

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

In the Matter of the Application of
South Dakota Intrastate Pipeline
Company for Authority to Increase its
Natural Gas Transportation Rates

Docket No. NG17-009

**SOUTH DAKOTA INTRASTATE
PIPELINE COMPANY'S RESPONSE
TO MONTANA-DAKOTA UTILITIES
CO.'S MOTION FOR COMMISSION
REVIEW**

I. INTRODUCTION

South Dakota Intrastate Pipeline Company ("SDIP") hereby submits this response to the Motion for Commission Review filed by Montana-Dakota Utilities Co. ("MDU") on July 11, 2017 (the "Motion") along with Staff's ("Staff") Response for Commission review dated July 28, 2017. SDIP has been attempting to working with MDU to reach amicable resolution via a non-disclosure agreement ("NDA"). SDIP respectfully recommends that the South Dakota Public Utilities Commission ("Commission") order MDU to execute the NDA.

II. ARGUMENT

A. SDIP Has Worked Diligently With Staff and MDU to Cooperate on all Issues Regarding this Proceeding

On July 11, 2017 SDIP and its counsel met with Staff. During that meeting, Staff requested that SDIP contact counsel for MDU in an effort to address MDU's motion filed earlier that day. Contact was made on that same day and on Wednesday July 12, 2017, a protective agreement was provided to counsel for MDU. The protective agreement was one in which the Commission approved in Docket EL14-026, *In the Matter of the Application of Black Hills Power, Inc. for Authority to Increase its Electric Rates*. Having not heard back from counsel for MDU, on July 19, 2017 a follow-up email was sent stating: "We would greatly appreciate resolving any concerns in order to provide copies of SDIPC's filing to MDU as soon as possible. Please let me know when we can expect to hear from you." A response to that email indicated that MDU had some concerns and once they were fully resolved that they would get back to

counsel for SDIP. A revised Protective Agreement was provided by counsel for MDU on July 20, 2017. It is SDIP's position that the revisions effectively nullify the terms of the Protective Agreement.

On July 11, 2017, Staff's First Set of Data Requests was provided to SDIP. SDIP was to submit responses within ten business days. Even though the applicable rules of civil procedure require responses within 30 days, SDIP diligently obtained responses to Staff's request and provided the requested data on July 21, 2017. On July 24, 2017 Staff requested that MDU's motion be included on the August 1, 2017, Commission Meeting Agenda as a regular agenda item as opposed to a full notice of hearing. SDIP agreed to this request from Staff. On Thursday July 27, 2017, staff attorney Reiss was informed that SDIP would be re-filing public documents with limited items redacted. SDIP has maintained regular contact with Staff in an effort to apprise Staff of SDIP's action in providing a public filing.

B. South Dakota Law Expressly Permits Utilities to Redact Confidential Information from Filings with the Commission

South Dakota utilities are entitled to request confidential treatment of information pursuant to 20:10:01:41. The rules define "confidential information" to include a variety of types of information, including "[i]nformation which is determined by the commission to be confidential and entitled to protection from disclosure or improper use."¹ South Dakota utilities have historically required intervenors to execute NDAs in order to ensure that the utility can provide confidential information to the intervenor in a manner that will protect that information from public disclosure.

SDIP filed its Application for Authority to Increase its Natural Gas Transportation Rates and supporting documents ("Application") confidentially in order to protect the sensitive information of SDIP and MDU. For example, because SDIP has so few employees, any payroll and benefits information is entitled to confidential protection in order to prevent the public from estimating the salaries and benefits of particular employees. SDIP submits that this information qualifies as confidential information pursuant to ARSD 20:10:01:39(6) because this incredibly sensitive personal information is "entitled to protection from disclosure or improper use,"

¹ ARSD 20:10:01:39.

especially because it resembles “personal information in confidential personnel records of the commission,” which is expressly protected under 20:10:01:39(1). Furthermore, the Application contains information about MDU’s natural gas forecasts that SDIP did not want to reveal without permission from MDU. In fact, MDU has a practice of designating portions of its Commission filings as confidential, and so the nature of SDIP’s filing should not have been surprising to MDU.² In conjunction with this response, SDIP is filing a public version of the Application that redacts a small amount of confidential information contained in the Application and makes the rest of the Application available for public viewing.

III. CONCLUSION

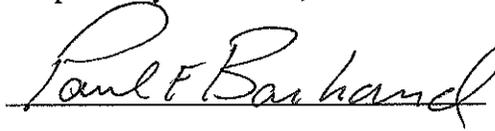
SDIP made its filing confidential with the understanding that SDIP would provide MDU with the filing after executing a standard NDA, which is customary in South Dakota rate cases. SDIP provided a draft NDA to MDU that has been used in a past South Dakota rate cases, but MDU has proposed revisions to this NDA that would effectively nullify its terms, and thus fail to provide adequate protection of SDIP’s confidential information. SDIP thus respectfully recommends that the Commission grant MDU’s request for Commission review and order MDU to execute the NDA in the form that has been acceptable in past South Dakota rate cases.

[Signature Page Follows]

² See, e.g., *In the Matter of the Application of Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. for Authority to Increase its Natural Gas Rates*, Docket No. NG15-005, Exhibit___ (BLC-1) Schedule 1 – Cost of Capital Confidential (May 20, 2016); *In the Matter of the Application of Montana-Dakota Utilities Co. and Otter Tail Power Company for a Permit to Construct the Big Stone South to Ellendale 345 kV Transmission Line*, Docket No. EL13-028, Application (August 23, 2013).

Date: July 28, 2017

Respectfully submitted,



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