

Service Date: December 18, 2017

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, Inc., for Authority to ) DOCKET NO. D2017.9.79  
Establish Increased Rates for Natural Gas )  
Service in the State of Montana )  
)

**SECOND AFFIDAVIT OF JASON VOLLMER**

STATE OF NORTH DAKOTA )  
 )  
 ) :ss  
County of Burleigh )

I, JASON VOLLMER, being first duly sworn, depose and state as follows:

1. I am the Chief Financial Officer and Treasurer of MDU Resources Group, Inc. ("MDU"). Montana-Dakota Utilities Co. ("Montana-Dakota") is a division of MDU.
2. My principal place of business is 1200 W. Century Ave, Bismarck, ND 58503.
3. As Chief Financial Officer and Treasurer, I have personal knowledge of the facts stated herein. Any opinions expressed herein are based on my knowledge and personal experience.
4. The Montana Consumer Counsel (the "MCC") issued Data Request MCC-068, which seeks Montana-Dakota's detailed general ledger for 2016 and all months of 2017. The parties then agreed Montana-Dakota would provide information taken from its general ledger, specifically, monthly trial balances, jurisdictional rate base reports, and income statement reports. This information is referred to collectively as "Confidential Information."

5. As Chief Financial Officer and Treasurer of MDU, I have direct knowledge of, and managerial responsibility over, the Confidential Information. The Confidential Information is comprised of financial data and facts, including all of Montana-Dakota's financial records. It also includes the financial records of another division of MDU (Great Plains Natural Gas Co.), which does not serve Montana customers, has made no request to the Commission, and is not part of this docket.

6. Prior to requesting this protective order, Montana-Dakota engaged in a thorough legal and factual examination to determine whether the Confidential Information is confidential, proprietary or otherwise protectable under Montana law. With the assistance of legal counsel, Montana-Dakota has made a good faith determination that the Confidential Information is entitled to protection from public disclosure pursuant to Admin R. Mont. 38.2.5001, *et seq.*, and, more specifically, Admin. R. Mont. 38.2.5007.

7. Montana-Dakota has considered that the Montana Public Service Commission ("Commission") is a public agency and that there is a constitutional presumption of access to documents and information in the Commission's possession. Montana-Dakota understands it bears the burden of establishing a *prima facie* showing of confidentiality, factually and legally, and that Confidential Information is protected only upon Commission approval.

8. The Commission, the Commission's staff, parties, and interested persons may direct questions regarding this affidavit, or Montana-Dakota's motion for a protective order, to Montana-Dakota's counsel of record in this docket.

9. Montana-Dakota is a division of MDU, which is a publicly-traded company that is regulated by the Securities and Exchange Commission ("SEC"). The SEC enforces what is known as Regulation Fair Disclosure ("Regulation FD"). *See* 17 CFR Part 243. Regulation FD

was promulgated to eliminate the selective disclosure of material nonpublic information, and requires publicly-traded companies to disclose material nonpublic information to all investors at the same time, with certain exceptions. *See* 17 CFR § 243.100 to 101. As a general rule, Regulation FD prohibits Montana-Dakota from selectively disclosing material nonpublic information to the MCC, the Commission, and other parties. *See* 17 CFR § 243.100(a). However, Regulation FD does allow Montana-Dakota to selectively disclose its material nonpublic information to individuals “who expressly agree to maintain the disclosed information in confidence.” *See* 17 CFR § 243.100(b)(2)(ii).

10. The Confidential Information constitutes material nonpublic information protected by Regulation FD. Montana-Dakota is prohibited from disclosing this information without the proper safeguards in place, *i.e.* a protective order and signed non-disclosure agreements.

11. Montana-Dakota does not publicly disclose the Confidential Information. It discloses the Confidential Information only in accordance with federal law. Montana-Dakota has not otherwise shared the Confidential Information, or disclosed the Confidential Information to the public. Disclosure of the Confidential Information is not required by law and is not published or otherwise made public. No governmental entity requires Montana-Dakota to disclose this information to the public. It is not readily ascertainable by proper means.

12. Montana-Dakota has adopted reasonable security measures to maintain the secrecy of the Confidential Information: securing its business offices and facilities, restricting access via individual access cards, locking main building doors, locking file cabinets, password-protecting computer files, and using automated e-mail encryption. To the extent confidential financial information is printed, Montana-Dakota also shreds this information when it is no

longer in use. Only those Montana-Dakota employees and representatives with a direct need to know are authorized to access the Confidential Information.

13. Montana-Dakota derives economic value from the secrecy of this information because Montana-Dakota is prohibited by the SEC's Regulation FD from the selective disclosure of the information. Without the proper protections in place, Montana-Dakota is prohibited from selectively providing this information to an individual, including the MCC and its consultants. Requiring disclosure, without the proper safeguards, places Montana-Dakota at risk of violating federal law. Accordingly, Montana-Dakota receives economic benefit from keeping this information confidential, pursuant to federal law.

14. Moreover, disclosure of the Confidential Information would unnecessarily disclose the financial information of other divisions of MDU. Montana-Dakota is a division of MDU. Accordingly, the Confidential Information includes not only Montana-Dakota's financial information, but the financial information of another division of MDU (Great Plains Natural Gas Company). This information is unrelated to this docket. This division has made no request to the Commission. It has never filed a document before the Commission, operated in Montana, or served a Montana resident.

**[Notarized Signature on Following Page]**

Dated this 20<sup>th</sup> day of December, 2017.



Jason Vollmer  
Chief Financial Officer and Treasurer of MDU Resources  
Group, Inc.

SUBSCRIBED and SWORN to before me this 20<sup>th</sup> day of December, 2017.

(SEAL)



Notary Public for the State of \_\_\_\_\_

Printed Name: \_\_\_\_\_

Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

