

BEFORE THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

IN THE MATTER OF )  
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MDU RESOURCES GROUP, INC. ) APPLICATION FOR AUTHORIZATION  
 ) TO MERGE  
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 )  
HOLDING COMPANY MERGER )  
 ) Case No. \_\_\_\_\_

**APPLICATION FOR AUTHORIZATION TO MERGE**

MDU Resources Group, Inc. (the “Company” or “MDU Resources”), hereby applies to the South Dakota Public Utilities Commission (the “Commission”) for authorization pursuant to Section 49-34A-36 of the South Dakota Codified Laws to implement a plan of merger reorganization through which Montana-Dakota Utilities Co. (“Montana-Dakota”), currently an operating division of the Company, will merge into and become a wholly-owned subsidiary of a newly formed holding company.

There will be no changes sought or experienced in the manner in which utility service is provided to the company’s customers in South Dakota or any other state. The Company does not plan to seek recovery of the costs associated with the restructuring.

The restructuring is consistent with the public interest and is being undertaken for the benefit of separating and insulating the Company's public utility businesses in the states of North Dakota, South Dakota, Montana, Wyoming, and Minnesota from its other business activities. After the restructuring, utility services in the states of North Dakota, South Dakota, Montana, Wyoming, and Minnesota will be provided exclusively through a stand-alone utility subsidiary, which will be named “Montana-Dakota Utilities Co.” which is referred to herein as “Montana-Dakota.” The holding company (“Holding Company”),

which will be known by the name “MDU Resources Group, Inc.”, will engage in its business activities through separate subsidiaries. The Company respectfully requests the Commission issue an Order authorizing the merger plan, as submitted on or before September 30, 2018.

In support of its Application, the Company states as follows:

## **INTRODUCTION**

1. MDU Resources is a Delaware corporation that is in good standing under the laws of South Dakota and all states in which it does business. The Company is a public utility as defined in SDCL § 49-34A-1(12) and provides electric and natural gas utility services in South Dakota under the name Montana-Dakota Utilities Co. (the “Legacy Utility”). The Company is publicly held and its shares of common stock are listed and traded on the New York Stock Exchange under the ticker symbol (“MDU”). The Company also engages in the natural gas distribution business in the states of Idaho, Washington, and Oregon through its other subsidiaries, Intermountain Gas Company (“Intermountain”) and Cascade Natural Gas Corporation (“Cascade”). It also engages in the interstate natural gas transmission business through its subsidiary, WBI Energy Transmission, Inc., and in the construction materials and contracting and construction services businesses through its subsidiaries, Knife River Corporation and MDU Construction Services Group, Inc.

2. The Company seeks to implement a plan of corporate reorganization (the “Plan”) that will result in a holding company structure. The Plan is not unusual in any manner and is consistent with the corporate structure utilized by other utilities in South Dakota and throughout the United States. Because the Plan is essentially a “paper”

transaction, it will not impact the Company's day-to-day operations, nor will it have any effect on how the Company is regulated by the Commission.

3. Attached hereto as **Exhibit A** are two corporate structure diagrams – the first depicts the Company's current corporate structure, and the second depicts the proposed corporate structure once the Plan is fully implemented.

### **RELEVANT STATUTE**

49-34A-35. Sale, lease, disposition, purchase, merger, or consolidation prohibited unless authorized by commission--Certain transactions excepted. No public utility, without first being authorized to do so by the commission, may:

- (1) Sell, lease, or otherwise dispose of its property or business constituting an operating unit or system in this state to another person;
- (2) Sell, lease, or otherwise dispose of its operating property or plant used to provide gas or electric service to its customers in this state to another person;
- (3) Purchase the property or business constituting an operating unit or system in this state of another public utility; or
- (4) Merge or consolidate with another public utility operating in this state.

However, if the sale, lease, merger, consolidation, or other disposition of the property or business of one public utility to another person, as provided in subdivisions (1) to (4), inclusive, does not involve a sale, lease, merger, consolidation, or disposition wherein the fair market value exceeds ten million dollars, the sale, lease, merger, consolidation, or disposition is not subject to the restrictions of this section.

No person may acquire or gain control either directly or indirectly of any public utility doing business in this state that has a fair market value exceeding ten million dollars without the commission's prior authorization. As used in this section, the term, control, means the right to direct or cause the direction of the management and policies of the public utility, whether through the ownership of voting securities, by contract, or otherwise.

**Source:** SL 1975, ch 283, § 23; SL 2007, ch 270, § 1.

### **RATIONALE FOR REORGANIZATION**

4. The Company believes its Plan is in the best interests of its customers, shareholders, employees, and other stakeholders. The Plan will result in a holding company structure that furthers the separation between the Company's Legacy Utility and its other regulated and non-regulated affiliates, without altering the Commission's ability to effectively regulate the Company's utility operations and without any change in the safe

and reliable electric and natural gas service the Company provides to its customers.

5. Although the Company already maintains substantial separation between its operating businesses, the proposed holding company structure will increase the degree of financial separation between the Legacy Utility and its other regulated and non-regulated business lines. The proposed structure will further insulate the Legacy Utility assets from the other businesses, and reduce any risk that those assets could be reached by creditors of the other affiliates and vice versa. These reductions in financial and legal risk are inherent benefits to the Company's customers, shareholders, employees, and lenders.

6. The Plan will also offer the Company greater flexibility in financing arrangements by allowing the Legacy Utility and the holding company to separately access capital markets.

7. The Commission will continue to exercise jurisdiction over the Legacy Utility in the same manner as it does today. Similarly, the Federal Energy Regulatory Commission ("FERC") will continue to exercise jurisdiction over the Company's affiliate, WBI Energy Transmission, Inc.

8. There will be no change in the Company's day-to-day operations following implementation of the Plan. The Company's Legacy Utility will continue providing safe and reliable electric and natural gas service to its customers in the same manner as before the Plan. No employment changes are expected at the Company as a result of the Plan.

#### **DESCRIPTION OF THE TRANSACTION**

9. The Company's Plan involves the creation of two new corporations – a publicly traded holding company ("Newco") and a merger subsidiary ("Newco Sub"),

which will be utilized for the sole purpose of effectuating the Plan.<sup>1</sup> None of these entities currently exist; however, the Company intends to incorporate them after receiving all necessary regulatory approvals. The Company will fully control these two entities at all times. No other entity will have control of any of the business units or operations at any time.

10. In the reorganization, the newly formed Holding Company will become the public company and ultimate parent. It will have two principal first-tier subsidiaries. The first will be named MDU Energy Capital, LLC (“MDU Energy”), which will own and operate all of the distribution utility operating companies, Montana-Dakota, Great Plains, Intermountain, and Cascade. The second will be Centennial Energy Holdings, Inc. (“Centennial Energy”), which will continue to hold the business subsidiaries of WBI Holdings, Inc. (“WBI Holdings”), Knife River Corporation (“Knife River”), and MDU Construction Services Group, Inc. (“MDU CSG”). See **Exhibit A**.

11. The reorganization will be accomplished through a merger. A general description of the proposed steps in the reorganization, including the formation of new entities and transfers of assets (collectively the “Transactions”) is set out in **Exhibit B**.

12. Through the merger, Newco will become the parent holding company. Initially, MDU Resources will own the outstanding shares of Newco and Newco will own the outstanding shares of Newco Sub. Upon receiving all necessary approvals, Merger Sub will merge with MDU Resources, with MDU Resources as the surviving entity. Simultaneously, by operation of law, MDU Resources’ shareholders will have their shares

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<sup>1</sup> The names for these entities have not yet been selected. The names Newco and Newco Sub are used herein for purposes of this Application.

converted into Newco common stock on a share-for-share basis, and Newco will become the sole owner of all MDU Resources common stock. Newco will then contribute MDU Resources common stock to MDU Energy, which will serve as the holding company for the distribution utilities of Montana-Dakota, Great Plains, Intermountain, and Cascade. As a subsidiary of MDU Energy, MDU Resources will then change its name to Montana-Dakota Utilities Co. and Newco will change its name to MDU Resources Group, Inc. Charts depicting the reorganization process is attached hereto as **Exhibits B**.

13. All of MDU Resources' outstanding debt securities at the time the Plan is implemented, which have been incurred solely for the operations of the Montana-Dakota/Great Plains divisions, will remain at the Montana-Dakota/Great Plains level.

14. The current subsidiaries of MDU Energy (i.e. Intermountain and Cascade), as well as the subsidiaries and operating companies of Centennial Energy (i.e. WBI Holdings, Knife River, and MDU CSG) will not be affected by the merger transactions.

15. The merger transaction contemplated under the Plan will not result in MDU Resources transferring any of its utility assets or property to Newco, Newco Sub, or any other affiliate. Instead, holding company assets, if any, as well as holding company contracts, plans, and other obligations will be transferred from MDU Resources to Newco.

16. Newco's securities will be registered with the U.S. Securities and Exchange Commission ("SEC").

17. The Plan can be accomplished without affecting the rights and preferences of current MDU Resources shareholders. MDU Resources shareholders immediately prior to consummation of the Plan will own the same relative percentages of Newco following consummation of the Plan. This transaction therefore does not require the approval of

MDU Resources current shareholders.<sup>2</sup>

18. The Company does not anticipate that the Plan will result in a taxable event under the Internal Revenue Code.

19. To the extent necessary, the Company will provide notification of, and obtain approval for, the Plan from certain creditors and other contractual counter-parties as required by the terms and conditions of the applicable agreements.

20. All costs associated with securing the necessary approvals for the Plan and implementing the Plan, including any and all costs associated with the formation of Newco and Newco Sub will be borne by the Company. The Company will not seek to recover any portion thereof in utility rates.

21. As discussed above, the Company seeks to implement its Plan to further separate its Legacy Utility function and its other regulated and non-regulated affiliates, without altering the Commission's ability to effectively regulate the operations of the Legacy Utility. In fact, the only impact the transaction will have on utility customers is a positive one – the Plan will result in enhanced legal and financial protections for the Legacy Utility. The currently effective rates for the Legacy Utility will not change as a result of the Commission granting the authority requested herein, nor as the result of the implementation of the Plan.

22. No incremental financing will be required to implement the Plan, and the resultant consolidated holding company capital structure will be the same as the Company's existing consolidated capital structure. The debt of the Legacy Utility operations will remain with Montana-Dakota and the debt of the other affiliates will remain

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<sup>2</sup> Attached hereto as **Exhibit C** is a copy of the Board Resolution authorizing pursuit of the Plan.

with those entities. On a go-forward basis, it is expected that Montana-Dakota or MDU Energy Capital will have separate debt agreements.

23. The Company does not have a formal subsidiary dividend or capitalization policy, nor does it anticipate having one upon the proposed reorganization. The Company would anticipate continuing to manage its rate regulated subsidiaries capital structures at the applicable commission approved capital structure(s). The company and its subsidiaries' debt agreements have certain restrictions on subsidiary indebtedness, with which the company is in compliance and anticipates continuing such compliance upon the proposed reorganization. In this respect, a schedule displaying Montana-Dakota's actual consolidated capital structure as of September 30, 2017, and the pro forma capital structure that would result from reorganizing as a holding company, is attached hereto as **Exhibit D**.

24. As shown on **Exhibit D**, there will be no significant effect on the capital structure of Montana-Dakota.

25. The Company also includes herewith Exhibit E, which contains illustrative accounting entries showing how the Plan will be treated from an accounting perspective.<sup>3</sup> Finally, the Company also includes herewith **Exhibit F**, which contains additional financial information provided as part of the Company's FERC Form 3Q filing.

26. The Company is subject to the Commission's jurisdiction regarding transactions between Montana-Dakota and its affiliates. The Commission's regulatory oversight and authority over the Legacy Utility will remain unchanged. Montana-Dakota

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<sup>3</sup> The Company is required to maintain its accounts in accordance with the FERC's Uniform System of Accounts. As part of its application to FERC seeking approval of the Plan, it is required to include proposed accounting entries sufficient to show the effects of the transaction pursuant to Section 33.5 of FERC's regulations, 18 C.F.R. § 33.5 (2017). The Company includes a copy of the proposed accounting entries to assist in the Commission's review of its application




will continue to comply with the Commission's affiliate transaction jurisdiction, including but not limited to those provisions that require appropriate accounting and cost allocations, and those which allow the Commission access to the books and records of the Company.

27. The Company also requires authority from the Federal Energy Regulatory Commission and other state regulatory commissions to implement its Plan. Applications are being filed with those agencies in conformity with this application.

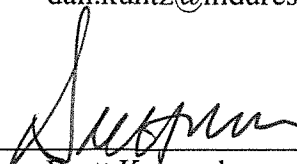
28. Based upon the foregoing, the Company respectfully requests that the Commission grant the Company authorization to implement its Plan to reorganize into a holding company structure, including all transactions necessary to implement the Company's Plan as described herein.

Respectfully submitted this 31<sup>st</sup> day of January, 2018.

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