hear the case on the merits and to recognize the proposition that Montana-Dakota was qualified and able to provide service to the facility under SDCL § 49-34A-56, because the standard established by the statute applies to all customers and utilities falling within the standard.

4. The Commission erred as a matter of law in failing to construe SDCL § 49-34A-56 so as to give effect to all provisions of the South Dakota Territorial Integrity Act ("Act").

5. The Commission erred as a matter of law in determining that a petition under SDCL § 49-34A-56 can only be initiated by the customer. In so holding, the Commission ignored the fundamental purpose of the South Dakota Territorial Integrity Act, to eliminate duplication and wasteful spending in all segments of the electric utility industry. Given the fact that customer preference is listed as but one of six factors to determine a utility's right to serve, it subverts the basis of the Act that the same customer can frustrate the intent of the Act by failing or refusing to initiate the procedure under the statute.

6. The Commission erred in holding that Montana-Dakota had no standing to assert legal rights or contest legal obligations on the customer's behalf, because under the applicable statute as a utility ready, willing and able to provide service superior to the incumbent utility under the standards of the statute, Montana-Dakota had standing to obtain a determination under the statute.

WHEREFORE Montana-Dakota prays that the Court herein consider its appeal and reverse the decision of the Public Utilities Commission.

Dated this 12th day of September, 2006.

MAY, ADAM, GERDES & THOMPSON LLP

BY: 

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CERTIFICATE OF SERVICE

David A. Gerdes of May, Adam, Gerdes & Thompson LLP hereby certifies that on the 12th day of September, 2006, he mailed by United States mail, first class postage thereon prepaid, a true and

correct copy of the foregoing in the above-captioned action to the following at their last known addresses, to-wit:

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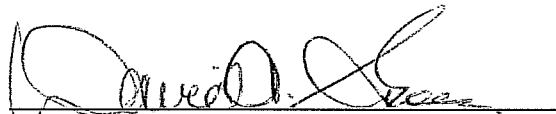
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